

MURFREESBORO CITY COUNCIL
Regular Session Agenda
Council Chambers – City Hall – 6:00 PM
October 21, 2021

PRAYER

Mr. Bill Shacklett

PLEDGE OF ALLEGIANCE

Ceremonial Items

STARS Award: Fredia Coldwell and Melissa Pettis

Consent Agenda

1. Tennessee Housing Development Agency Emergency Solutions FY22 Grants (Community Development)
2. Extend Agreements for Healthcare Ancillary Products (Employee Services)
3. FY22 City Manager Approved Budget Amendments (Finance)
4. Approval of Use of Competitive Sealed Proposals for Playground Design and Installation (Parks)
5. Mandatory Referral for Installation of Private Irrigation Lines in Plum Leaf Place Right-of-Way (Planning)
6. 2021 Edward Byrne Memorial Justice Assistance Grant (JAG) Award Acceptance (Police)
7. Graykey Software License Renewal (Police)
8. Asphalt Purchases (Water Resources)
9. Trane HVAC Unit Replacement (Water Resources)
10. Grass Cutting & Landscaping for Stones River Water Treatment Plant (Water Resources)
11. Pall Membrane Service Agreement (Water Resources)
12. Commercial Painting Inc. Contract Forth Amendment (Water Resources)

Minutes

13. Approval of City Council Minutes for September 15 and September 30, 2021 Regular Meetings (Finance)

Old Business

14. Ordinance 21-O-29 FY22 Budget Amendment Ordinance (2nd and final reading) (Administration)

Land Use Matters

15. Ordinance 21-OZ-28 Rezoning Property north of Doctor Martin Luther King Jr Boulevard (2nd and Final Reading) (Planning)

New Business

Land Use Matters

16. Planning Commission Recommendations for Public Hearings (Planning)

Resolutions

17. Resolution 21-R-33 Reimbursement for Fire Administration Building Expenses (Administration)
18. Resolution 21-R-35 Contract for City Hall Parking Garage Sprinkler Renovation and Reimbursement (Administration)

On Motion

19. Contract for McKnight Softball Complex Fence Replacement (Parks)
20. Purchase of Threat Plates for Body Armor (Police)
21. Biosolids Dryer Contract Amendment (Water Resources)
22. Water Resource Recovery Facility Tractor Purchase (Water Resources)
23. Water and Sewer Line Materials Purchase (Water Resources)

Licensing

Board & Commission Appointments

Payment of Statements

Other Business

Adjournment

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: FY22 Tennessee Housing Development Agency Emergency Solutions Grants

Department: Community Development

Presented by: Helen Glynn, Assistant Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Acceptance of Tennessee Housing Development Agency (THDA) Emergency Solutions Grant (ESG) for homelessness assistance.

Staff Recommendation

Approve the agreement and authorize the Mayor to execute it on behalf of the City.

Background Information

The ESG Set Aside is funding provided to eligible non-profit agencies for emergency services to assist homeless individuals and individuals in danger of becoming homeless. Funding is provided by US Department of Housing and Urban Development (HUD) through THDA. The City through Community Development awards local non-profit agencies grants from these funds for the administration of emergency services.

THDA has notified the City of award of the ESG Set Aside totaling \$161,250.

Council Priorities Served

Responsible budgeting

Grant funds supplement or supplant funds that may otherwise be budgeted from City revenues for community services.

Fiscal Impact

No expenditure. Funding provides \$150,000 for grant awards activities and \$11,250 for administration expenses.

Attachments

THDA ESG Agreement



GOVERNMENTAL GRANT CONTRACT

(cost reimbursement grant contract with a federal or Tennessee local governmental entity or their agents and instrumentalities)

Begin Date 09/08/2021	End Date 09/07/2022	Agency Tracking # ESG-21-27	Edison ID 69879																																										
Grantee Legal Entity Name City of Murfreesboro			Edison Vendor ID 4110																																										
Subrecipient or Recipient <input checked="" type="checkbox"/> Subrecipient <input type="checkbox"/> Recipient		CFDA # 14.231 Emergency Solutions Grants Program Grantee's fiscal year end																																											
Service Caption (one line only) Emergency Solutions Grant (ESG) 2021																																													
Funding — <table border="1"> <thead> <tr> <th>FY</th> <th>State</th> <th>Federal</th> <th>Interdepartmental</th> <th>Other</th> <th>TOTAL Grant Contract Amount</th> </tr> </thead> <tbody> <tr> <td>2022</td> <td></td> <td>\$161,250</td> <td></td> <td></td> <td>\$161,250</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>TOTAL:</td> <td></td> <td>\$161,250</td> <td></td> <td></td> <td>\$161,250</td> </tr> </tbody> </table>				FY	State	Federal	Interdepartmental	Other	TOTAL Grant Contract Amount	2022		\$161,250			\$161,250																									TOTAL:		\$161,250			\$161,250
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Grantee Selection Process Summary <input checked="" type="checkbox"/> Competitive Selection <input type="checkbox"/> Non-competitive Selection																																													
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.		CPO USE – GG																																											
Speed Chart (optional)	Account Code (optional)																																												

Emergency Solutions Grants (ESG) funds are made available competitively to nonprofit organizations and local governments to implement eligible activities. Funds are awarded based on the scoring criteria identified in the 2021 ESG Program Description.

GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
Tennessee Housing Development Agency
AND
City of Murfreesboro

This grant contract ("Grant Contract"), by and between the State of Tennessee, **Tennessee Housing Development Agency**, hereinafter referred to as the "State" or the "Grantor State Agency" and Grantee **City of Murfreesboro** hereinafter referred to as the "Grantee," is for the provision of **services to the homeless and those at risk of homelessness under the Emergency Solutions Grants Program ("ESG")**, as further defined in the "SCOPE OF SERVICES AND DELIVERABLES."

Grantee Edison Vendor ID # **4110**

A. SCOPE OF SERVICES AND DELIVERABLES:

- A.1. The Grantee shall provide the scope of services and deliverables ("Scope") as required, described, and detailed in this Grant Contract.
- A.2. ESG funds may be used to maintain and operate emergency homeless shelters; to provide essential services, street outreach and/or rapid re-housing services to the homeless; to provide prevention services to households at risk of homelessness; and to perform data collection activities for all persons assisted as specified in ATTACHMENT A: DESCRIPTION OF ACTIVITIES, ATTACHMENT B: IMPLEMENTATION PLAN, and ATTACHMENT C: BUDGET.
- A.3. Incorporation of Additional Documents. Each of the following documents is included as part of this Grant Contract by reference or attachment. In the event of a discrepancy or ambiguity regarding the Grantee's duties, responsibilities, and performance hereunder, these terms shall govern in order of precedence below:
 - a. Title 24 Code of Federal Regulations, Part 576, and Part 91 of the Emergency Solutions Grants Program authorized by Subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11371-11378) Interim Regulations (the "Federal ESG Regulations").
 - b. The United States Department of Housing Urban Development ESG Desk Guide for Program and Eligibility Policies and Procedures.
 - c. The THDA 2021 ESG Program Description and the ESG Manual "the THDA ESG Requirements").
- A.4. Incorporation of Federal Award Identification Worksheet. The federal award identification worksheet, which appears as ATTACHMENT D, is incorporated in this Grant Contract.
- A.5. The Grantee shall comply with the Eligibility Activity Requirements of 24 CFR Part 576, Subpart B, and Part 91 as applicable to the type of project assisted.
- A.6. The Grantee shall comply with the Program Requirements of 24 CFR Part 576, Subpart E, and Part 91 as applicable to the type of project assisted.
- A.7. The Grantee shall maintain records adequate to document compliance with 24 CFR Part 576, along with such other records the State determines necessary to enable the State to fulfill its responsibilities in the ESG Program. All records will be retained for the more restrictive of the period required in 24 CFR Part 576 or as provided in Section D15 of this contract.
- A.8. The Grantee shall furnish to the State all reports required to be filed in accordance with any directives of the State and within the time period prescribed by the State for such reports.

- A.9. The Grantee shall comply with the required consultation with the applicable local Continuum of Care; participation in the coordinated entry of the applicable local Continuum of Care; and ESG reporting standards using, as required under the ESG regulations, the Homeless Management Information System (HMIS) of the Continuum of Care in which the ESG-funded services of the Grantee are provided.

B. TERM OF CONTRACT:

This Grant Contract shall be effective on **September 8, 2021** ("Effective Date") and extend for a period of **twelve (12) months, September 7, 2022** after the Effective Date ("Term"). The State shall have no obligation to the Grantee for fulfillment of the Scope outside the Term.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Grant Contract exceed **One Hundred Sixty One Thousand Two Hundred and Fifty Dollars and No Cents (\$161,250)** ("Maximum Liability"). The Grant Budget, attached and incorporated as Attachment **C** is the maximum amount due the Grantee under this Grant Contract. The Grant Budget line-items include, but are not limited to, all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Grantee.

- C.2. Compensation Firm. The Maximum Liability of the State is not subject to escalation for any reason unless amended. The Grant Budget amounts are firm for the duration of the Grant Contract and are not subject to escalation for any reason unless amended, except as provided in Section C.6.

- C.3. Payment Methodology. The Grantee shall be reimbursed or upon approval, advanced for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. Upon progress toward the completion of the Scope, as described in Section A of this Grant Contract, the Grantee shall submit invoices prior to any reimbursement or advance payment of allowable costs.

If approved for Periodic Advance Payment. The Grantee shall be advanced for actual, reasonable, and necessary costs based upon the Grant Budget, not to exceed the Maximum Liability established in Section C.1. A maximum of 20% of this contract's Maximum Liability shall be paid to the Grantee in advance upon approval of this Grant Contract and on Date(s) on which the state will make advance payment(s). The total of said payments shall not exceed the Maximum Liability of this Grant Contract .

- C.4. Travel Compensation. Reimbursement to the Grantee for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time, and shall be contingent upon and limited by the Grant Budget funding for said reimbursement.

- C.5. Invoice Requirements. The Grantee shall invoice the State based on an approved payment schedule, using the forms and providing all necessary supporting documentation specified by the THDA ESG and present such electronically to THDA using the Grants Management System as directed by THDA.

- a. The Grantee understands and agrees to all of the following.

- (1) An invoice under this Grant Contract shall include only reimbursement or approved advance payment requests for actual, reasonable, and necessary

expenditures required in the delivery of service described by this Grant Contract and shall be subject to the Grant Budget and any other provision of this Grant Contract relating to allowable expenditure reimbursements.

- (3) An invoice under this Grant Contract shall initiate the timeframe for reimbursement only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

An invoice under this Grant Contract shall be presented to THDA within sixty (60) days after the end of the calendar month in which the subject costs were incurred or services were rendered by the Grantee. An invoice submitted more than sixty (60) days after such date will NOT be paid. THDA will not deem such Grantee costs to be allowable and reimbursable unless, at the sole discretion of THDA, the failure to submit a timely invoice is warranted. The Grantee shall submit a special, written request for reimbursement with any such untimely invoice. The request must detail the reason the invoice is untimely as well as the Grantee's plan for submitting future invoices as required, and it shall be signed by a Grantee agent that would be authorized to sign this Grant Contract.

The final invoice under this Grant Contract shall be submitted to THDA by 11:59:59 PM on October 21, 2022. An invoice submitted after that date will NOT be paid.

- C.6. Budget Line-items. Expenditures, reimbursements, and payments under this Grant Contract shall adhere to the Grant Budget. Any change in the Grant Budget, line items and/or grand total amounts shall require an amendment of this Grant Contract.

- C.7. Disbursement Reconciliation and Close Out. The Grantee shall submit any final invoice and a grant disbursement reconciliation report within forty-five (45) days of the Grant Contract end date, in form and substance acceptable to the State.

- a. If total disbursements by the State pursuant to this Grant Contract exceed the amounts permitted by the section C, payment terms and conditions of this Grant Contract, the Grantee shall refund the difference to the State. The Grantee shall submit the refund with the final grant disbursement reconciliation report.
- b. The State shall not be responsible for the payment of any invoice submitted to the State after the grant disbursement reconciliation report. The State will not deem any Grantee costs submitted for reimbursement after the grant disbursement reconciliation report to be allowable and reimbursable by the State, and such invoices will NOT be paid.
- c. The Grantee's failure to provide a final grant disbursement reconciliation report to the State as required by this Grant Contract shall result in the Grantee being deemed ineligible for reimbursement under this Grant Contract, and the Grantee shall be required to refund any and all payments by the State pursuant to this Grant Contract.
- d. The Grantee must close out its accounting records at the end of the Term in such a way that reimbursable expenditures and revenue collections are NOT carried forward.

- C.8. Indirect Cost. Should the Grantee request reimbursement for indirect costs, the Grantee must submit to the State a copy of the indirect cost rate approved by the cognizant federal agency or the cognizant state agency, as applicable. The Grantee will be reimbursed for indirect costs in accordance with the approved indirect cost rate and amounts and limitations specified in the attached Grant Budget. Once the Grantee makes an election and treats a given cost as direct or indirect, it must apply that treatment consistently and may not change during the Term. Any changes in the approved indirect cost rate must have prior approval of the cognizant federal agency or the cognizant state agency, as applicable. If the indirect cost rate is provisional during the Term, once the rate becomes final, the Grantee agrees to remit any overpayment of funds to the State, and subject to the availability of funds the State agrees to remit any underpayment to the Grantee.

- C.9. Cost Allocation. If any part of the costs to be reimbursed under this Grant Contract are joint costs involving allocation to more than one program or activity, such costs shall be allocated and reported in accordance with the provisions of Department of Finance and Administration Policy Statement 03 or any amendments or revisions made to this policy statement during the Term.
- C.10. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any reimbursement, invoice, or related matter. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount as an allowable cost.
- C.11. Non-allowable Costs. Any amounts payable to the Grantee shall be subject to reduction for amounts included in any invoice or payment that are determined by the State, on the basis of audits or monitoring conducted in accordance with the terms of this Grant Contract, to constitute unallowable costs.
- C.12. State's Right to Set Off. The State reserves the right to set off or deduct from amounts that are or shall become due and payable to the Grantee under this Grant Contract or under any other agreement between the Grantee and the State of Tennessee under which the Grantee has a right to receive payment from the State.
- C.13. Prerequisite Documentation. The Grantee shall not invoice the State under this Grant Contract until the State has received the following, properly completed documentation.
- a. The Grantee shall complete, sign, and return to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the TN Department of Finance & Administration. By doing so, the Grantee acknowledges and agrees that, once this form is received by the TN Department of Finance & Administration, all payments to the Grantee under this or any other grant contract will be made by automated clearing house ("ACH").
 - b. The Grantee shall complete, sign, and return to the TN Department of Finance & Administration the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Grantee's Federal Employer Identification Number or Social Security Number referenced in the Grantee's Edison registration information.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Grant Contract until it is signed by the parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this Grant Contract, the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.2. Modification and Amendment. This Grant Contract may be modified only by a written amendment signed by all parties and approved by the officials who approved the Grant Contract and, depending upon the specifics of the Grant Contract as amended, any additional officials required by Tennessee laws and regulations (the officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).
- D.3. Termination for Convenience. The State may terminate this Grant Contract without cause for any reason. A termination for convenience shall not be a breach of this Grant Contract by the State. The State shall give the Grantee at least thirty (30) days written notice before the effective termination date. The Grantee shall be entitled to compensation for authorized expenditures and satisfactory services completed in accordance with Federal ESG Regulations and THDA ESG

Requirements as of the termination date, but in no event shall the State be liable to the Grantee for compensation for any service that has not been rendered. The final decision as to the amount for which the State is liable shall be determined by the State. The Grantee shall not have any right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount for the State's exercise of its right to terminate for convenience.

- D.4. Termination for Cause. If the Grantee fails to properly perform its obligations under this Grant Contract, or if the Grantee violates any terms of this Grant Contract, the State shall have the right to immediately terminate this Grant Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the exercise of the State's right to terminate this Grant Contract for cause, the Grantee shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Grant Contract by the Grantee. Upon such termination, the Grantee shall have no claim to any ESG funds remaining under this Grant Contract.
- D.5. Subcontracting. The Grantee shall not assign this Grant Contract or enter into a subcontract for any of the services performed under this Grant Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Grant Contract pertaining to "Conflicts of Interest," "Lobbying," "Nondiscrimination," "Public Accountability," "Public Notice," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Grantee shall remain responsible for all work performed.
- D.6. Conflicts of Interest. The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.

The Grantee acknowledges, understands, and agrees that this Grant Contract shall be null and void if the Grantee is, or within the past six months has been, an employee of the State of Tennessee or if the Grantee is an entity in which a controlling interest is held by an individual who is, or within the past six months has been, an employee of the State of Tennessee.

Each Grantee also must adopt a conflict of interest policy in accordance with 24 CFR § 576.404 which prohibits any employee, persons with decision making positions or having information about decisions made by an organization, from obtaining a personal or financial interest or benefit from the organization's activity, including through contracts, subcontracts, or agreements.

- D.7. Lobbying. The Grantee certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

- c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

- D.8. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Grant Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by email or facsimile transmission with recipient confirmation. All communications, regardless of method of transmission, shall be addressed to the respective party as set out below:

The State:

Don Watt, Chief Program Officer
Tennessee Housing Development Agency
Andrew Jackson Building, Third Floor
Nashville, TN 37243
DWatt@thda.org
Telephone # 615-815-2032
FAX # 615-649-3153

The Grantee:

Sam Huddleston, Director
City of Murfreesboro
111 W Vine Street
Murfreesboro, TN 37130
shuddleston@murfreessborotn.gov
Telephone # 6158936441

A change to the above contact information requires written notice to the person designated by the other party to receive notice.

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- D.9. Subject to Funds Availability. This Grant Contract is subject to the appropriation and availability of State or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Grant Contract upon written notice to the Grantee. The State's right to terminate this Grant Contract due to lack of funds is not a breach of this Grant Contract by the State. Upon receipt of the written notice, the Grantee shall cease all work associated with the Grant Contract. Should such an event occur, the Grantee shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Grantee shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.10. Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other

classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.11. HIPAA Compliance. The State and the Grantee shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health Act (HITECH) and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Grant Contract.
- a. The Grantee warrants to the State that it is familiar with the requirements of the Privacy Rules and will comply with all applicable HIPAA requirements in the course of this Grant Contract.
 - b. The Grantee warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of this Grant Contract so that both parties will be in compliance with the Privacy Rules.
 - c. The State and the Grantee will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and the Grantee in compliance with the Privacy Rules. This provision shall not apply if information received by the State under this Grant Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the State to receive such information without entering into a business associate agreement or signing another such document.
- D.12. Public Accountability. If the Grantee is subject to Tenn. Code Ann. § 8-4-401 *et seq.*, or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:
- NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.
- The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.
- D.13. Public Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee through the U.S. Department of Housing and Urban Development." All notices must include the fair housing and Americans with Disabilities Act logos as stated in the THDA ESG Requirements. All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
- D.14. Licensure. The Grantee, its employees, and any approved subcontractor shall be licensed pursuant to all applicable federal, state, and local laws, ordinances, rules, and regulations and shall upon request provide proof of all licenses.

- D.15. Records. The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained for a period that is greater than five (5) full years from the date of the final payment or the term specified in 24 CFR 576.500 (y), and shall be subject to audit at any reasonable time and upon reasonable notice by THDA, the U. S. Department of Housing and Urban Development, the Tennessee Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury, THDA, or the U.S. Department of Housing and Urban Development.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

- D.16. Monitoring. The Grantee's activities conducted and records maintained pursuant to this Grant Contract shall be subject to monitoring and evaluation by the State, the U.S. Department of Housing and Urban Development, the Tennessee Comptroller of the Treasury, or their duly appointed representatives.

- D.17. Progress Reports. The Grantee shall submit brief, periodic, progress reports to the State as requested.

- D.18. Annual and Final Reports. The Grantee shall submit all reports in form and substance and within deadlines as specified in the Federal ESG Regulations and the THDA ESG Requirements.

- D.19. Audit Report. The Grantee shall be audited in accordance with applicable Tennessee law.

If the Grantee is subject to an audit under this provision, then the Grantee shall complete Attachment F.

When a federal single audit is required, the audit shall be performed in accordance with U.S. Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A copy of the audit report shall be provided to the Comptroller by the licensed, independent public accountant. Audit reports shall be made available to the public.

- D.20. Procurement. If other terms of this Grant Contract allow reimbursement for the cost of goods, materials, supplies, equipment, or contracted services, such procurement shall be made on a

competitive basis, including the use of competitive bidding procedures, where practical. The Grantee shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Grant Contract. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation shall include a written justification for the decision and for use of a non-competitive procurement. If the Grantee is a subrecipient, the Grantee shall comply with 2 C.F.R. §§ 200.317—200.326 when procuring property and services under a federal award.

The Grantee shall obtain prior approval from the State before purchasing any equipment under this Grant Contract.

For purposes of this Grant Contract, the term “equipment” shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00).

The Grantee shall also comply with all procurement requirements as stated in the Federal ESG Regulations and in the THDA ESG Requirements.

- D.21. Strict Performance. Failure by any party to this Grant Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Grant Contract is not a waiver or relinquishment of any term, covenant, condition, or provision. No term or condition of this Grant Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties.
- D.22. Independent Contractor. The parties shall not act as employees, partners, joint venturers, or associates of one another in the performance of this Grant Contract. The parties acknowledge that they are independent contracting entities and that nothing in this Grant Contract shall be construed to create a principal/agent relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- D.23. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Grant Contract. In no event will the State be liable to the Grantee or any other party for any lost revenues, lost profits, loss of business, loss of grant funding, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Grant Contract or otherwise. The State's total liability under this Grant Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability originally established in Section C.1 of this Grant Contract. This limitation of liability is cumulative and not per incident.
- D.24. Force Majeure. “Force Majeure Event” means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the party except to the extent that the non-performing party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means. A strike, lockout or labor dispute shall not excuse either party from its obligations under this Grant Contract. Except as set forth in this Section, any failure or delay by a party in the performance of its obligations under this Grant Contract arising from a Force Majeure Event is not a default under this Grant Contract or grounds for termination. The non-performing party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Grantee's

representatives, suppliers, subcontractors, customers or business apart from this Grant Contract is not a Force Majeure Event under this Grant Contract. Grantee will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Grantee's performance longer than forty-eight (48) hours, the State may, upon notice to Grantee: (a) cease payment of the fees until Grantee resumes performance of the affected obligations; or (b) immediately terminate this Grant Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Grantee will not increase its charges under this Grant Contract or charge the State any fees other than those provided for in this Grant Contract as the result of a Force Majeure Event.

- D.25. Tennessee Department of Revenue Registration. The Grantee shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Grant Contract.
- D.26. Reserved
- D.27. State Interest in Equipment or Motor Vehicles. The Grantee shall take legal title to all equipment or motor vehicles purchased totally or in part with funds provided under this Grant Contract, subject to the State's equitable interest therein, to the extent of its *pro rata* share, based upon the State's contribution to the purchase price. The term "equipment" shall include any article of nonexpendable, tangible, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds five thousand dollars (\$5,000.00). The term "motor vehicle" shall include any article of tangible personal property that is required to be registered under the "Tennessee Motor Vehicle Title and Registration Law", Tenn. Code Ann. Title 55, Chapters 1-6.

As authorized by the Tennessee Uniform Commercial Code, Tenn. Code Ann. Title 47, Chapter 9 and the "Tennessee Motor Vehicle Title and Registration Law," Tenn. Code Ann. Title 55, Chapters 1-6, the parties intend this Grant Contract to create a security interest in favor of the State in the equipment or motor vehicles acquired by the Grantee pursuant to the provisions of this Grant Contract. A further intent of this Grant Contract is to acknowledge and continue the security interest in favor of the State in the equipment or motor vehicles acquired by the Grantee pursuant to the provisions of this program's prior year Grant Contracts between the State and the Grantee.

The Grantee grants the State a security interest in all equipment or motor vehicles acquired in whole or in part by the Grantee under this Grant Contract. This Grant Contract is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the equipment or motor vehicles herein specified which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and the Grantee hereby grants the State a security interest in said equipment or motor vehicles. The Grantee agrees that the State may file this Grant Contract or a reproduction thereof, in any appropriate office, as a financing statement for any of the equipment or motor vehicles herein specified. Any reproduction of this or any other security agreement or financing statement shall be sufficient as a financing statement. In addition, the Grantee agrees to execute and deliver to the State, upon the State's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproduction of this Grant Contract in such form as the State may require to perfect a security interest with respect to said equipment or motor vehicles. The Grantee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements the State may reasonably require. Without the prior written consent of the State, the Grantee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said equipment or motor vehicles, including replacements and additions thereto. Upon the Grantee's breach of any covenant or agreement contained in this Grant Contract, including

the covenants to pay when due all sums secured by this Grant Contract, the State shall have the remedies of a secured party under the Uniform Commercial Code and, at the State's option, may also invoke the remedies herein provided.

The Grantee agrees to be responsible for the accountability, maintenance, management, and inventory of all property purchased totally or in part with funds provided under this Grant Contract. The Grantee shall maintain a perpetual inventory system for all equipment or motor vehicles purchased with funds provided under this Grant Contract and shall submit an inventory control report which must include, at a minimum, the following:

- a. Description of the equipment or motor vehicles;
- b. Vehicle identification number;
- c. Manufacturer's serial number or other identification number, when applicable;
- d. Acquisition date, cost, and check number;
- e. Fund source, State Grant number, or other applicable fund source identification;
- f. Percentage of state funds applied to the purchase;
- g. Location within the Grantee's operations where the equipment or motor vehicles is used;
- h. Condition of the property or disposition date if Grantee no longer has possession;
- i. Depreciation method, if applicable; and
- j. Monthly depreciation amount, if applicable.

The Grantee shall tag equipment or motor vehicles with an identification number which is cross referenced to the equipment or motor vehicle item on the inventory control report. The Grantee shall inventory equipment or motor vehicles annually. The Grantee must compare the results of the inventory with the inventory control report and investigate any differences. The Grantee must then adjust the inventory control report to reflect the results of the physical inventory and subsequent investigation.

The Grantee shall submit its inventory control report of all equipment or motor vehicles purchased with funding through this Grant Contract within thirty (30) days of its end date and in form and substance acceptable to the State. This inventory control report shall contain, at a minimum, the requirements specified above for inventory control. The Grantee shall notify the State, in writing, of any equipment or motor vehicle loss describing the reasons for the loss. Should the equipment or motor vehicles be destroyed, lost, or stolen, the Grantee shall be responsible to the State for the *pro rata* amount of the residual value at the time of loss based upon the State's original contribution to the purchase price.

Upon termination of the Grant Contract, where a further contractual relationship is not entered into, or at another time during the term of the Grant Contract, the Grantee shall request written approval from the State for any proposed disposition of equipment or motor vehicles purchased with Grant funds. All equipment or motor vehicles shall be disposed of in such a manner as the parties may agree from among alternatives approved by the Tennessee Department of General Services as appropriate and in accordance with any applicable federal laws or regulations.

- D.28. State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards is available here: http://www.ecfr.gov/cgi-bin/text-idx?SID=c6b2f053952359ba94470ad3a7c1a975&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- D.29. Governing Law. This Grant Contract shall be governed by and construed in accordance with the laws of the State of Tennessee, without regard to its conflict or choice of law rules. The Grantee agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Grant Contract. The Grantee acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any

remedies arising there from, shall be subject to and limited to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-408.

- D.30. Completeness. This Grant Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions agreed to by the parties. This Grant Contract supersedes any and all prior understandings, representations, negotiations, or agreements between the parties, whether written or oral.
- D.31. Severability. If any terms and conditions of this Grant Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Grant Contract are declared severable.
- D.32. Headings. Section headings are for reference purposes only and shall not be construed as part of this Grant Contract.
- D.33. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101, *et seq.*, addressing contracting with persons as defined at Tenn. Code Ann. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Grant Contract. The Grantee certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.34. Debarment and Suspension. The Grantee certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified, or presently fall under any of the prohibitions of sections a-d.

- D.35. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Grantee by the State or acquired by the Grantee on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Grantee to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Grantee due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Grantee shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

The obligations set forth in this Section shall survive the termination of this Grant Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Grant Contract, the special terms and conditions shall be subordinate to the Grant Contract's other terms and conditions.
- E.2. Work Papers Subject to Review. The Grantee shall make all audit, accounting, or financial analysis work papers, notes, and other documents available for review by THDA, the U.S. Department of Housing and Urban Development, the State Comptroller of the Treasury or their representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Grant Contract.
- E.3. Federal Funding Accountability and Transparency Act (FFATA).

This Grant Contract requires the Grantee to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Grantee is responsible for ensuring that all applicable FFATA requirements, including but not limited to those below, are met and that the Grantee provides information to the THDA as required.

The Grantee shall comply with the following:

- a. Reporting of Total Compensation of the Grantee's Executives.
- (1) The Grantee shall report the names and total compensation of each of its five most highly compensated executives for the Grantee's preceding completed fiscal year, if in the Grantee's preceding fiscal year it received:
- i. 80 percent or more of the Grantee's annual gross revenues from Federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and sub awards); and
 - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and sub awards); and
 - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Grantee's preceding fiscal year and includes the following (for more information see 17 CFR § 229.402(c)(2)):
- i. Salary and bonus.
 - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - v. Above-market earnings on deferred compensation which is not tax qualified.
 - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Grantee must report executive total compensation described above to the State by the end of the month during which this Grant Contract is established.
- c. If this Grant Contract is amended to extend its term, the Grantee must submit an executive total compensation report to the THDA by the end of the month in which the amendment to this Grant Contract becomes effective.
- d. The Grantee will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Grant Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>.

The Grantee's failure to comply with the above requirements is a material breach of this Grant Contract for which the THDA may terminate this Grant Contract for cause. The State will not be obligated to pay any outstanding invoice received from the Grantee unless and until the Grantee is in full compliance with the above requirements.

- E.4. Training. The Grantee shall attend all training sessions regarding management of the ESG Program as required by THDA.
- E.5. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn. Code Ann. §§ 39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract.
- E.6. ESG Program Requirements. Under this Grant Contract, Grantee is receiving an allocation or grant of Emergency Solutions Grants Program funds. The Grantee understands that these funds are made available through the U.S. Department of Housing and Urban Development (HUD) and

to facilitate the receipt of these funds, the Grantee agrees and certifies to comply with all of the following:

- a. The Grantee shall abide by all requirements of 24 CFR Part 576 and Part 91, the Emergency Solutions Grants Program.
- b. The Grantee will match dollar-for dollar the ESG Funding the Grantee receives under this Grant Contract with funds from other public and private sources, as permitted and required under the Federal ESG Regulations and THDA ESG Requirements.
- c. The Grantee will comply with other applicable Federal Requirements in 24 CFR Part 576 and Part 91, as follows:
 - (1) 24 CFR 5.105(a). Section 3 Nondiscrimination and Equal Opportunity;
 - (2) 24 CFR 576 B Applicability of OMB Circulars;
 - (3) 24 CFR 576 Subpart B Lead-Based Poisoning Prevention Act;
 - (4) 24 CFR 576.404 Conflicts of Interest;
 - (5) 24 CFR 24.50 Environmental Review;
 - (6) 24 CFR 576.4089 Relocation and Acquisition;
 - (7) Title VI and Executive Order 13166 Affirmative Outreach
- d. If the Grantee is a primarily religious organization, the Grantee agrees to use ESG funds to provide all eligible activities under this program in a manner that is free from religious influences as provided by 24 CFR 576.406.
- e. The Grantee will comply with the uniform administrative requirements of 24 CFR Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Award, and the requirements of 24 CFR 576.407.
- f. The Grantee will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Estate Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR, Part 24 and the requirements of 24 CFR 576.59.
- g. The Grantee will comply with the requirements of the Residential lead-Based Paint Hazard Reduction Act of 1992, implementing regulations at 4 CFR Part 35, Subparts A, B, H, J, K, and M, as applicable.
- h. The Grantee will use ESG funds pursuant to the local, HUD-approved Consolidated Plan or the State, HUD-approved Consolidated Plan, as applicable, and all requirements of 24 CFR, Part 576 and Part 91.
- i. If the Grantee is a unit of government, the Grantee will obligate all ESG grant funds to sub-recipients within one hundred twenty (120) days of the date the funds were made available to the State.
- j. The Grantee will maintain adequate documentation of homelessness status to determine and verify eligibility of persons served by the ESG funded program.
- k. The Grantee will establish and implement a formal process by which it may terminate ESG assistance to an individual or family who violates program requirements in accordance with 24 CFR Part 576.402 The formal process adopted by the Grantee must allow for the due process of the terminated participant's rights through a grievance procedure that allows a hearing regarding the termination of assistance.
- l. The Grantee will ensure that least one homeless or formerly homeless individual participates in a policy-making function within the organization in accordance with 24 CFR Part 576.405. The Grantee will involve homeless individuals and families in the

operation of the ESG funded program through work or volunteer activities in accordance with 24 CFR Part 576.405.

- m. The Grantee will develop and implement procedures to ensure the confidentiality of records pertaining to any individual fleeing domestic violence situations. In addition, the address and location of family violence shelters may not be publicly disclosed except with the written authorization of the person(s) responsible for the shelter facility's operation.
- E.7. Homeless Management Information System (HMIS). The Grantee and its subgrantees, if applicable, must participate in the local Continuum of Care and ensure that data on all persons served in all activities assisted under ESG are entered into the applicable community-wide HMIS in the area in which those persons and activities are located, in accordance with HUD's standards on participation, data collection, and reporting under a local HMIS.
- If the Grantee or its subgrantees is a victim service provider or a legal services provider, the Grantee or the subgrantee may opt to not use the established HMIS for the applicable Continuum of Care, but alternatively, must use a comparable database that collects client-level data over time (e.g., longitudinal data) and generates unduplicated aggregate reports based on the data. Information entered into a comparable database must not be entered directly into or provided to a local HMIS.
- E.8. Centralized or Coordinated Assessment System. The Grantee and its subgrantees, if applicable, must coordinate and integrate, to the maximum extent practicable, ESG-funded activities with other programs targeted to homeless people in the area covered by the applicable Continuum of Care or area over which the services are coordinated to provide a strategic, community-wide system to prevent and end homelessness for that area, in accordance with HUD's standards on participation and coordination.
- E.9. Drug-Free Workplace. The Grantee will or will continue to provide a drug-free workplace by:
- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Grantee's workplace and specifying the action that will be taken against employees for violation of such prohibition;
 - b. Establishing an ongoing drug-free awareness program to inform employees about:
 - 1. The dangers of drug abuse in the workplace;
 - 2. The Grantee's policy of maintain a drug-free workplace;
 - 3. Any drug counseling, rehabilitation and employee assistance programs; and,
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - c. Making it a requirement that each employee to be engaged in the performance of the Grant Contract be given a copy of the statement required by Paragraph E.10 (a).
 - d. Notifying the employee in the statement required by Paragraph E.10a that, as a condition of employment under the Grant Contract, the employee will:
 - 1. Abide by the terms of the statement; and
 - 2. Notify the Grantee in writing of his or her conviction for a violation of a criminal drug statute occurring the workplace no later than five calendar days after such conviction.
 - e. Notifying the State in writing, within ten (10) calendar days after receiving notice under Paragraph E.10(d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the

receipt of such notices. Notice shall include the identification number(s) of each affected grant.

- f. Take one of the following actions, within thirty (30) calendar days of receiving notice under Paragraph E.10(d)(2), with respect to any employee who is so convicted:
1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirement of the Rehabilitation Act of 1973, as amended; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health law enforcement or the appropriate agency.
- g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs E.10 (a), (b), (c), (d), (e), and (f).
- E.10. Corrective Action. If HUD orders the State to take corrective or remedial action as outlined in 24 CFR §576.67 that is the result of any action taken by the Grantee, the Grantee will take any action required by THDA to prevent a continuation of the deficiency, mitigate to the extent possible its adverse effects or consequences, and prevent its recurrence. These remedies could, among other actions, include repaying ESG funds to THDA for repayment to HUD.

IN WITNESS WHEREOF,

City of Murfreesboro:

GRANTEE SIGNATURE

DATE

PRINTED NAME AND TITLE OF GRANTEE SIGNATORY (above)

Tennessee Housing Development Agency:



Cynthia Peraza, Director of Community Programs

9/9/2021

DATE

APPROVED AS TO FORM

DocuSigned by:



Adam F. Tucker, City Attorney

ATTACHMENT A

**TENNESSEE HOUSING DEVELOPMENT AGENCY
2021 ESG PROGRAM
DESCRIPTION OF GRANTEE ACTIVITIES**

GRANTEE NAME: CITY OF MURFREESBORO

I. The activities for the 2021 ESG Project shall consist of the following:

1. Administer ESG funds through subrecipient agreements with the following agencies: Stepping Stones Safe Haven, Domestic Violence Program, Inc., The Salvation Army of Murfreesboro, Coldest Nights through The Journey Home and H3ARC.
2. Stepping Stones Safe Haven, Domestic Violence Program, Inc., The Salvation Army of Murfreesboro and Coldest Nights through The Journey Home will provide Shelter services to homeless individuals and/or families in the City of Murfreesboro.
3. H3ARC will use ESG funds for HMIS related activities for the purpose of data collection.
4. Except as noted in #5 below, an invoice under this Grant Contract shall be presented to THDA within sixty (60) days after the end of the calendar month in which the subject costs were incurred or services were rendered by the Grantee. An invoice submitted more than sixty (60) days after such date will NOT be paid. THDA will not deem such Grantee costs to be allowable and reimbursable unless, at the sole discretion of THDA, the failure to submit a timely invoice is warranted. The Grantee shall submit a special, written request for reimbursement with any such untimely invoice. The request must detail the reason the invoice is untimely as well as the Grantee's plan for submitting future invoices as required, and it shall be signed by a Grantee agent that would be authorized to sign this Grant Contract.
5. The final invoice under this Grant Contract shall be submitted to THDA by September 7, 2022. An invoice submitted after that date will NOT be paid.

ATTACHMENT B

TENNESSEE HOUSING DEVELOPMENT AGENCY
2021 ESG PROGRAM
IMPLEMENTATION PLAN FOR ESG PROJECTS

GRANTEE: City of Murfreesboro

- I. The time table for completing the activities for the project shall be:
- | | |
|---|--------------------|
| 1. Contract Start Date | September 8, 2021 |
| 2. Release of funds | September 15, 2021 |
| 3. Begin providing services to homeless | September 8, 2021 |
| 4. Contract complete | September 7, 2022 |
| 5. Last Draw Request Submission | October 21, 2022 |

ATTACHMENT C

**TENNESSEE HOUSING DEVELOPMENT AGENCY
2021 ESG PROGRAM
PROJECT BUDGET**

GRANTEE NAME: City of Murfreesboro

Funding Source	Street Outreach	Shelter Activities	Homeless Prevention	Rapid Re-Housing	HMIS	Admin	TOTAL
ESG FUNDS	\$0	\$125,000	\$0	\$0	\$25,000	\$11,250	\$161,250
Non-ESG HUD Funds							
Other Federal Funds							
Local Gov't or Agency Funds							
Private Funds							
State Gov't							
Donated Labor, Services, Cash, or Materials		\$125,000			\$25,000		
TOTAL		\$125,000			\$25,000	\$11,250	\$311,250

ATTACHMENT D

Federal Award Identification Worksheet

Subrecipient's name (must match registered name in DUNS)	City of Murfreesboro
Subrecipient's DUNS number	
Federal Award Identification Number (FAIN)	E-21-DC-47-0001
Federal award date	7/01/2021
CFDA number and name	
Grant contract's begin date	09/08/2021
Grant contract's end date	09/07/2022
Amount of federal funds obligated by this grant contract	\$161,250
Total amount of federal funds obligated to the subrecipient	\$3,220,924.00
Total amount of the federal award to the pass-through entity (Grantor State Agency)	\$3,220,924.00
Name of federal awarding agency	U.S. Department of Housing and Urban Development
Name and contact information for the federal awarding official	Erik D. Hoglund, Director of Community Planning and Development 710 Locust St SW Knoxville, TN 37902 Phone: (865) 474-8221
Is the federal award for research and development?	No
Indirect cost rate for the federal award (See 2 C.F.R. §200.331 for information on type of indirect cost rate)	

ATTACHMENT E**Notice of Audit Report**

Check one of the two boxes below and complete the remainder of this document as instructed. Send completed documents as a PDF file to cpo.auditnotice@tn.gov. ***The Grantee should submit only one, completed "Notice of Audit Report" document to the State ninety (90) days prior to the Grantee's fiscal year.***

- ☐ Grantee City of Murfreesboro is subject to an audit for fiscal year 2021.
- ☐ Grantee City of Murfreesboro is not subject to an audit for fiscal year 2021.

Grantee's Edison Vendor ID Number:

Grantee's fiscal year end:

Any Grantee that is subject to an audit must complete the information below.

Type of funds expended	Estimated amount of funds expended by end of Grantee's fiscal year
Federal pass-through funds	
a. Funds passed through the State of Tennessee	a.
b. Funds passed through any other entity	b.
Funds received directly from the federal government	
Non-federal funds received directly from the State of Tennessee	

Auditor's name:

Auditor's address:

Auditor's phone number:

Auditor's email:

ATTACHMENT **F**

Parent Child Information

The Grantee should complete this form and submit it with the Grant Contract. The Grantee should submit only one, completed "Parent Child Information" document to the State during the Grantee's fiscal year.

"Parent" means an entity whose IRS filing contains the information of at least one other entity.

"Child" means an entity whose information is contained in another entity's IRS filing.

Grantee's Edison Vendor ID number:

Is **City of Murfreesboro** a parent? Yes ☐ No ☐

If yes, provide the name and Edison Vendor ID number, if applicable, of any child entities.

Is **City of Murfreesboro** a child? Yes ☐ No ☐

If yes, complete the fields below.

Parent entity's name: _____

Parent entity's tax identification number: _____

Note: If the parent entity's tax identification number is a social security number, this form must be submitted via US mail to:

Central Procurement Office, Grants Program Manager
3rd Floor, WRS Tennessee Tower
312 Rosa L Parks Avenue
Nashville, TN 37243

Parent entity's contact information

Name of primary contact person: _____

Address: _____

Phone number: _____

Email address: _____

Parent entity's Edison Vendor ID number, if applicable: _____

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Extend Agreements for Healthcare Ancillary Products

Department: Employee Services

Presented by: Pam Russell, ES Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Seeking approval to extend agreements for Mercer Health & Benefits Consultant, New York Life Group Benefit Solutions, Long Term Disability, Benistar Group Retiree Health Solutions (MED Retirees), and Life Services, EAP.

Background Information

Currently the City's health and pharmacy benefit agreements expire on the same date. Placing the ancillary health benefits on a separate timeframe from medical and pharmacy insurance allows the City a greater time span to adequately review and select insurance benefits.

Council Priorities Served

Responsible budgeting

Three of the four extensions are made with no rate increase. Benistar has a slight rate increase of less than \$5,000 annually.

Fiscal Impact

Increase of approximately \$5,000 which is accounted for in the budget.

Attachments

Extension agreements for:

1. Mercer Health & Benefits LLC
2. New York Life Group
3. Benistar
4. Life Services EAP



8/24/2021

RE: City of Murfreesboro
Retiree Medical Plan - UA
Retiree Prescription Drug Program – ESI

Dear Alden Davenport II:

Please be advised that there will be a combined 1.96% rate increase for the Retiree Medical Plan and the Express Scripts Group Medicare Part D Program. The rate increase is effective January 1, 2022. You will find the renewal rates below:

Retiree Medical Plan	\$248.00
Group Medicare Part D Plan	\$168.00
Combined Total	\$416.00

This plan will automatically renew unless you notify Benistar of the group's plans to change plan design or terminate coverage. If this group intends to term coverage or make any plan design changes, please let us know no later than October 31st.

We would be more than happy to discuss this renewal with you in greater detail. You can contact me at 847-304-9500 ext. 4211.

Sincerely,

Larissa Gargano

Case Manager

Benistar Admin Services

Date: _____

Signature: _____

City of Murfreesboro

Date: _____

Signature: _____

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker

43A2035E51F0401
Adam F. Tucker, City Attorney

GROUP BENEFIT
SOLUTIONS

Alden Davenport
Senior Consultant
Mercer

RE: City of Murfreesboro
LK964182

Dear Alden-

Thank you for allowing New York Life Group Benefit Solutions (NYL GBS) to provide our mutual client, the City of Murfreesboro with Long Term Disability coverage since January 2015. We are excited about the opportunity to continue this successful partnership.

Based on our analysis of the group's demographics, current plans and rates, we can commit to holding the group's current rates for up to an additional 12 months effective January 1, 2022. The next renewal date will be January 1, 2023.

Product	Policy Number	Inforce Rate ^(A)	Renewal Rate ^(A)	Coverage Basis	% Change
LTD	LK964182	\$0.355	\$0.355	Per \$100 of monthly covered payroll	0%

NYL GBS reserves the right to change premium rates if any of the following occurs:

- The policy terms change
- A division, subsidiary, eligible company, or class is added/deleted
- There is a change of more than 10% in the number of eligible employees since the date of the last census provided.

I am grateful for the opportunity to work with you and the City of Murfreesboro team, and look forward to our continued partnership!

X _____
(Authorized City Representative)
Sincerely,

Annie Perrine
Senior Account Executive
cc: Josh Paxton
Lori Coon

DocuSigned by:
APPROVED AS TO FORM: *Adam F. Tucker*
Adam F. Tucker, City Attorney



**SECOND AMENDMENT TO AGREEMENT FOR EMPLOYEE BENEFITS CONSULTANT
between City of Murfreesboro and
Mercer Health & Benefits LLC**

This Second AMENDMENT (the "Amendment"), dated September 14, 2021, is made by and between Mercer Health & Benefits LLC, ("Contractor"), and City of Murfreesboro, (the "City").

WHEREAS, Contractor and the City entered into an Agreement for Employee Benefits Consultant for certain services dated as of January 1, 2020 (the "Agreement");

WHEREAS, the parties wish to amend the Agreement in the manner described below; and

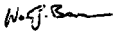
WHEREAS, subject to the amendments set forth herein, all terms and conditions of the Agreement shall remain unmodified and in full force and effect.

NOW, THEREFORE, in consideration of the premises and the mutual agreements and covenants hereinafter set forth herein, the parties hereby agree as follows:

1. Section 2.1, Pursuant to the terms of the Agreement for Employee Benefits Consultant, both parties agree to invoke the option to extend for an additional year on the same terms, conditions and provisions as contained in the Initial Term. The Agreement is hereby extended from January 1, 2022 to December 31, 2022.

IN WITNESS WHEREOF, the Client and Mercer Health & Benefits LLC hereby adopt this amendment to the Agreement and cause it to be signed by a duly authorized representative.

**MERCER HEALTH & BENEFITS LLC
AUTHORIZED REPRESENTATIVE**

Signature: 

Typed/Printed Name: Jay Brown

Date: 9/14/2021

Title: Partner

**City of Murfreesboro
AUTHORIZED REPRESENTATIVE**

Signature: _____

Typed/Printed Name: _____

Date: _____

Title: _____

APPROVED AS TO FORM _____

Signed by:



Adam F. Tucker, City Attorney

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CUSTOMER SERVICES AGREEMENT

This **CUSTOMER SERVICES AGREEMENT** has been entered into and is effective as of the effective date set forth on the signature page attached hereto (the "Agreement") by and between LifeServices EAP, AllOne Health Resources, Inc., its parent company, ("Company") and the party set forth on the signature page ("Customer").

ARTICLE I. PREAMBLE

WHEREAS Customer wishes to engage the Company to provide employee assistance services and the Company wishes to provide Customer with such services; and

WHEREAS, Customer desires to engage the Company to render services upon certain terms and conditions.

NOW, THEREFORE, in consideration of the recitals listed above and the mutual promises, covenants, agreements and undertakings of the parties set forth below, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties, intending to be legally bound, agree as follows:

ARTICLE II. ALLONE HEALTH RESPONSIBILITIES

2.01 Description of Services. The Company shall provide services to Customer pursuant to the attached Statement of Work/Fee Schedule (**Exhibit A**), which is incorporated herein by reference, (sometimes collectively referred to as "Services"). The Company will deliver the Services in any country, territory, city or area specified by Customer, unless the delivery of Services would be prohibited or limited by the U.S. Department of Treasury, Office of Foreign Assets Control ("OFAC") or other applicable trade sanctions.

2.02 The Company's Intellectual Property. The Agreement is not a work-for-hire agreement. The Company retains exclusive right, title and interest in intellectual property developed, delivered or used in the performance of the Agreement. Neither the Agreement nor any Statement of Work changes the ownership of any pre-existing materials. Customer shall have no ownership interest in software used by the Company. All work product generated or acquired by the Company shall be the exclusive property of the Company. Work product shall include all physician notes, clinical data and supporting records and other information. All such work product is confidential pursuant to **Article 3** of the Agreement.

ARTICLE III. CONFIDENTIALITY

3.01 Confidential Information. "Confidential Information" means information or data of a Disclosing Party concerning its business operations, methods and strategies, financial condition, technology or prospects, in any form or medium (including writings, drawings and electronically stored information and data), whether or not marked or labeled as "confidential." In addition, a Disclosing Party's Confidential Information also includes: (i) protected health information; (ii) Business information and data and; (iii) technical information and data or trade secrets; (iv) Intellectual property ("IP") (for example, inventions, discoveries, designs, methods, processes and ideas (whether or not patented or patentable), logos, trade names, trademarks, and service marks (whether or not registered), mask works, works of authorship (whether copyrighted or copyrightable); and (v) all tangible manifestations (however embodied) of information or data referred to in clauses (i), (ii), (iii) and (iv) above (for example, computer software, firmware, scripts or objects, hardware, programmer's notes, databases, manuals, training manuals and materials, memoranda, reports, drawings, sketches, flowcharts, models, prototypes, files, films, records or forms).

3.02 Receiving Party. A party that acquires knowledge of the other party's (a "Disclosing Party") Confidential Information is considered the "Receiving Party." The Receiving Party shall keep Confidential Information in confidence using the same degree of care as the Receiving Party uses with its own Confidential Information or a reasonable degree of care, whichever is greater. The Receiving Party will not use, exploit, disseminate, disclose or

Customer Services Agreement
Page 2 of 8

divulge Confidential Information to any person, firm, corporation, partnership, association or other entity, without the prior written consent of the Disclosing Party.

3.03 Applicability of Confidentiality. A Receiving Party's is not required to hold a Disclosing Party's information or data "confidential" if the information or data: (i) becomes public through no act or omission of the Receiving Party; (ii) was known to the Receiving Party prior to disclosure by the Disclosing Party; (iii) becomes known to the Receiving Party through a third party without the Disclosing Party's Confidential Information; (iv) is required to be disclose pursuant to judicial or governmental judgment, writ, decree, or order; or (v) becomes relevant to the Receiving Party in any claim, demand, suit, action or proceeding instituted or defended by it in connection with the enforcement of its right or obligations. If the Receiving Party is required to disclose Confidential Information as contemplated in **Article III, Section 3.03(iv)**, the Receiving Party may disclose only such information as, in the opinion of counsel, is legally required. The Receiving Party shall provide Disclosing Party, to the extent reasonably possible, advance notice to allow the Disclosing Party to seek, at its own expense, a protective order. The Receiving Party shall, at the Disclosing Party's expense, reasonably cooperate with the Disclosing Party's efforts to seek such a protective order.

3.04 Retention. The Company shall retain, for its own general analytic purposes, after termination of the Agreement, de-identified aggregate data that is: (i) compiled from the raw data disclosed by Customer to the Company; or (ii) compiled from raw data collected from Customer's employees or their health care providers.

3.05 Information Security Program. The Company maintains an information security program to protect personally identifiable information. The information security program includes administrative, technical and physical safeguards: (a) to ensure security and confidentiality; (b) to protect information against any anticipated threats or hazards to security and integrity; and (c) to protect information against unauthorized access to or use that could result in harm, liability or inconvenience to Customer or to its employees. The Company will report breaches of security to Customer.

ARTICLE IV. TERM, PAYMENT AND TERMINATION

4.01 Term. The Agreement begins at 9:00 a.m. Eastern Standard Time on the Effective Date and ends at 5:00 p.m. Eastern Standard Time on January 1, 2023, or until terminated sooner pursuant to **Article IV, Section 4.03** of the Agreement (the "Term"). The Agreement automatically renews for one (1) year terms unless written notice is provided at least 120 days prior to the expiration date or any extension or renewal thereof.

4.02 Payment. In consideration for the Company rendering the Services, Customer agrees to pay the Company such amounts as set forth in **Exhibit A** ("Service Fees"). These fees will be fixed for the Initial 36-month term. Any other adjustments to fees will go into effect each successive term on or after the anniversary date at the Company's sole discretion, but not to exceed the Consumer Price Index (CPI) or rate of inflation at that time, unless otherwise mutually agreed upon. The Company will send Customer a monthly invoice for services rendered to Customer. Customer shall make payment upon receipt of the invoice. If the invoice is not paid within forty-five (45) days following the invoice date, the invoice amount accrues interest at a rate of 1.25% per month. However, Customer's total interest liability will not exceed the limits imposed by law. If the Company charges Customer for interest in excess of the limits imposed by law, the Company will credit Customer the excess interest on the Company's next invoice. If the excess interest is greater than the amount of the Company's next invoice, the Company will refund the Customer the amount of excess interest owed above the next invoice amount.

4.03 Termination. Either party may terminate the Agreement if the other party materially breaches the Agreement and fails to cure such breach within sixty (60) days after receipt of written notice of such breach from the other party. Termination shall not prejudice any other remedy to which the terminating party may be entitled at law, in equity or under the Agreement. The Company may terminate the Agreement with sixty (60) days prior written notice, if the Company is unable to provide the Services.

4.04 Effect of Termination. The Company is entitled to full compensation for work performed prior to termination.

Customer Services Agreement
Page 3 of 8

4.05 Indebtedness. If Customer is unable to pay its debts as they become due, the Company may terminate the Agreement at its discretion and proceed to enforce Customer's performance. This section supersedes all prior contract terms and conditions.

4.06 Bankruptcy. The Company may terminate the Agreement and proceed to enforce performance by Customer if Customer: (i) ceases doing business as a going concern; (ii) makes an assignment for the benefit of creditors; (iii) admits in writing its inability to pay its debts as they become due; (iv) files a voluntary petition in bankruptcy; or (v) files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangements under any present or future statute, law or regulation or files an answer admitting the material allegations of a petition filed against it in any such proceeding, consents to or acquiesces in the appointment of a custodian, trustee, receiver, liquidator of it or of all or any substantial part of its asset or properties, or if within 45 days after the commencement of any proceeding against Customer seeking reorganization, similar arrangements, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceedings shall not have been dismissed, or if within 45 days after appointment of any custodian, trustee, receiver or liquidator of it or all or any substantial part of its assets and properties without Customer's consent or acquiescence, and the appointment has not been vacated.

ARTICLE V. INDEMNIFICATION

5.01 Mutual Indemnification. To the extent permitted by Tennessee law, each party shall indemnify, hold harmless and defend the other party and their respective parent, affiliates, subsidiaries, directors, officers, employees, representatives and agents ("Indemnified Party"), from and against any and all liabilities, claims, suits, demands, causes of action, costs, damages, fines, penalties and expenses incurred by Indemnified Party (including, without limitation, reasonable attorneys' and experts' fees and disbursements) arising out of or resulting from the negligence of the other party.

ARTICLE VI. WARRANTY, DISCLAIMER AND LIMITATION OF LIABILITY

6.01 Warranty. The Company will use commercially reasonable efforts to perform the Services in a professional manner, consistent with industry standards. Except as described in the Agreement or a Statement of Work, the Company makes no other warranties. The Company warranties extend solely to Customer. This warranty gives Customer specific legal rights, and Customer may also have other rights, which vary from state to state. Except for non-payment, neither party will bring a legal action under the Agreement more than two (2) years after the cause of action arose.

6.02 Disclaimer. TO THE EXTENT PERMITTED BY LAW AND AS PROVIDED HEREIN, ALLONE HEALTH DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE FOR PRODUCTS AND SERVICES.

6.03 Limitation of Liability. IN NO EVENT SHALL ALLONE HEALTH BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCURRED BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ALLONE HEALTH'S LIABILITY FOR DAMAGES HEREUNDER SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER, FOR THE PERIOD OF 12 MONTHS PRECEDING THE INCIDENT GIVING RISE TO SUCH DAMAGES, UNDER THE AGREEMENT FOR THE RELEVANT SERVICES.

ARTICLE VII. THIRD PARTY INFORMATION/LIMITATIONS OF RESPONSIBILITY

7.01 Responsibility and Liability for Third Parties. It is specifically understood and agreed by the parties that neither party assumes responsibility or liability for the accuracy, completeness, propriety, necessity or advisability of the medical information which is provided to the Company or Customer by or from third parties. "Third Parties" as used herein shall include, but not be limited to, the following sources: treating physicians, hospitals, attending doctors, nurses, counselors, affiliates, clinics or any other medical entities providing information to the Company or Customer.

Customer Services Agreement
Page 4 of 8

7.02 Limitations of Responsibility. The parties understand and agree that the Company shall have no responsibility of any kind to Customer and any individual employee of Customer or any other person, firm, corporation, or entity for any of the following: (1) Verification of any individual's eligibility, or entitlement to group medical/health plan coverage, or coverage contained within or excluded from said group health plan; (2) Verification for any participant's provider's network status; (3) Payment of any individual's medical, hospital, or other bills, debts, obligations, or other liabilities of any kind relating to medical or surgical treatment of confinement; (4) Benefit decisions – the role of the Company being limited to making clinical recommendations to a health benefit plan's named fiduciary; and (5) Notification to any individual of an adverse benefit determination based upon, or related to, a clinical recommendation by the Company.

7.03 Customer Obligations. The Company shall not be liable for any obligation, indebtedness or liability of Customer, whether now existing or hereafter arising, and the Company shall not, by entering into the Agreement, assume or become liable for any of such obligations, indebtedness or liabilities.

ARTICLE VIII. AUTHORIZATION FOR COMMUNICATIONS

8.01 Communications. Customer shall not distribute descriptive materials of any type which reference the various components of the services provided by the Company without first submitting such proposed materials to the Company for review and obtaining prior written authorization from the Company. Customer further expressly acknowledges that any and all intellectual property rights of the Company, its successors and/or assigns, shall remain the sole and exclusive property of the Company, its successors and/or assigns consistent and in accordance with the prior approval obtained by the Company from the United States Patent and Trademark Office and any other available remedies or protection(s) available unto the Company.

8.02 Irreparable Harm to the Company. It is further expressly agreed that a breach by Customer of any provision of the preceding covenant will cause the Company irreparable harm which cannot be adequately compensated by monetary relief. Accordingly, in the event of any such breach, the Company can and will be entitled to equitable relief (including but not limited to temporary restraining orders, preliminary and/or permanent injunctions), in addition to any other remedies available at law or in equity now or hereinafter in force.

ARTICLE IX. GENERAL PROVISIONS

9.01 Notice. All notices and other communications required or permitted hereunder or in connection herewith, shall be deemed to have been duly given if they are in writing and delivered personally or sent by registered or certified mail, return receipt requested and postage prepaid. They shall be addressed as follows:

LifeServices EAP
Attn: Legal Department
100 North Pennsylvania Avenue
Wilkes-Barre PA 18701-3503

Customer:
As set forth on the Signature Page

Provided, however, that either party may change such party's address by written notice of such change in accordance with this Section to the other party.

9.02 Governing Law. The Agreement shall be governed by and construed under the laws of the State of Tennessee, without giving effect to the principles of conflict of laws thereof. If the Agreement includes the sale of goods, the rights and obligations of the parties shall not be governed by the United Nations Convention on Contracts for the International Sales of Goods (CISG) and its application is excluded. Additionally, the parties agree that any legal action or proceeding brought by or against them under this agreement shall be exclusively brought in the courts

Customer Services Agreement
Page 5 of 8

in and for Rutherford County, Tennessee, and the United States District Court for the Middle District of Tennessee and that the parties submit to such jurisdiction and waive any and all objections which they may have with respect to the venue of the above courts.

9.03 Entire Agreement. The Agreement, together with the exhibits attached hereto, constitutes the entire understanding and agreement between the parties with respect to the provisions of the Services and supersedes any and all prior agreements whether written or oral, that may exist between the parties solely with respect to such subject matter. **Article I** and **Exhibit A** are incorporated into the Agreement by reference. When international services are contemplated by the Agreement, **Exhibit B** is incorporated into the Agreement by reference.

9.04 Modifications and Amendments. No modification, alteration, change or waiver of any provision of the Agreement shall be valid unless it is in writing and signed by the party against whom it is sought to be enforced. No waiver at any time of any provision of the Agreement shall be deemed a waiver of any other provision of the Agreement at that time or a waiver of that or any other provision at any other time.

9.05 Statement of Work/Fee Schedule Amendments. Notwithstanding **Article IX, Section 9.04**, Customer may request the Company to make changes to its Statement of Work/Fee Schedule or to perform additional Services ("Modified Services"). Upon such request by Customer, the Company shall submit in writing a proposal for accomplishing the Modified Services and any associated increase or decrease in the Service Fees. If Customer elects to have the Company perform the Modified Services, the Company shall prepare an amended Statement of Work/Fee Schedule that describes and outlines the terms of the Modified Services to be performed. Such amended Statement of Work/Fee Schedule shall be mutually agreed upon, signed and dated by both parties. The Company shall not be obligated to perform the Modified Services prior to the execution of the amended Statement of Work/Fee Schedule.

9.06 Assignment and Third Party Beneficiaries. Neither party may assign the Agreement without the expressed written consent of the other party, which consent shall not be unreasonably conditioned, withheld or delayed. Notwithstanding the foregoing, either party may assign the Agreement to its parent, a subsidiary or an affiliated company without the expressed written consent of the other party. Furthermore, either party may assign the Agreement to a third party solely in connection with a sale or other disposition of substantially all the assets of the assigning party's business without the expressed written consent of the other party. The Agreement does not, nor is it intended to, create any rights, benefits or interests in any third party, person or organization.

9.07 Captions and Headings. Captions and headings contained herein are solely for convenience of reference and shall not constitute a part of, or affect the interpretation or construction of, the Agreement.

9.08 Waiver and Severability. The waiver by either party of any default or breach of the Agreement shall not constitute a waiver of any other or subsequent default or breach. If any provision of the Agreement shall be deemed partially or wholly unenforceable, such unenforceability shall not affect the remaining provisions hereof and such affected provision shall be enforced to the fullest extent permitted by law.

9.09 Attorney's Fees, Costs and Expenses. If any action at law or in equity is necessary to enforce or interpret the terms of the Agreement, each party shall bear its own attorneys' fees, costs and expenses incurred in maintaining such action in addition to any other relief that may be deemed proper.

9.10 Counterparts and Facsimile Signatures or PDF Signatures. The Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Customer and the Company agree that transmission to each other of the Agreement with the transmitting party's facsimile signature or portable document format ("PDF") signature shall suffice to bind the party signing and transmitting same to the Agreement in the same manner as if the Agreement with an original signature had been delivered.

9.11 Independent Contractor Status. For purposes of the Agreement and all the Services to be provided hereunder,

Customer Services Agreement

Page 6 of 8

the Company shall not be considered a partner, co-venturer, agent, employee or representative of Customer, but shall remain in all respects an independent contractor, and neither party shall have any right or authority to make or undertake any promise, warranty or representation, to execute any contract or otherwise to assume any obligation or responsibility in the name of or on behalf of the other party.

9.12 Solicitation of Employees. Customer agrees that during the term of the Agreement and for a period of twenty-four (24) months commencing on the date that such term expires or is terminated, Customer shall not for any reason, either directly or indirectly, on Customer's own behalf or in the service or on behalf of others, solicit, recruit or attempt to persuade any person to terminate such person's employment or consulting arrangement with the Company, or an affiliated company, whether or not such person is a full-time employee or whether or not such employment is pursuant to a written agreement or is at-will.

9.13 Survival. The provisions of Articles III, IV, V, VI, VII, VIII and IX shall survive the expiration or sooner termination of the term of the Agreement.

9.14 Force Majeure. The Company shall not be considered in default of the performance of its obligations under the Agreement to the extent that performance of its obligations is prevented or delayed by any cause beyond its reasonable control, including, but not limited to, acts of God, acts or omissions of governmental authorities, strikes, lockouts or other industrial disturbances, acts of public enemies, wars, blockades, riots, civil disturbances, epidemics, floods, hurricanes, tornadoes and any other similar acts, events or omissions.

9.15 Advertising and Public Announcement. Customer agrees that the Company may: (1) use Customer's name in any form of publicity; (2) release to the public any information relating to the Services to be performed hereunder; and (3) otherwise disclose or advertise that the Customer has entered into the Agreement.

9.16 Subcontracting. The Company may in its sole discretion, from time to time, outsource services when such outsourcing is deemed to enhance the quality of the service provided.

9.17 ERISA Disclaimer. The parties acknowledge and agree that the Company will provide services to Customer under the Agreement. In providing such service, the parties agree that the Company will not exercise any discretionary authority over the management or disposition of assets of any welfare benefit plan (as such term is defined in the Employee Retirement Income Security Act of 1974 ("ERISA")). The Company's duties will be limited to providing certain contractually agreed upon services as herein set forth. Therefore, the parties agree that the Company is not a fiduciary (as such term is defined by ERISA Section 3(21)) with regard to Customer's Health Benefits or any Health and Welfare Benefit Plan. The Company will provide services by using its employees who are unfamiliar with and have no responsibility to determine or verify the coverage requirements of any specific benefit plan. In the event that knowledge of the Company shall be a prerequisite to imposing a duty upon or to determine the liability of the Company under the Agreement or under any statute regulating the conduct of the Company, the Company will not be deemed to have participated in any act or omission of any fiduciary (as such term is defined under ERISA) with regard to the coverage requirements of any welfare benefit plan as a result of performing its contractually agreed upon duties hereunder.

9.18 Privacy Protection Standard. With regard to private health information and other personal information, the parties shall comply, to the extent applicable, with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH") and any all applicable laws and regulations including the European Commission Data Protection Directive (95/46/EC), and the European Commission Data Protection in the Electronic Communications Sector Directive (2002/58/EC). The parties shall adhere to adequate safeguards required for the international transfers of personal data outside of the European Economic Area. The customer hereby agrees that (i) the Company and its subcontractors will transfer data outside of European Union in accordance with standards set forth by the European Union laws, the EU model clauses and/or the EU-US Privacy Shield framework for transatlantic data transmission as adopted; (ii) the Company is authorized to process and transfer data between its offices constituting the Company's Group of Companies, and between any sub-contractor(s), partners and affiliates engaged by the Company to perform part or all of the Services thereby

Customer Services Agreement
Page 7 of 8

allowing global access to the data on a 'need-to-know' basis in order to perform Services under the Agreement in the countries and territories specified by Customer; and (iii) the Company shall not disclose to anyone private information of data subjects as defined in HIPAA other than in the aggregate reports or in de-identified form without the written consent of data subject unless otherwise required or permitted by law.

9.19 Anti-Corruption Compliance. When international services are contemplated by the Agreement, the parties shall conduct themselves in an ethical, lawful, businesslike and professional manner in performance of the Agreement and shall comply with all applicable laws, regulations and directives that may apply to them. Each party shall reasonably assist the other party to assure such compliance at all times during the term of the Agreement. Without limiting the foregoing and for avoidance of doubt, Customer shall obey all applicable laws or regulations in the relevant jurisdiction and shall also obey the U.S. Foreign Corrupt Practices Act ("FCPA") (15 USC §§ 78dd-1, et seq.) and any similar anti-bribery provisions or regulations including the UK Bribery Act 2010.

9.20 Trade Sanctions and Export Control. When international services are contemplated by the Agreement, the parties agree not to use or otherwise export or re-export anything exchanged or transferred between them pursuant to the Agreement except as authorized by laws of the United States. In particular, but without limitation, items or services exchanged may not be exported or re-exported (a) into any U.S. sanctioned countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. If the Agreement involves provision of Services outside of the United States, the parties shall comply with all applicable laws (e.g. United Kingdom, Canadian, European Union trade sanctions and export control laws and regulations).

9.21 Record Storage and Delivery. Upon termination of the Agreement and to the extent that such records exist, the Company shall compile, collect and deliver to Customer all Customer records subject to the Agreement as soon as is practicable after such termination. Customer agrees to accept delivery upon receipt of such Customer records and pay the Company any and all reasonable and customary storage, shipping and handling fees and expenses upon receipt of such record delivery and invoicing. Customer understands that any federal and/or state law, rule, regulation or policy requiring the safekeeping of records for a prescribed period of time, after termination of the Agreement, is the sole responsibility of Customer and not an obligation of the Company.

9.22 Non-Discrimination. It is the policy of the Customer not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Company certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the Customer's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the Customer's or in the employment practices of the Customer's Contractors.

[Remainder of page intentionally left blank]

Customer Services Agreement
Page 8 of 8

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have each duly executed the Agreement, in duplicate if necessary, as of the effective date written below.

LIFESERVICES EAP

Date

Keith Wasley
President

1/1/22
Effective Date

Authorized Customer Signature

Name: _____

Title: _____

Customer: City of Murfreesboro

Address: _____

City, State Zip: _____

Telephone: _____

Email: _____

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker

Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: FY22 City Manager Approved Budget Amendments

Department: Finance

Presented by: Jennifer Brown

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

Summary

Notification to Council of City Manager approved budget amendments.

Background Information

Ordinance 15-O-48 requires notification to Council of City Manager approved budget amendments. The following budget amendments have been approved:

Other General Government

Due to rising costs, the quote for the replacement of three Fire vehicles is higher than budgeted. Move \$25,000 from Unforeseen Contingencies to Fire Transportation Equipment.

To install a fence behind the Street Department building along the greenway trail. Move \$23,000 from Unforeseen Contingencies to Street Other Improvements.

To adjust salaries and benefits for the Chief Court Clerk based on additional duties and responsibilities. Move \$13,000 from Unforeseen Contingencies to City Court Salary – Full-Time – Regular.

Parks & Recreation

To install a fence around the St. Clair Senior Center. Move \$8,000 from Parks & Recreation Building Expense to Senior Center Other Fixed Asset Improvements.

Council Priorities Served

Responsible budgeting

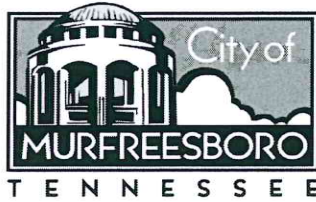
Inter-Fund budget amendments reallocate resources in an efficient manner.

Fiscal Impact

The transfers within the General Funds will have no effect on fund balance.

Attachments

Detailed Inter-Fund Budget Requests



... creating a better quality of life

Inter-Fund Budget Amendment Request

Mr. Tindall,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2022

Move funds from:

Org 10130008
Object 599909
Acct Name Unforeseen Contingencies
Amount \$ 25,000.00

Move funds to:

Org 10211009
Object 594100
Acct Name Transportation Equipment

Explanation: Due to rising costs, the quote for replacement of 3 Fire vehicles is higher than budgeted.

Jennifer Brown
Department Head Signature

9/24/21
Date

Amanda DeRosia
Reviewed by Finance

09/24/2021
Date

Approved



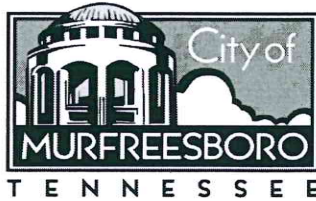
Declined



CS/LL
City Manager

9.27.21
Date

Please return to Amanda DeRosia, Finance & Tax Dept., once all signatures have been obtained.



... creating a better quality of life

Inter-Fund Budget Amendment Request

Mr. Tindall,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2022

Move funds from:

Org 10130008
Object 599909
Acct Name Unforeseen Contingencies
Amount \$ 23,000.00

Move funds to:

Org 10315009
Object 593900
Acct Name Other Improvements

Explanation: To install a fence behind the Street department along the greenway trail.

Jennifer Brown
Department Head Signature

10/4/2021
Date

Amanda DeRosia
Reviewed by Finance

10/04/2021
Date

Approved



Declined



[Signature]
City Manager

10.5.21
Date

Please return to Amanda DeRosia, Finance & Tax Dept., once all signatures have been obtained.



... creating a better quality of life

Inter-Fund Budget Amendment Request

Mr. Tindall,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2022

Move funds from:

Org 10130008
Object 599909
Acct Name Unforeseen Contingencies
Amount \$ 13,000.00

Move funds to:

Org 10115007
Object 511100
Acct Name Salary - Full-Time - Regular

Explanation: Adjust salaries and benefits for Chief Court Clerk based on additional duties and responsibilities.

Jennifer Brien
Department Head Signature

10/12/2021
Date

Amanda DeRosia
Reviewed by Finance

10/12/2021
Date

Approved



Declined



[Signature]
City Manager

10-13-21
Date

Please return to Amanda DeRosia, Finance & Tax Dept., once all signatures have been obtained.



Inter-Fund Budget Amendment Request

Mr. Tindall,

Submitted for your approval, per Ordinance 15-O-48, is the following budget amendment requesting a transfer within the same fund.

Budget Fiscal Year: 2022

Move funds from:

Org 10413009
Object 592000
Acct Name Fixed Assets-Buildings Exp
Amount \$ 8,000.00

Move funds to:

Org 10413509
Object 593900
Acct Name Fixed Assets-Other Improvements

Explanation: A fence is needed around the St. Clair Senior Center for safety reasons. We have made a cut
from another budgeted fixed asset to have this done.

[Signature]
Department Head Signature

9/29/2021
Date

Amanda DeRosia
Reviewed by Finance

10/04/2021
Date

Approved	<input checked="checked" type="checkbox"/>	<u>[Signature]</u>	<u>10.5.21</u>
Declined	<input type="checkbox"/>	City Manager	Date

Please return to Amanda DeRosia, Finance & Tax Dept., once all signatures have been obtained.

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Approval of Use of Competitive Sealed Proposals for Playground Design and Installation

Department: Parks and Recreation

Presented by: Nate Williams, Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Approval to use Request for Competitive Sealed Proposals (RFCSP) for professional playground replacement at StarPlex Baseball/Softball Complex.

Staff Recommendation

Approve use of RFCSP method of procurement for playground replacement.

Background Information

The Playground in StarPlex at McKnight Park would benefit from replacement. Capital funding has been allocated for its replacement. Due to the unusual footprint and the need for ADA compliant equipment, staff would like to rely on reputable companies to propose their best designs. Purchasing Staff would like to use the RFCSP method of procurement to choose a suitable company to demo, design and construct a new playground for StarPlex.

Pursuant to state statute, Council approval is required to use the RFCSP process for procurement of these services.

Council Priorities Served

Responsible budgeting

An RFCSP will ensure the best design and warranty for the allocated funding.

Fiscal Impact

None for approval for use of purchasing method. Contracts resulting from approval will be brought to Council for approval at a later date.

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Mandatory Referral for Installation of Private Irrigation Lines in Plum Leaf Place Right-of-Way

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Consider request to allow installation of private irrigation lines in the public right-of-way of Plum Leaf Place in the Mankin Pointe Subdivision.

Staff Recommendation

Approve the mandatory referral request.

The Planning Commission voted to recommend approval at its October 13, 2021 regular meeting.

Background Information

Mankin Pointe is a single-family residential development located east of Manchester Pike and north of Dilton Mankin Road. It is currently under development. In this mandatory referral [2021-721], Council is being asked to consider allowing private irrigation lines in the public right-of-way of Plum Leaf Place within this development, so that the various common areas can be irrigated. The irrigation lines will be installed as a part of the Section 2, Phase 2 construction and will not require any road closures. If approved, the developer will enter into a license agreement with the City pertaining to these irrigation lines. Similar mandatory referrals have been approved for the Blackman Station and Blackman Village developments on the west side of the City. The City Engineer and Deputy City Attorney have both reviewed this request and do not object to its approval.

Council Priorities Served

Establish Strong City Brand

Allowing these irrigation lines in the public right-of-way is consistent with the City's goals to be customer service-oriented. In addition, subdivision landscaping enhances the aesthetics and the quality of the development, and the irrigation lines will help to ensure that the landscaping will survive.

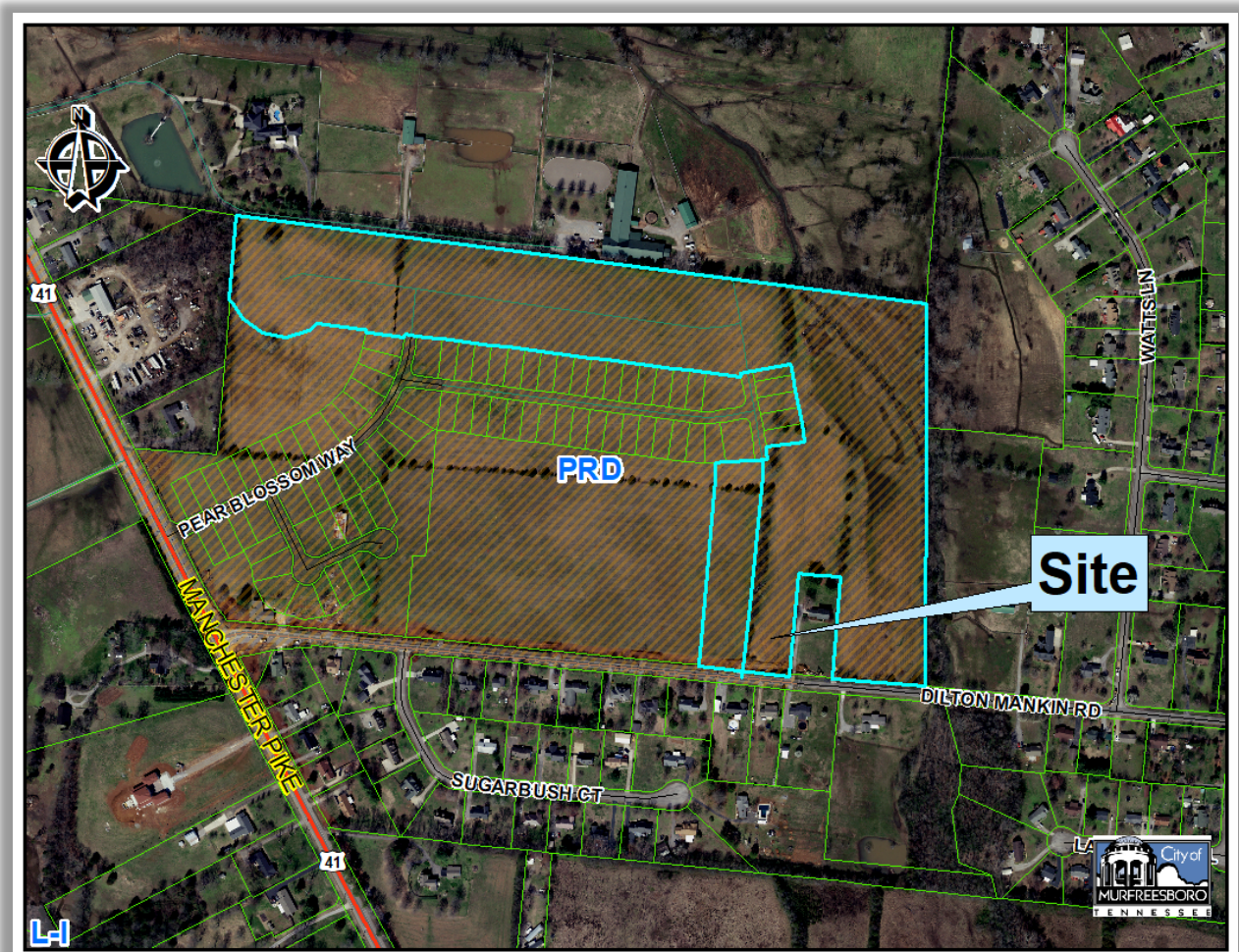
Attachments:

1. Staff comments from 10/13/2021 Planning Commission meeting

2. Letter from applicant
3. Miscellaneous exhibits from applicant

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
OCTOBER 13, 2021
PROJECT PLANNER: MATTHEW BLOMELEY**

- 6.a. Mandatory Referral [2021-721] for installation of irrigation lines in the public right-of-way of Plum Leaf Place in the Mankin Pointe development, Mankin Pointe, LLC applicant.



Mankin Pointe is a single-family residential development located east of Manchester Pike and north of Dilton Mankin Road. It is currently under development.

In this mandatory referral, the Planning Commission is being asked to consider allowing irrigation lines in the public right-of-way of Plum Leaf Place within this development, so that the various common areas can be irrigated. The irrigation lines will be installed as a part of the Section 2, Phase 2 construction and will not

require any road closures. If approved, the developer will enter into a license agreement with the City pertaining to these irrigation lines. Similar mandatory referrals have been approved for the Blackman Station and Blackman Village developments on the west side of the City. The City Engineer and Deputy City Attorney have both reviewed this request and do not object to its approval.

Staff recommends that the Planning Commission recommend approval of this request to the City Council.



City of Murfreesboro Mandatory Referral Application

111 W Vine Street • Murfreesboro, TN 37130 • 615-893-6441

Mandatory Referral Fees:

Mandatory Referral, INCLUDING abandonment of right-of-way.....	\$350.00
Mandatory Referral, NOT INCLUDING abandonment of right-of-way.....	\$150.00

Property Information:

Along Plum Leaf Place, north of Dilton

Tax Map/Group/Parcel: Map 126 Parcel 18.00

Address (if applicable): Mankin Rd

Street Name (if abandonment of ROW):

Type of Mandatory Referral: License Agreement for Installation & Maintenance in R.O.W.

Applicant Information:

Name of Applicant: Dan Bobo

Company Name (if applicable): Mankin Pointe LLC

Street Address or PO Box: 262 Robert Rose Drive

City: Murfreesboro

State: TN

Zip Code: 37129

Email Address: dbobo@olesouth.com

Phone Number: 615-896-0019

Required Attachments:

- ☒ Letter from applicant detailing the request
- ☒ Exhibit of requested area, drawn to scale
- ☐ Legal description (if applicable)

Applicant Signature

Date

September 24, 2021

Mr. Matthew Blomeley
Murfreesboro Planning & Engineering Dept
111 W. Vine St
Murfreesboro, Tennessee 37130

RE: Mankin Pointe Section 2 Phase 2
License Agreement for Installation &
Maintenance in Right-of-Way Request
Murfreesboro, Tennessee

Dear Mr. Blomeley:

Please accept this as our formal request for the City of Murfreesboro to grant Mankin Pointe, LLC a License Agreement for Installation and Maintenance in Right-of-Way. This request will allow for two(2) irrigation sleeves to cross Plum Leaf Place in the Mankin Pointe development. Furthermore, the attached exhibit highlights the area.

These right-of-way is proposed and will be platted with the Mankin Pointe Section 2 Phase 2 project. These will be installed as a normal part of construction for the development and will not require any road closures.

If you should have any questions concerning this letter, please feel free to call me at (615) 890-7901 or via email at mtaylor@sec-civil.com

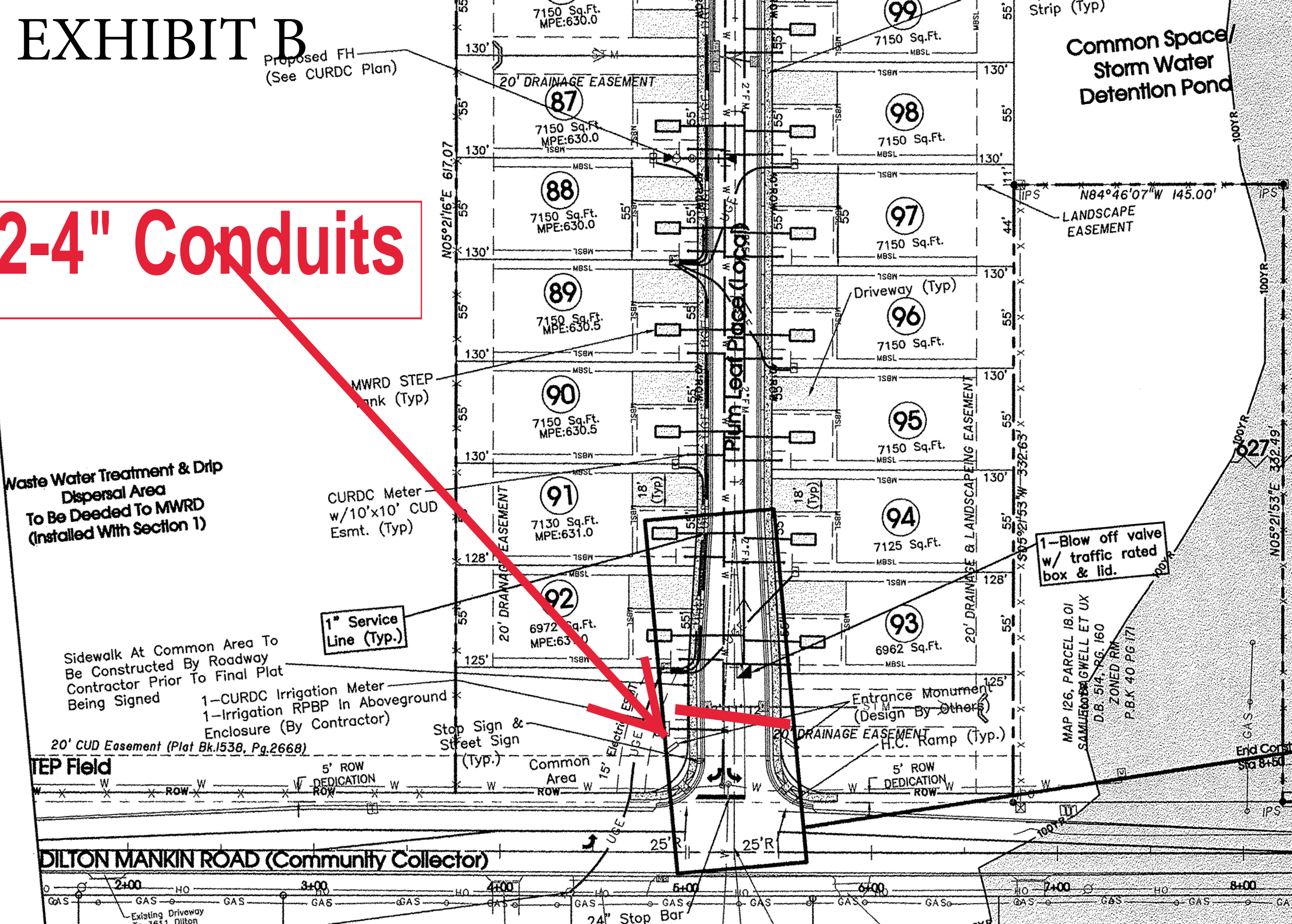
Sincerely,



Matt Taylor, P.E.
Vice-President
SEC, Inc

EXHIBIT B

2-4" Conduits



**Prepared by and to be
Returned to after recording to:**

David A. Ives, Asst. City Attorney
111 West Vine Street
Murfreesboro TN 37130

Tax Map 126 Parcel 18.00

LICENSE AGREEMENT FOR INSTALLATION AND MAINTENANCE IN ROW

The **CITY OF MURFREESBORO**, a municipal corporation located in Rutherford County, Tennessee ("City"), and **Mankin Pointe, LLC**, its successors and assigns ("Owner") agree as follows:

RECITALS

A. Owner owns approximately 72.30 acres of real property being developed as Mankin Pointe located in the Northeast quadrant of the intersection of Manchester Highway and Dilton Mankin Road in the City of Murfreesboro, Tennessee (as depicted on attached **Exhibit A**, the "Property"). The Final Plat of the Property is of record at Plat Cabinet ____ pg _____, RORC.

B. Owner desires to construct, install and maintain an irrigation system and related facilities (altogether, "Facilities") for the benefit of the Property within the ROW of Plum Leaf Place at the intersection with Dilton Mankin Road, (substantially as shown on **Exhibit B**), and all as is shown or will be shown on Landscaping Plans on file with the Planning Department, which Facilities may also be within water, sanitary sewer, drainage, and / or utility easements which have been or will be created (all such right-of-way and easements together and separately, as applicable, the "ROW").

AGREEMENT

NOW, THEREFORE, in consideration of the premises, the mutual promises made herein, the mutual benefits to be derived herefrom, and other good and valuable consideration, the receipt and sufficiency of which is hereby irrevocably acknowledged and confirmed, the parties hereto agree as follows:

1. City consents to the installation and maintenance of the Facilities within the ROW, including the installation and maintenance of water lines for the irrigation system under the ROW, provided that Owner shall submit a Landscaping Plan to the City Planning Department for its review and approval prior to beginning any installation. The Landscaping Plan shall include detailed construction plans and methods for the location and depth of the Facilities, along with proposed methods for and protection of and separation from existing utilities. Upon approval by the Planning Department and the City Engineer, the City will issue an Installation Permit to Owner and Owner will be authorized to begin work.

(a) Owner will install utility vaults or boxes on each side of the ROW as visual evidence of the location of the Facilities.

(b) Owner will provide an “as built” survey to the City promptly after completion of construction and will cause the locations to be listed with Tennessee One Call.

(c) Except in the event of an emergency, Owner will apply for and receive an appropriate ROW Work Permit from the City Engineer prior to undertaking any future repairs or modifications within the ROW or any City Easement. In the event of an emergency, Owner will so notify the City Engineer and will apply for a ROW Work Permit as soon as reasonably practical, but in any event now more than 72 hours after the event.

2. Owner agrees that City shall have the right to limit or totally withdraw its permission to place and maintain Facilities within the ROW if the City determines that such is reasonably necessary for the preservation or protection of the health, safety or welfare of the residents or guests of the City or for the protection or preservation of City property, utilities or infrastructure. In the event of withdrawal of permission by the City, Owner shall relocate the Facilities to a mutually agreeable location at Owner’s sole cost and expense.

3. City reserves the right for it or its authorized contractor, at any time, to perform work deemed necessary or appropriate by City within the ROW or Easements, specifically including work on any utilities, and City shall have no liability to Owner for any damage to the Facilities by reason of such work; provided, however, City shall reasonably cooperate with Owner to minimize damage to the Facilities resulting from such work and shall use reasonable efforts to minimize any such damage.

4. Owner shall, at its sole cost and expense, maintain the Facilities in accordance with all City standards. Owner agrees to replace any of the Facilities as reasonably necessary within a reasonable amount of time.

5. Owner shall defend, indemnify and hold City harmless from any liability to any person or entity arising out of or relating to installation or maintenance of the Facilities within the ROW, except for liability resulting from City’s own negligence or intentional actions. Owner shall maintain insurance against third party claims that may be covered by this defense, indemnity and hold harmless.

6. Owner shall comply with all City codes and ordinances regarding use of City ROW in installation and maintenance of the Facilities, including the obtaining of all necessary permits, including but not limited to the following, as applicable:

- a. Street Cut Permit and Bond pursuant to City Code § 28-101 et seq.
- b. Maintenance of sight-distance triangle pursuant to City Code Appendix A – § 27(P).
- c. Tree removal permit prior to removal of any tree or trees pursuant to City Code Appendix A – Zoning, §27(R).

7. This License Agreement shall be for an initial term of 15 years from the date hereof and shall be automatically renewed for successive terms of 15 years each unless either party, in its sole option and discretion, gives written notice to the other party within the final six months of this License Agreement, that it is electing not to renew this License Agreement. Unless

otherwise agreed by the City, Owner shall remove all of the Facilities upon the termination of this License Agreement, and shall repair any damage or injury caused to the property of City or others by such removal.

8. This License Agreement shall be governed by the laws of the State of Tennessee, and jurisdiction and venue for any litigation arising hereunder shall be in the Circuit Court for Rutherford County, Tennessee. In the event of any such litigation, the prevailing party shall recover, in addition to any other legal or equitable relief granted by the Court, reasonable attorney fees and all costs of court including but not limited to discovery, witness and expert fees.

9. Any notice or demand which either party may or must give to the other hereunder shall be in writing and delivered personally, by reputable overnight courier, or sent by certified mail - return receipt requested addressed, if to Owner, as follows:

To City: City of Murfreesboro, Development Services Division
111 W. Vine Street
Murfreesboro, Tennessee 37130

With a copy to: City Attorney
City of Murfreesboro
111 West Vine Street
Murfreesboro, Tennessee 37130

To Owner: Mankin Pointe, LLC
262 Robert Rose Drive
Murfreesboro TN 37129

Either party may, by notice in writing, direct that future notices or demands be sent to a different address. All notices hereunder shall be deemed given upon receipt (or, if rejected, upon rejection) or three (3) business days after being mailed, by certified mail, postage pre-paid to the above addresses.

10. Owner, for itself and any successors or assigns, agrees that if the Facilities are not maintained to City standards, or otherwise become unsightly or appear to the City Planning Director to be a danger to public health, safety and welfare, and if such condition is not properly remedied within five (5) days of written notice delivered to Owner and Owner's successor or assign, if any, that City may then take all such steps as it deems appropriate, including but not limited to the removal of all of the Facilities. If the City deems it necessary to take action pursuant to this Section 10, it will send an invoice for labor, equipment and materials expended, plus an amount equal to 50% of the total labor, equipment and materials expended for administrative costs, to Owner and Owner's successor or assign, if any. Any such Invoice shall be paid within 30 days of the date of the invoice. If Owner fails to pay any such Invoice within 30 days, the City may file an appropriate lien to secure payment.

11. This License Agreement shall inure to the benefit of and be binding on the successors and assigns of Owner and City and shall run with the land. This License Agreement may be

executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same agreement.

12. (If applicable) _____ (“Creditor”) is the holder of a promissory note dated _____ in the original principal amount of \$ _____ secured by a Deed of Trust of record at Record Book _____ page _____, Register’s Office of Rutherford County, Tennessee. Creditor hereby joins herein solely for the purpose of subordinating, and does hereby subordinate, the lien of said Deed of Trust to this LICENSE AGREEMENT FOR INSTALLATION AND MAINTENANCE IN ROW in favor of the City; but said Deed of Trust shall not be otherwise affected hereby, and shall continue in full force and effect as before the execution and delivery hereof, subject and subordinate only to said LICENSE AGREEMENT FOR INSTALLATION AND MAINTENANCE IN ROW

IN WITNESS WHEREOF, City and Owner have set forth their hands and seals below as of the date as of the date of the last party to sign.

CITY OF MURFREESBORO

MANKIN POINTE, LLC

By: _____
Craig Tindall, City Manager
Date: _____

By: _____
Printed name _____
Its _____
Date: _____

APPROVED AS TO FORM:

By: _____
Adam F. Tucker, City Attorney

CREDITOR:

By: _____
Name: _____
Title: _____

APPROVED BY PLANNING COMMISSION: _____

APPROVED BY CITY COUNCIL: _____

NOTARY BLOCKS ON FOLOWING PAGE

Before me, _____, a Notary Public of said County and State, personally appeared _____ with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the _____ of **Mankin Pointe, LLC**, a Tennessee _____, and that he as such officer executed the foregoing instrument for the purposes therein contained, by signing the name of **Mankin Pointe, LLC** in his capacity as such.

Notary Public

[illegible]

Witness my hand and seal, at Office, this day of , 20 .

Notary Public

STATE OF _____) : ss
COUNTY OF _____)

Witness my hand and seal, at Office, this _____ day of _____, 20____.

Notary Public

dai f:\matthew\planning commission 2021\october 13\2021-721 mankin pointe sec. 2 phs. 2\install.row.doc 3/25/2020 2:56:52 PM #5

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: 2021 Edward Byrne Memorial Justice Assistance Grant (JAG)
Award Acceptance

Department: Police

Presented by: Jennifer Brown

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

2021 Edward Byrne Memorial Justice Assistance Grant (JAG) has been awarded.

Staff Recommendation

Accept the 2021 JAG Grant award.

Background Information

In July 2021, Council approved the application and MOU for the City and sub-recipient County Sheriff's Office for the 2021 Edward Byrne Memorial Justice Assistance Grant (JAG). The Department of Justice has approved our application for the purchase of law enforcement equipment and has awarded the 2021 JAG Grant.

Council Priorities Served

Maintain Public Safety

Law enforcement equipment purchased will provide additional resources for Police officers.

Responsible Budgeting

The grant does not require a financial match. It is prudent of the City to take advantage of Federal grant funds, thus freeing City resources for other necessary expenditures.

Fiscal Impacts

None. Grant revenue and expenditures for the Police Department will increase \$61,903 each, resulting in no effect to the General Fund budget.

Attachments

2021 Edward Byrne Memorial Justice Assistance Grant (JAG) award document.

✓ Award Letter

October 13, 2021

Dear Jennifer Brown,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Justice Programs (OJP) has approved the application submitted by MURFREESBORO, CITY OF for an award under the funding opportunity entitled 2021 BJA FY 21 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation. The approved award amount is \$61,903.

Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by OJP, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

Congratulations, and we look forward to working with you.

Maureen Henneberg
Deputy Assistant Attorney General

Office for Civil Rights Notice for All Recipients

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized

under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>.

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria. These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a nondiscriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at askOCR@ojp.usdoj.gov.

Memorandum Regarding NEPA

[NEPA Letter Type](#)

OJP - Ongoing NEPA Compliance Incorporated into Further Developmental Stages

[NEPA Letter](#)

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

Please be sure to carefully review the grant conditions on your award document, as it may contain NEPA Coordinator

First Name	Middle Name	Last Name
Orbin	_____	Terry

- > **Award Information**
- > **Project Information**
- > **Financial Information**
- > **Award Conditions**
- > **Award Acceptance**

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: GrayKey Software License Renewal

Department: Police

Presented by: Bill Terry, Public Safety IT Manager

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

GrayKey software license renewal.

Staff Recommendation

Approve the 12-month renewal of the Gray Key software license with Grayshift LLC.

Background Information

The GrayKey software is used by the Criminal Investigation Division for the investigation of situation involving mobile communications devices. The software has proven to be useful in criminal investigations. The current license expires on December 1, 2021.

Council Priorities Served

Maintain Public Safety

This software is crucial to the department's investigation teams to assist in solving and preventing crimes.

Fiscal Impact

The total cost, \$27,995, is funded by MPD's FY22 operating budget.

Attachments

Grayshift LLC Quote



GRAYSHIFT

Grayshift LLC

931 Monroe Drive NE Suite A102-340
 Atlanta, GA 30308
 USA
 Phone: (833) 472-9539

Quote Number: Q-02898-1
Created Date: 9/16/2021
Expiration Date: 10/16/2021
Contract Start Date: 12/2/2021

CAGE Code: 7R0W9
DUNS Number: 081045174
NAICS: 511210

Ship To

Tyler Smith

Bill To

Tyler Smith

0844@murfreesborotn.gov

This license will be digitally delivered.

SALESPERSON	EMAIL	DELIVERY METHOD	PAYMENT TERMS
Deanna Binion	deanna@grayshift.com	Digital	Net 30

All prices below are in U.S. Dollar

PRODUCT NAME	START	END	PART	QTY	PRICE	EXTENDED
GrayKey License - Advanced Unlimited Consent and BFU Extractions. 225 AFU, Instant Unlock or Brute Force Advanced actions Action Credits Included: 225 Renewal for Serial Numbers: 82c21ff2d4810709	12/2/2021	12/1/2022	GKL-ONF-AD	1.00	27,995.00	27,995.00

TOTAL: 27,995.00

Quote Terms

- Delivery of GrayKey requires the end-user's prior acceptance of Grayshift's End User License Terms Agreement ("EULA")
- Your acceptance of this quotation will indicate your acceptance of the terms of Grayshift's EULA, without exception or reservation. The EULA is available at <https://grayshift.com/terms>
- License Term includes unlimited extractions and software updates during the license term
- The final invoice may include tax if applicable
- Please reference quote number on payment method

Payment Terms

- Non-payment thirty days after issuance of your invoice may result in a suspended license
- Credit Cards: Major credit cards accepted including Visa, Mastercard, and American Express
- Additional Information: Fees under this Agreement are exclusive of all taxes, including national, state or provincial and local income, use, sales, value-added, property and similar taxes, if any. Customer agrees to pay such taxes (excluding US taxes based on Grayshift's net income). In the case of any withholding requirements, Customer will pay any required withholding itself and will not reduce the amount paid to Grayshift on account thereof. As an example, if the price to be paid is \$100 but there is, for example, 10% withholding, Grayshift will still directly be paid \$100. The payor may need to "gross up" the overall payment so the amount due Grayshift after any withholding is \$100

Terms & Conditions

For online licenses only (not acceptable for the purchase of expansion packs), a signed quote is acceptable in lieu of a purchase order to execute this order under the following conditions:

- a. The intended licensor identified in the quote does not require the issuance of a Purchase Order, and
and
- b. The above quote is of a total value less than \$50,000 USD

By signing this quote, you certify that the above is accurate and that you are an authorized representative of the intended licensor identified in this quote with the authority to enter into this agreement.

Signature:

Shane McFarland

Effective Date:

____/____/____

Name (Print):

Title:

Please sign and email to Deanna Binion at deanna@grayshift.com

APPROVED AS TO FORM:

DocuSigned By:

Adam F. Tucker

Adam F. Tucker, City Attorney

Grayshift LLC

THANK YOU FOR YOUR BUSINESS!

GRAYSHIFT, LLC

END USER LICENSE TERMS

IMPORTANT: PLEASE READ THIS END USER LICENSE AGREEMENT CAREFULLY. DOWNLOADING, INSTALLING OR USING GRAYSHIFT-SUPPLIED SOFTWARE AS PART OF THE GRAYSHIFT PRODUCT (THE “PRODUCT”) CONSTITUTES ACCEPTANCE OF THIS AGREEMENT.

THIS PRODUCT CONTAINS CERTAIN SOFTWARE (“SOFTWARE”) AND OTHER PROPRIETARY MATERIAL, THE USE OF WHICH IS SUBJECT TO THIS END USER SOFTWARE LICENSE AGREEMENT (“AGREEMENT”). IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT CLICK “I AGREE” AND DO NOT USE THE SOFTWARE. YOUR CLICKING “I AGREE” OR USING THE PRODUCT OR SOFTWARE INDICATES THAT YOU ACCEPT THESE TERMS. IF YOU DO NOT AGREE WITH ALL TERMS, YOU MUST RETURN THE PRODUCT, ALL MANUALS AND DOCUMENTATION, AND PROOF OF PAYMENT AND DISCONTINUE USE OF THE SOFTWARE. WRITTEN APPROVAL IS NOT A PREREQUISITE TO THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT AND NO SOLICITATION OF ANY SUCH WRITTEN APPROVAL BY OR ON BEHALF OF GRAYSHIFT SHALL BE CONSTRUED AS AN INFERENCE TO THE CONTRARY. IF YOU HAVE ORDERED THIS PRODUCT, GRAYSHIFT’S ACCEPTANCE IS EXPRESSLY CONDITIONAL ON YOUR ASSENT TO THESE TERMS TO THE EXCLUSION OF ALL OTHER TERMS.

1. ACCEPTANCE AND DELIVERY. Software will be provided by electronic means. Acceptance of Software (“Acceptance”) shall be automatic upon the successful completion of Grayshift’s standard installation procedures on the Product.

2. LICENSE GRANT. Subject to the terms of this Agreement and for the consideration specified in the Order (defined below), Grayshift, LLC (“Grayshift”) hereby grants to you (“Licensee” or “You”) a limited, revocable, nontransferable, non-assignable, non-sublicensable, non-exclusive license to use and allow Authorized Users to use the Software, in object code form, solely as such Software is embedded in proprietary equipment provided herewith (“Product”) and solely for purposes of accessing mobile devices (“Devices”) in your possession or control. You may only use the Product at the authorized physical locations (the “Authorized Locations”) specified in your online order (the “Order”) or that you have otherwise registered with Grayshift and you acknowledge and agree that in order for the Product to function properly in online mode, you must be connected to the Internet. When you are using the Product in offline mode, you do not need to be connected to the Internet. Grayshift may use certain third-party monitoring tools to ensure that you are in compliance with the foregoing restrictions, which such tools may be subject to Third Party Components terms as further described herein. For purposes of this Agreement, “Authorized Users” means collectively, employees, agents, or contractors of Licensee accessing or using the Product.

3. THIRD PARTY COMPONENTS. The Software makes use of or otherwise incorporates third party components, including certain Google Maps features and content. Use of Google Maps features and content is subject to the then-current versions of the: (1) Google Maps/Google Earth Additional Terms of Service at https://maps.google.com/help/terms_maps.html; and (2)

Google Privacy Policy
at <https://www.google.com/policies/privacy/>.

4. LICENSE RESTRICTIONS. Notwithstanding anything to the contrary in this Agreement, Licensee will not (or allow an Authorized User to): (a) modify any Product; (b) reverse compile, reverse assemble, reverse engineer or otherwise translate all or any portion of any Product; (c) pledge, rent, lease, share, distribute, sell or create derivative works of any Product; (d) use any Product on a time sharing, service bureau, application service provider (ASP), rental or other similar basis; (e) make copies of any Product, except as provided for in the license grant above; (e) remove, alter or deface (or attempt any of the foregoing) proprietary notices, labels or marks in any Product; (f) distribute any copy of any Software to any third party, including without limitation selling any Product in a secondhand market; (g) use any Software other than with Products provided by Grayshift; (h) use the Product other than at an Authorized Location; (i) deactivate, modify or impair the functioning of any disabling code in any Software; (j) circumvent or disable Grayshift copyright protection mechanisms or license management mechanisms; (k) use any Product in violation of any applicable Law or to support any illegal activity; or (l) use any Product to violate any rights of any third party. Grayshift expressly reserves the right to seek all available legal and equitable remedies to prevent any of the foregoing and to recover any lost profits, damages or costs resulting from any of the foregoing.

5. FEES. Licensee shall pay the license fees set forth in the relevant Purchase Order for the Software and Product. Licensee will be responsible for payment of any applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges (other than taxes based on Grayshift’s income), and any related penalties and interest for the grant of license rights hereunder, or the delivery of related services. Licensee will make all required payments to Grayshift free and clear of, and without reduction for, any withholding taxes. Any portion of any amount payable

hereunder that is not paid when due will accrue interest at two percent (2%) per month or the maximum rate permitted by applicable law, whichever is less, from the due date until paid.

6. SUPPORT. Grayshift will provide support services (including updates and upgrades) for the Software as specified in the Order and in accordance with the support terms located at <https://grayshift.com>.

7. TITLE. As between the parties, Grayshift and its licensors retain all right, title, and interest, including, without limitation, all intellectual property rights to the Product. Licensee understands that Grayshift may modify or discontinue offering the Product at any time. The Product is protected by the copyright laws of the United States and international copyright treaties. This Agreement does not give Licensee any rights not expressly granted herein. This Agreement does not constitute a sale of the Product or any portion or copy of it. All rights not granted are reserved for Grayshift.

8. LIMITATION OF LIABILITY. UNDER NO LEGAL THEORY, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE, SHALL GRAYSHIFT OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, RELIANCE OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, OR DAMAGES RESULTING FROM USE. GRAYSHIFT'S LIABILITY FOR DAMAGES OF ANY KIND WHATSOEVER ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO THE FEES PAID BY LICENSEE FOR THE PRODUCT.

9. LICENSEE WARRANTIES. Licensee represents, warrants and covenants to Grayshift that (a) only Authorized Users of Licensee who have obtained any necessary consents and approvals pursuant to applicable laws shall be permitted to use any of the Grayshift Products in connection with any Devices; (b) Licensee and its Authorized Users shall only use the Products and Software in compliance with all applicable laws; and (c) Licensee and its Authorized Users shall only use the Products and Software in accordance with the consents and approvals obtained pursuant to applicable laws.

10. WARRANTY DISCLAIMER. EXCEPT AS SET FORTH ABOVE, GRAYSHIFT PROVIDES THE PRODUCT "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND HEREBY DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY, QUIET ENJOYMENT, INTEGRATION, TITLE, NON-INTERFERENCE AND NON-INFRINGEMENT. FURTHER, GRAYSHIFT DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS THAT THE PRODUCT OR

SOFTWARE WILL BE FREE FROM BUGS OR THAT ITS USE WILL BE UNINTERRUPTED OR THAT THE PRODUCT, SOFTWARE OR WRITTEN MATERIALS WILL BE CORRECT, ACCURATE, OR RELIABLE. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. SHOULD THE PRODUCT PROVE DEFECTIVE FOLLOWING LICENSE, LICENSEE (AND NOT GRAYSHIFT) ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING OR REPAIR, EXCEPT AS MAY OTHERWISE BE PROVIDED BY A GRAYSHIFT RESELLER OR SUPPORT PROVIDER.

11. CONFIDENTIALITY AND NON-DISCLOSURE OBLIGATIONS. Licensee, Licensees employees or agents who require access in order to perform hereunder and all final users of the Product (collectively, "Receiving Party") shall not disclose, use, sell, transmit, inform or make available to any entity, person or body any of the Confidential Information, as defined below, nor shall it copy, photograph, or otherwise reproduce any Confidential Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Confidential Information and Grayshift's rights therein, at all times exercising the highest duty of care. Further, the Receiving Party shall not attempt to use any Confidential Information to discover, reverse compile, reverse assemble or reverse engineer the Product, including by removal, disassembly or alteration of any of the Product's components, whether internal or external. Receiving Party agrees to restrict access to Grayshift's Confidential Information to those employees or agents who require access in order to perform hereunder, and, except as otherwise provided, the Receiving Party shall not make Confidential Information available to any other person or entity without the prior written consent of Grayshift.

11.1. For the purposes of this Agreement, "Confidential Information" means any proprietary, trade secret, financial, technical and non-technical information related to Grayshift's business and current, future and proposed products and services and any derivatives therefrom containing, including, referring to, or otherwise reflecting and/or generated from such Confidential Information. Confidential Information includes, without limitation, (i) information concerning the methods of use, internal components, contents, features, functions and solutions of Grayshift's software or product offerings (including the Product and the Software), user manuals (including the Product User's Manual), and the terms and conditions of this Agreement, as updated from time to time; (ii) information related to Grayshift's research, development, design details and specifications, financial information, procurement requirements, engineering and manufacturing information, customer lists, business forecasts, sales information and marketing plans; and (iii) any copies, photographs, or other reproductions of the foregoing, whether or not marked as "confidential" or "proprietary."

11.2. Confidential Information shall not include any information that is (i) already known to the Receiving Party at

the time of the disclosure; (ii) publicly known at the time of the disclosure or becomes publicly known through no wrongful act or failure of the Receiving Party; (iii) subsequently disclosed to the Receiving Party on a non-confidential basis by a third party not having a confidential relationship with Grayshift that rightfully acquired such information; or (iv) communicated to a third party by the Receiving Party with Grayshift's express written consent.

11.3. A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process shall not be considered a breach of this Agreement; provided the Receiving Party promptly notifies Grayshift in writing, if notification is permitted by law, and uses commercially reasonable efforts to assist Grayshift, at Grayshift's expense, in opposing such disclosure or obtaining a protective order or other reliable assurance preventing or limiting such disclosure and/or ensuring that confidential treatment will be accorded to any Confidential Information that is disclosed. Such disclosure does not remove the Confidential Information so disclosed from the protection of this Agreement. No further disclosure beyond the scope of such order is allowed.

11.4. The Receiving Party acknowledges and agrees that due to the unique nature of Grayshift's Confidential Information, there can be no adequate remedy at law for any breach of its obligations under this Section 11, that any such breach will cause irreparable and continuing damage to Grayshift and, therefore, that upon any such breach or any threat thereof, Grayshift shall be entitled to whatever remedies it might have by law and equity, including injunctive relief, a decree for specific performance, and all other relief as may be proper (including money damages, if appropriate). The Receiving Party further acknowledges and agrees that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope.

12. TERM AND TERMINATION. This Agreement shall continue until terminated as set forth herein. Notwithstanding the foregoing, the license to any Product is only during the license term applicable to such Product. The license term shall be determined in the Order. Grayshift may also revoke such license and/or terminate this Agreement immediately without refund or reimbursement if Licensee violates any provision of this Agreement. Any termination of this Agreement shall terminate the licenses granted hereunder. All Confidential Information, Products, Software and/or derivatives therefrom delivered pursuant to this Agreement shall be and remain the property of the Grayshift, and upon expiration or termination of this Agreement for any reason, Licensee shall destroy (or return, at Grayshift's election) (i) the Product; (ii) all hardware that contains copies of the Software; (iii) all materials in the possession of Licensee in any medium that contain, refer to, or relate to all other written, printed, or tangible materials containing Confidential Information; and (iv) any derivatives therefrom, and shall so certify to Grayshift that such actions have occurred. No such material shall be retained or used by the Receiving Party in any form or for any reason.

Except for the license and except as otherwise expressly provided herein, the terms of this Agreement, including the Confidentiality and Non-Disclosure obligations in Section 11 hereto, shall survive expiration and termination. Notwithstanding any other provision of this Agreement, the obligations of the parties as to Confidential Information shall remain binding in perpetuity until such information no longer qualifies as Confidential Information or until Grayshift sends the Receiving Party written notice releasing the Receiving Party from its obligations under Section 11 hereto, whichever occurs first.

13. INDEMNITY. Licensee shall indemnify, defend, or at its option settle, any third party claim or suit against Grayshift based on a claim: (i) of any breach of this Agreement by Licensee, its affiliates, employees, agents, successors and assigns; and (ii) relating to or based on the activities conducted by Licensee or its Authorized Users, using or that used the Software and Product; and Licensee shall pay any final judgment entered against Grayshift in any such proceeding or agreed to in settlement. Grayshift will notify Licensee in writing of such claim or suit and give all information and assistance reasonably requested by Licensee or such designee.

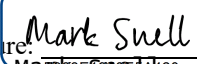
14. GOVERNMENT USE. If Licensee is part of an agency, department, or other entity of the United States Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Product or any related documentation is restricted in accordance with the Federal Acquisition Regulation 12.212 for civilian agencies and the Defense Federal Acquisition Regulation Supplement 227.7202 for military agencies. The Product and documentation is a "commercial item", "commercial computer software" and "commercial computer software documentation." The use of the Product and documentation is further restricted in accordance with the terms of this Agreement, or any modifications thereto.

15. EXPORT CONTROLS. Licensee shall comply with the U.S. Foreign Corrupt Practices Act and all applicable export laws, restrictions, and regulations of the United States or foreign agency or authority. Licensee will not export, or allow the export or re-export, of the Product in violation of any such laws, restrictions or regulations.

16. MISCELLANEOUS. This Agreement represents the complete agreement concerning this license between the parties and supersedes all prior agreements and representations. This Agreement may be amended only by a writing executed by both parties. If any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. The failure of Grayshift to act with respect to a breach of this Agreement by Licensee or others does not constitute a waiver and shall not limit Grayshift's rights with respect to such breach or any subsequent breaches. This Agreement is personal to Licensee and may not be assigned, sublicensed, or transferred for any reason whatsoever.

(including, without limitation, by operation of law, merger, reorganization, or as a result of an acquisition or change of control involving Licensee) without Grayshift's consent and any action or conduct in violation of the foregoing shall be void and without effect. This Agreement shall be governed by and construed under the laws of the State of Georgia, U.S.A. without regard to the conflicts of laws provisions thereof, and

GRAYSHIFT

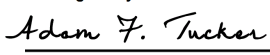
DocuSigned by:

Signature: _____
Name: Mark Snell
Title: Chief Financial Officer
Date: 10/12/2021

without regard to the United Nations Convention on Contracts for the International Sale of Goods. The sole and exclusive jurisdiction and venue for actions arising under this Agreement shall be the state and federal courts in Georgia; Licensee hereby agrees to service of process in accordance with the rules of such court.

AGENCY: _____

Signature: _____
Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM

DocuSigned by:


Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Asphalt Purchases Report

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input checked="" type="checkbox"/>

Summary

Report of asphalt purchases.

Staff Recommendation

The asphalt reporting of purchases, consistent with purchases associated as perishable, fuel-based commodity is provided as information only.

Background Information

Purchases of asphalt are made throughout the month and reported with MWRD's O&M's construction projects. The attached report is provided pursuant to City Code, § 2-10(E)(7) in compliance with this reporting requirement.

Pursuant to the City Code, a purchase of perishable commodities made on the open market does not require public advertisement and competitive bids if a record is made by the person authorizing the purchase which specifies the amount paid, the items purchased and from whom the purchase was made in accordance with T.C.A. §6-56-304(7).

Council Priorities Served

Responsible budgeting

Proper procurement ensures best cost savings to the Department and our customers.

Maintain public safety

Maintaining safe drivability of roadways affected by water resources operations focuses on customer service.

Fiscal Impacts

The overall costs associated with asphaltic material purchases for these O&M projects are in the range of \$150,000 to \$175,000 per year. Costs are appropriately budgeted.

Attachments

Asphalt Purchases Report

MWRD OPERATIONS & MAINTENANCE

Asphalt Purchases FY 2022

[illegible]

MWRD - OPERATIONS & MAINTENANCE

Asphalt Quotes FY 2022

	Blue Water		Hawkins		Vulcan		Notes
	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	
Jul	\$65.00	\$75.00	\$59.00	\$66.50	\$58.39	\$67.35	
Aug	\$65.00	\$75.00	\$59.00	\$69.00	\$57.85	\$67.51	
Sep	\$65.00	\$75.00	\$59.00	\$66.50	\$57.81	\$67.46	
Oct	\$65.00	\$75.00					
Nov	\$65.00	\$75.00					
Dec	\$65.00	\$75.00					
Jan	\$65.00	\$75.00					
Feb	\$65.00	\$75.00					
Mar	\$65.00	\$75.00					
Apr	\$65.00	\$75.00					
May	\$65.00	\$75.00					
Jun	\$65.00	\$75.00					

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Trane HVAC Unit Replacement

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Replace existing HVAC unit at the raw water auxiliary intake.

Staff Recommendation

Approve the purchase of the Trane HVAC system for the auxiliary intake unit.

Background Information

The Facilities Management Department conducted a citywide analysis on the current HVAC systems being operated by the City in 2019 and identified units needing replacement. This is one of the systems identified and it has stopped working and needs replacement.

Council Priorities Served

Responsible Budgeting

Proper procurement ensures best cost savings to the Department and our customers.

Fiscal Impact

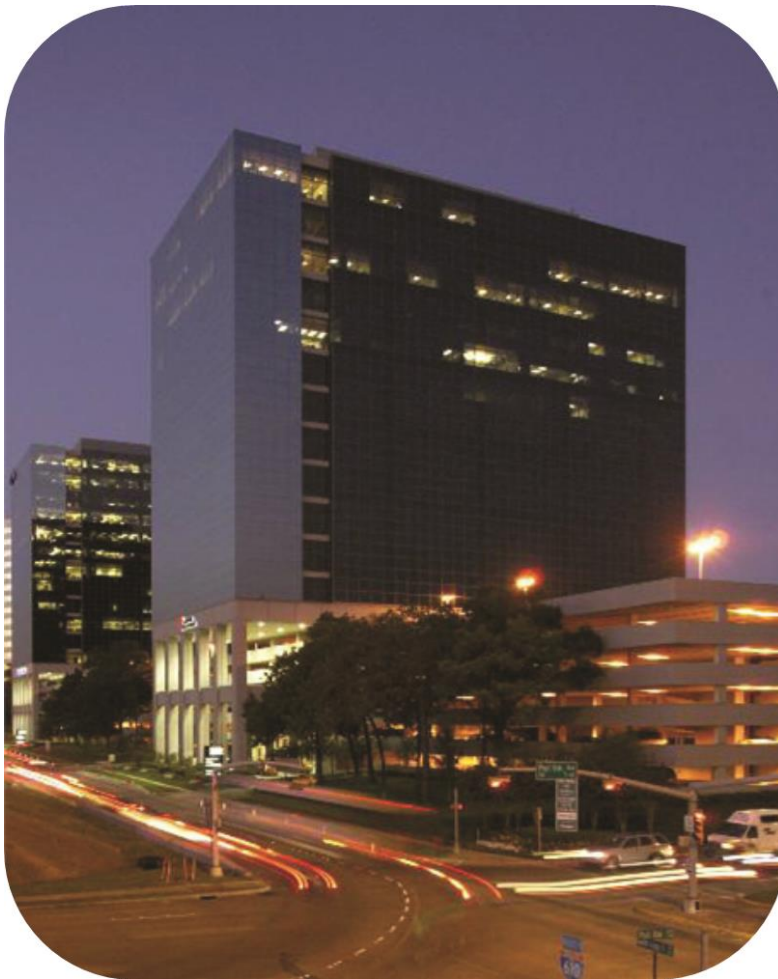
The expense, \$40,217 is funded by the MWRD FY22 CIP budget.

Attachments

HVAC Unit Replacement



Trane Turnkey Proposal

**Turnkey Proposal For:**

Steven Toler
Supervisor
Murfreesboro Water and Sewer Department
300 Northwest Broad Street
Murfreesboro, TN 37133 U.S.A.

Local Trane Office:

Trane U.S. Inc. dba Trane
601 Grasmere Park Drive, Suite 10
Nashville, TN 37211-3659

Local Trane Representative:

Michael Sharp
Brian Bolin
Account Manager
Office: (615) 242-0311

Omni Partners Quote:

13-359933-21-001
USC 15-JLP-023

Date: September 9, 2021



Prepared For:
Steven Toler

Date:
September 9, 2021

Job Name:
Murfreesboro Lake Unit Replacement 2021

Proposal Number:

Delivery Terms:
Freight Allowed and Prepaid – F.O.B Factory

Payment Terms:
Net 30

Cooperative Quote Number
13-359933-21-001

Proposal Expiration Date:
30 Days

Scope of Work

“Scope of Work” and notations within are based on the following negotiated scope of work with Steven Toler and based on the site surveys performed on 8-19-2021

Turnkey Installation of HVAC Equipment

Tag Data - Packaged Heat Pump Units (Dedicated) (Qty: 1)

Item	Qty	Description	Model Number
A1	1	20 Ton Packaged Unitary Heat Pump	WSH240E4RND--01

Product Data - Packaged Heat Pump Units (Dedicated)

Item: A1 Qty: 1

Heatpump
Standard efficiency
Horizontal
20 Ton
460/60/3
Reliatel
36kW Electric heat
Oversize motor
0-100% Economizer, dry bulb control (Fld)
1 Year Parts and labor Warranty, 2-5 Year Compressor Parts Warranty

Mechanical and Electrical Install

- Electrical and control wiring Demolition
- Recover and dispose of refrigerant per EPA guidelines
- Dispose of existing Unit
- Delivery and installation of new units
- Installation of new canvas connections to existing ductwork
- Re-Insulation of horizontal ductwork on replaced unit and other exterior units ductwork on back of building.



Proposal Notes/ Clarifications

- All work to be performed during normal business hours (8am to 5pm, M-F, non-holidays)
- Proposal does not include "Premium Time" or Price Contingency therefor
- Equipment Order Release and Services rendered are dependent on receipt of PO/Subcontract and credit approval
- Trane will not perform any work if working conditions could endanger or put at risk the safety of our employees or subcontractors
- Asbestos or hazardous material abatement removal shall be performed by customer

Pricing and Acceptance

Steven Toler
Supervisor
Murfreesboro Water and Sewer Department
300 Northwest Broad Street
Murfreesboro, TN 37133 U.S.A.

Price

Total Net Price (*Including appropriate Sales and/or Use Tax, if required by law*).....\$40,217.00

Financial items not included

- Bid Bond
- Payment and Performance Bond
- Guarantee of any energy, operational, or other savings

Respectfully submitted,

Michael Sharp
Brian Bolin
Account Manager
Trane U.S. Inc. dba Trane
(615) 242-0311



ACCEPTANCE

This proposal is subject to Customer's acceptance of the attached Trane Terms and Conditions (Installation).

We value the confidence you have placed in Trane and look forward to working with you.

COVID-19 NATIONAL EMERGENCY CLAUSE:

The parties agree that they are entering into this Agreement while the nation is in the midst of a national emergency due to the Covid-19 pandemic ("Covid-19 Pandemic"). With the continued existence of Covid-19 Pandemic and the evolving guidelines and executive orders, it is difficult to determine the impact of the Covid-19 Pandemic on Trane's performance under this Agreement. Consequently, the parties agree as follows:

1. Each party shall use commercially reasonable efforts to perform its obligations under the Agreement and to meet the schedule and completion dates, subject to provisions below;
2. Each party will abide by any federal, state (US), provincial (Canada) or local orders, directives, or advisories regarding the Covid-19 Pandemic with respect to its performance of its obligations under this Agreement and each shall have the sole discretion in determining the appropriate and responsible actions such party shall undertake to so abide or to safeguard its employees, subcontractors, agents and suppliers;
3. Each party shall use commercially reasonable efforts to keep the other party informed of pertinent updates or developments regarding its obligations as the Covid-19 Pandemic situation evolves; and
4. If Trane's performance is delayed or suspended as a result of the Covid-19 Pandemic, Trane shall be entitled to an equitable adjustment to the project schedule and/or the contract price.

Global Supply Chain: Due to the global disruption in the supply chain from microprocessors to raw materials, there could be delays in shipping parts and equipment. Trane will do its best to minimize the impact, but due to circumstances outside our control, there have been delays in shipping. It is our goal to keep you updated on any orders that will help us meet the obligations of this scope of work.

Mobilization Payment: Trane will, upon execution of this contract, invoice 15% of the project value for our initial services. This will include mobilization costs, engineering, administrative services, and other costs. All future billings will be based on a progress billing basis unless other terms are agreed to. Other information regarding billing terms can be found in the terms and conditions section within this document.

Submitted By: Michael Sharp & Brian Bolin	Cell: Office: (615) 242-0311 Proposal Date: September 9, 2021
CUSTOMER ACCEPTANCE Murfreesboro Water and Sewer Department	TRANE ACCEPTANCE Trane U.S. Inc. dba Trane
Authorized Representative	Authorized Representative
Printed Name	Printed Name
Title	Title
Purchase Order	Signature Date
Acceptance Date:	License Number:



TERMS AND CONDITIONS – COMMERCIAL INSTALLATION

“Company” shall mean Trane U.S. Inc. dba Trane.

1. Acceptance; Agreement. These terms and conditions are an integral part of Company’s offer and form the basis of any agreement (the “Agreement”) resulting from Company’s proposal (the “Proposal”) for the commercial goods and/or services described (the “Work”). **COMPANY’S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.** The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer’s order shall be deemed acceptance of the Proposal subject to Company’s terms and conditions. If Customer’s order is expressly conditioned upon Company’s acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company’s terms and conditions attached or referenced serves as Company’s notice of objection to Customer’s terms and as Company’s counter-offer to provide Work in accordance with the Proposal and the Company terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company’s counter-offer will be deemed accepted. Customer’s acceptance of the Work by Company will in any event constitute an acceptance by Customer of Company’s terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer’s obligation to pay for Work rendered by Company to the date of cancellation.

2. Connected Services. In addition to these terms and conditions, the Connected Services Terms of Service (“Connected Services Terms”), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.

3. Title and Risk of Loss. All Equipment sales with destinations to Canada or the U.S. shall be made as follows: FOB Company’s U.S. manufacturing facility or warehouse (full freight allowed). Title and risk of loss or damage to Equipment will pass to Customer upon tender of delivery of such to carrier at Company’s U.S. manufacturing facility or warehouse.

4. Pricing and Taxes. Unless otherwise noted, the price in the Proposal includes standard ground transportation and, if required by law, all sales, consumer, use and similar taxes legally enacted as of the date hereof for equipment and material installed by Company. Tax exemption is contingent upon Customer furnishing appropriate certificates evidencing Customer’s tax exempt status. Company shall charge Customer additional costs for bonds agreed to be provided. Equipment sold on an uninstalled basis and any taxable labor/labour do not include sales tax and taxes will be added. Following acceptance without addition of any other terms and condition of sale or any other modification by Customer, the prices stated are firm provided that notification of release for immediate production and shipment is received at the factory not later than 3 months from order receipt. If such release is received later than 3 months from order receipt date, prices will be increased a straight 1% (not compounded) for each one-month period (or part thereof) beyond the 3 month firm price period up to the date of receipt of such release. If such release is not received within 6 months after date of order receipt, the prices are subject to renegotiation, or at Company’s option, the order will be cancelled. Any delay in shipment caused by Customer’s actions will subject prices to increase equal to the percentage increase in list prices during that period of delay and Company may charge Customer with incurred storage fees.

5. Exclusions from Work. Company’s obligation is limited to the Work as defined and does not include any modifications to the Work site under the Americans With Disabilities Act or any other law or building code(s). In no event shall Company be required to perform work Company reasonably believes is outside of the defined Work without a written change order signed by Customer and Company.

6. Performance. Company shall perform the Work in accordance with industry standards generally applicable in the area under similar circumstances as of the time Company performs the Work. Company may refuse to perform any Work where working conditions could endanger property or put at risk the safety of persons. Unless otherwise agreed to by Customer and Company, at Customer’s expense and before the Work begins, Customer will provide any necessary access platforms, catwalks to safely perform the Work in compliance with OSHA or state industrial safety regulations.

7. Payment. Customer shall pay Company’s invoices within net 30 days of invoice date. Company may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all Work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Company, in which case retention shall be reduced per the contract documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for the equipment portion of the order. If payment is not received as required, Company may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Company for all reasonable shutdown, standby and start-up costs as a result of the suspension. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys’ fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all equipment from Company to secure payment in full of all amounts due Company and its order for the equipment, together with these terms and conditions, form a security agreement. Customer shall keep the equipment free of all taxes and encumbrances, shall not remove the equipment from its original installation point and shall not assign or transfer any interest in the equipment until all payments due Company have been made.

8. Time for Completion. Except to the extent otherwise expressly agreed in writing signed by an authorized representative of Company, all dates provided by Company or its representatives for commencement, progress or completion are estimates only. While Company shall use commercially reasonable efforts to meet such estimated dates, Company shall not be responsible for any damages for its failure to do so. Delivery dates are approximate and not guaranteed. Company will use commercially reasonable efforts to deliver the Equipment on or before the estimated delivery date, will notify Customer if the estimated delivery dates cannot be honored, and will deliver the Equipment and services as soon as practicable thereafter. In no event will Company be liable for any damages or expenses caused by delays in delivery.

9. Access. Company and its subcontractors shall be provided access to the Work site during regular business hours, or such other hours as may be requested by Company and acceptable to the Work site’ owner or tenant for the performance of the Work, including sufficient areas for staging, mobilization, and storage. Company’s access to correct any emergency condition shall not be restricted. Customer grants to Company the right to remotely connect (via phone modem, internet or other agreed upon means) to Customer’s building automation system (BAS) and or HVAC equipment to view, extract, or otherwise collect and retain data from the BAS, HVAC equipment, or other building systems, and to diagnose and remotely make repairs at Customer’s request.

10. Completion. Notwithstanding any other term or condition herein, when Company informs Customer that the Work has been completed, Customer shall inspect the Work in the presence of Company’s representative, and Customer shall either (a) accept the Work in its entirety in writing, or (b) accept the Work in part and specifically identify, in writing, any exception items. Customer agrees to re-inspect any and all excepted items as soon as Company informs Customer that all such excepted items have been completed. The initial acceptance inspection shall take place within ten (10) days from the date when Company informs Customer that the Work has been completed. Any subsequent re-inspection of excepted items shall take place within five (5) days from the date when Company informs Customer that the excepted items have been completed. Customer’s failure to cooperate and complete any of said inspections within the required time limits shall constitute complete acceptance of the Work as of ten (10) days from date when Company informs Customer that the Work, or the excepted items, if applicable, has/have been completed.

11. Permits and Governmental Fees. Company shall secure (with Customer’s assistance) and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work which are legally required when bids from Company’s subcontractors are received, negotiations thereon concluded, or the effective date of a relevant Change Order, whichever is later. Customer is responsible for necessary approvals, easements, assessments and charges for construction, use or occupancy of permanent structures or for permanent changes to existing facilities. If the cost of such permits, fees, licenses and inspections are not included in the Proposal, Company will invoice Customer for such costs.

12. Utilities During Construction. Customer shall provide without charge to Company all water, heat, and utilities required for performance of the Work.



13. Concealed or Unknown Conditions. In the performance of the Work, if Company encounters conditions at the Work site that are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated on drawings expressly incorporated herein or (ii) unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, Company shall notify Customer of such conditions promptly, prior to significantly disturbing same. If such conditions differ materially and cause an increase in Company's cost of, or time required for, performance of any part of the Work, Company shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Contract Price, contract time, or both.

14. Pre-Existing Conditions. Company is not liable for any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the Work site before the Commencement Date of this Agreement ("Pre-Existing Conditions"), including, without limitation, damages, losses, or expenses involving Pre-Existing Conditions of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould and/or fungi. Company also is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company.

15. Asbestos and Hazardous Materials. Company's Work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, polychlorinated biphenyl ("PCB"), or other hazardous materials (hereinafter, collectively, "Hazardous Materials"). Customer warrants and represents that, except as set forth in a writing signed by Company, there are no Hazardous Materials on the Work site that will in any way affect Company's Work and Customer has disclosed to Company the existence and location of any Hazardous Materials in all areas within which Company will be performing the Work. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be exclusively responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and, to the fullest extent permitted by law, shall indemnify and hold harmless Company (including its employees, agents and subcontractors) from and against any loss, claim, liability, fees, penalties, injury (including death) or liability of any nature, and the payment thereof arising out of or relating to any Hazardous Materials on or about the Work site, not brought onto the Work site by Company. Company shall be required to resume performance of the Work in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Company be obligated to transport or handle Hazardous Materials, provide any notices to any governmental agency, or examine the Work site for the presence of Hazardous Materials.

16. Force Majeure. Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

17. Customer's Breach. Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to Company for all Work furnished to date and all damages sustained by Company (including lost profit and overhead).

18. Indemnity. To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

19. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS, LOST DOLLAR SAVINGS, OR LOST ENERGY USE SAVINGS, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

20. COVID-19 LIMITATION ON LIABILITY

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. **IN NO EVENT WILL TRANE BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH) OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO COVID-19 (INCLUDING THE SPREAD, TRANSMISSION OR CONTAMINATION THEREOF) (COLLECTIVELY, "COVID-19 LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES TRANE FROM ANY SUCH COVID-19 LIABILITIES.**

21. Patent Indemnity. Company shall protect and indemnify Customer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the goods manufactured by Company and delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Company shall promptly be notified and given full opportunity to negotiate a settlement. Company does not warrant against infringement by reason of Customer's design of the articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation, Customer agrees to reasonably cooperate with Company. In connection with any proceeding under the provisions of this Section, all parties concerned shall be entitled to be represented by counsel at their own expense.

22. Limited Warranty. Company warrants for a period of 12 months from the date of substantial completion ("Warranty Period") commercial equipment manufactured and installed by Company against failure due to defects in material and manufacture and that the labor/labour furnished is warranted to have been properly performed (the "Limited Warranty"). Trane equipment sold on an uninstalled basis is warranted in accordance with Company's standard warranty for supplied equipment. **Product manufactured by Company that includes required startup and is sold in North America will not be warranted by Company unless Company performs the product start-up.** Substantial completion shall be the earlier of the date that the Work is sufficiently complete so that the Work can be utilized for its intended use or the date that Customer receives beneficial use of the Work. If such defect is discovered within the Warranty Period, Company will correct the defect or furnish replacement equipment (or, at its option, parts therefor) and, if said equipment was installed pursuant hereto, labor/labour associated with the replacement of parts or equipment not conforming to this Limited Warranty. Defects must be reported to Company within the Warranty Period. Exclusions from this Limited Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration; Customer's failure to follow the Company-provided maintenance plan; refrigerant not supplied by Trane; and modifications made by others to Company's equipment.



Company shall not be obligated to pay for the cost of lost refrigerant. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. No warranty liability whatsoever shall attach to Company until the Work has been paid for in full and then said liability shall be limited to the lesser of Company's cost to correct the defective Work and/or the purchase price of the equipment shown to be defective. Equipment, material and/or parts that are not manufactured by Company are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **THE WARRANTY AND LIABILITY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, IS MADE REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL TRANE HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO.**

23. Insurance. Company agrees to maintain the following insurance while the Work is being performed with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive its right of subrogation.

24. Commencement of Statutory Limitation Period. Except as to warranty claims, as may be applicable, any applicable statutes of limitation for acts or failures to act shall commence to run, and any alleged cause of action stemming therefrom shall be deemed to have accrued, in any and all events not later than the last date that Company or its subcontractors physically performed work on the project site.

25. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Work is performed, without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Work is performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Work site is owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

26. Equal Employment Opportunity/Affirmative Action Clause. Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

27. U.S. Government Work.

The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that all items or services ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business.

The following provision applies only to indirect sales by Company to the US Government. As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions in effect as of the date of this subcontract: 52.203-19; 52.204-21; 52.204-23; 52.219-8; 52.222-21; 52.222-26; 52.222-35; 52.222-36; 52.222-50; 52.225-26; 52.247-64. If the Work is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

28. Limited Waiver of Sovereign Immunity. If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Grass Cutting & Landscaping for Stones River Water Treatment Plant

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Grass cutting and lawn care for the Stones River Water Treatment Plant.

Staff Recommendation

Approve Barton Lawn Care bid.

Background Information

On August 24, 2021, the City received a bid Barton Lawn Care for the Stones River Water Treatment Plant. Barton was the lowest responsible bidder. Burton will provide services June 30, 2022, including grass cutting, landscape maintenance, mulching, and replacement for hourly rate.

Council Priorities Served

Responsible Budgeting

Proper procurement ensures best cost savings to the Department and our customers.

Fiscal Impact

The expense, estimated at \$32,100, is funded by MWRD's FY22 Operating Budget.

Attachments

Barton Lawn Care Contract

**CONTRACT
CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
BARTON LAWN CARE**

This contract is entered into on this _____, 2021, by and between **THE CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **Barton Lawn Care, a Sole Proprietorship** of the State of Tennessee ("Contractor"). This contract consists of the following documents:

- ***Invitation to Bid issued : 08/03/2021***
- ***Bid Specifications issued : 08/03/2021***
- ***Contractor's Bid Response dated: 08/24/2021***
- ***This Contract***

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- ***Any properly executed amendment or change order to this contract (most recent with first priority)***
- ***This Contract***
- ***Invitation to Bid, ITB-03-2022, and Bid Specifications***
- ***Contractor's Bid Response***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase lawn care services as set forth in the attached Bid Form and Specifications as well as Contractor's Bid Response.
2. **Term.** This contract shall be from the effective date of the contract through June 30, 2022. The contract shall be subject to three one-year optional renewals starting from July 1st-June 30th of the following year, which may be exercised by the City at least thirty (30) days prior to the expiration of the then-current term by giving notice to Contractor as provided herein.
3. **Payment and Delivery.**
 - 3.1. Payment will be made by the City after goods and/or services have been received, accepted, and properly invoiced. Invoices must bear the purchase order number. All invoices should be sent to accountspayable@murfreesborotn.gov.
 - 3.2. Services shall be supplied as stated in the ITB and bid specifications. Services resulting from this ITB are to be made during working hours of 7:00 a.m. until 3:00 p.m. unless other arrangements are agreed upon by the Manager of the Stones River Water Treatment Plant. Should the Contractor fail to perform work per the ITB or specifications, the City reserves the right to cancel the contract.
 - 3.3. Work will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications.
 - 3.4. All work performed pursuant to the contract must be performed pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City.
4. **Price.** The price for goods and other items and/or services shall be invoiced at the prices and charges fixed by the Contractor as per the attached bid which reflects prices of:
 - a. Grass Cutting - \$450 per cut (approximately 30 cuts)

- b. Landscape Maintenance - \$750 per visit (approximately 12 visits)
 - c. Mulching \$4,800 per visit (approximately 2 visits)
 - d. Replacement Hourly Rate - \$45 per hour
5. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
 6. **Termination—Breach.** In the event that any of the provisions of the Contract are violated by the Contractor, the City may serve written notice upon the Contractor of its intention to terminate the Contract, and unless within seventy-two (72) hours after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement for correction be made, the City may immediately terminate the Contract at any time after said seventy-two (72) hours. Such termination shall not relieve Contractor of any liability to City for damages sustained by virtue of any breach by Contractor.
 7. **Termination—Funding.** Should funding for this contract be discontinued, City shall have the right to terminate the contract immediately upon written notice to Contractor.
 8. **Termination—Notice.** City may terminate this contract at any time upon thirty (30) days written notice to Contractor.
 9. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.
 10. **Maintenance of Records.** Contractor shall maintain documentation for all charges against City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by City or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.
 11. **Modification of Contract.** This contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City Council may be required. Minor modifications to the contract may be approved by the City Manager.
 12. **Partnership/Joint Venture.** Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.
 13. **Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
 14. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.
 15. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy.

16. **Indemnification and Hold Harmless.** Contractor shall indemnify and hold harmless City, its officers, agents and employees from:
- 16.1. Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, in connection with the performance of the contract, and,
- 16.2. Any claims, damages, penalties, costs and attorney fees arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- 16.3. Contractor shall pay City any expenses incurred as a result of Contractor's failure to fulfill any obligation in a professional and timely manner under this Contract.
17. **Attorney Fees.** Contractor agrees that, in the event either party deems it necessary to take legal action to enforce any provision of the contract, and in the event City prevails, Contractor shall pay all expenses of such action including City's attorney fees and costs at all stages of the litigation.
18. **Assignment—Consent Required.** The provisions of this contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this contract, neither this contract nor any of the rights and obligations of Contractor hereunder shall be assigned or transferred in whole or in part without the prior written consent of City. Any such assignment or transfer shall not release Contractor from its obligations hereunder. NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF THE CITY MANAGER, CITY OF MURFREESBORO, P.O. BOX 1139, MURFREESBORO, TENNESSEE 37133-1139.
19. **Entire Contract.** This contract, invitation to bid, bid specifications, and Contractor's bid response set forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.
20. **Force Majeure.** No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of war, order of legal authority, act of nature, or other unavoidable causes not attributed to fault or negligence of Contractor.
21. **Governing Law.** The validity, construction and effect of this contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the Contractor may provide.
22. **Venue.** Any action between the parties arising from this agreement shall be maintained in the courts of Rutherford County, Tennessee.
23. **Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.
24. **Notices.** Any notice to Contractor from the City relative to any part of the Contract shall be considered delivered and the service thereof completed when said notice is posted by registered mail, to the said Contractor at its last given address or delivered in person to said Contractor or its authorized representative on the work.
- 24.1. Notices to City shall be sent to:

Department: City of Murfreesboro

Attention: City Manager
Address: 111 West Vine St.
Murfreesboro, TN 37130

24.2. Notices to Contractor shall be sent to:

Contractor: Barton Lawn Care
Attention: Gary Barton
Address: P.O. Box 11756
Murfreesboro TN, 37129

25. **Effective Date.** This contract shall not be binding upon the parties until it has been signed first by the Contractor and then approved by the City Council and signed by the Mayor. When it has been so signed, this contract shall be effective as of the date first written above.

CITY OF MURFREESBORO

BARTON LAWN CARE

By: _____
Shane McFarland, Mayor

DocuSigned by:
By: Gary Barton
5D2FE8B4-76B8-4847-8000-000000000000
Gary Barton, Owner

Approved as to form:

DocuSigned by:

Adam F. Tucker
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Pall Membrane Annual Service Agreement

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Pall annual service agreement for membrane system for the Stones River Water Treatment Plant.

Staff Recommendation

Approve the service agreement from Pall Corporation.

Background Information

The original contract with Pall Corporation for the membrane system included onsite system inspection twice a year for five years and once a year from year 6-10. Our service ended in December 2020. The annual service inspection has proved to be valuable for identifying small issues that has allowed the system at the water plant to operate so well over the past 12+years. Staff would like to continue an annual service by Pall to help keep track of hardware, software, setpoints, parts, and performance.

Council Priorities Served

Responsible Budgeting

Proper procurement ensures best cost savings to the Department and our customers.

Fiscal Impact

The expense, \$13,440 per year for 3-years totaling of \$40,320 will be funded by MWRD's annual operating budgets.

Attachments

Pall Annual Service Agreement



Aftermarket Comprehensive Services Plan

Pall Water Proposal No.: OPP1654550R2

Date: September 21, 2021

Aftermarket Comprehensive Services Plan For

Murfreesboro Water & Sewer Department Pall Water Aria Filtration System

Equipment Type

PALL SAP#:

WBS No.:

Start Up Date:

Module Warranty Expires:

Equipment Warranty Expired:

Company Contact: Alan Cranford

E-Mail: acranford@murfreesborotn.gov

Phone: (615) 642-3335

Site Location:

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1	Cover Page; Ordering Instructions and table of contents
2	Proposal Summary, Description of Services and pricing detail
3	Customer Authorization for Service Form; Site & Billing addresses
4	Definition of Contract Terms
6	Essential Service Event Details
8	Terms and Conditions

Ordering Instructions

Complete the "Customer Authorization for Service" form on page 3 and remit to:

Pall Water Customer Service

Email: Pall_Technology_csc@pall.com

OR

P.O. Box 5630, 839 State Route 13

Cortland, New York 13045-5630

Fax: 607-758-4526



Aftermarket Comprehensive Services Plan

Pall Water Proposal No.: OPP1654550R2

Date: September 21, 2021

PROPOSAL SUMMARY

Pall Water provides a post-warranty support service plan to ensure continued aftermarket operation of your System. Over time, machinery ages and may malfunction. Components and technology also get upgraded - or become obsolete - as new innovations develop and get implemented. Our Technical Team is also commissioned to 24/7 on-call availability.

The frequency of the proposed service is **Annual** visits for three years. If you require service frequency of Semi-Annual or Quarterly, the contract can be revised to accommodate your service needs. If additional service support is required beyond the contract frequency and scope, it can also be provided at the Pall standard service rates above. Advance authorization is required for any time that exceeds the scope of service and the amount of the issued PO. Additional T&E will apply.

DESCRIPTION OF SERVICE	Pricing Per Year	Total 3 Year Contract Value
SYSTEM INSPECTION SERVICE* (MM #38588) Overall System Review <ul style="list-style-type: none"> • Review system and process operation • Make system adjustments and improvements as time allows • Identify future needs for operation staff to maintain plant performance • All Travel and expenses included • 3 Days onsite 	\$13,440.00	\$40,320.00
Annual RATES	\$13,440.00	\$40,320.00

****Note:** Without an Aftermarket agreement, non-contracted customers will be subject to a Fee-per-Incident for phone support service (credit card required at time of call).



Aftermarket Comprehensive Services Plan

Pall Water Proposal No.: OPP1654550R2

Date: September 21, 2021

Customer Authorization for Service Form

I am an authorized representative of the Customer, and I accept the Terms and Conditions of this Service Agreement on behalf of the Customer. I authorize Pall Water Systems to perform the work defined in this agreement, and accept the costs and charges defined in this agreement.

Company: _____

Print Name

Title/Position

Signature

Date

Purchase Order No. or Reference for Billing: _____

Deposited by AS TO FORM

Adam F. Tucker

4342005E5 Tucker, City Attorney

Circle Plan Term: 3-Year Term Annual

Requested Date(s) to Schedule Service Visit(s): _____
(unless deemed emergency service, please allow a 4-week window to accommodate scheduling by Pall Water Systems.)

Remit this form & PO# to our Pall Water Customer Service email: pall_technology_csc@pall.com

Effective Date and Duration: This Agreement will be effective as of the date signed below, and will remain in effect:

- for 12 consecutive months (or as indicated in the annual or multi-year contract)
- or until 30 days after receipt of written notice of termination by either party.

Customer **Billing** Address:

Customer **Shipping** Address (Spare Parts):

Customer Comments: _____



Aftermarket Comprehensive Services Plan

Pall Water Proposal No.: OPP1654550R2

Date: September 21, 2021

Definition of Plan Terms

Pall - Pall Water or its assigned Representative

Customer - Company or Organization purchasing services as defined by this contract The Customer's maintenance staff will be responsible for supplying tools, ladders, lifts, or other equipment required to execute the maintenance function. Site personnel will be solely responsible for ensuring that all maintenance procedures are performed in accordance with all applicable safety regulations.

FSE - The role of the Pall Water Field Service Engineer (FSE) is to complement the sites existing technical / maintenance staff by providing expertise specific to Pall Water supplied technology. The Pall Water FSE will direct site maintenance staff in the proper execution of maintenance procedures.

Description of the Plan Services

1. System Inspection Service

1. System Inspection Service

Upon arrival, the Pall Water FSE will meet with designated plant personnel to review the planned scope of work for the Inspection, and obtain confirmation prior to proceeding. Should the Customers expectations be outside of the scope of work, the inspection will not proceed until Pall Water and the Customer agree to the Scope of Service. If necessary, Scope changes can be quoted and accepted onsite, prior to performing the planned service.

The FSE will perform a comprehensive inspection of the Pall Water Aria Filtration System, which includes all hardware and operating parameters to determine System functional status, and make preventive maintenance recommendations. Should an issue be identified that can be resolved by the FSE during this visit, a price for the immediate service can be provided, and the work completed with your approval by means of a verbal change order to Pall Water Systems Customer Service. Advance authorization is required for any time that exceeds the Scope of Service and the amount of the issued PO.

Upon completion of the service, the FSE will meet with designated Plant personnel to review the findings of the Inspection, and discuss any problems, corrective actions or recommendations.

Essential Service Event Details

Materials: This proposal covers the scope of work described above. All additional materials purchased by Pall Water for use on your System that have been verbally authorized by you to complete this work will be invoiced as part of this contract.

Scheduling: When possible, Pall Water will make every effort to accommodate a Customer's schedule for services, once they have been defined and communicated. Field Service requires a minimum 4-week advance notification. Upon receipt of your purchase order, we can confirm the schedule, and allocate the appropriate Pall Water Service resources.

Validity: This proposal is valid for 90 days.

Terms of Sale: Pall Water Standard Terms and Conditions of Sale of Services apply.



Aftermarket Comprehensive Services Plan

Pall Water Proposal No.: OPP1654550R2

Date: September 21, 2021

Terms of Service:

- Regular minimum service charge is for a 10-hour day.
- Travel time and expenses are included in the Service.

Service Order acceptance and payment terms: Pall Water requires all accounts outstanding beyond 30 days to be paid in full prior to order acceptance. Your account status will be verified at the time of order placement, and you will be notified if you have a balance due. To avoid order processing, goods shipment, or service scheduling delays, please insure your account is up to date in advance of placing your order. Charges per the proposal will be invoiced automatically, and become payable within 30 business days of receipt.

Changes: If additional service is required beyond the Plan frequency and scope, Pall Water will work with you to make those changes. Advance authorization is required for any activity that exceeds the scope of service and the amount of the issued PO. Additional T&E may apply.

Pall Water shall not implement any changes in the Scope of Services described in its proposal unless Customer and Pall Water agree to the details of the change, and any resulting price, schedule or other contractual modifications. This includes any changes necessitated by a change in applicable law.

A Purchase Order or acceptable letter of authorization, including Travel & Expense per diem reimbursements, and a signed copy of the attached Customer Authorization of Service Form is required prior to Pall Water providing the services defined in this proposal.

Maintaining an Aftermarket Service Plan, or an Aftermarket Phone Support Service, provides the best possible return on your Pall Water System investment. The Plan also provides pre-emptive measures that help to identify potential anomalies or malfunctions which may create untimely disruptions, costly down-times, or otherwise, could contribute to disaster response issues encountered by Municipal Plants and a community's water system. Implementing the Service Plan ensures priority response and avoids the Fee-per-Incident charges.

Sincerely,

Alexander Braman
Inside Sales Representative
Phone: 720-202-6536
E-mail: alexander_braman@pall.com

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Commercial Painting Inc. Contract Forth Amendment

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Repair to Clearwell No. 1 at the Stones River Water Treatment Plant.

Staff Recommendation

Approve the Fourth Amendment for Commercial Painting, Inc. (CPI) for repair of Clearwell No. 1.

Background Information

During a recent inspection of the two clearwells at the Stones River Water Treatment Plant, the inspector found there were a few items that needed repair as soon as possible in one of the clearwells. Some of the concrete on Clearwell No. 1's roof was spalling and exposing rebar. If this is not repaired, then the chlorine off gassing in the clearwell could cause greater damage. In addition, the steps to enter and exit the clearwell need repair.

Council Priorities Served

Excellent Services with a Focus on Customer Service

Provides a proper focus on maintenance of the facility thereby increasing the lifespan of the equipment.

Fiscal Impacts

Estimated repairs are \$13,000 with a contingency of \$12,000 for any other items identified by the engineer. If approved, funding to come from reserves.

Attachments:

Commercial Painting Inc. Contract Fourth Amendment

**FOURTH AMENDMENT AND MODIFICATION
TO THE
CONTRACT
BETWEEN THE CITY OF MURFREESBORO
AND
COMMERCIAL PAINTING INC.**

This Fourth Amendment and Modification ("Fourth Amendment") to the Contract, entered into December 20, 2018 ("Contract") and currently effective until June 30, 2022, as amended, is effective as of this ____ Day of October, 2021, by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee, and Commercial Painting Inc. ("Contractor"), a Corporation of the State of Tennessee.

RECITALS

WHEREAS, on December 20, 2018 the City entered into a contract with Contractor for Commercial Structure and Facilities Painting; and,

WHEREAS, the term of the contract between the City and Contractor is currently from July 1, 2020 to June 30, 2022; and,

WHEREAS, during the course of inspection, City discovered an additional item requiring repair, namely a concrete clearwell at City's Water Treatment Plant; and

WHEREAS, Contractor is willing and able to perform the needed repair work at a mutually agreeable cost and otherwise in accordance with the terms and conditions of the Contract, as amended:

NOW THEREFORE, the City and Contractor mutually agree as follows:

1. Contractor shall perform the work as stated in Charge Order #4 Budget, which is attached hereto as Charge Order #4 Budget and which is further incorporated into and made a part of the Contract.
2. Except as provided herein, no other changes to the Contract are contemplated by this Fourth Amendment, and all other terms and conditions of the Contract remain in full force and effect.

CITY OF MURFREESBORO

COMMERCIAL PAINTING INC.:

By: _____
Shane McFarland, Mayor

By: _____
Bobby Tate, Vice President

Approved as to form:

Adam F. Tucker, City Attorney

Commercial Painting, Inc.

350 Herron Drive, Nashville, TN. 37210
Tel.: 615.242.8212 / www.cpinash.com

CHARGE ORDER #4 BUDGET

DATE: 10/8/2021
SUBMITTED TO: Stones River Water Treatment Plant
PROJECT: Clearwell #1 Repairs
ARCHITECT/ENGINEER: N/A
DATE OF PLANS: N/A
ADDENDA: N/A
WAGE RATES: No Wage Rate Acknowledged

SCOPE OF WORK:

Concrete Repair Budget Cost for one (1) location 12" L x 6" W x 2" D

- Confined space
- Scaffold
- Surface Prep
- Exposed Rebar Rehab
- Spalled Concrete Repair
- Resurface Concrete
- Concrete Protection Coating

COST: \$8,000.00

ADDITIONAL REPAIRS

- An additional \$12,000.00 = 500 sq. ft. of repairs depending on locations after initial set up and similar conditions to above. This may vary due to degree of damages surface.

ALTERNATE PRICING

- Clearwell entrance steps
 - Surface Prep: SSPC-SP 10 Near White Metal Blast Cleaning with 1.5 mil anchor profile
 - Primer: Tnemec N140 @ 6.0 – 8.0 mils dft
 - Intermediate: Tnemec N140 @ 6.0 – 8.0 mils dft
 - Finish: Tnemec 22 @ 30.0 – 40.0 mils dft
 - COST: \$5,000.00

Bobby K. Tate

Bobby K. Tate
Commercial Painting, Inc
629-202-7866
btate@cpinash.com

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Minutes of City Council Meetings

Department: Finance

Presented by: Jennifer Brown

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Review and approval of City Council meeting minutes.

Staff Recommendation

Approve minutes as listed.

Background Information

City Council meetings are available on the City's website for reference to actions taken and discussion made as items are considered. In accordance with Meeting procedures, Council approves meeting minutes in order for these to become the official minutes of the meeting.

Attachments

September 15, 2021 (Regular Meeting)
September 30, 2021 (Regular Meeting)

September 15, 2021

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session in the Business Center at the Murfreesboro Municipal Airport at 11:30 a.m. on Wednesday, September 15, 2021, with Mayor Shane McFarland present and presiding and with the following Council Members present and in attendance, to wit:

Rick LaLance
Bill Shacklett
Kirt Wade
Shawn Wright

Vice-Mayor Scales Harris and Council Member Ronnie Martin were absent and excused.

The following representatives of the City were also present:

Craig Tindall, City Manager
Adam Tucker, City Attorney
Darren Gore, Assistant City Manager
Gary Whitaker, Assistant City Manager
Raymond Hillis, Executive Director/
Public Works
Sam Huddleston, Executive Director/
Development Services
Trey Duke, City Schools Director
Erin Tucker, Budget Director
Chad Gehrke, Airport Director
Nathan Spiess, Assistant Finance Director

Mayor McFarland commenced the meeting with a prayer followed by the Pledge of Allegiance.

The following letter from the Airport Director was presented to the Council:

(Insert letter dated September 15, 2021 here with regards
to closing Airport Economic Development Grant.)

Mr. Chad Gehrke, Airport Director, presented the request to close the Airport Economic Development Grant for the construction of Taxiway E and Airport Apron expansion due to the Airport's increasing operational costs and rising construction costs, the Airport Commission recommended that the projects be placed on hold and the grant money returned to the State. Mr. Gehrke stated that since the project was not completed it is unclear if the State will request that it be reimbursed the State share of \$74,368.

Mr. LaLance made a motion to close the Airport Economic Development Grant for the construction of Taxiway E and Airport Apron expansion and return the unused grant money to the State. Mr. Wade seconded the motion and all members of the Council present voted "Aye".

The following letter from the Executive Director of Community Services was presented to the Council:

(Insert letter dated September 15, 2021 here
with regards to repairs to Main Street Building.)

Mr. Sam Huddleston, Executive Director of Development Services, presented the three bids for the repair project to the Main Street Building located at 225 West College Street and recommended to approve the Construction Contract with the low bidder, GTZ Construction, in the amount of \$45,412, subject to legal approval.

Mr. Wade made a motion to approve the Construction Contract with GTZ Construction in the amount of \$45,412, subject to legal approval, for the repair project to the Main Street building located at 225 West College Street. Mr. LaLance seconded the motion and all members of the Council present voted "Aye".

The following letter from the Budget Director was presented to the Council:

(Insert letter dated September 15, 2021 here with regards to Community Investment Program FY22 Budget.)

Mrs. Erin Tucker, Budget Director, presented the Fiscal Year 2022 Community Investment Program (CIP) which totaled 50 Million, the lowest CIP since the 2014 Bond. She detailed the major projects for Fiscal Year 2022 and stated that if the Budget is approved by the end of 2021 it would allow for potential debt issuance in early 2022 with debt service coming due in Fiscal Year 2023.

Council engaged in discussion regarding the major FY22 projects and elected to wait on voting on the CIP until after discussion about the MED proceeds had taken place.

The following letter from the Council Member Rick LaLance was presented to the Council:

(Insert letter dated September 15, 2021 here with regards to discussion and direction regarding management of MED proceeds.)

Mr. Rick LaLance presented a draft of potential suggestions the MED Proceeds Committee had regarding the spending of the MED proceeds money which included: endowed MTSU scholarship, traffic infrastructure improvements, the setting up of a trust, supplemental distributions to the General Fund, Strategic Partnerships, and economic development funding. Council discussed the proposed suggestions and determined that additional discussion would take place at the next Council workshop meeting. Prior to that meeting, Mr. LaLance would schedule an MED Proceeds Committee meeting to share the documents presented to Council with the Committee.

Mr. Wade made a motion to approve the Fiscal Year 2022 CIP. Mr. LaLance seconded the motion. A roll call vote was conducted and all members of the Council present voted "Aye".

The following letter from the Budget Director was presented to the Council:

(Insert letter dated September 15, 2021 here with regards to July 2021 Dashboard packet.)

The July 2021 Dashboard update, which included Financial, Building & Codes, Risk Management, Construction Data, City Schools Cash Flow Statements, and Revenue & Expenditure Budget Comparison Reports, was presented to Council with no discussion taking place.

The Budget Director announced that there was no licensing nor any statements to consider.

Mr. Nathan Spiess the new Assistant Finance Director was introduced to the Council.

Mayor McFarland announced that the name changing ceremony for Mercury Boulevard to Doctor Martin Luther King Jr. Boulevard was to be held this weekend and invited everyone to attend.

There being no further business, Mayor McFarland adjourned this meeting at 1:13 p.m.

SHANE MCFARLAND – MAYOR

ATTEST:

JENNIFER BROWN - CITY RECORDER

September 30, 2021

The City Council of the City of Murfreesboro, Rutherford County, Tennessee, met in regular session at its regular meeting place in the Council Chambers at City Hall at 6:00 p.m. on Thursday, September 30, 2021, with Mayor Shane McFarland present and presiding and with the following Council Members present and in attendance, to wit:

Rick LaLance
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright

Vice-Mayor Scales Harris was absent and excused from this session.

The following representatives of the City were also present:

Craig Tindall, City Manager
Jennifer Brown, City Recorder/
Finance Director
David Ives, Deputy City Attorney
Gary Whitaker, Assistant City Manager
Darren Gore, Assistant City Manager
Mark Foulks, Chief of Fire Rescue
Michael Bowen, Chief of Police
Angela Jackson, Executive Director/
Community Services
Raymond Hillis, Executive Director/
Public Works
Sam Huddleston, Executive Director/
Development Services
Trey Duke, City Schools Director
Jim Kerr, Transportation Director
Russell Gossett, Solid Waste Director
Matthew Blomeley, Assistant Planning Director
Randolph Wilkerson, Assistant Human Resources Director
Joshua Miller, Administrative Assistant

Council Member Ronnie Martin commenced the meeting with a prayer followed by the Pledge of Allegiance.

Mr. Randolph Wilkerson, Assistant Human Resources Director, recognized STARS Award recipient Mr. Bobby Leathers, IT Department, who went above and beyond the call of duty by demonstrating exceptional IT service and STARS Award recipients Mr. Matthew Miles and Mr. Bo Smith, Parks and Recreation Department who went above and beyond the call of duty by assisting a bicyclist who had suffered a fall while performing routine maintenance on the Greenway. Mayor McFarland presented plaques recognizing Mr. Leather's, Mr. Miles's and Mr. Smith's ability to represent the best of what Murfreesboro City Employees have to offer, exhibiting core values and creating a better quality of life for citizens.

The Consent Agenda was presented to the Council for approval:

1. FY 2022 City Manager Approved Budget Amendments (Finance)
2. Community Investment Program Funds Transfer (Finance)
3. Retail Liquor Certificate of Compliance – Georgetown Wine & Spirits – Ownership Change (Finance)

4. Retail Liquor Certificate of Compliance – University Liquor and Wine – Ownership Change (Finance)
5. Wine Sales Certificate of Compliance – Mapco Express #3407 (Finance)
6. Purchase of Turnout Gear (Fire Rescue)
7. East Main Street Banner Request: St. Clair Senior Center (Parks)
8. MTR Maintenance Agreement for Police Department Copy Machines (Police)
9. Mandatory Referral for Drainage Easement Abandonment on Pathfinder Drive (Planning)
10. Amendment to the Contract with Precision Delta (Police)
11. Employee Assistant Program Service Agreement with LifeServices EAP (Police)
12. Purchase of Steel Pedestrian Barricades (Police)
13. Contract Extension with Trucker’s Lighthouse, Inc. for Police Vehicle Equipment (Police)
14. Asphalt and Concrete Purchase Report (Street)
15. Contract for Concept Planning for Public Works South (Street)
16. Award Recommendation for ITB (Street)
17. Amendment 3 TripSpark Agreement (Transportation)

(Insert letters from Finance (5), Fire Rescue, Parks & Recreation, Police (4), Street (3) & Transportation Departments here.)

Mr. Wade made a motion to approve the Consent Agenda. Mr. Shacklett seconded the motion and all members of the Council present voted “Aye”.

The following letter from the City Recorder/Finance Director was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to approval of Minutes of City Council Meeting.)

Mr. Martin made a motion to approve the minutes as written and presented for the regular meeting held on August 19, 2021, the public comment meeting held on September 2, 2021 and the regular meeting held on September 2, 2021. Mr. Wright seconded the motion and all members of the Council present voted “Aye”.

The following letter from the Assistant Planning Director was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to rezoning approximately 4.6 acres along west Northfield Boulevard and Sulphur Springs Road [2021-412].)

Mr. Matthew Blomeley, Assistant Planning Director, stated that the changes to the pattern book requested by Council of the developer after the public hearing on this matter had been made and a revised pattern book for the development was available.

An ordinance, entitled “ORDINANCE 21-OZ-20 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now

in force and effect, to rezone approximately 4.6 acres located along West Northfield Boulevard and Sulphur Springs Road from Single-Family Residential Ten (RS-10) District to Planned Commercial Development (PCD) District (Sanders Corner PCD); P&H Joint Venture, applicant [2021-412],” which passed first reading on September 2, 2021, was read to the Council and offered for passage on second and final reading upon motion made by Mr. Wade, seconded by Mr. Wright. Upon roll call said ordinance was passed on second and final reading by the following vote:

Aye: Ronnie Martin
 Bill Shacklett
 Kirt Wade
 Shawn Wright
 Shane McFarland

Nay: Rick LaLance

The following letter from the Assistant Planning Director was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to rezoning approximately 5.4 acres along the side of New Salem Highway and along the south side of Bridge Avenue [2021-413].)

An ordinance, entitled “ORDINANCE 21-OZ-27 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 5.4 acres located along Bridge Avenue and New Salem Highway from Single-Family Residential Ten (RS-10) to Planned Institutional Development (PND) (Transit Center PND); City of Murfreesboro, applicant [2021-413],” which passed first reading on September 2, 2021, was read to the Council and offered for passage on second and final reading upon motion made by Mr. Wade, seconded by Mr. Martin. Upon roll call said ordinance was passed on second and final reading by the following vote:

Aye: Ronnie Martin
 Bill Shacklett
 Kirt Wade
 Shawn Wright
 Shane McFarland

Nay: None

Absent: Rick LaLance

The following letter from the Assistant Planning Director was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to corrections to Clari Park PUD Pattern Book.)

Mr. Matthew Blomeley, Assistant Planning Director, presented the recommendation of the Planning Commission to approve corrections to the Clari Park PUD Pattern Book land

use table to include single-family attached as a permitted land use in areas 2 and 6 of the Clari Park PUD.

Mr. Shacklett made a motion to approve corrections to the Clari Park PUD Pattern Book land use table to include single-family attached as a permitted land use in areas 2 and 6 of the Clari Park PUD. Mr. Martin seconded the motion and all members of the Council present voted "Aye" except Mr. LaLance who voted "Abstain".

The following letter from the Budget Director was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to Fiscal Year 2022 Budget Amendment Ordinance.)

An ordinance, entitled "ORDINANCE 21-O-29 amending the 2021-2022 Budget Appropriations (1st Amendment)," was read to the Council and offered for passage on first reading upon motion made by Mr. LaLance, seconded by Mr. Wade. Upon roll call said ordinance was passed on first reading by the following vote:

Aye: Rick LaLance
Kirt Wade
Shawn Wright
Bill Shacklett
Shane McFarland

Nay: None

Abstain: Ronnie Martin

The following letter from the Assistant Planning Director was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to rezoning approximately 17.5 acres located north of Mercury Boulevard, south of East Castle Street, east of South Highland Avenue and west of First Avenue [2021-414].)

Mayor McFarland announced that the next item on the agenda is to conduct a public hearing, pursuant to RESOLUTION 21-R-PH-228 adopted by the City Council on August 19, 2021, to consider rezoning approximately 17.5 acres located north of Mercury Boulevard, south of East Castle Street, east of South Highland Avenue and west of First Avenue from Residential Multi-Family Sixteen (RM-16) District, Duplex Residential (R-D) District, Single-Family Residential Eight (RS-8) District and City Core Overlay (CCO) District to Planned Unit Development (PUD) District and City Core Overlay (CCO) District; Murfreesboro Housing Authority, applicant [2021-414]. Notice of said public hearing was published in the September 14, 2021 issue of the local newspaper as follows:

(Insert notice here)

Mr. Matthew Blomeley, Assistant Planning Director, presented the recommendation of the Planning Commission to approve the rezoning and introduced Ms. Margaret Butler, Project Architect, who gave a brief presentation on the proposed plans for the development.

Mayor McFarland then declared the public hearing open and invited those present who wished to speak for or against the proposed rezoning of approximately 17.5 acres located north of Mercury Boulevard, south of East Castle Street, east of South Highland Avenue and west of First Avenue step forward to the podium.

Mr. Richard Baines, 1319 Parkview Terrace, questioned if this development had incorporated the new and upcoming sidewalk improvement project along the former Mercury Boulevard into consideration when designing this project.

There was no one else present to speak for or against the proposed rezoning and, after ample time had been given, Mayor McFarland declared the public hearing closed.

Mr. Bill Huddleston, Huddleston-Steele Engineering Inc., stated that his firm had worked with the City's Transportation and Planning Departments to make sure the sidewalk improvement project and this development were cohesive.

An ordinance, entitled "ORDINANCE 21-OZ-28 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 17.48 acres located north of Mercury Boulevard, south of East Castle Street, east of South Highland Avenue, and west of First Avenue from Residential Multi-Family Sixteen (RM-16) District, Duplex Residential (R-D) District, Single-Family Residential Eight (RS-8) District and City Core Overlay (CCO) District to Planned Unit Development (PUD) District and City Core Overlay (CCO) District; Murfreesboro Housing Authority, applicant [2021-414]," was read to the Council and offered for passage on first reading upon motion made by Mr. Shacklett, seconded by Mr. Wade. Upon roll call said ordinance was passed on first reading by the following vote:

Aye: Rick LaLance
Ronnie Martin
Kirt Wade
Shawn Wright
Bill Shacklett
Shane McFarland

Nay: None

The following letter from the Assistant Planning Director was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to scheduling public hearings for November 18, 2021 for an annexation petition and Plans of Services [2021-504] and a zoning application [2021-416] for Approximately 9.1 acres located along Franklin Road and Veterans Parkway and a zoning application [2021-417] to amend the PRD zoning (Shelton Square PRD) on approximately 242 acres located along Blackman Road.)

The following RESOLUTION 21-R-PH-31 was read to the Council and offered for adoption upon motion made by Mr. LaLance, seconded by Mr. Martin. Upon roll call said resolution was adopted by the following vote:

Aye: Rick LaLance
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright
Shane McFarland

Nay: None

(Insert RESOLUTION 21-R-PH-31 fixing the time for Public Hearings to consider
(1) adoption of a Plan of Services for and annexation of approximately
9.1 acres located along Franklin Road and Veterans Parkway and
(2) zoning of approximately 9.1 acres located along Franklin
Road and Veterans Parkway to Highway Commercial (CH)
District and Planned Residential Development (PRD)
District (The Villas at Veterans PRD); which have
been proposed to be annexed to the City of
Murfreesboro, Tennessee, Wright Family
Real Estate Partnership, applicant(s)
[2021-504 & 2021-416].)

The following RESOLUTION 21-R-PH-32 was read to the Council and offered for adoption upon motion made by Mr. LaLance, seconded by Mr. Martin. Upon roll call said resolution was adopted by the following vote:

Aye: Rick LaLance
Ronnie Martin
Bill Shacklett
Kirt Wade
Shawn Wright
Shane McFarland

Nay: None

(Insert RESOLUTION 21-R-PH-32 fixing the time for holding a Public
Hearing with respect to the proposed amendment of the Zoning
Ordinance and the Zoning Map of the City of Murfreesboro,
Tennessee, constituting a part of said Ordinance, as
heretofore amended and as now in force and effect,
so as to consider a proposed amendment to
approximately 242 acres in the Planned
Residential Development (PRD)
District (Shelton Square PRD)
located along Blackman
Road as indicated on
the attached map,
Shelton Square,
LLC, applicant(s)
[2021-417].)

The following letter from the City Manager was presented to the Council:

(Insert letter dated September 30, 2021 here with regards
to Agreement for Intergovernmental Services.)

Mr. Craig Tindall, City Manager, presented the request to approve the Agreement with Ramsey, Farrar Russell & Smith in the amount of \$50,000 for intergovernmental and legislative services at the General Assembly, funded by the department's budget.

Mr. Wade made a motion to approve the Agreement with Ramsey, Farrar Russell & Smith in the amount of \$50,000 for intergovernmental and legislative services at the General Assembly, funded by the department's budget. Mr. Martin seconded the motion and all members of the Council present voted "Aye".

The following letter from the Chief of Fire Rescue was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to purchase of replacement pumper truck.)

Mr. Mark Foulks, Chief of Fire Rescue, presented the recommendation of the Fire Department to approve the Purchase Agreement with The Sutphin Corporation in the amount of \$688,348, funded by the CIP, for a Heavy Duty Custom Pumper Truck.

Mr. Shacklett made a motion to approve the Purchase Agreement with The Sutphin Corporation in the amount of \$688,348, funded by the CIP, for a Heavy Duty Custom Pumper Truck. Mr. LaLance seconded the motion and all members of the Council present voted "Aye".

The following letter from the Chief of Fire Rescue was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to purchase of replacement ladder truck.)

Mr. Mark Foulks, Chief of Fire Rescue, presented the recommendation of the Fire Department to approve the Purchase Agreement with The Sutphin Corporation in the amount of \$988,413, funded by the CIP, for a Heavy Duty 75' Mid-Mount Aerial Ladder (SL75) Truck.

Mr. LaLance made a motion to approve the Purchase Agreement with The Sutphin Corporation in the amount of \$988,413, funded by the CIP, for a Heavy Duty 75' Mid-Mount Aerial Ladder (SL75) Truck. Mr. Wright seconded the motion and all members of the Council present voted "Aye".

The following letter from the Chief of Fire Rescue was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to purchase of new vehicles.)

Mr. Mark Foulks, Chief of Fire Rescue, presented the recommendation of the Fire Department to approve the purchase of three 2022 Police Interceptor Utility AWD vehicles through a State Contract from Ford of Murfreesboro in the amount of \$100,593, funded by the Department's Fiscal Year 2022 budget.

Mr. LaLance made a motion to approve the purchase of three 2022 Police Interceptor Utility AWD vehicles through a State Contract from Ford of Murfreesboro in the amount of \$100,593, funded by the Department's Fiscal Year 2022 budget. Mr. Shacklett seconded the motion and all members of the Council present voted "Aye".

The following letter from the Chief of Fire Rescue was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to
Contract extension with the Department of Veterans Affairs.)

Mr. Mark Foulks, Chief of Fire Rescue, presented the recommendation of the Fire Department to approve the extension of the Fire Services Contract with the Department of Veterans Affairs for the Alvin C. York Veterans Medical Center for one year expiring on September 30, 2022. The VA's fee for the extension is \$1,275,919 annually.

Mr. Shacklett made a motion to approve the extension of the Fire Services Contract with the Department of Veterans Affairs for the Alvin C. York Veterans Medical Center for one year expiring on September 30, 2022. Mr. Martin seconded the motion and all members of the Council present voted "Aye" except Mr. LaLance who voted "Abstain".

The following letter from the City Schools Director was presented to the Council:

(Insert letter dated September 30, 2021 here
with regards to School Bus Purchase.)

Dr. Trey Duke, City Schools Director, presented the request to approve the Purchase Agreement with Mid-South Bus Center in the amount of \$202,600, funded by County Shared Bond proceeds with \$95,750 coming from insurance proceeds as a reimbursement, for the purchase of two 90 Passenger Transit Style School Buses.

Mr. Wade made a motion to approve the Purchase Agreement with Mid-South Bus Center in the amount of \$202,600, funded by County Shared Bond proceeds with \$95,750 coming from insurance proceeds as a reimbursement, for the purchase of two 90 Passenger Transit Style School Buses. Mr. Martin seconded the motion and all members of the Council present voted "Aye" except Mr. LaLance who voted "Abstain".

The following letter from the Solid Waste Director was presented to the Council:

(Insert letter dated September 30, 2021 here with regards
to Lonnie Cobb Purchase – Ford F150 and Explorer.)

Mr. Russell Gossett, Solid Waste Director, presented the request to approve the Purchase Contract with Lonnie Cobb Ford LLC in the amount of \$58,786, funded by the CIP, for the purchase of a Ford Explorer and a Ford F-150.

Mr. LaLance made a motion to approve the Purchase Contract with Lonnie Cobb Ford LLC in the amount of \$58,786, funded by the CIP, for the purchase of a Ford Explorer and a Ford F-150. Mr. Wright seconded the motion and all members of the Council present voted "Aye".

The following letter from the Solid Waste Director was presented to the Council:

(Insert letter dated September 30, 2021 here
with regards to Rehrig Cart Purchase.)

Mr. Russell Gossett, Solid Waste Director, presented the request to approve the First Amendment to the Contract with Rehrig Pacific Company in the amount of \$86,620, funded by the Department's Fiscal Year 2022 Budget, for the purchase of 1,404 residential solid waste carts.

Mr. Martin made a motion to approve the First Amendment to the Contract with Rehrig Pacific Company in the amount of \$86,620, funded by the Department's Fiscal Year 2022 Budget, for the purchase of 1,404 residential solid waste carts. Mr. Wright seconded the motion and all members of the Council present voted "Aye".

The following letter from the Solid Waste Director was presented to the Council:

(Insert letter dated September 30, 2021 here
with regards to purchase of Side Loader.)

Mr. Russell Gossett, Solid Waste Director, presented the request to approve the Purchase Contract with Autocar Truck, LLC in the amount of \$323,751, through the Sourcewell Cooperative Purchasing Program, funded by the CIP, for the purchase of an automated side loader truck.

Mr. LaLance made a motion to approve the Purchase Contract with Autocar Truck, LLC in the amount of \$323,751, through the Sourcewell Cooperative Purchasing Program, funded by the CIP, for the purchase of an automated side loader truck. Mr. Shacklett seconded the motion and all members of the Council present voted "Aye".

The following letter from the Executive Director of Public Works was presented to the Council:

(Insert letter dated September 30, 2021 here with regards
to purchase of stormwater piping for drainage improvements.)

Mr. Raymond Hillis, Executive Director of Public Works, presented the request of the Street Department to approve the Agreement with Fortiline Inc. in the amount of \$95,640, funded by the Stormwater Fund, for stormwater piping materials.

Mr. Wade made a motion to approve the Agreement with Fortiline Inc. in the amount of \$95,640, funded by the Stormwater Fund, for stormwater piping materials. Mr. Martin seconded the motion and all members of the Council present voted "Aye".

Under other business the following letter from the Assistant City Manager was presented to the Council:

(Insert letter dated September 30, 2021 here with regards
to O&M, AMI & Administration vehicle purchases.)

Mr. Darren Gore, Assistant City Manager, presented the request of the Water Resources Department to approve the Purchase Contracts with TT of F. Murfreesboro, Inc. and Wilson County Motors, LLC in the amount of \$90,702 and \$25,292, respectively, funded

by the Fiscal Year 2022 Capital Budget for the purchase of a 2021 Ford F-250, 2022 Chevrolet Colorado, 2021 Ford Explorer and a 2021 Ford Ranger.

Mr. LaLance made a motion to approve the Purchase Contracts with TT of F. Murfreesboro, Inc. and Wilson County Motors, LLC in the amount of \$90,702 and \$25,292, respectively, funded by the Fiscal Year 2022 Capital Budget for the purchase of a 2021 Ford F-250, 2022 Chevrolet Colorado, 2021 Ford Explorer and a 2021 Ford Ranger. Mr. Wade seconded the motion and all members of the Council present voted "Aye".

The following letter from the City Recorder/Finance Director was presented to the Council:

(Insert letter dated September 30, 2021 here with regards to Beer Permit Applications for Thorntons #618, 1785 New Salem Highway and Special Event Permits for Believe in Bristol, Inc. on 10/22/21, 10/23/21 and 10/24/21 at 1660 Middle Tennessee Boulevard.)

Mr. LaLance made a motion to approve the Beer Permit for Thorntons #618, 1785 New Salem Highway (New Location), pending Building and Codes approval, and Special Event Permits for Believe in Bristol, Inc. on 10/22/21, 10/23/21 and 10/24/21 at 1660 Middle Tennessee Boulevard. Mr. Wade seconded the motion and all members of the Council present voted "Aye".

Upon recommendation of Mayor McFarland, Mr. Martin made a motion to reappoint Mr. David Gray (not in management) (term expires September 30, 2027) and Mr. Steve Benefield (manager of 20 or more employees) (term expires September 30, 2027) to the Disciplinary Review Board. Mr. LaLance seconded the motion. A roll call vote was conducted and all members of the Council present voted "Aye".

The City Recorder/Finance Director announced that there were no statements to consider.

Mr. Craig Tindall, City Manager, stated that the next City Council meeting would be on October 13th at the airport and would start at 10:00 a.m.

Mr. Rick LaLance gave an update on the MED Proceeds Committee's progress.

There being no further business, Mayor McFarland adjourned this meeting at 6:57 p.m.

ATTEST:

SHANE MCFARLAND – MAYOR

JENNIFER BROWN - CITY RECORDER

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: FY22 Budget Amendment Ordinance

Department: Budget

Presented by: Erin Tucker

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Amendment to the City's FY22 Budget.

Staff Recommendation

Amend Ordinance 21-O-29 before second reading, and then approve as amended.

Background Information

GENERAL FUND

FY21 Reserve Adjustments

The FY22 Budget includes carryforward of funding from FY21 that were budgeted but not spent before June 30, 2021. The budgeted carryforward should be adjusted as follows:

Airport Transfer/Airport Fund

The transfer to Airport Fund for the Hangar 1 replacement project should be reduced by \$627,631 as these funds were expended in FY21.

Parks & Recreation

The SportsCom plumbing repairs of \$171,690 were realized in FY22 but were anticipated in the FY21 unforeseen expense account. Also, the Siegel building project realized \$5,800 in expenses in FY21 which will reduce the carryforward amount.

Economic Development

The contract with Consolidated Utility District for work on Burnt Knob Rd was not completed in FY21. This should be re-budgeted in FY22 and adjusted through the FY21 carryforward funds.

Fire Rescue

The Fire apparatus funded through General Fund had an additional \$12,379 in expenses in FY21 than originally projected which will reduce the FY22 budget.

FY22 Budget Amendment

The following items are budget amendments to the Unassigned Fund Balance for the FY22 budget:

Revenues

Hotel/Motel Tax revenues are trending over budget. The amendment includes an additional \$480,000 to the budget.

Administration – Economic Development

The transfer to the Rutherford County Chamber of Commerce for Hotel/Motel Tax receipts should also be increased by \$72,000 which is proportionate to the increased tax revenues.

Building & Codes

Hire one additional plans examiner, which will be shared with Water Resources. The net increase to General Fund is \$34,300 with an increase of 1 position to the headcount.

Police

At the September 15th Council workshop, Council approved the purchase of Police cars for \$4.65 million from the General Fund Unassigned Fund Balance.

The City has been awarded the 2021 Edward Byrne Memorial Justice Grant (JAG) for the purchase of equipment. Revenues and expenditures are increasing \$61,903.

In FY20 the Police Department was awarded a Federal grant for COVID related PPE, which has not been fully spent. Revenues and expenditures are increasing by \$56,950.

Parks & Recreation

At the September 15th Council workshop, Council approved funding \$3 million for a community park on the West side of the City as well as \$860,000 for a skate park located under the Medical Center Parkway Bridge.

Community Development

In FY21 the City was awarded Cares Act Part I funding for the Emergency Solutions Grants Program, which has not been fully spent. Revenues and expenditures are increasing \$251,607.

City Council

Council approved donating \$50,000 to the Central Tennessee Regional Solid Waste Planning Board at the August 19, 2022 City Council meeting to assist in the expenses incurred as a result of the Middle Point Landfill expansion request.

Legal

Council approved up to \$500,000 for legal and other professional services deemed reasonably necessary to challenge the proposed expansion of landfilling operations at Middle Point Landfill.

Fire

In FY20 the Fire Department was awarded a grant from the Christy Houston Foundation. The grant has not been fully spent, although revenues were recognized in FY20. Expenditures are increasing \$6,659.

In FY21 the Fire Department was awarded a Federal grant for COVID related PPE, which has not been fully spent. Revenues and expenditures are increasing \$312.

Finance

Council approved the Finance Director's salary at \$148,490 plus benefits, which is an increase over budget by approximately \$45,000.

Airport Transfer/Airport Fund

At the September 15th Council workshop, Council approved \$1.275 million for the Airport Taxiway F/T-Hangar construction project.

Council Priorities Served

Responsible budgeting

The budget amendments reflect the increased expenses for the specified funds.

Fiscal Impact

The amendment to the FY22 Budget will reduce the FY21 Reserved Carryforward amount and increase Unassigned Fund Balance by \$308,626. The FY22 amendment items will increase the General Fund FY22 budget and use of fund balance by \$10,008,459. The Airport Fund budget amendments will result in no effect to the Airport Fund Balance.

Attachments

1. FY22 Budget Ordinance 21-O-29 and Exhibits A & B

ORDINANCE 21-O-29 amending the 2021-2022 Budget Appropriations (1st Amendment).

WHEREAS, the City Council adopted the 2021-2022 Budget by motion; and,

WHEREAS, the City Council adopted an appropriations ordinance, Ordinance 21-O-13, on June 9, 2021 to implement the 2021-2022 Budget; and,

WHEREAS, it is now desirable and appropriate to adjust and modify the 2021-2022 Budget Appropriations by this Ordinance to incorporate expenditure decisions made during the 2021-2022 fiscal year.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. The 2021-2022 Budget adopted by the City Council is hereby revised and amended as shown on Exhibit A, attached hereto.

SECTION 2. That this Ordinance take effect immediately upon and after its passage upon second and final reading, as an emergency Ordinance, an emergency existing, and it being imperative to provide for the necessary expenses, general and special, of said City of Murfreesboro for the Fiscal Year 2021-2022 at the earliest practicable time, the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker

43A2035E51F9401...
Adam F. Tucker
City Attorney

SEAL

Department	Account	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
General Fund				
<u>Revenues</u>				
Community Development	Federal Grant - Emergency Solutions Grant	\$ 161,250.00	\$ 412,857.00	\$ 251,607.00
Fire	Federal Grant		\$ 312.00	\$ 312.00
General	Room Occupancy Tax	\$ 2,220,000.00	\$ 2,700,000.00	\$ 480,000.00
Police	Federal Grants	\$ -	\$ 118,853.00	\$ 118,853.00
				<u>\$ 850,772.00</u>
<u>Expenditures</u>				
<u>Assigned</u>				
Non-Department Transfers	Transfer to Airport Fund - CHNG	\$ 2,050,000.00	\$ 1,422,369.00	\$ (627,631.00)
Parks & Recreation	Building Expense - DA21	\$ 1,500,000.00	\$ 1,494,199.00	\$ (5,801.00)
Economic Development	Contractual Services	\$ 185,000.00	\$ 350,495.00	\$ 165,495.00
Fire	Transportation Equipment - DA21	\$ 57,529.00	\$ 45,150.00	\$ (12,379.00)
Other General Government	Unforeseen Contingencies	\$ 3,390,000.00	\$ 3,561,690.00	\$ 171,690.00
<u>Unassigned</u>				
Parks & Recreation	Parks & Recreation Facilities	\$ 72,750.00	\$ 3,932,750.00	\$ 3,860,000.00
Police	Transportation Equipment	\$ -	\$ 4,650,000.00	\$ 4,650,000.00
Police	JAG Grant Expense	\$ -	\$ 61,903.00	\$ 61,903.00
Police	Grant Expense	\$ -	\$ 56,950.00	\$ 56,950.00
City Council	Miscellaneous Expense	\$ 2,000.00	\$ 52,000.00	\$ 50,000.00
Legal	Legal Services & Expenses	\$ 100,000.00	\$ 600,000.00	\$ 500,000.00
Finance & Tax	Salary - Full-Time - Regular	\$ 1,284,571.00	\$ 1,329,571.00	\$ 45,000.00
Non-Department Transfers	Transfer to Airport Fund	\$ 145,000.00	\$ 1,415,500.00	\$ 1,270,500.00
Community Development	Emergency Solutions Grant	\$ 161,250.00	\$ 412,857.00	\$ 251,607.00
Fire	Grant Expense	\$ -	\$ 6,971.00	\$ 6,971.00
Administration	Chamber of Commerce	\$ 333,000.00	\$ 405,000.00	\$ 72,000.00
Building & Codes	Salaries and Benefits	\$ 2,031,465.00	\$ 2,057,465.00	\$ 26,000.00
Building & Codes	Building Expense	\$ -	\$ 7,000.00	\$ 7,000.00
Building & Codes	Computer Equipment	\$ 4,700.00	\$ 6,000.00	\$ 1,300.00
				<u>\$ 10,550,605.00</u>
CHANGE IN ASSIGNED FUND BALANCE (CASH)		\$ (5,650,982.00)	\$ (5,342,356.00)	\$ (308,626.00)
CHANGE IN UNASSIGNED FUND BALANCE (CASH)		\$ 7,643,481.00	\$ (2,364,978.00)	\$ 10,008,459.00
TOTAL CHANGE IN FUND BALANCE (CASH)		\$ 1,992,499.00	\$ (7,707,334.00)	\$ (9,699,833.00)

Department	Account	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
<u>Airport Fund</u>				
	<u>Revenues</u>			
	Transfer from General Fund - CHNG	\$ 2,050,000.00	\$ 1,422,369.00	\$ (627,631.00)
	Transfer from General Fund	\$ 145,000.00	\$ 1,415,500.00	\$ 1,270,500.00
				<u>\$ 642,869.00</u>
	<u>Expenditures</u>			
	Buildings Expense - CHNG	\$ 2,050,000.00	\$ 1,422,369.00	\$ (627,631.00)
	Buildings Expense	\$ 2,609,447.00	\$ 3,879,947.00	\$ 1,270,500.00
				<u>\$ 642,869.00</u>
	CHANGE IN FUND BALANCE (CASH)	\$ (1,503,422.00)	\$ (1,503,422.00)	-

EXHIBIT B					
City of Murfreesboro					
Authorized Full Time Position Counts FY 2019 to FY 2022					
	Actual	Actual	Estimated	Adopted	Budget Amendment
Department	FY 2019	FY 2020	FY 2021	FY 2022	FY 2022
Mayor and Council	7	7	7	7	7
City Manager's Office	11	13	11	11	11
Finance and Tax	18	18	19	21	21
Legal	7	9	9	9	9
City Court	6	6	6	7	7
Purchasing	2	2	2	3	3
Information Technology	17	20	22	24	24
Communications	5	6	6	6	6
Human Resources	7	10	10	11	11
Facilities Maintenance	11	11	12	13	13
Fleet Services	16	16	17	20	20
Police	326	351	369	376	376
Fire & Rescue	235	236	238	241	241
Building & Codes	26	26	25	25	26
Planning	14	14	15	15	15
Community Development	1	1	3	3	3
Transportation	24	25	27	27	27
Engineering	14	14	14	15	15
Street	51	51	51	51	51
Civic Plaza	1	1	1	1	1
Parks and Recreation	84	90	89	89	89
Golf Course	15	15	15	15	15
Solid Waste	42	43	46	47	47
Airport	3	3	4	4	4
Risk Management	3	0	0	0	0
	946	988	1018	1041	1042

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Rezoning property north of Doctor Martin Luther King Jr Boulevard
[Second Reading]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Rezone approximately 17.5 acres located north of Doctor Martin Luther King Jr Boulevard, south of East Castle Street, east of South Highland Avenue, and west of First Avenue.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the rezoning.

Background Information

The Murfreesboro Housing Authority presented a zoning application [2021-414] for approximately 17.5 acres located north of Doctor Martin Luther King Jr Boulevard to be rezoned from RS-8 (Single-Family Residential District 8), RD (Duplex Residential District), RM-16 (Multi-Family Residential District 16), and CCO (City Core Overlay District) to PUD (Planned Unit District) and CCO. During its regular meeting on August 4, 2021, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On September 30, 2021, Council held a public hearing and approved this matter on First Reading. At that meeting, Staff and the applicant presented a minor revision to the architecture. That modification has been incorporated into the pattern book, and the updated pattern book has been included in the agenda packet for Council's reference. On a side note, the renaming of Mercury Boulevard to Doctor Martin Luther King Jr Boulevard became effective after first reading on October 13th, 2021. The attached ordinance and map were updated after first reading to reflect the current street name.

Council Priorities Served

Expand Infrastructure

This development will increase both the quality and quantity of the City's affordable housing stock.

Establish Strong City Brand

This rezoning will enable reinvestment and redevelopment near the City's downtown, which will strengthen the identity of downtown Murfreesboro as a place to live, work, and play.

Improve Economic Development

This rezoning will enable the replacement of the existing, aging MHA housing stock with a higher quality housing product, which will complement other downtown redevelopment efforts.

Attachments:

1. Updated Ordinance 21-OZ-28
2. Updated MHA Mercury Parkside PUD pattern book



MERCURY PARK REDEVELOPMENT MASTER PLAN

MURFREESBORO HOUSING AUTHORITY

Planned Unit District

ORIGINAL SUBMISSION - MAY 13, 2021 | RESUBMITTAL JUNE 2, 2021

2ND SUBMISSION - JUNE 17, 2021 | RESUBMITTAL JULY 7, 2021 | RESUBMITTAL 07/13/2021

AUGUST 4, 2021 PLANNING COMMISSION | RESUBMITTAL 09/09/2021 & 09/21/2021

CITY COUNCIL PUBLIC HEARING 09/30/2021



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DEVELOPMENT TEAM

OWNER

Murfreesboro Housing Authority
415 N. Maple Street
Murfreesboro, TN 37130

ARCHITECT

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PLANNING AND ENGINEERING

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Murfreesboro, TN 37130

Civil & Traffic Engineering/Survey

Huddleston-Steele Engineering
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COMMUNITY RELATIONS

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DEVELOPMENT CONSULTANT

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113 Page Road
Nashville, TN 37205



SECTION ONE \ Project Overview

PROJECT OVERVIEW

INTRODUCTION

The Mercury Park Master plan effort was a planning and design process to re-imagine, redevelop, and replace the affordable housing neighborhoods of Mercury Court and Parkside in Murfreesboro, Tennessee. The resulting master plan outlined herein is expected to be implemented in two-phases. The first phase will include removal and replacement of the 46 housing units on the Parkside property and a later phase will remove 74 housing units, one clinic, and one daycare, and provide 127 new homes and commercial uses in the form of the relocated clinic and Murfreesboro Housing Authority offices on the Mercury Court property. **The goal of the master plan is that this neighborhood will be designed in such a way as to address the commercial importance and scale of Mercury Boulevard while allowing the new development to transition to fit with the smaller residential scale of the existing neighborhood. The incorporation of smaller pocket parks and public green spaces on all blocks of the new development provide healthy and inviting outdoor spaces to be enjoyed by residents and guests alike.**

PROJECT OVERVIEW

Based on community feedback, the master plan strives to complement the surrounding homes, provide a range of housing opportunities, create open green spaces, link to Patterson Park and address the scale of Mercury Boulevard.

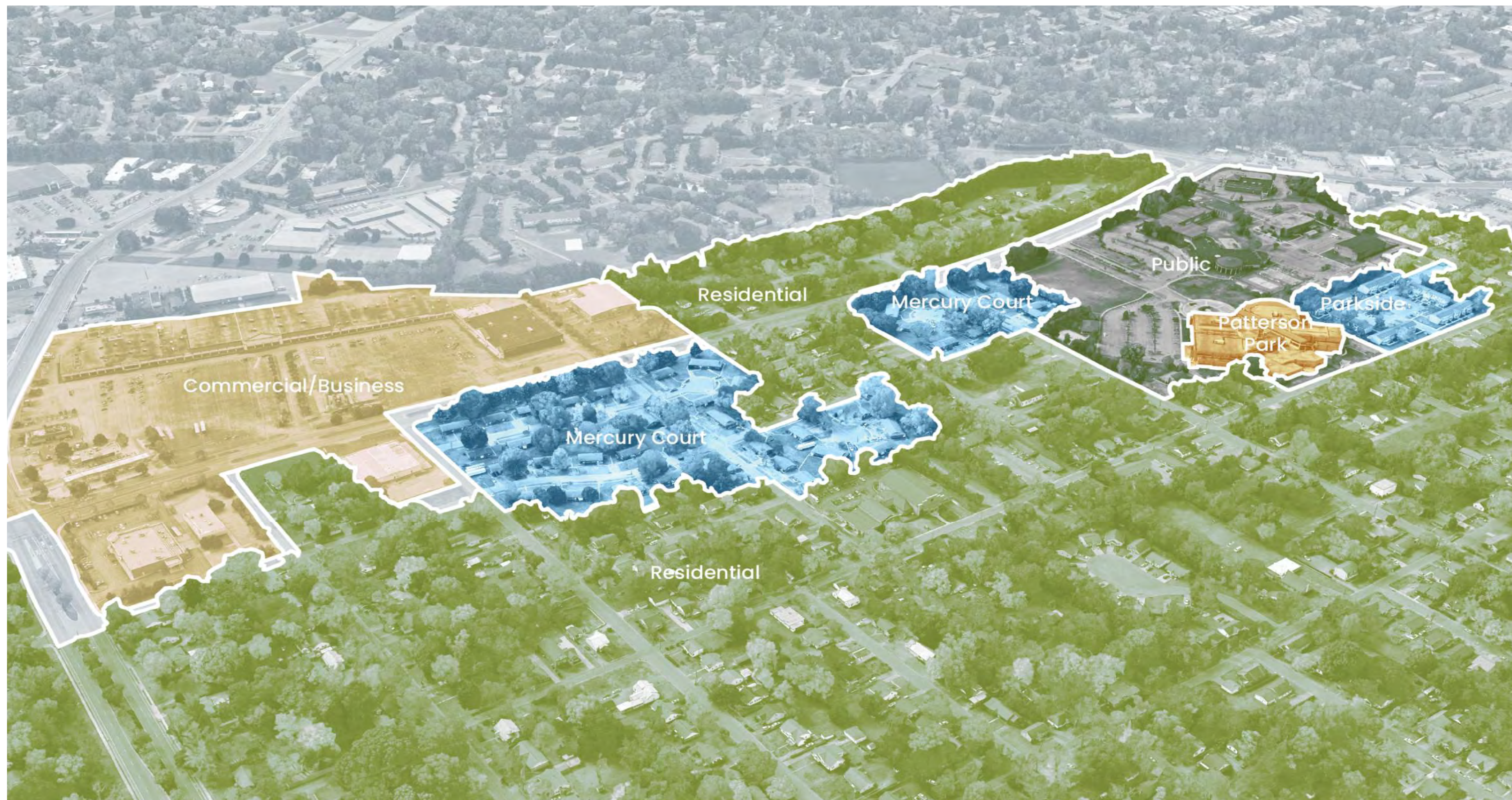
The current parcels contain 17.48 acres in total. 1 parcel of 2.78 acres will be developed as Phase 1 at Parkside and a total of 8 parcels containing 14.7 acres (prior to 1.33 acres of abandonments) over 3 non-contiguous blocks and will be developed as Mercury. The current daycare on the Mercury property will be closed and the current Hope Clinic at the corner of Hancock and Mercury Blvd. will be provided a new home in the 3 story mixed-use building planned at the corner of 1st Avenue and Mercury Boulevard. It will contain not only the relocated Hope Clinic (medical), but also a new corporate headquarters/offices for MHA and one level of 1-bedroom apartments on the upper/3rd level.

The Parkside property of the master plan will be developed with groupings of rowhouses focused on a central green space which connects to the walkways of adjacent Patterson Park. Two-story rowhouses address E. Castle St. and parking is provided to the east and west sides of the site for easy access by residents. The architectural style will reflect a simplified traditional aesthetic which uses traditional roof forms and materials with details which relate to the public, commercial and simply adorned/styled homes nearby.

The Mercury property provides a transition from the scale and commercial focus of Mercury Boulevard to the tight residential scale of the neighborhood to the north. Neighborhood pocket parks are a highlighted feature of the plan and provide planned green spaces which are nearby for all residents to enjoy. Single family and duplex homes will line Minor Street and north of Minor along S. Bilbro Ave. Rowhouses and townhomes will be primarily featured in the first block off Mercury Boulevard to address the scale of the four-lane street. At the corner of 1st Avenue and Mercury Blvd, the 3-story mixed-use building will pick up on some of the materials used throughout the neighborhood and will also provide a larger scale which relates to neighboring public and commercial structures.

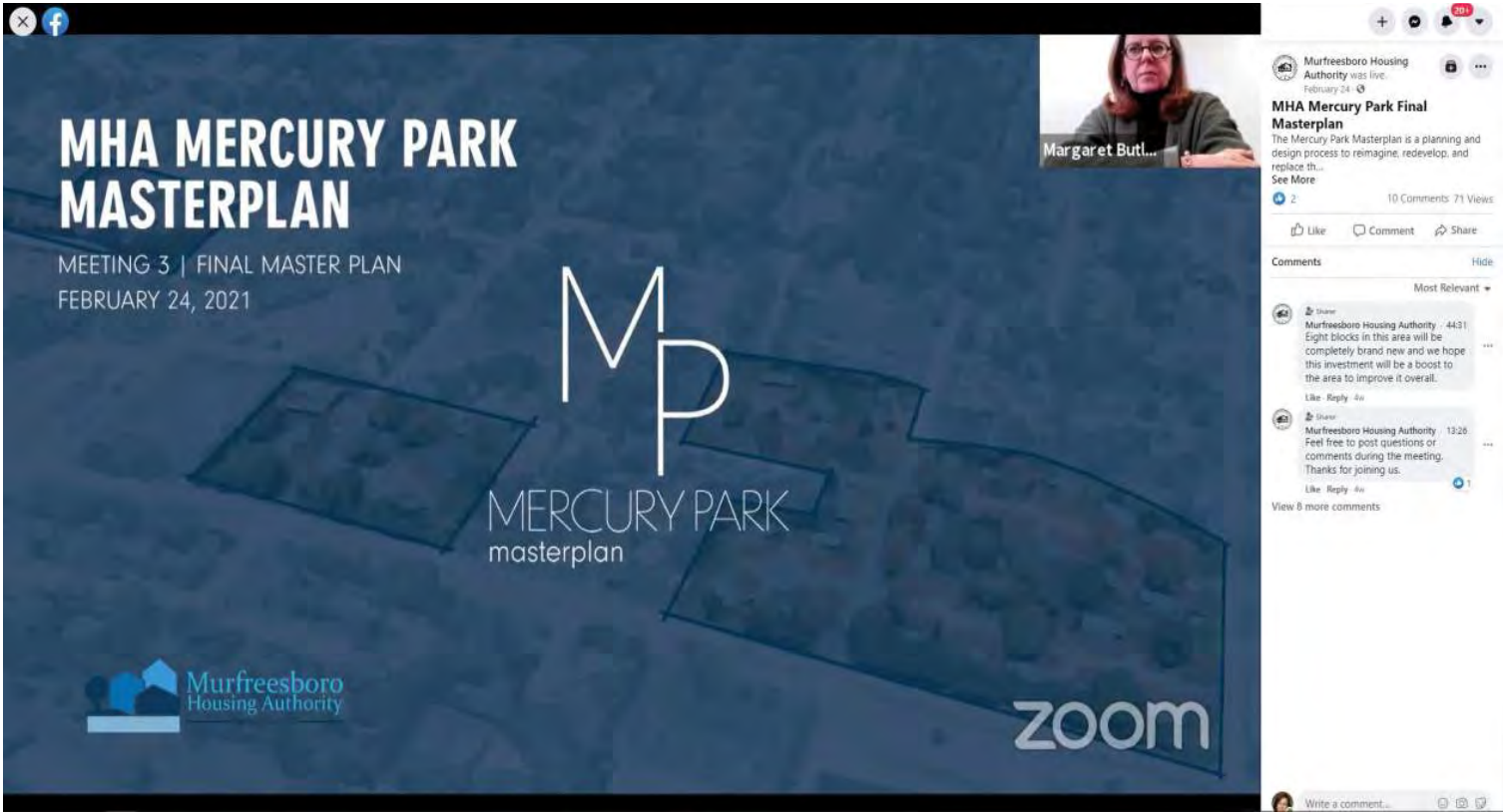
- ROW Abandonments - Mandatory referrals will be required for the development of Mercury Court because four right-of-ways will need to be abandoned:
1. Berry Place from First Avenue to South Bilbro Avenue.
 2. Berry Place cul-de-sac west of South Bilbro Avenue.
 3. Burns Court cul-de-sac north of Minor Street.
 4. Essex Court cul-de-sac east of Hancock Street.

Easements for utilities within these right-of-ways may be retained until the final utility design is provided to determine if these utilities should remain or be replaced, relocated, or abandoned. It is worth noting that the alley directly across from Burns Court at Minor Street that heads south to Mercury Boulevard (shown as Stephens Ave. on plat recorded in Deed Book 95, page 215) is not a part of Murfreesboro Housing Authority property and will not be included in any design, changes, or abandonment as part of the Mercury Court development.



2021 Mercury Park Master Plan Process |
Engaging the City, Residents & Community

	MEETING 1 Information Gathering		MEETING 2 Feedback on Concepts		MEETING 3 Presentation/MP Completion		Master Plan Pattern Book
<i>all times are CST</i>	Wednesday Jan 27	Thursday Jan 28	Wednesday Feb 10	Thursday Feb 11	Wednesday Feb 24	Thursday Feb 25	31-Mar
7:00 AM		Travel		Travel			
8:00 AM	Production		Production		Production		
9:00 AM						Travel	
10:00 AM	Virtual Meetings with City Depts/Utilities	Set-up/Team meeting MHA	Follow-up Virtual Meetings with City Depts/Utilities/ Stakeholders as needed	Set-up/Team meeting MHA	Virtual Presentation with City Depts/Utilities/ Stakeholders		
11:00 AM	Production		Production			Set-up	
12:00 PM		Board lunch		Board lunch		Board lunch/ presentation	
1:00 PM		Set-Up at Patterson			Production		
2:00 PM		In-Person Resident Meetings atPatterson		In-Person Resident Meetings MHA or Patterson		In-Person Resident Meetings MHA or Patterson	
3:00 PM		Team Discussion/break		Breakdown		Breakdown	
4:00 PM		In-Person Resident Meetings at Patterson		Team Wrap- up/Travel		Team Wrap- up/Travel	
5:00 PM	Virtual Public Zoom Meeting		Virtual Public Zoom Meeting		Virtual Public Zoom Meeting		
6:00 PM	Team Wrap-up		Team Wrap-up		Team Wrap-up		
7:00 PM		Team Wrap- up/Travel					
8:00 PM							
9:00 PM							



The design team for the Murfreesboro Housing Authority used a creative and engaged two-month community process patterned after the National Charrette Institute guidelines to garner community input which shaped the design and details of the masterplan included herein. Due to the COVID-19 pandemic, most of these engagement had to be held virtually through ZOOM webinars. Three in-person resident meetings were held. Illustrated here is the sequence of 12 resident/city/public engagement meetings that were held and the schedule on each day.

At each public, resident and stakeholder meetings notes were taken with scribes and the team recorded all comments from the public meetings illustrated in the chart to the left.

PROCESS

Charrette Schedule



INFORMATION GATHERING

Charrette Phase 1 – January 27/28

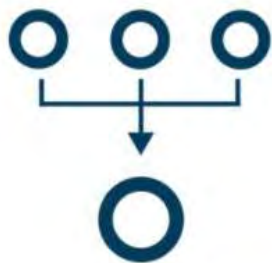
The first phase of the master plan process is to gather big-picture input from the residents, neighbors, and community to establish a shared vision of what the future of the Mercury Park area should look and feel like.



INITIAL DESIGN OPTIONS

Charrette Phase 2– FEBRUARY 10/11

In the second phase of the master planning process the design team will develop multiple masterplan options in response to the shared vision and preferences. These options will be presented for further input and discussion.



FINAL MASTER PLAN

Charrette Phase 3 – FEBRUARY 24/25

In the final phase of the master planning process the design team will develop a final master plan based on preferences and selections from the options that were previously presented.

mercuryparkmasterplan.com

Online Surveys

Interactive Digital Whiteboards

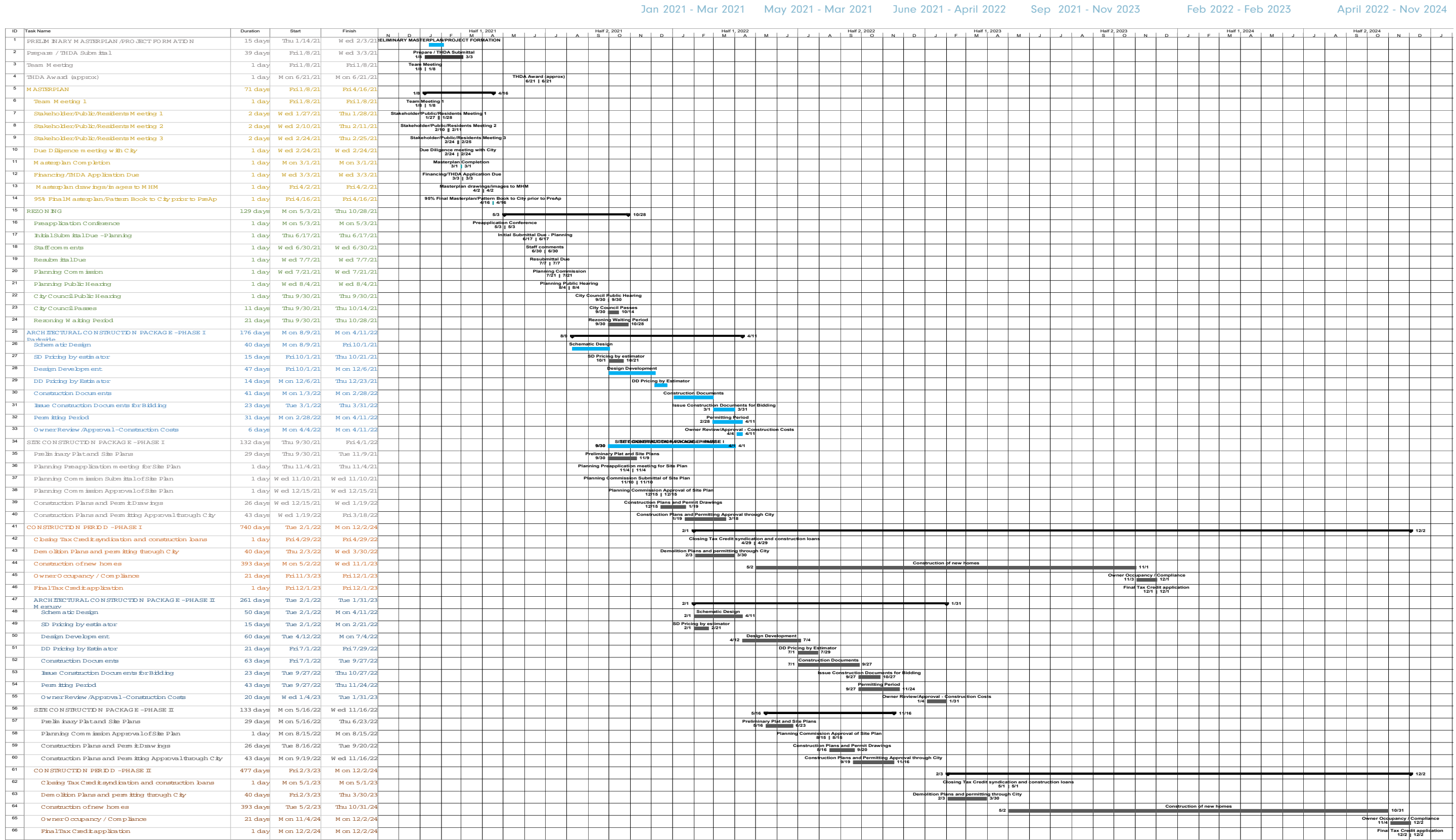


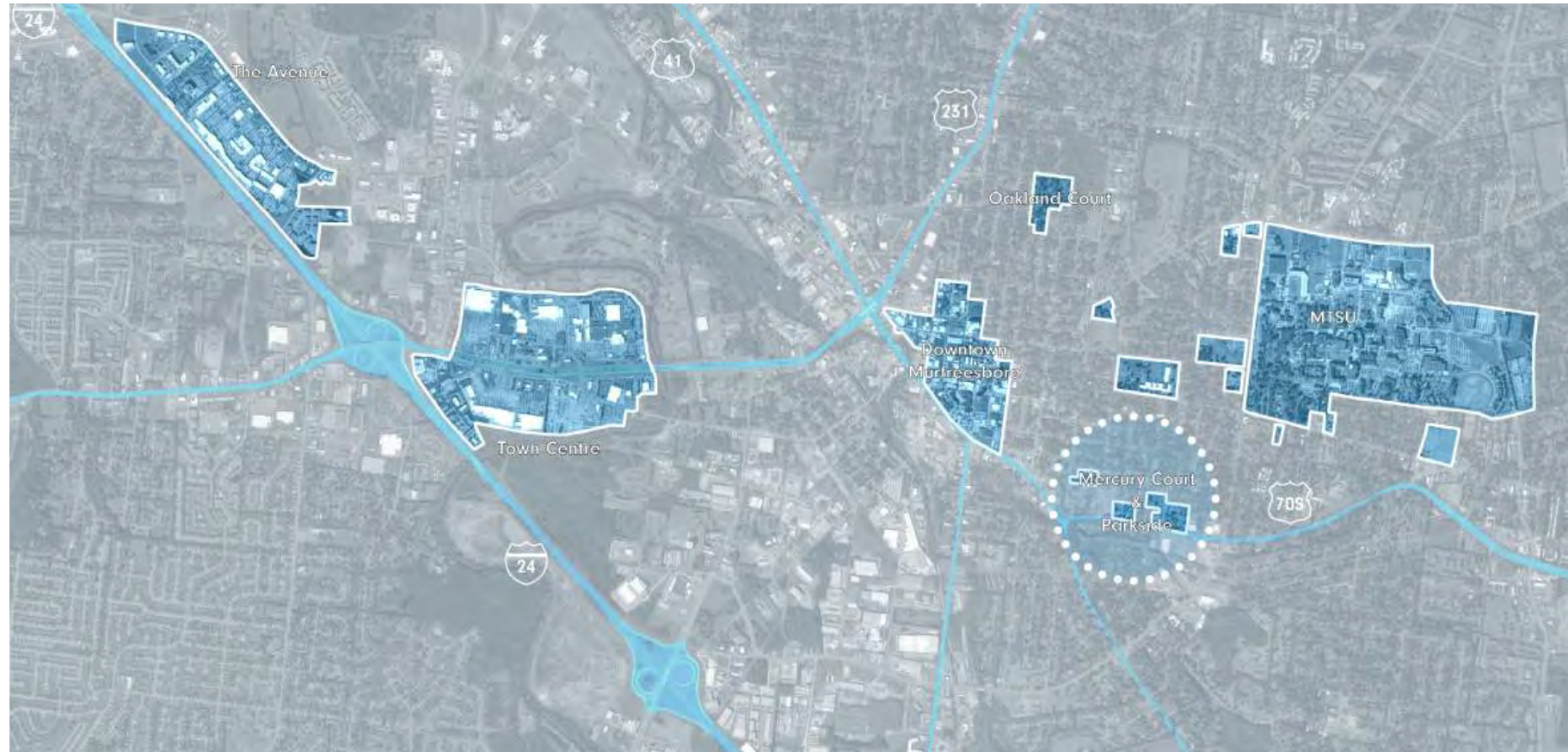
The description to the left illustrates the 2-month charette-based virtual masterplanning process which was implemented. In January the team engaged residents, stakeholder groups and the public to garner input about the project. In February the design team brought options and ideas back to the public and residents in an online ZOOM webinar/charette, received feedback and worked until late February to refine a selected scheme. With final feedback the design team hosted the final online webinar and onsite meetings in late February to present the final masterplan. The timeline goal was to complete the masterplan before a Tennessee Housing Development Agency (THDA) application for Low Income Housing Tax Credits (LIHTC) was to be submitted on 3/4/21 to acquire capital funding for the project.

PUBLIC ENGAGEMENT



MERCURY PARK MASTERPLAN / PROJECTED TIMELINE





The Mercury Park community is situated southeast of downtown Murfreesboro and triangulated to the northeast with MTSU. It forms an impressive edge along Mercury Boulevard as communities from the East travel in to Murfreesboro.

The Parkside property is embedded into the residential fabric of Murfreesboro and is bound by residential properties, but the Patterson Park Community Center to the east provides a wealth of community resources literally in its backyard.

The two properties of the Mercury site front Mercury Boulevard and have a greater presence to the community of Murfreesboro. The commercial property of Mercury Plaza across the busy boulevard establishes a different scale of commercial activity and architecture.

MHA's funding for this overall development will factor into the phasing. Parkside will be developed as PHASE I with funding anticipated in 2022. The Mercury properties will be developed as PHASE II. It is not known at this time whether it will be developed as one or multiple sub phases and it will depend on funding through multiple sources through MHA.



SITE LOCATION/PHASING/CONTEXT

EXISTING SURVEY - MERCURY



LOCATION MAP
N.T.S.

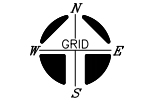
NOTES

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3. This property may be subject to additional easements, and/or restrictions, by record or prescription, that a complete title search may reveal.

LEGEND

- Power Pole
- Existing Fire Hydrant
- Proposed Fire Hydrant
- Reducer
- Water Valve
- Water Meter
- Concrete Thrust Block
- Existing Water Line
- Proposed Water Line
- Existing Sanitary Sewer Line
- Proposed Sanitary Sewer Line
- Existing Stormwater
- Existing Catch Basin
- Existing Manhole
- Proposed Manhole
- Sewer Line Check Dam
- Existing Contours
- Proposed Contours
- Existing Spot Elevations
- Proposed Spot Elevations
- Siltation Fence
- (to be installed before grading and left in place until a good stand of grass is established over all disturbed areas.)
- Siltation Fence (Initial Measure)
- Siltation Fence (Once Constructed)
- Turf Reinforcement Mat
- Stone Check Dam

LEGEND
O IPS IRON PIN SET (1/2" REBAR WITH STAMPED "H-S ENDS")
O PFF IRON PIN FND.
O CHC CHC MONUMENT FOUND
FENCE



THIS SURVEY IS A TOPOGRAPHIC SURVEY FOR INFORMATION ONLY AND IS NOT A GENERAL PROPERTY SURVEY AS DEFINED UNDER RULE 0820-3-.07.

FOR REVIEW ONLY

SHUDDLESTON-STEEL
ENGINEERING, INC.
2115 N.W. BROAD STREET, MURFREESBORO, TN 37129
SURVEYING : 893 - 4084, FAX: 893 - 0080

EXISTING CONDITIONS

MERCURY-PARKSIDE

20th CIVIL DISTRICT - RUTHERFORD COUNTY - TN.

DATE: APRIL, 2021 | SCALE: 1"=50' | SH. 1 OF 3

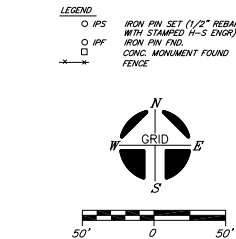
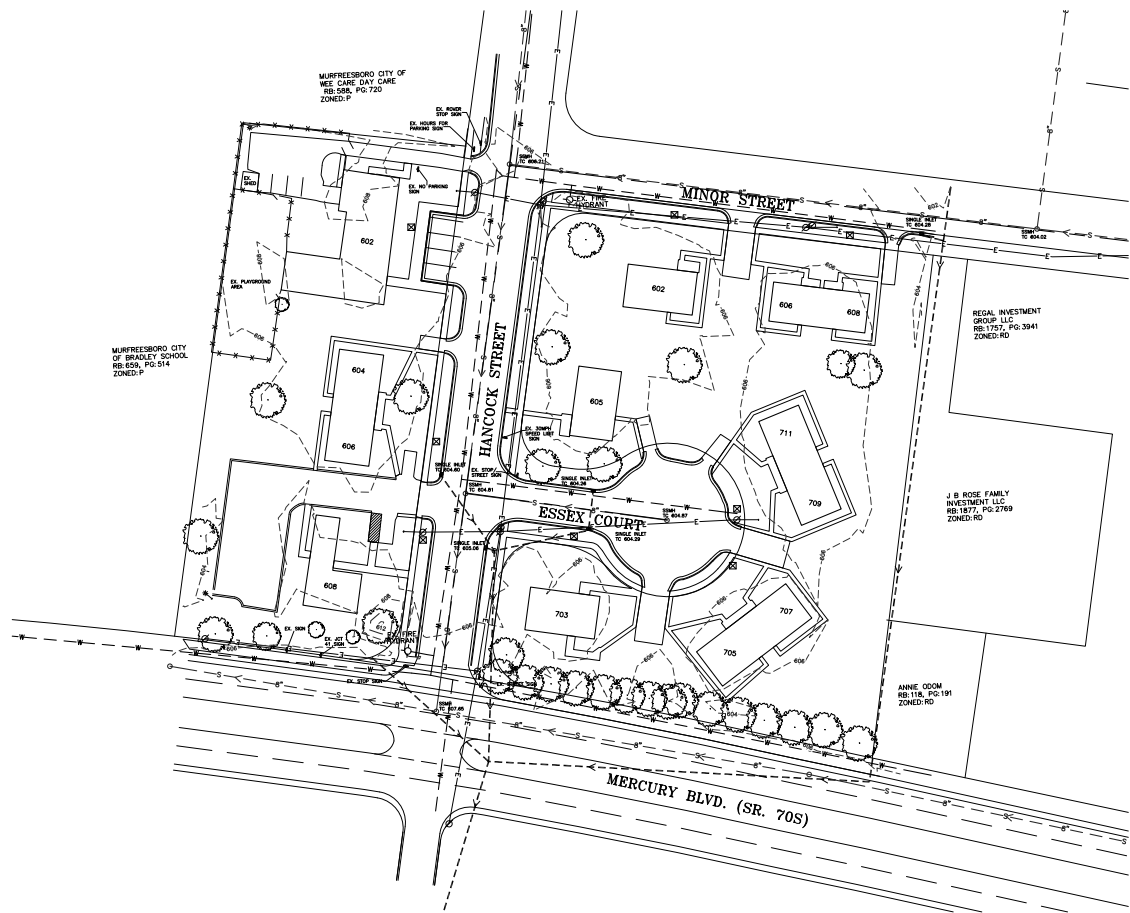
OWNER: MURFREESBORO HOUSING AUTHORITY
ADDRESS: 415 N. MAPLE STREET
MURFREESBORO, TN, 37130

TAX MAP: 102D, GROUP "H", PARCEL: 1.00
TAX MAP: 102D, GROUP "H", PARCEL: 2.00
TAX MAP: 102D, GROUP "H", PARCEL: 3.00
TAX MAP: 102D, GROUP "H", PARCEL: 8.00
TAX MAP: 102D, GROUP "H", PARCEL: 9.00
TAX MAP: 102D, GROUP "H", PARCEL: 22.00
TAX MAP: 103A, GROUP "H", PARCEL: 22.00
TAX MAP: 103A, GROUP "H", PARCEL: 23.00

MAP NUMBER: 47149C0260H

DATED: JANUARY 5, 2007 ZONE: X

NOTE: THIS PARCEL IS SUBJECT TO ALL EASEMENTS AS SHOWN AND ANY OTHER EASEMENTS AND/OR RESTRICTIONS EITHER RECORDED OR BY PRESCRIPTION THAT A COMPLETE TITLE SEARCH MAY REVEAL.



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TAX MAP: 1020, GROUP "H", PARCEL: 3.00
TAX MAP: 1020, GROUP "H", PARCEL: 6.00
TAX MAP: 1020, GROUP "H", PARCEL: 9.00
TAX MAP: 1020, GROUP "H", PARCEL: 22.00
TAX MAP: 103A, GROUP "N", PARCEL: 22.00
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EXISTING SURVEY - MERCURY



LOCATION MAP

N.T.S.

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- Power Pole
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- Proposed Fire Hydrant
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- Water Meter
- Concrete Thrust Block
- Existing Water Line
- Proposed Water Line
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- Proposed Sanitary Sewer Line
- Existing Stormwater
- Existing Catch Basin
- Existing Manhole
- Proposed Manhole
- Sewer Line Check Dam
- Existing Contours
- Proposed Contours
- Existing Spot Elevations
- Proposed Spot Elevations
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- (To be installed before grading and left in place until a good stand of grass is established over all disturbed areas.)
- Siltation Fence (Initial Measure)
- Siltation Fence (Once Constructed)
- Turf Reinforcement Mat
- Stone Check Dam

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0820-3-.07.

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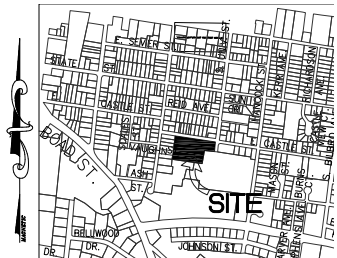
EXISTING CONDITIONS

MERCURY-PARKSIDE

20th CIVIL DISTRICT - RUTHERFORD COUNTY - TN.

DATE: APRIL 2021 SCALE: 1"=50' SH. 2 OF 3

EXISTING SURVEY - PARKSIDE



N.T.S.

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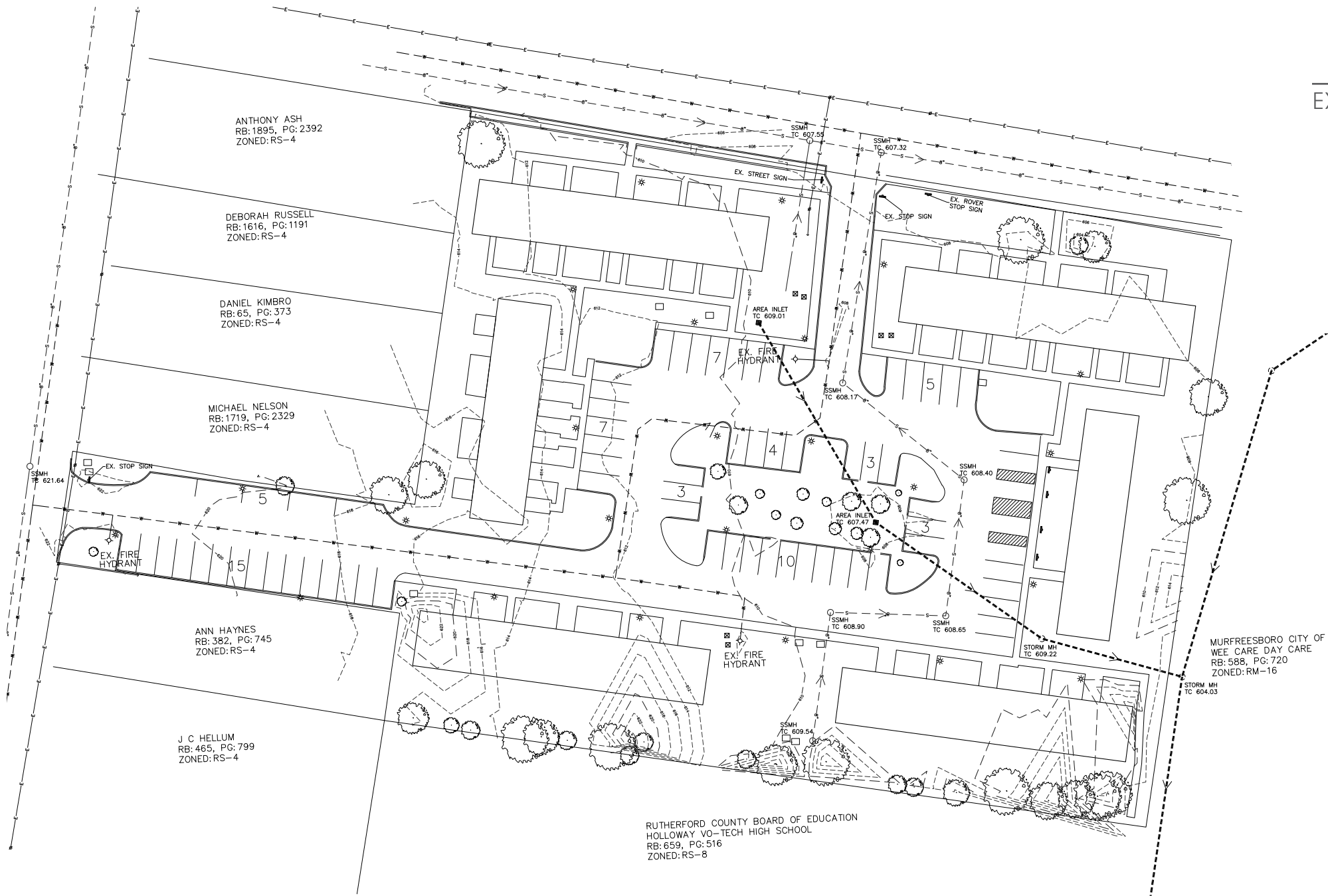
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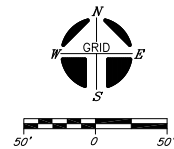
EXISTING CONDITIONS

MERCURY-PARKSIDE

20th CIVIL DISTRICT - RUTHERFORD COUNTY - TN.
DATE: APRIL, 2021 | SCALE: 1"=20' | SH. 3 OF 3

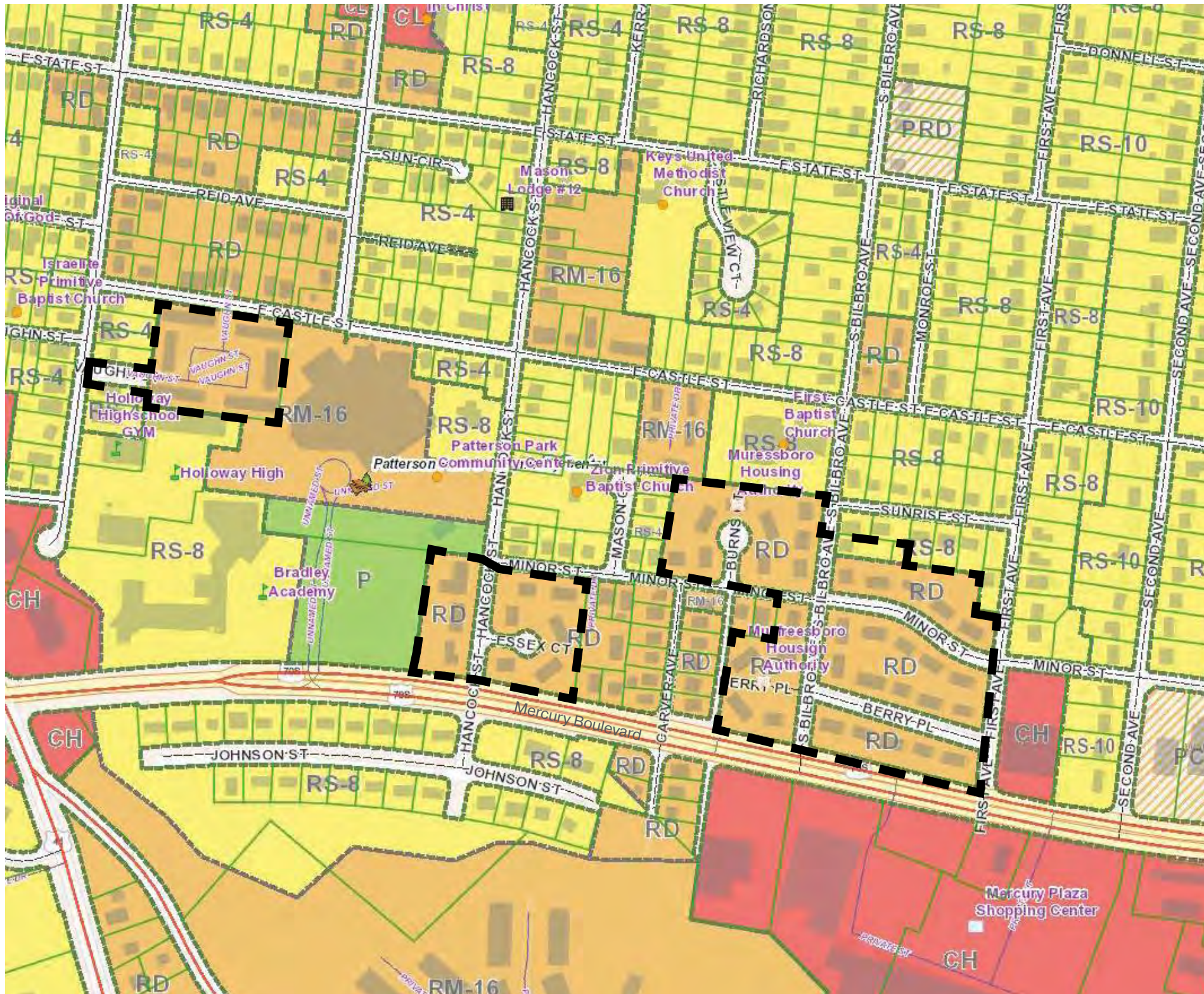


- LEGEND
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 - Conc. Monument Found
 - Fence



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EXISTING ZONING

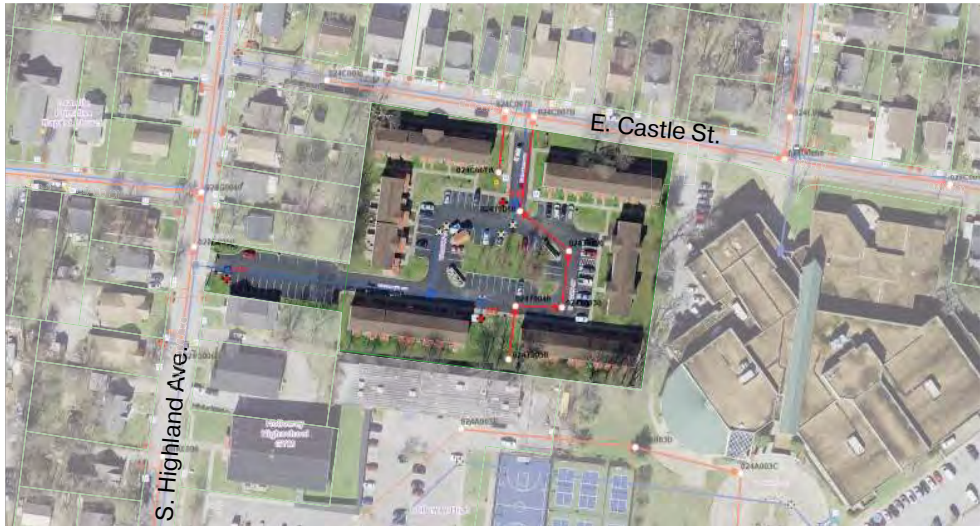
THE EXISTING ZONING OF THE PROPERTY IS RD - DUPLEX RESIDENTIAL DISTRICT RS-8 AND RM-16 WITH A CITY CORE OVERLAY (CCO) DISTRICT.

THE PROPERTIES ARE SURROUNDED BY RD, RS-4, RS-8, RM-16, P AND CH.

PUD (PLANNED UNIT DISTRICT) ZONING IS REQUESTED WITH THIS SUBMITTAL.

PROJECT BOUNDARY

	CBD		PCD
	CF		PID
	CH		PND
	CL		PRD
	CM		PUD
	CM-R		R-MO
	CM-RS-8		RD
	CP		RM-12
	CU		RM-16
	H-I		RM-22
	L-I		RS-10
	MU		RS-12
	OG		RS-15
	OG-R		RS-4
	P		RS-6
	RS-A1		RS-8
	RS-A2		



EXISTING UTILITIES



- WATER
- SANITARY SEWER
- GAS
- ELECTRIC



MAJOR TRANSPORTATION PLAN

SITES ARE SERVED BY MAJOR ARTERIAL MERCURY BOULEVARD.

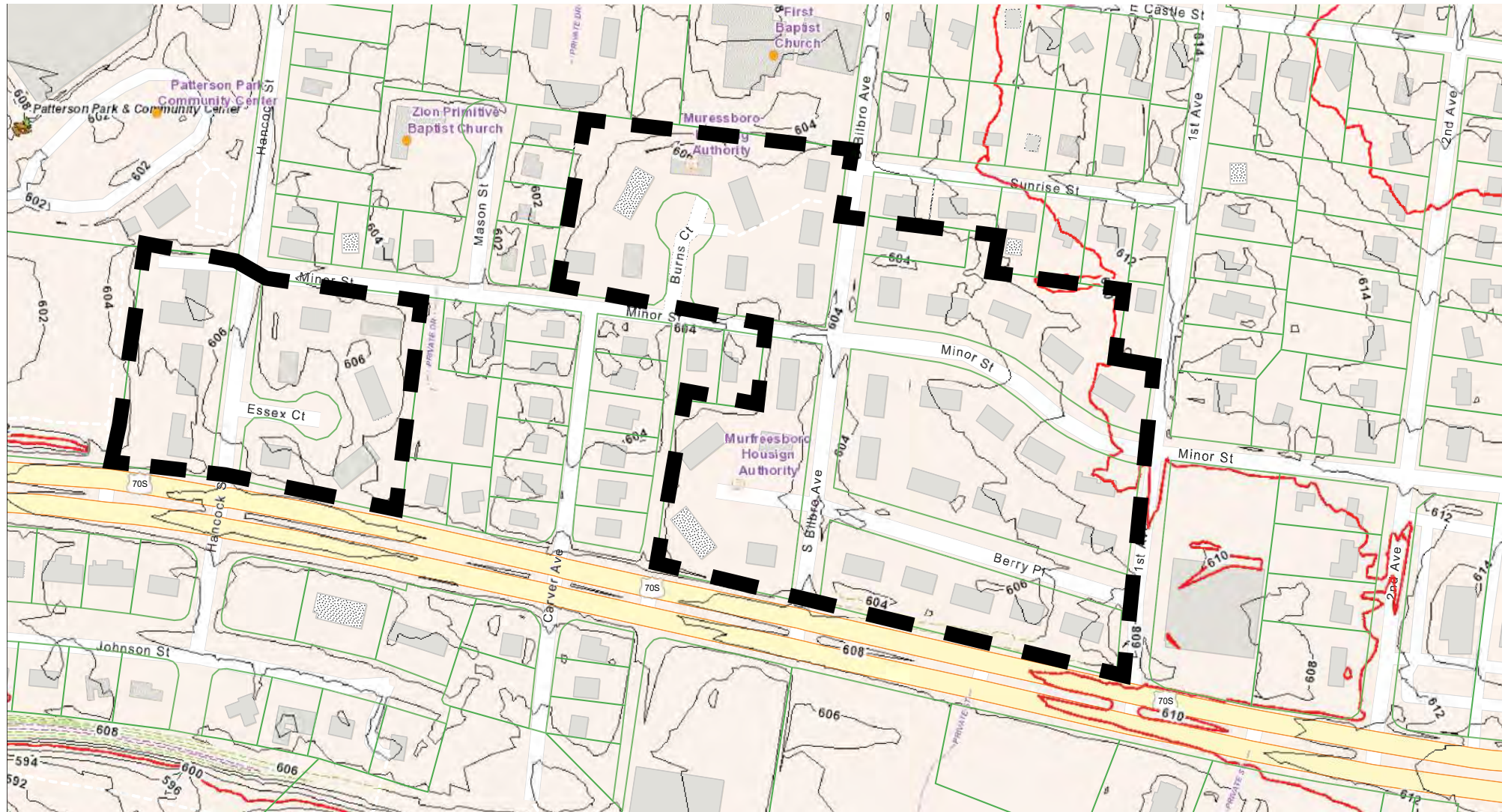
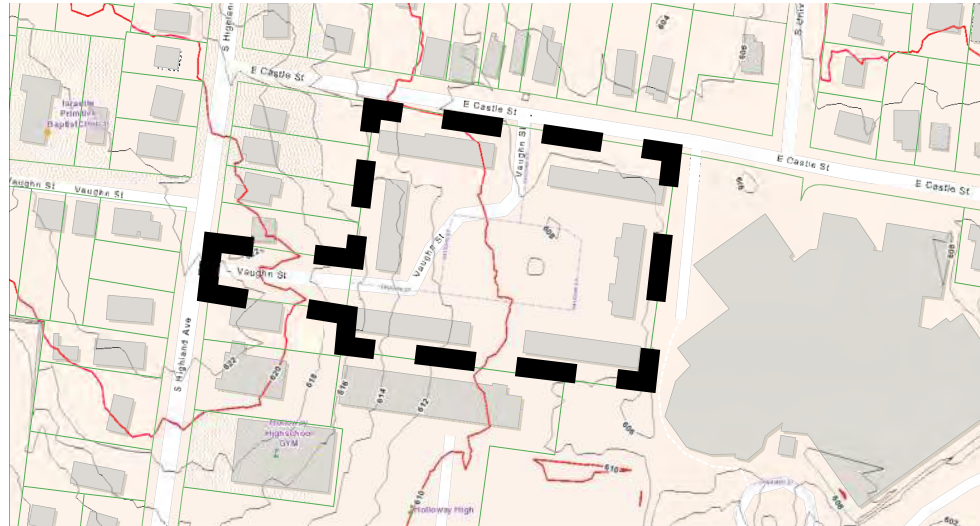
THE IMPROVEMENTS ARE CONSISTENT WITH THE MAJOR TRANSPORTATION PLAN.



GREENWAYS, BLUEWAYS, AND BIKEWAYS MASTERPLAN

- City Proposed Bike Lane
- City Proposed Bike Route

- MAJOR ARTERIAL (5 LANE) | Mercury Boulevard
- RESIDENTIAL COLLECTOR (2 LANE) | S. University Street
- COMMUNITY COLLECTOR (2 LANE) | S. Highland Ave.
- COMMERCIAL COLLECTOR (2 LANE) |



THE TOPOGRAPHY OF THE SITE IS RELATIVELY FLAT, AND SOME STORMWATER CHALLENGES EXIST IN THE AREA OF MINOR ST. AND S. BILBRO. THE DESIGN TEAM IS WORKING WITH THE CITY TO BETTER UNDERSTAND AND REMEDY THE CHALLENGES IN THIS AREA.

TOPOGRAPHY



STORMDRAINS



MURFREESBORO GENERAL
PLAN MAP

The future land use map contained in the **Murfreesboro 2035 Comprehensive Plan (excerpt of cover graphic below,)** which was adopted in July 2017, recommends that the subject property develop with a Suburban Residential land use character (see excerpt from the future land use map below). This classification intends to serve as a transition from rural to urban residential development and is predominantly located along the periphery of the City. This character type includes small acreages or large lot estate development, or may also be smaller lots clustered around common open space. The comprehensive plan calls out RS-15, RS-12, and RS-10 as existing zoning districts that are compatible with this designation with 2.0-3.54 dwelling units per acre as the recommended density. Development types within this land use character include detached residential dwellings and Planned developments (e.g., Auto-Urban attached residential) but with increased open space to preserve a suburban character setting.”

It also seeks to provide "Planned developments to provide other housing types (e.g., Auto-Urban attached residential) but with increased open space to preserve a suburban character setting."

In the “Auto-Urban Residential” land use character, density ranges from 3.53 to 8.64 dwelling units per acre. This designation allows detached and attached housing types (subject to compatibility and open space standards, e.g., duplexes, triplexes, townhomes, patio homes). Planned developments are allowed “with a potential mix of housing types and

varying densities, subject to compatibility and open space standards. “

The Mercury section of the development has a density of 8.51 units per acre with several large open space areas incorporated throughout. The Mercury section appears to be consistent with the layout and density of the Auto-Urban Residential land use character as a Planned Development.

The Parkside section of the proposed PUD area has a density of 16.73 units to the acre consisting of townhouses and rowhouses around a central pocket park courtyard. This more intense multi-family residential land use is not consistent with the Suburban Residential land use character, as its density exceeds what is recommended. However, the units are being designed to break down the scale of the buildings and provide design and scale compatible with the surrounding homes as well as the Patterson Park Community Building.

NOTE THE SITES HIGHLIGHTED ARE IN THE "SUBURBAN RESIDENTIAL" AREA. THE MASTER PLAN IS INTENDED TO RESPECT THE EXISTING NEIGHBORHOOD SCALE AND PROVIDE A TRANSITION TO THE ADJACENT INSTITUTIONAL AND COMMERCIAL PROPERTIES.

FUTURE LAND USE





AERIAL MAP OF SURROUNDING USES

200'



EXISTING PHOTOGRAPHS - PARKSIDE

- 1 LOOKING WEST ON E. CASTLE AT VAUGHN
- 2 LOOKIING EAST ON E. CASTLE ST
- 3 PARKSIDE ON E. CASTLE ST.
- 4 LOOKING NORTHEAST TO PARKSIDE PROPERTY ACROSS PRIVATE PROPERTY
- 5 SOUTH PROPERTY BETWEEN PARKSIDE AND SCHOOL PROPERTY
- 6 LOOKING NORTH BETWEEN PATTERSON PARK COMMUNITY CENTER AND PARKSIDE



EXISTING PHOTOGRAPHS - MERCURY COURT

- 7 LOOKING EAST TO MHA PROPERTY FROM PATTERSON PARK
- 8 CORNER OF HANCOCK ST. AND MINOR ST.
- 9 LOOKING EAST ON ESSEX COURT
- 10 LOOKING NORTH TO PATTERSON PARK AT PROPERTY LINE
- 11 LOOKING NORTH ON HANCOCK FROM MERCURY BLVD.
- 12 NORTH PROPERTY EDGE AT FIRST BAPTIST CHURCH



EXISTING PHOTOGRAPHS - MERCURY COURT

- 13 CUL DE SAC AT MINOR ST. AND BURNS
- 14 LOOKING WEST ON MINOR ST.
- 15 LOOKING NORTH ON S. BILBRO AT MINOR
- 16 LOOKING SOUTH ON FIRST TOWARD MERCURY BLVD.
- 17 LOOKING SOUTH FROM MINOR ST. AT UTILITY EASEMENT (ACROSS FROM BURNS CT.)
- 18 SOUTH FROM MINOR ST. AT PROPERTY LINE



EXISTING PHOTOGRAPHS - MERCURY COURT

- 19 LOOKING TO BERRY COURT OFF S. BILBRO
- 20 LOOKING NORTH ON CARVER AVE. FROM MERCURY BLVD.
- 21 LOOKING NORTH ALONG PROPERTY LINE/UTILITY EASEMENT FROM MERCURY BLVD,
- 22 LOOKING WEST ON MERCURY BLVD.
- 23 LOOKING NORTH ON FIRST FROM MERCURY BLVD.
- 24 CORNER OF FIRST AVE. AND MERCURY BLVD.





The overall Mercury Park masterplan site is comprised of three separate non-contiguous areas containing 9 parcels. Parkside is apartment style with 46 units in 6 buildings with a mix of 1-, 2-, 3-, and 4-bedroom units. Parkside is located on E. Castle street and will be developed as PHASE I by replacing the 46 units currently on the 2.78 acre site as a requirement of the funding for the development obtained by MHA.

EXISTING DEVELOPMENT/SITE | PARKSIDE



Mercury Court currently sits on approximately 12.3 acres prior to the abandonment of 1.33 acres of streets and currently has 74 living units in 41 buildings, providing a mix of 1-, 2-, 3-, 4-, and 5-bedroom units. Additionally, there are two non-residential buildings on site including a clinic and daycare. (The clinic is anticipated to relocate to the mixed-use building of this PUD along with residential units and the potential relocation of MHA's offices.)

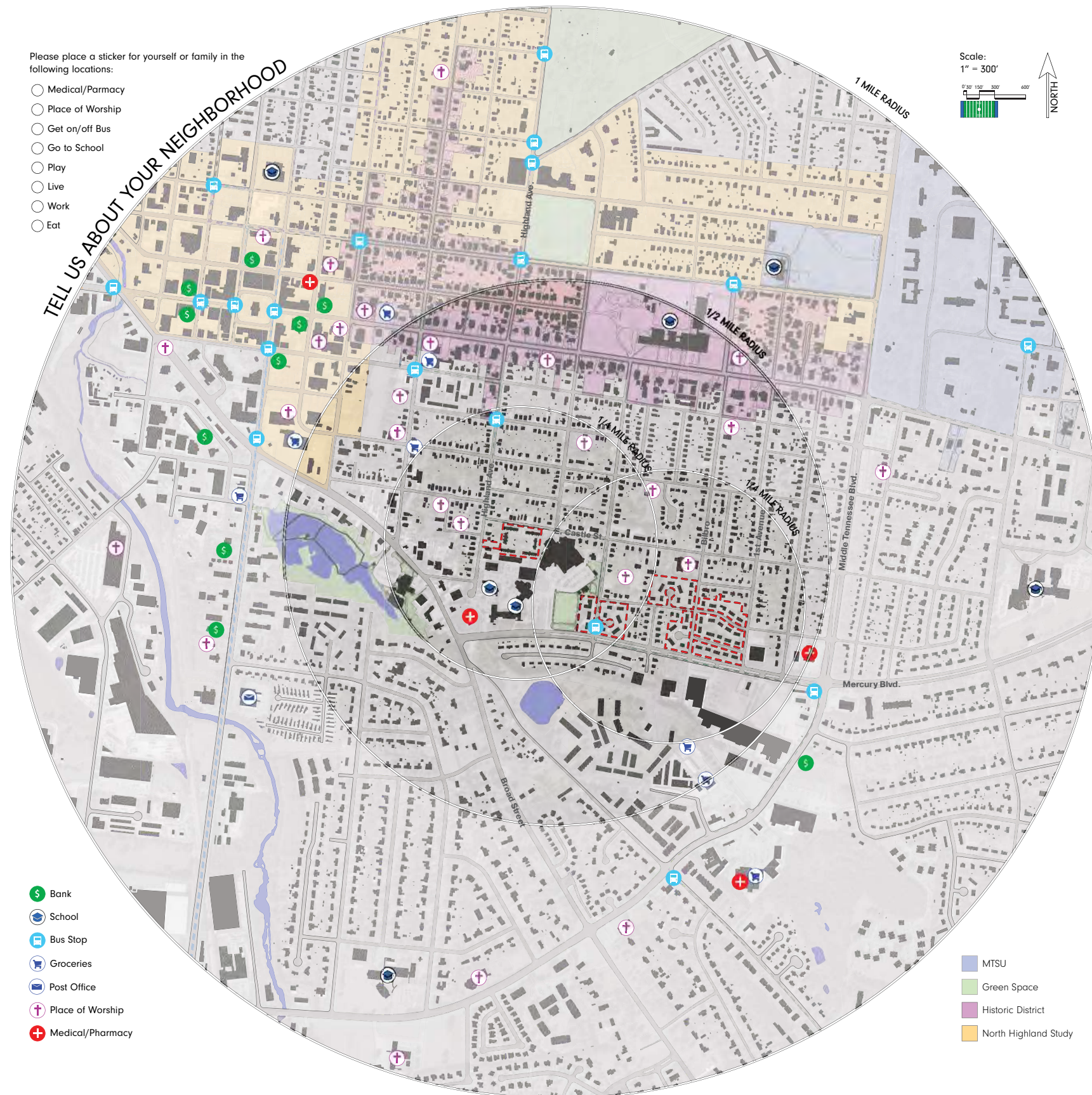
EXISTING DEVELOPMENT/SITE | MERCURY COURT



EXISTING RESIDENTIAL CONTEXT - ADJACENT TO
PROPERTY

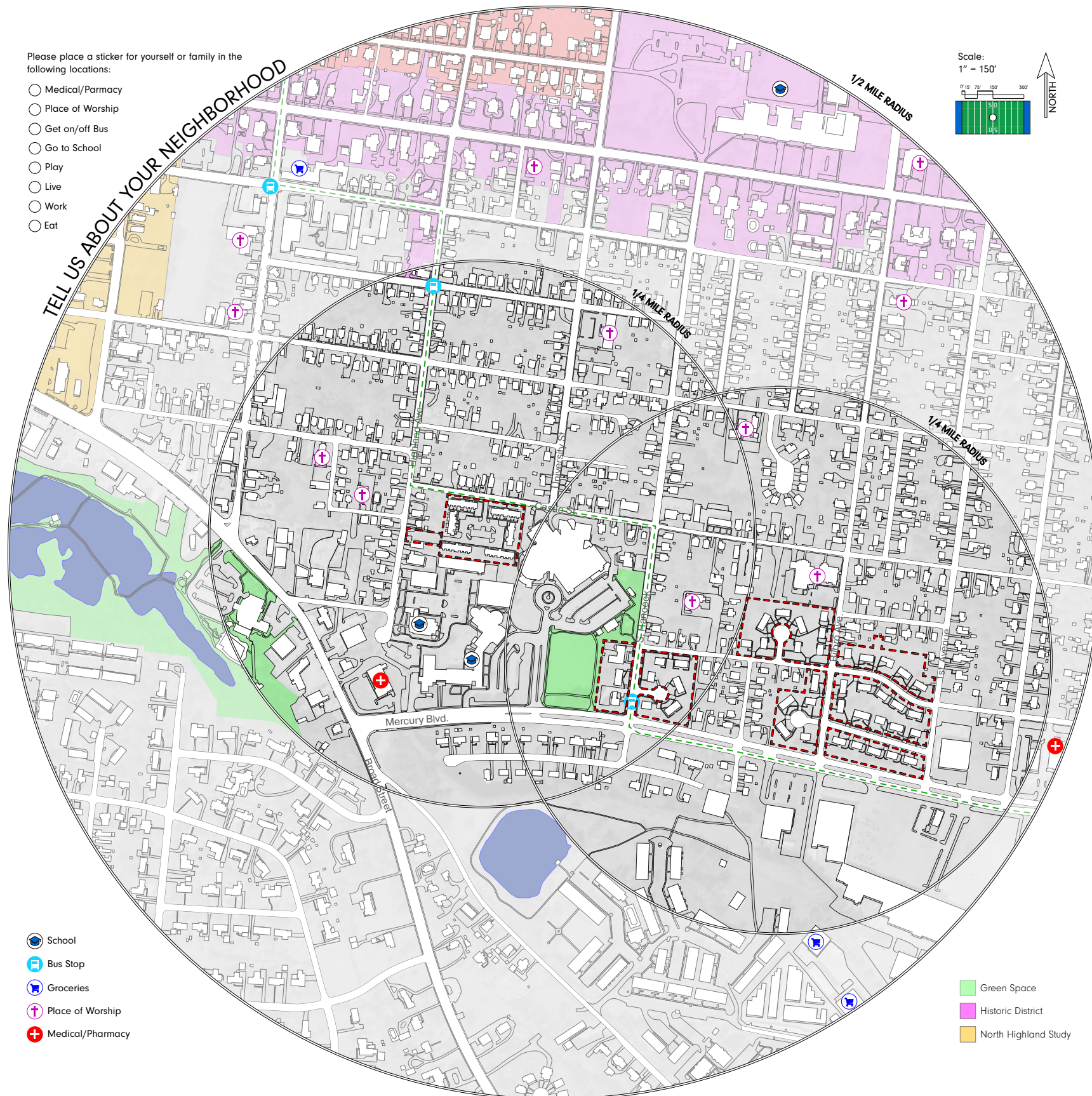


EXISTING NEIGHBORING COMMERCIAL/CIVIC
CONTEXT - ADJACENT TO PROPERTY



The 1 mile radius illustrates the context of Mercury Court to Murfreesboro's downtown. Typically residents are comfortable walking to a park, shopping or other amenity within a 1/2-1/4 mile radius.

THE 1 MILE, 1/2 MILE & 1/4 MILE WALKING RADIUS



As illustrated Patterson Park Community Center provides a wonderful resources for activities, fitness and community engagement and it well placed within the 1/4 walking radius for all of the property. The City's sidewalk project along Mercury Blvd. will enhance safe pedestrian travel through the corridor. Adjacent Mercury Plaza could provide walkable retail for the neighborhood if revitalized, and ideally a signal would be added when revitalization occurs to provide a closer pedestrian crossing of Mercury Blvd.

THE 1/2 MILE & 1/4 MILE WALKING RADIUS



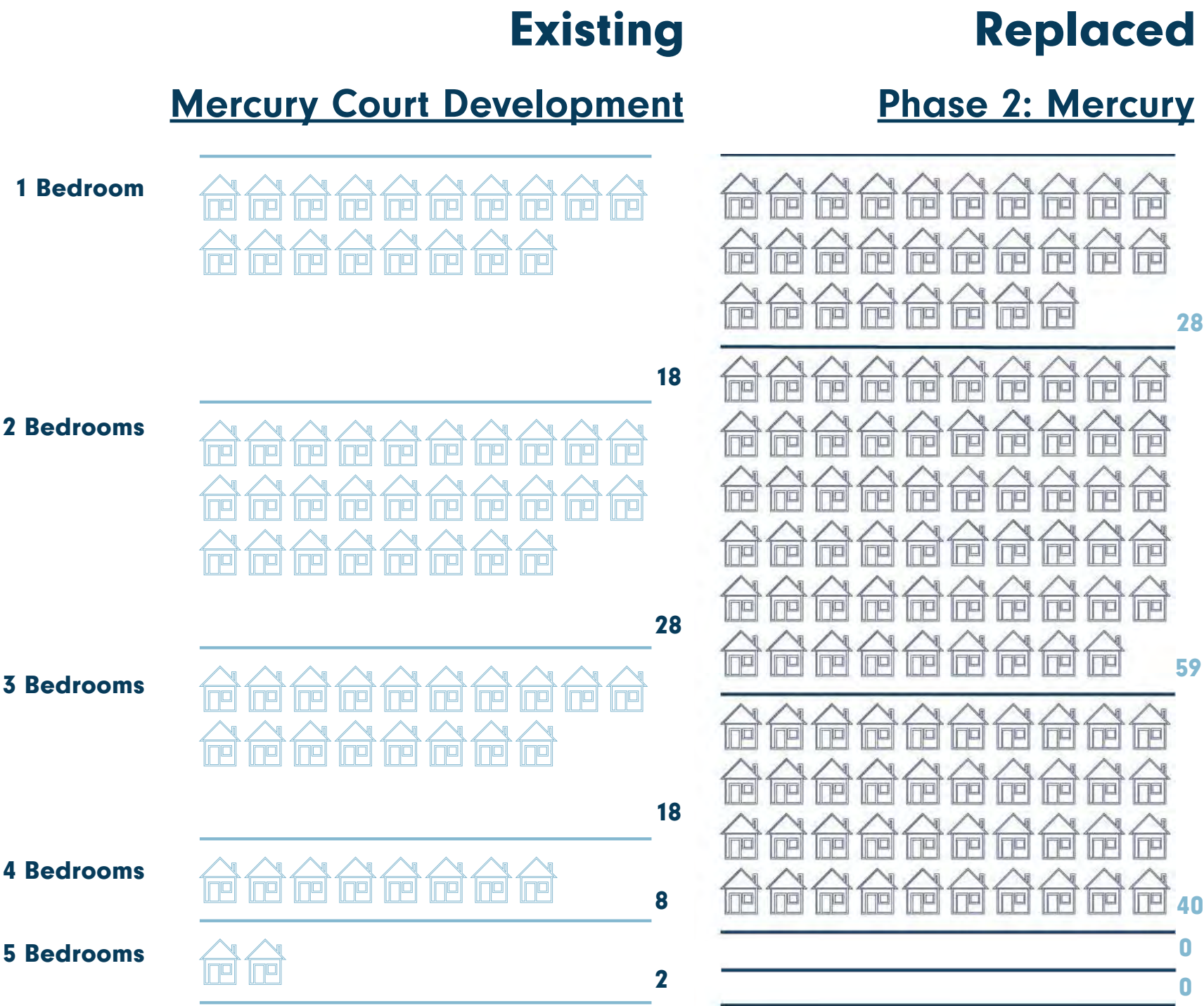
46 units in 6 buildings

1-, 2-, 3-, 4-bedroom units

1 for 1 Replacement

MHA will be required to replace all residential units with the same number of bedrooms that currently exist at the current Parkside development. There are 46 unit presently and they will be replaced on a one for one basis.

PROGRAM - PARKSIDE



Mercury Court currently has 74 living units in 41 buildings, providing a mix of 1-, 2-, 3-, 4-, and 5-bedroom units.

Current residents will move to Oakland Court in late 2022.

The current **health clinic** onsite will remain in the neighborhood in a new PUD commercial building with room to house the **new main office for Murfreesboro Housing Authority**, which will result in their relocation out of their existing downtown hub on Walnut Street.

Current waiting list demographics suggest a much-needed mix of 1-, 2-, 3-bedroom units

127 TOTAL UNITS

The Mercury Court site will be developed with mixed-use and with the residential density based on the optimum usage of the property. The housing authority currently has over 800 residential applicants on a waiting list and the need for affordable housing for the site is well supported. Murfreesboro Housing Authority also plans to move their offices to the property in a 3-story commercial/residential building and will continue to provide rental space for the Primary Care and Hope Clinic currently onsite.

PROGRAM - MERCURY

Option 1
The Neighborhood Scheme



Option 2
The Transition Scheme



Option 2
The Urban Scheme



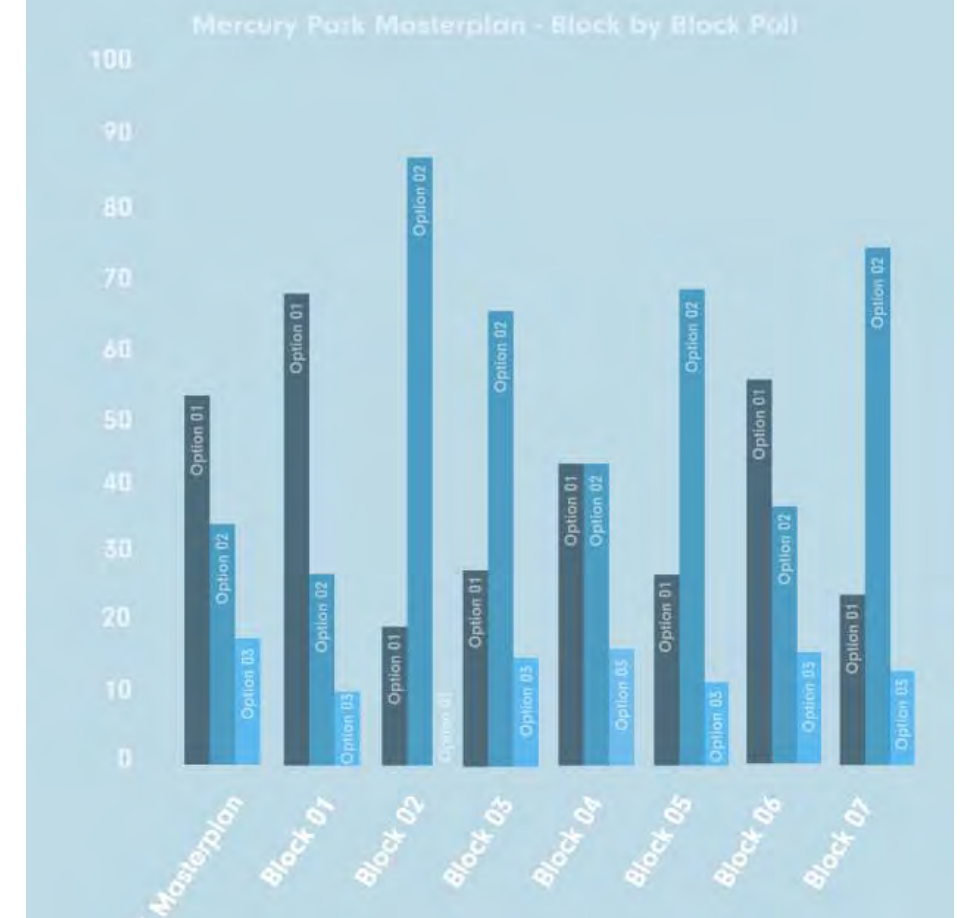
Block Site Plan



what we asked

Of the three overall Masterplan Options presented above,
which do you prefer?

what you said



For the second community engagement, three development options were provided for public review. The chart above illustrates the preferences for each block.

COMMUNITY ENGAGEMENT

DENSITY & OPEN SPACE / PLANNING CONFIGURATIONS

OPTION 1

THE NEIGHBORHOOD SCHEME

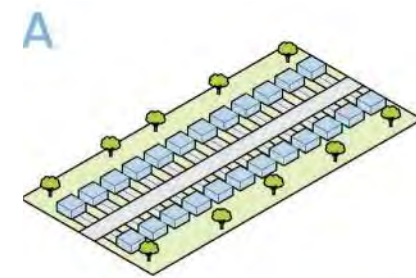


OPTION 2

THE TRANSITION SCHEME



OPTION 3 THE URBAN SCHEME



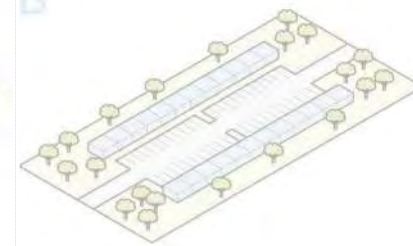
Living Units



Open Space

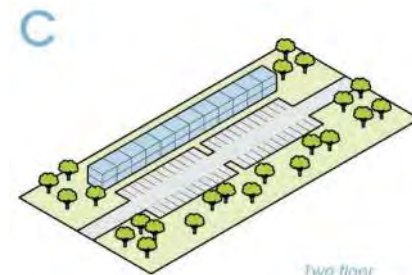


Traditional neighborhood with *limited* and localized green space at *each* house.



Living Units

Open Space



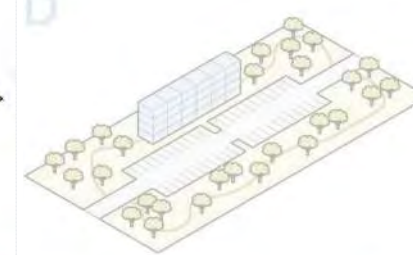
Living Units



Open Space



Two floor apartment style, increase concentrated areas of green space with one large shared green space.



Living Unit:

Open Space



Three different development schemes were presented to the public. In summary the public response favored a transitional scheme with a more urban feel against Mercury Blvd. and a smaller residential feel against the existing neighborhood.

COMMUNITY RESPONSE



Principle #1: Natural Surveillance

"See and be seen" is the overall goal when it comes to natural surveillance. A person is less likely to commit a crime if they think someone will see them do it.

- Windows should overlook sidewalks and public spaces
- Ensure good lighting of public areas such as pathways, parking, parks, and play areas
- Landscaping should allow for clear visibility without creating areas of obstructed views
- Neighborhood design should allow for surveillance by vehicular traffic



Principle #2: Natural Access Control

CPTED utilizes the use of walkways, friendly fences, lighting, signage, and maintained landscape to clearly guide people and vehicles to and from the proper entrances.

- Use landscape and architectural elements to discourage access to private areas
- Streets and walkways should mark public routes



Principle #3: Territorial Reinforcement

Promote a sense of ownership by utilizing physical design such as pavement treatments, landscaping and signage.

- Communicate active presence by maintaining buildings and landscaping
- Clearly differentiate between public, semi-public, and private spaces
- Place seating in common spaces
- Locate motion sensor lights near entries



Principle #4: Maintenance

Poor maintenance can lead to decline of a neighborhood.

- Maintain cleanliness and functionality of community
- Keep up with repairs and make necessary replacements
- Maintain aesthetic appearances such as painting of facade and neighborhood elements
- Keep landscaping trimmed and maintained
- Have a zero-tolerance policy to graffiti and vandalism



Principle #5: Environmental Legibility

An urban environment is said to be legible if it is designed in ways that allow people in it to easily know where they are and how to get where they are going.

- Design neighborhoods to make them easy to understand and navigate within
- Locate elements like bus or taxi stops in areas that are both visible and logical
- Design neighborhoods to take advantage of features like rivers, hills, or public art to both create landmarks to aid legibility and to make environments of special quality
- Encourage variety within the architectural and landscape design that create more legible urban environments

Below are listed the current criteria when screening applicants for housing with MHA. The rules/regulations can change depending on HUD regulations. Also listed are the reason to deny housing to applicants.

RESIDENT SUITABILITY

A. Applicant families will be evaluated to determine whether, based on their recent behavior, such behavior could reasonably be expected to result in compliance with the public housing lease. The Murfreesboro Housing Authority will look at past conduct as an indicator of future conduct. Emphasis will be placed on whether a family's admission could reasonably be expected to have a detrimental effect on the development environment, other tenants, Murfreesboro Housing Authority employees, or other people residing in the immediate vicinity of the property. Otherwise eligible families will be denied admission if they fail to meet the suitability criteria.

- B. The Murfreesboro Housing Authority will consider objective and reasonable aspects of the family's background, including the following:
- 1. History of meeting financial obligations, especially rent and any utility payments;
 - 2. Ability to maintain (or with assistance would have the ability to maintain) their housing in a decent and safe condition based on living or housekeeping habits and whether such habits could adversely affect the health, safety, or welfare of other tenants;
 - 3. History of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well-being of other tenants or staff or cause damage to the property;
 - 4. History of disturbing neighbors or destruction of property;
 - 5. Having committed fraud in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from; and
 - 6. History of abusing alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment by others.

In deciding whether to exercise their discretion to admit an individual or household that has engaged in criminal activity, the Murfreesboro Housing Authority will consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to: the seriousness of the offending action; the effect that eviction of the entire household would have on family members not involved in the criminal activity; and the extent to which the leaseholder has taken all reasonable steps to prevent or mitigate the criminal activity.

- C. The Murfreesboro Housing Authority will ask applicants to provide information demonstrating their ability to comply with the essential elements of the lease. The Murfreesboro Housing Authority will verify the information provided. Such verification may include but may not be limited to the following:
- 1. A credit check of the head, spouse, co-head, and any other adult family members;
 - 2. A rental history check of all adult family members;
 - 3. A criminal background check on all adult household members, including live-in aides at no cost to the applicant. This check will

be made through State or local law enforcement or court records in those cases where the household member has lived in the local jurisdiction for the last three years. Where the individual has lived outside the local area, the Murfreesboro Housing Authority may contact law enforcement agencies where the individual had lived or request a check through the FBI's National Crime Information Center (NCIC). This criminal background check will proceed after each adult household member has signed a consent form designed by the Murfreesboro Housing Authority.

The information received as a result of the criminal background check shall be used solely for screening, lease enforcement and eviction purposes. The information derived from the criminal background check shall be shared only with employees of the Murfreesboro Housing Authority who have a job-related need to have access to the information. The information shall be maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose(s) for which it was requested has been accomplished and the period for filing a challenge to the Murfreesboro Housing Authority's action has expired without a challenge or final disposition of any litigation has occurred;

- 4. A home visit. The home visit provides the opportunity for the family to demonstrate their ability to maintain their home in a safe and sanitary manner. This inspection considers cleanliness and care of rooms, appliances, and appurtenances. The inspection may also consider any evidence of criminal activity; and
- 5. A check of the State's lifetime sex offender registration program for each adult household member, including live-in aides. No household with an individual registered under a state sex offender registration will be admitted to public housing. The Murfreesboro Housing Authority will check with our state registry and if the applicant has resided in another state(s), with that state(s)'s list. The Murfreesboro Housing Authority will utilize the US Department of Justice's Dru Sjodin National Sex Offender website as an additional resource. The Dru Sjodin National Sex Offender Database is an online, searchable database, hosted by the Department of Justice, which combines the data from individual state sex offender registries.

If an applicant is about to be denied housing based on either the criminal check or the sex offender registration program, the applicant will be informed of this fact and given an opportunity to dispute the accuracy of the information before the denial or eviction occurs.

GROUND S FOR DENIAL

The Murfreesboro Housing Authority is not required or obligated to assist families where applicants or members of the applicant's household:

- A. Do not meet any one or more of the eligibility criteria;
- B. Do not supply information or documentation required by the application process;
- C. Have failed to respond to a written request for information or a request to declare their continued interest in the program;
- D. Have a history of not meeting financial obligations, especially rent;
- E. Do not have the ability to maintain (with assistance) their housing in a decent and safe condition where such habits could adversely affect the health, safety, or welfare of other tenants;

MHA PARKSIDE AND MERCURY MANAGEMENT PLAN

F. Have a history of criminal activity by any household member involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well-being of other tenants or staff or cause damage to the property;

For the purpose of this Policy, if any member of the applicant family has been convicted at least one (1) time within the prior three (3) year period for this purpose, they will be determined to have engaged in criminal activity, drug-related criminal activity or violent criminal activity.

An arrest record alone will not serve as sufficient evidence of criminal activity that can support an adverse admission decision. Before the Murfreesboro Housing Authority denies admission to an individual or household on the basis of criminal activity by a household member or guest, it will determine that the relevant individual actually engaged in such activity.

An arrest record can trigger an inquiry into whether there is sufficient evidence to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. The Murfreesboro Housing Authority can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

Being a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission, if the applicant otherwise qualifies for assistance or admission. The Authority will require verification in all cases where an applicant claims protection against an action proposed to be taken by the Authority involving such individual. Types of acceptable verifications are outlined in Section 20.2B of the ACOP, and must be submitted within 14 business days after receipt of the Housing Authority’s written request for verification.

G. Have a history of disturbing neighbors or destruction of property;

H. Currently owes rent or other amounts to any housing authority in connection with their public housing or Section 8 programs or any other subsidized property or has been evicted from a subsidized property in the past three years;

I. Have committed fraud, bribery or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;

J. Were evicted from federally assisted housing within the past three years because of drug-related criminal activity. The three-year limit is based on the date of such eviction, not the date the crime was committed.

However, the Murfreesboro Housing Authority may admit the household if the PHA determines:

1. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the Murfreesboro Housing Authority; or
2. The circumstances leading to the eviction no longer exist (for example, the criminal household member is imprisoned or has died).

K. Are currently engaging in the illegal use of a controlled substance. For purposes of this section, a member is “currently engaged in” the criminal activity if the person has engaged in this behavior recently enough to justify a reasonable belief that the behavior is current;

L. The Murfreesboro Housing Authority determines that it has reasonable cause to believe that a household member’s illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;

M. The Murfreesboro Housing Authority determines that it has reasonable cause to believe that a household member’s abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents;

With respect to criminal activity described in paragraphs J, K, L, and M of this section, Murfreesboro Housing Authority may require an applicant to exclude a household member in order to be admitted to public housing where that household member has participated in or been culpable for actions described in paragraphs J, K, L, and M that warrants denial.

N. Have engaged in or threatened abusive or violent behavior towards any Murfreesboro Housing Authority staff member or resident;

O. Fugitive felons, parole violators, and persons fleeing to avoid prosecution or custody or confinement after conviction for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees;

P. Denied for Life: If any family member has been convicted of manufacturing or producing methamphetamine (speed) in a public housing development, in a Section 8 assisted property, or on the premises of other federally assisted housing, or any other private/public property;

Q. Denied for Life: Has a lifetime registration under a State sex offender registration program.

In determining whether to deny admission for illegal drug use by a household member who is no longer engaging in such abuse, or for abuse or a pattern of abuse of alcohol by a household member who is no longer engaging in such abuse, the Murfreesboro Housing Authority may consider whether such household member:

1. Is participating in a supervised drug or alcohol rehabilitation program;
2. Has successfully completed a supervised drug or alcohol rehabilitation program; or
3. Has otherwise been successfully rehabilitated.

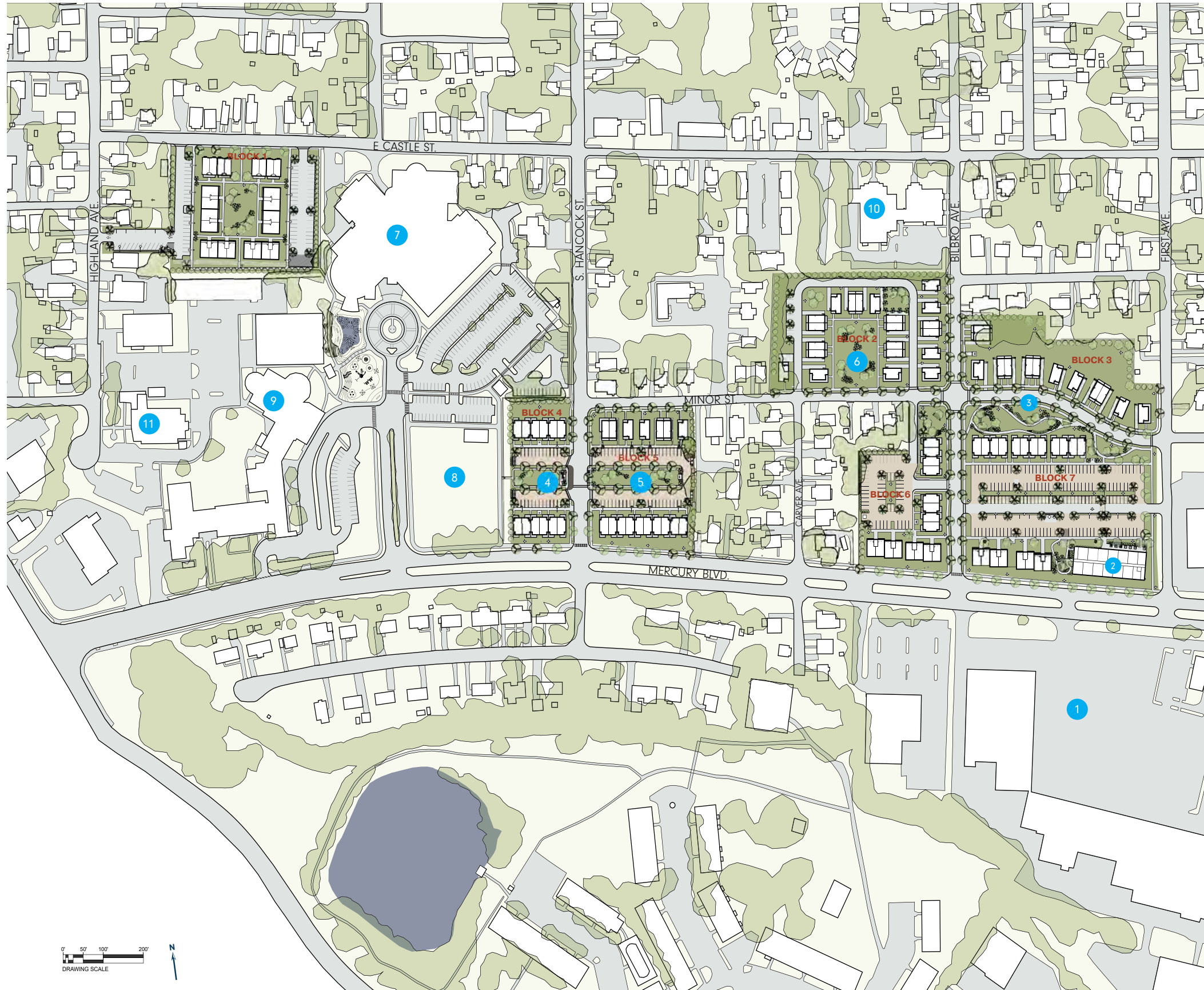
For this purpose, Murfreesboro Housing Authority will require the applicant to submit evidence of the household member’s current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

Before the Murfreesboro Housing Authority denies admission to the Murfreesboro Housing Authority’s public housing program on the basis of a criminal record, the Murfreesboro Housing Authority must notify the household of the proposed action and must provide the person with the criminal record (i.e., a child) and the applicant (head of household) with information on how to obtain the criminal record and an opportunity to dispute the accuracy and relevance of that record. The applicant will have ten (10) calendar days to dispute the accuracy and relevance of the record in writing. If the Murfreesboro Housing Authority does not receive the dispute within the allotted time, the applicant will be denied. If an applicant has been deemed ineligible for any reason, a new application may not be submitted for six (6) months from the date of the first application.



SECTION THREE | Proposed Development





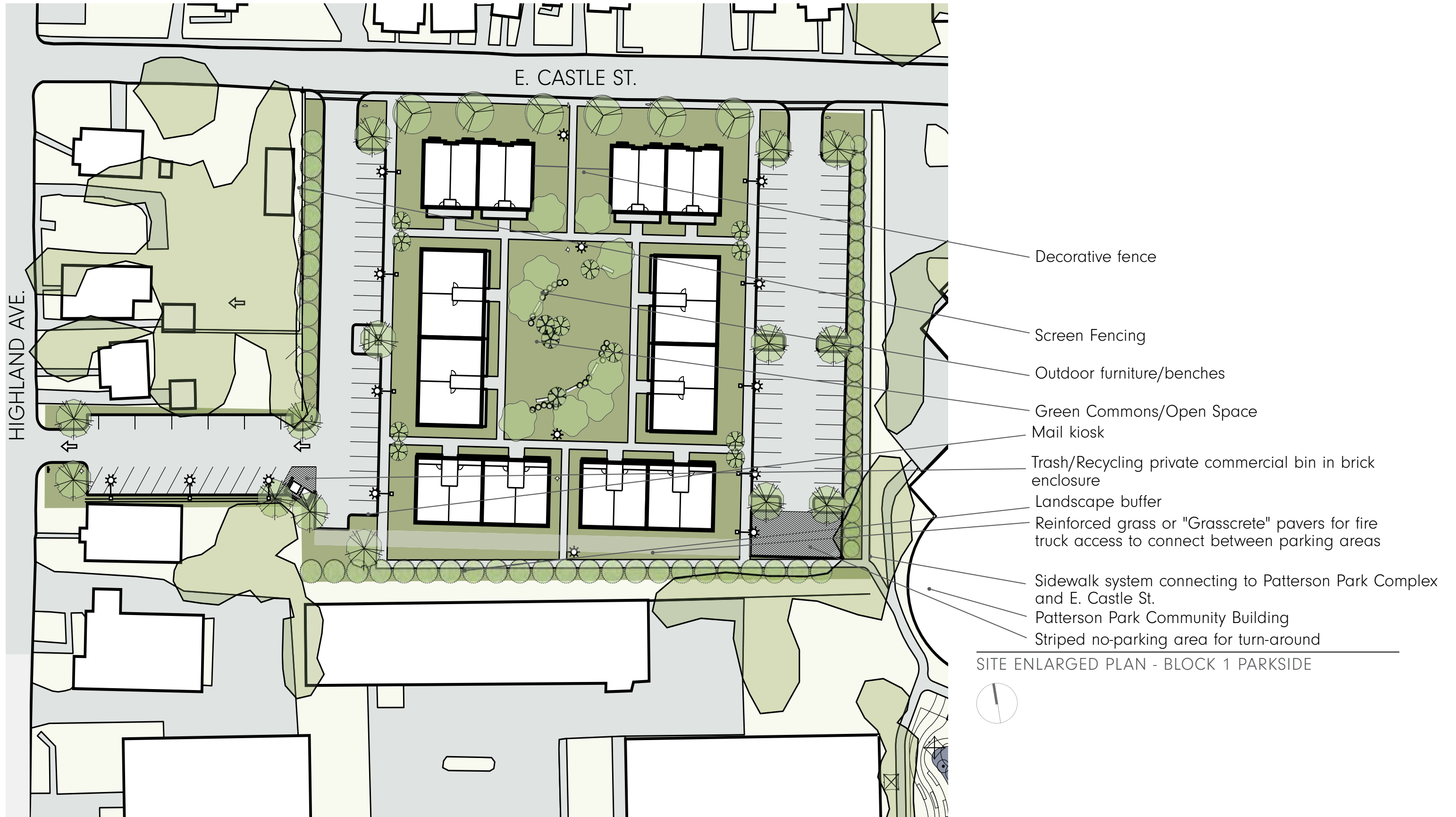
- 1 Mercury Plaza
- 2 Mixed use Building - Residential and Office
- 3 Minor Street Park
- 4 Rover Stop
- 5 Hancock Street Pocket Park
- 6 Minor Street Pocket Park
- 7 Patterson Park Community Center
- 8 Patterson Park
- 9 Bradley Academy
- 10 First Baptist Church
- 11 Holloway High School

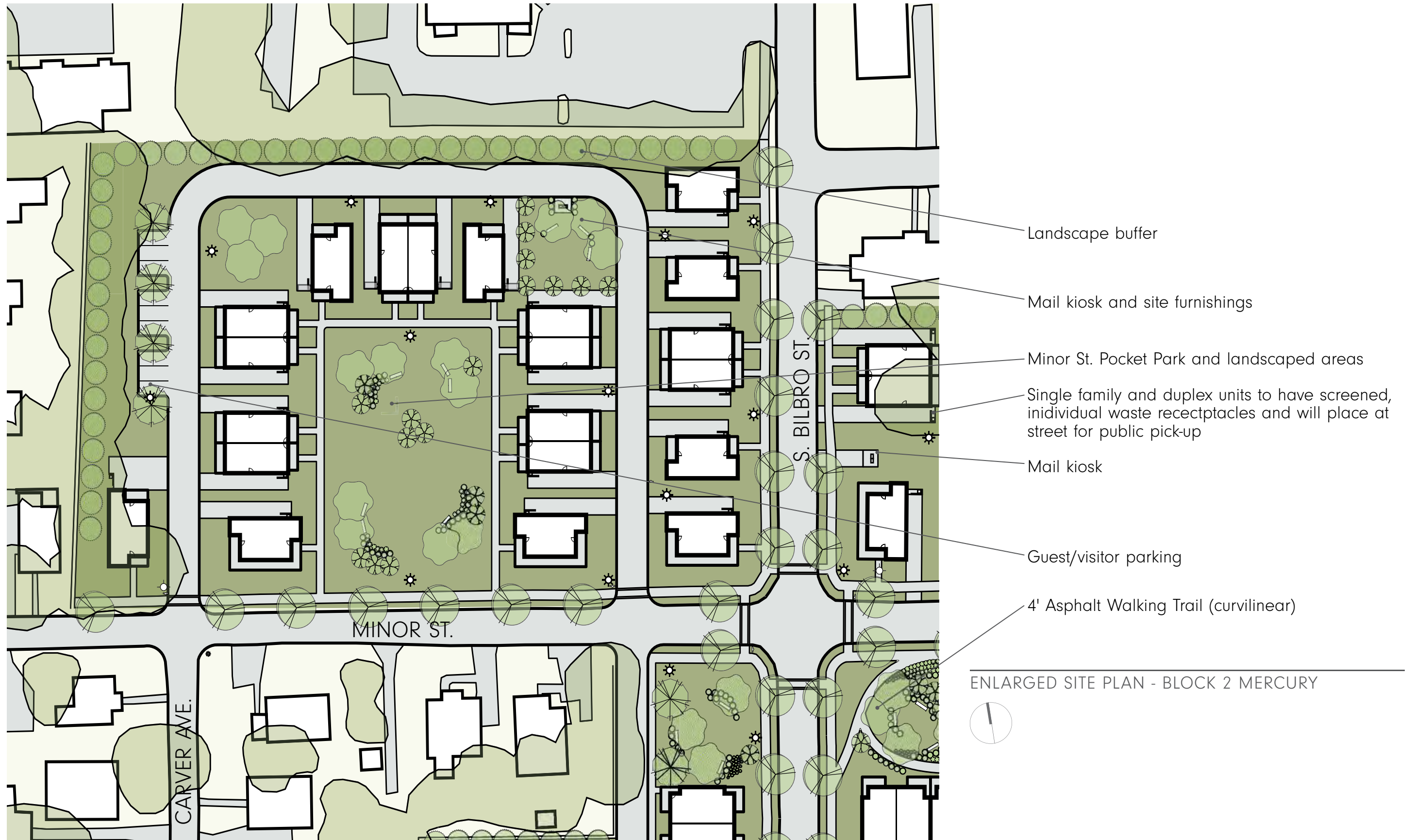
PHASE 1 - PARKSIDE 2.78 ACRES 46 UNITS
PHASE 2 - MERCURY 14.7 ACRES 127 UNITS + MIXED USE BUILDING
 (AFTER ROW ABANDONMENTS)

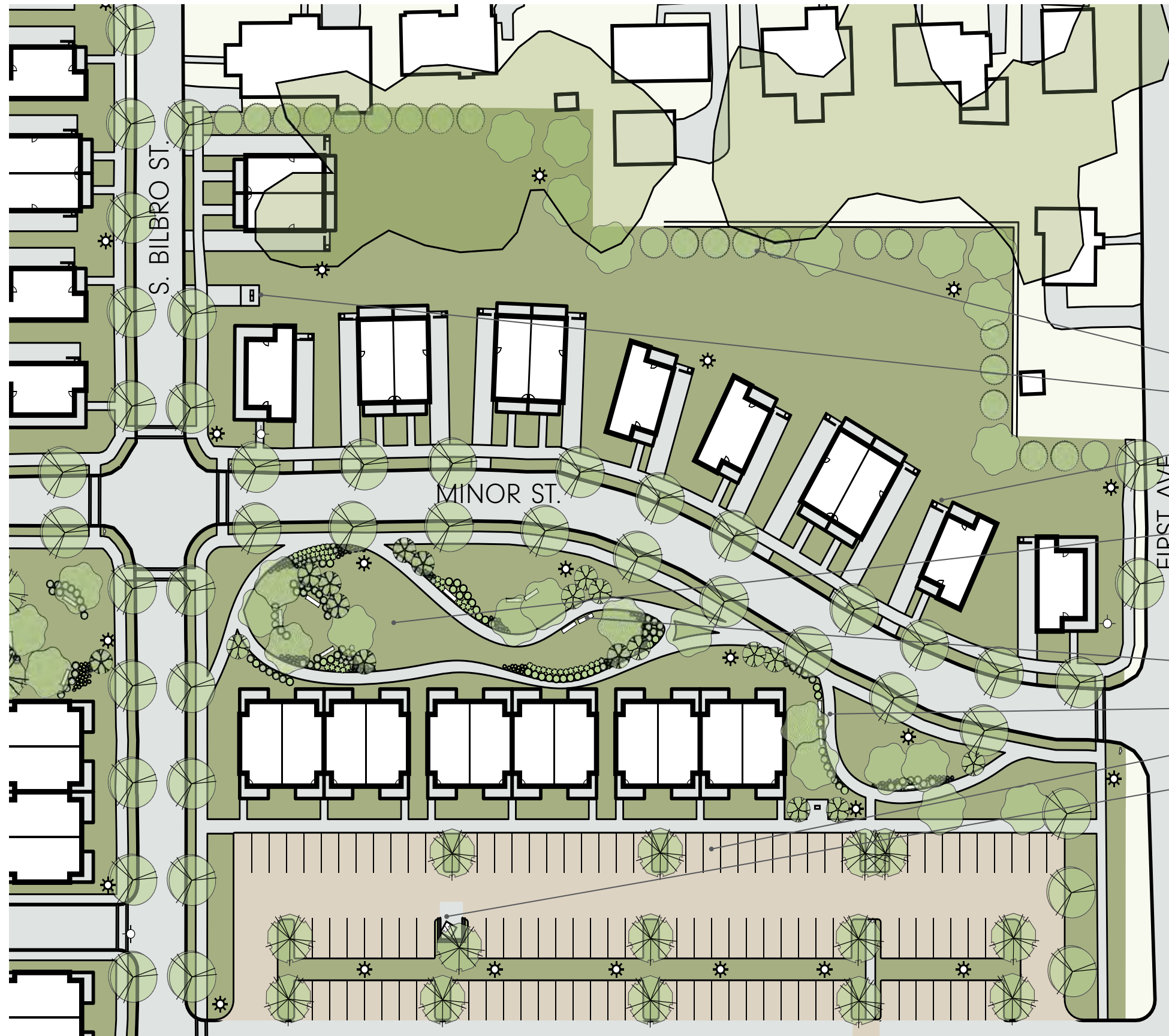
Current Zone: RD, RM-16, RS-8, with CCO.
 Proposed Zone: PUD -Planned Unit District with CCO
 Unit Density: 16.73 units per acre Parkside / 8.51 units per acre Mercury

ILLUSTRATIVE MASTERPLAN









- Landscape buffer to surrounding properties
- Mail Kiosk
- Single family and duplex units to have screened, individual waste receptacles and will place at street for public pick-up
- Minor Street Park
- Site furnishings/benches
- 4' Asphalt Walking Trail
- Permeable paving (shown in tan color)
- Trash/Recycling private commercial bin in brick enclosure

SITE ENLARGED PLAN - BLOCK 3/7 MERCURY

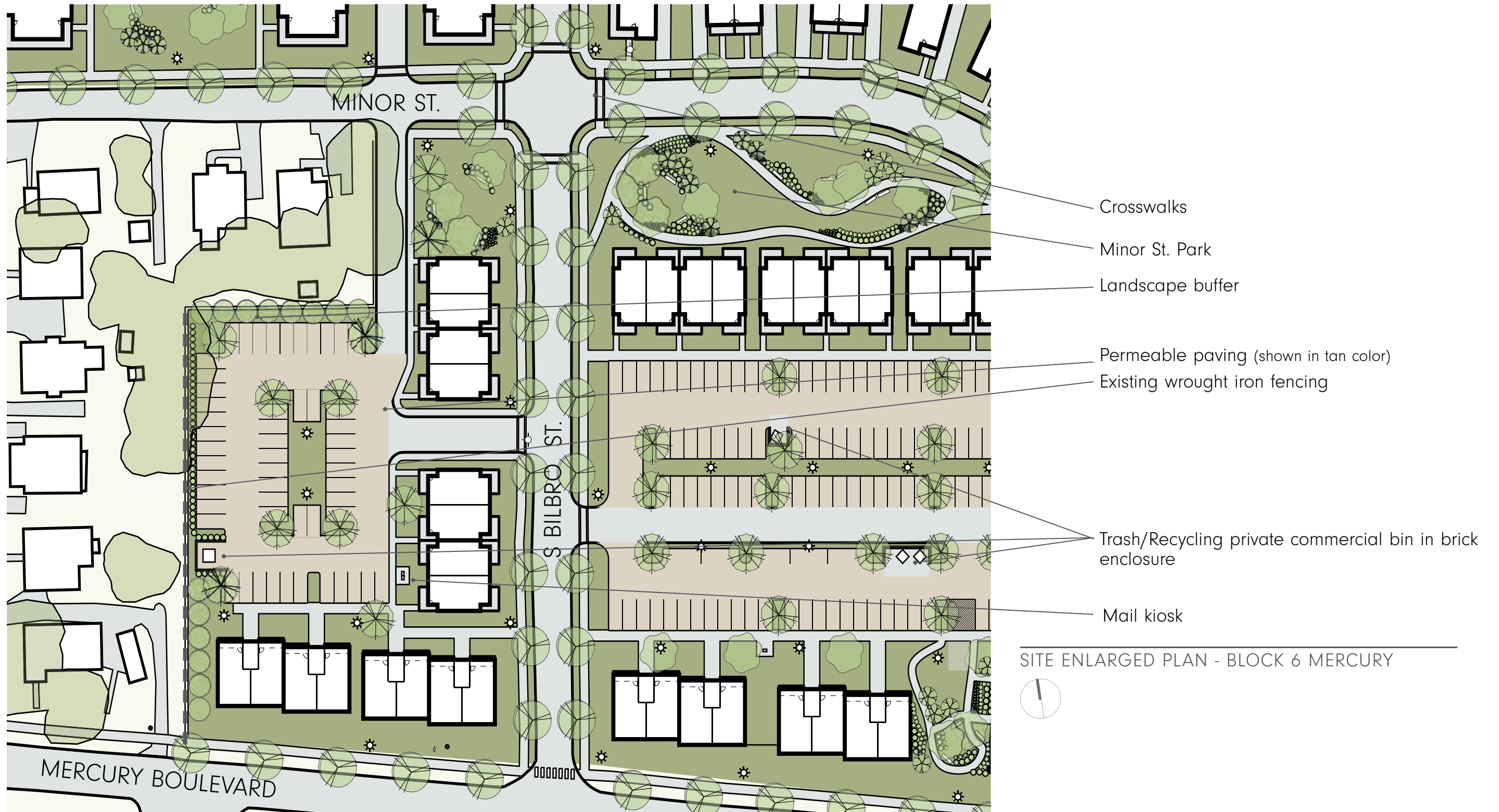




- Landscape buffer and existing fencing
- North South City Trail
- Permeable paving (shown in tan color)
- New Trail connection / neighborhood entrance to Patterson Park
- Trash/Recycling private commercial bin in brick enclosure east of S. Hancock
- Mail kiosk
- Rover Pick-Up/Drop-Off Area with bus stop structure
- Crosswalks
- Individual Trash/Recycling bins for each unit in enclosure west of S. Hancock. Resident to place containers at S. Hancock for public waste pick-up.

ENLARGED SITE PLAN - BLOCK 4 & 5 MERCURY







Minor Street Park

Site furnishings/benches

4' Asphalt Walking Trail

Mail kiosk

Future location for bus stop structure

Permeable paving (shown in tan color)

Trash/Recycling private/commercial bins in brick enclosure

Mail kiosk

"Grasscrete" or reinforced grass pull in for fire access

Landscaped feature

Commercial building plaza with outdoor seating

SITE ENLARGED PLAN - BLOCK 7 MERCURY



PARKSIDE AND MERCURY PARKING CALCULATIONS

Parkside Parking Calculations - Block 1			
Current Required Parking - CCO Overlay			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
1 BR	8	1	8
2 BR	20	2	40
3 BR	16	3	48
4 BR	2	4	8
Total	46		104.0
		Total	104
Parking currently on site: 69 cars - 1.5/unit			

Proposed Parking Counts with exemption request through PUD			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
All	46	1.8	82.8
		Total	83

Mercury Parking Calculations - Blocks 2-7

Block 2 Residentail Current Required Parking			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
Single Family	9	2	18.0
Duplex	12	2	24.0
Total Units	21	Total	42.0

Block 2 Proposed Parking Counts - (72 Total)			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
All	21	2	42
NA	NA	9 common visitor spots	9
All units will have a driveway in Block 2 that also accomodates 1 visitor/unit - 21 guest spots			

Block 3 Residentail Current Required Parking			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
Single Family	5	2	10.0
Duplex	8	2	16.0
Total Units	13	Total	26.0

Block 3 Proposed Parking Counts- (39 Total)			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
All	13	2	26
All units will have a driveway in Block 3 that also accomodates 1 visitor/unit - 13 guest spots			

Block 4 Residentail Current Required Parking			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
2 BR	12	2	24.0
Total Units	12	Total	24

Block 4 Proposed Parking Counts (29 Total)			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
All	12	2	24
Visitors in Block 4 have access to the 8 common visitor spaces in Block 5			

Block 5 Residentail Current Required Parking			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
2 BR	13	2	26.0
3 BR	4	3	12.0
Total Units	17		38.0
		Total	38

Block 5 Proposed Parking Counts (42 Total)			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
All	17	2	34
NA	NA	8 common visitor spots	8

Block 6 Residentail Current Required Parking			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
1 BR	8	1	8
2 BR	8	2	16.0
3 BR	8	3	24.0
Total Units	24		40.0
		Total	40

Block 6 Proposed Parking Counts (53 Total)			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
All	24	2	48
NA	NA	5 common visitor spots	5

Block 7 Residentail Current Required Parking			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
1 BR	20	1	20
2 BR	12	2	24.0
3 BR	8	3	24.0
Total Units	40		68.0
		Total	68

Block 7 Proposed Parking Counts (167 Total)			
Unit Type	# of Units	Spaces Per Unit	Total Spaces
All Res.	40	2	80
Commercial	No Change From Zoning		83
NA	NA	7 common visitor spots	7

Block 7 Commercial Required Parking			
Commercial	SF	Spaces/SF	Total Spaces
Office	20,900	1/300 sf	70
Clinic	2,500	1/200 sf	13
			83.0
		Total	83
		Block 7 Total Spaces	151

Total Mercury Site Parking provided	366
402 with driveway guest parking included	

Total Mercury Site Parking required	321
-------------------------------------	-----

MERCURY - RECOMMENDED PARKING CALCULATION

Residential parking for Mercury is recommended at 2 cars/unit for all residences. Visitor parking spaces are provided within each block or across a side street within the adjacent block.

Parts of the development will be organized in blocks with interior private parking courts as illustrated in the table to the left.

Single family and duplex homes along Minor St. and Bilbro St.will have driveways with ample room for two parking spaces for each resident as well as 1 visitor spot.

Mercury parking courts contain permeable paving under the parking spaces with asphalt drive aisles to help manage stormwater runoff.

Commercial spaces in Block 7 are as recommended by zoning. It is anticipated that these lots will amply accomodate residents and parking for office/commerical uses particularly due to the opportunity for shared use. Peak resident visitor parking needs would likely happen during hours in which the office functions are minimally occupied.

PARKSIDE - RECOMMENDED PARKING CALCULATION

There are currently 69 total existing spaces provided onsite **at Parkside for the 46 residential units** there. Based on resident car counts from MHA, there are approximately **58 cars currently using the parking**. MHA has provided the waiting list of applicants which illustrates a future need of .75 cars/unit. **As the current parking needs are significantly below what is required, an exemption from the current parking requirement is requested.**

Parkside: Unlike typical housing developments, the residents coming from Parkside have a modest number of cars per home. Due to this, **it is recommended that 1.8 cars per unit be provided (currently the property provides 69 spaces at 1.5 average per unit) - 46 units x 1.8 = 83 cars**. Two parking areas will provide convenient access to the proposed 83 parking spaces for residents and visitors alike on the east and west

MHA PARKSIDE AND MERCURY REQUIRED, CURRENT & RECOMMENDED PARKING

Management recognizes that parking space is limited in the Parkside and Mercury Development. Management would like to see residents to have convenient parking facilities for their use, but this cannot be accomplished unless some restrictions are imposed on who has access to the property. This policy is therefore developed to guide the staff in enforcing restrictions in the use of, and who has access to, developments owned by the Murfreesboro Housing Authority/Stones River Development Corporation. The policy is not intended to create a hardship for anyone. The staff is directed to work within these guidelines to accommodate the needs of residents, when possible.

This policy is intended to limit who parks on the Parkside and Mercury property; to prohibit its properties from being used as havens for illegal and unlawful activities; and to discourage the unlawful parking or abandonment of inoperative motor vehicles on its properties. The following Tennessee code will be followed and enforced:

TN Code Title 66-Property Chapter 28-Uniform Residential Landlord and Tenant Act,

Park 5-Enforcement and Remedies

66-28-518 – Towing of unauthorized vehicles

(a) A landlord may have an unauthorized vehicle towed or otherwise removed from real property leased or rented by such landlord for residential purposes, upon giving ten (10) days written notice by posting the same upon the subject vehicle.

(b) A landlord may have a tenant’s, occupant’s, tenant’s guest’s, or trespasser’s vehicle immediately towed or otherwise removed from such real property, without notice, if and when such person fails to comply with the landlord’s permit parking policy as defined in the landlord’s posted signage.

(c) A landlord may have a tenant’s, occupant’s, tenant’s guest’s, or trespasser’s vehicle immediately towed or otherwise removed from such real property, without notice, for such person’s failure to comply with the landlord’s posted signage relative to traffic and parking restrictions, including, but not limited to, traffic lanes, fire lanes, fire hydrants, handicapped areas, and/or the blocking of trash receptacles.

(d) The owner or lessee of a vehicle that has been removed pursuant to this section may make application to take possession of such vehicle and remove such vehicle from the place to which it has been removed or stored by paying the costs of removing such vehicle, plus the accrued towing and storage charges.

PROCEDURE

Article 1:

All vehicles parked on the private property of the Parkside and Mercury must bear a valid parking permit issued by the Murfreesboro Housing Authority/Stones River Development Corporation.

Parking Permits may be issued only to lawful residents, provided the following information is furnished:

- A valid Tennessee vehicle registration card in the resident’s name and proof of insurance that meets state requirements,
- A valid Tennessee driver’s license,
- Proof of ownership, registration card, title or bill of sale.

Temporary permits will be issued to non-residents for a period not to exceed fourteen (14) days and shall be limited to four (4) permits per calendar year. The following information will be required for the issuance of a non-residents temporary permit.

- Valid registration Card, or make and model of the vehicle permitting.
- Vehicle tag number
- Owner of the Vehicle

Article 2:

Resident permits will be good for the time the resident remains a tenant of the Parkside and Mercury development. The Murfreesboro Housing Authority/Stones River Development Corporation reserves the right to specify a shorter period of time as established by the Housing Authority if the need should arise. The parking permit is to be removed from the vehicle when moving out of Parkside and Mercury and the remnants must be returned to MHA before the security deposit can be refunded. The Housing Authority can remove the sticker at the time the keys are returned to the office.

Every resident shall be notified at “lease up” of these requirements. All current residents will be notified by notice delivered to their door, and will be given sixty (60) days from the date the policy is adopted, in which to have their vehicles registered with the Property Development Office.

Article 4:

All properties shall be posted in accordance with the law. Notices shall be posted in conspicuous places throughout each development.

Article 5:

When a vehicle is found to be without a valid parking permit, the following process will be followed:

Prior to the vehicle being towed, a courtesy written warning will be issued to each owner/operator that the vehicle is subject to being towed. Only one warning will be given prior to the vehicle being towed. This warning is to be attached to the drivers side window or other visible window/windshield, and the notice will read:

VIOLATION

THIS VEHICLE IS PARKED ILLEGALLY AND IS HEREBY SUBJECT TO TOWING AND IMPOUNDMENT

YOUR LICENSE NUMBER WAS RECORDED

This notice shall be highly visible (red day-glo stock).

A written record of all violations shall be recorded and maintained as a part of the Housing Authority records. This record as a minimum shall reflect the following information:

Make of Vehicle_____

Tag Number_____

Date_____Time_____

TOWED:

Date_____Time_____

Location_____By_____

Once a warning ticket is issued the vehicle must be removed from the premises within 12 hours. The Owner may request a Temporary Permit during normal office hours of the Development Office.

Article 6:

Temporary Parking Permits will be issued at no cost to lawful guest of residents. Permits may be issued for no more than 14 days unless a greater period is granted by the Authority for extenuating circumstances.

Residents are encouraged to contact the office in advance and obtain the necessary permits if overnight guest are expected.

Article 7:

Permits are not transferable and remain the property of the Authority, subject to revocation at the will of the Housing Authority.

A permanent record of permits issued shall be maintained by the Authority, and will contain information i.e. (date, owner, vehicle, VIN, tag and permit number.) The temporary permit will be marked, showing the beginning and expiration dates the permit is valid for. This will be the only valid temporary permit recognized by the Housing Authority.

The permit is to be placed on the left side of the rear bumper of the vehicle.

Article 8:

TOWING OF UNAUTHORIZED VEHICLES

Illegally parked vehicles will be towed, and are subject to TN Code Section 66-28-102. A local wrecker service will be used for this purpose. A police officer and/or Housing Authority Security officer will be present during this process.

Article 9:

AMENDMENTS TO THE POLICY

This policy may be amended, or changed from time to time as circumstances require.

MHA PARKSIDE AND MERCURY PARKING POLICY

Management recognizes that parking space is limited in the Parkside and Mercury Development. Management would like to see residents to have convenient parking facilities for their use, but this cannot be accomplished unless some restrictions are imposed on who has access to the property. This policy is therefore developed to guide the staff in enforcing restrictions in the use of, and who has access to, developments owned by the Murfreesboro Housing Authority/Stones River Development Corporation. The policy is not intended to create a hardship for anyone. The staff is directed to work within these guidelines to accommodate the needs of residents, when possible.

This policy is intended to limit who parks on the Parkside and Mercury property; to prohibit its properties from being used as havens for illegal and unlawful activities; and to discourage the unlawful parking or abandonment of inoperative motor vehicles on its properties. The following Tennessee code will be followed and enforced:

TN Code Title 66-Property Chapter 28-Uniform Residential Landlord and Tenant Act,

Park 5-Enforcement and Remedies

66-28-518 – Towing of unauthorized vehicles

(a) A landlord may have an unauthorized vehicle towed or otherwise removed from real property leased or rented by such landlord for residential purposes, upon giving ten (10) days written notice by posting the same upon the subject vehicle.

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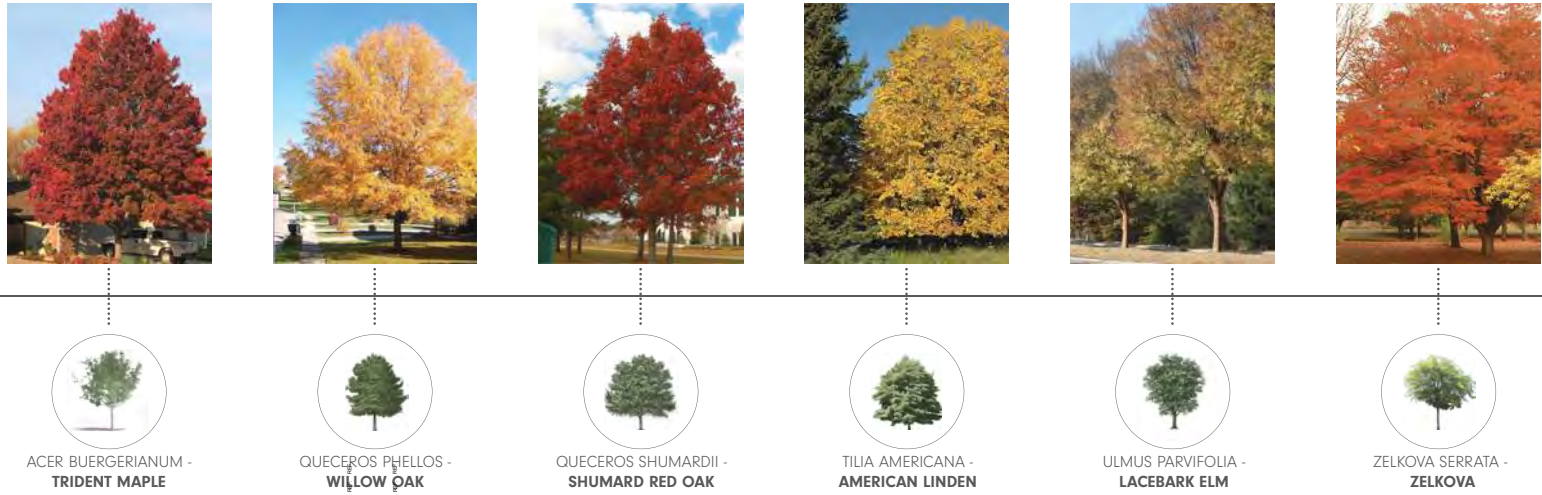
The permit is to be placed on the left side of the rear bumper of the vehicle.

Article 8:

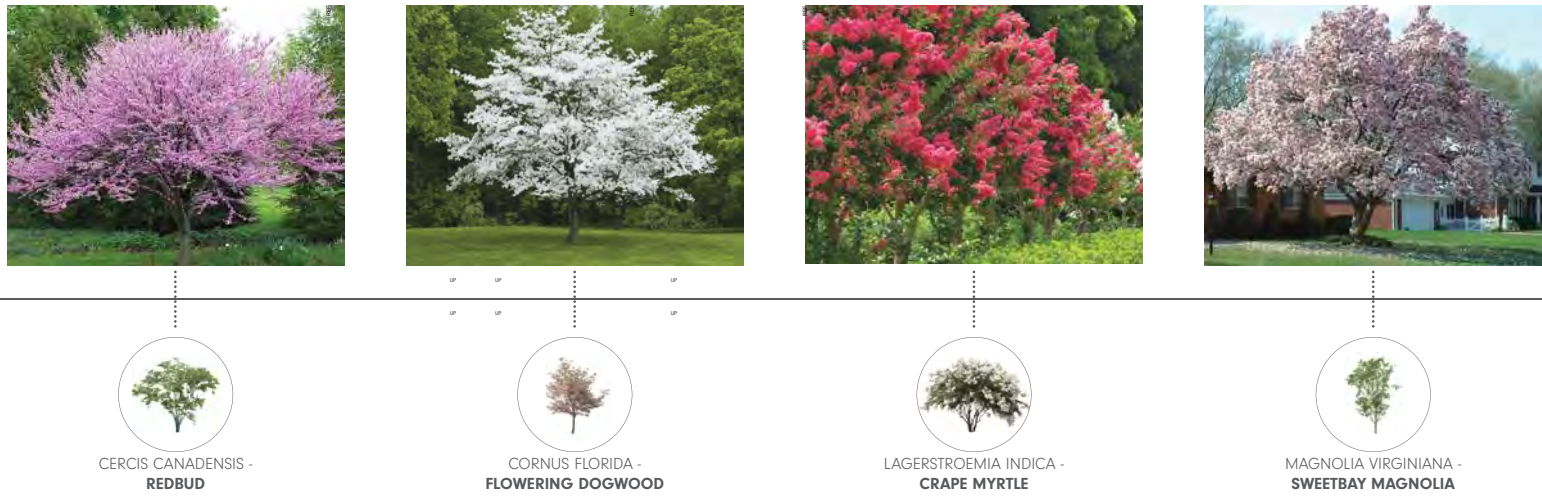
TOWING OF UNAUTHORIZED VEHICLES

MHA PARKSIDE AND MERCURY PARKING POLICY

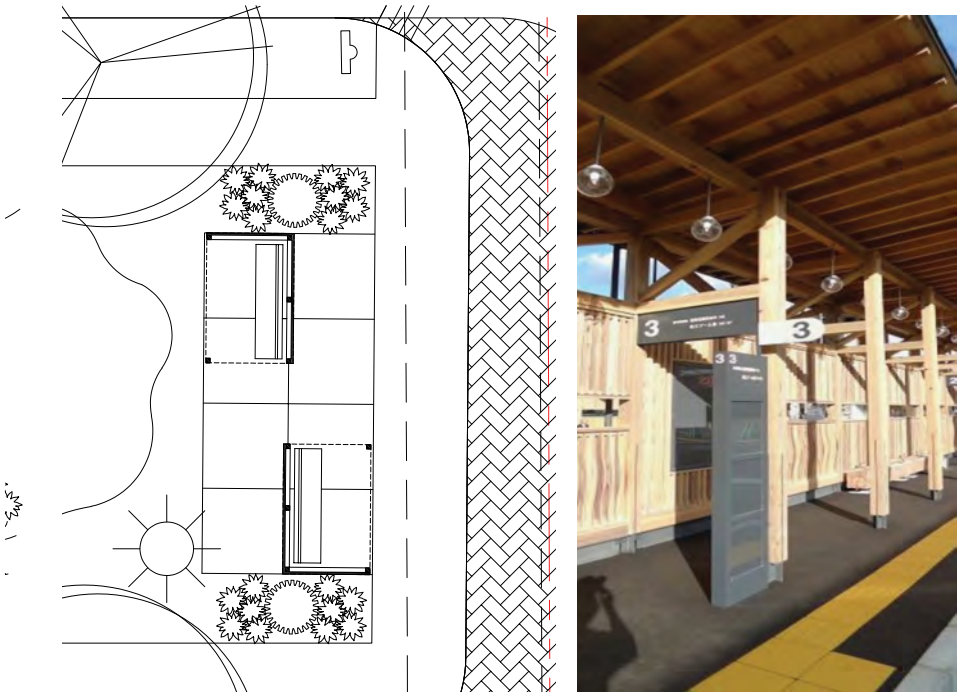
STREET CANOPY TREES



UNDERSTORY TREES

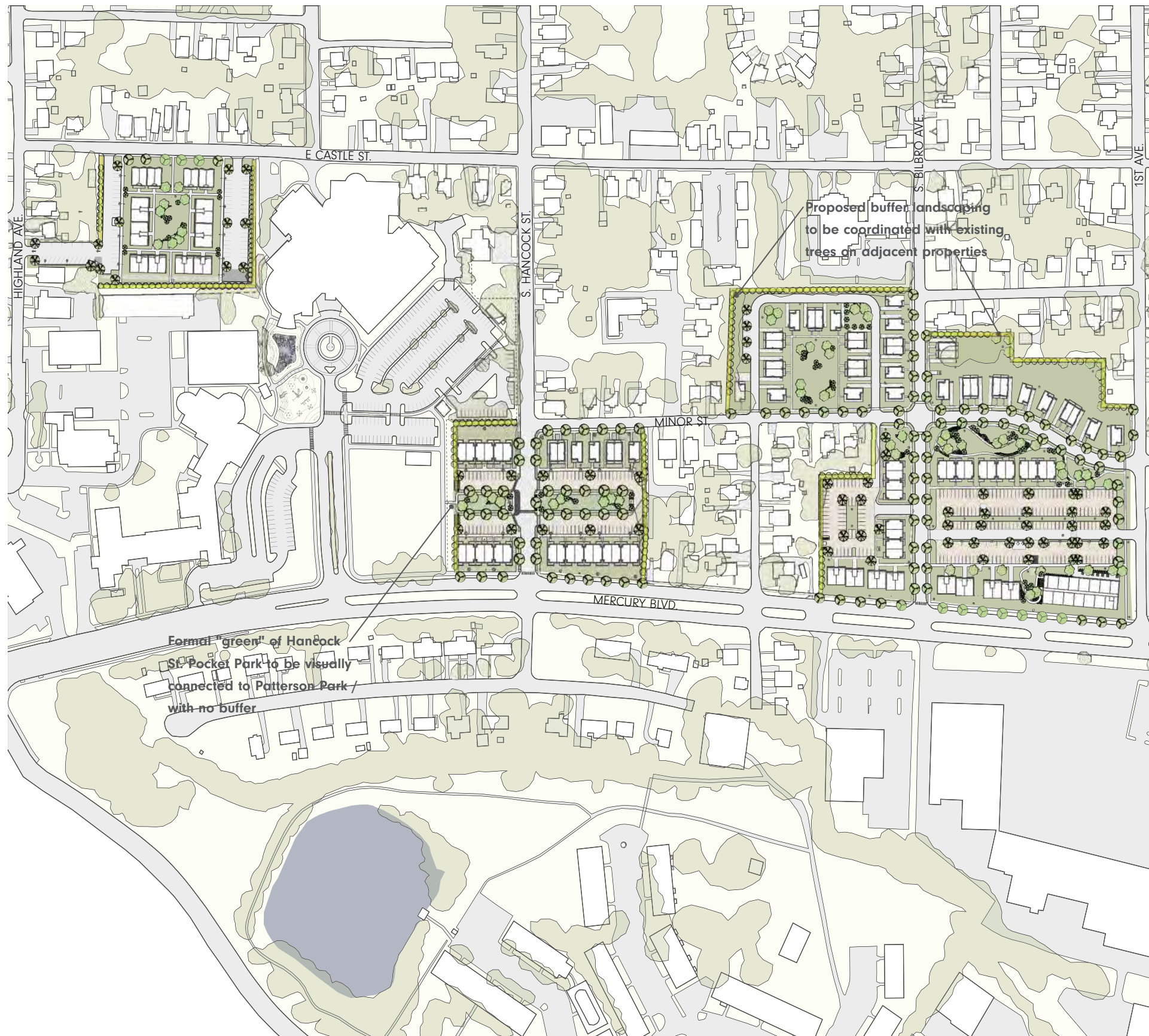




FOUNDATION PLANTINGS



BUS STOP / CANOPY Structure - As located on enlarged plans. Constructed with wood/metal joinery with standing seam metal canopy to match architectural style of neighborhood. Final design of the shelter shall be coordinated with Planning and Transit during Site Plan Review.

LANDSCAPE MATERIALS & BUS STOP CANOPY



-  CANOPY TREES - 3-3.5" caliper at planting, 35' - 50' mature height At property edge landscape perimeter buffers 10% to be 4" caliper minimum
-  UNDERSTORY TREES - 1.5" caliper at planting, 15'-25' mature height
-  EVERGREEN TREES - 6'-8' at planting, 25' - 40' mature height
-  LARGE EVERGREEN SHRUB - 24" min. at planting, 36" min. at maturity
-  SMALL EVERGREEN SHRUB - 18" min, 24' at maturity
-  LARGE DECIDUOUS SHRUB - 24" min. at planting, 36" at maturity
-  ORNAMENTAL GRASSES
-  SHADE TREE
-  15' '0' BUFFER LANDSCAPING

CONCEPTUAL LANDSCAPE PLAN





Canopy trees with understory trees

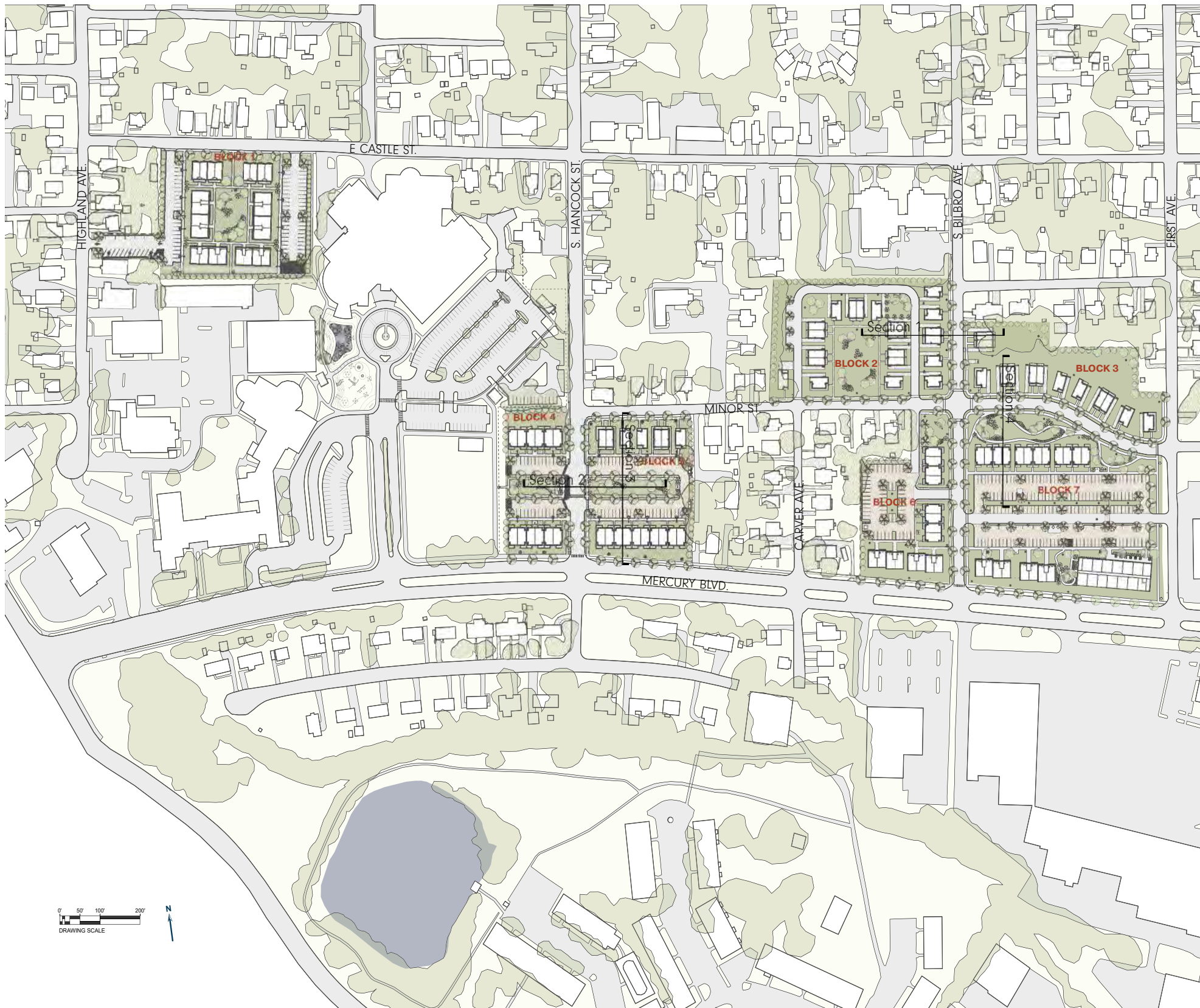
Green commons/open space (stormwater)

4' asphalt walking trail

Landscape entry plaza & court between mixed use and residential uses

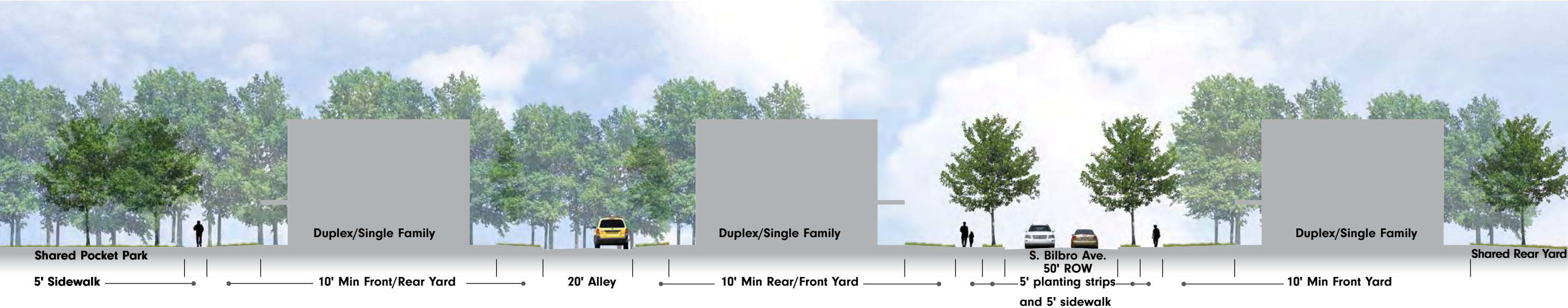
ENLARGED LANDSCAPE PLAN



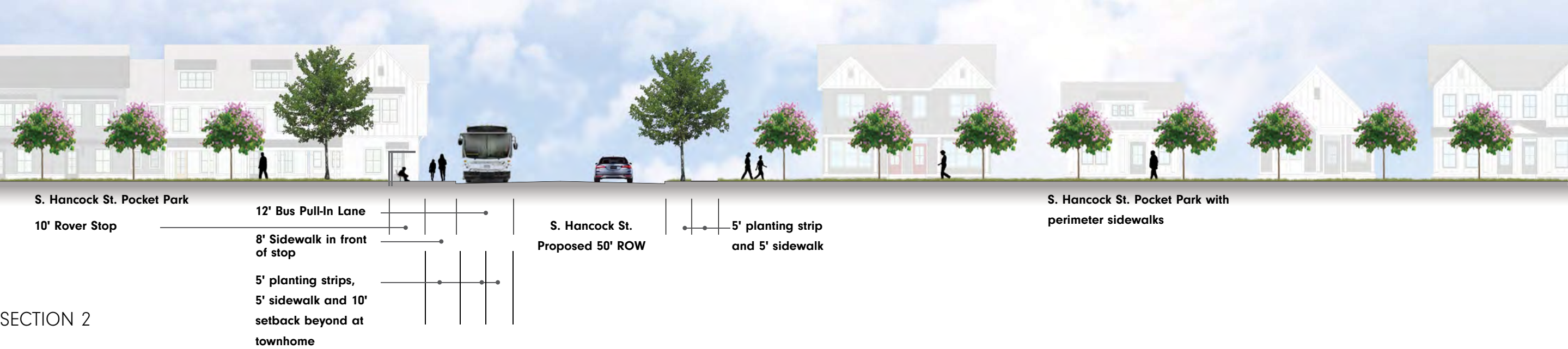


MASTERPLAN - STREET SECTIONS KEY PLAN





SECTION 1



SECTION 2

STREET SECTION PUBLIC STREET SETBACKS

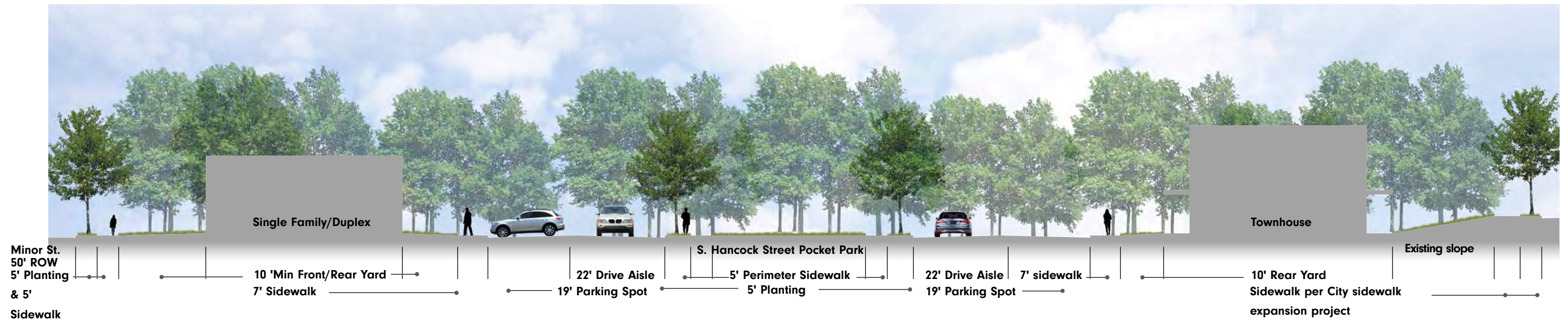
SIDE SETBACK - 10' between buildings on the same lot/parcel

FRONT YARD SETBACK - 10' MINIMUM

MAXIMUM RESIDENTIAL HEIGHT - 45'

Front Facade Zone indicates the zone which all homes' front porch facade and main building facade will fit within.

Pursuing 50' ROW at S. Hancock with Mandatory Referral.



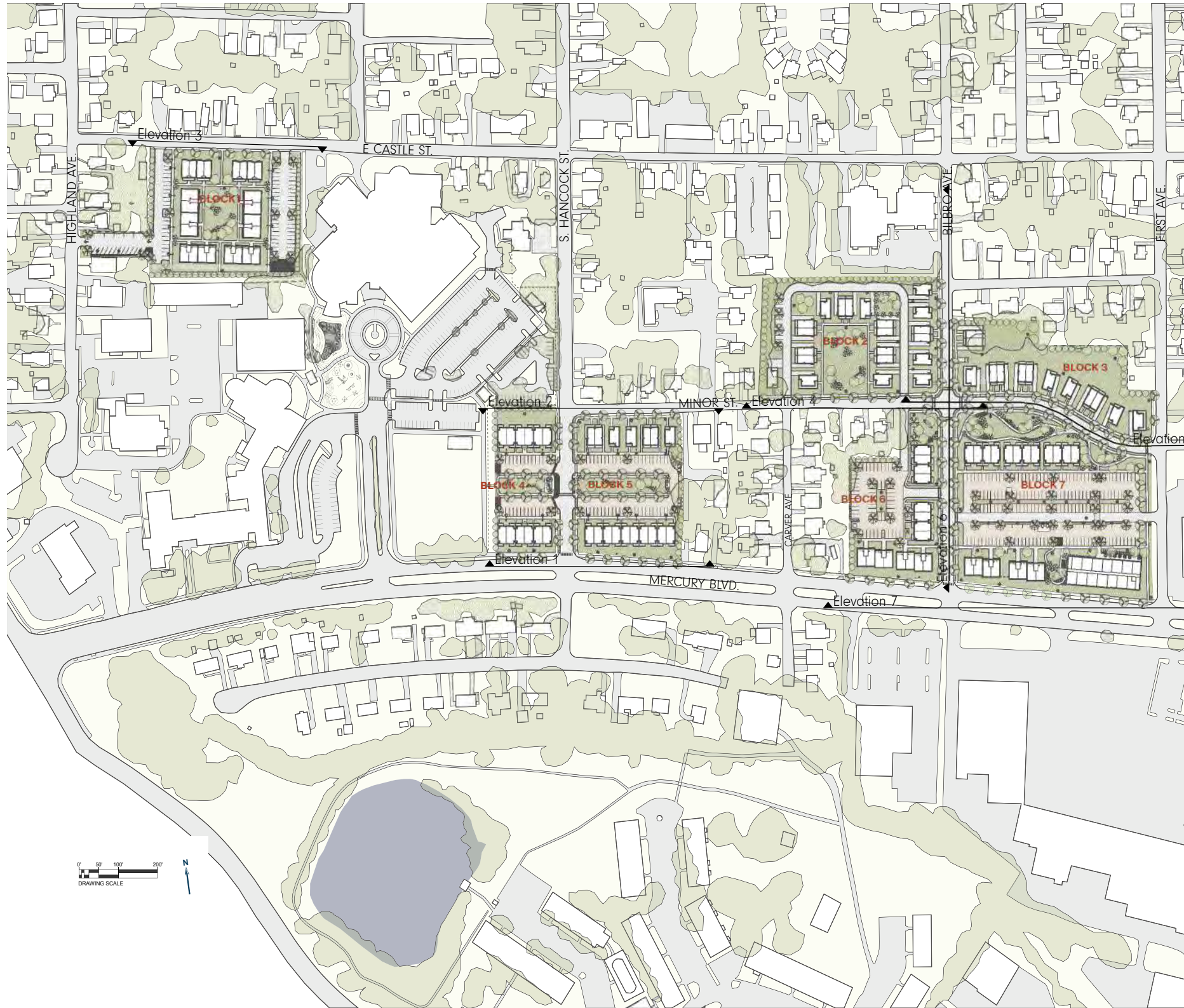
STREET SECTION PUBLIC STREET SETBACKS

SIDE SETBACK - 10' between buildings on the same lot/parcel

FRONT YARD SETBACK - 10' MINIMUM

MAXIMUM RESIDENTIAL HEIGHT - 45'

Front Facade Zone indicates the zone which all homes' front porch facade and main building facade will fit within.



MASTERPLAN - STREET ELEVATIONS KEY PLAN





1. MERCURY BLVD. LOOKING NORTH AT S HANCOCK ST.



2. MINOR STREET LOOKING SOUTH FLANKING S HANCOCK ST.

STREET ELEVATIONS



3. E. CASTLE STREET LOOKING SOUTH TO PARKSIDE



4. MINOR STREET BETWEEN CARVER AVE. AND S BILBRO AVE.



6. S. BILBRO AVE. LOOKING WEST BETWEEN MERCURY BLVD. AND NORTH OF MINOR ST.



7. MERCURY BOULEVARD LOOKING NORTH BETWEEN CARVER AVE. AND FIRST AVE.



5. MINOR STREET BETWEEN S. BILBRO AVE. AND FIRST AVE.

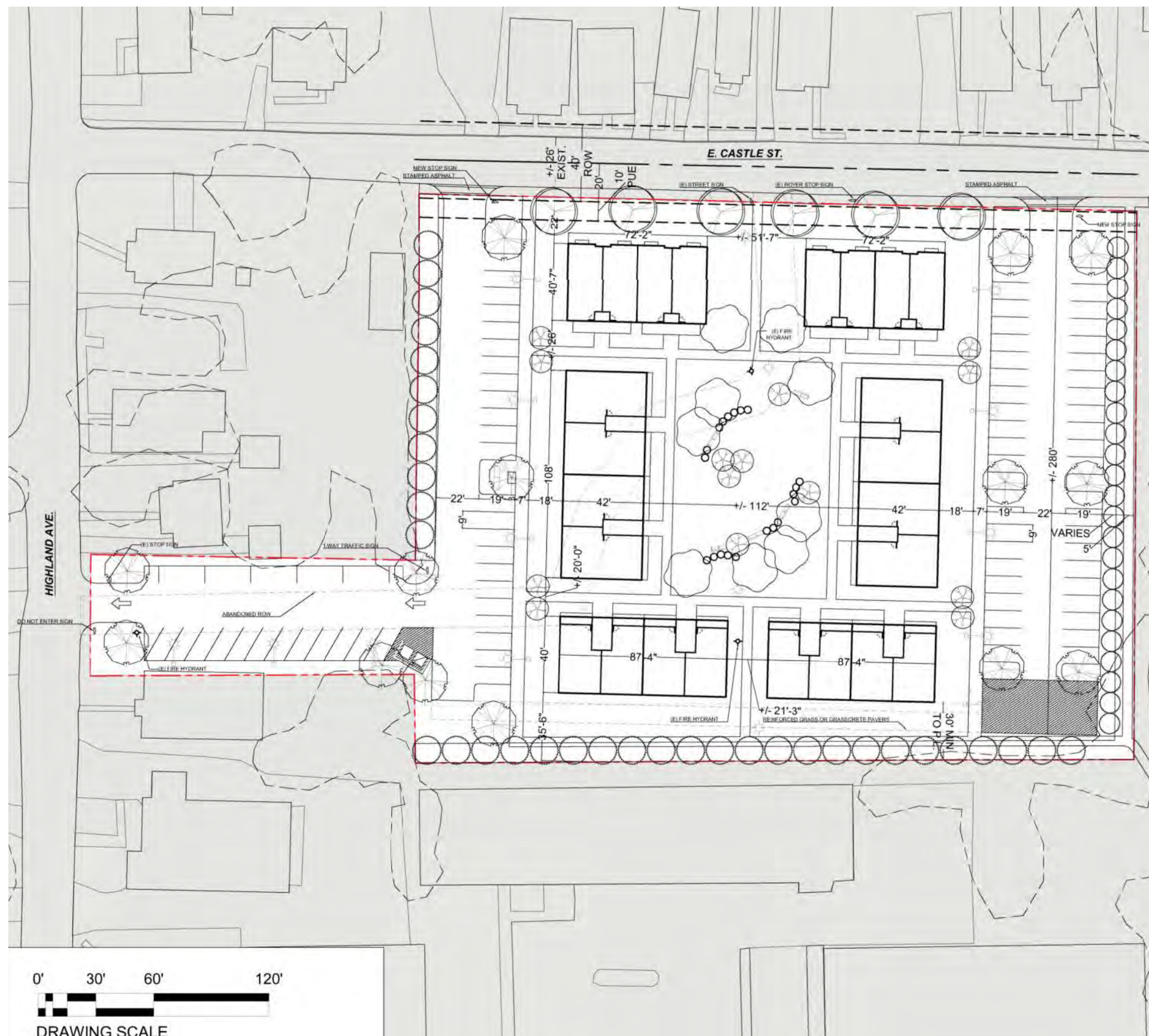


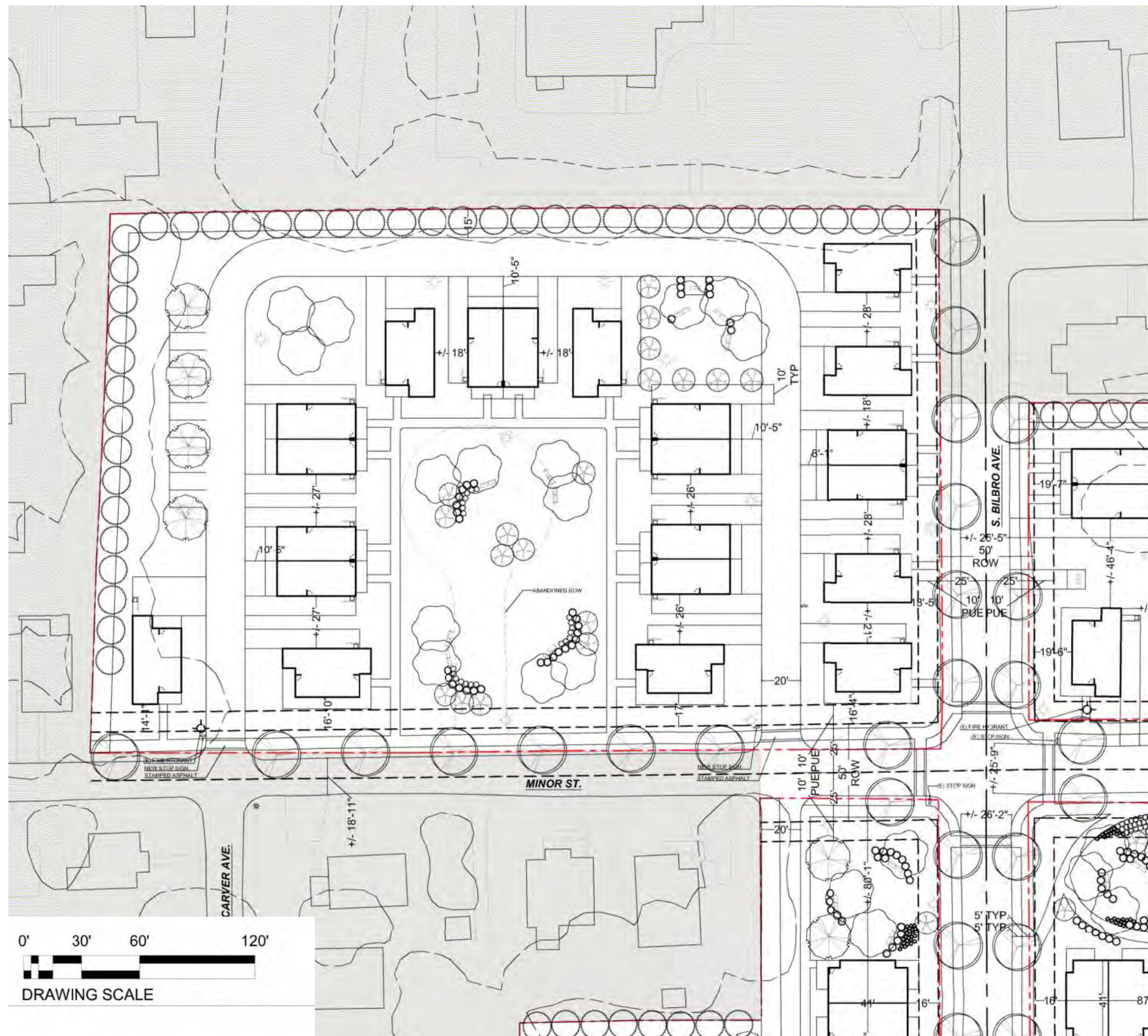
6. S. BILBRO AVE. LOOKING WEST BETWEEN MERCURY BLVD. AND NORTH OF MINOR ST. continued

STREET ELEVATIONS



7. MERCURY BOULEVARD LOOKING NORTH BETWEEN CARVER AVE. AND FIRST AVE. continued







DIMENSIONED SITE PLAN - BLOCK 3/7 MERCURY

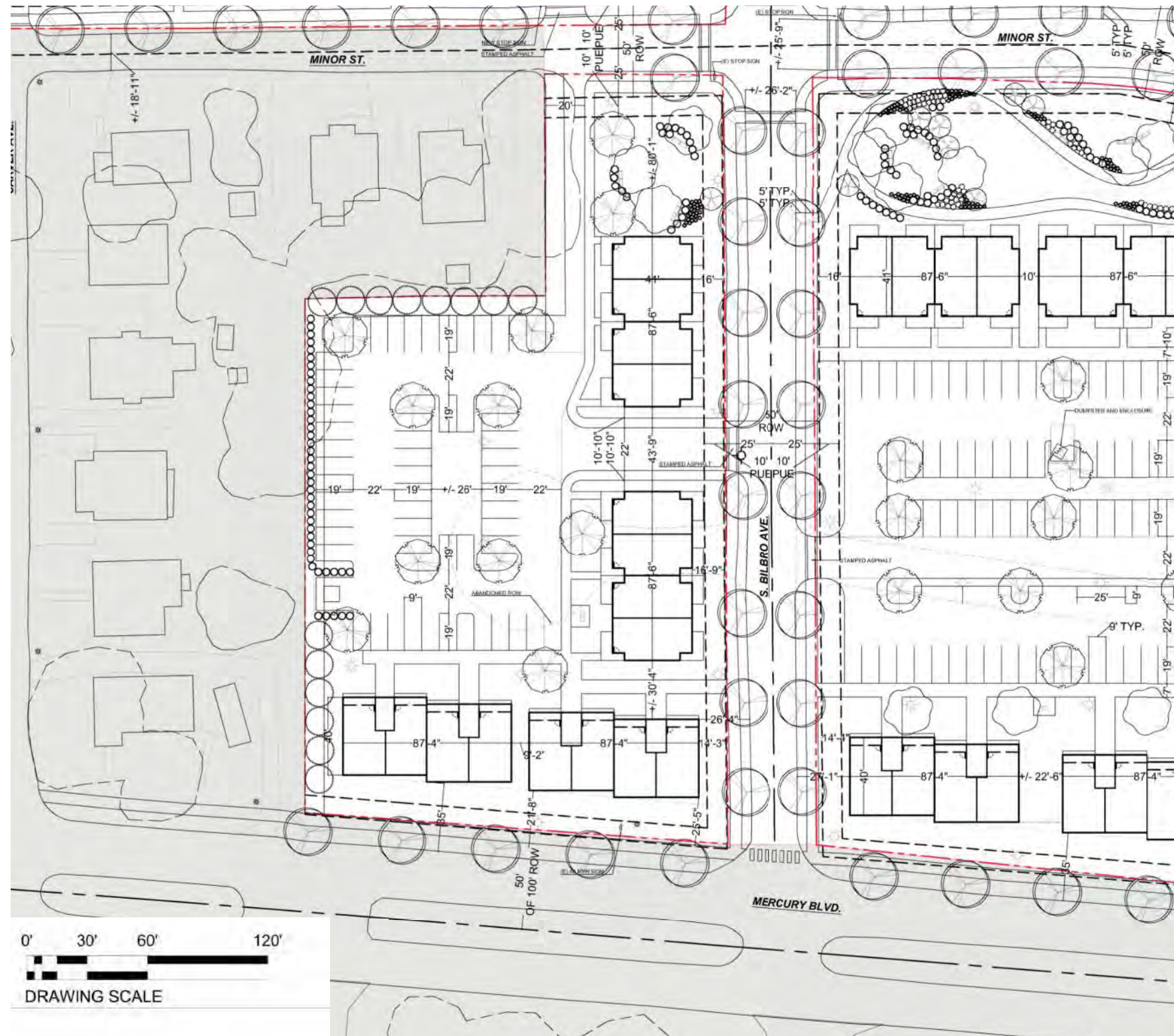




DIMENSIONED PLAN - BLOCK 4 & 5 MERCURY

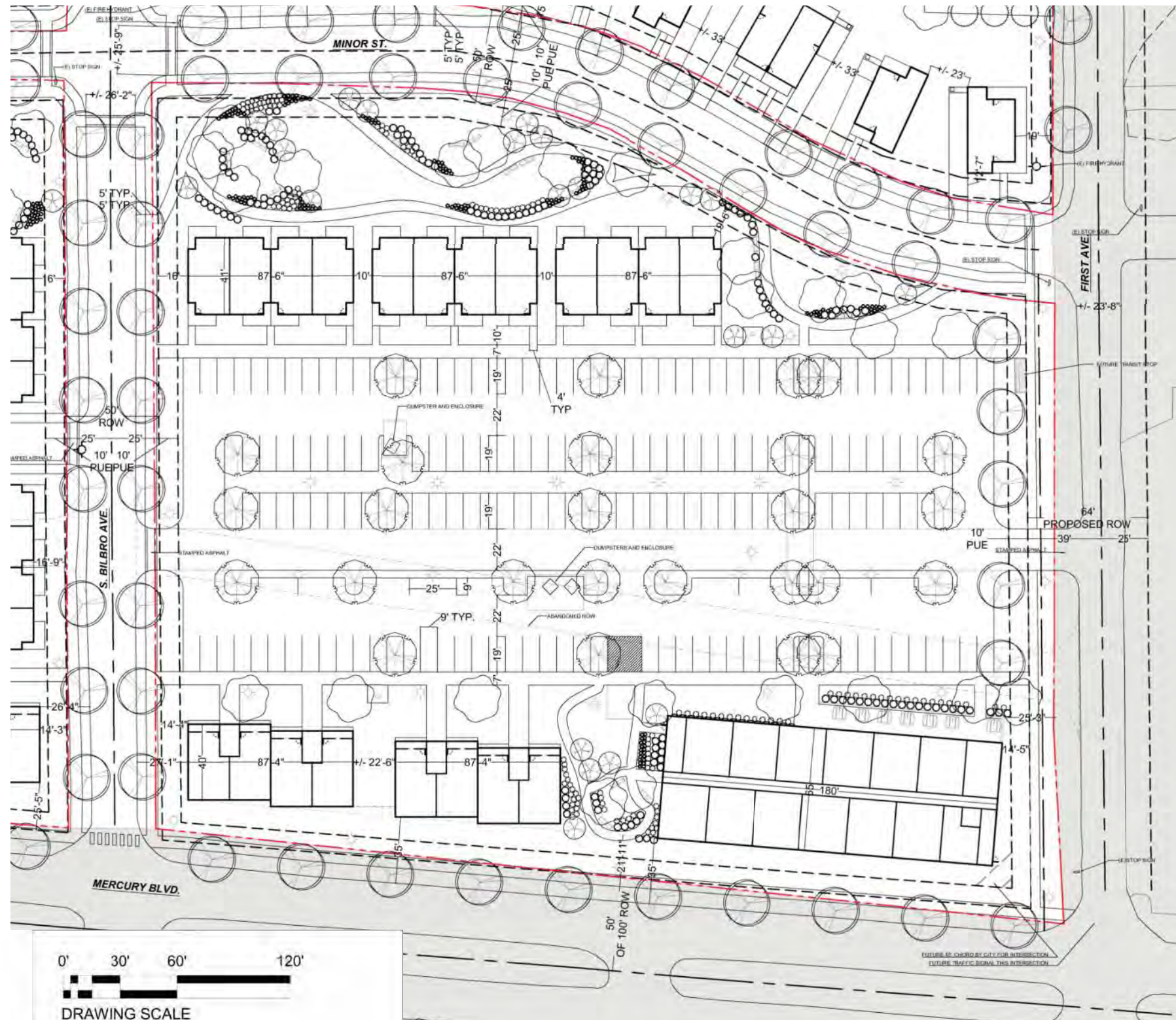


50' ROW proposed along S. Hancock Street through later mandatory referral as current ROW here is 60' per 1958 map from Mercury Blvd. Housing Project #TN 20-4 (1958-205).



DIMENSIONED SITE PLAN - BLOCK 6 MERCURY





DIMENSIONED SITE PLAN - BLOCK 7 MERCURY

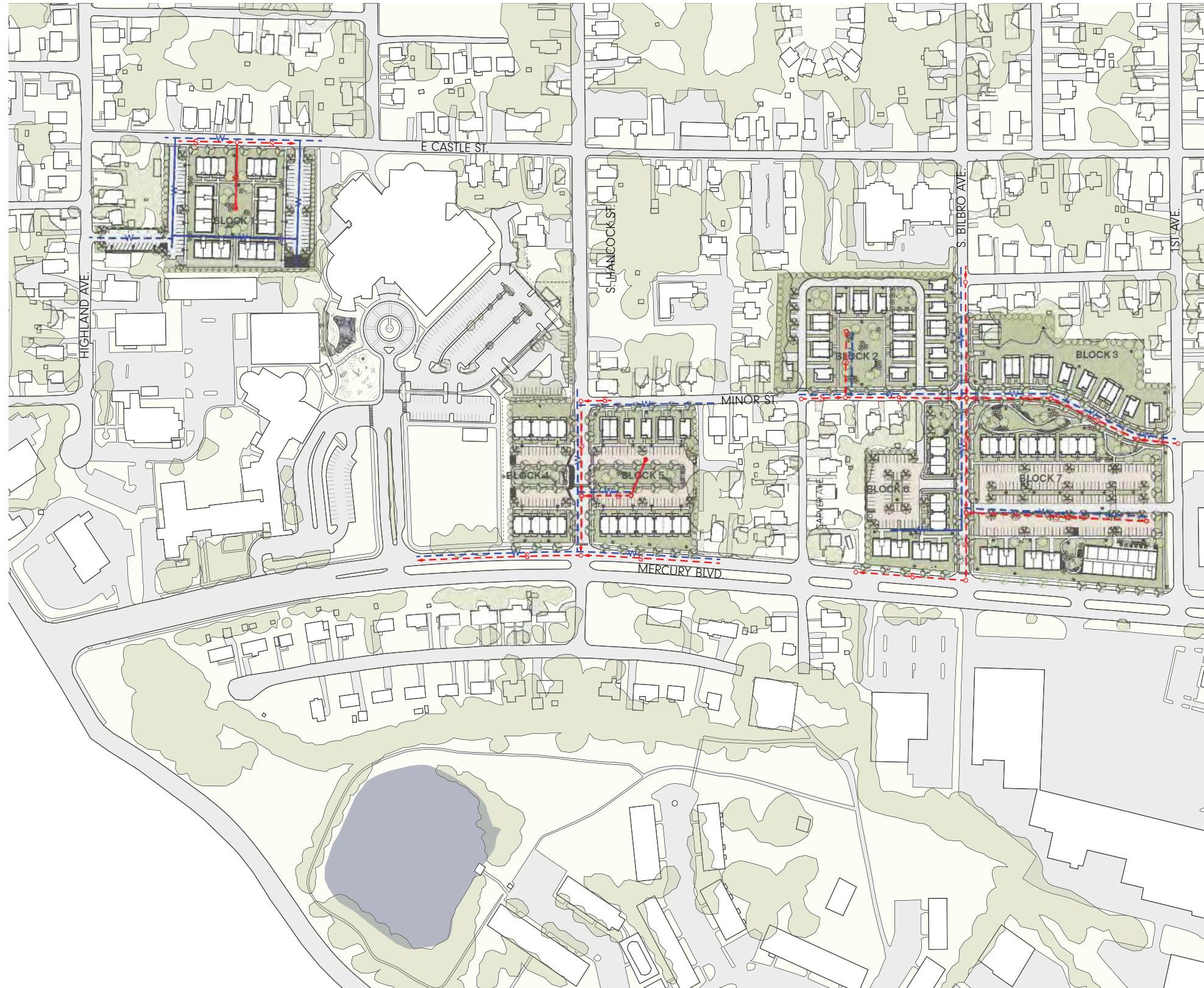




City has identified existing area near the intersection of S. Bilbro Ave. and Sunrise St. that needs to tie into the existing City System. This proposal intends for the storm water system to stay public.

MASTER PLAN - STORM DRAINAGE

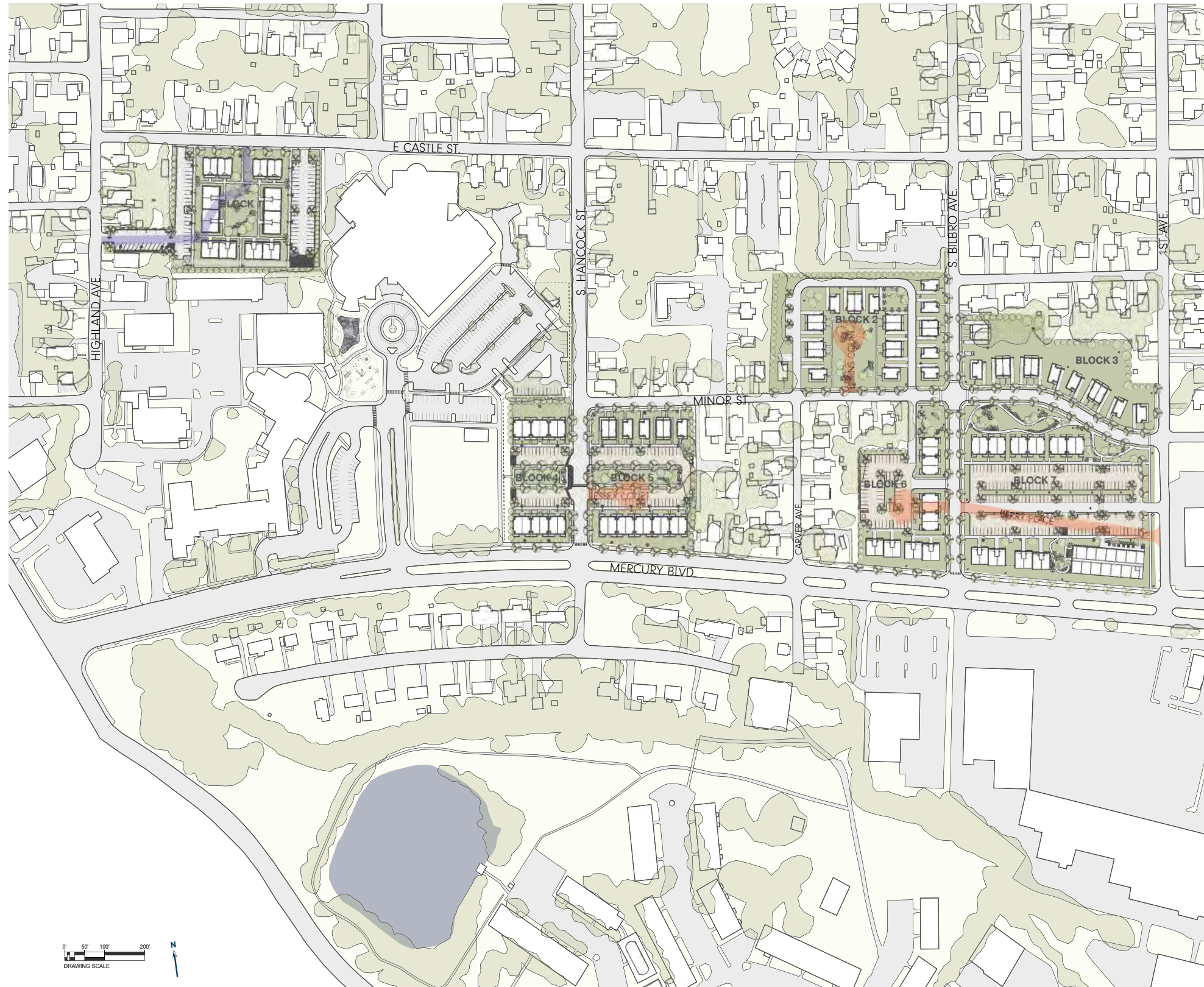




It is anticipated that it will be necessary to replace some clay sewer pipe as directed by the Murfreesboro Water Resources Department.

MASTER PLAN - WATER & SEWER





ROW Abandonments - Mandatory referrals will be required for the development of Mercury Court because four right-of-ways will need to be abandoned:

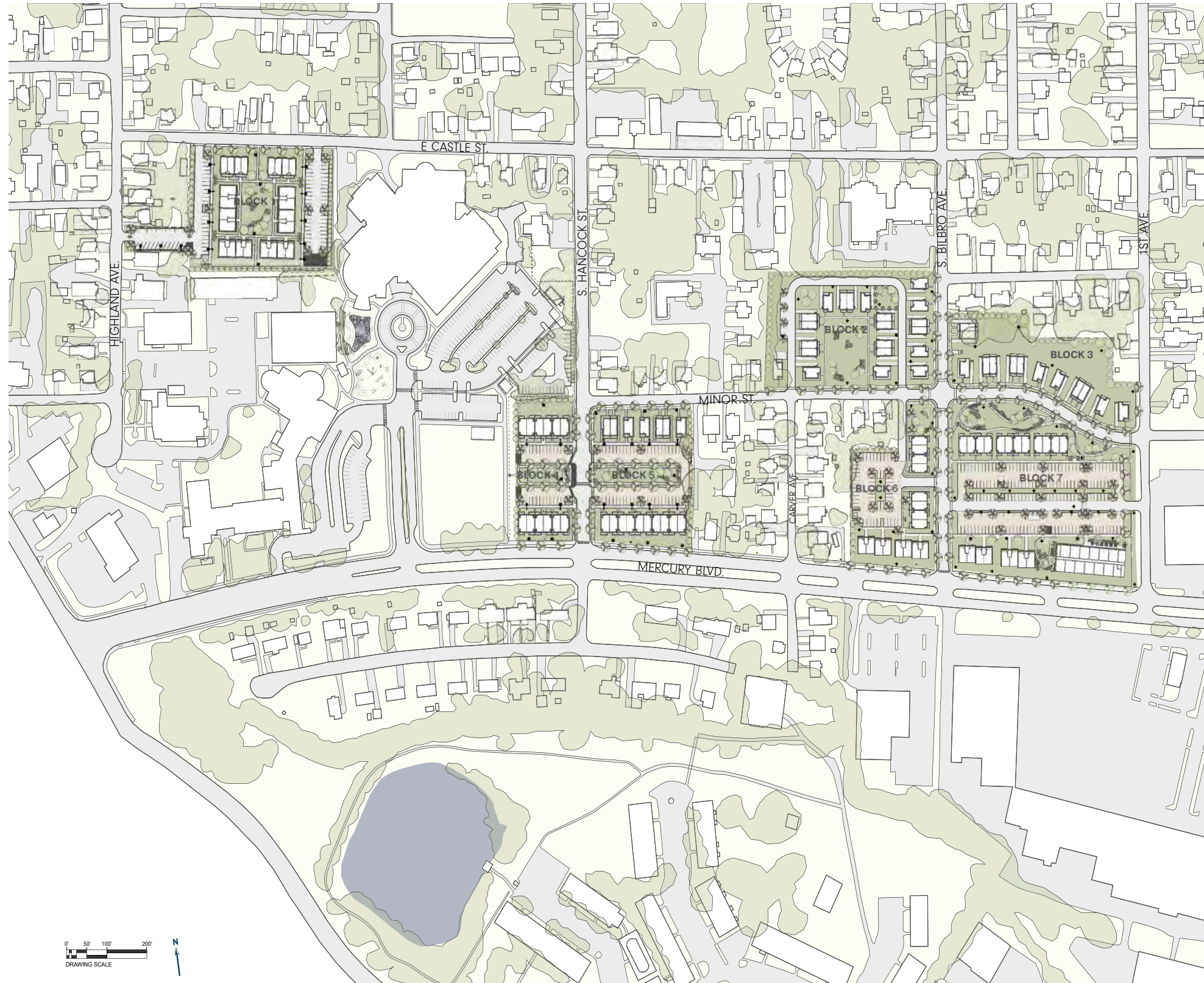
1. Berry Place from First Avenue to South Bilbro Avenue.
2. Berry Place cul-de-sac west of South Bilbro Avenue.
3. Burns Court cul-de-sac north of Minor Street.
4. Essex Court cul-de-sac east of Hancock Street.

Easements for utilities within these right-of-ways may be retained until the final utility design is provided to determine if these utilities should remain or be replaced, relocated, or abandoned. It is worth noting that the alley directly across from Burns Court at Minor Street that heads south to Mercury Boulevard (shown as Stephens Ave. on plat recorded in Deed Book 95, page 215) is not a part of Murfreesboro Housing Authority property and will not be included in any design, changes, or abandonment as part of the Mercury Court development.

Vaugh Street ROW Abandonment at Parkside shown in blue has been completed.

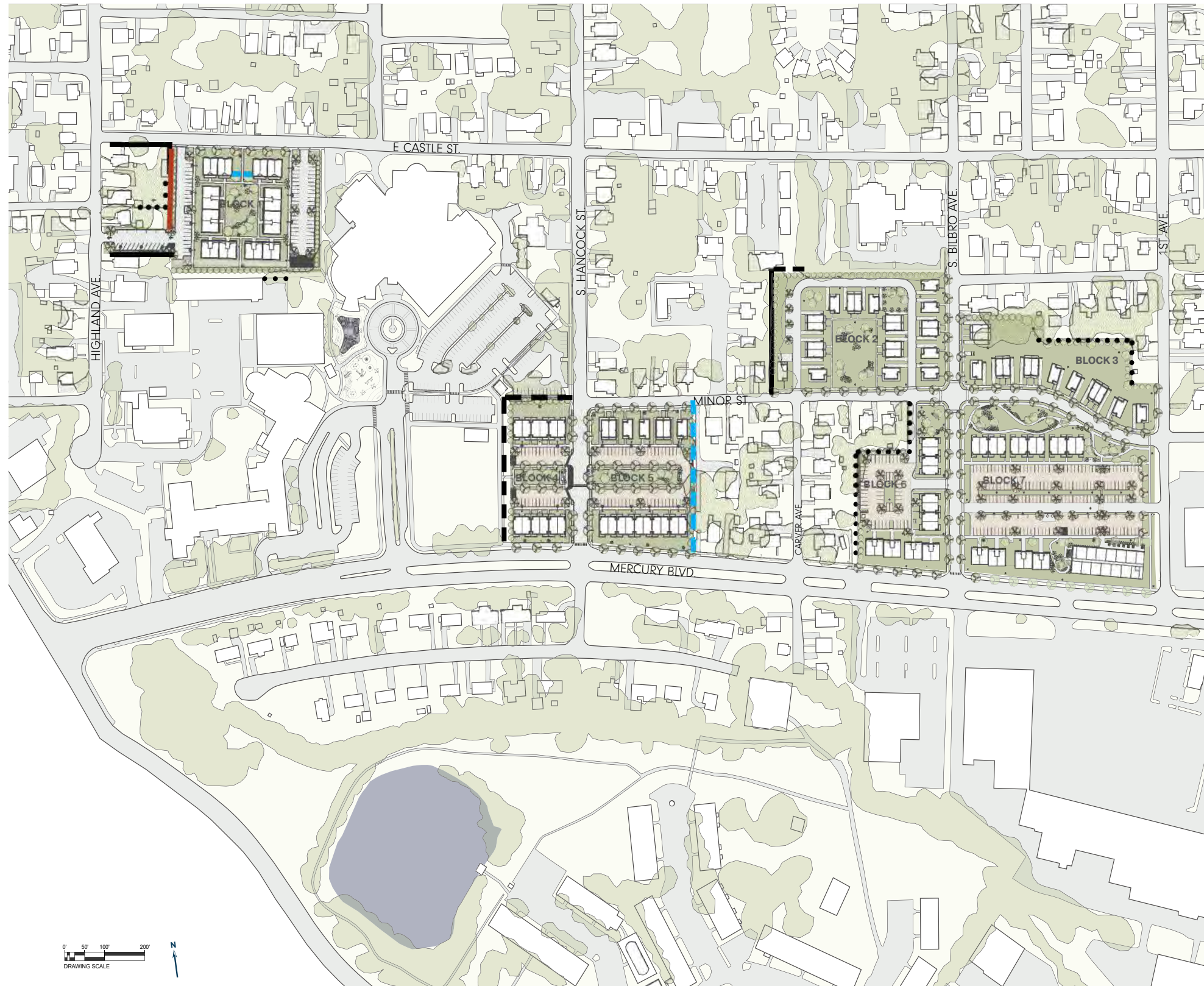
MASTER PLAN - ABANDONED RIGHT OF WAY





MASTER PLAN - LIGHTING





- Existing Chain Link Fencing
- Existing Wrought Iron Look Fencing
- Existing Wood Fencing
- New 6' Wrought Iron-Look Painted Aluminum Fencing *
- New 6' Wrought Iron-Look Painted Aluminum Fencing with screening **

MASTER PLAN - FENCING



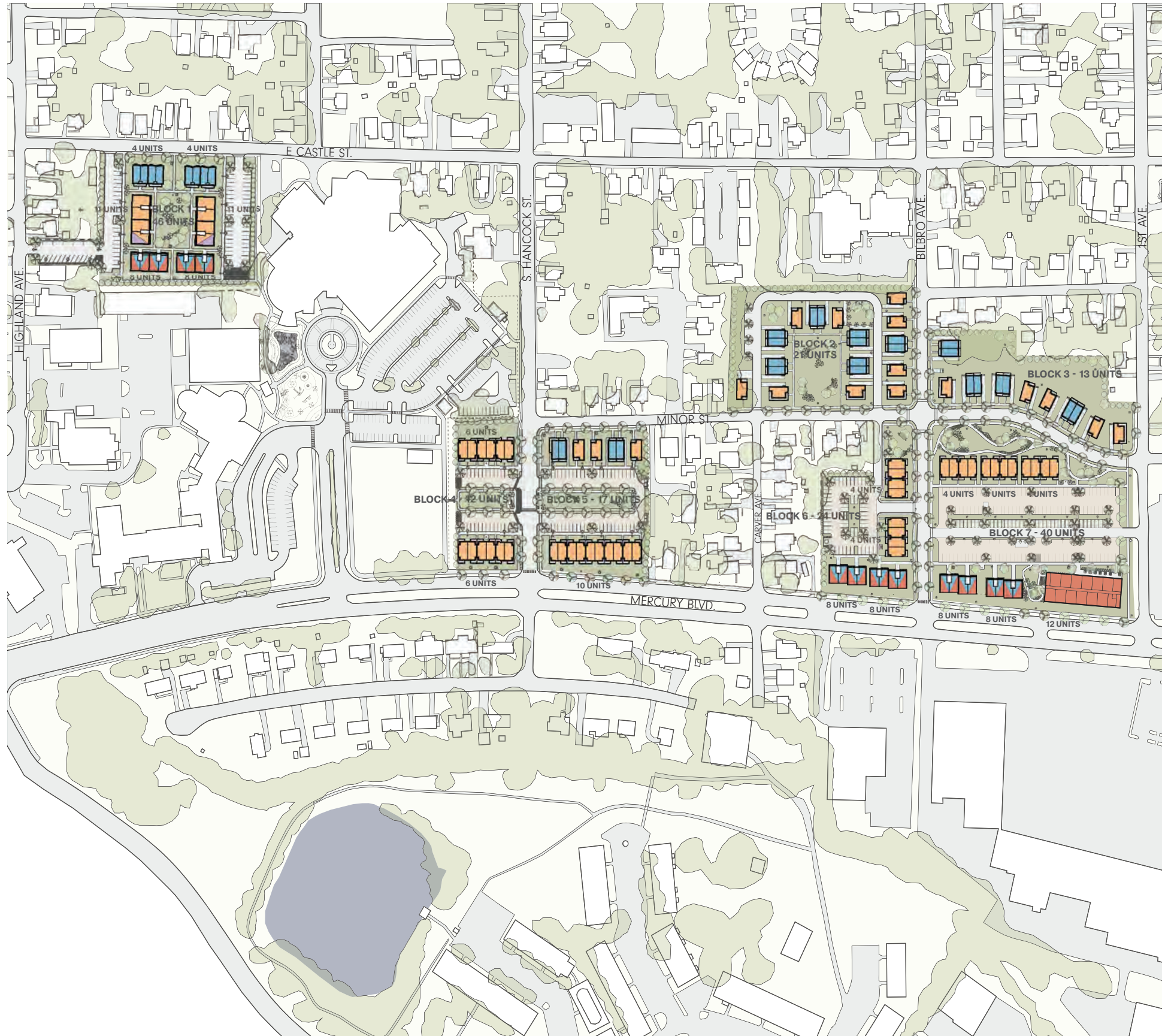


SECTION FOUR \ Architecture

Phase 1 - Parkside				
Buiding Type	No. of Buildings	No. of Units	SQ FT/unit	Total SF
Townhouse 3	2	8	1416	11328
Rowhouse 2/2/2	2			
Ground Floor Unit		6	993	5958
Second Floor Unit		6	1062	6372
Third Floor Unit		6	1062	6372
Rowhouse 2/4	included above			
4 Bed Unit		2	2055	4110
2 Bed Unit		2	1062	2124
Rowhouse 3/1	2			
1 Bed Unit		8	636	5088
3 Bed Unit		8	1566	12528
Totals	6	46		53880

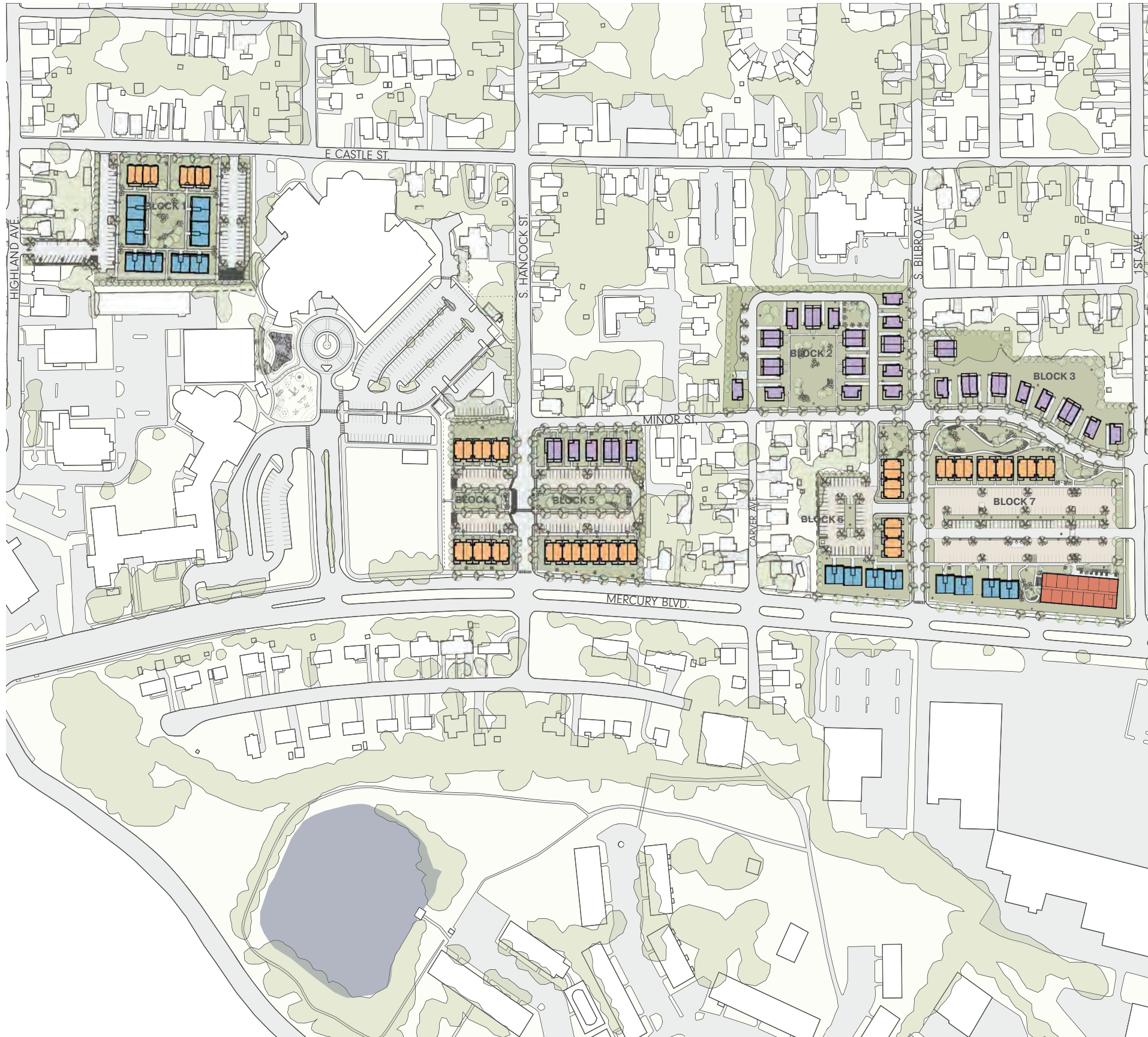
Phase 2 - Mercury				
Buiding Type	No. of Buildings	No. of Units	SQ FT/unit	Total SF
Townhouse 2	8	42	1698	71316
Rowhouse 3/1	4			
1 Bed Unit		16	636	10176
3 Bed Unit		16	1566	25056
Single Family	17	17	930	15810
Duplex	12			
Unit 1		12	1466	17592
Unit 2		12	1466	17592
Commercial	1			34560
Ground Floor		1	11160	11160
Second Floor		1	11700	11700
Third Floor		12	975	11700
Totals	42	127		192102

BUILDING QUANTITIES AND TYPES PER PHASE



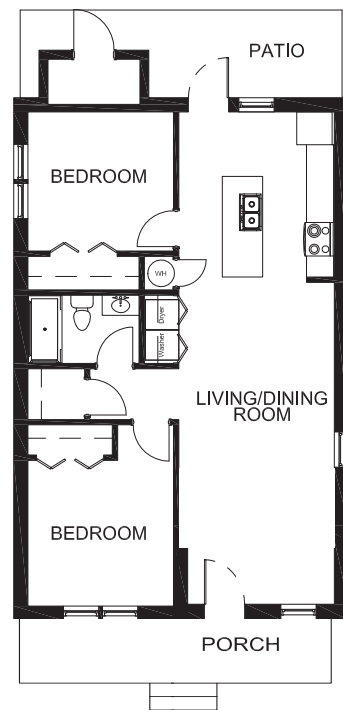
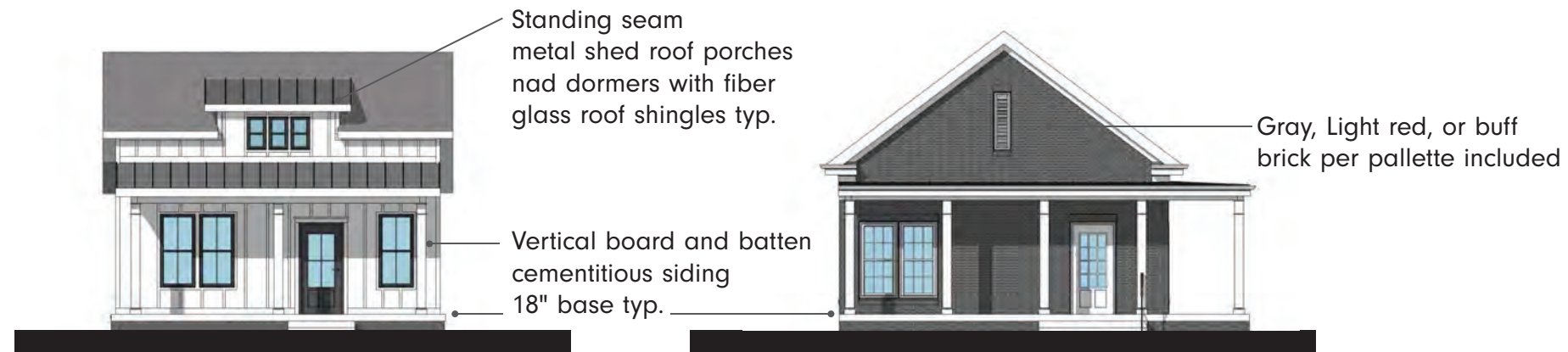
- 1 Bedroom Unit
- 2 Bedroom Unit
- 3 Bedroom Unit
- 4 Bedroom Unit

UNIT TYPE DISTRIBUTION PLAN

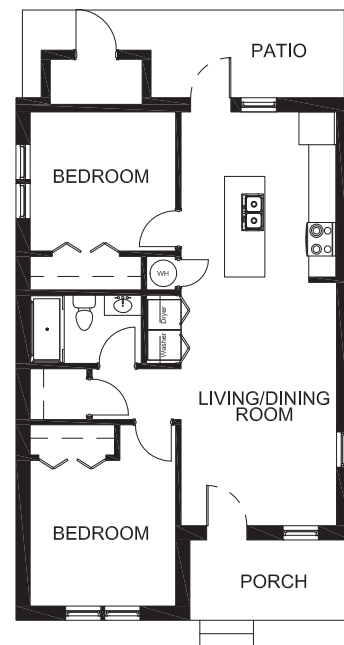


- SINGLE FAMILY/DUPLEX 1 & 2 story single family and duplex homes
- TOWNHOUSE 2-story townhouse for a single family
- ROWHOUSE 3-story multifamily rowhouse (3 levels of 2 BR's or 3 levels - 1 level 2BR and 2 level 3 BR)
- MIXED-USE COMMERCIAL/FLATS 3-story building | 1 BR flats located on 3rd floor | MHA office on 2nd floor | MHA office, clinic, housing lobby on 1st floor

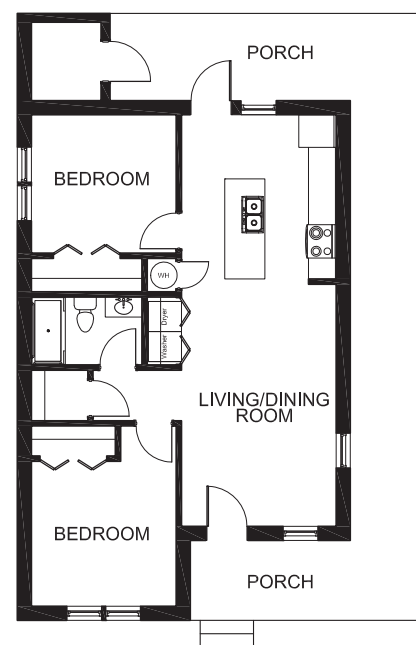
BUILDING TYPES



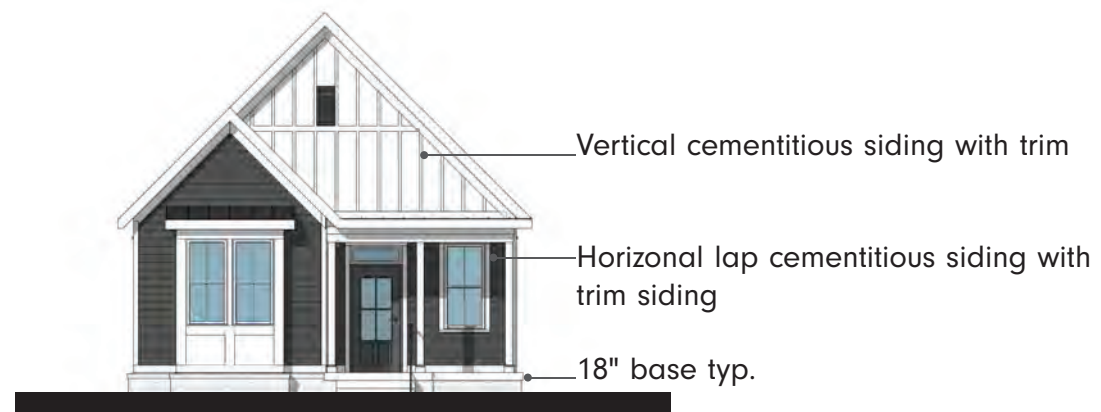
FIRST FLOOR



FIRST FLOOR

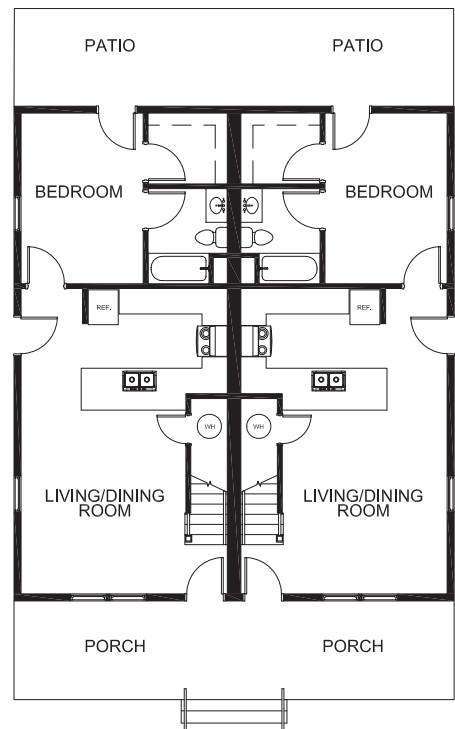
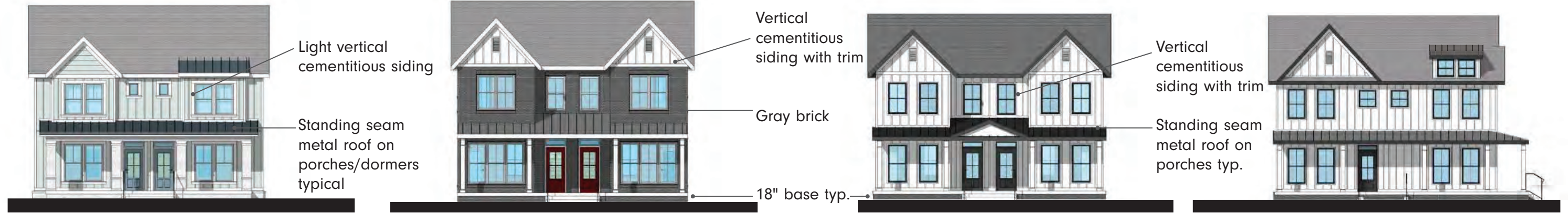


FIRST FLOOR FOR CORNER LOTS

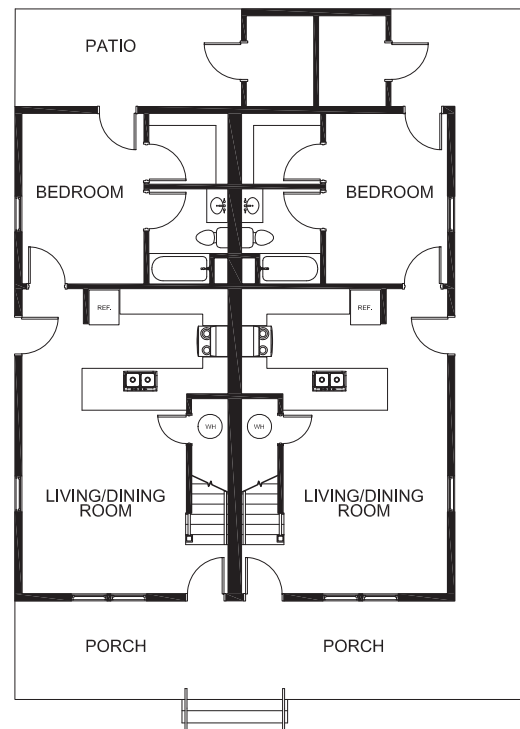


UNIT TYPE | MERCURY - 2 BEDROOM SINGLE FAMILY

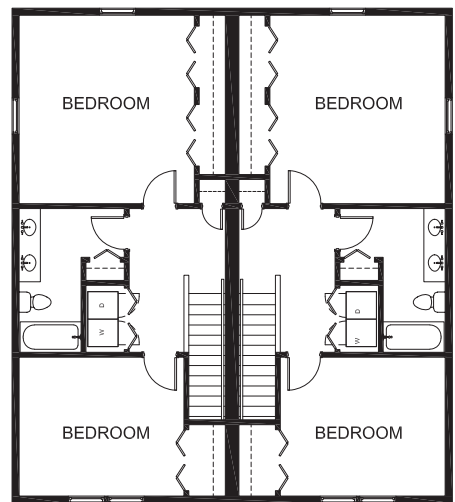
- Single Family
- 2 Bedroom Unit



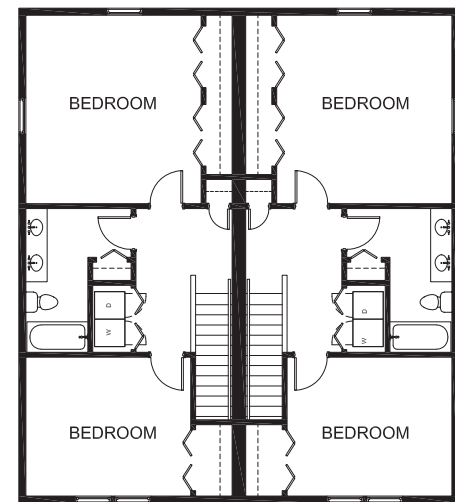
FIRST FLOOR



FIRST FLOOR FOR
CORNER LOTS



SECOND FLOOR



UNIT TYPE | MERCURY - 3 BEDROOM DUPLEX

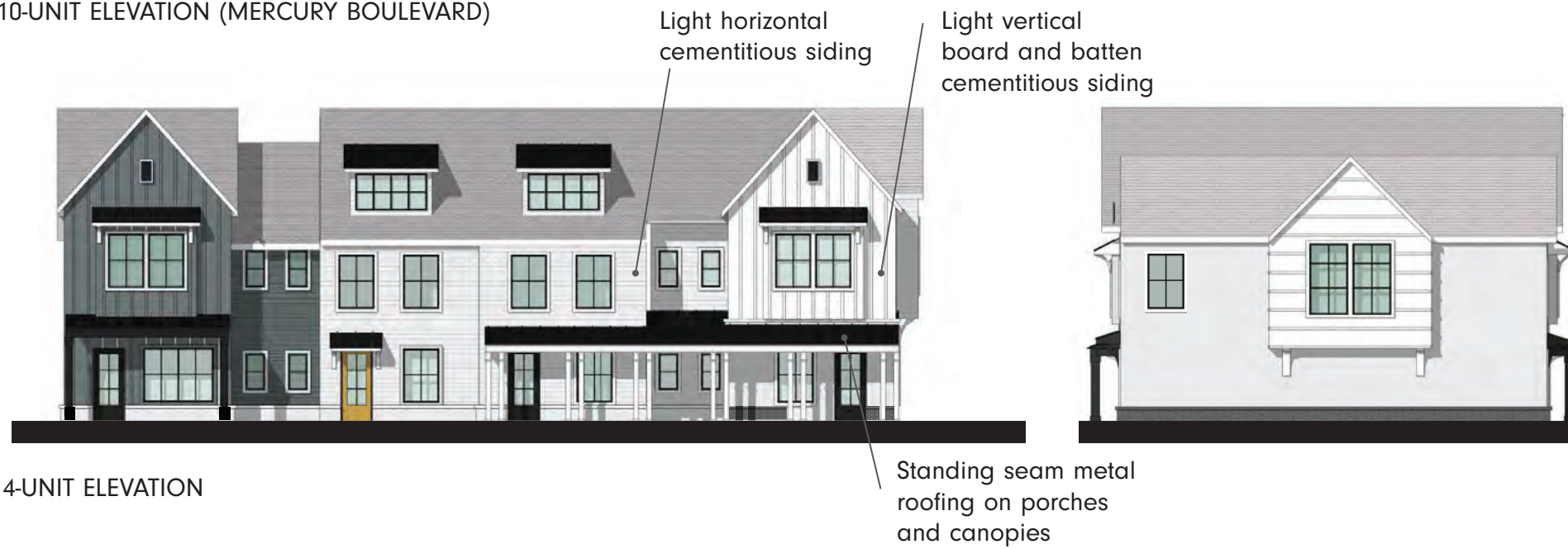
- Duplex
- 3 Bedroom Unit

Light vertical
cementitious siding

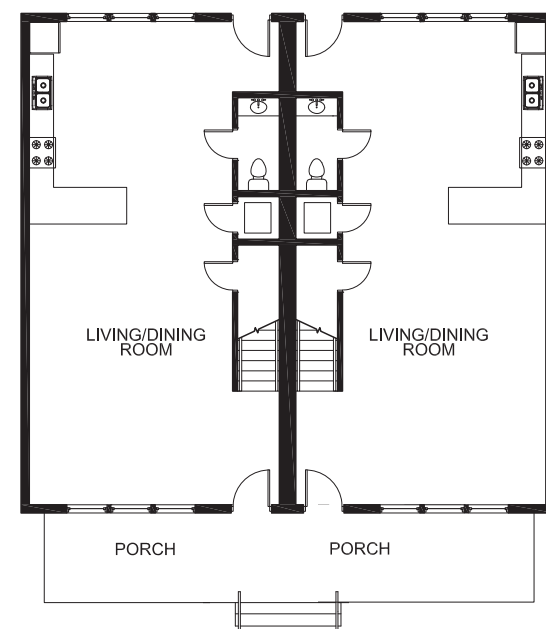
Standing seam
metal roof on
porches/dormers
typical



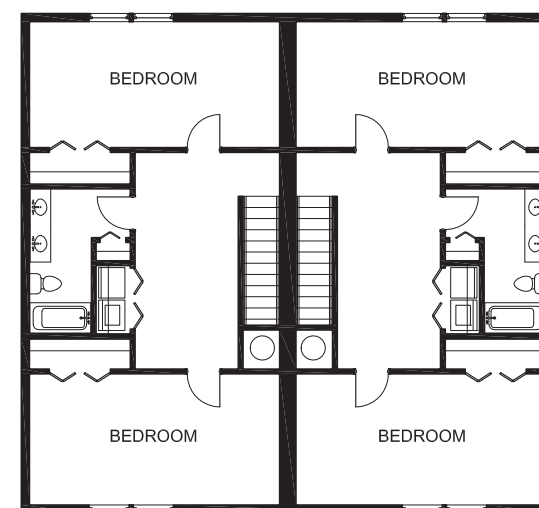
10-UNIT ELEVATION (MERCURY BOULEVARD)



4-UNIT ELEVATION



FIRST FLOOR

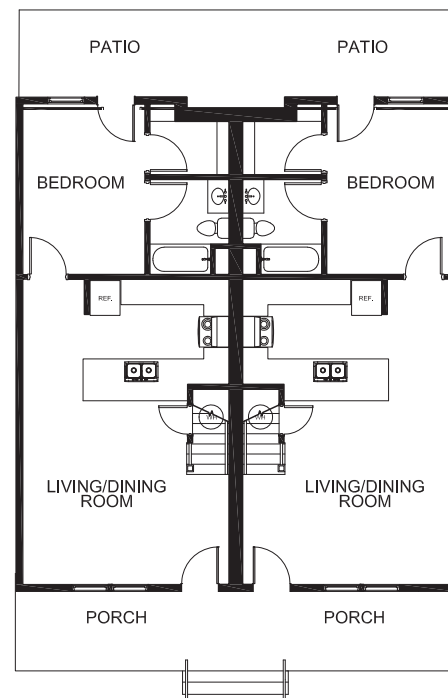


SECOND FLOOR

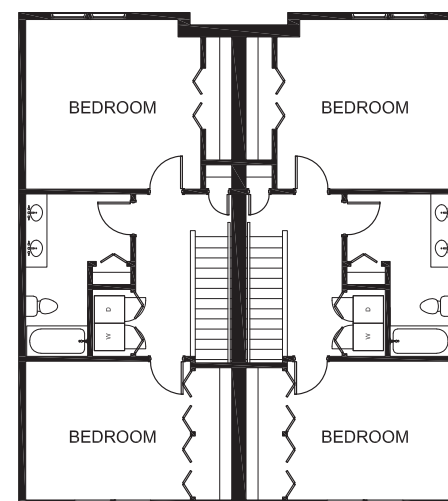
2 BEDROOM TOWNHOUSE - 2 STORY

UNIT TYPE | MERCURY - TOWNHOUSE/2BR

- Townhouse
- 2 Bedroom Unit



FIRST FLOOR



SECOND FLOOR

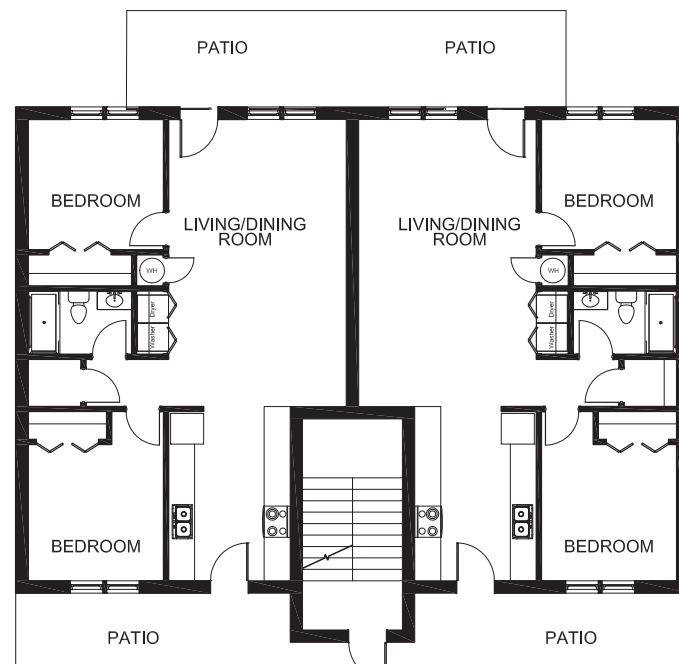


3 BEDROOM TOWNHOUSE - 2 STORY

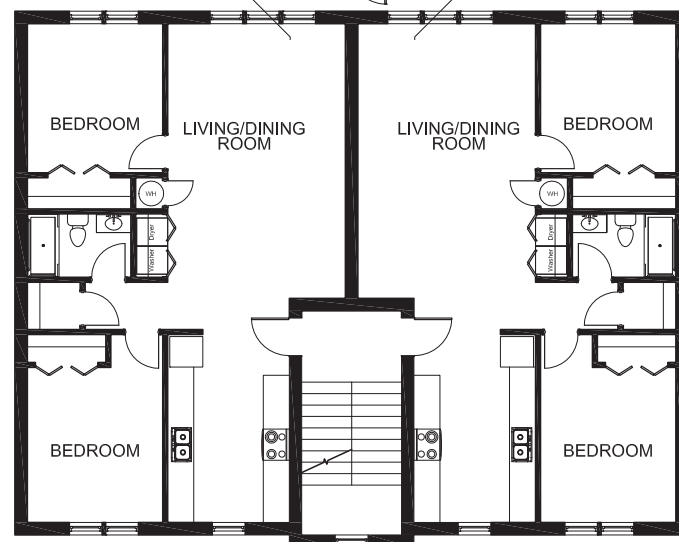
UNIT TYPE | PARKSIDE - TOWNHOUSE/3BR

 Townhouse

 3 Bedroom Unit



FIRST FLOOR



SECOND/THIRD FLOOR



2 BEDROOM ROWHOUSE - STACKED 3 STORIES

UNIT TYPE | PARKSIDE - ROWHOUSE/2BR - 3 STORIES

- Rowhouse
- 2 Bedroom Unit



Fiberglass shingles and metal standing seam roof on porches, dormers and canopies.



Horizontal cementitious siding

Gray brick

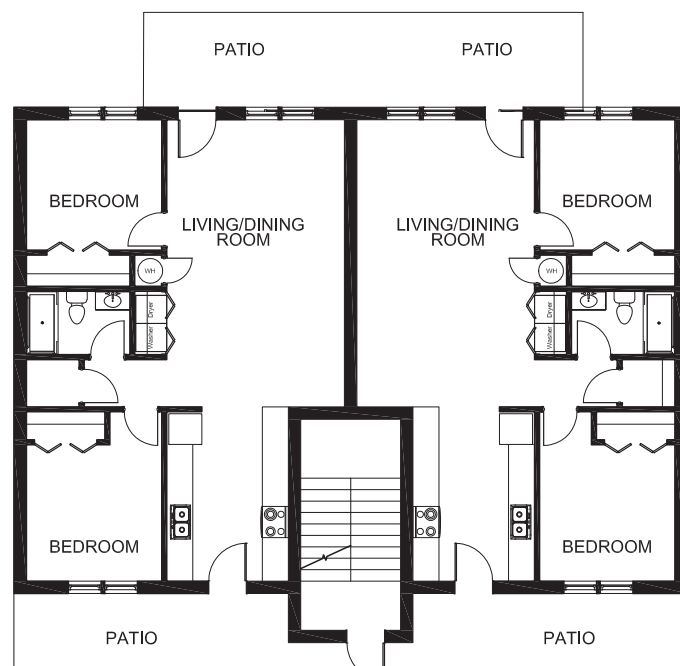
Vertical board and batten cementitious siding



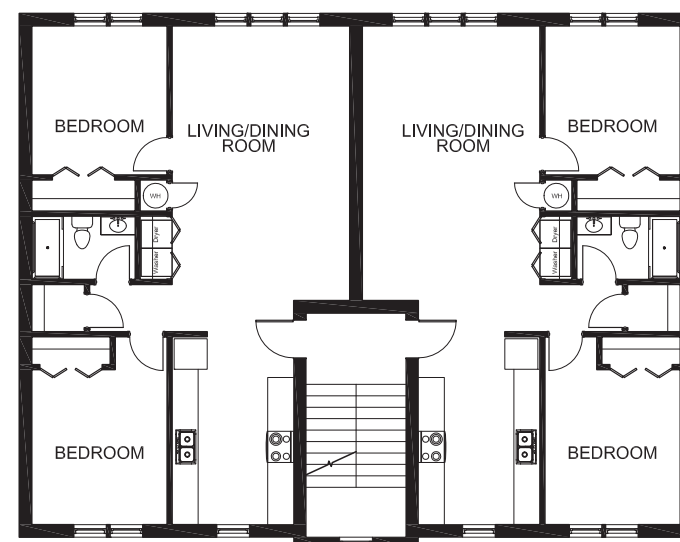
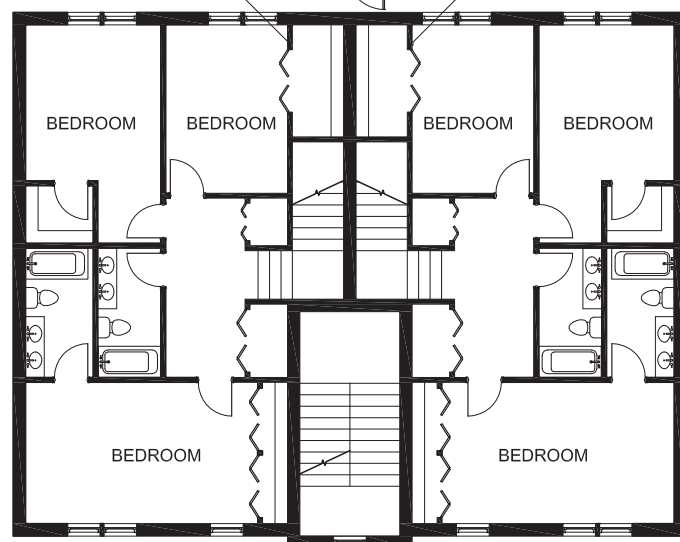
4 BEDROOM ROWHOUSE - 2 STORY WITH A 2BR ABOVE

UNIT TYPE | PARKSIDE - ROWHOUSE / 2 STORY 4 BR WITH 2 BR ABOVE

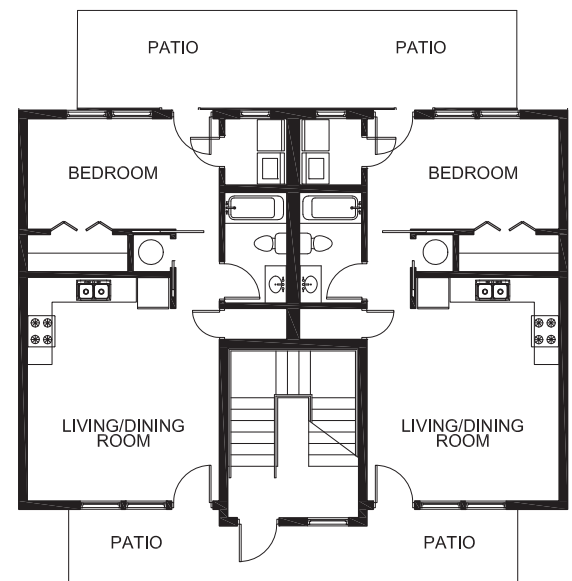
- Rowhouse
- 2 Bedroom Unit
- 4 Bedroom Unit



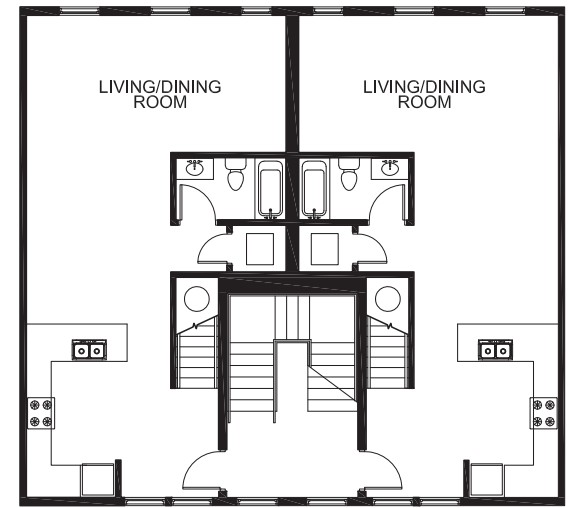
FIRST FLOOR



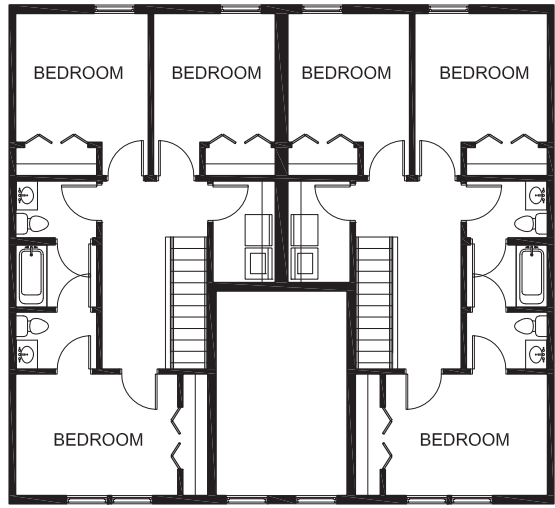
SECOND/THIRD FLOOR



FIRST FLOOR



SECOND FLOOR



THIRD FLOOR



1 BR/1 STORY BELOW 3 BR/2-STORY ROWHOUSE
 UNIT TYPE | PARKSIDE & MERCURY - ROWHOUSE
 / 1 STORY-1 BR BELOW 2 STORY-3 BR

- Rowhouse
- 1 Bedroom Unit
- 3 Bedroom Unit



MIXED-USE COMMERCIAL BUILDING ELEVATIONS RESIDENTIAL 3RD FLOOR 1 BEDROOM UNITS & COMMERCIAL/OFFICE 1ST AND 2ND FLOORS

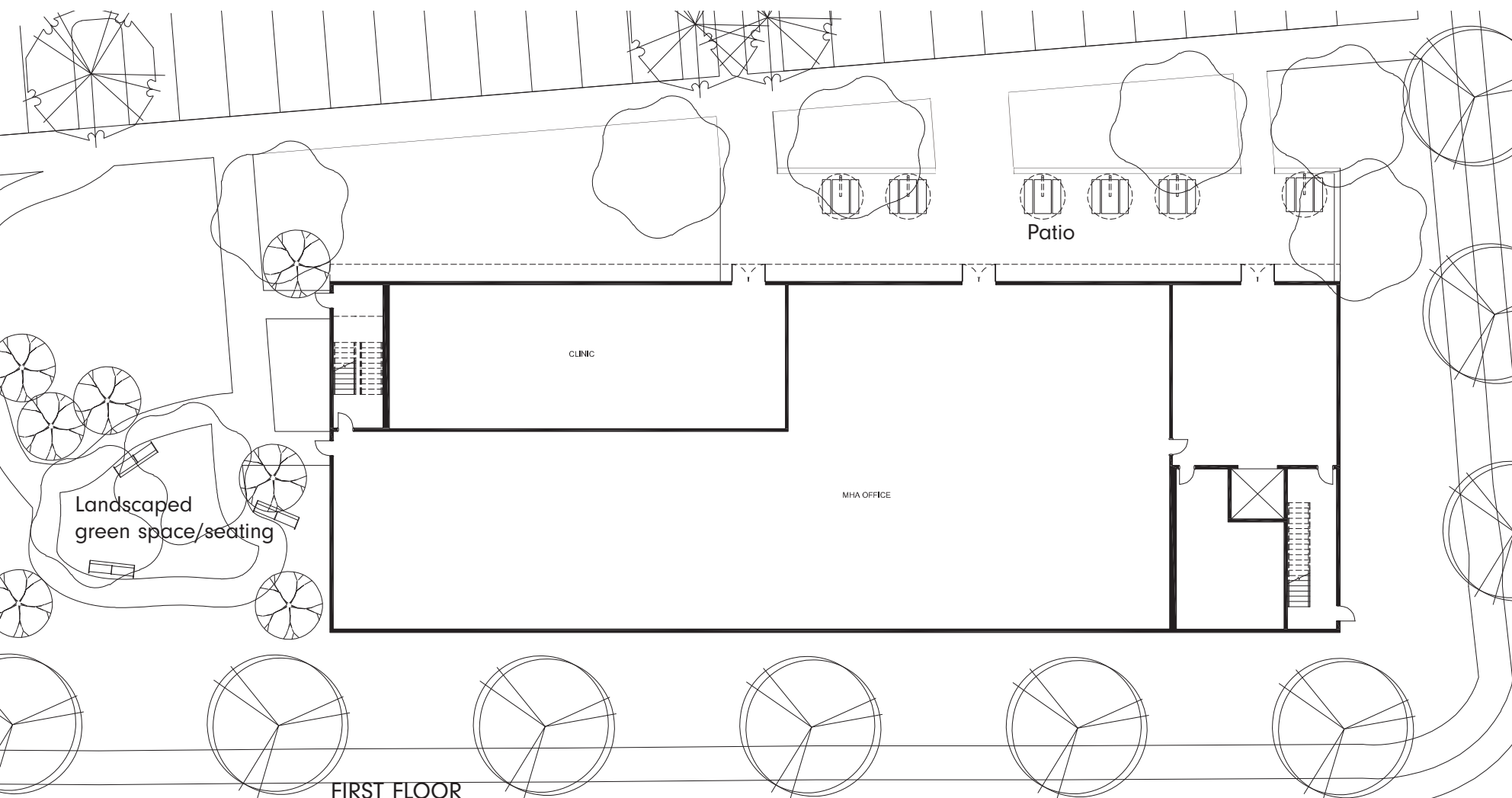
- Commercial/Flats
- 1 Bedroom Unit



THIRD RESIDENTIAL FLOOR



SOUTH ELEVATION VIEW
FROM MERCURY BLVD.



FIRST FLOOR

MIXED-USE COMMERCIAL BUILDING - RESIDENTIAL
3RD FLOOR 1 BEDROOM UNITS & COMMERCIAL/
OFFICE 1ST AND 2ND FLOORS

- Commercial/Flats
- 1 Bedroom Unit

MATERIALS

Site Paving / lighting



Brick



Architectural metal panel and storefront on Mixed-Use building

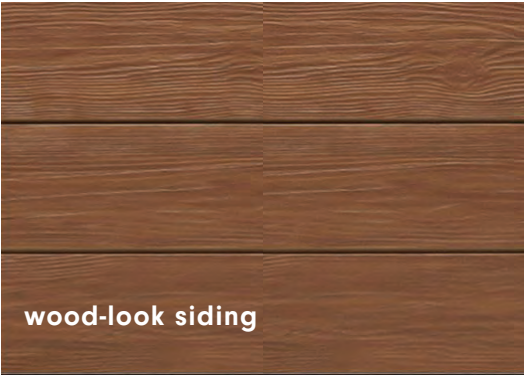
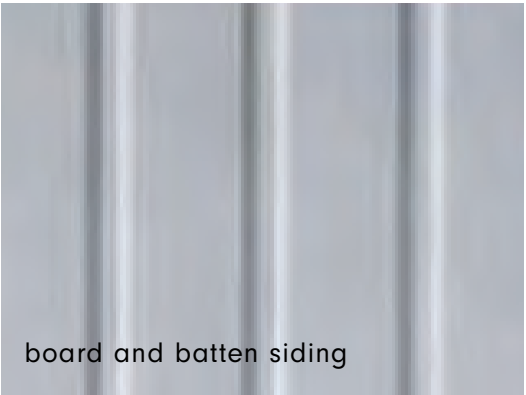
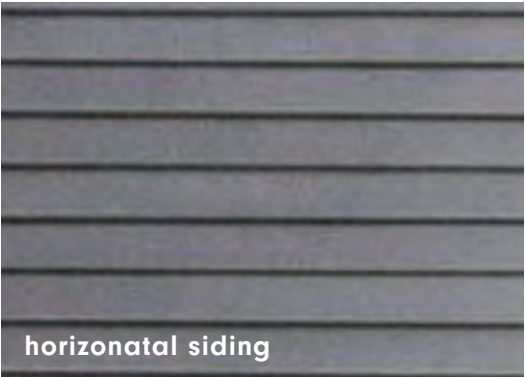
Standing seam metal roof



Black picket rails



FiberCement Siding



Roofing Shingles





PRECEDENT STUDY - EXAMPLE SINGLE FAMILY AND DUPLEX HOUSING



PRECEDENT STUDY - EXAMPLE RESIDENTIAL
TOWNHOUSE AND ROWHOUSE DEVELOPMENTS



PRECEDENT STUDY - EXAMPLE COMMERCIAL / MIXED-USE DEVELOPMENTS

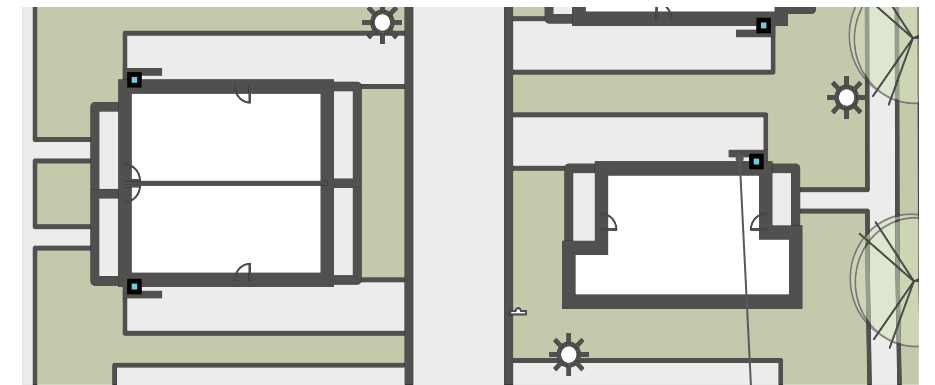


Most multifamily units will have private commercially serviced trash pick up in brick enclosures as noted on enlarged plans,



SOLID WASTE PICK-UP

- Commerical Dumpsters
- Individual Carts



Public trash pick-up at street or alley for each single family or duplex unit

Trash receptacle screening at each unit

1. **"Solid Waste Management.** (1) All developments shall make adequate provision for effective solid waste management. Adequacy of solid waste management systems proposed shall be measured by the following standards: (a) Each single family attached or detached residential owner or occupant shall utilize an automated garbage system refuse container approved by the Solid Waste Department unless otherwise indicated in Chapter 14 of the City Code. A location shall be provided on-site for the refuse container so as to be readily accessible for removal by the City through the automated garbage collection system on the day of collection. A location not visible from the public right-of way shall also be provided for storage of the container. (b) Each unit in two, three, and four family residential units shall utilize an automated garbage system refuse container approved by the Solid Waste Department unless otherwise indicated in Chapter 14 of the City Code. A location shall be provided on-site for the refuse container so as to be readily accessible for removal by the City through the automated garbage collection system on the day of collection. A location not visible from the public right-of-way shall also be provided for storage of the container."

SOLID WASTE PICK-UP





SECTION FIVE \ Planned Development Criteria

AERIAL VIEW - BEFORE/AFTER HANCOCK STREET





AERIAL VIEW - BEFORE/AFTER MERCURY BOULEVARD





E. CASTLE STREET - BEFORE/AFTER PARKSIDE





AERIAL VIEW - BEFORE/AFTER MINOR STREET





AERIAL VIEW - BEFORE/AFTER MINOR STREET LOOKING NORTH





VIEW - BEFORE/AFTER MINOR STREET LOOKING WEST





VIEW - BEFORE/AFTER CORNER OF MERCURY BOULEVARD AND FIRST AVENUE LOOKING NORTH





VIEW - BEFORE/AFTER CORNER OF MERCURY BOULEVARD AND FIRST AVENUE LOOKING SOUTH





PLANNED DEVELOPMENT CRITERIA

General Applicability Per Section 13B – Planned Development Regulations

1.

Ownership and division of land: The site is owned by the Murfreesboro Housing Authority. The parcels are currently zoned RD, RS-8,and RM-16 with City Core Overlay (CCO) District for the City of Murfreesboro. A rezoning to PUD with CCO will be pursued.
2.

Waiver of BZA action: No action of the BZA shall be required for approval of this planned residential district.

ROW Abandonments - Mandatory referrals will be required for the development of Mercury Court because four right-of-ways will need to be abandoned:

1.

Berry Place from First Avenue to South Bilbro Avenue.

2.

Berry Place cul-de-sac west of South Bilbro Avenue.

3.

Burns Court cul-de-sac north of Minor Street.

4.

Essex Court cul-de-sac east of Hancock Street.

Easements for utilities within these right-of-ways may be retained until the final utility design is provided to determine if these utilities should remain or be replaced, relocated, or abandoned. It is worth noting that the alley directly across from Burns Court at Minor Street that heads south to Mercury Boulevard (shown as Stephens Ave. on plat recorded in Deed Book 95, page 215) is not a part of Murfreesboro Housing Authority property and will not be included in any design, changes, or abandonment as part of the Mercury Court development.
3.

Common Open Space: New parklike open space will be provided a) In the center of Parkside off E.Caste Street b) along Minor St. from S. Bilbro Avenue to First Avenue c) along the north side of Minor Street between Carver St. and S. Bilbro Ave. d) as an East-West green space between the parking area tying Patterson Park Complex to a Rover stop to the Stephens Avenue alignment.
4.

Accessibility to site: The property is accessible from Hancock, E. Caste St, S. Bilbro and First Ave.
5.

Off-Street parking: The Parkside site will be provided with 83 off-street parking spaces for the 46 residences planned for Parkside. For Mercury the commercial building is planned with 80 off-street parking spaces. In total, Mercury will be provided with 402 off-street spaces (includes driveways and visitor spots.)
6.

Pedestrian Circulation: Sidewalks with street trees are planned along all streets with accessible cross walks at all intersections. A meandering paved walking trail will also be provided in the Minor Street Park.
7.

Privacy and screening: The existing wooded tree lines along the edges of the properties will remain in place.
8.

Zoning and subdivision modifications proposed are bulleted below. The property owner is requesting:

A. The property be rezoned from the current RD, RS-8 and RM-16 zoning with CCO to a PUD planned unit district zone with CCO remaining in place.

B. A reduction in the required parking spaces for Parkside is also requested due to the current use and need of the MHA residents as explained within on page 51.

C. A 20' private road/alley south of Minor St. and at ingress into Block 6 from S. Bilbro is requested due to the limited width and use.

D. 20' Private street/alley for ingress and egress into the loop street off the north side of Minor St. into Block 2.

E. CCO front/side/rear setbacks to be 10' throughout minimum to the facade features (10' minimum spacing between residential buildings on the same lot/parcel).

F. No exceptions from Landscaping buffering requirements are requested.

G. Potential 5' front setback for townhomes along west side of S. Hancock St. from the Right of Way should a Mandatory Referral not be approved reducing the street ROW from 60'to 50'.

9.

Phasing: The project will be completed in 2 or more phases. 46 residences in Phase 1 will be the replacement of the units at Parkside off E. Castle St. and Phase 2 will include 127 homes for Mercury and 23,400 square foot commercial/mixed-use building containing 3rd floor housing.

10.

Annexation: Annexation is not included or necessary in this zoning request.
11.

Landscaping; Landscape screening will be limited only to areas as generally designated on the Landscape Plan. The existing tree lines on the edges of the property lines will be maintained and supplemented with minimum 8' wide landscape yard with a contiguous row of shrubs 24" minimum height at planting as illustrated on the Landscape Plan pages 54-55.

12.

Major Thoroughfare Plan: The PUD is consistent with the Major Thoroughfare Plan. Additionally a future signal is planned for First Avenue at Mercury Blvd. which will need to have additional ROW dedicated and constructed along the project site to accommodate 3 outbound and 1 inbound travel lanes and landscape + sidewalk with 45 degree chord next to intersection for signal pole and signal equipment. Additionally the ROW will be confirmed along Minor Street to meet City standard.

13.

Applicant contact information: Contact information is located on sheet 1.

14.

Proposed Signage: It is suggested that the property does not have a sign representing the development as it is being designed to fit into the existing neighborhood and not stand alone. Signage can be provided for the commercial building and the businesses at a later time.
- ## Section 13 – Project Development Criteria Requirements
1.

Identification of existing utilities: Shown in Pattern Book page 18.

2.&3.

Graphics. Renderings, maps and or aerial photography showing existing conditions or natural features of the site:" Shown on the following pages: 13-35.

4.&5.

Drawing and/or diagrams identifying areas of development, proposed building, screening, proposed landscaping and pedestrian and vehicular circulation: Enlarged Block by Block conceptual site plans are shown on the following pages: 44-50.

6.

Development Schedule: Phase 1 is projected to be complete with construction at the end of 2023 and Phase 2 is projected to commence after that and has not been confirmed yet.

7.

Relationship of the planned development to current city policies and plan: The development is consistent with the growth of the city and contributes to the solution of providing more affordable housing which was identified in the 2035 Plan for Murfreesboro.

8.

Proposed deviation from zoning and subdivision ordinance: See #8 in first column of this page.

9.

Site tabulation for land area, FAR, LSR, and OSR: NA as Planned Unit District
- | Land Requirements Table | | | | |
|-------------------------------|--|--|---|---|
| Site | CCO | RM-16 | Parkside requested | Mercury requested |
| | | | New 46-unit townhouse/apartment housing | New apartment, townhome, rowhouse, single family and duplex housing consisting of 127 units including mixed-use office building |
| Use | | | | |
| Zoning | | | PUD | PUD |
| Total Units | | | 46 | 127 |
| Total Land Area | | | +/- 119,626sf = 2.75 Acre | +/-649,927sf = 14.92 Acre |
| Total Units/Acre | | 16 unit/acre Max | 16.73 | 8.51 |
| Gross Floor Area (Floor Area) | | | +/- 53,880sf | +/-192,102sf |
| Building Footprint | | | +/- 21,887sf | +/- 95,287sf |
| Open Space (SF/%) | 20% Min | 20% Min | 52,781sf / 119,626sf = .44 = 44% | 234,429sf / 649,927sf = .36 = 36% |
| Formal Open Space | 5% Min of Site | 5% Min of Site | Center Green = 10, 025sf = 8.3% | Parks and Hardscape = 50,561sf = 7.7% |
| Floor Area Ratio (FAR) | Per underlying zoning | No Max | 0.45 | 0.30 |
| Livability Space Ratio (LSR) | Per underlying zoning | None | NA | NA |
| Open Space Ratio (OSR) | | None - Single Family & Duplex
20% - Multi-Family | Open Space/Floor Area=
52,781sf/53,880sf = .98 | Open Space/Floor Area=
234,429sf/192,102sf = 1.22 |
| Lot Coverage% | 100% non-residential; 50% residential | 35% - single family & Duplex
None - multi-family | 21,887sf / 119,626sf = .183 = 18.3% | 95,287sf / 649,927sf = .147 = 14.7% |
| Front Setback | Block Avg. < 30' max, but average of block face | 30' | 28' | Varies - 10' min,* |
| Side Setback | Per underlying zoning | 5' - Single Family
10' - Multi-Family 1 story
20' - Multi-Family 2 story
25' - Multi-family 3 story | 75' | Varies - 10' min,* |
| Rear Setback | Per underlying zoning | 25' | 30' | Varies - 10' min,* |
| Max Height | 50% higher than adjacent | 45' | 45' | 45' |
| Parking | 2 space/Single family with 2 or more BR's; 1 space per multifamily bedroom; Commercial | | 83 | 366 |
- * Except for those facing Mercury have 20' setback from Mercury ROW, and corner lots must meet visibility triangles. Those facing S. Hancock have a 5' front setback from existing S. Hancock Street ROW.
- 112
- PLANNED UNIT DISTRICT | PROPOSED DEVELOPMENT

ORDINANCE 21-OZ-28 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 17.48 acres located located north of Doctor Martin Luther King Jr. Boulevard, south of East Castle Street, east of South Highland Avenue, and west of First Avenue from Residential Multi-Family Sixteen (RM-16) District, Duplex Residential (R-D) District, Single-Family Residential Eight (RS-8) District and City Core Overlay (CCO) District to Planned Unit Development (PUD) District and City Core Overlay (CCO) District; Murfreesboro Housing Authority, applicant [2021-414].

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to rezone the territory indicated on the attached map.

SECTION 2. That, from and after the effective date hereof, the areas depicted on the attached map shall be zoned and approved as Planned Unit Development (PUD) and City Core Overlay (CCO) District, as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said areas of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the areas.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

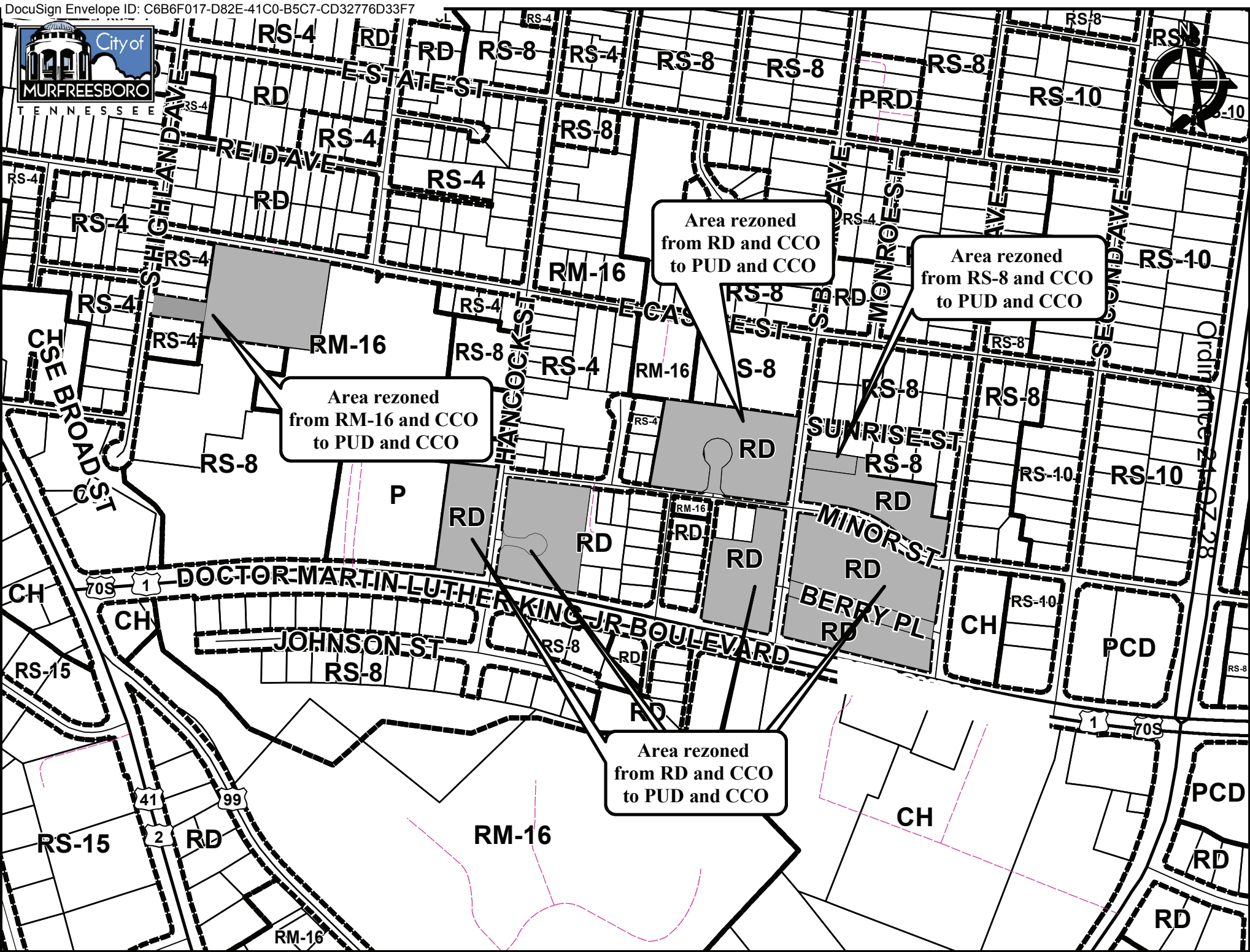
Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
43A2035E51F9401...

Adam F. Tucker
City Attorney

SEAL



COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Planning Commission Recommendations

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input checked="" type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Scheduling matters previously heard by the Planning Commission for public hearings before Council.

Staff Recommendation

Schedule public hearings for items "a" thru "h" below on December 2, 2021. Schedule public hearing for item "i" on December 16, 2021.

Background Information

During its regular meeting on September 1, 2021, the Planning Commission conducted public hearings on the items listed below. After the public hearings, the Planning Commission discussed the matters and then voted to recommend their approval.

- a.** Zoning application [2021-418] for approximately 8.4 acres located along Bridge Avenue to be rezoned from RS-10 to CF and approximately 1 acre to be rezoned from H-I to CF, City Church applicant. (Project Planner: Holly Smyth)
- b.** Annexation petition and plan of services [2021-507] for approximately 15.6 acres located north of DeJarnette Lane, Calvary Baptist Church applicant. (Project Planner: Holly Smyth)
- c.** Zoning application [2021-420] for approximately 9.5 acres located north of DeJarnette Lane to be rezoned from RS-15 to PND (Providence Christian Academy Athletic Facility PND) and approximately 9.5 acres to be zoned PND simultaneous with annexation, Providence Christian Academy applicant. (Project Planner: Holly Smyth)
- d.** Annexation petition and plan of services [2021-508] for approximately 2.4 acres located south of South Rutherford Boulevard, James Allen Huskey applicant. (Project Planner: Holly Smyth)
- e.** Zoning application [2021-421] for approximately 2.4 acres located south of South Rutherford Boulevard to be zoned H-I simultaneous with annexation, James Allen Huskey applicant. (Project Planner: Holly Smyth)

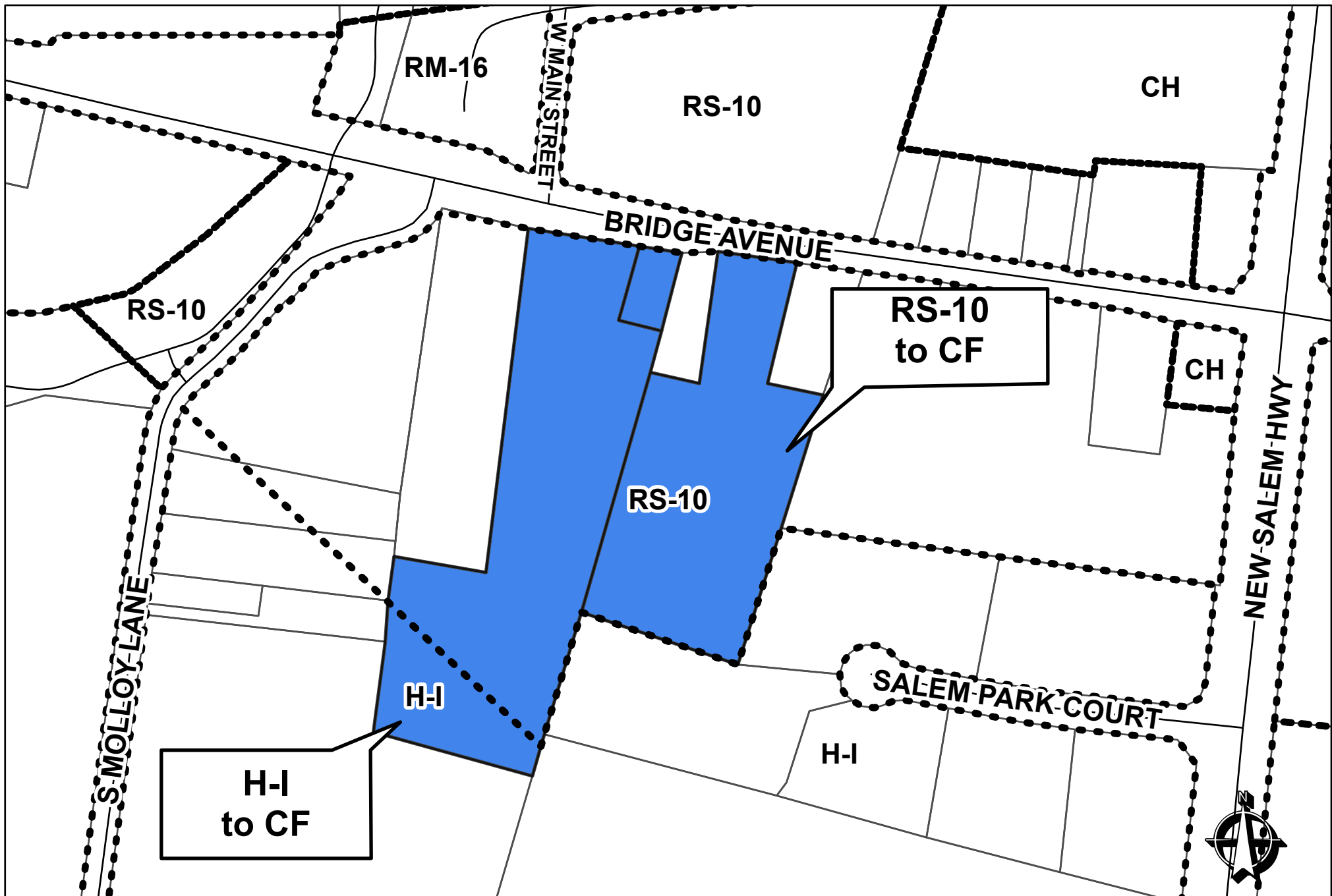
- f. Zoning application [2021-419] for approximately 29.1 acres located along Franklin Road to be rezoned from RS-12 and RS-15 to RS-8 and approximately 4.5 acres to be rezoned from RS-15 to CF, Lennar Homes of Tennessee, LLC developer. (Project Planner Marina Rush).
- g. Annexation petition and plan of services [2021-509] for the following rights-of-way (ROW):
 - Approximately 85 linear feet of Parkwood Drive ROW;
 - Approximately 140 linear feet of Woodcrest Drive ROW; and
 - Approximately 100 linear feet of Westridge Drive ROW
 Rutherford County Engineering Dept. applicant. (Project Planner: Marina Rush).
- h. Proposed amendment to the Zoning Ordinance [2021-801] pertaining to Section 13: Planned Development Regulations and Section 24: Overlay District Regulations, Article VI. CCO, City Core Overlay District, City of Murfreesboro Planning Department applicant. (Project Planner: Holly Smyth)
- i. Annexation petition and plan of services [2021-510] for approximately 123 acres located along Veals Road and Double Springs Road, and rights-of-way of approximately 2,400 linear feet of Veals Road and 2,430 linear feet of Double Springs Road, Hall Family Real Estate Partnership applicant. (Project Planner: Marina Rush).

Fiscal Impact

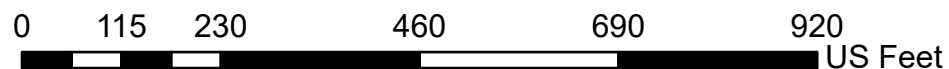
Advertising expense for notice publication in the newspaper, which is unknown at this time, is provided for in the Department Operating Budget.

Attachments:

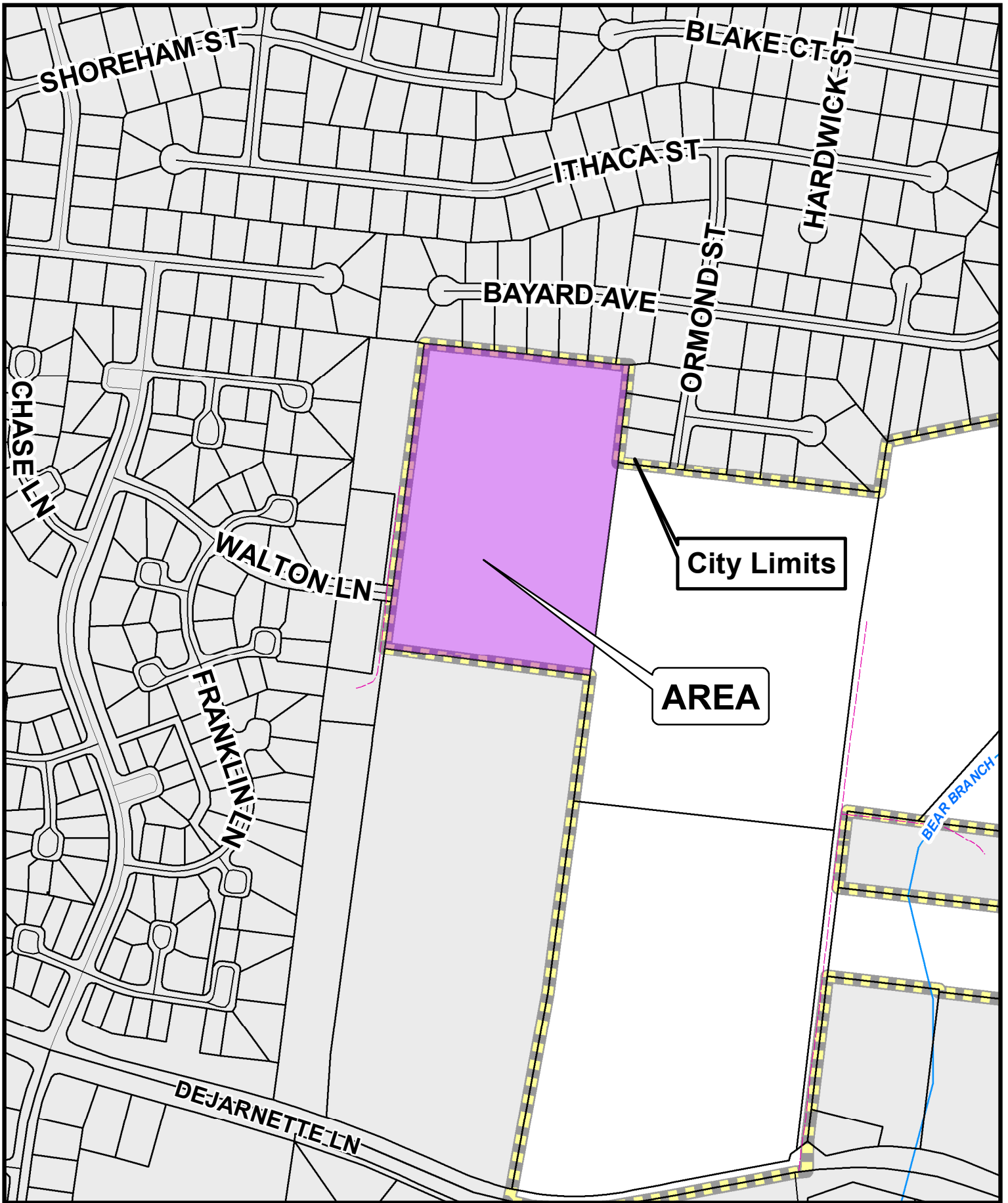
1. Map for zoning application for approx. 9.4 acres located along Bridge Avenue
2. Map for annexation petition for approx. 15.6 acres located north of Dejarnette Lane
3. Map for zoning application for approx. 19 acres located north of Dejarnette Lane
4. Map for annexation petition for approx. 2.4 acres located south of South Rutherford Boulevard
5. Map for zoning application for approx. 2.4 acres located south of South Rutherford Boulevard
6. Map for zoning application for approx. 33.6 acres located along Franklin Road
7. Map for annexation petition of ROW of Parkwood Drive, Woodcrest Drive, and Westridge Drive
8. Map for annexation petition for approx. 123 acres located along Veals Road



Rezoning Request for Property along Bridge Avenue
H-I and RS-10 to CF



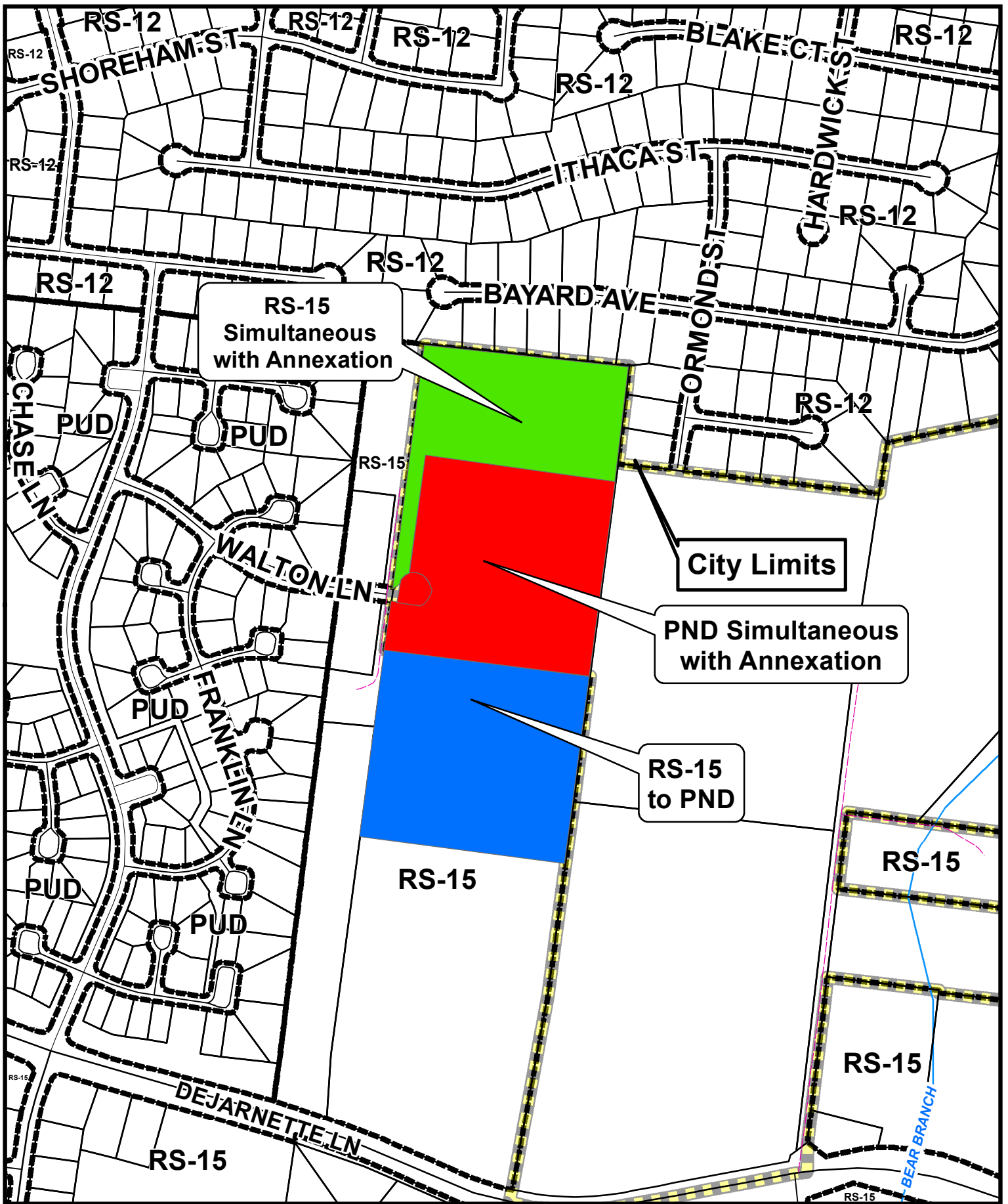
Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov



Annexation Request for Property along Walton Lane

Planning Department
City of Murfreesboro
111 W. Vine St.

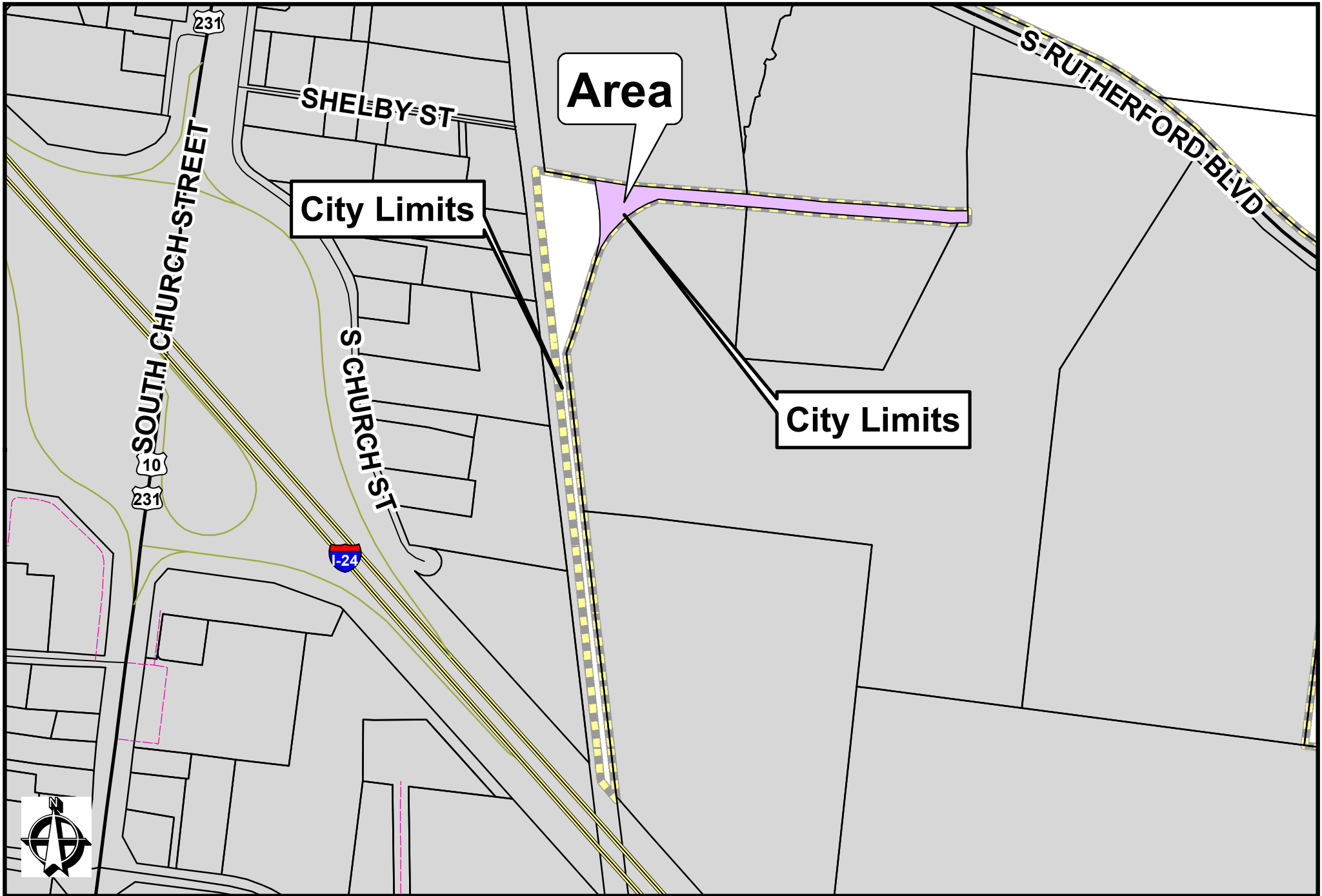




**Zoning Request for Property along Walton Lane RS-15 to PND
and PND Simultaneous with Annexation (PCA Athletic Facilities PND)**

Planning Department
City of Murfreesboro
111 W. Vine St.



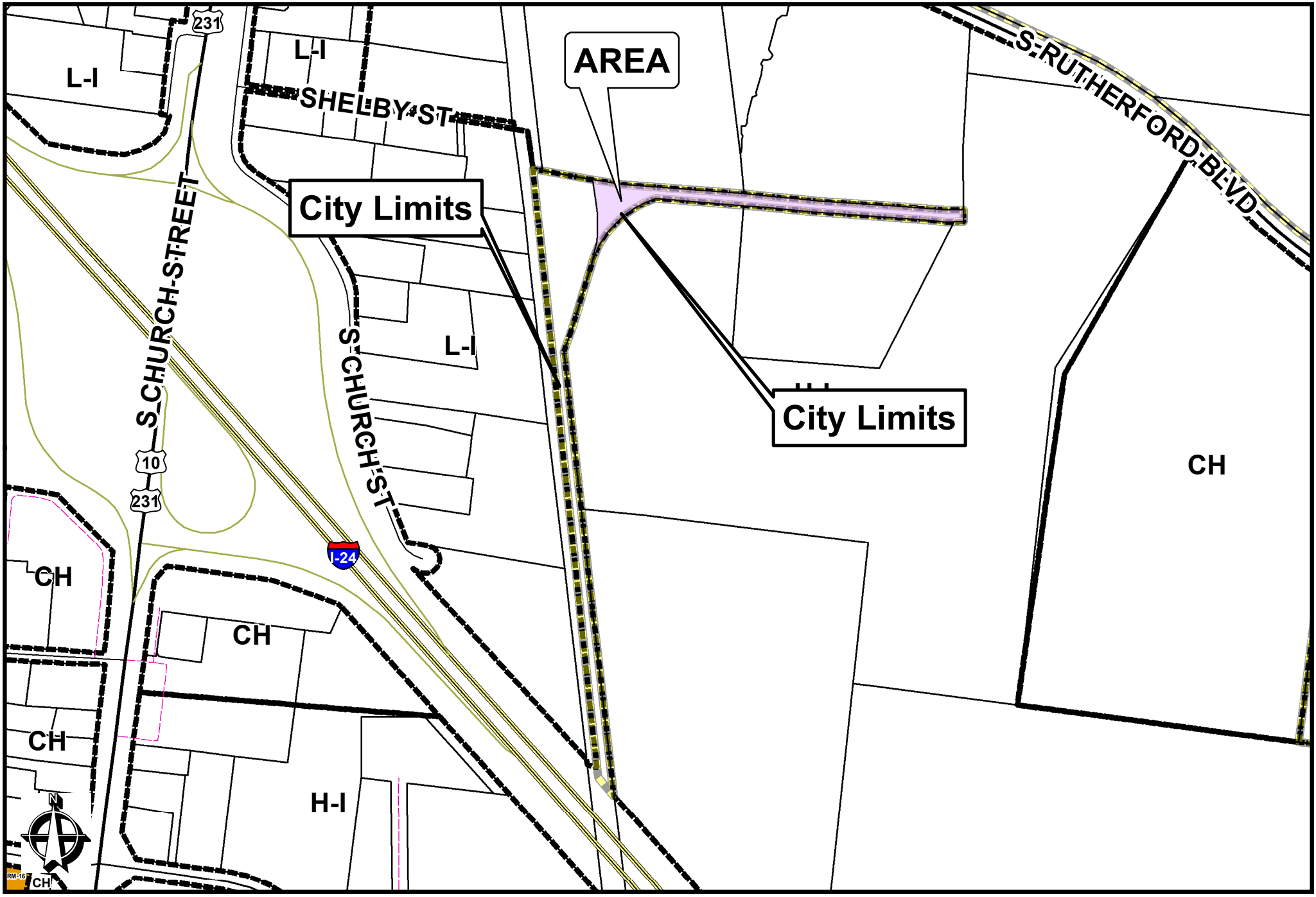


Annexation Request for Property along South Rutherford Boulevard

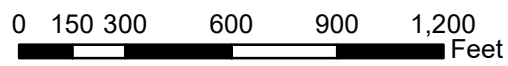
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Feet



Planning Department
City of Murfreesboro
111 W. Vine St.
Murfreesboro, TN 37130
www.murfreesborotn.gov



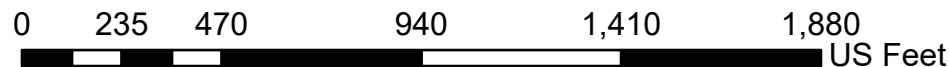
Zoning Request for Property along South Rutherford Boulevard H-I Simultaneous with Annexation



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Murfreesboro, TN 37130
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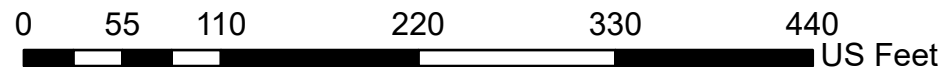
Rezoning Request for Property along Franklin Road RS-12 to RS-8, RS-15 to RS-8, and RS-15 to CF



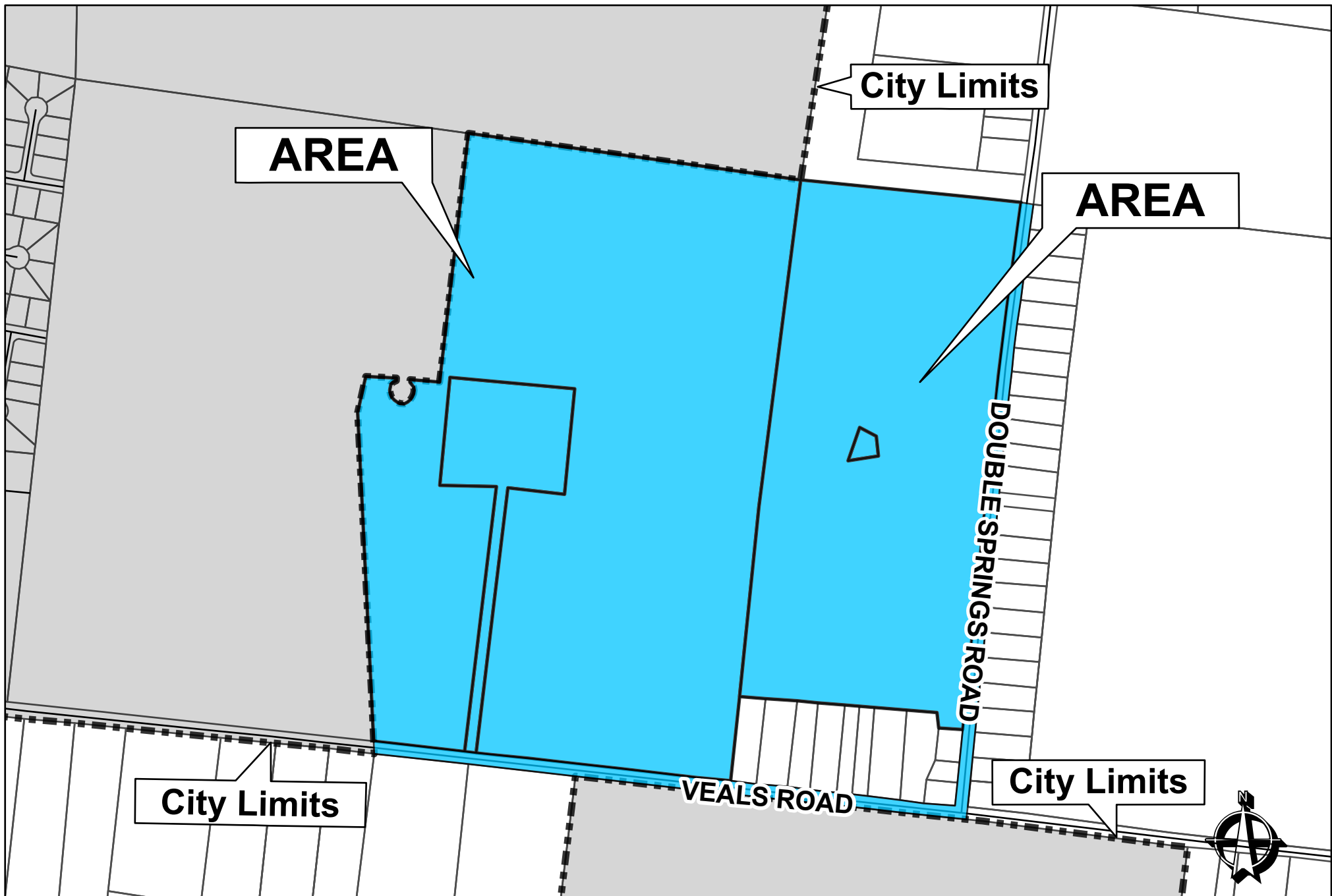
Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov



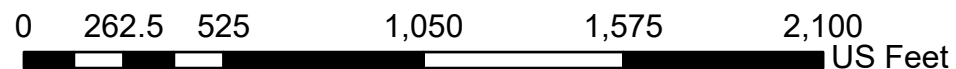
Annexation Request for
Westridge Drive, Woodcrest Drive, and Parkwood Drive ROW



Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov



Annexation Request for Property
along Veals Road and Double Springs Road



Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Reimbursement Resolution - Fire Administration Building Expenses

Department: Administration

Presented by: Ron Duggin

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input checked="" type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Reimbursement Resolution for Fire Administration building expenses

Staff Recommendation

Approval of Resolution 21-R-33 authorizing reimbursement of expenses related to the Fire Rescue Administrative building from future bond or loan proceeds.

Background Information

City Council approved the FY22 CIP at the September 15, 2021 Council workshop. The CIP included \$500,000 for design and engineering of the Fire Rescue Administration building to be located at the Doug Young Public Safety Training Facility site. The City intends to issue bonds or a loan in early 2022. In order to begin the design and engineering process, a reimbursement resolution should be approved before costs are incurred on this project so that General Fund can be reimbursed from the future debt proceeds.

Council Priorities Served

Responsible budgeting

Maintain public safety

The approval of Resolution 21-R-33 allows the project to move forward with reimbursement to General Fund from future debt proceeds.

Fiscal Impact

Funding for this expenditure is included in the FY22 CIP.

Attachments

Resolution 21-R-33

RESOLUTION 21-R-33 expressing official intent that certain expenditures to be incurred in connection with certain public works projects, and related expenditures for the design and engineering of a new Fire Administration Building at 701 Bridge Avenue before the City borrows for the FY22 CIP be reimbursed from proceeds of notes, bonds, or other indebtedness to be issued or incurred by the City of Murfreesboro, Tennessee.

WHEREAS, the City of Murfreesboro, Tennessee (“City”), is in the process of causing certain capital expenditures to be made with respect to certain public works projects, including specifically the design and engineering of a new Fire Administration Building at 701 Bridge Avenue, such purchase hereinafter referred to as the “Project”; and,

WHEREAS, the Murfreesboro City Council of the City wishes to declare its official intent that certain of the expenditures related to the Project and certain other related expenditures be reimbursed out of notes, bonds, or other indebtedness to be issued or incurred in the future by the Municipality.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. The Murfreesboro City Council hereby finds and determines as follows:

(a) that it is in the best interest of the City to proceed immediately with the Project, thereby incurring certain capital expenditures;

(b) that the City has certain funds available which may be used temporarily for this purpose, pending the issuance of bonds, notes, or other indebtedness of the Municipality;

(c) that the City Council anticipates that the City will issue its bonds, notes, or other indebtedness for the purpose of financing the Project;

(d) that the City Council reasonably expects to reimburse such amounts to such fund or source from which the expenditures may be made on a temporary basis as soon as proceeds from issuance of such bonds, notes, or other indebtedness are available; and,

(e) that this declaration of official intent is consistent with the budgetary and financial circumstances of the Municipality.

SECTION 2. The City Council of the City hereby establishes its official intent to issue bonds, notes, or other indebtedness to finance the costs of the Project and other related expenditures in an amount not to exceed Five Hundred Thousand and NO/100 Dollars (\$500,000). Pending the issuance of such bonds, notes, or other indebtedness, funds necessary to finance such costs shall be advanced from such sources of funds on hand and available for such purpose, and any amounts so

advanced shall be reimbursed from the proceeds of the tax-exempt bonds, notes, or other indebtedness when issued or incurred.

SECTION 3. The City will comply with the applicable state or local law governing the public availability of records relating to its official acts with respect to this Resolution.

SECTION 4. All actions of the officers, agents, and employees of the City that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed, and adopted.

SECTION 5. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and the welfare of the City requiring it.

Passed: _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker

43A2035E51E9401
Adam F. Tucker
City Attorney

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Contract for City Hall Parking Garage Sprinkler Renovation and Reimbursement Resolution

Department: Administration

Presented by: Ron Duggin, Director of Project Development

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input checked="" type="checkbox"/>
Motion	<input type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Reimbursement Resolution for City Hall Parking Garage Sprinkler Renovation Project.

Staff Recommendation

Approve contract with Rice Construction and Resolution 21-R-35 authorizing reimbursement of expenses for City Hall Parking Garage Sprinkler Renovation.

Background Information

City Hall Parking garage sprinkler piping is the original installed during construction of City Hall in 1992. It is currently in need of renovation. Rice Construction presented on only bid on the project for \$365,945. Rice Construction is a responsible bidder and staff believes the bid to be reasonable for the project scope.

The County is contractually required to reimburse the City 31.5% of the project cost, which is approximately \$115,273. The Reimbursement Resolution will allow for reimbursement of costs to General Fund from future debt proceeds.

Council Priorities Served

Responsible budgeting

Maintaining City facilities is necessary to protect the City's most substantial capital investments and avoid budgeting funds undue repairs and replacement at higher cost and potential loss of functionality.

Fiscal Impact

Funding for this expenditure, \$365,945, will be provided by the FY22 CIP budget, of which approximately \$115,273 will be reimbursed by the County.

Attachments

1. Contract with Rice Construction
2. Resolution 21-R-35

**CONSTRUCTION CONTRACT
BETWEEN
THE CITY OF MURFREESBORO
AND
RICE CONSTRUCTION CO. LLC
FOR
CITY HALL PARKING GARAGE SPRINKLER SYSTEM RENOVATION**

This Construction Contract is entered into as of _____ (the "Effective Date"), by and between the City of **MURFREESBORO**, a Tennessee municipal corporation (the "City") and **RICE CONSTRUCTION CO. LLC**, a limited liability corporation of the State of Tennessee ("Contractor").

- A. The project for which Contractor is providing the materials, labor, and services (the "Work") is described as follows (the "Project"):

CITY HALL PARKING GARAGE SPRINKLER SYSTEM RENOVATION

- B. The following constitute the contract documents for the Project (the "Contract Documents"):

- (1) This Contract
- (2) Exhibit A - Supplemental Conditions
- (3) Exhibit B – Insurance Requirements
- (4) Non-Collusion Affidavit
- (5) Drug Free Workplace Affidavit
- (6) Performance bond
- (7) Payment bond
- (8) Specifications as listed in **"ITB-11-2022 – City Hall Sprinkler System Renovation"**

Agreement

- 1. Duties and Responsibilities of Contractor.** In addition to the duties and responsibilities set forth in the above referenced documents, the Contractor will:
- a. Remove and replace existing dry sprinkler mains 2.5" and larger on dry systems with schedule 40 galvanized sprinkler pipe; replace all couplings with standard non-galvanized couplings.
 - b. Reconnect all sprinkler lines after mains are replaced; test each system at 200 psi for 2 hours upon completion.
 - c. Verify proper pitch of pipe upon re-installation per NFPA 13, provide and/or replace drum drips if required.
 - d. Each system shall be shut down during the replacement process and brought back up once that system is replaced. Removal and replacement of system shall be done one zone at a time to ensure the rest of the system is still operable.
 - e. Clean Up: All trash and excess materials (piping and other debris) will be removed from site.
 - f. Provide post-construction warranty and repair as needed for a period of one year upon completion of the Work. Any required repairs during this warranty period will be further warrantied for a period of one year with the exception of warranties provided by manufacturer of equipment, all of which must be transferred to the City upon completion of the Work.
 - g. Provide all supervision, supplies, labor, transportation and equipment reasonably required for the proper execution of the Work and Contractor is solely responsible for all construction means, methods, techniques, sequences, and procedures, including properly coordinating all portion of the Work. Contractor responsible for all required permits.

- h. Maintain sole responsibility for the safety of Contractor personnel, all subcontractors and materialmen, and all other persons within the worksite and in the immediate vicinity of the worksite that is affected by any Work. Establishment and execution of a comprehensive personnel safety program appropriate for the type of work involved with the various Work assignments as may be required by the appropriate local, state, and federal agencies such as OSHA and TOSHA.
 - i. Keep the premises of the Work and the surrounding area free from any accumulation of trash and excess materials (piping and other debris) and Contractor will properly disposal of all surplus or waste materials upon completion of the Work. Comply with any additional Contractor duties and responsibilities as specified in the Supplementary Conditions, if attached hereto.
- 2. **Representations of the Contractor.** In order to induce the City to enter into this Contract, Contractor makes the following representations:
 - a. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - b. Contractor has had the opportunity to visit and inspect the work site and become familiar with and satisfy itself as to the general, local, and site conditions that may affect cost, progress, and performance of the Work.
 - c. Contractor is familiar with and has satisfied itself as to all laws and regulations that may affect cost, progress, and performance of the Work.
 - d. Contractor has a clear understanding the Work Assignments will involve work with renovating the sprinkler system at City Hall.
 - e. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing the construction activities and delivering the construction services; information and observations obtained or that should have been obtained from site inspections; the Contract Documents; with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures to be employed by Contractor; and (3) Contractor's safety precautions and programs.
 - f. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price (as defined below), within the Contract Times as defined below), and in accordance with the other terms and conditions of the Contract.
 - g. Contractor is aware of the general nature of work that may be performed by the City and/or others at the various Work Assignment sites that relate to the Work as indicated in the Contract Documents.
 - h. Contractor has given the City written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by the City is acceptable to Contractor.
 - i. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- 3. **Duties and Responsibilities of the City.** In addition to the duties and responsibilities set forth in the above referenced documents, the City will provide suitable surveys, sketches, or drawings of the requirements and/or limits of the various individual Work Assignments; appropriate schedules for the progress of the various Work Assignments; and other information as may be requested and/or appropriate for the Contractor to execute the various Work Assignments.
- 4. **Term and Progress of the Work.** This Contract is not effective until approved by the City and signed by all required parties.

- a. The Contract time is for a period of 180 days from Notice to Proceed. No adjustment to this time will be made except by a written Change Order signed by a person duly authorized by the City and no course of conduct, verbal agreement, singularly or cumulatively, is a valid means of modifying the Contract price and no person may waive this provision.
 - b. No work on this Project may begin prior to a Notice to Proceed being issued by the City and Contractor hereby waives any claim for any compensation or reimbursement performed prior to the Notice to Proceed.
 - c. The City may perform construction related to the Project with its own forces or award separate contracts in connection with other portions of the Project. Contractor must cooperate and coordinate all Contractor work with all City work.
 - d. Additional Progress of Work requirements are as specified in the Supplementary Conditions, if any.
5. **Price.** The maximum price for services rendered pursuant to this Contract is **\$365,945.00** (the "Contract Price"). No increases in the price of this Contract is authorized unless a written Change Order is signed by a person duly authorized by the City and no course of conduct, verbal agreement, singularly or cumulatively, is a valid means of modifying the Contract Price and no person may waive this provision.
6. **Payment.**
 - a. Payment will be made by the City based on Work progress after services have been received, accepted, and properly invoiced. Once Contractor has submitted a monthly invoice, the City will issue payment within 30 days from submittal. The final payment will be made only after Contractor has completely performed its duties under this Contract and the work has been approved and accepted by the City.
 - b. If Contractor fails to carry out the Work in accordance with the Contract Documents or within a reasonable time after receipt of written notice from the City or to correct any deficiency of the work with diligence and expedience, the City may correct the default or deficiency and, without prejudice to other remedies in law or at equity, the Contract Price will be reduced equal to the cost of the correction.
7. **Termination for Breach.** In the event that any of the provisions of the Contract are violated by the Contractor, the City may serve written notice upon the Contractor of its intention to terminate the Contract, and unless within 72 hours after the serving of such notice upon the Contractor such violation or delay ceases and satisfactory arrangement for correction be made, the City may immediately terminate the Contract at any time after said 72 hours. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
8. **Suspension of Work.** Any unauthorized work stoppage due to any type of strike by the Contractor's labor force is grounds for immediate termination of this Contract by the City; provided however, in the City's sole discretion, during any period of work stoppage by the Contractor's labor force, the City reserves the right to have any and all Work Assignments performed by City crews or crews from another Contractor or Contractors and to deduct from the Contract Price all costs associated with such performance.
9. **Termination for Convenience.** The City may terminate this Contract at any time after 30 days' written notice to Contractor. In that event, the Contractor is entitled to receive just and equitable compensation for any satisfactory authorized work completed as of the termination date.
10. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
11. **Maintenance of Records.** Contractor must maintain documentation for all charges associated with services provided pursuant to this Contract. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Contract, will be maintained for a period of

three full years from the date of final payment and will be subject to audit at any reasonable time and upon reasonable notice by the City or its duly appointed representatives.

12. **Modification of Contract.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City may be required. Minor modifications to the Contract may be executed by signature of the City Manager.
13. **Priority of Documents.** In the event of conflicting provisions, all documents are to be construed according to the following priority: (i) any properly executed amendment or change order to this contract (most recent with first priority); then (ii) this Contract and exhibits thereto; then (iii) the provisions of the required Payment and Performance Bond provisions; then (iv) the specifications referenced herein; and lastly (v) any other documents referenced herein.
14. **No Partnership or Joint Venture.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party is liable for any representation, act, or omission of any other party contrary to the terms of this paragraph.
15. **Waiver.** No waiver of any provision of this Contract, including modification of the Contract Price, affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
16. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Contract, the Contractor certifies and warrants it will comply with this policy.
17. **Indemnification.** Contractor indemnifies and hold harmless the City, its officers, agents, and employees from (i) any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the Contract, and (ii) Any claims, damages, penalties, costs and attorney fees arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws. Contractor must pay the City any expenses incurred as a result of Contractor's failure to fulfill any obligation in a professional and timely manner under this Contract.
18. **Insurance and Bonds.** Contractor must maintain commercial general liability insurance for bodily injury and property damage, automobile liability insurance, and workers' compensation insurance as required by the State of Tennessee. Contractor must name the City and the City of Murfreesboro as an additional insured on all liability insurance policies and provide the City a copy of the endorsement. Contractor must notify the City within five days if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.
 - a. Insurance requirements are specified in Exhibit B, attached hereto.
 - b. Contractor must furnish a Performance Bond and a Payment Bond, each in the amount of 100% of Contractor's entire obligation under the Contract, as security for faithful payment.
19. **Attorney Fees.** Contractor agrees that, should either party deem it necessary to take legal action to enforce any provision of the Contract and the City prevails to any extent, Contractor must pay all expenses of such action including the City's attorney fees and costs incurred at all stages of the litigation or dispute resolution.
20. **Assignment—Consent Required.** The provisions of this Contract inure to the benefit of and is binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Contract, neither this Contract nor any of the rights and obligations of Contractor

hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer will not release Contractor from its obligations hereunder.

- 21. Entire Contract.** This Contract and all documents listed above set forth the entire agreement between the parties with respect to the subject matter hereof and govern the respective duties and obligations of the parties and supersede any and all prior or contemporaneous, written or oral negotiations, correspondence, understandings and agreements between the parties respecting the subject matter of this Contract. No supplement, modification or amendment to this Contract is binding unless evidenced in writing and signed by the party against whom it is sought to be enforced. No waiver of any of the provisions of this Contract constitute, or may be deemed to constitute, a waiver of any other provision, whether or not similar, nor does any waiver constitute a continuing waiver. No waiver is binding unless executed in writing by the party making the waiver.
- 22. Force Majeure.** In the event of any occurrence of an event of *force majeure*, meaning any act of war, order of legal authority, act of nature, or other unavoidable causes that could not have been prevented by and which are not attributed to fault or negligence of Contractor, (i) the City may choose to cancel this Contract, pay only for work performed by Contractor, and have no further liability whatsoever under the Contract, or (ii) at the City option, Contractor will be granted an equitable extension of the period of performance.
- 23. Governing Law.** The validity, construction and effect of this Contract and any and all extensions or modifications thereof is governed by the laws of the State of Tennessee. Tennessee law governs regardless of any language in any attachment or other document that the Contractor may provide.
- 24. Venue.** Any action between the parties arising from this Contract must be maintained in the courts for Rutherford County, Tennessee.
- 25. Severability.** Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Contract.
- 26. Notices.** Notices to the City, including but not limited to notice of assignment of any rights to money due to Contractor under this Contract, must be mailed or hand delivered to the address below. Any notice to Contractor from the City relative to any part of the Contract will be considered delivered and the service thereof completed when said notice is posted by registered mail, to the said Contractor at its last given address or delivered in person to said Contractor or its authorized representative on the Work.

RICE CONSTRUCTION CO, LLC

CITY OF MURFREESBORO

Tim Rice, Owner

By: Shane McFarland
Its: Mayor

Approved as to form:

Adam F. Tucker, City Attorney

Address for notice to Contractor:

Rice Construction
Attn: Tim Rice
2327 Gravett Street
Murfreesboro, TN 37130

Address for notice to the City:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Exhibit A
Supplementary Conditions

Each party acknowledges that no Supplementary Conditions are necessary for this project by initialing below:

City: _____

Contractor: _____

Exhibit B

Insurance Requirements

Contractor must, as a material obligation to the City and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Exhibit.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Contract requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers' compensation and employer's liability insurance, providing the following coverages, limits and endorsements:

1. Commercial General Liability Insurance ("CGL").

- 1.1 The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU, and products and completed operations, with a combined single limit of liability of not less than \$1,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$1,000,000 applicable solely to the Work, and meeting all other requirements of this Exhibit.
- 1.2 The CGL insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.
- 1.3 Each CGL policy must be endorsed or written to:
 - a. Include the per project aggregate endorsement;
 - b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");
 - c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;
 - d. Includes a severability of interest clause; and
 - e. Waive all rights of recovery against the Additional Insureds.

2. Workers' Compensation Insurance. Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

3. Auto Liability Insurance.

- 3.1 Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.
- 3.2 This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.

- 3.3 This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

4. Term of Coverage.

- 4.1 The products and completed operations liability coverage required by this Contract must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Contract (the "Completed Operations Term").
- 4.2 If at any time during the Completed Operations Term, Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.
- 4.3 Contractor will furnish certificates of insurance and other evidence that the City may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.
- 4.4 All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

5. Subcontractor and Lower-Tier Entities Insurance Requirements.

- 5.1 Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:
- a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$1,000,000 per occurrence, and \$1,000,000 as the annual aggregate limit; and
 - b. Timely furnish to the City proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.
 - c. The Lower Tier Entities' general liability policy must also be endorsed to provide primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.
 - d. The City has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

6. Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

- 6.1 Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;
- 6.2 Provide that attorney's fees are outside of the policy's limits and be unlimited;
- 6.3 Include the Project per aggregate endorsement;

- 6.4 Waive all rights of subrogation against the City;
- 6.5 Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the City; and
- 6.6 Be otherwise satisfactory to the City. The City agrees to consider alternatives to the requirements imposed by this Exhibit but only to the extent that the City is satisfied the insurance is not commercially available to the insured. In such event, the City has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the City be a loss-payee under the policy.

7. Certificates and Endorsements

- 7.1 Within 10 days after the execution of this Contract, Contractor must provide the City with certificates and endorsements;
- 7.2 Upon City request, Contractor must provide the City with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Exhibit together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of coverage potentially available to the City under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the City.
- 7.3 If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

8. Reduction in Coverage. Contractor must promptly inform the City of any reduction of coverage resulting from revised limits, claims paid, or both and must require its Subcontractors and Lower Tier Entities to promptly inform Contractor of same. The City has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

9. Suppliers and Materialmen Coverages

- 9.1 Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.
- 9.2 With respect to any equipment, machinery or other goods for which the City or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the City and Contractor as loss payee as their interests appear.

10. Condition Precedent to Starting Work

- 10.1 Prior to, and as a condition of its right to begin performing any Work on the site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the City certificates of insurance representing that the required insurance is in force, together with the additional

insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the City that the required insurance is in place; together with the original of each bond required under this Contract. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the City to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

- 10.2 The City is under no obligation or duty to make any such inquiry and the City is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The City's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.
11. **Additional Proofs of Insurance.** Contractor must, within 10 days after request, provide the City with certified copies of all policies and endorsements obtained in compliance with this Contract.
12. **Indemnity.** The fact that Contractor and its Subcontractors are required by this Contract to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the City and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.
13. **Interpretation.** In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Contract, the terms of this Exhibit will govern.

RESOLUTION 21-R-35 expressing official intent that certain expenditures to be incurred in connection with certain public works projects, and related expenditures for the City Hall Parking Garage Sprinkler Renovation Project, be reimbursed from proceeds of notes, bonds, or other indebtedness to be issued or incurred by the City of Murfreesboro, Tennessee.

WHEREAS, the City of Murfreesboro, Tennessee (“City”), is in the process of causing certain capital expenditures to be made with respect to certain public works projects, including specifically the City Hall Parking Garage Sprinkler Renovation Project, as specified in ITB-11-2022, such purchase hereinafter referred to as the “Project”; and,

WHEREAS, the Murfreesboro City Council of the City wishes to declare its official intent that certain of the expenditures related to the Project and certain other related expenditures be reimbursed out of notes, bonds, or other indebtedness to be issued or incurred in the future by the Municipality.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MURFREESBORO, TENNESSEE, AS FOLLOWS:

SECTION 1. The Murfreesboro City Council hereby finds and determines as follows:

(a) that it is in the best interest of the City to proceed immediately with the Project, thereby incurring certain capital expenditures;

(b) that the City has certain funds available which may be used temporarily for this purpose, pending the issuance of bonds, notes, or other indebtedness of the Municipality;

(c) that the City Council anticipates that the City will issue its bonds, notes, or other indebtedness for the purpose of financing the Project;

(d) that the City Council reasonably expects to reimburse such amounts to such fund or source from which the expenditures may be made on a temporary basis as soon as proceeds from issuance of such bonds, notes, or other indebtedness are

available; and,

(e) that this declaration of official intent is consistent with the budgetary and financial circumstances of the Municipality.

SECTION 2. The City Council of the City hereby establishes its official intent to issue bonds, notes, or other indebtedness to finance the costs of the Project and other related expenditures in an amount not to exceed Three Hundred, Forty-Two Thousand, Five Hundred and NO/100 Dollars (\$342,500) combined with an additional One Hundred, Fifty-Seven Thousand, Five Hundred and NO/100 Dollars (\$157,500) in funds coming from Rutherford County. Pending the issuance of such bonds, notes, or other indebtedness, funds necessary to finance such costs shall be advanced from such sources of funds on hand and available for such purpose, and any amounts so advanced shall be reimbursed from the proceeds of the tax-exempt bonds, notes, or other indebtedness when issued or incurred.

SECTION 3. The City will comply with the applicable state or local law governing the public availability of records relating to its official acts with respect to this Resolution.

SECTION 4. All actions of the officers, agents, and employees of the City that are in conformity with the purposes and intent of this Resolution, whether taken before or after the adoption hereof, are hereby ratified, confirmed, and adopted.

SECTION 5. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and the welfare of the City requiring it.

Passed: _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

Adam F. Tucker
City Attorney

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Contract for McKnight Softball Complex Fence Replacement

Department: Parks and Recreation

Presented by: Nate Williams, Director

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Contract for McKnight Softball Complex Fence Replacement.

Staff Recommendation

Approve contract with Premier Fence LLC.

Background Information

The four-field baseball/softball complex was originally constructed in the late 70s. The original fencing, foul poles, and backstops remain in place. These structures are showing significant signs of wear including bending, breaking, and cracking and require replacement.

Premier Fence LLC submitted the only bid. This company is a responsible bidder and staff believes the bid is reasonable and is within the project budget. The layout of the replacement fencing will match the existing configuration, and the safety netting system will replace chain-link backstops.

Council Priorities Served

Improve economic development

McKnight Park's four-field complex and Star Plex are regularly used for regional tournaments, bolstering economic impact in Murfreesboro.

Fiscal Impact

Total contract sum for project, \$375,613, is funded by the FY21 CIP Budget.

Attachment

Construction Contract with Premier Fence LLC

**CONSTRUCTION CONTRACT
BETWEEN
THE CITY OF MURFREESBORO
AND
PREMIER FENCE LLC
FOR
MCKNIGHT SOFTBALL COMPLEX FENCE REPLACEMENT**

This Construction Contract is entered into as of _____ (the "Effective Date"), by and between the City of **MURFREESBORO**, a Tennessee municipal corporation (the "City") and **PREMIER FENCE LLC**, a limited liability corporation of the State of Tennessee ("Contractor").

- A. The project for which Contractor is providing the materials, labor, and services (the "Work") is described as follows (the "Project"):

MCKNIGHT SOFTBALL COMPLEX FENCE REPLACEMENT

- B. The following constitute the contract documents for the Project (the "Contract Documents"):

- (1) This Contract
- (2) Exhibit A - Supplemental Conditions
- (3) Exhibit B – Insurance Requirements
- (4) Non-Collusion Affidavit
- (5) Drug Free Workplace Affidavit
- (6) Performance bond
- (7) Payment bond
- (8) Specifications as listed in **"ITB-12-2022 – McKnight Park Softball Complex Fence Replacement"**

Agreement

1. **Duties and Responsibilities of Contractor.** In addition to the duties and responsibilities set forth in the above referenced documents, the Contractor will:
 - a. Clean Up: All trash and excess materials and other debris will be removed from site.
 - b. Provide post-construction warranty and repair as needed for a period of one year upon completion of the Work. Any required repairs during this warranty period will be further warranted for a period of one year with the exception of warranties provided by manufacturer of equipment, all of which must be transferred to the City upon completion of the Work.
 - c. Provide all supervision, supplies, labor, transportation and equipment reasonably required for the proper execution of the Work and Contractor is solely responsible for all construction means, methods, techniques, sequences, and procedures, including properly coordinating all portion of the Work. Contractor responsible for all required permits.
 - d. Maintain sole responsibly for the safety of Contractor personnel, all subcontractors and materialmen, and all other persons within the worksite and in the immediate vicinity of the worksite that is affected by any Work. Establishment and execution of a comprehensive personnel safety program appropriate for the type of work involved with the various Work assignments as may be required by the appropriate local, state, and federal agencies such as OSHA and TOSHA.
 - e. Keep the premises of the Work and the surrounding area free from any accumulation of trash and excess materials and Contractor will properly disposal of all surplus or waste materials upon

completion of the Work. Comply with any additional Contractor duties and responsibilities as specified in the Supplementary Conditions, if attached hereto.

2. Representations of the Contractor. In order to induce the City to enter into this Contract, Contractor makes the following representations:

- a. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- b. Contractor has had the opportunity to visit and inspect the work site and become familiar with and satisfy itself as to the general, local, and site conditions that may affect cost, progress, and performance of the Work.
- c. Contractor is familiar with and has satisfied itself as to all laws and regulations that may affect cost, progress, and performance of the Work.
- d. Contractor has a clear understanding the Work Assignments will involve work with replacing existing fence.
- e. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing the construction activities and delivering the construction services; information and observations obtained or that should have been obtained from site inspections; the Contract Documents; with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- f. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price (as defined below), within the Contract Times as defined below), and in accordance with the other terms and conditions of the Contract.
- g. Contractor is aware of the general nature of work that may be performed by the City and/or others at the various Work Assignment sites that relate to the Work as indicated in the Contract Documents.
- h. Contractor has given the City written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by the City is acceptable to Contractor.
- i. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

3. Duties and Responsibilities of the City. In addition to the duties and responsibilities set forth in the above referenced documents, the City will provide suitable surveys, sketches, or drawings of the requirements and/or limits of the various individual Work Assignments; appropriate schedules for the progress of the various Work Assignments; and other information as may be requested and/or appropriate for the Contractor to execute the various Work Assignments.

4. Term and Progress of the Work. This Contract is not effective until approved by the City and signed by all required parties.

- a. The Contract time is for a period of 60 days from Notice to Proceed. No adjustment to this time will be made except by a written Change Order signed by a person duly authorized by the City and no course of conduct, verbal agreement, singularly or cumulatively, is a valid means of modifying the Contract price and no person may waive this provision.
- b. No work on this Project may begin prior to a Notice to Proceed being issued by the City and Contractor hereby waives any claim for any compensation or reimbursement performed prior to the Notice to Proceed.

- c. The City may perform construction related to the Project with its own forces or award separate contracts in connection with other portions of the Project. Contractor must cooperate and coordinate all Contractor work with all City work.
 - d. Additional Progress of Work requirements are as specified in the Supplementary Conditions, if any.
- 5. **Price.** The maximum price for services rendered pursuant to this Contract is **\$375,613.45** (the "Contract Price"). No increases in the price of this Contract is authorized unless a written Change Order is signed by a person duly authorized by the City and no course of conduct, verbal agreement, singularly or cumulatively, is a valid means of modifying the Contract Price and no person may waive this provision. All invoices should be sent to accountspayable@murfreesborotn.gov.
- 6. **Payment.**
 - a. Payment will be made by the City based on Work progress after services have been received, accepted, and properly invoiced. Once Contractor has submitted a monthly invoice, the City will issue payment within 30 days from submittal. The final payment will be made only after Contractor has completely performed its duties under this Contract and the work has been approved and accepted by the City.
 - b. If Contractor fails to carry out the Work in accordance with the Contract Documents or within a reasonable time after receipt of written notice from the City or to correct any deficiency of the work with diligence and expedience, the City may correct the default or deficiency and, without prejudice to other remedies in law or at equity, the Contract Price will be reduced equal to the cost of the correction.
- 7. **Termination for Breach.** In the event that any of the provisions of the Contract are violated by the Contractor, the City may serve written notice upon the Contractor of its intention to terminate the Contract, and unless within 72 hours after the serving of such notice upon the Contractor such violation or delay ceases and satisfactory arrangement for correction be made, the City may immediately terminate the Contract at any time after said 72 hours. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
- 8. **Suspension of Work.** Any unauthorized work stoppage due to any type of strike by the Contractor's labor force is grounds for immediate termination of this Contract by the City; provided however, in the City's sole discretion, during any period of work stoppage by the Contractor's labor force, the City reserves the right to have any and all Work Assignments performed by City crews or crews from another Contractor or Contractors and to deduct from the Contract Price all costs associated with such performance.
- 9. **Termination for Convenience.** The City may terminate this Contract at any time after 30 days' written notice to Contractor. In that event, the Contractor is entitled to receive just and equitable compensation for any satisfactory authorized work completed as of the termination date.
- 10. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
- 11. **Maintenance of Records.** Contractor must maintain documentation for all charges associated with services provided pursuant to this Contract. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Contract, will be maintained for a period of three full years from the date of final payment and will be subject to audit at any reasonable time and upon reasonable notice by the City or its duly appointed representatives.
- 12. **Modification of Contract.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City may be required. Minor modifications to the Contract may be executed by signature of the City Manager.

13. **Priority of Documents.** In the event of conflicting provisions, all documents are to be construed according to the following priority: (i) any properly executed amendment or change order to this contract (most recent with first priority); then (ii) this Contract and exhibits thereto; then (iii) the provisions of the required Payment and Performance Bond provisions; then (iv) the specifications referenced herein; and lastly (v) any other documents referenced herein.
14. **No Partnership or Joint Venture.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party is liable for any representation, act, or omission of any other party contrary to the terms of this paragraph.
15. **Waiver.** No waiver of any provision of this Contract, including modification of the Contract Price, affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
16. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Contract, the Contractor certifies and warrants it will comply with this policy.
17. **Indemnification.** Contractor indemnifies and hold harmless the City, its officers, agents, and employees from (i) any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the Contract, and (ii) Any claims, damages, penalties, costs and attorney fees arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws. Contractor must pay the City any expenses incurred as a result of Contractor's failure to fulfill any obligation in a professional and timely manner under this Contract.
18. **Insurance and Bonds.** Contractor must maintain commercial general liability insurance for bodily injury and property damage, automobile liability insurance, and workers' compensation insurance as required by the State of Tennessee. Contractor must name the City and the City of Murfreesboro as an additional insured on all liability insurance policies and provide the City a copy of the endorsement. Contractor must notify the City within five days if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.
 - a. Insurance requirements are specified in Exhibit B, attached hereto.
 - b. Contractor must furnish a Performance Bond and a Payment Bond, each in the amount of 100% of Contractor's entire obligation under the Contract, as security for faithful payment.
19. **Attorney Fees.** Contractor agrees that, should either party deem it necessary to take legal action to enforce any provision of the Contract and the City prevails to any extent, Contractor must pay all expenses of such action including the City's attorney fees and costs incurred at all stages of the litigation or dispute resolution.
20. **Assignment—Consent Required.** The provisions of this Contract inure to the benefit of and is binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Contract, neither this Contract nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer will not release Contractor from its obligations hereunder.
21. **Entire Contract.** This Contract and all documents listed above set forth the entire agreement between the parties with respect to the subject matter hereof and govern the respective duties and obligations of the parties and supersede any and all prior or contemporaneous, written or oral negotiations, correspondence, understandings and agreements between the parties respecting the subject matter of this Contract. No

supplement, modification or amendment to this Contract is binding unless evidenced in writing and signed by the party against whom it is sought to be enforced. No waiver of any of the provisions of this Contract constitute, or may be deemed to constitute, a waiver of any other provision, whether or not similar, nor does any waiver constitute a continuing waiver. No waiver is binding unless executed in writing by the party making the waiver.

22. **Force Majeure.** In the event of any occurrence of an event of *force majeure*, meaning any act of war, order of legal authority, act of nature, or other unavoidable causes that could not have been prevented by and which are not attributed to fault or negligence of Contractor, (i) the City may choose to cancel this Contract, pay only for work performed by Contractor, and have no further liability whatsoever under the Contract, or (ii) at the City option, Contractor will be granted an equitable extension of the period of performance.
23. **Governing Law.** The validity, construction and effect of this Contract and any and all extensions or modifications thereof is governed by the laws of the State of Tennessee. Tennessee law governs regardless of any language in any attachment or other document that the Contractor may provide.
24. **Venue.** Any action between the parties arising from this Contract must be maintained in the courts for Rutherford County, Tennessee.
25. **Severability.** Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Contract.
26. **Notices.** Notices to the City, including but not limited to notice of assignment of any rights to money due to Contractor under this Contract, must be mailed or hand delivered to the address below. Any notice to Contractor from the City relative to any part of the Contract will be considered delivered and the service thereof completed when said notice is posted by registered mail, to the said Contractor at its last given address or delivered in person to said Contractor or its authorized representative on the Work.

PREMIER FENCE, LLC

DocuSigned by:



Walter Donnell, Managing Member

CITY OF MURFREESBORO

By: Shane McFarland
Its: Mayor

Approved as to form:

DocuSigned by:



Adam F. Tucker, City Attorney

Address for notice to Contractor:

Premier Fence LLC
Attn: Walter Donnell
walter@premierfencetn.com
1354 West College Street
Murfreesboro, TN 37129

Address for notice to the City:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Exhibit A
Supplementary Conditions

Each party acknowledges that no Supplementary Conditions are necessary for this project by initialing below:

City: _____

Contractor: _____

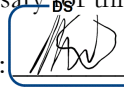


Exhibit B

Insurance Requirements

Contractor must, as a material obligation to the City and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Exhibit.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Contract requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers' compensation and employer's liability insurance, providing the following coverages, limits and endorsements:

1. Commercial General Liability Insurance ("CGL").

- 1.1 The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU, and products and completed operations, with a combined single limit of liability of not less than \$1,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$1,000,000 applicable solely to the Work, and meeting all other requirements of this Exhibit.
- 1.2 The CGL insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.
- 1.3 Each CGL policy must be endorsed or written to:
 - a. Include the per project aggregate endorsement;
 - b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");
 - c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;
 - d. Includes a severability of interest clause; and
 - e. Waive all rights of recovery against the Additional Insureds.

2. Workers' Compensation Insurance. Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.

3. Auto Liability Insurance.

- 3.1 Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.
- 3.2 This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.

- 3.3 This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.

4. Term of Coverage.

- 4.1 The products and completed operations liability coverage required by this Contract must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Contract (the "Completed Operations Term").
- 4.2 If at any time during the Completed Operations Term, Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.
- 4.3 Contractor will furnish certificates of insurance and other evidence that the City may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.
- 4.4 All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

5. Subcontractor and Lower-Tier Entities Insurance Requirements.

- 5.1 Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:
 - a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$1,000,000 per occurrence, and \$1,000,000 as the annual aggregate limit; and
 - b. Timely furnish to the City proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.
 - c. The Lower Tier Entities' general liability policy must also be endorsed to provide primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.
 - d. The City has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

6. Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

- 6.1 Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;
- 6.2 Provide that attorney's fees are outside of the policy's limits and be unlimited;
- 6.3 Include the Project per aggregate endorsement;

- 6.4 Waive all rights of subrogation against the City;
- 6.5 Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the City; and
- 6.6 Be otherwise satisfactory to the City. The City agrees to consider alternatives to the requirements imposed by this Exhibit but only to the extent that the City is satisfied the insurance is not commercially available to the insured. In such event, the City has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the City be a loss-payee under the policy.

7. Certificates and Endorsements

- 7.1 Within 10 days after the execution of this Contract, Contractor must provide the City with certificates and endorsements;
- 7.2 Upon City request, Contractor must provide the City with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Exhibit together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of coverage potentially available to the City under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the City.
- 7.3 If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

8. Reduction in Coverage. Contractor must promptly inform the City of any reduction of coverage resulting from revised limits, claims paid, or both and must require its Subcontractors and Lower Tier Entities to promptly inform Contractor of same. The City has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

9. Suppliers and Materialmen Coverages

- 9.1 Contractor will endeavor to cause all suppliers and materialmen to deliver any equipment, machinery or other goods FOB Site.
- 9.2 With respect to any equipment, machinery or other goods for which the City or Contractor has paid a deposit, Contractor will cause the respective suppliers and materialmen to maintain personal property insurance in an amount equal to the value of such equipment, machinery or other goods (but in no event less than the amount of the applicable deposit) during fabrication, storage and transit, naming the City and Contractor as loss payee as their interests appear.

10. Condition Precedent to Starting Work

- 10.1 Prior to, and as a condition of its right to begin performing any Work on the site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the City certificates of insurance representing that the required insurance is in force, together with the additional

insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the City that the required insurance is in place; together with the original of each bond required under this Contract. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the City to communicate directly with the respective insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage;

- 10.2 The City is under no obligation or duty to make any such inquiry and the City is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The City's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.
11. **Additional Proofs of Insurance.** Contractor must, within 10 days after request, provide the City with certified copies of all policies and endorsements obtained in compliance with this Contract.
12. **Indemnity.** The fact that Contractor and its Subcontractors are required by this Contract to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the City and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.
13. **Interpretation.** In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Contract, the terms of this Exhibit will govern.

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Purchase of Threat Plates for Body Armor

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Purchase of replacement threat plates for body armor for MPD officers.

Staff Recommendation

Approve the purchase from Galls, LLC.

Background Information

MPD officers are equipped with two Active Shooter threat plates for their issued body armor. These plates are recommended to be replaced every five years. Currently, there are 516 plates approaching expiration in the next twelve months.

In evaluating body armor that is most compatible with current uniform requirements, we believe the better replacement for the expiring plates will be the Omega Plus Threat Plates. These are available through our current contract with Galls for \$259 each for a total of \$133,644.

Council Priorities Served

Maintain Public Safety

Body Armor is essential protective gear for law enforcement officers.

Fiscal Impact

The cost of this purchase, \$133,644, is funded from a combination of the FY22 State Direct Allocation Grant funds received for public safety and the FY22 Felony Fund.

Attachments

1. Agreement for Uniforms for Police & Fire with Galls, LLC.
2. Quote from Galls.

Agreement for Uniforms for Police & Fire

This Agreement is entered into and effective as of the 8th day of August 2019, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Galls LLC**, a Limited Liability Corporation of the State of Delaware ("Contractor").

This Agreement consists of the following documents:

- This document
- Buyboard's Master Agreement No. 587-19
(all relevant documents located at:
<https://app.buyboard.com/Search/Index?SearchTerm=&VendorId=2778&DiscountProductId=-1&ContractId=749>)
- Contractor's (Galls) Proposal dated 10/18/2018
- Any properly executed amendments to this Agreement

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority)
 - Second, this Agreement
 - Third, Buyboard's Master Agreement No. 587-19
 - Lastly, the Contractor's (Galls) Proposal
1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide and City agrees to purchase the Uniforms from the Buyboard's Master Agreement No. 587-19 in accordance with Contractor's (Galls) Proposal.
 2. **Term.** The agreement term shall run concurrent with the term of the Master Agreement and any subsequent renewals; provided, however that the total term of this agreement may not exceed five years of the Effective Date (as defined herein). Contractor's performance may be terminated in whole or in part:
 - a. Upon 30-day prior notice, for the convenience of the City.
 - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
 - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
 - e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Price; Compensation; Method of Payment.

- a. The price for the goods and other items to be provided under this Agreement is set forth in the Buyboard's Master Agreement No. 587-19 and the Contractor's Proposal which reflects a total purchase price of 15% discount off catalog items. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.
- b. Deliveries for in-stock items shall be made within 10-14 business days of order to either: 1311 Jones Blvd. Murfreesboro, TN 37130 (Fire Department) or 1004 North Highland Avenue, Murfreesboro, TN 37130 (Police Department).

Fire Department Contact - Attn: Teri Herron,, tel: 615.603.1649 – email:
therron@murfreesborotn.gov

Police Department Contact - Attn: Don Fanning, tel: 629.201.5589 – email:
0273@murfreesborotn.gov

Contacts must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.

- c. Deliveries of all items shall be made as stated in bid specifications. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or Agreement. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
 - d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Buyboard Master Agreement No. 587-19.
 - e. All deliveries made pursuant to the Agreement must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the purchase price.
4. **Warranty.** Unless otherwise specified, every item bid shall meet the warranty requirements set forth in the specifications.
 5. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
 6. **Work Product.** Except as otherwise provided herein, all data, documents and materials produced and provided by Contractor under this Agreement are the property of the City, which retains the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Any of the City's property, including but not limited to books, records and equipment, that is in Contractor's possession must be maintained in good condition and repair and returned to the City by Contractor at the end of this Agreement.

7. **Insurance.** During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000, as well as automotive and workers' compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (2) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."

8. **Indemnification.**

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

c. Copyright, Trademark, Service Mark, or Patent Infringement.

- i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
- ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 - 1. Procure for the City the right to continue using the products or services.
 - 2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 - 3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.

- iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

9. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

If to the Contractor:

Attn: Michael Wessner
Galls LLC
1340 Russell Cave Road
Lexington, KY, 40505

10. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.
11. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
12. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
13. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
14. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
15. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying-off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
16. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor

certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

- a. **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**
 - b. **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**
 - c. **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities."**
17. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
18. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written

consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.

19. **Integration.** This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.
20. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
21. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
22. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
23. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
24. **Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

[signatures appear on the following page]

IN WITNESS WHEREOF, the parties enter into this agreement as of August 8th, 2019 (the "Effective Date").

CITY OF MURFREESBORO, TENNESSEE

GALLS LLC

By: 

Shane McFarland, Mayor

By: 

Michael Wessner, Chief Executive Officer

APPROVED AS TO FORM:



Adam F. Tucker, City Attorney

Quote

Galls, LLC Invoice Credit Terms and Conditions of Sale

Payment - Invoices for items delivered pursuant to any sales order are payable only in United States currency. You, your business, and/or your agency (the "Buyer") understand that Galls, LLC (the "Seller") may impose and charge a finance charge that is the greater of 1.5% per month or the highest rate allowed by law on any amount which becomes past due and delinquent. Returned checks may be assessed a \$25.00 service fee. Additionally, Buyer shall be responsible for all collection costs, court costs, and reasonable attorney's fees in connection with the recovery of delinquent amounts.

All sales are made pursuant to these Credit Terms and Conditions of Sale, and Seller objects to any different or additional terms or conditions contained in Buyer's purchase order or any other document submitted by Seller. Payments may be applied against open balances at the sole discretion of Seller and may be applied across accounts if Buyer has more than one account with Seller. Credit memos are non-refundable and may be applied to open invoices at Seller's sole discretion.

Credit Terms - Any extension of credit is based upon all amounts payable on or before the due date on any written, quoted, or agreed terms, and shall be paid in accordance with such terms. If not paid on or before such date, accounts shall be considered delinquent and subject to the additional finance charges as set forth herein.

Buyer agrees to provide Seller, upon request, with an updated credit application as a condition to the continued extension of credit. Buyer acknowledges and agrees that Seller may utilize outside credit reporting services and financial institutions to obtain information on the Buyer as a condition precedent to or for continued extension of credit. Seller may terminate any credit availability within its sole discretion and without prior notice. Buyer's continued solvency is a precondition to any sale made by Seller.

Delays - Where a specific shipping date is not designated on the face hereof or in a subsequent writing signed by the Seller, the Seller shall not be responsible for any delays, nor shall Seller be liable for any loss or damages resulting from such delays. Seller shall not be liable for any delays in filling this order caused by accidents to machinery, differences with employees, strikes, labor shortage, fire, floods, priorities requested or required by an instrumentality of the United States Government or the government of any state, delays in transportation, restrictions imposed by any federal, state or municipal law or regulation, whether valid or invalid, or causes beyond the control of the Seller.

Warranty - Seller shall pass through to Buyer all manufacturer warranties and return policies applicable to Buyer's order. Seller shall take all reasonable actions to ensure that Buyer receives the benefit of such pass through warranties and return policies. Buyer's sole remedies for any goods sold hereunder shall be as provided in such warranties and return policies and shall be solely against the applicable manufacturer. SELLER, ON BEHALF OF ITSELF, DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, RELATING TO SUCH GOODS.

Restocking - If a cancellation of an order or a return by Buyer is accepted or initiated by Seller and/or the manufacturer, it may be subject to a restocking charge at the discretion of Seller.

Delivery and Transportation - Products sold herein are sold FOB at the place indicated on the face of this sales order unless otherwise agreed to in writing by Seller and Buyer. The method and agency of transportation and the routing will be designated by the Seller. In the event the Buyer requests alternative shipment or routing, all extra packing, shipping and transportation charges thereby resulting will be for the Buyer's account.

Waiver - No provision herein shall be deemed a waiver by reason of any previous waiver, and no breach of any provision shall be deemed a waiver by reason of any previous breach.

Governing Law - The sole jurisdiction and venue shall be the courts of the Commonwealth of Kentucky.

Export Restrictions - This transaction may contain commodities restricted in the United States International Trade Regulations. If at a later date the Buyer decides these commodities will be exported from the United States please reference the United States Department of Commerce Bureau of Industry and Security Export Administration Regulations (15 CFR 730-774), the United States Department of State International Traffic in Arms Regulations (22 CFR 120-130) as well as any other applicable laws. These laws apply to private, commercial, and government agency export transactions. As an exporter, the Buyer will be responsible for compliance with all U.S. laws relating to the export of these items.

*Designates this item is on the Galls GSA Contract (GS-07F-0157M) all other items are OPEN MARKET.

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Small-scale Biosolids Dryer Contract Amendment

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Contract addendum to permit 30-month payback period for return of small-scale biosolids dryer purchased by the Water Resources Department in 2019.

Staff Recommendation

Approval of the attached contract addendum with Gryphon Environmental, LLC.

Background Information

In May 2021, Council was informed that the small-scale Gryphon dryer had not met the performance specifications. Special condition 4.01(D) of the purchasing document permitted the City to return the dryer for a full refund of the purchase price. In an effort to amicably conclude the contract, staff recommends allowing Gryphon to return the purchase price incremental over the 30 months in lieu of making one payment.

Council Priorities Served

Responsible budgeting

Conducting the small-scale biosolids drying contract with Gryphon Environmental was as success. Staff has realized that another vendor is required to dry the Water Resource Recovery Facility biosolids to ensure compliance with TDEC's Class A requirements at the most reasonable cost.

Fiscal Impact

Allowing 29-monthly payments in the amount \$21,905 and a final payment of \$21,869 equals \$657,145, which is \$8,395 above the original biosolids dryer purchase price in order to compensate the City for the expense of incremental payments.

Attachments

Addendum Agreement between City of Murfreesboro and Gryphon for biosolids dryer procurement contract

THIS ADDENDUM AGREEMENT BETWEEN BUYER AND SELLER FOR PROCUREMENT CONTRACTS, STANDARD GENERAL CONDITIONS AND OTHER RELATED DOCUMENTS dated August 27, 2018 (collectively, “the Contract”) is made and entered into by and between **the City of Murfreesboro, Tennessee, for the use and benefit of the Murfreesboro Water Resource Department, “Purchaser” and Gryphon Environmental, LLC**, a Kentucky limited liability company “Seller”.

WHEREAS, the parties have previously entered into the Contract regarding the sale, installation, and service of a Small Scale Biosolids Dryer System (the “Dryer”) to be provided by Seller to Purchaser according to the terms and specifications contained in the Contract;

AND WHEREAS, issues have arisen related to the Dryer resulting in Purchaser seeking to terminate the Contract with Seller;

AND WHEREAS, the parties wish to amicably conclude their duties and responsibilities under the Contract and wish to set forth those obligations in writing.

NOW, WITNESSETH, that in exchange for the mutual consideration contained herein, the proof and sufficiency of which is acknowledged by the parties, Purchaser and Seller do hereby agree as follows:

THAT, Purchaser agrees to disconnect the Dryer from all utilities and control panels at Purchaser’s cost. Seller shall be responsible for all removal and dismantling costs, including loading and freight costs back to Seller’s desired terminus location.

THAT, removal and return of the Dryer by Purchaser shall be conducted under the oversight of Seller at a date to be mutually agreed upon between the parties prior to the end of 2021; and provided further that, except for intentional or willful and wanton conduct on the part of Purchaser or Purchaser’s subcontractor(s), Purchaser shall bear no further liability for the condition of the Dryer and its related components as a result of the removal as well as from and after the date of removal.

THAT, Seller agrees to refund the purchase of price of the Dryer in the total amount of \$648,750.00. Said reimbursement shall be made in thirty (30) monthly installments of principal and interest at the rate of 1.0% per annum resulting in a monthly payment of \$21,904.45 in accordance with the amortization schedule attached hereto as Schedule 1 and made a part hereof. Payments shall be due on the 1st day of each month to Purchaser at the address denoted in the Contract. Any payment received after ten (10) days from its date due shall bear a late fee of 1.0% of the monthly

payment. If any payment shall not be received within thirty (30) days of its due date, Purchaser shall be in default hereunder without further notice from Seller. In such an event, Seller may avail itself of any remedies available to it in law or in equity.

THAT, all other terms and conditions of the Contract have either terminated or been satisfied as between the parties hereto except any provisions specifically set forth as surviving the Contract, if applicable.

IN TESTIMONY WHEREOF, witness the signatures of the parties hereto, this the ____ day of September, 2021.

SELLER:

GRYPHON ENVIRONMENTAL, LLC

By: _____

Allison Ross, COO

PURCHASER:

CITY OF MURFREESBORO, TENNESSEE

By: _____

Shane McFarland, Mayor

APPROVED AS TO FORM:

By: _____

Adam Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Water Resource Recovery Facility Tractor Purchase

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Purchase of Tractor for Water Resource Recovery Facility (WRRF) farms.

Staff Recommendation

Approve the purchase of Tractor and accessories from TriGreen Equipment LLC.

Background Information

MWRD maintain two farms purchased to ensure compliance with the City's U.S. EPA discharge permit through high volume land irrigation of treated water from the WRRF.

Tractors are utilized to move large irrigators, work the land, and perform various other farms tasks. The Department's 1995 tractor lifecycle makes it most valuable for trade toward a new tractor. With the trade, the net cost for the new equipment is \$62,274.

Council Priorities Served

Maintain public safety

Heavy equipment at WRRF facilities allows the production of excellent quality of water that enhances the beautiful scenery at City properties and improves the West Fork Stones River for thriving aquatic life and safe public use.

Fiscal Impact

The expense, \$62,274, is funded by MWRD's FY22 CIP.

Attachments

Contract with TriGreen Equipment LLC

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
TRI-GREEN EQUIPMENT LLC
FOR PURCHASE OF JOHN DEERE CAB TRACTOR AND FARM LOADER WITH
ACCESSORIES**

This Contract is entered into and effective as of the _____ day of _____ 2021, by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **TRI-GREEN EQUIPMENT LLC**, a Corporation of the State of Alabama ("Contractor").

This Contract consists of the following documents:

- *This Contract*
- *Sourcwell Contract #110719-JDC with Deere & Company*
- *Price Quotation Quote Id: 24935431 dated July 27, 2021 from Tri-Green Equipment LLC for John Deere Cab Tractor and accessories*
- *Any properly executed amendments to this Agreement*

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- *First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority)*
- *Second, this Contract*
- *Third, Sourcwell Contract #110719-JDC with Deere & Company*
- *Fourth, Price Quotation Quote Id: 24935431 dated July 27, 2021 from Tri-Green Equipment LLC for John Deere Cab Tractor and accessories*

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase: **One (1) John Deere 6155M Cab Tractor with accessories** listed on quotation and **One (1) John Deere 640R Standard Farm Loader with accessories** listed on quotation, Contractor's Price Quotation dated July 27, 2021, and as set forth in the Sourcwell Contract 110719-JDC with Deere & Company. Furthermore, the City may utilize this Contract to procure additional equipment from Contractor per the Sourcwell Contract 110719-JDC through the term of the contract. Such future procurements shall be executed through a Purchase Order after purchases exceeding \$25,000 have been approved by Council. Contractor also agrees to accept the following via trade-in:

- a. 1995 John Deere 8100 Tractor 160 HP – RW8100P00001706 – value: \$65,000
- b. 1994 John Deere 1518 Rotary Cutter – W01518F004226 – value: \$2,000
- c. 2015 John Deere HX15 Rot Cutter – 1P0HX15FHFT064633 – value: \$8,500

2. **Term.** The term of this contract shall be from the Effective Date to the expiration of the Sourcwell Contract 110719-JDC on December 30, 2023. Contractor's performance may be terminated in whole or in part:

- a. Upon 30-day prior notice, for the convenience of the City.
- b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.

- c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
- d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
- e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Price; Compensation; Method of Payment.

- a. The price for the goods and other items to be provided under this Contract is set forth in the Price Quotation 24935431 from TriGreen Equipment, LLC, dated July 27, 2021 for **One (1) John Deere 6155M Cab Tractor with ACCESSORIES LISTED** on price quotation at a price of **\$127,153.34** and **One (1) John Deere 640R Standard Farm Loader WITH ACCESSORIES LISTED** on Contractor's Price Quotation dated July 27, 2021, and as set forth in the Sourcewell Contract #110719-JDC with Deere & Company at a purchase price of **\$10,620.24**, reflecting a **Total Purchase Price of \$62,273.58 after Trade-In Allowance of \$75,500**. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Contract and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.
- b. Deliveries and pick-up of all items for the Water Resources Department shall be made within four weeks of issuance of Purchase Order to Attn: John Strickland – Water Resources Department – 2032 Blanton Drive, Murfreesboro, TN 37129. Contact Person John Strickland (tel. 615-848-3225; email: jstrickland@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
- c. Deliveries of all items shall be made as stated in the Contract documents. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
- d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor's Quote.
- e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

4. **Warranty.** Unless otherwise specified, every item purchased shall meet the warranty requirements set forth by the manufacturer.

5. **Indemnification.**

a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees (“Expenses”) arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.

c. **Copyright, Trademark, Service Mark, or Patent Infringement.**

i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (1) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (2) no cost or expense whatsoever accrues to the City at any time; and (3) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

1. Procure for the City the right to continue using the products or services.
2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.

iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the

products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

6. **Notices.** Notice of assignment of any rights to money due to Contractor under this Contract must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:
City of Murfreesboro
Attn: City Manager
111 West Vine Street
Murfreesboro, TN 37130

If to the Contractor:
Blake Goodson
Tri-Green Equipment LLC
464 Middle Tennessee Blvd.
Murfreesboro, TN 37130
blakegoodson@trigreen.com

7. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
8. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
9. **Maintenance of Records.** Contractor shall maintain documentation for all charges against City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by City or its duly appointed representatives. The records shall be maintained in accordance with the Generally Accepted Accounting Principles.
10. **Modification.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto.
11. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
12. **Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
13. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying-off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise

subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

15. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.
16. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder
17. **Integration.** This Contract and State contract set forth the entire agreement between the parties with respect to the subject matter hereof and govern the respective duties and obligations of the parties.
18. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
19. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
20. **Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.
21. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution
22. **Effective Date.** This Contract shall not be binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

[signatures appear on the following page]

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2021
(the “Effective Date”).

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney

TRI-GREEN EQUIPMENT LLC

By: _____
Blake Goodson, General Manager

COUNCIL COMMUNICATION

Meeting Date: 10/21/2021

Item Title: Water & Sewer Line Materials Purchase

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	<input type="checkbox"/>
Resolution	<input type="checkbox"/>
Motion	<input checked="" type="checkbox"/>
Direction	<input type="checkbox"/>
Information	<input type="checkbox"/>

Summary

Purchase materials necessary to upgrade the water and sewer lines located on Leaf Ave, Harrison Ave, Rose Ave, Boston St, and Clover Ave.

Staff Recommendation

Approve the purchase of pipe, valves, and materials from Southern Pipe & Supply.

Background Information

O&M requested sealed bids for the materials necessary to upgrade these water and sewer lines. The bid opening was held Tuesday September 21, 2021 and Southern Pipe & Supply had the lowest bid.

Council Priorities Served

Responsible budgeting

By requesting sealed bids, the department is receiving competitive pricing.

Maintain public safety

MWRD is taking a proactive approach to replace deteriorating water and sewer lines to maintain reliable service and prevent outages and costly repairs.

Fiscal Impacts

Material costs for the project, \$155,354, will be funded by FY22 O&M Budget Water Line and O&M Budget Sewer Lines.

Attachments

Southern Pipe & Supply Contract

Agreement for Pipe & Materials – Leaf, Harrison, Clover Avenues

This Agreement is entered into and effective as of the ____ day of _____ 2021, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Southern Pipe and Supply Inc.**, a Corporation of the State of Oklahoma ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-10-2022 – Pipe and Materials – Leaf, Harrison, & Clover Avenues issued 09/07/2021 (the "Solicitation");
- Contractor's Proposal, dated 09/21/2021 ("Contractor's Proposal");
- Contractor's Price Proposal, dated 09/21/2021 (the "Price Proposal"); and,
- Any properly executed amendments to this Agreement.

In the event of conflicting provisions, all documents will be construed according to the following priorities:

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority);
- Second, this Agreement;
- Third, the Solicitation; and
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

Contractor shall provide and City shall purchase the materials based on Contractor's Proposal and Price Proposal and the specifications set forth in "ITB-10-2022 – Pipe and Materials – Leaf, Harrison, & Clover Avenues."

2. Term.

The term of this Agreement commences on the Effective Date and expires six months [180 days] from the Effective Date, unless extended by mutual agreement of Contractor and the City or earlier terminated as set forth herein Termination. Contractor's services may be terminated in whole or in part:

- a. Upon 30-day prior notice, for the convenience of the City.
- b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination
- c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
- d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.

- e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Payment and Delivery.

- a. The price for the goods and other items to be provided under this Agreement is set forth in the Price Proposal which reflects a total purchase price of \$155,354.10. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.
- b. All items must be available for delivery within 8-10 weeks from issuance of purchase order. Delivery shall be done Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. Forty-eight (48) hours advance notice should be given prior to delivery. The materials shall be delivered to the City of Murfreesboro Water Resources Department, 1725 South Church Street, Murfreesboro, TN 37130.
- c. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
- d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any items(s) received which fail to meet the specifications as stated in the ITB.
- e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

4. Warranty. Contractor shall provide all warranties as described in the ITB and Bid Proposal.

5. Taxes. The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.

6. Insurance. During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000, as well as automotive and workers' compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."

7. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or

intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
- c. Copyright, Trademark, Service Mark, or Patent Infringement.
 - I. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
 - II. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 - a. Procure for the City the right to continue using the products or services.
 - b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 - c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
 - III. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

8. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:

City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

If to Contractor:

Attn: Chris Wiseman – chris.wiseman@southernpipe.com
Southern Pipe & Supply Inc.
1223 Foster Ave.
Nashville, TN 37210

9. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
10. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
11. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
12. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
13. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or

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- 22. Effective Date.** This Agreement is not binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2021 (the "Effective Date").

City of Murfreesboro, Tennessee

Southern Pipe & Supply

By: _____
Shane McFarland, Mayor

By: _____
Chris Wiseman, Sales Associate

Approved as to form:

Adam F. Tucker, City Attorney