MURFREESBORO CITY COUNCIL
Regular Session Agenda
Council Chambers – City Hall – 6:00 PM
September 22, 2022

PRAYER

Mr. Bill Shacklett

PLEDGE OF ALLEGIANCE

CEREMONIAL ITEMS

STARS Award: Officer Lance Hofmeister

Consent Agenda

1. Change Order – SportsCom ADA Upgrades (Administration)
2. FY23 Tennessee Housing Development Agency Emergency Solutions Grant (Community Development)
3. FY 2023 City Manager Approved Budget Amendments (Finance)
4. Station 9 Fence Replacement (Fire Rescue)
5. Mandatory Referral for Abandonment of Sanitary Sewer Easement along County Farm Road (Planning)
6. Mandatory Referral for Abandonment of Drainage Easement along Pheasant Run Trail (Planning)
7. Donation of Equipment to Algood Police Department (Police)
8. Approval of use of Competitive Sealed Proposals for Learning Management System (Purchasing)
9. Main Street Banner Request (Street)
10. Salt Purchase (Street)
11. Asphalt Purchases Report (Water Resources)
12. Lagoon Water Treatment Residuals Removal Fourth Amendment (Water Resources)
13. Magnolia Village Sewer Main Participation (Water Resources)
14. Middle TN Association of Realtors (MTAR) Connection Fee Deferral (Water Resources)
15. Sewer Easement Offer – 519 Johnson Street (Water Resources)

Old Business

Land Use Matters

16. Ordinance 22-OZ-26 Rezoning property along Franklin Road (2nd and final reading) (Planning)

17. Ordinance 22-OZ-27 Rezoning property along Wilkerson Pike (2nd and final reading) (Planning)

18. Ordinance 22-OZ-28 Plan of Services, Annexation, and Zoning for property along Elam Road and Joe B Jackson Parkway (2nd and final reading) (Planning)

New Business

Ordinance

19. Apartment Bifurcation Policy (Water Resources)

    First Reading: Ordinance 22-O-25

20. Removal of Three Rivers Special Sanitary Sewer Assessment District (Water Resources)

    First Reading: Ordinance 22-O-30

21. FY23 Budget Amendment (Administration)

    First Reading: Ordinance 22-O-37

22. Amend Procurement Code (Legal)

    First Reading: Ordinance 22-O-38

Resolution

23. Resolution 22-R-22 Signal Maintenance Agreement for Medical Center Parkway and I-24 Exit Ramp Signalization (Transportation)

Land Use Matters

24. Plan of Services, Annexation, and Zoning for property along Highway 99

    a. Public Hearing: Plan of Services and Annexation

    b. Plan of Services: Resolution 22-R-PS-18

    c. Annexation: Resolution 22-R-A-18

    d. Public Hearing: Zone 68.25 acres

    e. First Reading: Ordinance 22-OZ-18

25. Zoning property along Blackman Road and Veterans Parkway (Planning)

    a. Public Hearing: Zone 89.2 acres

    b. First Reading: Ordinance 22-OZ-32

26. Zoning property along Medical Center Parkway and West College Street (Planning)

a. Public Hearing: Rezone 51.9 acres

b. First Reading: Ordinance 22-OZ-33

27. Amending the Zoning Ordinance (Planning)

a. Public Hearing: Amend Zoning Ordiannce

b. First Reading: Ordinance 22-O-31

28. Sewer Allocation Variance- Agripark Drive – Arden Senior Living (Planning)

29. Sewer Allocation Variance- Franklin Road – Hwy 55 Restaurant (Planning)

30. Planning Commission Recommendations to Schedule Public Hearings (Planning)

On Motion

31. Contract for Renovations to Fire Station No. 3 (Administration)

32. Contract for Emergency Operations Center Renovations (Administration)

33. Health Benefits Service Agreements for 2023 (Employee Services)

34. Agreement with FARO Technologies for the Purchase of 3D Scene Mapping Equipment (Police)

35. Contracts with Ford of Murfreesboro for the Purchase of New Police Vehicles (Police)

36. Agreement with Code One Safety for Procurement of AEDs (Police)

37. Purchase of two Brush Hawk Knuckle Loader Trucks (Solid Waste)

38. Agreement Between TDOT and the City regarding the I-24 Smart Corridor Project (Transportation)

39. International Dump Truck Purchase (Water Resources)

40. Jet/Vacuum Sewer Cleaner Purchase (Water Resources)

Licensing

Board & Commission Appointments

41. Cable Commission

Payment of Statements

Other Business

Adjournment

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Change Order – SportsCom ADA Upgrades

Department: Administration

Presented by: Scott Elliott

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Change Order #1 for ADA upgrades at SportsCom

Staff Recommendation

Approval for Change order#1 in the amount of $5,820 with Rock City Construction

Background Information

The City contracted with Rock City Construction to provide ADA upgrades to the front entry at SportsCom. The existing buried storm drainage was re-located during excavation at the front entryway. This component was not in the original design and specifications for the contract. In addition, the parge coat to existing wall and Parking lot Striping was not including in the original scope of work and was needed to complete the upgrades. SportsCom ADA upgrades at the front entry have been completed and are serving the needs of the public as designed.

Council Priorities Served

Maintain public safety

Maintaining City facilities and complying with ADA requirements ensures the access and safety of citizens and visitors.

Fiscal Impact

Change Order totals $5,820 and is funded through the 2019 CIP.

Attachments

Change Order #1 Rock City Construction

September 2, 2022

22 middleton street
nashville, tennessee 37210
tel: (615) 255-1854
fax: (615) 244-1123
email: mailbox@ksarchitects.com

Scott Elliott, Manager Project Development
City of Murfreesboro
111 West Vine St.
Murfreesboro, TN 37133

RE: CHANGE ORDER #1
ADA UPGRADES – Sports*Com Building and Miracle Field
MURFREESBORO, TN

American Institute of Architects
Tennessee Society of Architects
Construction Specifications Institute
American Correctional Association
National Council of Architectural Registration Boards
United States Green Building Council

Dear Mr. Elliott:

We have reviewed the pricing information from Rock City Construction for the items listed in Change Order #1 pertaining to the owner requested storm drainage line relocation, existing wall parge coat, and the driveway caution stripe painting. To the best of our knowledge, the Rock City Construction is due $5,820.15 at this time and we are recommending payment. No additional days were added to the schedule.

If you have any questions regarding the above please call.

Sincerely,

KLINE SWINNEY ASSOCIATES

Bart Kline, AIA

Cc: Rock City Construction

9/8/22
Gary Whitaker Date
Assistant City Manager

9/8/22
Scott Elliott Date
Manager Project Dvlp

AIA® Document G701™ – 2017

Change Order

PROJECT: *(name and address)*
Sports Com and Miracle Field
120 Dejarnette Ln, Murfreesboro, TN 37130
Murfreesboro, Tennessee 37130

OWNER: *(name and address)*
CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

CONTRACT INFORMATION:
Contract For:
Date:

ARCHITECT: *(name and address)*
KLINE SWINNEY ASSOCIATES

CHANGE ORDER INFORMATION:
Change Order Number: 001
Date: 8/26/2022

TO CONTRACTOR: *(name and address)*
Rock City Construction Company, LLC
1885 General George Patton Drive
Franklin, Tennessee 37067

THE CONTRACT IS CHANGED AS FOLLOWS:

CE #002 - Existing Storm Line Relocation
Existing storm line in conflict with ADA ramp.

CE #003 Paint Yellow Curb
Additional paint and cross hatching for yellow curb.

CE #004 Parge Coat at Exposed Block
Parge Coat at Exposed Block.

PCO 001 CE #002 - Existing Storm Line Relocation	$3,827.20
PCO 002 CE #003 - Paint Yellow Curb	$1,127.00
PCO 003 CE #004 - Parge Coat at Exposed Block	$865.95

The original Contract Sum was	$ 359,000.00
The net change by previously authorized Change Orders	$ 0.00
The Contract Sum prior to this Change Order was	$ 359,000.00
The Contract Sum will would be changed by this Change Order in the amount of	$ 5,820.15
The new Contract Sum including this Change Order will be	$ 364,820.15
The Contract Time will by	
The new date Substantial Completion will be	

NOTE: This Change Order does not include adjustment in the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

KLINE SWINNEY ASSOCIATES	Rock City Construction Company, LLC	CITY OF MURFREESBORO
ARCHITECT *(Firm name)*	**CONTRACTOR** *(Firm name)*	**OWNER** *(Firm Name)*
Anthony Mangrum Proj. Mgr.	Ross Baggay	
SIGNATURE	**SIGNATURE**	**SIGNATURE**
Anthony Mangrum	Ross Baggay Project Manager	
PRINTED NAME AND TITLE	**PRINTED NAME AND TITLE**	**PRINTED NAME AND TITLE**
9/2/2022	08/31/2022	
DATE	**DATE**	**DATE**

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User Notes: (1932678762)

Approved as to form:

Adam F. Tucker, City Attorney

ROCKCITY CONSTRUCTION CO. EST. 1913

PCO #001

Rock City Construction Company, LLC
1885 General George Patton Drive
Franklin, Tennessee 37067
Phone: (615) 794-6691

Project: 6220013 - Sports Com and Miracle Field
120 Dejarnette Ln, Murfreesboro, TN 37130
Murfreesboro, Tennessee 37130

Prime Contract Potential Change Order #001: CE #002 - Existing Storm Line Relocation

TO:	CITY OF MURFREESBORO 111 WEST VINE STREET MURFREESBORO, Tennessee 37130	**FROM:**	ROCK CITY CONSTRUCTION CO LLC 1885 GENERAL GEORGE PATTON DR FRANKLIN, Tennessee 37067
PCO NUMBER/REVISION:	001 / 0	**CONTRACT:**	1 -
REQUEST RECEIVED FROM:		**CREATED BY:**	Ross Baggay **(ROCK CITY CONSTRUCTION CO LLC)**
STATUS:	Pending - In Review	**CREATED DATE:**	8/26/2022
REFERENCE:		**PRIME CONTRACT CHANGE ORDER:**	#001 - Change Order #1
FIELD CHANGE:	No		
LOCATION:		**ACCOUNTING METHOD:**	Amount Based
SCHEDULE IMPACT:		**PAID IN FULL:**	No
EXECUTED:	No	**SIGNED CHANGE ORDER RECEIVED DATE:**	
		TOTAL AMOUNT:	$3,827.20

POTENTIAL CHANGE ORDER TITLE: CE #002 - Existing Storm Line Relocation

CHANGE REASON: Existing/Unforeseen Condition

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*
CE #002 - Existing Storm Line Relocation
Existing storm line in conflict with ADA ramp.

ATTACHMENTS:

#	Budget Code	Description	Amount
1	02-02500.S SITE UTILITIES.Commitment		$3,328.00
		Subtotal:	**$3,328.00**
		Overhead (10.00% Applies to all line item types.):	$332.80
		Fee (5.00% Applies to all line item types.):	$166.40
		Grand Total:	**$3,827.20**

Anthony Mangrum (KLINE SWINNEY ASSOCIATES)

SIGNATURE **DATE**

CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

SIGNATURE **DATE**

ROCK CITY CONSTRUCTION CO LLC
1885 GENERAL GEORGE PATTON DR
FRANKLIN, Tennessee 37067

SIGNATURE **DATE**

Phone (615) 890-8573
Fax (615) 890-8575
wwplumbing@comcast.net

W. W. PLUMBING CO., INC.

3520 HALLS HILL PIKE
MURFREESBORO, TN 37130
SINCE 1980

Proposal

LICENSE #33785 CMC-A, MU-A $1,181,990.00 EXP DATE: 06/30/2023

==========

To **ROCK CITY CONST.**

DATE: **08/03/22**
JOB: **SPORTS COM**

ATTN: **ROSS BAGGAY** **MURFREESBORO, TN**

We hereby submit specifications and estimates for:

FURNISH MATERIAL AND LABOR TO REPLACE 6" RWL PIPING TO PVC TO LOWER ELEVATION IN ADA RAMP AS REQUIRED.

TOTAL **$3,328.00**

We Propose hereby to furnish material and labor- complete in accordance with above specifications, for the sum of: Three thousand three hundred twenty eight dollars and no/100

Payment to be as follows:

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurnace.

Authorized Signature Robert E. Ward

Note: This proposal may be withdrawn by us if not accepted within 14 days.

==========

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature: _____

Date of Acceptance: _____

Signature: _____

ROCKCITY CONSTRUCTION CO. EST. 1913

PCO #002

Rock City Construction Company, LLC
1885 General George Patton Drive
Franklin, Tennessee 37067
Phone: (615) 794-6691

Project: 6220013 - Sports Com and Miracle Field
120 Dejarnette Ln, Murfreesboro, TN 37130
Murfreesboro, Tennessee 37130

Prime Contract Potential Change Order #002: CE #003 - Paint Yellow Curb

TO:	CITY OF MURFREESBORO 111 WEST VINE STREET MURFREESBORO, Tennessee 37130	**FROM:**	ROCK CITY CONSTRUCTION CO LLC 1885 GENERAL GEORGE PATTON DR FRANKLIN, Tennessee 37067
PCO NUMBER/REVISION:	002 / 0	**CONTRACT:**	1 -
REQUEST RECEIVED FROM:		**CREATED BY:**	Ross Baggay **(ROCK CITY CONSTRUCTION CO LLC)**
STATUS:	Pending - In Review	**CREATED DATE:**	8/26/2022
REFERENCE:		**PRIME CONTRACT CHANGE ORDER:**	#001 - Change Order #1
FIELD CHANGE:	No		
LOCATION:		**ACCOUNTING METHOD:**	Amount Based
SCHEDULE IMPACT:		**PAID IN FULL:**	No
EXECUTED:	No	**SIGNED CHANGE ORDER RECEIVED DATE:**	
		TOTAL AMOUNT:	$1,127.00

POTENTIAL CHANGE ORDER TITLE: CE #003 - Paint Yellow Curb

CHANGE REASON: Additional Scope

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*
CE #003 - Paint Yellow Curb
Additional paint and cross hatching for yellow curb

ATTACHMENTS:
Rock City_20220816_124047.pdf

#	Budget Code	Description	Amount
1	02-02404.S STRIPING.Commitment		$980.00
		Subtotal:	**$980.00**
		Overhead (10.00% Applies to all line item types.):	$98.00
		Fe (5.00% Applies to all line item types.):	$49.00
		Grand Total:	**$1,127.00**

Anthony Mangrum (KLINE SWINNEY ASSOCIATES)

SIGNATURE **DATE**

CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

SIGNATURE **DATE**

ROCK CITY CONSTRUCTION CO LLC
1885 GENERAL GEORGE PATTON DR
FRANKLIN, Tennessee 37067

SIGNATURE **DATE**

Estimate

LinePro Striping, LLC
P.O. Box 1629
Columbia, TN 38402-1629

Phone #
(931) 384-0272

Date	Estimate #
8/16/2022	5231

Rock City Construction Company, Inc.
P.O. Box 607
Franklin, TN 37065

Project
Murfreesboro Sports Com

County	City
Rutherford	Murfreesboro

Description	Qty	Cost	Total
(STRIPING-ADA STRIPING) Layout and paint all ADA markings and hashed areas with one coat of heavy duty traffic paint	1	750.00	750.00
(STRIPING-FIRE LANE/CURB) Layout and paint 425 ft of curb and restripe hashed fire lane with heavy duty traffic paint	1	980.00	980.00
(THERMOPLASTIC MARKINGS) Layout and Apply 3-Thermoplastic crosswalks traffic markings.	1	2,750.00	2,750.00

-Undisclosed fees & job requirements resulting in added expenses will be added to invoice
-Work done outside of regular hours may change price
-Custom items may require payment in advance at our discretion
-Changes in scope from the estimate can result in price change
-Price is good for 30 days
-Payment due upon completion of work

Total $4,480.00

Member of:

Accepted By: **Please sign on last page of estimate with total amount.**

Web Site	E-mail
www.LineProStriping.com	wes@lineprostriping.com

ROCKCITY CONSTRUCTION CO. EST. 1913

PCO #003

Rock City Construction Company, LLC
1885 General George Patton Drive
Franklin, Tennessee 37067
Phone: (615) 794-6691

Project: 6220013 - Sports Com and Miracle Field
120 Dejarnette Ln, Murfreesboro, TN 37130
Murfreesboro, Tennessee 37130

Prime Contract Potential Change Order #003: CE #004 - Parge Coat at Exposed Block

TO:	CITY OF MURFREESBORO 111 WEST VINE STREET MURFREESBORO, Tennessee 37130	**FROM:**	ROCK CITY CONSTRUCTION CO LLC 1885 GENERAL GEORGE PATTON DR FRANKLIN, Tennessee 37067
PCO NUMBER/REVISION:	003 / 0	**CONTRACT:**	1 -
REQUEST RECEIVED FROM:		**CREATED BY:**	Ross Baggay **(ROCK CITY CONSTRUCTION CO LLC)**
STATUS:	Pending - In Review	**CREATED DATE:**	8/29/2022
REFERENCE:		**PRIME CONTRACT CHANGE ORDER:**	#001 - Change Order #1
FIELD CHANGE:	No		
LOCATION:		**ACCOUNTING METHOD:**	Amount Based
SCHEDULE IMPACT:		**PAID IN FULL:**	No
EXECUTED:	No	**SIGNED CHANGE ORDER RECEIVED DATE:**	
		TOTAL AMOUNT:	$865.95

POTENTIAL CHANGE ORDER TITLE: CE #004 - Parge Coat at Exposed Block

CHANGE REASON: Additional Scope

POTENTIAL CHANGE ORDER DESCRIPTION: *(The Contract Is Changed As Follows)*
CE #004 - Parge Coat at Exposed Block
Parge Coat at Exposed Block

ATTACHMENTS:
PCO #1 Breakdown - Wall Rubbing.pdf

#	Budget Code	Description	Amount
1	02-02600.S SITE CONCRETE.Commitment		$753.00
		Subtotal:	**$753.00**
		Overhead (10.00% Applies to all line item types.):	$75.30
		Fee (5.00% Applies to all line item types.):	$37.65
		Grand Total:	**$865.95**

Anthony Mangrum (KLINE SWINNEY ASSOCIATES)

SIGNATURE **DATE**

CITY OF MURFREESBORO
111 WEST VINE STREET
MURFREESBORO, Tennessee 37130

SIGNATURE **DATE**

ROCK CITY CONSTRUCTION CO LLC
1885 GENERAL GEORGE PATTON DR
FRANKLIN, Tennessee 37067

SIGNATURE **DATE**

Subcontractor PCO#1

Pricing Detail

Project Name:	Murfreesboro ADA
Project Number:	22103
Contractor:	Rock City
Date:	11.23.2021

Description of Work:
Rubbing of adjacent foundation wall

Scope of Work	Qty	Unit	Unit Cost	Subtotal	Total Amount
Material / Misc.					
Rubbing Material	3	EA	$ 60.00	$ 180.00	
Rebar		TN	$ 1,750.00	$ -	
Spoils Haul-Off		CY	$ 25.00		
Material Subtotal				$ 180.00	
			Material Total	**$ 180.00**	
Labor - Standard Time (Less OH&P, WC & GL)					
Form Carpenter	10	HR	$ 36.00	$ 360.00	
Finisher	0	HR	$ 36.00		
Equipment Operator	0	HR	$ 36.00		
Supervisor	2	HR	$ 56.00	$ 112.00	
Labor Subtotal (ST)				$ 472.00	
Labor - Premium Time Differential (Less OH&P, WC & GL)					
Form Carpenter	0	HR	$ 54.00		
Finisher	0	HR	$ 54.00		
Equipment Operator	0	HR	$ 54.00		
Supervisor	0	HR	$ 84.00		
Labor Subtotal (OT)				$ -	
			Labor Total (ST + OT)	**$ 472.00**	
Equipment					
Skid Steer		HR	$ 125.00	$ -	
Mini Excavator		HR	$ 150.00	$ -	
Rock Hammer		HR	$ 85.00	$ -	
Excavator		HR	$ 175.00	$ -	
Dump Truck		HR	$ 105.00	$ -	
Equipment Mob. (1 Way x 1 Piece)		EA	$ 250.00	$ -	
Equipment Total				$ -	

Material, Labor and Equipment Subtotal	$	652.00
Overhead (10%)	$	65.20
Fee (5%)	$	35.86
SUBCONTRACTOR PCO TOTAL	**$**	**753.06**

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title:	FY23 Tennessee Housing Development Agency Emergency Solutions Grant
Department:	Community Development
Presented by:	Sam Huddleston, Executive Director of Development Services

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

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

Staff Recommendation

Approve acceptance of the THDA grant agreement.

Background Information

The ESG grant provides funding 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 expense.

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	End Date	Agency Tracking #	Edison ID
07/01/2022	06/30/2023	ESG-22-20	74001

Grantee Legal Entity Name	Edison Vendor ID
City of Murfreesboro	4110

Subrecipient or Recipient

☒ Subrecipient

☐ Recipient

CFDA # 14.231 Emergency Solutions Grants Program

Grantee's fiscal year end

Service Caption (one line only)

Emergency Solutions Grant (ESG) 2022

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Grant Contract Amount
2023		$161,250			$161,250
TOTAL:		**$161,250**			**$161,250**

Grantee Selection Process Summary

☐ Competitive Selection

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 2022 ESG Program Description.

☒ 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)

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 and the Tennessee Housing Development Agency ("THDA") (hereinafter collectively 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 2022 ESG Program Description and the ESG Manual "the THDA ESG Requirements").

d. Federal Award Identification Worksheet. The federal award identification worksheet, which appears as ATTACHMENT D.

A.4. 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.5. 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.6. 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.7. 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.8. The Grantee shall comply with the required consultation with the applicable local Continua of Care; participation in the coordinated entry of the applicable local Continua of Care; and ESG reporting standards using, as required under the ESG regulations, the Homeless Management Information System (HMIS) of the Continua of Care in which the ESG-funded services of the Grantee are provided.

B. TERM OF CONTRACT:

This Grant Contract shall be effective on 07/01/2022 ("Effective Date") and extend for a period of twelve (12) months 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 and Sixty One Thousand Two Hundred and Fifty Dollars and Zero Cents ($161,250.00) ("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.

(2) 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 August 18, 2023. 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:

Shane McFarland, Mayor
City of Murfreesboro
111 W Vine Street, Murfreesboro, TN 37130
smcfarland@murfreesborotn.gov
Telephone # (615) 849-2629

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.
Code Ann. Code Ann. Code Ann.

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 his 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 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 Unique Entity Identifier (SAM) and maintain its number for the term of this Grant Contract. More information about obtaining a Unique Entity Identifier can be found at: https://www.gsa.gov.

The Grantee's failure to comply with the above requirements is a material breach of this Grant Contract for which 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 Polices 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 an 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:

Shane McFarland, Mayor **DATE**

Tennessee Housing Development Agency:

05/31/2022

Cynthia Peraza, Director of Community Programs **DATE**

ATTACHMENT A

TENNESSEE HOUSING DEVELOPMENT AGENCY

2022 ESG PROGRAM

DESCRIPTION OF GRANTEE ACTIVITIES

GRANTEE NAME: CITY OF MURFREESBORO

I. The activities for the 2022 ESG Project shall consist of the following:

1. Administer ESG funds through subrecipient agreements with the following agencies: Barnabas Vision and Salvation Army Murfreesboro

2. Salvation Army of Murfreesboro will use ESG funds to provide Shelter services to homeless individuals and/or families in the City of Murfreesboro.

3. Salvation Army of Murfreesboro will use ESG funds to provide Rapid Rehousing services to homeless individuals and/or families in the City of Murfreesboro.

4. Barnabas Vision will use ESG funds to provide Prevention services to homeless individuals and/or families in the City of Murfreesboro.

5. Except as noted in #6 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.

6. The final invoice under this Grant Contract shall be submitted to THDA by August 18, 2023. An invoice submitted after that date will NOT be paid.

ATTACHMENT B

TENNESSEE HOUSING DEVELOPMENT AGENCY
2022 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.	Determination of status for Environmental Review	June 15, 2022
2.	Release of funds	July 1, 2022
3.	Begin providing services to homeless	July 1, 2022
4.	Contract complete	June 30, 2023
5.	Final date to submit draw support	August 18, 2023

ATTACHMENT C

TENNESSEE HOUSING DEVELOPMENT AGENCY
2022 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	$-	$50,000	$50,000	$50,000	$-	$11,250	$161,250
Other Non-ESG Funds		$50,000	$50,000	$50,000			$150,000
Other Federal Funds							
State Government Funds							
Local Government Funds							
Private Funds							
Other							
TOTAL		$50,000	$50,000	$50,000		$11,250	$311,250

ATTACHMENT D

Federal Award Identification Worksheet

Subrecipient's name (must match name associated with its Unique Entity Identifier (SAM)	City of Murfreesboro
Subrecipient's Unique Entity Identifier (SAM)	
Federal Award Identification Number (FAIN)	E-22-DC-47-001
Federal award date	07/01/2022
Subaward Period of Performance Start and End Date	07/01/2022 06/30/2023
Subaward Budget Period Start and End Date	$161,250
Assistance Listing number (formerly known as the CFDA number) and Assistance Listing program title.	
Grant contract's begin date	07/01/2022
Grant contract's end date	06/30/2023
Amount of federal funds obligated by this grant contract	$3,238,192
Total amount of federal funds obligated to the subrecipient	$161,250
Total amount of the federal award to the pass-through entity (Grantor State Agency)	$3,238,192
Federal award project description (as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)	
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
Name of pass-through entity	Tennessee Housing Development Agency
Name and contact information for the pass-through entity awarding official	Don Watt, Chief Program Officer Tennessee Housing Development Agency Andrew Jackson Building, Third Floor Nashville, TN 37243 DWatt@thda.org Telephone # 615-815-2032
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.***

- ☐ City of Murfreesboro is subject to an audit for fiscal year 2022.
- ☐ City of Murfreesboro is not subject to an audit for fiscal year 2022.

Grantee's Edison Vendor ID Number: 4110

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 b. Funds passed through any other entity	a. b.
Funds received directly from the federal government	
Non-federal funds received directly from the State of Tennessee	

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: 09/22/2022

Item Title: FY23 City Manager Approved Budget Amendments

Department: Finance

Presented by: Jennifer Brown

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☐
Direction	☐
Information	☒

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

Replace 10 Ton PKGD Precedent Unitary Rooftop HVAC unit. Move $14,000 from Unforeseen Contingencies to Solid Waste Machinery & Equipment.

Replace the icemaker in the breakroom. Move $3,500 from Unforeseen Contingencies to Facilities Maintenance Machinery & Equipment.

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

City of MURFREESBORO TENNESSEE

. . . 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: 2023

Move funds from:		Move funds to:	
Org	10130008	Org	10314009
Object	599909	Object	594000
Acct Name	Unforeseen Contingencies	Acct Name	Machinery & Equipment
Amount	$14,000.00		

Explanation: To replace a 10 Ton PKGD Precedent Unitary Rooftop HVAC unit.

Russell Sassett — Department Head Signature — 8/29/2022 — Date

Amanda DeRosia — Reviewed by Finance — 08/31/2022 — Date

Approved ☑ Declined ☐

City Manager — 8-6-22 — Date

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

City of MURFREESBORO TENNESSEE

. . . 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: 2023

Move funds from:		Move funds to:	
Org	10130008	Org	10120009
Object	599909	Object	594000
Acct Name	Unforeseen Contingencies	Acct Name	Machinery & Equipment
Amount	$3,500.00		

Explanation: To replace the icemaker in the breakroom.

Jennifer Bean — Department Head Signature — 9/1/22 — Date

Amanda DeRosia — Reviewed by Finance — 09/01/2022 — Date

Approved ☑ Declined ☐

City Manager — 9.6.22 — Date

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

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Fence Replacement at Station 9

Department: Fire Rescue

Presented by: Mark McCluskey, Chief

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Replacement of the fencing at Station 9.

Staff Recommendation

Approve agreement with Hooper Fence Co.

Background Information

The 23-year-old wooden fence at Station 9 requires replacing. It is weathered beyond repair and beginning to deteriorate. Hooper Fence Company has quoted a white, vinyl fence at $12,870.

American Rescue Plan Act (ARPA) funds will be used for the project. ARPA fund expenditure requires City Council approval.

Council Priorities Served

Responsible budgeting

Repair and replacement of fencing at City facilities protects the City's investment in its physical assets.

Fiscal Impacts

The project cost, $12,870, is funded by ARPA funds.

Attachments

Contract with Hooper Fence Company, Inc.

DocuSign Envelope ID: 60545295-CDC7-418B-BBBA-346F62F72429

CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
HOOPER FENCE COMPANY, INC.
FOR
FENCING FOR MURFREESBORO FIRE & RESCUE
STATION #9

This Contract is entered into on this _____, by and between **THE CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **HOOPER FENCE COMPANY, INC.,** a corporation of the State of Tennessee ("Contractor"). This Contract consists of the following documents:

- ***Contractor's Written Quote #945 dated 8/10/2022 (Exhibit B)***
- ***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***
- ***Contractor's Written Quote #945 dated 8/10/2022 (Exhibit B)***

1. **Duties and Responsibilities of Contractor.**

   a. *Scope of Work*. Contractor agrees to provide construction services as set forth in the Contractor's Written Quote #945 dated August 10, 2022, and as further described in the Supplementary Conditions (Exhibit A) to supply and install approximately 396 feet of six feet tall white vinyl privacy fencing at Murfreesboro Fire Rescue Station #9. Services include removal and disposal of old fence. Site for installation is located at 802 Cason Lane, Murfreesboro, Tennessee 37129 (the "Project").

   b. *Supervision and Superintendence of Work*.

      i. Contractor will supervise and direct the work efficiently and with Contractor's best skill and attention. Contractor will be solely responsible for the means, methods, techniques, sequences and procedures of construction. Contractor will be responsible to see that the finished work complies accurately with the Contract documents.

      ii. Contractor will keep on the work site at all times during work progress a competent resident superintendent, who shall not be replaced without written notice to the City except under extraordinary circumstances. The superintendent will be Contractor's representative at the site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor.

   c. *Labor, Materials, and Equipment*.

      i. Contractor will provide competent, suitably qualified personnel to survey and lay out the work and perform construction as required by the Contract documents. The Contractor will at all times maintain good discipline and order at the site.

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ii. Contractor will furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, and all other incidentals necessary for the execution, testing, initial operation and completion of the work.

iii. All materials will be new, except as otherwise provided in the Contract documents. If required by the City, Contractor will furnish satisfactory evidence as to the kind and quality of materials and equipment.

iv. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise provided in the Contract documents.

d. *Substitute Materials or Equipment*. If it is indicated in the specifications that Contractor may furnish or use a substitute that is equal to any material or equipment specified, and if Contractor wishes to furnish or use a proposed substitute, Contractor shall, promptly after the award of the Contract, make written application to the City's designated representative for approval of such a substitute certifying in writing that the proposed substitute will perform adequately the duties imposed by the general design, be similar and of equal substance to that specified and be suited to the same use and capable of performing the same function as that specified. No substitute shall be ordered or installed without the written approval of the City's designated representative who shall be the sole judge of equality.

e. *Warranty and Guarantee*. The Contractor warrants to the City that:

i. Unless otherwise provided for, all materials, machinery, and equipment used on the work shall be new, of the best quality in their kind and grade, and of the most efficient and effective design and type available for the purposes for which they are intended;

ii. All materials, machinery, and equipment conform in every respect with the specifications, drawings, approved samples, and other requirements of the Contract documents;

iii. Only such materials, machinery, and equipment shall be used on the work as have been produced or manufactured in accordance with the established and generally accepted standards for goods and workmanship of the type covered by the specifications and are of such a design and construction as to perform properly the function or work for which they are intended and to afford the maximum ease in upkeep and repair;

iv. The finish of the exterior surface of the materials, machinery and equipment used on the work shall be in accordance with the specifications, or if there are no applicable specifications, such finish shall be consistent with commercially accepted practices for the services to be rendered by the respective materials, machinery, and equipment; and

v. The Contractor agrees that all warranties in the Contract documents shall survive acceptance of, delivery of, and payment for, the goods, whether any defects shall be latent or patent, and agrees to indemnify and hold the City harmless from any loss, damage, or other expense, including attorneys' fees, that the City may suffer as a result of the failure of the materials, machinery, and equipment or workmanship to be as warranted. Each warranty with respect to any items other than machinery and equipment, shall expire sixty (60) months from the date of receipt by the City of such items and, with respect to machinery and equipment, twenty-four (24) months after the date of initial operation of such machinery and equipment. The Contractor agrees to correct without expense to, and to the satisfaction of, the City, any

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defects that may develop in material, workmanship, and design during the period of such warranty.

The warranties set forth in the preceding paragraph are cumulative and shall not exclude or affect the operation of any other warranty or guaranty provided by law or by the Contract documents.

f. *Subcontractors*.

i. Contractor will not employ any subcontractor to perform any of the work required under the Contract documents without first obtaining the written approval of the City's designated representative to employ the subcontractor.

ii. Contractor will be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by Contractor. Nothing in the Contract documents shall create any contractual relationships between any subcontractor and the City or any obligation on the part of the City to pay or to see to the payment of any moneys due any subcontractor, except as may otherwise be required by law. The City may furnish to any subcontractor, to the extent practicable, evidence of amounts paid to Contractor on account of specific work done in accordance with the schedule of values.

iii. Contractor agrees to bind specifically every subcontractor to the applicable terms and conditions of the Contract documents for the benefit of the City.

iv. All work performed for Contractor by a subcontractor shall be pursuant to an appropriate written agreement between Contractor and the subcontractor.

g. *Permits*. Contractor will secure and pay for all construction permits and licenses and will pay all governmental charges and inspection fees necessary for the prosecution of the work, which are applicable at the time of Contractor's bid. Contractor will also pay all public utility charges, if applicable.

h. *Use of Premises*.

i. Contractor will confine Contractor's equipment, the storage of materials and equipment and the operations of Contractor's workers to areas permitted by law, ordinances, permits, or the requirements of the Contract documents, and shall not unreasonably encumber the premises with materials or equipment.

ii. Contractor will not load nor permit any part of the structure to be loaded with weights that will endanger the structure, nor will Contractor subject any part of the work to stresses or pressures that will endanger it.

i. *Safety and Protection*.

i. Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to:

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(1) All employees on the work and other persons who may be affected thereby,
(2) All the work and all materials or equipment to be incorporated there, whether in storage on or off the site, and
(3) Other property at the site or adjacent property, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

Contractor will comply with all applicable laws, ordinances, rules, regulations and order of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor will erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection. Contractor will notify the City of adjacent utilities when prosecution of the work may affect them. All damage, injury, or loss to any property referred to in subparagraph (2) or (3) of this section caused directly or indirectly, in whole or in part, by Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, will be remedied by Contractor; except damage or loss attributable to the fault of drawings or specifications or to the acts or omissions of the City or anyone employed by either of them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor.

ii. Contractor will designate a responsible member of Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by Contractor to the City.

j. *Emergencies*. In emergencies affecting the safety of persons or the work or property at the site or adjacent property, Contractor, without special instruction or authorization from the City, is obligated to act, at Contractor's discretion, to prevent threatened damage, injury or loss.

k. *Cleaning Up*. Contractor will keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the work, and at the completion of the work Contractor will remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for inspection by the City. Contractor will restore to their original condition those portions of the site not designated for alteration by the Contract documents.

l. *Coordination of Work*.

i. The City may perform additional work related to the Project by itself, or may let other direct contracts for additional work, which shall contain general conditions similar to these. Contractor will afford the other Contractors who are parties to such direct contracts (or the City, if the City is performing the additional work itself) reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate Contractor's work with theirs.

ii. If any part of Contractor's work depends for proper execution or results upon the work of any such other Contractor (or City), Contractor will inspect and promptly report to the City's designated representative in writing any defects or deficiencies in such work that render it unsuitable for such proper execution and results. Contractor's failure to report shall constitute an acceptance of the other work as fit and proper for the relationship of

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Contractor's work except as to defects and deficiencies that may appear in the other work after the execution of Contractor's work.

iii. Contractor will do all cutting, fitting and patching of Contractor's work that may be required to make its several parts come together properly and fit it to receive or be received by such other work. Contractor will not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the City's designated representative.

m. *Access to the Work*. Representatives of the City will at all times have access to the work. Contractor will provide proper facilities for such access and observation of the work and also for any inspection or testing by others.

n. *Contractor's Continuing Obligation*. Contractor's obligation to perform the work and complete the Project in accordance with the Contract documents shall be absolute. Neither any payment by the City to Contractor under the Contract documents, nor any use or occupancy of the Project or any part by the City, nor any act of acceptance by the City nor any failure to do so, nor any correction of defective work by the City shall constitute acceptance of work not in accordance with the Contract documents.

2. **Duties and Responsibilities of City**.

a. *Communications to Contractor*. The City will issue all communications to Contractor through the Project Development Manager Scott Elliott (selliott@murfreesborotn.gov) Mr. Elliott shall be the City's representative during the construction period.

b. *Clarifications and Interpretations*. The City's designated representative will issue with reasonable promptness written clarifications or interpretations of the Contract documents (in the form of drawings or otherwise) as the City may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract documents.

c. *Work Changes*. The City reserves the right to order work changes in the nature of additions, deletions, or modifications, without invalidating the Contract, and agrees to make corresponding adjustments in the Contract price and time of termination. All changes will be authorized by written change order signed by the City. The change order will include conforming changes in the Contract and termination time. Work shall be changed, and the Contract price and termination time shall be modified only as set out in the written change order. Any adjustment in the Contract sum resulting in a credit or a charge to the City shall be determined by mutual agreement of the parties before starting the work involved in the change.

3. **Term.** This Contract shall not be effective until approved by the City Council and signed by all required parties. Contractor shall commence work on the Project within three weeks of issuance of the purchase order after execution of Contract. Contractor shall complete the work within two weeks of commencing the work on the Project.

4. **Payment.** Payment will be made by the City based on work progress after services have been received, accepted, and properly invoiced. City agrees to pay for material upon delivery and invoice submitted by Contractor. After Contractor has submitted an invoice, the City will issue payment within thirty (30) days from submittal. The final payment shall be made only after Contractor has completely performed its duties under this Contract, and the work has been accepted by the City and all work has been approved by an inspector from the Murfreesboro Building and Codes Department.

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5. **Price.** The price for services shall be invoiced at the prices and charges fixed by the Contractor as per the attached quote (Exhibit B) which reflects a total price of $12,870.00. Should rock be encountered during construction, there will be no extra rock fee charged.

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 the project referenced in 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. In that event, the Contractor shall be entitled to receive just and equitable compensation for any satisfactory authorized work completed as of the termination date.

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 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, shall be maintained for a period of five (5) 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 executed by signature of the City Manager in lieu of the City's signatory hereto.

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, 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.

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

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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.

Contractor will also be required to acknowledge that the City is a federal government contractor, and that by virtue of this Contract, Contractor is a federal government subcontractor. Therefore, in accordance with federal law, Contractor shall specifically acknowledge and agree as follows:

(1) 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.

(2) 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.

(3) 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.

16. **Indemnification and Hold Harmless.** Contractor shall indemnify and hold harmless City, its officers, agents, and employees from:

a. 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,

b. **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 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. **Title VI of the Civil Rights Act of 1964, as amended.** Contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement**.**

18. **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,

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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**.**

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. **Debarment and Suspension**.
    - **a.** The City certifies, to the best of its knowledge and belief, that the Selected Contractor:
        - **i.** is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
        - **ii.** has not within a three (3) year period preceding this 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;
        - **iii.** is 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
        - **iv.** has 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.

    - **b.** The City will provide immediate written notice to the U.S. Department of Treasury or granting authority, if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, the Selected Contractor is excluded or disqualified, or presently falls under any of the prohibitions of sections i-iv.

    - c. The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)," 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:
        - i. Debarred from participation in any federally assisted Award;
        - ii. Suspended from participation in any federally assisted Award;
        - iii. Proposed for debarment from participation in any federally assisted Award;
        - iv. Declared ineligible to participate in any federally assisted Award;

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v. Voluntarily excluded from participation in any federally assisted Award; or
vi. Disqualified from participation in any federally assisted Award.
vii. By signing this Agreement, Contractor certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C, as supplemented by 2 CFR Part 1200, throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

21. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

22. **Lobbying Certification. (4220.1F.IV.2.a.(4); 49 CFR Part 20).**

a. Contractors that apply or bid for an award exceeding $100,000 must file the lobbying certification before the awarding of the contract, and if applicable, a lobbying disclosure from a prospective third-party contractor. See, DOT regulations, "New Restrictions on Lobbying" 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352, which implement the Byrd "Anti-Lobbying" Amendment, 31 U.S.C. Section 1352. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

b. The Contractor certifies, to the best of its knowledge and belief, that:

i. 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 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.

ii. 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 Promisor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

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iii. The Contractor 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.

c. 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.

23. **Domestic preferences for procurements**. (2 CFR 200.322)

a. As appropriate and to the extent consistent with law, the Contractor, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

b. For purposes of this section:

i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

24. **Increasing Seat Belt Use in the United States**. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

25. **Reducing Text Messaging While Driving**. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

26. **Insurance.** The Contractor must maintain and provide proof of commercial general liability insurance for bodily injury and property damage (minimum $1,000,000) and workers' compensation insurance as required by the State of Tennessee. Contractor must notify City if the insurance policy is renewed, cancelled, or altered in any manner and provide written documentation of such alteration.

27. **Attorney Fees.** Contractor agrees that, in the event both parties 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.

28. **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 CITY OF

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MURFREESBORO PURCHASING DIRECTOR, POST OFFICE BOX 1139, 111 WEST VINE STREET, MURFREESBORO, TENNESSEE 37133-1139.

29. **Entire Contract.** This Contract, Request for Quotes, Bid Specifications including drawings (if applicable), and Contractor's Written Quote 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 and supersedes 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 shall be binding unless evidenced by a writing signed by the party against whom it is sought to be enforced. No waiver of any of the provisions of this Contract shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

30. **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.

31. **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.

32. **Venue.** Any action between the parties arising from this agreement shall be maintained in the courts of Rutherford County, Tennessee.

33. **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.

34. **Notices.** Notices to City regarding any part of this Contract 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 set forth below.

    a. Notices to City shall be sent to:
    Department: City of Murfreesboro
    Attention: Craig Tindall, City Manager
    Address: Post Office Box 1139
    111 West Vine Street
    Murfreesboro, TN 37133-1139

    b. Notices to Contractor shall be sent to:
    ***Contractor*:** Hooper Fence Company, Inc.
    Attention: Kelly Johnson, Owner
    Address: 1503 West College Street
    Murfreesboro, TN 37129
    kelly@hooperfence.com

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35. **Effective Date.** This Contract shall not be binding upon the parties until it has been signed first by the Contractor and then approved 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

By: _____
Shane McFarland, Mayor

HOOPER FENCE COMPANY, INC.

DocuSigned by:
By: Kelly Johnson
KB61FDE85D73B441...
Kelly Johnson, Owner

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
43A2635551B940T...
Adam F. Tucker, City Attorney

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Exhibit A

Supplementary Conditions and Specifications

By initialing below, each party acknowledges the following Supplementary Conditions and Specifications are necessary for the completion of the Project:

City: _____ Contractor: DS kj _____

1. 6’ vinyl fence.
2. All posts set in concrete.
3. Removal and disposal of old fence.
4. CONTRACTOR is the Party responsible for locating underground utilities.

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Hooper Fence Company, Inc.

1503 West College Street
Murfreesboro, TN 37129

Estimate

Date	Estimate #
8/10/2022	945

Name / Address
Fire Dept. Administration 220 NW Broad St. Murfreesboro, TN 37130

Project

Description	Qty	Cost	Total
Install 396 feet of 6' tall white vinyl privacy fence	1	11,880.00	11,880.00
Removal and disposal of old fence Labor	1	990.00	990.00
Station 9 Cason Lane			
Sales Tax		9.75%	0.00

No Warranty on wood fences. Not Responsible for surveys or property lines. Not responsible for anything underground not marked by TN 811. By signing this you agree to pay all costs of collection plus reasonable attorney fees. FInance Charge of 1.5% per month will be added to unpaid balances. Jackhammer for rock is $75 per hour. Deposit is 50% of Job total

Total $12,870.00

Customer Signature _____

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Mandatory Referral for Abandonment of Sanitary Sewer Easement along County Farm Road

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Consider request to allow abandonment of sanitary sewer easement on property along County Farm Road.

Staff Recommendation

Approve the mandatory referral request.

The Planning Commission voted to recommend approval on September 7, 2022.

The Water Resources Board voted to recommend approval on August 30, 2022.

Background Information

In this mandatory referral [2022-724], Council is being asked to consider the abandonment of an existing sanitary sewer easement located on the northeastern portion the Community Care of Rutherford County site at 901 County Farm Road, north of East County Farm Road and east of the CSX railroad tracks. The sewer line contained in the easement served a portion of Community Care's building that was demolished in 2013. Murfreesboro Water Resources has researched this request and concurs that with the sewer line itself no longer in use, the easement is no longer necessary.

Planning Staff and the Planning Commission recommend that the City Council approve this request subject to the following conditions:

1. If approved by City Council, the applicant will be responsible for providing the information necessary (including, but not limited to, any exhibits and legal descriptions) for the Legal Department to prepare legal instruments to formally abandon the easement. The legal instruments will be subject to the final review and approval of the Legal Department.
2. The applicant will also be responsible for recording these instruments, including payment of the recording fee.

Council Priorities Served

Establish Strong City Brand

The abandonment of this easement is consistent with the City's goals to be customer

service-oriented, relinquishing its rights to a surplus easement so that property owners can more fully enjoy and utilize their property.

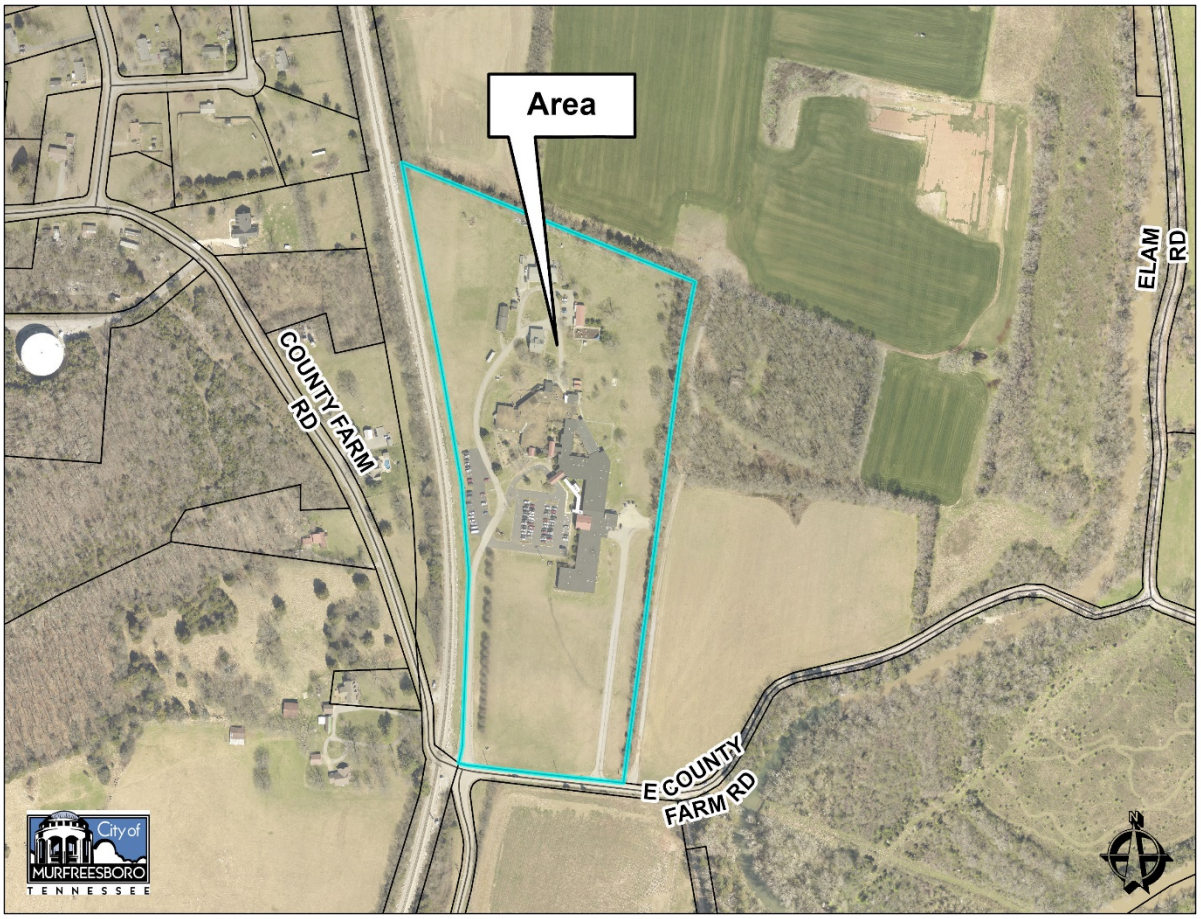
Attachments:

1. Staff comments from September 7, 2022 Planning Commission meeting
2. Letter and exhibits from applicant
3. Memo from MWRD

MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
SEPTEMBER 7, 2022
PROJECT PLANNER: JOEL AGUILERA

5.a. Mandatory Referral [2022-724] to consider the abandonment of a sanitary sewer easement located on property at 901 County Farm Road, Huddleston-Steele Engineering on behalf of Rutherford County Community Care applicant.

This mandatory referral request, to abandon an existing sanitary sewer easement, is from Enoch Jarrell of Huddleston-Steele Engineering, Inc. on behalf of Community Care of Rutherford County. The easement in questionis located on the northeastern portion of the property at 901 County Farm Road, north of East County Farm Road and east of the CSX railroad tracks.



In this mandatory referral, the Planning Commission is being asked to consider the abandonment of an existing sanitary sewer easement located on the Community Care of Rutherford County site. The abandonment has been requested due to the sewer line contained in the easement previously serving a portion of a building on site that had been razed back in 2013. Murfreesboro Water Resources has researched this request and concurs that with the sewer line itself already abandoned, the easement is no longer necessary. On August 30th, the request went before the Murfreesboro Water Resources Board where it was recommended approval that the easement be abandoned. The Planning Department's Project Engineer and the Legal Department have also reviewed this request and concur that this abandonment is acceptable, as the easement appears to be surplus.

Staff recommends that the Planning Commission recommend approval of this request to the City Council subject to the following conditions:

1. If approved by City Council, the applicant will be responsible for providing the information necessary (including, but not limited to, any exhibits and legal descriptions) for the Legal Department to prepare legal instruments to formally abandon the easement. The legal instruments will be subject to the final review and approval of the Legal Department.
2. The applicant will also be responsible for recording these instruments, including payment of the recording fee.

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: RUTHERFORD COUNTY COMMUNITY CARE
TANNER FOUST, ADMINISTRATOR

Tax Map/Group/Parcel: 136 / 16.00 | Address (if applicable): 901 COUNTY FARM ROAD

Street Name (if abandonment of ROW): NA

Type of Mandatory Referral: SANITARY SEWER EASEMENT

Applicant Information:

Name of Applicant: HUDDLESTON STEELE ENGINEERING - ENOCH JARRELL

Company Name (if applicable): HUDDLESTON-STEELE ENG.

Street Address or PO Box: 2115 NW BROAD ST.

City: MURFREESBORO TN

State: TN | Zip Code: 37129

Email Address: ejarrell@hsengr.com

Phone Number: 615-893-4084

Required Attachments:

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

Applicant Signature

8/10/2022

Date

HUDDLESTON-STEELE
ENGINEERING, INC.
2115 N.W. Broad Street • Murfreesboro, TN 37129 • Engineering 615-893-4084 • Surveying 615-890-0372 • FAX: 615-893-0080

August 16, 2022

Matthew T. Blomeley, AICP, Assistant Planning Director
City of Murfreesboro Planning Department
111 W. Vine Street
Murfreesboro, TN 37130

Re: Community Care
Rutherford County
Tax Map 136, Parcel 16.00

Dear Matthew:

At the request of, Mr. Tanner Foust, Administrator of Community Care, we hereby request to abandon sewer easements shown with a mandatory referral. This request has been submitted to the Murfreesboro Water and Sewer Board to recommend for abandonment as well. The sewer lines served a portion of the building that was razed in 2013. A property description, an exhibit is attached.

Let us know if you have any questions.

Sincerely,

HUDDLESTON-STEELE ENGINEERING, INC.

Enoch E. Jarrell, Jr., P.E.

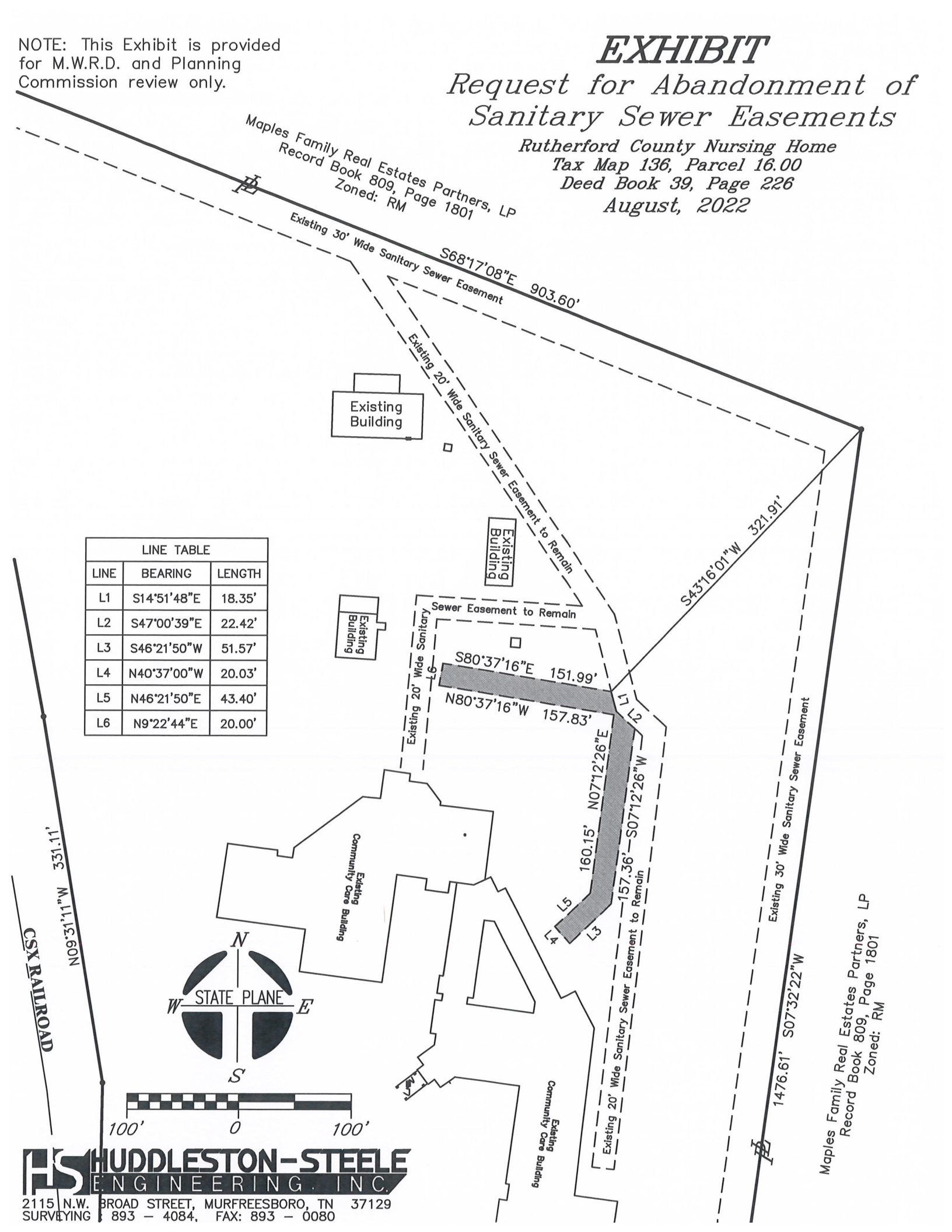
Cc. Mr. Tanner Foust, Administrator- Community Care of Rutherford County
Mr. John Trail, AIA, Johnson + Bailey Architects, PC.

NOTE: This Exhibit is provided for M.W.R.D. and Planning Commission review only.

EXHIBIT

Request for Abandonment of Sanitary Sewer Easements

Rutherford County Nursing Home
Tax Map 136, Parcel 16.00
Deed Book 39, Page 226
August, 2022



LINE TABLE		
LINE	BEARING	LENGTH
L1	S14°51'48"E	18.35'
L2	S47°00'39"E	22.42'
L3	S46°21'50"W	51.57'
L4	N40°37'00"W	20.03'
L5	N46°21'50"E	43.40'
L6	N9°22'44"E	20.00'

HUDDLESTON-STEELE ENGINEERING, INC.
2115 N.W. BROAD STREET, MURFREESBORO, TN 37129
SURVEYING : 893 – 4084, FAX: 893 – 0080

A Portion of Sanitary Sewer Easements
To Be Abandoned
Rutherford County Nursing Home
Tax Map 136, Part of Parcel 16.00
Part of Deed Book 39, Page 226

Located in the 18th Civil District of Rutherford County, Tennessee. Being a portion of the Sanitary Sewer Easements located on the Rutherford County Nursing Home Property (Tax Map 136, Parcel 16.00; Deed Book 39, Page 226) as follows:

Commencing at an iron pin being the NE property corner of the Rutherford County Nursing Home Property (Tax Map 136, Parcel 16.00; Deed Book 39, page 226); thence running into the property of the Rutherford County Nursing Home S-43°16'01"-W, 321.91 feet for a **Point of Beginning** being a northeasterly corner of this abandonment; thence running to points as follows: S-14°51'48"-E, 18.35 feet; thence S-47°00'39"-E, 22.42 feet; thence S-07°12'26"-W, 157.36 feet; thence S-46°21'50"-W, 51.57 feet to a point being the southern most corner of this abandonment; thence N-40°37'00"-W, 20.03 feet; thence N-46°21'50"-E, 43.40 feet; thence N-07°12'26"-E, 160.15 feet; thence N-80°37'16"-W, 157.83 feet; thence N-09°22'44"-E, 20.00 feet to a point being the NW corner of this abandonment; thence S-80°37'16"-E, 151.99 feet to the point at the beginning.

This abandonment is subject to all other easements and/or restrictions either recorded or by prescription that a complete title search may reveal.

Prepared by:
Huddleston-Steele Engineering, Inc.
2115 Northwest Broad Street
Murfreesboro, TN 37129

City of MURFREESBORO TENNESSEE

. . . creating a better quality of life

MEMORANDUM

DATE: August 25, 2022

TO: Water Resources Board

FROM: Valerie H. Smith

SUBJECT: Sewer Easement Abandonment
Community Care of Rutherford Co.

BACKGROUND

This easement abandonment request is from Huddleston Steele Engineering, Inc. on behalf of Mr. Tanner Foust of Community Care. They are requesting the abandonment of existing sewer easements as shown in gray on the attached exhibit. The origin of these easements are not known and are being investigated currently by H/S as well as staff. It was determined a while back that the sewer within these "shaded" easements have been abandoned therefore the easements are no longer necessary.

This request will also go before the Planning Commission as a mandatory referral for approval.

RECOMMENDATION

Staff recommends approval of abandoning these existing sewer easements.

FISCAL IMPACT

There are no records of the Department purchasing these easements.

ATTACHMENTS

Easement Abandonment Request & Exhibit

Water Resources Department
300 NW Broad Street * P.O. Box 1477 * Murfreesboro, TN 37133-1477 * Office: 615 890 0862 * Fax: 615 896 4259
TTY 615 848 3214 * www.murfreesborotn.gov

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Mandatory Referral for Abandonment of Drainage Easement along Pheasant Run Trail

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Consider request to allow abandonment of drainage easement on property along Pheasant Run Trail.

Staff Recommendation

Approve the mandatory referral request.

The Planning Commission voted to recommend approval on September 7, 2022.

Background Information

In this mandatory referral [2022-723], Council is being asked to consider the abandonment of an approximately 1,800 ft2 (approximately 20' x 90') portion of an existing 20' drainage easement for the purpose of building a pool. The easement in question is located at the rear of the existing residential lot along the west side Pheasant Run Trail north of Dallas Court in The Reserve Subdivision. This drainage easement was recorded with The Reserve Section 2 and continued onto the adjacent parcel to the south through The Reserve Section 8. The subject lot is at a higher elevation than the adjacent properties and therefore should not have any drainage from other lots flowing over it. Huddleston Steel Engineering, Inc. (HSE) performed a field inspection of the 20' drainage easement and found no drainage facilities or any other City facilities within this easement. Based on this information from HSE, the City Engineer supports the requested abandonment.

Planning Staff and the Planning Commission recommend that the City Council approve this request subject to the following conditions:

1) The applicant must provide to the Legal Department all the necessary documentation (including any legal descriptions and exhibits) required to prepare the legal instrument.
2) The legal instrument shall be subject to the final review and approval of the City Legal Department.
3) The applicant will be responsible for paying any recording fees.

Council Priorities Served

Establish Strong City Brand

The abandonment of this easement is consistent with the City's goals to be customer service-oriented, relinquishing its rights to a surplus easement so that property owners can more fully enjoy and utilize their property.

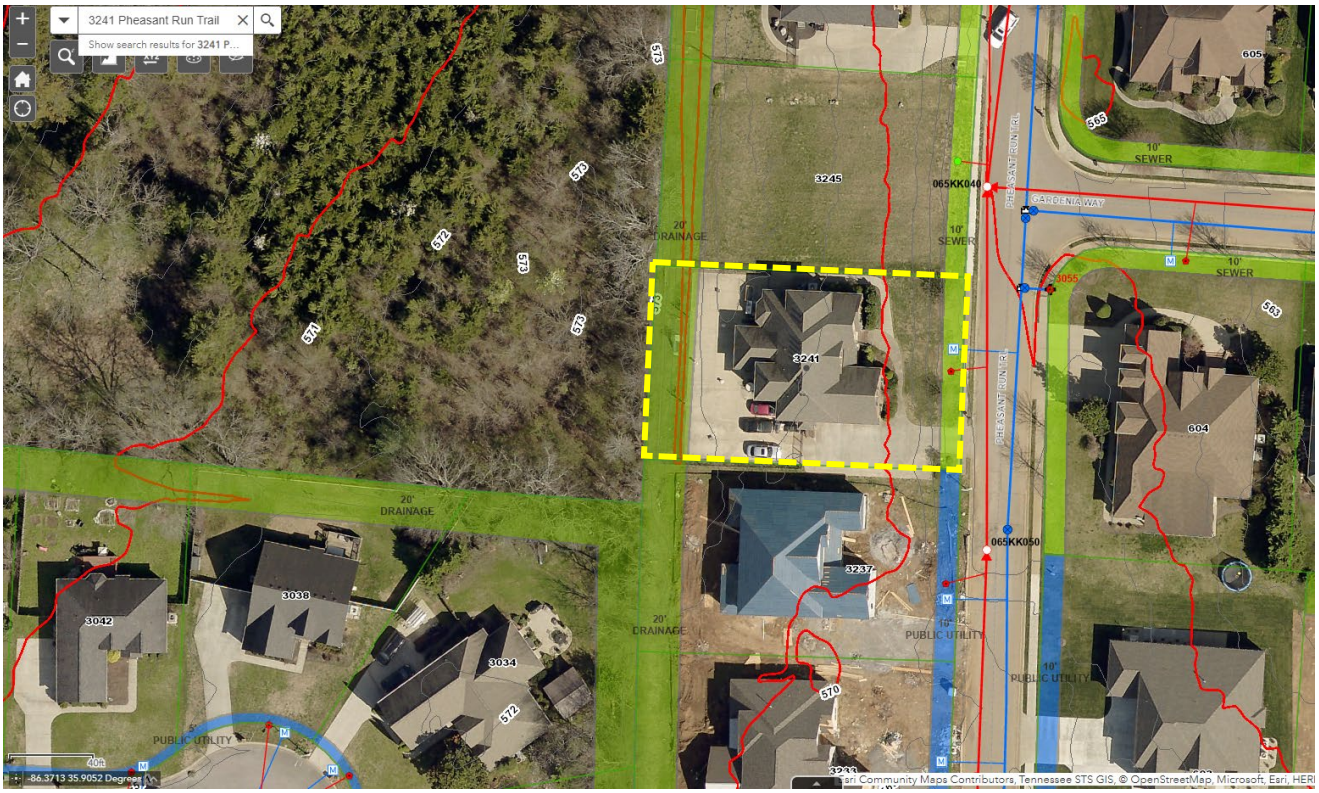
Attachments:

1. Staff comments from September 7, 2022 Planning Commission meeting
2. Letter and exhibits from applicant

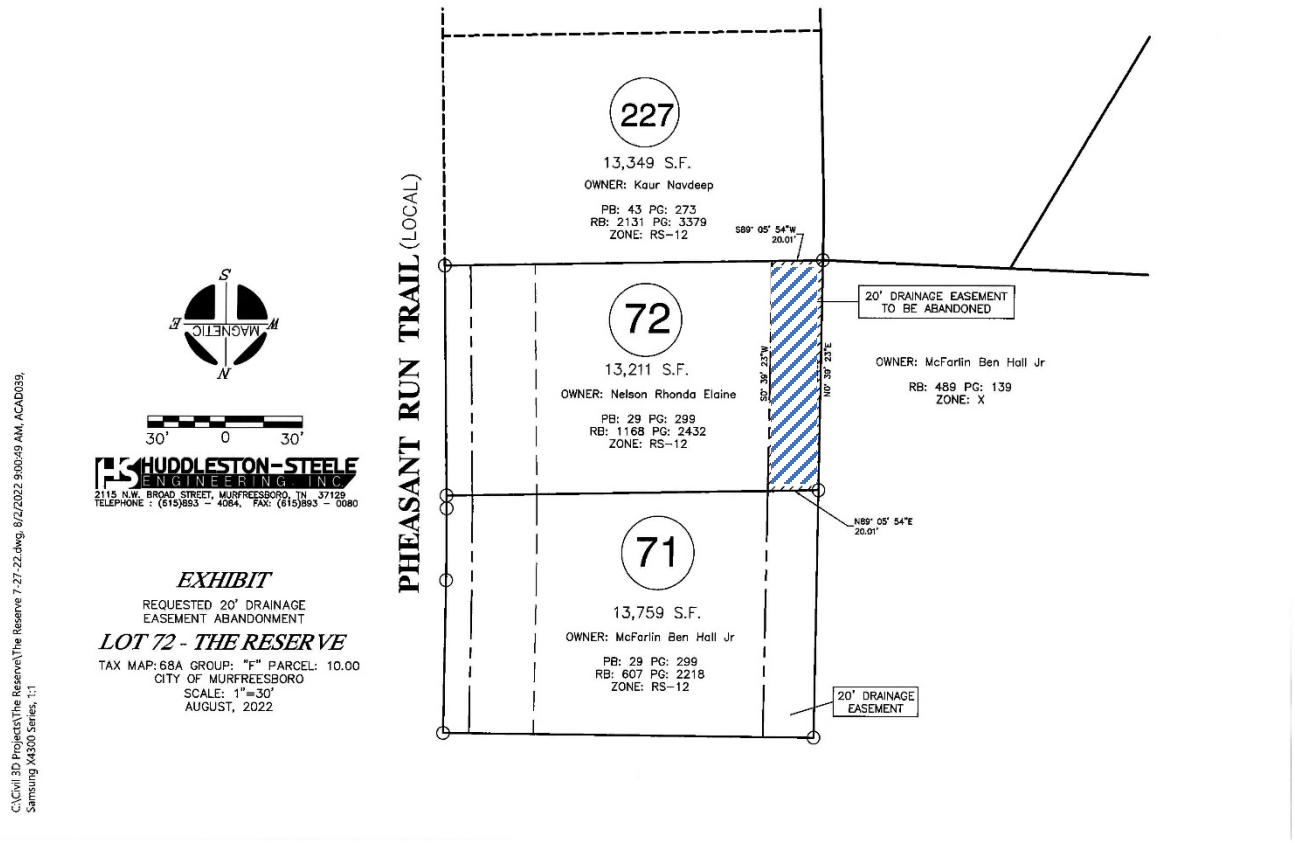
MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
SEPTEMBER 7, 2022
PROJECT PLANNER: HOLLY SMYTH

5.b. Mandatory Referral [2022-723] to consider the abandonment of a drainage easement located on property at 3241 Pheasant Run Trail, Huddleston-Steele Engineering on behalf of Reggie Nelson applicant.

This easement abandonment request is from Huddleston-Steele on behalf of the property owner Reggie Nelson. The subject property is part of The Reserve Section 2 Subdivision located along the west side Pheasant Run Trail north of Dallas Court and south of Compton Road.



In this mandatory referral, the Planning Commission is being asked to consider abandoning an approximately 1,801 ft2 (approximately 20' x 90') portion of an existing 20' drainage easement for the purpose of building a pool. The portion of the existing drainage easement in question is shown in the hatched area on the attached exhibits. This drainage easement was recorded with The Reserve Section II in Plat Book 29, Page 299 and continued onto the adjacent parcel to the south through The Reserve Section 8 in Plat Book 43, Page 273. It appears that this lot is at a higher elevation than the adjacent properties and therefore should not have any drainage from other lots flowing over it.



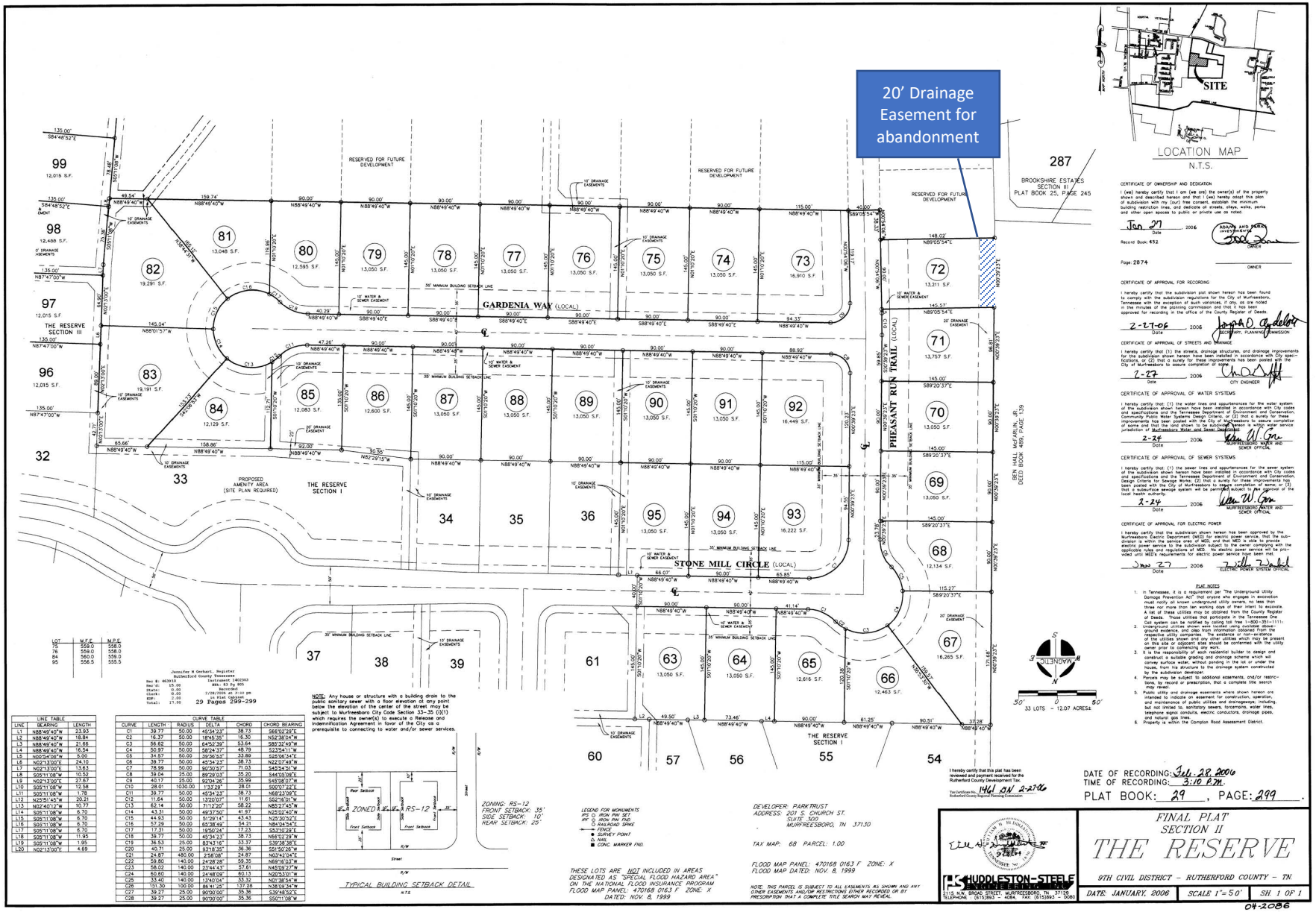
A letter was provided with this request stating that on August 25, 2022 Huddleston Steel Engineering, Inc. performed a field inspection of the 20’ drainage easement and found no drainage facilities or any other City facilities within this easement. Based on this stamped letter by a licensed engineer, the City Engineer supports the requested abandonment of this segment of the 20’ drainage easement.

Staff recommends that approval of this request be made subject to the following standard conditions:

1) The applicant must provide to the City Legal Department all the necessary documentation (including any needed legal descriptions and exhibits) required to prepare and record the legal instrument.
2) The drainage easement abandonment should be subject to the final approval of the legal documents by the City Attorney.
3) The applicant will be responsible for paying any recording fees.

Action

The Planning Commission will need to discuss this application and make a recommendation to the City Council. If approved by the City Council, then the Mayor will be authorized to sign the necessary documents to convey the City’s interest back to the owner.



LOT	M.F.E.	M.P.E.
75	559.0	558.0
76	559.0	558.0
84	560.0	559.0
95	556.5	555.5

Jennifer N Goebert, Register
Rutherford County Tennessee
Rec #: 463910 Instrument: 1402303
Rec'd: 15.00 Bks: 83 Pg 805
State: 0.00 Recorded
Clerk: 0.00 2/28/2006 at 01 pm
RDF: 2.00 Fee: 17.00
Total: 17.00
29 Pages 299-299

NOTE: Any house or structure with a building drain to the public sanitary sewer with a floor elevation at any point below the elevation of the center of the street may be subject to Murfreesboro City Code Section 33-35 (D)(1) which requires the owner(s) to execute a Release and Indemnification Agreement in favor of the City as a prerequisite to connecting to water and/or sewer services.

LINE TABLE		
LINE	BEARING	LENGTH
L1	N88°49'40"W	23.93
L2	N88°49'40"W	18.84
L3	N88°49'40"W	21.66
L4	N88°49'40"W	16.54
L5	N00°04'00"W	5.00
L6	N02°13'00"E	24.10
L7	N02°13'00"E	13.63
L8	S05°11'08"W	10.52
L9	N02°13'00"E	27.87
L10	S05°11'08"W	12.58
L11	S05°11'08"W	1.78
L12	N25°51'45"W	20.21
L13	N02°40'12"W	10.77
L14	S05°11'08"W	6.70
L15	S05°11'08"W	6.70
L16	S05°11'08"W	6.70
L17	S05°11'08"W	6.70
L18	S05°11'08"W	11.95
L19	S05°11'08"W	1.95
L20	N02°13'00"E	4.69

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD BEARING
C1	39.77	50.00	45°34'23"	38.73	S66°02'29"E
C2	16.37	50.00	18°45'35"	16.30	N52°38'04"W
C3	56.62	50.00	64°52'39"	53.64	S80°32'49"W
C4	50.97	50.00	58°24'37"	48.79	S23°41'11"W
C5	34.57	50.00	39°36'53"	33.89	S25°06'34"E
C6	39.77	50.00	45°34'23"	38.73	N22°07'48"W
C7	78.99	50.00	90°30'37"	71.03	S45°54'51"W
C8	39.04	25.00	89°29'03"	35.20	S44°05'09"E
C9	40.17	25.00	92°04'26"	35.99	S45°58'07"W
C10	28.01	1030.00	1°33'29"	28.01	S00°07'22"E
C11	39.77	50.00	45°34'23"	38.73	N68°23'09"E
C12	11.64	50.00	13°20'07"	11.61	S52°18'01"W
C13	62.14	50.00	71°12'20"	58.22	N80°27'45"W
C14	43.31	50.00	49°37'30"	41.97	N23°02'40"W
C15	44.53	50.00	51°29'14"	43.43	N25°30'52"E
C16	57.29	50.00	65°38'49"	54.21	N84°04'54"E
C17	17.31	50.00	19°50'24"	17.23	S53°10'28"E
C18	39.77	50.00	45°34'23"	38.73	N68°02'29"W
C19	36.53	25.00	83°43'16"	33.37	S39°38'38"E
C20	40.71	25.00	93°18'35"	36.36	S51°50'26"W
C21	24.87	480.00	2°58'08"	24.87	N03°42'04"E
C22	59.80	140.00	24°28'28"	59.35	N69°16'03"W
C23	58.02	140.00	23°44'43"	57.61	N45°09'27"W
C24	60.60	140.00	24°48'09"	60.13	N20°53'01"W
C25	33.40	140.00	13°40'04"	33.32	N01°38'54"W
C26	131.30	100.00	86°41'25"	137.28	N38°08'34"W
C27	39.27	25.00	90°00'00"	35.36	S39°48'52"E
C28	39.27	25.00	90°00'00"	35.36	S50°11'08"W

LEGEND FOR MONUMENTS
IPS O IRON PIN SET
IPF O IRON PIN FND
RR O RAILROAD SPIKE
FENCE
SURVEY POINT
NAIL
CONC. MARKER FND.

THESE LOTS ARE NOT INCLUDED IN AREAS DESIGNATED AS "SPECIAL FLOOD HAZARD AREA" ON THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD MAP PANEL: 470168 0163 F ZONE: X DATED: NOV. 8, 1999

DEVELOPER: PARKTRUST
ADDRESS: 201 S. CHURCH ST.
SUITE 305
MURFREESBORO, TN 37130

TAX MAP: 68 PARCEL: 1.00

FLOOD MAP PANEL: 470168 0163 F ZONE: X
FLOOD MAP DATED: NOV. 8, 1999

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

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish the minimum building restriction lines, and dedicate all streets, alleys, walks, parks and other open spaces to public or private use as noted.

Jan 27 2006
Date

Record Book: 452

Page: 284

OWNER

CERTIFICATE OF APPROVAL FOR RECORDING

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations for the City of Murfreesboro, Tennessee with the exception of such variances, if any, as are noted in the minutes of the planning commission and that it has been approved for recording in the office of the County Register of Deeds.

2-27-06 2006
Date

SECRETARY, PLANNING COMMISSION

CERTIFICATE OF APPROVAL OF STREETS AND DRAINAGE

I hereby certify that (1) the streets, drainage structures, and drainage improvements for the subdivision shown hereon have been installed in accordance with City specifications, or (2) that a surety for these improvements has been posted with the City of Murfreesboro to assure completion of same.

2-27 2006
Date

CITY ENGINEER

CERTIFICATE OF APPROVAL OF WATER SYSTEMS

I hereby certify that: (1) the water lines and appurtenances for the water system of the subdivision shown hereon have been installed in accordance with City codes and specifications and the Tennessee Department of Environment and Conservation, Community Public Water Systems Design Criteria; or (2) that a surety for these improvements has been posted with the City of Murfreesboro to assure completion of same and that fire and water flow adequate for the subdivision shown hereon to service jurisdiction of Murfreesboro Water and Sewer Department.

2-24 2006
Date

MURFREESBORO WATER AND SEWER OFFICIAL

CERTIFICATE OF APPROVAL OF SEWER SYSTEMS

I hereby certify that: (1) the sewer lines and appurtenances for the sewer system of the subdivision shown hereon have been installed in accordance with City codes and specifications and the Tennessee Department of Environment and Conservation, Design Criteria for Sewage Works; (2) that a surety for these improvements has been posted with the City of Murfreesboro to assure completion of same, or (3) that a subsurface sewage system will be permitted subject to the approval of the local health authority.

2-24 2006
Date

MURFREESBORO WATER AND SEWER OFFICIAL

CERTIFICATE OF APPROVAL FOR ELECTRIC POWER

I hereby certify that the subdivision shown hereon has been approved by the Murfreesboro Electric Department (MED) for electric power service; that the subdivision is within the service area of the MED, and that we will provide power in accordance with the extension policy of the MED and that the developer will comply with the applicable rules and regulations of MED. No electric power service will be provided until MED's requirements for electric power service have been met.

Jan 27 2006
Date

ELECTRIC POWER SYSTEM OFFICIAL

PLAT NOTES

1. In Tennessee, it is a requirement per "The Underground Utility Damage Prevention Act" that anyone who engages in excavation must notify all known underground utility owners, no less than three nor more than ten working days of their intent to excavate. A list of these utilities may be obtained from the County Register of Deeds. Those utilities that participate in the Tennessee One Call system can be notified by calling toll free 1-800-351-1111; underground utilities shown were located using available above-ground evidence, utility maps, and information provided by the various utility companies. The existence of non-evidence underground utilities shown and any other utilities which may be present on this site or adjacent sites should be confirmed with the utility owner prior to commencing any work.
2. It is the responsibility of each residential builder to design and construct a suitable grading and drainage scheme which will convey surface water, without ponding in the lot or under the house, from his structure to the drainage system constructed by the subdivision developer.
3. Parcels may be subject to additional easements, and/or restrictions, by record or prescription, that a complete title search may reveal.
4. Public utility and drainage easements where shown hereon are intended to indicate an easement for construction, operation, and maintenance of public utilities and drainageways, including, but not limited to, sanitary sewers, forcemains, water lines, telephone signal conduits, electric conductors, drainage pipes, and natural gas lines.
5. Property is within the Compton Road Assessment District.

I hereby certify that this plat has been reviewed and payment received for the Rutherford County Development Tax.

Tim Cardwell for Rutherford County Regional Planning Commission

Jan 27 2006

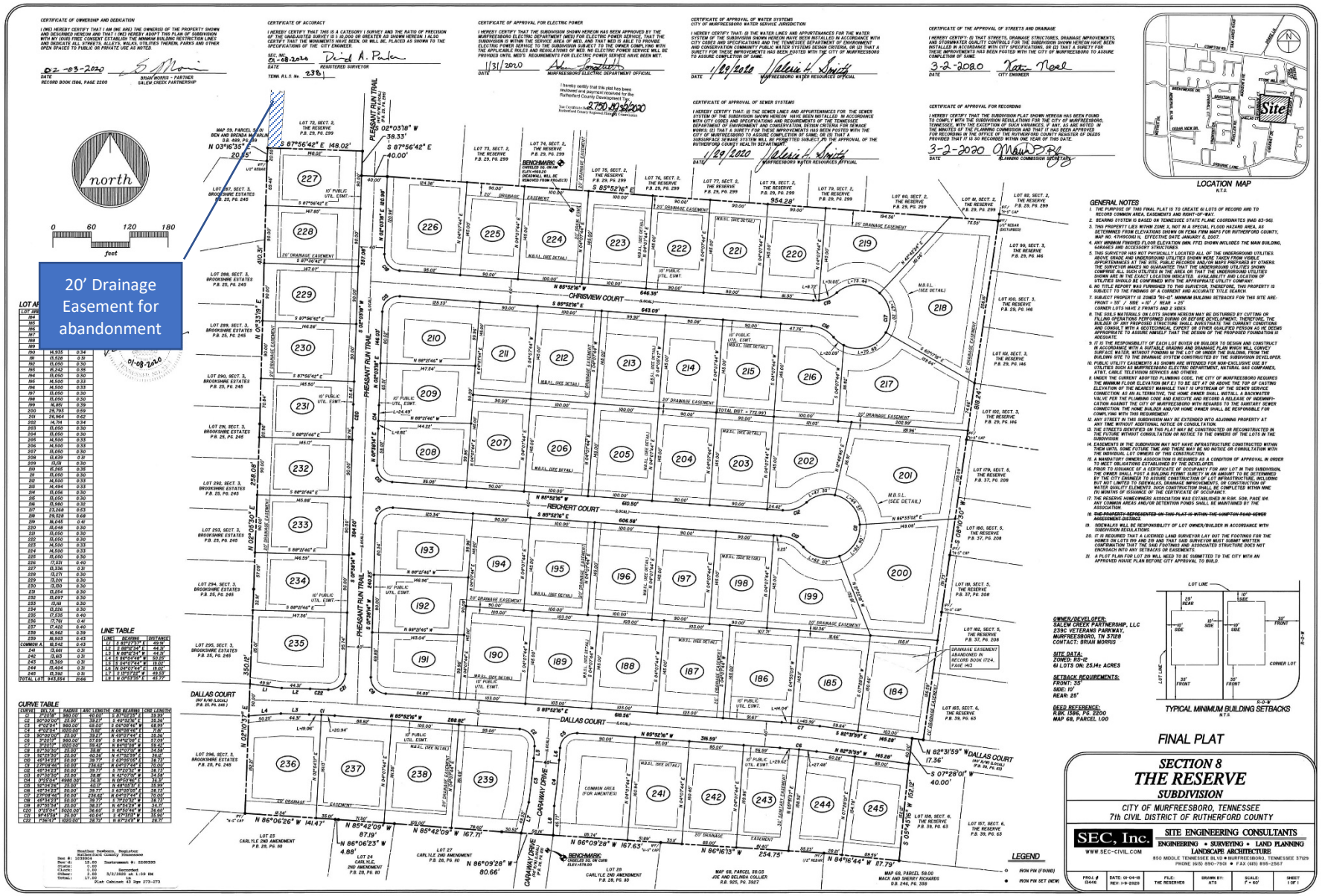
DATE OF RECORDING: Feb. 28, 2006
TIME OF RECORDING: 3:10 P.M.
PLAT BOOK: 29 , PAGE: 299 .

HUDDLESTON-STEELE ENGINEERING, INC.
2115 N.W. BROAD STREET, MURFREESBORO, TN 37129
TELEPHONE (615)893 - 4084 FAX (615)893 - 5080

FINAL PLAT
SECTION II
THE RESERVE
9TH CIVIL DISTRICT - RUTHERFORD COUNTY - TN.

DATE: JANUARY, 2006 | SCALE 1"=50' | SH. 1 OF 1

04-2086


20' Drainage Easement for abandonment
CERTIFICATE OF OWNERSHIP AND DEDICATION
CERTIFICATE OF ACCURACY
CERTIFICATE OF APPROVAL FOR ELECTRIC POWER
CERTIFICATE OF APPROVAL OF WATER SYSTEMS
CERTIFICATE OF APPROVAL OF STREETS AND DRAINAGE
CERTIFICATE OF APPROVAL OF SEWER SYSTEMS
CERTIFICATE OF APPROVAL FOR RECORDING
LOCATION MAP
GENERAL NOTES
LINE TABLE
CURVE TABLE
LEGEND
TYPICAL MINIMUM BUILDING SETBACKS
FINAL PLAT
SECTION 8
THE RESERVE
SUBDIVISION
CITY OF MURFREESBORO, TENNESSEE
7th CIVIL DISTRICT OF RUTHERFORD COUNTY
SEC, Inc.
SITE ENGINEERING CONSULTANTS
ENGINEERING • SURVEYING • LAND PLANNING
LANDSCAPE ARCHITECTURE
PLEASANT RUN TRAIL
CHRISVIEW COURT
REICHERT COURT
DALLAS COURT
CARAWAY DRIVE
BENCHMARK
Site

18-2060

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:

Tax Map/Group/Parcel: 68A Group F Part of Parcel 10.00 | Address (if applicable):

Street Name (if abandonment of ROW):

Type of Mandatory Referral: Drainage Easement Abandonment

Applicant Information:

Name of Applicant: Reggie Nelson

Company Name (if applicable):

Street Address or PO Box: 3241 Pleasant Run Trail

City: Murfreesboro

State: TN | Zip Code: 37130

Email Address: rnelson04@yahoo.com

Phone Number: 407-963-2319

$150.00 CK# 1662
Receipt 744328
2022-723

Required Attachments:

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

Reggie Nelson — Applicant Signature

8-19-22 — Date

HUDDLESTON-STEELE
ENGINEERING, INC.
2115 N.W. Broad Street • Murfreesboro, TN 37129 • Engineering 615-893-4084 • Surveying 615-890-0372 • FAX: 615-893-0080

August 1, 2022

Mr. Greg McKnight, Planning Director
City of Murfreesboro
111 West Vine Street
Murfreesboro, Tennessee 37130

Re: Drainage Easement Abandonment
Lot 72, The Reserve
Pheasant Run Trail
Murfreesboro, TN

Dear Mr. McKnight:

At the request of our client, Mr. Reggie Nelson, we hereby make a request to abandon an existing drainage easement on Lot 72, The Reserve, with a mandatory referral by Planning Commission and City Council.

Property description and exhibit are attached.

Sincerely,

HUDDLESTON-STEELE ENGINEERING, INC.

William H. Huddleston IV, P.E., R.L.S.

20' Drainage Easement
To Be Abandoned
Rhonda Elaine Nelson
Tax Map 68A, Group F, Part of Parcel 10.00
Record Book 1168, Page 2432

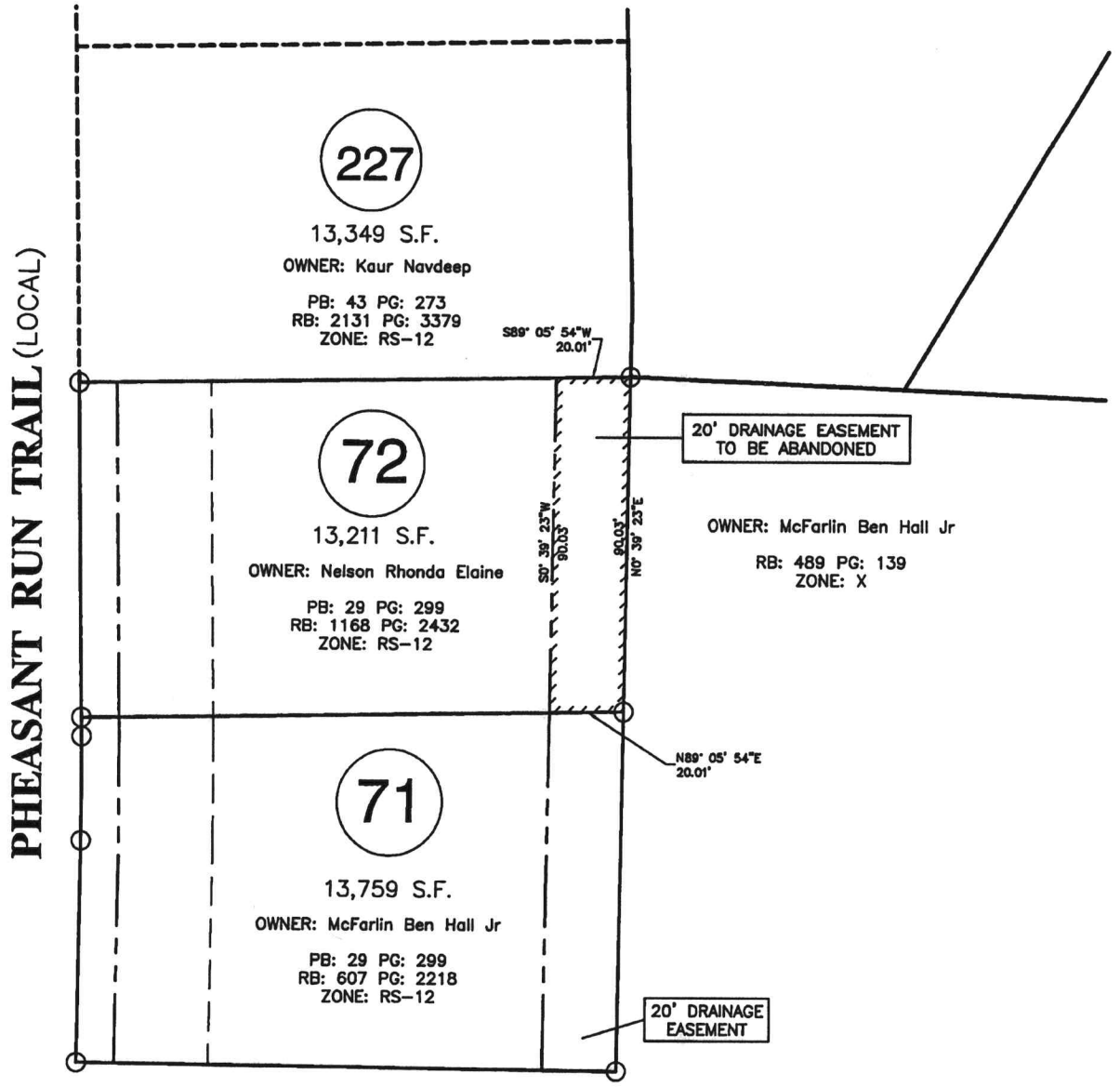
Located in the 9th Civil District of Rutherford County, Tennessee. Bound on the south by Navdeep Kaur property, (Record Book 2131, Page 3379); on the west by the property of Ben Hall McFarlin, Jr., (Record Book 489, Page 139); on the north by the property of Ben Hall McFarlin, Jr., (Record Book 607, Page 2218); and on the east by the remaining property of Rhonda Elaine Nelson, (Record Book 1168, Page 2432).

Beginning at a point in the southwest corner of Rhonda Elaine Nelson; thence N00°39'23"E, 90.03 feet to a point in the northwest corner of said property; thence along the south property line of Ben Hall McFarlin, Jr., (Record Book 607, Page 2218), N89°05'54"E, 20.01 feet to a point; thence leaving said line of Ben Hall McFarlin, Jr., S00°39'23"W, 90.03 feet to a point; thence along the north property line of Navdeep Kaur, S89°05'54"W, 20.01 feet to the **Point of Beginning**; containing 1,801 square feet, or 0.04 acre, more or less.

This easement is subject to all other easements and/or restrictions either recorded or by prescription that a complete title search may reveal.

Prepared by:
Huddleston-Steele Engineering, Inc.
2115 Northwest Broad Street,
Murfreesboro, TN 37129

Justin D. Huddleston
2/1/22



30' 0 30'

HUDDLESTON-STEELE ENGINEERING, INC.
2115 N.W. BROAD STREET, MURFREESBORO, TN 37129
TELEPHONE : (615)893 - 4084, FAX: (615)893 - 0080

EXHIBIT

REQUESTED 20' DRAINAGE
EASEMENT ABANDONMENT

LOT 72 - THE RESERVE

TAX MAP: 68A GROUP: "F" PARCEL: 10.00
CITY OF MURFREESBORO
SCALE: 1"=30'
AUGUST, 2022

C:\Civil 3D Projects\The Reserve\The Reserve 7-27-22.dwg, 8/2/2022 9:00:49 AM, ACAD039, Samsung X4300 Series, 1:1

HUDDLESTON-STEELE
ENGINEERING, INC.
2115 N.W. Broad Street • Murfreesboro, TN 37129 • Engineering 615-893-4084 • Surveying 615-890-0372 • FAX: 615-893-0080

August 26, 2022

Ms. Holly Smyth
AICP Principal Planner
City of Murfreesboro Planning Department
111 W. Vine Street, 2nd Floor
Murfreesboro, TN 37133-1139
Email: hsmyth@murfreesborotn.gov

Re: Mandatory Referral for Drainage Easement Abandonment
Lot 72, Section III, The Reserve
3241 Pheasant Run Trail
Murfreesboro, TN

Dear Ms. Smyth:

On August 25, 2022, we performed a field inspection of the 20' Drainage Easement at the rear of the above-referenced lot and found no drainage facilities or any other City facilities within this easement.

Sincerely,

HUDDLESTON-STEELE ENGINEERING, INC.

8/26/22

William H. Huddleston IV, P.E., R.L.S.

CC: Mr. Matthew Blomeley, Assistant Planning Director

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Donation of Equipment to Algood Police Department

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Donation of equipment to Algood Police Department.

Staff Recommendation

Approve the donation of used equipment to the Algood Police Department.

Background Information

The MPD has 15 sets of ballistic panels and head protection that have expired and are no longer in use. MPD tries to assist other law enforcement agencies when possible and Algood PD can benefit from the donation of this equipment.

Council Priorities Served

Establish a Strong City Brand

Assisting other law enforcement agencies helps to develop community partnerships.

Fiscal Impact

None.

Attachments

1. Surplus Property Disposal Forms
2. Hold Harmless Agreement for Donation of Ballistic Panels and Head Protection

City of Murfreesboro
Surplus Property Disposal Form
City Department Murfreesboro Police Department

Short description of surplus property Field Force Head Protection x 15

Check the proposed method of disposal.

Sell	___	Estimated value	700.00
		Reserve value (Do not sell below this amt)	$
Trade-In	___	Trade-in value	$
Transfer	X	To whom?	
Donate	X	To whom? Algood Police Department	Estimated value $50 each
Throw away	___		
Recycle	___		

Describe the Surplus Property:

Approximate age 5 yrs Estimated original cost $100 each
Seized Property? no Depr value (to be completed by FA Mgr if applicable) $ -
Law Enforcement Restricted ? YES

Condition of surplus property:

If **Sell,** complete and attach the appropriate Vehicle, Equipment, or Office Equipment, Furniture & Other Inspection Form.

If **Trade-In, Transfer, Donate, or Junk** describe the condition of the surplus property below, including Make, Model, and Serial Number as appropriate:

Premier Crown C4 Field Force Head Protection x 15
Manufacture dates range from 1999-2015
1999 4 each
2008 5 each
2015 5 each

Check the method used to determine the estimated / reserve values of the surplus property. Attach documentation if estimated value is over $1,000.

Trade-in value	___	Equipment dealer	___
Appraisal	___	Completed online auctions	___
Kelley Blue Book	___	Depreciated value	___
		Other (Describe)	Ebay $50

I request that the item described above be declared surplus property and that the disposal method be approved.

Signed (Department Head) 8.4.22 Date

I have reviewed the above information and determined that it is appropriate.

Signed Vicki J Massey (Fixed Assets Manager) 9-15-22 Date

I approve ✓ or disapprove ____ that the above described property be determined surplus and disposed of as indicated.

Signed (City Manager or Assist. City Manager) 9-15-22 Date

FIXED ASSETS MANAGER TO RETAIN ORIGINAL. COPY WILL BE SENT BACK TO DEPT.

City of Murfreesboro
Surplus Property Disposal Form
City Department Murfreesboro Police Department

Short description of surplus property Ballistic Panels X15

Check the proposed method of disposal.

Sell	___	Estimated value	1,800.00	
		Reserve value (Do not sell below this amt)	$	
Trade-In	___	Trade-in value	$	
Transfer	X	To whom?		
Donate	X	To whom? Algood Police Department	Estimated value	1,800
Throw away	___			
Recycle	___			

Describe the Surplus Property:

Approximate age 5 years Estimated original cost 399.00 each
Seized Property? no Depr value (to be completed by FA Mgr if applicable) $ -
Law Enforcement Restricted ? YES

Condition of surplus property:

If **Sell,** complete and attach the appropriate Vehicle, Equipment, or Office Equipment, Furniture & Other Inspection Form.

If **Trade-In, Transfer, Donate, or Junk** describe the condition of the surplus property below, including Make, Model, and Serial Number as appropriate:
Warranty expired as of 4/2022. Level III stand alone. ballistic panels.
Carrier resale cost $120

Check the method used to determine the estimated / reserve values of the surplus property. Attach documentation if estimated value is over $1,000.

Trade-in value	___	Equipment dealer	___
Appraisal	___	Completed online auctions	___
Kelley Blue Book	___	Depreciated value	___
		Other (Describe)	Ebay $100

I request that the item described above be declared surplus property and that the disposal method be approved.

Signed (Department Head) 9.2.22 Date

I have reviewed the above information and determined that it is appropriate.

Signed (Fixed Assets Manager) 9-15-22 Date

I approve ✓ or disapprove _____ that the above described property be determined surplus and disposed of as indicated.

Signed (City Manager or Assist. City Manager) 9-15-22 Date

FIXED ASSETS MANAGER TO RETAIN ORIGINAL. COPY WILL BE SENT BACK TO DEPT.

Kit #	Serial Number 1	Serial Number 2	Vendor	Purchase Date
5	160000614933	160000614896	Galls	4/19/17
9	160000580341	160000580350	Galls	4/19/17
21	160000598238	160000598323	Galls	4/19/17
42	160000580376	160000580383	Galls	4/19/17
46	160000580384	160000580377	Galls	4/19/17
121	160000598258	160000598260	Galls	4/19/17
155	160000614814	160000614809	Galls	4/19/17
164	170000056186	170000056190	Galls	4/19/17
165	170000079609	170000079608	Galls	4/19/17
174	170000056189	170000056183	Galls	4/19/17
182	160000614952	170000056422	Galls	4/19/17
188	160000614952	170000056422	Galls	4/19/17
208	170000056536	170000056537	Galls	4/19/17
243	170000079595	170000079607	Galls	4/19/17
256	170000080182	170000080184	Galls	4/19/17

CITY OF MURFREESBORO
DONATION OF BALLISTIC PANELS AND HEAD PROTECTION

MUTUAL RELEASE OF LIABILITY AND HOLD HARMLESS AGREEMENT

For and in consideration of the mutual promises and agreements between the parties and for the donation of ballistic panels and head protection by the City of Murfreesboro ("City") to the ALGOOD POLICE DEPARTMENT,

THE CITY AND ALGOOD POLICE DEPARTMENT MUTUALLY AGREE AS FOLLOWS:

Each and every party to this agreement, individually and as agents for their employees, including their assigns, successors, agents, employees, and representatives, releases and discharges each and every other party to this agreement, including employees of each and every other party from any and all claims, rights, demands, covenants, agreements, duties, obligations, warranties, representations, liabilities, damages, expenses, attorneys' fees, costs, and causes of action, known or unknown of whatever kind, arising out of or related to the donation of the ballistic panels and head protection by the City to the ALGOOD POLICE DEPARTMENT and the use of the ballistic panels and head protection by the ALGOOD POLICE DEPARTMENT for whatever purposes the ALGOOD POLICE DEPARTMENT may use them.

The ALGOOD POLICE DEPARTMENT agrees to hold the City harmless in the event any claim is made against it arising from the ALGOOD POLICE DEPARTMENT's ownership or use or failure to use the ballistic panels and head protection.

In executing this Release and Hold Harmless Agreement the ALGOOD POLICE DEPARTMENT acknowledges: (1) that the City has owned, maintained, and/or used the ballistic panels and head protection for multiple years; (2) that the ballistic panels and head protection may be outside the manufacturer's warranty period; (3) that the City is making no representation as to the fitness, suitability or usability of the ballistic panels and head protection for their stated purpose and function; (3) the City does not know nor does it guarantee the current condition of the ballistic panels and head protection; and (4) the City is providing the ballistic panels and head protection on an "as is" basis to the ALGOOD POLICE DEPARTMENT.

The ALGOOD POLICE DEPARTMENT shall be solely responsible for determining whether to use said ballistic panels and head protection for law enforcement or any other purpose.

IN WITNESS WHEREOF:

CITY OF MURFREESBORO

By: _____
Craig Tindall, City Manager

ALGOOD POLICE DEPARTMENT

By: _____

Printed: _____

Title: _____

Approved as to form:

_____
Adam F. Tucker, Murfreesboro City Attorney

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Approval of use of Competitive Sealed Proposals for Learning Management System

Department: Purchasing

Presented by: Cathy Smith, Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Approval to use Request for Competitive Sealed Proposals (RFCSP) to assist the Employee Services Department with the procurement of a Learning Management System to assist with training management.

Staff Recommendation

Approve the use of the RFCSP process for procurement of a training management system.

Background Information

A Learning Management System will streamline the training and safety programs and add efficiency to the tracking process. The RFCSP process is a qualification-based evaluation allowing for selection of the most appropriate service. State statute requires Council approval for use of the RFCSP process in the procurement of services.

Council Priorities Served

Maintain public safety

A Learning Management System will improve the processes for safety and other training for City employees.

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Main Street Banner Request

Department: Street Department

Presented by: Lisa Mangrum

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Request from Junior League of Murfreesboro and Rutherford County Library Foundation to hang banners over East Main Street.

Staff Recommendation

Approve banners to be displayed as follows:

1. Junior League of Murfreesboro from November 11th-14th,2022 for their annual Hollyday Marketplace to collect monies for their college scholarship fund.
2. Rutherford County Library Foundation from April 4th-14th,2023 for their 3rd annual fundraising event.

Background Information

The Junior League's annual Hollyday Marketplace was created as a fundraiser for their Horizon Scholarship. The event host around seventy-five merchants with about fifteen hundred in attendance annually. The Horizon Scholarship is able to help four ladies with college tuition, which they continue to receive for four years as long as they meet grade and community service guidelines.

The Rutherford County Library Foundation was created in 2001 to fund long-term projects for the Rutherford County Library System (RCLS) beyond the scope of available public monies. Its goals are to enhance library services, be recognized as a venue for potential donors, maximize return on investments.

Council Priorities Served

Establish strong City brand

Banners hung across East Main Street engages our community in various activities and communicates special events to general public thereby enhancing the city reputation through an active community involvement.

Fiscal Impact

None.

Attachments

1. Letter of request from Junior League of Murfreesboro
2. Letter of request from Rutherford County Library System

JUNIOR LEAGUE OF
MURFREESBORO

P.O. Box 4138, Murfreesboro, TN 37129
www.jlmonline.org 615-973-5598

City of Murfreesboro
Streets Department
620 W. Main St.
Murfreesboro, TN 37130

RE: Banner on Square
Hollyday Marketplace by Junior League of Murfreesboro
November 11-14, 2022

The Junior League of Murfreesboro would like to reserve the above dates in order to promote the 17th Annual Hollyday Marketplace.

Junior League is presenting the 17th Annual Hollyday Marketplace. It is a shopping event with attendance of about 1500 and a Merchant List of about 75.
All funds raised by the event go to our Horizon Scholarship fund. We have 4 ladies on scholarship each year and they can receive the scholarship for 4 years total as long as they maintain grades and volunteer requirements

Junior League of Murfreesboro will provide the banner.

Sincerely,

Gabby Shrader
Chair, 2022 Hollyday Marketplace
Junior League of Murfreesboro

RUTHERFORD COUNTY
LIBRARY FOUNDATION
EXPLORE • IMAGINE • ENGAGE

Rita Shacklett
Director of Libraries

Board Officers

John Trail
Chair

Jeremy Florida
Vice-Chair

Courtney Chavez
Treasurer

Dana Adams
Secretary

Board of Directors

Gloria Bonner
Mark Crocker
Jacqueline Edwards
Whitley Foster
Brett Garner
John A. Hinkle, Jr.
Lance Lee
Pettus Read
Shane Warren

August 29, 2022

City of Murfreesboro
Attn.: Lisa Mangrum
620 West Main St
Murfreesboro TN 37130

Dear Mayor and City Council,

The Rutherford County Library Foundation, a 501 (c) (3) organization, was created exclusively for the benefit of the Rutherford County Library System. As such the Foundation plans to hold its 3rd fundraising event on April 15, 2023.

In this regard, we would like to request to hang a banner over Main Street in front of Central Magnet School announcing the event.

We have spoken with Lisa Mangrum, and she has indicated that the dates of April 4 – 14, 2023, are available.

Thank you in advance for your consideration of this request. You can reach me by email at rshacklett@rclstn.org or at 615-410-3904.

Sincerely,

Rita Shacklett
Director of Libraries

/eab

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Purchase of Rock Salt

Department: Streets

Presented by: Raymond Hillis

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Purchase of 1,000 tons of Rock Salt under the State Contract to supply the new salt barn at Butler Drive.

Background Information

The purposed rock salt purchase was brought before council in May and approved under Morton Salt. Morton is not able to meet the need of City at this time so the department will need to purchase from Compass Minerals. Compass Minerals is an approved supplier for this region under the State of Tennessee contract.

The purchase of rock salt enables the City to remove snow and ice from roadways during the winter season. This purchase replenishes the salt used for snow removal this winter. Rock Salt is available for purchase pursuant to T.C.A. § 12-3-1201(b) under the State of Tennessee's Statewide Contract with Morton Salt, Inc. (SWC No. 66848). Sate statute enables this purchase without competitive bidding, under the provisions of contracts or price agreements entered into by the Tennessee Department of General Services, Central Procurement Office. Furthermore, Murfreesboro City Code § 2-10(a)(3) authorizes purchases without competitive bidding as permitted under T.C.A. §12-3-1201.

Council Priorities Served

Responsible budgeting

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

Maintain public safety

Maintaining the functionality and safe drivability of roadways ensures public safety and provides good customer service.

Fiscal Impacts

The original contract with Morton was for $81,660 which they are now unable to honor. The new expenditure will be $108,870 and is funded by the Department's operating budget.

Attachments

- Compass Minerals intent to buy

Compass Minerals

Sold-To ("Buyer"):

Ramond Hills
City of Murfreesboro
P.O. Box 1139
Murfreesboro, TN 37133-1139

Date: September 09, 2022
Document: 192653
Tel: (615) 893-4380
Fax: (615) 904-6519
Email:
Customer #: H704473
Preferred: Fax

Compass Minerals America Inc. ("Seller") / Quotation for bulk de-icing salt (the "Product")

Quantity (TN)	Delivery Location	Price Per Ton (USD)		
1,000	City of Murfreesboro 4753 Florence Road Public Works Garage Murfreesboro, TN 37129 Destination #: H758016 Delivery Lead Time: 7 days	108.87	Deliver w/o/Equipment	Depot: Clarksville Product: BULK COARSE LA - HWY (7608) Mode of Transport: DUMP (END OR BOTTOM) Distance: 78 Miles

Subject to prior sale
*An active order must be placed a minimum of one day in advance of pick uploads

Buyer commits to purchasing 80% of the total Quantity listed above and to commence receiving deliveries of the Product no later than December 31. Seller may decline any orders for any reason impacting its ability to ship the Product, including (but not limited to) the availability of the Product, conditions at the terminal or production facilities, or weather conditions. The Buyer will be invoiced for any tons not taken up to the 80% (unless Seller has declined to deliver those tons).

Price(s) effective through Friday, 31 Mar 2023

Buyer agrees to pay Seller for the Product in accordance with the price and payment terms stated above and on the reverse side of this Quotation. In the event of any direct conflict between the terms stated above and the terms on the reverse side of this Quotation, the terms stated above will control.

Terms are NET 30 days from shipment with approved credit.

* This Quotation is open for acceptance for 15 days following date of issue, and supersedes any and all previous proposals and contracts. This Quotation must be signed indicating acceptance to be valid.
* Delivered price(s) via dump and based on full truck load quantities.
* Seller does not commit to a specific delivery lead time. Any lead time or amount specified above is an estimated target only. Product availability is at Seller's discretion and may take into account the delivery dates, pick-up dates and quantities of past purchases.
* Product is for bulk end use only and is not intended for blending or packaging without prior consent.
* Applicable taxes extra
* Compass Minerals America Inc. has no obligation to store the Product after 31 Mar 2023, but if it chooses to make storage available it will be for a fee of $5 per month per ton.

Thank you for the opportunity to quote on your bulk de-icing salt needs.

Accepted By;

Signature: _____

Title: _____

Name: _____

Date: _____

Austin Welch
Highway Sales Mgr 800-323-1641 x2
Compass Minerals America Inc.

Please sign and return by fax to 913-338-7945 or e-mail highwaygroup@compassminerals.com or by mail

Order placement and inquiries Monday through Friday - 7:00 am to 5:00 pm.

9900 W. 109th Street, Suite 600, Overland Park, KS 66210

Terms and Conditions of Sale

1. PARTIES. "Seller" is identified in the "Remit To", "From", or similar section of the invoice, quotation, order or similar document issued by Seller to which these Terms and Conditions of Sale relate or are attached, or "Seller" is as otherwise defined in such document. "Buyer" is identified in the "Sold To" or similar section of the invoice, quotation, order or similar document issued by Seller to which these Terms and Conditions of Sale relate or are attached. "Product" is described and identified in the invoice, quotation, order or similar document issued by Seller to which these Terms and Conditions of Sale relate or are attached. All applicable invoices, orders, quotations and these Terms and Conditions of Sale are referred to collectively as this "Agreement".

2. OFFER. No terms in Buyer"s bid, purchase order or other form shall be binding upon Seller. Seller rejects additional/different terms in such Buyer"s documents. SELLER"S OFFER IS EXPRESSLY LIMITED TO AND CONDITIONED UPON BUYER"S ACCEPTANCE OF THIS AGREEMENT.

3. PRICES; TAXES. EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT, PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE. AMOUNTS DUE WILL BE INVOICED, UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, AT SELLER"S PRICE IN EFFECT ON THE SCHEDULED DATE OF SHIPMENT. Prices on the invoicing document are net of all applicable discounts and promotional allowances. References to "tons" mean short tons (2000 lbs.) unless otherwise specified. Any tax or other governmental charges now or hereafter levied upon production, severance, manufacture, delivery, storage, consumption, sale, use or shipment of the Product are not included in Seller"s price and Buyer is solely responsible for all such taxes and charges.

4. CANCELLATION. Orders, deliveries and pick-ups may be canceled by Buyer only upon: (a) written or oral notice to Seller and accepted in writing by Seller, and (b) payment to Seller of reasonable cancellation charges to be solely determined by Seller.

5. PAYMENT; CREDIT; PAST DUE ACCOUNTS. Buyer will make payment to Seller at the time and in the currency specified on Seller"s quotation or invoicing document. Seller may, in its sole judgment, require such other payment terms as Seller deems appropriate, including full or partial payment in advance of shipment or by letter of credit. Credit payment terms must have the prior approval of Seller"s Credit Department and must be specified in writing on Seller"s invoicing document. Whenever reasonable grounds for insecurity arise with respect to due payment from Buyer or with respect to Buyer"s financial condition generally, Seller reserves the right to stop shipment on notification to Buyer and to demand payment in advance or at the time of delivery or pick-up or require reasonable assurance of payment, and in the absence thereof, to cancel, without liability, further deliveries of the Product. A finance charge of the lesser of 1.5% per month (18% - APR) or the highest rate permitted by law will be assessed on all past due accounts. Interest charged on a past due invoice will be assessed from the date of the invoice. Amounts owed by Buyer for which there is no dispute will be paid without set-off for any amounts that Buyer may claim are owed by Seller. Buyer agrees to reimburse Seller for all attorney fees and court costs in connection with default of these payment terms by Buyer.

6. DELAYS. All orders, deliveries and pick-ups are subject to Seller"s ability to make the Product available at the time and in the quantities specified, and Seller shall not be liable for damages for failure to make the Product available in whole or in part or at any specific time. Seller shall not be liable for delays or defaults in delivery or making the Product available for pick-up caused by forces or events not reasonably within Seller"s control (such forces and events include, without limitation, delays or defaults by carriers; extreme cold weather; partial or total failure of Seller"s intended production; transportation or delivery facilities; floods, fires, storms, or other acts of God; war, an act of public enemy, or civil disturbance; strikes; lock-outs; shortages of labor or raw materials and supplies (including fuel); acts or omissions of Buyer; action of any governmental authority; or any other force majeure event). Buyer shall be liable for any added expenses incurred by Seller because of Buyer"s delay in furnishing requested information to Seller, delays resulting from changes requested by Buyer, or delay in unloading shipments at the delivery point that are the fault of Buyer.

7. SHIPMENT COSTS/TRANSPORTATION MATTERS. Unless otherwise specified on Seller"s invoicing document, all transportation charges, including, without limitation, Seller"s and carrier"s charges for notification prior to delivery, demurrage, switching, detention, delay in unloading, diversion, or reconsignment shall be the sole responsibility of Buyer. Buyer will assume title and risk of loss concurrently in accordance with Seller"s invoicing document. ON PASSAGE OF TITLE, BUYER IS THEN RESPONSIBLE FOR PROPER PROTECTION OF THE PRODUCT AND COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS APPLICABLE TO THE STORAGE, USE, AND HANDLING OF THE PRODUCT AND WILL INDEMNIFY SELLER AGAINST ALL CLAIMS FOR PERSONAL INJURIES OR PROPERTY DAMAGE ARISING FROM THE STORAGE, USE OR HANDLING OF THE PRODUCT. Claims for damage or shortage in transit must be made by Buyer against the carrier. Buyer has the responsibility to inspect shipments before or during unloading to identify any such damage or shortage and see that appropriate notation is made on the delivery tickets or an inspection report furnished by the local agent of the carrier in order to support a claim. If railcars are used to deliver the Products, upon transfer of the Product"s risk of loss to Buyer, Buyer is solely responsible for the care, condition, damage or loss of railcars until the railcars are released empty by Buyer to the rail carrier. Without Seller"s prior written approval, neither Buyer nor any of its employees or agents will divert or export any such railcar to anywhere outside the continental U.S. Even with such approval, Buyer remains fully responsible for and shall promptly reimburse Seller for all claims, losses, costs, expenses, liabilities, penalties, demands and taxes directly caused by or incidental to such use of the railcars by Buyer.

8. WARRANTY/TIME FOR MAKING CLAIMS. Seller warrants only that it will convey good title to the Product Buyer receives and that, at the time of shipment, the Product will conform to the published specifications of Seller. Seller"s specifications are subject to change at any time without notice to Buyer. NO OTHER WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, IS MADE BY SELLER AND SELLER HEREBY DISCLAIMS ALL SUCH OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. Buyer must notify Seller of any claim with respect to the Product, the warranty, or any other claim under this Agreement within thirty (30) days of receipt of the Product or such claim is waived. In the event of an alleged breach hereof by Seller, the sole remedy available to Buyer on account of any defect in the Product shall be limited to the replacement of such defective Product by Seller. In the event the remedy provided herein shall be deemed to have failed its essential purpose, then Buyer shall be entitled only to a refund of the amounts paid to Seller attributable to such defective Product that Buyer receives. Subject to the notification of claim provision above, no action for breach of the contract for sale or otherwise with respect to the Product will be commenced more than one (1) year after such cause of action accrues.

9. LIMITATION OF LIABILITY. TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER"S LIABILITY FOR ANY CLAIM ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE NET PURCHASE PRICE ACTUALLY PAID TO SELLER ATTRIBUTABLE TO THE PRODUCT INVOLVED. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES FOR ANY CLAIM, EVEN IF SUCH CLAIM IS THE RESULT OF SELLER"S OWN NEGLIGENCE. Buyer assumes all risks and liability for any damage, loss, or penalty resulting from the use of the Product delivered hereunder in manufacturing processes of Buyer or in combination with other substances or otherwise.

10. INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, BUYER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND SELLER AND ITS AFFILIATES AND THEIR RESPECTIVE PRESENT OR FUTURE EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, INSURERS, AGENTS AND REPRESENTATIVES (COLLECTIVELY, "INDEMNIFIED PARTIES"), FROM ALL CLAIMS, LIABILITIES, DAMAGES, DEATH (INCLUDING, WITHOUT LIMITATION, DEATH OF SELLER"S EMPLOYEES), SUITS, PROCEEDINGS, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS" FEES), FINES, AND PENALTIES (COLLECTIVELY, "LOSSES"), IN CONNECTION WITH THIS AGREEMENT REGARDLESS OF CAUSE ("BUYER"S INDEMNIFICATION OBLIGATION"). TO THE FULLEST EXTENT PERMISSIBLE BY LAW, BUYER"S INDEMNIFICATION OBLIGATION APPLIES EVEN IF LOSSES ARE THE RESULT OR ALLEGED RESULT OF THE NEGLIGENCE, ACTIVE OR OTHERWISE, OF THE INDEMNIFIED PARTIES.

11. SECURITY INTEREST. Buyer grants to Seller, and Seller retains, a security interest in the Product and the proceeds thereof, until the purchase price therefor is fully paid. Seller may file any financing statements and give notice of such security interest to third parties as Seller may determine to be necessary to perfect such security interest.

12. VALID CONTRACT. Buyer warrants and represents that (a) this Agreement is a valid and enforceable contract, (b) proper authorization has been obtained for Buyer to enter into this Agreement, and (c) each individual executing this Agreement on behalf of Buyer is properly authorized to bind Buyer to the terms of this Agreement. Buyer agrees that Seller negotiated and dealt with Buyer in good faith in entering into this Agreement, and that the Product price determined by this Agreement is fair and reasonable. Payment for Products received through the notice date will not limit, in any respect, Seller"s ability to recover additional amounts from Buyer for damages incurred as a result of Buyer"s breach of this Agreement or the warranties and representations made by Buyer in this Agreement.

13. PROCUREMENT AND BIDDING. Buyer warrants and represents that Buyer has fully complied with all procurement and bidding laws, rules, regulations and procedures, if applicable. In the event Buyer claims that this Agreement, the underlying transaction or any provision thereof is invalid or void due to Buyer"s failure to comply with any applicable requirements under state or local laws related to procurement or bidding, or in the event Buyer fails to obtain any authorization required to enter into this Agreement, Buyer agrees that it will timely submit payment, at the price stated in this Agreement, for all Products received through and including the date that it provides written notice to Seller of such failure. In the event that Buyer provides written notice to Seller of failure to comply with applicable laws related to procurement or bidding, or in the event Buyer fails to obtain any authorization required to enter into this Agreement, the parties agree that Seller will immediately cease performing under this Agreement and will provide Buyer with no further Products unless and until both parties agree in a writing separate from this Agreement.

14. EXPORT CONTROLS AND REGULATION: With regard to any Product that is of U.S. origin, Buyer acknowledges that export or reexport of any product provided by Seller is subject to U.S. export regulations. Buyer represents and warrants that it is not on, or associated with any organization on the U.S. Department of Commerce"s Bureau of Industry and Security"s Denied Persons List or Unverified List; or any prohibited party list maintained by the U.S. Department of the Treasury"s Office of Foreign Assets Control, the U.S. Department of Commerce, or the U.S. Department of State. Buyer shall not export or reexport any Compass Minerals products to any prohibited party or to any restricted country.

15. LEGAL COMPLIANCE. Buyer and its employees, representatives, and agents will: (a) comply with all applicable federal, state, provincial, local and foreign laws and regulations of any governments, governmental bodies or regulatory agencies including, without limitation, export control laws, the U.S. Foreign Corrupt Practices Act and the U.S. Patriot Act, as amended from time to time (collectively, the "Laws"); (b) will not subject Seller to any claim, penalty or loss of benefits under the Laws; and (c) will cooperate with Seller in any audit or inspection relating to the Laws. Upon Seller"s request, Buyer will deliver a certificate to Seller in a form provided by Seller, certifying such matters as requested by Seller, as required by the Laws, or pertaining to Buyer"s intended use of the Product as represented to Seller.

16. MISCELLANEOUS. Matters arising out of or in connection with this Agreement or a sale contemplated in connection with this Agreement will be governed by the laws of the state of Tennessee, USA without regard to conflicts of law rules, and Buyer and Seller consent to the jurisdiction of Rutherford County, Tennessee courts. The United Nations Convention on the International Sale of Goods shall not apply to the transactions under this Agreement. The parties have expressly required that this Agreement and all documents and notices relating hereto be drafted in English. Buyer shall not assign this Agreement without Seller"s prior written consent. This Agreement constitutes the entire agreement regarding the subject matter hereof; no modification may be made, unless in writing and signed by the parties; and no acknowledgment or acceptance of Buyer"s purchase order or other forms containing different, additional, or conflicting terms shall have force or effect. Seller"s failure to enforce any provision of this Agreement will not be a waiver of its right to enforce such provision or any other provision then or thereafter. Any provision intended to survive including, without limitation, Sections 7 through 15 (inclusive), shall survive this Agreement"s termination or expiration and the consummation of the transactions contemplated hereunder. In the event any provision or part of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, only that particular provision or part so found, and not the entire Agreement, will be inoperative.

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Asphalt Purchases Report

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☐
Direction	☐
Information	☒

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 Quotes FY 2022

	Blue Water		Hawkins		Vulcan		Notes
	Binder	*Topping*	*Binder*	*Topping*	*Binder*	*Topping*	
Jul	*$65.00*	*$75.00*	$69.00	$78.50	$73.54	$86.22	
Aug	*$65.00*	*$75.00*	$69.00	$78.50	$73.57	$86.26	
Sep	*$65.00*	*$75.00*					
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*					

MWRD OPERATIONS & MAINTENANCE

Asphalt Purchases FY 2022

Invoice Date	Approval	Vendor	Type	Rate	Qty	Total	FY Total
7/20	DH	Vulcan	307-BM	$58.39	18.60	$1,086.05	$1,086.05
7/20	DH	Vulcan	307-BM	$58.39	18.38	$1,073.21	$2,159.26
7/20	DH	Vulcan	307-BM	$58.39	18.56	1,083.72	$3,242.98
7/20	DH	Vulcan	307-BM	$58.39	18.27	1,066.79	$4,309.77
7/26	DH	Hawkins	411- E	$66.50	18.70	1,243.55	$10,074.44
7/26	DH	Hawkins	307-BM	$59.00	13.60	802.40	$10,876.84
8/10	DH	Vulcan	411-E	$67.35	13.66	920.00	$11,796.84
8/17	DH	Vulcan	307-BM	$58.51	10.72	627.23	#REF!
10/15	DH	Hawkins	411-E	$66.50	16.48	1,095.92	$16,493.88
10/20	DH	Hawkins	307-BM	$62.75	16.69	1,047.30	$17,541.18
11/30	DH	Hawkins	307-BM	$60.00	22.34	1,340.40	$18,881.58
11/30	DH	Hawkins	307-BM	$60.00	19.28	1,156.80	$20,038.38
11/30	DH	Hawkins	307-BM	$60.00	17.25	1,035.00	$21,073.38
11/30	DH	Hawkins	307-BM	$60.00	20.26	1,215.60	$22,288.98
11/30	DH	Hawkins	307-BM	$60.00	19.00	1,140.00	$23,428.98
11/30	DH	Hawkins	411-E	$67.50	17.31	1,168.43	$24,597.41
11/30	DH	Hawkins	307-BM	$65.00	22.37	1,454.05	$26,051.46
11/30	DH	Hawkins	307-BM	$65.00	19.89	1,292.85	$27,344.31
11/30	DH	Hawkins	307-BM	$65.00	22.86	1,485.90	$28,830.21
11/30	DH	Hawkins	307-BM	$65.00	17.69	1,149.85	$29,980.06
11/30	DH	Hawkins	307-BM	$65.00	3.06	198.90	$30,178.96
12/13	DH	Hawkins	307-BM	$60.50	21.02	1,271.71	$31,450.67
12/13	DH	Hawkins	411-E	$68.25	14.47	987.58	$32,438.25
12/18	DH	Hawkins	411-E	$68.25	17.62	1,202.57	$33,640.82
12/18	DH	Hawkins	411-E	$68.25	3.54	241.61	$33,882.43
12/28	DH	Hawkins	307-BM	$60.50	18.00	1,089.00	$34,971.43
12/28	DH	Hawkins	307-BM	$60.50	13.77	833.09	$35,804.52
12/29	DH	Hawkins	307-BM	$60.50	15.84	958.32	$36,762.84
1/31	DH	Hawkins	411-E	$68.25	11.80	805.35	$39,868.19
2/18	DH	Hawkins	307-BM	$60.75	11.91	723.53	$40,591.72
2/18	DH	Hawkins	307-BM	$58.00	20.29	1,176.82	$41,768.54
5/23	DH	Hawkins	411-D	$82.50	4.01	86.51	$41,855.05

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Fourth Amendment to Agreement for Lagoon Water Treatment Residuals Removal

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

The fourth amendment to agreement with Slurry Systems Co. is to provide a one-time fuel surcharge of $16,096.

Staff Recommendation

Approve the fourth amendment of the contract with Slurry Systems Company.

Background Information

In 2018, the City contracted with Slurry Systems for removal of residuals from the water treatment system lagoon. Slurry Systems Company has requested a one-time fuel surcharge due to the significant increase in fuel costs since the initial contract. The amount of the request has been validated by MWRD. Granting this request assures this critical service will continue.

Council Priorities Served

Responsible Budgeting

Providing a one-time adjustment will allow the contract to continue at the negotiated rate, which is less than the cost of the anticipated costs if the contract were rebid.

Fiscal Impact

The contract adjustment, $16,096, is funded by MWRD's FY23 Operating Budget.

Attachments

Fourth Amendment to Agreement with Slurry Systems Company

DocuSign Envelope ID: 0E502980-13F9-4D0B-9774-A7BE8DE8E3B7

FOURTH AMENDMENT
TO THE
CONTRACT
BETWEEN THE CITY OF MURFREESBORO
AND
SLURRY SYSTEMS COMPANY

This Fourth Amendment ("Fourth Amendment") to the Contract for Water Treatment Plant Lagoon Water Treatment Residuals Removal, entered into June 1, 2018 ("Contract"), is effective as of this day_____, 2022, by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee and Slurry Systems Company ("Contractor"), a Corporation of the State of Tennessee.

RECITALS

WHEREAS, on June 1, 2018, the City entered into a contract with Slurry Systems Company, for Water Treatment Plant Lagoon Water Treatment Residuals Removal at $249,000 for the Water Resources Department; and,

WHEREAS, due to circumstances beyond the parties' control, Contractor's fuel costs have risen substantially during the term of the Contract; and

WHEREAS, pursuant to Section 10 of the Contract, the Contract may be modified by a written amendment executed by all parties; and

WHEREAS, the parties desire to extend the term of the Contract and modify the beginning and ending dates to coincide with the expected scope of work:

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

1. The City and Contractor hereby amend the total price in Section 4 to reflect a one-time fuel surcharge of $16,096.00, for an amended total contract price of **$265,096.00**.

2. Except as provided herein, no other changes to the Contract are contemplated by this Third Amendment, and all other terms and conditions of the Contract remain in full force and effect.

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

Approved as to form:

DocuSigned by:
Adam F. Tucker
4A2B2551B9407...
Adam F. Tucker, City Attorney

SLURRY SYSTEMS

DocuSigned by:
By: Edward Scott
35C1A7A96B4C...
Edward R. Scott, Vice President

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Magnolia Village Sewer Main Participation

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Infrastructure private-public participation for Magnolia Village. MWRD will participate in replacing the existing sewer main along Minerva Drive that is in disrepair by paying for the materials. The Developer will replace the sewer main with their forces while constructing the proposed sewer for Magnolia Village.

Staff Recommendation

Approve participation of the sewer main replacement by reimbursing the developer for the sewer materials in the amount of $14,344.

Background Information

The Magnolia Village Subdivision, located at Minerva Drive and Dr. Martin Luther King, Jr. Boulevard (MLK), is subdividing one property into six parcels. The developers are responsible for extending water and sewer services to each lot created, as shown on the attached plan. This work would require tapping into the existing clay sewer main along Minerva Drive. Tapping into a clay pipe is not recommended and pipe is in poor condition. Replacement of the pipe is warranted. Due to MWRD's construction, the developer has offered to replace the sewer main if MWRD provides the piping and manhole materials, a timely and cost-effective solution.

Participation with the Developer is consistent with the Department's participation policy, within our approved Policies, Procedures & General Design Requirements adopted in 2009 by the Board & Council.

Council Priorities Served

Improve Infrastructure

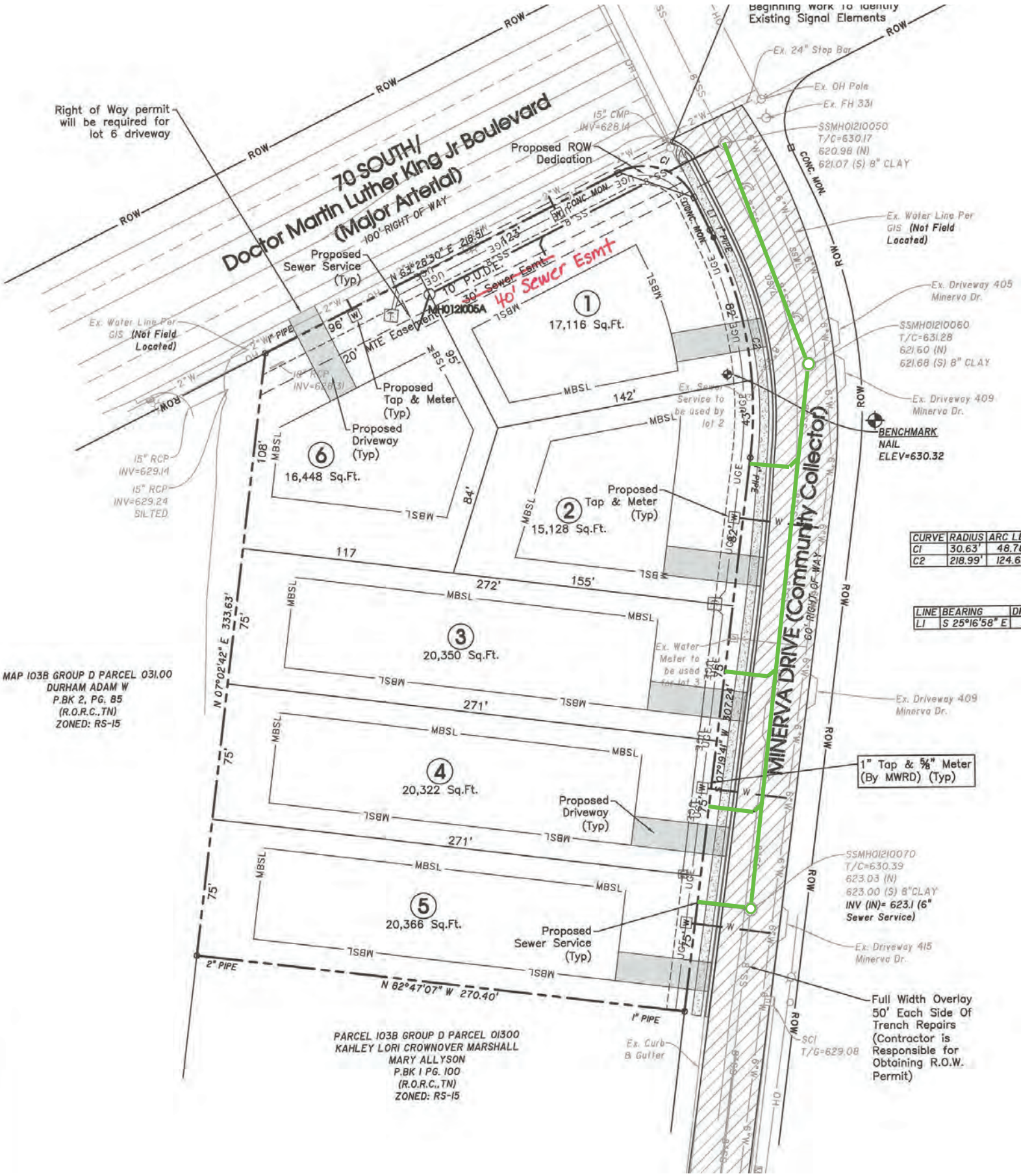
Participating with the Developer provides a cost-effective means of improving infrastructure in a timely manner.

Fiscal Impact

The cost of participation, $14,344, will be funded by MWRD's Working Capital Reserves.

Attachments

1. Plan
2. Invoices


Beginning Work To Identify Existing Signal Elements
Ex. 24" Stop Bar
Ex. OH Pole
Ex. FH 331
SSMH01210050
T/C=630.17
620.98 (N)
621.07 (S) 8" CLAY
Right of Way permit will be required for lot 6 driveway
70 SOUTH/
Doctor Martin Luther King Jr Boulevard
(Major Arterial)
100' RIGHT OF WAY
Proposed ROW Dedication
15" CMP
INV=628.14
Proposed Sewer Service (Typ)
N 63°28'30" E 218.51'
10' P.U.D.E.
30' Sewer Esmt.
40' Sewer Esmt
MH01210054
20' MTE Easement
Ex. Water Line Per GIS (Not Field Located)
18" RCP
INV=628.31
Proposed Tap & Meter (Typ)
Proposed Driveway (Typ)
15" RCP
INV=629.14
15" RCP
INV=629.24
SILTED
1
17,116 Sq.Ft.
6
16,448 Sq.Ft.
2
15,128 Sq.Ft.
3
20,350 Sq.Ft.
4
20,322 Sq.Ft.
5
20,366 Sq.Ft.
Ex. Sewer Service to be used by lot 2
Ex. Water Meter to be used for lot 3
Proposed Driveway (Typ)
Proposed Sewer Service (Typ)
2" PIPE
N 82°47'07" W 270.40'
1" PIPE
MAP 103B GROUP D PARCEL 031.00
DURHAM ADAM W
P.BK 2, PG. 85
(R.O.R.C., TN)
ZONED: RS-15
PARCEL 103B GROUP D PARCEL 01300
KAHLEY LORI CROWNOVER MARSHALL
MARY ALLYSON
P.BK 1 PG. 100
(R.O.R.C., TN)
ZONED: RS-15
Ex. Curb & Gutter
MINERVA DRIVE (Community Collector)
60' RIGHT OF WAY
8" CONC. MON.
Ex. Water Line Per GIS (Not Field Located)
Ex. Driveway 405 Minerva Dr.
SSMH01210060
T/C=631.28
621.60 (N)
621.68 (S) 8" CLAY
Ex. Driveway 409 Minerva Dr.
BENCHMARK
NAIL
ELEV=630.32
1" Tap & 5/8" Meter (By MWRD) (Typ)
Ex. Driveway 409 Minerva Dr.
SSMH01210070
T/C=630.39
623.03 (N)
623.00 (S) 8"CLAY
INV (IN)= 623.1 (6" Sewer Service)
Ex. Driveway 415 Minerva Dr.
Full Width Overlay 50' Each Side Of Trench Repairs (Contractor is Responsible for Obtaining R.O.W. Permit)
SCI
T/G=629.08
CURVE | RADIUS | ARC LE
C1 | 30.63' | 48.7
C2 | 218.99' | 124.6
LINE | BEARING | DI
L1 | S 25°16'58" E

MIN

Oldcastle Infrastructure™
A CRH COMPANY

Contract & Proposal

Quote No. .....: S135453-1

5900 E DIVISION ST
LEBANON, TN 37090 6403

Telephone : 615-453-6111
Fax .....: 615-453-6196

oldcastleinfrastructure.com

Quote To .: Cumberland Excavation
667 WEDGEWOOD AVE STE C
NASHVILLE, TN 37203 5523

Ship To .: Minerva Drive Sewer System
TBD
Murfreesboro, TN 37128

Reference : Minerva Drive Sewer System **Contact:** Curt Beyers **Phone:** 740.823.3619

Order No	Date	Customer No	Terms	Cash discount	Delivery terms	Quote valid for:
S135453	8/18/2022	004823	Net 30 Days		FOB Job Site	30 days

Qty	Unit	Item	Description	Mark	Unit price	Amount
1.00	Ea	9700400	MH 1+31 9.68'		1,702.00	1,702.00
1.00	Ea	9700400	MH 4+34 7.49'		1,467.00	1,467.00
2.00	Set	8216280	JBS 1150 Frame & Cover Sanitary		389.00	778.00
1.00	Ea	2409085	Delivery Charge		440.00	440.00
1.00	$	9400250	Delivery Surcharge - Taxable If necessary, at time of shipment		88.00	88.00
1.00	Ea	9999991	NOTES: manholes include Xypex joint sealant conwrap and boots.			

Tax Code	Taxable amount	Tax Rate	
TN	4,475.00	7.00	313.25 ✓
TN-Wilson	4,475.00	2.75	123.07

$4911.32

Oldcastle Infrastructure Commercial Clarifications
03/20/2022 V1
Special Products:
1) Any special product(s) and high-volume standards (collectively, "Special Products") will be invoiced on a mutually agreed upon in writing delivery date and ownership transferred, upon Invoicing. Oldcastle Infrastructure, Inc. ("Oldcastle") reserves the right to require full or partial pre-payment for any Special Products ordered.
2) Special Products may not be returned.
3) If Special Product(s) cannot be accepted within 30 days of invoicing, a 10% storage fee will be assessed monthly unless otherwise agreed upon in writing.
4) All Special Products ordered as part of a cash sale must be fully paid prior to production.
5) A disposal fee of $200/ton will be charged for all Special Products on hand over 90 days from the mutually agreed upon delivery date.

Delivery:
6) The site must be accessible by delivery vehicles under their own power. If the material is to be delivered and set by Oldcastle, acceptability to the site will be determined by the boom operator.

FERGUSON

FEL-NASHVILLE WATERWORKS #1233
660-A MASSMAN DRIVE
NASHVILLE, TN 37210-0000

Phone: 615-986-5918
Fax: 615-823-1849

Deliver To:
From: Joseph Doane
Comments:

MiN

11:32:30 AUG 16 2022

FERGUSON WATERWORKS #1233
Price Quotation
Phone: 615-986-5918
Fax: 615-823-1849

Bid No: B009766
Bid Date: 08/16/22
Quoted By: JTD

Cust Phone: 615-490-6021
Terms: NET 10TH PROX

Customer: CUMBERLAND EXCAVATION LLC
667 WEDGEWOOD AVENUE SUIT
NASHVILLE, TN 37203

Ship To: CUMBERLAND EXCAVATION LLC
667 WEDGEWOOD AVENUE SUIT
NASHVILLE, TN 37203

Cust PO#: MURFREESBORO, TN

Job Name: MINERVA DRIVE SEWER

Item	Description	Quantity	Net Price	UM	Total
	##########################				
	MINERVA DRIVE SEWER SYSTEM				
	IMPROVEMENTS				
	MURFREESBORO, TN				
	ATTN: MR. CURT BEYERS				
	##########################				

	- - - - - - - - - - - - -				
	ALL ITEMS ARE PRICED AT				
	CURRENT MARKET LEVELS AND				
	ARE SUBJECT TO CHANGE AT				
	TIME OF DELIVERY.				
	- - - - - - - - - - - - -				

	*** SDR26 PVC PIPE ***				
SDR26HWSPX14	8X14 SDR26 HW PVC GJ SWR PIPE	434	15.110	FT	6557.74
	SUBTOTAL				6557.74

	*** 8X6 PVC SWR SVCS ***				
MUL067248	8X6 PVC HW SWR GXGXG WYE	3	132.840	EA	398.52
MUL067376	6 PVC HW SWR GXS 45 ELL	3	37.670	EA	113.01
SDR26HWSPU14	6X14 SDR26 HW PVC GJ SWR PIPE	84	8.350	FT	701.40
FQC106	6 QUICK CAP	3	6.950	EA	20.85
SDR21PK	2 SDR21 CL200 PVC GJ PIPE	40	1.600	FT	64.00
	SUBTOTAL				1297.78

	*** 8X4 PVC SWR SVCS ***				
MUL067228	8X4 PVC HW SWR GXGXG WYE	3	115.490	EA	346.47
MUL063404	4 PVC SWR GXS 45 BEND	3	13.000	EA	39.00
SDR26HWSPP14	4X14 SDR26 HW PVC GJ SWR PIPE	84	3.730	FT	313.32
FQC104	4 QUICK CAP	3	4.950	EA	14.85
SDR21PK	2 SDR21 CL200 PVC GJ PIPE	40	1.600	FT	64.00

HOW ARE WE DOING? WE WANT YOUR FEEDBACK!
Scan the QR code or use the link below to
complete a survey about your bids:
https://survey.medallia.com/?bidsorder&fc=1233&on=1084

FERGUSON

FERGUSON WATERWORKS #1233
Price Quotation

Fax: 615-823-1849

11:32:30 AUG 16 2022
Reference No: B009766

SUBTOTAL	777.64
Net Total:	$8633.16
Tax:	$798.56
Freight:	$0.00
Total:	$9431.72

Quoted prices are based upon receipt of the total quantity for immediate shipment (48 hours). SHIPMENTS BEYOND 48 HOURS SHALL BE AT THE PRICE IN EFFECT AT TIME OF SHIPMENT UNLESS NOTED OTHERWISE. QUOTES FOR PRODUCTS SHIPPED FOR RESALE ARE NOT FIRM UNLESS NOTED OTHERWISE.

CONTACT YOUR SALES REPRESENTATIVE IMMEDIATELY FOR ASSISTANCE WITH DBE/MBE/WBE/SMALL BUSINESS REQUIREMENTS.

Seller not responsible for delays, lack of product or increase of pricing due to causes beyond our control, and/or based upon Local, State and Federal laws governing type of products that can be sold or put into commerce. This Quote is offered contingent upon the Buyer's acceptance of Seller's terms and conditions, which are incorporated by reference and found either following this document, or on the web at https://www.ferguson.com/content/website-info/terms-of-sale
Govt Buyers: All items are open market unless noted otherwise.

LEAD LAW WARNING: It is illegal to install products that are not "lead free" in accordance with US Federal or other applicable law in potable water systems anticipated for human consumption. Products with *NP in the description are NOT lead free and can only be installed in non-potable applications. Buyer is solely responsible for product selection.
COVID-19 ORDER: ANY REFERENCE TO OR INCORPORATION OF EXECUTIVE ORDER 14042 AND/OR THE EO-IMPLEMENTING FEDERAL CLAUSES (FAR 52.223-99 AND/OR DFARS 252.223-7999) IS EXPRESSLY REJECTED BY SELLER AND SHALL NOT APPLY AS SELLER IS A MATERIALS SUPPLIER AND THEREFORE EXEMPT UNDER THE EXECUTIVE ORDER.

HOW ARE WE DOING? WE WANT YOUR FEEDBACK!
Scan the QR code or use the link below to complete a survey about your bids:
https://survey.medallia.com/?bidsorder&fc=1233&on=1084

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title:	Middle Tennessee Association of Realtors (MTAR) Connection Fee Deferral
Department:	Water Resources
Presented by:	Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Deferral of final payment of the final water and sewer connection fees until after a re-evaluation of actual water usage.

Staff Recommendation

Approval of the initial water and sewer Connection Fees of $1,200 and $2,550 respectively and to re-evaluate the fees after twelve to eighteen months of usage.

Background Information

Per City Code, Chapter 33, Sections 50(A) (2) below, the Water & Sewer Board is to recommend to Council the sewer connection fees associated with Building applications that do not fit into one of the designated categories as listed on the connection fee spreadsheet and similarly for water connection fees.

> Section 50 (A) Connection Fee:
> (2) When the applicant for sewer services does not fit into one of the foregoing categories, the connection fee shall be based on $2,550 for each two hundred sixty gallons per average daily demand (gpd).

The proposed MTAR building is event or conference space. Assessing water and sewer consumption is not clear cut and the required connection fee is difficult to establish. Therefore, staff proposes to charge one single-family unit equivalent as the minimum and monitor the usage over the next 12 to 18 months.

The developer has agreed to this approach and understands MWRD will audit the actual usage after the proposed time period. If the facility uses more than single-family unit equivalency of 260 gallons per day, additional connection fees will be charged.

This approach is consistent with previous developments for the Nissan Facility at Singer Road, the recent Greenhouse Ministries development, and Liberty's Station and the Board has approved and recommended the approach to Council.

Fiscal Impact

None.

Attachments

Water & Sewer Deferred Payment Agreement

DocuSign Envelope ID: 4CE40ECD-6DEE-4FB7-B942-1F1417226EF4

AGREEMENT

WHEREAS, the **CITY OF MURFREESBORO** ("City") and Middle TN Association of Realtors (MTAR) (Owner/Developer) entered into an Agreement on _____ providing for the redevelopment of 311 Butler Dr., MTAR Event Center ("Agreement"); and,

NOW, THEREFORE, be it agreed by City and Owner/Developer that:

1. Payment for the water and/or sewer connection fees are typically due prior to a building permit being issued through the City's Building and Codes Department per Chapter 33 of the City Code. The City's Water Resources Board has authorized the Water Resources Department to defer the payment of these fees to evaluate the water consumption of the facility over a twelve (12) to eighteen (18) month period following a certificate of occupancy being issued by the Building and Codes Department. Establishing a consumption history is necessary to calculate the standard water and sewer connection fees. These fees are calculated per single family unit (sfu) which is equivalent to 260 gallons per day (gpd). The standard water connection fee is a minimum $1,200 per sfu, and the standard sewer connection fee is a minimum of $2,550 per sfu for a total minimum of $3,750.

2. The Owner/Developer agrees to pay for the single-family unit equivalent, which could be more than the minimum based on the average usage in this time frame. There is no guarantee that the fees will be equal to the minimum.

3. The Owner/Developer agrees that if payment is not received within 30 days after notification by the Department of the applicable single-family equivalent, the Department will discontinue (shut off) the water service until such time as the fees are paid in full.

4. This Agreement shall take effect from and after its execution by all parties.

OWNER/DEVELOPER _____

933F803803BE4AE
Candy Joyce
DocuSigned By: Candy Joyce
_____ 9/19/2022

Executive Vice President
_____ Date

_____ Date

CITY OF MURFREESBORO

BY: _____ _____ Date

ITS: _____

Approved as to form:

DocuSigned by:
Adam Tucker
43A2035E51F9401...
City Attorney

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Sewer Easement at 519 Johnson Street

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Secure sewer easement at 519 Johnson Street.

Staff Recommendation

Authorize filing condemnation action in the event the Department is unable to negotiate a reasonable amount for the easement

Background Information

MWRD sewer rehabilitation requires an easement across property located at 519 Johnson Street. An easement is necessary to reroute the existing sewer line as shown on the attached Plan. The existing line, installed before the 1950s before the existing house was constructed, is too close to the house and too deep to be utilized in the rehabilitation of the line.

The reasonable value of the easement is $9,675, which will be offered to the property owner. If the easement purchase can be negotiated, the condemnation action will not be filed.

Operational Issues

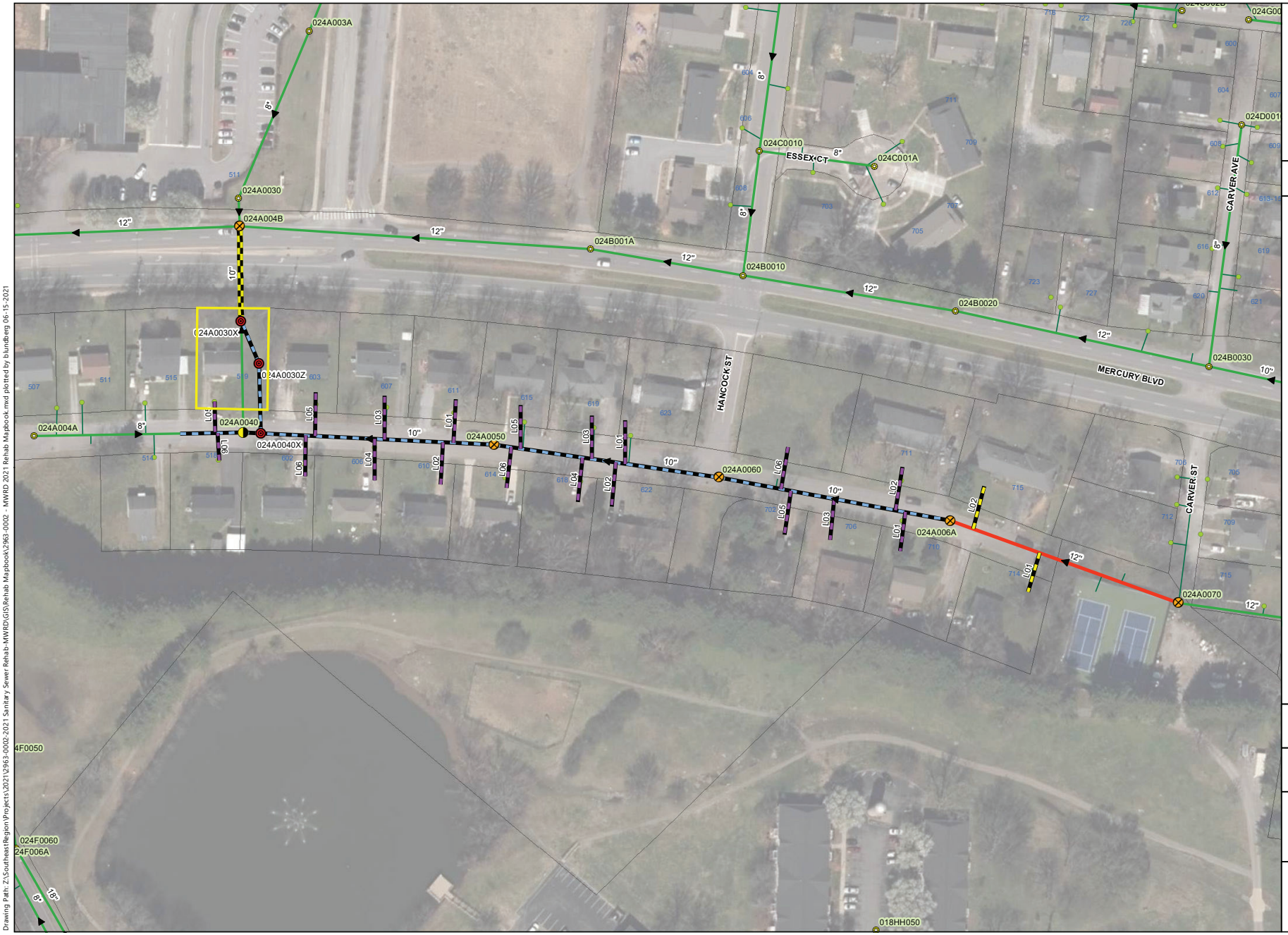
If the aging sewer main should collapse, repair to the sewer main in its existing location would damage to the home.

Fiscal Impact

The condemnation will be handled in-house or paid from MWRD's Operating Budget. A negotiated purchase will be funded by MWRD's Working Capital Reserves Account.

Attachments

MWRD 2021 Sewer Rehabilitation Plan



MWRD

Murfreesboro 2021 Rehabilitation Project

Legend

- External PR at Tap
- External Point Repair
- Sectional Open Cut
- Abandon Manhole
- New Manhole
- Manhole Subsurface Repairs
- Remove Manhole and Plug Abandoned Line
- Lateral CIPP
- Lateral CIPP - Connection Only
- Lateral CCTV to Verify
- Lateral Capped, Do Not Reinstate
- Lateral OCLR
- Mainline CIPP
- Mainline OCR
- Mainline Pipe Burst
- MWRD Cleanouts
- MWRD Manholes
- MWRD Gravity Main
- MWRD Service
- MWRD Pump Station
- MWRD Forcemain
- Parcels

1 inch = 100 feet

0 25 50 100 Feet

DATE:
6/15/2021

LJA PROJECT NO.
2963-0002

City of MURFREESBORO TENNESSEE

LJA ENGINEERING

Drawing Path: Z:\SoutheastRegion\Projects\2021\2963-0002-2021 Sanitary Sewer Rehab-MWRD\GIS\Rehab Mapbook\2963-0002 - MWRD 2021 Rehab Mapbook.mxd plotted by blundberg 06-15-2021

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Rezoning property along Franklin Road [Second Reading]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Rezone approximately 25.5 acres located along the north side of Franklin Road west of Fortress Boulevard.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the rezoning.

Background Information

Beazer Homes presented a zoning application [2022-410] for approximately 19.5 acres located along the north side of Franklin Road to be rezoned from RS-15 (Single-Family Residential District) to RS-8 and approximately 6.0 acres to be rezoned from RS-15 to CF (Commercial Fringe District). During its regular meeting on July 13, 2022, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On September 1, 2022, Council held a public hearing and approved this matter on First Reading.

Council Priorities Served

Improve Economic Development

This rezoning will enable the development of commercial outparcels along Franklin Road, which, upon development, could create jobs for the community and generate tax revenue for the City.

Expand Infrastructure

Development on the subject property will be required to extend Rucker Lane north of Franklin Road, enabling connectivity from the neighborhoods to the north to a signalized intersection via the connection to the existing Garcia Boulevard stub.

Attachments:

Ordinance 22-OZ-26

DocuSign Envelope ID: 90E8E3E8-E1B6-444B-9562-9AC2DAFEFCF3

ORDINANCE 22-OZ-26 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 19.5 acres from Single-Family Residential Fifteen (RS-15) District to Single-Family Residential Eight (RS-8) District and approximately 6.0 acres from Single-Family Residential Fifteen (RS-15) District to Commercial Fringe (CF) District along Franklin Road, Beazer Homes applicant, [2022-410].

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 area depicted on the attached map shall be zoned and approved as Single-Family Residential Eight (RS-8) District and Commercial Fringe (CF) 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 area 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 area.

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

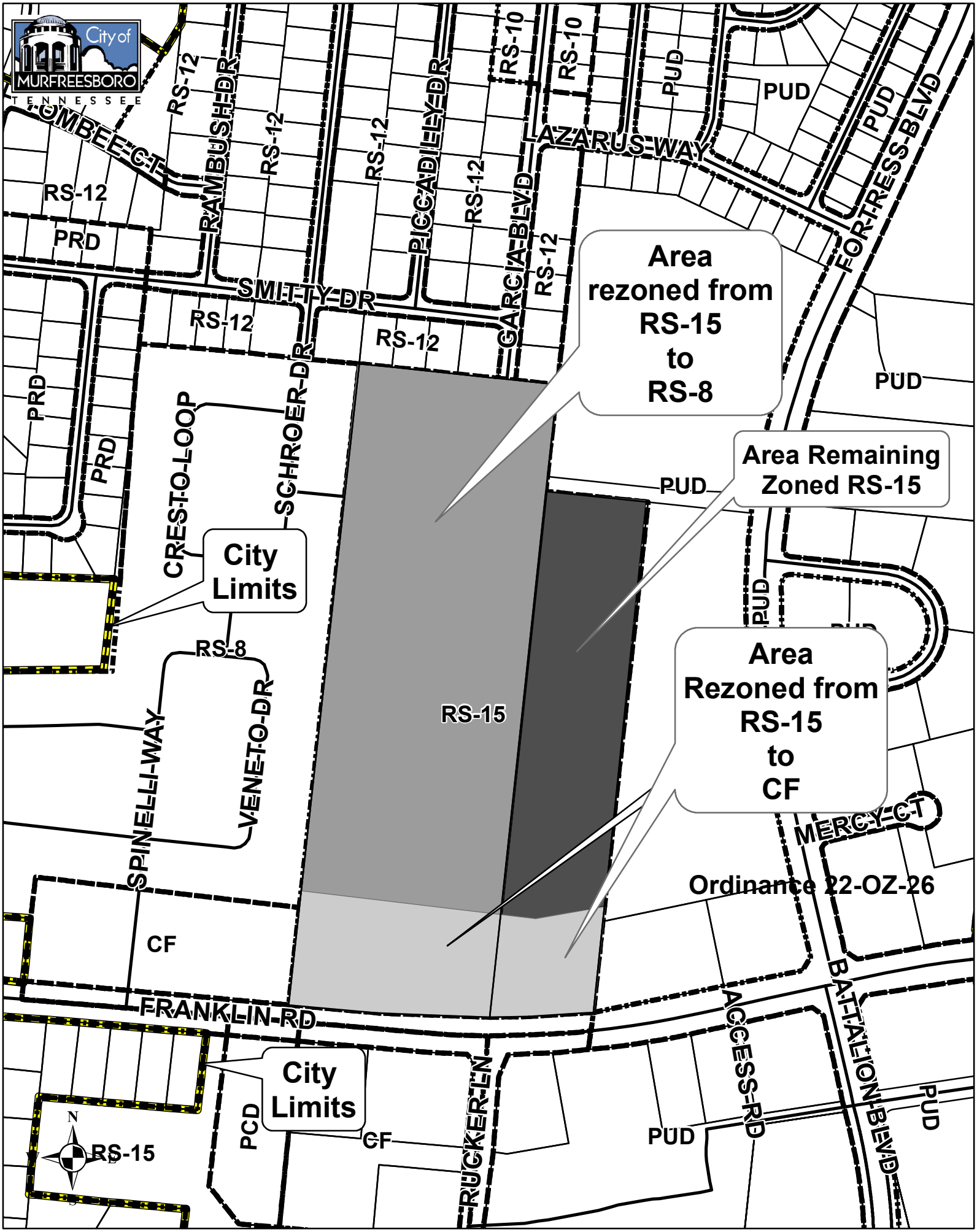
APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
43A2035E51F9401...

_____
Adam F. Tucker
City Attorney

SEAL

DocuSign Envelope ID: 90E8E3E8-E1B6-444B-9562-9AC2DAFEFCF3



COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Rezoning property along Wilkinson Pike [Second Reading]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Rezone approximately 10.8 acres located along the south side of Wilkinson Pike.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the rezoning.

Background Information

Toll Brothers presented a zoning application [2022-413] for approximately 10.8 acres located along the south side of Wilkinson Pike to be rezoned from RS-15 (Single-Family Residential District), MU (Mixed Use District), and GDO-1 & 2 (Gateway Design Overlay District) to PRD (Planned Residential District) and GDO-1 & 2. During its regular meeting on July 13, 2022, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On September 1, 2022, Council held a public hearing and approved this matter on First Reading.

Council Priorities Served

Improve Economic Development

This rezoning will enable the development of additional housing options in the desirable Murfreesboro Gateway.

Attachments:

Ordinance 22-OZ-27

DocuSign Envelope ID: 4F5E1050-69DB-4A34-97B3-CBA99040AF01

ORDINANCE 22-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 10.8 acres along Wilkinson Pike from Single-Family Residential Fifteen (RS-15) District, Mixed Use (MU) District, Gateway Design Overlay One (GDO-1) District and Gateway Design Overlay Two (GDO-2) District to Planned Residential Development (PRD) District (Toll Brothers at Gateway PRD), Gateway Design Overlay One (GDO-1) District and Gateway Design Overlay Two (GDO-2) District; Toll Brothers, applicant, [2022-413].

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 area depicted on the attached map shall be zoned and approved as Planned Residential Development (PRD) District (Toll Brothers at Gateway PRD), Gateway Design Overlay One (GDO-1) District and Gateway Design Overlay Two (GDO-2) 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 area 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 area.

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

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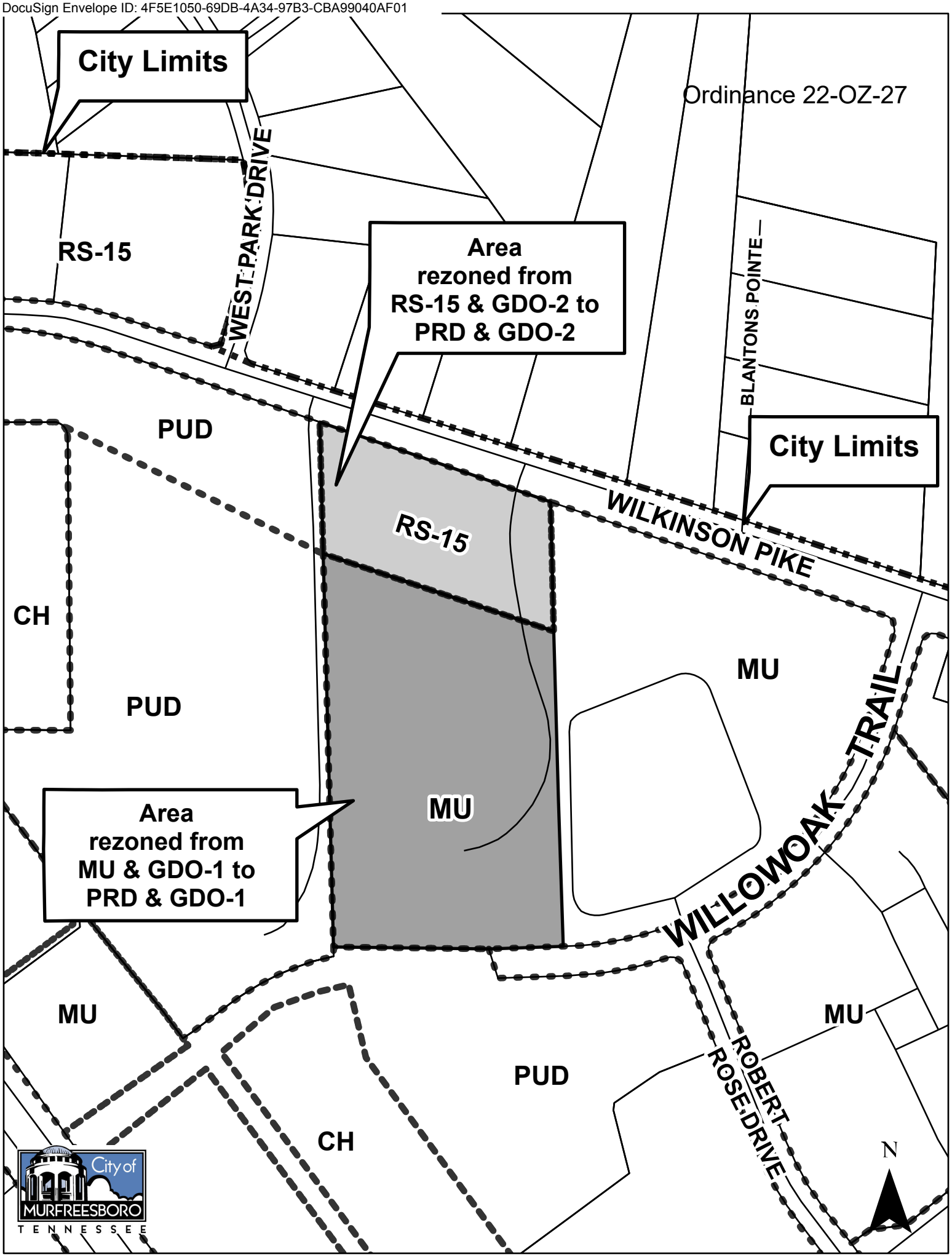


COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Zoning for property along Elam Road and Joe B Jackson Pkwy [Second Reading]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Zoning of approximately 151.7 acres along Elam Road and Joe B Jackson Parkway.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the plan of the zoning request.

Background Information

Swanson Development, LP presented to the City a zoning application [2022-412] for approx. 151.7 acres, including amending the existing PID (Planned Industrial District) zoning on approx. 151 acres and zoning approx. 0.7 acres to PID simultaneous with annexation. During its regular meeting on July 13, 2022, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

On September 1, 2022, Council held a public hearing and approved this matter on First Reading.

Council Priorities Served

Improve Economic Development

Parkway Place is an expanding employment center in our community. Amending the PUD to adjust the uses permitted chart and to provide access improvements will help this development continue to be an economic development driver for Murfreesboro.

Expand Infrastructure

The PID amendment seeks to add a private driveway connection to Elam Road for passenger vehicles needing to access the Parkway Place development, helping distribute traffic and to provide an alternate means of ingress/egress for employees.

Attachments:

Ordinance 22-OZ-28

DocuSign Envelope ID: 851B3974-A8E2-4F48-882E-F7E3C0B6F094

ORDINANCE 22-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 amend the conditions applicable to approximately 151 acres in the Planned Industrial Development (PID) District (Parkway Place PID) located along Joe B. Jackson Parkway and Richard Reeves Drives, as indicated on the attached map, and to zone approximately 0.9 acres along Elam Road to Planned Industrial Development (PID) District (Parkway Place PID), simultaneous with annexation; Swanson Developments, LP, applicant [2022-412].

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 to modify the conditions of the Planned Industrial Development (PID) District, as indicated on the attached map, for the purpose of adding a parcel to the PID, modifying the "region" lines of the PID, increasing the number of uses permitted in the various "regions" of the PID , and providing for a driveway connection from the subject property to Elam Road, and to zone the territory indicated on the attached map to Planned Industrial Development (PID) District, simultaneous with annexation.

SECTION 2. That from and after the effective date hereof the area depicted on the attached map be zoned and approved Planned Industrial Development (PID) 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 area 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 area.

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:

_____
Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST:

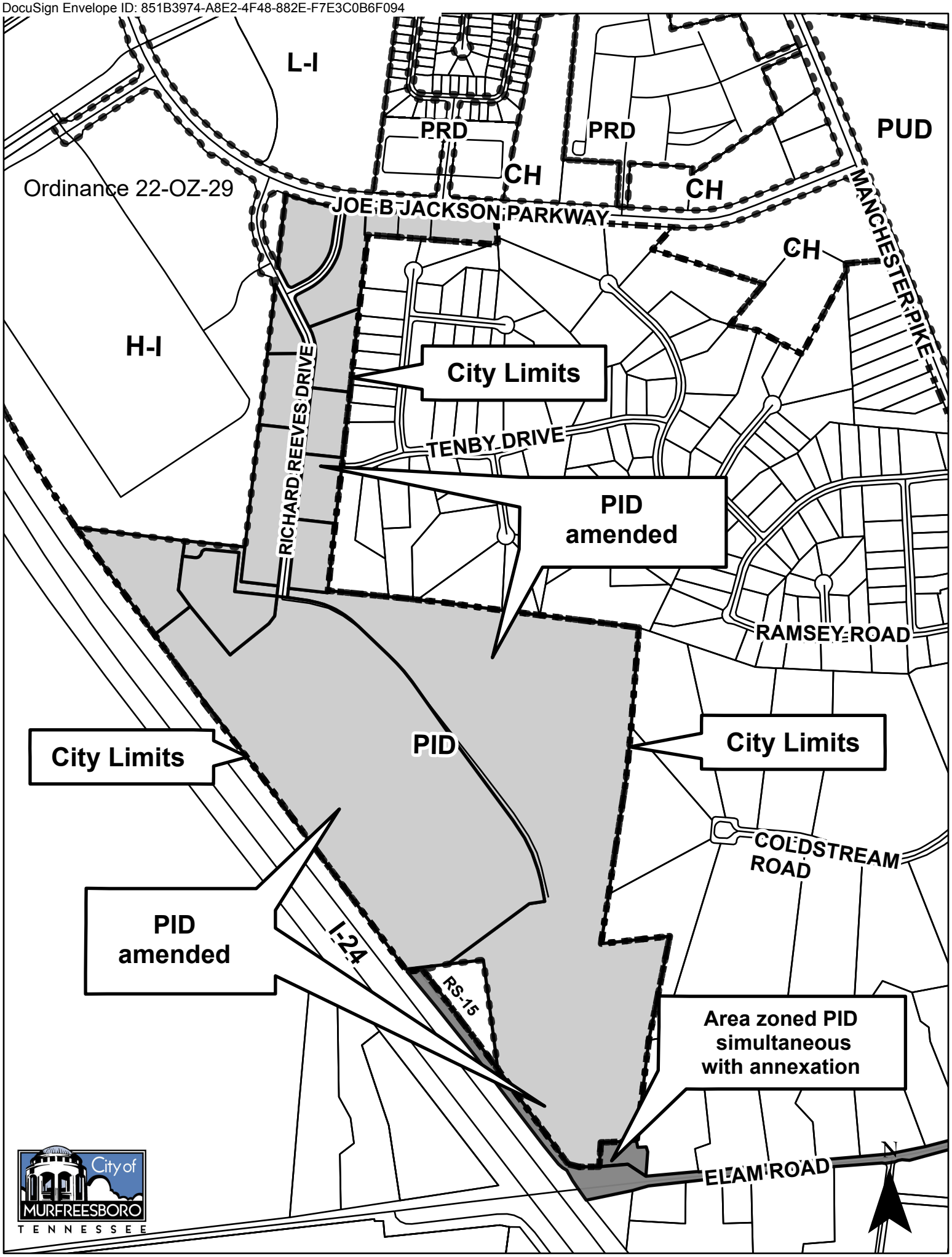
_____
Jennifer Brown
City Recorder
SEAL

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
43A2035E51F9401...

Adam F. Tucker
City Attorney

DocuSign Envelope ID: 851B3974-A8E2-4F48-882E-F7E3C0B6F094



COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Ordinance 22-O-25 Apartment Bifurcation Policy

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Modify City Code to exempt redevelopment of apartment complexes that reduce bedroom count even through increasing unit count.

Staff Recommendation

Approval of ordinance 22-O-25 modifying City Code Chapter 33, Water Resources.

Background Information

On April 7, 2022, Council approved two sewer variance requests involving the redevelopment of apartment complexes at 2829 S. Rutherford Blvd. and 2315 N. Tennessee Blvd. The redevelopment increases the number of units while decreases the total number of bedrooms. Approval was predicated on the calculations that demonstrated reduced sewage discharged of approximate 39% reduction.

Since the Council's approval of these variances, additional similar variance petitions have been submitted. Attached is a list of current petitions.

The proposed ordinance revision allows MWRD to determine if a requested variance will decrease the maximum daily wastewater generation allowance established for the pre-existing development through reduced total bed count while potentially increasing the number of proposed apartment units. This specific criteria would exempt a project from the criteria set forth in the sewer allocation ordinance. The project would need to still meet the City's development standards as administered and approved by the Planning Department and the Planning Commission.

Council Priorities Served

Improve economic development

Encouraging older apartment complexes to be refurbished is strong tool for improving the City apartment complexes that serve the University's student population.

Attachments

1. Ordinance 22-O-25 – Petition for Pre-Existing Apartment Development to Redevelop with Higher Unit Count
2. Table of Current Pre-existing Apartment Bifurcation Petitions

DocuSign Envelope ID: 9364E983-D119-44C3-B995-B66D82DA8CCD

ORDINANCE 22-O-25 amending the Murfreesboro City Code, Chapter 33, Water Resources, Article V, Sewer Capacity, Section 33-82, Petition for Pre-Existing Apartment Development to Redevelop with Higher Unit Count, regarding an apartment bifurcation policy.

WHEREAS, it is in the City's best interest to reduce sewer discharge into the City's sewer system to allow for continued development; and,

WHEREAS, the proposed amendment would benefit the City by reducing sewer discharge by 10% to 15%; and,

WHEREAS, the proposed amendments allow for improvements to the aesthetic qualities of existing multi-family, residential developments; and,

WHEREAS, at its August 30, 2022 meeting, the Murfreesboro Water Resources Board voted to recommend the following City Code amendment to the City Council.

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

SECTION 1. Chapter 33, Water Resources, Article V, Sewer Capacity Allocation, of the Murfreesboro City Code, is hereby amended by adding a new Section 33-82 as follows:

Section 33-82 - Petition for Pre-Existing Apartment Development to Redevelop with Higher Unit Count.

(A) If the Water Resources Department determines that a project proposed by an applicant for sewer service is likely to decrease the maximum daily wastewater generation allowance established for the pre-existing development, the applicant may petition the City for a proposed development that would result in a reduction in bed count while potentially increasing the number of proposed apartment units. The City may authorize a project if:

(1) The proposed project is, in the opinion of the City Council, consistent with the City's adopted land use plans and policies concerning growth and development; and

(2) Any other factor identified in the Council's deliberations related to whether a particular application promotes public health or safety or the general welfare of the City and its residents.

(B) Council may condition its approval of a project on:

(1) The owner or developer incorporating certain public infrastructure improvements into the project's site plan; and

(2) The owner or developer replacing plumbing fixtures within the development with new low-flow fixtures as well as metering or sub-metering each building.

(C) In the event City Council approves the project with a higher unit count, the applicant shall remit, as provided in Section 33-50(a)(1), a one-time sanitary

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sewer fee equal to $2,550.00 for each additional unit plus any applicable special sanitary sewer assessment fees.

(D) In the event City Council approves the project with a higher unit count in the City's drinking water service area, the applicant shall remit, as provided in Section 33-2(a), a one-time drinking water fee equal to $1,200.00 for each additional unit plus any other tapping applicable charges.

(E) Should the proposed development be determined to not likely decrease the maximum daily wastewater generation allowance established for the pre-existing development, the applicant may petition for the proposed development as described in City Code Section 33-80 - Petition for Additional Allowance; Fee Applicable to Exempt Land Classifications.

SECTION 2. 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:

Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST:

Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
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Adam F. Tucker
City Attorney

Current Pre-Existing Apartment Bifurcation Development Petitions

Name	Acres	Current/Proposed Zoning	Current # Units	Current # Beds	Proposed # Units	Proposed # Beds	% Bed Reduction	Estimated % Sewerage Reduction
Pointe at Raiders Campus (Capstone)	17.26	RM16 to PRD	218	760	346	588	22.63	49.38
Landmark Apartments (Capstone)	21.6	PRD	252	816	360	654	19.85	43.32
Campus Crossing (Albion)	16.01	RM 16 & PUD	252	816	360	654	19.85	43.32
Raiders Ridge/The Social Murph (Eastman Residential)	21.81	RM12	216	696	312	600	13.79	30.10
Student Quarters (Inman Equities)	6.15	RM 16	96	276	108	204	26.09	56.92
Woods at Greenland (Inman Equities)	5.13	RM 16	78	276	108	168	39.13	85.38

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Termination of Three Rivers Special Sanitary Sewer Assessment District – Ordinance 22-O-30

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Termination of the Three Rivers Special Sanitary Sewer Assessment District (SSSAD).

Staff Recommendation

Approval of Ordinance 22-O-30 amending City Code Chapter 33, Water Resources.

Background Information

The City adopted Ordinance 14-O-1, which was codified as City Code sec. 33-213, which established the Three Rivers SSSAD. This SSSAD secured repayment of MWRD's costs to repair sewer infrastructure that was left in disrepair by the original developer of the subdivision. Ordinance 15-O-17 amended the original Three Rivers SSSAD so that the special assessment would be charged and collected only until the date these expenses were repaid.

The Three Rivers SSAD has recouped 100% of the cost of its development as of December 2021. Therefore, termination by repeal of City Code sec. 33-213, which will be reserved for future use.

Council Priorities Served

Improve economic development

Initial funding by MWRD open areas for development and spurred significant economic growth in the area.

Responsible budgeting

Recovery from direct users of extraordinary costs associated with assuming a failed development is one method of prudent budget management and equitable rate allocation.

Attachments

1. Ordinance 22-O-30
2. Three Rivers SSSAD Exhibit

DocuSign Envelope ID: 458D90C8-BB63-40C6-9406-C15AD759145C

ORDINANCE 22-O-30 amending the Murfreesboro City Code, Chapter 33 – Water and Sewers, Section 33-213, regarding the Three Rivers Sanitary Sewer Special Assessment District.

WHEREAS, the Water and Sewer Department incurred considerable expense to build the sewers serving the Three Rivers Sanitary Sewer Special Assessment District; and,

WHEREAS, the City adopted Ordinances 14-O-11, 15-O-17, and 18-O-47 establishing and amending a special sanitary sewer assessment district for the repayment of these expenses and specifying the assessment would be charged and collected only until such date as the City shall determine and declare that it has been repaid for all development costs for said improvement; and,

WHEREAS, the Three Rivers Sanitary Sewer Special Assessment District has recouped 100% of the cost of its development per the December 2021 review.

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

SECTION 1. Section 33-213, Three Rivers Sanitary Sewer Special Assessment District, of the Murfreesboro City Code is amended by deleting the section and title in its entirety and marking it as "RESERVED".

SECTION 2. 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
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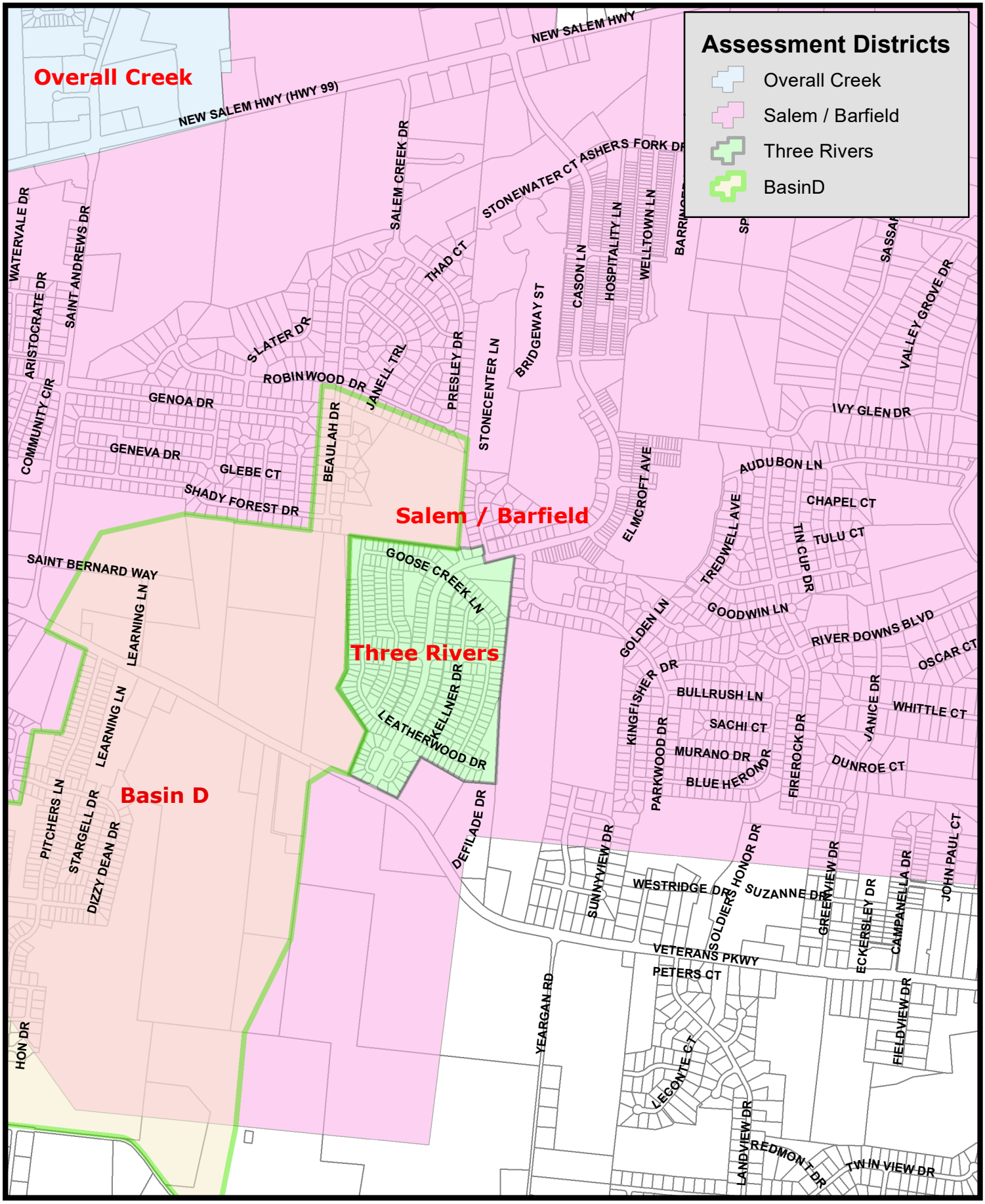
Adam F. Tucker
City Attorney

SEAL



MURFREESBORO WATER RESOURCES DEPARTMENT

Three Rivers Assessment District

N.T.S.

August 2021
TAB

City of MURFREESBORO
TENNESSEE
WATER RESOURCES

Three Rivers Assessment District.mxd

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: FY23 Budget Amendment Ordinance

Department: Administration

Presented by: Erin Tucker, Budget Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Amendment to the City's FY23 Budget.

Staff Recommendation

Approve Ordinance 22-O-37, amending the City's budget.

Background Information

GENERAL FUND

Revenues

Due to higher than projected FY22 collections, Local and State Sales Tax budgeted revenues can be increased by $1,080,00 and $720,000, respectively. This budget maintains a conservative 6% growth assumption for taxes not yet collected.

Administration

Increased construction projects and scope have indicated the need for a project coordinator position in Administration to assist the Project Development Manager, resulting in an increase to headcount and adjustment to the Administration Department's payroll budget by $100,000 for salaries and benefits.

Economic Development

Council approved $8.8 million for the acquisition of property for the Towne Creek project at the September 1, 2022, meeting.

Fire Rescue

The fire engine ramp at Station 1 is failing and needs to be replaced at an estimated cost of $23,000.

Public Safety Pay Plan

Staff surveyed neighboring Middle Tennessee cities to compare the City's Public Safety Pay Plan to peer cities. The results of the surveys determined that the sworn police and fire positions are under market and should be adjusted to better attract and retain public safety employees.

Fire Rescue

The Fire Rescue Department's payroll increases range from 3.3% to 11.3% depending on the degree of adjustment made to starting pay, resulting in a recommended increase of $1,534,000.

Police

The Police Department's payroll increases range from 2.5% to 6.1% depending on the degree of adjustment made to starting pay, resulting in a recommended increase of $900,000.

Council Priorities Served

Responsible budgeting

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

Fiscal Impact

The amendment to the FY23 Budget results in a decrease to Unassigned Fund Balance of $9,557,000.

Attachments

1. FY23 Budget Ordinance 22-O-37 and Exhibits A and B

DocuSign Envelope ID: DCAA925A-F6DA-450E-A6F0-D15B933AA246

ORDINANCE 22-O-37 amending the 2022-2023 Budget (2nd Amendment).

WHEREAS, the City Council adopted the 2022-2023 Budget by motion; and,

WHEREAS, the City Council adopted an appropriations ordinance, Ordinance 22-O-11, on June 8, 2022 to implement the 2022-2023 Budget; and,

WHEREAS, it is now desirable and appropriate to adjust and modify the 2022-2023 Budget and authorized full-time position counts adopted by this Ordinance to incorporate expenditure and hiring decisions made during the 2022-2023 fiscal year.

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

SECTION 1. The 2022-2023 Budget adopted by the City Council is hereby revised and amended as shown on Exhibit A, attached hereto.

SECTION 2. The 2022-2023 Authorized Full-time Position Counts adopted by the City Council is hereby revised and amended as shown on Exhibit B, attached hereto.

SECTION 3. 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 2022-2023 at the earliest practicable time, 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
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Adam F. Tucker
City Attorney

SEAL

Department	Account	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
General Fund				
Revenues				
	Local OptionSales Tax	$ 69,642,000.00	$ 70,722,000.00	$ 1,080,000.00
	State Sales Tax	$ 17,278,000.00	$ 17,998,000.00	$ 720,000.00
				$ 1,800,000.00
Expenditures				
	Assigned			
			$ -	$ -
	Unassigned			
Admin	Salaries & Benefits	$ 2,204,933.00	$ 2,304,933.00	$ 100,000.00
Economic Development	Town Creek Property Acquisition	$ -	$ 8,800,000.00	$ 8,800,000.00
Police	Salaries	$ 23,262,971.00	$ 24,012,971.00	$ 750,000.00
Police	Social Security/Medicare	$ 2,031,448.00	$ 2,086,448.00	$ 55,000.00
Police	Retirement	$ 1,018,066.00	$ 1,113,066.00	$ 95,000.00
Fire	Salaries	$ 14,996,525.00	$ 16,267,525.00	$ 1,271,000.00
Fire	Social Security/Medicare	$ 1,193,568.00	$ 1,291,068.00	$ 97,500.00
Fire	Retirement	$ 511,972.00	$ 677,472.00	$ 165,500.00
Fire	Other Improvements	$ -	$ 23,000.00	$ 23,000.00
				$ -
				$ 11,357,000.00
CHANGE IN ASSIGNED FUND BALANCE (CASH)		$ (7,156,648.00)	$ (7,156,648.00)	$ -
CHANGE IN UNASSIGNED FUND BALANCE (CASH)		$ (1,281,632.00)	$ (10,838,632.00)	$ 9,557,000.00
	TOTAL CHANGE IN FUND BALANCE (CASH)	$ (8,438,280.00)	$ (17,995,280.00)	(9,557,000.00)

EXHIBIT B					
City of Murfreesboro					
Authorized Full Time Position Counts FY 2020 to FY 2023					
	Actual	Actual	Estimated	Adopted	Budget Amendment
Department	FY 2020	FY 2021	FY 2022	FY 2023	FY 2023
Mayor and Council	7	7	7	7	7
City Manager's Office	13	11	13	14	15
Finance and Tax	18	18	21	21	21
Legal	9	9	10	10	10
City Court	6	6	7	7	7
Purchasing	2	2	3	3	3
Information Technology	20	23	25	24	24
Communications	6	6	6	7	7
Employee Services	10	10	11	11	11
Facilities Maintenance	11	12	13	13	13
Fleet Services	16	17	20	21	21
Police	351	369	376	393	393
Fire & Rescue	236	238	241	243	243
Building & Codes	26	25	26	26	26
Planning	14	15	15	17	17
Community Development	1	3	3	3	3
Transportation	25	27	27	28	28
Engineering	14	14	13	14	14
Street	51	51	52	53	53
Civic Plaza	1	1	1	1	1
Parks and Recreation	90	89	98	99	99
Golf Course	15	15	17	17	17
Solid Waste	43	46	47	47	47
Airport	3	4	4	4	4
Risk Management	0	0	0	0	0
	988	1018	1056	1083	1084

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Ordinance 22-O-38, Amending Procurement Code

Department: Legal

Presented by: Adam Tucker, City Attorney

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Revision of City Code Chapter 2-10 amending the Procurement Code to increase the threshold for competitive bids to $50,000 was approved on second and final reading on September 1, 2022. An administrative oversight omitted a necessary change to Section 2-10(F) as it regards to Sole Source Purchases.

Staff Recommendation

Approve Ordinance 22-O-38.

Background Information

Council approved on 2nd and final reading a revision to the Procurement Code which changed the threshold for competitive bids to match the State level of $50,000. The change to Section 2-10(F) of the Code (Sole Source Purchases) was inadvertently omitted in the Ordinance as it was presented. Staff would like to correct the omission.

Council Priorities Served

Responsible Budgeting

Increasing the threshold for formal bids allows for more flexibility when getting quotes and making purchases, especially considering the volatile marketplace currently being experienced by staff.

Attachments:

Ordinance 22-O-38

DocuSign Envelope ID: F6CCEB5B-D7A8-4B2E-B1B6-9BEC5D1B7CDB

ORDINANCE 22-O-38 amending the Murfreesboro City Code, Chapter 2, Administration, Section 2-10, Procurement Code, by increasing the sole source threshold to $50,000.

WHEREAS, State of Tennessee Senate Bill 2489 amended T.C.A. 12-3-1212 relative to thresholds for competitive bids; and,

WHEREAS, State of Tennessee Senate Bill 2489 was effective May 11, 2022, upon its passage; and

WHEREAS, Murfreesboro City Code, Section 2-10 requires amendment to reflect the increased bid threshold amount from $25,000 to $50,000 consistent with the newly revised T.C.A. 12-3-1212.

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

SECTION 1. Section 2-10(F), *Sole Source Purchases*, of the Murfreesboro City Code is hereby amended by deleting each instance of the figure "$25,000.00" and in lieu thereof inserting the words and figure of "Fifty Thousand Dollars ($50,000.00)".

SECTION 2. That this Ordinance shall take effect immediately after its passage upon second and final reading, as the public welfare and the welfare of the City require its adoption.

Passed:

1st reading _____

2nd reading _____

_____
Shane McFarland, Mayor

ATTEST:

_____
Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
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Adam F. Tucker
City Attorney

SEAL

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Signal Maintenance Agreement for Medical Center Parkway and I-24 Exit Ramp Signalization

Department: Transportation

Presented by: Jim Kerr, Transportation Director

Requested Council Action:

Ordinance	☐
Resolution	☒
Motion	☐
Direction	☐
Information	☐

Summary

Consider Resolution 22-R-22 between the City and TDOT.

Staff Recommendation

Approval of Resolution 22-R-22 between the City and TDOT.

Background Information

TDOT is completing the design of a Ramp Queue Project at the request of the City for the I-24 westbound and eastbound ramps at Exit76, Medical Center Parkway. Safety, capacity, and operational issues were identified as concerns on the I-24 Exit Ramps (Exit76) where it intersects with Medical Center Parkway. The exit ramps onto Medical Center Parkway do not have sufficient storage length which causes traffic queue that extends to the mainline of I-24.

The project provides safety enhancements for the eastbound off-ramp to add an additional right turn lane and extend the left turn lane to increase the storage while improving the operation on this approach. The westbound off-ramp will add an additional right turn lane to reduce the queue on the off ramp and improve operations. Additionally, new signal mast arm poles, guardrails and overhead lane signage will be installed to improve the overall operations and safety at this interstate interchange.

When the State installs a traffic signal as a component of a project within the City, the City is required to provide electricity and maintain the traffic signal in proper working order. Accordingly, TDOT has provided a contract for this purpose. Project is anticipated for a February 2023 contract letting.

Council Priorities Served

Responsible Budgeting

Use of Highway Safety Improvement Program funds assist with the City budgeting of roadway projects.

Fiscal Impact

Maintenance and electricity of the installed signals will be negligible, City currently is

maintaining the signals.

Attachments

1. Resolution 22-R-22
2. Exhibit A TDOT Proposal

DocuSign Envelope ID: 9966EC21-1C96-4E49-8BCB-1228F7772029

RESOLUTION 22-R-22 accepting the State of Tennessee Department of Transportation's proposals to construct a road improvement project described as "Interchange at Medical Center Pkwy Route: I-24 project" within the City of Murfreesboro, Tennessee, specifically Federal Project No. HSIP-I-24-1(118)/State Project No.75100-0111-94, 75100-3111-94, 75100-2111-94, 75100-1111-94.

WHEREAS, the State of Tennessee Department of Transportation ("TDOT") has proposed to construct a roadway project in the City of Murfreesboro, Tennessee ("City"), designated as Federal Project No. HSIP-I-24-1(118)/State Project No.75100-0111-94, 75100-3111-94, 75100-2111-94, 75100-1111-94 and described as the Interchange at Medical Center Pkwy Route: I-24 project in Exhibit A, attached hereto; and,

WHEREAS, this project is conditioned on the City agreeing to cooperate with TDOT in accordance with the terms and conditions set forth in TDOT's proposals, so that the TDOT's general highway program may be carried out in accordance with the intent of the General Assembly of the State of Tennessee; and,

WHEREAS, this project is necessary to improve the City's transportation infrastructure and will thereby support the City's future economic development.

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

SECTION 1. The City of Murfreesboro encourages and supports the construction of the Interchange at Medical Center Pkwy Route: I-24 project.

SECTION 2. The Murfreesboro City Council hereby authorizes the Mayor, on behalf of the City, to sign TDOT's Interchange at Medical Center Pkwy Route: I-24 Project Proposal, a copy of which is attached hereto as Exhibit A.

SECTION 3. This Resolution shall be effective immediately upon its passage and adoption, the public welfare and economic development of the City requiring it.

Passed: _____

_____
Shane McFarland, Mayor

ATTEST:

_____
Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
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_____
Adam F. Tucker
City Attorney

DocuSign Envelope ID: 9966EC21-1C96-4E49-8BCB-1228F7772029

EXHIBIT A

PROPOSAL

OF THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF TENNESSEE

TO THE CITY OF MURFREESBORO, TENNESSEE:

The DEPARTMENT OF TRANSPORTATION of the State of Tennessee, hereinafter "DEPARTMENT", proposes to construct a project in the City of Murfreesboro, Tennessee, hereinafter "CITY", designated as Federal Project No. HSIP-I-24-1(118), State Project No. 75100-0111-94,75100-3111-94,75100-2111-94,75100-1111-94 , that is described as "Interchange at Medical Center Pkwy Route: I-24", provided the CITY agrees to cooperate with the DEPARTMENT as set forth in this proposal, so that the general highway program may be carried out in accordance with the intent of the General Assembly of the State.

Accordingly, the parties agree as follows:

1. That in the event any civil actions in inverse condemnation or for damages are instituted by reason of the DEPARTMENT, or its contractor, going upon the highway right-of-way and easements, and constructing said project in accordance with the plans and as necessary to make the completed project functional, it will notify in writing the Attorney General of the State, whose address is 425 Fifth Avenue North, Nashville, Tennessee, 37243, of the institution of each civil action, the complaint and all subsequent pleadings, within ten (10) days after the service of each of the same, under penalty of defending such actions and paying any judgments which result therefrom at its own expense.

2. The CITY will close or otherwise modify any of its roads, or other public ways if indicated on the project plans, as provided by law.

3. The CITY will transfer or cause to be transferred to the DEPARTMENT, without cost to the DEPARTMENT, all land owned by the CITY or by any of its instrumentalities as required

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for right-of-way or easement purposes, provided such land is being used or dedicated for road or other public way purposes.

4. Where privately, publicly or cooperatively owned utility lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, and other similar commodities, including publicly owned facilities such as fire and police signal systems and street lighting systems are located within the right-of-way of any road or other public way owned by the CITY or any of its instrumentalities, the CITY agrees that it will take any action necessary to require the removal or adjustment of any of the above-described facilities as would conflict with the construction of the project. But the foregoing may not be a duty of the CITY since it shall become operative only after the DEPARTMENT has been unsuccessful in its efforts to provide for said removals or adjustments for the benefit of the CITY.

The foregoing does not apply to those utility facilities which are owned by the CITY or one of its instrumentalities, it being understood that the CITY has the duty to relocate or adjust such facilities, if required, provided the CITY is notified to do so by the DEPARTMENT with detailed advice as to this duty of the CITY.

5. The CITY will maintain any frontage road to be constructed as part of the project;

6. After the project is completed and open to traffic, the CITY will accept jurisdiction and maintenance such parts of any existing DEPARTMENT highway to be replaced by the project, as shown on the attached map.

7. The CITY will make no changes or alter any segment of a road on its road system that lies within the limits of the right-of-way acquired for any interchange to be constructed as part of the project and will not permit the installation or relocation of any utility facilities within the right-of-way of any such a segment of one of its roads without first obtaining the approval of the

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DEPARTMENT.

8. No provision hereof shall be construed as changing the maintenance responsibility of the CITY for such part of the project as may presently be on its highway, street, road or bridge system.

9. It is understood and agreed between the DEPARTMENT and the CITY that all traffic control signs for the control of traffic on a street under the jurisdiction of the CITY and located within the DEPARTMENT's right-of-way shall be maintained and replaced by the CITY.

10. When traffic control devices for the direction or warning of traffic, lighting of roadways or signing, or any of them, which are operated or function by the use of electric current are constructed or installed as part of the project, they will be furnished with electricity and maintained by the CITY.

11. If, as a result of acquisition and use of right-of-way for the project, any building and/or structure improvements become in violation of a CITY setback line or building and/or structure requirement, including, but not limited to, on-premise signs, the CITY agrees to waive enforcement of the CITY setback line or building and/or structure requirement and take other proper governmental action as necessary to accomplish such waiver.

12. If, as a result of acquisition and use of right-of-way for the project, any real property retained by any property owner shall become in violation of a CITY zoning regulation or requirement, the CITY agrees to waive enforcement of the CITY zoning regulation or requirement and take other proper governmental action as necessary to accomplish such waiver.

13. The CITY will not authorize encroachments of any kind upon the right-of-way, nor will the CITY authorize use of the easements for the project in any manner which affects the DEPARTMENT's use thereof.

14. The CITY will obtain the approval of the DEPARTMENT before authorizing parking

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on the right-of-way and easements for the project.

15. The CITY will not install or maintain any device for the purpose of regulating the movement of traffic on the roadway except as warranted and in conformity with the Manual on Uniform Traffic Control Devices.

16. If the project is classified as full access control (i.e. a project which has no intersecting streets at grade), then the DEPARTMENT will maintain the completed project. If the project is not classified as full access control, then the DEPARTMENT will maintain the pavement from curb to curb where curbs exist, or will maintain the full width of the roadway where no curbs exist. The CITY agrees to maintain all other parts of non-access control projects; provided, however, that any retaining walls, box culverts, or other like structures constructed as part of the project that support the structural integrity or stability of the roadway surface shall be maintained by the DEPARTMENT.

17. If a sidewalk is constructed as a component of this project, the CITY shall be responsible for maintenance of the sidewalk and shall assume all liability for third-party claims for damages arising from its use of the sidewalk or premises beyond the DEPARTMENT'S maintenance responsibilities as set forth in section 16 of this Proposal.

18. When said project is completed, the CITY thereafter will not permit any additional median crossovers, the cutting of the pavement, curbs, gutters and sidewalks, by any person, firm, corporation, or governmental agency, without first obtaining the approval of the DEPARTMENT.

19. The DEPARTMENT will acquire the right-of-way and easements, construct the project and defend any inverse condemnation for damage or civil actions of which the Attorney General has received the notice and pleadings provided for herein; provided, however, that if the project is being constructed pursuant to a contract administered by the DEPARTMENT's Local

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Programs Development Office, the terms of that contract shall control in the event of a conflict with this Proposal..

20. The project plans hereinbefore identified by number and description are incorporated herein by reference and shall be considered a part of this proposal, including any revisions or amendments thereto, provided a copy of each is furnished the CITY.

21. The acceptance of this proposal shall be evidenced by the passage of a resolution or by other proper governmental action, which shall incorporate this proposal verbatim or make reference thereto.

IN WITNESS WHEREOF, the DEPARTMENT has caused this proposal to be executed by its duly authorized official on this the ____ day of _____, 20____.

THE CITY OF _____, TENNESSEE

BY: _____ DATE: _____
MAYOR

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

BY: _____ DATE: _____
HOWARD H. ELEY
COMMISSIONER

APPROVED AS TO FORM AND LEGALITY:

BY: _____ DATE: _____
JOHN REINBOLD
GENERAL COUNSEL

EXHIBIT A

PROPOSAL

OF THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF TENNESSEE

TO THE CITY OF MURFREESBORO, TENNESSEE:

The DEPARTMENT OF TRANSPORTATION of the State of Tennessee, hereinafter "DEPARTMENT", proposes to construct a project in the City of Murfreesboro, Tennessee, hereinafter "CITY", designated as Federal Project No. HSIP-I-24-1(118), State Project No. 75100-0111-94,75100-3111-94,75100-2111-94,75100-1111-94 , that is described as "Interchange at Medical Center Pkwy Route: I-24", provided the CITY agrees to cooperate with the DEPARTMENT as set forth in this proposal, so that the general highway program may be carried out in accordance with the intent of the General Assembly of the State.

Accordingly, the parties agree as follows:

1. That in the event any civil actions in inverse condemnation or for damages are instituted by reason of the DEPARTMENT, or its contractor, going upon the highway right-of-way and easements, and constructing said project in accordance with the plans and as necessary to make the completed project functional, it will notify in writing the Attorney General of the State, whose address is 425 Fifth Avenue North, Nashville, Tennessee, 37243, of the institution of each civil action, the complaint and all subsequent pleadings, within ten (10) days after the service of each of the same, under penalty of defending such actions and paying any judgments which result therefrom at its own expense.

2. The CITY will close or otherwise modify any of its roads, or other public ways if indicated on the project plans, as provided by law.

3. The CITY will transfer or cause to be transferred to the DEPARTMENT, without cost to the DEPARTMENT, all land owned by the CITY or by any of its instrumentalities as required

for right-of-way or easement purposes, provided such land is being used or dedicated for road or other public way purposes.

4. Where privately, publicly or cooperatively owned utility lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, and other similar commodities, including publicly owned facilities such as fire and police signal systems and street lighting systems are located within the right-of-way of any road or other public way owned by the CITY or any of its instrumentalities, the CITY agrees that it will take any action necessary to require the removal or adjustment of any of the above-described facilities as would conflict with the construction of the project. But the foregoing may not be a duty of the CITY since it shall become operative only after the DEPARTMENT has been unsuccessful in its efforts to provide for said removals or adjustments for the benefit of the CITY.

The foregoing does not apply to those utility facilities which are owned by the CITY or one of its instrumentalities, it being understood that the CITY has the duty to relocate or adjust such facilities, if required, provided the CITY is notified to do so by the DEPARTMENT with detailed advice as to this duty of the CITY.

5. The CITY will maintain any frontage road to be constructed as part of the project;

6. After the project is completed and open to traffic, the CITY will accept jurisdiction and maintenance such parts of any existing DEPARTMENT highway to be replaced by the project, as shown on the attached map.

7. The CITY will make no changes or alter any segment of a road on its road system that lies within the limits of the right-of-way acquired for any interchange to be constructed as part of the project and will not permit the installation or relocation of any utility facilities within the right-of-way of any such a segment of one of its roads without first obtaining the approval of the

DEPARTMENT.

8. No provision hereof shall be construed as changing the maintenance responsibility of the CITY for such part of the project as may presently be on its highway, street, road or bridge system.

9. It is understood and agreed between the DEPARTMENT and the CITY that all traffic control signs for the control of traffic on a street under the jurisdiction of the CITY and located within the DEPARTMENT's right-of-way shall be maintained and replaced by the CITY.

10. When traffic control devices for the direction or warning of traffic, lighting of roadways or signing, or any of them, which are operated or function by the use of electric current are constructed or installed as part of the project, they will be furnished with electricity and maintained by the CITY.

11. If, as a result of acquisition and use of right-of-way for the project, any building and/or structure improvements become in violation of a CITY setback line or building and/or structure requirement, including, but not limited to, on-premise signs, the CITY agrees to waive enforcement of the CITY setback line or building and/or structure requirement and take other proper governmental action as necessary to accomplish such waiver.

12. If, as a result of acquisition and use of right-of-way for the project, any real property retained by any property owner shall become in violation of a CITY zoning regulation or requirement, the CITY agrees to waive enforcement of the CITY zoning regulation or requirement and take other proper governmental action as necessary to accomplish such waiver.

13. The CITY will not authorize encroachments of any kind upon the right-of-way, nor will the CITY authorize use of the easements for the project in any manner which affects the DEPARTMENT's use thereof.

14. The CITY will obtain the approval of the DEPARTMENT before authorizing parking

on the right-of-way and easements for the project.

15. The CITY will not install or maintain any device for the purpose of regulating the movement of traffic on the roadway except as warranted and in conformity with the Manual on Uniform Traffic Control Devices.

16. If the project is classified as full access control (i.e. a project which has no intersecting streets at grade), then the DEPARTMENT will maintain the completed project. If the project is not classified as full access control, then the DEPARTMENT will maintain the pavement from curb to curb where curbs exist, or will maintain the full width of the roadway where no curbs exist. The CITY agrees to maintain all other parts of non-access control projects; provided, however, that any retaining walls, box culverts, or other like structures constructed as part of the project that support the structural integrity or stability of the roadway surface shall be maintained by the DEPARTMENT.

17. If a sidewalk is constructed as a component of this project, the CITY shall be responsible for maintenance of the sidewalk and shall assume all liability for third-party claims for damages arising from its use of the sidewalk or premises beyond the DEPARTMENT'S maintenance responsibilities as set forth in section 16 of this Proposal.

18. When said project is completed, the CITY thereafter will not permit any additional median crossovers, the cutting of the pavement, curbs, gutters and sidewalks, by any person, firm, corporation, or governmental agency, without first obtaining the approval of the DEPARTMENT.

19. The DEPARTMENT will acquire the right-of-way and easements, construct the project and defend any inverse condemnation for damage or civil actions of which the Attorney General has received the notice and pleadings provided for herein; provided, however, that if the project is being constructed pursuant to a contract administered by the DEPARTMENT's Local

Programs Development Office, the terms of that contract shall control in the event of a conflict with this Proposal..

20. The project plans hereinbefore identified by number and description are incorporated herein by reference and shall be considered a part of this proposal, including any revisions or amendments thereto, provided a copy of each is furnished the CITY.

21. The acceptance of this proposal shall be evidenced by the passage of a resolution or by other proper governmental action, which shall incorporate this proposal verbatim or make reference thereto.

IN WITNESS WHEREOF, the DEPARTMENT has caused this proposal to be executed by its duly authorized official on this the ____ day of _____, 20____.

THE CITY OF _____, TENNESSEE

BY: _____ DATE: _____
MAYOR

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

BY: _____ DATE: _____
HOWARD H. ELEY
COMMISSIONER

APPROVED AS TO FORM AND LEGALITY:

BY: _____ DATE: _____
JOHN REINBOLD
GENERAL COUNSEL

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Plan of Services, Annexation, and Zoning for property along Highway 99
[Public Hearings Required]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☒
Motion	☐
Direction	☐
Information	☐

Summary

Annexation and zoning of approximately 68.25 acres located along Highway 99 south of Clearidge Drive.

Staff Recommendation

Conduct a public hearing and approve the Plan of Services and the requested annexation.

Conduct a public hearing and enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the plan of services, annexation, and the zoning request.

Background Information

Ferrari Partners, LP has initiated a petition of annexation [2022-501] for approximately 68.25 acres located along Highway 99. The City developed its plan of services for this area. Additionally, Patterson Company presented to the City a zoning application [2022-401] for the same 68.25 acres to be zoned PRD (Planned Residential District) simultaneous with annexation. During its regular meeting on April 6, 2022, the Planning Commission conducted public hearings on these matters and then voted to defer action. At its meeting on May 18, 2022, these items were considered under "Old Business" and recommended for approval. The Planning Commission conditioned its recommendation of approval of the annexation to include the requested private property but not the Highway 99 right-of-way (ROW) that was originally included in the study. The plan of services has since been revised to exclude the Highway 99 ROW, consistent with the Planning Commission's recommendation.

Council Priorities Served

Improve Economic Development

This zoning request will enable the development of 182 single-family residential lots with lots ranging in size from 6,000 ft2 to 16,000 ft2. Council has previously conveyed the importance of homeownership and of increasing the City's inventory of single-family residential detached homes.

Attachments:

1. Resolution 22-R-PS-18
2. Resolution 22-R-A-18
3. Ordinance 22-OZ-18
4. Maps of the area
5. Planning Commission staff comments from the 05/18/2022 meeting
6. Planning Commission minutes from the 04/06/2022 and 05/18/2022 meetings
7. Plan of services
8. Riley PRD pattern book
9. Other miscellaneous exhibits

MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
MAY 18, 2022
PROJECT PLANNER: MARINA RUSH

4.a. Annexation petition and plan of services [2022-501] for approximately 79.65 acres located along Highway 99 south of Clearidge Drive, including right-of-way of approximately 3,600 linear feet of Highway 99, Ferrari Partners, LP applicant.

The Ferrari Partners, LP, represented by Mr. Matt Taylor of SEC, Inc., has submitted a petition requesting its property to be annexed into the City of Murfreesboro. The subject property is approximately 68.25 acres and is located along the east side of Highway 99 and south of the Rockvale Middle and High Schools. The study area is undeveloped land, no structures are presently located on the subject property. In addition, the annexation study area includes the Highway 99 right-of-way (ROW) of approximately 3,600 linear feet, totaling approximately 11.4 acres.

The study area is located within the City of Murfreesboro's Urban Growth Boundary and is contiguous to the city limits to the north at the Carlton Landing subdivision located at Highway 99. Attached to this staff report are maps illustrating the annexation study area for the following:

- Tax Map Parcel 123-21.00 (68.25 acres)
- Highway 99 ROW (11.4 acres)

Simultaneous with this application is a request to zone the property to PRD (Riley - Planned Residential District) to allow the development of 182 single-family detached residential lots.

Neighborhood Meeting:

The Planning Commission held a public hearing on April 6, 2022, for the annexation petition. Following the public hearing, the Commission requested the applicant to conduct a neighborhood meeting regarding the requested annexation and proposed residential development. This meeting was held on May 2, 2022, 6:00 pm and neighbor comments regarding the annexation were objections and concerns with the Murfreesboro city limits encroaching to Rockvale and urbanizing this area.

It was noted at the meeting that the property is located outside the city limits, but within the Urban Growth Boundary which is an adopted boundary line that depicts the limit on how far a city can expand its boundary, separating the urban areas from surrounding natural and agricultural lands. In addition, City sewer is located at the requested property's southeast property line and was installed when the adjacent County schools

were constructed. It was anticipated at that time that this property would connect to city sewer and participate in the Overall Creek Sewer basin.

The remaining comments made at the neighborhood meeting related to the proposed zoning. Those comments and staff's analysis are contained in the zoning staff report and is the next item on the agenda.

Plan of Services

Staff has prepared a plan of services (POS) for the proposed annexation, which provides detailed information regarding each of the city services and is attached to this staff report for reference. The study area includes the subject property and the 3,600 linear feet of Highway 99 ROW.

The annexation study demonstrated that City services can be provided to the subject property, but the ROW portion of Highway 99 should not be annexed. This recommendation is because the three adjacent Rutherford County schools use the segment of Highway 99 that is within the study area as their primary access, but none are along the ROW segment fronting the Ferrari property.

Highway 99 ROW:

The subject property has direct access to Highway 99 and the annexation study area includes approximately 3,600 linear feet of Highway 99 ROW. Upon annexation, routine maintenance (ROW mowing, litter pickup, snow removal, and pavement maintenance) of Highway 99 will become the responsibility of the City of Murfreesboro under contract to TDoT. Upon annexation, the operational problems and traffic congestion along Highway 99 will become the responsibility of the City of Murfreesboro. Due to the location of the County schools, the proposed annexation of ROW will have an impact on the City's ability to manage traffic operations within the study area.

Currently, the traffic backs up in each direction during the AM, school PM and PM peak hours, and because the schools are not part of the Murfreesboro City School district the City will have no control regarding the schools' activities and traffic operations. Also, Highway 99 has no sidewalks adjacent to the three school campuses. Upon annexation, the safety of pedestrian traffic on Highway 99 to and from the schools will become the responsibility of the City of Murfreesboro.

If the Highway 99 ROW is annexed, the City of Murfreesboro will be responsible for additional roadway and traffic flow improvements in the study area and installing sidewalks on both sides of Highway 99 adjacent to the schools.

Sewer:

Sanitary sewer is available to serve the subject property by a connection to the existing sewer located at the south end of the Rockvale Middle School property at the shared property line. This property is within the Overall Creek Sanitary Sewer Assessment

District, which will have a charge of $1,000 assessed in addition to the standard sewer connection fees for each single-family unit equivalent.

Schools:

The study area would become part of the Salem Elementary School zoned area if annexed. The Salem Elementary School is currently at capacity. However, the District is rezoning portions of the Salem Elementary zone for the 2022-2023 school year which will pull approximately 250 students out of this zoned area with a projected enrollment of 934 students. If the subject property were to develop with residential units as proposed with the Riley PRD zoning, that development could result in an enrollment of 34 to 60 students. In addition, three county school campuses are adjacent to the study area (Rockvale Elementary, Rockvale Middle and Rockvale High School).

Adjacent Subdivisions:

The surrounding subdivisions include: Rockvale Meadows (county) to the west and lot sizes are 20,000 sf - 4.0+ acres, Retreat at Pinnacle (county) to the east and lot sizes 15,000 square feet, Clearidge (county) to the north and lot sizes are 15,000+ square feet, Carlton Landing (city) to the northeast and lot sizes 10,000+ square feet, and Salem Landing (city) to the northeast and lot sizes 6,000+ square feet.

Non-Contiguous Annexation – Inter Local Agreement

Staff is recommending approval for the annexation of the subject property only and removing the 3,600 linear feet segment of Highway 99 ROW from the annexation area. This would result in a “non-contiguous” annexation. Per the State law, for non-contiguous annexations an inter-local agreement between the subject City and County is required to be executed. If the Planning Commission recommends annexation of the property and not the ROW, the inter-local agreement between the City and Rutherford County would be provided at the City Council public hearing for their consideration.

Staff Recommendations:

Staff recommends removing the 3,600 linear-foot segment of Highway 99 ROW from the annexation area and approval of annexation of the Ferrari property based on the following reasons:

1. Remove the 3,600 linear feet of Highway 99 ROW from the annexation study area because annexing it would provide no tangible benefit to the City:
    a. The City would be responsible for the additional roadway and traffic flow improvements on Highway 99 and installing sidewalks on both sides of Highway 99 adjacent to the schools.
    b. Annexation of the 3,600 linear feet of Highway 99 ROW would add cost to the City, and the City would be responsible for traffic enforcement on this roadway segment, including within the school zone.

c. City Planning and Engineering Staff will be responsible, whether the ROW is annexed or not, for ensuring that there are safe, well-designed roadway connections to Highway 99.

d. An amended Plan of Services removing the ROW from the study area and any references to it in the text and maps will be provided prior to City Council public hearing.

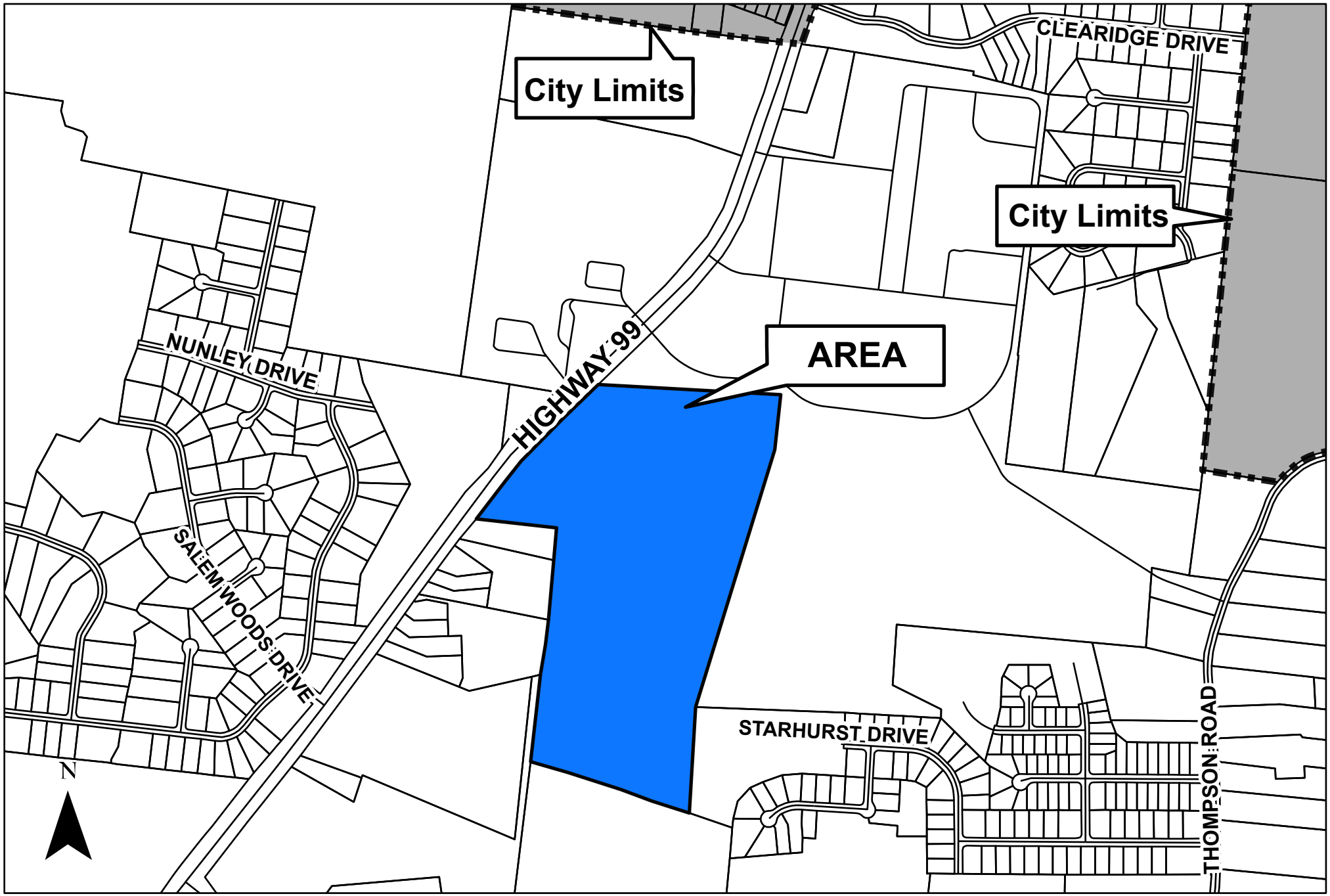
2. Approve annexation of the subject property (Tax Map Parcel 123-21.00 (68.25 acres) for a non-contiguous annexation because:

   a. City services can be provided to the subject property upon annexation and at development of 182 single-family detached residences.

   b. City and County will enter into an inter-local agreement for a non-contiguous annexation.

Action Needed:

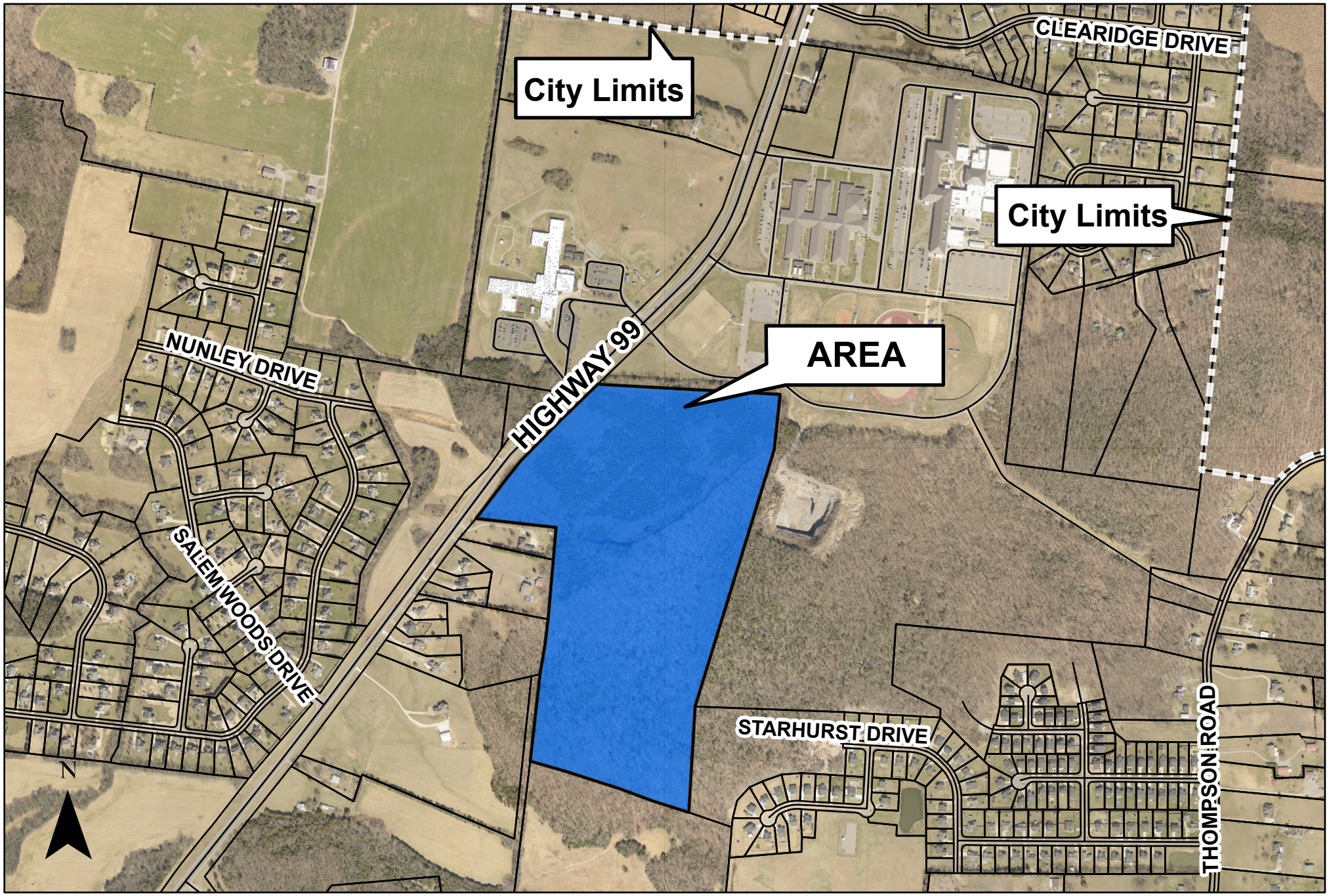
The Planning Commission will need to discuss the matter and then formulate a recommendation for the City Council. No additional public hearing before the Planning Commission is necessary at this time.



Annexation request for property along Highway 99

0 487.5 975 1,950 2,925 3,900
US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov



City of MURFREESBORO TENNESSEE

Annexation request for property along Highway 99

0 487.5 975 1,950 2,925 3,900 US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

PETITION FOR ANNEXATION BY THE CITY OF MURFREESBORO

The undersigned is the only owner / are all of the owners of the property identified in the attached legal description (including street address and tax map / parcel number), and hereby petitions the City of Murfreesboro to annex such property into the City.

Signatures must be by owners or those with an appropriate written Power of Attorney from an owner. If the owner is not an individual (eg. corporation, trust, etc.), list the entity's name, the name of the individual signing on behalf of the entity and the status of the individual (eg. president, trustee, partner). If you are signing this Petition based on a Power of Attorney, you must also attach a copy of the Power of Attorney.

1. CHAD FERRARI, FOR FERRARI PARTNERS, L.P.
Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: Owner Date: 2/2/22

Mailing Address (if not address of property to be annexed)

2. _____
Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

3. _____
Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

4. _____
Printed Name of Owner (and Owner's Representative, if Owner is an entity)

Signature: _____ Status: _____ Date: _____

Mailing Address (if not address of property to be annexed)

(Attach additional signature pages if necessary)

Legal Description is attached: _____ Yes

Power of Attorney applies and is attached: _____ Yes _____ No

MINUTES OF THE MURFREESBORO PLANNING COMMISSION APRIL 6, 2022

6:00 PM **CITY HALL**

Members Present
Ken Halliburton, Vice-Chair
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Staff Present
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Joel Aguilera, Planner
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney
Sam Huddleston, Executive Dir. Dev't Services

1. Call to order.

Vice-Chairman Ken Halliburton called the meeting to order at 6:00 p.m.

2. Determination of a quorum.

Vice-Chairman Ken Halliburton determined that a quorum was present.

3. Approve minutes of the March 16, 2022, Planning Commission meeting.

Mr. Warren Russell moved to approve the Minutes of the March 16, 2022, Planning Commission meeting; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Ken Halliburton
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION APRIL 6, 2022

4. Public Hearings and Recommendations to City Council:

Annexation petition and plan of services [2022-501] for approximately 79.7 acres located along Highway 99 south of Clearidge Drive, including right-of-way of approximately 3,600 linear feet of Highway 99, Ferrari Partners, LP applicant. Ms. Marina Rush presented the Staff Comments regarding this item, a copy which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Mr. Matt Taylor (design engineer), Mr. Wes Patterson (applicant), Mr. Jackson Nichols (applicant), and Mr. Greg Gamble (landscape architect) were in attendance representing the application.

Vice-Chairman Ken Halliburton opened the public hearing.

1. **Mr. Jay Cunningham, 9910 Taylor Road** – opposes the request until a traffic impact study has been provided to make known how traffic issues would be addressed.

2. **Mr. Pat Justice, 8081 Old Jackson Ridge Road** – opposes the request.

3. **Mr. David Ragsdale, 6971 Highway 99** – stated he was representing over 1,000 people who has signed a petition in opposition of this request.

4. **Mr. Gabriel Fancher, 5606 Old Salem Road** – opposes the request due to the existing overcrowding at Rockvale schools.

5. **Mr. Duke Barnes, 2108 Nunley Drive** – opposes the request.

6. **Mr. Timothy Hinote, 2100 Nunley Drive** – opposes the request due to overcrowding at Rockvale schools and traffic and drainage concerns.

7. **Mr. Michael Bryan, 5809 East Overall Creek Road** – opposes the request due to overcrowding at Rockvale schools and drainage.

8. **Ms. Wendy Deberry, 3621 Thompson Road** – opposes the request due to sink holes and overcrowding at Rockvale schools.

9. **Mr. Paul Boyd, 2221 Scout Drive** – opposes the request.

10. **Ms. Kimberly Marson, 1122 Starhurst Drive** – opposes the request.

11. **Mr. Doug York, 1218 Paramount Drive -** opposes the request due to traffic and drainage.

12. **Mr. Pettus Read, 11795 Mt. Pleasant Road (Rutherford County Commissioner) –** opposes the request due to Rockvale schools being overcrowded, traffic issues, and the need for infrastructure improvements. Mr. Pettus provided a handout from Rockvale Ruritan Club against this request.

13. **Mr. Jim Thompson, 2027 Watercolor Lane** –opposes the request.

14. **Mr. Brady Allred, 5871 East Overall Creek Road** – opposes the request.

15. **Ms. Jackie Panzik, 10669 South Windrow Road –** opposes the request due to flooding from sinkholes in this area.

Vice-Chairman Ken Halliburton closed the public hearing.

Mr. Matthew Blomeley discussed the proposed update to the City's future land use map, which includes a service infill line.

Mr. Sam Huddleston explained how sanitary sewer was extended to this area for the schools.

Mr. Matt Taylor addressed the stormwater system for drainage would be designed for this property; and, that it would be directed into the Tennessee Department of Transportation right of way. In addition, a traffic impact study has been completed with several recommendations that includes left and right turn lanes along the front of the property. The applicant is in agreement to implement all recommendations. Lastly, Mr. Taylor agreed to conduct a neighborhood meeting for the area residents to address their questions.

There being no further discussions, Mr. Shawn Wright moved to defer the annexation petition until a neighborhood meeting has been conducted and there is resolution regarding ingress/egress; the motion was seconded by Mr. Rick LaLance and carried by the following vote:

Aye: Ken Halliburton
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None.

Zoning application [2022-401] for approximately 68 acres located along Highway 99 south of Clearidge Drive to be zoned PRD simultaneous with annexation, Patterson Company applicant. Ms. Marina Rush presented the Staff Comments regarding this item, a copy which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Mr. Matt Taylor (design engineer), Mr. Wes Patterson (applicant), Mr. Jackson Nichols (applicant), and Mr. Greg Gamble (landscape architect) were in attendance representing the application. Mr. Taylor gave a PowerPoint presentation of the Pattern Book, which Pattern Book is maintained in the permanent files of the Planning Department and is

MINUTES OF THE MURFREESBORO PLANNING COMMISSION MAY 18, 2022

1:00 PM **CITY HALL**

MEMBERS PRESENT
Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

STAFF PRESENT
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Amelie Kerr, Planner
Brad Barbee, Planner
Joel Aguilera, Planner
Katie Noel, Project Engineer
Gabriel Moore, Project Engineer
Serena Harris, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney
Sam Huddleston, Executive Dir. Dev't Services

1. Call to order.

Chair Kathy Jones called the meeting to order at 1:00 p.m.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Approve minutes of the April 20, 2022, Planning Commission meeting.

Mr. Chase Salas moved to approve the Minutes of the April 20, 2022 Planning Commission meeting; the motion was seconded by Mr. Warren Russell and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell

Taco Bell [2022-3045] site plan for a 2,100 ft2 restaurant with drive-thru on 1.09 acres zoned H-I located on the southside of Joe B Jackson Parkway east of Elam Farms Parkway, CVHC8, LLC developer.

Whataburger [2022-3048] site plan for 3,751 ft2 carry-out restaurant on 1.3 acres zoned CH located along Memorial Boulevard and Airport Road, Andy Beaupre & Moody Rambin developer.

There being no further discussion, Mr. Warren Russell moved to approve the Consent Agenda subject to all staff comments; the motion was seconded by Vice-Chairman Ken Halliburton and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None.

5. Old Business:

Annexation petition and plan of services [2022-501] for approximately 78 acres located along Highway 99 south of Clearidge Drive, Ferrari Partners, LP applicant.

Ms. Marina Rush presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference. Ms. Marina Rush stated if approved, Staff recommends removing the 3,600 linear-foot segment of Highway 99 ROW from the annexation area.

The Planning Commission began discussing the annexation petition and asked would the Tennessee Department of Transportation be notified regarding access connections onto Highway 99. Mr. Matt Taylor (design engineer) explained the construction plans would be submitted to the City. Next, they would make an application with TDOT for approval. In addition, they had conducted a neighborhood meeting to address the concerns that had been expressed during the public hearing.

There being no further discussion, Mr. Rick LaLance moved to approve the Annexation petition and plan of services subject to all staff comments and to excluding the Highway 99 right-of-way from the study area and the plan of services; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None.

Zoning application [2022-401] for approximately 68 acres located along Highway 99 south of Clearidge Drive to be zoned PRD simultaneous with annexation, Patterson Company applicant. Ms. Marina Rush presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference. Ms. Marina Rush stated Staff supports the zoning request to PRD for the following reasons:

Mr. Matt Taylor came forward stating they would comply with the current Murfreesboro Street Specifications for this proposal. In addition, Mr. Matt Taylor explained the storm

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RESOLUTION 22-R-PS-18 to adopt a Plan of Services for approximately 68 acres located along Highway 99 south of Clearidge Drive, Ferrari Partners, LP, applicant [2022-501].

WHEREAS, the Owner(s) of the territory identified on the attached map as the "Area to be Annexed" have either petitioned for annexation or given written consent to the annexation of such territory; and,

WHEREAS, a proposed Plan of Services for such territory was prepared and published as required by T.C.A. §6-51-102 and T.C.A. §6-51-104; and,

WHEREAS, the proposed Plan of Services was submitted to the Murfreesboro Planning Commission on April 16, 2022 for its consideration and a written report, at which time the Planning Commission held a public hearing and thereafter deferred action and then was presented again and recommended approval of the Plan of Services on May 18, 2022 to the City Council; and,

WHEREAS, a Public Hearing on the proposed Plan of Services was held before the City Council of the City of Murfreesboro, Tennessee on September 22, 2022, pursuant to a Resolution passed and adopted by the City Council on July 21, 2022, and notice thereof published in The Murfreesboro Post, a newspaper of general circulation in said City, on September 7, 2022; and,

WHEREAS, the Plan of Services for the territory identified on the attached map as the "Area to be Annexed" establishes the scope of services to be provided and the timing of such services and satisfies the requirements of T.C.A. §6-51-102.

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

SECTION 1. That, pursuant to authority conferred by T.C.A. Sections 6-51-101, et seq., the Plan of Services attached hereto for the territory identified on the attached map as the "Area to be Annexed" is hereby adopted as it is reasonable with respect to the scope of services to be provided and the timing of such services.

SECTION 2. That this Resolution shall take effect upon the effective date of the Annexation Resolution with respect to the territory, **Resolution 22-R-A-18**, the public welfare and the welfare of the City requiring it.

Passed: _____

_____
Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
43A2035E51F9401...

_____
Jennifer Brown
City Recorder

_____
Adam F. Tucker
City Attorney

SEAL

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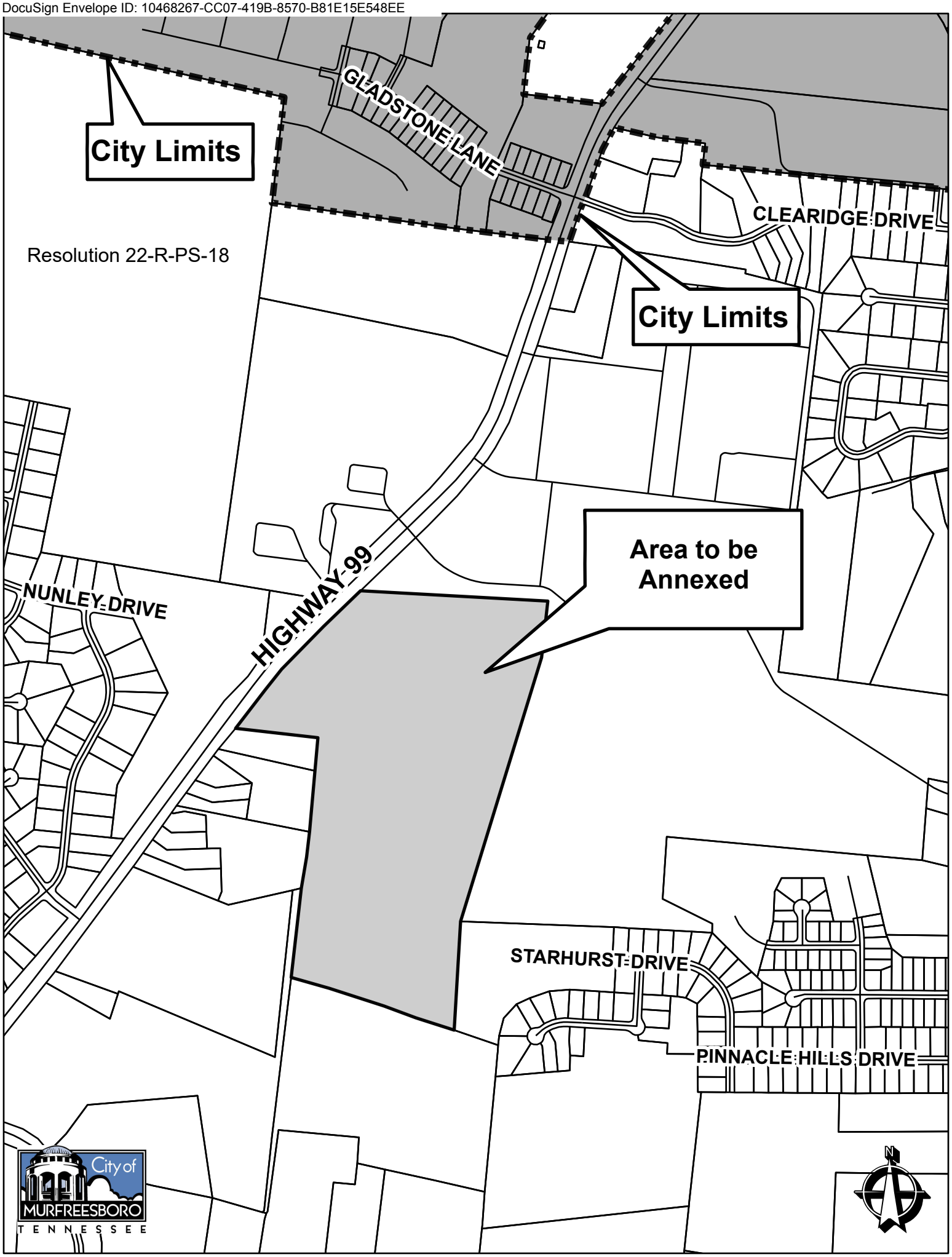

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Resolution 22-R-PS-18

ANNEXATION REPORT FOR PROPERTY LOCATED ALONG HIGHWAY 99 INCLUDING PLAN OF SERVICES (FILE 2022-501)

PREPARED FOR THE
MURFREESBORO PLANNING COMMISSION
APRIL 6, 2022
Revised on May 25,2022 for the July 21, 2022 Murfreesboro City Council Meeting

DocuSign Envelope ID: 10468267-CC07-419B-8570-B81E15E548EE

City of MURFREESBORO TENNESSEE

Annexation request for property along Highway 99

0 487.5 975 1,950 2,925 3,900 US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

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INTRODUCTION

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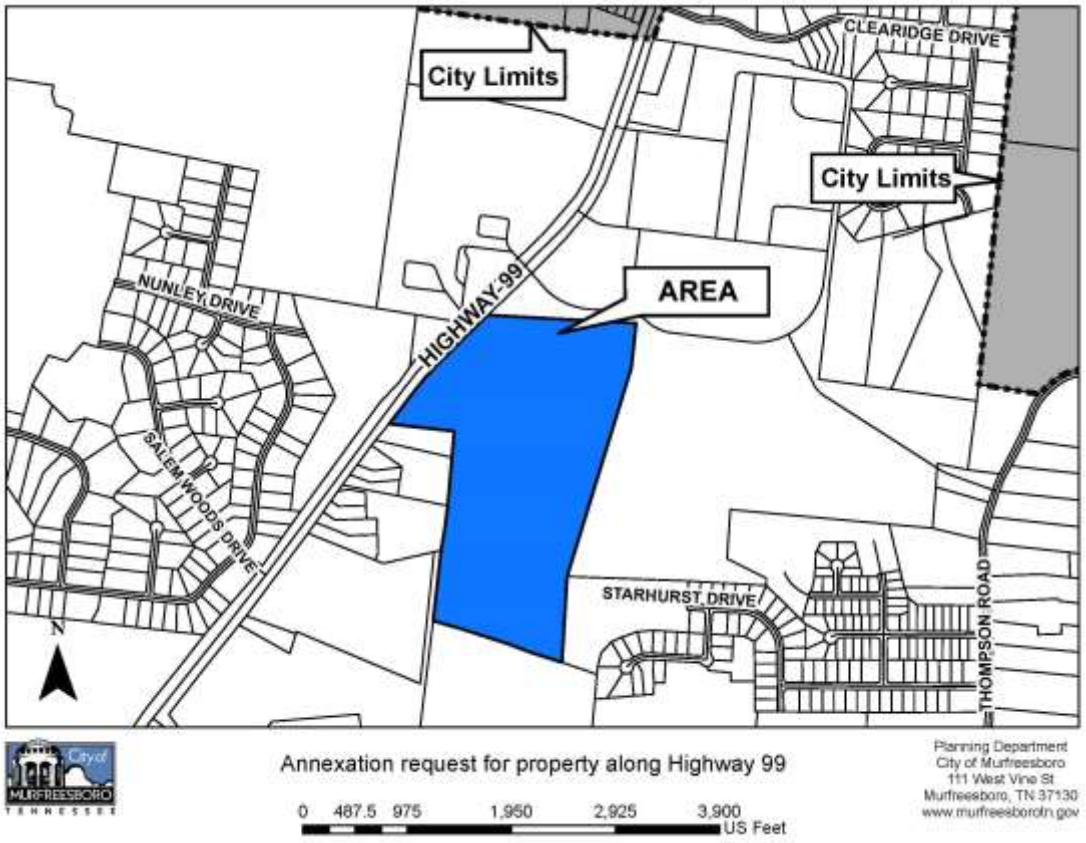
OVERVIEW

The property owner, Ferrari Partners, LP, represented by Matt Taylor, SEC, is requesting to annex the subject property, located along Highway 99, south of Rockvale Middle and High Schools. It is currently undeveloped land. The property is 68.25 acres and is identified as Tax Map Parcel 123-21.00.

The study area is located within the City of Murfreesboro's Urban Growth Boundary. It is not contiguous with the existing City limits. This study and plan of services is for a non-contiguous annexation. The map illustrates the annexation study area.



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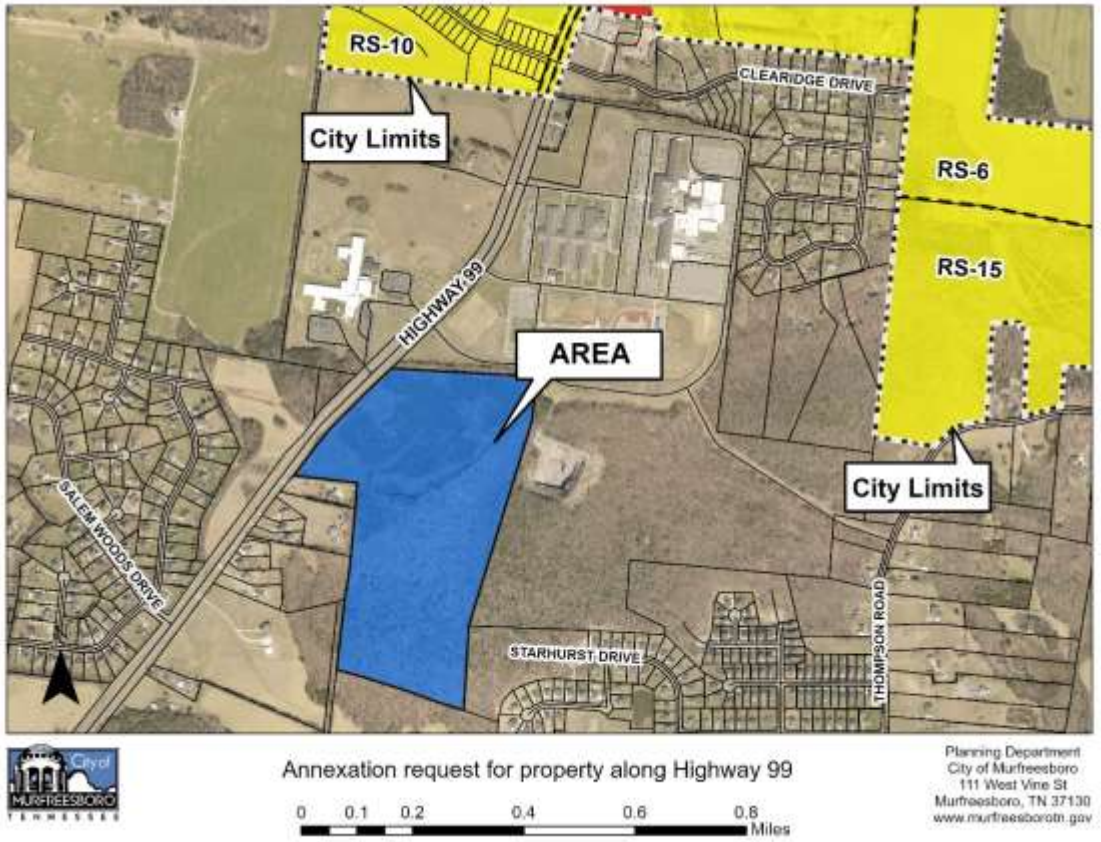
CITY ZONING

Patterson Company submitted an application to zone the subject property to PRD (Riley Planned Residential District) simultaneous with the annexation. The property is currently zoned RM (Residential Medium Density) in Rutherford County. The proposed PRD zoning would allow for up to 182 detached single-family residential lots at a density of 2.6 dwelling units per acre based on 68.25 acres. The Riley PRD program book depicts the residential lots ranging in size from 6,000 square feet to 16,000+ square feet. The applicant proposes 32 lots sized 6,000-8,000 square feet with rear entry garages and alleys. The remaining 143 lots would be sized 10,000 to 16,000 square feet each.

The surrounding area consists of a mixture of zoning types. The land to the west, south, and southeast is zoned Medium Density Residential (RM) in Rutherford County. The land to the east and north of the property is zoned Institutional (IN) in Rutherford County. The Retreat at Pinnacle Hills to the east of the property is zoned Planned Unit Development (PUD) in Rutherford County. The Carlton Landing subdivision, located northwest of the property, is in the City of Murfreesboro and is zoned RS-10.



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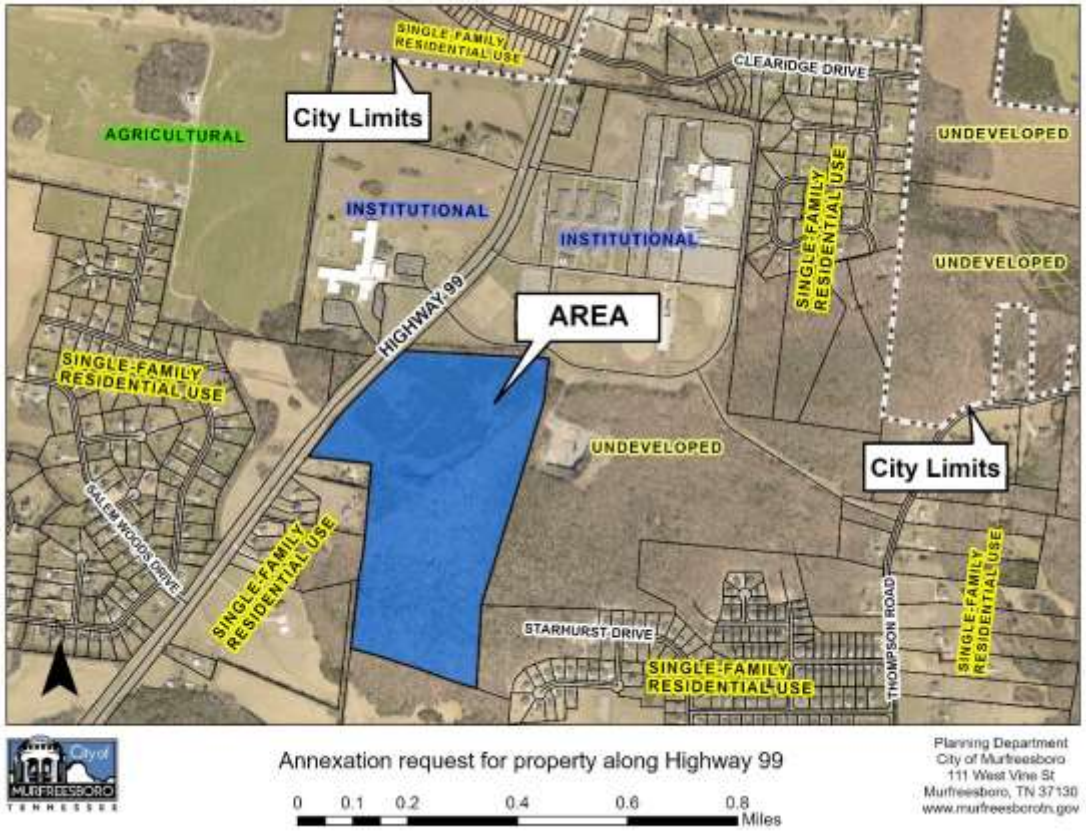
PRESENT AND SURROUNDING LAND USE

The study area is currently undeveloped. The property is surrounded by a mixture of residential subdivisions located in Rutherford County unincorporated.

The properties to the north are the Rockvale Elementary, Middle, and High Schools. The Carlton Landing subdivision, located northwest of the property, is in the City of Murfreesboro and is zoned RS-10. The properties directly to the east and west are undeveloped lots and single family detached subdivisions within the unincorporated land of Rutherford County. The properties to the south are undeveloped large lots.



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TAXES AND REVENUE

The first City tax bill for all property annexed during the calendar year of 2022 will be due on December 31, 2023. City taxes are calculated upon the property appraisal and assessment of the Rutherford County Property Assessor's Office. The current tax rate for the City of Murfreesboro is $1.2894/$100.00 assessed value. Residential property is assessed at a rate of 25% of its appraised value, and commercial property is assessed at a rate of 40% of its appraised value. The property is vacant. Table I below shows total assessment and estimated City taxes that would be collected if the property were to be annexed in its present state.

Table I
Estimated Taxes from Site

Owner of Record	Tax Map and Parcel	Acres	Land Value	Improvements Value	Total Assessment	Estimated City Taxes
Ferrari Partners, LP	123-21.00	68.25	$88,900	$0.00	$22,225	$286.57

These figures are for the property in its current state and assessed at the residential rate of 25 percent. After this property is rezoned and when it is developed, an improvement value will be added, which will result in an increase to the City and County taxes.

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The City of Murfreesboro is also projected to receive additional revenue from state-shared taxes. Table II below shows the 2021-2022 per capita state revenue estimates for the City of Murfreesboro once the proposed development is built out. The study area is proposed to be developed with 182 single-family residential detached homes.

Table II
Per Capita State Revenue Estimates

General Fund	**Per Capita Amount**
State Sales Tax	$89.00
State Beer Tax	$0.50
Special Petroleum Products Tax (Gasoline Inspection Fee)	$2.00
Gross Receipts (TVA in-lieu taxes)	$11.80
Total General Revenue Per Capita	$103.30
State Street Aid Funds	**Per Capita Amount**
Gasoline and Motor Fuel Taxes	$38.50
Total Per Capita (General and State Street Aid Funds)	**$141.80**
Total State-Shared Revenues (based on full build-out at 2.58 persons per dwelling unit for proposed 182 new units)	**$66,583**

The per capita state revenue estimates apply only to new residents and will only be available after a certified census takes place.

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PLAN OF SERVICES

DocuSign Envelope ID: 10468267-CC07-419B-8570-B81E15E548EE

POLICE PROTECTION

At present, the study area receives police service through the Rutherford County Sheriff's Department. If annexed, the Murfreesboro Police Department can begin providing services such as patrol, criminal investigation, community policing, traffic operations, canine, DARE and other community crime prevention programs to the subject property immediately upon the effective date of annexation.

This property borders the Police Zone #2. If annexed, the property would be added to Zone #2. Police staffing numbers are assessed based on residential population numbers cumulatively, and staffing will be assessed when any residential development of the study area would develop.

This annexation will have no negative impact on the Murfreesboro Police Department. No additional costs to the department are expected.

ELECTRIC SERVICE

Middle Tennessee Electric (MTE) does not currently have service to the property. However, MTE has the capacity to serve any proposed development. Any new electrical infrastructure installed will be required to adhere to MTE standards.

STREET LIGHTING

There are no streetlights along the segment of Highway 99 adjacent to the study area. For new public streets, MTE can provide street lighting, as necessary, upon request by the City of Murfreesboro.

SOLID WASTE COLLECTION

The subject property is undeveloped. If the property is annexed and developed with single family residences, the City Solid Waste Department can provide weekly curbside solid waste collection service. The initial day of service will be Thursday, and the cost of the City-provided cart is $65.85. It should be noted that continued development in the Highway 99 area will further increase demands on the department's resources and will warrant additional equipment and staff at some point in the future.

RECREATION

The subject property is vacant land. The Murfreesboro's Parks and Recreation facilities will be available to future residents of the study area. Currently Murfreesboro has two multi-purpose facilities, one community center, a wilderness facility, over 1,000 acres of parks, a network of greenways, and recreational sports. These facilities and programs are wholly funded by the Murfreesboro taxpayers. Children who are residents of the City of Murfreesboro, attend Murfreesboro Elementary Schools, and receive free or reduced lunches also receive free or reduced recreational fees.

CITY SCHOOLS

The Murfreesboro City School (MCS) system serves grades kindergarten through sixth and is offered to students who are within the jurisdiction of the City of Murfreesboro. The study area is outside the Salem Elementary

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School zone and would become part of this school's zoned area if annexed.

Currently, there is not a residence on the subject property and annexation of the property in its current state will have no impact on MCS. If residential units were to develop it could result in an increase of enrollment estimated to be between 34 to 60 additional students. The Salem Elementary School capacity is 1,000 students. The current enrollment for Salem Elementary for 2021-2022 is 1,112 students. The MCS district is rezoning portions of the Salem Elementary zone for the 2022-2023 school year which will pull approximately 250 students out of this zoned area and will then have a projected enrollment of 934 students.

BUILDING AND CODES

The property will come within the City's jurisdiction for code enforcement immediately upon the effective date of annexation. The City's Building and Codes Department will begin issuing building and construction permits and enforcing the codes and inspecting new construction for compliance with the City's construction codes immediately upon the effective date of annexation. The Building and Codes Department will also ensure that any new signs associated with the development of the property comply with the Sign Ordinance. No additional costs are expected.

PLANNING, ENGINEERING, AND ZONING SERVICES

The property will come within the City's jurisdiction for planning and engineering code enforcement immediately upon the effective date of annexation. As new development occurs, the Planning Commission will review all site plans, preliminary plats, and final plats. Among other duties, the Planning and Engineering Departments will inspect and monitor new construction of streets and drainage structures for compliance with the City's development regulations.

GEOGRAPHIC INFORMATION SYSTEMS

The property is within the area photographed and digitized as part of the City's Geographic Information Systems (G.I.S.) program.

STREETS AND ACCESS

The annexation study area has access to existing Highway 99. New connections to Highway 99 must be approved by TDoT and the City Engineer. Any development along Highway 99 should consider the Major Transportation Plan and the developer should participate in the cost of construction and dedicate the necessary ROW and easements. Any future public roadway facilities to serve the study area must be constructed to City standards.

REGIONAL TRAFFIC & TRANSPORTION

The study area has access to Highway 99 as the major roadway facility. Highway 99 is proposed to be improved to a 5-lane street section by

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TDOT and is on the City's Major Transportation Plan. The 2014 Level of Service Model in the 2040 Major Transportation Plan (MTP) indicates Highway 99 to be operating at a Level of Service B in the study area based on average daily traffic (ADT). The 2040 Level of Service Model shows that Highway 99 falls to undesirable levels of service of D without the proposed improvements recommended in the 2040 MTP.

Any new connections to Highway 99 must be approved by TDOT and the City Engineer. Any future public roadway facilities to serve the study area must be constructed to City standards.

SANITARY SEWER SERVICE

The Murfreesboro Water Resources Department's (MWRD) current definition of "available" is defined as gravity sanitary sewer that is adjacent to the property line within an easement or in a public ROW.

This property can be served by a connection to the existing sewer located at the South end of the Rockvale Middle School property. The proposed connection will tie into an existing manhole at the shared property line.

With regards to the City's Sewer Allocation Ordinance and the proposed zoning request of Planned Residential District (PRD), the proposed development meets the requirements of the Ordinance with 182 proposed single-family units (sfu's) on 68.25 acres, a density of 2.6 dwelling units per acre.

To reserve sewer capacity a Will Serve letter request must be submitted to the Department. The Department will review the request as well as the development's effect on the downstream pump station capacity and respond with instructions and requirements to reserve capacity.

Standard sanitary sewer connection fees for this tract of land as of March 4, 2022, will be $2,550 per sfu. This property is within the Overall Creek Sanitary Sewer Assessment District, which will have an additional charge of $1,000 assessed for each sfu equivalent. All main line extensions are the financial responsibility of the developer and must be extended in accordance with the Development Policies and Procedures of the Murfreesboro Water Resources Department.

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SANITARY SEWER SERVICE (exhibit)

WATER SERVICE

The study area is located within Consolidated Utility District of Rutherford County's (CUDRC) service area. A 12-inch ductile iron water main (DIP) is located along Highway 99 along the frontage of the study area. This water line can serve the subject property in its current state and some future structures, with some limitations as described below in bold and as illustrated in the attached exhibit. Service to the property would be the responsibility of the developer to construct.

The current infrastructure should meet the domestic water and fire demands of the development, but only for the lots with water meters at an elevation of 736 feet or below. Furthermore, depending on the elevation of the finished floor of the home/building a private water pump (owned and maintained by the property owner) may be necessary to achieve the water pressure the home/building owner desires.

Fire demands are based on the fire hydrant and fire sprinkler requirements submitted. The developer should verify current requirements with the appropriate local regulating body. If additional fire demands are required, an additional analysis must be completed to determine feasibility and availability of the additional demand before moving forward with the project. Exact details of the connections and water main size required throughout the development will be determined in the design phase after construction plans are submitted and reviewed. CUDRC understands sewer service for this development will be provided by the Murfreesboro Water Resources Department. The developer should verify availability and requirements with the applicable entity that reviews and approves such systems. No public water improvements and/or extensions shall be approved or installed until all conditions are fulfilled as outlined in CUDRC's Developer's Packet and are subject to payment by developer of engineering and inspection fees. All water lines/facilities improvements needed to serve the property in question are to be installed by the developer in accordance with CUDRC's policies and procedures.

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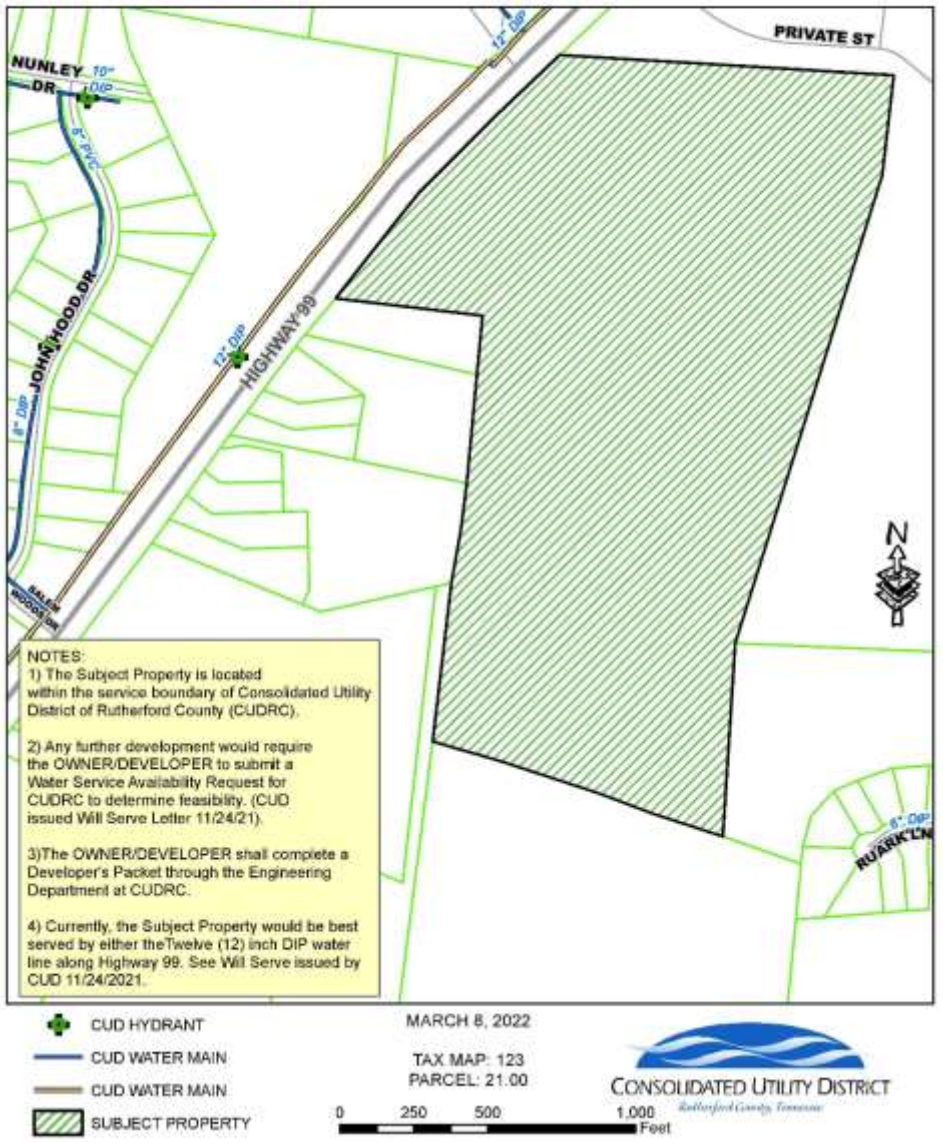
Prior to any future development, the developer of the property will be required to submit a current Water Availability Application to determine feasibility and to complete CUD's Developer Packet through CUD's Engineering Department prior to entering the construction phase. Any new water line development must be done in accordance with CUD's development policies and procedures.

Ferrari Property Annexation Request Map 123 Parcel 21.00



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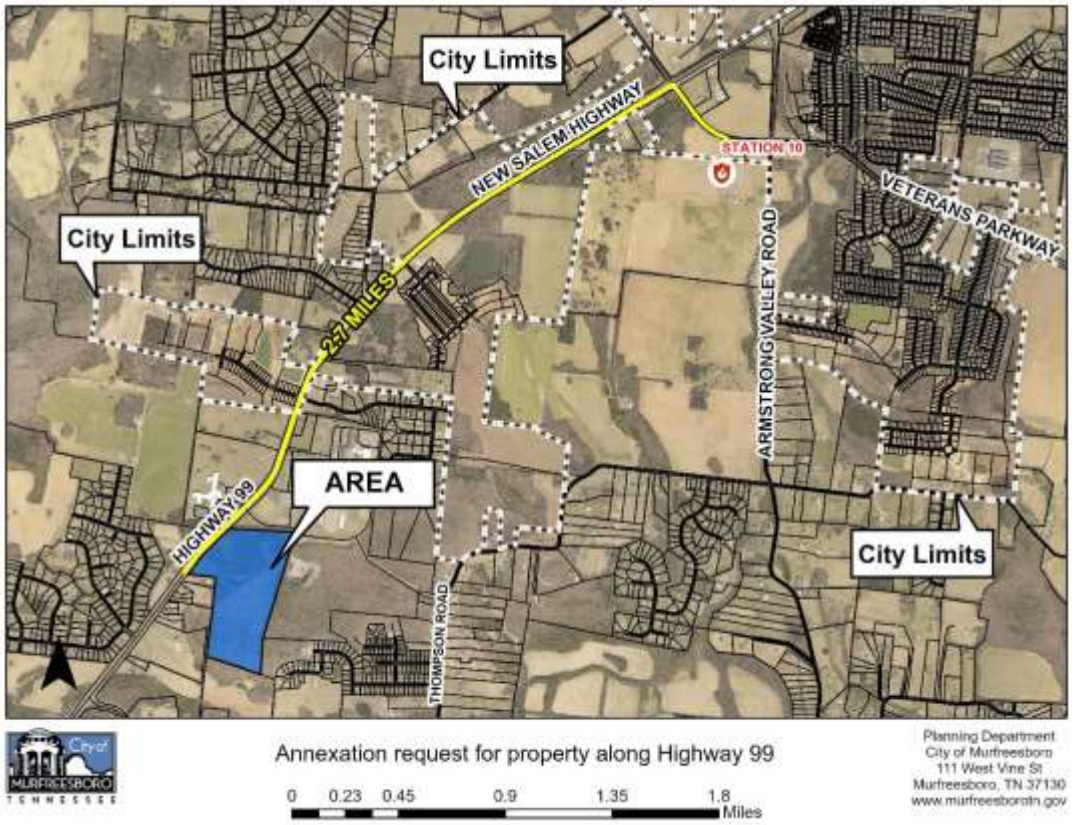
FIRE AND EMERGENCY SERVICE

The Murfreesboro Fire and Rescue Department (MFRD) can provide emergency first responder and fire protection services to the property immediately upon the effective date of annexation.

Currently the study area is located 2.7 miles from Fire Station #10 (2563 Veterans Parkway) and 5.9 miles from Fire Station #9 (802 Cason Lane). The yellow line on the adjacent map represents the linear distance range from the nearest fire station.

For future development of the study area, the required fire protection will need to be installed when it develops.



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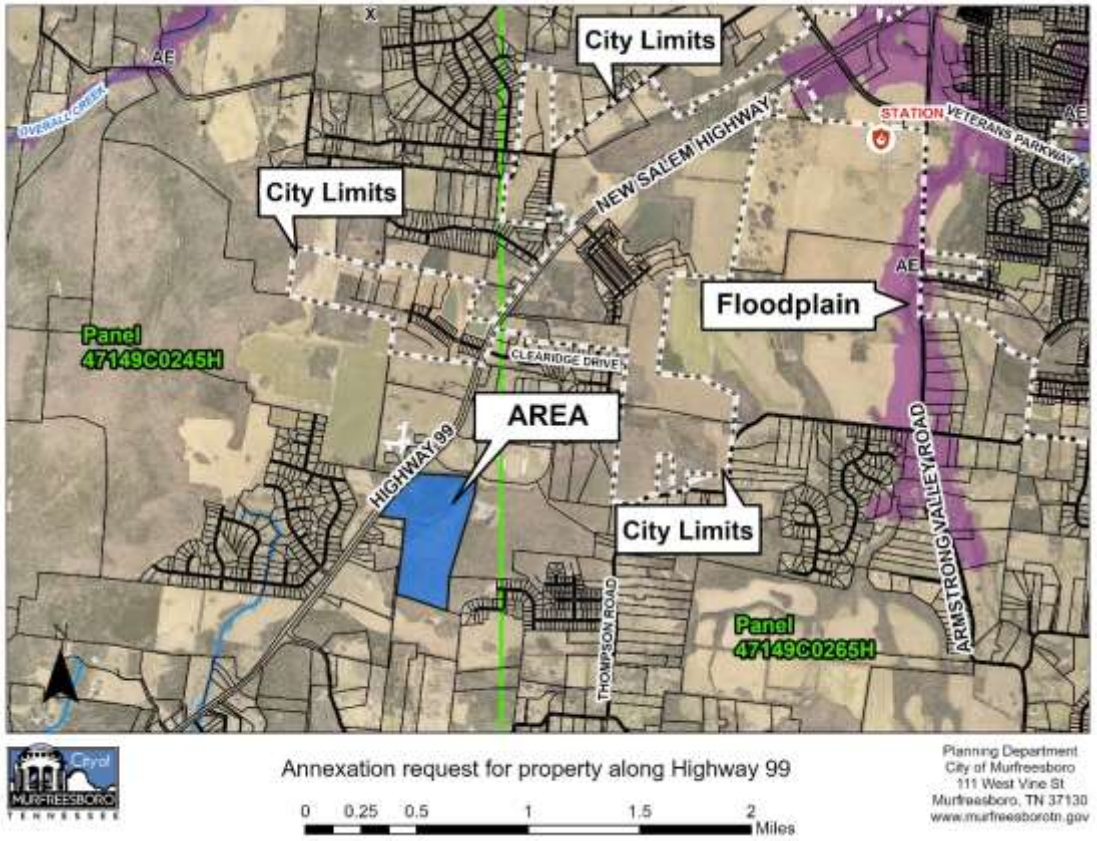
FLOODWAY

The study area is not located within a floodway or 100-year floodplain as delineated on the Flood Insurance Rate Maps (FIRM) developed by the Federal Emergency Management Agency (FEMA). The nearest floodplain is the Armstrong Branch floodplain, located approximately 1.5 miles east of the study area and depicted on the adjacent map in purple.



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DRAINAGE

Public Drainage System

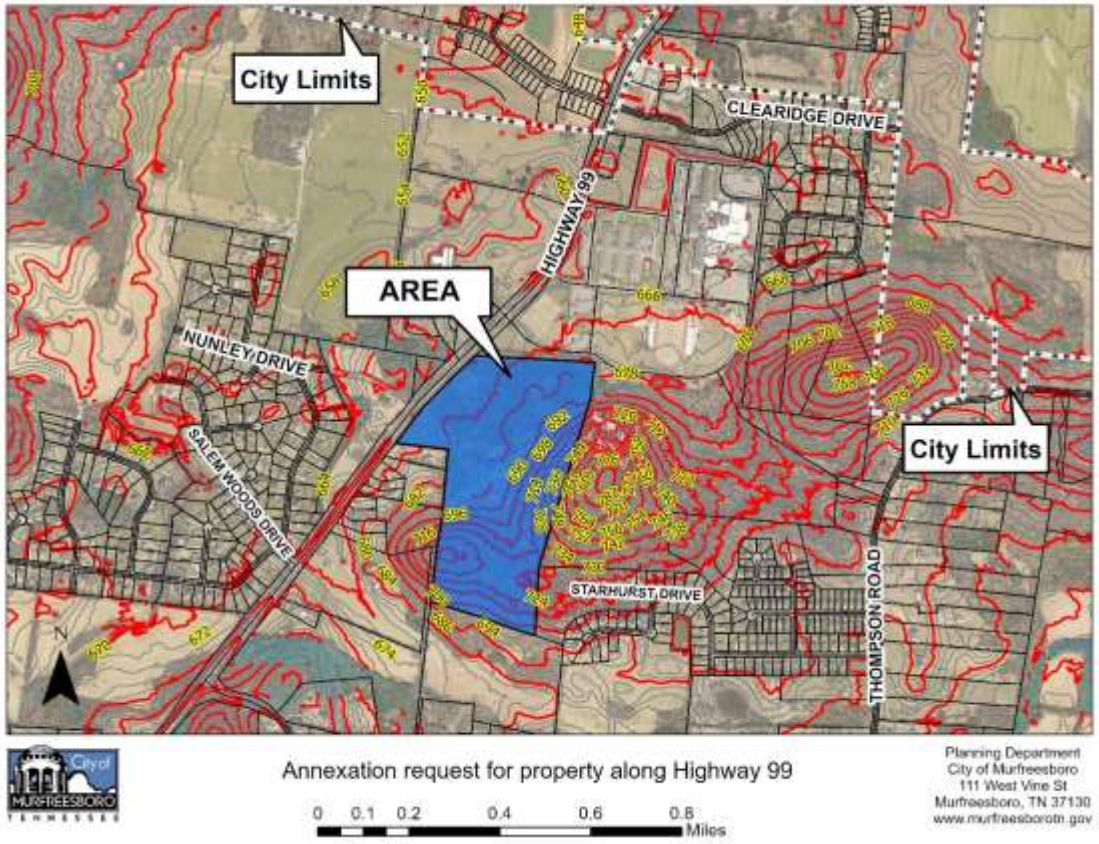
Public drainage facilities available in the general area include facilities in Highway 99. This drainage system is the responsibility of TDOT for routine maintenance. No additional public drainage systems are in the study area. Any new public drainage facilities proposed to serve the study area in the future must meet City standards.

Regional Drainage Conditions

A review of the regional drainage patterns indicates both eastern and southern property lines are high points of the property and water drains northwest and to the ROW of Highway 99.

Stormwater Management and Utility Fees

Upon annexation, stormwater management services provided by the City of Murfreesboro will be available to the study area. The study area is currently undeveloped and will not generate any revenue for the Stormwater Utility Fee. Future development in the study area will be subject to the Stormwater Utility Fee upon completion of construction. Based on the proposed zoning (Riley-PRD) it is anticipated to be developed with up to 182 single-family detached residential units. Based on this development scenario, the future development of the study area will result in approximately $7,042 additional revenue per year into the Stormwater Utility Fund upon full buildout.



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PROPERTY AND DEVELOPMENT

New development on the property must meet overall City of Murfreesboro Stormwater Quality requirements. Impacts on adjacent properties should also be considered in future development plans to ensure no net impact.

Highway 99 is on the City's Major Transportation Plan and is proposed to be widened by TDOT to a 5-lane roadway section. Development plans will be required to dedicate ROW and easements as well as participate in the cost of construction. If development plans are proposed before construction of improvements on Highway 99 progress, the developer will be required to dedicate ROW and easements as well as participate in the cost of construction. Any improvements constructed on Highway 99 will be considered as partial or full developer participation in the construction of future improvements on Highway 99.

ANNEXATION FOLLOW-UP

The Murfreesboro City Council will be responsible for ensuring that this property will receive City services described in this plan. According to the Tennessee Growth Policy Act, six months following the effective date of annexation, and annually thereafter until all services have been extended, a progress report is to be prepared and published in a newspaper of general circulation. This report will describe progress made in providing City services according to the plan of services and any proposed changes to the plan. A public hearing will also be held on the progress report.

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RESOLUTION 22-R-A-18 to annex approximately 68 acres located along Highway 99 south of Clearidge Drive (Tax Map 123, Parcel 021.00), and to incorporate the same within the corporate boundaries of the City of Murfreesboro, Tennessee, Ferrari Partners, LP, applicant [2022-501].

WHEREAS, the Owner(s) of the territory identified on the attached map as the "Area Annexed" have either petitioned for annexation or given written consent to the annexation of such territory; and

WHEREAS, a Plan of Services for such territory was adopted by **Resolution 22-R-PS-18** on September 22, 2022; and

WHEREAS, the Planning Commission held a public hearing on the proposed annexation of such territory on April 16, 2022, deferred action and then presented again and recommended approval of the annexation on May 18, 2022; and

WHEREAS, the annexation of such territory is deemed beneficial for the welfare of the City of Murfreesboro as a whole.

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

SECTION 1. That, pursuant to authority conferred by T.C.A. Sections 6-51-101, et seq., the territory identified on the attached map as the "Area Annexed" is hereby annexed to the City of Murfreesboro, Tennessee and incorporated within the corporate boundaries thereof.

SECTION 2. That this Resolution shall take effect upon the effective date of the Zoning Ordinance with respect to the annexed territory, **Ordinance 22-OZ-18,** the public welfare and the welfare of the City requiring it.

Passed: _____

_____
Shane McFarland, Mayor

ATTEST:

_____
Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
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Adam F. Tucker
City Attorney

SEAL

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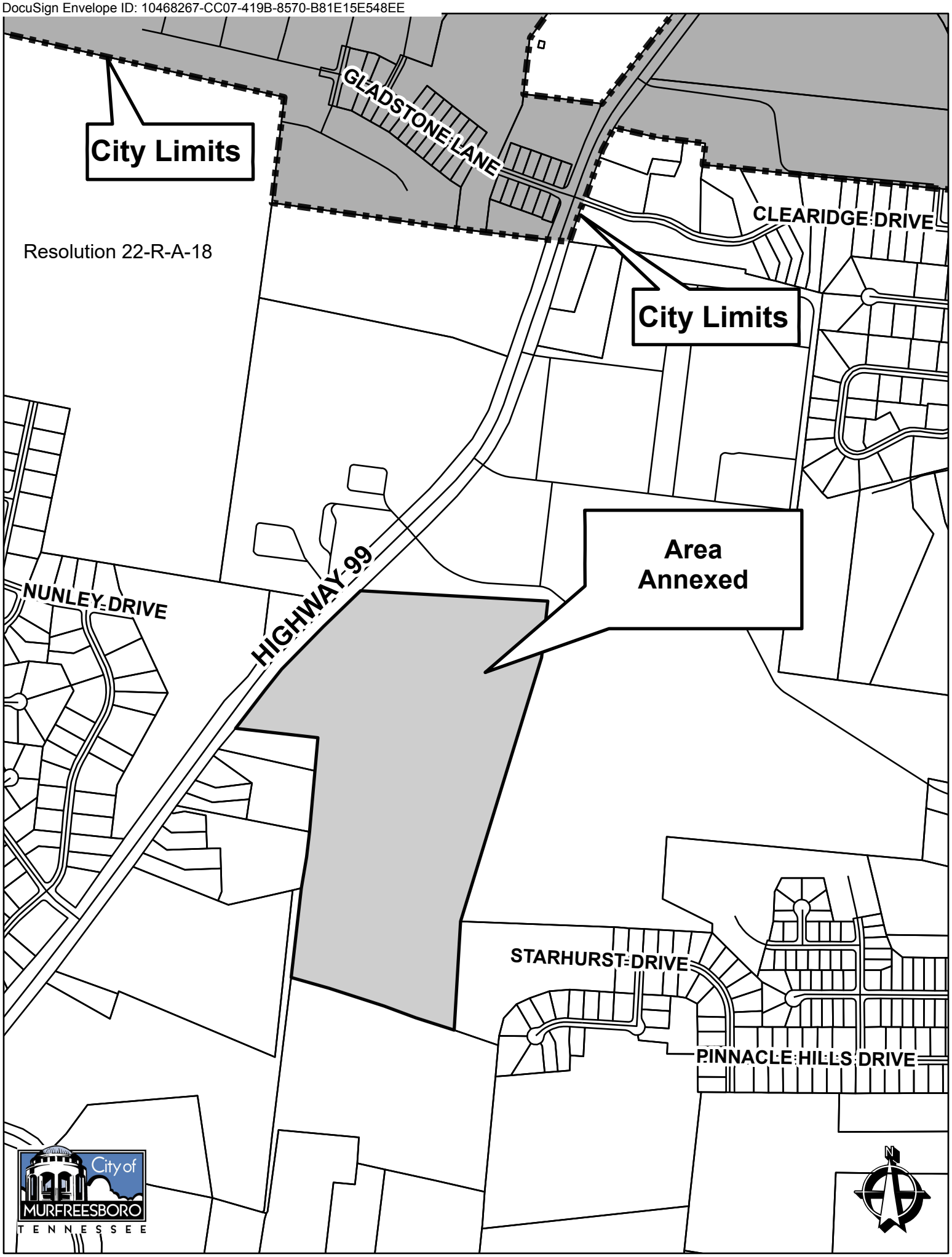


MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
MAY 18, 2022
PROJECT PLANNER: MARINA RUSH

4.b. Zoning application [2022-401] for approximately 68.25 acres located along Highway 99 and south of Clearidge Drive to be zoned PRD simultaneous with annexation, Patterson Company applicant.

The subject property is 68.25 aces located along southeast side of Highway 99. It is currently undeveloped and partially wooded. The property tax number is: 123-21.00. The applicant, Patterson Company, has applied to zone the property to PRD (Riley Planned Residential District) simultaneous with the request for annexation into the City. The purpose of the zoning is to allow for up to 182 detached single-family residential lots, ranging in size from 6,000 square feet to 16,000+ square feet, with a density of 2.6 dwelling units per acre.

The property is currently located within the unincorporated portion of Rutherford County and is zoned RM (Residential Medium Density). The Planning Commission held a public hearing on April 6, 2022. At that hearing, the Commission requested the applicant to conduct a neighborhood meeting regarding the proposed Riley PRD and annexation.

Neighborhood Meeting

The neighborhood meeting was held on May 2, 2022, 6:00 pm at the Salem Creek Church of Christ. The neighborhood comments made were traffic, specifically due to the Rockvale schools located on Highway 99, lot sizes (e.g., urbanization approaching Rockvale), and stormwater management. These were comments also made at the public hearing on April 6th.

Traffic: The Rockvale high, middle, and elementary schools are located directly on Highway 99, north of subject property. Typical school morning drop-off and afternoon pick-up operations result in traffic delays through the school zones and vehicles parked along the shoulders. In response to the neighborhood concerns, the applicant contracted with Collier Engineering, Inc to conduct a school traffic analysis. Collier's report is attached to this staff report and includes recommendations for operational and site improvements to improve traffic flows and safety for each of the school sites (School Traffic Analysis for Rockvale Schools, Collier Engineering Co., Inc., dated May 2, 2022). The applicant submitted this report to the Rutherford County School District for informational purposes for potential operational and site improvements. It is attached to this staff report for reference.

Lot sizes: The neighbors that spoke were primarily residents of the unincorporated County; they stated they have large lots of three-quarter acres or more, and do not want the smaller lots on the subject property. The subject property is located outside the city limits, but within the Urban Growth Boundary (defined: UGB is an adopted boundary line that depicts the limit on how far a city can expand its boundary separating the urban areas from surrounding natural and agricultural lands). In addition, the proposed update to the 2035 Comprehensive Plan Future Land Use Map includes a new service infill line to help manage growth and the property is the last one on Highway 99 within this proposed line. This inclusion was due to its access to connect to City sewer at its southeast property line.

Stormwater management: From the ridge line, a majority of the site's stormwater drains towards the northwest corner of the property and north along Highway 99 where it eventually reaches Puckett Creek. The southern end of the property flows from the ridge line to the south the neighboring property, then flows to the northwest under Highway 99 and into a drainage swale in Rockvale Meadows. The swale flows behind Rockvale Elementary School property and off to the north, where it eventually drains back to Puckett Creek.

Adjacent Zoning and Land Uses

The subject property is currently zoned RM (Residential Medium Density) in the unincorporated County. The surrounding area consists of a mixture of zoning types and land uses. The land to the west, south, and southeast is zoned Medium Density Residential (RM) in Rutherford County, to the north is zoned Institutional (IN) in Rutherford County and to the east is zoned Planned Unit Development (PUD) - the Retreat at Pinnacle Hills in Rutherford County. The Carlton Landing subdivision, located northwest of the property, is in the City of Murfreesboro and is zoned RS-10.

The surrounding land uses are a mixture of residential subdivisions located in Rutherford County unincorporated and the Rockvale schools (elementary, middle and high school). The surrounding subdivisions include, in Rutherford County: Rockvale Meadows to the west (mixture of lot sizes 0.5 acre – 10.0+ acres), Retreat at Pinnacle Hills (15,000 square feet), Clearidge (15,000+ square feet); and in the city limits: Carlton Landing (10,000 square feet) and Salem Landing (6,000+ square feet).

Riley PRD

Density and Design:

The proposed zoning would allow for up to 182 detached single-family residential lots ranging in size from 6,000 square feet to 16,000+ square feet. There are 32 lots proposed to be 6,000 to 8,000 square feet in size (The Cottage) and accessed from a private alley with rear entry garages with driveways. The remaining 150 lots (The Riverwalk and The Estate) will range in size from 10,000 to more than 15,000 square

feet. The density based on 182 residences on 68.25 acres is 2.6 dwelling units per acre. The program book depicts the various house designs proposed, includes elevation drawings and photographs of these units that have been constructed in a neighboring city. Please refer to the attached program book for more detailed information.

Table 1: Proposed Lot Sizes and Garages

SIZE	QUANTITY	GARAGE and DRIVEWAY
6,000 sf lots	29	29 = Alley
8,000 sf	3	3 = Alley
10,000	124	3 = Alley 121= Front/Side load
12,000	17	17 = Front/Side load
15,000+	2	2 = Front/Side

Elevations and photographs of the various house styles are included in the program book. The photographs are of houses built by the applicant located within residential subdivisions located elsewhere in Tennessee. The following photographs are excerpts from the program book for reference.

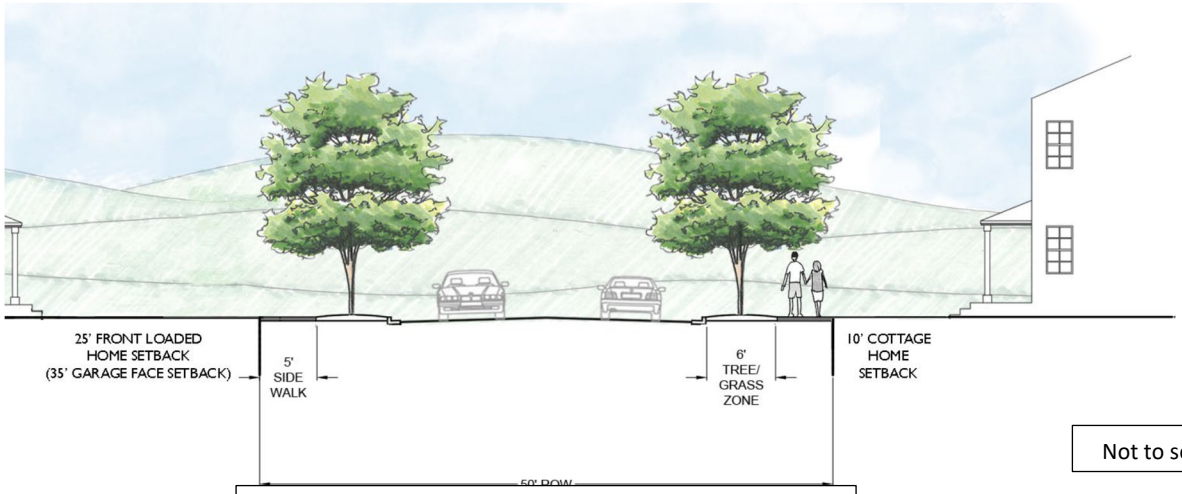
COTTAGE DESIGN

RIVERWALK DESIGN

ESTATE DESIGN

Roads and Access:

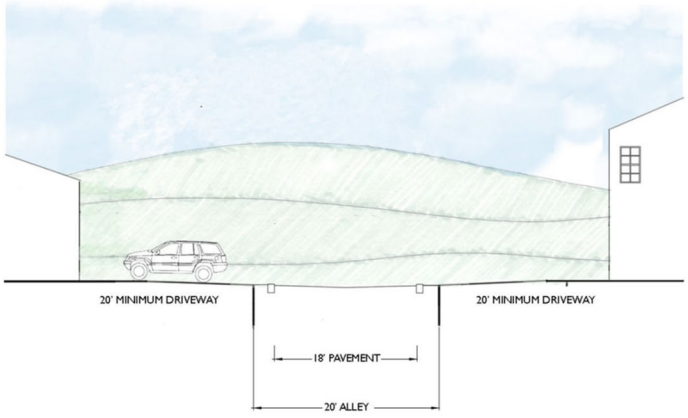
The two proposed main entrances to the development will incorporate one entrance lane for traffic entering the development, and separate left and right turn lanes for traffic leaving the development. The northern entrance was modified in accordance with staff's request to shift it to the west and not align with the existing southern access drive to Rockvale Elementary School Campus. This change was to minimize conflicts with the queuing for the schools. The development will also provide a roadway stub to the west along the southern portion of the property for a potential future connection to neighboring property. The roads within the development will be public local city streets with a 50-foot wide R.O.W. cross-section, as shown below, that includes landscape strip between the sidewalk and road. The 50-foot width is to accommodate the 6 ft wide planting strip between the sidewalk and road that will be planted with street trees to be installed every 50 linear feet on both sides of the street.



Not to scale

50-FOOT WIDE PUBLIC R.O.W. DIAGRAM

All proposed alleys will be private access easements with garages setback a minimum of 20 feet. The alleys will be 20-ft wide and constructed in accordance with Murfreesboro Street Standards.



20-FOOT WIDE PRIVATE ALLEY DIAGRAM

Utilities:

Water service will be provided by the Consolidated Utility District of Rutherford County. There is an existing 12-inch water line along Highway 99 for water service into the site. The developer will be responsible for extending the water line into the site for domestic and fire water service.

Sanitary sewer service will be provided by the Murfreesboro Water Resources Department. Sanitary sewer service can connect to an existing 8" ductile iron sewer line in the northeast corner of the property at the edge of the Rockvale High School property. The developer will be responsible for extending the sewer into this property. This property is located within a sewer assessment district and will be the last property to be served south of the current City limits.

Electric service will be provided by Middle Tennessee Electric. Service will be extended from Highway 99. The developer will be responsible for extending the electric lines into the site, and all on-site electric will be underground.

Solid Waste:

Solid waste would be managed by the City of Murfreesboro Solid Waste Department. As such, the design and construction of the ROW and alleys must conform to the Murfreesboro Solid Waste Collection Design Criteria.

Open Space and Amenities:

Twenty percent (20%) of the site will be open space, including usable areas, preserved woodland areas, and stormwater detention areas. The usable open space areas around the development will include a pavilion, pocket parks, and playground structure. Each amenity will be constructed with the phase it is designated in, after 50% of the homes are built out in each phase. The Highway 99 entrances will incorporate attractive development signage and landscaping. All common areas will be maintained by the H.O.A.

Exceptions Requested:

As compared to Chart 2 of the Zoning Ordinance for RS districts, the applicant is requesting exceptions to the zoning regulations for setbacks. The front setback exception requested is for the 6,000 sf lots (Cottages) is from the required 35 feet to allow 10 feet. This exception is requested due to the parking garage and driveway accessed from the rear alley and the addition of the 6'-wide street landscape strip on both sides of the street. The larger lots (Riverwalk and Estate) will have a combination of front-entry and side-entry garages, and an exception for the lots that would have front entry garages would be to allow the residential portion of the front façade to have a 25-foot front setback and the garage portion to remain at 35-foot front setback.

Also requested is an exception for a reduction in lot widths for the Cottage Homes from 50-foot width to 45-foot widths, and for the Riverwalk Homes from 65-foot width to 52-

foot widths. The house designs for the front, side, and rear elevations include high quality articulation, glazing, and wrap-around porches that help mitigate any visual impacts due to reduced lot widths.

The following tables provide a comparison for the bulk zoning district standards to the PRD plan book, and notes exceptions requested. Staff supports the exceptions requested, except for the proposed alley setback of 20 feet from the garage. Staff recommends this be increased to 22 feet to accommodate the parking of larger vehicles in the driveway. The garages for these units will be restricted to vehicle parking only and not to be used for storage. Staff recommends this text be added to the plan book for clarification.

Table 2: Cottage Homes

SETBACKS	RS-6	PRD-COTTAGE	DIFFERENCE
Front Setback	35.0' for garage and 25.0' for residence	10.0' (no garages on front elevations, all alley loaded)	-15.0'
Side Setback	5.0'	5.0'	0.0'
Rear Setback	20.0'	20.0' (alley facing garage)	0.0'- note: staff recommends 22'
Minimum Lot Size	6,000 s.f.	6,000 s.f.	0.0 s.f.
Minimum Lot Width	50'	45'	-5'
Parking	4 spaces	2 spaces - garage 2 spaces - driveway	-

Table 3: Riverwalk Exceptions Requested

SETBACKS	RS-10	PRD-RIVERWALK	DIFFERENCE
Front Setback	35.0'	35.0' for garage and 25.0' for residence	-10.0' for residential portion front facade
Side Setback	10.0'	5.0'	-5.0'
Rear Setback	25.0'	20.0'	-5.0'
Minimum Lot Size	10,000 s.f.	10,000 s.f.	-
Minimum Lot Width	65'	52'	-13'
Parking	4 spaces	4 spaces	-

Table 4: Estate Exceptions Requested

SETBACKS	RS-12	PRD-ESTATE	DIFFERENCE
Front Setback	30.0’	35.0’ for garage and 25.0’ for residence	-10.0’
Side Setback	10.0’	5.0’	-5.0’
Rear Setback	25.0’	20.0’	-5.0’
Minimum Lot Size	12,000 s.f.	12,000+ s.f.	-
Minimum Lot Width	70’	80’	+10’
Parking	4 spaces	4 spaces	-

Traffic Impacts

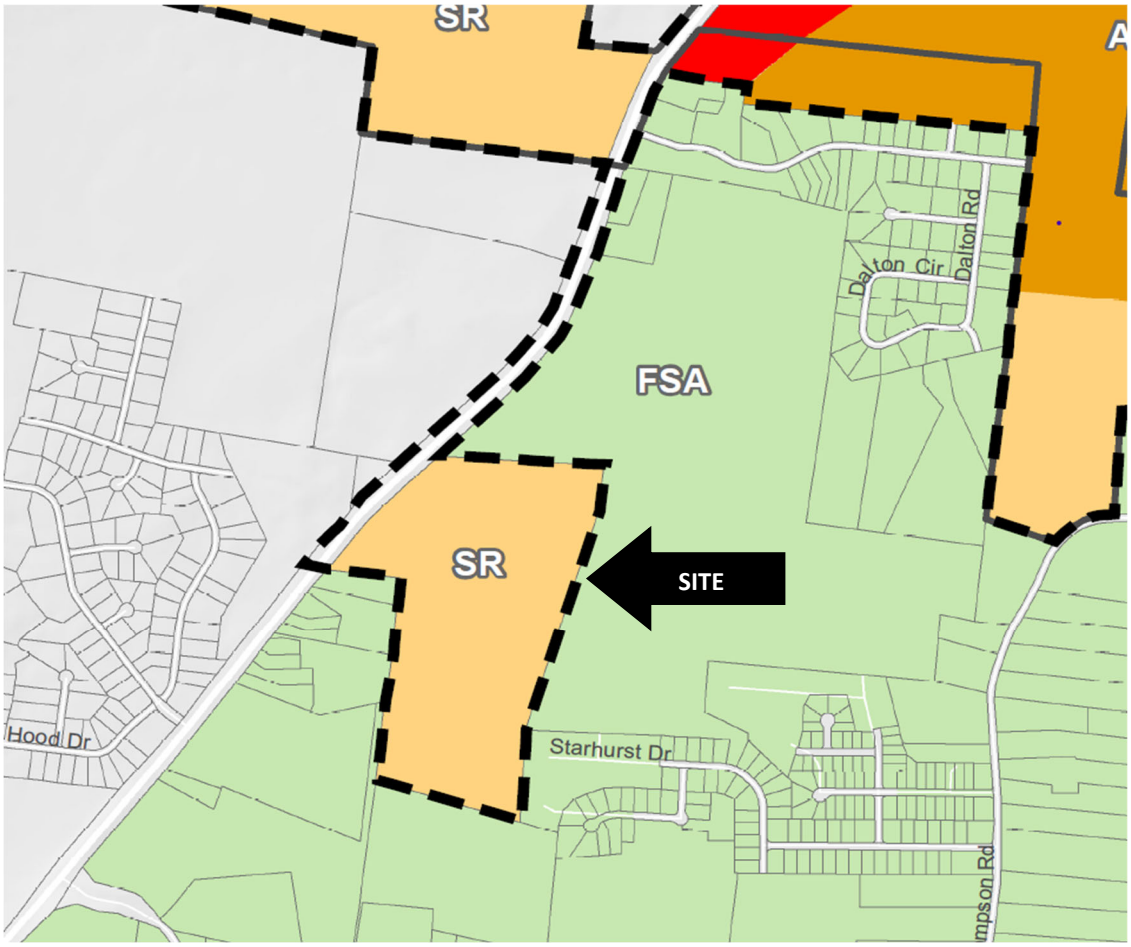
As noted above, a School Traffic Analysis was conducted by Collier Engineering Co., Inc. and is included in the attachments to this staff report. In addition, a Traffic Impact Study (TIS) was conducted by Fischbach Transportation Group, LLC, to analyze the current traffic conditions plus the project related traffic and recommended road and site improvements. The recommended improvements have been incorporated into the Riley PRD plan book regarding the project design.

2035 Comprehensive Plan - Future Land Use Map

The Planning Commission is in the process of reviewing an update to the Murfreesboro 2035 Plan Future Land Use Map (FLUM). The proposed updated future land use map (FLUM excerpt below) and text indicates that “Suburban Residential” is the land use character most appropriate for the project site. The “Suburban Residential” characteristics are large lot residential developments with detached residences, lower densities, and is intended to provide a transition from rural areas to city areas.

The typical zoning suggested is RS-15, RS-12, and RS-10. The PRD zoning may be used as an option for smaller lot sizes in exchange for greater open space. The minimum open space that is required is 20 percent and the open space proposed is 21 percent. The typical density in the Suburban Residential character ranges from 1.0 to 4.5 dwelling units per acre. This PRD would have a density of 2.46 dwelling units per acre, which is consistent with the current and proposed 2035 Comprehensive Plan.

Proposed Update- Murfreesboro 2035 Comprehensive Plan Future Land Use Map (excerpt)



Recommendations:

Staff supports the zoning request to PRD for the following reasons:

1) PRD as proposed for the large lots, 10,000 – 15,000 square feet (149 total lots greater than 10,000 ft2), is consistent with the Suburban Residential land use designation in the proposed update of the 2035 Future Land Use Map.
2) PRD as proposed is for the smaller lots, 6,000-8,000 square feet (32 total lots under 9,000 ft2), and in this case, the PRD proposes several useable open space areas and is only slightly exceeding the minimum open space of 20%. However, due to the plan book depiction of the landscaped strip between the street and sidewalk, as well as the design of the various house models and that the development would be walkable and pedestrian oriented will provide an appearance of more open space than 20 percent.
3) Single-family residential detached uses and lot sizes are consistent with other single-family residential subdivisions in the surrounding area.

4) The subject property has immediate connection to City sewer and development of the property will have to participate in the Overall Creek Sanitary Sewer Assessment District, which will have a charge of $1,000 assessed in addition to the standard sewer connection fees for each single-family unit equivalent.

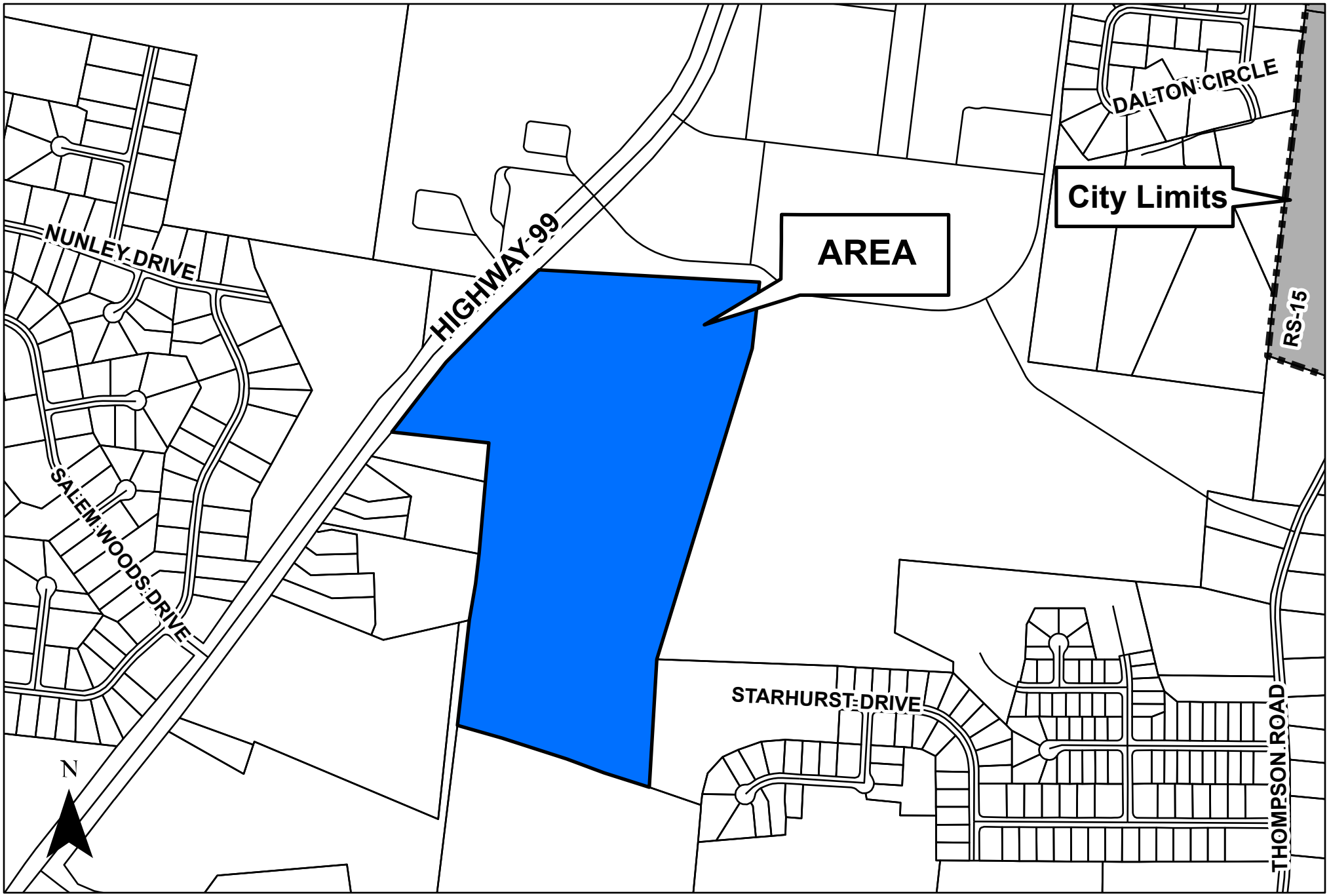
5) The Planning Commission public hearing on this item was completed on April 6, 2022, and a neighborhood meeting was held on May 2, 2022. The responses to the public comments are included in this staff report and where appropriate, incorporated into the revised Riley PRD plan book.

Action needed

The Planning Commission will need to discuss the matter and then formulate a recommendation for the City Council.

Attachments

1. Property Zoning Maps
2. Riley PRD Plan Book
3. Collier Engineering Co – Memorandum Rockvale School Cluster
4. Fischbach Transportation Group - Traffic Impact Study

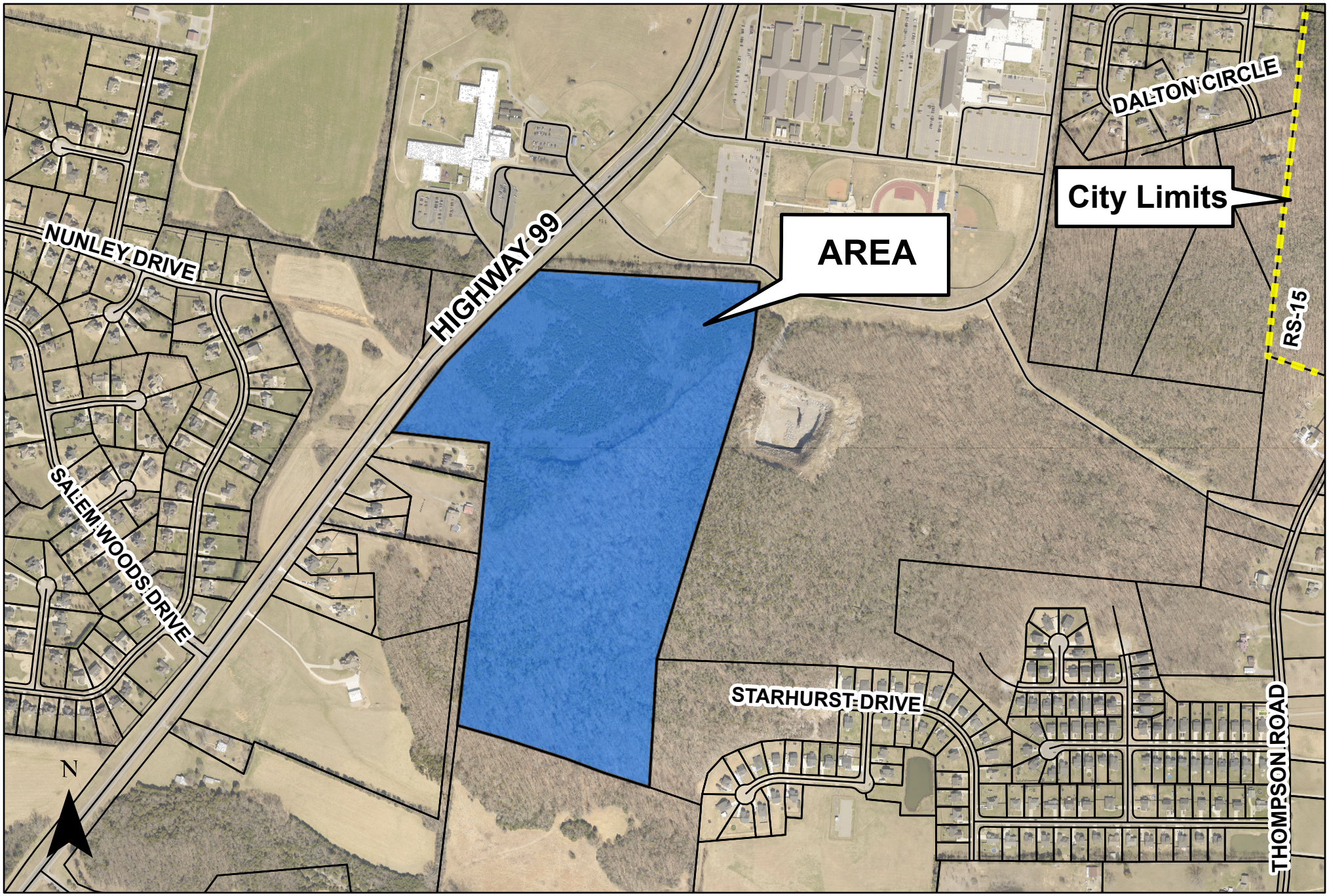


City of MURFREESBORO TENNESSEE

Zoning request for property along Highway 99
PRD simultaneous with Annexation

0 395 790 1,580 2,370 3,160
US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov



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US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

City of Murfreesboro
Planning and Engineering Department
111 W. Vine Street, P.O. Box 1139
Murfreesboro, TN 37133-1139
(615) 893-6441 Fax (615) 849-2606
www.murfreesborotn.gov

Creating a better quality of life

Zoning & Rezoning Applications – other than rezoning to planned unit development	**$700.00**
Zoning & Rezoning Applications – Planned Unit Development, initial or amended	**$950.00**

Procedure for applicant:
The applicant must submit the following information to initiate a rezoning:

1. **A completed rezoning application (below).**
2. **A plot plan, property tax map, survey, and/or a legal description of the property proposed for rezoning. (Please attach to application.)**
3. **A non-refundable application fee (prices listed above).**

For assistance or questions, please contact a planner at 615-893-6441.

To be completed by applicant:

APPLICANT: Patterson Company c/o Wes Patterson

Address: 1645 Westgate Circle City/State/Zip: Brentwood, TN 37027

Phone: 615-289-2881 E-mail address: WPatterson@buypatterson.com

PROPERTY OWNER: Ferrari Partners LP

Street Address or property description: Along Hwy 99

and/or Tax map #: 123 Group: Parcel (s): 21.00

Existing zoning classification: RM (county)

Proposed zoning classification: PRD Acreage: 68.25

Contact name & phone number for publication and notifications to the public (if different from the applicant): Matt Taylor 615-890-7901

E-mail: mtaylor@sec-civil.com

APPLICANT'S SIGNATURE (required):

DATE: 2/1/22

*******For Office Use Only**********

Date received: **MPC YR.:** **MPC #:**

Amount paid: **Receipt #:**

Revised 7/20/2018

RILEY

REQUEST FOR ANNEXATION AND REZONING FROM MEDIUM DENSITY RESIDENTIAL (RM) TO A PLANNED RESIDENTIAL DEVELOPMENT (PRD)
Murfreesboro, Tennessee

SEC, Inc.
SITE ENGINEERING CONSULTANTS
Engineering • Surveying • Land Planning • Landscape Architecture
850 Middle Tennessee Blvd, Murfreesboro, TN 37129
www.sec-civil.com • 615-890-7901 • fax 615-895-2567

PATTERSON COMPANY

GAMBLE DESIGN COLLABORATIVE

SEC Project #21410

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Initial Submittal
February 10, 2022

Resubmittal
March 11, for March 16 , 2022
Planning Commission Meeting

Resubmittal
April 1, 2022 for April 6, 2022
Planning Commission Meeting

Resubmittal
May 11, 2022 for May 18 , 2022
Planning Commission Workshop Meeting #2

Resubmittal
June 10, 2022 for July 21 , 2022
City Council Public Hearing

Resubmittal
September 8, 2022 for September 22 , 2022
City Council Public Hearing

SEC, Inc.

Company Name: SEC, Inc.
Profession: Planning.Engineering.Landscape Architecture
Attn: Rob Molchan / Matt Taylor
Phone: (615) 890-7901
Email: rmolchan@sec-civil.com/ mtaylor@sec-civil.com
Web: www.sec-civil.com

850 Middle Tennessee Blvd.
Murfreesboro, Tennessee 37129

GAMBLE DESIGN COLLABORATIVE

Company Name: Gamble Design Collaborative
Profession: Planning.Landscape Architecture
Attn: Keli Frimire
Phone: (615) 545-4121
Email: keli@gdc-tn.com
Web: www.gdc-tn.com

324 Liberty Pike Suite 145
Franklin, TN 37064

PATTERSON COMPANY

Company Name: Patterson Company, LLC
Profession: Developer & Builder
Attn: Wes Patterson
Phone: (615) 472-1317
Email: wpatterson@buypatterson.com
Web: www.buypatterson.com

1645 Westgate Circle
Brentwood, TN 37027

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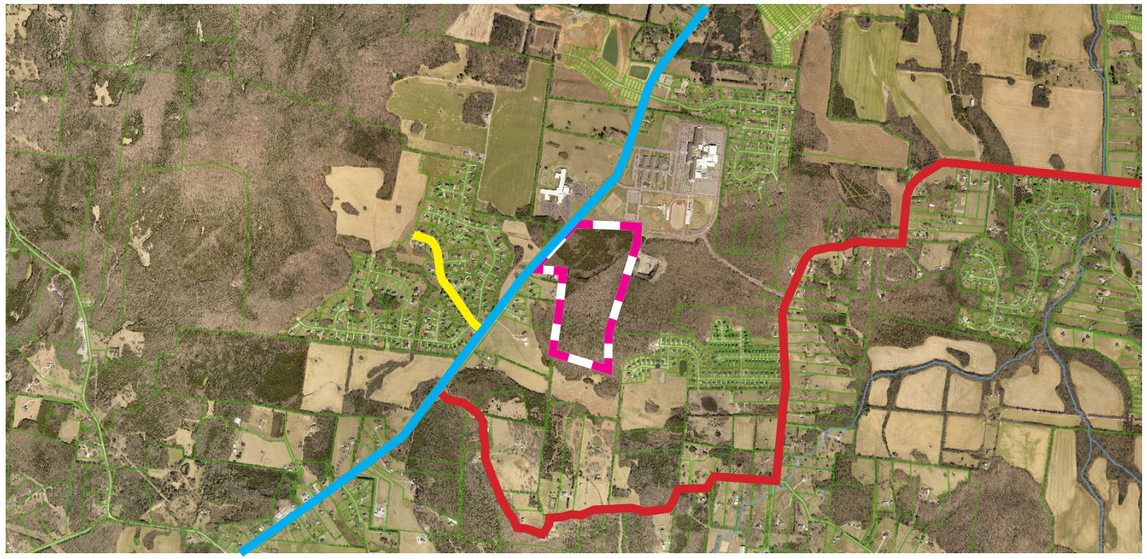


AERIAL PHOTOGRAPH

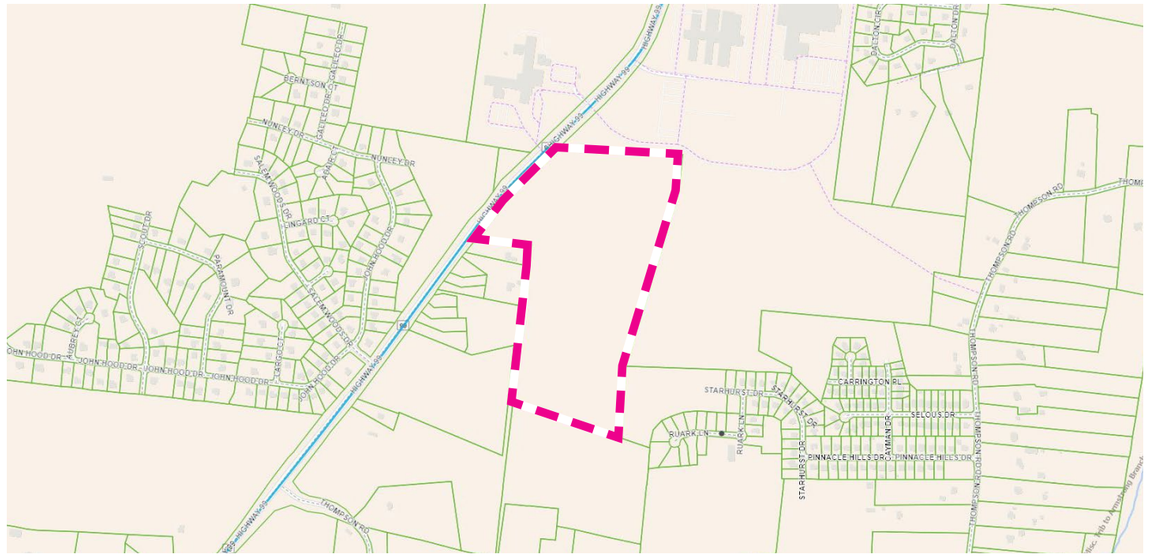
Not To Scale

Highway 99

Salem Woods Drive

Thompson Road

Site Boundary



MAJOR THOROUGHFARE PLAN

Not To Scale

Future 5-Lane Roadway

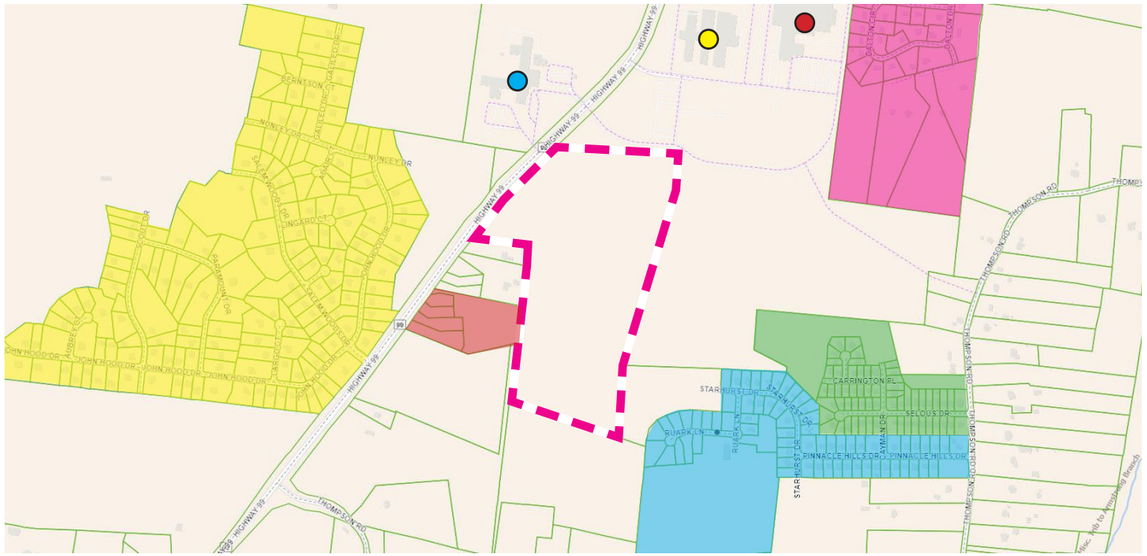
Site Boundary

The Patterson Company, LLC respectfully requests annexation and rezoning of the Ferrari Partners LP property located along the eastern side of Highway 99 from Medium Density Residential (RM) currently in Rutherford County to a Planned Residential Development (PRD) in the City of Murfreesboro. The property is located directly south of the Rutherford County property that is home to Rockvale Middle School and Rockvale High School properties. The site is identified as Parcel 21.00 of Tax Map 123, and is approximately 68.25 acres.

The request for rezoning to PRD is to create Riley. The residential development will consist of Cottage Homes, Riverwalk Homes, and Estate Homes. The development will have a maximum of 182 single-family detached lots on 68.25 acres, for a density of 2.67 lots per acre. The Cottage Home lots will range in lot size from 6,000 sf. - 13,000 sf., and the homes will have a minimum of 1,704 sf. of living space. The Riverwalk lots will range in size from 10,000 sf. - 16,000 sf., and the homes will have a minimum of 1,649 sf. of living space. The Estate lots will have a minimum lot size of 13,000 sf., and the homes will have a minimum of 1,704 sf. of living space. All homes will be for purchase, and will have a minimum of 2 bedrooms. The development will be a mixture of front entry, side entry, and alley loaded garages, and all homes will have a minimum two car garage with decorative garage doors. Each home's exterior elevations will be constructed of a mixture of masonry materials such as brick, stone and varieties of fiber-cement board materials to add quality and character to the community. Each residential lot will have base of foundation landscaping for elevations which face public streets. Cottage and Riverwalk products shall have all yards planted with sod. Estate lots shall provide sod in all disturbed areas. Along the public streets, standard street lights will provide for a safe and walkable neighborhood for residents and visitors. Development signage will be incorporated into an overall landscaped entrance experience at both entrances off of Highway 99. The development shall have an H.O.A., and the H.O.A. will be responsible for maintaining all common areas.

The property has/will have access to the existing public rights-of-way of Highway 99 via the two proposed development entrances. Highway 99 is currently a two lane roadway, that includes a center lane taper to a center turn lane into the southern entrance of Rockvale Elementary School. Highway 99 is classified as a Major Arterial Roadway, and is on the City of Murfreesboro's 2040 Major Thoroughfare Plan. The 2040 MTP is recommending that Highway 99 to be improved to a 5-lane roadway down to Rockvale Road further to the south of this development.

The northern entrance to the development will incorporate 3 lanes of travel; one lane for traffic entering the development and separate left/thru lane and right turn lane for traffic leaving the development. The southern entrance will incorporate two lanes of travel for traffic entering and exiting the development. The development will also provide a roadway stub to the west along the southern portion of the property for a potential future connection to neighboring property.



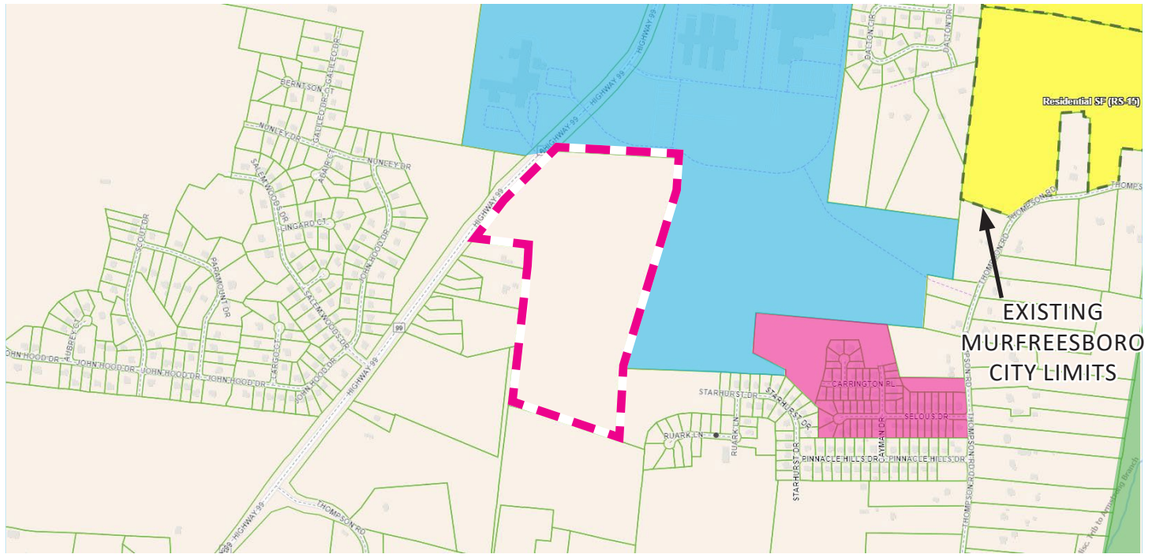
SUBDIVISION MAP

Not To Scale

- The Retreat at Pinnacle Hills
- Clear Ridge
- Rockvale Meadows
- Clatie Gardens
- Pinnacle Hills
- Rockvale Elementary School
- Rockvale Middle School
- Rockvale High School
- Site Boundary

The development is surrounded by a mixture of residential lots, undeveloped properties, and public institution properties. Pinnacle Hills is a county residential subdivision to the southeast of the development. The subdivision consists of two-story single-family detached homes with front entry garages. The elevations consist of primarily vinyl siding with brick or stone accents. There are two points of ingress/egress to the development from Thompson Lane. Rockvale Meadows is a residential subdivision to the west across Highway 99. The subdivision consists of two-story single-family detached homes with side entry garages. The elevations consist of primarily masonry materials with vinyl accents in the gables. Rockvale Meadows has one point of ingress/egress to Highway 99 with multiple stubs for future connections. Clear Ridge is a subdivision to the northeast, adjacent to Rockvale High School. The subdivision consists of a mixture of one and two-story single-family detached homes with a mixture of side and front entry garages. The elevations consist primarily of brick and vinyl siding. There is one point of ingress/egress to the development from Highway 99, with a stub to east and north for future connection.

The campuses of Rockvale Middle and High Schools abut this development directly to the north. The Middle School and High School sports facilities are located between the school buildings and the proposed development, providing a sense of separation. The Rockvale Elementary School is located directly across Highway 99. The hours of operations for all three of the county school campuses is from 7:30 am - 3:30 PM Monday through Friday. There are 5 points of ingress/egress to Highway 99 for the three schools to provide better circulation for pick up and drop off of students and teachers.

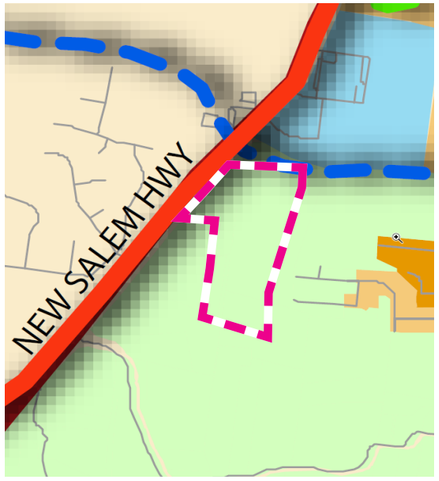


ZONING MAP

Not To Scale

- PUD — Planned Unit Development (PUD) (Rutherford County)
- RM — Medium Density Residential (RM) (Rutherford County)
- AR — Agricultural Residential (AR) (Rutherford County)
- IN — Institutional (IN) (Rutherford County)
- RS-15 — Residential Single-Family (RS-15) (Murfreesboro)
- Site Boundary

The surrounding area consists of a mixture of zoning types and land uses. The land to the west, south, and southeast is zoned Medium Density Residential (RM) in Rutherford County. The land to the east and north of the property is zoned Institutional (IN) in Rutherford County. The Retreat at Pinnacle Hills to the east of the property is zoned Planned Unit Development (PUD) in Rutherford County.

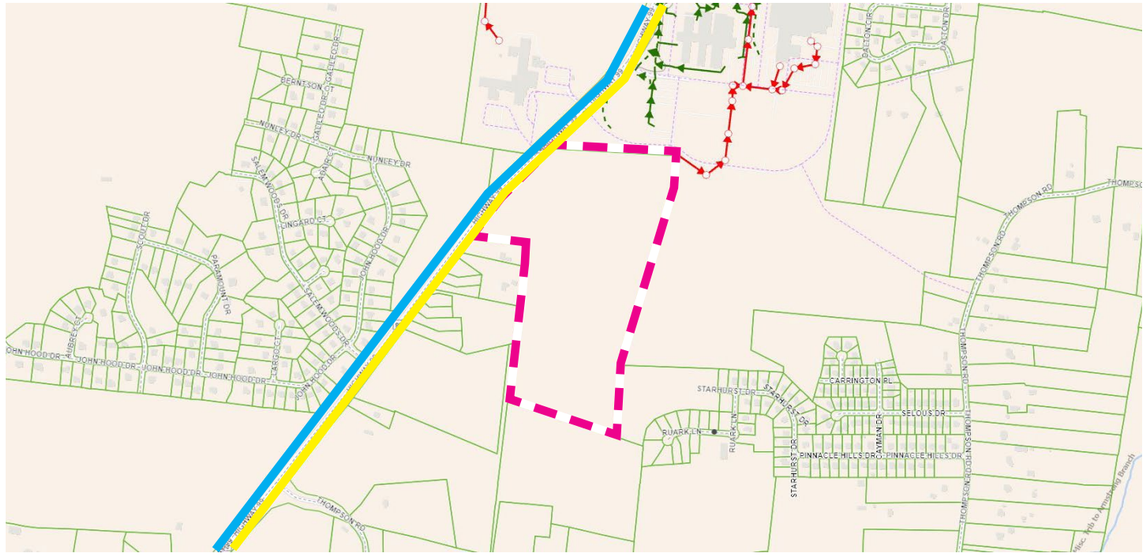


2035 Future Land Use Plan

The Murfreesboro 2035 Future Land Use Plan proposes this area as Rural Undeveloped (RU). The character of this land use includes detached residential dwellings, and attached residential with the notion of increased open space. Development options can be established, which allow for smaller lot sizes in exchange for greater open space, with the open space devoted to maintaining the suburban character and buffering adjacent properties and roads. Density for this character ranges from 2.0 to 3.54 dwelling units per acre. Generally compatible zoning districts include RS-15, RS-12, and RS-10

The proposed development aligns with the described character of the area and provides an overall density of 2.67 dwelling units per acre (within the 68 acres) along with ample open space.

This development will be the last property on this line of the city's sewer system. The ridge line along the rear of the property will function as a divider between the suburban residential land use and the rural/estate land use.



UTILITY MAP

Not To Scale

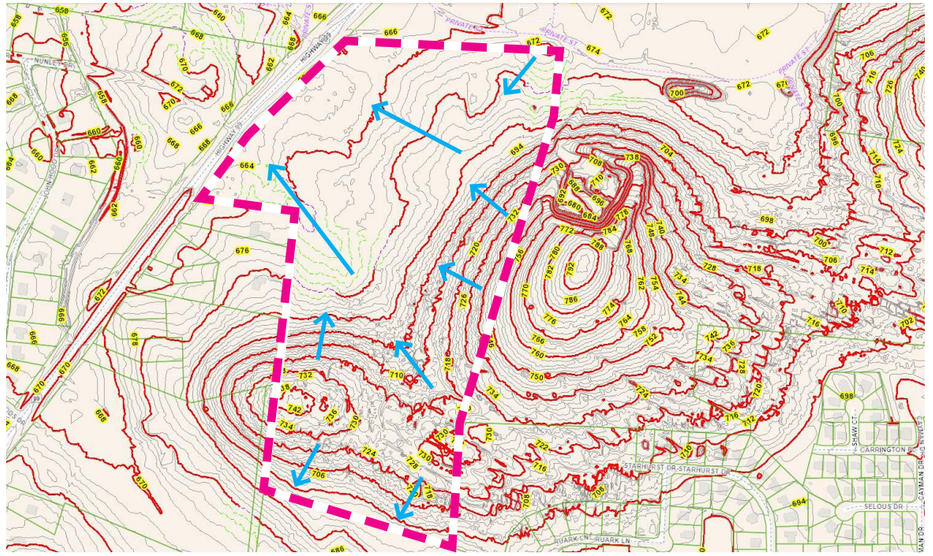
WATER

SEWER

STORMWATER

ELECTRIC

Site Boundary



HYDROLOGY AND TOPOGRAPHY

Not To Scale

WATER FLOW DIRECTION

INTERMEDIATE CONTOURS

INDEX CONTOURS

Site Boundary

CONSOLIDATED UTILITY DISTRICT
Rutherford County, Tennessee

Water service will be provided by the Consolidated Utility District of Rutherford County. There is an existing 12-inch water line along Highway 99 for water service into the site. The developer will be responsible for extending the waterline into the site for domestic and fire water service.

City of MURFREESBORO TENNESSEE WATER RESOURCES

Sanitary sewer service will be provided by the Murfreesboro Water Resources Department. Sanitary sewer service can connect to an existing 8” ductile iron sewer line in the northeast corner of the property at the edge of the Rockvale High School property. The developer will be responsible for extending the sewer into this property. This property is the last property to be served moving south.

mte Middle Tennessee Electric

Electric service will be provided by the Middle Tennessee Electric. Service will be extended from Highway 99. The developer will be responsible for extending the electric lines into the site, and all on-site electric will be underground.

The topographic map above shows a ridge runs along the eastern property line, and then turns west across the southern end of the property. From the ridge line, a majority of the site’s stormwater drains towards the northwest corner of the property. The low point in the northwest corner of the site along Highway 99 that flows towards the north to where it eventually reaches Puckett Creek.

The southern end of the property flows from the ridge line to the south the neighboring property. The storm-water then flows to the northwest, under Highway 99, and into a drainage swale in Rockvale Meadows. The swale flows behind Rockvale Elementary School property and off to the north, where it eventually drains back to Puckett Creek.

No portions of the site are within a floodplain or floodway per FEMA flood panel 47149C0245H eff. 1/5/2007.

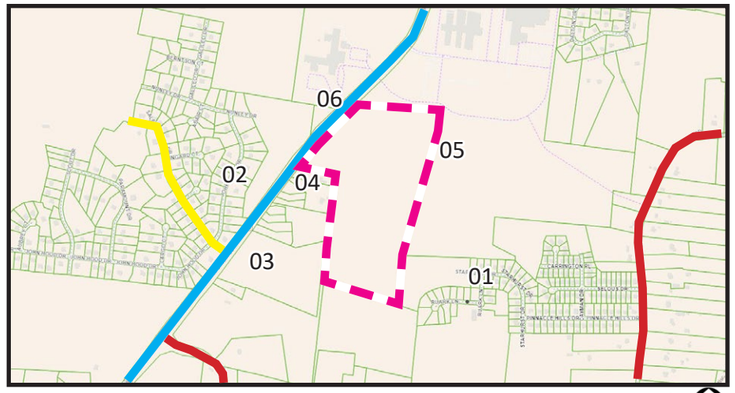


PHOTO DIRECTION MAP

Not To Scale

Highway 99

Salem Woods Drive

Thompson Road

Site Boundary

EXAMPLE OF PINNACLE HILLS ARCHITECTURE

EXAMPLE OF ROCKVALE MEADOWS ARCHITECTURE

EXISTING HOUSE SOUTHWEST OF DEVELOPMENT

EXISTING HOUSE WEST OF DEVELOPMENT

NORTHEAST CORNER OF SITE

NORTHWEST CORNER OF SITE

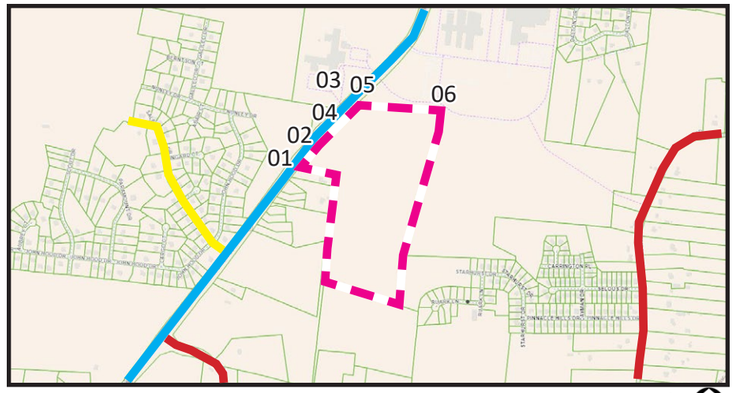


PHOTO DIRECTION MAP

Not To Scale

Highway 99

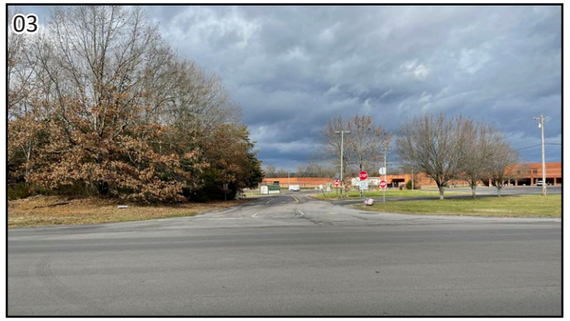
Salem Woods Drive

Thompson Road

Site Boundary

VIEW FROM SOUTHERN ENTRANCE LOOKING SOUTHWEST

VIEW FROM SOUTHERN ENTRANCE LOOKING NORTHEAST



VIEW OF ELEMENTARY SCHOOL FROM NORTHERN ENTRANCE

VIEW FROM NORTHERN ENTRANCE LOOKING SOUTHWEST

VIEW FROM NORTHERN ENTRANCE LOOKING NORTHEAST

VIEW OF MIDDLE/HIGH SCHOOL SIDEWALK CONNECTION

SITE DATA:

Total Land Area:	±68.25 Acres
Total Number of Cottage Lots:	38 Lots
Total Number of Riverwalk Lots:	132 Lots
Total Number of Estate Lots:	12 Lots
Total Number of Lots:	182 Lots
Density: 182 Lots/68.25 Acres =	±2.67 Lots/Acre
Open Space Required:	±13.65 Acres (20%)
Open Space Provided:	±13.92 Acres (20%)
Active Areas Required:	2 Active Areas
Active Areas Provided:	4 Active Areas
Active Areas Acreage Required:	2.05 acres (3%)
Active Areas Acreage Provided:	±4.40 Acres (6%)
Stormwater (Detention)	±2.12 Acres (3%)
Minimum Lot Size:	6,000 Square Feet
Typical Lot Sizes:	
Cottage Lot: 45’x135’	6,000 -13,000 SF
Riverwalk Lot: 52’x130’	10,000-16,000 SF
Estate Lot: 80’x160’	13,000 SF
Length of New Roadway:	±9,230 Linear Feet

- Lots
- Open Space
- Detention
- Roadway
- Existing Tree Canopy

SEC, Inc.

SEC Project #21410 Murfreesboro, Tennessee

DEVELOPMENT STANDARDS

- 182 homes with 2 or more bedrooms.
- All homes shall be a minimum of 1,600 feet of living area.
- Each home will be on its own lot of record, and sold fee simple.
- Single-family attached homes developed within the subdivision shall not be sold in bulk to a developer or owner of rental units for the purpose of operating a rental community. The builder of the single-family attached homes within the subdivision shall sell the units to individual buyers on an individual contract basis, not as a bulk transaction to a single entity.
- Home occupations, accessory to a principal residential use, shall be permitted in this planned development if they demonstrate that they will comply with the administrative home occupation standards in the Murfreesboro Zoning Ordinance, as they may be amended from time to time. Home occupations that do not comply with said administrative home occupation standards shall not be permitted in this planned development.
- Parking for the residential lots shall comply with the City of Murfreesboro requirements.
- Each front entry garage lot will provide at least 4 off-street parking spaces per lot (outside of the garage).
- Each front entry garage lot will have a concrete driveway wide enough for at least 2 vehicles, and have a minimum width of 16 feet.
- All front entry garage lots, the garage shall be setback a minimum of 35-feet from the public R.O.W.
- All alley loaded garage lots, the garages shall be setback a minimum of 20-feet from the alley access easement.
- Each alley loaded garage lot will provide at least 4 off-street parking spaces per lot.
- Each alley loaded lot shall provide at least 2 parking spaces outside of the garage, and 2 parking spaces within the garage.
- Each alley loaded lot will have a concrete driveway wide enough for at least 2 vehicles, and have a minimum width of 16 feet.
- Lots unable to provide four (4) off-street parking spaces outside of the garage shall have those garages restricted to vehicular use only and not for storage.
- All streets will be public rights-of-way.
- All streets have been designed to comply with Murfreesboro Streets Standards.
- All alleys shall be private access easements.
- All alleys shall be designed to comply with Murfreesboro Street Standards.
- All alleys shall be owned and maintained by the H.O.A.
- Builders shall install sod in the front yard and landscaping along the front foundation. On corner lots, the builder shall install sod in both front yards and landscaping along the both foundations facing both public streets.
- Any yards or building foundations which do not abut a public R.O.W. shall be landscaped with seed and straw.
- Street trees shall be installed every 50 LF at a minimum within all public R.O.W.'s.
- Both entrances off of Highway 99 will have new entrance signage constructed of masonry and/or wood materials and anchored by landscaping .
- Public sidewalks will be provided on both sides of all streets throughout the development to create a pedestrian friendly community.
- HVAC units will be located at the side or rear of each residence.
- All above ground utility boxes or equipment (i.e. transformers) shall be screened with landscaping if visible from public ROW.
- All on-site utilities will be underground.
- Prior to construction plan review, a complete and thorough design of the stormwater management system and facilities will be completed.
- Mail service will be provided via CBU, and the kiosk will be covered and illuminated to provide a safe environment at night.
- Solid waste shall be handled via the Murfreesboro Solid Waste Department.
- Front entry garage homes shall have trash collected along the front curb.
- Alley homes shall have their trash collected at rear of each lot along the alley curb.
- Standard street lights will be coordinated with MED, and will meet MED's standards for management by MED.
- All home owners will be required to be a member of the H.O.A.
- As a member of the H.O.A., the residents will be subject to restrictive covenants, and be required to pay membership dues as determined by a 3rd party management company.
- HOA will be managed by independent 3rd party management company.
- The common areas will be owned and maintained by an H.O.A.

EXAMPLE OF STREETSCAPE

EXAMPLE OF ENTRANCE SIGNAGE

EXAMPLE OF MAIL KIOSK

LOT BY TYPE

	Front/Side	Alley
6,000 - 6,999 SF LOTS:	0	22
7,000 - 7,999 SF LOTS:	0	7
8,000 - 8,999 SF LOTS:	0	3
9,000 - 9,999 SF LOTS:	0	0
10,000 - 10,999 SF LOTS:	114	1
11,000 - 11,999 SF LOTS:	10	2
12,000 - 12,999 SF LOTS:	1	1
13,000 - 13,999 SF LOTS:	15	1
14,000 - 14,999 SF LOTS:	1	0
15,000 - 15,999 SF LOTS:	0	1
16,000+ SF LOTS:	2	0
	144	38

TOTAL LOTS: 182

LOT DATA

Total Land Area: +/- 68.25 AC
Open Space 13.92 AC (20%)

FRONT / SIDE LOADED

Total Lots < 10,000 SF 0
Total Lots = 10,000-10,999 SF 114 (63%)
Total Lots > 10,999 SF 30 (16%)

ALLEY LOADED

Total Lots < 8,000 SF 29 (16%)
Total Lots > 8,000 SF 9 (5%)

SEC, Inc.

SEC Project #21410 Murfreesboro, Tennessee

N.T.S.

PHASES	COTTAGE	RIVER-WALK	ESTATE	ACRES
PHASE 1	19	22	-	16.87
PHASE 2	19	18	-	10.95
PHASE 3	-	31	-	9.99
PHASE 4	-	23	4	10.87
PHASE 5	-	38	8	19.57
TOTAL	38	132	12	68.25

Phase 1

Phase 2

Phase 3

Phase 4

Phase 5

- The project is anticipated to be built in 5 phases
- Construction of Phase 1 is planned to begin after the completion of the rezoning process
- The timing of the remaining phases of construction will be market driven and dependent upon the absorption of the homes in the previous phase
- In general, the following section of construction will begin after the previous phase is 80%-85% sold
- Amenities are to begin construction with the phase they are located in.

SEC, Inc.

SEC Project #21410 Murfreesboro, Tennessee

ARCHITECTURAL CHARACTERISTICS

- Home heights shall not exceed 35-feet in height.
- Homes will be a mixture of 1-story to 3-story structures.
- All homes will have at least 2 bedrooms.
- All the homes will have eaves.
- Homes along alleys will have a minimum 2-car garage at the rear of the lot.
- Front entry garage homes will have a minimum 2-car garage with decorative style doors.
- All homes shall have garage door color that will match trim of the home.
- All homes will be comprised of alternating style and colors.
- All homes will have elevations consisting of masonry materials.
- Vinyl type products shall only be permitted for trim, soffits, and porch ceilings.

EXAMPLE OF CORNER HOME WITH WRAPPED PORCH

Building Materials:

Front Elevations:	All Masonry Materials (Brick, Stone, Fiber Cement Board,etc)
Side Elevations:	All Masonry Materials (Brick, Stone, Fiber Cement Board,etc)
Rear Elevations:	All Masonry Materials (Brick, Stone, Fiber Cement Board,etc)
All Elevations:	Vinyl Only Permitted in Trim & Soffit Areas

Example of Brick
(different colors will be allowed)

Example of Fiber Cement Board
(different colors will be allowed)

Example of Fiber Cement Board and Batton
(different colors, cuts, patterns will be allowed)

Example of Stone Veneer
(different colors, cuts, patterns will be allowed)

EXAMPLE OF STREETSCAPE

*The elevations of the homes will vary across the development. The images above are meant to convey the general appearance and functionality of the homes.

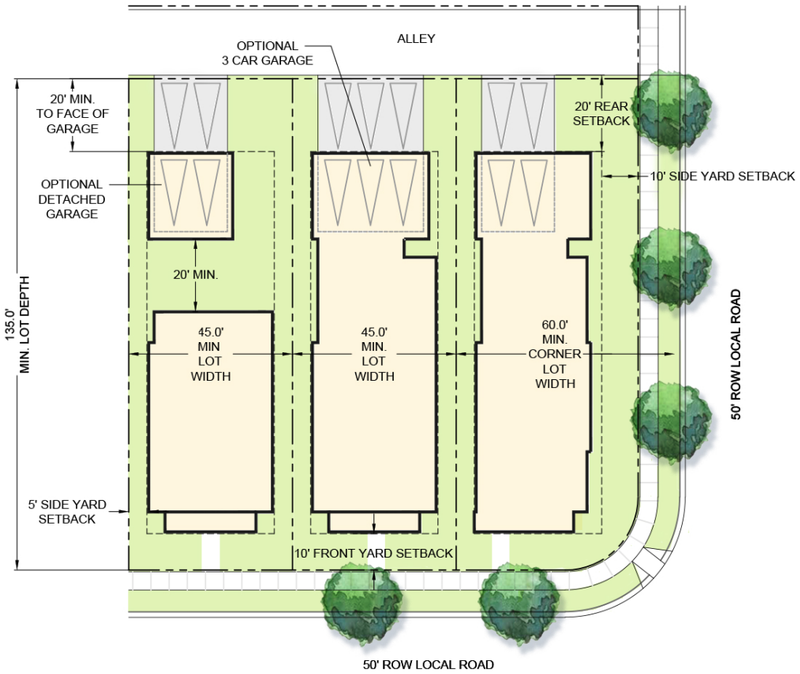
COTTAGE LOT LOCATIONS

Lots at Minimum Lot Size

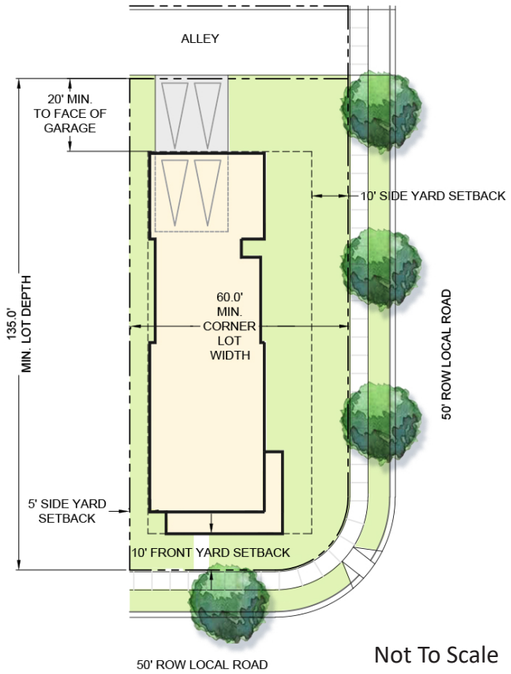
Lots Greater Than Minimum Lot Size

Not To Scale

COTTAGE HOMES (ALLEY ACCESSED)
TYPICAL LOT DIAGRAM



COTTAGE HOMES (ALLEY ACCESSED)
HIGH IMPACT CORNER LOT DIAGRAM



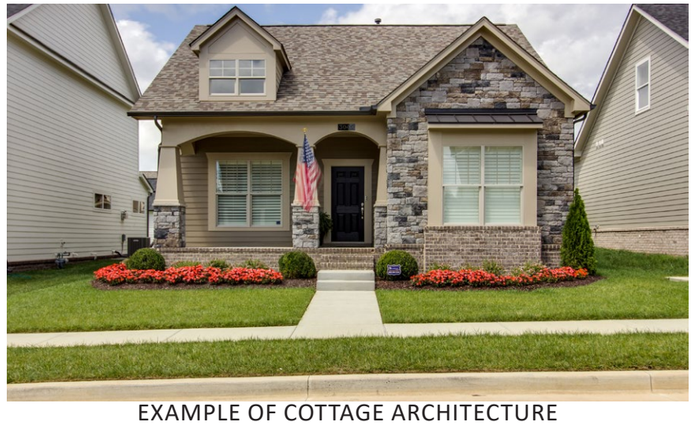
Not To Scale

COTTAGE LOT DIAGRAM

MINIMUM LOT WIDTH:	45-FT
MINIMUM CORNER LOT WIDTH:	60-FT
MINIMUM LOT DEPTH:	135-FT
FRONT SETBACK:	10-FT
SECONDARY FRONT SETBACK:	10-FT
SIDE SETBACK:	5-FT
REAR SETBACK:	20-FT
GARAGE SETBACK:	20-FT

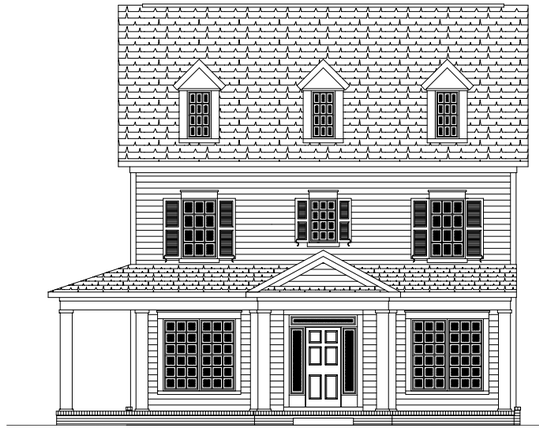
EXAMPLE OF CORNER WITH WRAPPED PORCH

EXAMPLE OF COTTAGE ARCHITECTURE



EXAMPLE OF COTTAGE ARCHITECTURE

*The elevations of the homes will vary across the development. The images above are meant to convey the general appearance and functionality of the homes.



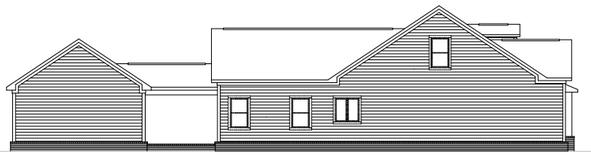
Solomon – Front Elevation

Newhaven – Front Elevation

Left Elevation

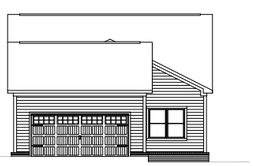
Right Elevation

Rear Elevation



Left Elevation

Right Elevation



Rear Elevation

*The elevations of the homes will vary across the development. The images above are meant to convey the general appearance and functionality of the homes.

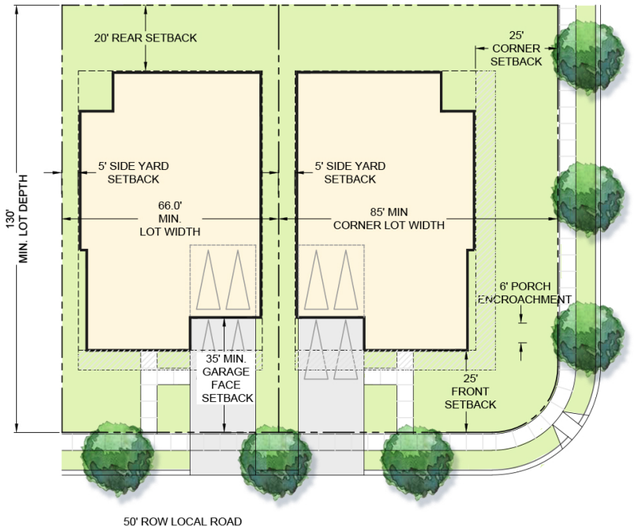
RIVERWALK LOT LOCATIONS

Not To Scale

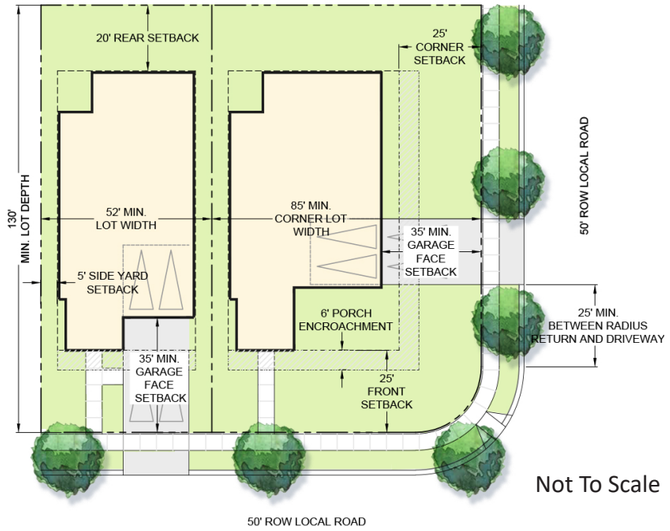
Lots at Minimum Lot Size

Lots Greater Than Minimum Lot Size

RIVERWALK HOMES
TYPICAL LOT DIAGRAM



RIVERWALK HOMES
CORNER LOT SIDE-ENTRY LOT DIAGRAM



Not To Scale

RIVERWALK LOT DIAGRAM

MINIMUM LOT WIDTH:	52-FT
MINIMUM CORNER LOT WIDTH:	85-FT
MINIMUM LOT DEPTH:	130-FT
FRONT SETBACK:	25-FT*
SECONDARY FRONT SETBACK:	25-FT*
SIDE SETBACK:	5-FT
REAR SETBACK:	20-FT
GARAGE SETBACK:	35-FT

*UP TO 6-FT ENCROACHMENT SHALL BE ALLOWED FOR PORCHES

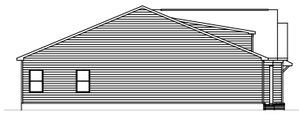
EXAMPLE OF RIVERWALK ARCHITECTURE

EXAMPLE OF RIVERWALK ARCHITECTURE

EXAMPLE OF RIVERWALK ARCHITECTURE

*The elevations of the homes will vary across the development. The images above are meant to convey the general appearance and functionality of the homes.

Holston – Front Elevation

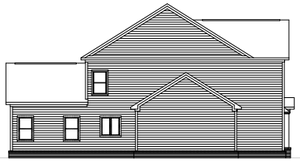


Left Elevation

Right Elevation

Rear Elevation

Hampton – Front Elevation

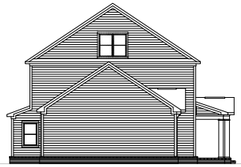


Left Elevation

Right Elevation

Rear Elevation

Ridgefield – Front Elevation

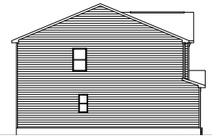


Left Elevation

Right Elevation

Rear Elevation

Powell – Front Elevation



Left Elevation

Right Elevation

Rear Elevation

*The elevations of the homes will vary across the development. The images above are meant to convey the general appearance and functionality of the homes.

ESTATE LOT LOCATIONS

Lots at Minimum Lot Size

Not To Scale

ESTATE LOT DIAGRAM

ESTATE HOMES
TYPICAL LOT DIAGRAM W/ SIDE ENTRY OPTION

Not To Scale

MINIMUM LOT WIDTH:	80-FT
MINIMUM LOT DEPTH:	160-FT
FRONT SETBACK:	25-FT*
SIDE SETBACK:	5-FT
REAR SETBACK:	20-FT
GARAGE SETBACK:	35-FT

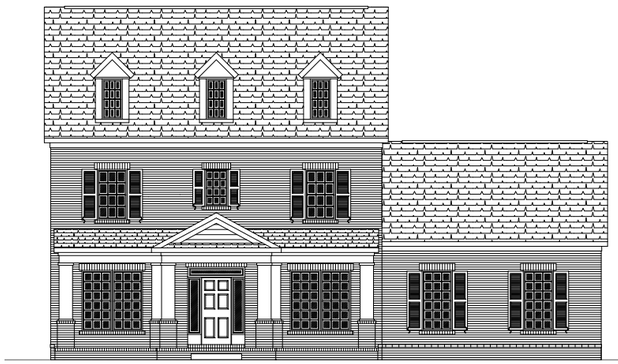
*UP TO 6-FT ENCROACHMENT SHALL BE ALLOWED FOR PORCHES

EXAMPLE OF ESTATE ARCHITECTURE

EXAMPLE OF ESTATE ARCHITECTURE

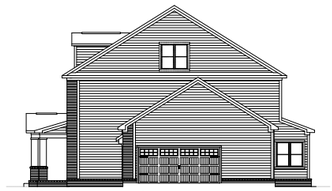
EXAMPLE OF ESTATE ARCHITECTURE

*The elevations of the homes will vary across the development. The images above are meant to convey the general appearance and functionality of the homes.



Solomon – Front Elevation

Left Elevation



Right Elevation

Rear Elevation

Solomon – Front Elevation

Left Elevation

Right Elevation

Rear Elevation

Harpeth – Front Elevation

Left Elevation

Right Elevation

Rear Elevation

*The elevations of the homes will vary across the development. The images above are meant to convey the general appearance and functionality of the homes.

INGRESS AND EGRESS

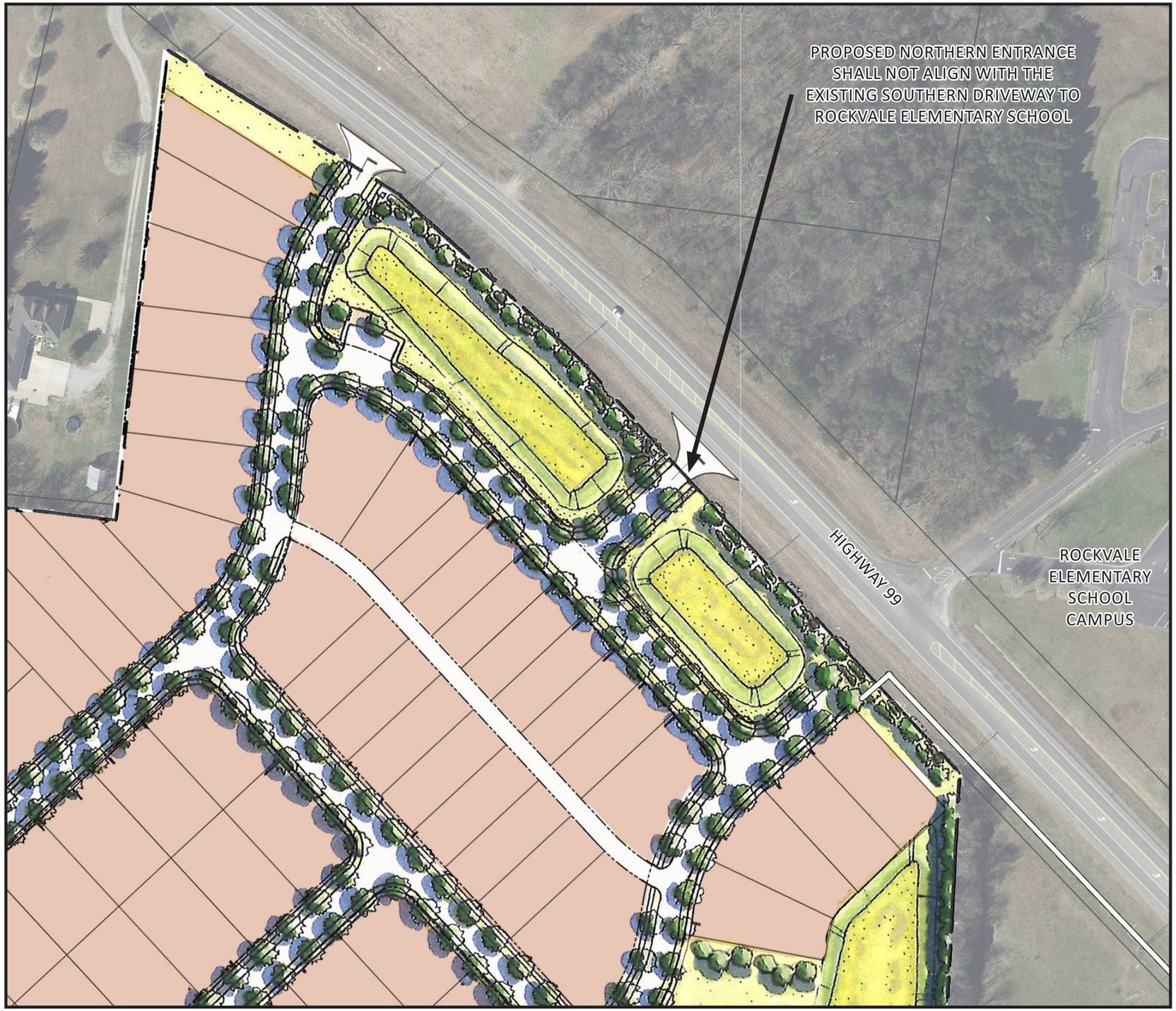
The property has/will have access to the existing public rights-of-way of Highway 99 via the two proposed development entrances. Highway 99 is currently a two lane roadway, that includes a center lane taper to a center turn lane into the southern entrance of Rockvale Elementary School. Highway 99 is classified as a Major Arterial Roadway, and is on the City of Murfreesboro's 2040 Major Thoroughfare Plan. The 2040 MTP is recommending that Highway 99 to be improved to a 5-lane roadway further to the south of this development down to Rockvale Road.

The northern entrance shall not align with the existing southern access drive to Rockvale Elementary School Campus. The T.I.S. recommends the following improvements for this development:

- Northern project access should have one entering lane and two exiting lanes, striped as shared left turn/through lane and separate right turn lane;
- Southern project access should have one entering lane and one exiting lane;
- Highway 99 pavement north of the project access should be restriped and provide dedicated storage for southbound left turns into the northern access;
- Highway 99 existing 3-lane cross section from Rockvale Elementary School southern access should be extended south for southbound left turns into the project's southern access;
- Northbound right turn lane should be provided on Highway 99 for both of the project access and shall be continuous between both project entrances;
- Pedestrian crosswalk should be provided across Highway 99 at the intersection with the southern access for Rockvale Elementary School and the northern project access;
- Pedestrian connectivity should be provided from the subject property to the school campuses to the north; and
- Lastly, the analyses conducted for the purposes of this TIS indicate that the traffic operations related to the three schools on Salem Pike include significant vehicle delays and queues during the school's peak hours and that a comprehensive analysis of current traffic operations should be done and any necessary laneage or traffic control improvements that would facilitate safe and efficient traffic flow within the study area should be implemented.

The development will also provide a roadway stub to the west along the southern portion of the property for a potential future connection to neighboring property.

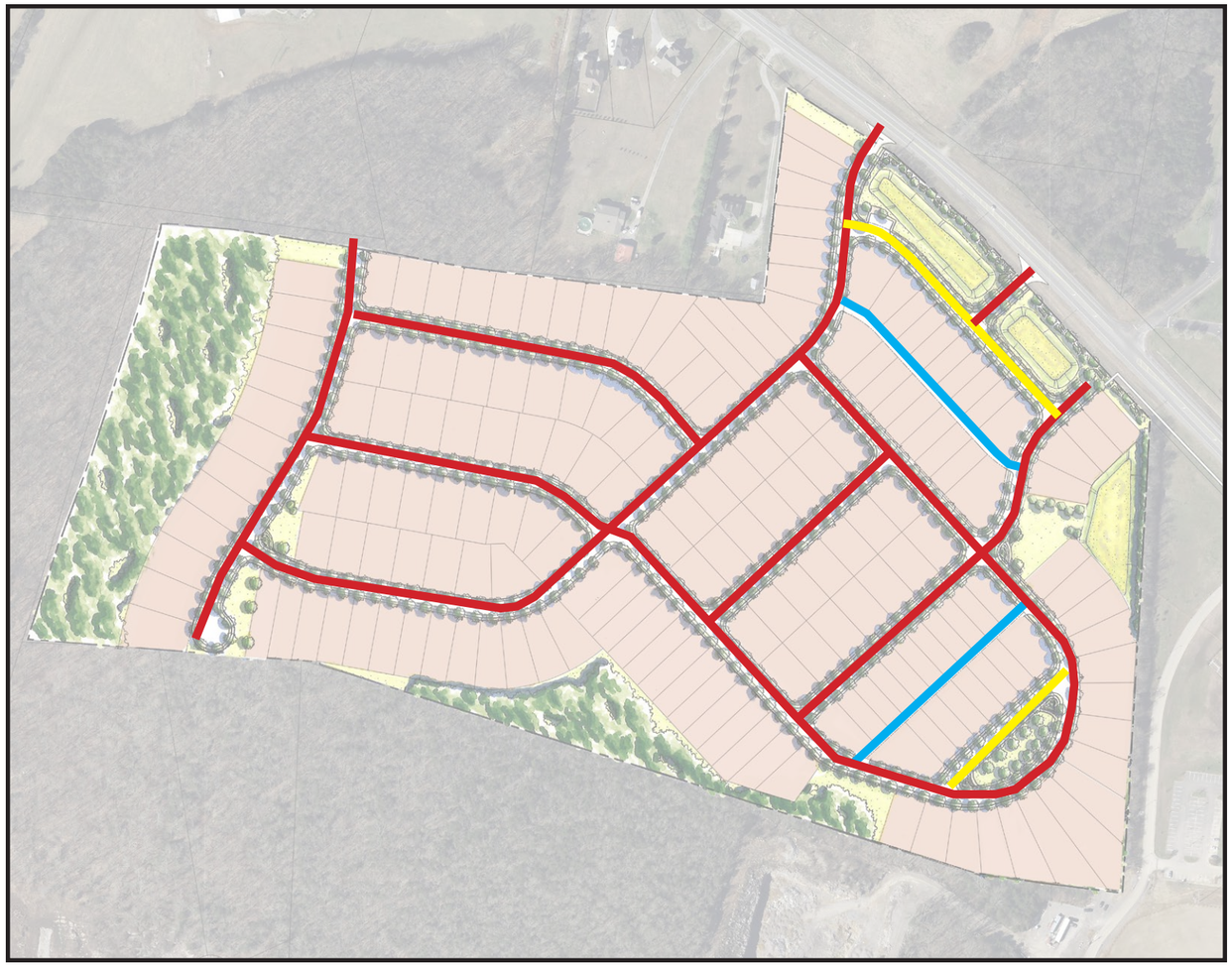
All streets within the development will be local city streets with a typical 50 foot wide R.O.W. cross-section. These streets will be built in accordance with the Murfreesboro Street Standards. All proposed alleys within the development shall be 20-ft wide private access easements. Alleys shall be built in accordance with Murfreesboro Street Standards.



MAIN ENTRANCES LOCATION DIAGRAM

Not To Scale

ROADWAY CLASSIFICATIONS

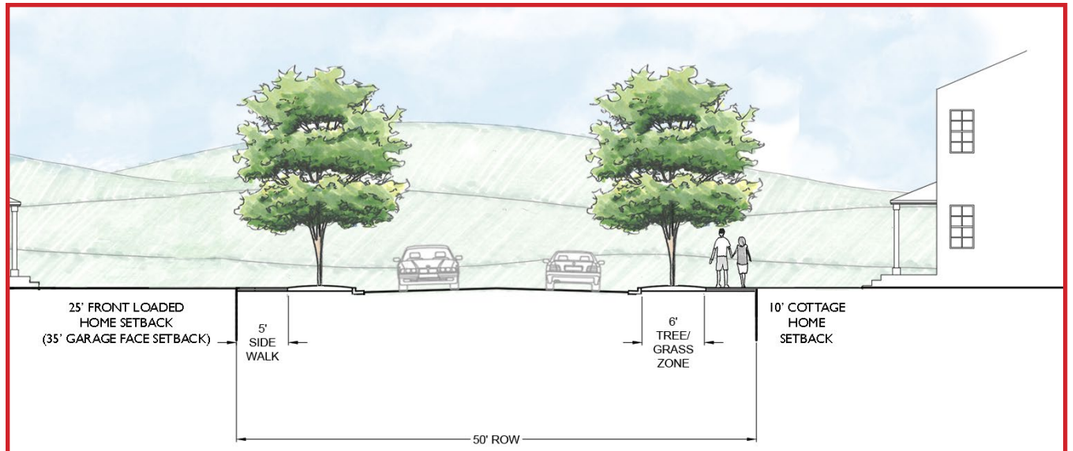


Private Alley

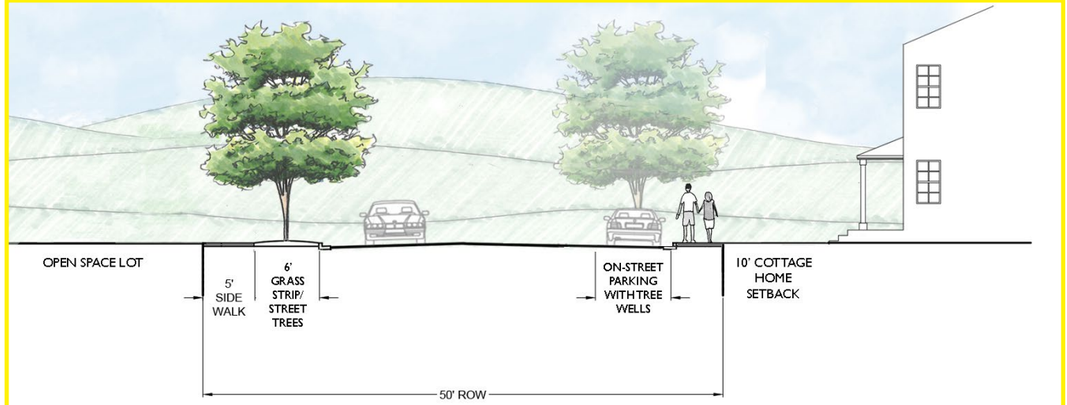
50-ft Wide Public R.O.W.

50-ft Wide Public R.O.W. With On-Street Parking

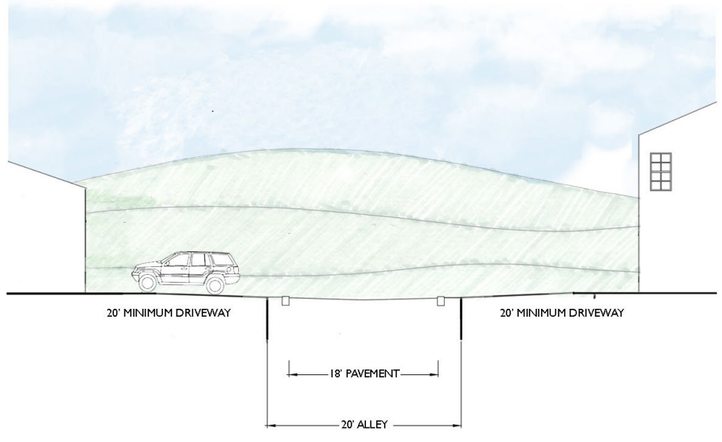
Not To Scale



50-FOOT WIDE PUBLIC R.O.W. DIAGRAM Not To Scale



50-FOOT WIDE ON-STREET PARKING DIAGRAM Not To Scale



20-FOOT WIDE PRIVATE ALLEY DIAGRAM Not To Scale

CONCEPTUAL SITE DESIGN OF TRIANGLE PARK

Not To Scale

A Event Lawn

B Open Air Pavilion

C Enhanced Landscaping

D Enhanced Landscape Screen

CORNER PARK - ACTIVE SPACE #1

This Corner Park is located just to the east of the northern main entrance to the neighborhood. The park will provide for a neighborhood gathering place with amenities such as; an open air pavilion with seating, an open play lawn, enhanced landscaping along the public street edges. The open space will be separated from the adjacent residential lots by means of an enhance landscape screen. The event lawn will serve as a maintained green space for residents to gather, hold neighborhood events, and for unstructured sports and recreation games.

LOCATION MAP - AMENITIES

Not To Scale

OVERALL NEIGHBOR AMENITIES PROGRAM SYNOPSIS

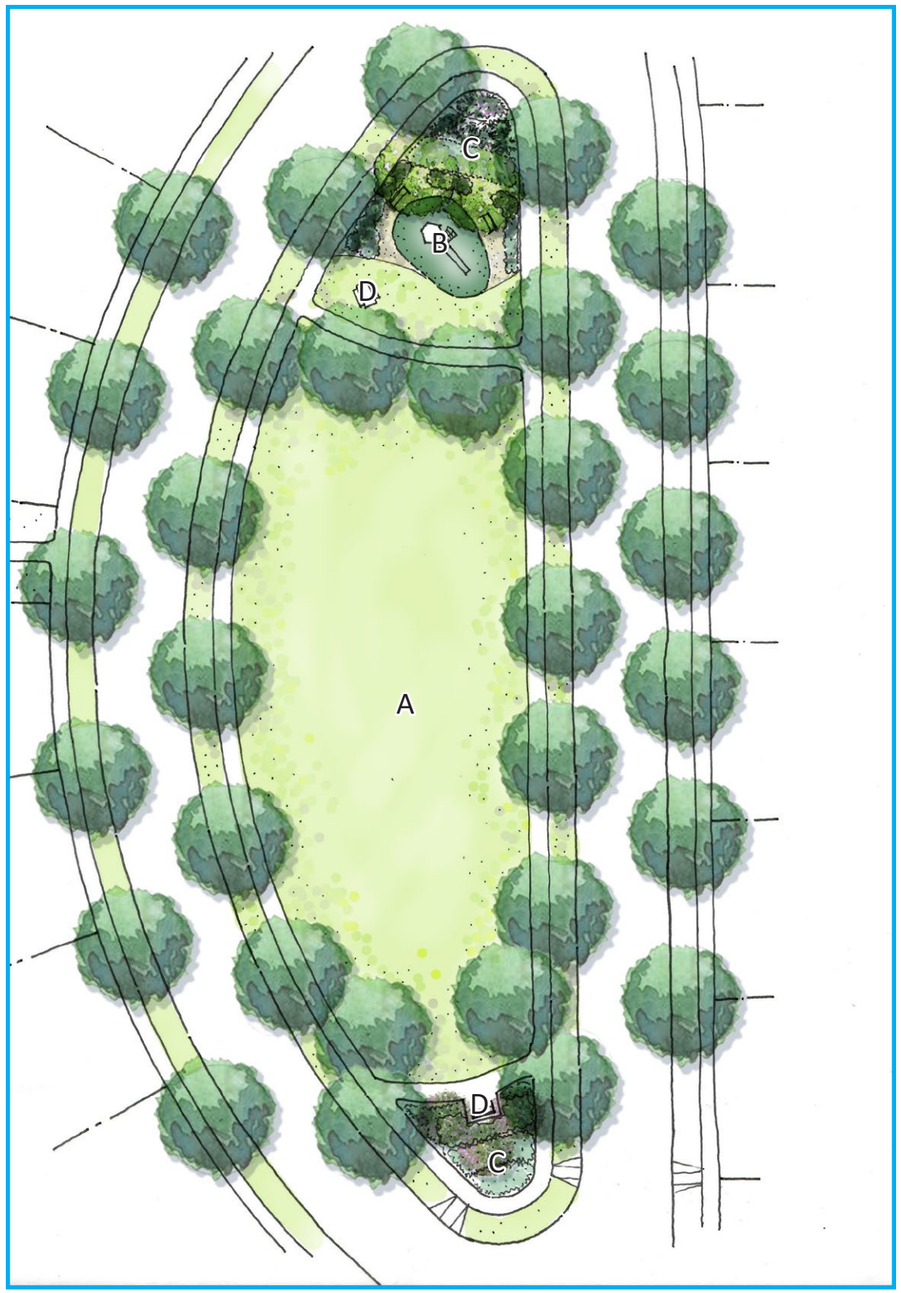
The development will be dedicating over 13 acres (20% of the site) to open space. The open space areas will be comprised of usable open spaces, existing woodland areas, and detention areas. Usable open space areas around the development will offer such amenities as; event lawns, an open-air pavilion, and a playground. Sidewalks will line both sides of all streets to provide pedestrian circulation through the neighborhood for residents as well. Each amenity will be constructed with the phase it is designated in, after 50% of the homes are built out in each phase. The Highway 99 entrances will incorporate development signage composed of masonry and/or wooded materials and will be anchored with landscaping.

Example of Event Lawn

Example of Open Air Pavilion

Example of Enhanced Landscaping

Example of Enhanced Landscape Screen



CONCEPTUAL SITE DESIGN OF CRESCENT PARK Not To Scale

A Event Lawn

B Playground

C Enhanced Landscaping

D Outdoor Seating

CRESCENT PARK - ACTIVE SPACE #2

The curved park located near the northern portion of the site is the starting point for the pedestrian trail to the school. This trail will allow students in the neighborhood an opportunity to walk to the middle or high school right next door to the neighborhood. This park will include a couple outdoor seating locations, a large outdoor play lawn for unstructured sports and recreation games, along with a gathering space for neighborhood events and interaction between residents. Enhanced landscape areas will be provided on both ends of the park to create seating areas while providing a soft buffer between the park and surrounding intersections. A community playground has also been included in one of the landscape areas to provide the residents with a structured play area.

LOCATION MAP - AMENITIES Not To Scale

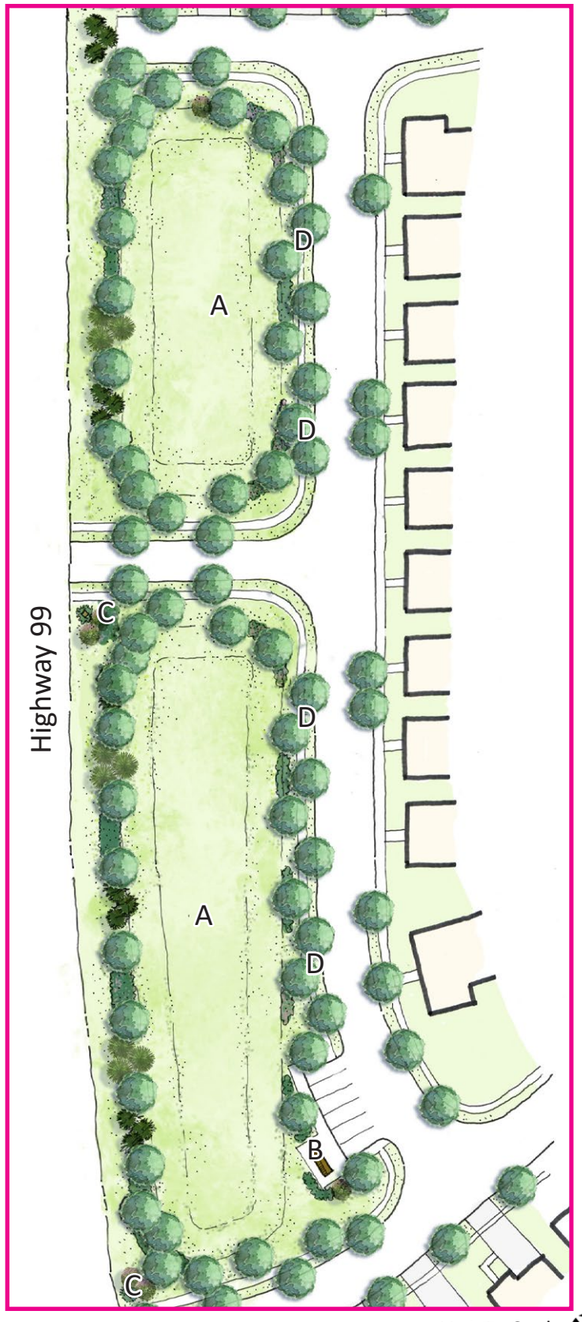
Example of Playground

Example of Outdoor Seating

HIGHWAY 99 ENTRANCE PARK - ACTIVE SPACE #3

This Highway 99 Entrance Park is located along Highway 99 and has both entrance signs incorporated into the overall landscape design for this park. The center of the park serves as a stormwater detention pond for the subdivision. The mail kiosk and associated parking area for the kiosk are located at the southern end of the park. Stormwater beautification plantings will be provided along all sides of the detention pond to not only a screen the detention pond, but add an enhanced aesthetics along the neighborhood frontage of Highway 99. Sidewalks will be provided along all three neighborhood streets surrounding the park, providing residents an opportunity to walk to the mail kiosk from their homes. These sidewalks will also allow for pedestrian connections to Highway 99. The northern entrance will allow for neighborhood students to cross Highway 99 to Roackvale Elementary School Campus via the crossing guard during school bell times.

Example of Entrance Sign



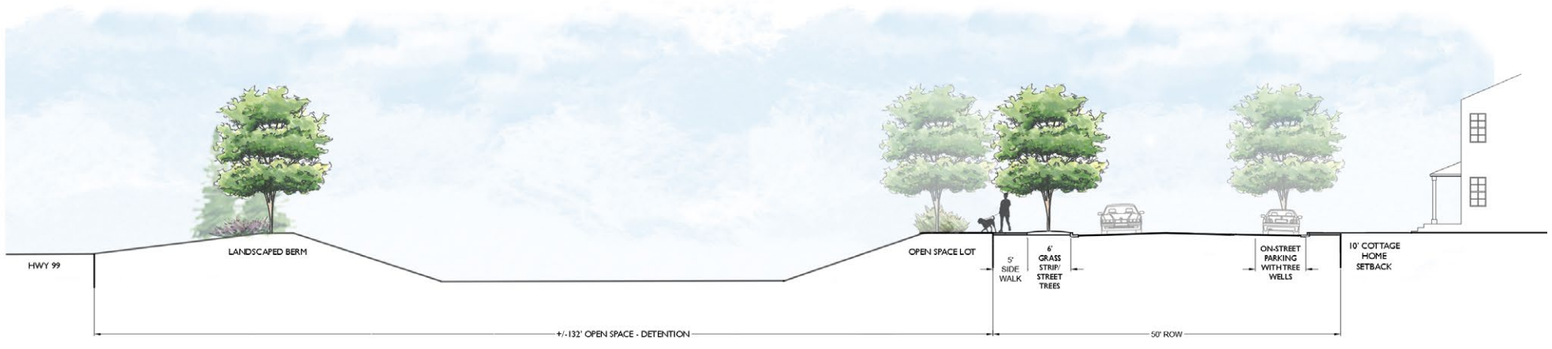
Not To Scale

CONCEPTUAL SITE DESIGN OF HIGHWAY 99 ENTRANCE PARK

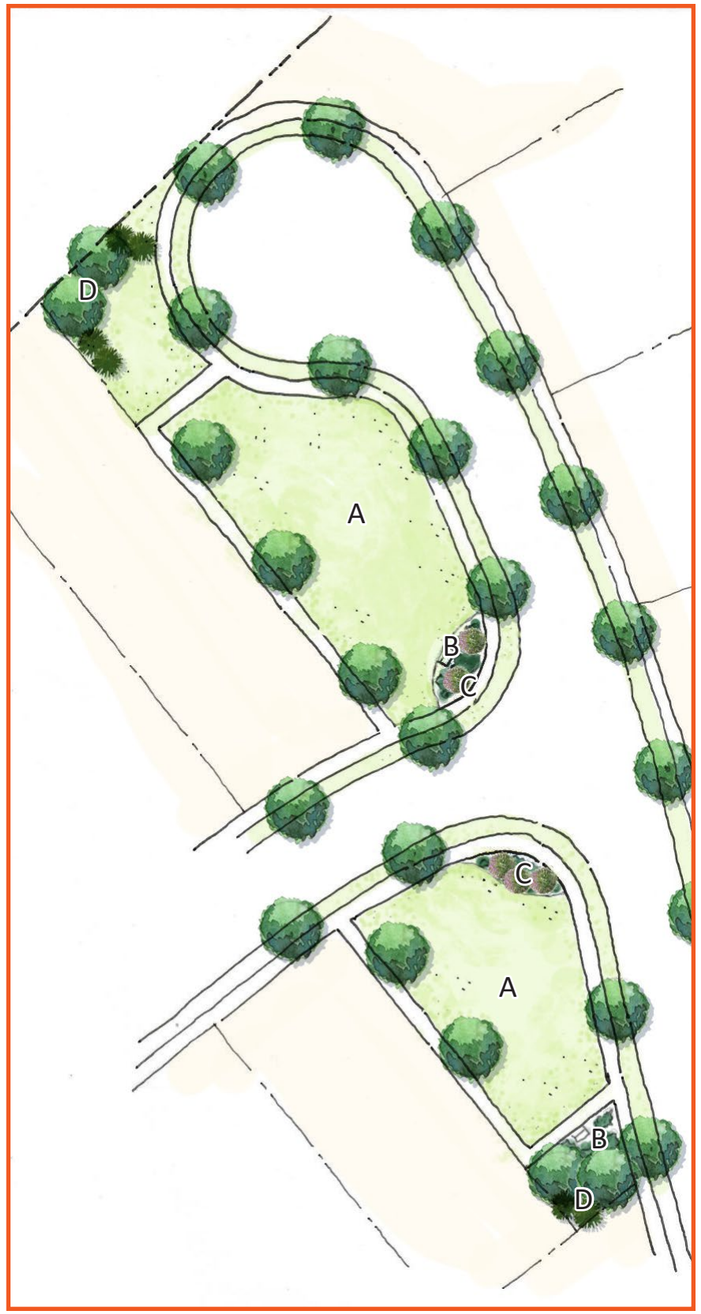
- A Detention Pond
- B Mail Kiosk and Parking Area
- C Entrance Sign
- D On-Street Parking

LOCATION MAP - AMENITIES

Not To Scale



CROSS-SECTION OF HIGHWAY 99 ENTRANCE PARK



Not To Scale

CONCEPTUAL SITE DESIGN OF ESTATE PARK

A	Event Lawn	C	Enhanced Landscaping
B	Outdoor Seating	C	Enhanced Landscape Screen

ESTATE PARK - ACTIVE SPACE #4

The Estate Park is located at the permanent cul-de-sac near the estate lots. This park serves as a formalized green space and helps with the transition between the riverwalk lots and the estate lots while simultaneously providing an additional active space on the southern portion of the site. This park will serve as an additional active green space for neighborhood gatherings, passive play, and leisure. The character of this park will mirror the character provided in the Corner Park to provide continuity throughout the neighborhood.

Example of Outdoor Seating

Example of Event Lawn

LOCATION MAP - AMENITIES

Not To Scale

LANDSCAPE STANDARDS

The development has been designed with ample landscaping to provide not only an aesthetically pleasing experience for the residents, but to aid in mitigating impacts to the surrounding area as well. To ensure these characteristics, some standards are outlined below.

- All amenity areas shall provide enhanced landscaping strips where noted as a transitional element between the amenities and the neighboring homes.
- Any above ground utility boxes and/or mechanical equipment shall be screened with landscaping and/or fences.
- Cottage and Riverwalk products shall have all yards planted with sod. Estate lots shall provide sod in all disturbed areas.
- Street trees shall be provided at a minimum every 50 LF along both sides of all proposed public roadways in the tree lawn between the back of street curbs and sidewalks.
- The H.O.A. shall be responsible for the maintenance of all common areas in the neighborhood.
- Landscaping for common open space areas shall be in conformance with the City of Murfreesboro's Landscape Ordinance.

1.) A map showing available utilities, easements, roadways, rail lines and public right-of-way crossing and adjacent to the subject property.
Response: The exhibits provided on Pages 3-5 provide the requested materials.

2.) A graphic rendering of the existing conditions and/or aerial photograph(s) showing the existing conditions and depicting all significant natural topographical and physical features of the subject property; location and extent of water courses, wetlands, floodways, and floodplains on or within one hundred (100) feet of the subject property; existing drainage patterns; location and extent of tree cover; and community greenways and bicycle paths and routes in proximity to the subject property.
Response: The exhibits provided on Pages 3-5 provide the requested materials. No portion of the property is subject to floodplains or floodways, and the site ultimately drains to Puckett Creek.

3.) A plot plan, aerial photograph, or combination thereof depicting the subject and adjoining properties including the location of structures on-site and within two hundred (200) feet of the subject property and the identification of the use thereof.
Response: The exhibits provided on Pages 3-5 provide the requested materials.

4.0) A drawing defining the general location and maximum number of lots, parcels or sites proposed to be developed or occupied by buildings in the planned development; the general location and maximum amount of area to be developed for parking; the general location and maximum amount of area to be devoted to open space and to be conveyed, dedicated, or reserved for parks, playgrounds, recreation uses, school sites, public buildings and other common use areas; the approximate location of points of ingress and egress and access streets; the approximate location of pedestrian, bicycle and vehicular ways or the restrictions pertaining thereto and the extent of proposed landscaping, planting, screening, or fencing.
Response: The exhibits and standards shown on Pages 7-9 show the requested materials and standards for the site.

5.) A tabulation of the maximum number of dwelling units proposed including the number of units with two (2) or less bedrooms and the number of units with more than two (2) bedrooms.
Response: The exhibit shown on Page 7 provides a tabulation of these numbers.

6.) A tabulation of the maximum floor area proposed to be constructed, the F.A.R. (Floor Area Ratio), the L.S.R. (Livability Space Ratio), and the O.S.R. (Open Space Ratio). These tabulations are for the PRD.

TOTAL SITE AREA	2,973,827 s.f.
TOTAL MAXIMUM FLOOR AREA	730,529 s.f.
TOTAL LOT AREA	1,767,945 s.f.
TOTAL BUILDING COVERAGE	567,747 s.f.
TOTAL DRIVE/ PARKING AREA	371,355 s.f.
TOTAL RIGHT-OF-WAY	492,301 s.f.
TOTAL LIVABLE SPACE	2,602,472 s.f.
TOTAL OPEN SPACE	698,460 s.f.
FLOOR AREA RATIO (F.A.R.)	0.25
LIVABILITY SPACE RATIO (L.S.R.)	0.68
OPEN SPACE RATIO (O.S.R.)	0.81

7.) A written statement generally describing the relationship of the proposed planned development to the current policies and plans of the city and how the proposed planned development is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of this article.
Response: The property is currently zoned RM in Rutherford County. The surrounding area has a mixture of residential and institutional properties. The concept plan and development standards combined with the architectural requirements of the homes shown within this booklet align and closely mimic the type of developments in the surrounding neighborhoods and are envisioned to complete the development in this area.

8.) If the planned development is proposed to be constructed in stages or units during a period extending beyond a single construction season, a development schedule indicating:
(aa) the approximate date when construction of the project can be expected to begin;
Response: The project is anticipated to be developed in five phases. Phasing information is described on Page 10.

9.) Proposed means of assuring the continued maintenance of common space or other common elements and governing the use and continued protection of the planned development. For this purpose, the substance of any proposed restrictions or covenants shall be submitted.
Response: The exhibits shown on Page 9 provide the requested materials.

10.) A statement setting forth in detail either (1) the exceptions which are required from the zoning and subdivision regulations otherwise applicable to the property to permit the development of the proposed planned development or (2) the bulk, use, and/or other regulations under which the planned development is proposed.
Response: The applicant is requesting the following exceptions with this PRD.

Zoning Comparison Cottage Homes (Alley Loaded)				
Category	**RS-6 Zoning**	**PRD - Cottage Home**	**Difference**	**Notes**
Front Setback	25'	10'	-15'	All homes are alley loaded
Side Setback	5'	5'	0	
Rear Setback	20'	20'	0	Garage faces alley
Minimum Lot Size	6,000 SF	6,075 SF	+75 SF	
Minimum Lot Width	50'	45'	-5'	
Parking	4 spaces per home	4 provided		Garage allows min. 2 spaces
Min. Lot Coverage (%)	50%	50%	0	

Zoning Comparison Riverwalk Homes (Front/Side Loaded)				
Category	**RS-10 Zoning**	**PRD - Riverwalk Home**	**Difference**	**Notes**
Front Setback	35'	25' (35' for garage face)	-10' to building	garage face is 35' min. setback
Side Setback	10'	5'	-5'	
Rear Setback	25'	20'	-5'	
Minimum Lot Size	10,000 SF	10,000 SF		
Minimum Lot Width	65'	52' minimum width	-13' maximum	widths range for lot/home variety
Parking	4 spaces per home	4 provided		Garage allows min. 2 spaces
Min. Lot Coverage (%)	25%	50%	+25%	

Zoning Comparison Estate Homes (Front/Side Loaded)				
Category	**RS-12 Zoning**	**PRD - Estate Home**	**Difference**	**Notes**
Front Setback	35'	25' (35' for garage face)	-10' to building	
Side Setback	10'	5'	-5'	
Rear Setback	25'	20'	-5'	
Minimum Lot Size	12,000 SF	13,000 SF	+1,000 SF	
Minimum Lot Width	70'	80'	+10'	
Parking	4 spaces per home	4 provided		Garage allows min. 2 spaces
Min. Lot Coverage (%)	25%	35%	+10%	

11.) The nature and extent of any overlay zone as described in Section 24 of this article and any special flood hazard area as described in Section 34 of this article
Response: This property is not in the Gateway Design Overlay District , Airport Overlay District (AOD), Historic District (H-1), or Planned Signage Overlay District (PS). No portion of this property lies in Zone AE, within the 100-year floodplain, according to the current FEMA Map Panel 47149C0245H Eff. Date 01/05/2007.

12.) The location and proposed improvements of any street depicted on the Murfreesboro Major Thoroughfare Plan as adopted and as it may be amended from time to time.
Response: Pages 3, 18, & 19 discuss the Major Thoroughfare Plan.

13.) The name, address, telephone number, and facsimile number of the applicant and any professional engineer, architect, or land planner retained by the applicant to assist in the preparation of the planned development plans. A primary representative shall be designated.
Response: The primary representative is Matt Taylor of SEC, Inc. and the developer/ applicant is the Patterson Company, LLC. Contact info for both is provided on Page 2.

14.) Architectural renderings, architectural plans or photographs of proposed structures with sufficient clarity to convey the appearance of proposed structures. The plan shall include a written description of proposed exterior building materials including the siding and roof materials, porches, and decks. The location and orientation of exterior light fixtures and of garages shall be shown if such are to be included in the structures.
Response: Pages 11-17 show the architectural character of the proposed buildings and building materials listed. However, exact configuration for these items is unknown and will be determined as each building is built.

15.) If a development entrance sign is proposed the application shall include a description of the proposed entrance sign improvements including a description of lighting, landscaping, and construction materials.
Response: Examples of entrance signage are located on Page 9 and a description is on Pages 9 & 22.

Memorandum

To:	Wes Patterson; Patterson Company, LLC
From:	Amy Burch, P.E.; Burch Transportation, LLC
	Matt Campbell; Collier Engineering Co., Inc.
Date:	May 2, 2022
Re:	School Traffic Analysis and Recommendations
Subject:	Rockvale School Cluster (Rutherford County Schools)

In coordination with Collier Engineering Co., Inc., Burch Transportation, LLC has evaluated the Rockvale Cluster Schools' traffic and circulation in an effort to identify opportunities to improve safety and efficiency through operations and/or infrastructure. The Rockvale School Cluster consists of an elementary, middle, and high school within the Rutherford County Schools (RCS) system. The schools are located on Salem Pike (Highway 99) in Rockvale, TN, which is southwest of Murfreesboro. This memo provides a summary of the existing conditions of the study area, observations and data conducted, and recommendations for the Rockvale School Cluster. This study was commissioned by Patterson Company, LLC, the developer that is pursuing approval for a 199-home residential development located south of the Rockvale School Cluster. This study was conducted in cooperation with Rutherford County Schools.

Cluster Description

The Rockvale School Cluster is located along Salem Pike (Highway 99) southwest of Murfreesboro in the unincorporated town of Rockvale. Rockvale Elementary School (RES) is located on the west side of Salem Pike with 2 access drives. Rockvale Middle School (RMS) and Rockvale High School (RHS) are located on the east side of Salem Pike roughly opposite RES and with 4 shared access drives. The cluster campus is approximately 2 miles south of Veterans Parkway. The cluster location and study area are shown on page 2 in Figure 1.

Table 1 below presents general characteristics about the schools that was obtained through conversations with school officials and data provided.

Table 1: Cluster School Characteristics

School Characteristic	RES	RMS	RHS
Start Time	7:30 AM	8:00 AM	8:30 AM
End Time	2:30 PM	3:00 PM	3:30 PM
Enrollment (estimate)	900 students	1400 students	2420 students
Bus Ridership	60%	65%	60%
Number of Buses	20+	30	20-25
Vehicular Access	2 driveways on Hwy 99	3 shared driveways on Hwy 99 & 1 shared private driveway from Thompson Road (mostly used by RHS)	
Walkers/Bikers	None Observed	Approx. 5 walk from RES	Minimal & approx. walk from RES

Figure 1: Location Map

(Not to Scale)

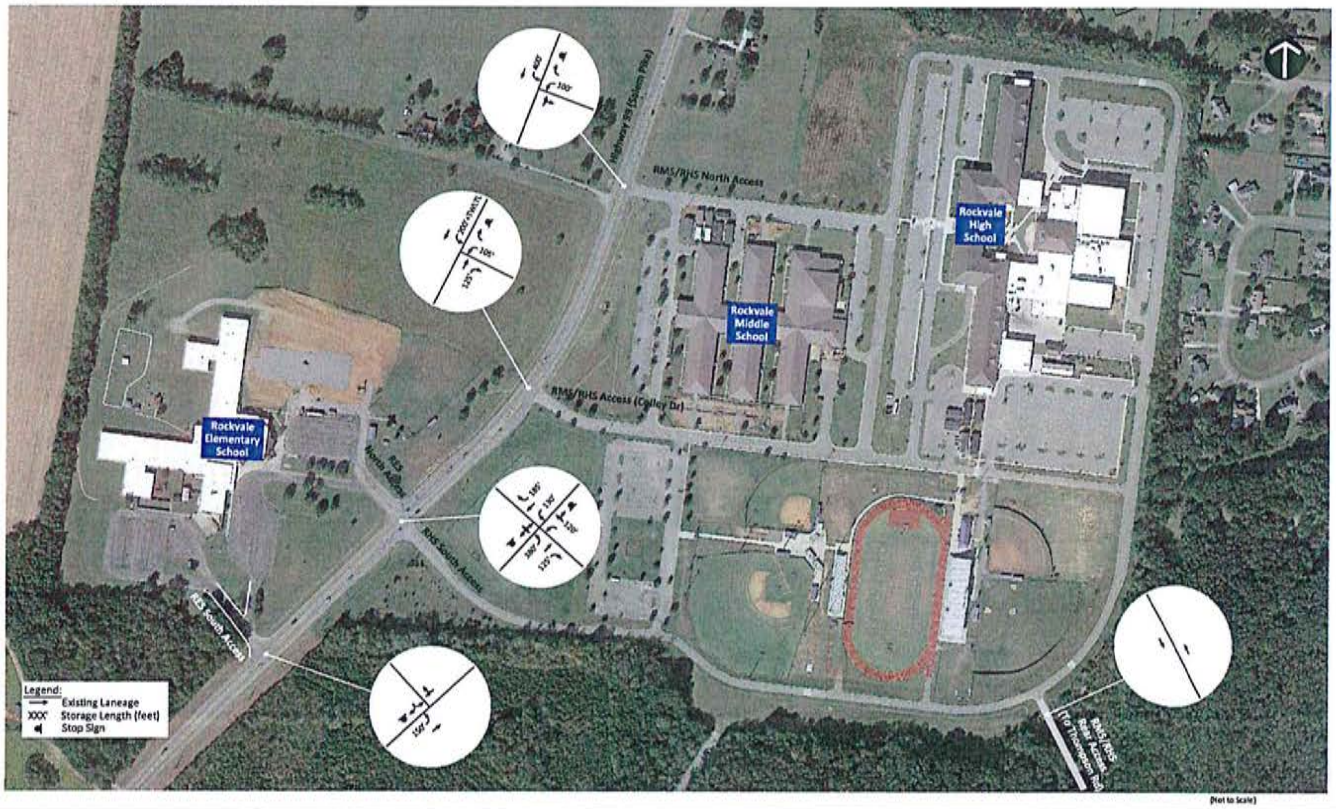
Highway 99 (Salem Pike)

According to TDOT's functional classification map, Highway 99 is categorized as a minor arterial. The roadway provides connection between Murfreesboro to the northeast and Eagleville to the southwest. In general, Highway 99 is a two-lane highway with 6-foot paved shoulders and a posted speed limit of 55 mph south of the schools and 50 mph north of the schools. A 15-mph school zone is established from north of the school property to south of the school property with overhead flashers. Within the school zone, Highway 99 has a 3-lane cross-section with center two-way left-turn striping and dedicated left turn lane striping at all of the school access points. A southbound right turn lane is provided for the northern RES driveway, and northbound right turn lanes are provided for the southern RMS/RHS access road and the middle RMS/RHS access drive. Figure 2 presents the laneage and traffic control for the school driveways on Highway 99.

South of the schools, the 2021 AADT on Highway 99 was 9,140 vehicles per day (vpd) according to TDOT. North of the schools, the AADT on Highway 99 is expected to be much higher due to the school traffic that is primarily oriented to the north.

According to the City of Murfreesboro's 2040 Major Transportation Plan, Highway 99 is planned to be widened to 5-lanes through the school study area, specifically between Veterans Parkway and a proposed southwest loop road. The project is identified as LTI 11 in the City's plan. However, the road widening project for Highway 99 is not in the MPO's long-range plan and is not included in the current funded TIP. Therefore, it is not expected to be completed in the near future.

Figure 2: Existing Laneage and Traffic Control



Observations & Traffic Counts

Burch Transportation and Collier Engineering Co. conducted observations of the school traffic during arrival and dismissal periods on several typical school days in April 2022. Traffic counts were also conducted for the school driveways. Figure 3 presents the morning and afternoon peak hour traffic volumes for each of the school driveways. Since the three schools have staggard begin/end times, the peak hours at the driveways are not all the same 60-minute interval. Therefore, the through volume on Highway 99 does not necessarily balance between the driveways.

Figure 3 also shows the approximate directional distribution of the school traffic. As shown, most of the traffic generated by the schools is oriented north towards Murfreesboro.

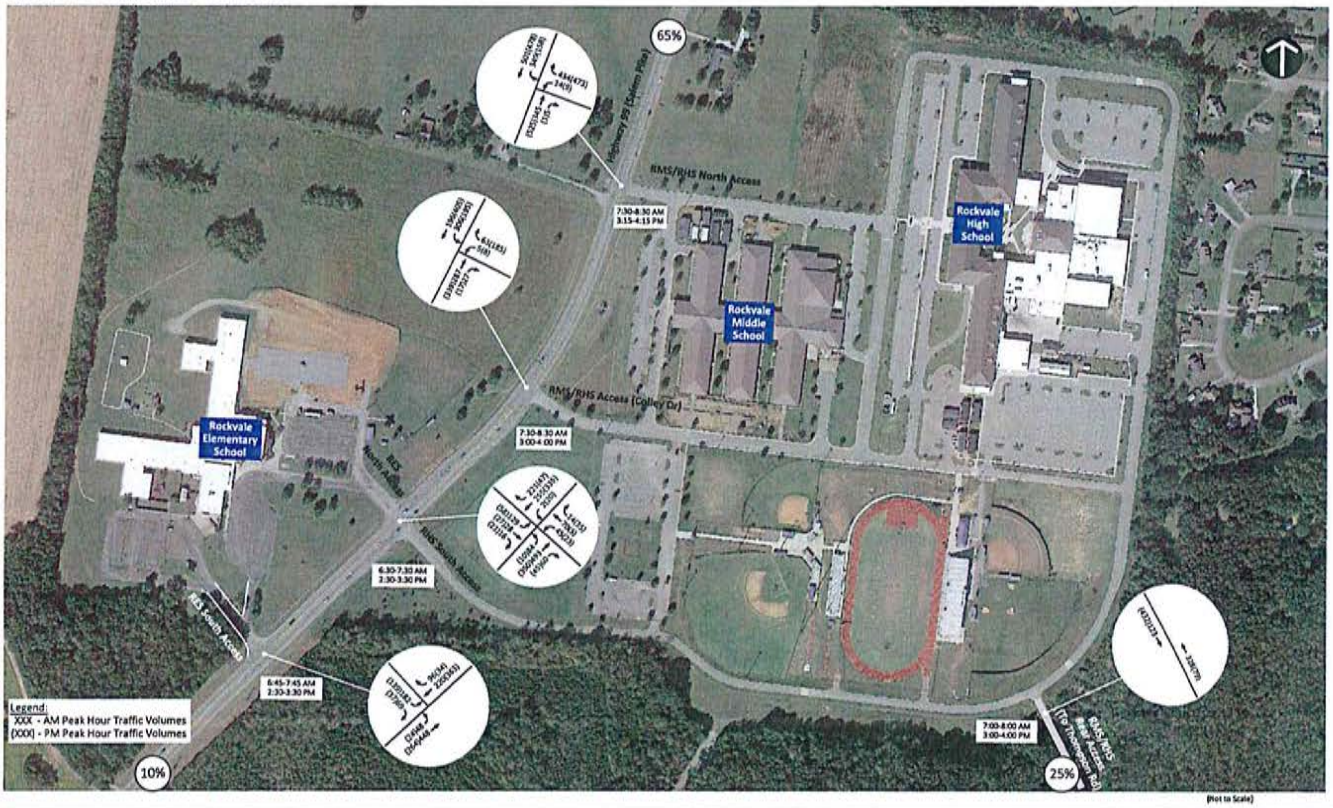
Table 2 presents the number of vehicles entering and exiting during the morning arrival period between 6:30 – 8:30 AM (2 hours) and the afternoon dismissal period between 1:30 – 3:30 PM (2 hours) for RES and 2:15 – 4:15 PM (2 hours) for RMS and RHS. As shown, the three school campuses generate approximately 3,900 vehicle trips during the 2-hour morning arrival period and approximately 2,950 vehicle trips during the 2-hour afternoon dismissal. Vehicle trips include passenger cars and buses.

Table 2: Vehicle Trip Generation

School Trip Generation	AM 2-Hour Peak			PM 2-Hour Peak		
	6:30-8:30 AM (All Schools)			1:30-3:30 PM (RES) & 2:15-4:15 PM (RMS/RHS)		
Campus	**Enter**	**Exit**	**Total**	**Enter**	**Exit**	**Total**
RES	550	448	998	236	317	553
RMS/RHS	1876	1022	2898	858	1534	2392
Total	2426	1470	3896	1094	1851	2945

*Trip generation calculated from school driveway entering and exiting turning movement counts and tube count on private roadway to Thompson Road.

Figure 3: 2022 Existing Peak Hour Traffic Volumes



Arrival and Dismissal Procedures

Each school has designated drop-off and pick-up areas and operational process. In general, the operational procedures work well for each school. In our opinion, the traffic issues related to the schools are not caused by operational procedures, but instead are due to inadequate infrastructure and capacity to handle the significant demand of the schools due to high enrollment levels. Therefore, this study only briefly describes the arrival and dismissal procedures for each school in order to provide context for the observations discussed in the following section.

RES

- Kindergarten and First Grade drop-off and pick-up at the south loop.
- All other students are drop-off and pick-up at the north loop.
- Buses use the middle loop. Vehicles enter from the north access and exit at the south access.
- In the morning, if buses are not in the bus loop and the north loop is backed up, parents will make drop-offs in the bus loop.
- Morning drop-off is mostly one vehicle at a time (in one lane) at the respective loading areas. No platoons.
- In the afternoons, vehicles stack in two lanes. Parents have hanging tags. A teacher/faculty member uses a radio to call out student names. In the north loop, that is about 10 vehicles at a time. In the south loop, that is about 6 vehicles at a time. Once the platoon of vehicles are loaded, a teacher/faculty will direct the parents to leave.
- There are two crossing guards that direct traffic at the two RES driveways during both the morning arrival and afternoon dismissal. The crossing guards appear to give greater priority to school buses.
- A handful of RMS/RHS students were observed walking from RES to their respective schools in the morning. The students crossed Highway 99 at the north RES driveway with the assistance of the crossing guard.

RMS

- All RMS parent drop-off occurs at the rear of the building in the mornings. Operationally, the loop is 1 lane in the mornings.
- RMS parent pick-up primarily occurs in the rear loop in 2 lanes.
- In the afternoon, some parents park in the parking lot to the south of the school building. Faculty escort a group of students to the parking lot to find their ride. Once students have loaded, parents leave.
- Bus loading/unloading occurs in the front of the school.
- There is a breezeway loop at the front of RMS designated for students in special education classes.
- A crossing guard directs traffic at the north RMS/RHS driveway for morning arrival and afternoon dismissal. After RES traffic is done, the crossing guards move from the RES driveways to the RMS/RHS driveways.

RHS

- All RHS parent drop-off and pick-up occurs at the front of the school building in a one-way operation. However, these operations also occur along other internal roadways on campus.
- There is a separate pull-off loop at the front for students in special education classes.
- All bus loading/unloading occurs at the rear of the building in a loop.
- RHS students with vehicles are assigned parking spaces and park in all the parking lots on campus.
- Crossing guards direct entering/exiting traffic at Highway 99 during the morning arrival and afternoon dismissal. The crossing guards appear to give greater priority to school buses.

As mentioned, Burch Transportation and Collier Engineering Co. conducted on-site observations with a team of

personnel as well as collected drone video footage during morning arrival and afternoon dismissal over several days in April 2022. Below are a series of pictures and still drone images identifying school traffic conditions.

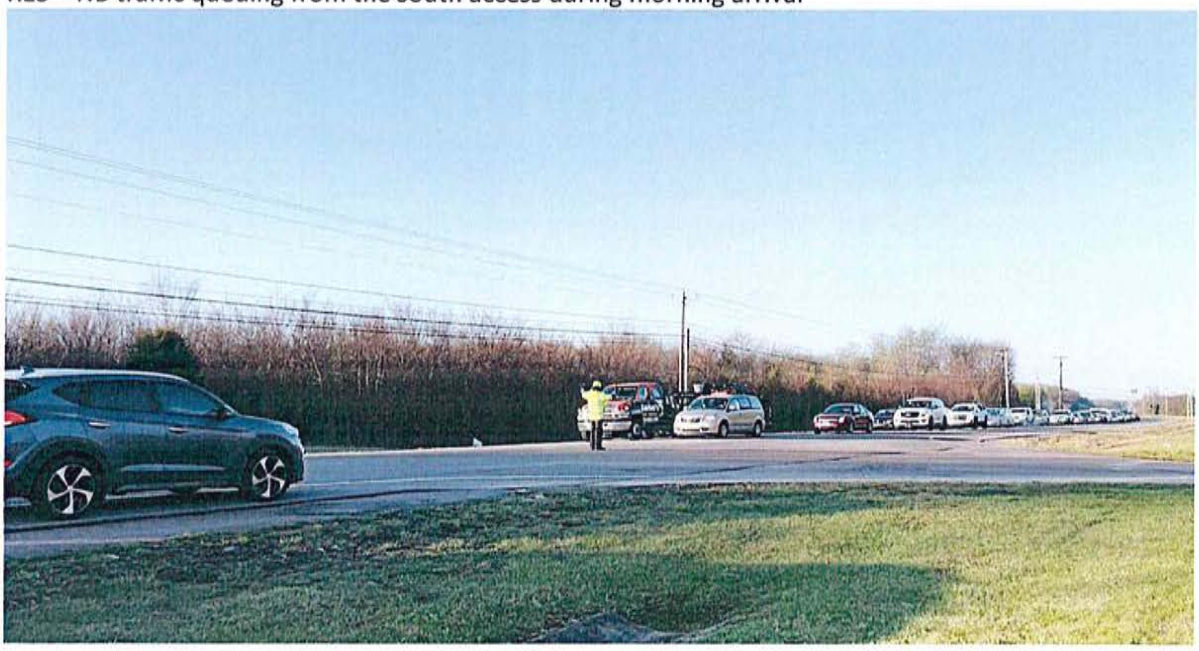
RES – Beginning of Afternoon Dismissal

As circled in RED above, both RES driveways have an internal intersection close to Highway 99 that can cause some conflicts for entering and exiting traffic. Also, the on-site queue areas do not have enough capacity to hold the queue demand. Both pick-up areas spillback onto Highway 99 in both directions. For the southbound right turn traffic, vehicles pull onto the paved shoulder to keep the through lane open for the south driveway. At the north driveway, vehicles queue on the shoulder to keep the right turn lane open for bus traffic entering the school. In the northbound direction, school traffic queues in the northbound left turn lanes.

Parents begin arriving and queuing on-campus as early as 1:30 PM before the 2:30 PM dismissal at RES. Observations indicate that nearly all parents have arrived by 2:30 PM and are in the queue. The student pick-up is efficient and takes approximately 15 minutes to complete and clear the campus.

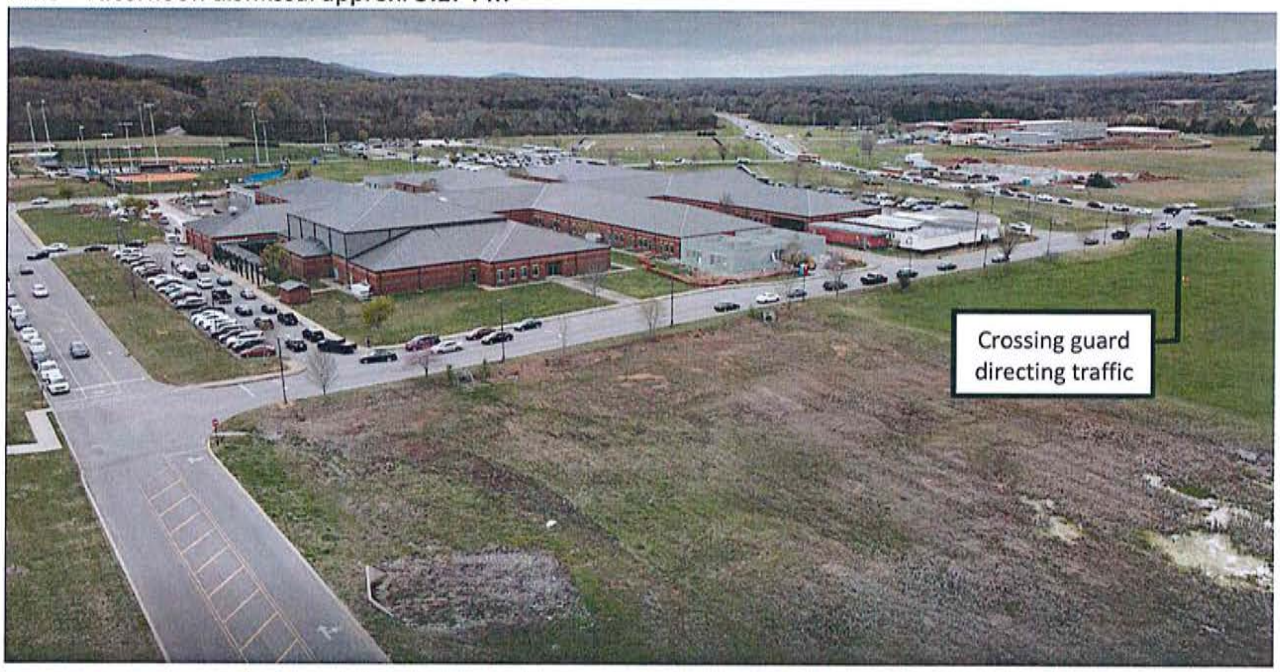
RES – SB traffic queuing between the north access and south access during morning arrival

RES – NB traffic queuing from the south access during morning arrival



As shown in the pictures above, queuing and delays occur on Highway 99 in both directions during the morning arrival period during the RES.

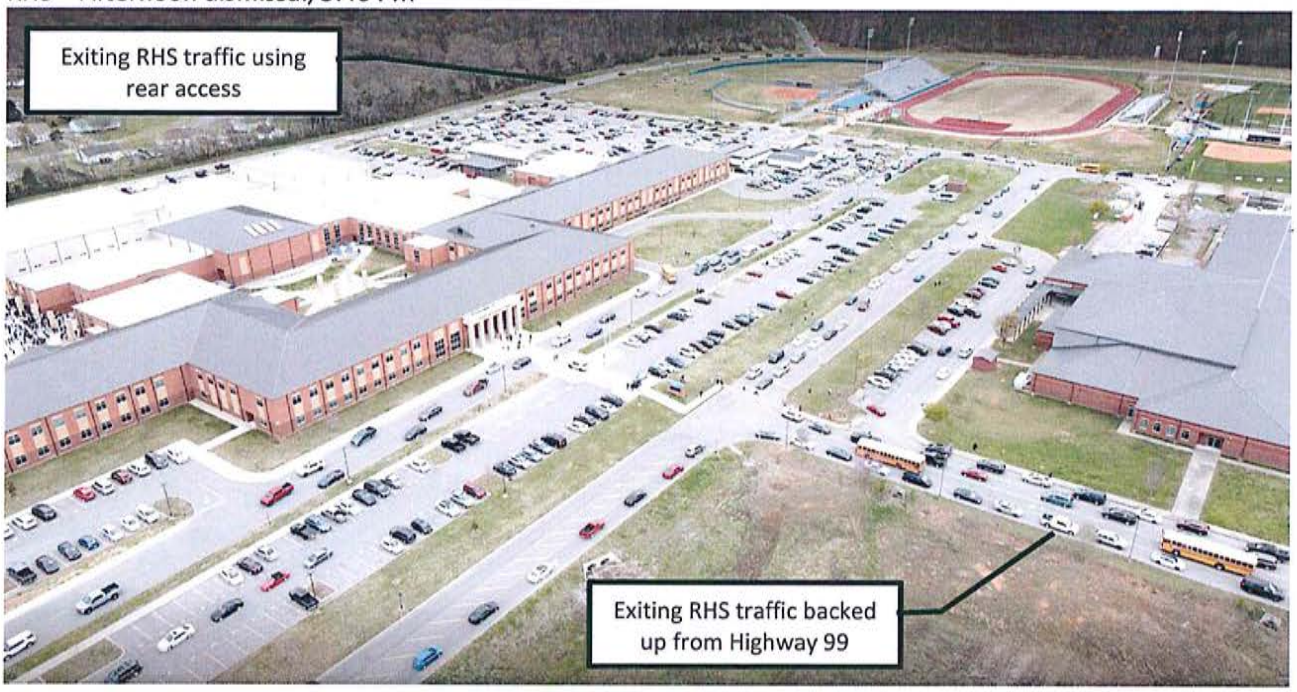
RMS – Afternoon dismissal approx. 3:17 PM



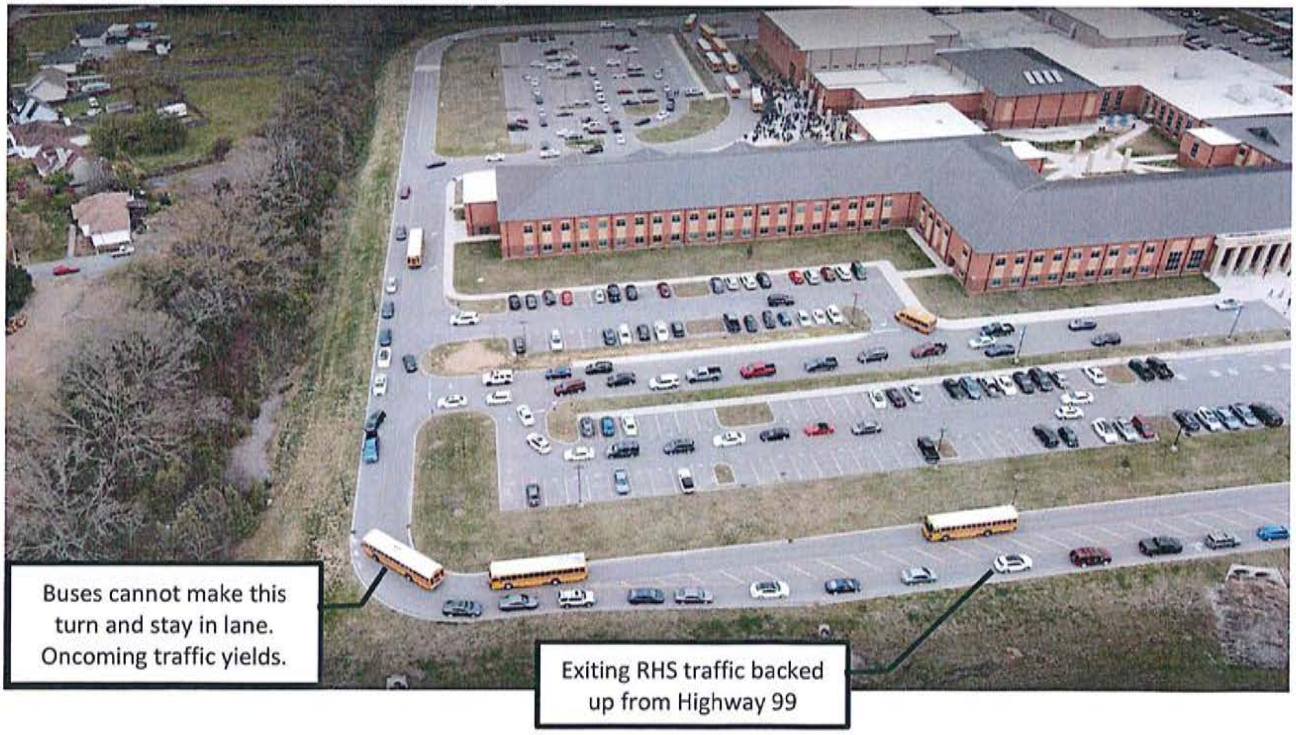
As shown above, the afternoon dismissal at RMS is pretty well compete within about 20 minutes of school dismissal. This gives approximately 10 minutes for traffic on Highway 99 to recover before the RHS dismissal.

RMS/RHS – Morning arrival traffic exiting at the north access drive looking west toward Highway 99, 7:59 AM

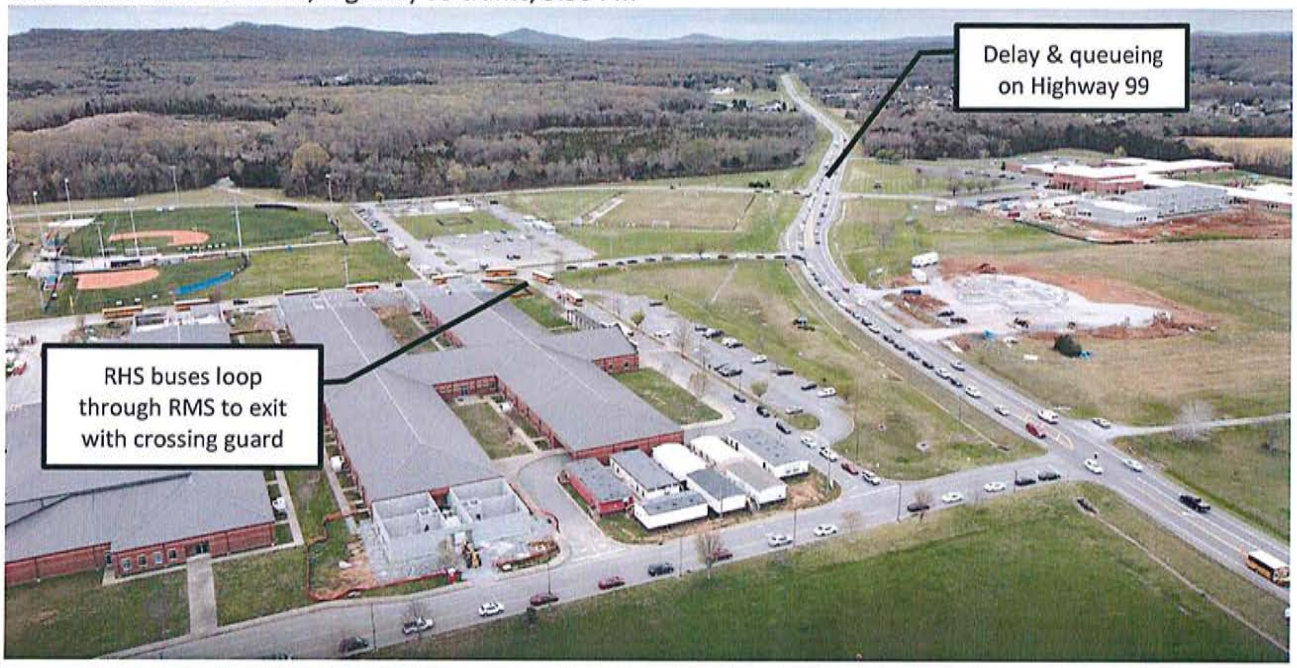
RHS – Afternoon dismissal, 3:40 PM



RHS – Afternoon dismissal & Bus turn conflict



RHS – Afternoon dismissal, Highway 99 traffic, 3:50 PM



Using the drone footage as well as two sample travel time runs, it is estimated that it takes a vehicle approximately 10-15 minutes to travel through the school zone during morning arrival and afternoon dismissal. This travel time estimate indicates that non-school traffic experiences 10-15 minutes of added delay due to the school traffic during those times.

Conclusions & Recommendations

The observations indicate that each of the school's arrival and dismissal procedures work fairly well. Since nearly all parents/guardians have arrived and joined the queue before doors open, the operation of unloading and loading of the students is efficient. However, the queuing area does not fully accommodate the Rockvale School Cluster demand. Traffic queues onto Highway 99 during arrival and dismissal of all the schools. The two crossing guards that direct traffic at the school driveways help to facilitate school traffic acting similar to an actuated traffic signal. Based on observations, the crossing guards appear to prioritize buses first, then traffic entering/exiting the school campuses, then Highway 99 traffic. Once the doors open and the student loading operation begins in the afternoon, it clears in roughly 15-20 minutes for both RES and RMS. The RHS afternoon dismissal takes approximately 30 minutes to clear the campus, which can cause delays on Highway 99. The long period of time needed to clear the RHS afternoon dismissal traffic is due to the high demand and surge of traffic exiting the campus. Traffic exiting and turning right toward the north onto Highway 99 backs up into campus for nearly 30 minutes.

The following improvements are recommended to help alleviate traffic congestion and delays for the Rockvale School Cluster. Both on-site and off-site infrastructure improvements and operation are recommended.

RES

- Construct a new access aligned with the Middle RMS/RHS driveway (Colley Dr). Use this access for entering and exiting traffic for the primary loop. At Highway 99, the new access should increase on-site queueing by approximately 46 vehicles.
- Relocate the crossing guard to the new access location.

- Continue bus loop operation the same for entering and exiting buses.
- Construct a southbound right turn lane at the recommended new access drive.
- Construct a southbound right turn lane at the south RES driveway with approximately 400 feet of storage.
- Restripe Highway 99 to provide a northbound left turn lane at the recommended new access drive.
- Install new sidewalk with the recommended new RES access between the school building and Highway 99.
- Install a new crosswalk on Highway 99 on the north side of the recommended new RES access and the middle RMS/RHS access.
- Consider relocating the bus loop connection to the south RES driveway further away from Highway 99, creating a 4-legged internal intersection that could be stopped controlled. This could help minimize the conflicts between entering and exiting traffic an increase the on-site queue storage by approximately 6 vehicles.

These recommendations for RES are presented conceptually on the attached figure.

RMS/RHS

It is recommended to keep all circulation locations and directions the same for RMS and RHS. Recommendations are focused on improving the exiting traffic flow for the school and the northbound traffic flow on Highway 99.

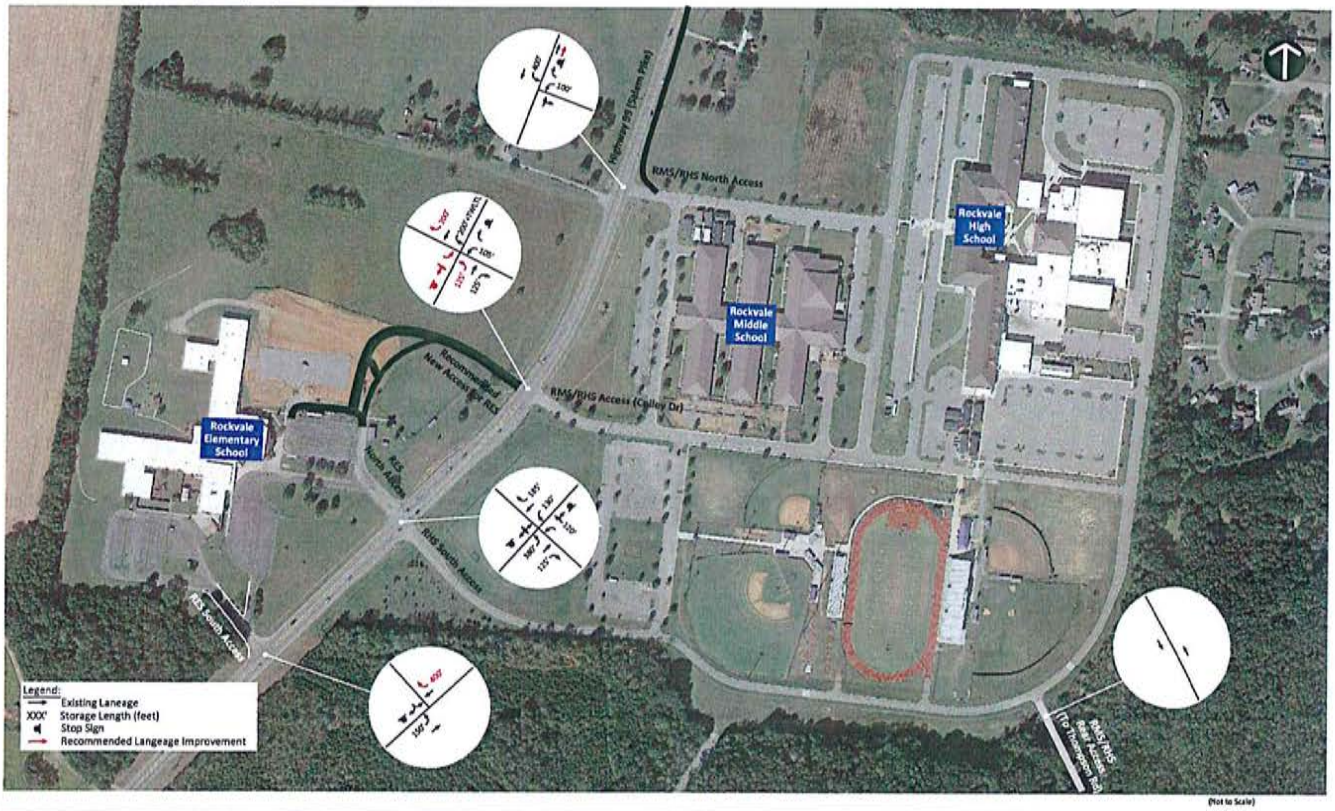
- Improve the radius for the interior roadway along the entering bus route at the north side of the school building to accommodate bus movements and two-way traffic flow.
- Restripe the internal north/south roadway between RMS and RHS to 2 northbound lanes and 1 southbound lane. Current striping includes a southbound left turn lane where an RHS parking lot access has been closed.
- Construct new sidewalk along the north side of the RMS/RHS access from Highway 99 to connect to existing sidewalk at the RMS building. This sidewalk along with the recommended sidewalk for the RES campus would provide a continuous pedestrian route between the schools and across Highway 99.
- Construct a northbound acceleration lane on Highway 99 with right turn channelization from the north RMS/RHS access. The acceleration lane should allow free-flow right turn exits onto Highway 99. The acceleration lane should merge back to one lane approximately 500 feet north of the school. The design and construction should include channelization, delineator posts, and pavement markings.
- With the recommended acceleration lane and channelized right turn at the north RMS/RHS access, a crossing guard should continue to assist with traffic control. However, northbound traffic only needs to be stopped for southbound left turns into the school and westbound left turns exiting the school (which is very few).

These recommendations for RMS and RHS are presented conceptually on the attached figure. It should be noted that improvements on Highway 99 in the study area of the Rockvale School Cluster could result in increased delays at the signalized intersection of Highway 99 and Veterans Parkway, particularly in the northbound direction since exiting school traffic demand would be expected to be condensed into a shorter period of time. The current school operation somewhat meters the northbound traffic flow. However, that signalized intersection was outside the scope of this study and has not been analyzed in detail.

Figure 4 presents the recommended laneage at the study intersections and school driveways along Highway 99.

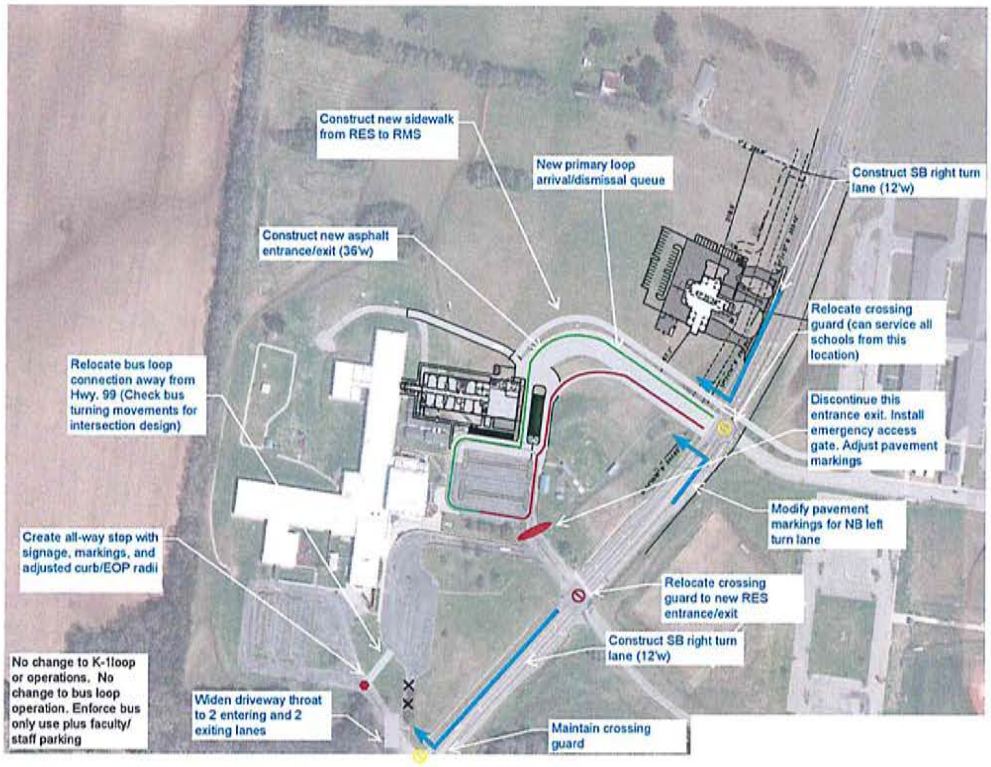
In addition to identifying a funding source for the improvements, all improvements and modifications on Highway 99 would require coordination with and approval from TDOT.

Figure 4: Recommended Laneage for Highway 99 at Rockvale School Cluster



Collier Engineering Co. and Burch Transportation want to thank you for this opportunity to work on this project. Should you have any comments or questions regarding this traffic circulation study, please let us know.

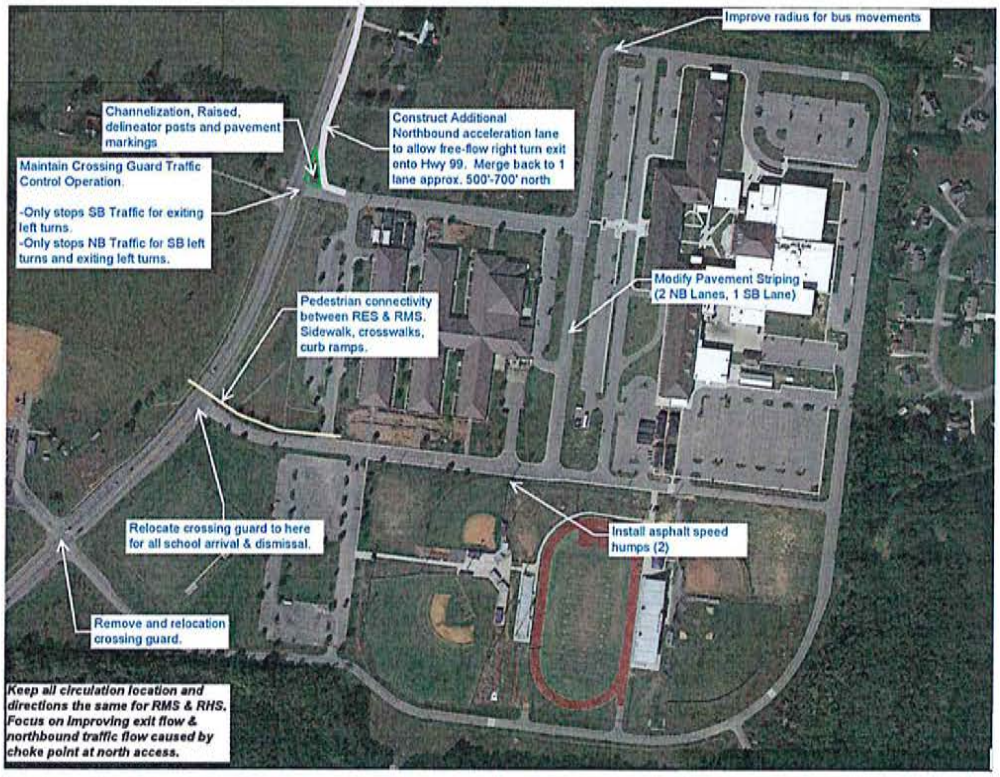
Attachments:
1. Recommended Improvement Concept



ROCKVALE ELEMENTARY SCHOOL

TRAFFIC IMPROVEMENT RECOMMENDATIONS

COLLIER ENGINEERING CO., INC.
CONSULTING • DESIGN • CONSTRUCTION



ROCKVALE MIDDLE SCHOOL & HIGH SCHOOL

TRAFFIC IMPROVEMENT RECOMMENDATIONS

COLLIER ENGINEERING CO., INC.
CONSULTING • DESIGN • CONSTRUCTION

MINUTES OF THE MURFREESBORO PLANNING COMMISSION APRIL 6, 2022

6:00 PM **CITY HALL**

Members Present
Ken Halliburton, Vice-Chair
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Staff Present
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Joel Aguilera, Planner
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney
Sam Huddleston, Executive Dir. Dev't Services

1. Call to order.

Vice-Chairman Ken Halliburton called the meeting to order at 6:00 p.m.

2. Determination of a quorum.

Vice-Chairman Ken Halliburton determined that a quorum was present.

3. Approve minutes of the March 16, 2022, Planning Commission meeting.

Mr. Warren Russell moved to approve the Minutes of the March 16, 2022, Planning Commission meeting; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Ken Halliburton
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None.

Mr. Matt Taylor addressed the stormwater system for drainage would be designed for this property; and, that it would be directed into the Tennessee Department of Transportation right of way. In addition, a traffic impact study has been completed with several recommendations that includes left and right turn lanes along the front of the property. The applicant is in agreement to implement all recommendations. Lastly, Mr. Taylor agreed to conduct a neighborhood meeting for the area residents to address their questions.

There being no further discussions, Mr. Shawn Wright moved to defer the annexation petition until a neighborhood meeting has been conducted and there is resolution regarding ingress/egress; the motion was seconded by Mr. Rick LaLance and carried by the following vote:

Aye: Ken Halliburton
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None.

Zoning application [2022-401] for approximately 68 acres located along Highway 99 south of Clearidge Drive to be zoned PRD simultaneous with annexation, Patterson Company applicant. Ms. Marina Rush presented the Staff Comments regarding this item, a copy which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Mr. Matt Taylor (design engineer), Mr. Wes Patterson (applicant), Mr. Jackson Nichols (applicant), and Mr. Greg Gamble (landscape architect) were in attendance representing the application. Mr. Taylor gave a PowerPoint presentation of the Pattern Book, which Pattern Book is maintained in the permanent files of the Planning Department and is

incorporated into these Minutes by reference. Mr. Wes Patterson came forward to answer questions asked from the Planning Commission.

Vice-Chairman Ken Halliburton opened the public hearing.

1. **Mr. Pat Justice, 8081 Old Jackson Ridge Road** – opposes the request due to traffic and overcrowded schools.

2. **Mr. Gabriel Fancher, 5606 Old Salem Road –** opposes the request due to the traffic and overcrowded schools.

3. **Mr. Dylan Crouch, 2213 Scout Street** – opposes the request because the development is out of character with the area.

4. **Ms. Kimberly Marson, 1122 Starhurst Drive** – opposes the request due to drainage and traffic concerns.

5. **Mr. Mike Ryan, East Overall Creek Road** – opposes the request due to the proposed density and light pollution.

6. **Mr. Timothy Hinote, 2100 Nunley Drive** – opposes the request due to blasting, traffic, and because the development is out of character with the area.

7. **Mr. Pettus Read, 11795 Mt. Pleasant Road (Rutherford County Commissioner)** – opposes the request due to density and traffic concerns.

8. **Mr. Paul Boyd, 2221 Scout Drive** – opposes the request due to density and traffic concerns.

9. **Mr. Jim Thompson, 2027 Watercolor Lane** – opposes the request due to concerns, including drainage, traffic, and density.

10. **Mr. David Ragsdale, 6971 Highway 99** – opposes the request due to traffic concerns and because the development is out of character with the area.

11. **Mr. Jay Cunningham, 9910 Taylor Road –** opposes the request due to traffic, drainage, and density concerns.

12. **Mr. Doug York, 1218 Paramount Drive –** requested for this proposal to be deferred until a neighborhood meeting has been conducted.

13. **Mr. Greg Gamble** (landscape architect) –agreed to host a neighborhood meeting.

Vice-Chairman Ken Halliburton closed the public hearing.

Mr. Matt Taylor addressed the traffic, drainage, and lighting concerns.

There being no further discussions, Mr. Shawn Wright moved to defer; the motion was seconded by Mr. Rick LaLance and carried by the following vote:

Aye: Ken Halliburton
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None.

5. Staff Reports and Other Business:

Mandatory Referral [2022-705] to consider the acquisition of property located along South Church Street and at the corner of South Church and NW Broad Street, City Administration Department applicant. Mr. David Ives presented the Staff Comments regarding this item, a copy which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION MAY 18, 2022

1:00 PM **CITY HALL**

MEMBERS PRESENT
Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

STAFF PRESENT
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Amelie Kerr, Planner
Brad Barbee, Planner
Joel Aguilera, Planner
Katie Noel, Project Engineer
Gabriel Moore, Project Engineer
Serena Harris, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney
Sam Huddleston, Executive Dir. Dev't Services

1. Call to order.

Chair Kathy Jones called the meeting to order at 1:00 p.m.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Approve minutes of the April 20, 2022, Planning Commission meeting.

Mr. Chase Salas moved to approve the Minutes of the April 20, 2022 Planning Commission meeting; the motion was seconded by Mr. Warren Russell and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell

The Planning Commission began discussing the annexation petition and asked would the Tennessee Department of Transportation be notified regarding access connections onto Highway 99. Mr. Matt Taylor (design engineer) explained the construction plans would be submitted to the City. Next, they would make an application with TDOT for approval. In addition, they had conducted a neighborhood meeting to address the concerns that had been expressed during the public hearing.

There being no further discussion, Mr. Rick LaLance moved to approve the Annexation petition and plan of services subject to all staff comments and to excluding the Highway 99 right-of-way from the study area and the plan of services; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None.

Zoning application [2022-401] for approximately 68 acres located along Highway 99 south of Clearidge Drive to be zoned PRD simultaneous with annexation, Patterson Company applicant. Ms. Marina Rush presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference. Ms. Marina Rush stated Staff supports the zoning request to PRD for the following reasons:

Mr. Matt Taylor came forward stating they would comply with the current Murfreesboro Street Specifications for this proposal. In addition, Mr. Matt Taylor explained the storm

drainage and detention calculations would be provided to City Staff and TDOT for their review and approval.

There being no further discussion, Vice-Chairman Ken Halliburton moved to approve the zoning application subject to all staff comments; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None.

Zoning application [2022-403] for approximately 13.7 acres located along Medical Center Parkway, Robert Rose Drive, and Maplegrove Drive to be rezoned from MU and GDO-1 to PUD, CH, and GDO-1 (Vintage Apartments and TDK office PUD), TDK Construction applicant. Ms. Margaret Ann Green presented the Staff Comments regarding this item, a copy which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference. Continuing, Ms. Margaret Ann Green stated, notable changes the zoning application includes:

- Reduction in the number of apartments from 274 dwelling units to 232 dwelling units;
- Increase the square footage of TDK's office building from 50,000 s.f. up to 60, 000 square feet minimum;
- Increase the parking area for the proposed apartments only; and
- Clarified the parking exceptions for the proposed apartments.

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ORDINANCE 22-OZ-18 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 zone approximately 68 acres along Highway 99 south of Clearidge Drive as Planned Residential Development (PRD) District, simultaneous with annexation; Patterson Company, applicant [2022-401].

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 zone the territory indicated on the attached map.

SECTION 2. That from and after the effective date hereof the area depicted on the attached map be zoned and approved Planned Residential Development (PRD) 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 area 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 area.

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
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Adam F. Tucker
City Attorney

SEAL

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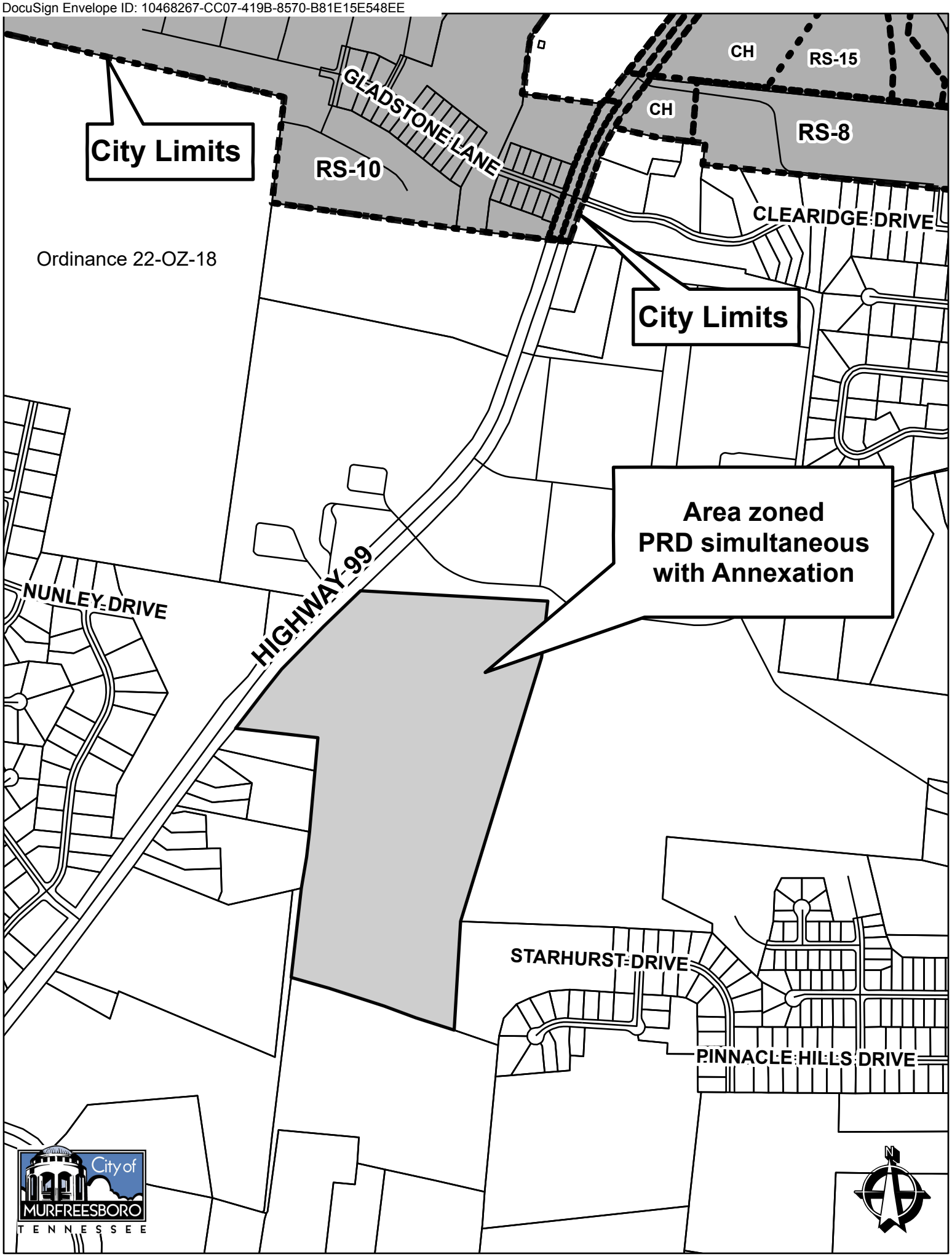


COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title:	Zoning property along Blackman Road and Veterans Parkway [Public Hearing Required]
Department:	Planning
Presented by:	Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Zone approximately 89.2 acres located along the west side of Blackman Road and along east side of Veterans Parkway.

Staff Recommendation

Conduct a public hearing and enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the rezoning.

Background Information

The Administration Department presented a zoning application [2022-415] for approximately 89.2 acres located along the west side of Blackman Road to be zoned GDO-1 (Gateway Design Overlay District 1). This zoning request will not affect the existing CH (Commercial Highway District) and CF (Commercial Fringe District) base zoning. During its regular meeting on August 3, 2022, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

Council Priorities Served

Improve Economic Development

The Veterans Parkway/I-840 interchange is envisioned as an important "gateway" for the City with great economic development potential. The GDO-1 overlay will ensure that the development that occurs at this interchange will be of high-quality design, encouraging economic development opportunities in the future that place the same value on quality.

Establish Strong City Brand

This interchange is a highly visible location to residents and visitors alike, and the City understands its importance to the community. The GDO-1 overlay will ensure high quality design at this important interchange.

Attachments:

1. Ordinance 22-OZ-32

2. Maps of the area
3. Planning Commission staff comments from 08/03/2022 meeting
4. Planning Commission minutes from 08/03/2022 meeting

MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
AUGUST 3, 2022
PROJECT PLANNER: MARINA RUSH

4.b. Zoning application [2022-415] for approximately 89.2 acres located along Veterans Parkway, Blackman Road, and Lyle McDonald Court to be zoned GDO-1 (in addition to the existing CH and CF zoning), City of Murfreesboro Administration Department applicant.

The applicant is the City of Murfreesboro Administration Department requesting to zone several parcels located along the east side of Veterans Parkway, west side of Blackman Road, and south side of Lyle McDonald Court to Gateway Design Overlay-1 (GDO-1) district. The existing base zoning districts of Commercial Highway (CH) and Commercial Fringe (CF) will not change or be affected by this request. The property tax map numbers are:

- Tax Map 78, Parcel 52.00 (82 acres owned by Vanderbilt University Medical Center;
- Tax Map 78, Parcel 52.01 (3.7 acres owned by Donald McDonald); and
- Tax Map 78J, Group A, Parcels 01.00-07.00 (3.5 acres owned by Donald McDonald)

Located at the interchange of Veterans Parkway and SR 840, the purpose of the rezoning to add the GDO-1 overlay is to ensure any future development on these properties will be subject to high quality site and building design and to regulate the uses that can be established there. This rezoning will encompass development standards that will be representative of this gateway into Murfreesboro, including architecture, landscaping, streetscape, and other design elements. Similarly, the Westlawn PUD development, west of the subject property, meets GDO design and uses, and several parcels north of SR 840 were rezoned to have GDO-1 in 2021.

Adjacent Zoning and Land Uses

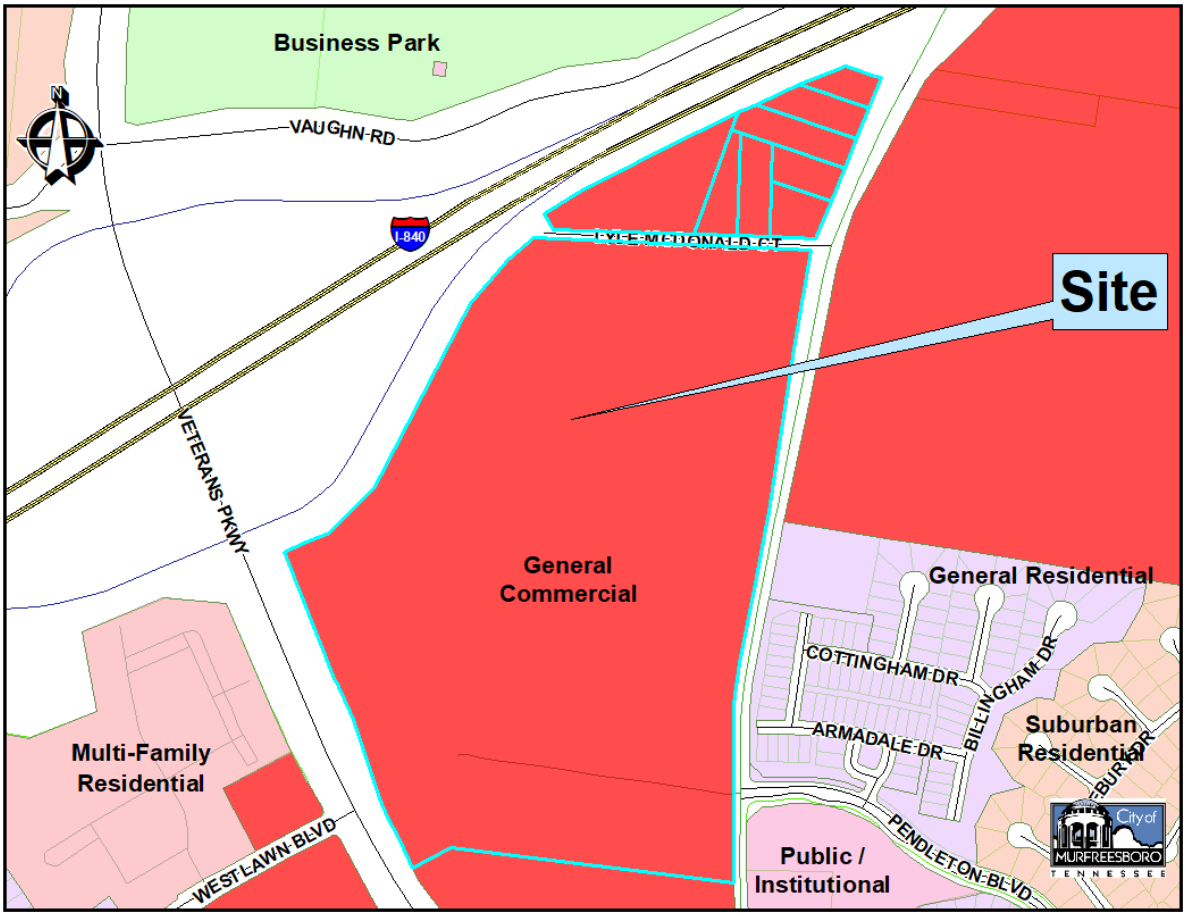
The adjacent properties located to the north and northeast are zoned CH, properties to the southeast are zoned PRD, properties to the south are zoned PUD and PCD, and west of Veterans Parkway are zoned PUD. The adjacent land uses are single-family residences to the east, including the Berkshire Subdivision, and larger, mostly-undeveloped tracts. The commercial portion of the Berkshire development, which at this time only contains a daycare center, is along the east side of Blackman Road. The Westlawn PUD, along both sides of Veterans Parkway contains highway commercial uses and medical uses, as well as an apartment complex and a single-family residential subdivision on the west side of Veterans Parkway. I-840 is located directly northwest of the study area.

In anticipation of future development and employment opportunities at the interchange of Veterans Parkway and I-840 and the desire of the City for that development to be of high quality, several parcels north of I-840 along Veterans Parkway were zoned GDO-1 in 2021. In addition, the Westlawn PUD which is located on both sides of Veterans Parkway south of I-840 is required to comply with the Gateway Design Overlay development standards as a part of its PUD.

Future Land Use Map

The current adopted Murfreesboro 2035 Comprehensive Plan future land use map (FLUM), which was approved in 2017, designates the subject property as "Auto-Urban (General) Commercial" as the most appropriate land use character for the project area. Auto-Urban (General) Commercial character is typically high intensity commercial businesses with a large amount of land area for operations, and is typically developed with strip commercial, commercial centers, auto-focused commercial uses, restaurants, etc. and requires a significant amount of land area due primarily to providing parking onsite.

Murfreesboro 2035 Comprehensive Plan Future Land Use Map (excerpt)

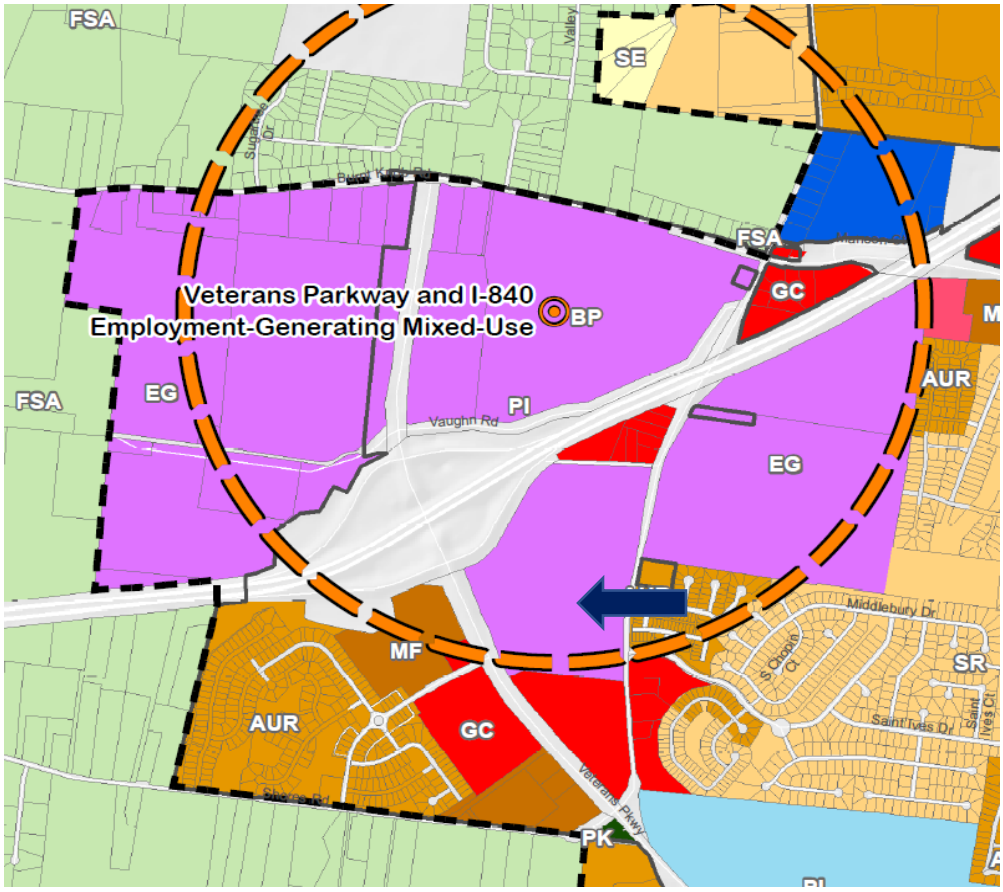


In addition, the proposed Murfreesboro 2035 Comprehensive Plan - Future Land Use Map (FLUM) (excerpt of map below) indicates that Employment Generating (EG) is the most appropriate land use character for the 82-acre property owned by Vanderbilt. It continues to identify General Commercial as the most appropriate land use character for all of the smaller parcels owned by Donald McDonald. EG is a new land use category within the proposed update, and its characteristics include:

- Create and foster employment generating uses such as, office-oriented jobs including headquarters, regional operations centers, research, and development, medical, sports tourism, digital arts, tech-based innovation, and other types that would be reasonably considered professional, technical, and innovative.
- Master planning sites to provide a plan that will encourage flexibility and creativity in the design and development.
- Job creation must be in place prior to the development of residential.

It is staff's opinion that the proposed zoning request is consistent with both the current General Commercial FLUM land use designation and the proposed FLUM update with the new land use designation of Employment Generating, as the GDO-1 zone will encourage high quality commercial and employment generating land uses.

Proposed Murfreesboro 2035 Comprehensive Plan - Future Land Use Map (excerpt)



Recommendation:

Staff is supportive of this rezoning request for the following reasons:

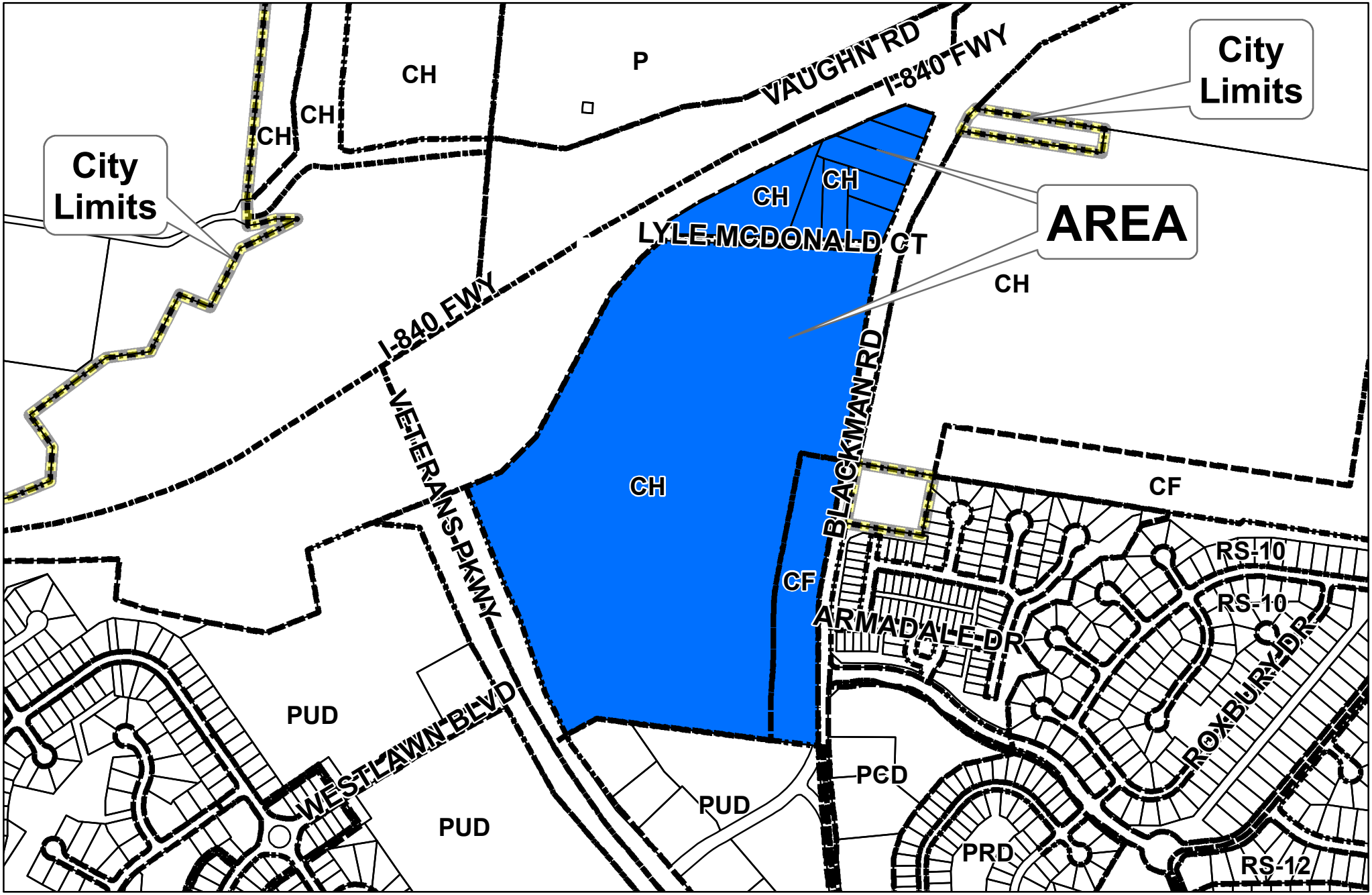
1) The GDO-1 zoning promotes the types of land uses proposed in the Future Land Use Map's recommended land use character designations of General Commercial and Employment Generating.

2) GDO-1 zoning will ensure high quality design and site planning for the property and help regulate the uses that can be established.

3) GDO-1 zoning is consistent with existing zoning at this interchange, with the Westlawn PUD being required to comply with GDO design standards and with several parcels north of I-840 having been zoned GDO-1 in 2021.

Action needed

The Planning Commission will need to conduct a public hearing and then discuss this matter, after which it will need to formulate a recommendation to the City Council.



City of MURFREESBORO TENNESSEE

Zoning Request for Property along Veterans Parkway and Blackman Road
Add GDO-1 to Property Zoned CH and CF

1,250 625 0 1,250 Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

City of MURFREESBORO TENNESSEE

Zoning Request for Property along Veterans Parkway and Blackman Road
Add GDO-1 to Property Zoned CH and CF

1,250 625 0 1,250 Feet

Planning Department
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111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

City of Murfreesboro
Planning and Engineering Department
111 W. Vine Street, P.O. Box 1139
Murfreesboro, TN 37133-1139
(615) 893-6441 Fax (615) 849-2606
www.murfreesborotn.gov

Creating a better quality of life

Zoning & Rezoning Applications – other than rezoning to planned unit development	**$700.00**
Zoning & Rezoning Applications – Planned Unit Development, initial or amended	**$950.00**

Procedure for applicant:
The applicant must submit the following information to initiate a rezoning:

1. **A completed rezoning application (below).**
2. **A plot plan, property tax map, survey, and/or a legal description of the property proposed for rezoning. (Please attach to application.)**
3. **A non-refundable application fee (prices listed above).**

For assistance or questions, please contact a planner at 615-893-6441.

To be completed by applicant:

APPLICANT: City of Murfreesboro Administration Dept.

Address: 111 W. Vine St. City/State/Zip: Murfreesboro, TN 37130

Phone: 615-893-6441 E-mail address: shuddleston@murfreesborotn.gov

PROPERTY OWNER: Vanderbilt, Donald McDonald

Street Address or property description: Along Veterans PKwy, Blackman Rd, & Lyle McDonald Court

and/or Tax map #: 78J Group: A Parcel (s): 1.00 - 7.00 and 078/52.00 & 52.01

Existing zoning classification: CH & CF

Proposed zoning classification: CH, CF, & GDO-1 Acreage: 89.2 (approx.)

Contact name & phone number for publication and notifications to the public (if different from the applicant): Sam Huddleston, Executive Director Dev't Services

E-mail: shuddleston@murfreesborotn.gov

APPLICANT'S SIGNATURE (required): Sam Huddleston

DATE: 6/24/2022

*******For Office Use Only**********

Date received: **MPC YR.:** **MPC #:**

Amount paid: **Receipt #:**

Revised 7/20/2018

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ORDINANCE 22-OZ-32 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 zone approximately 89.2 acres located along Veterans Parkway, Blackman Road, and Lyle McDonald Court as Gateway Design Overlay-One (GDO-1), in addition to the existing CH and CF zoning; City of Murfreesboro Administration, applicant, [2022-415].

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 area depicted on the attached map shall be zoned and approved as Gateway Design Overlay-One (GDO-1), in addition to the existing CH and CF zoning, 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 area 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 area.

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:

_____
Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST:

_____
Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
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Adam F. Tucker
City Attorney

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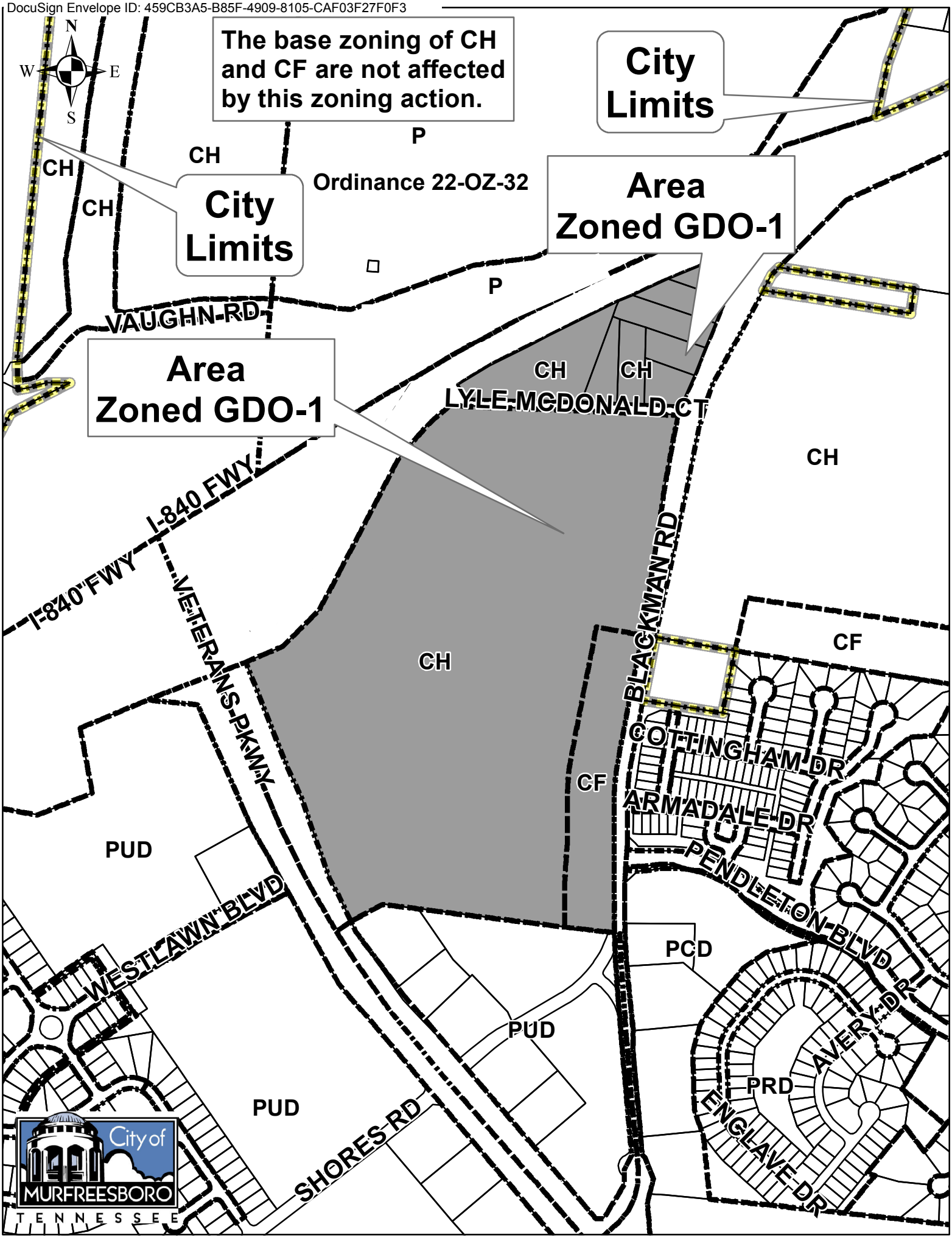


COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title:	Zoning property along Medical Center Parkway and West College Street [Public Hearing Required]
Department:	Planning
Presented by:	Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Zone approximately 51.9 acres located along Medical Center Parkway and West College Street.

Staff Recommendation

Conduct a public hearing and enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the rezoning.

Background Information

The Administration Department presented a zoning application [2022-419] for approximately 51.9 acres located along Medical Center Parkway and West College Street to remove the GDO-3 (Gateway Design Overlay District 3) zoning. This request will not affect the existing MU (Mixed Use District) and P (Park District) base zoning. During its regular meeting on August 3, 2022, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

Council Priorities Served

Expand Infrastructure

The subject properties are all City-owned and have limited development potential, due to the presence of the floodplain/floodway and a closed landfill. If the City were to move forward with constructing public facilities on these properties, the removal of the GDO-3 zoning will eliminate additional design standards and make it easier for the City to construct such facilities for public use.

Attachments:

1. Ordinance 22-OZ-33
2. Maps of the area and other miscellaneous exhibits
3. Planning Commission staff comments from 08/03/2022 meeting
4. Planning Commission minutes from 08/03/2022 meeting

MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
AUGUST 3, 2022

PRINICIPAL PLANNER: MARGARET ANN GREEN

4.d. Zoning application [2022-419] to remove the GDO-3 zoning on approximately 51.9 acres located along Medical Center Parkway (approximately 24.6 acres) and West College Street (approximately 27.3 acres), City of Murfreesboro Administration Department applicant.

The subject properties are located along Medical Center Parkway and West College Street. (Tax Map 91H A 002.03, 91H A 003.01, 91H B 005.01, 91 003.00, 91 009.00, and 91H A 003.00). The subject area consists of six parcels and is zoned MU (Mixed Use District) and GDO-3 (Gateway Design Overlay District). The six parcels are owned by the City of Murfreesboro and the application is being made by the volition of the City's Administration Department.

Zoning and Land Use

The subject property is vacant, undeveloped land. The subject area is mostly surrounded with developed, class A office space, medical facilities, commercial and retail uses. The City's greenway and Gateway Island are adjacent to the properties.

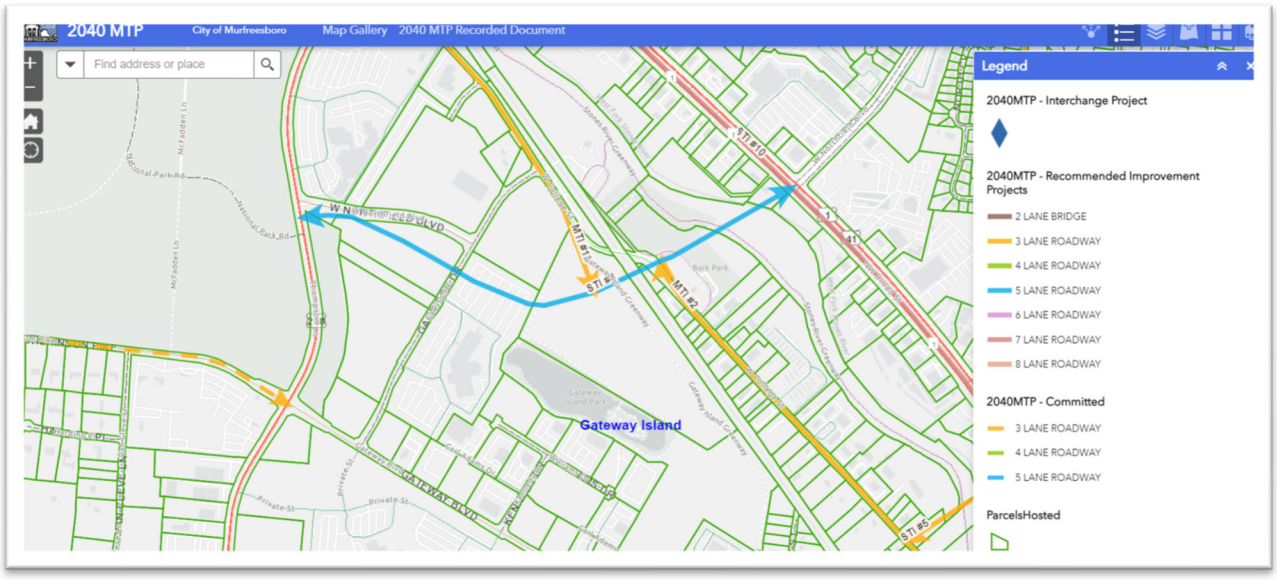
Some of the properties along Medical Center Parkway are located within FEMA's floodway/floodplain as identified on the FIRM maps. The areas designed as floodplain may be developed with non-residential construction so long as the structures meet the floodproofing requirements. The area designated as floodway may be a hazardous area due to the velocity of floodwaters, debris, or erosion potential and must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions apply:

1. Development may be permitted if it is demonstrated through hydrologic and hydraulic analyses that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge.
2. Or if a community revises the floodway with a conditional letter of map revision (CLOMR)

The property along West College Street is the site of a closed Municipal Solid Waste Landfill. This property is bounded by CSX railroad along the northeast the City's Gateway Island pond to the southwest, Medical Office building and class A office to the northeast and southeast. The City's greenway circulates around the property and a future 5-lane major arterial will bisect the property.

Public Rights-of-way/ Transportation network

The subject area has access to Medical Center Parkway (major arterial), Warren Street (local street) and West College Street (major arterial). West College Street is on the Major Transportation Plan with (MTI#2, MTI #13) and the West Northfield Boulevard extension crosses this property with a bridge (STI #4).



Mixed Use District

The Mixed-Use district permits various types of commercial, office and institutional uses and incorporates multi-family. When the MU district was created in 2013, the Ordinance stated that MU is intended only for lands located within a GDO district or within other overlay districts with a similar purpose and intent. This restriction created an intrinsic mechanism to ensure high-quality development on a well-organized site that prohibited objectionable or offensive uses.

> **"The purpose of the MU, Mixed Use District, is to provide a zoning category that allows a mixture of land uses both vertical and horizontal including commercial and institutional uses. It is intended that the MU district be allowed only for lands located within a GDO overlay district or within other overlay districts with a similar purpose and intent."**

As the subject properties are zoned MU; the Planning Commission should discuss any opportunities that might be created with the removal of the GDO-3.

Overview of the GDO Zoning

The Gateway Design Overlay District (GDO) district created over 17 years ago has proven to create a robust and vibrant economic base, it forms a strong sense of identity

with the emphasis placed on high quality design, and the GDO was able to create the office, commercial and retail spaces that previously did not exist in Murfreesboro. The City's Administration Department believe these properties can be managed more effectively if they are not located within the GDO. Therefore, Mr. Huddleston submitted a rezone application requesting the Planning Commission and City Council consider remove the GDO-3 district.

The purpose of the Gateway Design Overlay District (GDO) regulations is to establish a framework for site planning and design to ensure development of a high quality. These regulations set standards for all development within the Gateway Design Overlay Districts including commercial, residential, institutional, industrial, and office uses. It is the intent of these regulations to establish standards that will be reflective and protective of the community amenities and historic sites along the Medical Center Parkway, Fortress Blvd., Thompson Lane, Robert Rose Drive, Wilkinson Pike, Manson Pike, and other streets in the Gateway Design Overlay District and to enhance the quality of life for the citizens of Murfreesboro and Rutherford County. It is the intent of the Gateway Design Overlay District regulations to protect and enhance the character of the land throughout the district. The purposes of the GDO shall include the following:

1. encourage high quality development as a strategy for investing in the City's future;
2. emphasize the interstate access at Medical Center Parkway/Fortress Blvd. and Interstate 24 as a major entryway into the City;
3. recognize and support the historic significance of the Stones River National Battlefield and the other related areas with historic significance and to minimize the negative impacts of development in their vicinity;
4. maintain and enhance the quality of life for Murfreesboro's citizens;
5. shape the District's appearance, aesthetic quality, and spatial form;
6. reinforce the civic pride of citizens through appropriate development;
7. increase awareness of aesthetic, social, and economic values;
8. protect and enhance property values;
9. minimize negative impacts of development on the natural environment;
10. provide property owners, developers, architects, engineers, builders, business owners, and others with a clear and equitable set of regulations for developing land;
11. enhance the City's sense of place and contribute to the sustainability and lasting value of the City; and,
12. shape and develop the District in a manner that is beneficial to the district and to the entire City.

GDO-3 Height Restrictions

The maximum building height for uses in the GDO-3 district is based on use. If the GDO-3 is removed, then the maximum building height for the base zone will become applicable. The MU district permits a maximum height of 75-feet for apartments and all other permitted uses are 150-feet.

GDO-3 Height regulations

Office	150
Other Commercial	75
Hotel	150
Hospital	150
Multiple Family residential	75

GDO Prohibited Uses

Existing single-family dwellings used for single family residences are exempt from all requirements of this the Gateway Design Overlay District.

The GDO restricts incompatible or noxious uses that may otherwise be permitted within the underlying base zones. The Planning Commission should consider the uses that are currently prohibited on these properties and determine if it is appropriate to allow them. Chart 1, which lists the uses permitted within the MU District is included with this staff report.

These temporary outdoor uses of land are prohibited:

- Carnivals
- circuses
- fireworks sales
- Christmas tree sales
- Tents are be permitted however a tent shall not be used for retail sales of merchandise.
- Outdoor display or sale of merchandise, other than motor vehicles, is prohibited.

Itinerant and/or temporary outdoor sales of retail merchandise shall be prohibited, including but not limited to the following:

a) sale of vacuum cleaners, fans and other appliances;

b) sale of rugs, carpets, toys, T-shirts, license plates, velvet paintings and artwork;

c) sale of landscaping materials not grown on-site;

d) sale of vegetables and produce not grown on-site;

e) sale of souvenirs and mementos;

f) sale of tropical plants, potted plants, and bouquets of flowers;

g) sale of stone, clay, glass, or concrete figurines;

h) sale of chairs, sofas, tables, or other furniture; and,

i) sale of food and beverages.

Below is a list of uses that are currently prohibited in all areas within the GDO district. The 33 additional uses prohibited within the GDO-3 are also listed

GDO prohibited uses

OTHER HOUSING

- Fraternity/Sorority
- Mobile Homes
- Family Crisis Shelter
- Family Violence Shelter
- Student Dormitory
- Transitional Home
- Mission

INSTITUTIONS

- Airport/Heliport
- Cemetery
- Pet Cemetery

GDO-3 additional prohibited uses:

INSTITUTIONS

- Nursery School

GDO prohibited Uses

COMMERCIAL:

- Adult Cabaret
- Adult Entertainment Center
- Adult Motel
- Adults-only Book Store
- Adults-only Motion Picture Theater
- Amusements, Commercial Outdoor Motorized
- Amusements, Commercial Outdoor Motorized Except Carnivals
- Packaged Beer
- Carnivals
- Communications Tower
- Contractor's Storage Yard
- Contractor's Yard or Storage Outdoors
- Crematory
- Drive-in Theater
- Ice Retail
- Kennels
- Laundries, Self Service
- Livestock Auction
- Lumber, Building Material
- Manufactured Home Sales
- Massage Parlor
- Mobile Home Sales
- Pawn Shop
- Pet Crematory

- ❖ Pet Funeral Home
- ❖ Rap Parlor
- ❖ Salvage & Surplus Merchandise
- ❖ Sauna
- ❖ Tattoo Parlor
- ❖ Tavern
- ❖ Taxidermy Studio
- ❖ Wrecker Service
- ❖ Wrecker Service Storage Yard

GDO-3 *additional* prohibited Uses:

COMMERCIAL

- ➢ Amusements, Commercial Indoor
- ➢ Amusements, Commercial Outdoor Excluding Motorized
- ➢ Animal Grooming Facility
- ➢ Automotive Repair
- ➢ Barber or Beauty Shop
- ➢ Packaged Beer
- ➢ Convenience Sales and Service, Maximum 5,000 Ft^2 Floor Area
- ➢ Funeral Home
- ➢ Garden and Lawn Supplies
- ➢ Gas—Liquified Petroleum, Bottled and Bulk
- ➢ Gas Station
- ➢ General Service and Repair Shop
- ➢ Glass—Auto, Plate, and Window
- ➢ Glass—Stained and Leaded
- ➢ Greenhouse or Nursery
- ➢ Ice Retail
- ➢ Janitorial Service
- ➢ Karate, Instruction
- ➢ Keys, Locksmith
- ➢ Laundries, Self Service
- ➢ Liquor Store
- ➢ Motor Vehicle Sales
- ➢ Motor Vehicle Service
- ➢ Music or Dance Academy
- ➢ Optical Dispensaries
- ➢ Veterinary Clinic

- Veterinary Hospital
- Vehicle Sales
- Vehicle Wash
- Video Rental

GDO prohibited Uses:

INDUSTRIAL

- Animal or Poultry Slaughter, Stockyards, Rendering
- Automobile Dismantlers and Recyclers
- Mobile Home Construction
- Paper Mills
- Petroleum and Coal Products Refining
- Primary Metals Distribution and Storage
- Saw Mills
- Scrap Processing Yard
- Scrap Metal Processors
- Scrap Metal Distribution and Storage
- Secondary Material Dealers
- Stone, Clay, Glass, and Concrete Products and Storage

GDO-3 *additional* prohibited uses:

- Indoor Contractors Storage
- Printing and Publishing

GDO prohibited Uses:

TRANSPORTATION AND PUBLIC UTILITIES

- Garbage or Refuse Collection Service
- Refuse Processing Treatment and Storage
- Landfill
- Railroad Switching Yard, Terminal, Piggyback Yard
- Taxicab Dispatching Station
- Truck or Motor Freight Terminal, Service Facility

OTHER

- Metal, Sand, Stone, Gravel, Clay, Mining and Related Processing
- Temporary Mobile Recycling Center

Design Review Process

The Murfreesboro Gateway Commission is a body of five members appointed by the Mayor and City Council for the purpose of evaluating proposals for gateway property and making informed recommendations to the council about the sale, lease, gift, or other use of Murfreesboro Gateway property, which recommendations shall then be accepted or rejected in their totality by the City Council.

Currently the Murfreesboro Gateway Property Owners' Association, Inc. utilizes the Development Review Committee (DRC) to meet with Gateway developers and review their plans for approval or disapproval. The DRC is part of a Tennessee not-for-profit corporation, a mutual benefit membership corporation. The members are the property owners in the Murfreesboro Gateway. The corporation is governed by a 5-member Board of Directors appointed by the City Council; however, neither the corporation nor this committee is a governmental entity. The DRC is not a substitute for City planning approval of documents or for zoning of the property, however one of the roles of the DRC was to provide consistency between the DRC and City. The standard of the Gateway property is higher than what the City requires, and each phase of a plan requires DRC approval before going to the City. It is unclear to Planning Staff what role the DRC may play in future development of the subject property.

The GDO design review process requires any new development adhere to the GDO process and standards. If the GDO is removed from these properties, then the *Murfreesboro Design Guidelines, Zoning Ordinance and subdivision regulations* will remain applicable.

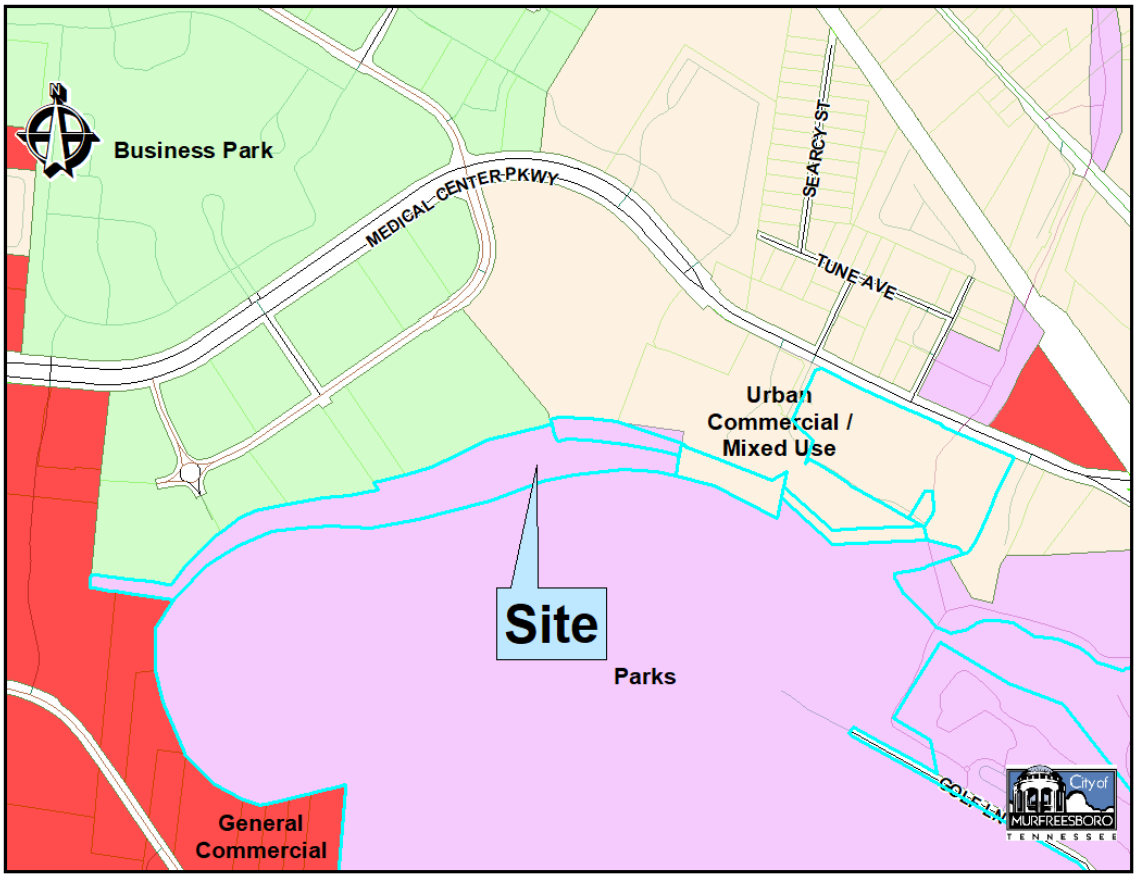
Murfreesboro 2035 Chapter 4 Land Use and the Future Land Use Map (Map 4-2)

Chapter 4 of the *Murfreesboro 2035 Comprehensive Plan* identifies various land use categories and provides descriptions of those categories. The Future Land Use map is a companion to Chapter 4 which helps identify locations for the various types of land use classifications, but it important to distinguish that it is not a "future zoning map". The Planning Commission adopted this plan and utilizes it as tool in the land-use decision making process.

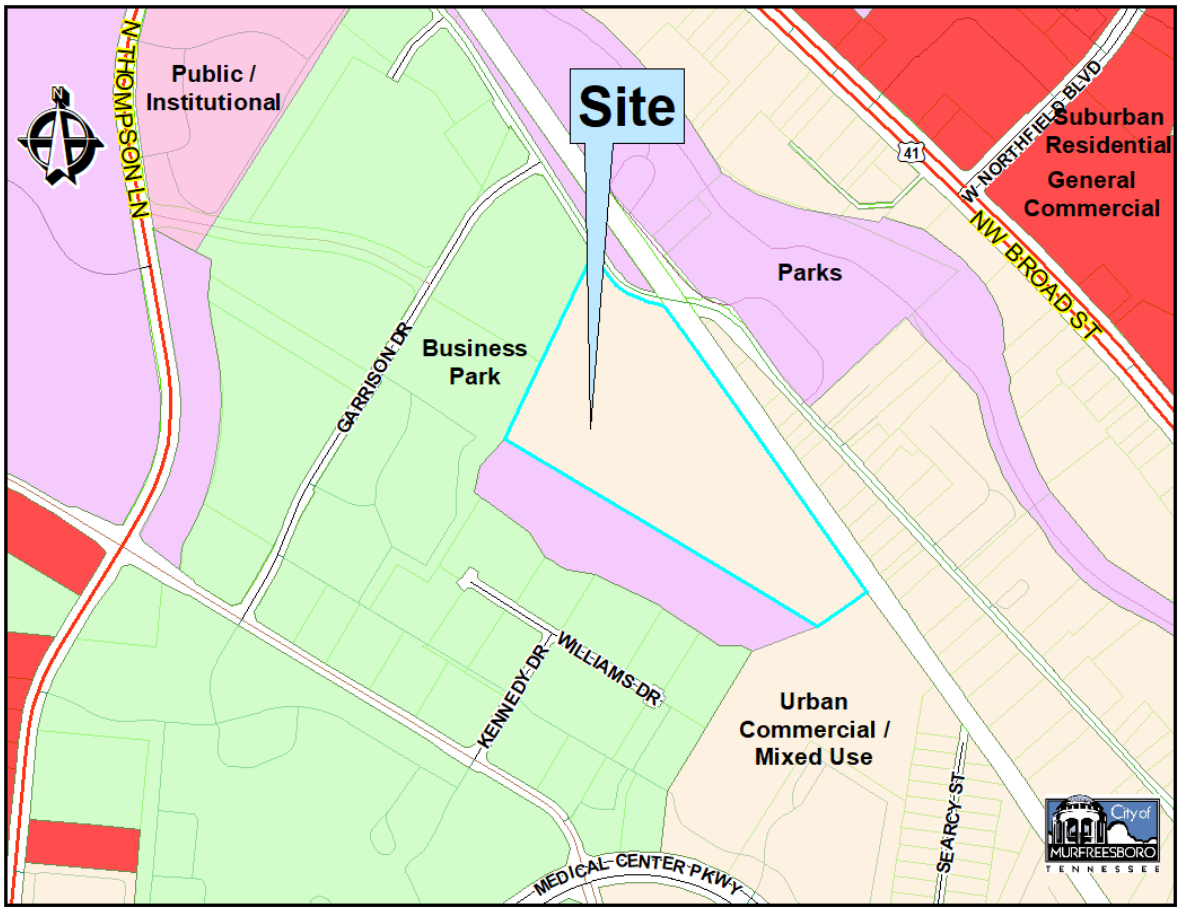
Area South of Medical Center Parkway:

The Murfreesboro 2035 ***Future Land Use Map*** indicates that "Park/Open Space and Mixed-Use Center are the most appropriate characters for the properties located south of Medical Center Parkway.

Park/ Open Space Land use includes all existing city, county, state, or national parks, outdoor recreation areas and open spaces that have been dedicated to public or community enjoyment and recreational pursuits.



Proposed Future Land Use Map 1



Proposed Future Land Use Map 2

Area South of Medical Center Parkway and along West College:

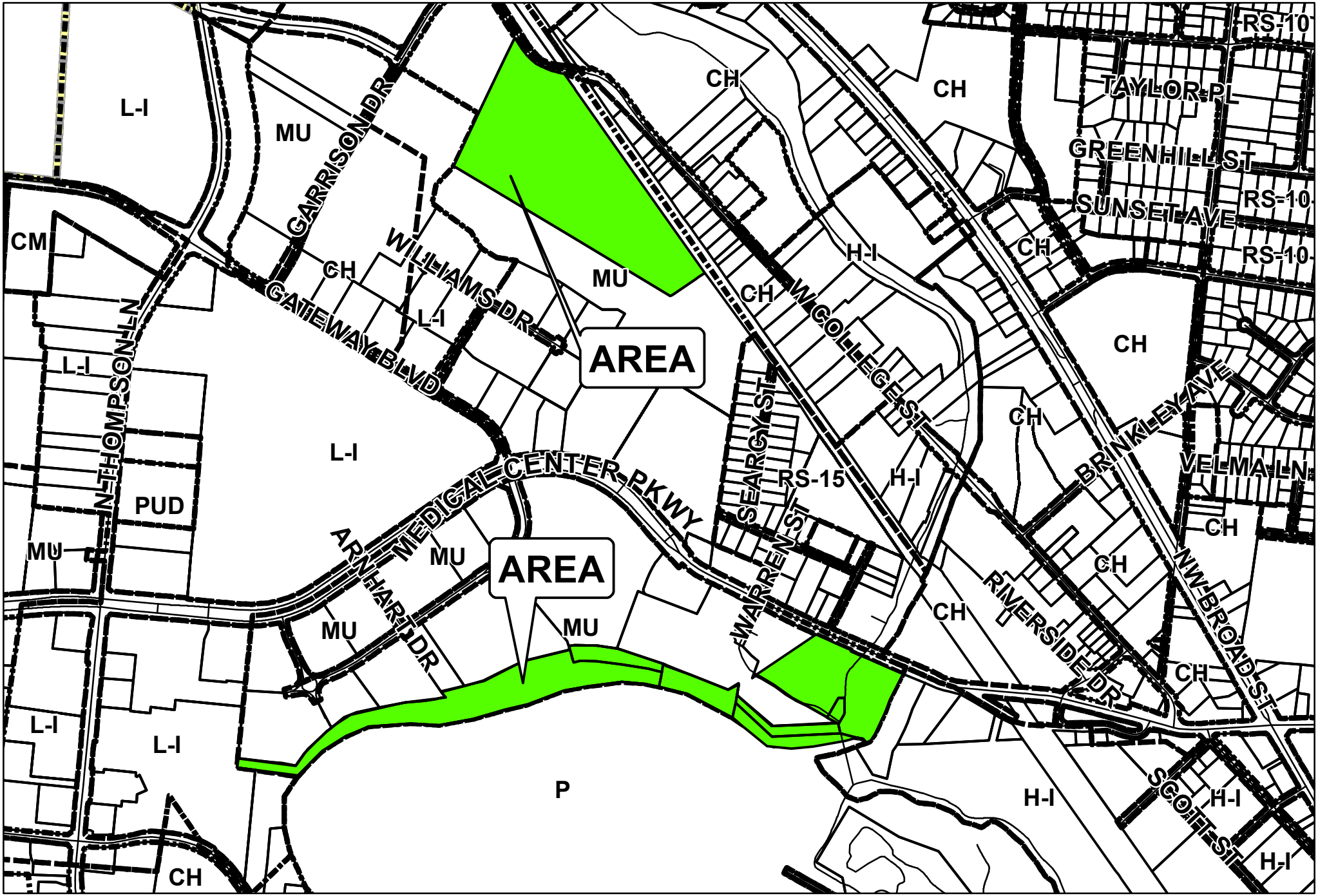
Mixed-Use Centers Provides opportunities for residential mixed with commercial, retail, and office, typically with a vertical element of multiple uses in the same building. Mixed use areas can fit along primary transportation routes, nodes of commerce adjoining key intersections or at transition points between traditional commercial areas and residential neighborhoods. Mixed-Use Centers reserve and provide employments site in the centers with an integrated mix of commercial, retail, office and residential. Mixed-Use centers have a greater concentration of housing types; the highest density is sited closest to transit stops, shopping and services, and places of employment. Mixed-Use Centers are to be master planned.

Murfreesboro's Downtown typifies what is envisioned for the density and intensity of development within the Mixed-Use land use classification. The Downtown retains the historic fabric and design of a traditional mixed-use, central business district. This urban environment is characterized by taller, larger buildings that occupy most if not all the site and are set at the street edge with parking largely on-street and in structures, with reduced common surface parking lots.

Mixed use areas shall be designed for pedestrians and connectivity to surrounding neighborhoods and places of commerce. Sidewalks are wider and pedestrian uses emphasized rather than automobile use, and buildings should be designed to fit well into the surrounding context. Mixed use areas are Master Planned to establish land use and design elements. Streets are scaled to address multiple forms of access, such as pedestrians, bicycles, and motor vehicles. Amenities may be passive recreation integrated into the master plan with an emphasis on bicycle, pedestrian, and greenway facilities.

Recommendation:

It is the City Administration Department's recommendation that these 51.9 acres of city-owned properties be removed from the Gateway Design Overlay District (GDO-3). The Planning Commission should conduct a public hearing prior to formulating a recommendation to the City Council.



City of MURFREESBORO TENNESSEE

Areas along Medical Center Parkway and West College Street to be removed from the Gateway Design Overlay District (GDO-3)

1,300 650 0 1,300 Feet

City of Murfreesboro
Planning Department
111 W. Vine St.
Murfreesborom TN 37130
www.murfreesborotn.gov

City of MURFREESBORO TENNESSEE

Areas along Medical Center Parkway and West College Street to be removed from the Gateway Design Overlay District (GDO-3)

1,300 650 0 1,300 Feet

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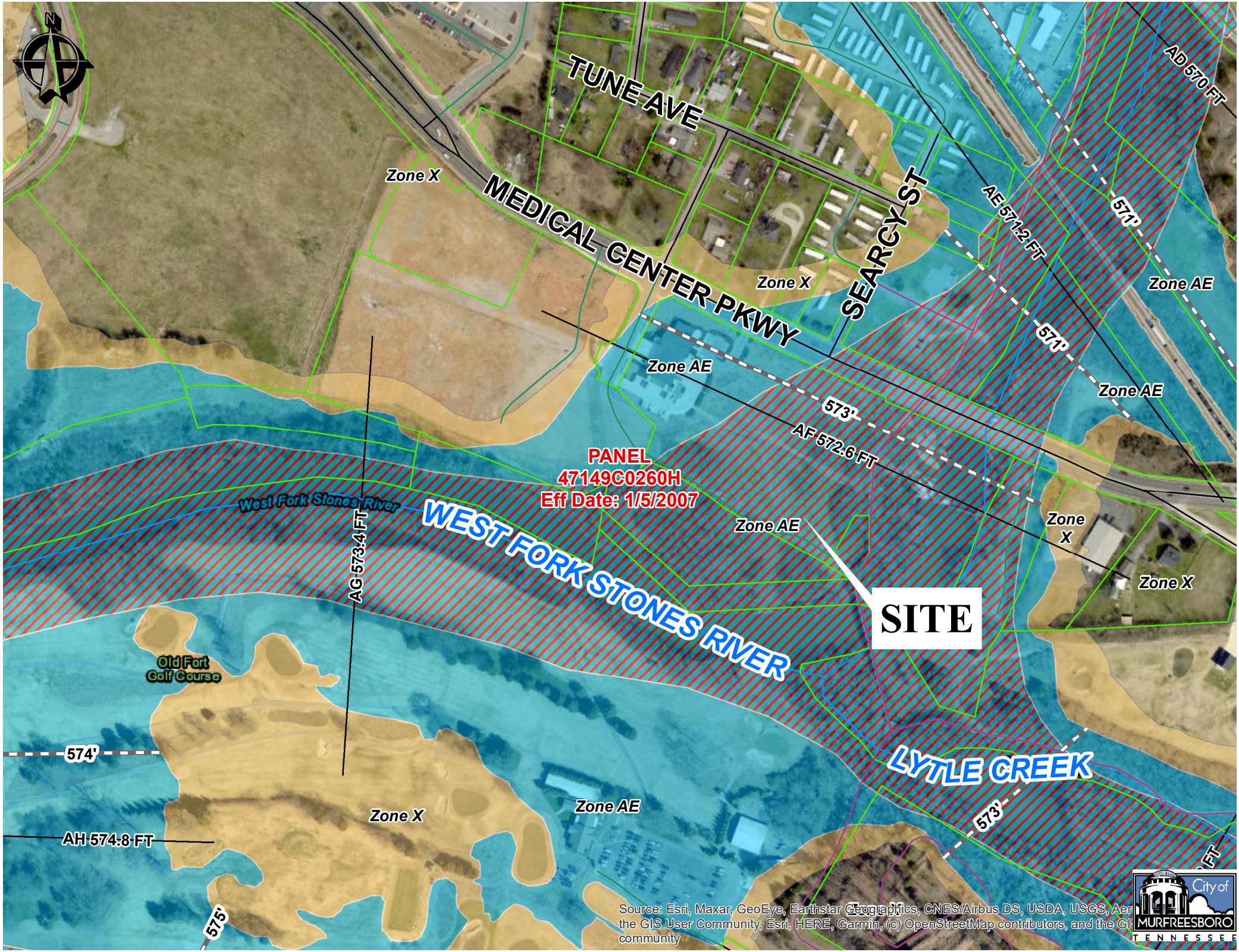
N
TUNE AVE
MEDICAL CENTER PKWY
SEARCY ST
Zone X
Zone X
Zone AE
Zone AE
Zone AE
Zone AE
AD 570 FT
AE 571.2 FT
571'
571'
573'
AF 572.6 FT
PANEL
47149C0260H
Eff Date: 1/5/2007
West Fork Stones River
WEST FORK STONES RIVER
AG 573.4 FT
Zone AE
Zone X
Zone X
SITE
Old Fort
Golf Course
574'
Zone X
Zone AE
AH 574.8 FT
575'
LYTLE CREEK
573'
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, Aer
the GIS User Community, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GI
community
City of
MURFREESBORO
TENNESSEE

N
GARRISON DR
SITE
WILLIAMS DR
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, Aer
the GIS User Community, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GI
community
City of
MURFREESBORO
TENNESSEE

City of Murfreesboro
Planning and Engineering Department
111 W. Vine Street, P.O. Box 1139
Murfreesboro, TN 37133-1139
(615) 893-6441 Fax (615) 849-2606
www.murfreesborotn.gov

Creating a better quality of life

Zoning & Rezoning Applications – other than rezoning to planned unit development	**$700.00**
Zoning & Rezoning Applications – Planned Unit Development, initial or amended	**$950.00**

Procedure for applicant:
The applicant must submit the following information to initiate a rezoning:

1. **A completed rezoning application (below).**
2. **A plot plan, property tax map, survey, and/or a legal description of the property proposed for rezoning. (Please attach to application.)**
3. **A non-refundable application fee (prices listed above).**

For assistance or questions, please contact a planner at 615-893-6441.

To be completed by applicant:

APPLICANT: City of Murfreesboro Administration Dept.

Address: 111 W. Vine St. City/State/Zip: Murfreesboro, TN 37130

Phone: 615-893-6441 E-mail address: shuddleston@murfreesborotn.gov

PROPERTY OWNER: City of Murfreesboro

Street Address or property description: Medical Center Parkway, West College St.

and/or Tax map #: 80 Group: — Parcel (s): 001.03

Existing zoning classification: GDO-3

Proposed zoning classification: Remove GDO-3 Acreage: 51.9

Also: 91H/A/003.01, 91H/A/002.03, 91H/B/005.01, 91/003.00, 91/Part of 009.00, and 91H/A/Part of 003.00

Contact name & phone number for publication and notifications to the public (if different from the applicant): Sam Huddleston, Exec. Dir. of Dev't Services

E-mail: 615-893-6441, shuddleston@murfreesborotn.gov

APPLICANT'S SIGNATURE (required): Sam Huddleston

DATE: 7/8/2022

*******For Office Use Only**********

Date received: **MPC YR.:** **MPC #:**

Amount paid: **Receipt #:**

MINUTES OF THE MURFREESBORO PLANNING COMMISSION AUGUST 3, 2022

6:00 PM **CITY HALL**

MEMBERS PRESENT
Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

STAFF PRESENT
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Joel Aguilera, Planner
Gabriel Moore, Project Engineer
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney
Sam Huddleston, Executive Dir. Dev't Services

1. Call to order.

Chair Kathy Jones called the meeting to order at 6:00 p.m.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Approve minutes of the July 13, 2022, Planning Commission meeting.

Ms. Jami Averwater moved to approve the minutes of the July 13, 2022 Planning Commission meeting; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None

Zoning application [2022-419] to remove the GDO-3 zoning on approximately 51.9 acres located along Medical Center Parkway (approximately 24.6 acres) and West College Street (approximately 27.3 acres), City of Murfreesboro Administration Department applicant. Ms. Margaret Ann Green presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Mr. Sam Huddleston came forward to provide additional information regarding the request.

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the matter; therefore, Chair Kathy Jones closed the public hearing.

There being no further discussion, Vice-Chairman Ken Halliburton moved to approve the zoning application subject to all staff comments; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell

Chase Salas

Shawn Wright

Nay: None

Street renaming [2022-901] to rename Winterberry Street (north of Paulownia Circle) to Mason David Drive, City of Murfreesboro Planning Department applicant. Mr. Matthew Blomeley presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the matter; therefore, Chair Kathy Jones closed the public hearing.

There being no further discussion, Mr. Rick Lance moved to approve the street renaming subject to all staff comments; the motion was seconded by Ms. Jami Averwater and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Jami Averwater

Rick LaLance

Warren Russell

Chase Salas

Shawn Wright

Nay: None

5. Staff Reports and Other Business:

Mr. David Ives gave an update on the annexation of the Ferrari property on Highway 99. He stated that the Rutherford County Planning and Public Works Committee considered

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ORDINANCE 22-OZ-33 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 24.6 acres along Medical Center Parkway and approximately 27.3 acres along West College Street, by removing the Gateway Design Overlay–Three (GDO-3) zoning; City of Murfreesboro Administration Department, applicant, [2022-419].

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 area depicted on the attached map shall be zoned and approved by removing Gateway Design Overlay–Three (GDO-3) zoning, 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 area 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 area.

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
43A2035E51E9401...

Adam F. Tucker
City Attorney

SEAL

Xakia 2473

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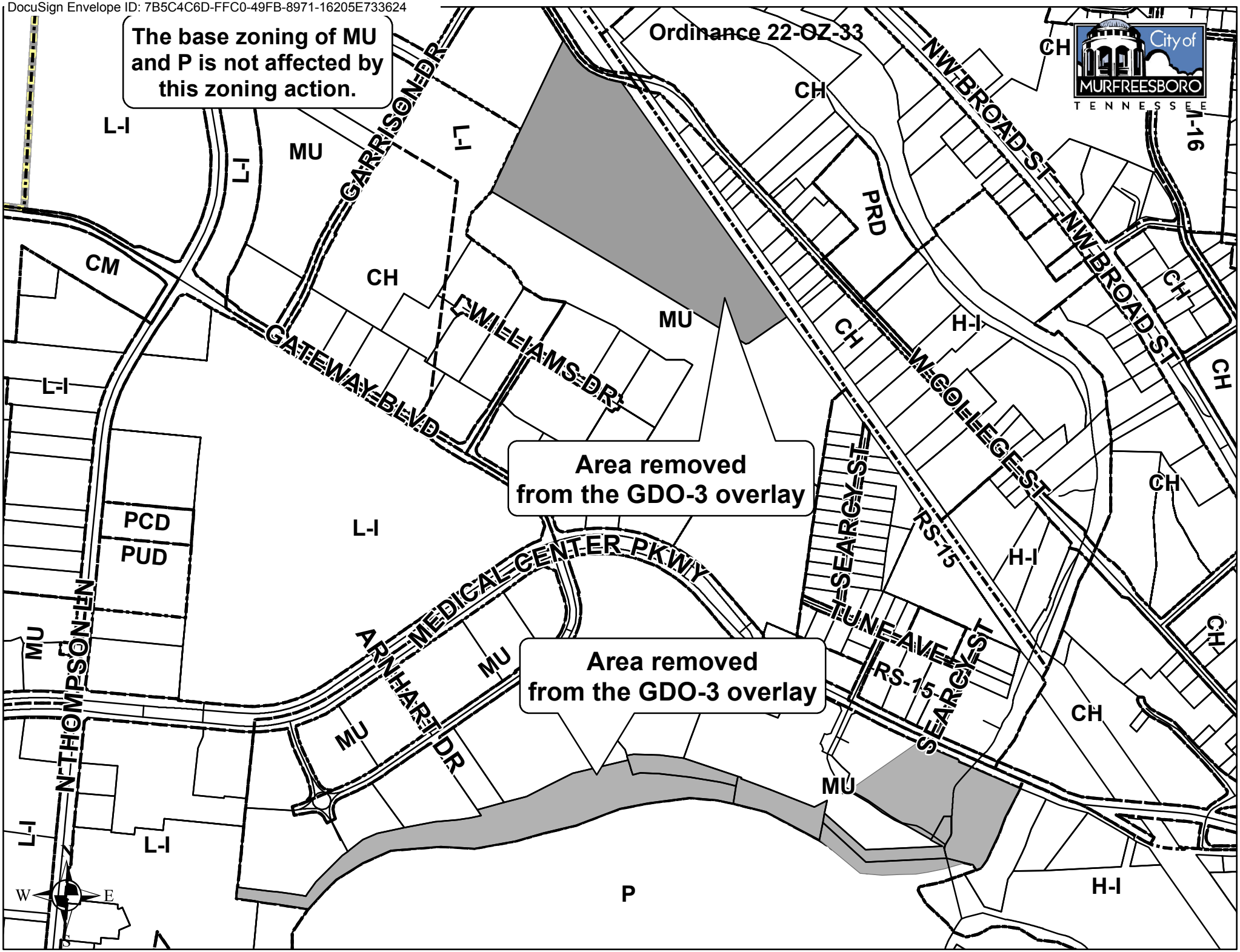


COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Amending the Zoning Ordinance
[Public Hearing Required]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☒
Resolution	☐
Motion	☐
Direction	☐
Information	☐

Summary

Ordinance amending the Zoning Ordinance regarding parking lot design.

Staff Recommendation

Conduct a public hearing and enact the ordinance amendment.

The Planning Commission recommended approval of this ordinance amendment.

Background Information

The Planning Department presented an ordinance amendment [2022-803] to amend the Zoning Ordinance as it pertains to *Chart 3: Parking Space and Aisle Design Requirements for Surface and Parking Structures*. During its regular meeting on August 3, 2022, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

Council Priorities Served

Establish Strong City Brand

The proposed amendment reinforces the City's commitment to customer service, as it seeks to modernize and improve the aforementioned chart. Staff thoroughly researched the issue to make sure that the updated chart reflected current best practices.

Attachments:

1. Ordinance 22-O-31
2. Planning Commission staff comments from 08/03/2022 meeting
3. Planning Commission minutes from 08/03/2022 meeting
4. Miscellaneous exhibits

MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
AUGUST 3, 2022

PRINCIPAL PLANNER: MARGARET ANN GREEN

4.a. Zoning Ordinance amendment [2022-804] regarding amendments to Chart 3 pertaining to parking space and aisle design requirements, City of Murfreesboro Planning Department applicant.

The City's Planning Department in conjunction with the Public Infrastructure Department have been working on proposed Zoning Ordinance Amendments regarding *Chart 3. Parking Space and Aisle Design Requirements* for surface parking lots and parking structures. The proposed amendments seek to update the design requirement for angled spaces within our community and ultimately eliminate the penalization of angle parking by requiring wider drive aisle requirements. In addition to modifying the dimension for angled spaces, the amendment clarifies that the standards apply to parking lots and parking structures.

City Staff utilized current peer reviewed parking guidelines, toured existing parking structures in Murfreesboro, Nashville and Franklin and is working with a group of community stakeholders to develop the ordinance amendment. Included with this report is a chart comparing other local municipality's regulations with Murfreesboro's design requirements. The proposed changes will not create additional non-conforming properties.

A draft of the proposed Chart 3 is included in the report for the Planning Commission's consideration. Some changes are:

- Reduce the overall module width for angled spaces.
- Remove dimensions E & G as these dimensions were redundant.
- Remove the parking space and aisle design requirements for 20-degree and 80-degree designs. According to the National Parking Association's publication *Parking Space Design; Guidelines for Parking Geometry*, angles between 75 and 90 degrees are generally not recommended because the aisle becomes wide enough that many vehicles can back out and go the wrong way in a one-way design.
- Add design requirements for 75-degree spaces.
- Clarify minimum aisle width for 2-way traffic.
- Updated the graphic to correspond with proposed amendments.

- Update the title to clarify the requirements are for surface parking and parking structures.

- Delete the rows for 8.5-foot-wide spaces and add note 1 to be consistent with Section 26 of the Zoning Ordinance. Section 26. Of the Zoning Ordinance currently states:

> *(a) The design requirements for non-accessible parking spaces and aisles located within a parking lot are set forth on Chart 3. Subject to compatibility with overall access and circulation configuration, the applicant for permits and approvals required by this section shall choose any one of the parking angles and stall widths for such spaces as are indicated on Chart 3, provided that, except in the City Core Overlay District, no more than twenty (20%) percent of the total number of on-site non-accessible parking spaces provided shall be 8.5 ft. in width. The regulations opposite such parking angle and stall widths shall apply to the development of the parking lot.*

Section 26 of the Zoning Ordinance states that, *if the existing use of a building or structure shall be changed to a new use, as measured by Chart 4, such new use shall comply with the provisions of this section; provided, however, that if the existing use is located in a building or structure existing on the effective date of this section, additional parking, queuing, or loading requirements shall be required only in the amount by which the requirements for the new use exceed the amount required for the existing use if such existing use were subject to the provisions of this section*.

Recommendation:

Staff is supportive of this rezoning request for the following reasons:

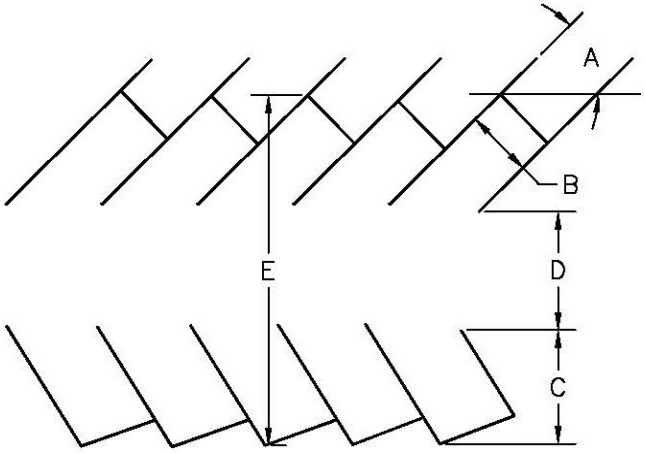
1. The Zoning Ordinance Amendment provides further clarity to angled parking in surface parking lots and in parking structures.
2. The proposed regulations are consistent with industry standards.

Staff will be available at the Planning Commission meeting to discuss the proposed amendments. The Planning Commission will need to conduct a public hearing prior to forwarding a recommendation to the City Council.

CHART 3. PARKING SPACE AND AISLE DESIGN REQUIRMENTS FOR SURFACE PARKING AND PARKING STRUCTURES

A	B [1]	C	D [2]	E
0°	9.0	9.0	11.0	29.0
30°	9.0	14.0	12.25	40.25
45°	9.0	17.25	14.5	49.0
60°	9.0	18.50	16.5	53.50
70°	9.0	18.75	18.5	56.0
75°	9.0	18.75	19.5	57.0
90°	9.0	19.0	22.0	60.0

A. Parking Angle (Degrees)
B. Stall Width
C. 19 Foot Stall to Curb
D. Aisle Width
E. Center to Center Width of Double Row with Aisle Between



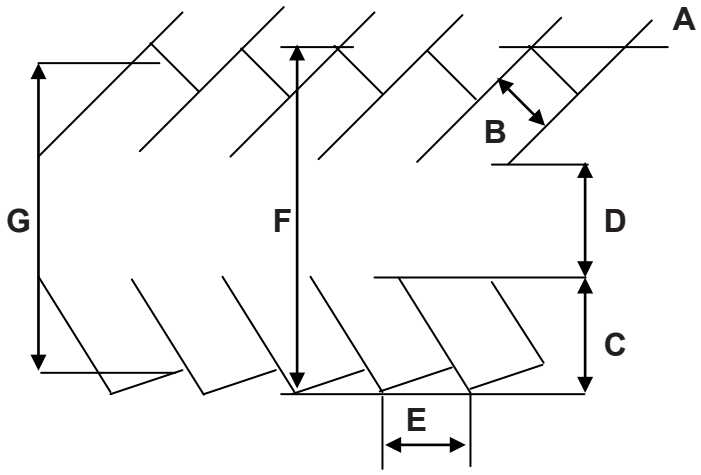
Notes:
1. A maximum 20% of the total number of on-site, non-accessible parking spaces provided may be reduced to 8.5-feet in width, except for areas otherwise exempted in Section 26.
2. Minimum aisle width (D) for two-way traffic is 22-feet.

[Ord. No. 14-O-61 &, 1, 01-15-15]

CHART 3. PARKING SPACE AND AISLE DESIGN REQUIREMENTS.

A	B	C	D	E	F	G
0	8.5	9.0	11.0	23.0	30.0	—
0	9.0	9.0	11.0	23.0	30.0	—
20	8.5	15.0	11.0	26.3	41.0	32.5
20	9.0	15.0	11.0	26.3	41.0	32.5
30	8.5	16.9	11.0	17.0	44.8	37.5
30	9.0	17.3	11.0	18.0	45.6	37.8
45	8.5	19.4	13.5	12.0	52.3	46.3
45	9.0	19.8	13.0	12.7	52.5	46.5
60	8.5	20.7	18.5	9.8	59.9	55.8
60	9.0	21.0	18.0	10.4	60.0	55.5
70	8.5	20.8	19.5	9.0	61.0	58.0
70	9.0	21.0	19.0	9.6	61.0	57.9
80	8.5	20.2	22.0	8.6	62.4	60.9
80	9.0	20.3	22.0	9.1	62.6	61.0
90	8.5	19.0	22.0	8.5	60.0	60.0
90	9.0	19.0	22.0	9.0	60.0	60.0
90	10.0	18.0	24.0	10.0	60.0	60.0

A Parking Angle (Degrees)
B. Stall Width
C. 19 Foot Stall to Curb
D. Aisle Width
E. Curb Length Per Car
F. Center to Center Width of Double Row with Aisle Between
G. Curb to Curb Stall Center



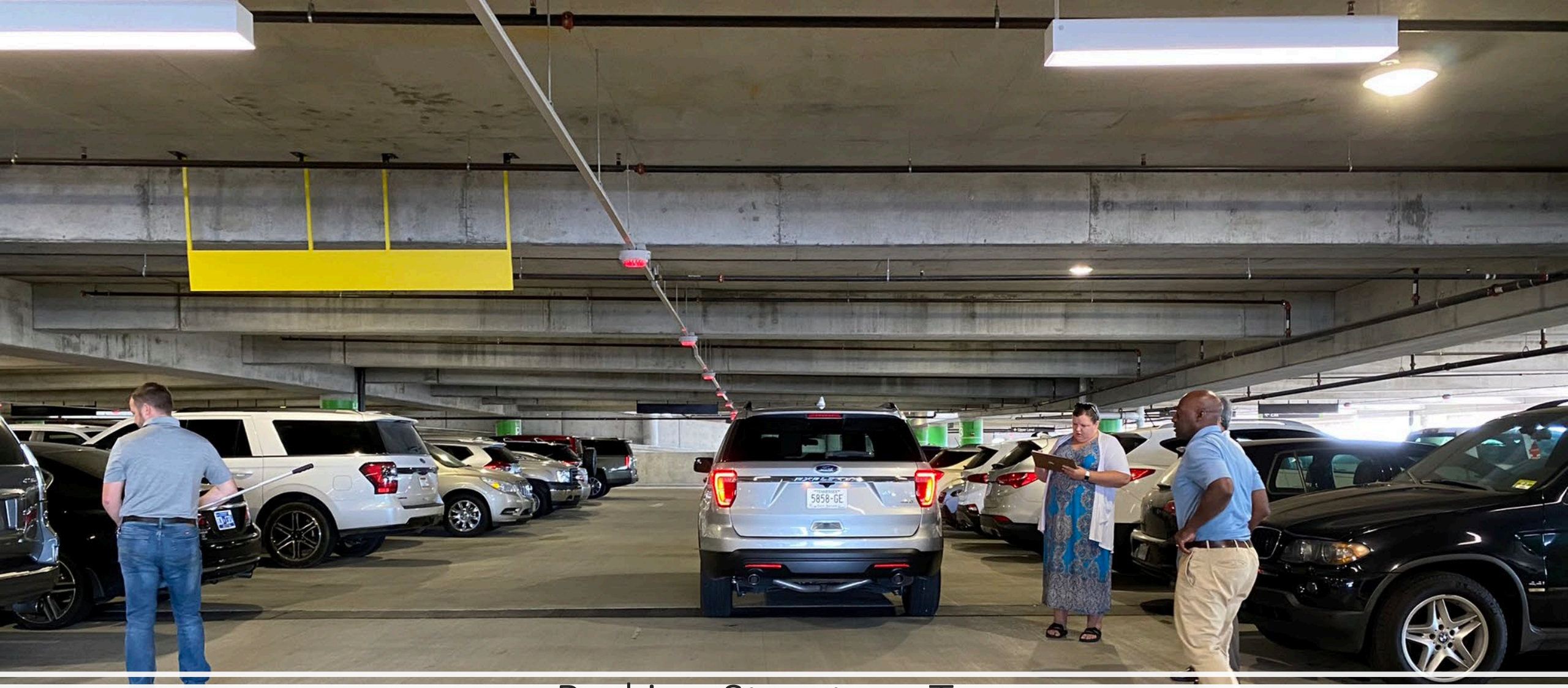
[Ord. No. 14-O-61 §1, 01-15-15]

PARKING DIMENSION COMPARISON

	Regulations					
	Murfreesboro		Nashville		Franklin	
Angle	70	90	75	90	60	90
Stall depth	21	19	19	18	20	18
Stall width	9	9	8'-6"	8'-6"	9	9
Aisle width	19	22	19	24	16-20	20-24
Module width	61	60	57	60	56-60	56-60

	Regulations					
	Chattanooga		Boise, ID Parking Structure Design Guidelines		Memphis	
Angle	75	90	75	90	75	90
Stall depth	18'-6"	18	19'-1"	18	20	20
Stall width	8'-9"	9	9'-1"	8'-9"	9	9
Aisle width	22	25	18'-10"	25	25	25
Module width	59	61	57	61	60	60

	NPA Parking Space Design Study		Walker Consultants Study (Hospital Design)	
Angle	75	90	75	90
Stall depth	18'-9"	17'-7"	17'-6"	17'-6"
Stall width	8'-6" to 9	8'-6" to 9	9	9
Aisle width	19'-6"	25'-10"	22	26
Module width	57	61	57	61



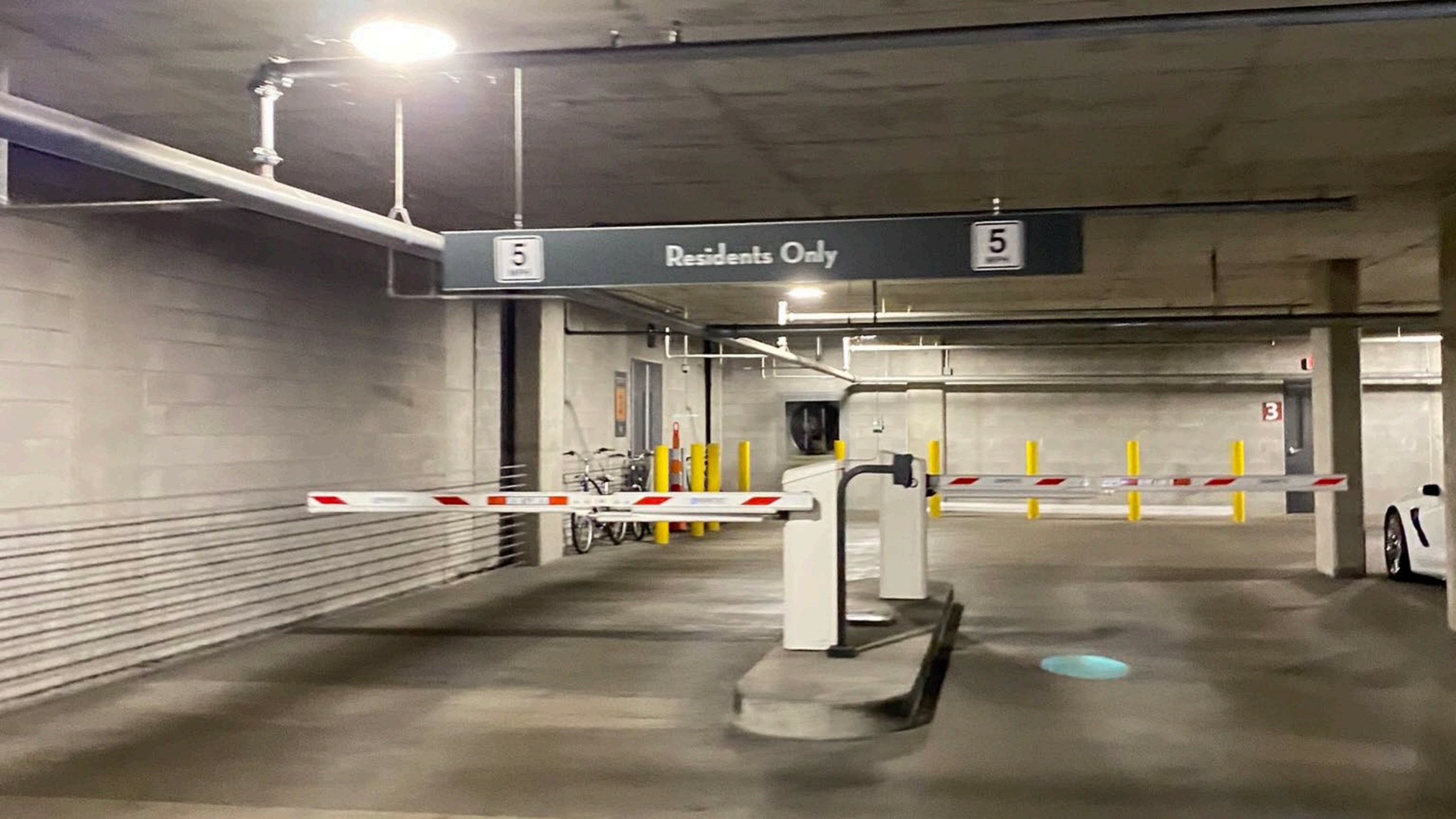
Parking Structure Tour
June 24, 2022

EXIT
LEVEL
P3
ROW
J
LEVEL
P3
Tennessee
3429
VANDERBILT

STAIR 2

STAIR 2
STAIR 2
SPEED LIMIT 5
NASHVILLE DEPARTMENT of TRANSPORTATION & MULTIMODAL INFRASTRUCTURE

EV-2
METRO ELECTRIC CHARGING STATION ONLY
ELECTRIC CHARGING STATION ONLY
ELECTRIC VEHICLE CHARGING STATION
EV-3
EV-4
METRO VEHICLE ELECTRIC CHARGING STATION ONLY


5
Residents Only
5
3

Two-Way Traffic

SPEED LIMIT
1
stair

Floor 4
Row H

MINUTES OF THE MURFREESBORO PLANNING COMMISSION AUGUST 3, 2022

6:00 PM **CITY HALL**

MEMBERS PRESENT
Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

STAFF PRESENT
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Joel Aguilera, Planner
Gabriel Moore, Project Engineer
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney
Sam Huddleston, Executive Dir. Dev't Services

1. Call to order.

Chair Kathy Jones called the meeting to order at 6:00 p.m.

2. Determination of a quorum.

Chair Kathy Jones determined that a quorum was present.

3. Approve minutes of the July 13, 2022, Planning Commission meeting.

Ms. Jami Averwater moved to approve the minutes of the July 13, 2022 Planning Commission meeting; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None

MINUTES OF THE MURFREESBORO PLANNING COMMISSION AUGUST 3, 2022

4. Public Hearings and Recommendations to City Council:

Zoning Ordinance amendment [2022-804] regarding amendments to Chart 3 pertaining to parking space and aisle design requirements, City of Murfreesboro Planning Department applicant. Mr. Gabriel Moore presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the Zoning Ordinance amendment; therefore, Chair Kathy Jones closed the public hearing.

There being no further discussion, Vice-Chairman Ken Halliburton moved to approve the Zoning Ordinance amendment subject to all staff comments; the motion was seconded by Ms. Jami Averwater and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Rick LaLance
Warren Russell
Chase Salas
Shawn Wright

Nay: None

Zoning application [2022-415] for approximately 89.2 acres located along Veterans Parkway, Blackman Road, and Lyle McDonald Court to be zoned GDO-1 (in addition to the existing CH and CF zoning), City of Murfreesboro Administration Department applicant. Ms. Marina Rush presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated

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ORDINANCE 22-O-31 amending Murfreesboro City Code Appendix A, Zoning, Chart 3, dealing with parking space and aisle design requirements, City of Murfreesboro Planning Department, applicant(s) [2022-804].

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

SECTION 1. Appendix A, Chart 3, Parking Space and Aisle Design Requirements for Surface Parking and Parking Structures, of the Murfreesboro City Code is hereby deleted in its entirety and substituted in lieu thereof with the attached Chart 3.

SECTION 2. 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
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_____
Adam F. Tucker
City Attorney

SEAL

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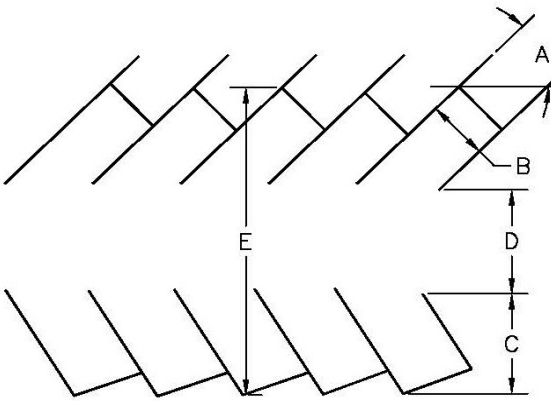
CHART 3. PARKING SPACE AND AISLE DESIGN REQUIREMENTS FOR SURFACE AND PARKING STRUCTURES

A	B [1]	C	D [2]	E
0°	9.0	9.0	11.0	29.0
30°	9.0	14.0	12.25	40.25
45°	9.0	17.25	14.5	49.0
60°	9.0	18.50	16.5	53.50
70°	9.0	18.75	18.5	56.0
75°	9.0	18.75	19.5	57.0
90°	9.0	19.0	22.0	60.0

A. Parking Angle (Degrees)
B. Stall Width
C. 19 Foot Stall to Curb
D. Aisle Width
E. Center to Center Width of Double Row with Aisle Between



Notes:
1. A maximum 20% of the total number of on-site, non-accessible parking spaces provided may be reduced to 8.5-feet in width, except for areas otherwise exempted in Section 26.
2. Minimum aisle width (D) for two-way traffic is 22-feet.

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Sewer Allocation Variance- Agripark Drive – Arden Senior Living

Department: Planning

Presented by: Brad Barbee, Planner

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

A proposed development request for additional density above the sewer allocation ordinance's zoning allowance.

Staff Recommendation

Approval of variance request for an increase above the permitted single-family unit equivalent density (sfu) of 2.5 sfu's by approximately 14.6 additional sfu's for a total density of 17.03 sfu's.

Background Information

A public inquiry has been initiated with the Planning Department for the development of a proposed independent senior living residential complex located along the east side of Agripark Drive north of Old Fort Parkway. The property is currently zoned Commercial Highway (CH), which per the ordinance only allows 2.5 sfu's/acre. The proposed development includes 166 dwelling units on 9.75 acres for a density of 17.03 dwelling units (or sfu's) per acre. This exceeds the allowable usage by approximately 14.6 sfu's per acre. According to the Murfreesboro Water Resources Department (MWRD), the sanitary sewer collection system can convey the estimated sewer flows resulting from this development and its request to vary from the density requirements associated with the proposed land use zoning as defined in City Code Chapter 33 Article V. – Sewer Capacity Allocation. Staff views the advantages of additional senior housing, job creation, and tax revenue of greater benefit than the requested additional sewer capacity. In addition, considering the lack of interest in developing this property with commercial uses and the quality of the proposed development, Staff believes that the proposed use is the highest and best use for the property.

Council Priorities Served

Improve Economic Development

This property has remained undeveloped under its current CH zoning for a number of years. This variance will enable this property to be developed in order to create jobs for the community and generate tax revenues for the City. In addition, the proposed development will provide an additional housing option for senior citizens.

Concurrence

MWRD indicates that there is sufficient capacity to serve the proposed development.

Fiscal Impact

The development will generate commercial tax rate revenue as well as pay one-time development fees.

Attachments

1. Request Letter and Exhibits from Applicant
2. Memo from MWRD

SEC, Inc.
SITE ENGINEERING CONSULTANTS
ENGINEERING • SURVEYING • LAND PLANNING

August 8, 2022

Mr. Greg McKnight
Murfreesboro Planning Department
111 West Vine St
Murfreesboro, TN 37129

RE: Arden at Murfreesboro Allocation Variance Request
Agri-Park Drive
Murfreesboro, Tennessee
SEC Project No. 22222

Dear Mr. McKnight:

Please accept this as our variance request for the proposed Arden at Murfreesboro to be located along Agri-Park Drive. The property in question is approximately 9.75 acres in size and is zoned Commercial Highway (CH). The sewer allocation ordinance allows for 2.5 sfue/acre or 650 gpd/acre sewer flow for CH property. For this property, the allocation ordinance would allow 6,338 gpd or 24.4 sfue.

Arden at Murfreesboro has proposed to construct 166 senior living units on the property for an overall density of 17.03 du/acre. The project will be deed restricted with monthly rents starting in the $1,500's. The project will have amenities specifically geared toward the senior living market such as walking trails, exercise pool, gathering places inside and out, pickle ball, fitness and wellness centers, craft room and business room.

Given this information, Arden at Murfreesboro requests a variance from the sewer allocation ordinance to grant an **additional 142 sfue** of sewer flow.

It should be noted that senior living projects are historically lower water users than regular single family homes. An analysis by SEC, Inc on the Stonebridge at 3 Rivers project resulted in an average daily usage of 98 gpd/unit based on water usage data provided by CUDRC from October 2018 – April 2020. National studies of senior living projects have also provided similar usage. Similar flows are expected for this project given the similarities in demographics and likely same or lower occupancy per dwelling unit on this project as compared to Stonebridge. Based on this average flow, the project would have a total of 62.6 SFUE.

We appreciate the opportunity to present this variance and the opportunity to create approximately bring additional tax revenue to the City of Murfreesboro through increased property taxes, as well as better serve the senior demographic, your residents, with better accessibility to this affordable yet quality project.

If you have any questions or need additional information, please contact me at 890-7901 or via email at mtaylor@sec-civil.com.

Sincerely,

Matt Taylor

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

Arden at Murfreesboro

09-15-2022

ARDEN AT MURFREESBORO

Conceptual Site Plan

Land Use Data:

Current Zoning:	Commercial Highway (CH)
Total Land Area:	±9.75 Acres
Intended Use:	55+ Active Adult Living

Proposed Units:

Main Building Units:	136 units
Cottage Units:	30 units
Density (166 units / 9.75 AC) =	17.03 Units/Ac

Parking Requirement:

Main Building Units:
1/3 Beds x 136 Beds + 1 Employee On Largest Shift x 10 Employees = 55 Spaces Required

Cottage Units:
4 Spaces/Unit x 30 Units = 120 Spaces Required

Total Required: 175 Spaces
Total Provided: 200 Spaces

Min. Lot Area = 2000 S.F./Room x 166 Units = 7.62 Acres Min.

Open Space:

Required Open Space (9.64 AC x 20%):	±1.93 AC
Provided Open Space:	±4 AC (40%)

Formal Open Space:

Required Formal Open Space (9.64 AC x 5%):	±0.48 AC
Provided Open Space:	±0.48 AC (5%)

- 136 Main Building Units
- 30 Cottage Units
- Open Space
- Proposed Pavement/Parking
- Detention Area
- Sidewalks
- Pool

SEC, Inc.
SITE ENGINEERING CONSULTANTS
ENGINEERING · SURVEYING · LAND PLANNING
LANDSCAPE ARCHITECTURE
850 MIDDLE TENNESSEE BOULEVARD MURFREESBORO, TENNESSEE 37129
PHONE: (615) 890-7901 WEB: WWW.SEC-CIVIL.COM FAX: (615) 895-2567

Concept Plan

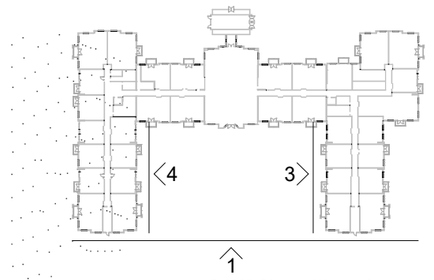
-50' 0' 50' 100'

© 2022, Maurice Walters Architect, Inc.

1 SOUTH ELEVATION
1" = 30'-0"

3 COURTYARD EAST ELEVATION
1" = 30'-0"

4 COURTYARD WEST ELEVATION
1" = 30'-0"

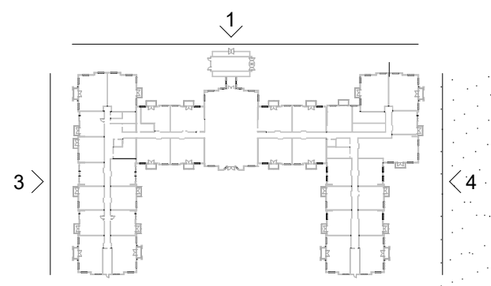


© 2022, Maurice Walters Architect, Inc.

1 NORTH ELEVATION
1" = 30'-0"

4 EAST ELEVATION
1" = 30'-0"

3 WEST ELEVATION
1" = 30'-0"



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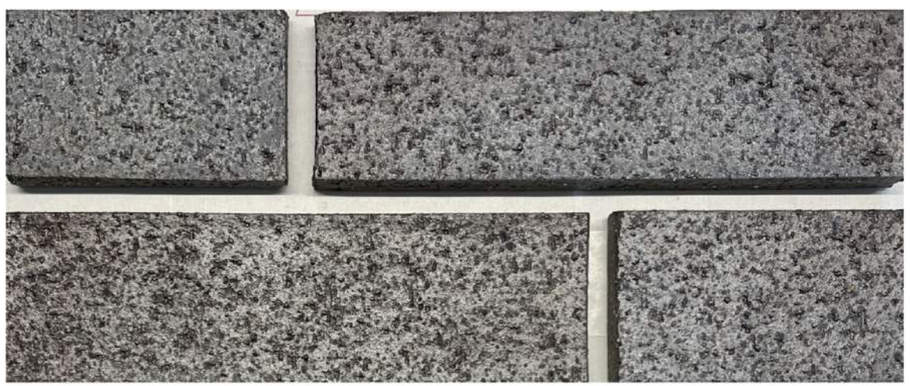
METAL ROOFING

SHINGLE ROOFING

WOOD GRAIN
FIBER CEMENT
SIDING

DARK GREY
HORIZONTAL FIBER
CEMENT SIDING

WHITE SIDING AND
VERTICAL BOARD AND
BATTEN



DARK GREY BASE BRICK

CONCEPT RENDERING

ENLARGED ELEVATION MATERIAL CALLOUT

1 1" = 20'-0"

© 2022, Maurice Walters Architect, Inc.

Arden Senior Living

Murfeesboro, Tennessee

View of Cottages at Mews

maurice walters | architect

Jun 15th, 2022

Arden Senior Living

Murfeesboro, Tennessee

View of Cottages at Mews

maurice walters | architect

Jun 15th, 2022

Arden Senior Living

Murfeesboro, Tennessee

View of Cottages Along Street

maurice walters | architect

Jun 15th, 2022

City of MURFREESBORO TENNESSEE

. . . creating a better quality of life

MEMORANDUM

DATE: September 1, 2022

TO: Greg McKnight

FROM: Darren Gore/Valerie Smith

SUBJECT: Arden Senior Living
Agripark Drive
Map 92, Parcels 33.01
Sewer Allocation Ordinance
Variance Request

Sewer System Capacity

The sanitary sewer collection system can convey the estimated sewer flows resulting from this development and its request to vary from the density requirements associated with its current land use zoning as defined in City Code Chapter 33 Article V. – Sewer Capacity Allocation.

The current request is 190% more than the multifamily maximum density allowed per the sewer allocation ordinance therefore staff recommends adhering to the Ordinance. Staff also advises variance requests to be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to any proposed development requesting a variance to the sewer allocation ordinance.

Effects within Basin by Providing Variance to Sewer Allocation

The above property is within sewer flow basin MF 06A. There are no capacity concerns within the basin that have been identified. This project will flow into an 8" sewer main along Agripark Drive and ultimately through a 10" sewer main under I-24, which has adequate capacity.

Per the most recent sewer allocation report for the collection system, Basin 06A currently has capacity for 15,815 connections. By committing sewer service to this development, staff is determining that basin 06A's sewer connection capacity will be reduced by 166 connections, resulting in 15,649 available connections for future developments. A new connection is defined as an apartment, townhome, single-family home, commercial establishment, food service establishment or retail shop. A larger more in-depth study of this isolated mini-basin north of Hwy

96 and west of I-24 is anticipated to determine the number of remaining connections if all remaining developable property is built-out per their current respective land-use/zoning.

The existing zoning for the property is Commercial Highway (CH) and per the Ordinance is allotted 2.5 sfu's/acre. The Arden Senior Living development is counted as 166 single-family units which equates to a density of 17.03 sfu's/acre (166 units/9.75 acres). This density is greater than the sewer allocation ordinance affords multifamily zoning, which sets a maximum density of 9 units per acre.

SEC's variance request asserts a 98 gallon per day usage per unit. Their information is not consistent with the Department's consistent application of 260 gallons per day usage of a single-family unit equivalent, as defined by City Code, nor is their assertion consistent with the Department's 2021 sewer allocation report. The 2021 sewer allocation report factors in wet weather infiltration/inflow into the sanitary sewer system. When applying the average number of connections in MWRD's system to the wet weather flows witnessed within the various basins, each connection contributes approximately 423 gallons per day. A connection is defined as an apartment complex, which these units would qualify as an equivalent.

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Sewer Allocation Variance- Franklin Road – Hwy 55 Restaurant

Department: Planning

Presented by: Brad Barbee, Planner

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

A proposed development request for additional density above the sewer allocation ordinance's zoning allowance.

Staff Recommendation

Approval of variance request allowing higher single-family unit equivalent density (sfu) by approximately 11.0 sfu's.

Background Information

The Planning Department has conducted a due-diligence meeting for a site plan for a new Hwy 55 restaurant to be located on the south side of Franklin Road, west of Covenant Boulevard and north of Malachite Drive. The property is currently zoned Commercial Highway (CH), which, per the ordinance, only allows 2.5 sfu's/acre. The property is 1.86 acres in size and thus is allowed only 2.49 sfu's. The anticipated usage is approximately 13.46 sfu's; therefore, the development will use more than the ordinance allows by approximately 11.0 sfu's. The sanitary sewer system can handle the increased flows for the proposed development. Staff views the advantages of job creation and sales tax revenue of greater benefit than the requested additional sewer capacity.

Council Priorities Served

Improve economic development

The development will create jobs and provide additional property and sales tax revenue.

Concurrence

MWRD concurs with the request based on sewer system capacity.

Fiscal Impact

The development will generate commercial tax rate revenue as well as pay one-time development fees.

Attachments

Miscellaneous exhibits, including request letter and memo from MWRD

Advanced Engineering Services, LLC

September 1, 2022

Greg McKnight
Planner Director
Murfreesboro Water Resources Department
220 NW Broad Street
Murfreesboro, TN 37133

RE: HWY 55 Restaurant – Sewer Allocation Variance Request
TBD Franklin Rd
Parcel 093M B 02600
Murfreesboro, Rutherford County, Tennessee

Dear Mr. McKnight,

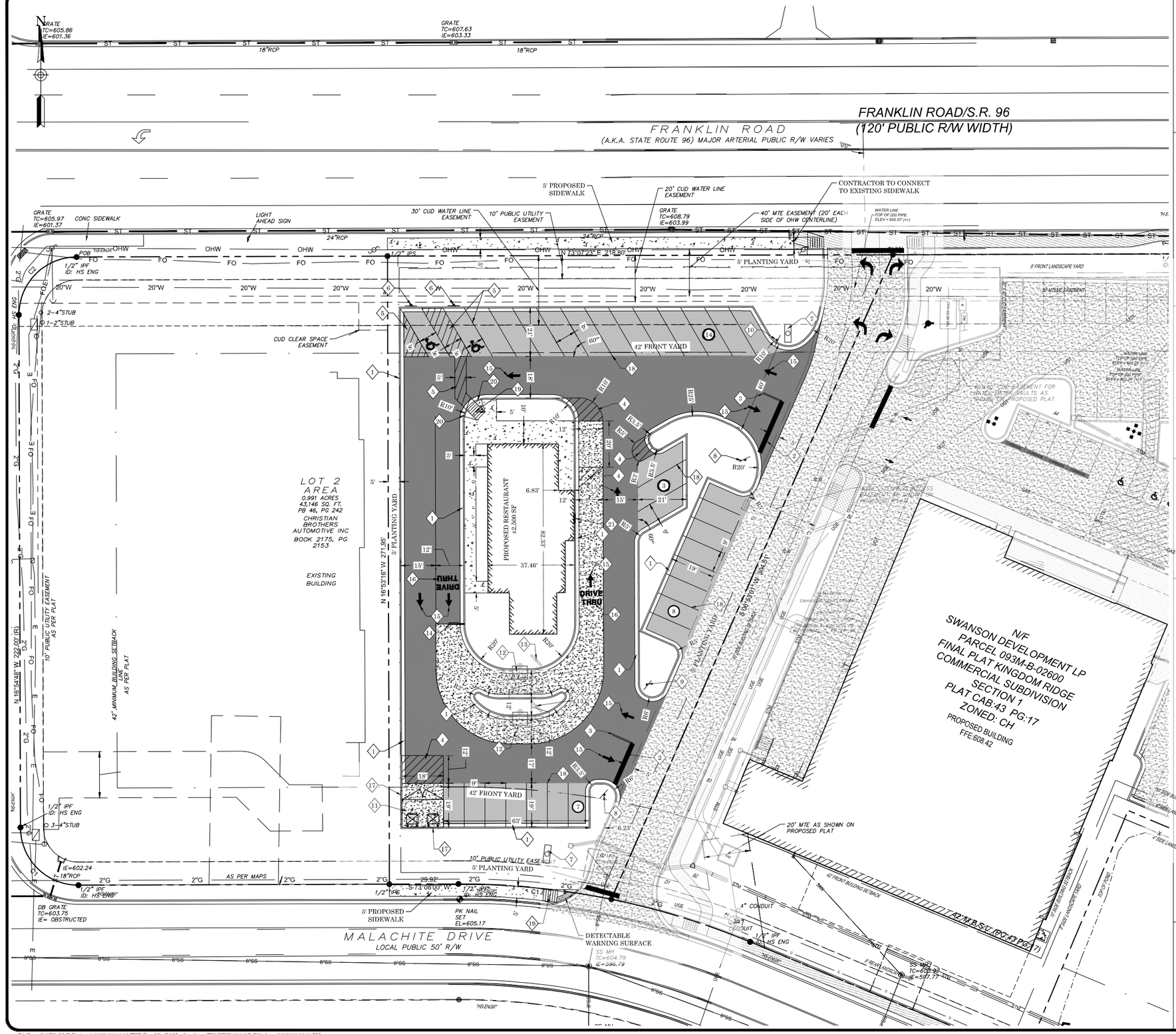
Please accept this as our variance request for sanitary sewer service to the proposed HWY 55 Burgers Shakes Fries located at parcel 093M B 02600 on Franklin Road. The property is zoned Commercial Highway (CH) and approximately .996 acres in size. This lot is currently undeveloped. The CH zoning allows for 650 gallons per day or 2.5 single family units (s.f.u.) per acre. It is estimated that the proposed fast food restaurant will generate 3,500 gallons per day or 13.46 s.f.u. per acre. We appreciate the opportunity to present this variance for your consideration.

We hope to continue with this development to bring revenue to the City of Murfreesboro, access to additional jobs, and to better serve customers and surrounding residents.

If you have any questions or need additional information, please contact us at 800-416-8136 or via email at aespermit@aesllc.us.

Sincerely,
Advanced Engineering Services, LLC

Brian H. Braun, PE
Principal Engineer



SITE INFORMATION			
PROJECT ADDRESS		TBD FRANKLIN RD, MURFREESBORO, TN 37128	
PARCEL NUMBER		093M B 02600 (±0.996 AC)	
PARCEL ZONING		CH - HIGHWAY COMMERCIAL DISTRICT	
PARCEL AREA		±0.996 ACRES	
BUILDING SETBACK		LANDSCAPE SETBACK	
FRONT	42' FROM FRONT LOT LINE	FRONT	5'
SIDE	0'	SIDE	5'
REAR	20'	REAR	5'

PARKING CALCULATIONS:

REQUIRED MINIMUM PARKING STALLS:
ONE SPACE FOR EVERY TWO SEATS PROVIDED
58 SEATS / 2 = 29 SPACES
29 SPACES

ONE SPACE FOR EACH 100 SF OF F.A.
2500 SF / 100 SF = 25 SPACES

REQUIRED SPACES = 29 SPACES

PROVIDED PARKING STALLS:
30 STANDARD SPACES & 2 HANDICAPPED SPACES
32 SPACES TOTAL

REQUIRED QUEUE SPACES:
10 10'x20' SPACES

PROVIDED QUEUE SPACES:
15 SPACES

GENERAL SITE NOTES:

1. HANDICAPPED PARKING AND ACCESSIBLE ROUTES SHALL MEET THE AMERICANS WITH DISABILITIES ACTS STANDARDS FOR ACCESSIBLE DESIGN - LATEST EDITION. SIDEWALKS SHALL NOT EXCEED 5% MAXIMUM LONGITUDINAL SLOPE AND 2% MAXIMUM CROSS SLOPE. ACCESSIBLE PARKING STALLS SHALL NOT EXCEED 2% MAXIMUM SLOPE IN ALL DIRECTIONS. ACCESSIBLE RAMPS SHALL NOT EXCEED 12H:1V GRADE.
2. ALL SIGNS AND STRIPING SHALL CONFIRM TO THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) - LATEST EDITION AND/OR DEPARTMENT OF TRANSPORTATION STANDARDS AND SPECIFICATIONS.
3. ALL DIMENSIONS ARE MEASURED TO THE FACE OF CURB (WHEN PRESENT), EDGE OF ASPHALT AND/OR EDGE OF BUILDING.
4. HORIZONTAL DATA SHOWN HEREON IS BASED ON NAD83 TENNESSEE STATE PLANE. VERTICAL DATA SHOWN HEREON IS BASED ON NAVD 88(12B).

HATCH LEGEND:

- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- HEAVY DUTY ASPHALT PAVEMENT
- HEAVY DUTY CONCRETE PAVEMENT
- EXISTING ASPHALT PAVEMENT
- EXISTING CONCRETE PAVEMENT

KEY NOTES:

1. 24" CURB & GUTTER
2. 24" WHITE STOP BAR
3. 5" DOUBLE YELLOW CENTER LINE STRIPING
4. 6" YELLOW TRAFFIC STRIPING - 18" OC @ 45°
5. 5" BLUE HANDICAPPED STALL/LOADING AREA STRIPING: PAINT
6. HANDICAPPED / VAN ACCESSIBLE SIGN (R7-8 & R7-8P: ON BOLLARD)
7. PYLON SIGN (PERMIT BY OTHERS)
8. 36" STOP SIGN (R1-1)
9. 30"x36" ONE WAY SIGN WITH RIGHT ARROW (R6-2)
10. 30"x36" ONE WAY SIGN WITH STRAIGHT ARROW (R6-2)
11. DUMPSTER ENCLOSURE
12. ORDER CANOPY
13. MENU BOARD
14. HEIGHT BAR
15. TYPE 1 PAVEMENT MARKING ARROW: WHITE PAINT
16. "DRIVE THRU" PAVEMENT MARKING: WHITE PAINT
17. 6" HEADER CURB
18. 5" YELLOW PARKING STALL STRIPING: PAINT
19. TDOT STD PERPENDICULAR CURB RAMP (HANDICAP - 12:1 MAX SLOPE)
20. CURB TAPER
21. DRIVE THRU PICKUP WINDOW

IMPERVIOUS AREA/OPEN SPACE CALCULATIONS

PROPOSED IMPERVIOUS AREA:
0.723 AC/0.996 AC * 100 = 72.6% IMPERVIOUS AREA
OPEN SPACE AREA:
0.273 AC/0.996 AC * 100 = 27.4% OPEN SPACE AREA

Tennessee 811

aes Advanced Engineering Services, LLC
ALBANY
1741 PHILEMA RD
VALDOSTA
4560-E VALNORTH DR.
WARNER ROBINS
110 ATOMMY STALNAKER DR.
(800) 416 - 8136

GOOD ENGINEERING SERVICES, LLC — CERTIFICATE OF AUTHORITY — AGRICULTURE — STATE OF TENNESSEE

BRIAN HILL BAUER — REGISTERED ENGINEER — STATE OF TENNESSEE

9/1/2022

AES PROJECT NUMBER
60043
DATE OF PLANS
9/1/2022

REVISIONS

NO.	DATE	DESCRIPTION
1	-	-
2	-	-
3	-	-
4	-	-
5	-	-
6	-	-
7	-	-
8	-	-
9	-	-
10	-	-

HWY 55 RESTAURANT

TRACK WEST PARTNERS

SITE PLAN

MURFREESBORO, RUTHERFORD COUNTY, TENNESSEE

20' 10' 0' 20'
GRAPHIC SCALE 1" = 20'

SHEET
C4.0 OF 22

Z:\Shared\AES, LLC\Projects\2022\60043.00 TWP Franklin Rd Murfreesboro, TN\DWG\60043C_B01.dwg - 9/1/2022 12:28 PM

City of MURFREESBORO TENNESSEE

. . . creating a better quality of life

MEMORANDUM

DATE: September 12, 2022

TO: Greg McKnight

FROM: Valerie H. Smith

SUBJECT: Hwy 55 – Malachite Dr
Kingdom Ridge - Map 093M Group B Parcel 26
Sewer Allocation Ordinance
Variance Request

Sewer System Capacity

The sanitary sewer collection system can convey the estimated sewer flows resulting from this development and its request to vary from the density requirements associated with its current land use zoning.

Effects within Basin by Providing Variance to Sewer Allocation

Per the most recent sewer connection model of the system, this Basin 13B and per the 2021 Sewer Allocation report currently has capacity for 1548 connections. By committing sewer service to this development, Staff is determining that basin 13B's sewer connection capacity will be reduced by 1 connection, resulting in in 1547 available connections for future developments. Currently, staff has determined there is capacity within the immediate sewer main serving the site as well as the downstream sections of the sewer interceptor. Please note that while the Hwy 55 is counted as one sewer connection, the single-family unit equivalency is determined to be 13.46, resulting in a larger sewer discharge than the 500 gallon per day per connection average the model is based upon.

The request is for an allowance of 10.97 single family units (sfu's) above the 2.49 sfu's allowed per the Ordinance. Water Resources staff advises variance requests to be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to any proposed development requesting a variance to the sewer allocation ordinance.

Water Resources Department
300 NW Broad Street * P.O. Box 1477 * Murfreesboro, TN 37133-1477 * Office: 615 890 0862 * Fax: 615 896 4259
TTY 615 848 3214 * www.murfreesborotn.gov

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Planning Commission Recommendations

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

Ordinance	☐
Resolution	☒
Motion	☐
Direction	☐
Information	☐

Summary

Scheduling matters previously heard by the Planning Commission for public hearings before Council.

Staff Recommendation

Schedule public hearings for the items below on November 3, 2022.

Background Information

During its regular meeting on September 7, 2022, 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 [2022-417] for approximately 30 acres located at 1750 North Thompson Lane to be rezoned from RS-15 & PSO to CM & PSO, New Vision Baptist Church applicant.

b. Zoning application [2022-416] for approximately 116.7 acres located along Burnt Knob Road, Blackman Road, and Vaughn Road to be rezoned from P to CH and GDO-1, City of Murfreesboro Administration Department applicant.

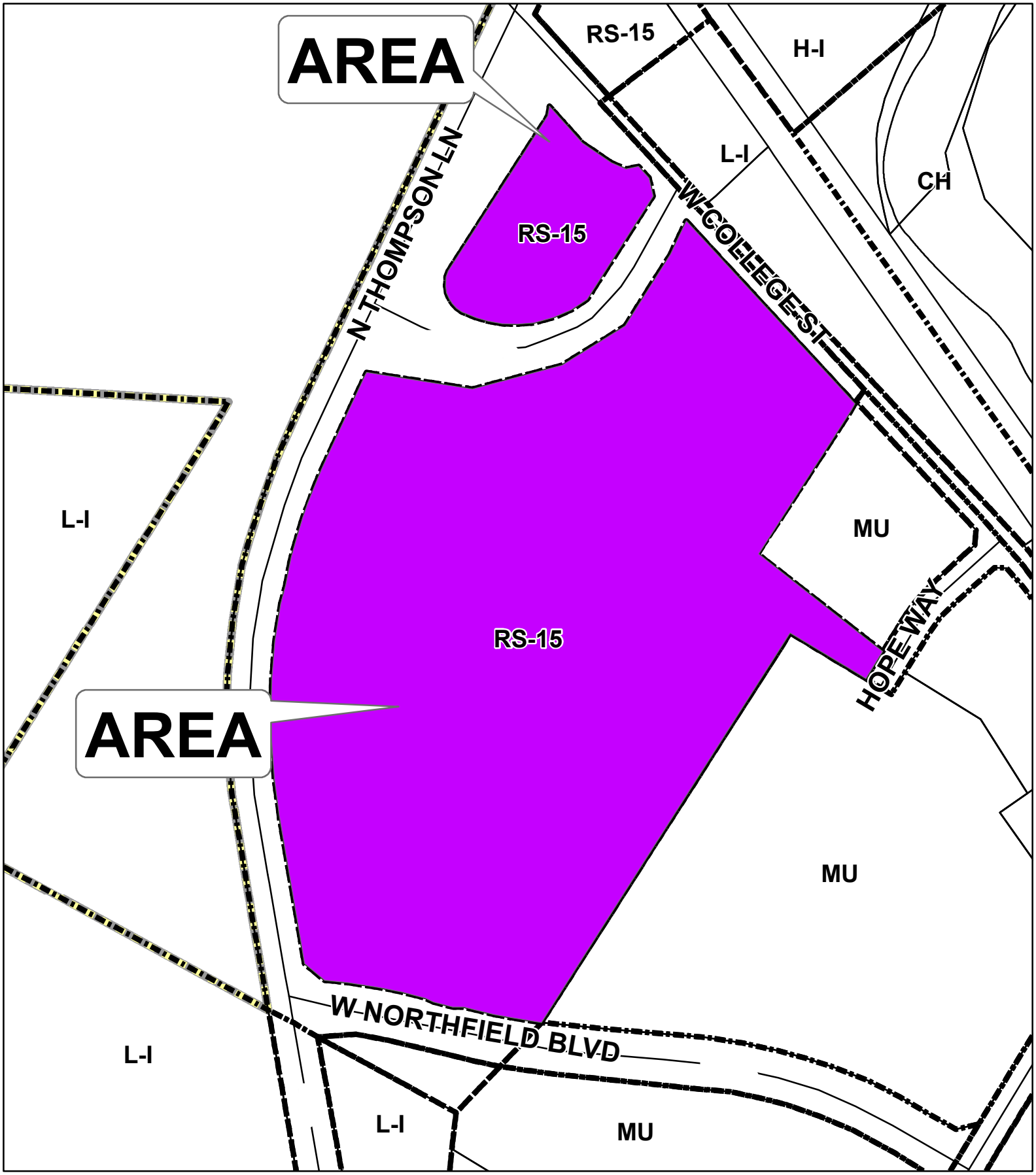
c. Zoning application [2022-418] for approximately 149 acres located along Veterans Parkway to be rezoned from PCD to CH & GDO-1 (approximately 26.5 acres), CF (approximately 30.5 acres), and P (approximately 92 acres), City of Murfreesboro Administration Department applicant.

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:

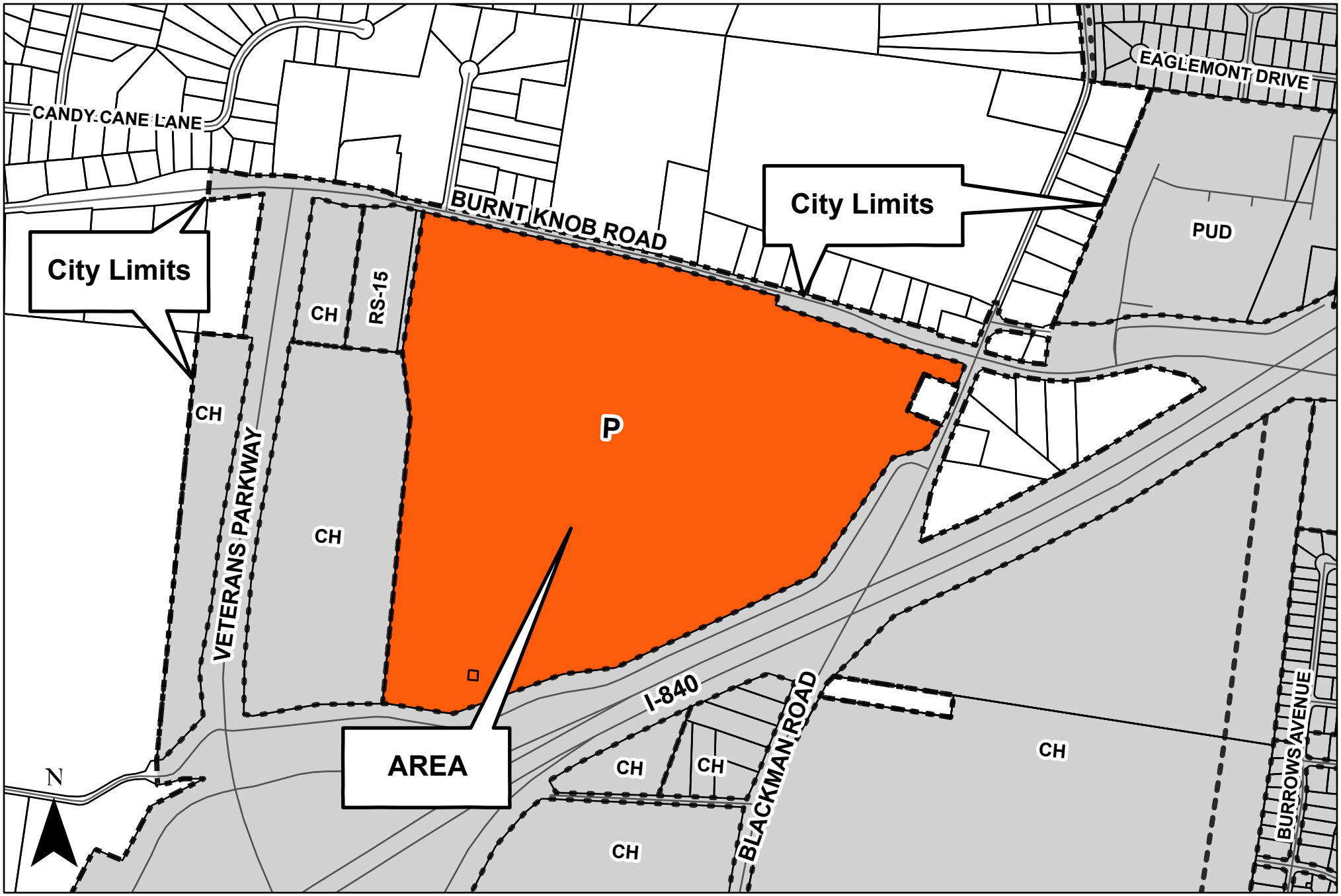
1. Map for zoning application for approx. 30 acres located along N. Thompson Lane
2. Map for zoning application for approx. 116.7 acres located along Burnt Knob Road, Blackman Road, and Vaughn Road
3. Map for zoning application for approx. 149 acres located along Veterans Parkway



Zoning Request for Property located along North Thompson Lane
RS-15 & PSO to CM & PSO

300 150 0 300 Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

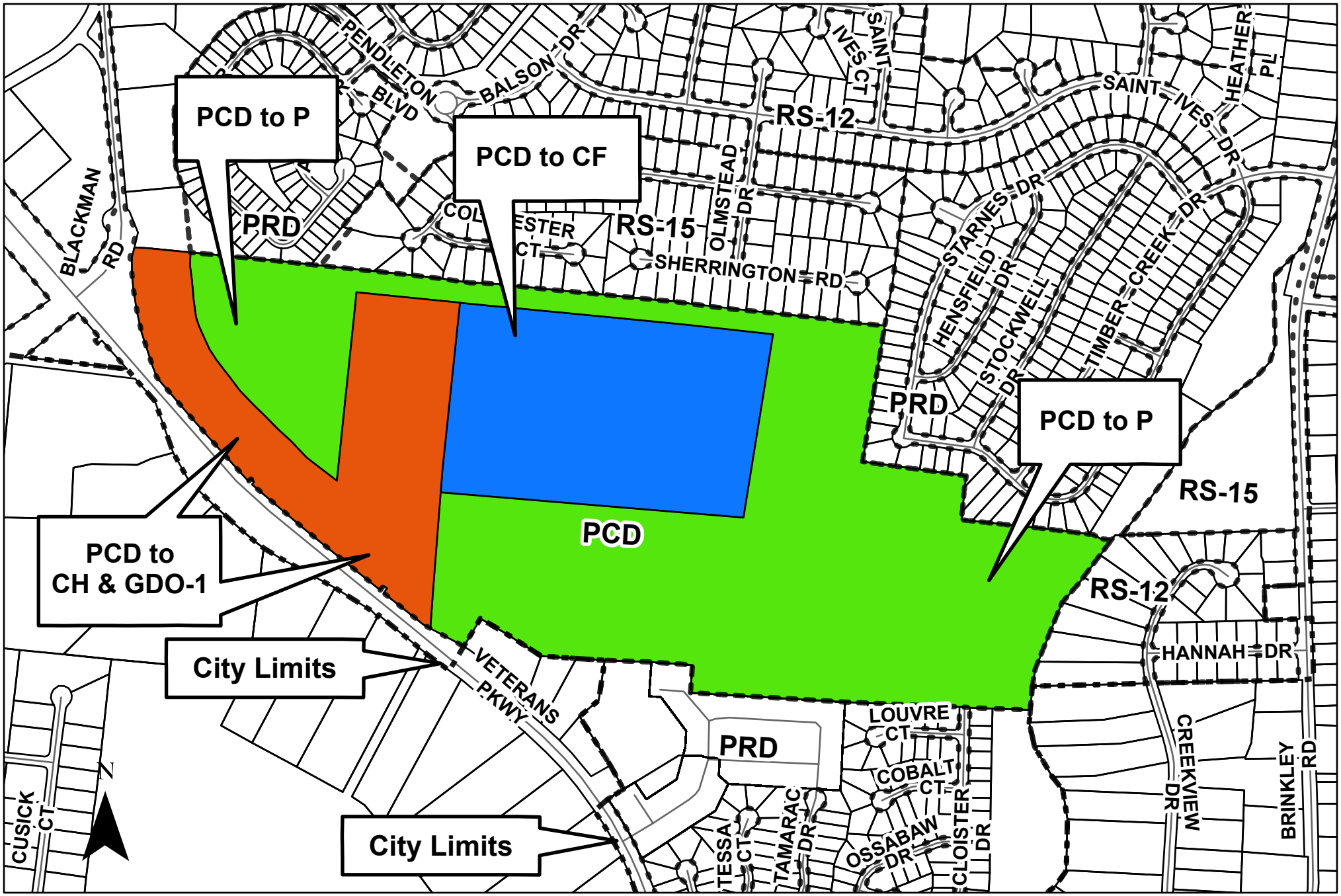


City of MURFREESBORO TENNESSEE

Rezoning request for property along Burnt Knob Road
P to CH & GDO-1

0 500 1,000 2,000 3,000 US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov



Rezoning request for property along Veterans Parkway
PCD to CF, PCD to CH & GDO-1, and PCD to P

0 500 1,000 2,000 3,000 US Feet

Planning Department
City of Murfreesboro
111 West Vine St
Murfreesboro, TN 37130
www.murfreesborotn.gov

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Contract for Renovations to Fire Station No. 3

Department: Administration

Presented by: Scott Elliott

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Construction contract with Rice Construction for renovations to Fire Station 3.

Staff Recommendation

Approve contract with Tim Rice Construction for renovations at Station 3.

Background Information

Staff continues the assessment City facilities' compliance with the requirements of the Americans with Disabilities Act. Improvements at Station 3 have been identified as needed to meet these requirements. Improvements are needed for the bathrooms, laundry room, decontamination room, locker room, and storage.

This project was bid and Tim Rice Construction was the lowest responsible bidder at $659,777.

Council Priorities Served

Responsible Budgeting

Maintaining City Facilities in an effective manner while ensuring ADA compliance is the most responsible means of protecting the City's most significant investments.

Fiscal Impact

Of the $659,777 project cost, $477,700 is funded by ADA improvement grants, with the remaining $182,077 funded by the FY19, FY21 and FY22 CIP budgets.

Attachments

Construction contract with Tim Rice Construction

DRAFT

AIA® Document A101™ – 2017

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « » day of « » in the year « 2022 »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

« City of Murfreesboro, Tennessee, »«a municipality organized under the laws of the State of Tennessee »
«111 West Vine Street »
«Murfreesboro, Tennessee 37130»
« »

and the Contractor:
(Name, legal status, address and other information)

« Rice Construction Company, LLC »« »
«2327 Gravett Street »
«Murfreesboro, TN 37129 »
«731-616-7423
riceconstruction@gmail.com »

for the following Project:
(Name, location and detailed description)

«Murfreesboro Fire Station #3 – Renovations and Additions »
«1511 Dr. Martin Luther King Jr. Blvd. »
« Murfreesboro, TN 37130 »

The Architect:
(Name, legal status, address and other information)

«CMH Architects, Inc. »« »
«1800 International Park Drive, Suite 300 »
«Birmingham, AL 35243 »
«(205) 969-2696 »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101™–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date specified in the Notice to Proceed issued by the Owner. Contractor is not authorized to undertake any Work until the date set forth in the Notice to Proceed.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

[«X »] Not later than «one hundred eighty » («180 ») calendar days from the date of commencement of the Work.

[« »] By the following date: « TBD »

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
N/A	N/A

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§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be «Six Hundred and fifty-nine thousand seven hundred and seventy-seven dollars and no cents » ($ «659,777.00 »), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
N/A	N/A

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A	N/A	N/A

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
N/A	N/A

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)
N/S	N/A	N/A

§ 4.5 Liquidated Damages

§ 4.5.1 Because failure to complete the Project within the time fixed in Section 3.3 will result in substantial injury to the Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, should the Contractor fails to achieve Substantial Completion of the Work within the time so fixed, or within such further time, if any, as shall be allowed for time extensions in accordance with the provisions of the Contract Documents, the Contractor or its Surety shall pay to the Owner as liquidated damages for such delay, and not as a penalty, $100.00 for each and every calendar day elapsing between the date fixed for Substantial Completion in Section 3.3 and the date such Substantial Completion shall have been fully accomplished.
§ 4.5.2 Any liquidated damages assessed pursuant to Section 4.2.1. shall be payable in addition to any excess expenses or costs payable by the Contractor to the Owner under the provisions of Article 14 of the General Conditions, and shall not preclude the recovery of damages by the Owner under other provisions of the Contract Documents, except for Contractor's delays. This provision for liquidated damages for delay shall in no manner affect the Owner's right to terminate the Contract as provided in Article 14 of the General Conditions ("Termination or Suspension of the Contract") or elsewhere in the Contract Documents. The Owner may deduct from the balance of retainage the liquidated damages stipulated herein or in the next paragraph hereof, as the case may be, or such portion thereof as the retained balance will cover.

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

« **§ 4.6.1** The Owner shall not be liable for the Contractor or any Subcontractor for claims or damages of any nature caused by or arising out of any delays. The sole remedy of Contractor or any Subcontractor for delays of any cause shall be the allowance of addition time for completion of Work, provided such additional time is reflected in a written, signed Change Order. »

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ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 At least every 30 calendar days after the Contractor's commencement of the Work, but not more frequently than once per calendar month, the Contractor shall submit an Application for Payment to the Architect requesting payment for labor, services, and materials rendered or delivered during the preceding 30 calendar days. Each Application for Payment request shall contain such detail and be supported by sufficient information for the Owner and Architect to fully assess the request. The Architect will review the Contractor's Application for Payment and the accompanying data, information, and schedules (which are submitted in accordance with the Contract Document or at the Architect's request) to determine the amount the Contractor is due and, based on such review, together with its inspections of the Work, shall authorize in writing the requested payment to the Contractor.

§ 5.1.3 Provided the Application for Payment and all required supporting documentation is received by the Architect not later than the fifth day of the month, within 30 calendar days following Architect's authorization of payment, the Owner shall pay the sum authorized to the Contractor. No payment nor any use or occupancy of the Project, whether in total or partially, by the Owner constitutes an acceptance of any Work not in accordance with the Contract Documents.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- **.1** That portion of the Contract Sum properly allocable to completed Work;
- **.2** That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- **.3** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- **.1** The aggregate of any amounts previously paid by the Owner;
- **.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- **.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- **.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- **.5** Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

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(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« »Five percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« »

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

« »

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

« »

§ 5.1.8 [Intentionally omitted.]

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- **.1** the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- **.2** a final Certificate for Payment has been issued by the Architect;
- **.3** the Contractor has submitted its final waiver of lien and final waivers of lien from all of its Subcontractors and suppliers in a form acceptable to the Owner; and
- **.4** the Contractor has submitted to the Owner all close-out documents, including without limitation, all as-build plans, warranties, manuals, and other materials set forth in the Contract Documents.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the daily interest rate factor (365 days) of the prime interest rate reported by JP Morgan as of the payment due date.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

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« »
« »
« »
« »

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[« »] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[« »] Litigation in a court of competent jurisdiction

[« X »] Other *(Specify)*

« AIA Document A201™–2017, General Conditions of the Contract for Construction Addendum B, Dispute Resolution Procedures»

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017. In addition, the Owner may terminate this Contract in the event of the unavailability of appropriated funds or a determination by Owner of the absence of continued need for the Project.

« »

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

«Scott Elliott, Project Development Manager »
« 111 West Vine Street »
« Murfreesboro, TN 37130 »
« Tel: (615) 849-2629 »
« Email: selliott@murfreesborotn.gov »

« or his designee as indicated in writing from time to time.»

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

« Tim Rice, Owner»
«Rice Construction Company, LLC »
«2327 Gravett Street »
«Murfreesboro, TN 37129 »
«riceconstruction@gmail.com »
« 731-616-7423 »

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§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Contractor shall purchase and maintain insurance as set forth in Exhibit A, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 8.7 Other provisions:

« »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor

.2 Exhibit A, Contractor's Insurance and Bonds Requirements

.3 AIA Document A201™–2017, General Conditions of the Contract for Construction, including Addendum A, Contractor's Standard Form Subcontract, and Addendum B, Dispute Resolution Procedures

.4 [Intentionally Omitted]

« »

.5 Drawings

Number	Title	Date
	Bid/Permit/Construction Issue	01/21/2022

ARCHITECTURAL

G0.0	COVER SHEET
G0.1	ADA STANDARDS & DETAILS
A0.1	LIFE SAFETY PLAN
A1.1	SITE PLAN
A2.0	DEMO FLOORPLAN
A2.1	NEW WORK FLOORPLAN
A2.2	NEW WORK REFLECTED CEILING PLAN
A3.0	EXTERIOR ELEVATIONS
A4.0	BUILDING SECTION
A4.1	WALL SECTIONS & DETAILS
A5.0	ROOF PLAN
A6.1	FINISH LEGEND & SCHEDULE
A7.1	INTERIOR ELEVATIONS
A7.2	MILLWORK SECTIONS

STRUCTURAL

S1.1	GENERAL NOTES
S1.2	TYPICAL DETAILS
S1.3	TYPICAL DETAILS
S2.1	FOUNDATION PLAN
S2.2	ROOF FRAMING PLAN

MECHANICAL

M0.1	HVAC SCHEDULES
M1.0	HVAC FLOOR PLAN
M2.0	HVAC DETAILS & CONTROLS

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PLUMBING
P1.0 LEGENDS, SCHEDULES, NOTES & DETAILS
P1.1 SITE PLAN PLUMBING
P2.0 DEMOLITION FLOOR PLAN
P2.1 NEW WORK NONPRESSURE FLOOR PLAN
P2.2 NEW WORK PRESSURE FLOOR PLAN

ELECTRICAL
E0.1 LEGENDS, NOTES & DEMOLITION
E1.1 FLOOR PLAN - LIGHTING
E1.2 FLOOR PLAN - POWER

.6 Specifications

Section	Title	Date	Pages
See Table of Contents	Specifications for Murfreesboro Fire Station #3 Renovations & Additions	01/21/2022	363

.7 Addenda, if any:

Number	Date	Pages
Addendum #01	08/09/2022	7

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[« »] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

« »

[« »] The Sustainability Plan:

Title	Date	Pages

[«X »] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Specification Section 00 7300	Supplementary Conditions	01/21/2022	34

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

« »

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This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
« Shane McFarland, »«Mayor »	«Tim Rice, »«Owner »
(Printed name and title)	*(Printed name and title)*

APPROVED AS TO FORM:

_____

Adam F. Tucker, City Attorney

DRAFT

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AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

«Murfreesboro Fire Station #3 Renovations and Additions
154 Dr. Martin Luther King Jr. Blvd.
Murfreesboro, TN 37130 »
« »

THE OWNER:
(Name, legal status and address)

« City of Murfreesboro, Tennessee, »«a municipality organized under the laws of the State of Tennessee »
«111 West Vine Street »
«Murfreesboro, TN 37130»

THE ARCHITECT:
(Name, legal status and address)

«CMH Architects, Inc.
1800 International Park Drive, Suite 300
Birmingham, AL 35243
(202) 969-2696 »« »
« »

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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.1.1 All questions relative to the Contract Documents shall be addressed to the Architect for clarification. In the event of any conflict/ inconsistencies in the Contract Documents for the Described Work, the following take precedence:

A. The Agreement (Contract)
B. Addenda
C. Supplementary Conditions
D. General Conditions
E. Drawings and Specifications. In event of conflict between these two, the stricter or higher quality shall prevail discrepancies or inconsistency between Drawings and Specifications or within either Document not clarified by addendum or construction bulletin, the better quality or greater quantity of Work shall be provided in accordance with the Architect's interpretation.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, except as set forth in Sections 5.3 and 5.4, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.6.1 The reference standards referred to in the Specifications references the edition current as of the date of the documents. References to non-proprietary standards, codes and specifications, and the manufacturer's specifications, instructions and directions mean the date included with such reference. Where no date is given, references will mean

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the latest edition in effect on the date of the documents. Such references require that the Contractor become fully and adequately informed of the contents of such directions, specifications and codes, and will properly apply that information so that the best possible use of the item, material or technique is achieved. Before such referenced information is utilized in the Work, the Architect may request the Contractor to use editions of later date than specified. If a difference in cost is necessary, the Contract Sum will be adjusted by Change Order.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.1.9 Knowledge

The terms "knowledge," "recognize," and "discover," their respective derivatives, and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows (or should know), recognizes (or should recognize), and discovers (or should discover) in exercising the care, skill, and diligence required by the Contract Documents. Analogously, the expression "reasonably inferable" and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a contractor familiar with the Project and exercising the care, skill, and diligence required of the Contractor by the Contract Documents.

§ 1.1.10 Owner Disclaimer of Warranty

The Owner has requested that the Architect prepare documents for the Project, including the Drawings and the Specifications for the Project, which are to be complete, accurate, coordinated, and adequate for bidding, negotiating and constructing the Work. However, the Owner makes no representation or warranty of any nature whatsoever to the Contractor concerning such documents. The Contractor hereby acknowledges and represents that it has not relied, and does not and will not rely, upon any representations or warranties by the Owner concerning such documents, as no such representations or warranties have been or are hereby made.

§ 1.1.11 Miscellaneous Definitions

§ 1.1.11.1 AS SHOWN: As shown in the Drawings.

The term used in these Supplementary Conditions includes materials, systems and equipment. Where items, systems, etc are referred to in the singular, such reference does not limit the quantity required. Furnish quantities as required to complete the work.

§ 1.1.11.2 Wherever the words 'furnish', 'install', 'provide', or equivalent words are used they mean that it will be the responsibility of the General Contractor to furnish and completely install the device, equipment, or material named, together with all associated devices, equipment, materials, wiring, piping, etc. as may be required for a complete and operating installation.

§ 1.1.11.3 Architect: The firm of CMH Architects, Inc. is the Architect. Where the word 'architect' is used it refers to an authorized representative of the Architect.

§ 1.1.11.4 Owner: Where the word 'Owner' is used it refers to an authorized representative of the Owner.

§ 1.1.11.5 DIRECTED, SELECTED, and APPROVED: Directed, Selected or Approved by the Architect.

§ 1.1.11.6 EQUAL: Equal in quality and money value and similar in design or properties, in the Architect's opinion.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by

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one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. The precedence of the Contract Documents is as follows:

A. THE AGREEMENT (CONTRACT).
B. ADDENDA: Modifications of any nature to the Construction Documents take precedence over the original Construction Documents.
C. CONDITIONS OF THE CONTRACT (GENERAL AND SUPPLEMENTARY).
D. DRAWINGS AND SPECIFICATIONS: Should there be a conflict among the specifications; the Architect will decide which stipulation will provide the best installation. Drawings of a larger scale take precedence over those of smaller; figured dimensions take precedence over scaled dimensions; and noted materials take precedence over graphic indications.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

1.2.1.2 Should the Contract Documents not agree as to the quantity or quality of the Work required, the better quantity or greater quantity must be provided unless the Architect gives other instructions in writing.

1.2.1.3 Where Contract Drawings show only a portion of the work in full detail and the remainder is shown only in outline, execute the portions in outline as required for like portions shown in full detail. Where ornament or other detail is shown by starting only, continue detail throughout the parts in which it is shown and throughout all other similar parts of the work unless otherwise explicitly required. Where items are shown in diagrammatic/schematic drawings, verify location with the Architect before installation.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade. Instructions and other information furnished in the Specifications, including, without limitation, items in connection with prefabricated or pre-finished items, are not intended to supersede work agreements between employers and employees. Should the Specifications conflict with such work agreements, the work agreements shall be followed, provided such items are provided and finished as specified. If necessary, such Work shall be performed on the Project site, instead of at the shop, by appropriate labor and in accordance with the requirements of the Drawings and Specifications.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.3.1 Whenever a product is specified in accordance with a Federal Specification, an ASTM Standard, an American National Standards Institute Specification, or other Association Standard, the Contractor shall request from the manufacturer or provider of the product when requested by the Architect or required in the Specifications, information that allows for an adequate assessment that the product complies with the particular Standard or Specification. When requested by the Architect or specified, support test data shall be submitted to substantiate compliance. Whenever a product is specified or shown by describing proprietary items, model numbers, catalog numbers, manufacturer, trade names, or similar reference, no substitutions may be made unless accepted prior to execution of the Contract or if accepted as a Change in the Work in accordance with Section 3.4.4. Where two or more products are shown or specified, the Contractor has the option to use either of those shown or specified.

§ 1.2.3.2 Where reference is made to the Standard Specifications of the American Society for Testing and Materials (A.S.T.M.) of other standard specifications in connection with the required quality of materials, methods, etc., then the applicable specifications shall be of the latest revised edition effective as of the date bids are opened by the Owner, unless otherwise expressly provided in the technical specifications.

§ 1.2.4 Inconsistencies in Contract Documents

§ 1.2.4.1 Except as otherwise provided in Sections 1.2.4.2 and 1.2.4.3, in the event of any conflict, inconsistency or other discrepancy between any of the Contract Documents, the Contract Documents shall be given priority in the

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following order: (1) executed Change Orders; (2) the Agreement; (3) the addenda issued by the Architect; (4) the General Conditions of the Contract; (5) the Drawings; and (6) the Specifications.

§ 1.2.4.2 In the event of inconsistencies between the Contract Documents and applicable standards, codes, and ordinances or within or between parts of the Contract Documents that cannot reasonably be resolved as provided in Section 1.2.4.1, the Contractor shall (i) provide the better quality or greater quantity of Work or (ii) comply with the more stringent requirement; either or both in accordance with the Architect's interpretation. The terms and conditions of this Section 1.2.4.2 shall not relieve the Contractor of any of the obligations set forth in Sections 3.2 and 3.7; provided, however, unless Contractor knew or should have known of inconsistencies, the Contractor shall not be precluded from submitting pursuant to Sections 7.1 and 7.2 for a Change Order with respect any of the items referenced in this Section.

§ 1.2.4.3 In the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents, the following shall control: as between figures given on plans and scaled measurements, the figures shall govern; as between large-scale plans and small-scale plans, the large-scale plans shall govern; and as between plans and specifications, the requirements of the specifications shall govern.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

§ 1.4.1 In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.2 All personal pronouns used in the Contract Documents, whether used in the masculine, feminine, or neuter gender, shall include all other genders; and the singular shall include the plural and vice versa. Titles of articles, sections, and subsections are for convenience only and neither limit nor amplify the provisions of this Contract.

§ 1.4.3 The use in the Contract Documents of the word "including," when following any general statement, term, or matter, shall not be construed to limit such statement, term, or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such words as "without limitation," or "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement, term, or matter.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect is the owner of all rights, title and interest, including all rights under federal and state copyright and intellectual property laws, in the Instruments of Service and the electronic methods of reproducing them. The Architectural Works of the Project, as defined by the federal Architectural Works Copyright Protection Act, are owned by the Architect. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of Architect's ownership interest.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the following notice: "All rights reserved. No portion of these material may be reproduced by electronic or mechanical means without permission in writing from the City Council of the City of Murfreesboro, Tennessee." Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' copyrights or other reserved rights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owners, Architect, and the Architect's consultants.

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§ 1.5.3 The Contractor shall thoroughly examine all factors reasonable available to him, including but not limited to the Drawings, Specifications, project soils report, site boundary and topography, site conditions, site history, local information, and seasonal weather conditions. Soil report data is not considered all conclusive and it is the Contractor's responsibility to further investigate site conditions as he determines necessary. The Site Contractor shall be totally responsible for acceptance of the site and preparation of the site to the proper grade and compaction requirements as indicated by the Civil Drawings and Specifications. Any construction performed by the General Contractor on a building pad prepared by others will constitute acceptance of the pad by the General Contractor.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.9 Confidentiality

§ 1.9.1 The Contractor warrants and represents that the Contractor shall not knowingly or negligently communicate or disclose at any time to any person or entity any information in connection with the Work or the Project, except (i) with prior written consent of the Owner, (ii) information that was in the public domain prior to the date of this Agreement, (iii) information that becomes part of the public domain by publication or otherwise not due to any unauthorized act or omission of the Contractor, or (iv) as may be required to perform the Work or by any applicable law, including the Record set of the Drawings, Specifications, and other documents which the Contractor is permitted to retain under Section 1.5 above. Specific information shall not be deemed to fall within the scope of the foregoing exceptions merely because it is embraced by more generic information which falls within the scope of one or more of those exceptions. The Contractor shall not disclose to others that specific information was received from the Owner even though it falls within the scope of one or more of those exceptions. The Contractor acknowledges and agrees that the existence of the Owner's particular interests and plans in the geographical area of the Project is a type of such specific information. In the event that the Contractor is required by any court of competent jurisdiction or legally constituted authority to disclose any Owner Information, prior to any disclosure thereof, the Contractor shall notify the Owner and shall give the Owner the opportunity to challenge any such disclosure order or to seek protection for those portions that it regards as confidential.

§ 1.9.2 The Contractor, at any time upon the request of the Owner, shall immediately return and surrender to the Owner all copies of any materials, records, notices, memoranda, recordings, drawings, specifications, and mock-ups and any other documents furnished by the Owner or the Architect to the Contractor.

§ 1.9.3 The Contractor shall cause all Subcontractors or any other person or entity performing any services, or furnishing any materials or equipment, for the Work to warrant and represent all items set forth in this Section 1.9.

§ 1.9.4 The representations and warranties contained in this Section 1.9 shall survive the complete performance of the Work or earlier termination of this Agreement.

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§ 1.9.5 Any and all inventions and discoveries, whether or not patentable, conceived or made by the Contractor as a result of the Contractor's discussions with the Owner or performance of the Work which are based substantially on the Owner's proprietary information, shall be and shall become the sole and exclusive property of the Owner. The Contractor agrees to disclose fully and promptly to the Owner all such inventions and discoveries. Upon request by the Owner, the Contractor agrees to assign such inventions and discoveries to the Owner, or cause them to be so assigned by its personnel. Further, the Contractor shall execute, or cause to be executed by its personnel, all applications, assignments, or other instruments which the Owner may deem reasonably necessary in order to enable the owner at its expense, to apply for, prosecute, and obtain patents in any country for said inventions and discoveries, or in order to assign and transfer to the Owner the entire right, title, and interest thereto.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" refers to the City of Murfreesboro, a Tennessee municipal corporation. The City Manager is hereby designated by the Owner as its representatives and are authorized to act on behalf of the Owner, unless a new representative is subsequently designated in writing by the Owner. The term "Owner" shall also indicate all assignees and transferees of Owner.

§ 2.1.2 [Intentionally Deleted]

§ 2.2 Evidence of the Owner's Financial Arrangements

[Intentionally Deleted.]

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 Owner shall furnish required surveys, legal limitation, and utility locations for the Project Site and may supply these through the Architect. Prior to commencing any excavation or grading the Contractor shall become satisfied as to the accuracy of all such information in the Contract Documents as provided by the Owner. Should the Contractor discover any inaccuracies, errors, or omissions in the survey data, the Contractor shall immediately notify the Architect in writing in order that proper adjustments can be made. Commencement by the Contractor of any excavation or grading shall be held as an acceptance of the survey data by the Contractor after which time the Contractor has no claims against the Owner resulting from alleged errors, omissions, or inaccuracies of the said survey data.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Upon request the selected Contractor shall be supplied with three (3) copies of specifications and construction documents for execution of work. Additional copies may be obtained at the Contractor's expense.

§ 2.3.7 If the Work involves the renovation or modification of existing construction, it is the obligation of the Contractor to avoid disposal of any and all equipment, fixtures, furnishings, appurtenances and other items the

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Owner desires to keep. The Drawings or Specifications may identify items the Owner desires to keep, but the Contractor shall not rely exclusively upon the Drawings and Specifications for its determination. Accordingly, the Owner, at the request of the Contractor, shall provide to the Contractor a list of any and all such items.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within five business days after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

§ 2.6 Extent of Owner's Rights.

The rights stated in this Article 2 and elsewhere in the Contract Documents are cumulative and not in limitation of any rights of the Owner (i) granted in the Contract Documents, (ii) at law, or (iii) in equity. In no event shall the Owner have control over, charge of, or any responsibility for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the Work, notwithstanding any of the rights and authority granted the Owner in the Contract Documents.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. Prior to execution of the Agreement, the Contractor and each Subcontractor have evaluated and satisfied themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation, (i) the location, condition, layout, and nature of the Project site and surrounding areas, (ii) generally prevailing climatic conditions, (iii) anticipated labor supply and costs, (iv) availability and cost of materials, tools, and equipment, and (v) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site. Except as set forth in Section 10.3, the Contractor shall be solely responsible for providing a safe place for the performance of the Work. The Owner shall not be required to make any adjustment in either the Contract

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Sum or the Contract Time in connection with any failure by the Contractor or any Subcontractor to have complied with the requirements of this Section 3.2.1.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the design information contained in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.2.1 The exactness of grades, elevations, dimensions, or locations given on any Drawings issued by the Architect, or the work installed by other contractors, is not guaranteed by the Architect or the Owner, and, therefore, the Contractor shall satisfy itself as to the accuracy of all grades, elevations, dimensions, and locations.

§ 3.2.2.2 In all cases of interconnection of the Work with existing or other work, the Contractor shall verify at the site all dimensions relating to such existing or other work. Any errors due to the Contractor's failure to so verify all such grades, elevations, dimensions, or locations shall be promptly rectified by the Contractor without any additional cost to the Owner.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.2.5.1 The Contractor shall thoroughly examine all factors reasonably available to the Contractor, including but not limited to the Drawings, Specifications, project soils report, site boundary and topography, site conditions, site history, local information, and seasonal weather conditions. Soil report data is not considered all conclusive and it is the Contractor's responsibility to further investigate site conditions as the Contractor determines necessary. The Site Contractor shall be totally responsible for acceptance of the site and preparation of the site to the proper grade and compaction requirements as indicated by the Civil Drawings and Specifications.

§ 3.2.5.2 The Contractor is responsible for having a thorough knowledge of all Drawings, Specifications, General Supplementary, and Special Conditions, and other Contract Documents. Failure to acquaint himself with this knowledge does not relieve the Contractor of the responsibility for performing the Contractor's work in a manner acceptable to the Owner. No additional compensation will be allowed because of conditions that occur due to failure by the Contractor to familiarize himself and all works with this knowledge.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner

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and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures. Contractor agrees upon request of the Owner/Architect, to change any sequence of work provided such change does not cause delay in the completion of work or increase the cost. If such a change does cause a delay or increase the cost, a change order may be issued extending the time of completion and/or changes in cost.

§ 3.3.1.1 The Owner/Architect reserve the right to approve the Contractor's Project Manager and/or Superintendent assigned to this project. The Owner/Architect also reserves the right to reject any of the Contractor's personnel assigned to this project, and have the Contractor replace such personnel with acceptable, qualified personnel within 5 working days prior to beginning and during course of work

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive. If the Contractor desires to submit an alternate product or method in lieu of what has been specified or shown in the Contract Documents, the following provisions apply:

.1 The Contractor must submit to the Architect and the Owner (i) a full explanation of the proposed substitution and submittal of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation of the substitution; (ii) a written explanation of the reasons the substitution is advantageous and necessary, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum, in the event the substitution is acceptable; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule in the event the substitution is acceptable; and (v) an affidavit stating that (a) the proposed substitution conforms to and meets all the requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified by the Architect. Proposals for substitutions shall be submitted in triplicate to the Architect in sufficient time to allow the Architect no less than ten (10) working days for review. No substitutions will be considered or allowed without the Contractor's submittal of complete substantiating data and information as stated hereinbefore.

.2 Substitutions and alternates may be rejected without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing; (ii) specified products are unavailable through no fault of the Contractor; (iii) subsequent information discloses the inability of specified products to perform properly or to fit in the designated space; (iv) the manufacturer/fabricator refuses to certify or guarantee the performance of the specified product as required; and (v) when in the judgment of the Owner or the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.

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§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall only employ or use labor in connection with the Work capable of working harmoniously with all trades, crafts, and any other individuals associated with the Project. The Contractor shall also use best efforts to minimize the likelihood of any strike, work stoppage, or other labor disturbance.

.1 If the Work is to be performed by trade unions, the Contractor shall make all necessary arrangements to reconcile, without delay, damage, or cost to the Owner and without recourse to the Architect or the Owner, any conflict between the Contract Documents and any agreements or regulations of any kind at any time in force among members or councils that regulate or distinguish the activities that shall not be included in the work of any particular trade.

.2 In case the progress of the Work is affected by any undue delay in furnishing or installing any items or materials or equipment required under the Contract Documents because of such conflict involving any such labor agreement or regulation, the Owner may require that other material or equipment of equal kind and quality be provided pursuant to a Change Order or Construction Change Directive.

§ 3.4.5 After the Contract has been executed, the Owner will consider a formal request for the substitution of products in place of those specified only under the conditions set forth in this paragraph. Where materials, equipment, apparatus, or other products are specified by manufacturer, brand name, type or catalog number, such designation shall establish standards of quality and style desired. Any reasonable request for substitution will be considered, if in the opinion of the Architect, such materials are equal to the material specified and entirely satisfactory for use in the project. The Architect shall be the sole judge of acceptability of substitution.

.1 By making requests for substitutions in accordance with this Section, the Contractor:

a. Represents that the Contractor has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

b. Represents that the Contractor will provide the same warranty for the substitution that the Contractor would for that specified;

c. Certifies that the cost data presented is complete and includes all related costs under this Contract but excludes the Architect's re-design costs, and waives all claims for additional costs related to the substitution which subsequently become apparent; and

d. Will coordinate the installation of the accepted substitute, making such changes as may be required for the work to be complete in all respects.

.2 The Architect will reply in writing to the Contractor stating whether the Owner, after due investigation, has reasonable objection to any such proposal. If adequate data on any proposed manufacturer or installer is not available, the Architect may state that action will be deferred until the Contractor provides further data. Failure of the Owner to reply will constitute notice of non-acceptance. Written acceptance of substitution will not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed manufacturer must comply with such requirements. Any adjustment in contract price will be accurately reflected in the required AIA Document G701 Change Order and no adjustment will be made unless so reflected.

§ 3.4.6 All manufactured articles, materials and equipment must be supplied, installed, connected, erected, used, cleansed and conditioned in accordance with the manufacturer's specifications unless otherwise specified.

§ 3.4.7 The Contractor agrees that neither the Contractor nor the Contractor's subcontractors will discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to hire, tenure, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of age, sex, race, color, religion, national origin or ancestry. Breach of this covenant may be regarded as a material breach of this Contract.

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§ 3.4.8 Comply with all applicable State and Federal statutes regarding minimum wages to be paid. The Contract Sum will not be increased because of subsequent increases in the wage rates.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements will be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, labor, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. The Contractor further agrees to secure, assign, and deliver to the Owner at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties. Such written warranties shall extend for the benefit of and be available to be asserted in the name of the Owner. Delivery of such written warranties is a condition precedent to final payment. If necessary as a matter of law, the Contractor may retain the right or the Owner may require Contractor to exercise the right to enforce directly any such manufacturers' warranties during the one-year period following the date of Substantial Completion.

§ 3.5.3 Workmanship and installation must be the best quality possible. Perform each part of the work and related activities with the best possible workmanship to produce work that is neat, secure, weatherproof, with the best possible appearance and utility.

§ 3.5.4 The Architect will be the sole judge of all installed work, and may reject work that does not conform to the requirements of the Contract Documents. Repair or replace rejected work to the satisfaction of the Architect without additional cost to the Owner.

§ 3.5.5 Contractor does hereby warranty and covenant to Owner that all materials and workmanship shall be of the highest quality, in accordance with the Contract Documents and free from defects that if any portion of Work is not of the highest quality, in accordance with the Contract Documents and free from defects, Contractor shall, upon the request of Owner, for a period of one year from the date of Substantial Completion of the Work under the contract, promptly correct such non-compliance or defect. For the purposes of ascertaining the quality and performance standards required by this warranty and ascertaining the Contractor's responsibility in cases where the required performance standard has not been met, Owner and Contractor agree that they shall be guided by the performance standard for workmanship, materials, systems, and structures deemed appropriate by the Architect except for the following standards which shall be set forth:

§ 3.5.5.1 Should there be any conflict between the local and state Building Codes, the quality of standard for sound industry practices with regard to materials or workmanship, and the quality standard required by the Contract Documents, the higher standard shall govern.

§ 3.5.5.2 See additional and specific warranty information as specified in Sections 2 through 16.

§ 3.5.6 Contractor will at all times provide proper facilities and an opportunity for the inspection of the Work by the Architect and Owner and their representatives. Contractor shall, within twenty-four (24) hours after receiving written notice from Architect proceed to takedown and remove all portions of the Work which shall have condemned as unsound, improper, or in any way failing to conform to the Contract Documents and shall replace with same with proper and satisfactory Work make good all work damaged or destroyed thereby at no cost to the Owner. Failure to discover or notify Contractor of defective or nonconforming work by Architect or Owner shall not relive Contractor of full responsibility for replacement of the defective or nonconforming Work and all damages resulting therefrom.

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§ 3.5.7 For a period of one year from the date of Substantial Completion of the work, the Contractor shall furnish and install, without cost to the Owner, any and all kinds of work which in the judgment of the Owner, proves defective in materials and or workmanship.

§ 3.6 Taxes

§ 3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. In the event this project is constructed in an area where governmental jurisdiction requires income tax to be withheld, the Contractor shall comply with the requirements in a manner that will absolve the Owner of any withholding liability.

§ 3.6.2 The City is exempt from federal and state taxes. Upon request, the City will provide a sales tax exemption certificate to the Contractor. Contractors doing business with the City shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations to the City, nor shall any vendor be authorized to use the City's Tax Exemption Number in securing such materials.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Except as set forth in Section 2.3.1, the Contractor shall secure, pay for, and, as soon as practicable, furnish the Owner with copies or certificates of all permits and fees, licenses, and inspections necessary for the proper execution and completion of the Work, including, without limitation, all building permits, licenses, inspection, observation, and testing reports assigned to Contractor, and other similar items. All connection charges, assessments, or inspection fees as may be imposed by any municipal agency or utility company are included in the Contract Sum and shall be the Contractor's responsibility.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders and all other requirements of public authorities applicable to performance of the Work. The Contractor shall procure and obtain all bonds required of the Owner or the Contractor by the municipality in which the Project is located or any other public or private body with jurisdiction over the Project. In connection with such bonds, the Contractor shall prepare all applications, supply all necessary backup material, and furnish the surety with any required personal undertakings. The Contractor shall also obtain and pay all charges for all approvals for street closings, parking meter removal, and other similar matters as may be necessary or appropriate from time to time for the performance of the Work.

The Contractor's work includes, without limitation, all disposal or removal of waste and rubbish attributed to the project and warrants that it is familiar with all applicable federal, state and local laws and ordinances concerning disposal of waste and rubbish.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such

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notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances;

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2; and

.4 the Contractor shall solicit from information provided by the Architect at least three bids or acceptable pricing from existing subcontractor for all allowance items from Subcontractors or material suppliers acceptable to the Owner, the Contractor and the Architect, unless otherwise directed by the Architect. The Architect shall review the bids/pricing and recommend to the Owner the acceptance or rejection of the lowest bid/pricing. If accepted the Architect shall issue a Change Order to the Contractor as provided in Section 3.8.2.3.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the

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Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect. Any design professional the Contractor shall cause to provide services or certifications under this Section shall comply with reasonable requirements of the Owner regarding qualifications and insurance.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. The Contractor shall comply with all instructions of the Owner given to it with regards to the use of site.

§ 3.13.1 Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction materials and equipment stored at the Project site from weather, theft, damage, and all other adversity is solely the responsibility of the Contractor. The Contractor shall ensure that the Work, at all times, is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent to the site of the Work shall be free from all debris, building materials, and equipment likely to cause hazardous conditions.

§ 3.13.2 The Contractor and any entity for whom the Contractor is responsible shall not erect any sign on the Project site without the prior written consent of the Owner, which may be withheld in the sole discretion of the Owner.

§ 3.13.3 Without limitation of any other provision of the Contract Documents, the Contractor shall use best efforts to minimize any interference with the occupancy or beneficial use of (i) any areas and buildings adjacent to the site of the Work and (ii) the Building in the event of partial occupancy, as more specifically described in Section 9.9. Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrances, and parking areas other than those designated by the Owner.

§ 3.13.3.1 Without limitation of any other provision of the Contract Documents, the Contractor shall use its best efforts to comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building, as amended from time to time. The Contractor shall immediately notify the

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Owner in writing if during the performance of the Work, the Contractor finds compliance of any portion of such rules and regulations to be impracticable, setting forth the problems of such compliance and suggesting alternatives through which the same results intended by such portions of the rules and regulations can be achieved. The Owner may, in the Owner's sole discretion, adopt such suggestions, develop new alternatives, or require compliance with the existing requirements of the rules and regulations.

§ 3.13.3.2 The Contractor shall also comply with all insurance requirements applicable to use and occupancy of the Project site and the Building.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents. Existing structures and facilities, including but not limited to buildings, utilities, topography, streets, curbs, walks, landscape materials, and other improvements that are damaged or removed due to required excavations or Contractor's Work, shall be patched, repaired, or replaced by the Contractor to the satisfaction of the Architect, the owner of such structures and facilities, and authorities having jurisdiction as required by the Plans and Specifications. In the event that a local authority having jurisdiction requires that such repairing and patching be done with its own labor and/or materials, the Contractor shall abide by such regulations and pay for such work.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Owner may need access to or use of certain areas of the site or Work prior to the Contractor's achievement of Substantial Completion, and that such occupancy, access or use shall not constitute the Owner's acceptance of any Work. The Contractor shall not enter any Owner-occupied area of the site or Project unless first approved and scheduled by the Owner. The Owner may incur damages if the Owner's operations on the Site are interrupted or impaired as a result of the Work. The Contractor shall afford the Architect and Owner's own forces, and the Architect's or Owner's other consultants, trade contractors, subcontractors and suppliers, access to the site for performance of their activities, and shall connect and coordinate its construction and operations with theirs as required by the Construction Documents.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractors shall indemnify and hold harmless the Owner, Owner's Lender, Architect, Architect's consultants, and agents and employees of any of them from and against

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claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work including but not limited to spilling or dumping of hazardous waste materials at or upon the construction site, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whole acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph 3.18 of the General Conditions.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 The Contractor's indemnity obligations under this Section 3.18 shall also specifically include, without limitation, all fines, penalties, damages, liability, costs, expenses (including, without limitation, reasonable attorneys' fees), and punitive damages (if any) arising out of, or in connection with, any (i) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code, or requirement of a public authority that bears upon the performance of the Work by the Contractor, a Subcontractor, or any person or entity for whom either is responsible, (ii) means, methods, procedures, techniques, or sequences of execution or performance of the Work, and (iii) failure to secure and pay for permits, fees, approvals, licenses, and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work, by the Contractor, a Subcontractor, or any person or entity for whom either is responsible.

§ 3.18.4 The Contractor shall indemnify and hold harmless all of the Indemnitees from and against any costs and expenses (including reasonable attorneys' fees) incurred by any of the Indemnitees in enforcing any of the Contractor's defense, indemnity, and hold-harmless obligations under this Contract.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement. Any reference in the Contract Documents to the Architect's taking action or rendering a decision within a "reasonable time" is understood to mean no more than two (2) weeks.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner and Architect. Consent shall not be unreasonably withheld.

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§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction, until payment is due, and (with the owner's concurrence), from time to time during the one-year warranty period for correction of Work as set forth in Section 12.2.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor,

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and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts. The authorized representatives and agents of the Architect, Owner, and such other persons as the Owner may designate shall have access to and be permitted to inspect all Work, subcontracts, materials, payrolls, records of personnel, invoices of materials and other relevant data and records for the Project wherever they are in preparation and progress. The Contractor shall provide proper facilities for such access and inspection and, when required, exact duplicate copies of the aforementioned data shall be furnished.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matter relating to aesthetic effect in connection with administration of the Contract will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.1.1 Any Subcontractor performing work must be licensed as required by the State, County, and/or municipality having jurisdiction. Transmit copies of license certificates to the Architect and Owner within ten (10) days following the execution of the Contract.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect.

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Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

§ 5.4.4 Each subcontract shall specifically provide that the Owner shall only be responsible to the Subcontractor for those obligations that accrue subsequent to the Owner's exercise of any rights under this conditional assignment.

§ 5.5 SUBCONTRACTOR DUTIES

§ 5.5.1 All subcontractors will participate in installing and removing general temporary protection measures and completing a nightly cleaning at the end of each workshift. Participation will be proportional to the level of manpower present on site for given night's work.

§ 5.5.2 All subcontractors will be provided with a temporary utility source, toilet facilities, and dumpster (for common trash). All other general conditions, temporary facilities, staging components, scaffolding, hoisting, conveyance equipment, etc. required for the commission of its scope of work shall be furnished, installed, and subsequently removed by subcontractor.

§ 5.5.3 All subcontractors will perform a daily cleanup of its debris. All common trash may be placed in the General Contractor furnished project dumpster. All bulk debris resulting from subcontractor's scope of work will be properly disposed off-site by subcontractor.

§ 5.5.4 All subcontractors shall furnish, install, and subsequently remove adequate protection measures for new and existing finishes, equipment, and furnishing to protect against damage that may result from the commission of subcontractor's scope of work.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar

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to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.1.5 The Contractor accepts assignment of, and liability for, all purchase orders and other agreements for procurement of materials and equipment that are identified as part of the Contract Documents. The Contractor shall be responsible for such pre-purchased items, if any, as if the Contractor were the original purchaser. The Contract Sum includes, without limitation, all costs and expenses in connection with delivery, storage, insurance, installation, and testing of items covered in any assigned purchase orders or agreements. All warranty and correction of the Work obligations under the Contract Documents shall also apply to any pre-purchased items, unless the Contract Documents specifically provide otherwise.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

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ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. No Change Orders, Construction Change Directives or order for a minor change in the work will be considered unless approved by the Owner in writing prior to the work performed.

§ 7.1.1.1 It is agreed the Owner has the right to request changes during performance of the Contract for Construction. The Contractor agrees to perform those requested changes for a fair and reasonable cost/credit and within the time directed by the Owner, whether the change requires an increase or a decrease to the Scope of the Work.

a. A fair and reasonable cost is defined as not greater than the current industry standard for the type work and circumstances under which it is to be performed. Means Construction Cost Data, latest edition, with locality factors taken under consideration, will be used as a guide and costs may not be higher without sufficient documentation to, in the Architect's, substantiate the increase. The Architect may also check costs against current similar work on other projects. A fair and reasonable time extension is defined as the net increase to the overall project schedule, as sufficiently documented by the Contractor and clearly determined justifiable by the Architect's review of the current Project Schedule. A request for a time extension must accompany any and all of the Contractor's cost proposal submittals or no additional time will be allowed.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Except as permitted in Section 7.3 and Section 9.7.2, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any alteration of or addition to the Work, whether or not there is, in fact, any unjust enrichment to the Work, shall be the basis of any claim to an increase in any amounts due under the Contract Documents or a change in any time period provided for in the Contract Documents.

§ 7.1.4 If the net value of a change or deletion results in a Credit to the Owner, the Credit shall be the net without profit and overhead.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

.1 The change in the Work;
.2 The amount of the adjustment or non-adjustment in the Contract Sum, if any; and
.3 The extent of the adjustment or non-adjustment in the Contract Time, if any.

§ 7.2.2 All Change Orders must be on the form designated by Owner.

§ 7.2.3 Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs and consequential damages associated with such change and any and all adjustments to the Contract Sum and the construction schedule.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the

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Contract Sum and Contract Time being adjusted accordingly. All Construction Change Directives must be on the form designated by Owner.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** The not-to-exceed unit prices stated in the Contract Documents or other unit prices subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a percentage fee as provided in Section 7.3.13; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, the stipulated allowance for overhead and profit as stated in Section 7.3.13.. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- **.1** Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- **.2** Costs of materials, supplies, and equipment, including sales tax and cost of transportation, whether incorporated or consumed;
- **.3** Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- **.4** Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- **.5** Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.3.11 The cost of the change in the Work shall not include any cost not to be reimbursed as provided in the Agreement.

§ 7.3.12 The Contractor shall check all materials, equipment and labor entering into the Work as a result of changes in the Work and shall keep such full and detailed accounts as may be necessary for proper financial management under the Contract for Construction, and the system shall be satisfactory to the Owner. The Owner shall be afforded access to all the Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to changes in the Contract.

§ 7.3.13 The percentage fee for overhead and profit combined, to be added to the cost of the change in the Work in determining the total cost to the Owner, shall be based upon the following schedule:

.1 For the Contractor, for Work performed by the Contractor's own forces, 15 percent of the cost.

.2 For the Contractor, for work performed by the Contractor's Subcontractor, 5 percent of the amount due the Subcontractor.

.3 For each Subcontractor or Sub-Subcontractor involved, for Work performed by the Subcontractor's or Sub-Subcontractor's own forces, 5 percent of the cost.

.4 For each Subcontractor, for Work performed by the Subcontractor's Sub-Subcontractors, 5 percent of the amount due the Sub-Subcontractor.

.5 Cost to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.6.

.6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials and Subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are Subcontracts, they shall be itemized also. In no case will a change involving over $500 be approved without such itemization.

§ 7.3.14 If a change in the Work results in a credit to the Owner, the credit shall be the net cost of the change as defined in Sections 7.3.7 and 7.3.11 and shall not include any allowance for the Contractor's or Subcontractors' overhead and profit.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the notice to proceed.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

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§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended by Change Order to the extent such delay will prevent the Contractor from achieving Substantial Completion within the Contract Time and if the performance of the Work is not, was not, or would not have been delayed by any other cause for which the Contractor is not entitled to an extension in the Contract Time under the Contract Documents. The Contractor further acknowledges and agrees that adjustments in the Contract Time will be permitted for a delay only to the extent such delay (i) is not caused, or could not have been anticipated, by the Contractor, (ii) could not be limited or avoided by the Contractor's timely notice to the Owner of the delay or reasonable likelihood that a delay will occur, and (iii) is of a duration not less than one day.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 Notwithstanding anything to the contrary in the Contract Documents, the Contractor's sole remedy for any (i) delay in the commencement, prosecution, or completion of the Work, (ii) hindrance, interference, suspension or obstruction in the performance of the Work, (iii) loss of productivity, or (iv) other similar claims (items i through iv herein collectively referred to in this Section 8.3.3 as "Delays"), whether or not such Delays are foreseeable, shall be an extension of time in which to complete the Work if permitted under Section 8.3.1 and, to the extent permitted under this Section 8.3.3, an adjustment in the Contract Sum. In no event shall the Contractor be entitled to any other compensation or recovery of any damages under or pursuant to this Section 8.3.3 in connection with any Delay, including, without limitation, consequential damages, lost opportunity costs, impact damages, or other similar remuneration.

§ 8.3.3.1 The Contractor shall be permitted an adjustment in the Contract Sum if any Delays, either individually or taken in the aggregate, cause the Contract Time to be increased by more than 25 days (the "Elimination Period"). Any adjustment in the Contract Sum under or pursuant to this Section 8.3.3 shall be limited to the increase, if any, of direct costs incurred by the Contractor in performing the Work as a result of that portion of any Delay or Delays that cause the Contract Time to be increased in excess of the Elimination Period.

§ 8.3.3.2 Both the Owner and the Contractor acknowledge and agree that the Elimination Period shall not apply to a Delay caused by the Owner. Any extension in the Contract Time in connection with an Owner-caused Delay shall not be considered in determining whether or not the Contractor has incurred Delays that, in the aggregate, exceed the Elimination Period.

§ 8.3.3.3 Extended overhead profit or damages will not be allowed, including those relating to weather delays. If the Contractor neglects, fails, or refuses to complete the work within the time herein specified, the Contractor must, as a part consideration for the awarding of this Contract, pay liquidated damages to the Owner.

§ 8.3.3.4 The Contractor shall assure that all of Subcontractors and suppliers are bound to a contractual provision providing that they are entitled to no additional compensation or damages on account of delays arising from any cause and shall indemnify Owner from any claims arising from its failure to do so.

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§ 8.3.4 Should a Contractor fail to complete his work within the time allowed by the Project Schedule at no one's fault but his own, Contractor will be responsible for paying the Owner all costs incurred for the Owner's consultants and subconsultants hired in conjunction with the execution of the work. The period that the Contractor will be responsible for such costs is from the point that the Contractor's work exceeded the scheduled completion date until the date of actual substantial completion.

§ 8.4 Reimbursement Of Consultants

§ 8.4.1 The involved Contractor is responsible for paying the Owner all costs incurred for consultants, including sub-consultants hired in the performance of the Work, including their overhead and profit, relative to the project during the following period:

§ 8.4.1.1 After the Contract Time, as defined in this Article, has expired, until the actual date of Substantial Completion or Final Completion.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

§ 9.2.1 Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment but within 10 days of full execution of the Agreement, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.2.2 The Contractor shall prepare a payment breakdown for the Work, such breakdown being submitted on a uniform standardized form approved by the Architect and Owner. The form shall be divided in detail sufficient to exhibit areas, floors, and/or sections of the Work, and/or by convenient units and shall be updated as required by either the Owner or the Architect as necessary to reflect (i) description of Work (listing labor and material separately), (ii) total value, (iii) percent of the Work completed to date, (iv) value of Work completed to date, (v) percent of previous amount billed, (vi) previous amount billed, (vii) current percent completed, and (viii) value of Work completed to date. Any breakdown that fails to include sufficient detail, is unbalanced, or exhibits "front-loading" of the value of the Work shall be rejected. If the breakdown had been initially approved and subsequently used but later was found improper for any reason, sufficient funds shall be withheld from future Applications for Payment to ensure an adequate reserve (exclusive of normal retainage) to complete the Work.

§ 9.3 Applications for Payment

§ 9.3.1 All payments must be submitted to the Owner for review and processing on AIA forms G-702 (certificate and application for payment) and AIA G-703 (continuation Sheet), or an Owner's approved equal, three original copies. Such application shall be notarized and supported by such data substantiating the Contractor's right to payment, such as copies of requisitions from subcontractors and material suppliers. The Owner shall determine the amount less retainage of each Application for Payment that is properly due and will issue payment for such amount, if Owners Lender does not reasonably object to such payment, no later than twenty (20) days after the first day of the next month following the period covered by the Application for Payment, provided the properly completed Application for Payment is in Owner's possession not later than the 1st day of the month.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders. Application for Payment shall be submitted on AIA Document G-702 and G-703. All listings of items to agree with the Schedule of Values (Paragraph 9.2).

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 The Contractor is provided with a Monthly Receipt and Release of Lien form by Owner as part of the Contract Documents Package and the Contractor shall properly complete and submit the required form with each Application for Payment. No payment will be issued without the fully executed Lien Waiver. This must be accompanied by fully executed Lien Waivers from all appropriate Subcontractors and Suppliers involved in the preceding Application for Payment.

§ 9.3.1.4 Each Application for Payment shall be accompanied by the following, all in form and substance satisfactory to the Owner: (i) a current Contractor's lien waiver and duly executed and acknowledged sworn statement showing all Subcontractors and material suppliers with whom the Contractor has entered into subcontracts, the amount of each such subcontract, the amount requested for any Subcontractor and material supplier in the requested progress payment, and the amount to be paid to the Contractor from such progress payment, together with similar sworn statements from all such Subcontractors and material suppliers; (ii) duly executed waivers of mechanics' and material suppliers' liens from all Subcontractors and, when appropriate, from material suppliers and lower tier Subcontractors establishing payment or satisfaction of payment of all amounts requested by the Contractor on behalf of such entities or persons in any previous Application for Payment; and (iii) all information and materials required to comply with the requirements of the Contract Documents or reasonably requested by the Owner or the Architect. If required by the Owner's title insurer, if any, the Contractor shall execute a personal gap undertaking in form and substance satisfactory to such title insurer.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site. The Contractor shall also comply with the following specific requirements:

.1 The aggregate cost of materials stored off site shall not exceed $ 50,000 at any time without written approval of the Owner.

.2 Title to such materials shall be vested in the Owner, as evidenced by documentation satisfactory in form and substance to the Owner and the Owner's Construction Lender, including, without limitation, recorded financing statements, UCC filings, and UCC searches.

.3 With each Application for Payment, the Contractor shall submit to the Owner a written list identifying each location where materials are stored off the Project site and the value of materials at each location. The Contractor shall procure insurance satisfactory to the Owner for materials stored off the Project site in an amount not less than the total value thereof.

.4 The consent of any surety shall be obtained to the extent required prior to payment for any materials stored off the Project site.

.5 Representatives of the Owner and the Lender shall have the right to make inspections of the storage areas at any time.

.6 Such materials shall be (i) protected from diversion, destruction, theft, and damage to the satisfaction of the Owner and the Lender, (ii) specifically marked for use on the Project, and (iii) segregated from other materials at the storage facility.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

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§ 9.3.3.1 The Contractor further expressly undertakes to defend the Indemnitees, at the Contractor's sole expense, against any actions, lawsuits, or proceedings brought against the Indemnitees as a result of liens filed against the Work, the site of any of the Work, the Project site and any improvements thereon, payments due the Contractor, or any portion of the property of any of the Indemnitees (referred to collectively as "liens" in this Section 9.3.3). The Contractor hereby agrees to indemnify and hold the Indemnitees harmless against any such liens or claims of lien and agrees to pay any judgment or lien resulting from any such actions, lawsuits, or proceedings.

§ 9.3.3.2 The Owner shall release any payments withheld due to a lien or claim of lien if the Contractor obtains security acceptable to the Owner or a lien bond that is (i) issued by a surety acceptable to the Owner, (ii) in form and substance satisfactory to the Owner, and (iii) in an amount not less than Two Hundred percent (200%) of such lien claim or such other amount as required by applicable law. By posting a lien bond or other acceptable security, however, the Contractor shall not be relieved of any responsibilities or obligations under this Section 9.3.3, including, without limitation, the duty to defend and indemnify the Indemnitees. The cost of any premiums incurred in connection with such bonds and security shall be the responsibility of the Contractor and shall not be part of, or cause any adjustment to, the Contract Sum.

§ 9.3.3.3 Notwithstanding the foregoing, except in the event that (i) a bond surety has provided indemnification for and continues to actively pursue the full release of any lien through the most expedient means; and (ii) the lien is causing the Owner to incur no negative consequences or costs, the Owner reserves the right to settle any disputed mechanic's or material supplier's lien claim by payments to the lien claimant or by such other means as the Owner, in the Owner's sole discretion, determines is the most economical or advantageous method of settling the dispute. The Contractor or surety shall promptly reimburse the Owner, upon demand, for any payments so made.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.4.3 If, subsequent to issuing any certificate pursuant to this Section 9.4, Architect should determine that any previous certificate was in error (whether by review of additional conditions or documents, discovery of mathematical error, or any other reason), then Architect shall issue a Revised Certificate for Payment, setting forth the changes in the amounts due Contractor as well as the reason for such revision.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to

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such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15. The Owner shall not be deemed in default by reason of withholding payment to the extent necessary in the Owner's reasonable opinion to protect the Owner while any of the conditions described in 9.5.1.1 through 9.5.1.7 remain.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.5.5 In the event the Contract causes the Architect to perform Additional Services and incur expenses concerning Change Order, interpretations of the Documents, or defect/deficiency in the Work, the Contract Amount will be reduced by the amount of compensation due the Architect and Owner will set off that amount from the next Payment to the Contractor.

§ 9.5.6 If any claim or lien is made or filed with or against the Owner, the Project, or the Premises by: (i) (y) any person claiming that the Contractor or any Subcontractor; or (z) other person under it has failed to make payment for any labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the work; or (ii) if at any time there shall be evidence of such nonpayment or of any claim or lien for which, if established, the Owner might become liable and which is chargeable to the Contractor, or (iii) if the Contractor or any Subcontractor or other person under it causes damages to the Work or to any other work on the Project, or (iv) if the Contractor fails to perform or is otherwise in default under any of the terms or provisions of the Contract Documents, the Architect shall withhold certification and the Owner shall have the right to retain from any payment then due or thereafter to become due an amount which the Architect shall deem sufficient to (1) satisfy, discharge and/or defend against any such claim or lien or any action which may be brought or judgment which may be recovered thereon; (2) make good any such nonpayment, damage, failure or default; and (3) compensate the Owner for an indemnity if against any and all losses, liability, damages, costs and expenses, including reasonable attorney's fees and disbursements, which may be sustained or incurred by the Owner in connection therewith. The Owner shall have the right to apply and charge against the Contractor so much of the amount retained as may be required for the foregoing purposes and if such retained amount is insufficient therefore, the Contractor shall be liable for the difference and pay the same to the Owner.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate

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agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

All monies paid on account to Contractor for materials or labor used in the performance of the Work will be regarded as funds held in trust solely for payment of any and all of contractor's obligations relating to or arising out of the Work including the payment of all subcontractors and suppliers of the contractor who have supplied labor, equipment, or materials or performed any work whatsoever on this Project.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.4.1 Without creating any obligation to do so, the Owner may elect to make payments jointly to the Contractor and to the Subcontractor identified on the Contractor's Application for Payment, unless the Contractor has any reasonable objection based upon an event of default under the Subcontract Agreement. Payment by the Owner to the Contractor and Subcontractor jointly shall not create a contractual relationship between the Owner and the Subcontractor, obligate the Owner to pay the Subcontractor directly in the future, or create contractual rights under the Contract for Construction in the Subcontractor against the Owner.

§ 9.6.4.2 Without creating any obligation to do so, the Owner may elect to make payments jointly to the Contractor and to the Subcontractor identified on the Contractor's Application for Payment, unless the Contractor has any reasonable objection based upon an event of default under the Subcontract Agreement. Payment by the Owner to the Contractor and Subcontractor jointly shall not create a contractual relationship between the Owner and the Subcontractor, obligate the Owner to pay the Subcontractor directly in the future, or create contractual rights under the Contract for Construction in the Subcontractor against the Owner.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

§ 9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by

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binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.7.2 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, such payment shall be made timely upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to timely make any payment due the Owner, in no event more than five business days from demand, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, the Owner shall have an absolute right to offset such amount against the Contract Sum and may, in the Owner's sole discretion, elect either to (i) deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due the Contractor from the Owner, or (ii) issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use; provided, however, that as a condition precedent to Substantial Completion, the Owner has received all certificates of occupancy and any other permits, approvals, licenses, and other documents from any governmental authority having jurisdiction thereof necessary for the beneficial occupancy of the Project.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. The Architect will make only one inspection to determine Substantial Completion. If this inspection determines that the work is not substantially complete, either because of major items not completed or an excessive number of punch list items, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of $1,200.00 per person per day plus expenses.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 The acceptance of Substantial Completion and final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the Application for Payment for Substantial Completion, and except for the retainage sums due at final acceptance.

§ 9.8.7 The Contractor shall be responsible for collecting, identifying, indexing and collating the following materials from the Subcontractors, and will deliver the finished document to the Architect to verify completeness. When the Architect is satisfied with the Contractor's submittal, the Architect will deliver the submittal to the Owner.

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§ 9.8.8 Subsequent to the time of Substantial Completion and receipt of contract record sets and operations and maintenance books, but prior to the date of final acceptance, the Contractor and/or Subcontractor shall provide a competent and experienced person (or persons) thoroughly familiar with the Work for a reasonable period of time but not less than 40 hours to instruct the Owner's personnel in operation and maintenance of equipment and control systems. This instruction will include normal start-up, run, stop, and emergency operations, location and operation of all controls, alarms and alarm systems, etc. The instruction will include tracing the system in the field and on the diagrams in the instruction booklets so that operation personnel will be thoroughly familiar with both the system and the data supplied.

§ 9.8.9 Substantial Completion (completion of punch lists) must be achieved within the time limits established in the Project Schedule for each phase to relieve the Contractor of responsibility for liquidated damages.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.1.1 If the Owner elects to occupy or use any completed or partially completed portion of the Work as permitted by Paragraph 9.9, the Contractor agrees to cooperate in the segregation and coordination of its construction activities. Such occupancy does not relieve the Contractor of liability to perform work required by the contract that has not been completed at the time of occupancy.

§ 9.9.1.2 Prior to the foregoing occupancy activity beginning, it is essential that the following steps be taken by the Contractor:

1. Fire Escapes: Fire exits shall have the illuminate exit signs installed above the exit openings. Panic hardware shall be installed and fully operational. Required exits must be kept usable throughout the construction period. Provide lighted, enclosed walkways through construction areas and make other provisions for safety as required by governmental authorities having jurisdiction.
2. Building Security: Required door locks at doors are installed and operational.
3. Fire Protection Sprinkler System: The fire protection sprinkler system shall be completely operational.
4. Operations and Maintenance Manuals shall be delivered to the Owner at the time of such occupancy.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

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§ 9.10.1.1 All warranties and guarantees required under or pursuant to the Contract Documents shall be assembled and delivered by the Contractor to the Architect as part of the final Application for Payment. The final Certificate for Payment will not be issued by the Architect until all warranties and guarantees have been received and accepted by the Owner. Liquidated damages to the date of Substantial Completion shall be deducted by Construction Change Directive from the Contract Sum and from the Substantial Completion payment. The Contractor's final Application for Payment shall be accompanied by a completed and notarized Certificate of Contract Completion in the form prescribed by the Owner. Any items required by the Contract Documents not previously submitted shall accompany the final Application for Payment.

§ 9.10.1.2 The Architect will make only one inspection to determine Final Completion. If this inspection determines that the work is not finally complete, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of $1,200.00 per person per day plus expenses.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees. Releases of liens shall be furnished by the Contractor on AIA Document G706 or a form approved by the Architect. Subcontractors and materials suppliers' lien releases may be provided by the Contractor.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents;
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment; or
- **.5** damages including attorney's fees and costs incurred by the Owner resulting from lawsuits brought against the Owner, the Architect or their agents, employees or representatives because of acts or omissions on the part of the Contractor, any Subcontractor, or any of their employees, agents or representatives.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.10.6 The Final Application for Payment under paragraph 9.3.1 will not be approved for payment by the Owner until the following Close-Out Documents are provided to the Owner by the Contractor in a "Close-Out Book"

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consisting of a black, three-ring binder with tabs for each category and any other Close-Out Document required by the specifications:

1. Final List of Subcontractors and Material Suppliers with their address, phone number and scope of work.
2. General Contractors Statement of one year Warranty.
3. Final Unconditional Lien Releases from General Contractor and All Subcontractors and Suppliers.
4. Final Inspection Approvals (See Specifications)
5. Red-Lined As-Built Drawings
6. Electronic As-Built files in PDF format on CD (2ea.), 1 set of prints in 30" x 42" format.
7. Any and all operational manuals including but not limited to HVAC, plumbing and electrical.
8. All Building Permits
9. Consent of Surety
10. Signed receipts by Owner of attic stock.
11. All warranties and extended warrantees required by Contract documents for Contractor's work.
12. All maintenance service agreements.
13. Certified copy of Architect's Certificate of Substantial Completion.
14. Two copies of sign-in sheets and videos of owner training sessions.
15. Copy of weekly job photo documentation.
16. Two signed copies of certified interior area survey.

§ 9.10.7 In no instance will a final settlement be made upon the contract until the expiration of thirty (30) days from the completion of the contract.

§ 9.10.8 If Close-Out Documents or "Close-Out" book is furnished later than 60 days from Substantial Completion, liquidated damages of $100.00/day will be imposed for each day the Close-Out Documents or "Close-Out Book" is late.

§ 9.11 The Contractor and Owner recognize that time is of the essence of this Agreement and that the Owner will suffer financial loss or incurred additional expenses if Contractor does not achieve Substantial Completion upon the date set, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions, as amended by this Supplementary Conditions, and reflected in a written, signed Change Order. The parties also recognize the delays, expense, and difficulties will be unduly burdensome or impossible to determine with a reasonable degree of accuracy and, therefore, Owner and Contractor agree that Contractor will pay to Owner liquidated damages for such delay—which liquated damages are recognized as a reasonable estimation of damages the Owner will incurred and not a penalty—as specified in the Agreement for each day that expires after the Substantial Completion Date.

§ 9.12 The Owner shall not be liable for the Contractor or any Subcontractor for claims or damages of any nature caused by or arising out of any delays. The sole remedy of the Contractor or any subcontractor for delays of any cause shall be the allowance of addition time for completion of Work, provided that such additional time is reflected in a written signed Change Order.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.1.1 The Contactor shall require all of its employees, Subcontractors and employees of Subcontractors to conduct themselves in a safe and professional manner and in conformity with all Federal, State and local work procedures, either endorsed or prohibited, and utilizing all personal protection devices included, within OSHA and TOSHA Construction Safety Regulations. The Contractor shall take all necessary precautions for the safety of the persons on or near the site of the Work, and shall comply with all applicable laws, rules, regulations and orders to prevent accidents or injuries to persons on or in the proximity of the Project site. The Contractor shall put into place a meaningful and effective safety program comprised of regular safety training of its employees on site, focusing upon various topics which, from time to time, its employees are likely to encounter in performing the Work. The Owner will cooperate with all safety audits and recommendations with regard to improving worker's safety, but the Contractor hereby acknowledges and agrees that the Owner is not responsible, in whole or in part, for the Work, execution of the Work or initiating, maintaining and supervising any safety precautions and programs in connection with the Work or the Project.

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§ 10.1.1.1 All work performed in conjunction with this project will be done in full compliance with all current United States Occupational Safety and Health Administration (OSHA) regulations.

§ 10.1.1.2 Provide temporary bracing and shoring and protect work. Comply with State and local codes, and all U.S. Occupational Safety and Health Administration (OSHA) regulations. Contractor is responsible for the performance of his temporary work. Protect work in progress and upon removal of temporary work, protect all surrounding existing work.

§ 10.1.2 Without limiting or diminishing the Contractors responsibility for protection of the site of the Work as set forth in 10.1.1, Contractor shall:

- **.1** Protect excavation, trenches, buildings and grounds from water damage of any sort, furnishing the necessary equipment to provide this protection during the life of the contract and Constructing and maintaining necessary temporary drainage to keep excavations free of water.
- **.2** Provide protection for the work against wind, storms, cold or heat, including, without limitation, at the end of each day's work, covering new work likely to be damaged, and if low temperatures make it impossible to continue operations safely in spite of cold weather precautions, cease work and notify Architect;
- **.3** Provide shoring and bracing required for safety and for the proper execution of the work and have same removed when the work is completed.;
- **.4** Protect, maintain and restore any bench marks, monuments, etc. affected by this work. If bench marks or monuments are displaced or destroyed, points shall be re-established and markers reset under the supervision of a licensed surveyor, who shall furnish certificates of his work.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.
- .4 Material and equipment provided by the Owner shall be received, stored, secured and protected in accordance with Paragraph 10.2.1.2 of the General Conditions. Incurred costs for receiving, storage, liability, and warranty laborshall be included in the Contract Amount. The Owner shall not be responsible for any contractor's material and equipment until Owners final acceptance as described in Paragraph 9.10.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel. When use or storage of explosives or other hazardous materials or equipment or unusual construction methods are necessary, the Contractor shall give the Owner and the Architect reasonable advance notice.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under

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Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.2.9 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work that cause death, personal injury, or property damage, giving full details and statements of any witnesses. All accident reports are to be submitted within one (1) calendar day. In death, serious injury, or serious damages are caused, the accident shal be reported immediately be telephone or messenger to the Owners and the Architect.

§ 10.2.10 When all or a portion of the Work is suspended for any reason, the Contractor shall securely fasten down all coverings and fully protect the Work, as necessary, from injury or damage by any cause.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a concealed and undisclosed hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up. The term "rendered harmless" shall be interpreted to mean that levels of asbestos and polychlorinated biphenyls are less than any applicable exposure standards set forth in OSHA regulations. In no event, however, shall the Owner have any responsibility for any substance or material that is brought to the Project site by the Contractor, any Subcontractor, any material supplier, or any entity for whom any of them is responsible. The Contractor agrees not to use any fill or other materials to be incorporated into the Work that are hazardous, toxic, or made up of any items that are hazardous or toxic.

§ 10.3.3 To the fullest extent permitted by law, including the Tennessee Governmental Tort Liability Act, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and

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employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents. The Contractor agrees to obtain, furnish and maintain in full force and effect without interruption during and throughout the entire term of the Agreement and for five (5) years thereafter, at its sole cost, all of the insurance required by and described in Exhibit A - Contractor's Insurance and Bond Requirements, attached. All of said insurance shall be written by, and secured from, a responsible company or companies which are satisfactory to Owner and which are authorized to engage in such insurance business in the state where the work is being performed. Each policy of insurance shall be issued by insurers with a current AM Best's rating of A- IX or better. All of said insurance shall be written for not less than the limits specified herein, or as required by law, whichever is greater.

§ 11.1.2 The Contractor shall, for the protection and benefit of the Indemnitees and the Contractor and as part of the Contractor's efforts to satisfy the obligations set forth in Section 11.1.1, procure, pay for, and maintain in full force and effect, at all times during the performance of the Work until final acceptance of the Work or for such duration as required, policies of insurance issued by a responsible carrier or carriers acceptable to the Owner, and in form and substance reasonably satisfactory to the Owner, which afford the coverages set forth in the Schedule of Insurance, attached to the Supplementary Conditions as Addendum A and made a part of this Agreement. All such insurance shall be written on an occurrence basis. Information concerning reduction of coverage shall be furnished by the Contractor promptly.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation

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or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

The Owner shall maintain the Owner's usual liability insurance; provided, however, that unless otherwise specifically provided by the Owner for the Work, the Contractor shall purchase and maintain insurance covering the Owner's contingent liability for claims which may arise from operations under the Contract.

§ 11.2.1 Insurance shall be maintained with a reliable company (having at least "IV" or better financial rating and "A-" or better general policyholder's rating according to the latest A.M. Best report of Contractor's choice, acceptable to, approved by Owner, authorized to do business in the state where project is located. Contractor shall require his subcontractors to provide insurance certificates for Workers' Compensation and General Liability insurance.

§ 11.2.2 The Contractor shall be responsible for securing Certificates of Insurance from all Subcontractors.

§ 11.2.3 A Certificate of Insurance, acceptance to the Owner, MUST BE RECEIVED by the Owner before the Owner will execute the Contract or before any work is performed on the project, whichever is the earliest date. The certification must indicate that the limits listed are provided and that insurance will not be canceled while the work specified is in progress without thirty (30) days prior written notice to Owner. Failure to provide the proper Certificate of Insurance as required above may result in the cancellation of the award of Contract.

§ 11.2.4 Insurance coverage limits required under this article shall be written for not less than the limits required by law or the amounts listed in Subparagraph 11.1.2, whichever is greater:

The contractor shall include within his umbrella insurance policy or shall purchase and maintain in a company or companies licensed to do business in the state in which the project is located, such insurance as indicated herein. Such insurance shall protect the Owner, Owner's Consultants, Architect, Architect's Consultants and the Contractor from claims which may arise out of or result from operations be by himself or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

Owner, Architect, their employees, consultants or agents shall be named insured for Commercial General Liability and excess Liability Insurance for this project.

OWNER MUST BE NAMED AS AN ADDITIONAL, NAMED INSURED ON ALL POLICIES OF INSURANCE

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Contractor hereby releases and discharges the Owner from all liability to the Contractor, and to anyone claiming by, through or under the Contractor, by subrogation or otherwise, on account of any loss or damage to tools, machinery, equipment, or other property, however caused. Contractor's policies of insurance shall not prohibit this waiver of subrogation, and the Contractor shall cause its Contractor's risk and property insurance company to issue a waiver of subrogation consistent with this provision. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The

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Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Compliance with insurance requirements shall not relieve the Contractor of any responsibility to indemnify the Owner for any liability to the Owner as specified in any other provision of the Contract for Construction, and the Owner shall be entitled to pursue any remedy in law or equity if the Contractor fails to comply with the provisions of this Contract for Construction. Indemnity obligations specified elsewhere in this Contract for Construction shall not be negated or reduced by virtue of any insurance carrier's (i) denial of insurance coverage for the occurrence or event which is the subject matter of the claim; or (ii) refusal to defend any named insured.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense. If prior to the date of Substantial Completion, the Contractor, a Subcontractor, or anyone for whom either is responsible uses or damages any portion of the Work, including, without limitation, mechanical, electrical, plumbing, and other building systems, machinery, equipment, or other mechanical device, the Contractor shall cause such item to be restored to "like new" condition at no expense to the Owner. In addition, the Contractor shall promptly remedy damage and loss arising in conjunction with the Project caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable and for which the Contractor is responsible.

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§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. For purposes of the preceding sentence, Contractor shall correct such Work promptly if Contractor commences such correction within seven days following the date of written notice from the Architect and thereafter diligently prosecutes such correction to completion. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 Upon completion of any Work under or pursuant to this Section 12.2, the one-year correction period in connection with the Work requiring correction shall be renewed and recommence. The obligations under Section 12.2 shall cover any repairs and replacement to any part of the Work or other property that is damaged by the defective Work.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2 or elsewhere in the Contract Documents, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract. In case the Contractor, on written consent of the Owner, assigns all or any part of any money due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee to any money due or to become due to the Contractor shall be subject to prior claims of all persons, firms

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and corporations for services rendered or materials supplied for the performance of the Work called for in the Contract Documents.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender or other entity providing construction financing or credit enhancement for the Project. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Except as expressly provided in the Contract Documents, duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.1.1 Construction testing shall be performed by an independent testing laboratory selected and paid for by the Owner. Preparation of pavement mix designs is the responsibility of the Contractor and is not part of the testing services to be paid for by the Owner. The Contractor shall coordinate scheduling for construction testing and shall also provide reasonable assistance needed by the testing laboratory to insure that the proper testing procedures are followed.

§ 13.4.1.2 Failure to notify the testing laboratory prior to installation will result in the Contractor repairing or replacing such work until proper testing procedures are met. The independent testing laboratory shall prepare certified test reports that indicate the type, location, date time, conditions, and results of each test. The Owner, Contractor and Tenant (if applicable) shall be provided with copies of each test report within 48 hours of the time the test was performed. In the event a test fails to comply with Drawings and Specifications, Owner and Contractor shall be notified immediately by the testing laboratory.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense. The Contractor also agrees the cost of testing services required for the convenience of the Contractor in his scheduling and performance of the Work, and the cost of testing services related to remedial operations performed to correct deficiencies in the Work, shall be borne by the Contractor,

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

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§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

§ 13.6 Severability.

Wherever possible, each provision of this Agreement shall be interpreted in a manner as to be effective and valid under applicable law. If, however, any provision of this Agreement, or portion thereof, is prohibited by law or found invalid under any law, only such provision or portion thereof shall be ineffective, without in any manner invalidating or affecting the remaining provisions of this Agreement or valid portions of such provision, which are hereby deemed severable.

§ 13.7 Duty of Good Faith

Each party hereto agrees to act in good faith with respect to the Project and Work and to do all acts and things and to make, execute and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Contract Documents.

§ 13.8 Applicability to Subcontractors

Any specific requirement in this Contract that the responsibilities or obligations of the Contractor also apply to a Subcontractor is added for emphasis and is also hereby deemed to include a Subcontractor of any tier. The omission of a reference to a Subcontractor in connection with any of the Contractor's responsibilities or obligations shall not be construed to diminish, abrogate, or limit any responsibilities or obligations of a Subcontractor of any tier under the Contract Documents or the applicable subcontract.

§ 13.9 No Waiver

The provisions of the Contract Documents shall not be changed, amended, waived, or otherwise modified in any respect except by a written Change Order signed by a duly authorized representation of Owner. No "constructive" changes are permitted and no actions, omissions, course of conduct, or practice shall be deemed a change, amendment, or waiver to the Contract Documents. Other than the City Manager, or his written delegee, no person is authorized on behalf of Owner to orally change, amend, waive, or otherwise modify the terms of the Contract Documents or any of the Contractor's duties or obligations under or arising out of the Contract Documents**.** Any change, waiver, approval, or consent granted to the Contractor shall be limited to the specific matters stated in the writing signed by Owner and shall not relieve Contractor of any other of the duties and obligations under the Contract Documents.

§ 13.10 Notices Regarding Liens

§ 13.10.1 Contractor shall provide all notices required or permitted by the laws of the state in which the Project is located for protection of Owner from liens and claims of lien if permitted or required by applicable law. Contractor shall be responsible for filing in the appropriate court or other governmental office records all such notices as required or permitted by the laws of the state in which the Project is located.

§ 13.10.2 Contractor shall provide Owner with copies of all notices received by Contractor from subcontractors, sub-subcontractors, and/or suppliers to Contractor.

§ 13.11 Executed Non-Collusion Affidavit of Subcontractor

The Contractor shall require each of the Subcontractors to execute the attached Non-Collusion Affidavit of Subcontractor.

§ 13.12 Pre-Blast Survey

In the event that the Contractor must perform any blasting during construction operations, the Contractor shall be responsible for conducting his own pre-blast survey at no cost to the Owner.

§ 13.13 Utility Service

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Unless otherwise provided in the Contract Documents, the Contractor shall provide and maintain at Contractor's own expense any water, electric, or other utility service necessary for the performance of the Work.

§ 13.14 Harmony Clause

§ 13.14.1 The Contractor and all Subcontractors agree that no labor dispute of any kind involving any Contractor or Subcontractor, or their employees or agents shall be permitted to occur or be manifested on the Project and the Contractor and Subcontractors to that end to only employ persons on the Work who will work at all times in harmony with other persons employed of the Project.

§ 13.14.2 The Contractor and all Subcontractors agree and their employees shall not participate in or accede to any work stoppage, slow down or any type of interference with the performance of work by other persons on the project which may occur as a result of any labor dispute involving their employees.

§ 13.14.3 Should there be a work stoppage, slow down or any type of interference with the performance of work by other persons on the project involving the Contractor or his employees or a Subcontractor or his employees resulting from a labor dispute and which in the judgment of the Owner will cause, or threatens to cause delay in the progress of construction, then upon twenty-four (24) hours written notice, Owner shall have the right to declare the Contractor and/or Subcontractor in default under this Contract and take such steps as are necessary to finish the uncompleted portion of work. In such event Owner shall have the right to take possession of and use all of the Contractor's and/or Subcontractor's materials (exclusive of tools) intended for use on the Work. The cost of completion including all expenses, attorney's fees and costs incurred in resolving the labor dispute shall be charged against the Contractor and/or Subcontractor's remaining interest in the Contract amount.

§ 13.14.4 Should the Contractor and/or Subcontractor(s) become involved in a labor dispute resulting in a work stoppage, slow down or any type of interference with the progress of construction and resulting in an increase in interest charges to Owner, the Contractor and/or Subcontract(s) shall be liable to Owner for this increased cost. If the Contractor and/or Subcontractor's agree to pay Owner such excess within thirty (30) days after written demand for such excess has been made upon him by Owner.

§ 13.14.5 Should the Contractor and/or Subcontractor(s) become involved in a contractual dispute resulting in a lien being placed on the project work stoppage, slow down, or any type of interference with the progress of construction and in the judgment of the Owner will cause, or threatens to cause delay in the progress of construction, then upon twenty-four (24) hours written notice, Owner shall have the right to take possession of and use all of the Contractor and/or Subcontractor's material (exclusive of tools) intended for use on the project. The cost of completion, including all expenses, attorney's fees and costs incurred in resolving subject disputes shall be charged against the Contractor and/or Subcontractor's remaining interest in the Contract amount.

Harmony clause provisions similar to the provisions of the immediately preceding paragraphs shall be included in any of the Contractor and/or Subcontractor's subcontracts relating to the Work.

§ 13.15 Liquidated Damages

§ 13.15.1 Should the Contractor or, in case of default, the surety fail to complete the work within the contractual time frame and no extension of contract time is granted by the Owner, a deduction for each calendar day that any work shall remain incomplete, an amount shall be deducted from any monies due to the Contractor. Liquidated damages assessed provided in the specifications is not a penalty but is intended to compensate the Owner for increased time in administrating the contract, supervision, inspection and engineering which required the Owner's forces for a longer time on any construction operation or phase than originally contemplated when the contract period was agreed upon in the contract. Permitting the Contractor to continue and finish the work or any part of it after the contractual completion date will in no way waive the Owner's rights under the contract.

§ 13.15.2 Therefore, should Contractor fail to obtain Substantial Completion by the date agreed to in the contract, the Contractor shall pay the Owner the sum of five hundred dollars ($500.00) for each day beyond that date until Substantial Completion is obtained. Further, a time charge equal to one hundred ($100.00) dollars per calendar day will be assessed against the final payment for each additional day required beyond sixty days from the date of Substantial Completion to submit final Close-Out documents.

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ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped; and

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 persistently refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 persistently disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the sum of the costs of finishing the Work and other damages incurred by the Owner exceed the unpaid balance of the Contract Sum, the Contractor shall pay the difference to the Owner. The amount to be paid to the Owner shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.2.5 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall be liable to the Owner for the expenses for additional managerial and administrative services provided in Article 14 hereof and also for the per diem liquidated damages, if any, agreed upon in the Agreement:

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.1 for each day the Contractor is in arrears in the Work at the time of said termination as determined by the Architect, and

.2 for each day of thirty (30) additional calendar days hereby stipulated and agreed to be the time it will require the Surety to effect another contract for completion of the Work, including resumption of Work thereon,

.3 provided, however, that the sum of Subparagraphs 14.2.5.1 and 14.2.5.2 shall not exceed the number of days beyond the original agreed completion date, or any extension thereof as herein provided, reasonably required for completion of the Work.

§ 14.2.6 If the Owner terminates the Contract for Construction for cause, and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, then in such event, said termination shall be deemed a termination for convenience as set forth in Section 14.4.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 Upon such termination, the Contractor shall recover as its sole remedy payment for Work properly performed in connection with the terminated portion of the Work prior to the effective date of termination and for items properly and timely fabricated off the Project site, delivered and stored in accordance with the Owner's instructions. The Contractor hereby waives and forfeits all other claims for payment and damages, including, without limitation, anticipated profits and overhead. The Owner shall be credited for (i) payments previously made to the Contractor for the terminated portion of the Work, (ii) claims that the Owner has against the Contractor under the Contract, and (iii) the value of the materials, supplies, equipment, or other items that are to be disposed of by the Contractor that are part of the Contract Sum. Any such payment to contractor pursuant to this Section 14.4.3 constitutes the exclusive remedy Contractor may have against Owner for its work on the Project once Owner has terminated Contractor for convenience, and is in place of any other claim or recovery Contractor may have against Owner arising out of or in any way connected with the Project, including but not limited to any claim for breach of the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

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§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker; provided, however, that the claimant shall use its best efforts to furnish the Initial decision Maker and the other party, as expeditiously as possible, with notice of any Claim including, without limitation, those in connection with concealed or unknown conditions, once such claim is recognized, and shall cooperate with the Architect and the party against whom the claim is made in any effort to mitigate the alleged or potential damages, delay, or other adverse consequences arising out of the condition that is the cause of such a Claim. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims may also be reserved in writing within the time limits set forth in this Section 15.1.2. If a Claim is reserved, the Resolution of Claims and Disputes procedures described in this Section 15.2 shall not commence until a written notice from the claimant is received by the Initial Decision Maker. Any notice of Claim or reservation of Claim must clearly identify the alleged cause and the nature of the Claim and include data and information then available to the claimant that will facilitate prompt verification and evaluation of the Claim.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

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.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

Extensions of time will not be granted for delays caused by inadequate construction force or the failure of the Contractor to place orders for equipment or materials sufficiently in advance to insure delivery when needed. Extensions of time will not be granted for delays caused by weather or weather related conditions as follows unless properly documented and accepted per the project specifications

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, a decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

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§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.2.9 The decision of the Initial Decision Maker in response to a Claim shall not be a condition precedent to mediation and binding dispute resolution in the event (1) the positions of the Initial Decision Maker and Architect are vacant, or (2) the Claim relates to a construction lien.

§ 15.3 Mediation

[Intentionally Omitted]

§ 15.4 Arbitration

All disputes shall be addressed in accordance with Addendum B.

ARTICLE 16 - APPLICABLE PUBLICATIONS (SUPPLEMENTARY)

§ 16.1 REFERENCE

§ 16.1.1 Any reference to a publication by its basic designation shall be a reference to the issue, edition and amendment (if any) of that publication current on the date of these specifications. That publication shall for a part of these specifications to the extent indicated by the reference thereof.

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COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title:	Construction contract for Emergency Operations Center Improvements
Department:	Administration
Presented by:	Scott Elliott

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Construction contract for improvements at the Emergency Operations Center (EOC).

Staff Recommendation

Approve construction contract with Rock City Construction.

Background Information

The EOC, located in the Police Headquarters, requires security access-controlled doorways and other improvements. Additionally, an ADA-compliant bathrooms, interior partitions, and upgrades to plumbing, HVAC, and electrical systems is required.

Bids were solicited and Rock City Construction was the lowest responsible bidder at $336,925.

Council Priorities Served

Responsible Budgeting

Maintaining City Facilities in an effective manner while ensuring ADA compliance is the most responsible means of protecting the City's most significant investments.

Fiscal Impact

Total cost of this project, $336,925, is funded through the FY21 CIP Budget.

Attachments

Contract with Rock City Construction

DRAFT

AIA® Document A101™ – 2017

Standard Form of Agreement Between Owner and Contractor

where the basis of payment is a Stipulated Sum

AGREEMENT made as of the « » day of « » in the year « 2022 »
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

« City of Murfreesboro, Tennessee, »«a municipality organized under the laws of the State of Tennessee »
«111 West Vine Street »
«Murfreesboro, Tennessee 37130»
« »

and the Contractor:
(Name, legal status, address and other information)

« Rock City Construction Company, LLC »« »
«1885 General George Patton Drive »
«Franklin, TN 37067 »
«615-794-6691 »

for the following Project:
(Name, location and detailed description)

«Murfreesboro Police Department Headquarters – EOC Renovations & Additions »
« 1004 North Highland Avenue »
« Murfreesboro, TN 37130 »

The Architect:
(Name, legal status, address and other information)

«CMH Architects, Inc. »« »
«1800 International Park Drive, Suite 300 »
«Birmingham, AL 35243 »
«(205) 969-2696 »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101™–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4 CONTRACT SUM

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6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date specified in the Notice to Proceed issued by the Owner. Contractor is not authorized to undertake any Work until the date set forth in the Notice to Proceed.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[« »] Not later than « one hundred twenty » («120») calendar days from the date of commencement of the Work.

[« »] By the following date: «January 25, 2023 »

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
N/A	N/A

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§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be «Three Hundred Thirty-Six Thousand Nine Hundred Twenty-five dollars » ($ «336,925.00 »), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
N/A	N/A

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A	N/A	N/A

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
N/A	N/A

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)
N/A	N/A	N/A

§ 4.5 Liquidated Damages

§ 4.5.1 Because failure to complete the Project within the time fixed in Section 3.3 will result in substantial injury to the Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, should the Contractor fails to achieve Substantial Completion of the Work within the time so fixed, or within such further time, if any, as shall be allowed for time extensions in accordance with the provisions of the Contract Documents, the Contractor or its Surety shall pay to the Owner as liquidated damages for such delay, and not as a penalty, $1500.00 for each and every calendar day elapsing between the date fixed for Substantial Completion in Section 3.3 and the date such Substantial Completion shall have been fully accomplished.

§ 4.5.2 Any liquidated damages assessed pursuant to Section 4.2.1. shall be payable in addition to any excess expenses or costs payable by the Contractor to the Owner under the provisions of Article 14 of the General Conditions, and shall not preclude the recovery of damages by the Owner under other provisions of the Contract Documents, except for Contractor's delays. This provision for liquidated damages for delay shall in no manner affect the Owner's right to terminate the Contract as provided in Article 14 of the General Conditions ("Termination or Suspension of the Contract") or elsewhere in the Contract Documents. The Owner may deduct from the balance of retainage the liquidated damages stipulated herein or in the next paragraph hereof, as the case may be, or such portion thereof as the retained balance will cover.

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

« **§ 4.6.1** The Owner shall not be liable for the Contractor or any Subcontractor for claims or damages of any nature caused by or arising out of any delays. The sole remedy of Contractor or any Subcontractor for delays of any cause shall be the allowance of addition time for completion of Work, provided such additional time is reflected in a written, signed Change Order. »

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ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 At least every 30 calendar days after the Contractor's commencement of the Work, but not more frequently than once per calendar month, the Contractor shall submit an Application for Payment to the Architect requesting payment for labor, services, and materials rendered or delivered during the preceding 30 calendar days. Each Application for Payment request shall contain such detail and be supported by sufficient information for the Owner and Architect to fully assess the request. The Architect will review the Contractor's Application for Payment and the accompanying data, information, and schedules (which are submitted in accordance with the Contract Document or at the Architect's request) to determine the amount the Contractor is due and, based on such review, together with its inspections of the Work, shall authorize in writing the requested payment to the Contractor.

§ 5.1.3 Provided the Application for Payment and all required supporting documentation is received by the Architect not later than the fifth day of the month, within 30 calendar days following Architect's authorization of payment, the Owner shall pay the sum authorized to the Contractor. No payment nor any use or occupancy of the Project, whether in total or partially, by the Owner constitutes an acceptance of any Work not in accordance with the Contract Documents.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- **.1** That portion of the Contract Sum properly allocable to completed Work;
- **.2** That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- **.3** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- **.1** The aggregate of any amounts previously paid by the Owner;
- **.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- **.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- **.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- **.5** Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

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(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« Five percent (5%)~~five percent (5%)~~ »

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« »

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

« »

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

« »

§ 5.1.8 [Intentionally omitted.]

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;

.2 a final Certificate for Payment has been issued by the Architect;

.3 the Contractor has submitted its final waiver of lien and final waivers of lien from all of its Subcontractors and suppliers in a form acceptable to the Owner; and

.4 the Contractor has submitted to the Owner all close-out documents, including without limitation, all as-build plans, warranties, manuals, and other materials set forth in the Contract Documents.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the daily interest rate factor (365 days) of the prime interest rate reported by JP Morgan as of the payment due date.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

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User Notes: (913913456)

« »
« »
« »
« »

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[« »] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[« »] Litigation in a court of competent jurisdiction

[« X »] Other *(Specify)*

« AIA Document A201™–2017, General Conditions of the Contract for Construction Addendum B, Dispute Resolution Procedures»

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017. In addition, the Owner may terminate this Contract in the event of the unavailability of appropriated funds or a determination by Owner of the absence of continued need for the Project.

« »

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

« Scott Elliott, Project Development Manager~~Craig Tindall, City Manager~~ »
« 111 West Vine Street »
« Murfreesboro, TN 37130 »
« Tel: (615) 849-2629 »
« Email: selliott~~ctindall~~@murfreesborotn.gov »

« or his designee as indicated in writing from time to time.»

Commented [KB1]: Should this be Scott?

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

« John Lee, Managing Principal~~le~~ »
«Rock City Construction Company, LLC »
«1885 General George Patton Drive »
«Franklin, TN 37067 »
«jlee@rockcityconstruction.com »
« 615-794-6691 »

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§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Contractor shall purchase and maintain insurance as set forth in Exhibit A, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 8.7 Other provisions:

« »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor

.2 Exhibit A, Contractor's Insurance and Bonds Requirements

.3 AIA Document A201™–2017, General Conditions of the Contract for Construction, including Addendum A, Contractor's Standard Form Subcontract, and Addendum B, Dispute Resolution Procedures

.4 ~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~

~~(Insert the date of the E203-2013 incorporated into this Agreement.)~~[Intentionally Omitted]

« »

.5 Drawings

Number	Title	Date
ARCHITECTURAL G0.0 COVER SHEET G0.1 ADA STANDARDS & DETAILS A0.1 LIFE SAFETY PLAN A1.0 KEY PLANS A2.0 DEMO FLOOR PLAN A2.1 NEW WORK FLOOR PLANS A2.2 NEW WORK REFLECTED CEILING PLANS A4.1 SECTIONS & DETAILS A6.1 DOOR SCHEDULES & ELEVATIONS A7.1 ENLARGED RESTROOM PLAN & ELEVATIONS **MECHANICAL** M1.0 NEW WORK FLOOR PLAN HVAC **PLUMBING/ FIRE PROTECTION** PFP1.1 NEW WORK FLOOR PLAN **ELECTRICAL** E0.1 LEGENDS, NOTES AND DEMOLITION E1.1 FLOOR PLAN - ELECTRICAL	Bid/Permit/Construction Issue	02/18/2022

.6 Specifications

Section	Title	Date	Pages
See Table of Contents (00 0110)	Specifications for Murfreesboro Police Department Headquarters	02/18/2022	255

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– EOC Renovations & Additions

.7 Addenda, if any:

Number	Date	Pages
Addendum #01	8/11/2022	15

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[« »] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

« »

[« »] The Sustainability Plan:

Title	Date	Pages

[«X »] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Specifications Section 00 7300	Supplementary Condition	02/18/2022	35

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

« »

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
« Shane McFarland, »«Mayor »	«John Lee, »«Managing Principalle »
(Printed name and title)	*(Printed name and title)*

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney

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User Notes: (913913456)

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Health Benefits Service Agreements for 2023

Department: Employee Services

Presented by: Rhonda Darnell, Assistant Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Agreements with Consultant and Providers for Health Benefits Services and Insurance for 2023 benefits plans.

Staff Recommendation

Approve agreements with Midwest Series of Lockton Cos., National Insurance Services of Wisconsin Insurance Trust, Virgin Pulse, Inc. Total Administrative Service Corp. (TASC), and Blue Cross Blue Shield of Tennessee (BCBST)

Background Information

Organizations providing health benefits consulting services, health benefits, and insurance coverage were selected based on qualifications under the RFCSP process. The following organizations were selected:

- *For general benefit consulting services*: Lockton for Benefits Consultant Services, $60,000
- *For long-term disability coverage*: National Insurance Services of Wisconsin Insurance Trust for policies underwritten by Madison National Life Insurance Company, Inc., $158,636
- *For wellness services*: Virgin Pulse, Inc., $48,500,
- *For FSA/HRA Administration Medicare Services*: TASC, $14,256
- *For elective short-term disability insurance*: Schools Insurance Fund of Wisconsin for policies underwritten by Madison National Life Insurance Company, Inc., funded by employee contributions
- *For elective vision insurance*: BCBST, funded by employee contributions.

The agreement with Lockton maintains pricing at the same level as the current year. Agreements with Virgin Pulse, Inc., TASC, and National Live Insurance Services of Wisconsin have lower pricing for the same service level. Each agreement is pending legal review for approval.

Council Priorities Served

Responsible budgeting

The provision of a strong employee benefits package assists in maintaining and

productive workforce and reduces the expenses associated with employee turnover.

Fiscal Impact

The City's expense, $281,392, is funded by the City's Insurance Fund.

Attachments

1. Service Agreement with Midwest Series of Lockton Companies LLC
2. Joinder Agreement for Long-Term Disability Insurance with National Insurance Services of Wisconsin Insurance Trust
3. Joinder Agreement for Short-Term Disability Insurance with Schools Insurance Fund of Wisconsin
4. Order Form for Virgin Pulse, Inc.
5. Group Agreement with BlueCross BlueShield of Tennessee, Inc.
6. Universal Subscription Agreement with Total Administrative Service Corp.

Services Agreement

This Services Agreement (the "Agreement") made and entered into effective as of January 1, 2023 ("Effective Date"), by and between City of Murfreesboro ("Client") and the Midwest Series of Lockton Companies, LLC ("Lockton"). In consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

---

1. **TERM.** This Agreement will be in effect from the Effective Date above on an annual basis and shall automatically renew for annual periods unless earlier terminated in accordance with the provisions of the Agreement.

2. COMPENSATION, DISCLOSURE AND PAYMENT TERMS

2.1 Compensation. All insurance brokerage and/or insurance services provided by Lockton as set forth in Addendum A will be performed for the following compensation:

1. Annual fee of $60,000 with monthly payments of $5,000 commencing on January 1st 2023.
2. Base commissions calculated as a percentage of premiums on those insurance placements so referenced in Addendum B and,
3. As applicable, other compensation set forth below.

2.2 Disclosure. In addition to the compensation set forth above, Client acknowledges, consents and agrees that Lockton may also receive other forms of incentive compensation such as contingency payments, bonuses, overrides, prizes/awards and/or supplemental commissions or other commission-like payments from insurance companies, intermediaries (which may be affiliated with Lockton) or other third parties as a result of being Client's insurance broker (collectively, "Additional Compensation"). Addendum B, receipt of which is hereby acknowledged, sets forth a disclosure of actual or estimated commissions and/or Additional Compensation, if any, Lockton may or will receive on account of its services provided to you or on your behalf.

2.3 Expenses. All travel expenses will be billed to the Client as incurred and are outside the scope of the compensation described above. Travel expenses include airfare, hotel, food and transportation.

2.4 No Offset. It is further agreed that no portion of any noncash compensation (e.g., meals, entertainment, travel, gifts, etc.) received by Lockton from any insurance company, intermediary, or other third party as a result, in whole or in part, of Lockton's services as Client's insurance broker shall be offset or credited against the compensation payable to Lockton as set forth above.

3. SERVICES

3.1 Scope of Services. It is hereby understood and agreed that in consideration of the compensation set forth above, Lockton will provide the consulting services outlined in Addendum A, which is attached to and made part of this Agreement. In the event Client: 1) requests that Lockton place coverage on any line(s) of business not indicated in Addendum B; 2) requests that Lockton provide other services beyond those set forth in Addendum A; or 3) makes an acquisition or otherwise experiences growth such that the level and/or scope of services needed by Client shall significantly exceed the level of services as contemplated at the inception of this Agreement, Client and Lockton agree to review in good faith the additional services required and increase the fee set forth herein or agree to other compensation (such as commissions on additional placements) in addition to the fee. Such additional compensation shall be set forth in a written and signed addendum pursuant to Section 6.3 of this Agreement.

3.2 Use of Intermediaries. When in Lockton's professional judgment it is necessary or appropriate, Lockton may utilize the services of intermediaries or other appropriate outside vendors to assist in the servicing and marketing of Client's employee benefit programs. However, this may only be done after consultation with Client. Such intermediaries may or may not be affiliates of Lockton. Lockton will advise Client whether any such intermediary is an affiliate of Lockton. Under all circumstances, any and all compensation earned by any intermediary or outside vendor shall be in addition to the compensation paid to Lockton as described herein.

3.3 Modeling and Analytics Services. Lockton provides various modeling and/or data analytics services to its clients ("Modeling and Analytics Services") and may provide such services to Client. Client authorizes Lockton to 1) disclose information it receives from Client, its insurers and/or third-party administrators to Lockton's affiliates, parents, employees, and/or to third parties as necessary to perform such Modeling and Analytics Services, and 2) contribute such information to benchmarking databases created by or for Lockton to facilitate the creation of analytic reports for its clients, provided that such reports shall not include any information that personally identifies Client or its employees.

Modeling and Analytics Services will be based upon a number of assumptions, conditions and factors, as well as information provided by third parties. If any such information provided to or utilized by Lockton is inaccurate, incomplete or should change, the Modeling and Analytics Services provided by Lockton could be materially affected. As Modeling and Analytics Services are subject to inherent uncertainty and involve variables beyond Lockton's control, actual results may differ materially from Lockton's projections. The parties agree that Lockton shall have no liability to Client if 1) Lockton is provided inaccurate or incomplete information, or 2) actual results differ from Lockton's projections. Modeling and Analytics Services do not constitute, and are not

intended to be a substitute for, independent actuarial, accounting or tax advice.

4. TERMINATION OF SERVICES

4.1 Termination for Convenience. Client or Lockton may terminate this Agreement at any time with sixty (60) days' written notice to the other party.

4.2 Termination Upon Change in Broker of Record. However, should Client designate a broker other than Lockton as its exclusive broker of record at any time subsequent to the Effective Date for any reason, this Agreement shall terminate on the effective date of the change in broker of record ("BOR") rather than at the conclusion of the sixty (60) day notice period referenced in Section 4.1., above.

4.3 Compensation Due at Termination

In the event that Client terminates this Agreement, either by BOR or by sixty (60) days written notice, all services will be discontinued on the effective date of termination and Lockton will assist in the transition to the Client's new broker or other person that Client authorizes and represents to Lockton is authorized by applicable law to render the services transitioned. In such event, Lockton shall be entitled to retain all commissions earned on Client's placements through the effective date of termination.

4.4 Additional Expenses Payable Upon Termination. In the case of a renewal, should some or all of the insurance coverages described in Addendum B be assigned to another broker through a broker of record letter prior to the inception date of the coverages, in addition to any termination payment owed pursuant to Section 4.3 above, Client will reimburse Lockton for its reasonable expenses for the time, charges, and expenses incurred for the renewal services provided through the date of the broker of record letter.

5. CONFIDENTIALITY

5.1 Confidential Information. Lockton and Client acknowledge that the nature of Lockton's services provided to Client may result in either party (the "Disclosing Party") disclosing to the other party (the "Receiving Party") certain of Disclosing Party's information ("Information"), some of which may be of a confidential or proprietary nature. Client acknowledges and consents to Lockton's use and disclosure of information in the course of performing marketing, services, claims handling, risk management and/or insurances renewal services for Client. For purposes of this Agreement, Information shall mean any and all nonpublic information provided to the Receiving Party, which may include the Disclosing Party's product, marketing, pricing or financial strategies; customer information; carrier rate and discount data; employee information; proprietary business processes or technologies; financial information and/or trade secrets.

5.2 Exclusions. Information shall not include any information that: 1) is or becomes publicly known and generally available in the public domain through no wrongful action or disclosure by the Receiving Party; 2) becomes known by the Receiving Party without any obligation to hold such information in confidence; 3) is received from a third party without similar restrictions known to the Receiving Party; 4) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Information; or 5) The Receiving Party is required by law, regulation, summons, subpoena or similar judicial, regulatory or administrative order or proceeding to disclose, but only to the extent and for the purpose of such required disclosure, provided the Receiving Party, unless prohibited by law, gives the Disclosing Party prompt written notice of such required disclosure to enable the Disclosing Party to pursue protective measures.

5.3 Receiving Party's Confidentiality Duties. In consideration of the Disclosing Party's disclosure of Information to the Receiving Party, the Receiving Party hereby agrees as follows:

A. The Receiving Party shall take all reasonable steps to protect the confidentiality of the Information, and shall not use the Information for any purpose other than the advancement of the services contemplated herein.

B. The Receiving Party shall not, without the prior written approval of the Disclosing Party, publish or disclose to others any of the Information, except that Client expressly authorizes Lockton to disclose Client's Information to underwriters, insurers, insurance-related intermediaries and/or other third parties as necessary for the purpose of providing the services contemplated herein.

C. The Parties acknowledge that any unauthorized disclosure or use of the Information in violation of this Agreement by a Receiving Party may cause the Disclosing Party irreparable harm, and that money damages alone, the amount of which might be difficult to ascertain, might be an inadequate remedy and, therefore, agree that the Disclosing Party shall have the right to seek injunctive relief in addition to any other remedies otherwise available to the Disclosing Party at law or in equity.

D. At the Disclosing Party's written request, the Receiving Party shall return to the Disclosing Party any and all records or documents constituting the Information, except that the Receiving Party shall be permitted to retain an archival copy of the Information pursuant to its record retention and regulatory and legal compliance requirements. If return of the Information is not feasible, the Receiving Party shall maintain the Information pursuant to the terms and conditions of this Agreement.

6. GENERAL CONDITIONS

6.1 Cooperation. Client shall provide Lockton with reasonable cooperation and assistance necessary for Lockton to fulfill its responsibilities to Client pursuant to the terms of this Agreement, including, without limitations, copies of all documents reasonably requested by Lockton and the cooperation of and access to certain of Client's personnel.

6.2 Assignment. Neither party shall assign any rights or duties herein set forth without the prior written consent of the other party.

6.3 Entire Agreement. The terms and conditions of this Agreement constitute the entire Agreement between the parties with respect to the subject matter hereof. Subject to the provisions of Section 3.1, this Agreement shall not be amended except by a written amendment signed by both parties, and no promises, agreement, or representations not herein set forth shall be of any force or effect between them. This Agreement shall serve to terminate and supersede all agreements and undertakings

heretofore entered into between the parties on subjects covered by this Agreement.

6.4 Indemnification. Lockton and Client shall indemnify, defend, and hold one another, their directors, officers, employees, agents, and representatives harmless from and against any and all claims, damages, losses, or expenses (including such parties' reasonable attorney, accountant, and expert witness fees and costs) incurred by one party as the result of (i) a material breach by the other party of any of its obligations under this Agreement or (ii) any willful or negligent conduct of the other party.

6.5 Dispute Resolution. Any and all disputes between the parties arising out of or relating to this Agreement or the services provided pursuant to this Agreement shall be adjudicated and resolved exclusively through binding arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules in effect at the time such arbitration is initiated. Any arbitration hereunder shall be conducted in Kansas City, Missouri, and the decision of the arbitrator shall be final and binding upon all parties. An arbitrator's decision may be recorded and registered as a judgment in any jurisdiction in which the party against whom the arbitration award is rendered has assets in order for the prevailing party to collect any amounts due hereunder. Each party shall be responsible to pay its own arbitration filing fees, arbitrator fees, attorney fees, and other related administrative costs and expenses incurred in the course of prosecuting or defending a claim in arbitration.

6.6 Limitation of Liability. IN NO EVENT SHALL A PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND LOST BUSINESS), ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OR IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHER LEGAL THEORY. IN ANY EVENT, THE LIABILITY OF ONE PARTY TO THE OTHER FOR ANY REASON AND UPON ANY CAUSE OF ACTION SHALL BE LIMITED TO TEN MILLION DOLLARS ($10,000,000.00). THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE EXCLUSIONS AND LIMITATIONS OF LIABILITY CONTAINED IN THIS SECTION SHALL NOT APPLY TO: 1) ANY DAMAGES AWARDED IN CONJUNCTION WITH A FINAL JUDICIAL DETERMINATION OF FRAUD OR GROSS NEGLIGENCE OR 2) PERSONAL INJURY, INCLUDING DEATH, OR DAMAGE TO TANGIBLE PERSONAL PROPERTY CAUSED BY THE NEGLIGENT, WILLFUL OR INTENTIONAL ACTS OF A PARTY OR ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS. REFERENCES TO A PARTY IN THIS SECTION INCLUDE SUCH PARTY'S DIRECTORS, OFFICERS, EMPLOYEES, MEMBERS, AGENTS AND DOMESTIC AND INTERNATIONAL AFFILIATED ENTITIES.

6.7 Accuracy and Completeness of Information. Client shall be solely responsible for the accuracy and completeness of all information furnished to Lockton and/or to underwriters, insurers, insurance-related intermediaries and/or other third parties as necessary for the services contemplated herein. Lockton shall not be responsible for independently verifying the accuracy or completeness of any information that Client provides, and Lockton shall be entitled to rely on such information. Lockton shall have no liability for any errors, deficiencies or omissions in any services provided to Client, including the placement of insurance on Client's behalf, that are the result of, arise from, or are based, in whole or in part, on inaccurate or incomplete information provided to Lockton. Client understands that the failure to provide accurate and complete information to an insurer, whether intentional or by error, could result in the denial of claims or rescission of coverage altogether. Client will review all policy documents provided to Client by Lockton and shall inform Lockton of any inaccuracies, deficiencies or discrepancies contained therein.

6.8 Use of a Particular Insurer. Lockton is not obligated to utilize any particular insurer. In addition, Lockton is not authorized to make binding commitments on behalf of any insurer, except under certain circumstances which Lockton shall endeavor to make known to Client. Lockton shall not be responsible for the solvency of any insurer or its ability or willingness to pay claims, return premiums or other financial obligations. Lockton does not guarantee or make any representation or warranty that insurance can be placed on terms acceptable to Client. Lockton will not take any action to replace Client's insurers unless Client instructs Lockton to do so.

6.9 No Reliance. Any reports or advice provided by Lockton should not be relied upon as accounting, legal, actuarial or tax advice. In all instances, Lockton recommends that Client seek independent advice on such matters from professional accounting, legal, actuarial and tax advisors.

6.10 Responsibility for Insurance Programs. Lockton will not be responsible for the adequacy or effectiveness of any insurance programs or policies implemented or placed by another broker, including, without limitation, any acts or omissions occurring prior or subsequent to Lockton's engagement.

6.11 Relationship between the Parties. Client acknowledges and agrees that in no event shall Lockton owe any enhanced or special duties to Client, express or implied, in fact or by law, whether referred to as a special relationship or fiduciary relationship or otherwise, except to the extent required by applicable law.

6.12 Notices. Any communication or notice required or which may be given hereunder shall be addressed to Client and to Lockton at their respective addresses as follows:

CLIENT
City of Murfreesboro
111 W. Vine Street
Murfreesboro, TN 37130
Attn:
Title:

LOCKTON
MIDWEST SERIES OF LOCKTON COMPANIES, LLC
340 Seven Springs Way, Suite 750
Brentwood, TN 37027-5696
Attn:
Title:

6.13 Governing Law. This Agreement shall be governed for all purposes by the laws of the state of Missouri.

<The rest of this page is intentionally left blank. Signature page to follow.>

In witness whereof, the parties hereto have executed the Agreement in duplicate intending each copy to serve as an original as of the day and year first written above.

MIDWEST SERIES OF LOCKTON COMPANIES, LLC

BY: _____

Rick Peeples

Senior Vice President

DATE: _____

CITY OF MURFREESBORO

BY: _____

Client printed name

Title

DATE: _____

Standard Services	Frequency	Included in fee
Health and Welfare Program Assessment and Strategic Planning		
Conduct health and welfare program assessment to establish short and long term benefit plan objectives, including benefits offered, program cost, plan design, employee/employer cost sharing, etc.	Annually	Yes
Review possible future program modifications and related financial impact to complement Client's objectives	Annually	Yes
Develop and monitor strategic plan	Annually	Yes
Prepare and manage annual Client service plan/timeline	Annually	Yes
Lead/participate in strategic planning meeting(s)	Up to 6	Yes
Benchmarking		
Analyze relevant normative comparisons to ensure Client is within the desired range compared to Lockton book of business	Annually	Yes
Analyze health plan historical cost trend analysis versus readily available national benchmarks	Annually	Yes
Renewal and Marketing [1,2]		
Coordinate renewal activities with all carriers/administrators	Annually	Yes
Quantify financial impact of renewal; negotiate variance between renewal and Lockton projections	Annually	Yes
Prepare and present executive summary renewal report, including Lockton recommendations	Annually	Yes
Prepare and distribute Request for Proposal (RFP) if marketing is necessary; direct and coordinate marketing process and carrier data requests	As needed	Yes
Prepare and present executive summary marketing report, detailing current and proposed costs, differences in provider networks, high level service capabilities, plan designs, etc.	As needed	Yes
Coordinate and participate in finalist meetings	TBD[2]	Yes
Carrier/Vendor Implementation		
Coordinate and participate in implementation kickoff meeting/call with carrier(s)	As needed	Yes
Assist in the completion of implementation paperwork	As needed	Yes

[1] Applies to medical, dental, vision, life, disability, COBRA, FSA.
[2] 2 Includes marketings based on the following frequencies (additional frequency available at additional cost):
- Medical and Dental: Fully insured = annually; self-funded= access , discounts and stop loss premium annually, administrative fees and other services every three years
- Vision, Life & Disability, EAP, FSA, COBRA: Every three years unless there are service issues requiring a carrier change

Standard Services	Frequency	Included in fee
Participate in regularly scheduled calls throughout implementation process	As needed	Yes
Ongoing Service		
Provide as needed assistance to HR/benefits contacts in resolving carrier service issues (i.e., claims, eligibility, billing, etc.)	As needed	Yes
Coordinate and participate in an annual service meetings with Client and select carriers (medical, dental, life and disability)	As needed	Yes
Coordinate research on ERISA/Health and Welfare insurance related legal issues with Compliance team	As needed	Yes
Review plan documents, summary plan descriptions, contracts, and other benefits related documents to ensure high level plan design/other benefits information are reflected correctly	As needed	Yes

Standard Services	Frequency	Included in fee
Claims Experience/Financial Analysis[3]		
Prepare claims reporting package detailing plan enrollment, premiums, claims, administrative fees, stop loss premiums, and large claimants	Monthly	Yes
Prepare preliminary renewal projection	Annually	Yes
Analyze available claims history to determine most appropriate method of medical and/or dental financing (i.e., fully insured, self-insured, minimum premium, etc.)	As needed	Yes
Prepare executive summary utilization report, detailing claims paid by type of service, diagnostic category, in vs. out-of-network, generic vs. brand name drug utilization, etc.	Annually	Yes
Present detailed Infolock® utilization report, when available, including analysis of utilization, cost by risk stratification, chronic disease burden and compliance gaps[4]	Annually	Yes
Actuarial Services[5]		
IBNR reserve certification	Annually	Yes
Plan design valuation	As needed	Yes
Comparison of medical carrier network discount levels	Annually	Yes
COBRA rate development	Annually	Yes
Medicare Part D actuarial attestation of creditable coverage	As needed	Yes
Analysis of funding options (fully insured vs. self-insured)	As needed	Yes
Detailed analysis of claims data to estimate impact of plan changes, project enrollment for multi-option plans, etc.	As needed	Yes
Multi-option plan modeling, including cost projections, employee contribution strategies, and enrollment migration estimates	Annually	Yes – Up to 5 iterations
Non discrimination testing	Not included	Not included
San Francisco Health Care Security Ordinance Reporting Calculations	Annually	Yes
Standard Services	**Frequency**	**Included in fee**
Health Risk Solutions (HRS) Services		
General consulting - Trends, marketplace and best practice consultation - HRS-related compliance support - Resource and benchmark sharing - Ad hoc questions/inquiries	Ongoing	Yes
Strategic planning - Initial client assessment - Existing program review and feedback - Conduct program readiness assessment (as needed) - Assist with population health goals and objectives - Multiyear strategy development	Annually	Yes

[3] For claim reports, assumes one roll up report for entire group; for annual utilization/Infolock report, assumes carriers can provide requested data and one aggregate report for entire group (additional cuts available at additional cost)

[4] Any needed carrier data interface fees in connection with Lockton's Infolock data warehouse offering to be paid by client

Compliance Services		
Access to Lockton's in-house Compliance Department for assistance with: – ERISA and state insurance issues; COBRA, HIPAA, FMLA, and USERRA as they pertain to welfare benefit coverage; tax code issues (cafeteria plan, dependent care, group term life, educational assistance issues, etc.) – Legislation affecting benefit programs, including health reform – ERISA and other select federal and state reporting and disclosure obligations, per a compliance calendar and various notice matrices	As needed	Yes
Other services include online seminars and workshops, and newsflashes/alerts delivered via e-mail	As needed	Yes
Coordinate gathering of Schedule A reports to facilitate preparation of Form 5500, including preparing signature-ready Form 5500s	Annually	Yes
Access to ThinkHR platform which provides on-the-spot expert human resource advice and answers to businesses and human resource professionals through its national HR hotline and HR answers portals.	Ongoing	Yes
Compliance Audit	As needed	Additional fees may apply
HIPAA training	Annually	Additional fees may apply
Wrap document	As needed	Additional fees may apply

Standard Services	Frequency	Included in fee
Health Reform Advisory Practice (HRAP)		
Provide information, advice and assistance with analysis and implementation of health reform legislation requirements	Ongoing	Yes
Advise Client on the integration of health reform requirements with their overall compensation and benefit strategies	Ongoing	Yes
Deliver options and recommendations tailored to Client's circumstances	Ongoing	Yes
Develop strategies and resources for required employee communications	Ongoing	Yes
Provide analytic modeling services through utilization of Lockton's proprietary HRAP Pricing Model to assess/predict future costs driven by healthcare regulatory reform	Annually	Yes
Annual Enrollment Support		
Coordinate annual enrollment process	Annually	Yes
Conduct Webcasts for open enrollment	3	Yes
Manage carrier participation in annual enrollment process, if desired	Annually	Yes
Conduct "train the trainer" for employee benefit plan meetings	Annually	Yes
Conduct in person annual enrollment presentations	Not included	Not included
Communications		
Year Round **Templated** Communication (design customization for brand colors and logo only) - Quarterly EB topics, written in 3 media formats - EB communication library (flyers, newsletters, posters, postcards, emails) - Monthly wellness newsletter - Video library	Ongoing	Yes
Open Enrollment **Templated** Communications (design customization for brand colors and logo / content customization to fit plan designs) - Evergreen benefits guide (4 versions including for OE and new hires, and 6 iterations/reviews per version) - OE PowerPoint Template, focused on what's changing/what's new (1) - Poster (1) - Postcard (2)	Annually	Yes
Voluntary Worksite Benefits Consulting		
Educate client on current state of Voluntary Worksite Benefits environment	As needed	Yes
Assessment current voluntary worksite programs offered, and development of go forward strategy	As needed	No; however cost for this service is paid for by commissions built into product
Prepare and distribute Request for Proposal (RFP) if marketing is necessary; direct and coordinate marketing process and vendor data requests	As needed	
Prepare and present executive summary marketing report, detailing current and proposed costs, high level service capabilities, etc.	As needed	
Coordinate and participate in finalist meetings	As needed	
Assist in the completion of implementation paperwork	As needed	
Participate in regularly scheduled calls throughout implementation process	As needed	

Standard Services	Frequency	Included in fee
Stop Loss- For Self-Funded Clients		
- Analysis of the difference in risk between various stop loss levels - Estimation of expected number and dollar of claims above the specific stop loss deductible - Probability aggregate claims will exceed various levels	Annually	Included
Renewal, Marketing and Placement - Conduct preliminary risk review to determine market strategy - Collect and analyze market results - Consult with clinical resource regarding ongoing claimants - Conduct policy to policy review	Annually	Included
Implementation - Ensure completion of underwriting requirements - Oversee completion and review of policy application as well as executed contract - Conduct client plan document versus stop loss policy review - Establish reporting between stop loss carrier and ASO vendor as needed	Annually	Included
Ongoing Clinical Reviews - Line item claim review twice yearly - Track top 5 claimants and group trends - Clinical notes on condition and treatment - Projections of ongoing claim costs - Laser reviews	Annually	Included
Additional Cost Containment - Continual review process for savings - Trigger diagnosis and services which analyze: treatment appropriateness, medical necessity, site of care, coding errors, network status, pharmacy utilization, alternative treatment methods, fraud and abuse and cost of care efficiency	Annually	Included

Standard Services	Frequency	Included in fee
Pharmacy Analytics Services		
General Consulting - Integrated data (Infolock) interpretation - Formulary, network and plan design evaluation - Clinical program recommendations - PBM oversight - Adhoc questions/inquiries	Ongoing	Included
Optional Services		
International Benefit Services		Additional fees may apply
Merger and Acquisition Due Diligence		Additional fees may apply
HR Technology Consulting		Additional fees may apply
Benefits Administration Implementation/Annual Enrollment Support		Additional fees may apply
Compensation Consulting		Additional fees may apply
Executive Benefits/Individual Disability Benefits		Additional fees may apply
Private Exchange Consulting		Additional fees may apply
Leave Management		Additional fees may apply
Employee Advocacy Call Center		Additional fees may apply

Addendum B –
Compensation Disclosure Statement

nk you for giving Lockton Companies, LLC, the opportunity to provide insurance brokerage and/or other insurance services to you on behalf of your employee benefit plans. The purpose of this Compensation Disclosure Statement is to explain the circumstances under which Lockton may receive compensation from insurance companies and other entities for the services we provide on your behalf, and the method by which the amount of that compensation is determined.

As your broker (or, if an insurance broker is so designated under applicable law, as your consultant licensed to render services as an insurance broker), Lockton may assist you with (i) the placement of one or more insurance contracts offered by employee benefits insurers and/or (ii) services related to one or more self-funded plans administered in whole or in part by an insurance company or other entity, such as a third-party administrator ("TPA"). Any reference herein to a "consultant" shall mean a person designated as a "consultant" under applicable law governing persons who render services as an insurance broker.

Upon placement of a policy with an insurance company, Lockton typically receives compensation from that insurer. This compensation may differ in form and amount depending on the product and the insurer. In cases where Lockton facilitates the placement of an administrative services contract with an insurance company or TPA, Lockton might receive commission-like payments from that carrier or TPA.

There are generally three types of commission or commission-like payments made by insurance carriers and TPAs to employee benefit brokers and consultants:

1. Base Commissions—Typically, base commission is equal to a percentage of the policy premiums paid by the contract holder. The rate and amount of commission may vary based on the specific circumstances of an individual policy placement.

2. Additional Compensation—Contingency payments, bonuses, overrides, prizes/awards and/or supplemental commissions or other commission-like payments from insurance companies, intermediaries (which may be affiliated with Lockton) or other third parties as a result of being Client's insurance broker (collectively, "Additional Compensation") are typically based upon factors such as the overall premium volume placed with a particular insurer, premium growth year-over-year, retention/persistency and the profitability of all the business placed with that insurer on a national basis. Historically, Additional Compensation received by Lockton has ranged from 0.5-5% of overall premium volume placed with an insurer. Additional Compensation is not considered part of the base commissions, and typically is not based upon or contingent on the sale of any particular policy to a particular insured, and does not affect the premium you pay. Some carriers may take into account administrative-services-only contracts placed with the carrier by the broker or consultant on a client's behalf when calculating Additional Compensation.

3. Administrative Service Fees—Insurance companies and TPAs may pay a commission-like fee for services rendered to arrange for the insurance company or TPA to administer a client's self-insured benefit program.

Attached you will find a summary description of the compensation we believe Lockton is or may be entitled to receive from the insurance companies and/or other entities listed in the attachment that is attributable to the insurance or administrative service contracts placed with those insurers or other entities on your behalf. Lockton will update this Compensation Disclosure Statement as the information in the attachment changes (i.e., as contracts are placed or renewed, or there are material changes to the terms and conditions of Lockton's compensation from insurance carriers and other entities providing insurance and/or administrative services to you).

Please note that insurance companies are required to disclose to most clients the base and supplemental commissions and other incentive compensation they pay to the clients' brokers and consultants. They are also required to disclose the value of certain gratuities and gifts (business lunches, tickets to sporting events, etc.) supplied to Lockton Producers and Associates if those items are supplied directly or indirectly in relation to your insurance contract. These amounts are to be reflected as part of the carriers' Form 5500 Schedule A disclosures supplied to you. Because carriers might employ different methods for tracking, tabulating, and allocating these various items, the amounts reflected on your Schedule A information might vary somewhat from the amounts reflected in our attached summary of anticipated compensation.

Please feel free to contact us if you have any questions regarding this Compensation Disclosure Statement.

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Our Mission

To be the worldwide value and service leader in insurance brokerage, risk management, employee benefits, and retirement services

Our Goal

To be the best place to do business and to work

LOCKTON

RISK MANAGEMENT | EMPLOYEE BENEFITS | RETIREMENT SERVICES

www.lockton.com

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NATIONAL INSURANCE SERVICES OF WISCONSIN INSURANCE TRUST
JOINDER AGREEMENT FOR
LONG-TERM DISABILITY INSURANCE

City of Murfreesboro (the "Employer") hereby requests application for participation in National Insurance Services of Wisconsin Insurance Trust (the "Trust") for group long-term disability insurance benefits under a master group policy underwritten by Madison National Life Insurance Company, Inc. (the "Insurer"). The "Group Policy" means only the provisions of the master group policy that apply to the Employer, based upon the coverage requested under this Joinder Agreement.

A. Administrative

1.	Employer:	City of Murfreesboro 111 West Vine Street PO Box 1139 Murfreesboro, TN 37133
2.	Plan Number:	1989
3.	Nature of Business:	Government
4.	Frequency of Billing:	Monthly
5.	Original Plan Effective Date:	January 1, 2023
6.	Coverage Replaced:	LONG-TERM DISABILITY
7.	Prior Carrier:	CIGNA
8.	Term Date of Prior Coverage:	January 1, 2023

B. Class and Benefit Summary

Class Number:	01
Eligible Class:	All Eligible Employees
Employer Premium Contribution:	100%
Initial Premium Rate:	$0.303 per $100 of covered payroll
Initial Premium Rate Guarantee:	36 months until January 1, 2026
Elimination Period:	90 consecutive calendar days
Minimum Hourly Work Requirement:	All Other Employees: 30 hours per week; Firefighters: 54 hours per week
Waiting Period:	60 days
Evidence of Insurability:	Required for Late Enrollees, Increases and amounts exceeding the Guarantee Issue
New Employee Eligibility Date:	First of month following or coinciding with completion of the Waiting Period
Minimum Participation Required:	100%

Class Number:	01
Eligible Class:	All Eligible Employees
Leaves and Sabbaticals:	Coverage with premium payment while on FMLA leave; Coverage with premium payment for up to 30 days while on Paid or Unpaid Leave
Definition of Disability:	Zero Day
Own Occupation Period:	24 months following the end of the Elimination Period
Any Occupation Period:	From the end of the Own Occupation Period to the end of the Maximum Benefit Period
Cumulative Elimination Period:	5 days for every 30 days of Elimination Period
Recurrent Disability:	6 months
Predisability Earnings:	Base pay only
Maximum Monthly Covered Salary:	$15,833
LTD Benefit Percentage:	60%
Maximum Monthly Benefit:	$9,500
Guarantee Issue:	$9,500
Minimum Monthly Benefit:	Greater of $100 or 10% Gross LTD Benefit
Work Incentive Period:	First 24 months of Disability with Work Earnings
LTD Benefit Calculation:	Standard - Non-Contract Day
Social Security Integration:	Full Family
Freeze Type:	General Freeze
Pre-Existing Condition Exclusion:	3 months/12 months
Mental Disorder Limitation:	24 Months Lifetime unless hospital confined
Substance Abuse Limitation:	24 Months Lifetime unless hospital confined
Claim Payment Method:	Monthly
Activities of Daily Living Benefit:	Included
Reasonable Accommodation Expense Benefit:	Included
Rehabilitation Benefit:	Included
Survivor Benefit:	Included

Maximum Benefit Period:

Age at Disablement	Benefit Duration*
61 or younger	to age 65
62	3-1/2 years
63	3 years
64	2-1/2 years
65	2 years
66	1-3/4 years
67	1-1/2 years
68	1-1/4 years
69 or older	1 year
*To the later of: 1) the specified length of time as stated above, or 2) the day before attaining the Social Security Normal Retirement Age under the United States Social Security Act, as revised.	

C. Payment of Premiums

1. **Premium Due Date**. Premium is due on the 1st of the month to which coverage for such premium applies (e.g., premium for coverage in October would be due October 1st).

2. The premium due on each Premium Due Date is the sum of the premiums for all Insured Persons under the Group Policy. Premium rates for each Employer covered under the Group Policy are shown in the Employer's Joinder Agreement.

3. The Employer determines the amount, if any, of each Insured Person's contribution toward the cost of insurance.

4. Each premium is payable on or before its Premium Due Date directly to the Insurer at their home office.

5. Premium is due for an Insured Person for each month in which such employee is covered under the Group Policy. The Employer must notify the Insurer immediately whenever an employee becomes eligible or ceases to be eligible for coverage. Effective dates of coverage or termination dates which occur mid-month will be billed as follows:

    a) If the effective date of coverage is between the 1st of the month and 15th of the month, premium for an entire month will be due to the Insurer. If the effective date of coverage is between the 16th of the month and the end of the month the Employer will be billed for the next full month of coverage. The Insurer does not prorate premium.

b) If the date coverage ends is between the 1st of the month and the 15th of the month, no premium will be due for that month. If the date of termination is between the 16th of the month and the end of the month the Employer will be responsible for an entire month's premium.

6. All premiums will be based upon information provided by the Employer in the Census Reports.

D. Changes in Premium Rates.

1. Special Circumstances. The Insurer may change premium rates, to be effective on the next Premium Due Date, if any of the following occur:
   a) A change or clarification in a law or governmental regulation affects the amount payable under the Group Policy. Any such change in premium rates will reflect only the change in the Insurer's obligations.
   b) One or more changes occur in the factors material to the underwriting risk the Insurer assumed under the Group Policy with respect to the Employer, including, but not limited to, the number of persons insured, age, Predisability Earnings, gender and occupational classification.
   c) The premium contribution arrangement for insured employees changes or varies from that stated in the Employer's Joinder Agreement when issued or last renewed.
   d) Plan design changes are requested by the Employer.
   e) The Insurer and the Employer mutually agree to change premium rates.

2. In all other cases, and subject to a period for which the Insurer has provided the Employer with a written rate guarantee, the Insurer may change premium rates upon 60 days advance written notice to the Employer. Any such change in premium rates may be made effective on any Premium Due Date, but no such change will be made more than once in any Contract Year. Contract Years means successive 12-month periods computed from the end of the initial rate guarantee period, or from a time agreed to in writing by the Employer and Insurer.

E. Premium Adjustments. Premium adjustments involving a return of unearned premiums to an Employer will be limited to the 12 months just before the date the Insurer receives a request for premium adjustment.

F. Information Required from Employer
1. The Employer will furnish all information reasonably necessary to administer the Group Policy, including but not limited to the following:
   a) At least one Census Report during each plan year, no later than six months prior to the next plan renewal date. The Census Report means a written report providing the following information for each Employee insured under the Group Policy: name, social security number, date of birth, gender, occupational class, annual Pre-disability Earnings as defined under the Group Policy and the amount of coverage.
   b) A list of all eligible employees and documentation supporting employee eligibility under the Group Policy.
   c) Information about employees who become eligible, whose amounts of coverage change and/or whose coverage ends.
   d) Occupational information and any other information that may be required to manage a claim.

e) Notification of an Employer's change in legal status, expansion of business, dissolution, merger, buyout or any other significant business operational change.
f) Notice of any additional eligible employee segment(s).
g) Any other information that may be reasonably required.

2. The Employer must provide such information to the Insurer or its agents in a regular and timely manner as may be reasonably specified by the Insurer and/or its agents. The Insurer and its agents have the right at all reasonable times to inspect the payroll and other records of the Employer which relate to insurance under the Group Policy.

G. Grace Period and Termination for Nonpayment

1. If a premium is not paid on or before its Premium Due Date, it may be paid during the Grace Period. The coverage under the Group Policy will remain in force during the Grace Period.

2. Grace Period means the 31 days following the Premium Due Date.

3. If the premium for coverage is not paid during the Grace Period, the coverage under the Group Policy will terminate automatically at the end of the Grace Period.

4. The Employer is liable for premium for coverage during the Grace Period. The Insurer may charge interest at the legal rate for any premium which is not paid during the Grace Period, beginning with the first day after the Grace Period.

H. Termination for Other Reasons

1. The Policyowner may terminate the Group Policy and the Employer may terminate coverage under the Group Policy by giving the Insurer at least 31 days written notice. The effective date of termination will be the later of:
   a) The date stated in the notice; or
   b) The Premium Due Date immediately following date the Insurer receives the notice.

2. The Insurer may terminate coverage under the Group Policy as follows:
   a) On any Premium Due Date if the number of persons insured is less than the minimum participation number or less than the minimum participation percentage provided for under Employer's Joinder Agreement.
   b) On any Premium Due Date if the Insurer determines that the Employer has failed to promptly furnish any necessary information requested or has failed to perform any other obligations relating to the Group Policy or coverage under the Group Policy.
   c) On any Premium Due Date by giving the Employer at least 31 days advance written notice.
   d) On the date the Employer breaches any part of the Entire Contract.

I. Certificates. The Insurer will prepare Group Long Term Disability Certificates of Coverage setting forth the main features of the Group Policy applicable to each Insured Person. The Insurer and Employer may agree to distribute the Certificates to Insured Persons in paper format, or to make the document available and accessible for review by Insured Persons on the Employer's website. The Employer will be responsible for providing sufficient notice to the Insured Person of the existence and availability of the Certificate, including instructions on how to view the document, and a statement that a paper copy of the document will be made available upon request. Upon receiving such a request from either the Employer or Insured Person, the Insurer will provide a written copy of the Certificate to the Employer for distribution to the Insured Person. If the terms of the Certificate of Coverage differ from the terms of the Employer's coverage under the Group Policy, the latter will govern.

J. Agency and Release. Individuals selected by the Employer to secure coverage under the Group Policy or to perform their administrative function under it, represent and act on behalf of the person selecting them and do not represent or act on behalf of Madison National Life Insurance Company. The Policyowner, Employer and such individuals have no authority to alter, expand or extend the Insurer's liability or to waive, modify or compromise any defense or right the Insurer may have under the Group Policy. The Policyowner and Employer hereby release, hold harmless and indemnify Madison National Life Insurance Company from any liability arising from or related to any negligence, error, omission, misrepresentation or dishonesty of the Policyowner or Employer respectively, or any of their respective representatives, agents or employees.

K. Notice of Suit. The Policyowner and Employer shall promptly give the Insurer written notice of any lawsuit or other legal proceedings arising under the Group Policy.

L. Entire Contract and Changes
   1. The Group Policy, the Group Long Term Disability Insurance Certificate of Coverage, the Employer Joinder Agreement, the applications of the Policyowner, Employers and employees and any applicable riders, addenda and/or amendments constitute the Entire Contract.

   2. The Group Policy may be changed in whole or in part. No change in the Group Policy will be valid unless it is approved in writing by one of the Insurer's executive officers and given to the Policyowner for attachment to the Group Policy. No change in an Employer's coverage under the Group Policy will be valid unless it is approved in writing by one of the Insurer's executive officers and given to the Employer for attachment to their Joinder Agreement. No agent has authority to change the Group Policy or an Employer's coverage under the Group Policy or to waive any provisions thereof.

M. Effect on Workers' Compensation, State Disability Insurance. The coverage provided under the Group Policy is not a substitute for coverage under a Workers' Compensation or state disability income benefit law and does not relieve the Employer of any obligation to provide such coverage.

N. The undersigned Employer adopts and agrees to be bound by the terms and conditions of National Insurance Services of Wisconsin Insurance Trust Trust Agreement, as amended from time to time (the "Trust Agreement") and master group policy. Copies of these documents are available for employer review at Madison National Life Insurance Company, 1241 John Q. Hammons Drive, Madison, WI 53717.

O. The Trust is a vehicle for obtaining group insurance plans in which employers join together as a single policyowner for the purchase and maintenance of group insurance policies.

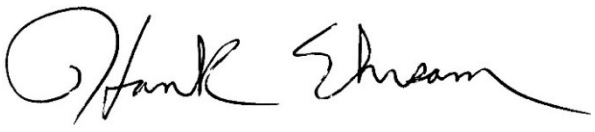
P. The Trust's Administrator shall provide participating employers the necessary information for applicable State and Federal compliance reporting requirements.

Q. The signatures below constitute acceptance of the undersigned employer as a participating member of the Trust.

Signed into effect this _____ day of _____, 20____.

Signature of Authorized Employee of Employer	Printed Name & Title of Authorized Employee
Signature of Authorized Employee of Employer	Printed Name & Title of Authorized Employee

Administrator:
AP / National Insurance Services

By: 

Hank Ehrsam, President
August 31, 2022

MADISON NATIONAL LIFE INSURANCE COMPANY, INC.

NOTICE OF PRIVACY PRACTICES AND PROTECTION

This Privacy Notice is provided for your information -- keep a copy of it for your records. No response is required or requested.

Customer Privacy Is Our Business - We value our relationship with our customers and are dedicated to providing them with exceptional service and competitive product offers. As part of our dedication to servicing their insurance needs, we are committed to protecting the confidentiality of nonpublic personal information about our customers. This Privacy Notice will help you understand what type of information we collect about insured individuals, how the information we collect is used, and what measures we take to protect that information.

What Information We Collect And How We Collect It - Depending on the type of product, we collect nonpublic personal information about insured individuals that may include:

- address,
- telephone number,
- social security number,
- account information,
- income,
- employment,
- health status, and
- other personal information relevant to their coverage.

We collect such information primarily from information we receive from individuals on applications or other forms. We may also collect information through telephone conversations or other electronic means, such as internet "cookies" (data stored on a computer by an internet browser when you use the internet to access our website) that may be used to track website usage, remember passwords customers create, and provide customers with website content specific to their needs and interests. We may also obtain information from third parties such as employers, non-affiliated insurers, physicians, hospitals and other medical providers.

How Information Is Protected - We restrict access to nonpublic personal information to those employees who need to know that information to provide products or services to our customers. We maintain physical, electronic, and procedural safeguards that comply with federal and state regulations to guard such information. Information about insured individuals is accessed by our employees only when such access is necessary to conduct our business. For example, we may access information to offer other compatible products or services we provide, to process customer requests, and to administer our products or services. All employees are required to maintain the confidentiality of nonpublic personal information and to follow policies we establish to secure such confidentiality.

Additionally, we require third parties to whom we disclose nonpublic personal information, or who receive or handle such information on our behalf, to adhere to our standard of privacy protection and to establish information security procedures.

Disclosure - We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law. Information will only be disclosed for such purposes as conducting and auditing our business, administering the business of affiliated organizations, responding to requests from government authorities, or as authorized or requested by an insured individual. Such disclosures include, but are not limited to:

- Affiliates – we may provide information to affiliated companies to enable them to provide business services for us such as claims processing, underwriting, and maintenance of your accounts, and to offer products and services we provide.
- Agents and Brokers – we may provide information to enable agents and brokers to provide business services for us and to offer products and services we provide.
- Joint Marketing – we may provide information to non-affiliated third parties to jointly market insurance products or services.
- Lending Institutions – we may provide information to non-affiliated lending institutions, such as banks and credit unions, to offer products and services we provide, and to provide business services for us.
- Government Entities – we may provide information upon request from a State Department of Insurance or other government entity. The purpose for the request may be to prevent fraud, conduct an audit of our business practices, or for any other reason for which the government entity is legally permitted to request information.
- Servicing organizations - we may provide information to servicing organizations such as TPAs, reinsurers, attorneys, accountants, actuaries, underwriters, and other such organizations to enable them to provide business services for us.

We do not share, trade, sell, exchange or in any other way disclose nonpublic personal information except as stated above or to otherwise conduct the business of insurance.

About this Privacy Notice - The examples contained in this Privacy Notice are provided as illustrations and are not a comprehensive account of the rights of any party under applicable federal and state laws. The policies and protections indicated in this Privacy Notice will remain effective even after an individual's coverage is terminated, to the extent we retain information about that individual. We may change this Privacy Notice at any time and will inform you of any changes as required by law. Other applicable privacy protections may exist under state laws and we will comply with all applicable state laws when we disclose information about individual insureds.

For additional information, contact us at:

Attn: Privacy Officer
Madison National Life Insurance Company, Inc.
Post Office Box 5008
Madison, WI 53705

NOTICE CONCERNING COVERAGE UNDER
THE TENNESSEE LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT

Insurance companies and health maintenance organizations (HMOs) licensed in this state to write life insurance, annuities or health insurance are members of the Tennessee Life and Health Insurance Guaranty Association. The purpose of this association is to provide a safety-net of coverage , within limits, in the unlikely event that a member insurer becomes financially unable to meet its obligations. If this should happen, the Guaranty Association will assess its other member insurance companies for the money to pay the claims of insured persons who live in the state and, in some cases, to keep coverage in force. The valuable extra protection provided by these insurers through the Guaranty Association is not unlimited, however. And, as noted below, this protection is not a substitute for consumers' care in selecting companies that are well-managed and financially stable.

The state law that provides for this safety-net coverage is called the Tennessee Life and Health Insurance Guaranty Association Act. The following is a brief summary of this law's coverage, exclusions and limits. This summary does not cover all provisions of the law or describe all of the conditions and limitations relating to coverage. This summary does not in any way change anyone's rights or obligations under the act or the rights or obligations of the Guaranty Association.

COVERAGE

Generally, individuals will be protected by the Life and Health Insurance Guaranty Association if they live in this state and hold a life or health insurance contract, HMO contract, or an annuity, or if they are insured under a group insurance contract issued by an insurer authorized to conduct business in Tennessee. Health insurance includes disability and long term care policies. The beneficiaries, payees or assignees of insured persons are protected as well, even if they live in another state.

EXCLUSIONS FROM COVERAGE

However, persons holding such policies are not protected by this Guaranty Association if:

(1) they are eligible for protection under the laws of another state (this may occur when the insolvent insurer was incorporated in another state whose guaranty association protects insured who live outside that state);

(2) the insurer was not authorized to do business in this state;

(3) their policy was issued by a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company or similar plan in which the policyholder is subject to future assessments, or by an insurance exchange.

The Guaranty Association also does not provide coverage for:

(1) any policy or portion of a policy which is not guaranteed by the insurer or for which the individual has assumed the risk, such as a variable contract sold by prospectus;

(2) any policy of reinsurance (unless an assumption certificate was issued);

(3) interest rate yields that exceed an average rate;

(4) dividends;

(5) credits given in connection with the administration of a policy by a group contractholder;

(6) employers' plans to the extent they are self-funded (that is, not insured by an insurance company, even if an insurance company administers them);

(7) unallocated annuity contracts (which give rights to group contractholders, not individuals)

LIMITS ON AMOUNT OF COVERAGE

The act also limits the amount the Guaranty Association is obligated to pay out. The Guaranty Association cannot pay more than what the insurance company would owe under a policy or contract. For any one insured life, the Guaranty Association guarantees payments up to a stated maximum no matter how many policies and contracts there were with the same company, even if they provided different types of coverage. These aggregate limits per life are as follows:

- $300,000 for policies and contracts of all types, except as described in the next point
- $500,000 for basic hospital, medical and surgical insurance and major medical insurance issued by companies that become insolvent after January I, 2010

Within these overall limits, the Guaranty Association cannot guarantee payment of benefit greater than the following:

- life insurance death benefits - $300,000
- life insurance cash surrender value - $100,000
- present value of annuity benefits for companies insolvent before July I, 2009 - $100,000
- present value of annuity benefits for companies insolvent after June 30, 2009 - $250,000
- health insurance benefits for companies declared insolvent before January I, 2010-$100,000
- health insurance benefits for companies declared insolvent on or after January 1, 2010:

  - $100,000 for limited benefits and supplemental health coverages $300,000 for disability and long term care insurance
  - $500,000 for basic hospital, medical and surgical insurance or major medical insurance

****

NOTE

The Tennessee Life and Health Insurance Guaranty Association may not provide coverage for this policy. If coverage is provided, it may be subject to substantial limitations or exclusions, and require continued residency in Tennessee. You should not rely on coverage by the Tennessee Life and Health Insurance Guaranty Association in selecting an insurance company or in selecting an insurance policy.

Coverage is NOT provided for your policy or any portion of it that is not guaranteed by the insurer for which you have assumed the risk, such as a variable contract sold by prospectus.

Insurance companies or their agents are required by law to give or send you this notice. However, insurance companies and their agents are prohibited by law from using the existence of the Guaranty Association to induce you to purchase any kind of insurance policy.

Tennessee Life and Health Insurance Guaranty Association
P.O. Box 190434
Nashville, TN 37219
Website: www.tnlifega.org

Tennessee Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, TN 37243

NOTICE

This notice describes identities of and relationships among the Insurer, Administrator, and Policyowner of this insurance.

Insurer: Madison National Life Insurance Company, Inc. (MNL) is the insurance underwriter of this insurance.

Third Party Administrator: AP / National Insurance Services (NIS) is the administrator for this group insurance. NIS provides administrative services for insurance issued to groups, including, but not limited to underwriting, premium billing, premium collection, client services, and policy and certificate issuance.

There is no ownership affiliation between MNL and NIS.

Policyowner: The Policyowner of your policy/certificate of insurance is the National Insurance Services of Wisconsin Insurance Trust (Trust).

Employer: Your Employer participates in the group insurance under the group policy issued to the Trust.

NIS is the Administrator of the Trust.

SCHOOLS INSURANCE FUND OF WISCONSIN
JOINDER AGREEMENT FOR
SHORT-TERM DISABILITY INSURANCE

City of Murfreesboro (the "Employer") hereby requests application for participation in Schools Insurance Fund of Wisconsin (the "Trust") for group short-term disability insurance benefits under a master group policy underwritten by Madison National Life Insurance Company, Inc. (the "Insurer"). The "Group Policy" means only the provisions of the master group policy that apply to the Employer, based upon the coverage requested under this Joinder Agreement.

A. Administrative

1. Employer: City of Murfreesboro
111 West Vine Street
PO Box 1139
Murfreesboro, TN 37133
2. Plan Number: 1990
3. Nature of Business: Government
4. Frequency of Billing: Monthly
5. Plan Effective Date: January 1, 2023
6. Prior Carrier: None

B. Class and Benefit Summary

Class Number:	01
Class Description:	All Eligible Employees
Employer Premium Contribution:	0%
Premium Rate:	See Table Below
Premium Rate Guarantee:	24 months until January 1, 2025
Elimination Period (Injury):	7 days
Elimination Period (Physical Disease):	7 days
Minimum Hourly Requirement:	All Other Employees: 30 hours per week; Firefighters: 54 hours per week
Waiting Period:	60 days
Evidence of Insurability Requirement:	Required for Late Enrollees, Increases and amounts exceeding the Guarantee Issue
Employee Eligibility Date:	First of month following or coinciding with completion of the Waiting Period
Minimum Participation Required:	25%
Leaves and Sabbaticals:	Coverage with premium payment while on FMLA leave

Draft

Class Number:	01
Class Description:	All Eligible Employees
Definition of Disability:	Total
Own Occupation Period:	From the end of the Elimination Period to the end of the Maximum Benefit Period
24 hour coverage:	No; Non-Occupational Only
Recurrent Disability:	2 weeks
Definition of Predisability Earnings:	Base pay only
STD Benefit Percentage:	60%
Maximum Weekly Benefit:	$1,500
Guarantee Issue:	$1,500
Maximum Benefit Period:	Commencing at the end of the Elimination Period and continuing for the lesser of 12 weeks, or until LTD Benefits commence. No STD Benefits will be paid for periods of time for which LTD Benefits are payable.
Minimum Weekly Benefit:	$25
Integration with Sick Pay:	Direct
Social Security Integration:	Full Family
Freeze:	General Freeze
Integration With Work Earnings:	Direct
Pre-Existing Condition Exclusion:	3 months/12 months
Claim Payment Method:	Biweekly

Draft

Premium Rate

Age	Premium Rate Per $10 of Weekly Benefit
18 - 24	$0.42
25 - 29	$0.45
30 - 34	$0.46
35 - 39	$0.40
40 - 44	$0.49
45 - 49	$0.55
50 - 54	$0.67
55 - 59	$0.93
60 - 64	$1.16
65 - 99	$1.42

C. Payment of Premiums

1. **Premium Due Date**. Premium is due on the 1st of the month to which coverage for such premium applies (e.g., premium for coverage in October would be due October 1st).

2. The premium due on each Premium Due Date is the sum of the premiums for all Insured Persons under the Group Policy. Premium rates for each Employer covered under the Group Policy are shown in this Joinder Agreement.

3. The Employer determines the amount, if any, of each Insured Person's contribution toward the cost of insurance.

4. Each premium is payable on or before its Premium Due Date directly to the Insurer at their home office.

5. Premium is due for an Insured Person for each month in which such employee is covered under the Group Policy. The Employer must notify the Insurer immediately whenever an employee becomes eligible or ceases to be eligible for coverage. Effective dates of coverage or termination dates which occur mid-month will be billed as follows:

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a) If the effective date of coverage is between the 1st of the month and 15th of the month, premium for an entire month will be due to the Insurer. If the effective date of coverage is between the 16th of the month and the end of the month the Employer will be billed for the next full month of coverage. The Insurer does not prorate premium.

b) If the date coverage ends is between the 1st of the month and the 15th of the month, no premium will be due for that month. If the date of termination is between the 16th of the month and the end of the month the Employer will be responsible for an entire month's premium.

6. All premiums will be based upon information provided by the Employer in the Census Reports.

D. Changes in Premium Rates.

1. Special Circumstances. The Insurer may change premium rates, to be effective on the next Premium Due Date, if any of the following occur:
   a) A change or clarification in a law or governmental regulation affects the amount payable under the Group Policy. Any such change in premium rates will reflect only the change in the Insurer's obligations.
   b) Factors material to the underwriting risk the Insurer assumed under the Group Policy with respect to the Employer, including, but not limited to, the number of persons insured, age, Predisability Earnings, gender and occupational classification change significantly.
   c) The premium contribution arrangement for insured employees changes or varies from that stated in the Employer's Joinder Agreement when issued or last renewed.
   d) Plan design changes are requested by the Employer.
   e) The Insurer and the Employer mutually agree to change premium rates.

2. Thereafter, except as provided above, the Insurer may change premium rates upon 60 days advance written notice to the Employer. Any such change in premium rates may be made effective on any Premium Due Date, but no such change will be made more than once in any Contract Year. Contract Years means successive 12-month periods computed from the end of the initial rate guarantee period.

E. Premium Adjustments. Premium adjustments involving a return of unearned premiums to an Employer will be limited to the 12 months just before the date the Insurer receives a request for premium adjustment.

F. Information Required from Employer
1. The Employer will furnish all information reasonably necessary to administer the Group Policy, including but not limited to the following:
   a) At least one Census Report during each plan year, no later than six months prior to the next plan renewal date. The Census Report means a written report providing the following information for each Employee insured under the Group Policy: name, social security number, date of birth, gender, occupational class, annual Pre-disability Earnings as defined under the Group Policy and the amount of coverage.
   b) A list of all eligible employees and documentation supporting employee eligibility under the Group Policy.

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c) Information about employees who become eligible, whose amounts of coverage change and/or whose coverage ends.
d) Occupational information and any other information that may be required to manage a claim.
e) Notification of the Employer's change in legal status, expansion of business, dissolution, merger, buyout or any other significant business operational change.
f) Notice of any additional eligible employee segment(s).
g) Any other information that may be reasonably required.

2. The Employer must provide such information to the Insurer or its agents in a regular and timely manner as may be reasonably specified by the Insurer and/or its agents. The Insurer and its agents have the right at all reasonable times to inspect the payroll and other records of the Employer which relate to insurance under the Group Policy.

G. Grace Period and Termination for Nonpayment

1. If a premium is not paid on or before its Premium Due Date, it may be paid during the Grace Period. The coverage under the Group Policy will remain in force during the Grace Period.

2. Grace Period means the 31 days following the Premium Due Date.

3. If the premium for coverage is not paid during the Grace Period, the coverage under the Group Policy will terminate automatically at the end of the Grace Period.

4. The Employer is liable for premium for coverage during the Grace Period. The Insurer may charge interest at the legal rate for any premium which is not paid during the Grace Period, beginning with the first day after the Grace Period.

H. Termination for Other Reasons

1. The Policyowner may terminate the Group Policy and the Employer may terminate coverage under the Group Policy by giving the Insurer at least 31 days written notice. The effective date of termination will be the later of:
   a) The date stated in the notice; or
   b) The Premium Due Date immediately following the Insurer's receipt of the written notice.

2. The Insurer may terminate coverage under the Group Policy as follows:
   a) On any Premium Due Date if the number of persons insured is less than the minimum participation number or less than the minimum participation percentage provided for under this Joinder Agreement.
   b) On any Premium Due Date if the Insurer determines that the Employer has failed to promptly furnish any necessary information requested or has failed to perform any other obligations relating to the Group Policy or coverage under the Group Policy.
   c) On any Premium Due Date by giving the Employer at least 31 days advance written notice.
   d) On the date the Employer breaches any part of the Entire Contract.

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I. Certificates. The Insurer will prepare Group Short Term Disability Certificates of Coverage setting forth the main features of the Group Policy applicable to each Insured Person. The Insurer and Employer may agree to distribute the Certificates to Insured Persons in paper format, or to make the document available and accessible for review by Insured Persons on the Employer's website. The Employer will be responsible for providing sufficient notice to the Insured Person of the existence and availability of the Certificate, including instructions on how to view the document, and a statement that a paper copy of the document will be made available upon request. Upon receiving such a request from either the Employer or Insured Person, the Insurer will provide a written copy of the Certificate to the Employer for distribution to the Insured Person. If the terms of the Certificate of Coverage differ from the terms of the Employer's coverage under the Group Policy, the latter will govern.

J. Agency and Release. Individuals selected by the Employer to secure coverage under the Group Policy or to perform their administrative function under it, represent and act on behalf of the person selecting them and do not represent or act on behalf of Madison National Life Insurance Company. The Policyowner, Employer and such individuals have no authority to alter, expand or extend the Insurer's liability or to waive, modify or compromise any defense or right the Insurer may have under the Group Policy. The Policyowner and Employer hereby release, hold harmless and indemnify Madison National Life Insurance Company from any liability arising from or related to any negligence, error, omission, misrepresentation or dishonesty of the Policyowner or Employer respectively, or any of their respective representatives, agents or employees.

K. Notice of Suit. The Policyowner and Employer shall promptly give the Insurer written notice of any lawsuit or other legal proceedings arising under the Group Policy.

L. Entire Contract and Changes
   1. The Group Policy, the Group Short Term Disability Insurance Certificate of Coverage, the Employer Joinder Agreement, the applications of the Policyowner, Employers and employees and any applicable riders, addenda and/or amendments constitute the Entire Contract.

   2. The Group Policy may be changed in whole or in part. No change in the Group Policy will be valid unless it is approved in writing by one of the Insurer's executive officers and given to the Policyowner for attachment to the Group Policy. No change in an Employer's coverage under the Group Policy will be valid unless it is approved in writing by one of the Insurer's executive officers and given to the Employer for attachment to their Joinder Agreement. No agent has authority to change the Group Policy or an Employer's coverage under the Group Policy or to waive any provisions thereof.

M. Effect on Workers' Compensation, State Disability Insurance. The coverage provided under the Group Policy is not a substitute for coverage under a Workers' Compensation or state disability income benefit law and does not relieve the Employer of any obligation to provide such coverage.

N. The undersigned Employer adopts and agrees to be bound by the terms and conditions of Schools Insurance Fund of Wisconsin Trust Agreement, as amended from time to time (the "Trust Agreement") and master group policy. Copies of these documents are available for employer review at Madison National Life Insurance Company, 1241 John Q. Hammons Drive, Madison, WI 53717.

Draft

O. The Trust is a vehicle for obtaining group insurance plans in which employers join together as a single policyowner for the purchase and maintenance of group insurance policies.

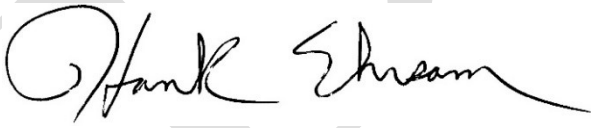
P. The Trust's Administrator shall provide participating employers the necessary information for applicable State and Federal compliance reporting requirements.

Q. The signatures below constitute acceptance of the undersigned employer as a participating member of the Trust.

Signed into effect this _____ day of _____, 20____.

Signature of Authorized Employee of Employer	Printed Name & Title of Authorized Employee
Signature of Authorized Employee of Employer	Printed Name & Title of Authorized Employee

Administrator:
AP / National Insurance Services

By: 

Hank Ehrsam, President
August 31, 2022

Draft

MADISON NATIONAL LIFE INSURANCE COMPANY, INC.

NOTICE OF PRIVACY PRACTICES AND PROTECTION

This Privacy Notice is provided for your information -- keep a copy of it for your records. No response is required or requested.

Customer Privacy Is Our Business - We value our relationship with our customers and are dedicated to providing them with exceptional service and competitive product offers. As part of our dedication to servicing their insurance needs, we are committed to protecting the confidentiality of nonpublic personal information about our customers. This Privacy Notice will help you understand what type of information we collect about insured individuals, how the information we collect is used, and what measures we take to protect that information.

What Information We Collect And How We Collect It - Depending on the type of product, we collect nonpublic personal information about insured individuals that may include:

- address,
- telephone number,
- social security number,
- account information,
- income,
- employment,
- health status, and
- other personal information relevant to their coverage.

We collect such information primarily from information we receive from individuals on applications or other forms. We may also collect information through telephone conversations or other electronic means, such as internet "cookies" (data stored on a computer by an internet browser when you use the internet to access our website) that may be used to track website usage, remember passwords customers create, and provide customers with website content specific to their needs and interests. We may also obtain information from third parties such as employers, non-affiliated insurers, physicians, hospitals and other medical providers.

How Information Is Protected - We restrict access to nonpublic personal information to those employees who need to know that information to provide products or services to our customers. We maintain physical, electronic, and procedural safeguards that comply with federal and state regulations to guard such information. Information about insured individuals is accessed by our employees only when such access is necessary to conduct our business. For example, we may access information to offer other compatible products or services we provide, to process customer requests, and to administer our products or services. All employees are required to maintain the confidentiality of nonpublic personal information and to follow policies we establish to secure such confidentiality.

Additionally, we require third parties to whom we disclose nonpublic personal information, or who receive or handle such information on our behalf, to adhere to our standard of privacy protection and to establish information security procedures.

Disclosure - We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law. Information will only be disclosed for such purposes as conducting and auditing our business, administering the business of affiliated organizations, responding to requests from government authorities, or as authorized or requested by an insured individual. Such disclosures include, but are not limited to:

- Affiliates – we may provide information to affiliated companies to enable them to provide business services for us such as claims processing, underwriting, and maintenance of your accounts, and to offer products and services we provide.
- Agents and Brokers – we may provide information to enable agents and brokers to provide business services for us and to offer products and services we provide.
- Joint Marketing – we may provide information to non-affiliated third parties to jointly market insurance products or services.
- Lending Institutions – we may provide information to non-affiliated lending institutions, such as banks and credit unions, to offer products and services we provide, and to provide business services for us.
- Government Entities – we may provide information upon request from a State Department of Insurance or other government entity. The purpose for the request may be to prevent fraud, conduct an audit of our business practices, or for any other reason for which the government entity is legally permitted to request information.
- Servicing organizations - we may provide information to servicing organizations such as TPAs, reinsurers, attorneys, accountants, actuaries, underwriters, and other such organizations to enable them to provide business services for us.

We do not share, trade, sell, exchange or in any other way disclose nonpublic personal information except as stated above or to otherwise conduct the business of insurance.

About this Privacy Notice - The examples contained in this Privacy Notice are provided as illustrations and are not a comprehensive account of the rights of any party under applicable federal and state laws. The policies and protections indicated in this Privacy Notice will remain effective even after an individual's coverage is terminated, to the extent we retain information about that individual. We may change this Privacy Notice at any time and will inform you of any changes as required by law. Other applicable privacy protections may exist under state laws and we will comply with all applicable state laws when we disclose information about individual insureds.

For additional information, contact us at:

Attn: Privacy Officer
Madison National Life Insurance Company, Inc.
Post Office Box 5008
Madison, WI 53705

NOTICE CONCERNING COVERAGE UNDER
THE TENNESSEE LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT

Insurance companies and health maintenance organizations (HMOs) licensed in this state to write life insurance, annuities or health insurance are members of the Tennessee Life and Health Insurance Guaranty Association. The purpose of this association is to provide a safety-net of coverage , within limits, in the unlikely event that a member insurer becomes financially unable to meet its obligations. If this should happen, the Guaranty Association will assess its other member insurance companies for the money to pay the claims of insured persons who live in the state and, in some cases, to keep coverage in force. The valuable extra protection provided by these insurers through the Guaranty Association is not unlimited, however. And, as noted below, this protection is not a substitute for consumers' care in selecting companies that are well-managed and financially stable.

The state law that provides for this safety-net coverage is called the Tennessee Life and Health Insurance Guaranty Association Act. The following is a brief summary of this law's coverage, exclusions and limits. This summary does not cover all provisions of the law or describe all of the conditions and limitations relating to coverage. This summary does not in any way change anyone's rights or obligations under the act or the rights or obligations of the Guaranty Association.

COVERAGE

Generally, individuals will be protected by the Life and Health Insurance Guaranty Association if they live in this state and hold a life or health insurance contract, HMO contract, or an annuity, or if they are insured under a group insurance contract issued by an insurer authorized to conduct business in Tennessee. Health insurance includes disability and long term care policies. The beneficiaries, payees or assignees of insured persons are protected as well, even if they live in another state.

EXCLUSIONS FROM COVERAGE

However, persons holding such policies are not protected by this Guaranty Association if:

(1) they are eligible for protection under the laws of another state (this may occur when the insolvent insurer was incorporated in another state whose guaranty association protects insured who live outside that state);

(2) the insurer was not authorized to do business in this state;

(3) their policy was issued by a fraternal benefit society, a mandatory state pooling plan, a mutual assessment company or similar plan in which the policyholder is subject to future assessments, or by an insurance exchange.

The Guaranty Association also does not provide coverage for:

(1) any policy or portion of a policy which is not guaranteed by the insurer or for which the individual has assumed the risk, such as a variable contract sold by prospectus;

(2) any policy of reinsurance (unless an assumption certificate was issued);

(3) interest rate yields that exceed an average rate;

(4) dividends;

(5) credits given in connection with the administration of a policy by a group contractholder;

(6) employers' plans to the extent they are self-funded (that is, not insured by an insurance company, even if an insurance company administers them);

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(7) unallocated annuity contracts (which give rights to group contractholders, not individuals)

LIMITS ON AMOUNT OF COVERAGE

The act also limits the amount the Guaranty Association is obligated to pay out. The Guaranty Association cannot pay more than what the insurance company would owe under a policy or contract. For any one insured life, the Guaranty Association guarantees payments up to a stated maximum no matter how many policies and contracts there were with the same company, even if they provided different types of coverage. These aggregate limits per life are as follows:

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- $500,000 for basic hospital, medical and surgical insurance and major medical insurance issued by companies that become insolvent after January I, 2010

Within these overall limits, the Guaranty Association cannot guarantee payment of benefit greater than the following:

- life insurance death benefits - $300,000
- life insurance cash surrender value - $100,000
- present value of annuity benefits for companies insolvent before July I, 2009 - $100,000
- present value of annuity benefits for companies insolvent after June 30, 2009 - $250,000
- health insurance benefits for companies declared insolvent before January I, 2010-$100,000
- health insurance benefits for companies declared insolvent on or after January 1, 2010:

  - $100,000 for limited benefits and supplemental health coverages $300,000 for disability and long term care insurance
  - $500,000 for basic hospital, medical and surgical insurance or major medical insurance

****

NOTE

The Tennessee Life and Health Insurance Guaranty Association may not provide coverage for this policy. If coverage is provided, it may be subject to substantial limitations or exclusions, and require continued residency in Tennessee. You should not rely on coverage by the Tennessee Life and Health Insurance Guaranty Association in selecting an insurance company or in selecting an insurance policy.

Coverage is NOT provided for your policy or any portion of it that is not guaranteed by the insurer for which you have assumed the risk, such as a variable contract sold by prospectus.

Insurance companies or their agents are required by law to give or send you this notice. However, insurance companies and their agents are prohibited by law from using the existence of the Guaranty Association to induce you to purchase any kind of insurance policy.

Tennessee Life and Health Insurance Guaranty Association
P.O. Box 190434
Nashville, TN 37219
Website: www.tnlifega.org

Tennessee Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, TN 37243

Draft

NOTICE

This notice describes identities of and relationships among the Insurer, Administrator, and Policyowner of this insurance.

Insurer: Madison National Life Insurance Company, Inc. (MNL) is the insurance underwriter of this insurance.

Third Party Administrator: AP / National Insurance Services (NIS) is the administrator for this group insurance. NIS provides administrative services for insurance issued to group, including, but not limited to, underwriting, premium billing, premium collection, client services, and policy and certificate issuance.

There is no ownership affiliation between MNL and NIS.

Policyowner: The Policyowner of your policy /certificate of insurance is the Schools Insurance Fund Trust.

Employer: Your Employer participates in the group insurance under the group policy issued to the Trust.

NIS is the Administrator of the Schools Insurance Fund.

Draft

Order Form: Virgin Pulse

Order Form Prepared for:	City of Murfreesboro	Bill To Address:	Company Address
Prepared By:	**Christell Berger**	Contact Name:	Billing Contact Name
Order Form Expiration Date:	12/31/2022	Contact Email:	Billing Contact Email
		Contact Phone:	Billing Contact Phone

This Order Form ("**Order Form**") is entered into as of the date last signed by both Parties below ("**Effective Date**") and incorporates by reference the following appendices (collectively, the "**Agreement**):

Appendix A – Solution Descriptions
Appendix B – Terms & Conditions
Appendix C – Data Security Standards
Appendix D – Business Associate Agreement
Appendix E – Optional Services Attachment

This Agreement shall be legally binding as of the Effective Date and, unless terminated in accordance with the Terms & Conditions, continue until the "**Initial Order End Date**" set forth in the table below (the "**Agreement Term**").

Selected Services & Fees

Services	Initial Order Start Date	Initial Order End Date	Initial Order Term (years)	Billing Unit	Per Price Per Unit	Minimum Units Committed	Estimated Units	Total Price Per Year
Platform: Employees			3	PEPY	$41.09	1,095		$45,000
Platform: Spouses			3	PEPY	$0.00			$0
Implementation			NA	One -Time	$3,500			$0
Custom Communications Service Credit				Annual Credit	($ 7,000)			
Custom Communications Services				Hourly	$150			
Custom Reporting Service Credit				Annual Credit	($4,000)			
Custom Reporting Services				Hourly	$200			
						Year One Fees:		**$48,500**

Payment Terms and Conditions:

1. For those Services listed above with an eligibility-based Billing Unit, the Selected Services Fees will be invoiced annually in advance on the Initial Order Start Date and on the anniversary of thereafter for the duration of the Term, based on the greater of the (a) Minimum Number of Units Committed as set forth in the Table above; or (b) the actual number of Units on record in Provider's system at the time of invoice. Any increase in the number of Units above the

invoiced number of Units in a given year will result in a pro-rated price for such additional Units for that year and invoiced quarterly.

2. Billing Definitions: PEPY=Per Eligible Per Year,
3. 10 SSO's (inbound or outbound) included at no additional cost.
4. The Communications Service Credit is annual and expires at the end of each program year. Unused credit cannot be carried over each year; it cannot be applied to non-communication related services (e.g., reporting). It cannot be applied to hard costs like printing of materials or postage for shipping, or language translation services.
5. Custom Reporting Service Credit is annual and expires at the end of each program year. Unused credit cannot be carried over each year.
6. Optional Services are as set forth in the Optional Services Attachment attached hereto as Appendix E . Pricing and availability as set forth in the Optional Services Attachment is subject to change and will be confirmed within an agreed upon Amendment or Statement of Work.
7. Rewards will be invoiced bi-monthly in arrears based on the total value of rewards earned by each Member during the applicable period.
8. The Implementation Fee will be invoiced on the Effective Date.

The Parties have caused their duly authorized representatives to execute this Agreement as of the dates set forth below.

CLIENT:	_____	**VIRGIN PULSE, INC.**	
By (Signature):	_____	**By (Signature):**	_____
Name (Printed):	_____	**Name (Printed):**	_____
Title:	_____	**Title:**	_____
Date:	_____	**Date:**	_____

APPENDIX A: SOLUTION DESCRIPTIONS

Product descriptions may be updated from time to time to reflect feature changes.

PRODUCT CAPABILITIES

Platform Design & Configurations	**Branding, Theming & Content Organization** Configure platform elements to reflect your culture and brand. Align content and wellbeing pillars to your organizational focus areas. **Personalization Engine** Targeted programming and content delivered in an automated fashion to members based on their interests, health risks, & demographics to ensure a personalized experience. **Incentive Management Framework** Configure incentive structures to your requirements. Reward options can be outcomes-based, task-based, and/or points-based designs. As members engage in healthy behaviors and participate in differing activities, they can earn rewards, i.e., cash, healthcare contributions, local incentives, or store credits. Incentives can be segmented by employee group, i.e., employee vs spouse, US vs. International. Incentive management can be facilitated through the VP platform and/or VP can provide reporting to you to administer the incentive. **Integration Framework** Integrate specific benefits and programming to your population. Configure available programs determined by client. Integrate and promote benefits, tools, events, and information to drive awareness, usage and impact both on-platform via web & mobile and off-platform. Integrate client-specific programming as well as Virgin Pulse partnerships with the potential for data transfer and rewarding. **Language Options** The platform and mobile app are available in the following languages: US English, UK English, Chinese (Simplified), Chinese (Traditional), French (European), French (Canadian), German, Italian, Japanese, Korean, Malay, Polish, Portuguese (Brazilian), Russian, Spanish (Latin American), Spanish (European), Swedish, Vietnamese, Dutch, Thai, and Hindi.

Habit Building & Behavior Change Tools	**Healthy Habit Trackers** Members self-track health and wellbeing behaviors in key areas: activity, nutrition, learning, sleep, community, relationships, stress, productivity, financial wellbeing, safety, sustainability, diversity, inclusion, effectiveness, and health conditions with the intent of prompting members to make small but daily changes in their lifestyle. **Daily Health & Wellbeing Tips** Members receive personalized daily tip cards based on their selected interests. The cards take a micro-learning and small steps approach to cue healthy actions. The tip cards encompass key areas: activity, nutrition, learning, sleep, community, relationships, stress, productivity, financial wellbeing, safety, sustainability, diversity, inclusion, effectiveness, and health conditions. **Digital Coaching** Virgin Pulse Journeys® are daily, self-guided courses that breaks a key behavior or a larger goal into smaller achievable steps, helping people improve their health literacy and form new habits as they go. They cover a variety of lifestyle and health related topics including topics such as, nutrition, stress, finance, tobacco, and diabetes. **Sleep & Nutrition Modules** Personalized plans that provide practical guidance and a framework to adopt healthy habits with tracking tools, resources, and tips, & reminders. **Challenges** Corporate and Peer competitions that drive step increases and/or healthy habit development. Also includes promotions and configuration options. Supported challenge types include destination, staged, basic, charity, spotlight, cross-sponsor, family, and healthy habits. **Social Connections** Members can connect with colleagues, leverage a leaderboard to show activity among friends and join groups based on interests. Additionally, members can invite up to 10 Friends & Family to participate in a limited experience. **Shoutouts** An employee and peer recognition tool to facilitate a culture of recognition and appreciation and drive engagement with company values.
Assessment & Measurement	**Health Assessment – Health Check** Flagship assessment that leverages NCQA-certified content to offer members a fresh look at their lifestyle choices and personal health. **Surveys** Client-built custom surveys that can segmented and deployed through VP platform. Surveys include reporting to help clients act on the insights provided by their population.
Condition Management	**My Care Checklist** My Care Checklist provides personalized reminders based on data and HEDIS measures to help members stay on top of condition-specific and preventive care actions throughout the year.

ADMINISTRATIVE RESOURCES

Admin Portal	**Admin Portal** Program administrators can use web-based management tools to manage and segment components of their Virgin Pulse program including calendar events to promote events broadly or to specific locations. There is also the ability to configure wellbeing pillars and topics. Administrators can create daily cards and healthy habits for their employees. Lastly, this tool may be used to deploy unlimited Destination, Basic and Healthy Habit challenges. Choose from the Virgin Pulse Challenge Theme Library or create your own custom theme (client supplies custom content and images), and configure challenge settings (start/end dates, etc.)

Program Reporting & Analytics	**On-Demand Reporting** Program administers will have 24/7 access to on-demand, self-serve analytics dashboard to configure and access a range of reports, track member engagement, measure outcomes, and tailor content and programming in real-time. Refreshed daily, metrics may be filtered by organizational hierarchy, rewards segmentation, and many other attributes, providing all the information necessary to manage diverse populations. Reports can be explored as Excel, CSV, and PowerPoint files for easy viewing and additional analysis. **On-Demand Reporting Dashboards Include:** Participation: Easy to access and highly visual key metric overview gives you the pulse of your program and your workforce with real-time participation, engagement and location-specific reporting that help you put your data to work for your organization. At-a-Glance Executive View Enrollment Engagement Risk: Virgin Pulse Analytics eliminates data silos by bringing all your biometric solutions together on one platform for a complete view into your population's risk profile. HRA Biometrics Utilization: Deep engagement and participate metrics deliver valuable insight into the wellbeing areas of highest interest to your employees. Levels and Incentives Corporate Challenges External Programs Topics **Self-Serve Data Extracts** Monthly member-level reporting automatically uploaded to Program administrators account to support internal reporting needs. Eligibility Report Member Activation Billable Cash Earned Report Non-Billable Cash Device Subsidy Orders Month End (if applicable) Coaching Month End (if applicable) **Standard Data Extracts** Monthly member-level reporting available upon request. Delivered for current reported month and in standard file format only. Client Success Manager will work with Program Administrator to determine applicable reports and cadence. Challenge Activity Healthy Habit Tracking Levels & Points Activity Complete Aggregated Rewards Trigger Device Subsidy and Shipping Reward and Incentive Drawing File Billable Cash Tobacco Non-standard data feeds that require customization may incur a professional services rate of $200 per hour. **Claims Reporting** Medical and pharmaceutical PDF report aggregating claims risk, conditions, gaps and gaps in closure for participants and non-participants within cohort and total population. **Client Reviews**

	Strategic review of all programming delivered with insightful recommendations. The Virgin Pulse Client Success team follows a consultative and collaborative support methodology. The Client Review is a critical part of the process and a key time for an in-depth analysis of data sets and KPIs relevant to your organization. Your Client Success Manager (CSM) will present an exhaustive, detailed analysis across all your program data, evaluate and uncover program highlights, trends, insights and opportunities, review strategic recommendations, detailed plans and Virgin Pulse product roadmap. **Custom Reporting Services Credit** The Custom Reporting Service Credit is annual and expires at the end of each program year. Clients may apply the credit towards the creation of any custom report type not available as standard. Any custom reporting outside of the credit will be billed at $200/HR.

COMMUNICATIONS

Communications	**Standard Member Communications** Includes launch campaign options with emails, posters, digital displays, and leadership kit to support enrollment. Additionally, on-going auto-generated comms are delivered to individuals based on their interactions with the platform via email and/or mobile app. **Custom Communications Services Credit** The Communications Service Credit is annual and expires at the end of each program year. Applicable examples of custom deliverables include: Modification of Catalog Email Multi-channel Custom Comms Campaign New Custom Email Site Pop-Ups In-app messages / Mobile Push Notifications Print-Ready Posters / Digital Displays Print-Ready Post Card Content for Custom Challenges, Healthy Habits, and Daily Cards Custom Video Work (travel expenses billed separately) Third Party Expenses, such as travel, printing and translation, will be billed separately

ACCOUNT MANAGEMENT SERVICES

	An account manager will be responsible for proactive program management and client outreach to optimize program performance. Services will include: Recurring program strategy calls with account manager Annual program review with focus on mutually agreed upon KPI's Comprehensive annual planning process Annual review of Virgin Pulse Product Roadmap Access to Client Service Portal, a self-service ticketing tool where clients can request feature configuration changes, custom content and support on member issues Ability to create one (1) custom Basic or Destination challenge per year for clients, as requested. Client supplies custom content and images. Ability to configure one (1) Basic or Destination challenges from the Challenge Theme Library per year for clients, as requested. For Destination challenges, client has option to supply custom destination content and images for up two (2) of the challenge locations. Client newsletter including new feature announcements and engagement promotion updates Invitation to the annual Virgin Pulse Thrive conference

Account Management Services	

MEMBER SERVICES SUPPORT

Online Support	Members may access a knowledgebase of helpful program information and problem resolutions via the Support section of the program site or they may submit questions via the Support form.
Member Services	Provides member-level support after launch via phone (888-671-9395) and email (support@virginpulse.com) from 8am-9pm EST, Monday-Friday; and chat 2am-9pm EST, Monday-Friday.

IMPLEMENTATION SERVICES

Implementation Services	All clients have a designated Implementation Project Manager who is responsible for facilitating and coordinating execution of program launch. Services include: Designated Implementation Project Manager Scheduled implementation meetings with client and any 3rd party vendors Platform and incentive design consulting & forecasting Facilitation of IT requirements review and validation Setup, mapping, and testing of initial eligibility file and ongoing eligibility file process Configuration and QA of Virgin Pulse platform and client's program design Setup of applicable reward redemption options and ecommerce store Coordination, setup, and testing of file integrations with client's 3rd party vendors Coordination of communications strategy; delivery of Launch Comms & Champions pre-launch [if applicable] Configuration of initial corporate challenge Coordination of device fulfillment & logistics if applicable

OPTIONAL PROFESSIONAL SERVICES (ADDITIONAL FEES APPLY)

Inbound Single Sign-On Connection	Identity Provider (IdP) initiated SAML 2.0 SSO implementation
Outbound Single Sign-On Connection	SAML 2.0 SSO implementation from Virgin Pulse platform to client's third-party partner for authentication purposes (passing unique member ID and company identifier in token).
Custom Data Integration	Development of data integrations with 3rd parties as requested by client.
Verified Form Processing	Includes verification of provider signature/stamp and triggering of associated reward for single activity, multiple activities, or PCP/biometrics intake.
Do-It-Yourself Event	Do-it-Yourself event kit for 500 people. Everything a client needs to host an event for 500 people, including prizes, collateral, posters, etc.

OPTIONAL VIRGIN PULSE HARDWARE – ACTIVITY TRACKERS & HEALTH STATIONS

Virgin Pulse Hardware Tracking Devices	**Max Buzz** An activity and sleep tracking device with vibrating alerts for alarms and phone calls/text messages.
Virgin Pulse Hardware Health Stations	**Health Station** Biometric screening station for employees to easily upload weight, blood pressure, and BMI. Available as Desktop or iPad.

APPENDIX B: VIRGIN PULSE INC. TERMS & CONDITIONS

1. SCOPE, TERM, &TERMINATION

1.1 **Scope.** These Solution and Services Terms and Conditions ("**Terms**") are incorporated by reference into each Virgin Pulse Order Form ("**Order Form**") entered into between the entity listed on the Order Form ("**Client**") and Virgin Pulse, Inc., or any of its affiliates (each referred to as a "**Provider**") and governs the provision by Provider of its software-as-a-service products or mobile software applications ("**Products**"), current published guides for the Products ("**Documentation**"), its databases of individual demographic and behavioral data ("**Provider Data**"), deployment, support, integration, configuration, coaching, screening, guides, campaign, engagement or other related services ("**Services**"), and literary, graphic, video, audio, or photographic content resulting from the Services or displayed or distributed via the Products ("**Provider Content**"), (collectively, a "**Solution**"). In the event of any conflict between these Terms and an Order Form, these Terms shall govern, unless the Order Form expressly says otherwise. These Terms, the Order Form and all Appendices are collectively referred to as the "**Agreement**".

1.2 **Term.** The term of these Terms will commence on the Effective Date and shall continue thereafter until the sooner of expiration of all Order Forms or the termination of all Order Forms in accordance with this Section 1 ("**Term**").

1.3 **Termination for Breach.** Either Party may terminate this Agreement if: (i) the other Party makes an assignment for the benefit of creditors, ceases to do business, terminates its business operations, or becomes insolvent, or proceedings are instituted by or against it that are not terminated within sixty (60) days, (ii) the other Party materially breaches this Agreement and does not cure such failure within thirty (30) days' of receipt of notice from the non-breaching Party; or (iii) a change in Law occurs during the Term that materially and adversely impairs Provider's ability to provide the Solution and/or Services in compliance with Applicable Laws (as defined below) and the Parties acting in good faith are unable to reach agreement on an amendment to account for such change in Applicable Laws within a reasonable period of time, but no later than the first date on which the change in law becomes effective; *provided,* that Provider may immediately terminate this Agreement without prior notice or the opportunity to cure if the Client's material breach results in a violation any laws, regulations and orders of the United States relating to export controls and trade sanctions ("**US Export Controls and Trade Sanctions**").

1.4 **Effect of Termination**. Upon termination of this Agreement, all rights and licenses granted hereunder shall immediately cease; *provided, however,* that in the event there is any Order Form still in effect as of the effective date of termination, this Agreement shall remain in full force and effect solely with respect to such Order Forms until such Order Forms expire or are terminated in accordance with the terms of each Order Forms Within thirty (30) days of the termination date of this Agreement, Provider shall delete any Client Data in its possession or control and certify such deletion in writing to Client. Termination of this Agreement will not relieve either Party from any obligation or liability that has accrued prior to the effective date of termination, including Client's obligation to pay Provider for the Solution up to the date of termination. Upon Client's request, Provider, in its sole discretion, shall provide up to one-hundred eighty (180) days of assistance to Client for transition of the Solution at the prices agreed upon in the Order Form and any other services on a time and materials basis in accordance with a mutually-agreed upon rate card.

2. ACCESS AND LICENSE GRANTS.

2.1. **Access Grant**.

a. **By Provider.** During the Term, Provider grants to Client a non-exclusive, non-transferrable right to: (i) access and use the Solutions set forth in the applicable Order Form(s); and (ii) grant access to the Solutions to the number of persons provided to Provider by Client on an Eligibility File (subject to any quantity restrictions specified in the Order Form) (each "**Eligible**") for which Client has paid the applicable fees solely in accordance with the terms and conditions of this Agreement; (iii) and authorize such Eligibles to use the Solutions (each enrolled Eligible referred to as a "**Member**").

b. **By Client**. During the Term, Client grants to Provider a non-exclusive right to: (i) store, use, and process any data provided by Client (including Eligibility Files) ("**Client Data**") and/or any information provided by or on behalf of Members ("**Member Data**") to provide the Solutions specified in an Order Form; (ii) de-identify and aggregate Client Data and Member Data with data from other sources and/or Provider Data to improve its Products ("**Combined Data**"); and (iii) create and distribute derivative works that are based on Combined Data and/or Client Data that has been rendered unidentifiable but not aggregated ("**De-Identified Data**").

2.2 **License Grants.**

a. **By Provider.** During the Term, Provider hereby grants to Client a limited, non-exclusive, revocable, non-transferable, royalty-free (subject to payment of all applicable Fees) license, to download, reproduce, use, perform, and display (and to sublicense the foregoing rights to its Members): (i) the Products; (ii) any logos, trademarks, service marks, or content contained therein ("**Provider Brand**"); and/or (iii) any Provider Content made available or distributed by Provider in connection the applicable Solution.

b. **By Client.** During the Term, Client hereby grants to Provider a limited, non-exclusive, revocable, non-transferable, royalty-free license, without right to sub-license, to reproduce, translate, encode, publish, use, and display any logos, trademarks, service marks, or content provided by Client ("**Client Brand**") on any Client-branded interfaces or materials included in a Solution; and (ii) display the Client Brand in marketing materials solely for the purposes of identifying Client as a Client of Provider.

2.3 **Restrictions**. Client will not (a) copy or duplicate any Solution except as permitted herein; (b) modify, translate, decompile, disassemble, reverse engineer or otherwise reverse engineer any Solution or any portion thereof or create any derivative product from any of the foregoing, except with the prior written consent of Provider; or (c) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Client's rights in any Solution.

3. OWNERSHIP.

3.1 **By Client.** Client owns all right, title and interest in and to the Client Brand, Client Data, Eligibility Files, and Client Confidential Information (as defined below) (collectively, the "**Client Materials**") and except for any rights granted herein, Provider acknowledges that it neither owns nor acquires any additional rights in and to the Client Materials. "**IP Rights**" means all patent, copyright, trademarks, trade secrets, know-how, techniques, concepts, ideas, methods, algorithms, models, formulas, and database rights, including any applications, continuations and goodwill.

3.2 **By Provider.** As between Client and Provider, Provider owns all right, title and interest in and to the Solutions and Provider Brand ("**Provider Materials**") and all IP rights therein, including any data related to, or derived from, the use and performance of any Solution or part of a Solution. Client acknowledges that: (a) Solutions are provided on a multi-tenant, access only-basis and (b) Client does not acquire any rights of ownership or exclusive use in any Client Materials or in any derivative work thereof or work product produced as a result of using a Solution.

3.3 **By Member.** Provider manages Member Data for the benefit of such Members in accordance with this Agreement, applicable Law and Provider's Terms of Use, privacy policy, and any end-user agreements acknowledged by the applicable Member ("**Member Agreement**"). Nothing under this Agreement or any other agreement entered into between the Parties shall prevent or restrict Provider's ability to seek an Eligible's acceptance of Member Agreement prior to granting access to a Solution, which permits Provider to use Member Data for any lawful purpose, including as necessary for the operations, administration, and development of Provider's product or services and providing the Solutions to the applicable Member.

4. OBLIGATIONS.

4.1 **Provider Services.** During the Term, Provider shall: (a) provide the Solutions (including configuration and implementation Services) in accordance with the performance guarantees ("Performance Guarantees" or "**PGs**") stated in the Agreement and if a Solution fails to perform in accordance with its PGs, reimburse Client, as its sole and exclusive remedy, the amount of Performance Guarantee credits specified in such PG ("PG **Credits**"); (b) provide Client with monthly reports specifying quantity and activity participation of Members (to the extent permitted by applicable law and the Member Agreement); (c) fulfill incentives under Client's wellness program in accordance with Client's policies and upon Client's determination that a Member has not earned or is not entitled to incentive under a wellness program, provide a claims denial notice in the form and manner directed by Client, *provided, that* Client shall administer any appeal process; (d) adjust, remove, or recoup rewards accumulated in error or in a manner that violates the Membership Agreement or result from fraud; (e) upon Client's request, provide portable monitoring devices (each a "***Portable Device***") to Members for the additional fees for such Portable Devices which fees may be modified from time to time in Provider's sole discretion (subject to the Member Agreement and any restrictions imposed by US Export Controls or Trade Sanctions, ("**Sanctions**"); (f) perform any additional services mutually agreed upon by the parties in a Statement of Work ("**SOW**") or amendment to this Agreement; and (g) with respect to any Provider employee that performs Services under this Agreement, conduct standard background checks covering criminal history, including state, county and federal felonies and misdemeanor convictions, prior employment and education verification, I-9 completion, OIG and GSA sanctions checks.

4.2 **Client Obligations.** During the Term, Client shall provide: (a) provide all Client Materials (including Eligibility Files) necessary for Provider's implementation and performance of its obligations under this Agreement; (b) update Eligibility Files each month, including any additions and terminations, and provide updated Eligibility Files to Provider by the fifteenth (15) day of each month during the Term.; and (c) ensure that all Client Materials and Eligibility Files, and provider's use thereof as permitted by this Agreement, complies with all applicable laws, rules, regulations, statutes, case law, ordinances, and Sanctions ("**Applicable Laws**").

4.3 **Subcontractors.** Provider may subcontract its responsibilities to subcontractors subject to agreement terms at least as protective of Client as those contained in this Agreement ("**Subcontractors**"). Provider remains liable for the performance of all Subcontractors as if such Services were performed directly by Provider. Client may use a Solution to access programs, content, and/or services made available by third-parties (each a "**Certified Partner**"). Client acknowledges and agrees that Certified Partners do not constitute Subcontractors, and Provider shall have no responsibility for a Certified Partner's programs or services ("**CP Offering**"). Each Certified Partner is solely responsible for its content, warranties, and for any claims that Client or its Members may have. Provider shall not have any liability under this Agreement relating to the provision of any CP Offering and all such liability is hereby disclaimed. CP Offerings may be subject to these Terms and to any applicable end user license agreement, terms of use, or similar agreements required by the applicable Certified Partner in connection with the CP Offering ("**CP Terms**"). To the extent these Terms conflict with the applicable CP Terms, the CP Terms shall govern with respect to the CP Offering; *provided, however,* that in no event shall any CP Terms restrict or reduce Client's rights or protections with respect to Client Data or Member Data unless otherwise agreed to in writing by Client.

5. FEES AND EXPENSES; PAYMENTS.

5.1 **Fees.** Client shall pay all fees set forth in the Order Form ("**Fees**") within thirty (30) days of the date of Provider's invoice and all disputed amounts within ten (10) business days of resolution of such dispute; *provided, however*, that Client may only withhold disputed amounts up to twenty (20%) percent of any single invoice. Any undisputed amounts shall accrue interest at a rate equal to the greater of: (i) one and a half percent (1.5%) per month, or (ii) the highest rate permitted by Law, whichever is lower. Client agrees to pay all amounts due without any setoff, deduction, or withholding for any reason. If Provider does not receive payment of any sum due to it within thirty (30) days of the invoice, Provider reserves the right to suspend access to the Solution, including but not limited to the Members' ability to accrue or redeem any rewards, until such time as the default has been cured to Provider's satisfaction. Notwithstanding anything to the contrary herein, all invoiced amounts for rewards are due and payable within thirty (30) days of the date of Provider's invoice.

5.2 **Taxes.** Prices do not include any sales, use, excise, transaction, or other similar taxes. All taxes, excluding taxes based on Provider's income or revenues shall be billed to and paid by Client. To the extent such statutory taxes are not included in an invoice and are later determined to be due, Provider will notify and separately invoice for taxes and the Client will be responsible for payment. Client will make all required payments to Provider free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments to Provider will be Client's sole responsibility, and Client will, upon Provider's request, provide Provider with official receipts issued by the appropriate taxing authorities, or such other evidence as Provider may reasonably request, to establish that such taxes have been paid. Provider shall, upon written request of Client, furnish statements of taxes

and assessments for which Client is responsible and Provider has paid.

5.3 **Renewal Increases to Fees.** In the event an initial committed Term is set forth in an Order Form (the "**Initial Term**") and such Order Form renews for additional terms (each, a "**Renewal Term**" and together with the Initial Term, including the Term), Client agrees that the following standard renewal rates shall apply unless specified otherwise in the Order Form:

a. 3-year renewal - 3% increase to Subscription Fees;

b. 2-year renewal - 5% increase to Subscription Fees; and

c. 1-year renewal - 7.5% increase to Subscription Fees (each, a "**Renewal Term**").

Each Order Form will automatically renew for a period of one (1) year in accordance with Section 5.3(c) at the end of the then-current Term unless either Party provides written notice of non-renewal at least one hundred twenty (120) days prior to the expiration of the then-current Term.

5.4. **Rewards.** In the event that any Member earns and otherwise accrues an entitlement to an incentive but such Member's participation in the Solutions is terminated by the Member and/or the Client, then such Member shall have a period of thirty (30) days following the date of such termination to redeem the applicable Incentive.

5.5 **Audits.** Provider shall maintain records in accordance generally accepted accounting principles and practices and in accordance with statutory requirements and Applicable Laws. During the Term, Client shall have the right to audit books and records at its own expense to substantiate Provider's Fees ("**Fee Audit**") and Provider will reimburse Client for any expenses incurred by Client in connection with any Fee Audit that results in the correction of a billing error by Provider in an amount greater than ten percent (10%). In addition, Client shall be entitled to perform, at its own expense, an audit to verify Provider's compliance with the Security Controls ("**Security Audit**"); provided, however that if the subject of the Security Audit is covered by an industry-standard assessment by an accredited third-party ("**Third-Party Assessment**"), Client agrees to limit the scope of its Security Audit only to a short questionnaire of no more than thirty (30) questions addressing legitimate concerns not covered by such Third Party Assessment ("**Gap Questionnaire**"). If Provider is in the process of a Third-Party Assessment, then Client shall not provide such Gap Questionnaire until sixty (60) days after Provider's notification that such Third-Party Assessment is complete. All Third-Party Assessments and gap Questionnaires shall be subject to confidentiality protection and be due upon no less than thirty (30) business days' notice to Provider, and no more than once annually.

6. CONFIDENTIAL INFORMATION.

6.1 **Confidential Obligations** The Parties acknowledge that during the performance of this Agreement, each Party will have access to certain written or oral information disclosed by the other that has been identified as confidential or that or should be known to a reasonable person given the facts and circumstances of the disclosure, as being confidential or proprietary ("**Confidential Information**"). The Parties agree to treat and maintain as confidential and proprietary all Confidential Information furnished by the other Party pursuant to or in connection with this Agreement and an Order Form to the same extent and with the same degree of care as it uses in handling its own confidential and proprietary information of similar nature (but with not less than a reasonable degree of care), and further agree not to use such Confidential Information for any purpose other than the performance of any obligation under this Agreement or an Order Form. Neither Party shall disclose any Confidential Information to anyone other than each Party's respective employees or its legal counsel, auditors, agents or consultants (collectively, "Representatives") who are subject to appropriate confidentiality policies or are bound by appropriate confidentiality agreements with terms at least as protective as the terms set forth in this Section 6 and who have a need to know the Confidential Information.

6.2 **Confidentiality Exceptions**. Notwithstanding the foregoing, Section 6.2 will not apply to Confidential Information that (a) is publicly available or in the public domain at the time disclosed; (b) is or becomes publicly available or enters the public domain through no fault of the recipient; (c) is rightfully communicated to the recipient by persons not bound by confidentiality obligations with respect thereto; (d) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (e) is independently developed by the recipient; or (f) is approved for release or disclosure by the disclosing Party without restriction; (f) consists of any comments, commentary on any new features, functionality or improvements for Products and/or error reports provided by Client to Provider, provided that such use shall not identify Client ("**Feedback**"); or (g) constitutes De-Identified Data. Either Party may disclose Confidential Information to the limited extent required to establish such Party's rights under this Agreement, including to make such court filings as it may be required to do, or comply with the order of a court or other governmental body or applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and make a reasonable effort to obtain a protective order. Client agrees that it will not assert any limitations to Provider's right to use the Feedback or entitlement to compensation or recognition for Provider's use of the Feedback.

6.3 **Location.** Provider shall store all Client Data in accordance with the Data Security Standards and Business Associate Agreement attached as Appendices C and D of this Agreement ("**Security Policies**") and all Applicable Laws, including HIPAA; *provided, however*, that Provider may permit persons physically located outside of the United States ("**Offshore Resource**") to access Client Data (including Protected Health Information ("**PHI**")) and Member Data where: (a) access to Client Data and Member Data is strictly limited to connection via virtual desktop infrastructure ("**VDI**") provided, monitored, and maintained by Virgin Pulse/Provider within the United States ("Secure Remote Worker Application"); (b) each offshore resources is employed directly by Provider at a location owned or operated by Provider or by a U.S. Based Subcontractor that is subject to and compliant with HIPAA and regulations promulgated by the U.S. Department of Health and Human Services, and for the acts and omissions of which Provider remains liable; and (c) Provider ensures that any computer used by Offshore Resources to remotely access Secure Remote Worker Application via the VDI is technically restricted from simultaneously accessing the Internet or using any virtual private network or any other third party network while logged on to the VDI; and (d) the VDI prevents downloading, printing, extracting, storing or transmitting the information and/or data through personally owned, rented, or borrowed equipment, including but not limited to, laptops, personal digital assistants, instant messaging devices, Universal Serial Bus ("**USB**") devices, and cell phones. Client acknowledges and agrees that in the event Client prohibits use of an Offshore Resource that complies with the forgoing conditions, such withholding or delay shall excuse Provider from any delay in meeting resolution service level agreements associated with any issue, defect, or break for which an Offshore Resource was offered and may result in an increase to the applicable Fees.

7. REPRESENTATIONS, WARRANTIES, AND DISCLAIMERS.

7.1 **Representations; Warranties.** Each Party hereby represents and warrants (a) that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; (b) the execution and performance of this Agreement will not conflict with or violate any Applicable Law; and (c) that this Agreement, when executed and delivered, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms.

7.2 **By Provider.** Provider represents and warrants to Client that: (a) it is the owner and/or the licensee of all IP Rights relating to the Solutions (excluding any Client Materials included therein) and has the necessary rights to grant all licenses hereunder; (b) the Solutions shall perform in compliance with the product descriptions listed in the Order Form; (c) it shall perform the Services in a professional and workmanlike manner in accordance with Applicable Laws; and (d) it shall promptly report to Client any revocations of consent or opt-outs that it receives.

7.3 **By Client.** Client represents and warrants: (a) that it shall not provide any individual social security number, unique national identifier or tax number; (b) that it shall use Provider Data in accordance with this Agreement; (c) that it is solely responsible for the wellness program design, inclusive of incentive structure; (d) that it will comply with all Applicable Laws, including in connection with: (i) its use and design of any custom questions added to Client's HRA or Client designed and built custom Surveys and (ii) obtaining and maintaining in effect all consents required by the Telephone Consumer Protection Act ("TCPA") and the Health Insurance Portability and Accountability Act of 1996 as amended ("HIPAA") to allow Provider to host and process Client Data and/or to authorize Provider to send SMS or pre-recorded messages using an autodialer ("Calls") on Client's behalf and promptly reporting to Provider any revocations of consent or opt-outs it receives; and (d) it will not use the Solution for as a replacement for medical services or other critical uses where the failure or the potential failure of the Services can cause injury, harm or death.

7.4 **Exclusive Warranties; Disclaimer**. EXCEPT FOR THE WARRANTIES IN THIS SECTION, PROVIDER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED. THE CONTENT PROVIDED THROUGH THE SERVICES IS NOT MEDICAL ADVICE, IS FOR INFORMATIONAL PURPOSES ONLY AND IS INTENDED TO PROVIDE BROAD USER UNDERSTANDING OF VARIOUS HEALTH-RELATED TOPICS. CONTENT IS NOT INTENDED TO BE A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE, DIAGNOSIS, OR TREATMENT. THE PARTIES HEREBY IRREVOCABLY DISCLAIM AND OPT-OUT OF ALL APPLICABLE PROVISIONS OF THE UNIFORM COMMERCIAL CODE, THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT AND ANY OTHER LAW THE PROVISIONS OF WHICH ARE IMPLIED IF NOT DISCLAIMED OR OPTED-OUT OF BY THE PARTIES

7.5 **Disclaimer of Warranties**. THE WARRANTIES CONTAINED IN THIS SECTION 7 CONSTITUTE THE EXCLUSIVE WARRANTIES MADE BY PROVIDER AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PROVIDER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES., EXPRESS OR IMPLIED. EXCEPT AS SET FORTH IN THIS SECTION 7 OR THE PGs, ALL SOLUTIONS AND SERVICES ARE PROVIDED "AS IS," "WHERE IS" AND "AS AVAILABLE" AND PROVIDER DOES NOT WARRANT THAT THE SOLUTIONS OR SERVICES WILL MEET CLIENT'S REQUIREMENTS OR WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. PROVIDER IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM USE OF THE INTERNET. PROVIDER MAKES NO REPRESENTATION AS TO THE VERACITY OF ANY MEMBER DATA. PROVIDER EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY FOR ANY CP OFFERING. THE PARTIES AGREE THAT PROVIDER IS NOT A CARE PROVIDER AND DOES NOT PROVIDE DIAGNOSTIC SERVICES OR MEDICAL ADVICE. THE SOLUTIONS AND SERVICES, ARE NOT INTENDED TO BE, A SUBSTITUTE FOR ANY MEDICAL EVALUATION, EXAMINATION, ADVICE, DIAGNOSIS OR TREATMENT. THE PARTIES HEREBY IRREVOCABLY DISCLAIM AND OPT-OUT OF ALL APPLICABLE PROVISIONS OF THE UNIFORM COMMERCIAL CODE, THE UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT AND ANY OTHER LAW THE PROVISIONS OF WHICH ARE IMPLIED IF NOT DISCLAIMED OR OPTED-OUT OF BY THE PARTIES.

8. INDEMNIFICATION.

8.1 **By Provider.** Provider agrees to indemnify, defend, release, and hold harmless Client, and its directors, officers, employees, and agents ("**Related Parties**") from and against any and all losses, liabilities, costs (including reasonable attorneys' fees) or damages directly resulting from any claim by any third party ("**Losses**") arising out of or related to (a) any claim that any Solution or Provider's provision of any Services infringes any third party's IP Rights (a "**Infringement Claim**"); or (b) an unauthorized disclosure or access to PHI stored on Provider's systems ("**Incident Claim**"). Provider will not be liable for an Infringement Claim based on (i) modification(s) made to the Solution by Client; or (ii) use or combination of the Solution with non-Provider programs. In the event of an Infringement Claim, Provider may, at its option, either (A) obtain for Client, at no additional cost, the right to continue to use the Solution or receive the Services, (B) replace or modify the Solution or Services to eliminate the Infringement Claim, or (C) terminate the applicable Order Form and refund to Client any pre-paid but unused Fees paid for the Solution or Services. THIS SECTION STATES PROVIDER'S ENTIRE OBLIGATION AND LIABILITY WITH RESPECT TO ANY INFRINGEMENT CLAIM OR SECURITY BREACH.

8.2 **By Client.** Client agrees to hold harmless, indemnify, release, and defend Provider from and against any Losses, arising out of or related to: (a) Client's breach of any Applicable Law, (b) data sharing with Client vendors at the direction of Client; (c) the Client Data; (d) Client's use or mis-use of Client administrative tools, including but not limited to VP Live Pro, or (e) any failure by Client to obtain any consents required under the TCPA.

8.3 **Procedure.** The party seeking indemnification (the "Indemnified Party") shall provide the party obligated to provide such indemnification (the "Indemnifying Party") with: (a) prompt written notification of the claim; (b) sole control and authority over the defense or settlement of the claim; and (c) reasonable assistance. The Indemnifying Party may settle the claim provided that if any settlement requires any action or admission by the Indemnified Party other than payment of money, the Indemnifying Party shall obtain Indemnified Party's prior written consent. Failure by the Indemnified Party to provide prompt notice of a claim shall not relieve the Indemnifying Party of its obligations unless such failure or delay materially prejudices the defense of the claim. The Indemnified Party will have the right, at its option, to defend itself against any such claim or to participate in the defense thereof by counsel of its own choice at its own expense.

9. LIMITATION OF LIABILITY

9.1 DIRECT DAMAGES ONLY. NEITHER PARTY SHALL BE LIABLE TO THE OTHER, OR TO ANY OTHER PERSON, FOR ANY SPECIAL, EXEMPLARY, INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES, INCLUDING ANY DAMAGES RESULTING FROM LOSS OF USE OF DATA OR THE SERVICES, LOST BUSINESS, LOSS OF GOODWILL, LOST REVENUES,

FAILURE TO REALIZE ANTICIPATED SAVINGS, OR LOST PROFITS, AND ANY OTHER DAMAGES FOR ECONOMIC LOSS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE INSTALLATION, IMPLEMENTATION, CUSTOMIZATION, USE, INABILITY TO USE, OPERATION OR SUPPORT OF THE SERVICES.

9.2 MAXIMUM LIABILITY. WITH THE EXCEPTION OF CLIENT'S PAYMENT OBLIGATIONS, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY TO THE OTHER OR TO ANY OTHER PERSON FOR ANY LOSS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE INSTALLATION, IMPLEMENTATION, CUSTOMIZATION, USE, INABILITY TO USE, OPERATION OR SUPPORT OF THE SOLUTION OR SERVICES SHALLL NOT EXCEED THE TOTAL FEES PAID AND/OR PAYABLE BY CLIENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT(S) GIVING RISE TO SUCH LIABILITY. NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS OF LIABILITY SET FORTH IN SECTION 9.2 SHALL NOT APPLY TO LIABILITY OF EITHER PARTY RELATED TO SUCH PARTY'S OBLIGATION OF INDEMNIFICATION, WHICH LIABILITY SHALL BE LIMITED IN THE AGGREGATE OVER THE ENTIRE TERM OF THIS AGREEMENT TO FIVE MILLION DOLLARS ($5 MILLION).

9.3 ESSENTIAL PURPOSE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PROVISIONS SET FORTH IN THIS SECTION 9 SHALL APPLY REGARDLESS OF THE FORM OR ACTION OR THEORY OF LIABILITY AND EVEN IF A PARTY WAS ADVISED OF THE POSSIBILITY OF DAMAGES AND WHETHER DAMAGES WERE REASONABLY FORESEEABLE. THE PARTIES AGREE THAT THESE LIMITATIONS ARE ESSENTIAL COMPONENTS OF THIS AGREEMENT AND FORM THE BASIS FOR DETERMINING THE FEES CHARGED FOR THE SERVICES, AND THAT PROVIDER WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY. THESE LIMITATIONS WILL APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO FAIL OF ITS ESSENTIAL PURPOSE.

10. GENERAL.

10.1 Independent Contractors. In making and performing this Agreement, Client and Provider act and will act at all times as independent contractors, and, except as expressly set forth herein, nothing contained in this Agreement will be construed or implied to create an agency, partnership or employer and employee relationship between them. Except as expressly set forth herein, at no time will either Party make commitments or incur any charges or expenses for, or in the name of, the other Party.

10.2 Notices. All notices required by or relating to this Agreement will be in writing and will be sent by means of certified mail, postage prepaid, to the Parties at their respective addresses set forth in the Order Form or addressed to such other address as the receiving Party may have given by written notice in accordance with this provision. All notices required by or relating to this Agreement may also be communicated by electronic communications provided that the sender receives and retains confirmation of successful transmittal to the recipient. Such notices will be effective on the date indicated in such confirmation.

10.3 Assignment; Delegation. Except in the case of merger, acquisition or sale of all, or substantially all, of a party's assets or capital stock, neither Party shall assign any of its rights or delegate any of its duties under this Agreement without the express, prior written consent of the other Party, and, absent such consent, any attempted assignment or delegation will be null, void and of no effect.

10.4 Third-Party Beneficiaries. The terms and conditions of this Agreement shall be incorporated by reference into any Order Form placed by Client for a Certified Partner program and the Certified Partner and Client shall be a third-party beneficiary to that Order Form. Except for Certified Partners under an Order Form, there are no third-party beneficiaries to this Agreement, expressed or implied.

10.5 Force Majeure. Except with respect to payment obligations hereunder, if a Party is prevented or delayed in performance of its obligations hereunder as a result of circumstances beyond such Party's reasonable control, including, by way of example, Internet access outside of Provider's control, war, terror, riot, fires, floods, epidemics, or failure of public utilities or public transportation systems, such failure or delay will not be deemed to constitute a material breach of this Agreement, but such obligation will remain in full force and effect, and will be performed or satisfied as soon as reasonably practicable after the termination of the relevant circumstances causing such failure or delay, provided that if such Party is prevented or delayed from performing for more than ninety (90) days, the other Party may terminate this Agreement upon thirty (30) days' written notice.

10.6 Governing Law. This Agreement shall be governed by the laws of the State of Rhode Island (except for any conflicts-of-law principles of such state that would result in the application of the law of another State). Any legal action brought under or in connection with this Agreement shall be brought only in the United States District Court or the State Court sitting in the Rhode Island. Each Party waives any objection to such venue and agrees not to claim that any action has been brought in an inconvenient forum.

10.7 Dispute Resolution. Prior to the initiation of any litigation, a Party will provide written notice describing the dispute in reasonable detail and the Parties will use good faith efforts to resolve their dispute informally for sixty (60) days. The Parties will use good faith efforts to arrange personal meetings and/or telephone conferences as needed with representatives with the authority to resolve the dispute. However, after such sixty (60) day period, if the dispute has not been resolved, either party may litigation proceedings.

10.8 Injunctive Relief. The Parties acknowledges that misuses or disclosure of the other Party's Confidential Information (or violation of other proprietary data rights) may give rise to irreparable injury to the other Party that is inadequately compensable in damages. Accordingly, either Party may seek and obtain injunctive relief against the breach or threatened breach of Confidential Information, pending resolution of any dispute and/or in addition to any other legal remedies that may be available. Each Party acknowledges and agrees that the covenants contained in this Section are necessary for the projection of legitimate business interest of the Parties and are reasonable in scope and content.

10.9 U.S. Government End-Users. If Client is part of any agency, department, or other entity of the United States Government ("**U.S. Government**") or is acquiring the Services under a U.S. Government contract, the use, duplication, reproduction, release, modification, disclosure or transfer of the Services, and any other Provider's Confidential Information, is restricted in accordance with the Federal Acquisition Regulations as applied to civilian agencies and the Defense Federal Acquisition Regulation Supplement as applied to military agencies. The Services are a "commercial item," "commercial computer software" and "commercial computer software documentation." In accordance with such provisions, any use of the Services by the U.S. Government will be governed solely by the terms of this Agreement.

10.10 Miscellaneous. This Agreement, as executed by the Parties, constitutes the entire Agreement of the Parties with respect to its subject matter and supersedes any and all oral or written representations, understandings, or agreements relating thereto. This Agreement has been drafted jointly by the Parties and any ambiguities shall not be construed in favor of or against either Party. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Agreement may be modified only by an agreement in writing that is signed by both Provider and Client. In the event of a conflict among the documents composing this Agreement, the order of precedence and control will be: (i) this Agreement; (ii) the Order Form; and (iii) the Change Order. If any provision of this Agreement is found to be unenforceable by a court of law, the parties shall negotiate in good faith to agree upon a substitute provision that is consistent with the intentions underlying the original provision and the remainder shall be enforced to the extent permitted by Law. No waiver will be valid unless in writing and signed by the Party against which such waiver is sought to be enforced. The waiver or failure of either Party to exercise any right will not be deemed a waiver of any future right**.** The following Sections of these Terms shall survive termination or expiration of the Agreement for any reason: 3, 5, 6, 7, 8, 9 and 10.

APPENDIX C: VIRGIN PULSE DATA SECURITY STANDARDS

1. **Scope; Definitions:** Provider shall comply with the requirements set forth in this Appendix. This Appendix relates to Services whereby Provider collects, accesses, processes, stores, transfers, transmits, uses, discloses, or otherwise handles any Personal Data. In the event of a conflict or inconsistency between any provision of this Appendix and the Agreement, the more stringent requirement shall prevail. Capitalized terms in this Appendix not herein defined are defined in the Agreement or have the following meanings:
   "**Agreement**" shall mean the agreement between Client and Provider to which this Appendix is attached.
   "**Personal Data**" shall mean, relative to the Services provided to Client, any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person; including individually identifiable information contained in Eligibility Files and Member Data, each as defined in the Agreement.
   "**PII"** shall mean information (i) that identifies an individual, (ii) with respect to which there is a reasonable basis to believe the information can be used to identify an individual, or (iii) is considered personally identifiable information by applicable codes, laws, guidelines, rules or regulations, including, without limitation, industry self-regulation. The term PII shall also include any "Personal Data" as defined in the General Data Protection Regulation (Regulation (EU) 2016/679).
   "**Provider**" shall have the meaning outlined in Provision 1.20 of the Agreement.
   "**Provider Personnel**" shall mean each director, officer, manager, employee, representative and each natural person employed or retained by Virgin Pulse.
   "**Provider Sites**" shall mean locations owned or leased by Provider from which it provides services to its Clients.
   "**Security Incident**" shall mean any confirmed unauthorized access, disclosure, misappropriation, theft, loss, acquisition, or use of Personal Data.
   "**Services**" shall mean the services to be provided and performed by Provider pursuant to the Agreement.
   "**Systems**" shall mean hardware, software, networks, applications and other equipment that comprise a technical environment used to store or process Personal Data.
   "**Industry Standard Security Practices**" shall mean the core security practices appropriate to the Provider's business and services which are commonly implemented as standards across the information technology industry. For example, many of the authoritative sources listed in the HITRUST CSF, ISO-27001, SOC2 and NIST CSF.
   "**Security Policies**" shall mean Provider's policies for securing information or data according to Industry Standard Security Practices and in compliance with applicable laws and regulations. Typically, Security Policies are high level instructions to management on how the organization is to be run with respect to Industry Standard Security Practices.
   "**User**" shall mean Provider Personnel authorized by Provider to access Personal Data stored on any Provider Systems.

2. **Information Security Program:** Provider has established and, during the term of the Agreement, will maintain:
   An ongoing program of Security Policies and controls that comply with the HITRUST Common Security Framework, ISO-27001, SOC2, or similar Industry Standard Security Practices.
   A Security Incident management program intended to detect and respond to Security Incidents.
   A security awareness and training program that includes both User and administrator training in methods, procedures, and security.
   A Business Continuity / Disaster Recovery (BCDR) program in place for critical systems used for storing, transmitting, or processing Personal Data or used for business-to-business communications that includes documented policies and plans, and must test that plan at least annually.
   Change control procedures for any Systems Provider uses to store, transmit, transfer, or process Personal Data for Client.
   Procedures to conduct periodic independent security risk evaluations and penetration tests to identify critical information assets, assess threats to such assets, determine potential vulnerabilities, and provide for timely remediation for Provider's key Systems used to deliver the Services.
   A vulnerability management program to assess and manage threats to the Provider's Systems with timely remediation of issues found.

3. **Physical Access:** Provider has established and, during the term of the Agreement, will maintain:
   Physical controls to protect Personal Data stored in any Provider data center.
   Appropriate facility entry controls are in place to limit physical access to systems that store or process data.
   Processes to block access to facilities by default and only grant such access on a "need to know" basis.
   Processes to monitor access to any facility where Provider processes Personal Data.

Controls to physically secure all Personal Data and to properly destroy such information when no longer needed using a process equal to or above that specified by NIST Special Publication 800–88, Guidelines for Media Sanitization, such that the Information cannot be retrieved.
Procedures to store securely hardcopy documents, removable media or portable devices containing Personal Data where access is limited to a need-to-know basis. Provider
Procedures to ship physical copies of Personal Data, when required to do so under the Agreement, using secure, reputable shipping services with shipment tracking and confirmed deliver options.

4. **Logical Access:** Provider, with respect to the internal systems used to support the Services, has established and, during the term of the Agreement, will maintain:
   a. Appropriate mechanisms for User authentication and authorization in accordance with a restricted "need to know" and "principle of least privilege" policy, including restrictions on copies and backup copies of all Personal Data.
   b. Procedures to remove or update User access when a User's role changes or terminates.
   c. Procedures to monitor and review User access to validate that User access grants are in line with their current roles.
   d. Multi-Factor authentication for any remote Users or internet facing applications, User portals, User VPN's, virtual desktops or similar internet facing exposures.
   e. Controls to enforce access restrictions for remote Users, contractors, and service providers.
   f. Timely and accurate administration of User account and authentication management.
   g. Processes to assign unique IDs to each User with computer access and limit use to such User.
   h. Processes to change any vendor supplied defaults for passwords and security parameters for Systems prior to deployment.
   i. Controls to validate that User passwords meet minimum length and complexity requirements, and are appropriately changed, managed, and maintained on a regular basis consistent with Industry Standard Security Practices.
   j. Mechanisms to track all access to Personal Data by unique ID to individual Users, and recording the date, time, individual, and nature of the access in a log file, such log files to be kept for a minimum of 1 year.
   k. Mechanisms to encrypt or hash all passwords in storage.
   l. Processes to immediately revoke accesses of inactive accounts or terminated/transferred Users in a timely manner, not to exceed 24 hours.
   m. Controls to restrict copy and paste functions or any other method of information disclosure to the minimum necessary to provide the Services.

5. **Subcontractors and Third Parties:**

   When Provider engages a subcontractor to store, collect, or process Personal Data, Provider will enter into an agreement with such subcontractor that includes data protection terms and provisions substantially similar to those contained in this Appendix.
   When Client directs Provider to exchange Personal Data with, or otherwise collaborate with, a third party in relation to the Services, Client will be responsible for enforcing relevant data protection terms against such third party and Provider will be entitled to rely on Client to conduct any relevant security assessment.

6. **Background Checks and Screening:** Prior to the start of employment, Provider shall conduct, or require a relevant third party to conduct, criminal background checks on Provider Personnel, in alignment with Industry Standard Security Practices.

7. **Security Architecture and Design:** Provider has established and, during the term of the Agreement, will maintain:
   A security architecture designed to support Industry Standard Security Practices.
   Documented and enforced technology configuration standards.
   Processes to encrypt Personal Data, including all backup copies of the same, in transmission and in storage, including storage on any portable media when such media is required to perform the Services, using current industry standard methods (AES 256bit or higher).
   Processes for regular testing of security systems and processes on an annual basis or more frequently as appropriate.
   A system of effective firewall(s) and intrusion detection technologies to protect Personal Data.
   Database and application layer design processes that include data protection requirements to protect Personal Data that is collected, processed, and transmitted through such systems.
   Procedures to backup critical systems that contain Personal Data no less frequently than weekly.

8. **System and Network Management:** Provider has established, and during the term of the Agreement, will maintain:

   Mechanisms to keep Systems security patches current by installing all high risk or higher patches as soon as they can safely be installed but in any event within 90 days from learning about the patch.
   Processes to monitor, analyze, and respond to security alerts issued by hardware and software vendors.
   Appropriate network security design elements that provide for segregation of data.

Anti-virus and malware detection software on all Systems processing Personal Data to protect against malicious software, or processes in place to scan on at least a daily basis.
Appropriate data loss prevention (DLP) controls to protect Personal Data;
Processes to regularly verify the integrity of installed software and determine if any compromise of Personal Data.
Documented change control process to manage all changes to Systems.

9. **Security Incident Notification:** Provider will be responsible for detecting and responding to Security Incidents. Upon becoming aware of a Security Incident, Provider will report such Security Incident within seventy-two (72) hours by providing a written notification to the Client. In the event of a Security Incident, (a) Provider will cooperate with Client to comply with any legal requirement to notify individuals whose Personal Data has been or may have been compromised as a result of a Security Incident; provided that in no event will Provider serve any notice or otherwise publicize a Security Incident without the prior written consent of Client, unless required by applicable laws, and (b) upon Client's request, engage a mutually acceptable, regionally recognized third party to perform or assist with forensic analysis. Provider will deliver the results of any such analysis to Client in accordance with the confidentiality and notice provisions of the Agreement.

10. **Right to Audit:** Provider agrees to provide, upon written request, written attestation or third-party certification of Provider's compliance with industry standard security framework audits such as HITRUST, ISO-27001, SOC 2, PCI-DSS, NIST sp800-53, or similar as validation of Provider compliance with this DSE on an annual basis, or as reasonably required in response to a Security Incident involving Provider or provided service(s). In the event Provider is unable to produce the forms of validation as indicated above, then Provider agrees to submit to the Client the organization's SIG to address any Client risk assessment questions.

11. **Compliance with Law:** Provider complies with all applicable international, federal, state, and local data protection laws and regulations.

12. **Termination:** Upon any termination of the Agreement, Provider will promptly delete any Personal Data, within 90 days of the termination date.

APPENDIX D: BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**BAA**") is entered into by and between City of Murfreesboro, on behalf of itself or on behalf of its group health plans as applicable (collectively "**Covered Entity**") and Virgin Pulse, Inc. with an address at 75 Fountain Street, Suite 310, Providence, RI 02902, on behalf of itself and its affiliates ("**Business Associate**") (collectively, the "Parties" or individually, a "Party").

Whereas Business Associate renders wellness services to Covered Entity under an existing written agreement (the "**Agreement**"), that may involve the use, disclosure and/or creation of certain Protected Health Information ("**PHI**"), as defined below; and

Whereas, the Parties desire to protect the privacy and security of PHI in compliance with (i) the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**") as amended by the Health Information Technology for Clinical Health ("HITECH") Act, Title XIII of Division A and Title IV Division B of the American Recovery and Reinvestment Act of 2009, as set forth in Title 45, Parts 160, 162 and 164 of the Code of Federal Regulations ("**CFR**"), in each case only as of its applicable compliance date (the "**Omnibus Regulations**") that apply to covered entities and business associates; and (ii) the Privacy, Security, Breach Notification and Enforcement Rules at 45 CFR Part 160, Part 162, and Part 164, as further amended from time to time ("**HIPAA Rules**").

Now, therefore the Parties agree as follows:

1. Term. Subject to Section 19, the term of this BAA ("**Term**") shall be coterminous with the Agreement. This BAA supersedes and replaces any other agreement previously put in place between the Parties governing PHI.

2. Termination. Without limiting any other rights of the Parties, if either Party materially fails to adhere to its obligations under this BAA, the other Party may terminate this BAA if such failure is not cured within thirty (30) calendar days to the reasonable satisfaction of the other party. This BAA will automatically terminate unpon termination or expiration of the Agreement.

3. Definitions. Capitalized terms not otherwise defined, and the following terms used in this BAA shall have the meanings ascribed in 45 CFR Parts 160-164 and are incorporated herein by reference: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use. "PHI" and "Electronic Protected Health Information" ("**Electronic PHI**") shall have the same meaning given to such terms in the HIPAA Rules, but limited to such information created or received by Business Associate solely in its capacity as a business associate on behalf of Covered Entity.

4. Use and Disclosure of PHI. Business Associate shall use and/or disclose PHI: (a) only to the extent necessary to perform its duties under the Agreement; (b) to comply with its obligations or as otherwise permitted under this BAA, (c) as required by law and in compliance with each applicable requirement of 45 CFR §164.504(e); and (d) to the extent necessary for Business Associate's proper management and administration. In addition to the uses and disclosures permitted below, Business Associate may also use and disclose PHI: (i) to create a limited data set in accordance with 45 CFR §164.514, which limited data set may be used and disclosed by Business Associate as permitted by law, including HIPAA; (ii) to respond to requests for PHI either accompanied by an authorization that meets the requirements of 45 CFR §164.508 or from a covered entity or health care provider in accordance with 45 CFR §164.506(c) and (iii) as otherwise authorized in writing by Covered Entity or Plan Sponsor on its behalf. In all disclosures, Business Associate shall comply with: (1) the applicable provisions of Title 45, Part 164 of the CFR and (2) applicable State privacy laws, rules and regulations not preempted pursuant to Title 45, Part 160, Subpart B of the CFR or the Employee Retirement Income Security Act of 1974 ("**ERISA**"), as amended. Business Associate may disclose such PHI as necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities provided that: (a) the disclosure is required by law (including to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1)); or (b) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person (which purpose must be consistent with the limitations imposed upon Business Associate pursuant to this BAA), and that the person agrees to notify Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached

5. Prohibited Disclosures. Business Associate shall not use or disclose PHI other than as permitted or required to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Agreement or as required by law. To the extent Business Associate is carrying out any of Covered Entity's obligations, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligation(s). Business Associate may not use or disclose PHI in a manner that would violate the Privacy Rule if done by Covered Entity, except as set forth in Sections 2(b)-(d).

6. Data Aggregation Services. Business Associate may use and disclose PHI to provide Data Aggregation Services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

7. De-Identification. Business Associate may create de-identified PHI in accordance with the standards set forth in 45 C.F.R. § 164.514(b) and may use or disclose such de-identified data for any purpose.

8. Safeguards. Business Associate shall use appropriate safeguards, consistent with applicable law including Subpart C of Title 45, Part 164, to prevent the use or disclosure of PHI and ePHI in a manner that would violate this BAA and to reasonably and appropriately protect the confidentiality, integrity and availability of ePHI that it creates, receives, maintains or transmits on behalf of Covered Entity. Business Associate shall provide Covered Entity with such information concerning such safeguards as Covered Entity may reasonably request from time to time.

9. Security Incidents. Business Associate shall use commercially reasonable efforts to maintain the security of the PHI and to prevent unauthorized use and disclosures of such PHI. In addition, Business Associate will:

implement Administrative Safeguards, Physical Safeguards and Technical Safeguards, to the extent required of Business Associates by Subpart C of Title 45, Part 164, that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of Covered Entity;

report to the Covered Entity any use or disclosure of PHI not provided for by the BAA of which Business Associate becomes aware and any successful Security Incidents that result in the unauthorized access, use, disclosure, modification or destruction of Covered Entity's Electronic Protected Health Information of which Business Associate becomes aware; and

Covered Entity acknowledges that Business Associate may be subject to any number of unsuccessful Security Incidents, such as routine scans or "pings" that do not pass Business Associate's firewall, unsuccessful log-on attempts, denial of service attacks, and any combination of the above (each an "Unsuccessful Security Incident"), as long as such Unsuccessful Security Incident does not result in unauthorized access, Use, Disclosure, destruction or modification of Electronic PHI, Business Associate and Covered Entity agree that this Addendum serves as notice of such Unsuccessful Security Incidents.

10. Breach Notification and Periodic Reports to Plan. Business Associate shall report to Covered Entity any use or disclosure of PHI not permitted under this BAA, Breach of Unsecured PHI or Security Incident, without unreasonable delay, and in any event no more than ten (10) business days following discovery; provided, however, that the Parties acknowledge and agree that this Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below) for which notice to Covered Entity by Business Associate shall be required only upon request. "**Unsuccessful Security Incidents**" shall include, but not be limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI. Business Associate's notification to Covered Entity of a Breach shall include: (a) the identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired or disclosed during the Breach; and (b) any particulars regarding the Breach that Covered Entity would need to include in its notification, as such particulars are identified in 45 C.F.R. § 164.404. Except for notifications to the Secretary, which must be done by Covered Entity, Business Associate agrees that to the extent the Breach is a result of Business Associate's failure to implement reasonable and appropriate safeguards as required by this BAA, Business Associate will provide the notifications required under 45 CFR 164.404 and 45 CFR 164.406 after reviewing the content of such notifications with Covered Entity, subject to any delay required by law enforcement pursuant to 45 CFR 164.412.

11. Security and Privacy Requirements. Business Associate agrees to comply with Sections 164.308, 164.310, 164.312 and 164.314 of the Omnibus Regulations applicable to Business Associates. The Parties hereto agree that the requirements of the Omnibus Regulations relating to security and privacy that are made applicable to Covered Entities shall also be applicable to Business Associate under the BAA to the extent required by the Omnibus Regulations. Except as expressly provided herein, Business Associate has not assumed any obligations of Covered Entity under the HIPAA Rules.

12. Accounting of Uses or Disclosures. Business Associate agrees to provide to Covered Entity, within twenty (20) business days of Business Associate's receipt of a written request from Covered Entity, information collected in accordance with Section 3(f) of this BAA, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. If an Individual makes a request for an accounting of disclosures of PHI pursuant to 45 C.F.R. § 164.528 directly to Business Associate, or inquires about his or her right to an accounting of disclosures of PHI, Business Associate shall direct the Individual to Covered Entity.

13. Access by Workforce. Business Associate agrees to require its Workforce who access PHI in performing services to adhere to the restrictions and conditions regarding PHI contained herein to the extent applicable to their job functions. Business Associate will not provide access to PHI to any member of its Workforce unless Business Associate has advised such member of Business Associate's HIPAA obligations and the consequences for violation of these obligations to the extent applicable to their job functions. Business Associate will take reasonably appropriate disciplinary action against any member of its Workforce that uses or discloses PHI in violation of this section, as required by applicable law or regulation.

Disclosures outside of the Workforce. Except as otherwise permitted by applicable law or in this BAA, including but not limited to Sections 5 (Business Associate's Operations), and with respect to disclosures in response to requests by Individuals who invoke their rights under HIPAA as described in this BAA, Business Associate shall not disclose PHI to any other person or entity without the written approval of Covered Entity.

All disclosures. Any use or disclosures of PHI to Business Associate's Workforce or Contracted Third Party(ies) must be limited to the minimum necessary to achieve the purpose for the use or disclosure in accordance with, and subject to, the exceptions in 45 CFR §164.502(b).

14. Access to Records. Upon confirming the identity of an Individual (or an Individual's personal representative and right to access PHI), Business Associate will respond to an Individual's request for access to his or her PHI, or PHI to which the Individual's personal representative is authorized to access, if the request is communicated to Business Associate directly by the Individual. Despite the fact that the request is not made to the Covered Entity, Business Associate will respond to the request with respect to the PHI Business Associate and its Contacted Third Party(ies) maintain in a manner and time frame consistent with requirements specified in 45 CFR § 164.524. In addition, upon receipt of a written request (including fax or email notice) from Covered Entity, Business Associate will, unless the Covered Entity requests otherwise, respond on behalf of the Covered Entity to an Individual's request to invoke a right of access under 45 CFR § 164.524 as if the access request had been communicated to Business Associate directly by the Individual. If Covered Entity requests that Business Associate not respond as provided in the foregoing sentence, then Business Associate will make available for inspection by the Covered Entity, or at the

Covered Entity's direction, by the Individual (or Individual's personal representative), any PHI about the Individual created or received for or from Covered Entity in Business Associate's custody or control so that Covered Entity may satisfy Covered Entity's access obligations under the HIPAA Rules, and, where applicable the HITECH ACT. Business Associate will make such information available in an electronic format, where required by the HITECH Act, or otherwise make and produce copies of the information requested. Notwithstanding anything to the contrary contained in this BAA, Business Associate will only disclose PHI to individuals of Covered Entity's workforce identified by Covered Entity as individuals authorized to receive or access PHI on its behalf. Business Associate may refuse to provide PHI to any request for receipt or access to PHI on behalf of Covered Entity when that request does not come from an individual authorized to receive or access PHI on behalf of Covered Entity. In the event Covered Entity has not identified said authorized individuals, Business Associate may assume, consistent with 45 CFR §164.504(f), that those individuals managing the services provided by Business Associate are authorized to receive or access PHI on Covered Entity's behalf.

15. Amendment of PHI. To the extent Business Associate maintains a Designated Record Set on behalf of Covered Entity, and upon confirming the identity of an Individual (or an Individual's personal representative and right to access PHI), Business Associate will respond to an Individual's (or Individual's personal representative's) request to amend any PHI if the request is communicated to Business Associate directly by the Individual (or Individual's personal representative). Despite the fact that the request is not made to the Covered Entity, Business Associate will respond to the request with respect to the PHI Business Associate and its Contracted Third Party(ies) maintain in a manner and time frame consistent with requirements specified in HIPAA and 45 CFR § 164.526. In addition, upon receipt of written notice (including faxed and emailed notice) from Covered Entity, Business Associate will, unless Covered Entity requests otherwise, respond on behalf of Covered Entity to an Individual's (or Individual's personal representative's) request to amend his or her PHI as if the amendment request had been communicated to Business Associate directly by the Individual. In the event a request for an amendment of PHI conflicts with a record provided by a confident source of truth (such as a healthcare professional or doctor), Business Associate may require the Individual (or Individual's personal representative) to request an amendment to the PHI through the original source of truth, which must be communicated from said original source of truth directly to Business Associate before Business Associate can amend the PHI.

16. Government Access to Records. Business Associate agrees to make available its policies, books and records related to the use and disclosure of PHI received or created by Business Associate on behalf of the Covered Entity to the Secretary of the U.S. Department of Health and Human Services or his or her designee for the purpose of determining whether Business Associate and/or Covered Entity is in compliance with HIPAA requirements.

17. Disposition of Records upon Termination. Except where Business Associate is required to retain certain PHI for a period of time to comply with applicable laws, Business Associate agrees to destroy all PHI created, maintained or received under this BAA within ninety (90) days of termination of this BAA. If such destruction of records is not feasible, or where Business Associate is required to retain certain PHI by applicable laws, Business Associate will continue to extend the protections of this BAA to such PHI and limit any further use of PHI to those purposes that require Business Associate to retain the PHI under applicable laws and/or purposes that make the destruction of the PHI infeasible. Covered Entity agrees that it is infeasible for Business Associate to destroy PHI reasonably needed to be retained by Business Associate for its own legal and risk management purposes. *provided that all of the PHI provided by the Covered Entity to Business Associate, or created or received by Business Associate on behalf of the Covered Entity, is destroyed , or if it is infeasible to destroy PHI, protections are extended to such information as set forth in Section 19 herein.*

18. Obligations of Covered Entity.

Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to that notice.

Covered Entity shall promptly provide Business Associate with any changes in, or revocation of, permission by an individual (or an individual's personal representative) to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

Covered Entity shall notify Business Associate, in writing and in a timely manner, of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522.

Covered Entity acknowledges that it shall provide to, or request from, the Business Associate only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity except as provided herein in accordance with 45 CFR §164.504(e). Covered Entity shall disclose or provide access to Business Associate only the minimum PHI necessary for Business Associate to perform its obligations as required by the Privacy Rule and 42 U.S.C. § 17935(b).

Covered Entity in performing its obligations and exercising its rights under this BAA shall use and disclose PHI in compliance with the HIPAA Rules.

Notwithstanding the above, where the Privacy Rule requires patient authorization, voluntary consent is not sufficient to permit a use or disclosure of PHI unless it satisfies the requirements of a valid authorization giving Covered Entity permission to use PHI for purposes other than treatment, payment, or health care operations, or to disclose PHI to a third party specified by the individual. If required, Covered Entity acknowledges that it remains responsible for obtaining such consent, authorization or permission that may be required by law or regulation (as opposed to individual consents or authorizations that may be required from plan participants in certain circumstances) for Business Associate to provide its services on behalf of Covered Entity and that Covered Entity shall provide Business Associate with advance written notice of any restrictions or changes to Covered Entity's Notice of Privacy Practices that would limit the uses and disclosures of PHI otherwise permitted

herein. Covered Entity acknowledges that Business Associate shall only be required to comply with such changes to its Notice of Privacy Practices which are known to Business Associate and to the extent required by applicable law or regulation. Covered Entity shall provide to Business Associate a written list of the names of those individuals in its Workforce that are authorized to receive or access PHI on its behalf, and to provide reasonable prior written notice to Business Associate of any changes to such list. In the absence of Covered Entity providing such list, Business Associate may assume, consistent with 45 CFR §164.504(f), that those individuals that are members of the Workforce of Covered Entity who request or receive PHI from Business Associate are performing plan administration activities for Covered Entity, and are authorized to receive or access PHI on its behalf.

19. General. The respective rights and obligations of Business Associate under Section 5(c) of this BAA shall survive the termination of the BAA and the Agreement. In the event of any inconsistency between the provisions of this BAA and the Agreement, the provisions of this BAA shall control. In the event of inconsistency between the provisions of this BAA and mandatory provisions of the Privacy Rule, the Security Rule or the HIPAA Final Rule, or their interpretation by any court or regulatory agency with authority over Business Associate or Covered Entity, such interpretation shall control; provided, however, that if any relevant provision of the Privacy Rule, the Security Rule or the HIPAA Final Rule is amended in a manner that changes the obligations of Business Associate or Covered Entity that are embodied in terms of this BAA, then the Parties agree to negotiate in good faith appropriate non-financial terms or amendments to this BAA to give effect to such revised obligations. Where provisions of this BAA are different from those mandated in the Privacy Rule, the Security Rule, or the HIPAA Final Rule, but are nonetheless permitted by such rules as interpreted by courts or agencies, the provisions of this BAA shall control. This BAA is governed by, and shall be construed in accordance with, the laws of the State that govern the Agreement. If any part of a provision of this BAA is found illegal or unenforceable, it shall be enforced to the maximum extent permissible, and the legality and enforceability of the remainder of that provision and all other provisions of this BAA shall not be affected. All notices relating to the Parties' legal rights and remedies under this BAA shall be provided in writing to a Party, shall be sent to its address set forth in the signature block below, or to such other address as may be designated by that Party by notice to the sending Party, and shall reference this BAA. This BAA may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both Parties. Nothing in this BAA shall confer any right, remedy or obligation upon anyone other than Covered Entity and Business Associate. This BAA is the complete and exclusive agreement between the Parties with respect to the subject matter hereof, superseding and replacing all prior agreements, communications and understandings (written and oral) regarding its subject matter. Business Associate will be considered, for all purposes, an independent contractor, and Business Associate will not, directly or indirectly, act as agent, servant or employee of Covered Entity or make any commitments or incur any liabilities on behalf of Covered Entity without its express written consent. Nothing in this BAA shall be deemed to create an employment, principal-agent, or partner relationship between the parties. Business Associate shall retain sole and absolute discretion in the manner and means of carrying out its activities and responsibilities under this BAA.

IN WITNESS WHEREOF, the Parties have executed this BAA as of the latest date of execution by the Parties.

By: Covered Entity

_____ (Signature)

_____ (Print Name)

_____ (Title)

Date: _____

By: Business Associate: **Virgin Pulse, Inc.**

_____ (Signature)

_____ (Print Name)

_____ (Title)

Date:_____

APPENDIX E: VIRGIN PULSE OPTIONAL SERVICES

Service/Product	Product/Service Fee	Notes
Single Sign-On	$2,500 per connection $200 per hour – custom integrations	Above ten (10) provided per the Order Form
Verified Form Processing Setup	$1,500 per setup	
Verified Form Processing	$5.00 – standard form $10.00 – nonstandard form	
HRA Processing	$30.00 – Telephonic $25.00 - Paper	
Custom Destination Challenge	$5,000 per challenge	Only applicable once client exceeds their contracted allotment
Additional Configurable Challenge	$1,500 per challenge	Only applicable once client exceeds their contracted allotment
Custom Promoted Healthy Habit Challenge	$500 per challenge	Only applicable once client exceeds their contracted allotment
Custom Data Extract	$200 per hour	For reporting needs beyond standard automated reporting capabilities (i.e., enrollment, incentives, etc.)
Max Buzz	$10.00 PEPY $28.99 per device	Bulk order option available
Wireless Health Stations - Desktop	$539 per unit	Bulk order option available
Wireless Health Stations - iPad	$749 per unit	Bulk order option available
Live/Recorded Webinar	15-minutes: $250 30-minutes: $295 60 minutes: $350 Webinar Series: $1,400	Webinar Series is a 4-week series
Concierge Onsite Health Screening	Fingerstick: $55.00 per unit Venipuncture: $60.00 per unit Cotinine only: $47.00 per unit (venipuncture only) CHEM 36 panel: $78.00 per unit	Minimum of 20 participants per event
Concierge Onsite Flu Vaccinations - LabCorp	$40.00 per unit	Minimum of 30 participants per event
Concierge Onsite Flu Vaccinations - Quest	$45.00 per unit	Minimum of 40 participants per event
Health Activation Partner	$35,000	Available in US; UK; AUS; SWZ; SIN
Health & Wellbeing Program Manager	$140,000	Available in US; UK; AUS; SWZ; SIN; BOS
Workplace Health Coach	$130,000 per year – Full time $70,000 per year – Part time	US Only
Health & Wellbeing Specialist	$130,000 per year – Full time $70,000 per year – Part time	Available in US; UK; AUS; SWZ; SIN; BOS
Program Manager: People Manager	$150,000 per year – Full time $75,000 per year – Part time	Available in UK; AUS; SWZ; SIN; BOS
Virgin Pulse Tobacco Cessation Coaching	$215 Per Participant Per Year	
Virgin Pulse Nicotine Replacement Therapy	$58 per one month supply	

GROUP AGREEMENT

This GROUP AGREEMENT ("Agreement"), is entered into by and between BlueCross BlueShield of Tennessee, Inc. ("Plan") and SAMPLE GROUP NAME. ("Group").

A. APPLICATION

The attached Employer Group Application ("EGA") is part of this Agreement and is incorporated by reference. It serves as the signature page of this Agreement. The terms of the EGA (e.g., the Group's eligibility requirements) will control any conflict between the terms of that EGA and this Agreement.

B. DEFINITIONS

Defined terms are capitalized in this Agreement. Those terms are defined in the Evidence of Coverage ("EOC"). The attached EOC is part of this Agreement and is incorporated by reference.

"Subscriber" means the individual to whom the Plan has issued the attached EOC. "Member" means a Subscriber or a Covered Dependent.

The Group's plan year begins on the effective date of this Agreement. The Group's plan year for any renewal of this Agreement (including any early renewal) begins on the renewal date.

C. COVERED SERVICES

The Plan provides Coverage to Members. The Coverage is subject to the terms and conditions of this Agreement and the EOC. The Group grants the Plan full discretionary authority to make Coverage decisions. These decisions are pursuant to this Agreement and include: (1) eligibility; (2) benefit; and/or (3) claim determinations. These decisions will be subject to the review standards applicable to ERISA plans, even if the Group is not otherwise subject to ERISA. Plan reserves the right to make changes to the administration of Coverage for Group and other similarly-situated group health plans during the benefit year upon the provision of written notice to Group no less than thirty (30) days prior to the effective date of any such change.

D. ENROLLMENT AND TERMINATION OF COVERAGE

1. Enrollment

The Group is responsible for determining the eligibility for and termination of Coverage for individuals in accordance with the EOC and EGA and applicable law, including but not limited to the Patient Protection and Affordable Care Act ("PPACA"). The EOC and EGA will determine the eligibility of Subscribers and their Dependents. The Plan relies on the Group to provide accurate information regarding hours worked or scheduled to work exclusively for the Group. The Group understands that the Patient Protection and Affordable Care Act ("PPACA") imposed limitations on eligibility terms and conditions. The Group agrees to abide by those terms and conditions and will notify the Plan immediately if a change to eligibility terms and conditions results in a violation of PPACA.

If the Group offers Coverage from the Plan and other group health benefit plans for like benefits, ("Other Health Plans") to eligible Persons and their eligible Dependents, the Group shall permit them to enroll in either plan. The Group will make equitable contributions to each plan. The Group will not promote one plan over another. The Group will not directly or indirectly encourage, discourage or otherwise attempt to influence eligible Persons or Dependents to enroll in the Plan's Coverage based upon: (1) health status; or (2) anticipated utilization of Covered Services.

SAMPLE

a. The Group shall allow and eligible Persons can apply for Coverage for themselves and their eligible Dependents during: (1) the initial enrollment period; (2) an annual Open Enrollment Period; or (3) upon a Qualifying Event. The Parties may agree to an additional Open Enrollment Period.

b. The eligible Persons must complete and submit an Enrollment Form to the group administrator for transmittal to the Plan, or enroll through the Plan's secure website. The Group will submit Enrollment Forms to the Plan or complete electronic enrollment within 31 days after: (1) receiving that form from the eligible Persons; or (2) the end of the Open Enrollment Period during which that eligible Person applied for Coverage.

c. When the Group provides enrollment data and that data does not match the Plan's data, the Plan's data will be used to determine the premium. The Plan will work with the Group to resolve the discrepancy. If no agreement can be reached, the Plan's records will control. Until the dispute is resolved, the Group must pay the premium indicated, based on the Plan's records.

d. The Group's enrollment data shall not contain ineligible Persons and/or Dependents.

e. The Group may provide the Plan with enrollment data that includes individuals' telephone numbers or other contact information. The Group warrants that the Group obtained such information directly from the individuals and that the individuals are aware the Plan may contact them via this information for non-telemarketing and telemarketing calls and text messages.

f. The Group shall assign the effective dates of Coverage for eligible individuals and include such dates in the enrollment data it provides to the Plan. The Group is responsible for ensuring that the effective dates it assigns comply with the EOC and EGA and applicable law, including but not limited to PPACA's limitations on waiting periods.

2. Electronic Enrollment Program

If the Group transmits data electronically (Electronically Transmitted Data, or ETD) to the Plan for enrollment or termination of Members, the Group must abide by section D.1. of this Agreement and follow the Plan's guidelines.

a. Plan's Duties and Responsibilities:

(1) The Plan will work with the Group to initiate and complete acceptance of the ETD process.

(2) The Plan will assist the Group in correcting errors, as identified through the editing process administered by the Plan. The Plan may need to contact the Group to resolve such issues.

(3) After the initial transmission testing is successfully completed, for ongoing updates, valid ETD will be electronically uploaded into the Plan's system (FACETS) by the Plan within 3 calendar days of receipt of a valid file transmission.

(4) Exception errors will be worked by the Plan within 7 calendar days of upload of file transmission.

(5) The Plan reserves the right to terminate the ETD process with a Group when the Group's ETD does not meet a 99% validity/accuracy level, as determined by the Plan.

SAMPLE

(6) The Plan will accept data and process enrollment, status change and termination requests as the Group directs in accordance with the eligibility guidelines outlined in the EGA.

b. Group's Duties and Responsibilities:

(1) The Group will specify which persons have authority to transmit data to the Plan on behalf of the Group.

(2) The Group must transmit data through Plan-approved medium. The parties shall agree on the medium the Group will use before the program starts.

(3) The Group will submit its ETD data in one of the following formats:

a. The Plan's standard format (supplied to the Group).

b. Custom format, subject to prior approval by the Plan.

c. HIPAA 834 layout with Plan specifications

d. On-line transactions through the Plan's secured website.

(4) The Group's ETD will contain the following information:

a. The appropriate Creditable Coverage data for each Member.

b. Medicare Secondary Payor enrollment information.

c. COB data is not required but should be supplied to avoid undue liability.

(5) The Group is responsible for issuing appropriate HIPAA Pre-Existing Waiting Period notices to Members when data is transmitted electronically, other than through the Plan's secured website.

(6) The Group is responsible for assuring all ETD are 99% accurate/valid.

(7) The Group shall indemnify the Plan to the extent permitted by applicable law in the state of Tennessee, including the Tennessee Governmental Tort Liability Act for damages or injuries to the Plan caused by the Plan's reliance on ETD from the Group.

3. Electronic Enrollment Through Secured Website

If the Group elects to submit enrollment and termination data through the Plan's secured website, the Group must abide by section D.1. of this Agreement and follow the Plan's guidelines:

a. Plan's Duties and Responsibilities

(1) The Plan will provide a PIN for website access.

(2) The Plan will accept data and process enrollment, status change and termination requests as the Group directs in accordance with the eligibility guidelines outlined in the EGA.

b. Group's Duties and Responsibilities

(1) The Group will submit data only on eligible Subscribers and/or eligible Dependents as outlined in the EGA.

(2) Group will assure that the data submitted is accurate.

(3) Group will assume responsibility for notifying the Plan when the group administrator or enrollment contact changes, so that the Plan can revoke that individual's website access. The Plan will revoke access within 5 business days

SAMPLE

of being notified. If the Group does not inform the Plan of any such change, the Group is responsible for any actions of a former group administrator or enrollment contact.

4. Notification of Termination of Coverage

The Group is responsible for determining if and when a Member's Coverage may or should be terminated in accordance with the EOC and EGA and applicable law. The Group will notify the Plan of the termination of a Member's Coverage not more than 15 days after the Member is no longer eligible for Coverage.

E. PREMIUMS

1. Amount

The initial Premium Amounts payable for Coverage under this Agreement are set out in the EGA. To begin Coverage, the Group must pay the Total Estimated Premium Amount to the Plan. The Total Estimated Premium Amount is an estimate of that amount of money necessary to fund the required Premiums to cover the total number of Members whom the Group estimates will enroll in the Plan's Coverage. Payment of the Total Estimated Premium Amount and execution of the EGA is acceptance of this Agreement. The Coverage will not begin until the Plan receives the Total Estimated Premium Amount.

The Aggregate Premium is the Premium required to fund Coverage for all Members. Aggregate Premiums are shown on all Premium Statements. Premium amounts are determined in a manner permissible under applicable laws.

When legally permissible, the Plan may change the Premium amounts upon 30 days written notice to the Group at renewal if one of the following occur: (1) the Group's claim experience has materially changed; or (2) the demographics of the Members Covered by the Plan have materially changed, including their age, sex, industry, geographic area, family composition, or number of Members. The Plan may also change the Premiums upon 30 days written notice due to any changes having a direct and material impact upon the cost of providing Coverage to Members. This includes: fluctuations in the number of Members; changes in applicable laws or regulations including, but not limited to, an increase in the premium tax or mandated benefits applicable to such coverage. If the Group requests any changes to the Covered Services provided by the Plan, the Plan may change the Premium amounts on the effective date of any changes. In the event of termination or addition of a subsidiary, operation or class of Subscribers Covered by the Plan, the Plan may change the Premium amounts on the effective date of such termination or addition.

The Group may reject any revised Premium by terminating this Agreement as of the date that the revised Premiums would become effective. To do so, the Group must provide written notice of termination not less than 30 days prior to the date that revised Premium would first become payable pursuant to this Agreement.

2. Premium Statement

The Plan will prepare and submit a monthly Premium statement ("Statement") to the Group, listing: (1) Subscribers shown on its records; (2) type of Coverage selected by each Subscriber (e.g., individual, family, etc.); and (3) the Aggregate Premium payable to the Plan for providing access to benefits for all Members for the next billing period. The Plan will prepare this statement not less than 15 days prior to the end of each billing period this Agreement remains in effect.

SAMPLE

The Group must pay the Aggregate Premium for anyone Covered or added during the billing period.

3. Subscribers Listed on Premium Statement and Terminations

a. A Subscriber and his or her Covered Dependents will not have Coverage if the Subscriber is not listed on the statement. Any such Subscriber and his or her Covered Dependents may still have coverage if:

(1) The Plan receives the Enrollment Form from the Group within 31 days after the earlier of:

a. the date the Enrollment Form was executed; or

b. the end of the Open Enrollment Period during which the Subscriber is eligible to enroll in Coverage

and

a. the Group promptly submits the Enrollment Form; and

b. pays the applicable Premium to the Plan from the date that error occurred upon discovery of that error and a request for such payment from the Plan.

b. The Group may terminate a Subscriber's Coverage by submitting a termination request to the Plan. It is the Group's obligation to verify that any retroactive termination requests are compliant with PPACA. The Group will not request retroactive termination of a Member's Coverage for any time period during which the applicable premium was paid.

The Plan will retroactively terminate a Member's Coverage to the extent allowed by law, if:

(1) the Group notifies the Plan of a Member's termination from Coverage within 90 days after the Member's termination. The Plan will refund any remitted Premium.

(2) the Group does not notify the Plan of a Member's termination from Coverage within 90 days after the date of Member's termination. The Plan will only retroactively terminate the Member's Coverage for 90 days from the date of notice to the Plan. The Plan will not refund more than 3 months of Premium payments to the Group if it fails to notify the Plan of the termination of the Member's Coverage in a timely manner.

If after notification, the Plan fails to terminate that Member's Coverage; then, upon the Group's discovery of the Plan's failure to delete the Member, the Plan will:

(1) terminate the Member's Coverage retroactively; and

(2) credit the Group for Premiums paid during such time period when Coverage was retroactively terminated.

4. Determining Premium

On the fifteenth (15^{th}) day of each billing period, the Plan will determine the number of Subscribers Covered under the Group's Coverage, and this will be the basis for the Premium charged by the Plan for the following billing period.

a. Additions

SAMPLE

(1) If a Subscriber or Dependent becomes Covered under the Group's Coverage after the fifteenth (15th) day of any billing period, and the Premium would be affected by this change, there will not be a partial Premium charge for that billing period. The Group will pay Premium for that Subscriber for the first full billing period for Coverage.

(2) If a Subscriber or Dependent becomes Covered on or before the fifteenth (15th) day of any billing period, and the Premium would be affected by this change, the Group will pay a full month's Premium for that billing period.

b. Subscriber Terminations

(1) If a Subscriber's or a Dependent's Coverage terminates before the fifteenth (15th) day of any billing period, and the Premium would be affected by this change, the Plan will credit the Group for the Premium for that Subscriber for that entire billing period. That credit will appear on the Group's next Premium Statement generated after the Plan processes the termination.

(2) If a Subscriber's or a Dependent's Coverage terminates on or after the fifteenth (15th) day of any billing period, and the Premium would be affected by this change, the Group will pay full Premium for that billing period.

c. Qualifying Event

If a Member has been added or terminated as a result of a Qualifying Event, the addition or termination will be handled according to the statutory requirement for the Qualifying Event. Premiums will be determined in accordance with the provision outlined in Section E.4.a. and E.4.b above.

5. Payment of Premium

The Aggregate Premium is due in full at the Plan's office on or before the first day of each billing period.

After payment of the Total Estimated Premium Amount, subsequent payments have a grace period of 30 days following the Premium due date (the "Grace Period"). The Aggregate Premium may be paid to the Plan during that Grace Period without causing a lapse of the Group's Coverage. If the Aggregate Premium is paid after the Grace Period, the Plan's acceptance or depositing of such funds shall not be construed to mean or equate to a guarantee of or acquiescence to reinstate Coverage, continue Coverage, or waive termination of Coverage by the Plan.

If the Group pays by check, the Group must remit the Aggregate Premium on or before the first day of each billing period.

If the Group pays electronically, the Group will transfer the amount specified in the statement into an account or the Plan's designated account so that such funds will be available through the ACH (Automated Clearing House) by the first day of each billing period.

There will be a charge of $40 for any checks for payment of premiums that are returned to the Plan for insufficient funds, closed accounts, or any other reason.

6. Failure to Pay Premiums

If the Aggregate Premium is not paid by the end of the Grace Period, the Plan, in its sole discretion, may: (1) notify the Group of such non-payment and termination date of Coverage and terminate the Coverage back to the last Premium due date; or (2) work with the Group to arrange payment of the Aggregate Premium, for a period of up

SAMPLE

to 90 days. If the Group fails to pay the Premium, the Plan will be entitled to recover Plan Expenses. Plan Expenses include: (1) the total outstanding Aggregate Premium; (2) the finance charge set forth below; and (3) a fee for any checks for payment of Premiums that are returned to BlueCross BlueShield of Tennessee, Inc. for insufficient funds, closed accounts, or any other reason; and (4) any expenses reasonably incurred in recovering the amount owed to the Plan including attorney's fees.

If the Plan terminates the Coverage back to the last Premium due date, the Plan may recoup benefit payments from Providers.

The Group is still obligated to reimburse the Plan for any charges which the Plan has to pay, as required by: (1) state or federal law; or (2) provider agreement, plus a reasonable administrative fee.

7. Termination for Non-Payment of Premium

If the payment received does not pay the Aggregate Premium, plus any other due charges in full, the Plan has the discretionary authority to terminate the Group's Coverage, or place an administrative hold on the Group. A payment of less than the full amount due will be deemed non-payment.

8. Reinstatement

If this Agreement is terminated and the Group requests reinstatement, the Group must remit: (1) the total outstanding Aggregate Premium; (2) the applicable finance charge or fee; and (3) the Aggregate Premium for the current billing period. The Group must do so within fifteen (15) calendar days following the termination date. The Group may be reinstated by the Plan as though this Agreement had remained continuously in effect. The Plan reserves the right to decline to reinstate this Agreement, however, upon refunding the Aggregate Premium for the current billing period to the Group.

If the Plan agrees to reinstatement, the Group also agrees to make all future payment of Premiums via electronic ACH Debit (automated bank draft) transaction. The Group understands that should any future draft of Premiums be rejected by the Group's financial institution, for any reason, the Group plan will immediately be terminated back to the last date for which payment in full had been posted in the Plan's records.

9. Finance Charge

The Plan may impose a finance charge of one and one-half percent (1 1/2 %) per month. This applies to the amount of any Aggregate Premiums not remitted to the Plan on or before the first day of any billing period after the expiration of the Grace Period. This applies through the duration of this Agreement.

F. TERM

The initial term of this Agreement is set forth in the EGA. The Agreement will automatically renew for an additional 12 month period unless terminated by the Group upon not less than 30 days advance written notice prior to the end of the Initial Renewal Date or any subsequent renewal date. The Plan shall give the Group not less than 30 days written notice of any: (1) change in the Premium for providing Coverage to Members; (2) material changes in the Covered Services; or (3) other material changes in the provisions of this Agreement; that will become effective on a renewal date. Payment of the applicable Aggregate Premium on or after that date shall constitute acceptance of those changes by the Group, individually and on behalf of all Members**.**

G. TERMINATION OF AGREEMENT

1. For Cause

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a. If the Plan does not receive payment of any Aggregate Premium, when due, the Plan may terminate this Agreement in accordance with section D of this Agreement.

b. Either party may terminate this Agreement, with or without prior notice, effective as of midnight prior to the date that the other party: (a) ceases doing business as a going concern; (b) makes an assignment for the benefit of creditors; (c) admits in writing that it is unable to pay debts as they come due; or (d) consents to the appointment of a trustee or receiver; or if a trustee or receiver is appointed pursuant to applicable Federal or State bankruptcy, insolvency, or similar laws.

c. The Plan may terminate this Agreement, upon not less than 30 days prior written notice, if the Group fails to comply with a material Plan provision relating to the Group's contribution or group participation rules.

d. Upon written notice, the Plan may terminate or rescind the Group's Coverage under this Agreement for fraud or misrepresentation by the Group of a material fact concerning the Group or a Member.

e. Upon written notice, the Plan may terminate a Subscriber's or Member's Coverage under this Agreement for fraud or misrepresentation by the Group or the Member of a material fact concerning the Subscriber or Member. Termination of a Subscriber's Coverage automatically terminates Coverage for all of his or her Dependents.

2. For No Cause

The Group may terminate this Agreement upon providing 30 days notice in advance of the requested termination date. The Plan, at its option may agree to allow the Group to retroactively terminate the Agreement. Should the Plan agree to a retroactive termination date, the Group is still obligated to reimburse the Plan for any charges which the Plan has to pay, as required by: (1) state or federal law; or (2) provider agreement. The Group may be required to pay a reasonable administrative fee of 1 ½% of the Group's total annual Premium.

The Plan may terminate the Agreement if it is ceasing to offer this Coverage in the small or large group markets and provides notice to the Group consistent with state law.

3. Because of Inability to Perform Obligations

This Agreement may be immediately suspended or terminated by written notice to the other party if either party is unable to perform its obligations by reason of: (1) complete or partial destruction of facilities; (2) a material reduction in the number of Participating Providers; (3) lockout; (4) strike; (5) riot; (6) war; (7) act of God; or (8) by any ordinance, law, order or decree of any governmental authority. Neither party will be required to perform its duties nor be liable for any damages arising from the suspension or termination of this Agreement pursuant to this paragraph. The Plan shall refund any unearned Aggregate Premium to the Group for the period following the date of such suspension or termination of this Agreement.

The Plan, at its option may agree to allow the Group to retroactively terminate the Agreement. Should the Plan agree to a retroactive termination date, the Group is still obligated to reimburse the Plan for any charges which the Plan has to pay, as required by: (1) state or federal law; or (2) provider agreement, plus a reasonable administrative fee.

4. Effect Upon Incurred Obligations

The termination of this Agreement shall not relieve either party from any obligations incurred prior to the date of termination. The termination will not constitute an

SAMPLE

election of remedies by the terminating party. Any remedies available upon the termination of this Agreement will be cumulative.

If the Plan terminates the Coverage back to the last date through which the Group's Premium has been paid, the Plan may recoup benefit payments from Providers.

The Group is still obligated to reimburse the Plan for any charges which the Plan has to pay, as required by: (1) state or federal law; or (2) provider agreement, plus a reasonable administrative fee.

5. Post Termination Premium Balances

Within 120 days from the date the Plan is notified of the Group's Coverage termination, the Plan will conduct a final accounting. The final accounting will take into account all payments, funds transfers, etc, necessary to fulfill both parties' obligations under this Agreement.

If any outstanding payments, funds transfers, etc. due to the Plan or the Group total less than $100 when the Group's Coverage terminates: (1) the amount shall be forgiven; and (2) the parties agree that any financial obligation to the other party shall end.

6. Post Termination Reports

Upon termination of this Agreement, the Group must pay the reasonable charges for the cost of producing any report in advance of receiving the requested report. Among other things, this applies to post-termination audits, requests from replacement insurers or administrators, and requests from the Group itself.

H. CONTINUATION OF COVERAGE AND CONVERSION

1. Continuation Coverage

If a Member's Coverage terminates as the result of an event which permits that Member to elect to continue his or her Coverage in accordance with applicable Federal or State laws (a "Qualifying Event"), ("Continuation Coverage"), that Member will be entitled to remain Covered under this Agreement. The Member must comply with the requirements of the laws and pay the applicable Premium for the Coverage. Federal and state laws determine how long the Group is required to continue to provide Coverage to that Member. The EOC describes the terms and conditions of such Continuation Coverage in greater detail.

The Group will notify Members of their right to obtain Continuation Coverage following a Qualifying Event. The Group will collect and remit the Premium for the Coverage to the Plan. If Members do not enroll and pay the Premium for Continuation Coverage, on or before the date their Continuation Coverage would become effective, the Plan will terminate their Coverage. They may be reinstated if they subsequently enroll and pay the applicable Premiums within the enrollment period for Continuation Coverage specified by law. If the Group fails to notify a Member of his or her right to enroll for Continuation Coverage in accordance with applicable laws, the Plan will not extend the enrollment period beyond that required by law had the Group informed the Member of that right in a timely manner. The Plan may consent, in writing, to extend the enrollment period for Continuation Coverage for that Member.

2. Conversion Coverage

If Members are eligible to purchase individual conversion coverage from the Plan upon the termination of his or her Coverage under this Agreement, the Plan will offer those individuals the right to purchase the conversion coverage as outlined in the EOC.

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I. RELATIONSHIPS WITH OTHER PARTIES

1. Between Network Providers and the Plan

The Plan may enter into agreements with health care providers, insurers, and any other individuals or entities, as it deems necessary to fulfill its obligations under this Agreement. Such parties are independent contractors. Network Providers are independent contractors who are solely responsible for any services rendered to their Member patients. The Plan makes no express or implied warranties or representations concerning the continued participation of any Network Provider. The Group acknowledges for itself and on behalf of Members that the Plan has established various arrangements to encourage Network Providers to render Covered Services in an appropriate and cost effective manner. Such arrangements include provider penalties.

Additionally, the Plan's contracts with Network Providers may include a variety of payment methodologies. These payment methods may obligate the Plan to pay an amount that is in addition to the underlying cost of the service rendered. These additional costs may include, but are not limited to, program fees, incentive payments, bonus payments, or quality payouts.

2. Between the Group and the Plan

The relationship between the Plan and the Group is a contractual relationship between independent contractors. Neither party is a partner, joint venturer, agent or employee of the other when performing its obligations pursuant to this Agreement.

Nothing in this Agreement shall be construed to make the Plan a sponsor, administrator or fiduciary of the Group's benefit plan pursuant to ERISA. The Plan is not and shall not be deemed to be a fiduciary of the Group's plan, except as necessary to exercise the discretionary authority granted to it by the Group in making authorization, eligibility and coverage determinations and construe the terms of Members' Coverage pursuant to this Agreement.

3. Between the Plan and the BlueCross BlueShield Association

The Group acknowledges for itself and on behalf of its Group Members that the Plan is an independent corporation operating under a license from the BlueCross BlueShield Association ("Association"). That license permits the Plan to utilize the Association's service marks within its service area. The Plan is not entering into this Agreement as a joint venturer, agent or representative of the Association nor any other independent licensee of the Association, including the Plan's affiliates ("Licensees"). Under no circumstances shall such Licensees have any rights or obligations to the Group, Members or third parties pursuant to this Agreement.

4. Between the Plan and Vendors or Other Third Parties

Some of the Plan's agreements with vendors or other third parties ("Vendors") that provide Covered Services to Members may allow for rebates, discounts, allowances, incentives, adjustments, settlements, or the like ("Vendor Rebates"). Vendor Rebates are for the sole benefit of the Plan. Accordingly, the Plan will retain all Vendor Rebates. When Vendors provide Covered Services to Members, all Claims submitted to the Plan for those services will have Member cost-sharing, when applicable, calculated according to the Vendors' charges for such services without regard to any Vendor Rebates, to the extent allowed by law.

J. INDEMNIFICATION

The Plan shall hold Group harmless against any vicarious liability actions, claims, lawsuits, settlements, judgments, and costs, including, but not limited to, attorneys' fees and court costs, arising directly from the gross negligence or wanton and reckless acts or failure to act by

SAMPLE

Plan, unless the cause of such liability was the result of the acts or failure to act of Group or resulted from direction given by Group, including, but not limited to, Group's submission of a request for a retro-termination of Coverage that does not comply with PPACA. The Group shall indemnify, defend, and hold harmless, Plan, its directors, officers, employees, and agents against any and all liability, actions, claims, lawsuits, settlements, judgments, costs, interest, penalties, fines, expenses, and taxes, including, but not limited to, legal expenses, resulting from or arising out of, or in connection with, any actions, decisions, directions to the Plan, non-compliance with law, or failures to act by Group, including, but not limited to, any breach of this Agreement.

If the Group is a governmental entity, its liability is limited by the terms of and to the extent permitted by applicable law in the state of Tennessee, including the Tennessee Governmental Tort Liability Act. This provision shall survive the termination of this Agreement.

K. GROUP ADMINISTRATION ASSIGNMENT TO BROKER OR OTHER THIRD PARTY AND HOLD HARMLESS ARRANGEMENT

If the Group has assigned some or all of those functions, as indicated below, to a third party and if the Group has appointed such third party to act on its behalf for those functions, the Group understands and agrees that the third party is the contractor and/or agent of the Group and not the Plan. This Group is responsible and shall hold the Plan harmless as a result of any actions resulting from such delegation and appointment. The Group affirms that it has properly executed a Business Associate Agreement (as defined in 45 CFR Part 160) with such third party.

1. Third Party To Provide Enrollment Information

If the Group has contracted with a third party to provide enrollment information to the Plan on the Group's Members, the third party shall submit such enrollment information to the Plan in either paper or electronic form. The third party must submit the enrollment information using the Plan's approved forms or electronic guidelines. In the event the Group and the third party submit duplicate or conflicting information, the Plan will rely on the latest information provided.

If the third party submits such enrollment information to the Plan in electronic format (including but not limited to on-line enrollment via the web or other electronic media), then the Plan may provide a password for use by the third party in accessing the electronic system to provide enrollment information. If granted, this password is for the exclusive use of the third party and will expire, at the latest, when the Group's relationship with the third party expires. A separate and distinct password will be supplied to the Group. All access and activity to the electronic system will be monitored by the Plan. Such access may be limited or confined to certain information according to the agreement between the Group and the third party. The Plan reserves the right to block access to information contained in the electronic system.

The Group authorizes the Plan to accept such enrollment information. The Group shall be responsible for the validity and accuracy of the information provided to the Plan and shall indemnify and hold the Plan harmless from any and all liability, loss, damages, claims and expenses, including attorney's fees, as a result of the actions or inactions of the third party, including without limitation, any incorrect information provided.

2. Third Party To Receive Premium Statement and/or Make Premium Remittance

If the Group has contracted with a third party to receive the Premium Statement and/or make premium remittances to the Plan, the Group understands that this does not relieve the Group from remittance of the amount due by the due date. The Group will be held responsible for the premium remittance. The Group will be responsible

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for any late fees or finance charges imposed for late payment. Any payment delinquency notices or coverage termination notices for non-payment of premium will be sent to the third party for notice and delivery to Group Members.

The Group authorizes the Plan to send such Premium Statements to and receive and accept such premium remittances from the third party. The Group shall be responsible for the validity and accuracy of the information provided to the Plan and shall indemnify and hold the Plan harmless from any and all liability, loss, damages, claims and expenses, including attorney's fees, as a result of the actions or inactions of the third party, including without limitation, any incorrect information provided.

If the Group assigns other functions to the third party, this Agreement shall control the performance of those functions.

The Plan is not a party to the agreement between the Group and the third party. The Plan may refuse to accept information from the third party.

The Plan shall make reasonable accommodation to assist the Group in the administration of its assigned duties and responsibilities.

With regard to Electronic Protected Health Information (as defined in 45 CFR Parts 160 and 162 ("Security Standards")), the Group shall:

(i) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information that the Group creates, receives, maintains or transmits as required by the Security Standards;

(ii) ensure that any agent, including third party or any subcontractor to whom the Group provides such information agrees to implement reasonable and appropriate safeguards to protect it;

(iii) report to the Plan any Security Incident (as defined in the Security Standards) involving the Group's data of which the Group becomes aware within seven (7) days of the Security Incident.

This section will take effect on the effective date of the third party arrangement and will end on the earlier of:

- The date the Group's Plan terminates.
- The date the Group notifies the Plan in writing 31 days of the termination of such agreement that it has terminated the relationship with the third party.
- The information provided is consistently unusable by the Plan in the administration of the Group's Plan.
- The information provided is not in the format required by the Plan.
- The inability of the third party to perform obligation(s) of the agreement between it and the Group.

Any password provided to the third party will be blocked when this arrangement terminates. Any notice required to be sent to either the Plan or the Group may be sent to the address of that party as shown in this Agreement or its attachments.

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L. DISPUTE RESOLUTION

The Group may agree that any dispute related to this Agreement must be submitted to non-binding arbitration. Unless the parties otherwise agree, such arbitration shall be conducted in accordance with applicable rules of the American Arbitration Association ("AAA") and the Tennessee Uniform Arbitration Act.

The arbitrator shall be required to issue a reasoned opinion explaining the basis of the decision and the manner of calculating any award. Once the parties agree to accept the arbitrator's decision, it may be entered and enforced in any state or federal court. Once it has been agreed to by the parties, that decision may only be vacated, modified or corrected for the reasons set forth in section 10 or 11 of the Tennessee Uniform Arbitration Act, if the award contains material errors of law or is arbitrary and capricious.

Upon completion of arbitration, the parties may pursue other available legal remedies.

M. Plan's Right to Audit

The Plan has the right to randomly audit for participation and eligibility requirements. This audit will take place no more than twice a year.

The Plan has the right to randomly audit if misrepresentation or fraud is suspected.

The Group shall have the right to review the Plan's audit for participation and eligibility requirements to verify We have conducted the audit according to the Plan's guidelines.

N. Group's Right to Audit

During the term of this Agreement, the Group may perform a simple audit of the Plan once during the calendar year while this Agreement is in force. The Group has the right to audit the Plan's claims payment, eligibility, enrollment and termination services. Any such audit may be conducted up to two years after the affected plan year.

1. If the Group uses the services of a third party to perform all or any part of an audit, the Group and that third party must both execute the Plan's current audit agreement.
2. The Group's right to audit the Plan without any additional charge terminates with the termination of this Agreement.
3. The parties agree that the Group shall not hire a third party to conduct a contingent fee audit, where the third party's compensation is based on a percentage of errors (or savings, or "uncovered recoveries", etc.) which may be found by the third party in its audit. Should the Group err and so contract with a third party to perform such contingent fee audit, the Plan has no obligation under the terms of this Agreement to cooperate with said third party in the conduct of such contingent fee audit.

   The Plan shall have the right to review the Group's audit for claims payment, eligibility enrollment and termination services.

O. MISCELLANEOUS

1. Information Request from Plan

Group shall promptly provide Plan with any and all information requested by Plan for the purposes of Plan's compliance with any state or federal law or regulation, including, but not limited to Group's Premium Contribution Rate and amount. **GROUP MUST IMMEDIATELY NOTIFY PLAN OF ANY AND ALL CHANGES IN GROUP'S PREMIUM CONTRIBUTION RATE AND CONFIRM THE CONTRIBUTION RATE AT RENEWAL. Plan may survey or request information from the Group.**

2. Entire Agreement

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This Agreement, including the EGA, the EOC, any Riders, and any Amendments, Attachments or Exhibits, constitute the entire agreement between the parties. It supersedes all prior oral or written understanding or agreements between the parties.

3. Effective Date of This Agreement

This Agreement will be effective as of the date indicated after the Plan accepts the EGA and accepts the Total Estimated Premium Amount. The Group's execution of the EGA and payment of the Total Estimated Premium Amount will be its acceptance of this Agreement. Upon execution by the Plan, the EGA will be the signature page of this Agreement.

4. Renewals

The parties may agree to extend the term of this Agreement. The Group will indicate its acceptance of any change in terms of the Agreement by the payment of the next due Aggregate Premium. Unless implemented by amendment pursuant to subsection 6, below, all mandated benefit changes shall be implemented upon renewal of this Agreement.

5. Amendments

This Agreement may be amended, in writing, by an authorized representative of both parties. The Plan may also amend the Agreement, upon notice to the Group, as necessary to comply with: (1) applicable laws, regulations or lawful orders of governmental agencies; or (2) to implement any mid-year benefit administration changes that apply across its book of business. Only an officer of the Plan has the authority to: (1) modify this Agreement; (2) waive any of its provisions; or (3) extend the time for taking any action required by this Agreement.

6. Claim Adjudication

The Plan adjudicates claims in accordance with its internal administrative guidelines. Any rebates or refunds on Member's Covered Services are credited against the Group's experience for rating purposes.

7. Clerical Errors

Clerical errors will not change the rights or obligations of either party under this Agreement. They also will not grant additional benefits to Members. The parties shall cooperate, in good faith, to promptly correct such errors.

8. Waiver

The terms or conditions of this Agreement may only be waived by express written consent of the party from whom such a waiver is requested. Any waiver of a breach of any provision shall not constitute a waiver of any subsequent breach of the same or any other provision of this Agreement.

9. Assignability

No rights or duties under this Agreement are assignable by the Group to any other party unless the Plan consents to such assignment in writing.

10. Notices

Any notice required or permitted under this Agreement shall be in writing. Such notice will be deemed to have been given on the date when: (1) delivered to the other party's most recent address in person; (2) mailed to the other party's most recent address by certified or overnight mail, return receipt requested; or (3) sent to the

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other party's most recent electronic mail address. The Plan may give any notice required or permitted by law through the foregoing methods or by any other method allowed by law. Notice from the Plan to the Group will be deemed to be notice to all Members.

11. Third Parties

This Agreement will not confer any rights or obligations on third parties except as specifically provided herein.

12. Construction

This Agreement will be construed without regard to the party that drafted it. Any ambiguity will not be interpreted against either party but will, instead, be resolved in accordance with other applicable rules concerning the interpretation of contracts.

13. Governing Law and Severability

This Agreement is executed and is to be performed in accordance with applicable federal and Tennessee laws. If any provision of this Agreement is deemed to be invalid or illegal by a court or regulatory agency having jurisdiction over such matters, the surviving provisions of this Agreement shall remain in effect unless the severance of that provision shall deprive a party of the material benefits of this Agreement.

14. Legal Action

No action at law or in equity shall be brought to recover on this Agreement until 60 days after written proof of loss has been furnished as required by this Agreement. No such action shall be brought beyond 3 years after the time written proof of loss is required to be furnished.

15. Confidentiality

The parties acknowledge that this Agreement and information that is identified as confidential information, including, but not limited to, reimbursement information, group membership lists, marketing information, case management notes, prognoses, medical statuses, treatment plans, and similar information created by or for the Plan, and information obtained from and/or about the Blue Cross and Blue Shield Association and its programs ("Confidential Information"); shall be treated as confidential, proprietary or trade secret information. A party may release Confidential Information to providers or its affiliates, or their respective directors, partners, officers, employees, advisors and other representatives ("Representatives") who: have a need to know such Confidential Information, for purposes of their participation in or oversight of matters within the scope of this Agreement; and are under a duty or obligation of confidentiality at least as restrictive as those set forth in this Agreement. Each party shall advise its Representatives of their obligation to maintain the confidentiality of such information. Each party is responsible if its Representative breaches this Section. Neither party shall otherwise release nor disclose such Confidential Information to third parties without the other party's prior written consent, except as required by law. This paragraph shall survive the termination of this Agreement.

Notwithstanding anything herein to the contrary, the following shall not constitute Confidential Information for the purposes of this Agreement: (a) Confidential Information that is or becomes generally available to the public other than as a result of a disclosure by a party or its Representatives; (b) Confidential Information that was available to the parties on a non-confidential basis prior to its disclosure by a party or its Representatives; or (c) Confidential Information that becomes available to the parties on a non-confidential

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basis from a third party, provided that third party is not known to be subject to any prohibition against transmitting that information.

The Plan reserves the right to refuse to release Confidential Information if the Plan determines, in its sole discretion, that such release has the potential to damage the Plan's competitive position in the market.

Nothing in the section shall be deemed to prohibit a Member from requesting his or her own health information.

16. Creditable Coverage Statements

The Plan will provide Creditable Coverage statements to formerly covered Members.

17. Other Acceptable Forms of this Document and its Attachments.

The following shall have the same legal effect as an original: facsimile copy, imaged copy, scanned copy, and/or an electronic version, including a digital or electronic signature.

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TASC Universal Subscription Agreement

Retain this document for your records.

THIS TASC UNIVERSAL SUBSCRIPTION AGREEMENT ("TASC USA") is entered into by and between Total Administrative Services Corporation ("TASC"), a Wisconsin Corporation, headquartered at 2302 International Lane, Madison WI, 53704-3140, and the Entity identified below, (the "Purchaser").

Entity Name:		Business Federal ID#:			
Mailing Address: (no PO Box)		City:			
Address Line 2:		State:		Zip:	

This TASC USA is effective on the date entered below, or the date entered online using an electronic signature agreement (the "Effective Date"). This TASC USA applies to all services selected by the Purchaser on the Effective Date or any subsequent date (the services selected by the Purchaser are referred to hereinafter as the "Subscription Services").

The Purchaser agrees that TASC will provide the Subscription Services in accordance with TASC's Specifications, Purchaser Detail, Manuals, and applicable Terms of Use, which are expressly incorporated by reference into this TASC USA, and which can be provided on request. The Purchaser agrees to pay the fees for the Subscription Services as provided herein ("TASC Fees").

The Purchaser is duly organized, validly existing, and fully authorized to enter into this TASC USA. The individual executing this TASC USA on behalf of the Purchaser is fully authorized to do so.

By signing below or completing an online electronic signature, the Purchaser certifies that the Purchaser understands and agrees to the terms of this TASC USA, and the Specifications, Purchaser Detail, Manual(s) and Terms of Use.

Purchaser (Entity Name):	
Signature:	
Printed Name:	
Title:	
Effective Date of this TASC USA:	
(Note: Use the first of the month.)	

This TASC USA and all documents incorporated herein are Confidential and can only be used by the Parties, their employees and representatives for their intended purpose.

PART I: GENERAL TERMS

Scope of Relationship

TASC is and will remain an independent contractor with respect to all services provided. TASC and the Purchaser are not partners or engaged in a joint venture. TASC is not a law firm and is not providing legal, investment or tax advice. All written or verbal communications provided under the terms of this TASC USA and in the service execution are general in nature and not intended to constitute legal, investment or tax advice. The products and services provided by TASC may have legal, investment and tax consequences. Any questions regarding the Purchaser's particular needs, requirements, circumstances, or the legal, investment, or tax consequences of any product or service offered by TASC must be directed to the Purchaser's own advisor(s) at the Purchaser's expense.

For the purpose of any Purchaser and/or Subscription Services subject to the Employee Retirement Income Security Act of 1974 (ERISA), as amended, the terms Administrator (commonly referred to as the Plan Administrator), Plan Sponsor, Named Fiduciary and Plan Assets shall have the meaning given to such terms by ERISA. TASC is not the Plan Administrator, the Plan Sponsor, or a Named Fiduciary for any Subscription Services. TASC does not accept a fiduciary role or status for any Subscription Services. TASC does not collect or hold employee contributions or plan assets. The Purchaser acknowledges and agrees that any funding submitted to TASC in connection with a plan or component benefit that is considered a welfare plan within the meaning provided by ERISA: (i) shall be comprised of general assets of the Purchaser, (ii) shall, until disbursed by TASC, retain its status as general assets of the Purchaser subject to the rights of the Purchaser's creditors, (iii) shall, until disbursed by TASC, be returned to the Purchaser upon written request, and (iv) shall not be segregated or set aside in a trust or escrow account by TASC.

Three-Year Term and Renewal

The Term of this Agreement shall be for a period of three (3) years from the Effective Date. This TASC USA will renew automatically for an additional Term of three (3) years at the expiration of the initial or any renewal Term (the initial term and each renewal Term, if any, shall be referred to as the "Term"). Either Party may terminate this TASC USA for any reason without penalty at the end of the Term by providing the other Party with a written termination notice at least sixty (60) days prior to the expiration of the Term.

Materials, Use and Limited License

TASC is hereby granting to the Purchaser a non-exclusive, non-assignable, limited license to use on the terms provided herein the forms, plan documents, plan descriptions, procedures, scripts, manuals, marketing materials, brochures, computer programs/platforms and databases (collectively, "Materials") provided by TASC to the Purchaser in connection with the provision of the Subscription Services. The Purchaser shall have a limited license to use Materials solely in connection with its use of the Subscription Services and in accordance with this TASC USA. It is understood that the Materials are the confidential property of TASC, they are not "work for hire", and no additional rights to use the Materials are granted. The Purchaser is responsible for its use and the protection of the confidentiality of Materials and shall be liable for any unauthorized use or disclosure. The Purchaser shall retain the confidentiality of Materials, and shall not make any direct or indirect use of or reference to TASC trademarks or Materials in connection with the marketing, use, implementation, license, sale or distribution of any program or system. The termination of this TASC USA shall not affect the duty of the Purchaser not to infringe on TASC's trademarks and copyrights and to keep confidential and not to disclose all Materials. Upon the expiration or termination of this TASC USA, all limited license rights granted to the Purchaser pursuant to this TASC USA shall be terminated.

TASC Fees and Terms of Payment

TASC provides the following limited fee guarantee during the Term. During the Term, TASC will not make any adjustments to the TASC Fees other than an annual increase to reflect inflation as determined by TASC using multiple national indicators.

TASC reserves the right to make adjustments to the TASC Fees for any renewal Term, with ninety (90) days written notice to the Purchaser prior to the start of said Term.

The Purchaser agrees to pay TASC for Subscription Services in accordance with the TASC Fees (1) determined on a TASC Proposal if applicable, expressly incorporated by reference into this TASC USA, (2) determined on the Specifications, Purchaser Detail, or (3) as shown for electronic elections made online. For Subscription Services where the TASC Fees are calculated based on the number of the Purchaser's employees ("Employees"), (1) the Purchaser shall provide TASC monthly updates regarding the number of Employees covered by the applicable Subscription Services, (2) TASC shall have the right to adjust the TASC Fees in the event of a material change in the number of Employees, and (3) TASC shall be entitled to recover additional fees based on changes in the number of Employees for months for which the Purchaser fails to accurately report the number of Employees. All interest and investment on income earned by TASC Fees shall be retained by TASC as a supplemental fee.

Payment for Subscription Services will occur via ACH transaction, or if payment via ACH transaction is not authorized, TASC will invoice the Purchaser. If billing by invoice, TASC Fees are due according to the terms on the invoice. If for any reason, TASC does not receive payment for any TASC Fees within ten (10) business days of the expected date of receipt as determined by the payment method, then TASC may suspend the performance of all applicable Subscription Services and place all processing on hold until all past due TASC Fees are paid. TASC shall have no liability for any losses due to suspending or placing any Subscription Services on hold for non-payment.

If the Purchaser grants TASC authority to debit TASC Fees by ACH or other electronic means, that authority will remain in full force until TASC has received written notification from the Purchaser of its termination of this authority in such time and in such manner as to afford TASC and the Purchaser's bank a reasonable opportunity to act on it. It is understood that the purpose of this authorization is to provide a means of payment for the TASC Fees. TASC reserves the right to correct any processing errors and to recover any payment made in error for any reason, and the Purchaser authorizes TASC to debit or credit the Purchaser's account as necessary to correct such errors.

Any refunds or adjustments to be made by TASC for the Purchaser will be processed only after verification is made that sufficient funds were received by TASC to cover all payments made or to be made by TASC in the course of providing Subscription Services, TASC Fees, and other amounts due to TASC. No refunds or adjustments will be made while the Purchaser is in default under this TASC USA or if an Employee or former employee of the Purchaser is in violation of the applicable Terms of Use or any other applicable agreement pertaining to the Subscription Services.

If a refund or any obligation for TASC to repay the Purchaser is determined to be due and owing to the Purchaser, TASC, in TASC's sole discretion, may issue the refund in the form of one, or any combination, of the following tenders: ACH credit to the Purchaser's bank account on file with TASC or other available electronic payment method, prepaid debit card, or a credit to be applied to future Subscription Services ("Service Credits"). Service Credits are subject to the applicable Terms of Use.

State law governs when accounts or funds relating to Subscription Services, including, but not limited to, funds attributable to unpresented checks, dormant Purchaser or Employee (or former employee of the Purchaser) accounts, or plan experience gains (forfeitures), are considered unclaimed or abandoned property. TASC will return to the Purchaser any such accounts or funds considered under applicable state law to be unclaimed or abandoned property ("Unclaimed Funds".) The Purchaser agrees that, at all times, it remains the holder of the Unclaimed Funds and shall be solely responsible for compliance with applicable laws, including providing statutory notice as well as the delivery and reporting of Unclaimed Funds to the applicable state agency as required under the law. Unless prohibited by the applicable state law, TASC may offset its costs and expenses associated with the Unclaimed Funds. TASC shall have no liability to the Purchaser or Employees (or former employees of the Purchaser) for the Unclaimed Funds. Any funds attributable to unpresented checks, dormant Purchaser or Employee (or former employee of the Purchaser) accounts, or plan experience gains (forfeitures), which are not considered unclaimed property under state law and which have remained dormant for more than one (1) year from the last date on which the applicable Subscription Service was rendered to the Purchaser by TASC under this TASC USA, shall be retained by TASC as a supplemental fee for Subscription Services previously rendered.

TASC's obligation to provide a Subscription Service will terminate automatically with no penalty to TASC if the Purchaser is no longer eligible to use that Subscription Service or the continued provision of the Subscription Service would violate applicable law.

Default and Non Performance

In the event a Party is or becomes non-compliant with applicable law governing the Subscription Services, where such non-compliance could reasonably result in losses such as but not limited to an excise tax, penalty, or claims liability, the other Party shall have the right to terminate this TASC USA immediately by written notice to the non-compliant Party.

A Party shall have the right to terminate this TASC USA with no additional duties under this TASC USA to a Party that institutes proceedings under Chapter 7 of the Bankruptcy Code, or makes an appointment of a trustee or receiver for the disposition of their assets or properties, or an assignment of assets for the benefit of creditors, or an admission of its inability to pay its debts as they become due.

In the event a Party defaults in its obligation to with respect to any material term, condition or covenant of this TASC USA, the non-defaulting Party may terminate this TASC USA by giving the defaulting Party a thirty (30) day cure period written notice. If the defaulting Party fails to cure the default to the reasonable satisfaction of the non-defaulting Party within the 30-day cure period, this TASC USA shall automatically terminate upon expiration of the 30-day cure period.

This TASC USA and all documents incorporated herein are Confidential and can only be used by the Parties, their employees and representatives for their intended purpose.

Any termination shall be without prejudice to any other rights and remedies the non-defaulting Party may have against the defaulting Party with respect to such default.

In the event of a default by the Purchaser with respect to payment of TASC Fees, this TASC USA may be terminated immediately by TASC upon written notice to the Purchaser and all amounts due to TASC shall become immediately due and payable. In the event of any default by the Purchaser, TASC has the right to suspend all Subscription Services to the Purchaser, without incurring any liability for the suspension, until the default(s) has been cured and all outstanding obligations of the Purchaser have been met.

PART II: SUBSCRIPTION SERVICES

Responsibility of TASC

TASC shall use ordinary care and due diligence in the performance of the Subscription Services and shall provide the Subscription Services in a timely, professional and accurate manner. TASC will perform the Subscription Services in accordance with the Specifications, Purchaser Detail, Manuals, and Terms of Use.

Responsibility of the Purchaser

The Purchaser shall have the sole and final discretionary authority in respect to all legal and administrative functions of any plan sponsored by the Purchaser relating to Subscription Services.

A Purchaser who elects Subscription Services subject to HIPAA Privacy and Security also accepts the TASC HIPAA Privacy offering and acknowledges receipt of the HIPAA Business Associate Agreement signed by TASC.

The Purchaser shall present to TASC, in an accurate, complete and timely manner, all relevant information as determined to be necessary by TASC to enable TASC to execute the Subscription Services in a standard TASC format or an alternative format agreed upon in writing by the Parties. TASC shall rely on the accuracy and timeliness of information provided by the Purchaser or the Purchaser's agent. TASC has no responsibility to review or verify data provided. TASC is not responsible for detecting illegal acts by, and/or misrepresentations of, the Purchaser's Employees or representatives. TASC shall have no liability, such as by way of example but not limited to any excise tax, for failure to provide, or for defects in providing, a service for which the Purchaser has not provided accurate, complete and timely data to TASC in an agreed upon format. TASC will have no liability for interruptions and/ or delays in the provision of Subscription Services caused either in whole or in part by the Purchaser's failure to provide accurate, complete and timely data to TASC in an agreed upon format.

The Purchaser shall do all things necessary and take all actions to comply with state and federal law applicable to the Subscription Services.

The Purchaser shall promptly and thoroughly review the reports made available to the Purchaser by TASC, including but not limited to reports that are made available online, to ensure all information has been received by TASC and TASC has based the Subscription Services on accurate and complete information. These reports provide notice of essential items such as account balances and enrollment changes, where the Purchaser's failure to review the reports and take timely corrective action can lead to ongoing losses. In the event any of the reports made available to the Purchaser contain any inaccurate or incomplete information, the Purchaser shall promptly, and in any event not more than thirty (30) days after TASC made the report available to the Purchaser, take all necessary actions to effectuate changes, such as account corrections and enrollment changes.

It is the Purchaser's responsibility to educate and inform Employees on the Subscription Services being provided, including the delivery of administration materials (where needed) as well as compliance documents (e.g., distribution of an applicable Summary Plan Description). The Purchaser shall ensure that Employees comply with all applicable Participant obligations relating to the Subscription Services.

Subscription Services Subject to Change

Subscription Services are subject to change, including but not limited to changes required by law, changes to software, and systems enhancements. The Purchaser acknowledges that TASC provides Subscription Services to several thousand clients and has a vested interest in consistency.

Account Based Subscription Services

With respect to any Subscription Services involving debit accounts of any type, including but not limited to debit cards, the Purchaser acknowledges and accepts sole responsibility for the payment of all debit account transactions. TASC may be able to assist the Purchaser in the recovery of such debit account transactions reported as fraudulent, provided that Employees comply with the terms outlined in the applicable Cardholder Agreement for the timely reporting of such fraudulent activity.

The Purchaser acknowledges and accepts sole responsibility for fraudulent claims by Employees (and former employees of the Purchaser) regardless of whether by use of the debit card, debit account, submitted online, submitted by a medical provider, or manually submitted.

TASC has the right to recoup any payment or overpayment made to an Employee in error, whether such erroneous payment was caused by fraud, acts of an unrelated third party, errors/omissions by the Employee, or errors/omissions of TASC or the Purchaser.

TASC has the right to require a deposit or payment from the Purchaser or the Employee when the disbursement of funds creates or will create a negative account balance.

Additional Purchaser Protection

Audit Guarantee

TASC provides an Audit Guarantee as described in the Terms of Use. The Audit Guarantee provides defined and limited protections for Purchasers who comply with the terms applicable to the Subscription Services covered by the Audit Guarantee. The Audit Guarantee will not provide protection for any losses or penalties that are due to the Purchaser's self-administration or use of third-party services, such as the use of third-party compliance services. The Audit Guarantee only covers losses or penalties that are due to the use of Subscription Services delivered by TASC.

Compliance and Continuation Subscription Services Protection

TASC provides up to an aggregate of one million dollars, ($1,000,000), of protection from liability incurred by the Purchaser as a result of TASC's errors or omissions in connection with the provision of Compliance Subscription Services (including FMLA services) and Continuation Subscription Services.

Money Back Guarantee

If the Purchaser is not entirely satisfied with a Subscription Service, the Purchaser can return all Materials within thirty (30) days of the date that the Subscription Service was first provided to obtain a refund of the TASC Fees previously paid by the Purchaser for such Subscription Service, less a $250 nonrefundable minimum fee.

TASC Provides Security

When Subscription Services require TASC to create, receive, maintain, or transmit Protected Health Information ("PHI"), as defined by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), TASC will comply with HIPAA, the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 often referred to as the "HITECH Act", regulations issued by the U.S. Department of Health and Human Services ("HHS") (the "HIPAA Regulations"), and the terms of the TASC Business Associate Agreement. TASC will provide written assurances of this compliance by providing a HIPAA Business Associate Agreement, serving as the written assurances of TASC compliance required by HIPAA. The TASC Business Associate Agreement will use the latest HHS Model terms, in order to provide one compliant program to the Purchaser.

TASC will maintain the Service Provider Validation from the PCI Security Standards Council for the duration of the Term, and will provide the Validation and Attestation Certificate to the Purchaser, without audit detail, upon request.

TASC will meet federal and the applicable state standards for the confidential treatment of the Purchaser's Confidential Information as defined below.

PART III: INDEMNIFICATION, LIMITATIONS OF LIABILITY

Indemnification

Subject to the 30-day limitation and other limitations set forth below, TASC shall indemnify the Purchaser, its directors and officers, and hold them harmless from and against any and all actions, claims, lawsuits, settlements, judgments, costs, taxes or similar assessments, penalties and expenses, including reasonable attorney's fees, incurred as a direct result of TASC's gross negligence or willful misconduct in connection with the performance of the Subscription Services.

This TASC USA and all documents incorporated herein are Confidential and can only be used by the Parties, their employees and representatives for their intended purpose.

The Purchaser shall indemnify and hold TASC, its directors and officers, harmless from and against any and all actions, claims, lawsuits, settlements, judgments, costs (including, but not limited to, costs of insurance premiums paid with respect to any Subscription Service), taxes or similar assessments, penalties and expenses, including reasonable attorney's fees, or any other obligations (collectively, "Losses") resulting from, arising out of or in any way connected with, the Subscription Services, including any prior administration of the Subscription Services or a similar arrangement, or claims or demands by Employees and/or beneficiaries, unless the Losses are directly attributable to TASC's gross negligence or willful misconduct in connection with the performance of the Subscription Services.

Each Party's indemnification obligations are conditioned on the following: (i) if process is served, the indemnified Party providing written notice to the other Party within five (5) business days of receiving service of process regarding an indemnifiable event, (ii) if the Party receiving indemnification is required to make any admission or pay any consideration as part of a settlement, no settlement shall be made without such Party's consent, and (iii) the indemnified Party cooperating in the defense and/or settlement of the indemnifiable event. Subject to the limitations set forth in this TASC USA, the Parties' indemnification obligations hereunder shall survive the termination of this TASC USA.

Thirty (30) Day Liability Limitation

TASC SHALL HAVE NO LIABILITY WHATSOEVER TO THE PURCHASER, THIRD PARTY, OR ANY OTHER PERSON OR ENTITY, FOR ANY COSTS, EXCISE OR OTHER TAXES, PENALTIES, INTEREST, DAMAGE OR LOSS (COLLECTIVELY "DAMAGES") THAT OCCUR MORE THAN THIRTY (30) DAYS AFTER TASC HAS PROVIDED OR MADE AVAILABLE A REPORT TO THE PURCHASER, AND WHERE THE DAMAGES ARISE OUT OF OR RELATE TO ANY MISTAKE OR ERROR OF ANY TYPE APPEARING IN THE REPORT, INCLUDING BUT NOT LIMITED TO ANY MISTAKE OR ERROR WITH RESPECT TO ACCOUNT BALANCES, ENROLLMENT CHANGES OR OTHER INFORMATION. TASC IS RELYING ON THE PURCHASER, THE ONLY ENTITY WITH THE KNOWLEDGE OF THE ACTUAL FACTS, TO REVIEW THE REPORTS PROVIDED OR MADE AVAILABLE BY TASC FOR ERRORS AND TO USE THE REPORTS TO AUDIT AND RECONCILE THE SUBSCRIPTION SERVICES.

Defense of Legal Actions

TASC shall notify the Purchaser of any legal action arising with respect to any Subscription Services of which TASC becomes aware. The defense of the Purchaser for any legal actions naming the Purchaser as a party shall be the responsibility of and be undertaken at the expense of the Purchaser. TASC shall cooperate with and assist the Purchaser in said defense, at the Purchaser's expense, to the extent that the Purchaser reasonably may require.

Limitations of Warranties and Liabilities, Disclaimer of Consequential Damages

EXCEPT AS EXPRESSLY SET FORTH IN THIS TASC USA, TASC DISCLAIMS ANY AND ALL EXPRESS WARRANTIES, AND ANY AND ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY. TASC WILL NOT BE LIABLE IN CONTRACT OR IN TORT FOR ANY LOSS OF BUSINESS OR PROFITS, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR SIMILAR DAMAGES, EVEN IF TASC HAS BEEN ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW, OF THE POSSIBILITY OF SUCH DAMAGES. TASC SHALL NOT BE LIABLE TO THE PURCHASER OR ANY OTHER PERSON FOR ANY MISTAKE OF JUDGMENT OR OTHER ACTION TAKEN IN GOOD FAITH IN THE PERFORMANCE OF SUBSCRIPTION SERVICES.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS TASC USA, AND FOR ANY REASON, INCLUDING BREACH OF ANY DUTY IMPOSED BY THIS TASC USA, INCLUDING BUT NOT LIMITED TO THE INDEMNIFICATION OBLIGATIONS SET FORTH ABOVE, OR INDEPENDENT OF THIS TASC USA, AND REGARDLESS OF WHETHER THE CLAIM IS IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO GROSS NEGLIGENCE) OR OTHERWISE, TASC'S TOTAL, AGGREGATE LIABILITY UNDER THIS TASC USA SHALL IN NO CIRCUMSTANCE (EXCEPT AS SPECIFICALLY PROVIDED ABOVE UNDER THE AUDIT GUARANTEE AND THE COMPLIANCE AND CONTINUATION SUBSCRIPTION SERVICES PROTECTION) EXCEED THE TOTAL AMOUNT OF THE TASC FEES PAID BY THE PURCHASER DURING THE TERM IN WHICH THE EVENT GIVING RISE TO THE CLAIM OCCURRED.

No action, regardless of form, arising out of TASC's provision of any Subscription Services provided under this TASC USA, may be brought by a Party more than one (1) year after the last date on which the Subscription Service which is the subject of the action was provided by TASC under this TASC USA.

Each Party acknowledges that these limitations of liability reflect an informed, voluntary allocation between the Parties of the risks (known and unknown) that may exist in connection with this TASC USA.

PART IV: MISCELLANEOUS TERMS

Confidentiality

"Confidential Information" means any non-public business or technical information, whether or not stored in any medium, relating to the Party's business, which is disclosed to the other Party in connection with the Subscription Services and which is identified as Confidential at the time of disclosure or that a reasonable person would consider, from the nature of the information and circumstances of disclosure, is confidential. Confidential Information includes original information, as well as all copies. Confidential Information does not include information that has been made public or was already made accessible to the public, or obtained through other available public sources.

Each Party agrees to treat the Confidential Information as confidential to and as the property of the disclosing Party and to use an appropriate degree of care (which, in any case, will not be less than the degree of care it uses with respect to its own information of like nature) to prevent disclosure or unauthorized use of the Confidential Information. Parties will not disclose Confidential Information, except to directors, officers, employees and contractors who have a need to know for the purpose of executing Subscription Services and who have been advised of the obligation of confidentiality and are obligated to keep it confidential.

THIS TASC USA AND ALL DOCUMENTS INCORPORATED HEREIN ARE CONFIDENTIAL AND SUBJECT TO THE TERMS ABOVE.

Data Usage

In connection with this TASC USA, TASC may collect Purchaser and Participant information, data, content or other materials whether in electronic or paper format (collectively, "Data"). Data may be generated and collected through various activities, including but not limited to, Purchaser's or Participant's use of services, TASC's sales activities and/or delivery of services, system operation and performance, maintenance and support services, Purchaser or Participant service inquiries, data gathering software, and telephone or internet transactions. TASC may share, convey, sell, transmit or otherwise distribute the Data to third parties for any purpose, whether or not related to the activities under this TASC USA. TASC shall own all right, title and interest in and to the Data and may use the Data for any lawful purpose. TASC will comply with the provisions of this TASC USA regarding the protection of Confidential Information and will comply with applicable law regarding the protection of Protected Health Information and personally identifiable information non-public information.

Execution and Delivery

This TASC USA may be executed and delivered (including by facsimile or Portable Document Format (PDF) transmission) in one or more counterparts, all of which will be considered one and the same agreement. Any facsimile, PDF documents with signatures, or electronic acceptance, shall have the same force and effect as manually signed originals and shall be binding on the Purchaser and TASC.

Governing Law

This Agreement shall be entered into, construed, governed by, and enforced in accordance with the laws of the State of Wisconsin.

Entire Agreement and Amendment

This TASC USA, including the Specifications, Purchaser Details, Manuals, and Terms of Use, represents the entire agreement of the Parties and supersedes any prior written or oral agreements pertaining to the Subscription Services. This TASC USA may be altered or amended by TASC from time to time upon sixty (60) days written notice to the Purchaser to reflect changes required by law or made for reasonable business purposes.

Notices

Any notice, demand or other communication required or permitted to be given to either Party to this TASC USA shall be in writing and shall be either personally delivered by hand, delivered by prepaid courier, mailed first class with signature required, or sent by electronic means such as facsimile, telex or electronic mail. Any notice personally delivered, delivered by courier or mail service shall be deemed received upon delivery. Any notice sent by electronic means shall be deemed received upon the date the sending terminal confirms that the notice was received.

Assignment

This TASC USA shall not be assigned by the Purchaser without prior written consent of TASC. This TASC USA shall be binding on any successors and permitted assigns under this TASC USA.

Waiver
The failure of either Party at any time to require performance or observance of any term or condition of this TASC USA shall not affect the full right of such Party to require such performance or observance at any subsequent time. Further, no single or partial waiver of any right, power or privilege will preclude any other or further exercise of such right, power or privilege.

Severability
If any term or condition of this TASC USA is held to be invalid or unenforceable by a court of competent jurisdiction by reason of any statute, rule of law or public policy, all other terms and conditions of this TASC USA shall remain in full force and effect as if this TASC USA had been executed with the invalid or unenforceable portion eliminated.

Survival of Terms
Upon the termination of this TASC USA, for any reason, the following terms will remain in full force and effect:

- Scope of Relationship,
- Materials, Use and Limited License,
- TASC USA Provides Security,
- Indemnification,
- Thirty (30) Day Liability Limitation,
- Defense of Legal Actions,
- Limitations of Warranties and Liabilities, Disclaimer of Consequential Damages,
- Confidentiality,
- Data Usage,
- Governing Law, and
- Severability.

No Third-Party Beneficiaries
No employee or agent, or any other person or entity is a third-party beneficiary under the terms of this TASC USA.

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Agreement with FARO Technologies for the Purchase of 3D Scene Mapping Equipment

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Purchase of 3D scene mapping equipment.

Staff Recommendation

Approve the purchase agreement with FARO Technologies, Inc.

Background Information

MPD has been using a FARO 3D scene mapping machine since 2017. This machine and technology have become invaluable to our crime units. The purchase of a second unit will allow more than one team to process a crime scene at the same time.

This purchase with FARO is considered sole source due to the necessity of the new machine to be compatible with the accessories and software the department already possesses.

Council Priorities Served

Maintain public safety

Scene mapping equipment is critical in solving crimes to maintain public safety.

Fiscal Impact

The expense, $70,817, is funded from the Felony Fund.

Attachments

Agreement with FARO Technologies, Inc. for 3D Scene Mapping Equipment.

AGREEMENT
BETWEEN
CITY OF MURFREESBORO
AND
FARO TECHNOLOGIES, INC.
FOR 3D SCENE MAPPING EQUIPMENT

This Agreement is entered into and effective as of the ____ day of _____ 2022, by and between the **City of Murfreesboro,** a municipal corporation of the State of Tennessee (the "City"), and **FARO Technologies, Inc.**, a corporation of the State of Florida ("Contractor").

This Agreement consists of the following documents:

- This document
- Contractor's Quotation No. 20467599, dated June 29, 2022 ("Contractor's 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; and
- Lastly, Contractor's Proposal.

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase equipment and services as set forth in Contractor's Proposal, Quote No. 20467599, dated June 29, 2022. The equipment and services are being purchased due to compatibility and operability with current software and warranty contracts.

2. **Term.** 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 Contractor's Proposal which reflects a total purchase price of $70,817.00. Any compensation due Contractor under the Agreement shall be made upon submittal of an

invoice after delivery of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, 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. Payment is due within thirty (30) days from the date of Contractor's invoice.

b. Deliveries of all items shall be made within 42 calendar days of order at the 1004 North Highland Avenue, Murfreesboro, TN 37130. Contact Person Lt. Mike Taylor (tel. 615-893-2717; email. 0365@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 Contractor's Proposal. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract.

d. 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 bid shall meet the warranty requirements set forth in Contractor's 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. **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 non-exclusive right to 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 direct damages in any third-party claims, penalties, damages, costs and attorney fees ("Expenses") caused by injuries or damages resulting from, in part or in whole, the gross negligence or reckless 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, except to the extent contributed to by the City.

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:
General Counsel
FARO Technologies, Inc.
250 Technology Park
Lake Mary, FL 32746

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, which is limited to compliance with ISO requirements, subject to the City providing at least fourteen (14) business days prior notice and use of independent accountancy or testing firm. 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.

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.

25. **Limitation of Liability**. Except where prohibited by law, and except claims arising pursuant to Contractor's indemnification obligations under Section 8 of this Agreement, Contractor's maximum liability to the City under any legal theory, including breach of contract, breach of warranty, tort, or otherwise, arising from this Agreement or related to the goods and services to be provided pursuant to this Agreement shall in no event exceed the greater of (a) one hundred

thousand dollars ($100,000.00) or (b) two-times (2x) the amount paid by the City to Contractor under this Agreement. Notwithstanding the above, in the event a claim is covered by insurance required by Section 7 of this Agreement, the maximum limitation of liability for such shall be one million dollars ($1,000,000.00). In no case or under any theory shall either party be liable for any indirect, special, punitive, or consequential damages.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2022 (the "Effective Date").

CITY OF MURFREESBORO, TENNESSEE

By: _____
Shane McFarland, Mayor

APPROVED AS TO FORM:

_____
Adam F. Tucker, City Attorney

FARO TECHNOLOGIES, INC.

By: _____
Craig Cupach, Director of Sales

FARO Technologies, Inc.
250 Technology Park
Lake Mary FL 32746-7115
Phone No: (407)333-9911X1205
Fax No:
Email: Cynthia.Clarke@faro.com

Remit to:
FARO Technologies, Inc.
P.O. Box 116908
Atlanta, GA 30368-6908

Quotation No:	20467599
Quote Date:	06/29/2022
Expiration Date:	07/29/2022
Regional Manager:	
Account Manager:	Richard Britt
Sales Support:	Cynthia Clarke
Ship:	Standard/Ground
Payment Terms:	Net due in 30 days with approved credit
Delivery Terms:	EXW Origin
Delivery Date:	4-6 Weeks
Tracker Lead Time:	10-12 Weeks
PO Number:	

Bill To :
City of Murfreesboro
PO Box 1139
Attn: Finance Dept.
Murfreesboro TN 37133-1139
US

Ship To :
Murfreesboro Police Department - TN
Jenny Licsko
1004 N Highland Ave
Murfreesboro TN 37130-2454
US

Quote for Certified Pre-Owned (CPO) Equipment is based on inventory availability and cannot be reserved. CPO Equipment includes 1-year Manufacturers Standard Warranty.

Qty	Item No.	Description	Unit Price	Discount	Ext. Price
1	LS-8-S-350	3D_HW_LS_FocusS 350 Laser Scanner Focus S 350 ships with: 1x Focus S 350, 1x Quick Release, HDR photography, GPS, compass, altimeter (barometer), dual-axis compensator, Accessory Bay, 1x Power Block Battery, 1x Battery Power Dock, 1x Power Supply, 1x 32GB SD card and reader, 1x rugged transport case, calibration certificate, manufacturer warranty and a quick start guide.	43,880.00	4,388.000	39,492.00
1	ACCS-PWR-0014	3D_AC_LS_FocusS Battery Power Block Power Block battery for Focus laser scanner and Freestyle.	580.00	58.000	522.00
1	ACCSS8032	3D_AC_LS_Standard Carbon Fiber Tripod Carbon fiber tripod, super lightweight, highly stable, low-vibration, customized for Focus scanners for perfect performance and increased durability.	1,140.00	114.000	1,026.00

PURCHASE AGREEMENT AND CONDITIONS OF SALE Customer will pay any federal, state and local taxes. All conditions of sale, service and warranty as described in FARO standard purchase conditions currently on file with FARO are made as part of this Quotation and are incorporated herein by reference (02FRM522). DR12 PLEASE REFERENCE FARO QUOTE NUMBER ON ALL DOCUMENTS. BY REFERENCING FARO QUOTE, CUSTOMER AGREES TO SAID TERMS AND CONDITIONS AS LISTED ON FARO QUOTATION.

Qty	Item No.	Description	Unit Price	Discount	Ext. Price
1	TR-SCN-POS	Laser Scanner Tr. - FARO Fac. - Inc "Available only at point of FARO system sale. Includes training for 2 Trainees. #Three day course at a training facility provided by FARO that discusses FARO Laser Scanner with FARO Software, setup, and basic measurements. Classroom trainings are scheduled on a first come, first served basis. Classes can be cancelled within two weeks of the scheduled date if sufficient enrollment is not met. Training days must be taken together on consecutive days, and cannot be split into individual days."	0.00	0.000	0.00
1	SV2-SCNB-Y4	FOCUS Standard Complete Care - Year 4 Complete care coverage for Focus Standard scanners. Includes parts and labor for repairs and annual cleaning and calibration. Covers through year 4 from point of sale.	9,500.00	950.000	8,550.00
1	SOFTD51002	FARO Zone 3D Advanced Digital Download *Loyalty Pricing Applied* Advanced version of FARO Zone 3D with the added ability to open SCENE projects and import other point clouds. Includes one (1) year of maintenance. Digital Download	7,200.00	4,946.400	2,253.60
1	SOFTL0002	Single User Hard Lock Hard lock (USB Dongle) for one single user license. Software licenses purchased separately. Can be used together with FARO SCENE, CAM2, FARO Zone, As-Built, and RevEng Software products.	200.00	20.000	180.00

Qty	Item No.	Description	Unit Price	Discount	Ext. Price
1	SMA51002-3Y	FARO Zone 3D Advanced Maintenance 3Y FARO Zone 3D Advanced annual maintenance extension at point of sale includes product updates and upgrades (as available), including top tier technical support for three (3) years. Customer must be on the most current software release to purchase this plan.	2,290.00	229.000	2,061.00
1	SOFTD0900	SCENE SCENE. New license. Includes 1-year of standard maintenance. License container sold separately.	6,110.00	611.000	5,499.00
1	SOFTL0002	Single User Hard Lock Hard lock (USB Dongle) for one single user license. Software licenses purchased separately. Can be used together with FARO SCENE, CAM2, FARO Zone, As-Built, and RevEng Software products.	200.00	20.000	180.00
1	SMA0900-3Y	SCENE MAINT - 3Y EXT SCENE. Extends maintenance contract of new license by 3 years.	2,750.00	275.000	2,475.00
1	SV2-SCNB-Y4	FOCUS Standard Complete Care - Year 4 Liked to asset: LLS081915637 Complete care coverage for Focus Standard scanners. Includes parts and labor for repairs and annual cleaning and calibration. Covers through year 4 from point of sale.	9,500.00	950.000	8,550.00

Order Total:	83,350.00
Discount Amount:	-12,561.40
Freight, packaging and handling Total:	28.42
Total in USD:	70,817.02

**Note: Taxes on this quote are budgetary estimates and are not binding. Taxes charged will be based on applicable tax rates assessed at the time of final invoice.

Signature:_____ Print:_____ Title:_____ Date:_____

Accounts Payable Name:_____ Email:_____
Can we send your future invoice(s) to the email address provided (__) No (__) Yes
Do you require a PO to process this order (__) No (__) Yes - PO #:_____

Signature:_____ Print:_____ Title:_____ Date:_____
*Any order over $150,000 will need a secondary signature to process your order.

Additional Information

COVID-19
FARO does not assume any risk for (i) late deliveries of goods, (ii) customers' inability or impracticability to receive or use our devices or software, and for (iii) delivery disruptions, that are due to the COVID-19 pandemic and ensuing government measures (shut downs, lock-downs, quarantines).

PURCHASE AGREEMENT AND CONDITIONS OF SALE: As a condition of this agreement, the applicable contract terms are FARO's Standard Terms and Conditions of Sale, or, if the Parties have entered into current master sales terms, such negotiated master terms.

The FARO Standard Terms and Conditions can be found at the following Web link (if such is not an active link, please copy and paste the Web address into a Web browser):
https://www.faro.com/en/Terms

The following article contains all our calibration information under their respective product headings
https://knowledge.faro.com/Essentials/Hardware/Compensation_Calibration_and_Certification_Standards_for_FARO_Devices

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Purchase of Police Vehicles from Ford of Murfreesboro

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Purchase of 66 new police vehicles.

Staff Recommendation

Approve the purchase of 66 new police vehicles from Ford of Murfreesboro.

Background Information

On August 18, 2022, Council approved the purchase of 11 unmarked vehicles. The total of this purchase is $415,261, $7,344 below the previously.

On April 22, 2022, Council approved the purchase of 25 marked vehicles and two unmarked trucks, all 2022 models. The two trucks have been received; however, current supply chain issues and labor shortages, forced the manufacturer to cancel the order. This cancellation has affected several agencies across the state.

A new order has been placed for 2023 models. The 2023 model price totals $959,025, an increase of $105,125.

To keep on track with scheduled replacements, an additional order for 30 marked vehicles will also be placed. The total of this purchase is $1,150,830.

All these vehicles are scheduled replacements and are available for purchase through the State's General Services Central Procurement Office, which is permitted by State statute and Council Resolution. Staff has verified the cost effectiveness of the current state contract.

Council Priorities Served

Responsible budgeting

By utilizing the State's procurement contract, the City benefits from pre-negotiated, competitive pricing.

Fiscal Impact

The cost of this purchase, $2,525,116, is funded by the American Rescue Plan Act Funds.

Attachments

1. First Amendment to the Contract with TT of F. Murfreesboro, Inc.
2. Contract with TT of F. Murfreesboro, Inc.
3. Contract with TT of F. Murfreesboro, Inc.

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FIRST AMENDMENT
TO THE CONTRACT
BETWEEN THE CITY OF MURFREESBORO
AND
TT OF F. MURFREESBORO, INC.

This First Amendment ("First Amendment") to the Contract for Purchase of Vehicles, entered into August 19, 2022 ("Contract"), is effective as of _____, by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee, and TT of F. Murfreesboro, Inc. ("Contractor"), a corporation of the State of Tennessee.

RECITALS

WHEREAS, on August 19, 2022, the City entered into the Contract with Contractor for the purchase of:

- Two 2023 PI Utility AWD Hybrid Vehicles and Optional Equipment and
- Nine 2023 PI Utility AWD V6 FFV Vehicles and Optional Equipment

pursuant to State of Tennessee Contract Number 72320 and Contractor's Quote MUR024;

WHEREAS, Section 10 of the Contract provides for modifications to the Contract by written agreement of the parties; and

WHEREAS, the parties desire to amend the Contract to replace the purchase of Two 2023 PI Utility AWD Hybrid Vehicles and Optional Equipment with Two 2023 PI Utility AWD V6 Vehicles and Optional Equipment.

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

1. The parties agree to purchase two 2023 PI Utility AWD V6 FFV Vehicles and Optional Equipment instead of the Two 2023 PI Utility AWD Hybrid Vehicles and Optional equipment for a total of Eleven (11) 2023 PI Utility AWD V6 FFV Vehicles for a total price of $415,261.00
2. All other terms of the Contract, remain in full force and effect and are otherwise unchanged by this First Amendment.

ENTERED this the day of _____.

CITY OF MURFREESBORO

By:_____
Shane McFarland, Mayor

TT OF F. MURFREESBORO, INC.

DocuSigned by:
By: Jason McCullough
Jason McCullough
Jason McCullough, Fleet Manager

Approved as to form:

DocuSigned by:
Adam F. Tucker
Adam F. Tucker, City Attorney

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CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
TT OF F. MUFREESBORO, INC.
FOR PURCHASE OF VEHICLES

This Contract is entered into and effective as of the _____ day of _____ 2022, by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **TT OF F. MURFREESBORO, INC.,** a corporation of the State of Tennessee ("Contractor").

This Contract consists of the following documents:

- ***This Contract***
- ***Contractor's State of Tennessee Contract No. 209/75348 with TT of F. Murfreesboro, Inc.***
- ***Sales Quotation No. MUR028 dated July 22, 2022, from TT of F. Murfreesboro, Inc. for twenty-five 2023 K8A PI Utility AWD Vehicles and optional equipment***
- ***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, Contractor's State of Tennessee Contract No. 209/75348 with TT of F. Murfreesboro, Inc.***
- ***Finally, Sales Quotation No. MUR028 dated July 22, 2022, from TT of F. Murfreesboro Inc., for twenty-five 2023 K8A PI Utility AWD Vehicles***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase the following vehicles and optional equipment as set forth in the State of Tennessee Contract No. 209/75348 with TT of F. Murfreesboro, Inc., and Contractor's Sales Quotation No. MUR028 dated July 22, 2022:

   Twenty-five (25) 2023 K8A PI Utility AWD Vehicles

   Furthermore, the City may utilize this Contract to procure additional vehicles and equipment from Contractor per the State of Tennessee Contract No. 209/75348 through the term of the contract. Such future procurements shall be executed through a Purchase Order after purchases exceeding $50,000 have been approved by Council.

2. **Term.** The term of this Contract shall be from _____, 2022 (the "Effective Date") to the expiration of the State of Tennessee No. Contract 209/75348 on December 31, 2023, or as amended by the State of Tennessee. 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.

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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 Sales Quotation No. MUR028 dated July 22, 2022, from TT of F. Murfreesboro, Inc., for twenty-five 2023 K8A PI Utility AWD Vehicles, at a price of $38,086.00 each plus $275.00 each for optional equipment, reflecting a **Total Purchase Price of $959,025.00** as set forth in the above-referenced Sales Quotation. 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. Invoices should be sent to: accountspayable@murfreesborotn.gov.

b. An employee of the City of Murfreesboro will pick-up the vehicles within three (3) working days of notification by Ford of Murfreesboro that it is ready for pickup. Please notify the City's contact person, Robert Holloway (email: 0388@murfreesborotn.gov) at (615) 849-2673 when vehicles are ready for pick-up.

c. Deliveries of all items shall be made as soon as possible after issuance of Purchase Order and no later than June 30, 2023. 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 bid shall meet the warranty requirements set forth in the specifications.

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

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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.

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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:	If to the Contractor:
City of Murfreesboro Attn: City Manager Post Office Box 1139 111 West Vine Street Murfreesboro, TN 37133-1139	Ford of Murfreesboro Attn: Jason McCullough, Fleet Sales Manager 1550 NW Broad St. Murfreesboro TN 37129-1709

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.

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15. **Title VI of the Civil Rights Act of 1964, as amended.** Contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.
16. **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.
17. **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
18. **Integration**. This Contract, Sales Quotations, 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.
19. **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, epidemic, pandemic or other cause of similar or dissimilar nature beyond its control.
20. **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.
21. **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.
22. **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.
23. **Debarment and Suspension**.

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a) The City certifies, to the best of its knowledge and belief, that the Selected Contractor:

- **i.** is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- **ii.** has not within a three (3) year period preceding this 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;
- **iii.** is 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
- **iv.** has 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.

b) The City will provide immediate written notice to the U.S. Department of Treasury or granting authority, if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, the Selected Contractor is excluded or disqualified, or presently falls under any of the prohibitions of sections i-iv.

c) The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)," 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

i. Debarred from participation in any federally assisted Award;
ii. Suspended from participation in any federally assisted Award;
iii. Proposed for debarment from participation in any federally assisted Award;
iv. Declared ineligible to participate in any federally assisted Award;
v. Voluntarily excluded from participation in any federally assisted Award; or
vi. Disqualified from participation in any federally assisted Award.
vii. By signing this Agreement, Contractor certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C, as supplemented by 2 CFR Part 1200, throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

24. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended**. Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

25. **Lobbying Certification. (4220.1F.IV.2.a.(4); 49 CFR Part 20).**

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a) Contractors that apply or bid for an award exceeding $100,000 must file the lobbying certification before the awarding of the contract, and if applicable, a lobbying disclosure from a prospective third party contractor. See, DOT regulations, "New Restrictions on Lobbying" 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352, which implement the Byrd "Anti-Lobbying" Amendment, 31 U.S.C. Section 1352. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

b) The Contractor certifies, to the best of its knowledge and belief, that:

i. 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 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.

ii. 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 Promisor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

iii. The Contractor 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.

c) 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.

26. **Domestic preferences for procurements**. (2 CFR 200.322)

a) As appropriate and to the extent consistent with law, the Contractor, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

b) For purposes of this section:

i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

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27. **Increasing Seat Belt Use in the United States**. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

28. **Reducing Text Messaging While Driving**. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

29. **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.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2022 (the "Effective Date").

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

TT of F. MURFREESBORO, INC.

DocuSigned by:
By: Jason McCullough
Jason McCullough, Fleet Manager

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
Adam F. Tucker, City Attorney

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SALES QUOTE

FORD OF MURFREESBORO

SWC 209 NO. 75348

TO:

City of Murfreesboro

DATE: 7/22/2022

QUOTE ID: MUR028

QUANTITY	CODE	DESCRIPTION	UNIT PRICE	TOTAL
25	K8A	Police Interceptor Utility, V6 FFV	$38,086.00	$952,150.00
		MSRP $40,195.00		
25	OPT	Optional Equipment	$275.00	$6,875.00
		Please sign and return this quote and attached vehicle information with a signed PO to place your order.		
		Total Price	**$38,361.00**	**$959,025.00**

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Prepared by: Jason McCullough
09/08/2022

Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2023 Police Interceptor Utility AWD Base (K8A)

Price Level: 320

As Configured Vehicle

Code	Description	MSRP
Base Vehicle		
K8A	Base Vehicle Price (K8A)	$47,165.00
Packages		
500A	Order Code 500A *Includes:* *- 3.73 Axle Ratio* *- GVWR: 6,840 lbs (3,103 kgs)* *- Tires: 255/60R18 AS BSW* *- Wheels: 18" x 8" 5-Spoke Painted Black Steel* *Includes polished stainless steel hub cover and center caps.* *- Unique HD Cloth Front Bucket Seats w/Vinyl Rear* *Includes reduced bolsters, driver 6-way power track (fore/aft. up/down, tilt with manual recline, 2-way manual lumbar), passenger 2-way manual track (fore/aft. with manual recline) and built-in steel intrusion plates in both driver/passenger seatbacks.* *- Radio: AM/FM/MP3 Capable* *Includes clock, 4-speakers, Bluetooth interface with hands-free voice command support (compatible with most Bluetooth connected mobile devices), 1 USB port and 4.2" color LCD screen center stack smart display.*	N/C
Powertrain		
99B	Engine: 3.3L V6 Direct-Injection (FFV) *(136-MPH top speed). Note: Deletes regenerative braking and lithium-ion battery pack; adds 250-Amp alternator, replaces H7 AGM battery (800 CCA/80-amp) with H7 SLI battery (730 CCA/80-amp) and replaces 19-gallon tank with 21.4-gallon.*	-$2,830.00
44U	Transmission: 10-Speed Automatic (44U)	N/C
STDAX	3.73 Axle Ratio	Included
STDGV	GVWR: 6,840 lbs (3,103 kgs)	Included
Wheels & Tires		
STDTR	Tires: 255/60R18 AS BSW	Included
STDWL	Wheels: 18" x 8" 5-Spoke Painted Black Steel *Includes polished stainless steel hub cover and center caps.*	Included
Seats & Seat Trim		
9	Unique HD Cloth Front Bucket Seats w/Vinyl Rear	Included

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

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2023 Police Interceptor Utility AWD Base (K8A)

Price Level: 320

As Configured Vehicle (cont'd)

Code	Description	MSRP
	Includes reduced bolsters, driver 6-way power track (fore/aft, up/down, tilt with manual recline, 2-way manual lumbar), passenger 2-way manual track (fore/aft, with manual recline) and built-in steel intrusion plates in both driver/passenger seatbacks.	
Other Options		
PAINT	Monotone Paint Application	STD
119WB	119" Wheelbase	STD
STDRD	Radio: AM/FM/MP3 Capable *Includes clock, 4-speakers, Bluetooth interface with hands-free voice command support (compatible with most Bluetooth connected mobile devices), 1 USB port and 4.2" color LCD screen center stack smart display.*	Included
51R	Driver Only LED Spot Lamp (Unity)	$395.00
68G	Rear-Door Controls Inoperable *Locks, handles and windows. Note: Can manually remove window or door disable plate with special tool. Note: Locks/windows operable from driver's door switches.*	$75.00
55F	Remote Keyless Entry Key Fob w/o Key Pad *Does not include PATS. Includes 4-key fobs. Key fobs are not fobbed alike when ordered with keyed-alike.*	$340.00
76R	Reverse Sensing System	$275.00
60R	Noise Suppression Bonds (Ground Straps)	$100.00
Emissions		
425	50 State Emission System Flexible Fuel Vehicle (FFV) system is standard equipment for vehicles equipped with the 3.3L V6 Direct-Injection engine.	STD
Interior Color		
96_01	Charcoal Black w/Unique HD Cloth Front Bucket Seats w/Vinyl Rear	N/C
Exterior Color		
YZ_01	Oxford White	N/C
SUBTOTAL		$45,520.00
Destination Charge		$1,495.00

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

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2023 Police Interceptor Utility AWD Base (K8A)

Price Level: 320

As Configured Vehicle (cont'd)

Code	Description	MSRP
TOTAL		$47,015.00

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

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Prepared by: Jason McCullough
09/08/2022

Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2023 Police Interceptor Utility AWD Base (K8A)

Price Level: 320

Major Equipment

(Based on selected options, shown at right)

3.3L V-6 DOHC w/gasoline direct injection 285hp
10 speed automatic w/OD

Exterior: Oxford White
Interior: Charcoal Black w/Unique HD Cloth Front Bucket Seats w/Vinyl Rear

* 4-wheel ABS
* Traction control
* Advance Trac w/Roll Stability Control
* Dual zone electronic automatic temperature control
* AM/FM stereo with seek-scan, external memory control
* Rear child safety locks
* Variable intermittent speed-sensitive wipers wipers
* Dual front airbags
* Airbag occupancy sensor
* Tachometer
* Underseat ducts
* 35-30-35 folding rear split-bench
* Class III hitch
* Brake assistance
* P 255/60R18 BSW AS W-rated tires
* Automatic air conditioning
* Tinted glass
* LED brakelights
* Dual power remote mirrors
* 18 x 8 steel wheels
* Driver and front passenger seat mounted side airbags
* Rear window defroster
* Message Center
* Reclining front bucket seats
* Audio control on steering wheel

Fuel Economy

City
N/A

Hwy
N/A

As Configured Vehicle

	MSRP
STANDARD VEHICLE PRICE	$47,165.00
Order Code 500A	N/C
3.73 Axle Ratio	Included
GVWR: 6,840 lbs (3,103 kgs)	Included
Tires: 255/60R18 AS BSW	Included
Wheels: 18" x 8" 5-Spoke Painted Black Steel	Included
Unique HD Cloth Front Bucket Seats w/Vinyl Rear	Included
Monotone Paint Application	STD
119" Wheelbase	STD
Radio: AM/FM/MP3 Capable	Included
50 State Emission System	STD
Engine: 3.3L V6 Direct-Injection (FFV)	-$2,830.00
Transmission: 10-Speed Automatic (44U)	N/C
Driver Only LED Spot Lamp (Unity)	$395.00
Remote Keyless Entry Key Fob w/o Key Pad	$340.00
Noise Suppression Bonds (Ground Straps)	$100.00
Rear-Door Controls Inoperable	$75.00
Reverse Sensing System	$275.00
Oxford White	N/C

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

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Prepared by: Jason McCullough
09/08/2022

Ford of Murfreesboro | 1550 N.W. Broad St. Murfreesboro Tennessee | 371291709

2023 Police Interceptor Utility AWD Base (K8A)

Price Level: 320

As Configured Vehicle	MSRP
Charcoal Black w/Unique HD Cloth Front Bucket Seats w/Vinyl Rear	N/C
SUBTOTAL	$45,520.00
Destination Charge	$1,495.00
TOTAL	**$47,015.00**

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

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CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
TT OF F. MUFREESBORO, INC.
FOR PURCHASE OF VEHICLES

This Contract is entered into and effective as of the _____ day of _____ 2022 ("Effective Date"), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **TT OF F. MURFREESBORO, INC.,** a corporation of the State of Tennessee ("Contractor").

This Contract consists of the following documents:

- ***This Contract***
- ***Contractor's State of Tennessee Contract No. 209/75348 with TT of F. Murfreesboro, Inc.***
- ***Sales Quotation No. MUR028 dated July 22, 2022, from TT of F. Murfreesboro, Inc. for thirty 2023 K8A Police Interceptor Utility AWD Vehicles and optional equipment***
- ***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, Contractor's State of Tennessee Contract No. 209/75348 with TT of F. Murfreesboro, Inc.***
- ***Finally, Sales Quotation No. MUR028 dated July 22, 2022, from TT of F. Murfreesboro Inc., for thirty 2023 K8A Police Interceptor Utility AWD Vehicles***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase the following vehicles and optional equipment as set forth in the State of Tennessee Contract No. 209/75348 with TT of F. Murfreesboro, Inc., and Contractor's Sales Quotation No. MUR028 dated July 22, 2022:

   Thirty (30) 2023 K8A PI Utility AWD Vehicles

   Furthermore, the City may utilize this Contract to procure additional vehicles and equipment from Contractor per the State of Tennessee Contract No. 209/75348 through the term of the contract. Such future procurements shall be executed through a Purchase Order after purchases exceeding $50,000 have been approved by Council.

2. **Term.** The term of this Contract shall be from the Effective Date to the expiration of the State of Tennessee No. Contract 209/75348 on December 31, 2023, or as amended by the State of Tennessee. 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.

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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 Sales Quotation No. MUR028 dated July 22, 2022, from TT of F. Murfreesboro, Inc., for thirty (30) 2023 K8A Police Interceptor Utility AWD Vehicles, at a price of $38,086.00 each plus $275.00 each for optional equipment, reflecting a **Total Purchase Price of $1,150,830.00** as set forth in the above-referenced Sales Quotation. 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. Invoices should be sent to: accountspayable@murfreesborotn.gov.

b. An employee of the City of Murfreesboro will pick-up the vehicles within three (3) working days of notification by Ford of Murfreesboro that it is ready for pickup. Please notify the City's contact person, Robert Holloway (email: 0388@murfreesborotn.gov) at (615) 849-2673 when vehicles are ready for pick-up.

c. Deliveries of all items shall be made as soon as possible after issuance of Purchase Order and no later than June 30, 2023. 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 bid shall meet the warranty requirements set forth in the specifications.

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

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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.

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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:	If to the Contractor:
City of Murfreesboro Attn: City Manager Post Office Box 1139 111 West Vine Street Murfreesboro, TN 37133-1139	Ford of Murfreesboro Attn: Jason McCullough, Fleet Sales Manager 1550 NW Broad St. Murfreesboro TN 37129-1709

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.

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15. **Title VI of the Civil Rights Act of 1964, as amended.** Contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.
16. **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.
17. **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
18. **Integration**. This Contract, Sales Quotations, 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.
19. **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, epidemic, pandemic or other cause of similar or dissimilar nature beyond its control.
20. **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.
21. **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.
22. **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.

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23. **Debarment and Suspension**.

a) The City certifies, to the best of its knowledge and belief, that the Selected Contractor:

i. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;

ii. has not within a three (3) year period preceding this 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;

iii. is 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

iv. has 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.

b) The City will provide immediate written notice to the U.S. Department of Treasury or granting authority, if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, the Selected Contractor is excluded or disqualified, or presently falls under any of the prohibitions of sections i-iv.

c) The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)," 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

i. Debarred from participation in any federally assisted Award;
ii. Suspended from participation in any federally assisted Award;
iii. Proposed for debarment from participation in any federally assisted Award;
iv. Declared ineligible to participate in any federally assisted Award;
v. Voluntarily excluded from participation in any federally assisted Award; or
vi. Disqualified from participation in any federally assisted Award.
vii. By signing this Agreement, Contractor certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C, as supplemented by 2 CFR Part 1200, throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

24. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended**. Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

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25. **Lobbying Certification. (4220.1F.IV.2.a.(4); 49 CFR Part 20).**

a) Contractors that apply or bid for an award exceeding $100,000 must file the lobbying certification before the awarding of the contract, and if applicable, a lobbying disclosure from a prospective third party contractor. See, DOT regulations, "New Restrictions on Lobbying" 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352, which implement the Byrd "Anti-Lobbying" Amendment, 31 U.S.C. Section 1352. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

b) The Contractor certifies, to the best of its knowledge and belief, that:

i. 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 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.

ii. 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 Promisor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

iii. The Contractor 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.

c) 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.

26. **Domestic preferences for procurements**. (2 CFR 200.322)

a) As appropriate and to the extent consistent with law, the Contractor, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

b) For purposes of this section:

i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-

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based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

27. **Increasing Seat Belt Use in the United States**. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

28. **Reducing Text Messaging While Driving**. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

29. **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.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2022 (the "Effective Date").

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

TT of F. MURFREESBORO, INC.

DocuSigned by:
By: Jason McCullough
Jason McCullough, Fleet Manager

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
Adam F. Tucker, City Attorney

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SALES QUOTE

FORD OF MURFREESBORO

SWC 209 NO. 75348

TO:

City of Murfreesboro

DATE: 7/22/2022

QUOTE ID: MUR028

QUANTITY	CODE	DESCRIPTION	UNIT PRICE	TOTAL
30	K8A	Police Interceptor Utility, V6 FFV MSRP $40,195	$38,086.00	$1,142,580.00
30	OPT	Optional Equipment	$275.00	$8,250.00
		Please sign and return this quote and attached vehicle information with a signed PO to place your order.		
		Total Price	**$38,361.00**	**$1,150,830.00**

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Agreement with Code One Safety for Procurement of AEDs

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Agreement with Code One Safety LLC for the procurement of AEDs.

Staff Recommendation

Approve agreement with Code One Safety for the purchase of AEDs.

Background Information

The purchase of 225 AEDs would allow MPD to equip police cars in the uniform fleet with this lifesaving device. These items are available for purchase through the Metropolitan Government of Nashville and Davidson County Contract with Zoll Medical Corporation, which is permitted by State statue and Council Resolution. Staff has verified the cost effectiveness of the current contract. Code One is an authorized distributor for Zoll.

Council Priorities Served

Maintain public safety

Properly equipped vehicles allow officers to timely and appropriately respond to calls for service.

Fiscal Impact

The cost of this purchase, $328,985, is funded by the American Rescue Plan Act Funds.

Attachments

Agreement with Code One Safety LLC

Agreement
Between
City of Murfreesboro
and
Code One Safety LLC,
An Authorized Distributor for ZOLL Medical Corporation,
for
Procurement of AEDs

This Agreement is entered into and effective as of the ____ day of _____ 2022, by and between the **City of Murfreesboro,** a municipal corporation of the State of Tennessee (the "City"), and **Code One Safety LLC,** an authorized distributor for ZOLL Medical Corporation. a Limited Liability Company of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document
- Metropolitan Government of Nashville and Davidson County Contract CW2227857 effective October 9, 2019, to October 8, 2024, and any properly executed Amendments thereto;
- Contractor's Quote dated July 19, 2022, 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, Contractor's Quote dated July 19, 2022; and
- Lastly, Metropolitan Government of Nashville and Davidson County Contract CW2227857 effective October 9, 2019, to October 8, 2024, and any properly executed Amendments thereto.

1. **Duties and Responsibilities of Contractor.** Contractor shall provide and City agrees to purchase the equipment and services set forth on Contractor's Quote July 19, 2022, Metropolitan Government of Nashville and Davidson County Contract CW2227857 effective October 9, 2019, to October 8, 2024, and any properly executed Amendments thereto in accordance with Contractor's Proposal.

2. **Term.** The term of this Contract shall be from _____, 2022 to October 8, 2024. 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.

2. 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 Contractor's Quote dated July 19, 2022, which reflects a total purchase price of Three hundred and twenty-eight thousand nine hundred and eighty-five dollars and forty-four cents ($328,985.44). 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. Invoices should be sent to: accountspayable@murfreesborotn.gov.

b. Deliveries of all items shall be made within 60-90 days of order at 1004 North Highland Avenue, Murfreesboro, TN 37130. Contact Person Captain Don Fanning (tel. 629-201-5570; email 0273@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during normal working hours of the City, Monday through Friday.

c. Deliveries of all items shall b e made as stated in the Contractor's Quote dated July 19, 2022. 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 Metropolitan Government of Nashville and Davidson County Contract CW2227857 effective October 9, 2019, to October 8, 2024, and any properly executed Amendments thereto.

e. All deliveries made pursuant to this 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 Metropolitan Government of Nashville and Davidson County Contract CW2227857 effective October 9, 2019, to October 8, 2024, and any property executed Amendments thereto.

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, (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."

6. **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.

7. **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:

Code One Safety LLC
805 S Church Str, Suite 6
Murfreesboro, TN 37130
(615) 801-0801
info@codeonesafety.com

8. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.

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 five (5) 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, 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.

Contractor will also be required to acknowledges that the City is a federal government contractor, and that by virtue of this Contract, Contractor is a federal government subcontractor. Therefore, in accordance with federal law, Contractor shall specifically acknowledge and agree as follows:

(1) 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.

(2) 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.

(3) 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.

15. **Title VI of the Civil Rights Act of 1964, as amended.** Contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract. Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

16. **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.

15. **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.

16. **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.

17. **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.

31. **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.

18. **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.

19. **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.

20. **Debarment and Suspension**.

a) The City certifies, to the best of its knowledge and belief, that the Selected Contractor:

- **i.** is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- **ii.** has not within a three (3) year period preceding this 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;
- **iii.** is 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

iv. has 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.

b) The City will provide immediate written notice to the U.S. Department of Treasury or granting authority, if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, the Selected Contractor is excluded or disqualified, or presently falls under any of the prohibitions of sections i-iv.

c) The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)," 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

i. Debarred from participation in any federally assisted Award;
ii. Suspended from participation in any federally assisted Award;
iii. Proposed for debarment from participation in any federally assisted Award;
iv. Declared ineligible to participate in any federally assisted Award;
v. Voluntarily excluded from participation in any federally assisted Award; or
vi. Disqualified from participation in any federally assisted Award.
vii. By signing this Agreement, Contractor certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C, as supplemented by 2 CFR Part 1200, throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

21. <u>Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended</u>. Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

22. <u>Lobbying Certification. (4220.1F.IV.2.a.(4); 49 CFR Part 20).</u>

a. Contractors that apply or bid for an award exceeding $100,000 must file the lobbying certification before the awarding of the contract, and if applicable, a lobbying disclosure from a prospective third-party contractor. See, DOT regulations, "New Restrictions on Lobbying" 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352, which implement the Byrd "Anti-Lobbying" Amendment, 31 U.S.C. Section 1352. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

b. The Contractor certifies, to the best of its knowledge and belief, that:

   i. 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 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.

   ii. 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 Promisor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

   iii. The Contractor 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.

c. 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.

23. <u>Domestic preferences for procurements</u>. (2 CFR 200.322)

a. As appropriate and to the extent consistent with law, the Contractor, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

b. For purposes of this section:

   i. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

   ii. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

24. <u>Increasing Seat Belt Use in the United States</u>. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

25. <u>Reducing Text Messaging While Driving</u>. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

26. 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 _____, 2022 (the "Effective Date").

CITY OF MURFREESBORO, TENNESSEE

By: _____
Shane McFarland, Mayor

CODE ONE SAFETY LLC

By: _____
Karl Daigle, Owner

APPROVED AS TO FORM:

_____
Adam F. Tucker, City Attorney

Code One Safety LLC

805 S Church St, Suite 6
Murfreesboro, TN 37130
(615) 801-0801
info@codeonesafety.com
www.CodeOneSafety.com

Estimate

ADDRESS
Capt Don Fanning
Murfreesboro Police Department (MPD)
1004 N Highland Ave
Murfreesboro, TN 37130
Rutherford

SHIP TO
Capt Don Fanning
Murfreesboro Police Department (MPD)
1004 N Highland Ave
Murfreesboro, TN 37130
Rutherford

ESTIMATE 1003
DATE 07/19/2022

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Gov Pricing ZOLL AED PLUS, PS SERIES, LCD, NO VOICE RCDG, W/BATTERIES, FED GOVT VALUE PKG	Gov Pricing ZOLL AED PLUS, PS SERIES, LCD, NO VOICE RCDG, W/BATTERIES, FED GOVT VALUE PKG "Purchase agreement price $1688.44"	225	1,451.00	326,475.00
	Pedi-padz II Pediatric Multi-Function Electrodes - Designed for use with the AED Plus. the AED Recog	Pedi-padz II Pediatric Multi-Function Electrodes - Designed for use with the AED Plus. the AED Recognizes When Pedi-padz II Are Connected and Automatically Proceeds with A Pediatric ECG and Adjusts Energy to Pediatric Levels. 1 Pair, 24 Month Shelf Life. "Purchase agreement price $66.50"	30	66.50	1,995.00
	Zoll AED Plus Trainer II Fully Automatic	Zoll AED Plus Trainer II Fully Automatic "Purchase agreement price $257.72"	2	257.72	515.44
	Zoll AED Plus	Zoll AED Plus	2	0.00	0.00

Trainer II Fully Automatic	Trainer II Fully Automatic	
	Free no charge	

The pricing on this estimate is equal to or less than the pricing given on the Zoll Purchasing Agreement No.CW2233159 on file with the City of Murfreesboro.

TOTAL **$328,985.44**

Prices quoted are valid for 30 days.

Accepted By

Accepted Date

269 Mill Road
Chelmsford, MA 01824
978.421.9655 *(main)*
978.421.0025 *(fax)*
zoll.com

July 29, 2022

Code One Safety LLC
Karl Daigle
805 S. Church St. Suite 6
Murfreesboro, TN 37130
karl@codeonesafety.com

Dear Mr. Daigle,

Please accept this letter validating **Code One Safety LLC** as an authorized Distributor for ZOLL Medical Corporation since **July 25, 2022**.

As you know, on August 26, 2019, ZOLL Medical Corporation acquired the stock of CSC. As part of the integration of CSC into ZOLL, **Code One Safety LLC** is authorized to distribute both product lines per your signed Distributor Agreement. The authorized markets are outlined in your Distributor Agreement for reference.

Should you or any of your customers have questions regarding this authorization letter please do not hesitate to contact me.

Best regards,

Paula Sousa

Paula Sousa
Sr. Contracts Specialist, Distribution
psousa@zoll.com

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title:	Purchase of two Brush Hawk knuckle loader trucks
Department:	Solid Waste
Presented by:	Russell Gossett, Director of Solid Waste

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Purchase of two 2024 Brush Hawg knuckle loaders from Sansom Equipment for Solid Waste Department.

Staff Recommendation

Approval to purchase two Brush Hawg knuckle loader trucks for $391,729.34.

Background Information

The proposed purchases are needed for the Solid Waste Department's operations. This equipment is budgeted in the CIP funds for FY22. These trucks will replace two older trucks, resulting in cleaner collection, less maintenance and increased operator morale. This equipment is used in the daily collection of brush and limb debris.

The equipment items to be purchased will be through a Sourcewell Cooperative Purchasing Program contract which provides the most competitive prices for the items the department needs. State statute and Council Resolution authorizes cooperative purchases.

Council Priorities Served

Responsible Budgeting

Purchasing and maintain proper equipment that provides for the most efficient and lowest operating expense is an important aspect of responsible budgeting.

Fiscal Impact

The expense, $391,729, is funded by FY22 Solid Waste CIP budget.

Attachments

1. Purchasing contract
2. Sansom Equipment quote

National Auto Fleet Group

A Division of Chevrolet of Watsonville

490 Auto Center Drive, Watsonville, CA 95076
(855) 289-6572 | (855) BUY-NJPA | (831) 480-8497
Fleet@NationalAutoFleetGroup.com

Russell Gossett
City of Murfreesboro, TN
620 West Main Street
Murfeesboro, TN
United States

8/29/2022

Dear Russell Gossett

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration:

1 ea 2024 International HV607 Chassis with Brush Hawg Knuckle Loader

Which will be personally delivered to your department yard by Sansom Equipment Company's representative; **Danny Paladino**

Unit Cost	$195,864.67
Tax	
Total	**195,864.67**

This vehicle(s) is available under the **Sourcewell (Formerly Known as NJPA) Contract 060920-NAF.** Please reference this Bid Number on all Purchase Orders.

Thank you in advance for your consideration. Should you have any questions, please do not hesitate to call.

Sincerely,

Jesse Cooper
National Fleet Manager
Office (855) 289-6572
Fax (831) 480-8497

1	ea	C-Model Multi Lever
1	ea	Upgrade to Electric/Air-Over-Hydraulic Joystick Controls
1	ea	Add Dual "Smart Lamps" in Lower Light Bar
1	ea	Steel surcharge
1	ea	Freight
1	ea	2024 International HV607

Quote valid for 30 days.

National Auto Fleet Group
A Division of Chevrolet of Watsonville

SANSOM Equipment Company

BRUSH HAWG®

EXPERIENCE THE DIFFERENCE

SOLD BY:

SANSOM Equipment Company

BIRMINGHAM, AL	MOBILE, AL	SHELBYVILLE, TN	GEORGIA
(205) 324-3104	(251) 631-3766	(615) 815-8508	(706) 685-6900
parts1@secequip.com	parts2@secequip.com	parts3@secequip.com	parts4@secequip.com
service1@secequip.com	service2@secequip.com	service3@secequip.com	service4@secequip.com

C-MODEL

STANDARD FEATURES

- 30" diameter slewing ring bearing
- 2-stage planetary gear box and disc valve motor
- 20'-8" overall reach
- Dual stand-up operator stations w/ direct linkage controls
- 4-way adjustable stabilizers
- 48" x 60" bucket w/ bolt on cylinder covers
- 15 ton scissor hoist
- 5 Micron synthetic drop-in return filter
- 18' dump body w/ 24" walk-through

OPTIONAL FEATURES

- Air over hydraulic joystick controls
- 23 ton scissor hoist
- Tarp system
- Custom dump body configurations
- Custom lighting packages
- HardOx body
- Dual barn doors
- Boom mounted work lights
- 48" exterior tool box

C-MODEL COMBO UNIT

STANDARD FEATURES

- C-Model grapple loader installed behind cab
- Dual joystick control stations
- GALFAB 60,000-lb. cable hoist
- Inside/outside cab cable hoist controls
- All LED body lights
- Full steel tandem axle fenders
- Full steel recessed light bumper
- Rear vision camera system
- 22' roll off style dump body

OPTIONAL FEATURES

- Air over hydraulic joystick controls
- 23 ton scissor hoist
- Custom dump body configurations
- Custom lighting packages
- 48" exterior tool box
- Dual rear bumper work lights
- Integrated manual tarp system

AWC-MODEL

STANDARD FEATURES

- Standard C-Model dump body
- Roll-Rite Electric tarp System
- Patented in-cab control system
- Freightliner M2 crew cab chassis (built exclusively for Brush Hawg)
- Air/electric over-hydraulic joystick controls
- Multiple camera systems
- 30" diameter slewing bearing
- 18" tapered dump body
- Telescopic tip boom extension
- 15 ton scissor hoist
- Single stage direct mount pump

OPTIONAL FEATURES

- 23 ton scissor hoist
- Hydraulic oil cooler assembly
- Bolt-on stabilizer pads
- 4 corner amber strobe lights
- Dual Smart Lamps
- 48" exterior tool box
- Continuous floor-to-wall interior gussets

SANSOM Equipment Company

DEMONSTRATIONS AND STOCK AVAILABLE

INSIDESALES@SECEQUIP.COM

WWW.SECEQUIP.COM

DocuSign Envelope ID: 3AE0DF90-94F4-4247-8DE1-19472D992C25

CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
72 HOUR LLC dba NATIONAL AUTO FLEET GROUP
FOR PURCHASE OF
2024 INTERNATIONAL HV607 CHASSIS WITH BRUSH HAWG KNUCKLE LOADER

This contract is entered into on this _____ day of _____, 2022 by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **72 Hour LLC, dba National Auto Fleet Group,** a limited liability company of the State of California ("Contractor"). This contract consists of the following documents:

- ***Sourcewell Purchasing Cooperative Agreement No.060920-NAF (hereinafter, "Sourcewell Agreement") all relevant documents located at: https://www.sourcewell-mn.gov/cooperative-purchasing/060920-naf#tab-contract-documents***
- ***Contractor's Proposals, Southland Transportation Group's proposal dated August 3, 2022 (Exhibit A) and National Auto Fleet Group's proposal No. 46567-01 dated August 2, 2022 (Exhibit B) and incorporated into this Contract by reference (hereinafter referred to collectively as "Contractor's Proposals")***
- ***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***
- ***Sourcewell Agreement***
- ***Contractors' Proposals***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide and City agrees to purchase two (2) 2024 International HV607 Chassis with Brush Hawg Knuckle Loader from Contractor pursuant to the Sourcewell Agreement and Contractor's Proposals. Vehicle to be delivered by Sansom Equipment Company, an authorized dealer of International equipment.

2. **Term.** The term of this Contract shall be from the date first listed above (the "Effective Date") to the expiration of the Sourcewell Agreement on August 1, 2024 or as amended by Sourcewell. Contractor's performance may be terminated in whole or in part:
   2.1 Upon 30-day prior notice, for the convenience of the City.
   2.2 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.
   2.3 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.
   2.4 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.
   2.5 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.**

   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.

   3.2 All items must be available for delivery within one year from execution of this contract. 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. Contact person: Russell Gossett (615-893-3681, rgossett@murfreesborotn.gov) The equipment shall be delivered to the City of Murfreesboro, Solid Waste Department, 4765 Florence Road, Murfreesboro, TN 37129.

   3.3 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.

   3.4 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 Sourcewell Agreement and Contractor's Proposals.

   3.5 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 Quote.

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 above referenced Contract: Two (2) 2024 International HV607 Chassis with Brush Hawg Knuckle Loader from Contractor pursuant to the Sourcewell Agreement for a total amount of **Three Hundred Ninety-One Thousand Seven Hundred Thirty-Five Dollars and Thirty-Four Cents ($391,735.34)**.

5. **Warranty.** Contractor shall provide all warranties as described in the Sourcewell Agreement, as well as manufacturer's standard warranty.

6. **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.

7. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.

8. **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.

9. **Modification of Contract.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto.

10. **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.

11. **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.

12. **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.

13. **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 policy.

14. **Indemnification and Hold Harmless.**

    14.1 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.

    14.2 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.

    14.3 Copyright, Trademark, Service Mark, or Patent Infringement.

        14.3.1 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.

        14.3.2 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:

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14.3.2.1 Procure for the City the right to continue using the products or services.

14.3.2.2 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.

14.3.2.3 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.

14.3.3 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.

15. **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.

16. **Assignment—Consent Required.** 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. **Entire Contract.** This contract, the Sourcewell Agreement, and Contractors' Proposals 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.

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, epidemic, pandemic 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. **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.

21.1 Notices to City shall be sent to:

Department:	City of Murfreesboro Administration
Attention:	City Manager
Address:	Post Office Box 1139
	111 West Vine Street
	Murfreesboro, TN 37133-1139

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21.2 Notices to Contractor shall be sent to:

***Contractor*:**	**72 Hour LLC dba National Auto Fleet Group**
Attention:	**Jesse Cooper**
Address:	**490 Auto Center Drive**
	Watsonville, CA 95076

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.

CITY OF MURFREESBORO

By:_____
Shane McFarland, Mayor

72 HOUR LLC dba NATIONAL AUTO FLEET GROUP

DocuSigned by:
By: Jesse Cooper
Jesse Cooper, Co-Owner and Fleet Manager

Approved as to form:

DocuSigned by:
Adam F. Tucker
Adam F. Tucker, City Attorney

INTERNATIONAL®

August 02, 2022

Prepared For:
Sansom / HV Knuckle Boom
Josh Stringer
1225 VANDERBILT
BHAM, AL 35203-
(205)324 - 3104
Reference ID: HV Knuckle Boom

Presented By:
SOUTHLAND TRANSPORTATION GROUP
Bobby Vick
200 OXMOOR BOULEVARD
HOMEWOOD AL 35209 -
(205)942-6226

Thank you for the opportunity to provide you with the following quotation on a new International truck. I am sure the following detailed specification will meet your operational requirements, and I look forward to serving your business needs.

Model Profile
2024 HV607 SBA (HV607)

AXLE CONFIG:	4X2
APPLICATION:	Construction Dump
MISSION:	Requested GVWR: 33000. Calc. GVWR: 33000. Calc. GCWR: 55000 Calc. Start / Grade Ability: 0.00% / 0.00% @ 0 MPH Calc. Geared Speed: N/A
DIMENSION:	Wheelbase: 254.00, CA: 186.90, Axle to Frame: 61.00
ENGINE, DIESEL:	{Cummins L9 300} EPA 2021, 300HP @ 2200 RPM, 860 lb-ft Torque @ 1200 RPM, 2200 RPM Governed Speed, 300 Peak HP (Max)
TRANSMISSION, AUTOMATIC:	{Allison 3500 RDS} 5th Generation Controls, Wide Ratio, 6-Speed with Double Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 80,000-lb GVW and GCW Max, On/Off Highway
CLUTCH:	Omit Item (Clutch & Control)
AXLE, FRONT NON-DRIVING:	{Meritor MFS-12-143A} Wide Track, I-Beam Type, 12,000-lb Capacity
AXLE, REAR, SINGLE:	{Meritor MS-21-14X-4DCR} Single Reduction, 21,000-lb Capacity, Driver Controlled Locking Differential, R Wheel Ends
CAB:	Conventional, Day Cab
TIRE, FRONT:	(2) 11R22.5 Load Range H HSR2 (CONTINENTAL), 498 rev/mile, 75 MPH, All-Position
TIRE, REAR:	(4) 11R22.5 Load Range H HDL2 (CONTINENTAL), 493 rev/mile, 75 MPH, Drive
SUSPENSION, REAR, SINGLE:	23,500-lb Capacity, Vari-Rate Springs
PAINT:	Cab schematic 100WL Location 1: 9219, Winter White (Std) Chassis schematic N/A

Code	Description
HV60700	Base Chassis, Model HV607 SBA with 254.00 Wheelbase, 186.90 CA, and 61.00 Axle to Frame.

AXLE CONFIGURATION

1ANA	AXLE CONFIGURATION {Navistar} 4x2
	Notes : Pricing may change if axle configuration is changed.

ENGINE

12ESL	ENGINE, DIESEL {Cummins L9 300} EPA 2021, 300HP @ 2200 RPM, 860 lb-ft Torque @ 1200 RPM, 2200 RPM Governed Speed, 300 Peak HP (Max)
12XCS	CARB EMISSION WARR COMPLIANCE Federal, Does Not Comply with CARB Emission Warranty
12WZE	CARB IDLE COMPLIANCE Federal, Does Not Comply with California Clean Air Idle Regulations
12VJC	EMISSION, CALENDAR YEAR {Cummins L9} EPA, OBD and GHG Certified for Calendar Year 2022
12UAW	RADIATOR Aluminum, 2-Row, Cross Flow, Over Under System, 1045 SqIn Louvered, with 373 SqIn Charge Air Cooler, Includes In-Tank Oil Cooler
	Includes : DEAERATION SYSTEM with Surge Tank : HOSE CLAMPS, RADIATOR HOSES Gates Shrink Band Type; Thermoplastic Coolant Hose Clamps : RADIATOR HOSES Premium, Rubber
12THT	FAN DRIVE {Horton Drivemaster} Two-Speed Type, Direct Drive, with Residual Torque Device for Disengaged Fan Speed
	Includes : FAN Nylon
12VBR	AIR CLEANER with Service Protection Element
12703	ANTI-FREEZE Red, Extended Life Coolant; To -40 Degrees F/ -40 Degrees C, Freeze Protection
12849	BLOCK HEATER, ENGINE 120V/1000W, for Cummins ISB/B6.7/ISL/L9 Engines
	Includes : BLOCK HEATER SOCKET Receptacle Type; Mounted below Drivers Door
12XBM	ENGINE CONTROL, REMOTE MOUNTED Provision for; Includes Wiring for Body Builder Installation of PTO Controls and Starter Lockout, with Ignition Switch Control, for Cummins B6.7 and L9 Engines
12WBR	FAN OVERRIDE Manual; with Electric Switch on Instrument Panel, (Fan On with Switch On)
12VXT	THROTTLE, HAND CONTROL Engine Speed Control; Electronic, Stationary, Variable Speed; Mounted on Steering Wheel

TRANSMISSION

13AVL	TRANSMISSION, AUTOMATIC {Allison 3500 RDS} 5th Generation Controls, Wide Ratio, 6-Speed with Double Overdrive, with PTO Provision, Less Retarder, Includes Oil Level Sensor, with 80,000-lb GVW and GCW Max, On/Off Highway
13WUC	ALLISON SPARE INPUT/OUTPUT for Rugged Duty Series (RDS) and Regional Haul Series (RHS), General Purpose Trucks, Construction, Package Number 223
13WVV	NEUTRAL AT STOP Allison Transmission Shifts to Neutral When Service Brake is Depressed and Vehicle is at Stop; Remains in Neutral Until Service Brake is Released
13XAM	PTO LOCATION Dual, Customer Intends to Install PTO at Left and/or Right Side of Transmission

Code	Description
13WYU	SHIFT CONTROL PARAMETERS {Allison} 3000 or 4000 Series Transmissions, Performance Programming
13WLP	TRANSMISSION OIL Synthetic; 29 thru 42 Pints
13WET	TRANSMISSION SHIFT CONTROL Column Mounted Stalk Shifter, Not for Use with Allison 1000 & 2000 Series Transmission

CLUTCH

11001	CLUTCH Omit Item (Clutch & Control)

REAR AXLES, SUSPENSIONS

14ANY	AXLE, REAR, SINGLE {Meritor MS-21-14X-4DCR} Single Reduction, 21,000-lb Capacity, Driver Controlled Locking Differential, R Wheel Ends .
14SAN	SUSPENSION, REAR, SINGLE 23,500-lb Capacity, Vari-Rate Springs
14WMG	AXLE, REAR, LUBE {EmGard FE-75W-90} Synthetic Oil; 30 thru 39.99 Pints

FRONT AXLES

2ARW	AXLE, FRONT NON-DRIVING {Meritor MFS-12-143A} Wide Track, I-Beam Type, 12,000-lb Capacity

FRONT SUSPENSIONS

3ADC	SUSPENSION, FRONT, SPRING Parabolic Taper Leaf, Shackle Type, 12,000-lb Capacity, with Shock Absorbers
3770	SPRINGS, FRONT AUXILIARY Rubber

CABS, COWLS, BODIES

16030	CAB Conventional, Day Cab
16ZBT	ACCESS, CAB Steel, Driver & Passenger Sides, Two Steps per Door, for use with Day Cab and Extended Cab
16BAM	AIR CONDITIONER with Integral Heater and Defroster
16WBY	ARM REST, RIGHT, DRIVER SEAT
16VKB	CAB INTERIOR TRIM Classic, for Day Cab Includes : CONSOLE, OVERHEAD Molded Plastic with Dual Storage Pockets, Retainer Nets and CB Radio Pocket; Located Above Driver and Passenger : DOME LIGHT, CAB Door Activated and Push On-Off at Light Lens, Timed Theater Dimming, Integral to Overhead Console, Center Mounted : SUN VISOR (2) Padded Vinyl; 2 Moveable (Front-to-Side) Primary Visors, Driver Side with Toll Ticket Strap
16XCW	CAB, INTERIOR TRIM, CLOSEOUT Under IP, Driver Side
16WSK	CAB REAR SUSPENSION Air Bag Type
16WLS	FRESH AIR FILTER Attached to Air Intake Cover on Cowl Tray in Front of Windshield Under Hood
16GED	GAUGE CLUSTER Base Level; English with English Electronic Speedometer Includes : GAUGE CLUSTER DISPLAY: Base Level (3" Monochromatic Display), Premium Level (5" LCD Color Display); Odometer, Voltmeter, Diagnostic Messages, Gear Indicator, Trip Odometer, Total Engine Hours, Trip Hours, MPG, Distance to Empty/Refill for

Code	Description
	: GAUGE CLUSTER Speedometer, Tachometer, Engine Coolant Temp, Fuel Gauge, DEF Gauge, Oil Pressure Gauge, Primary and Secondary Air Pressure : WARNING SYSTEM Low Fuel, Low DEF, Low Oil Pressure, High Engine Coolant Temp, Low Battery Voltage (Visual and Audible), Low Air Pressure (Primary and Secondary)
16HGH	GAUGE, OIL TEMP, AUTO TRANS for Allison Transmission
16SED	GRAB HANDLE, EXTERIOR (2) Black, Aluminum, for Cab Entry Mounted Left and Right Side at B-Pillar
16GHU	GRAB HANDLE, CAB INTERIOR (2) Safety Yellow
16564	HEATER SHUT-OFF VALVES (1) Ball Valve Type, Supply Line
16XJN	INSTRUMENT PANEL Flat Panel
16HKT	IP CLUSTER DISPLAY On Board Diagnostics Display of Fault Codes in Gauge Cluster
16SNL	MIRRORS (2) C-Loop, Black Heads and Arms, 7.5" x 14" Flat Glass, Includes 7.5" x 7" Convex Mirrors, for 102" Load Width Notes : Mirror Dimensions are Rounded to the Nearest 0.5"
16WSL	MIRROR, CONVEX, HOOD MOUNTED {Lang Mekra} (2) Right and Left Sides, Black 7.5" Sq.
16VZB	SEAT BELT COMFORT CLIP
16JNT	SEAT, DRIVER {National 2000} Air Suspension, High Back with Integral Headrest, Vinyl, Isolator, 1 Chamber Lumbar, with 2 Position Front Cushion Adjust, -3 to +14 Degree Angle Back Adjust
16SMH	SEAT, TWO-MAN PASSENGER {National} Fixed Back, Integrated Headrest in Both Occupant Positions, Vinyl, with Under Seat Storage Compartment
16WJU	WINDOW, POWER (2) and Power Door Locks, Left and Right Doors, Includes Express Down Feature

FRAMES

1CAJ	FRAME RAILS Heat Treated Alloy Steel (120,000 PSI Yield); 10.866" x 3.622" x 0.437" (276.0mm x 92.0mm x 11.1mm); 456.0" (11582mm) Maximum OAL
1LLD	BUMPER, FRONT Contoured, Steel
1MEJ	FRAME, SPECIAL EFFECTS Dimple on Left and Right Top Flange of Frame Rail to Reference Rear Axle Centerline
1CGM	GVWR LIMITATION FOR FRAME Frame Rails Limited to 33,000 lb Maximum GVWR
1570	TOW HOOK, FRONT (2) Frame Mounted
1LEH	LICENSE PLATE HOLDER Single Plate, Swing Type, Mounted Below Front Bumper
1WGS	WHEELBASE RANGE 189" (480cm) Through and Including 256" (650cm)

BRAKES

4091	BRAKE SYSTEM, AIR Dual System for Straight Truck Applications Includes : BRAKE LINES Color and Size Coded Nylon : DRAIN VALVE Twist-Type : GAUGE, AIR PRESSURE (2) Air 1 and Air 2 Gauges; Located in Instrument Cluster : PARKING BRAKE CONTROL Yellow Knob, Located on Instrument Panel : PARKING BRAKE VALVE For Truck : QUICK RELEASE VALVE On Rear Axle for Spring Brake Release: 1 for 4x2, 2 for 6x4 : SPRING BRAKE MODULATOR VALVE R-7 for 4x2, SR-7 with relay valve for 6x4/8x6

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Code	Description
4GBM	BRAKE, PARKING Manual Push-Pull Pneumatic Parking Brake
4AZJ	AIR BRAKE ABS {Bendix AntiLock Brake System} 4-Channel (4 Sensor/4 Modulator) Full Vehicle Wheel Control System, with Automatic Traction Control
4XDP	BRAKES, FRONT {Meritor 16.5X5 Q-PLUS CAST} Air S-Cam Type, Cast Spider, Fabricated Shoe, Double Anchor Pin, Size 16.5" X 5", 14,700-lb Capacity
4EXV	BRAKE CHAMBERS, FRONT AXLE {Bendix} 24 SqIn
4LAA	SLACK ADJUSTERS, FRONT {Haldex} Automatic
4WBX	DUST SHIELDS, FRONT BRAKE for Air Cam Brakes
4XDR	BRAKES, REAR {Meritor 16.5X7 Q-PLUS CAST} Air S-Cam Type, Cast Spider, Fabricated Shoe, Double Anchor Pin, Size 16.5" X 7", 23,000-lb Capacity per Axle
4EXU	BRAKE CHAMBERS, REAR AXLE {Bendix EverSure} 30/30 SqIn Spring Brake
4LGA	SLACK ADJUSTERS, REAR {Haldex} Automatic
4WDM	DUST SHIELDS, REAR BRAKE for Air Cam Brakes
4SPA	AIR COMPRESSOR {Cummins} 18.7 CFM
4EBS	AIR DRYER {Bendix AD-9} with Heater
4VKC	AIR DRYER LOCATION Mounted Inside Left Rail, Back of Cab
4VKJ	AIR TANK LOCATION (2) Mounted Under Battery Box, Outside Left Rail, Back of Cab, Perpendicular to Rail
4WWZ	DRAIN VALVE (3) with Pull Chains for Air Tanks

STEERING

5PSA	STEERING GEAR {Sheppard M100} Power
5708	STEERING COLUMN Tilting
5CAW	STEERING WHEEL 4-Spoke; 18" Dia., Black

DRIVELINES

6DGL	DRIVELINE SYSTEM {Dana Spicer} Service Free SPL170, for 4x2/6x2

EXHAUST SYSTEMS

7BME	EXHAUST SYSTEM Horizontal Aftertreatment System, Frame Mounted Under Right Rail Back of Cab, Includes Single Short Horizontal Tail Pipe
7SCP	ENGINE EXHAUST BRAKE for Cummins ISB/B6.7/ISL/L9 Engine with Variable Vane Turbo Charger

ELECTRICAL SYSTEMS

8000	ELECTRICAL SYSTEM 12-Volt, Standard Equipment Includes : DATA LINK CONNECTOR For Vehicle Programming and Diagnostics In Cab : HAZARD SWITCH Push On/Push Off, Located on Instrument Panel to Right of Steering Wheel : HEADLIGHT DIMMER SWITCH Integral with Turn Signal Lever : PARKING LIGHT Integral with Front Turn Signal and Rear Tail Light : STARTER SWITCH Electric, Key Operated : STOP, TURN, TAIL & B/U LIGHTS Dual, Rear, Combination with Reflector

Code	Description
	: TURN SIGNAL SWITCH Self-Cancelling for Trucks, Manual Cancelling for Tractors, with Lane Change Feature : WINDSHIELD WIPER SWITCH 2-Speed with Wash and Intermittent Feature (5 Pre-Set Delays), Integral with Turn Signal Lever : WINDSHIELD WIPERS Single Motor, Electric, Cowl Mounted : WIRING, CHASSIS Color Coded and Continuously Numbered
8WXD	ALARM, PARKING BRAKE Electric Horn Sounds in Repetitive Manner When Vehicle Park Brake is "NOT" Set, with Ignition "OFF" and any Door Opened
8GXD	ALTERNATOR {Leece-Neville AVI160P2013} Brush Type, 12 Volt, 160 Amp Capacity, Pad Mount, with Remote Sense
8RPR	ANTENNA for Increased Roof Clearance Applications
8THB	BACK-UP ALARM Electric, 102 dBA
8VUL	BATTERY BOX Steel, with Plastic Cover, 18" Wide, 2-4 Battery Capacity, Mounted Left Side Back of Cab
8XHD	BATTERY DISCONNECT SWITCH 300 Amp, Disconnects Charging Circuits, Locks with Padlock, Cab Mounted
8MJT	BATTERY SYSTEM {Fleetrite} Maintenance-Free, (2) 12-Volt 1900CCA Total, Top Threaded Stud
8HAE	BODY BUILDER WIRING Rear of Frame; Includes Sealed Connectors for Tail/Amber Turn/Marker/ Backup/ Accessory Power/Ground and Sealed Connector for Stop/Turn
8XAH	CIRCUIT BREAKERS Manual-Reset (Main Panel) SAE Type III with Trip Indicators, Replaces All Fuses
8WPH	CLEARANCE/MARKER LIGHTS (5) {Truck Lite} Amber LED Lights, Flush Mounted on Cab or Sunshade
8XMB	CONNECTOR, DASH, CENTER PANEL Cab Wiring for TMC RP1226 Vehicle Accessory Connector; Includes 14-pin Connector with Switched Power, Battery Power, Ignition Power, Ground & Body 250K Datalink, Connector Located Behind Instrument Panel Center Console
8WXB	HEADLIGHT WARNING BUZZER Sounds When Head Light Switch is on and Ignition Switch is in "Off" Position
8XNY	HEADLIGHTS Halogen
8WRB	HEADLIGHTS ON W/WIPERS Headlights Will Automatically Turn on if Windshield Wipers are turned on
8XHN	HORN, AIR Single Trumpet, Black, with Lanyard Pull Cord
8541	HORN, ELECTRIC (2) Disc Style
8WWJ	INDICATOR, LOW COOLANT LEVEL with Audible Alarm
8WBW	JUMP START STUD Remote Mounted
8XHR	POWER SOURCE, ADDITIONAL Auxiliary Power Outlet (APO) with USB Port, Located in the Instrument Panel
8RPS	RADIO AM/FM/WB/Clock/Bluetooth/USB Input/Auxiliary Input
8RMV	SPEAKERS (2) 6.5" Dual Cone Mounted in Doors
8WTK	STARTING MOTOR {Delco Remy 38MT Type 300} 12 Volt, Less Thermal Over-Crank Protection
8XBK	SWITCH, AUXILIARY Switch 40 amp Circuit for Customer Use; Includes Wiring Connection at Power Distribution Center (PDC) and Control in Cab
8XHX	SWITCH, MARKER INTERRUPT for Marker Lights and Headlights, Located in Steering Wheel
8NAA	TAIL LIGHT WIRING MODIFIED Includes: Wiring for Standard Lt & Rt Tail Lights; Separate 8.0' of Extra Cable Wiring for Lt & Rt Body Mounted Tail Lights
8WPZ	TEST EXTERIOR LIGHTS Pre-Trip Inspection will Cycle all Exterior Lamps Except Back-up Lights

Code	Description
8XGT	TURN SIGNALS, FRONT Includes LED Side Turn Lights Mounted on Fender
8XKY	USB PORT (1) Located in the Instrument Panel
8WGL	WINDSHIELD WIPER SPD CONTROL Force Wipers to Slowest Intermittent Speed When Park Brake Set and Wipers Left on for a Predetermined Time

FRONT END

9WBM	FRONT END Tilting, Fiberglass, with Three Piece Construction, Sloped Front
9WAC	BUG SCREEN Mounted Behind Grille
9HAD	GRILLE Chrome
9AAB	LOGOS EXTERIOR Model Badges
9AAE	LOGOS EXTERIOR, ENGINE Badges

SPEEDOMETER, TOOLS, MISC

10AGB	COMMUNICATIONS MODULE Telematics Device with Over the Air Programming; Includes Five Year Data Plan and International 360
10XAP	FIRE EXTINGUISHER BRACKET Mounted Left Side Driver Seat
10BAE	LABEL, DEF "DEF ONLY"
10060	PAINT SCHEMATIC, PT-1 Single Color, Design 100 Includes : PAINT SCHEMATIC ID LETTERS "WL"
10761	PAINT TYPE Base Coat/Clear Coat, 1-2 Tone
10WCY	SAFETY TRIANGLES

FUEL TANKS

15SGJ	FUEL TANK Top Draw, Non-Polished Aluminum, D-Style, 16" Tank Depth, 50 US Gal (189L), Mounted Left Side, Under Cab
15WDG	DEF TANK 7 US Gal (26L) Capacity, Frame Mounted Outside Left Rail, Under Cab
15LNR	FUEL/WATER SEPARATOR {Racor 400 Series} with Primer Pump, Includes Water-in-Fuel Sensor, Mounted on Engine

WHEELS, TIRES - FRONT

27DVN	WHEELS, FRONT {Accuride 42644} DISC; 22.5x8.25 Rims, Standard Polish Aluminum, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with Steel Hubs
7382135415	(2) TIRE, FRONT 11R22.5 Load Range H HSR2 (CONTINENTAL), 498 rev/mile, 75 MPH, All-Position

WHEELS, TIRES - REAR

28DUK	WHEELS, REAR {Accuride 29169} DUAL DISC; 22.5x8.25 Rims, Powder Coat Steel, 5-Hand Hole, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with .472" Thick Increased Capacity Disc and Steel Hubs
7382135432	(4) TIRE, REAR 11R22.5 Load Range H HDL2 (CONTINENTAL), 493 rev/mile, 75 MPH, Drive

WHEELS MISC OPTIONS

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Code	Description
29WLK	WHEEL BEARING, FRONT, LUBE {EmGard FE-75W-90} Synthetic Oil

BODY INTEGRATION

60AKG	BDY INTG, PTO ACCOMMODATION for (3) Latched Rocker Switches, (1) PTO Switch, (2) Generic Switches to Control (3) 30 amp relays, with Programmable Interlocks, for Body Builder Hook up in the Engine Compartment Left Side, Recommended for Automatic Transmissions
	Services Section:

WARRANTY

40128	WARRANTY Standard for HV507, HV50B, HV607 Models, Effective with Vehicles Built July 1, 2017 or Later, CTS-2025A

Body/Allied Equipment

Code	Description

Goods Purchased

Code	Description

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Chassis Only

Description Net	(US DOLLAR)	Price
MSRP Price:		$105,572.67

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National Auto Fleet Group

A Division of Chevrolet of Watsonville

490 Auto Center Drive, Watsonville, CA 95076
(855) 289-6572 | (855) BUY-NJPA | (831) 480-8497
Fleet@NationalAutoFleetGroup.com

Raymond Hillis
City of Murfreesboro, TN
620 West Main Street
Murfreesboro, TN 37133
United States

8/3/2022

Dear Raymond Hillis

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration:

1 ea 2024 International HV607 Chassis with Brush Hawg Knuckle Loader

Which will be personally delivered to your department yard by Sansom Equipment Company's representative; **Danny Paladino**

Unit Cost	$195,864.67
Tax	
Total	**195,864.67**

This vehicle(s) is available under the **Sourcewell (Formerly Known as NJPA) Contract 060920-NAF.** Please reference this Bid Number on all Purchase Orders.

Thank you in advance for your consideration. Should you have any questions, please do not hesitate to call.

Sincerely,

Jesse Cooper
National Fleet Manager
Office (855) 289-6572
Fax (831) 480-8497

1	ea	C-Model Multi Lever
1	ea	Upgrade to Electric/Air-Over-Hydraulic Joystick Controls
1	ea	Add Dual "Smart Lamps" in Lower Light Bar
1	ea	Steel surcharge
1	ea	Freight
1	ea	2024 International HV607

Quote valid for 30 days.

National Auto Fleet Group
A Division of Chevrolet of Watsonville

SANSOM Equipment Company

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BRUSH HAWG®

EXPERIENCE THE DIFFERENCE

SOLD BY:

SANSOM Equipment Company

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parts1@secequip.com	parts2@secequip.com	parts3@secequip.com	parts4@secequip.com
service1@secequip.com	service2@secequip.com	service3@secequip.com	service4@secequip.com

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C-MODEL

STANDARD FEATURES

- 30" diameter slewing ring bearing
- 2-stage planetary gear box and disc valve motor
- 20'-8" overall reach
- Dual stand-up operator stations w/ direct linkage controls
- 4-way adjustable stabilizers
- 48" x 60" bucket w/ bolt on cylinder covers
- 15 ton scissor hoist
- 5 Micron synthetic drop-in return filter
- 18' dump body w/ 24" walk-through

OPTIONAL FEATURES

- Air over hydraulic joystick controls
- 23 ton scissor hoist
- Tarp system
- Custom dump body configurations
- Custom lighting packages
- HardOx body
- Dual barn doors
- Boom mounted work lights
- 48" exterior tool box

C-MODEL COMBO UNIT

STANDARD FEATURES

- C-Model grapple loader installed behind cab
- Dual joystick control stations
- GALFAB 60,000-lb. cable hoist
- Inside/outside cab cable hoist controls
- All LED body lights
- Full steel tandem axle fenders
- Full steel recessed light bumper
- Rear vision camera system
- 22' roll off style dump body

OPTIONAL FEATURES

- Air over hydraulic joystick controls
- 23 ton scissor hoist
- Custom dump body configurations
- Custom lighting packages
- 48" exterior tool box
- Dual rear bumper work lights
- Integrated manual tarp system

AWC-MODEL

STANDARD FEATURES

- Standard C-Model dump body
- Roll-Rite Electric tarp System
- Patented in-cab control system
- Freightliner M2 crew cab chassis (built exclusively for Brush Hawg)
- Air/electric over-hydraulic joystick controls
- Multiple camera systems
- 30" diameter slewing bearing
- 18" tapered dump body
- Telescopic tip boom extension
- 15 ton scissor hoist
- Single stage direct mount pump

OPTIONAL FEATURES

- 23 ton scissor hoist
- Hydraulic oil cooler assembly
- Bolt-on stabilizer pads
- 4 corner amber strobe lights
- Dual Smart Lamps
- 48" exterior tool box
- Continuous floor-to-wall interior gussets

SANSOM Equipment Company

DEMONSTRATIONS AND STOCK AVAILABLE

INSIDESALES@SECEQUIP.COM

WWW.SECEQUIP.COM

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Agreement Between TDOT and the City regarding the I-24 Smart Corridor Project

Department: Transportation

Presented by: Jim Kerr, Transportation Director

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

I-24 Smart Corridor agreement between the City and TDOT.

Staff Recommendation

Approve of the agreement with TDOT.

Background Information

Partnering with TDOT through this ICM system is a practical and logical evolutionary step in transportation operations. As congestion continues to grow, the ability to expand the roadway network is limited by both space and resources. This system will assist in managing incidents across the corridor to support travel flow.

On December 14, 2017, Council authorized the execution of the Charter & Resolution of Support for the I-24 Smart Corridor Project Resolution 17-R-30. On September 20, 2018, the City Council approved the Signal Maintenance Contract with TDOT for signals within the City limits.

These previous approved items support this recommended agreement that facilitates the operation and maintenance of TDOT's Integrated Corridor Management (ICM) system for the I-24 Smart Corridor area that includes I-24, SR-1 (Broad St) and the routes connecting I-24 to SR-1.

Council Priorities Served

Responsible budgeting

Improvements of roadway infrastructure with federal and state dollars allows local funds to be used for other community purposes.

Fiscal Impact

The City currently maintains the existing signal system being funded through State Street Aid, TDOT will maintain the advanced technology components on the corridors

for up to five years.

Attachments

1. Intergovernmental Agreement between TDOT and the City
2. Integrated Corridor Management Plan for the I-24 Smart Corridor Project

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INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE TENNESSEE DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF MURFREESBORO

THIS AGREEMENT is made and entered into effective the ____ day of _____, 20__, by and between the Tennessee Department of Transportation (hereinafter "TDOT"), an agency of the State of Tennessee, and the City of Murfreesboro, Tennessee (hereinafter the "AGENCY") (collectively referred to as the "Parties" or individually as a "Party").

WHEREAS, TDOT and AGENCY have determined that joint operational strategies for the I-24 Smart Corridor are imperative to allow for the implementation of successful Integrated Corridor Management ("ICM"), said corridor being located in part within the jurisdiction of the AGENCY; and

WHEREAS, the AGENCY agrees to coordinate with TDOT, and with other local governments and entities as needed, to provide a common strategy and programming of systems to allow for a common set of parameters and commands to facilitate any ICM strategy;

NOW THEREFORE, in consideration of these premises, TDOT and the AGENCY hereby enter into this Agreement:

A. For the purposes of this Agreement:
    1. "Operations" means: (a) the approach and methodologies used and work performed to monitor and manage incidents across the corridor; and (b) collaborative actions and procedures utilized to maximize throughput and minimize traveler delay.
    2. "Program" means the I-24 Smart Corridor ICM Program.
    3. "TMC" means Traffic Management Center.
    4. "SOGs" means TDOT's Standard Operating Guidelines for the Program.
    5. "I-24 ICM Plan" refers to ICM details unique to the I-24 Smart Corridor that are not included in the ICM SOGs.

B. The Parties shall cooperate with each other to share access to data from traffic signal and intelligent transportation system infrastructure and supporting operating systems for the Program. The parties' traffic operations centers (e.g. the TMC for TDOT and the local agency's TMC, if applicable) will collaborate closely and conduct regular audits of performance in an effort to ensure seamless and optimized Program results.

C. The AGENCY agrees to follow TDOT Traffic Incident Management practices and the TDOT I-24 ICM Plan with regard to any Operations impacting the Program corridors. Each Party agrees to have staff readily available and accessible to the other Party according to mutually agreed-upon schedules. The AGENCY will maintain necessary staffing to assist in Operations for the Program as may be set forth in the I-24 ICM Plan and associated SOGs.

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D. The AGENCY will maintain and update traffic signal timing in a manner consistent with the I-24 ICM Plan for the Program. The AGENCY will provide reasonable notification to TDOT prior to making any adjustment that may substantially impact the operation of the systems. If the AGENCY is unable to maintain and update traffic signal timing in a manner consistent with the I-24 ICM Plan for the Program, the AGENCY authorizes TDOT to make adjustments to traffic signal timing in a manner consistent with the I-24 ICM Plan and in accordance with the SOGs. TDOT will notify the AGENCY of such adjustments.

E. The AGENCY will strive to keep the traffic signals operating at optimum performance. TDOT will aid the AGENCY in identifying maintenance issues and other factors preventing optimum signal performance. TDOT will cooperate with the AGENCY and may participate in other activities needed to improve the system's operations.

F. With respect to the Program, TDOT will support the AGENCY with traffic signal and intelligent transportation system firmware and software management services where necessary, as determined by TDOT, such as initial configuration and version support for all TDOT-owned system platforms.

G. With respect to the Program, TDOT will assist the AGENCY with remote monitoring, notification, and remedy of traffic signal and intelligent transportation systems malfunctions within the AGENCY's jurisdiction where necessary, in accordance with the I-24 ICM Plan.

H. TDOT will actively manage the systems, including responding to planned and unplanned events. In the event an incident occurs that meets established thresholds per the I-24 ICM Plan requiring the implementation of an incident management plan(s), TDOT will notify the AGENCY of the event and will proceed according to the I-24 ICM Plan.

I. The AGENCY shall provide feedback about the Operations along the systems, including citizen complaints, to TDOT to be addressed as needed under the Program.

J. Nothing contained in this AGREEMENT shall restrict the AGENCY from making emergency adjustments to traffic signals to protect the safety of the traveling public. The AGENCY shall report all adjustments to TDOT within a reasonable timeframe, not to exceed five (5) days. Further, Operations procedures defined and expected by TDOT shall not prohibit unique Operations strategies and/or their use by AGENCY. In the case of a conflict between the I-24 ICM Plan and AGENCY's adjustments, the AGENCY shall notify TDOT, and the parties shall coordinate for any necessary actions.

K. TDOT may modify the Program, including adding or removing systems and updating the I-24 ICM Plan and associated SOGs, as the Program develops. AGENCY will be included as a stakeholder in decisions about changes to the Program.

L. Nothing in this Agreement shall be construed as changing the maintenance responsibility of either party for any part of the referenced Program that lies on its system of highways. The AGENCY will remain responsible for all maintenance of traffic signals and AGENCY-owned equipment.

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M. Neither TDOT nor the Agency shall have any liability to the other except as specifically provided in this Agreement.

N. Nothing in this Agreement, whether express or implied, is intended to confer upon any person or entity not a party to this Agreement, any rights or remedies by reason of this Agreement.

O. The Agreement may be modified only by a written amendment executed and approved by the Parties.

P. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee.

Q. The AGENCY warrants that no 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 AGENCY in connection with any work contemplated or performed relative to this Agreement.

R. The AGENCY agrees to comply with all applicable federal and state laws and regulations in the performance of this Agreement.

This Agreement shall be in effect until 11:59 PM on December 31, 2027, and shall renew automatically from year to year thereafter unless either party notifies the other party in writing prior to July 1st of the year in which they desire to modify or terminate this Agreement.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed by their respective authorized officials on the date first above written.

AGENCY

By: _____

Approved as to Form and Legality:

DocuSigned by:
By: Adam Tucker
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STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

By: _____
Howard H. Eley
Commissioner, TDOT

Approved as to Form and Legality:

By: _____
John Reinbold
General Counsel, TDOT

I-24 SMART Corridor

ICM Plan

August 12, 2022

TDOT Department of Transportation

ARCADIS

Version No	Author	Reviewer	Submittal Date	Description
0.9	Troy Galloway, Katherine Teipel	Luke Dixon, Matthew Richardi, Ken Montgomery, Ranzy Whiticker, Audrey Stewart, Gautam Mistry, Steve Garbe, Tiger Harris, Lee J. Smith, Michelle Nickerson, Joshua Brown, Said ElSaid, Adam Perez	May 11, 2022	This document's objective is to help facilitate the operation and maintenance of TDOT's I-24 SMART Corridor.
1.0	Matthew Richardi, Audrey Stewart	Katherine Teipel, Ranzy Whiticker, Luke Dixon	August 12, 2022	Modifications made after Local Agency Discussion and comment resolution. Added signature sheet.
2.0				

I-24 SMART Corridor Signature Sheet

Prepared By:
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Prepared For:
Tennessee Department of Transportation

Traffic Operations Division

_____
TDOT representative

_____
Metro Nashville representative

_____
City of La Vergne representative

_____
Town of Smyrna representative

_____
City of Murfreesboro representative

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General

1. Document Overview

This document's objective is to facilitate the operation and maintenance of TDOT's Integrated Corridor Management (ICM) system, specifically for the I-24 SMART Corridor. These Standard Operating Procedures are for Interstate 24 (I-24), State Route 1 (SR-1), and the routes connecting I-24 to SR-1. These procedures will provide general guidance to TMC administrative and management personnel in the form of a strategic blueprint for success. This document outlines recommended roles, functions and regulations for TMC staff, ICM staff, local agency, emergency responders, and other stakeholders. This document also identifies desired results that are all based on a comprehensive study of the best practices, both nationwide and statewide.

ICM is a practical and logical evolutionary step in transportation operations. As congestion continues to grow, the ability to expand the roadway network is limited by both space and resources. ICM provides engineers, technicians, and operators with tools to maximize the person-throughput of existing roadway infrastructure through active management of all assets along a corridor.

This document describes "what is to be carried out and accomplished" from a top-down perspective for the I-24 Corridor. It includes applicable Standard Operating Guidelines (SOG) and appendices as they relate to TMC stakeholder responsibilities, Intelligent Transportation System (ITS) devices and tools, managing roadway events, system monitoring, and more. This document also contains standard performance monitoring techniques that will be used to help TDOT quantify the progress being made against pre-determined key goals associated with efficiency and effectiveness.

Lastly, this will remain a living document to ensure that SOGs, appendices, and performance measures remain up-to-date, accurate, and meaningful. The goal is to present opportunities for all stakeholders to provide input and feedback on this document as well as to propose new measures or revised language, as needed, to ensure that the most valuable and effective practices are utilized.

This document consists of three main sections:

1. The General section which applies to both Operations and Maintenance and provides important background on the specific ICM, I-24 SMART Corridor.
10. The Operations Plan Overview which applies to operational procedures for interstate and arterial systems and devices located on an ICM under TDOT's and local agency jurisdiction.
23. The Maintenance Plan Overview which applies to preventive and routine maintenance procedures for interstate and arterial devices located on an ICM under TDOT's and local agency jurisdiction.

References to this document are as follows:

1. TMC Operations Manual (Future)
2. TIM: Interstate Incident Management Plan
3. SWCS Reports Manual (v2.0)
4. SWCS User Guide (SUM-1.2.0)
5. Centracs User Manual

2. Hierarchy of Document Organization

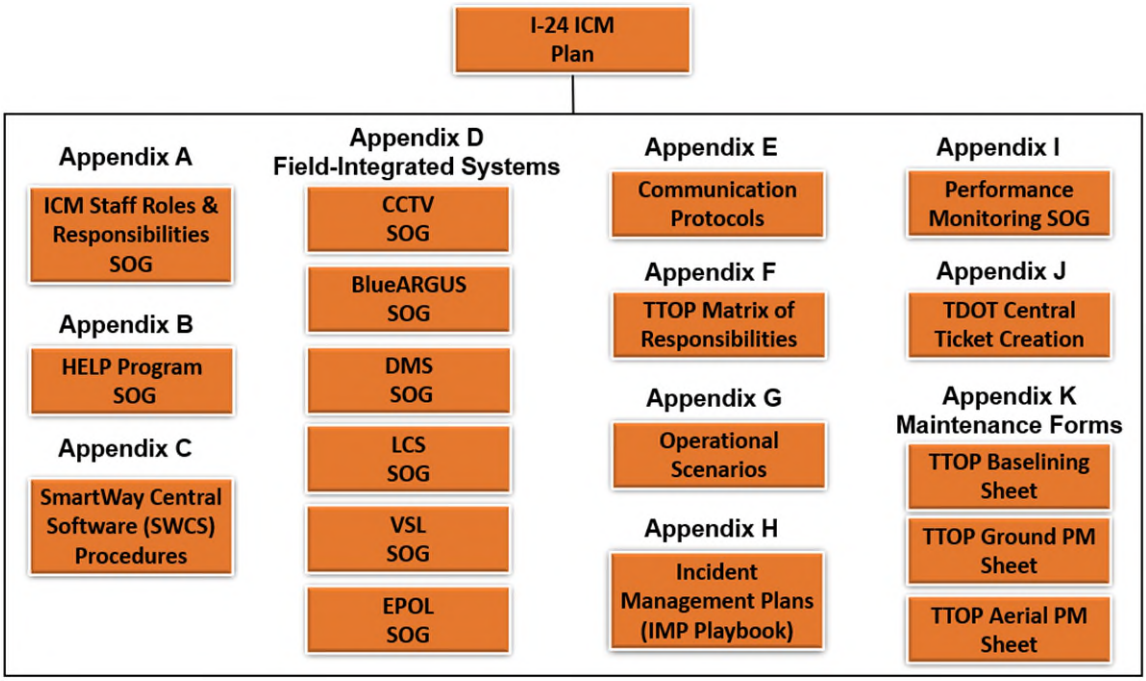

Figure 1 Hierarchy of Document Organization

3. Definitions of Headings, Words, and Phrases

When used in this document, the text headings of Standard, Guidance, Option, and Support shall be defined as follows:

- Standard – a statement of required, mandatory, or specifically prohibitive practice. The verb "**shall**" is typically used. The verbs "should" and "may" are not used in Standard statements. The verb "**will**" shall be used when the standard will have to be verified after completion of that specific element in terms of the overall project. Standard statements are sometimes modified by Options.
- Guidance – a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgement indicates the deviation to be appropriate. The verb "**should**" is typically used. The verbs "shall" and "may" are not used in Guidance statements. Guidance statements are sometimes modified by Options.
- Option – a statement of practice that is a permissive condition and carries no requirement or recommendation. The verb "**may**" is typically used. The verbs "shall" and "should" are not used in Option statements.
- Support – an informational statement that does not convey any degree of mandate, recommendation, authorization, prohibition, or enforceable condition. The verbs "shall," "should," and "may" are not used in Support statements.

4. Acronyms

AADT	Annual Average Daily Traffic
ATMS	Advanced Traffic Management System
CAMS	Centralized Asset Management System
C2C	Center-to-Center
C2F	Center-to-Field
CCTV	Closed Circuit Television Video
CRD	Community Relations Division
CV	Connected Vehicle
CVO	Commercial Vehicle Operations
DMS	Dynamic Message Sign
DSRC	Dedicated Short-Range Communications
EPOL	Emergency Pull Off Lane
FHWA	Federal Highway Administration
HAR	Highway Advisory Radio
HOV	High Occupancy Vehicle
ICM	Integrated Corridor Management
IT	Information Technology
ITS	Intelligent Transportation System
KPI	Key Performance Indicator
LCS	Lane Control System
LED	Light Emitting Diode
MOA	Memorandum of Agreement
MPO	Metropolitan Planning Organization
PDS	Presence Detection System
PM	Preventive Maintenance
PSAPs	Public Safety Answering Points
PTMC	Portable Transportation Management Center
P&R	Park and Ride
RSE	Roadside Equipment
RSU	Roadside Unit
RTA	Regional Transit Authority
RTMC	Regional Transportation Management Center
SOG	Standard Operating Guidelines
SOP	Standard Operating Procedures
SOV	Single Occupancy Vehicle
SPaT	Signal Phase and Timing
SR	State Route
STMC	Satellite (or Secondary) Transportation Management Center
SWCS	SmartWay Central Software
TAC	Technical Advisory Committee
TDEC	Tennessee Department of Environment and Conservation
TDOT	Tennessee Department of Transportation
TEMA	Tennessee Emergency Management Agency
THP	Tennessee Highway Patrol
TMC	Traffic/Transportation Management Center
TOC	Traffic/Transportation Operations Center
TSM&O	Transportation System Management and Operations
TTOP	Tennessee Traffic Operations Program
VDS	Vehicle Detection System
VLAN	Virtual Local Area Networks
VM	Virtual Machine
VSL	Variable Speed Limit
VTMC	Virtual Transportation Management Center
V2I	Vehicle-to-Infrastructure
V2V	Vehicle-to-Vehicle
WAN	Wide Area Network

5. ICM Details – I-24 SMART Corridor

Integrated Corridor Management (ICM) is a practical and logical evolutionary step in transportation operations. As congestion continues to grow, the ability to expand the roadway network is limited by both space and resources. ICM provides engineers, technicians, and operators with tools to maximize the person-throughput of existing roadway infrastructure through active management of all assets along a corridor. To have a successful ICM deployment, there is a need for both a shared vision and a shared view of the I-24 SMART Corridor between all stakeholders. This shared vision and view will lead to a level of real-time, or even pro-active, transportation systems management necessary to optimize corridor operations and maximize the benefits of ICM.

The specific and detailed operations and maintenance procedures for the I-24 SMART Corridor are described herein. They should be followed by all applicable parties described in the Stakeholders section. ***If updates to the document are needed, the Technical Advisory Committee (TAC) will meet to discuss and decide on the updates. ICM staff will be responsible for updating document and return the document to the TAC for approval.***

All ICMs should have the following three segments: Interstate Segment, Alternative Route Segment, Arterial Segments. The Interstate Segment is the major route commuters and freight use and for which the ICM is designed to actively manage traffic. The Alternative Route Segment is utilized with the Arterial Segments for diverted traffic from the interstate segment and to access local streets and attractions. For the I-24 SMART Corridor, the Interstate Segment is I-24. The Alternative Route Segment is State Route 1 (SR-1/US-41). The Arterial Segments connect I-24 to SR-1 between I-440 and SR-10/US-231. See Figure 2 for a visualization: Interstate Segment: I-24 (**Blue**), Alternative Route Segment: SR-1 (**Red**), and Arterial Segments (listed below) (**Black**).

- Exit 53: I-440 – interchange between I-24, I-440, and SR-1
- Exit 54: SR-155 (Thompson Lane / Briley Parkway) – approximately 1.8 miles
- Exit 56: SR-255 (Harding Place / Donelson Pike) – approximately 2.4 miles
- Exit 57: Haywood Lane (NOT INCLUDED – Does not provide direct connection I-24 → SR-1)
- Exit 59: SR-254 (Bell Road) – approximately 2.5 miles
- Exit 60: Hickory Hollow Parkway (NOT INCLUDED – Does not provide direct connection I-24 → SR-1)
- Exit 62: SR-171 (Old Hickory Boulevard) – approximately 2.3 miles
- Exit 64: Waldron Road – approximately 2.4 miles
- Exit 66: SR-266 (Sam Ridley Parkway) – approximately 3.1 miles
- Exit 70: SR-102 (Almaville Road, Lee Victory Parkway) – approximately 3.1 miles
- Exit 74: I-840 – approximately 2.8 miles
- Exit 76: Fortress Boulevard / Medical Center Parkway – approximately 3.4 miles
- Exit 78: SR-96 (Old Fort Parkway) – approximately 2.3 miles
- Exit 80: New Salem Road – approximately 1.2 miles
- Exit 81: SR-10 / US-231 – approximately 2.0 miles

The overall system includes approximately 28 miles along I-24, from Exit 53 (I-440) in Metro Nashville-Davidson County to Exit 81 (SR 10/US 231) in the City of Murfreesboro; 28.5 miles along SR-1, from I-24 in Metro Nashville-Davidson County to SR 10/US 231 in the City of Murfreesboro; and 30 miles of connector routes between I-24 and SR-1.

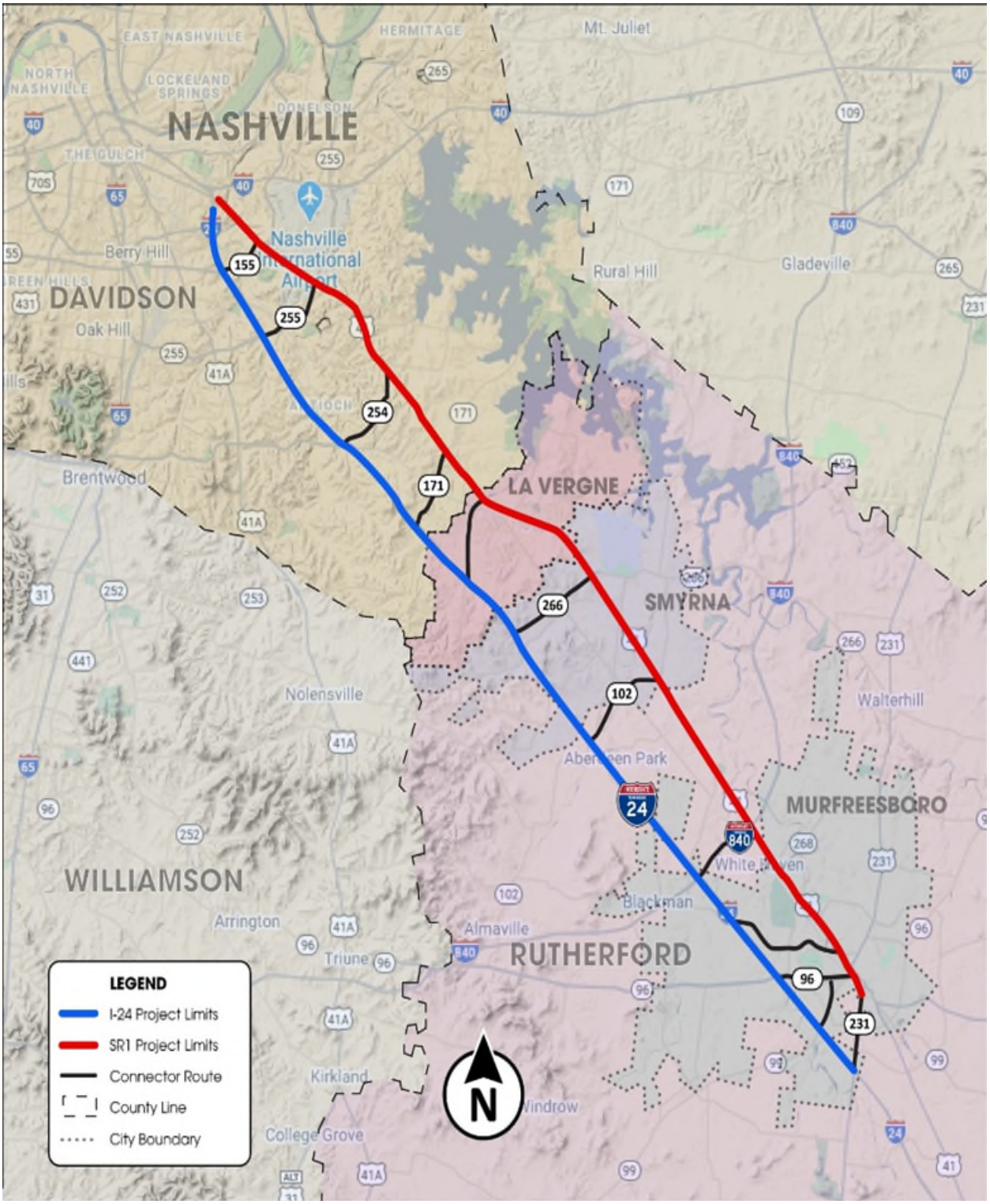

Figure 2 I-24 SMART Corridor Project Area

6. Goals, Needs, Strategies and Objectives of ICM

ICM serves to develop, implement, and deploy a comprehensive systems management strategy to create a balanced, responsive, and equitable system. The system is designed to monitor and control traffic; share traveler information with the public; improve system and travel time reliability; encourage mode shift; and improve the safety, efficiency, maintenance, operations, and mobility of all users (motorists, transit riders, transit operators, and freight haulers) along the corridor. In summary, the goals of the ICM include:

- Goal 1 (G1): Increase travel time reliability
- Goal 2 (G2): Increase mobility of all modes
- Goal 3 (G3): Reduce concentration of collisions
- Goal 4 (G4): Develop agency coordination.

The goals for the I-24 SMART Corridor and specific needs and objectives according to this project location and stakeholders are summarized below:

- Sustainable, reliable, safe, and efficient transportation and mobility services that are integrated across all modes by all providers and which are ubiquitous throughout the urban area.
- Greater efficiency in providing citizen services, including new approaches to regulation, public safety initiatives, and health and human services. This is done by increasing travel time reliability, enhanced incident response and coordination, and more roadway information to the public through the VSL, LCS, and DMS.
- Improved quality of life for area residents through decreased pollution and more options for reliable mobility and sustainable lifestyles.
- Improved local/regional economic viability and competitiveness through improved transportation, citizen services, and quality of life.
- Improved coordination with emergency responders, city utilities, etc. result from integrating more strategies into the ICM “toolbox.”
- Clarified view of corridor or regional travel patterns provided by real-time data when that information is combined with additional data sources from related city services.

Each listed need is mapped to at least one ICM goal, and each goal corresponds to at least one need. If the former was not satisfied, then at least one additional goal was developed; if the latter was not satisfied, then the goal was removed from further consideration.

Table 1 Summary of Corridor Needs vs. I-24 SMART Corridor Goals

Corridor Needs	G1: Increase Travel Time Reliability	G2: Increase Mobility of all Modes	G3: Reduce Concentration of Collisions	G4: Develop Agency Coordination
N0: Increase person throughput for existing traffic and future increased traffic demand	X		X	
N1: Reduce congestion due to substantial merge and diverge situations	X		X	
N2: Reduce congestion at bottlenecks	X		X	
N3: Reduce number of crashes at high crash locations	X		X	
N4: Accommodate naturally diverted interstate traffic and incident traffic on the arterials	X		X	
N5: Provide permanent park-and-ride facilities	X	X	X	
N6: Increase transit system performance and reliability	X	X		
N7: Enhanced data collection and information dissemination	X	X		
N8: Each agency has baseline operational ability	X		X	X
N9: Inform local agencies of corridor conditions	X		X	
N10: Coordinated traffic operations/maintenance/construction	X		X	X

The objectives of the I-24 SMART Corridor Project are to integrate a set of strategies to:

- Address identified corridor system needs to improve mobility, relieve bottlenecks, and improve safety.
- Create an integrated, balanced, responsive, and equitable system that will monitor and control traffic and address needs.
- Share traveler information with the public.
- Improve system and travel time reliability.
- Encourage mode shift.
- Improve the safety, efficiency, maintenance and operations, and mobility of all users (motorists, transit riders, and freight haulers) along the corridor.
- Reduce the number and severity of traffic incidents and reduce incident clearance times.
- Increase transit ridership.

Each strategy and set of deployments by strategy are presented in Table 2 by phase indicated if the strategy was originally planned in the short-, intermediate- and long-terms and if the current strategy is existing or to be deployed in the short-term or long-term. These strategies and associated deployments were identified, designed, and evaluated to best meet the transportation system deficiencies and needs previously identified.

The proposed I-24 SMART Corridor Project improvement strategies consist of three phases over a five-year period, from 2018 through 2023, including.

- Phase 1: Short-Term Deployments / Existing with Construction completed 2021
- Phase 2: Intermediate-Term / Short-Term Deployments with construction expected to be completed in a year's time.
- Phase 3: Long-Term Deployments with construction expected to be completed by the end of the project period

Table 2 Strategies by Short-, Immediate-, and Long-Term

Planned Priority / Schedule	Current Status / Schedule	Item Number and Description	
Emergency Pull-Off Lanes (EPOL)			
Short-Term	Existing	1.	Emergency Pull-Offs*
Inter-Term	Short-Term	2.	Detection at Emergency Pull-Offs
Ramp Lane Extensions			
Short-Term	Existing	3.	Ramp Lane Extensions
Cooridor Signage			
Short-Term	Existing	4.	Ground Mounted DMS ***on I-24***
	Long-Term	***5.***	Signage ***on Arterial***
Completion of Communications Network			
Short-Term	Existing	6.	Select Locations on Arterials ***(local fiber and WAN)***
	Long-Term	***7.***	***Fiber Optic Cable Installation on Remaining Arterials***
Long -Term	Short-Term	8.	Fiber Optic Cable Installation ***on Interstate***
DSRC/Connected Vehicle			
Short-Term	Long-Term	9.	DSRC/Connected Vehicle w/BlueTOAD**
I-24 MOTION Project Initiative Support			
	Long-Term	***10.***	***I-24 MOTION Project Initiative Support***
ICM Control Systems			
Inter-Term	Short-Term	11.	***Rules Based Lane Control System on I-24***
	Short-Term	***12.***	***Rules Based Variable Speed Limit System***
	Long-Term	***13.***	***AI Based ICM Operations on I-24***
	Long-Term	***14.***	***AI Based ICM Operations on I-24 and Arterials***
Smart Work Zone Systems			
	Long-Term	***15.***	***Queue Warning Systems***
Traveler Information Systems			
	Long-Term	16.	Mobile API
	Long-Term	***17.***	***Updates to Public Website***
Arterial System Improvements			
Short-Term	Short-Term	18.	Arterial Signal System and Detection Upgrades
Short-Term	Short-Term	19.	Provision of New Signal Timing
	Long-Term	20.	***Signal Preemption and Priority***
Long-Term	Long-Term	21.	***Traffic Responsive*** Signal Control
Long-Term	Long-Term	22.	Dynamic Routing and Wayfinding
	Long-Term	***23.***	***Arterial CCTV Cameras***
Improved Operations Coordination with Incident Management			
Long-Term	Long-Term	24.	Improved Operations Through Coordination with Incident Management***
Decision Support System			
Long-Term	Long-Term	25.	Decision Support System
Rapid Incident Clearance Programs			
Long-Term	Long-Term	26.	Tow Staging and Incentivized Clearance
Ramp Metering			
Long-Term	Long-Term	27.	Ramp Metering
Updated TDOT TMC Procedures			
Long-Term	Long-Term	28.	Updated TDOT TMC Procedures
	Long-Term	***29.***	***Improved Performance Measure Reporting***
Integrated Staffing			
Long-Term	Long-Term	30.	Integrated Staffing

*****The Emergency Pull-offs have been constructed; operational policies and procedures for the pull offs are provided in Appendix D: Field-Integrated Systems SOGs. Detection for Emergency Pull-Off locations will be installed at a later date and the SOG will be updated accordingly.

**DSRC/Connected Vehicle utilizing the BlueTOAD platform has been constructed. The local agencies will need data connections via the SDWAN to reach these devices before they can be turned on and utilized. Some local agencies are waiting for counsel approval for the DSRC feature. Updates shall be made accordingly with connectivity and agreement.

***Improved Operations through Coordination with Incident Management is still a long-term strategy; however, additional interagency agreements and software are required to realize smart corridor goals through incident management. This will require Phase 3 / Long term individual strategy design and deployment.

7. Stakeholders

Stakeholders and agency partners actively involved with the I-24 SMART Corridor Project are presented in Table 3. These stakeholders were assembled by TDOT to support all required coordination and communications needed to successfully implement and provide on-going future support for the I-24 SMART Corridor Project. TDOT worked with these stakeholders to create and convene a specific Technical Advisory Committee (TAC) for the I-24 SMART Corridor Project. The TAC has been actively involved with all aspects of the project and continues to meet regularly in support of various project tasks and work elements, including development of a Project Charter and Resolution of (Agency) Support that clearly defined roles and responsibilities for all participating stakeholders.

The location and capacity of emergency responders is typically a resource that is evaluated for ICM incident response planning. These resources are also available to support other incidents, such as severe weather events and other natural disasters. For the I-24 SMART Corridor deployment, the technical infrastructure (communications networks for center to field and center to center connections) and the physical resources (emergency responder vehicles, maintenance equipment, etc.) needed to detect and monitor incidents and coordinate responses, require extensive coordination between all stakeholders. This ICM coordination helps to create a more mature capability model within all affected agencies.

Stakeholders and TDOT staff through either a direct communication link or web-based information exchange (via either a portal or integrated systems and software) shall share ICM information and coordination of projects to support regional incident management. Information shared among traffic and emergency management agencies can include video feeds, traffic conditions, and incident locations.

Local agencies shall continue maintaining their traffic signals on the project corridors as they have traditionally done prior to this project. The I-24 SMART Corridor is a pilot project that introduces additional ITS infrastructure and new technology. TDOT will assist the local agencies by maintaining all new ITS technologies that are deployed as a part of the I-24 SMART Corridor. The operations and maintenance needs of the I-24 SMART Corridor will be revaluated by the TAC members annually. This pilot project lays the foundation for the

Tennessee Traffic Operations Program (TTOP). TTOP will be a multi-jurisdictional, cutting-edge standardized traffic operations and maintenance program for the State of Tennessee and will be first implemented with the I-24 SMART Corridor. The goal of the program is to improve traffic flow and reduce vehicle emissions through incident clearance, improved signal timing, traffic monitoring, and ITS technologies. Varying levels of staffing and funding capabilities exist between the program's local agencies that lead to the need for various levels of support from TDOT. All agencies must meet the same standards and responsibilities, but some agencies may need to request assistance from TDOT to meet these standards given their current capabilities. See Appendix F: Tennessee Traffic Operations Program (TTOP) Matrix of Responsibilities.

7.1. Media and Public Relations

Media and Public Relations refers to the local media, school systems, hospitals, and the general public specific to the area in which the I-24 SMART Corridor resides. See below:

- Media: Broadcasting related to park-and-ride programs, ICM/SMART Corridor strategies, major incidents, and ride sharing programs to the general public.
- Educational Institutions: Transportation data can be shared with educational institutions, such as universities, to study traffic data.
- School Systems: Should be made aware of events to plan for possible change in bus routes and delays.
- Public Safety Telecommunicator (aka 911 operator): Should be made aware of major events to direct emergency response (fire/ambulance) efficiently.
- TDOT's Community Relations Division: manage all media and public inquiries about roadway events. This is how the general public in the area will receive information. TDOT TMC and ICM staff will coordinate with CRD on messaging for road closures, roadway maintenance and construction, traffic changes for special events, and incident details that impact traffic conditions and or safety.
    - See current Point of Contact here: https://www.tn.gov/tdot/community-relations.html
    - News regarding new systems (LCS) posted directly here for public consumption: TDOTnews - Youtube
- Private Vehicle Operators - Users of the roadway facilities and recipients of traveler information.
- Commercial Vehicle Operators – Users on the roadway facilities along with private vehicle operators
- Local businesses and residents - Users of the roadways and adjacent properties.
- Pedestrians and Bicyclists - Users of the arterial roadway network.

TDOT's Community Relations Division (CRD) will handle the media releases to the public for "Planned" Events and large-scale Incidents. This includes providing alternative routes that are suggested to avoid event or incident traffic. Refer to 15. Diversion Routes. for more information on the alternative routes available.

7.2. Local Agencies and Jurisdictions

The following local agencies are included in the I-24 SMART Corridor project: Metro Nashville / Nashville Department of Transportation (NDOT), the City of La Vergne, the Town of Smyrna, and the City of Murfreesboro. When the term “local agency” is used below, it refers to one or all of these agencies. If it is a general statement that applies to the staff of these jurisdictions “local agency staff” will be used in this document herein. If a particular agency is described, the document will mention the agency by name.

Local agency staff and their maintenance contractors shall be responsible for the operations and maintenance of the local agency’s systems, devices, and equipment that are part of the local agency’s jurisdiction. This responsibility is traditionally done to meet the local agency’s determined up-time as indicated in the Maintenance and Performing Monitoring sections respectively. These systems are inclusive of all traffic signal equipment except for the BlueTOAD devices, Miovision and Wavetronix detection. TDOT will provide operational support and the maintenance required for the BlueTOAD, Miovision and Wavetronix systems. TDOT through its staff, inclusive of the ICM staff and contractors, shall provide operations and maintenance support to the local agencies on I-24 SMART Corridor:

- During Business Hours through ICM Staff (See 9.1 ICM Hours of Operation)
    - ICM Staff will be available as on-call support during non-business hours
    - SWCS offers 24/7 Maintenance Support (See 19. SmartWay Central Software (SWCS)).
- Additional support for signal monitoring and operations for agencies as needed.
- Operational support for diversion routing (See 13. Event Management Coordination & Protocols)
- Preventive maintenance support (See 25. Preventive/Routine Maintenance)
- Asset management support (See 24. Centralized Asset Management Systems)
- Trouble ticket tracking and reporting support (See 27. Central Ticketing System)

Stakeholders and agency partners actively involved with the I-24 SMART Corridor Project are presented in Table 3.

Table 3 List of I-24 SMART Corridor Agency Stakeholders

Stakeholder	Current Roles and Responsibilities
TDOT	Operate and maintain the field devices located on the interstate. Operate Region 3 TMC. Incident Management for incidents located on the interstate. Provide traveler information to SmartWay, 511 and Twitter.
Metro Nashville / Nashville Department of Transportation (NDOT).	Operate and maintain the local transportation system, operate fire department, and law enforcement for incident response within their jurisdiction including Davidson County.
City of La Vergne	Operate and maintain the local transportation system, operate fire department, and law enforcement for incident response within their jurisdiction.
Town of Smyrna	Operate and maintain the local transportation system, operate fire department, and law enforcement for incident response within their jurisdiction.
City of Murfreesboro	Operate and maintain the local transportation system, operate fire department, and law enforcement for incident response within their jurisdiction.
Rutherford County	Operate and maintain the local transportation system,
Nashville Area Metropolitan Planning Organization (MPO)	Responsible for regional transportation planning.
Nashville Metropolitan Transit Authority (WeGo)	Responsible for fixed route and paratransit service in the Metropolitan area.
Regional Transit Authority (RTA)	Provides transit service in a 9-county area and includes express bus, park-and-ride lots, and regional rail service.
Transportation Management Association (TMA) Group	Responsible for regional transportation services, primarily focused on strategies to reduce single occupant vehicle use
Metropolitan Nashville Police Department	Primary provider of law enforcement services for Metropolitan Nashville and Davidson County, Tennessee.
Tennessee Highway Patrol (THP)	Responsible for statewide enforcement of traffic safety laws as well as commercial vehicle regulations.
Rutherford County Sherriff's Office	Primary provider of law enforcement services for Rutherford County, Tennessee.

The Nashville Area has several major ITS deployments including the TDOT SmartWay ITS System, TDOT HELP service patrols, 511 traveler information, municipal TOCs and traffic signal systems, and major ITS deployments underway for transit.

7.2.1. Local Agency Hours of Operation

Traffic Operation Center's along the I-24 SMART Corridor have varying levels of staffing and hours of operation that are subject to change. At the time this document was published, Metro Nashville and the City of La Vergne did not currently have a TOC. The Town of Smyrna's TOC is staffed 6:30 AM – 3:00 PM with remote monitoring during the PM peak (5:30 PM – 7:30 PM) or when an incident occurs. The City of Murfreesboro operates their TOC from 7 AM – 5 PM. These Hours of Operation are general guidelines and all ICM Staff will follow established communications protocols when initiating a timing plan change, refer to 15. Diversion Routes.

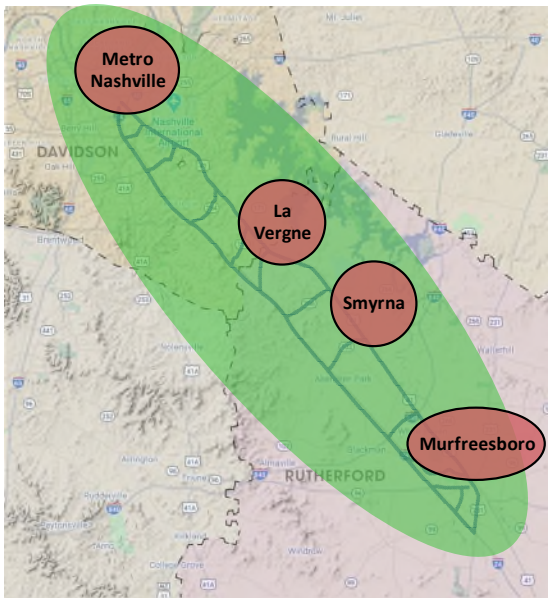

Figure 3 Local Agency Locations

7.3. TIM / Emergency Responders / Help Program

Traffic Incident Management (TIM) Program brings together all agencies involved in clearing an incident from the roadway. Together, they strive to make incident management safer for the responders and motorists, and work to reduce the time needed to reopen travel lanes restoring normal traffic operation. Traffic incidents are unplanned roadway events that affect or impede the normal traffic flow. Traffic incidents increase the likelihood of secondary crashes and pose a threat to the safety of incident responders as well as the traveling public. Incidents affect travel time reliability, commerce, and transportation system performance. One essential responsibility of transportation and public safety agencies is to ensure the safe and quick clearance of traffic incidents.

The ability to clear incidents quickly while providing safety to on scene responders and travelers is one measure of the success of a Traffic Incident Management (TIM) program. The successful on-scene activities are supported by integrated interagency communications. Both the on-scene operations and the integrated communications structure are supported by a collaborative

multiagency structure to resolve institutional policy and procedure issues. The collaboration provides the needed resources through a coordinated budgeting process.

The Traffic Incident Management Program is focused on three objectives:

- Responder safety
- Safe quick clearance
- Prompt, reliable incident communications

For TIM to be effective, TDOT shall rely on partnerships with local agencies and personnel including troopers, police officers, sheriffs' deputies, firefighters, rescue squad members, EMTs, towing and recovery operators, public works, and officials. This partnership is largely dependent on education and is currently available through the Tennessee Traffic Incident Management Training Facility.

The Tennessee Traffic Incident Management Training Facility features a section of interstate-like roadway ranging from two to six lanes with guardrail, a two-way interchange, and cable and steel barrier rail, as well as a section of two-lane highway and a full four-way intersection. The design provides an area to simulate a variety of crashes, allowing emergency responders to train on safe and efficient techniques for clearing major highway incidents.

TIM specifies 3 levels of incident magnitude, or severity, which is consistent with TDOT SmartWay Central Software (SWCS). These incident severity levels, as depicted in Table 4, vary by expected incident duration and are in accordance with the TIM: Interstate Incident Management Plan. SWCS uses an algorithm to correlate lanes blocked to expected duration, and this can also be determined by Emergency Responder and TDOT Staff from previous experience. TIM indicates differentiating procedures based on incident level and the I-24 SMART Corridor shall also use differentiating procedures for the TMC/ICM response, see 13. Event Management Coordination & Protocols for the typical flow of procedures.

Table 4 Traffic Incident Severity

TRAFFIC INCIDENT MANAGEMENT AREA			
INCIDENT SEVERITY	**DURATION**	**TIM STEPS TO TAKE**	**TMC/ICM RESPONSE**
LEVEL 1: MINOR	TIME < 30 MINUTES	• Notify TMC • Establish Temporary Traffic Control Components • Consider time and personnel	Actively monitor incident location and downstream traffic. Ensure LCS/VSL signs updated as needed. Watch for secondary crashes
LEVEL 2: INTERMEDIATE	30 MINUTES < TIME < 2 HOURS	• Notify TMC • Establish Temporary Traffic Control Components • Consider time and personnel • Consider DOT Response	Same as previous. Depending on duration, location, and time of day, ICM Coordinator should decide if an Incident Management Plan is necessary.
LEVEL 3: MAJOR	2 HOURS < TIME	• Notify TMC • Request DOT Response early • Establish Full Work Zone in accordance with MUTCD	Same as previous. Except an Incident Management Plan should be considered immediately and local agencies contacted to begin the process.

- Emergency Medical Services: EMS (fire trucks & ambulances) responds to events that have or are suspected of having injuries that require an urgent medical response, providing out-of-hospital treatment, and transport to definitive care. THP or EMS will notify the Medical Examiner if a fatality occurs at an incident.
- Traffic Management Center (TMC), TDOT: Will coordinate with EMS, law enforcement, and TDOT resources during major incidents that pose a signification threat to public safety.
- Towing and Recovery: Towing and recovery contractors are responsible for responding to events where a vehicle is unable to leave on its own and needs to be towed away at the discretion of law enforcement or owner of the vehicle, TDOT utilizes a Quick Clearance Memo for clearing incidents, meeting response time and clearance time goals.
- Local Law Enforcement: Local Law Enforcement agencies have similar responsibilities to that of the Highway Patrol. Local jurisdictions, such as those on a county (sheriffs) or city level (police), have a much smaller area of coverage. Local Law Enforcement agencies typically work closely with TMC staff on reporting and managing events only within their area of jurisdiction.
- Tennessee Department of Environment and Conservation (TDEC): The TDEC is the State's lead agency for environmental management and stewardship – protecting Tennessee's air, water, and land. The Department of Environmental Protection is responsible for determining if an incident could pose a hazard to the environment. The TMC notifies Tennessee

Emergency Management Agency (TEMA) of any chemical or fuel spill so that they can send notice to TDEC.

- Local Animal Control: Local Animal Control is responsible for responding to events where a live animal causes a disturbance or safety hazard on State roadways.
- Local Fire Rescue: Local fire rescue is responsible for preventing the spread of fires and extinguishing fires that may be present within the roadway's right-of-way. In these counties, it is common for the Local Fire Rescue to also provide EMS response.

8. Key TMC Staff

This section describes the TDOT Key TMC staff in terms of the I-24 SMART Corridor. It is not inclusive of all TDOT TMC staff roles and responsibilities, only those directly related to the I-24 SMART Corridor. The basic regional organization chart is shown in Table 5 below. This organization table outlines the reporting relationships of staff assigned to the TMC (or report to someone assigned to the TMC in the case of the HELP Operator) and should be utilized as a guide when dealing with personnel assigned to the TMC. TDOT TMC staff need to coordinate with ICM staff, stakeholder staff and the staff of other jurisdictions. See the 13. Event Management Coordination & Protocols section of this document for further information.

TMC staff members are the backbone of TMC operations. As such, they are responsible for real-time utilization of various tools and devices to assess traffic conditions and roadway events, managing appropriate responses, and helping to mitigate any negative effects as much as possible.

- TDOT Traffic Operations Division: Responsible for the development and yearly update of this ICM Operations and Maintenance document and its modification as a result of the roadway system and TMC performance analysis. This division is also responsible for providing additional information and guidance to the TMCs.
- Regional TDOT TMC Staff: These staff members responsible for the overall organization and functionality of the TMC. In essence, TDOT TMC staff assume the direct leadership role of the TMC and ensure that operations and maintenance are conducted in accordance with this document, their SOGs, SOPs, and other TDOT policies. Coordination responsibilities per TDOT role title are provided below:

Table 5 Key TDOT TMC Staff

Role Title	Responsibility*
Transportation Manager (I and II)	Serve as the communication line between regions and responsible for staff/issues/incidents as they are escalated to them.
TMC Operations Supervisor	Supervisor of Operations, supervising senior technicians and TMC staff in their absence, responsible for day-to-day functionality of the TMC, when SOG or plans refer to a policy direction this role should be referenced.
TDOT Technician Senior	Responsible for running shift, filling vacancies, send out equipment failure log reports, responsible for assigning tasks for technicians, responsible for task completion, performance reviews for staff. When absence is required for meetings/break will appoint a TMC Lead Technician to fulfill current responsibilities. Position that would receive calls to TMC, in absence would be escalated above.
*TMC Lead Technician***	Appointed by TDOT Technician Senior to run the shift when they are occupied by meeting/interviews/break.
TMC staff	Technicians in the Traffic Management Center (referred to as Operations Staff / Operators previously).
TMC IT Staff	Responsible for maintaining and updating the servers and related operating systems for SmartWay Central Software. As well as assisting with troubleshooting issues.
TN State Traffic Engineer	MUTCD compliance expert in terms of DMS messaging. Responsible for regulatory speed limits, determines what maximum construction speed work zone shall be set too, VSL/LCS systems - setting standards and procedures.
HELP Supervisor	Dispatches HELP vehicles when escalated by TMC staff. Escalation may occur if the HELP Vehicle supposed to be responding to an incident on their route is already assisting with an incident. It is the HELP Supervisors responsibility to decide how to proceed with the dilemma.
HELP Operator	Safety personnel who operate HELP trucks.

***Refer to TMC Operations Manual (Future) for complete description and list of responsibilities for each role.*
**Not an official title, granted per situation basis.*

8.1. TMC Hours of Operation

The I-24 SMART Corridor is under the jurisdiction of the Region 3 Nashville TMC. The Region 3 TMC operates 24 hours a day, 7 days a week.

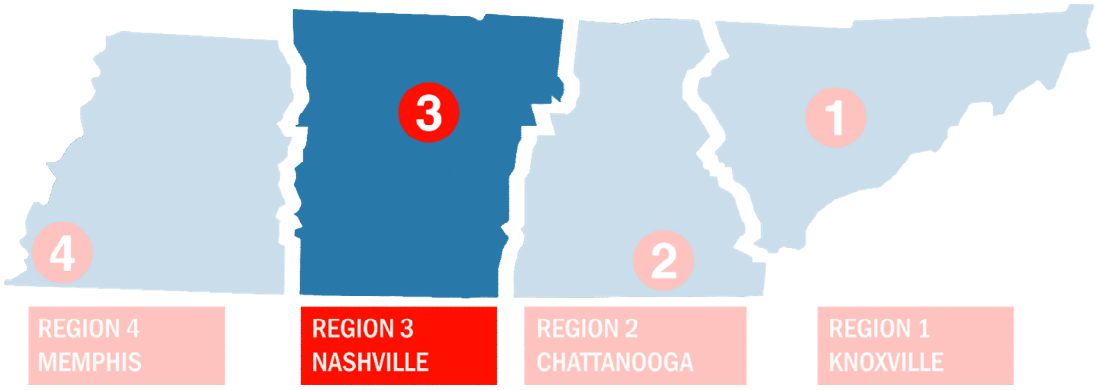

Figure 4 Region 3 TMC

9. Key ICM Staff

The basic regional organization chart for ICM staff is shown in Table 6 below. This organization table outlines the reporting relationships of staff assigned to ICM and should be utilized as a guide when dealing with personnel assigned to the I-24 SMART Corridor. ICM staff positions are filled by either TDOT staff or embedded consultant staff under a TDOT Contract. ICM staff need to coordinate with several parties to ensure the success of the I-24 SMART Corridor. Refer to 7. Stakeholders and 13. Event Management Coordination & Protocols for coordination procedures when an event is detected.

Region 3 TDOT ICM staff: These staff members responsible for the overall organization and functionality of the I-24 SMART Corridor. In essence, TDOT ICM staff assume the direct leadership role of the I-24 SMART Corridor and ensure that operations and maintenance are conducted in accordance with this document, their SOGs, SOPs, and other TDOT policies.

Table 6 Key ICM Personnel

Role Title	Responsibility*
ICM Coordinator	Responsible for ICM Operations & Maintenance, PE required. Shall oversee all operational changes and maintenance activities that ICM staff have the active responsibility of completing. The ICM Coordinator shall provide device and software training for TMC staff, ICM staff, and project stakeholders as required. Shall capture performance data for the ICM corridor to develop performance measure reports. Shall respond to citizen complaints and document the communications for the ICM accordingly. The ICM Coordinator shall supervise the ICM Field Signal & ITS Maintenance Technician and the ICM TMC Technicians.
ICM Field Signal & ITS Maintenance Technician	The ICM Field Signal & ITS Maintenance Technician shall manage day to day field operations and maintenance on all traffic signal related projects, electrical equipment, communication interfaces, evaluate the propriety of traffic signal timing plans and make recommendations for improvements as needed, and ensure the continued efficient and effective operation of the ICM using both system monitoring tools and personal observations. Responsible for troubleshooting device malfunctions.
ICM TMC Technician	The ICM TMC Technicians shall be performing active operational management of the ICM from within the TMC, including all systems such as LCS, VSL, Ramp Metering, etc. Oversee Incident Management and coordinate Incident management plans with local agencies. Shall log maintenance tickets when applicable while operating equipment.
ICM Stand-in / Alternate Staff	The Stand-in / Alternate Staff shall act as additional support to supplement ICM operations and maintenance when main ICM staff are out due to sickness, vacation, etc. Hours to be determined by ICM Coordinator as needed.
ICM Project Manager**	The ICM Project Manager's responsibility shall be to provide the ICM personnel with the resources, oversight and guidance needed to fulfill their duties as efficiently as possible, and to ensure the quality control and administration of all contract activities.
ICM Operation Analyst**	The ICM Operations Analyst is responsible for back office technical support of the ICM program including but not limited to analyzing operational data related to the ICM, analyzing traffic safety data, performing cost-benefit analyses.

**See Appendix A: ICM Staff Roles and Responsibilities SOG for complete description & list of responsibilities for role.*
***Future Role Recommendation.*

9.1. ICM Hours of Operation

The normally scheduled work hours for each ICM staff will vary depending upon their ICM role. The scheduled hours for each role will adjust as the ICM program matures. The initial ICM scheduled hours for each ICM role can be seen below. ICM staff shall be available for special events and large-scale incidents that occur during off peak times, including weekends, as directed by TDOT. The weekday peak period, as defined below, coverages shall take priority and vary based on staffing availability.

The I-24 SMART Corridor shall be staffed at a minimum, from 6:00 am to 7:00 pm Monday through Friday. Special attention will be given to AM/PM Peaks, and staff will be on-call outside of these hours as needed for emergencies and special events.

- AM Weekday Peak: 6:00 AM – 10:00 AM.
- PM Weekday Peak: 3:00 PM – 7:00 PM.
- Weekends and Evenings on call as needed.

General expected staffed hours:

- The ICM Coordinator shall be expected to work normal business hours (8:00 AM – 5:00 PM Monday – Friday).
- The ICM Field Signal & ITS Maintenance Technician shall be expected to work normal business hours (7:00 AM – 4:00 PM Monday – Friday).
- The ICM TMC Technicians will be expected to work outside of normal business hours (8:00 AM – 5:00 PM Monday – Friday). Two ICM TMC Technicians will be scheduled to work each weekday to provide coverage from 6:00 AM to 7:00 PM. One technician will arrive at 6 AM to monitor the AM Peak and leave at 2:00 PM, the second technician will arrive at 11:00 AM and stay until 7:00 PM to monitor the PM peak. The ICM TMC Technicians will overlap between 11:00 AM – 2:00 PM. This gives each an 8-hour day and allows them to take breaks while providing consistent coverage.
- All ICM staff will be on call remotely for weekends and evening support as needed.
- The ICM Stand-in / Alternate Staff will provide support on an as needed basis, to be determined by the ICM Coordinator.

See Figures 5 and 6 below for an example ICM Shift schedule to be utilized at the inception of ICM program and a simplified explanation of the rotation. As the ICM progresses and typical hours are updated, these Figures will be updated accordingly.

OPTION #1 - NASHVILLE ICM EXAMPLE SHIFT SCHEDULE: 3/20/22 - 3/26/22								
	3/20	3/21	3/22	3/23	3/24	3/25	3/26	
24/7 Schedule may vary								Total Weekly Hours
ICM Coordinator #1		0800 - 1700 (8)	0800 - 1700 (8)	0800 - 1700 (8)	0800 - 1700 (8)	0800 - 1700 (8)		40
TMC Shift 1	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	Total Weekly Hours
ICM TMC Technician #1		0600 - 1400 (8)	0600 - 1400 (8)	0600 - 1400 (8)	0600 - 1400 (8)	0600 - 1400 (8)		40
TMC Shift 2	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	Total Weekly Hours
ICM TMC Technician #2		1100 - 1900 (8)	1100 - 1900 (8)	1100 - 1900 (8)	1100 - 1900 (8)	1100 - 1900 (8)		40
Field Technician	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	Total Weekly Hours
Field Signal & ITS Maintenance Technician #1		0700 - 1600 (8)	0700 - 1600 (8)	0700 - 1600 (8)	0700 - 1600 (8)	0700 - 1600 (8)		40

Figure 5 ICM Example Shift Schedule

Simplified Rotation Explanation:

ICM Coordinator Role (1 FTE, 8 hours per day)
TMC Monitoring Hours: N/A
TMC Staffed Hours: Reports to R3 TMC & Local TOCs on as needed basis
Remote working hours: 8 AM - 5 PM (Monday - Friday), on call as needed
Arcadis office staff to provide Remote support as needed

ICM Technician Role (2 FTE, 16 hours per day)
TMC Monitoring Hours: 6 AM - 7 PM (Monday - Friday)
Staff overlap between 11 AM - 2 PM

ICM Corridor Field Signal & ITS Maintenance Technician Role (1 FTE, 8 hours per day)
Remote working hours: 7 AM - 4 PM (Monday - Friday), on call as needed
TMC Staffed Hours: Reports to R3 TMC & Local TOCs on as needed basis

Figure 6 ICM Rotation Explanation

See Appendix A: ICM Staff Roles and Responsibilities SOG for additional detail and updates to this pertinent information.

I-24 SMART Corridor Operations Plan

10. Operations Plan Overview

TDOT has initiated this Active Traffic Management Pilot Project along the I-24 corridor, named the I-24 SMART Corridor, in partnership with the local agencies to integrate interstate and arterial roadway segments. TDOT is responsible for the operations and management of I-24, and arterial roadways are managed by local agencies. This project will serve to develop, implement, and deploy a comprehensive management strategy. This strategy will be used to create a balanced, responsive, and equitable system that will monitor and control traffic, share information with the public, improve system and travel time reliability, support modal shift, and improve the safety, efficiency, maintenance and operations, and mobility of all users (motorists, transit riders, transit operators, and freight haulers) for the benefit of all communities along the corridor. This is inclusive of:

11. Training
12. Field-Integrated Systems
13. Event Management Coordination & Protocols
14. Operational Scenarios
15. Diversion Routes
16. Signal Timing Operations
17. Operation Policy and Law (Privacy Concerns)
18. Performance Monitoring
19. SmartWay Central Software (SWCS)
20. Traffic Signal Systems (Centracs)
21. Communications Network
22. Equipment Malfunction Reporting (Operation → Maintenance)

11. Training

Varying levels of training are needed for all parties holding a stake in the I-24 SMART Corridor, see Table 7 below and sections to follow for categories to be covered for each attendee group. These categories are later explained their respective sections of this document. Devices and systems are covered in 12. Field-Integrated Systems. Some systems have their own Standard Operating Guidelines, provided in Appendix D: Field-Integrated Systems SOGs. SWCS is covered in Appendix C: SmartWay Central Software (SWCS) Procedures and References: SWCS Reports Manual and User Guide. Centralized Asset Management is covered in 24. Centralized Asset Management Systems, 27. Central Ticketing System, and Appendix K. TDOT Central Ticket Creation, J. Maintenance Forms. Centracs is covered in 20. Traffic Signal Systems (Centracs).

Table 7 ICM Training Categories & Attendees

Training	Categories Covered	Attendees
Region 3 TMC - Typical Onboarding Training	Shadowing a TMC technician	Embedded ICM Staff
	SWCS Basic Operation	Embedded ICM Staff
	TMC Operations Manual / Procedures	Embedded ICM Staff
	HELP Truck Ride Along	Embedded ICM Staff
TDOT SWCS 2.0 Software	SWCS LCS / VSL Module	All Embedded ICM Staff & TMC Staff
	LCS / VSL Reporting	All TMC and ICM Staff
Centralized Asset Management	Training to use the platform	Embedded ICM Staff & TDOT TMC Staff
		Local Agency Staff
Field Training	TBD by Phase 2 Contractor & CEI	
Centracs	Demo	
	General Use	Embedded ICM Staff
		Local Agency Staff - NDOT
		Local Agency Staff - Murfreesboro
		Local Agency Staff – La Vergne
		Local Agency Staff - Smyrna
		TDOT TMC Staff
	Timing and Diversion Plans	All
Signal Equipment Delivered by Phase 2 Contract	Signal Controller	Embedded ICM and Local Agency Staff
	Network Devices	
Wavetronix	Technician Training	Embedded ICM Field Staff and Local Agency Staff
	Operator Training	Embedded ICM TMC Staff and Local Agency Staff
Miovision	Technician Training	Embedded ICM Field Staff and Local Agency Staff
	Operator Training	Embedded ICM TMC Staff and Local Agency Staff
BlueTOAD	Installation/Setup	Embedded ICM Field Staff
		Local Agency Staff
	Configuration	Embedded ICM Field Staff
		Local Agency Staff
	User Systems	TDOT TMC Staff
		Local Agency Staff
		Embedded ICM TMC Staff
	Reports	TDOT TMC Staff
		Embedded ICM TMC Staff
RITIS		Embedded ICM Staff
		Local Agency Staff
		TDOT TMC Staff

11.1. General TDOT Training

It is expected that all TDOT staff have previously received, and are receiving at an annual basis, general training inclusive of TDOT TMC procedures, hours of operations, and reporting. With this, all TDOT employees should be aware of staff roles and responsibilities, reporting audiences and frequency, and policies. TDOT staff training should include a general exposure to the TSM&O strategies being implemented throughout the state, how to utilize these new technologies efficiently, and the incident management protocols with the HELP Program and TIM in the TMC procedures section. At a minimum, all TDOT staff should be familiar with the following ITS devices in order to actively monitor the interstate:

- SmartWay System (SWCS)
- Closed Circuit Television Video (CCTV)
- Variable Speed Limits (VSL)
- Lane Control system (LCS)
- Ramp Meters

See 19. SmartWay Central Software (SWCS) for the general overview of SWCS and Appendix C: SmartWay Central Software (SWCS) Procedures. In addition, see 12. Field-Integrated Systems and Appendix D: Field-Integrated Systems SOGs for general monitoring procedures, notably the new LCS and VSL systems.

11.2. ICM Specific Training – TDOT Staff

Additional training shall be required with the introduction of the I-24 SMART Corridor. All TDOT staff should be given an overview of the I-24 SMART Corridor when it is introduced so they are aware of any staffing responsibility changes. Staff shall also be introduced to new technologies and procedures. See Table 7 for the necessary training subjects and who attends the training. Each training subject should have a refresher course annually, whenever an upgrade is made that changes the procedure, and as requested by the attendant for their job responsibilities.

11.3. ICM Specific Training – Stakeholders

Local agencies for the I-24 SMART Corridor shall receive training for an overview of ICM, coordination procedures, and new systems/technologies being introduced. See Table 5 and refer to Appendix F: Tennessee Traffic Operations Program (TTOP) Matrix of Responsibilities.

Local agency staff:

- Nashville Department of Transportation (NDOT)
- City of La Vergne
- Town of Smyrna
- City of Murfreesboro

11.4. ICM Specific Training – Other

Several groups should receive training on the Variable Speed Limits and Lane Control System, planned reporting for interstate and arterial incidents, and recommend interface for communication between agencies. The attendees include:

- Highway Patrol
- Metro Police Department
- Rutherford County Sheriff's Office
- La Vergne Police Department
- Smyrna Police Department
- Murfreesboro Police Department
- Nashville Fire Department
- Smyrna Fire Department
- La Vergne Fire Department
- Murfreesboro Fire Rescue Department
- 911 Dispatch

12. Field-Integrated Systems

Procedures for operations and monitoring of field-integrated systems deployed on I-24 SMART Corridor are summarized below. See Appendix D: Field-Integrated Systems SOGs for further details. A Decision Support System (DSS) is currently under development and will aid staff in making decisions to operate this equipment most efficiently, see 19.3 Decision Support System.

12.1. Lane Control System

On the interstate, LCS Signals shall be used to direct traffic away from lanes that are blocked downstream from the current location in order to improve safety and to smooth traffic flow by promoting orderly lane shifting behavior. The LCS signals are displayed in individual rectangular signal heads, mounted above and centered over each lane and the right shoulder, allowing one or more travel lanes to be closed at any given, or the right shoulder to be opened for part-time travel during major incidents. See Memorandum: MUTCD-Official Ruling No. 4(09)-70 (I) - Lane-Use Control Signal Indications for Active Traffic Management on Interstates. Slightly larger LCS Signal signs are located over the right shoulder which shall display the speed limit when the system is at rest (not active for an incident and not actively varying the speed limit) or when the incident response plan is using the over-lane signs.

When an incident requires the LCS, ICM Staff will take responsibility of selecting, modifying, and implementing the appropriate LCS response plan and full management of the incident. See Figure 7 Lane Control System (LCS) Flowchart for the necessary steps that should take place during the TMC/ICM incident response requiring lane closures on I-24 with the activation of LCS. ICM staff shall take responsibility of all events occurring on the I-24 SMART Corridor. TDOT TMC staff may assist the ICM staff as necessary, especially for Level 2 Incidents during Peak Periods and always when Level 3 incidents occur. Example steps are summarized below:

- The LCS shall be activated to alert drivers to which lanes have blockages. This process begins with an event notification (see 13. Event Management Coordination & Protocols), the lane blockage location and number of lanes is verified by ICM staff.
- The ICM staff shall then set the LCS sign immediately upstream of the blockage to a Red X and log all lane blockage information in the Decision Support System (DSS). The DSS, see 19.3 Decision Support System, recommends a Response Plan according to previously developed scenario responses, see Appendix D: Field-Integrated Systems SOGs - LCS SOG Appendix A for a full list of scenarios to be implemented.
- The ICM staff shall use CCTV cameras located near the LCS gantries and Roadside DMS. The cameras shall be used to verify the signs are displaying the chosen response when active. If they are not, refer to the 22. Equipment Malfunction Reporting for the procedure for trouble shooting this failure.
- ICM staff shall monitor the active event and make appropriate changes as necessary. For example, if emergency responders are able to clear a portion of the incident and open an additional lane, the LCS display shall be updated accordingly in SWCS. This is inclusive of any necessary manual operations or corrections. ICM staff shall also be monitoring the VSL systems for appropriate postings and changes. TDOT TMC staff should assist as ICM staff deem necessary.
- When the event is officially cleared and closed in SWCS the LCS shall return to normal conditions, either resting or VSL active for slow traffic and congestion.

Activation and usage should be monitored according to Appendix D: Field-Integrated Systems - LCS SOG Standard Settings & Usage.

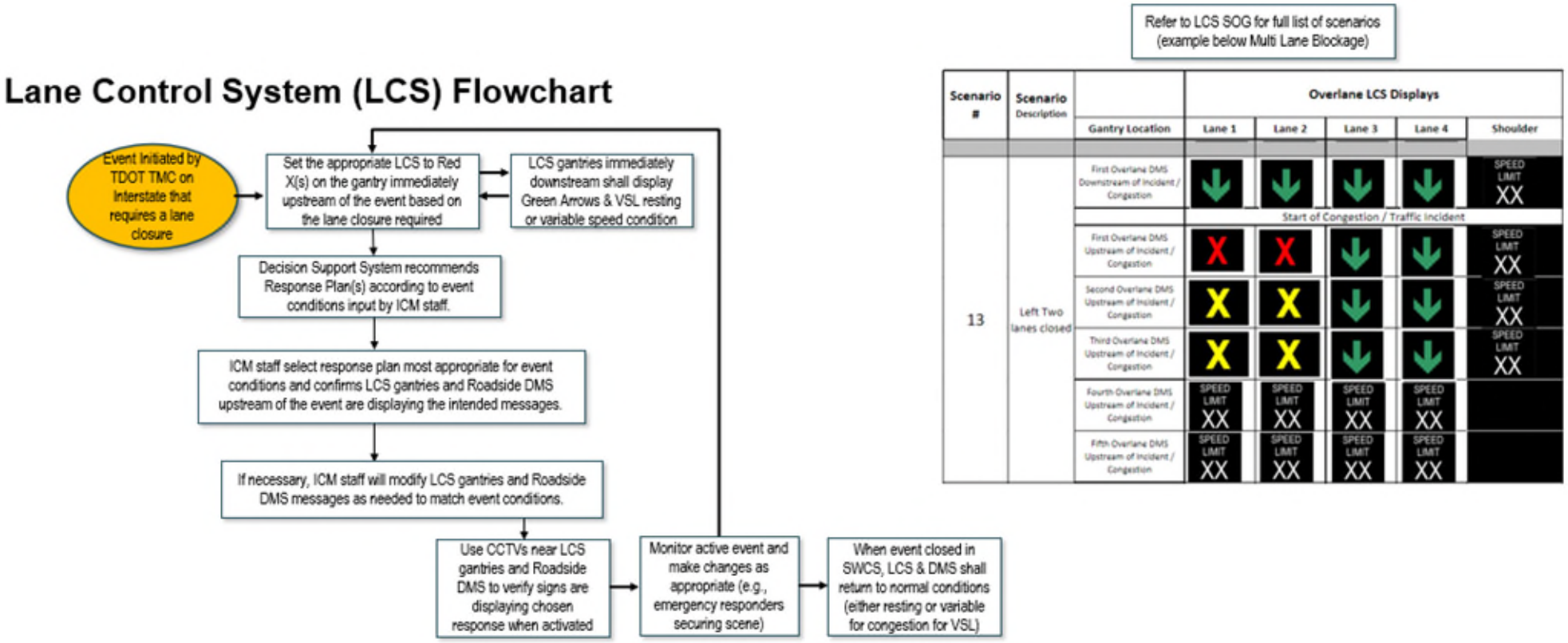

Figure 7 Lane Control System (LCS) Flowchart

See Figure 8 below for the approximate locations of all LCS Overhead Gantry Locations that are currently being constructed as part of Phase 2. Lane control signs on the I-24 system are approximately a half-mile (0.5 mile / 2,300 feet) apart along the corridor. The gantry locations were designed for the corridor section with the highest concentration of incidents, crashes, and heaviest congestion. The installation is between I-440 and Lee Victory Pkwy./Almaville Rd. exit. The LCS is comprised of 67 overhead gantries, with 33 sign gantries on EB I-24 and 34 sign gantries on WB I-24. Each individual gantry has one sign for each travel lane and one additional sign over the right shoulder. The physical locations are recorded and maintained in the centralized asset management system. Refer to the 24. Centralized Asset Management Systems section for more details.

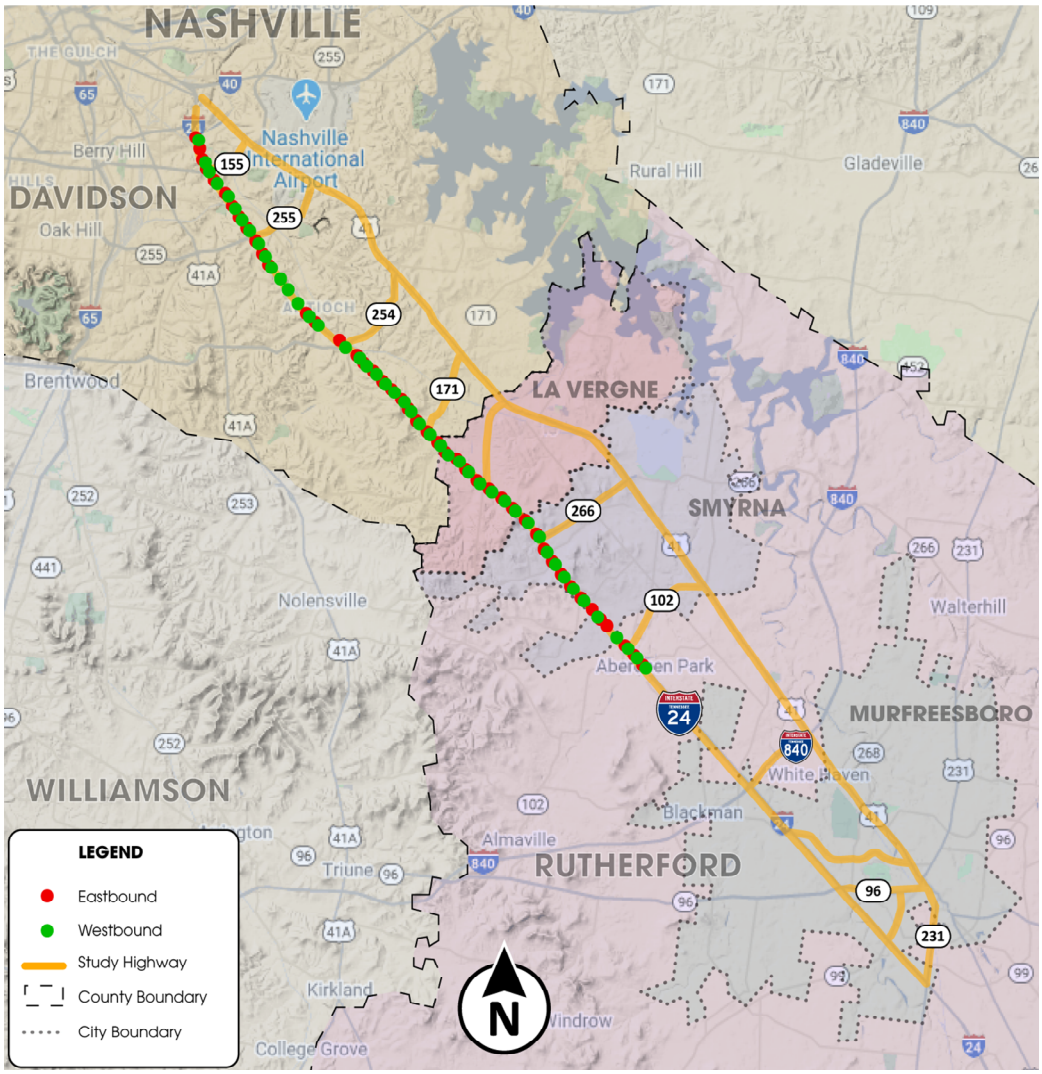

Figure 8 LCS Overhead Gantry Locations (Phase 2)

12.2. Variable Speed Limit

The VSL system utilizes the same over-lane gantries as the LCS. The VSL system is always operating in the background to respond automatically to traffic conditions in near real-time. The system will adjust the posted speed limit as traffic speeds change due to an incident or recurring congestion. The speed changes occur based on observed driver behavior on the corridor with the use of vehicle detection and speed monitoring. The speed limit can vary along the corridor, but at each gantry location, a single speed is shown across all lanes. The VSL takes the lowest priority of LCS signs. When LCS is activated for an incident, the VSL sign is relocated to the sign over the right shoulder (if available). Approval from the TN State Traffic Engineer is required to manually override the VSL. Manual overrides will be used to set a max speed limit during construction and maintenance activities. If detection fails, staff should not attempt to manually set variable speed limits. In this situation, staff should either post the design speed of the corridor or if the failure is within a section currently being modified by VSL, leave the sign blank. This will avoid conflicts with adjacent signs showing too great a drop in speed without the use of proper warning signs.

Activation and usage should be monitored according to: Appendix D: Field-Integrated Systems SOGs - VSL SOG Standard Settings & Usage.

VSL shall be monitored periodically at a frequency to be determined by the ICM Coordinator to ensure signs are working and the speeds being displayed match what the detection devices are reporting. Refer to the 22. Equipment Malfunction Reporting section for procedures to follow when a malfunction is observed.

12.3. Closed Circuit Television Video (CCTVs)

Deploying CCTV cameras allows TDOT and partner agencies to better monitor and actively manage traffic along alternate routes as well as provide for additional views to the traveling public. While PTZ cameras are preferred for incident management and verification purposes typically, fixed cameras including the 360º fish-eye cameras that have already been installed as a part of the intersection equipment upgrades can also provide useful surveillance. All cameras should be accessible and controllable from the TDOT central software system for ICM staff. The combination or groupings of these types of CCTVs should provide full and 24x7 continuous coverage and include video surveillance of the intersections, roadways and all pedestrians, cyclists, and motorists on the roadway. This should provide sufficient fields of view to identify current characteristics of the roadway system during normal operations (i.e., capturing traffic flow, volume, congestion, queues) and allow for proper incident management (i.e., capturing the impact on specific lanes, bottlenecks, queues, diversions, incident clearance times and transition back to normal operations). This means that there should be no gaps in coverage either temporally or spatially.

In addition to critical locations, CCTV placement should prioritize coverage of intersections and locations with the highest crash rates and the highest cross product of mainline and cross street AADT volumes. These locations will be identified during the design process.

CCTVs should also be placed to allow for field device verification, such as the Arterial Dynamic Message Signs or static flashing beacon signs. This will allow operations staff to monitor the traveler information that is being displayed and verify accuracy and quickly notify maintenance personnel of system or device failures.

It is also required that some CCTV cameras, i.e., those located at the intersection and being used for video detection or for video analytics, are capable of interfacing and communicating with the signal controllers. These should be compatible with the local controller detection modules and should also be capable of being configured remotely across the local public agency networks.

In order to provide continuous monitoring of the roadway during all hours of the day TDOT will need to have the ability and access to remotely view, configure, and control both existing and proposed CCTV cameras. Additionally, TDOT should have priority access to view, configure and control during the following situations:

- Monitoring CCTV at a critical diversion route location(s) during an active incident management plan
- Any CCTV along a diversion route during non-operational hours of the local agencies
- Critical locations: intersections at interstate ramps, intersections with critical turning movements for planned diversion routes, cameras that provide verification of non-CCTV field devices such as DMS, high volume locations or areas with a high crash risk.

When the arterial CCTV cameras are deployed, additional guidelines under the CCTV SOG (in Appendix D: Field-Integrated Systems) will be developed for operational control between jurisdictions. Controls will include the following:

- Establishing owning jurisdictions having highest priority for viewing and control.
- Local jurisdictions and partners will have the ability to view CCTV.
- Define rules for access and control between jurisdictions for CCTV.
- TDOT should have control of arterial CCTV during local jurisdiction non-operational hours.
- Camera feeds from local arterials shall be available to the SmartWay system or alternative accessible solution.

12.4. BlueTOAD Devices

BlueTOAD refers to a specialized piece of equipment currently available from BlueARGUS Trafficast™. This pole-mounted device captures the discoverable (unpaired) and non-discoverable (paired) Bluetooth MAC addresses and can be used for Origin/Destination analytics and turning movement analysis. Using these “electronic signatures” additional processing software then matches the signatures at different locations to capture information used to estimate travel patterns (e.g., Origin/Destination), traffic speeds and travel times between intersections. This technology will be combined with the Dedicated Short-Range Communications equipment into a single roadside device for pole mounting. Stand-alone BlueTOAD equipment has been installed in other locations in Tennessee.

The BlueARGUS Software Suite is used to view the data collected from the BlueTOAD devices. The software will provide TDOT TMC & ICM staff the ability to collect and analyze both real-time and historical, highly accurate, travel time data along the I-24 SMART Corridor.

The ability to see accurately what is occurring along the corridor in real-time is an essential ITS operations management utility. In addition, having the ability to report on travel-times and speeds using a host of reporting options is an important performance-based tool for TDOT and its partners.

12.5. Dynamic Message Signs (DMS)

A set of signage strategies will be deployed to supplement the other technologies being constructed within the corridor to advance the goals, needs, and objectives of the I-24 SMART Corridor. TDOT will rely on a combination of full-size DMS signs, standard static wayfinding signs, and hybrid static signs to communicate messages and effectively manage traffic. Signage will serve to manage incident diversions by communicating critical information to motorists pertaining to incidents, road closures, recommended speed limits, estimated travel times, and alternate routes.

All signage should follow MUTCD guidelines for text size. Guidelines are based on speeds, the length of message, or number of message phases (if applicable).

Ground Mounted Dynamic Message Signs (DMS) are a type of electronic roadside sign that provides information to the traveler in limited text or visual graphical format. The main objective of the Ground Mounted DMS signs along the I-24 SMART Corridor is to allow TDOT to efficiently communicate travel time and other relevant incident information to motorists. Additional capabilities include providing motorists with public safety announcements, special event information, inclement weather notices, other emergency information and signing of diversion routing if TDOT implements it in the future. See Table 8 below for the hierarchy of Message Priorities to be utilized along the I-24 SMART Corridor.

Ground Mounted DMS have been installed at strategic locations along the I-24 SMART Corridor. Placement of signage will effectively support Traffic Management and Traffic Information services including diversion of traffic from the interstate to local arterials and state roads, warning travelers of potential hazards and congestion (e.g., queue warning), and providing additional ability to harmonize speeds. To maximize the coverage of proposed communication systems, Ground Mounted DMS locations should be installed in advance of major decision points such as exits with a minimum of one Ground Mounted DMS located between interchanges.

Additional procedures for Diversion Routes / Incident Management Plans will be developed within closer range of the construction of the arterial DMS by TDOT Consultant Services and ICM Coordinator.

Table 8 DMS Message Priorities

Priority	Message Type	Description
Default Display	Travel Time and Travel Conditions	Traffic conditions, including travel time information, are shown on the DMS.
Priority 1	Emergencies	Information about mandatory evacuations, major security warnings, and, if specific to the area of the DMS, major National Weather Service (NWS) near a specific DMS, two phases may be used for alternating Priority 1 and Priority 2 messages. alerts, such as a flash flood warning, take precedence over all other incidents or events. In the case of a lane blocking incident occurring simultaneously
Priority 2	Lane Blocking or Hazardous Incidents	Lane-blocking traffic incidents and unexpected roadway conditions such as major crashes, closures and diversions, flooding, brush fires, etc., are always communicated to motorists, even during an emergency or evacuation.
Priority 3	Congestion within 10-Mile Radius of the DMS	This is only for non-recurring, unexpected traffic congestion and does not include typical morning rush-hour congestion.
Priority 4	Severe Weather alerts	This refers to severe weather events that may affects motorists such as flooding, icy conditions, etc.
Priority 5	AMBER, Silver, and Blue Alerts	AMBER, Silver, and Blue Alerts may also be an even higher priority depending on the seriousness of the situation.
Priority 6	Non-Lane Blocking and Non-Hazardous Incidents	This refers to incidents that are not blocking lanes and are not posing hazards to motorists, but motorists need to be aware of conditions downstream from their locations.
Priority 7	Special Event Messages*	This refers to messages that direct motorists to the location of a special event venue or its parking and includes any advance notices.
Priority 8	Advance Notice of Special Events or Roadwork	Planned special events and roadwork or lane closures that are expected to have an impact on traffic shall be posted six days in advance.
Priority 9	Public Safety Messages (PSA) and Safety Campaigns	Approved safety messages as determined by TDOT's Traffic Operations Division Office and ICM Coordinator. AMBER, Silver, and Blue Alerts are a higher priority than other PSAs.

**With approval of TDOT's Traffic Operation Division*

12.6. Emergency Pull-Overs (EPOLs)

TDOT's EPOLs should be designed to provide a safe zone for vehicles, clear of travel lanes and beyond the standard shoulders along the roadway.

EPOLs should be spaced to provide for:

- Temporarily pullover of vehicles.
- Adequate space to move vehicles from travel lane.
- Adequate space for emergency responders to stage their support operations and incident investigations.
- Adequate distance to accelerate and decelerate with appropriate visibility.

Design of EPOLs should be based on TDOT Roadway Design Guidelines; Highway Capacity Manual (HCM); and American Association of State Highway and Transportation Officials (AASHTO) guidance. The EPOL SOGs shall be consistent with the Manual on Uniform Traffic Control Devices (MUTCD) and State laws for incident clearance including "Move Over" Laws.

The EPOL design should also include:

- Zone monitoring (CCTV).
- Occupancy detection (vehicle detection).

Future zone activity alert/alarms shall be relayed to TDOT's TMC and ICM staff.

12.7. Detection Devices

A brief description of the detection devices/systems currently being utilized as a part of the ICM system can be viewed in the subsections below.

12.7.1. Miovision

Miovision utilizes 360º cameras to provide stop bar detection for all approaches of an intersection. These cameras are connected to a processor connected to the traffic signal controller. The video feed is transmitted back through the network connection and is available to view by the Traffic Operations Center staff. Miovision provides traffic data collection for operations, engineering, and planning teams - including turning movement counts, volumes, and classification. Miovision cameras are currently deployed across the entire corridor at every traffic signal within the project limits.

12.7.2. Wavetronix

Wavetronix utilizes microwave radar to detect traffic at an intersection. All intersections within the ICM system use SmartSensor Advance detectors for advance detection for each mainline approach. The advance detection provides the traffic signal controller information about vehicles approaching the intersection that are entering the dilemma zone, an area in which drivers may not be able to safely stop if a signal changes. The advance sensors will also be configured to provide mainline system loops to capture departures from the intersection. This will provide additional data to allow for the implementation of traffic responsive operation on project corridors.

12.8. Ramp Metering

Ramp Meters will be installed in Phase 3 of the project. Phase 3 is currently in the preliminary design phase and the ramp metering design is still being developed. This section will be updated during the development of the Phase 3 construction plans after the layout and design is completed. A Future Ramp Metering SOG should be developed prior to implementation.

13. Event Management Coordination & Protocols

TDOT's Regional TMCs are important partners in the efforts to manage incidents using Incident Command System (ICS). TDOT usually provides support to the incident commander in numerous ways and can be an excellent source of equipment and manpower to assist with incident recovery. Local agency TOC's have various means and methods to respond to incident on local and state routes. This section, and additional detail provided in Appendix E: Communication Protocols, is meant to bring these forces together, along with Emergency Responders, and in essence meet all four ICM goals described previously:

- Goal 1 (G1): Increase travel time reliability
- Goal 2 (G2): Increase mobility of all modes
- Goal 3 (G3): Reduce concentration of collisions
- Goal 4 (G4): Develop agency coordination.

With agency coordination, there will be the common goal and communal effort to respond to incidents quickly, accommodate diverting traffic, and increase travel time reliability and mobility while at the same time reducing the concentration of secondary collisions and congestion.

See Figures 9 and 10 below for the high-level flow diagram of event management coordination and protocols. Local agencies should follow their general event management procedures, with increased coordination between them and the ICM staff during events taking place on the I-24 SMART Corridor. ICM staff will assist local agencies with event management depending on their needs, indicated by event severity level.

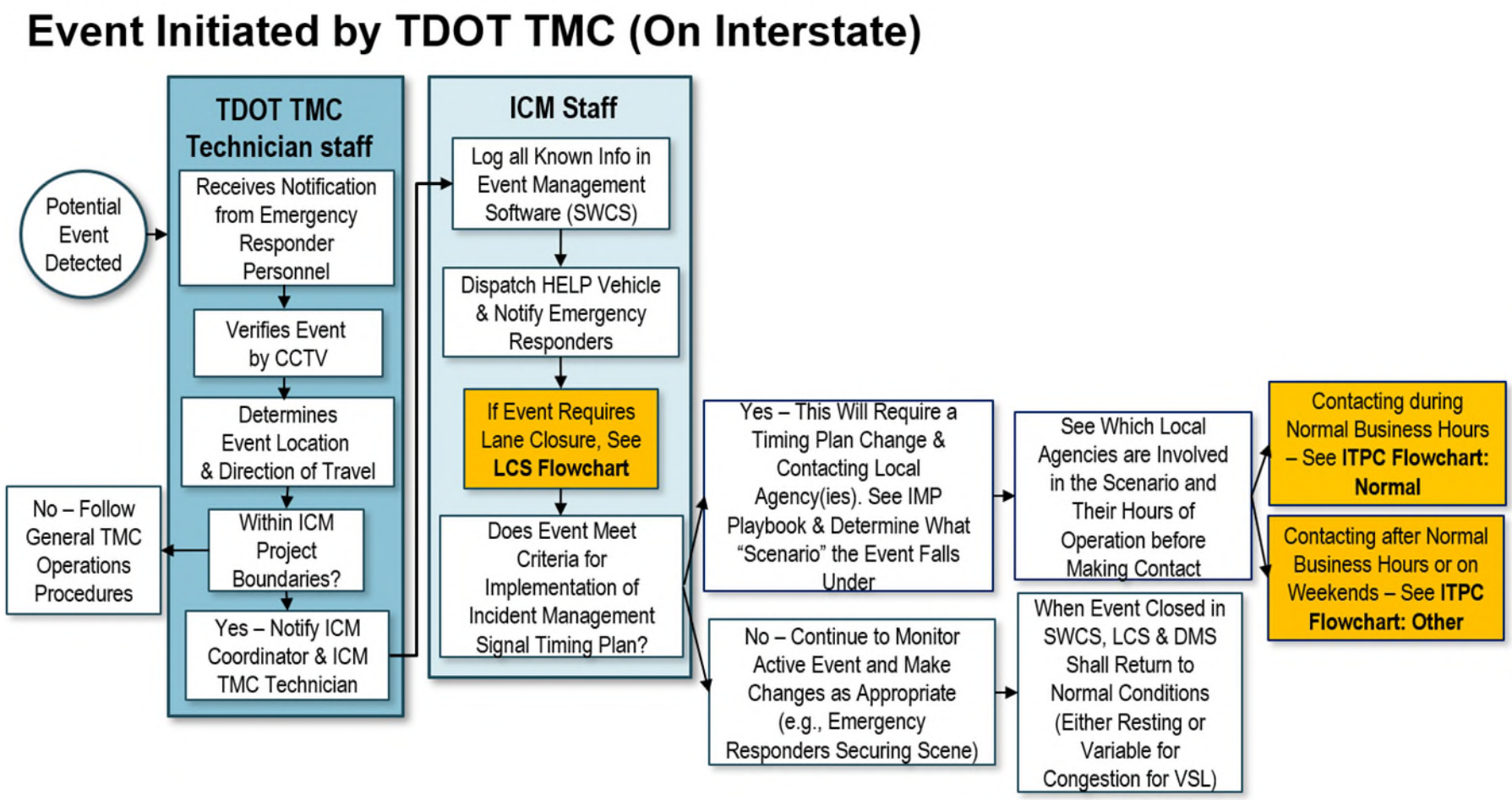

Figure 9 Event Management when Initiated by TDOT TMC

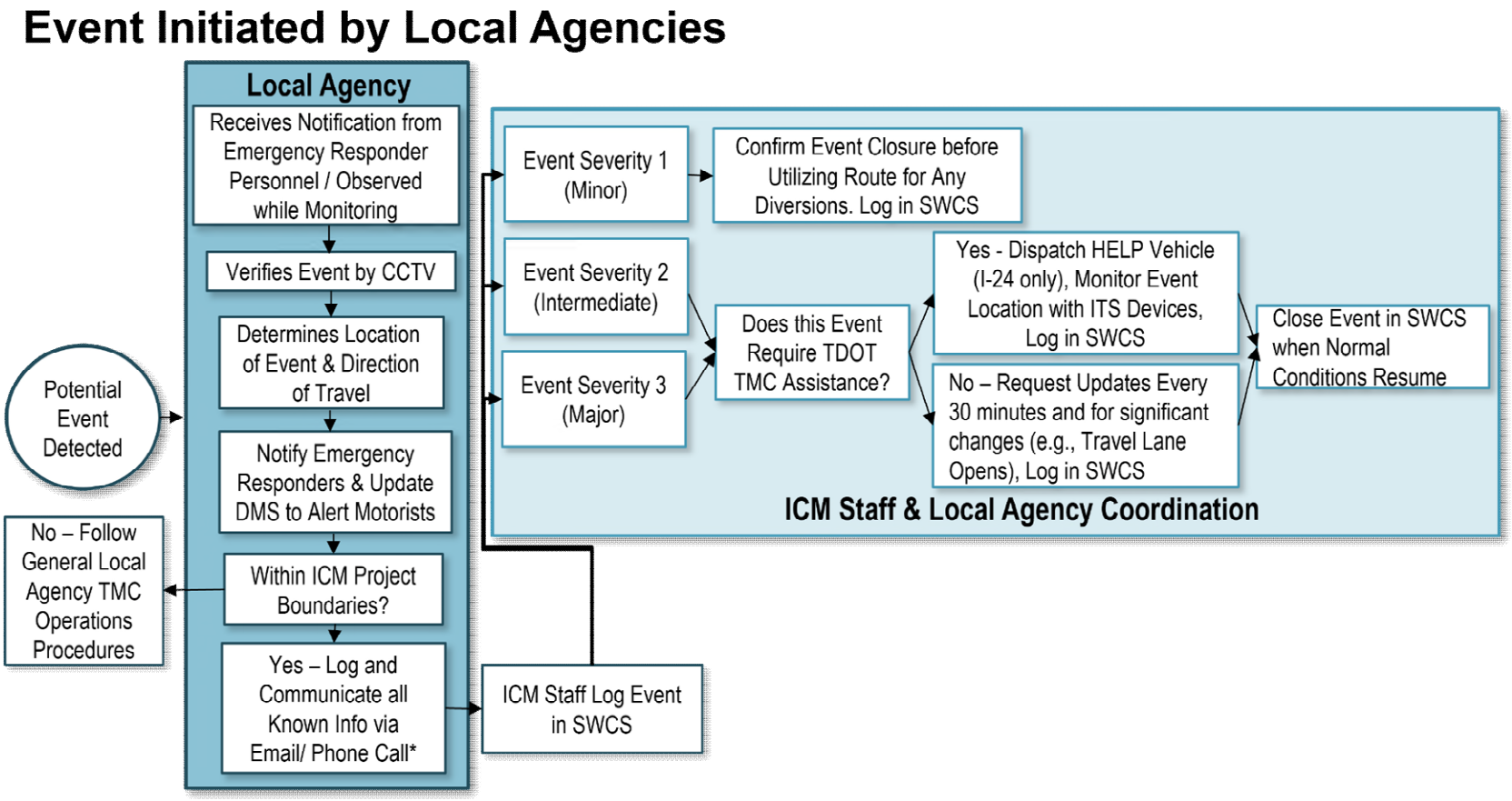

Figure 10 Event Management when Initiated by Local Agencies

14. Operational Scenarios

While local agency staff and Region 3 TDOT ICM staff may collaborate or interact to some extent to react to incidents or plan to manage pre-planned events, each agency mostly conducts day-to-day operations autonomously. When congestion and the number of incidents increases over time, this "reactionary" method of operation becomes less effective in meeting the transportation needs of the businesses and people that rely upon the corridor. The operational scenarios presented in Appendix G: Operational Scenarios are examples of operating the I-24 SMART Corridor during planed special events, high traffic congestion, and major incidents to ensure the modeling tools will meet the analysis needs and lead to confidence in the model results.

This section presents an overview of the operational scenarios along the I-24 SMART Corridor. Operational scenarios describe a series of expected interactions between the various user classes and the proposed strategies in response to specified use-cases.

Operational scenarios should tell different stories from perspectives of different stakeholders over a variety of circumstances. This is a very useful tool in conveying to the staff the event related usage of the I-24 SMART Corridor. It will be through scenarios that the ICM staff may be able to collect the most information about how to piece the I-24 SMART Corridor together – stakeholders and staff should be able to easily relate to the I-24 SMART Corridor through the 'story-telling' means that operational scenarios utilize. There are four basic elements to considering operational scenario development:

- Include User's Perspective
- Variety of User Classes
- Stress/Failure Scenarios
- Multiple Circumstances

Operational scenarios identify at a high-level the roles and responsibilities of stakeholders. The intent of the operational scenario description is to provide a plan that features different TDOT or local agency staff that relate to the situation and environment where the proposed system is being contemplated. The operational scenarios will highlight the importance of coordination and the responsibilities of both TDOT staff and local agency staff related to the incident's location along the I-24 SMART Corridor. Additional operational scenarios should be discussed among stakeholders to highlight key system features based on the initial understanding of the problem to be solved and the user needs. This process will help stakeholders and staff understand how stakeholder needs are translated to a system that meets those needs.

Operational Scenarios to prepare for include but are not limited to:

- Normal Operations during Non-Peak Travel Period
- Normal Operation during Peak Travel Period

- Peak Period Minor Incident on the Interstate Segment with Disabled Vehicle in Emergency Pull-Off
- Peak Period Major Incident on the Interstate Segment
- Peak Period Major Incident on the Alternative Route
- Special Evening Event in Local Jurisdiction Creating Off-Peak Congestion
- Major Construction on the Interstate Segment during Peak Period
- Major Construction on the Alternative Route during Peak Period

Additional details on Operational Scenarios including roadside equipment on both the Alternative Route and Interstate Segment, the use of the Central Software System for traffic monitoring, decision support, and the traveler information interface, TDOT TMC responsibilities, and local agency TOCs responsibilities along the I-24 SMART Corridor can be found in Appendix G: Operational Scenarios.

The ability to clear incidents quickly while providing safety to on-scene responders and travelers is one measure of the success of a Traffic Incident Management (TIM) program. The successful on-scene activities are supported by integrated interagency communications. For traffic incident management to be effective, TDOT shall rely on partnerships with local agencies and personnel including troopers, police officers, sheriffs' deputies, firefighters, rescue squad members, EMTs, towing and recovery operators, public works, and officials. This partnership is largely dependent on education and is currently available through the Tennessee Traffic Incident Management Training Facility.

15. Diversion Routes

Three levels of incidents on the interstate system have been defined based on their impact to traffic. These levels, which categorize the severity and expected duration of the incident, will be based on an assessment of conditions at the scene. This assessment is crucial as State Route 1 and most arterial routes are already near capacity. Diverting interstate traffic for unnecessary incidents will reduce the overall efficiency of the I-24 SMART Corridor. When a diversion route is deemed necessary by the ICM Coordinator, the communication protocols will be followed to implement the appropriate Incident Management signal timing plan per the Incident Management Plan. The ICM Coordinator will also refer to Appendix H: Incident Management Plans (IMP Playbook) to identify the correct Incident Management signal timing pattern to implement based on the location of the incident. The three levels of incidents, consistent with TIM Training Procedures, are:

- Level 1 (Minor): Impact to the traveled roadway is estimated to be less than 30 minutes, with no lane blockage or minor lane blockage. There shall be **NO** need to implement a diversion Route / Incident Management Plan.
- Level 2 (Intermediate): Impact to the traveled roadway is estimated to be 30 minutes to 2 hours with lane blockages but not a full closure of the roadway. This level will create a greater level of delay on the interstate, for a longer period time. The mainline will continue to

flow but with a limited capacity. Depending on incident location and past observations the ICM Coordinator shall decide if a Diversion Route / Incident Management Plan is necessary. If **YES**, approximate travel times for staying on I-24 and for diverting to SR-1 should be suggested on all applicable DMS. The current condition along the diversion route should be monitored and reviewed by ICM TMC Technicians. The items being monitored include other incidents on the alternate route, construction lane closures, and status of communication to signals for the duration of the incident response.

- Level 3 (Major): Most severe condition, impact to the traveled roadway is estimated to be more than 2 hours and/or the roadway is fully closed in any single direction. Significant area-wide congestion can be expected. With an extended impact, mainline queues will develop to the point that travel times will seem excessive to many, who will then attempt to exit and find the alternate route to avoid the congestion. Thus, **YES**, with the final approval of the ICM Coordinator, a Diversion Route / Incident Management Plan should be warranted. Implementation of the appropriate diversion route / Incident Management Plan is necessary to manage the additional volumes on the arterials and State Route 1. Approximate travel times for staying on I-24 and for diverting to SR-1 should be suggested on all applicable DMS. Current condition along the diversion route should be monitored and reviewed by ICM TMC Technicians. Items monitored include avoidance of other incidents on the alternate route, construction lane closures, or lack of communication to signals.

*The Current SWCS algorithm for Event Severity does not consider time of day, vehicle type, and event location. Thus, TMC and ICM staff should override this severity based on their historical experience – under the discretion of the ICM Coordinator. For example, an intermediate level incident may be reduced to a minor incident if it occurs at 2 AM or upgraded to a major incident if it occurs during the AM Peak. The Artificial Intelligence (AI) DSS is currently in development and scheduled for future deployment. AI DSS will account for these considerations and more including congestion on various diversion routes, to make an intelligent decision on whether an Incident Management Plan should be implemented.

The figures below represent the communication protocols for initiating a Signal Timing Plan Change per Incident Management Plan. See Appendix H: Incident Management Plans (IMP Playbook) for which local agency will need to be contacted per the Diversion Route selected. Use 7.2.1 Local Agency Hours of Operation Figure 11, during normal operating hours, or Figure 12, after normal operating hours and on weekends.

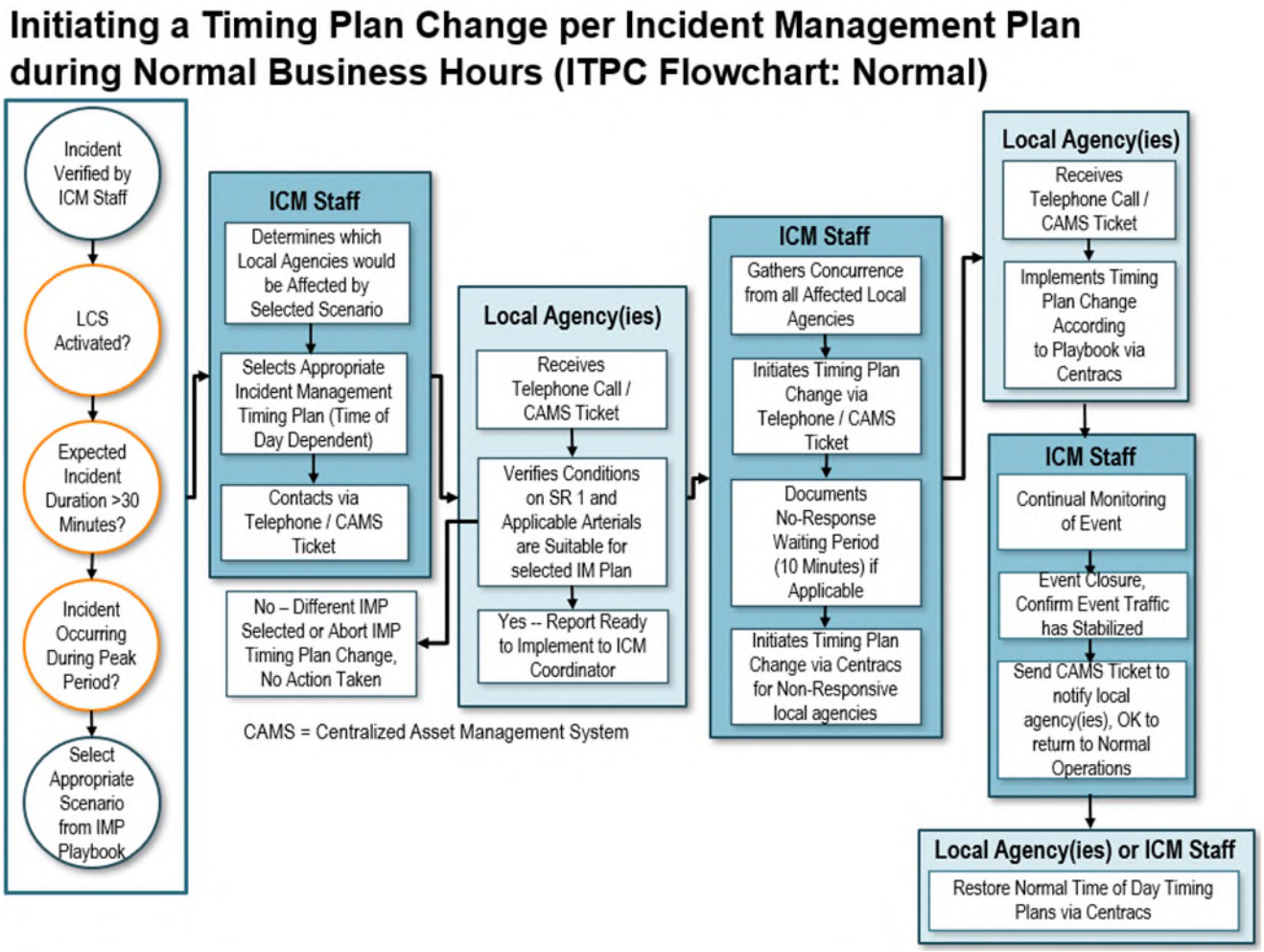

Figure 11 Incident Management Plan during Normal Hours

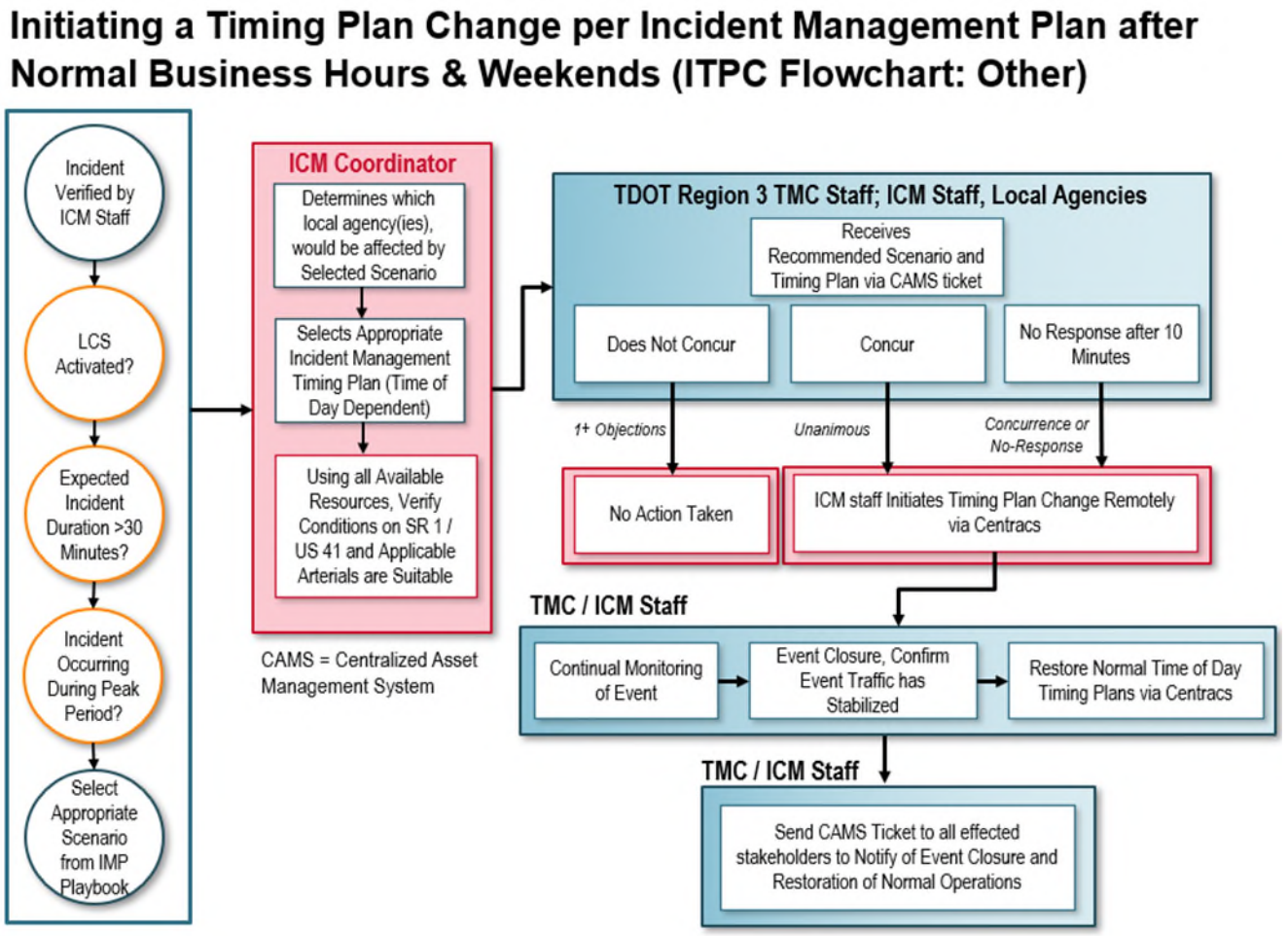

Figure 12 Incident Management Plan after Hours

16. Signal Timing Operations

TDOT does not typically maintain or own traffic signals. New signals built as a part of a TDOT project are turned over to the local jurisdiction to own and maintain once construction is complete. The maintaining agency is responsible for maintaining the equipment and the signal timing operations. The project limits of I-24 SMART Corridor extends through four different jurisdictions: City of Nashville, City of La Vergne, Town of Smyrna, and City of Murfreesboro. The central signal system servers for each agency will be connected to the TDOT Region 3 TMC through center-to-center communication. This will enable the implementation of timing plan changes per the Incident Management Plan for any signals within the project limits from the TDOT TMC. To facilitate the ICM plans efficiently, TDOT, ICM Staff, and the local agencies should follow the established communication protocols, see 13. Event Management Coordination & Protocols.

Signal system response is an integral part of the management of the I-24 SMART Corridor. During an incident, traffic will often divert to the arterial roadway system from the interstate. The ICM Coordinator shall have the responsibility to implement diversion signal timing plans to support that particular incident scenario. The scenario implemented should help facilitate the flow of traffic to the arterials and back to the corridor past the incident, see Appendix H: Incident Management Plans (IMP Playbook) for a complete list of timing plans for each diversion scenario. Scenarios were identified for incidents occurring on I-24 between each interchange within the project limits in both the eastbound and westbound directions. Diversion routes were defined for each scenario to get the traffic away from the interstate, upstream of the incident and bring them back to the interstate, downstream of the incident. Depending on the location of the non-recurring incident, the signal timing patterns were modified to emphasize specific movements to help reduce delay and improve safety. The diversion from an arterial roadway to the interstate due to an incident is less common. The driver on an arterial is typically not travelling long distances, and therefore will typically look for local routes to bypass the incident. Responses to arterial incidents could include adjusting splits to allow additional turning movement time to accommodate diverting traffic.

For the I-24 SMART Corridor, State Route 1 runs parallel to I-24, which provides an alternative arterial to use as a diversion route. Several connecting arterials provide a route to and from State Route 1. The traffic volume changes due to lane closures on I-24 were determined for each scenario using a travel demand model and the estimated percentage change was applied to actual turning movement counts in Synchro to the applicable routes to develop the diversion signal timing plans. Diversion signal timing plans were developed for AM peak, midday peak, PM peak and PM off-peak time periods for each scenario. The traffic signal timings are not currently on a planned update schedule. The signal timing will be constantly monitored and tweaked by ICM staff so that traffic flow is as efficient as possible. It is anticipated that as traffic patterns and daily volumes begin to change that the timing will be updated as needed.

Appendix H: Incident Management Plans (IMP Playbook) details the diversion scenarios (possible incident locations) identified, list of intersections affected by each scenario per jurisdiction, map of each scenario showing the location of incident and the diversion route through arterials, timing pattern numbers assigned to each intersection based on the scenario and peak period per jurisdiction, potential bottle-neck locations along affected corridors per scenario and comparison of cycle lengths between Incident Management Plans and regular plans for the intersections for each scenario.

All the intersections that are affected by a particular scenario will be grouped together in the central signal system software (Centracs). This will allow for the implementation of a signal timing plan to all the intersections in the scenario at the same time. If there is a need to implement the Incident Management signal timing patterns in a progressive way throughout the group, it can be divided into subgroups. The patterns can be implemented to the subgroup that is affected by the incident first and as the diversion traffic progresses towards the next subgroup, the patterns will be implemented for that subgroup. Based on the actual occurrence of an incident, the ICM Coordinator (or his designee) will manually trigger the implementation of appropriate signal timing plans on the affected corridors based on the guidelines outlined in Appendix H: Incident Management Plans (IMP Playbook).

Traffic management signal systems include the communication system, field hardware, and traffic signal control software to allow real-time monitoring and control the traffic signal system. Technology applications can also be applied to the traffic signal system that utilize detection to automatically adjust traffic patterns or signal timings. Adaptive Signal Control Technology (ASCT) and Traffic Signal Responsive solutions are options of increased automation for diversion routes that should be considered in the future.

ICM staff will provide additional support for signal monitoring and operations for local agencies who lack the capacity and ability to perform these tasks.

17. Operation Policy and Law (Privacy Concerns)

The TMC Operations Supervisor, or authorized alternate, is responsible for the security of the operations room and has the authority to activate and de-activate building passkeys. TMC staff shall observe all security methods and should alert supervisors in case of emergency. This includes situations where the staff feels there is a security issue or security violation. The daily review of security procedures will involve the security of the operations room in general terms. The doors to the operations room are always to remain closed. The doors shall not be blocked open except for the delivery of goods or services where it does not warrant the issuance of an individual pass key to the individuals conducting the delivery.

Data made available to the TMC by the Police and other agencies by any means, is to be considered confidential. This information will not be shared with outside groups, especially the media and the public, due to privacy concerns. Generally, acceptable information that can be provided includes, number of vehicles involved, exact location, direction of travel, and estimated impact.

Information that will not be provided includes individual names, physical descriptions of people, license plate numbers, and the make/model/color of the vehicles.

Questions regarding this procedure should be directed to the TMC Operations Supervisor for clarification. Any employee found to have provided confidential information to an unauthorized person or agency will face disciplinary action that includes written warnings and/or termination.

17.1. SWCS Security and Privacy

The TDOT SWCS assumes a network environment that will support the exchange of Transmission Control Protocol/Internet Protocol (TCP/IP) packets between TDOT SWCS applications. No specific security (other than the encryption of passwords) is performed by the TDOT SWCS. If additional network security is required by a deploying organization, a careful analysis of how data will be exchanged needs to be made when the implementation plan for deployment is developed.

Additional policies for local agencies to be provided after implementation. Refer to 19.2 Contingencies and Alternate States and Modes of Operation for configuration and setup details.

17.2. Operational Policies and Constraints

The I-24 SMART Corridor provides multiple policies and constraints that shall be addressed to deliver proposed improvements. These include:

- **Inability to widen I-24**: Limited right-of-way and adjacent developed land along the corridor restrict the ability to widen I-24 to add more traffic lanes.
- **Increasing traffic with continued projected increases:** As stated in section 3.1 traffic volumes and population is on the rise for the area. Traffic will continue to increase in the near- and long-term future of the corridor.
- **Lack of enforcement ability for HOV lanes**: Prior I-24 studies have indicated that the current high-occupancy vehicle (HOV) lanes are not well-enforced. A high number of single occupancy vehicles (SOVs) have been documented improperly using the HOV lanes.
- **Multiple jurisdictions**: The multijurisdictional nature of the I-24 corridor presents a challenge. Traditional ITS systems are typically funded, built, and operated by either a single public agency or by private industry, with an occasional multiagency organization taking responsibility to run a Traffic Management Center (TMC) to support corridor or system integration and communication. In some cases, these traditional strategies often conflict with the purposes or goals of a larger region, requiring stakeholder agencies to work together to resolve conflicts and better coordinate integrated activities. For the I-24 Integrated Corridor there will need to be detailed interagency agreements regarding both the technology to be deployed along with the operations and maintenance of the systems.
- **First Integrated Corridor Management for TDOT**: The current situation relies mostly on traditional roadway operations that are based upon disconnected and separate intelligent transportation systems (ITS) such as vehicle detection, Dynamic Message Signs (DMS), traffic cameras, etc. Implementing new integrated deployment strategies as part of the overall I-24 SMART Corridor Project will provide many benefits.

- **Timeline for implementation**: Major transportation projects often take years to plan and decades or more to implement. They are complex projects with multiple challenges, while at the same time requiring maintenance of traffic during construction. The I-24 SMART Corridor is providing rapid implementation during a limited number of years. A significant challenge is to implement short-term improvements quickly.

18. Performance Monitoring

Systems/devices and responsibilities specific to the I-24 SMART Corridor are provided in the applicable sections to follow.

System reliability is a key part of investing in the I-24 SMART Corridor deployment. As described below, the three categories for system reliability are divided depending on the agency in charge of operations and maintenance of the device. Additionally, there are required response times for when a device/system is found to be malfunctioning. These are indicated by the Performance Tiers and are summarized in the following section.

1. Interstate ITS Field & TMC Equipment Uptime Availability: This performance measure demonstrates interstate ITS field and TMC devices' uptime as a percentage. This metric is calculated by taking the total uptime (in hours) of ITS devices and dividing it by the total number of hours during the reporting period. This shall be calculated as a whole and separately for CCTV cameras, DMS, VDSs, and other devices. The TMC equipment at the very minimum, should be calculated including the Centracs central software, video wall, radios, and workstations.
2. ITS Communication Infrastructure and Network Uptime Availability: This performance measure demonstrates the ITS communication and networking infrastructure's uptime as a percentage. This metric is calculated by taking the total uptime (in hours) of ITS communication and networking infrastructure and dividing it by the total number of hours during the reporting period. This shall be calculated as a whole and separately for both limited and non-limited access roadways.
3. Arterial ITS Field Equipment Uptime Availability: This performance measure demonstrates arterial field ITS devices' uptime as a percentage. This metric is calculated by taking the total uptime (in hours) of ITS devices and dividing it by the total number of hours during the reporting period. This shall be calculated as a whole and separately for CCTV cameras, DMS, VDSs, and other devices. These devices are controlled/maintained by local TOC's.

Refer to Appendix I: Performance Monitoring SOG for current TMC/TOC Systems and ITS Devices Upkeep MOEs, inclusive of Target Up-Time Percentages.

18.1. ICM Performance Tiers

Devices and systems used for the I-24 SMART Corridor shall be broken into three tiers dependent on how critical, necessary, or important the operation is to the success of the corridor. These tiers should be referenced to prioritize the monitoring for TMC and ICM staff, for how KPI data is collected, and the speed at which maintenance activities should commence. The KPIs for upkeep are also provided below. All maintenance tickets should be acknowledged in a timely manner, regardless of performance tier, and resolution time estimated depending on the device type failure and the repair required to restore operations. Refer to 22. Equipment Malfunction Reporting and I-24 ICM Maintenance Plan for additional details.

Refer to Appendix I: Performance Monitoring SOG for current list of TMC/TOC Systems and ITS Devices for the I-24 Corridor. Below is a high-level summary of the systems and devices to be included in each category.

18.1.1. Critical for ICM (Tier 1)

The major components that support large groups of field infrastructure are critical for ICM, thus will be considered as Tier 1 in terms of ICM Operations and Maintenance Response Times. Communication items such a hub/core network switches, hub building, building or node telecommunications cabinet, and fiber trunk should all be considered as Tier 1. The Lane Control and Variable Speed Systems shall be considered Tier 1, however individual gantry locations shall be Tier 2, and individual signs part of the gantry shall be Tier 3. Other systems and devices critical for ICM operations include but are not limited to:

- Radar Detection
- Interstate Roadside DMS
- Ramp Meters
- Central Signal System Communication (Centracs)
- Power Distribution Load Centers

18.1.2. Necessary for ICM (Tier 2)

Node locations that support groups of devices or a system location are considered necessary for ICM, thus will be considered as Tier 2 in terms of ICM Operations and Maintenance Response Times. This communication is at the site level, and includes individual drop cables, individual field cabinet switches, node telecommunications cabinet, wireless microwave communications node, etc. Tier 2 shall also include necessary monitoring devices operating on the interstate and arterials such as CCTVs and DMS. Traffic signal equipment in cabinet should also be considered as Tier 2.

18.1.3. Important to ICM (Tier 3)

Device components within the system, and all other devices not considered Critical or Necessary for the ICM, shall be deemed Important to ICM and ranked Tier 3 in terms of ICM Operations and Maintenance Response Times. This includes but is not limited to:

- BlueTOAD / DSRC units
- Traffic Signal Detection Devices
  - Stop bar Detection (Miovision Camera)
  - Advanced Detection (Wavetronix)
- Video Detection
- Pedestrian Push Buttons
- Wrong Way Driving System

19. SmartWay Central Software (SWCS)

TDOT SmartWay Central Software SWCS is a set of Intelligent Transportation System (ITS) software that allows the control of roadway devices as well as information exchange across a variety of transportation agencies. SWCS is currently being used in all four of TDOT's regional TMC's (Memphis, Nashville, Chattanooga, and Knoxville) and a web version portal version is currently under development. Access and security for this platform, as well as for future modules and features, shall be updated after development. The goal of the TDOT SWCS is to have a common software base platform that can be deployed throughout the state of Tennessee.

The various software applications utilize socket connections to communicate with each other, and transfer data via a standard format (Extensible Markup Language [XML]). Data is stored in an underlying Oracle database.

Refer to Appendix C: SmartWay Central Software (SWCS) Procedures for the procedures applicable staff shall follow. These tasks are summarized below:

- General routine monitoring (TMC & ICM staff)
  - CCTV
  - DMS
  - LCS/VSL
  - Ramp metering
- Event Reporting/Notification Steps (TMC, ICM, and local agency staff)
  - Logging Event Information
  - Dispatching Help Patrol
  - Diversion Routes & Incident Management Plans
- Reports (TMC, ICM, and local agency staff)

19.1. SWCS Organization and Overview of Operations

The TDOT SWCS is comprised of various subsystems that interact with each other in a cooperative environment. Staff operating the software (from this point forward will be referred to as 'SWCS operator' which includes but is not limited to, TMC staff, ICM staff, and TOC staff) will interact with these subsystems and the database through both browser and Windows-based applications, described below.

- Executive Handler is a Windows-based application that enables execution control of other TDOT SWCS subsystems, and operational status reporting from subsystem processed under its control.
- Status Logger is a set of Windows-based software tools that allows TDOT SWCS applications to send status information to a central archive server and display this information to the operator within a viewer.
- The Operator Map is an application installed from a browser and the primary user-interface, providing a means by which TDOT SWCS operators may observe current traffic operations and field equipment status and manipulate field equipment to both gather and disseminate pertinent data.
- The Event Viewer is a browser-based application that provides a "read-only" method to review events currently known to the TDOT SWCS deployment.

19.2. Contingencies and Alternate States and Modes of Operation

There are four types of Traffic Management Centers (TMCs) that are supported by the TDOT SWCS:

- RTMC: Regional Transportation Management Center
- STMC: Satellite (or Secondary) Transportation Management Center
- VTMC: Virtual Transportation Management Center
- PTMC: Portable Transportation Management Center

This section will be updated to include the web portal version of SWCS once development has been completed. The following table provides a brief comparison of the available configuration types:

Table 9 TDOT SWCS Deployment Alternatives

	Data Bus	# of Devices Controlled	Supports GUI Access	Platform	Subsystems Deployed	Device Driver Deployment
RTMC	Uses own	Large	Yes	Multi Server typical	All	All
STMC	Shares RTMC Data Bus	Moderate	No	Single or Multi Server	Single or Multiple	One or Two
VTMC	None	None	No	Desktop or Laptop	None	None
PTMC	Uses own	Small	Yes	Laptop	All	All

19.3. Decision Support System

As part of the overall Central Software System, TDOT is creating a Decision Support System (DSS) that can process traffic data from the ITS and Traffic systems of the I-24 SMART Corridor system. The DSS will generate and process traffic information as well as provide alerts and recommended action plans to TMC staff and other stakeholders. These ITS and Traffic systems are described in 12. Field-Integrated Systems. Data from the systems will be used to produce predictive traffic flow and rules-based response scenarios. The DSS provides real-time operational intelligence and guidance to support traffic management and operations through TMC operations software. Consistent responses are provided based on input and management by the operators based on the standard operating procedures and rules. The artificial intelligence (AI) version of the DSS is still currently under development and will require a learning period before it can be fully utilized for TMC and ICM Operations.

Much of the day-to-day operations of the ICM systems and traffic monitoring should be conducted by TMC and ICM staff utilizing various components of SWCS. However, the DSS will actively screen for anomalies and unusual situations, determine a recommended action, and provide this information to staff. The DSS will generate multiple response plans and use real-time simulation modeling, artificial intelligence, machine learning and other tools to evaluate and score each response plan on its ability to provide the best traffic management option, inclusive of recommending an Incident Management Plan. The DSS is comprised of three main components: 1) a Rules Engine, 2) a Prediction Engine, and 3) an Analytics Engine. The rules engine uses real-time traffic and transit data, incident data, incident location, estimated incident duration, affected traffic lanes, and weather conditions to assess situations. When an event occurs that may reduce the mobility of the transportation network, the rules engine makes an initial recommendation on the high-level strategies (i.e., changes to messages, field

equipment control changes) that are appropriate for that event. The main functionality of the Decision Support System is:

- Analyze real-time transportation data to determine active state of road conditions
- Analyze and detect anomalies in road conditions
- Analyze real-time data versus historical data to determine appropriate strategies and responses based on developed system rules and responses
- Analyze and detect data parameters and metrics (MOEs) to return to normal conditions
- Analyze stored ITS device status data to determine the availability of devices
- Analyze events, network conditions, and status of devices to select appropriate responses
- Provide users with recommended response plans (changes to messages, signal timing, etc.)
- Predict the potential benefit of implementing a response
- Evaluate the impact of enacted response plans on the transportation network.
- Record data, events, actions as historical data to analyze against future events and report on performance

19.4. SWCS Maintenance

The TDOT SWCS will be maintained by TDOT's Regional TMC IT Staff (Tier 1) in cooperation with support from TDOT Headquarters Staff and Consultant Services (Tier 2). Regular maintenance will be required for both TDOT SWCS as well as the servers hosting the software and database. TMC IT Staff will be responsible for maintaining and updating the servers and related operating systems, which may require minor downtime for operations while roles are shifted from one virtual machine (VM) to another. The anticipated downtime for this type of maintenance should typically be 5 to 10 minutes. The Consultant will also be required for updating and maintaining SWCS which requires a 4-hour outage window. During this time, the software is still operational, however TMC and ICM staff will see individual modules restart throughout the timeframe. A full outage of 20 minutes is necessary to complete the maintenance upgrade and will be started with the approval of the TMC Operations Supervisor. All SWCS operating staff shall be notified when the 4-hour maintenance window is occurring and 5 minutes before the full-outage window occurs so any activities may be logged manually till SWCS is restored. No full-outage maintenance is permitted during active incidents. If a severe incident, severity determined by the TMC Operations Supervisor, occurs maintenance activities should be paused in order to manage the event. Intermediate and minor incidents would not warrant pausing the maintenance upgrades as they can be handled manually.

When local agencies are given access to the web portal, a line of communication should be determined for their maintenance updates and concerns.

19.5. SWCS Troubleshooting

The order of operations for troubleshooting software issues begins with the SWCS operating staff consulting the TMC Operations Supervisor. If the TMC Operations Supervisor cannot resolve the issue, they shall contact the on-duty TMC IT Staff and submit a help ticket. Information on the help ticket should include, at a minimum, the Event ID number, event location, and encountered issue. The on-duty TMC IT Staff will then look into the issue to determine if they can resolve it. If the on-duty TMC IT Staff is unable to resolve the issue, they will reach out to the Consultant at the provided 24/7 support phone number for resolution. The Consultant will then work with the on-duty TMC IT Staff and the TMC Operations Supervisor to communicate when the issue is resolved and what caused the issue.

When local agencies are given access to the web portal, a line of communication should be determined for their troubleshooting concerns.

Before consulting the TMC Operations Supervisor, SWCS Operating Staff shall run through these typical troubleshooting items:

- Verify username is correct, including the correct case
- Verify that the desired subsystem to utilize has initialized and is turned on
- Verify that the desired icon is turned on in the User Interface
- Verify that the HELP Trucks are set to the correct status
- Verify the HELP truck that was dispatched to an event is not already arrived at a different event
- If the program is not responsive, close out, and open the software back up. There may be a software update required, which this would initiate
- Set device that is in “Error” state to “Out of Service” and then back into “Active”

19.6. Accessing the TDOT SWCS User Interface

The TDOT SWCS is started by pointing a web browser to the default page of the web server where the software was installed. From here see Appendix C: SmartWay Central Software (SWCS) Procedures, for procedures on capturing roadway events, dispatching HELP Vehicles, and tools for generating reports. TMC and ICM Staff should have the Operator Map, see Figure 13, open most of the time while monitoring. It is from this screen staff may access Field-Integrated Systems, such as CCTV, DMS, and LCS/VSL (after module launch). This is also where TMC and ICM staff can log events. It is most vital for the I-24 SMART Corridor that the “Impact on Roadways” screen, Figure 14, is filled out accurately to prompt an accurate response and Incident Management Plan.

The TDOT SmartWay Central Software: Software User’s Manual and the SWCS Reports Manual should also be referenced regularly by SWCS Operating staff for more detailed instructions and procedures.

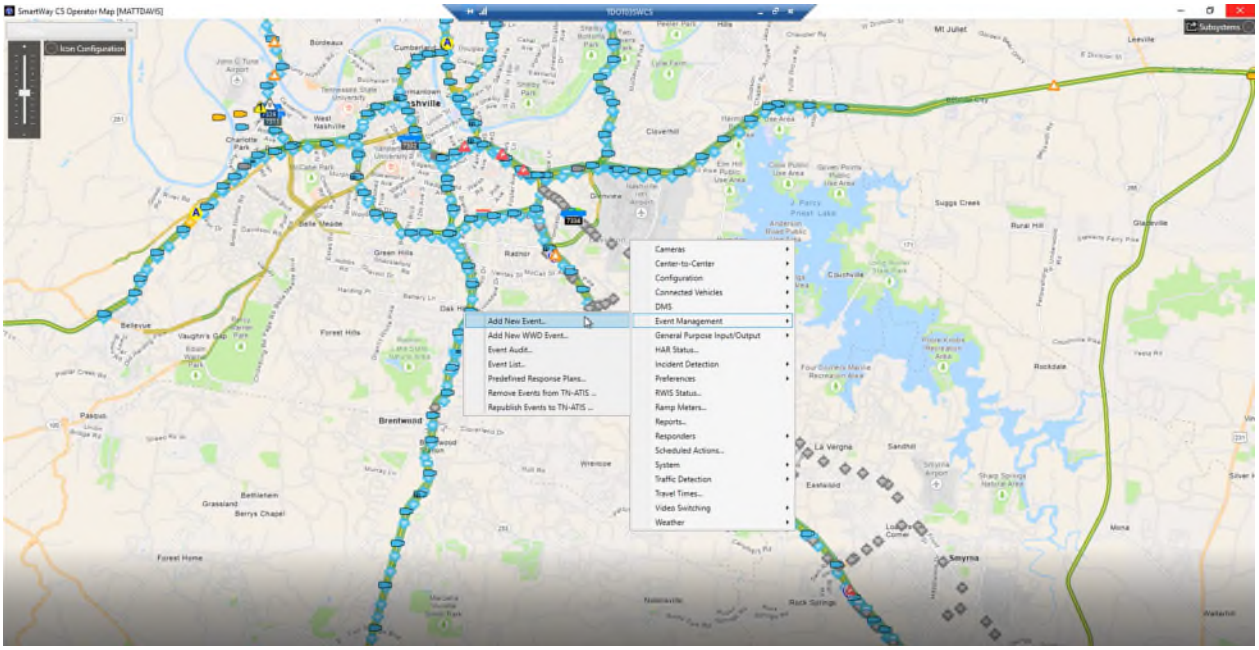

Figure 13 Operator Map Screen

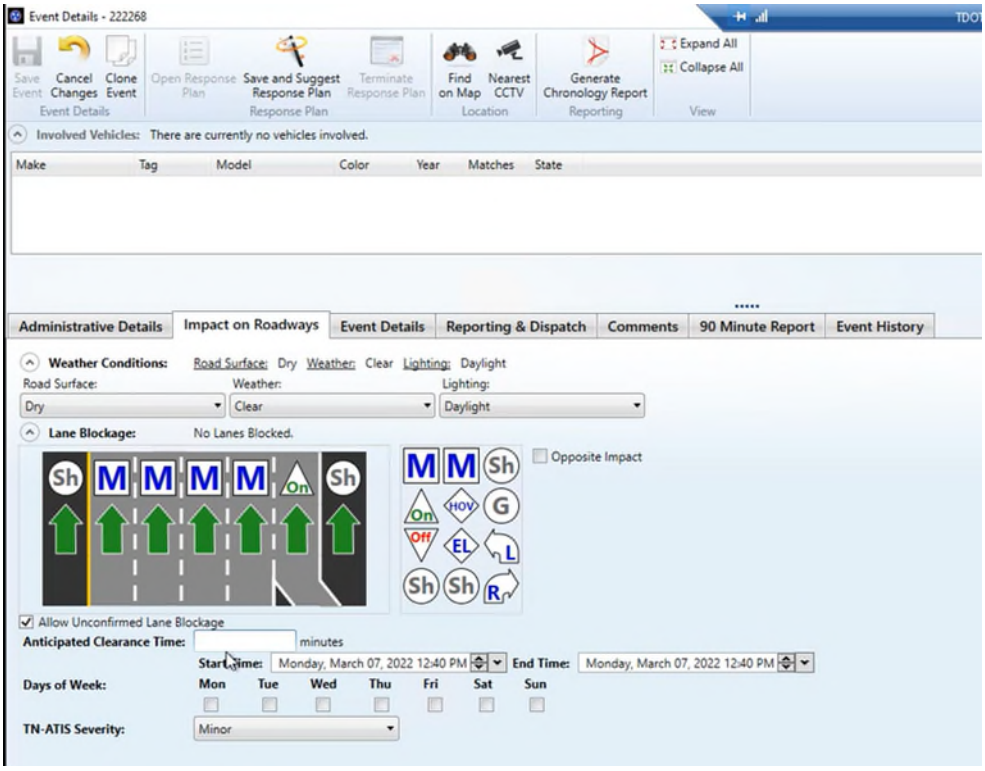

Figure 14 Event Logging - Impact on Roadways

20. Traffic Signal Systems (Centracs)

Coordination with the local agency's central signal systems (Centracs) is necessary for the successful operation of the I-24 SMART Corridor. To successfully implement ICM within the region, agreements shall be reached between involved parties to ensure that respective roles and responsibilities are clearly understood, and a full commitment of all involved agencies has been made.

The TDOT TMC and the local agencies have Centracs servers. The servers are connected with Center to Center (C2C) communications. The local agencies use their Centracs server to monitor signal operations including the performance metrics and KPIs of their signals. Additionally, through TDOT's Centracs server and C2C communications, TDOT can provide signal timing changes during after-hour events on the local agency signal network. During diversion plan activation, the ICM staff will implement timing plan changes on the local agency signal network to account for the increased diversion traffic. C2C communications between the TDOT and local agency servers will provide a seamless tool for implementation of incident management signal timing plans by the ICM Coordinator and staff located in the TDOT TMC or by local agency engineers in their TMC.

The Centracs main server computer(s) provides for system-wide signal database control, communications, coordination, and continuous monitoring of system performance from a central location. The system is designed for unattended operations 24 hours per day, seven days a week, without requiring an operator to be logged on. The central system monitors the operation of all field devices and automatically reports detected failures and malfunctions. With requisite licensing and interface equipment, TDOT can attach any number of workstations (desktops or laptops) to the Centracs network, each capable of different functions, which include:

- Traffic control and management functions
- Historical data analysis
- Traffic engineering operations analysis

20.1. Event Configuration

Centracs receives notification of various "events" from field devices and other points in the system. ICM staff can choose which events will be logged, which events will generate alerts, which events will trigger other actions, and which events will be ignored. For example, Centracs can be configured to write a log entry each time a signal changes patterns, but to alert the ICM staff if a signal goes into flash. See the Centracs User Guide for how to trigger certain events and set alerts.

An alert is a notification to one or more users that an event has occurred and may require their attention. If an event is configured to generate an alert, Centracs can show the alert on the screen for one or more users who are logged in; Centracs can also send the alert automatically to one or more offline recipients. ICM staff should be alerted of everything taking place on the I-24 SMART Corridor. Local agencies should be alerted for items within their certain jurisdiction. TDOT should be

alerted for those items on the interstate. Online users are notified by a pop-up window accompanied by an optional audible alert; offline recipients are notified by email or SMS (Short Message Service) text message. Each alert is categorized as Informational, Warning, or Critical.

For cases in which the alert is not acknowledged or closed within a reasonable period of time, the ICM staff can configure the Alert Escalation feature of Centracs to automatically send the alert to a different recipient or set of recipients. Multiple levels of escalation can be configured, such that an alert continues to escalate until the alert is acknowledged or closed. Just as events can be configured to generate alerts, ICM staff can also configure events to trigger one or more actions. For example, Centracs can be configured such that each time a signal goes into flash, an alert is generated, a CCTV preset is activated, and a report is generated.

The suggested list of events and alerts for the I-24 SMART Corridor, to be verified and set up by the ICM Coordinator when Centracs goes live are as follows:

- Alerts for all types of signal malfunctions (e.g., bulbs out, communication loss, detection equipment failures, etc.).
- When signal performance metrics drop below a certain historical percentage (e.g., percent arrivals on green drop 50%).
- Timing plan change alerts for all signals part of the I-24 SMART Corridor (this includes changes per Appendix H: IMP Playbook and also normal time-of-day signal timing changes)
- Local agencies should configure preplanned events on a monthly basis, so TDOT/ICM staff are aware when selecting an IMP diversion route to automatically exclude those. Preplanned event plans should include but not limited to sporting events, festivals, concerts, and roadway maintenance.

20.2. Monitoring Signal Assets

The Centracs status display shows the map location, the current asset/inventory information, ticket status, and Preventive Maintenance (PM) status for the Location. Centracs status display should show those devices concerning all signalized intersections on the I-24 SMART Corridor such as:

- Signalized Intersection
- Pedestrian Push Buttons / Interface
- Communications link
- Signal Detection Devices
- Flashing Beacon

Alerts should be set up to aid in the performance monitoring of these signal assets. Tickets may be created via Centracs; however, Centralized Asset Management System shall be considered the official Asset Management System for the I-24 SMART Corridor, see 24. Centralized Asset Management Systems and 27. Central Ticketing System. The ticketing system in Centracs should only be utilized as a supplemental tool to assist local agencies with alerts and signal status.

20.3. Centracs Access

Access to data in Centracs is strictly controlled. Centracs offers multiple levels of security that TDOT can use to permit or prevent access to specific data and functions on a user-by-user basis. These levels are:

- Jurisdictions
- Jurisdiction Roles
- Application Roles
- User Roles
- User IDs

Each local agency shall have its own Centracs server. Each Agency is responsible for managing their own servers, including managing staff user access. TDOT shall have their own server, with access via C2C communications to each of the local agencies'. Center-to-Center will allow communications between TDOT's server and the Locals' servers. Initially this will be through the SDWAN but will transition to fiber once it is available. TDOT can monitor and enact timing plans for each local agency via this connection, if needed. TDOT will be able to monitor the entire I-24 SMART Corridor and enact a timing plan change according to Appendix H: IMP Playbook if it is needed.

Centracs C2C will allow for a trusted connection between TDOT and local agency Centracs servers. Once Center-to-Center communication is active, Centracs C2C can be enabled and TDOT users will not need to have separate access/permissions for accessing different local agency Centracs servers. They will be trusted "by default" if trusted by TDOT.

21. Communications Network

Fiber Optic Cable is recommended for the entire project area of the I-24 SMART Corridor, including the interstate, state roads, arterials, and any connectors. Thus prior to the implementation of the I-24 SMART Corridor fiber optic cable will need to be installed on any remaining segments, following TDOT standards for Fiber Optic Cable installation and allocation plans. TDOT is forming agreements with local agencies to allow for sharing of fiber on arterials for operations and maintenance of devices needed for the I-24 SMART Corridor.

Fiber Optic (fiber) is a method of transmitting communications through pulses of light carried by an optical fiber. Relatively immune to electromagnetic interference, and capable of conveying tremendous amounts of information, fiber has become the de facto standard for communications over long distances or for those requiring the transmission of a high volume of data.

The resulting improved communications capabilities will support the ability of local stakeholder agencies to deploy, control, and share access to ITS technologies including Dedicated Short-Range Communications (DSRC), roadside equipment (RSE), traffic responsive traffic signal systems, Closed-circuit Television (CCTV) cameras, and other C2X communications deployments. The

system will also support traditional signal system optimization. The Center-To-Field (C2F) communications will link ITS field devices and central locations (e.g., Traffic Management Centers (TMCs), Public Safety Answering Points (PSAPs)), and the Center-to-Center (C2C) connections between TMC's and PSAPs will require secure, high bandwidth, and low latency connections that only fiber optic networks provide.

When the use of Fiber Optic Cable is not available, a WAN interface for Center-to-Center connectivity shall be implemented to support coordination and system/device control with locals on the arterials. Operationally, Each IT administrator will need to monitor network nodes and equipment supporting C2C connectivity. TDOT IT shall have the ability to also monitor system and device status of ITS and Traffic components of the I-24 SMART Corridor for the purpose of monitoring and meeting performance metrics as identified in the Appendix I: Performance Monitoring SOG.

21.1. Connected Vehicle Technologies

Dedicated Short-Range Communications (DSRC) technology uses low latency wireless connections with an 802.11 phased modulation wireless router across a spectrum of 5.9GHz band dedicated to ITS by the U.S. Federal Communications Commission. Connected vehicle technology consists of point-to-point wireless communications between and among vehicles and infrastructure. Beyond infrastructure- and vehicle-based radios, connected vehicle technology relies upon a communications link to a back office for system management. This is typically done using fiber optic or cellular connectivity. Additional interfaces with infrastructure, such as signal control cabinets or road weather information stations, may also be necessary depending upon the desired application. There are three components to a Connected Vehicle system.

- First, there is the DSRC radio on-board the vehicle (On-Board Unit or OBU). This component receives information from the vehicle's sensors and broadcasts DSRC messages from the vehicle to other vehicles and the roadside infrastructure. Connected Vehicle applications that are associated with V2V communications are typically installed on this device.
- Second, the Connected Vehicle infrastructure component considers a pole mounted DSRC radio frequently referred to as the Roadside Equipment (RSE) or Roadside Unit (RSU). This radio serves the same functionality as the on-board unit, links back to a central data repository and processing system.
- Third, the Central Data Repository and Processing system.

The I-24 SMART Corridor DSRC/C2X communications strategy should use existing roadside infrastructure to communicate traveler information to I-24 SMART Corridor drivers regarding current transportation conditions, unscheduled road closures, and proposed alternative routings. The proposed system will also use existing and new roadside infrastructure to enhance communications between the TDOT TMC and travelers. DRSC technology will be used to collect data and distribute Traveler Information Messages to the traveling public using dynamic messaging signs and in-vehicle messages.

DSRC Roadside Units (RSUs) or C2X communications will be installed at existing and new ground mounted DMS locations along the I-24 SMART Corridor. Each RSU will be connected to TDOT's

SmartWay Central Software (SWCS) system through fiber-optic communications and will be capable of broadcasting and receiving all J2735 messages. Security policies will be necessary for local jurisdiction DSRCs/C2X communications.

The installation of the proposed RSUs will enable the system to engage in V2I communication with equipped vehicles. These communications will include:

- Receiving Basic Safety Messages. Each vehicle equipped with an On-Board Unit, will continuously broadcast (10Hz) Basic Safety Messages containing a timestamp, latitude, longitude, heading, and speed. This information will be captured by the Roadside Equipment and relayed to SWCS. This information will then be used to estimate traffic volumes, speed profiles, and detect incidents.
- Traveler Information Messages and Roadside Alerts. Using the Roadside Equipment, TDOT will initiate the broadcast of a wide variety of different traveler alerts.
- Information and roadside alerts to be received and processed by the On-Board Units (OBUs) in equipped vehicles. Information on weather conditions, road conditions, incidents, work zones, etc. will all be transmitted at a frequency of 10Hz.
- Speed Harmonization. The Roadside Equipment will be used to issue recommended travel speed to equipped vehicles to progress along corridors. This supplements and supports speed harmonization designed to improve traffic flow.
- Queue Warnings. The Roadside Equipment will be used to convey Queue Warnings to equipped vehicles in the event of a major incident or stopped traffic.
- Signal Phase and Timing. Roadside Equipment installed at intersections and traffic lights will be used to broadcast the current Signal Phase and Timing of the traffic signal. This will be used by the On-Board Units in equipped vehicles for applications such as “Eco-Driving,” “Green-Wave,” and other such Connected Vehicle applications.

22. Equipment Malfunction Reporting (Operation → Maintenance)

TMC staff shall operate all ITS devices and systems per each device’s Standard Operating Guidelines, see Appendix D: Field-Integrated Systems SOGs. When equipment is no longer operating to these specifications it said to have a “malfunction” and the following procedures shall follow.

Electronic devices are prone to malfunction due to many reasons: device age, dirty power, faulty installation, or outside forces. These malfunctions can hamper the operations and safety of the system. Timely identification, verification, and mitigation of malfunctions will maintain operational health. Many newer devices are IP capable where they can be monitored remotely. Other devices require on-site inspection at the controller to identify the issue. Remote identification and verification can greatly reduce the field staff time by allowing field staff to diagnose the issue and develop a plan to correct the malfunction.

22.1. Identification & Verification

Identification is the point at which anyone identifies an issues or concern, e.g., a malfunction, regarding the ITS or traffic equipment on the I-24 SMART Corridor. Anyone can contact the TMC to report equipment malfunction or failure. For example, a motorist noticing a VSL sign is not operation can contact the TMC. Staff operating equipment (inclusive of TMC staff, ICM staff, or local agency staff) will likely identify failures first. Whether a call is received or identified by staff, the issue or concern shall be verified by an ICM staff member. Verification may take place within the TMC, or it may require field-verification by a credible source depending on the issue or concern identified. Identification and Verification marks the first phase of Equipment Malfunction Reporting. Upon completion of this phase a ticket shall be made in the 24. Centralized Asset Management Systems. The Identification and Verification of the equipment malfunction occurs through multiple means to include but not limited to:

- Equipment self-identified malfunction
- CCTV
- SWCS
- Centracs
- General public/stakeholders
- Field staff

Malfunction is inclusive of all errors / problems for the device, not just for complete failure where the device displays as blank. For example, in the VSL system, if detection devices are not calibrated correctly and a different speed is displayed on the signs due to the faulty detection equipment, this would constitute as a malfunction.

22.2. Acknowledge & Response

Acknowledgement is the process by which the responsible party for maintenance (Local agency / ICM / contractor staff) acknowledges that an equipment malfunction has occurred. Acknowledgement should be made in a timely manner after the ticket is created, regardless of ICM Performance Tier. This is important so the responsible party is aware of what ICM Performance Tier the Equipment Malfunction falls under to prioritize the response needed. As some devices are more critical to ICM operations than others, varying timeframes for response are expected. Refer to 18.1 ICM Performance Tiers.

The 24. Centralized Asset Management System tracks the maintaining agency per device location.

Response should include determining the exact location and obtaining relevant details about the equipment malfunction to initiate the proper troubleshooting and maintenance procedures. Response can be completed by a variety of parties depending on the response part for maintenance and how critical the repair is for ICM operations. Parties that can complete the repair include: TDOT staff, TDOT field staff, ICM staff, on-call contractors, local agency staff, local agency on-call contractors, or through bidding services. The ICM Coordinator shall oversee all Responses on the I-

24 SMART Corridor and provide coordination among parties until a resolution is achieved to prevent delays.

22.3. Resolution

Once the repair is complete and response is terminated this marks the final phase of Equipment Malfunction Reporting, Resolution. When the issue is resolved, the initial ticket should be updated, verified for completion, and closed if the malfunction has been corrected. Resolution times shall vary depending on the repair determined during the Response phase. Equipment with spare parts should have the quickest resolution times, see 29.1.3 Use of ICM Provided Spare Parts.

I-24 SMART Corridor Maintenance Plan

23. Maintenance Plan Overview

This section of the I-24 SMART Corridor Operations & Maintenance Plan applies to preventive and routine maintenance procedures for interstate and arterial devices located on the I-24 Integrated Corridor under TDOT's jurisdiction. TDOT will continue to maintain the interstate and state-owned devices and all signal and arterial devices will continue to be the local maintaining agency's responsibility.

Inclusive of the following:

24. Centralized Asset Management Systems
25. Preventive/Routine Maintenance
26. Emergency and Non-emergency Service/Maintenance
27. Central Ticketing System
28. Maintenance Activity KPIs – Performance Monitoring
29. Active Arterial Maintenance Activities

24. Centralized Asset Management System (CAMS)

To better understand the device inventory and health, a comprehensive baselining effort should be undertaken at all device locations. This survey should collect configuration data on all equipment at each device location including cabinet equipment, signal heads, pedestrian facilities, signs, detection, and ITS devices. This information should be stored in a database or an asset management system. TDOT has procured an interim platform to do asset management and ticketing for the initial project period, see Appendix J: TDOT Central Ticket Creation for the current platform procedures. During the survey, the condition of the equipment should be noted as well as functionality of electronics. Where equipment is damaged, malfunctioned, or missing, this should be documented and a maintenance/repair request ticket should be created. The maintenance/repair work should be tracked to completion. Timing data should also be collected and updated as needed to comply with standards for naming conventions and red/yellow clearance times. The survey results will need to be a living document and updated as equipment is installed/replaced and to capture adjustments made while doing routine preventive maintenance at the device location. See Appendix K: Maintenance Forms – TTOP Baselining Sheet for an example of a baseline survey.

Signal baselining can be a labor-intensive task, but the data collected can lead to the ability to get additional state and federal funds for signal maintenance. These surveys also let field staff and management know the areas of concern. This shared knowledge allows for more proactive maintenance and replacement program to better serve the traveling public.

24.1. Asset Management System

An actively updated and living asset management system can serve as a great tool to track aging materials, warehousing needs, intersection in need of repair, and many other important metrics. The system needs to be able to document all equipment at the intersections including:

- Cabinet equipment (Controller, load switches, detector cards, conflict monitor, etc.)
- Detection devices (Loops, video, radar, magnetometer, etc. Identified for each approach/lane)
- Signal heads
- Signage
- ITS equipment (CCTV, connected vehicles, switches, comm devices, speed devices, etc.)
- Miscellaneous items
- Associated ongoing projects
- Maintaining agency

All equipment needs to have the following information:

- Manufacturer
- Install date
- Warranty information
- Serial number
- Projected life cycle
- Current assumed health of equipment

A good practice is to capture all serial numbers for tracking of equipment. This is tied to the warranty of the equipment and the manufacturer recalls and maintenance needs. A best practice is to implement a barcode system to track all equipment through a sign in/sign out methodology. This is currently not supported in the Centralized Asset Management System platform but could be a future improvement to the application. All information should be collected during the initial baselining effort and updated as equipment is installed or upgraded. Asset management documentation should be added to all PM activities to have the most up to date information. This not only helps field staff be more prepared, but also can help with design projects that need some of this information as well. The maintenance of this system does require an extensive investment but can pay for itself in mobilization cost and showing the need for replacing aging devices to management staff. This also includes benefits to the traveling public with better operations of the signal and ITS systems.

Current Asset Management Application

- TDOT – TMC utilizes access database and TDOT IT uses ServiceNow
- City of Nashville – Excel and ArcGIS
- City of La Vergne – GIS
- Town of Smyrna – GIS
- City of Murfreesboro – GIS

Proposed Asset Management Application
TDOT will purchase and provide Local Agencies access to TEAMS, the initial asset management system for the I-24 SMART Corridor and all devices mentioned herein. This will be a short-term solution until TDOT develops a state-wide solution.

24.2. Intersection Records

- Inventory List: At each intersection, an inventory list should be maintained with any new updates. This list shall be updated when components are changed during maintenance and shall be checked for accuracy on an annual basis. The inventory list shall include the model, manufacturer, serial number, and quantity of each equipment. The inventory list should continually update the baselining document to better track the life of devices and to have all information in one place.
- Preventive Maintenance (PM) Checklist: A MS Access or approved equal database with data entry forms for the field technicians to use to log preventive maintenance and emergency call-out activity. This database should be maintained for use by maintenance staff whenever they visit any signalized intersection. A hardcopy of the Preventive Maintenance Checklist Form should be kept at each intersection. The PM checklist form in the cabinet shall be filled out entirely. The database shall be accessible via a cellular connected device so that the technician may update the database from the intersection. Every time the signal cabinet door is opened, the maintenance technician shall make an entry in the maintenance database regarding the purpose of the maintenance activity and operational status of the signal. The database forms shall be used by the maintenance staff to record each Preventive Maintenance inspection. The forms shall track any non-scheduled maintenance activity by the field staff to repair an element of the traffic signal installation at the intersection (cabinet components, detector loops, pedestrian heads, signal heads, lenses, signal poles, etc.). The PM database shall be continually updated. All I-24 SMART Corridor Stakeholders shall have access to the database via the internet and an updated hard copy of the database furnished to the ICM Coordinator monthly.

24.3. Monthly Activity Report

ICM Field staff should provide a computerized monthly activity report to the ICM Coordinator by the fifteenth day of each month for the previous month. The report shall be emailed in a Microsoft database format and shall include the following:

1. Time the service calls were received by field staff, TDOT personnel making the call, time arrived at the location, the response time, the technician's name, the number of hours spent for each repair and equipment replaced.
2. A complete record of all work that was performed on the equipment location during the previous month, including the make, model, and serial number of any major components or other equipment that was newly installed at each intersection. The disposition of removed signal control components and the repair history of reinstalled components shall be included in the monthly report.

3. Time and date the PM work was performed.

Reports can also be generated by the asset management/ticketing application to reduce the manhours needed to produce the report.

24.4. Maintenance Monitoring and Reporting

A Windows-based computerized maintenance and inventory management system accessible to TDOT and other agencies via the Internet will need to be put into place, that at a minimum shall provide the following features:

- Intersections: A complete database of signalized intersections including all routine maintenance histories, complete equipment inventory, electronic photo images, repair history and installation date of all equipment utilized at each location.
- Assets: Asset inventory, maintenance/repair history and real-time available inventoried replacement parts, current status of reordered equipment and inventory tracking.
- Preventive/Emergency Maintenance: A record of all calls, date and time stamp of moment of receipt, dispatch, contractor arrival and departure. All records shall have description of problem and repair made. All records shall be updated in real time by field staff via cellular device and made available to TDOT for real-time monitor of call status via the internet.

It is recommended that the maintenance and inventory management system incorporate a bar-code system for tracking equipment and activity. It is recommended that the maintaining agency ensures that all new and replacement equipment has bar-code labels attached. ICM Staff will be responsible for developing a bar-code label inventory system for corridor devices in the future, this will not be a requirement that local agency staff must perform. At a minimum, the following traffic signal equipment should be included in the bar-code system: Traffic Controller Cabinet, traffic signal controller, MMU, BIU, TS2 Cabinet power supply, video detection equipment detector amplifiers, CCTV cameras, communications equipment, and battery backup systems. All records shall be made available to TDOT for real-time monitor/ lookup of data via the internet. In lieu of bar code system, all pertinent information should be uploaded into the asset management system manually and maintained as equipment is replaced or upgraded.

A traffic signal system includes, but is not limited to: traffic signal controller and cabinet and all pertinent equipment, service cabinet, flashing beacons related to traffic signal operations (i.e. advanced warning beacons), pedestrian and vehicle signals, detector systems, video detection camera systems, CCTV camera systems, wireless vehicle detection system, automated signal performance measures, interconnect cable (copper and fiber optic), wireless communications equipment, traffic signal communications equipment, emergency vehicle preemption system, uninterrupted power supply system, intersection safety lighting, internally illuminated street name signs, and blank-out LED signs related to the traffic signal.

25. Preventive/Routine Maintenance (PM)

25.1. Traffic Signal Control Equipment

The maintaining agency shall repair or replace all defective parts of the traffic signal control equipment with like make and model parts for temporary and permanent replacements, except as individually agreed upon by TDOT's ICM Staff in accordance with the joint MOA document.

No permanent change of control mechanisms shall be done without prior agreement of TDOT for I-24 SMART Corridor equipment. Whenever equipment is removed from the controller cabinet, the TDOT ICM Coordinator shall be notified by phone or email within 24 working hours. The maintaining agency agrees to notify the ICM Coordinator in advance of any traffic signal turn-offs or turn-ons necessitated by their operations. The agency should not make said turn-off or turn-on without coordinating with TDOT ICM Staff for equipment that affects areas outside of their Jurisdiction. As an example, the temporary removal of a BlueTOAD device that is being utilized by neighboring agency to collect data. This removal should be coordinated through the ICM staff at TDOT, so that the operation of the system is seamless.

All traffic signal equipment shall be maintained as recommended by the manufacturer.

The maintaining agency shall bear the responsibility of repairing or replacing traffic signal components under the provisions of the routine maintenance program except for devices that are installed as a part of this project that TDOT has agreed to maintain. When I-24 SMART Corridor traffic signal components become obsolete or deteriorated to the point of being beyond repair, the maintaining agency shall report such conditions to the TDOT ICM Coordinator.

25.1.1. Vehicle Signal Heads

All new installed lamps shall be LED and meet the most current TDOT Traffic Design Manual standards for vehicle signal faces and signal heads. The maintaining agency shall replace or repair vehicle signal heads as they malfunction. All damaged LED lamps should have a ticket made to track the repair of the malfunction and comments should be made so that field staff understands the status and the cause of delay with the equipment.

25.1.2. Pedestrian Signals

All new installed pedestrian signals shall be LED countdown full symbol and meet the most current TDOT Traffic Design Manual standards for pedestrian signals. The maintaining agency shall replace or repair pedestrian signals as they malfunction. All damaged pedestrian facilities should have a ticket made to track the repair of the malfunction and comments should be made so that field staff understands the status and the cause of delay with the equipment. When there is a damaged pedestrian pushbutton that cannot be fixed immediately a recall should be placed in the controller to allow for safe progression of pedestrians. This could hinder operations of the corridor especially if

there are oversized ped phases (more crossing time than allotted), in these scenarios splits and cycle lengths may need to be adjusted to progress traffic smoothly along the corridor.

25.1.3. Spare Equipment

The local agencies and TDOT will be responsible for stocking an inventory of spare parts for the devices they are responsible for maintaining. Table 11 in Section 26 of this document defines the equipment that each agency is responsible for maintaining. TDOT will not provide spares to the local agencies for the equipment that TDOT is responsible for maintaining. The spares will be kept by TDOT's ITS Maintenance contractor that will be in charge of performing the maintenance. The local agency may use their own existing spare parts inventory to fix an item on the corridor that TDOT has agreed to maintain. If the locally owned spare was used to resolve an issue at a project intersection, the spare part will be replaced from the TDOT spare inventory maintained by the ITS Maintenance Contractor.

If a malfunction occurs, a spare part shall be utilized to replace the defective part. Once the defective part is replaced or repaired under warranty by the manufacturer, it should be placed into the spare parts inventory.

Local agencies shall maintain sufficient stock of spare signal equipment to perform the requirements of this section for the equipment they are responsible for maintaining. Repairs to the system should be completed within a thirty (30) day period. If repairs are unable to be completed within this timeframe, TDOT may provide additional assistance with the repair if notified in a timely manner. A product failure for an extended period could cause additional strain on the system.

The agencies shall be responsible for furnishing all spare standby controllers necessary to maintain the continued safe, efficient operation of the signal system when the original unit is withdrawn for maintenance, repair, or modification. Standby controllers shall be fully compatible with the existing control equipment, without exception. All other signal component parts (detectors, load switches, phones, lights, signal monitors, etc.) shall continue to be maintained to perform the functions for which they were designed.

Local agency field technicians should always have access to the following spare equipment (as needed):

- Controller/CPU
- Controller Power Supply
- Conflict monitor, Diode boards, and red ribbon cable
- Load switch
- Detector Card; 2 channels
- Cabinet Power Supply
- Cat-5 patch cable (6 foot)
- PED Push button
- PED Push button assembly with signs
- Red, Yellow, and Green ball and arrow heads

25.1.4. New Device Installations

All new devices installed within the corridor should be inspected prior to activation and use. Prior to the turn-on of a new traffic signal or a traffic signal modification, local agency staff should perform the following: complete an inspection of the traffic signal, monitor the flashing pattern of the new signal heads, and review the new traffic control equipment operation prior to full activation of the new traffic signal system. All new equipment needs to be entered into the asset management system, with install date, serial number, and all other pertinent information by the installer or by the maintaining agency.

25.1.5. Signal Upgrades and Installation

As local needs arise, traffic signals may need to be upgraded, modified, or locations may require new installations. For traffic signals along the project corridors, the local agency shall coordinate all new and upgraded locations with TDOT and the ICM Coordinator. The signals added to existing corridors should be designed to match existing equipment used at adjacent signals and shall be connected to the communications network for remote access. Standard equipment replacement and upgrades do not need to be coordinated with TDOT or the ICM Coordinator unless spare parts are used from TDOT's Spare Parts Inventory. All additional work shall be performed to meet the standards of the I-24 Smart Corridor, the TDOT Traffic Design Manual and shall be compliant with the MUTCD.

No additional work should be commenced or undertaken by the local agency without notifying TDOT or ICM Coordinator if the Signal is part of the ICM. Additional work shall be performed in accordance with the most current version of the TDOT Design Manual.

25.2. Ground PM

To keep the signal system operating properly, it is recommended that ground PMs should be performed twice a year at all signals. The PM should verify data collected in the baseline survey and update as needed. Also, the ground PM should follow a checklist as shown in Appendix K: Maintenance Forms – TDOT Ground PM Sheet to verify all items are checked and completed. These include cleaning out the cabinet and changing the air filter as well as clearing the area around the cabinet to make it easily accessible and less likely to malfunction due to outside factors. These PMs not only improve operational life of the equipment but can improve safety by identifying damaged wiring or pull boxes. A list of deficiencies should be created and documented with a trackable ticket system. A copy of the most recent Ground PM form should be kept in the cabinet for informational purposes for field staff. All I-24 SMART Corridor equipment needs to be verified that it is working for their intended purposes.

ICM staff can assist with ground preventative maintenance as their schedule permits. Assistance for preventative maintenance will be a lower priority item. Assistance may not always be available due to the need to resolve higher priority issues on the corridor.

25.3. Aerial PM

Aerial PM is often overlooked but is critical to the operations and safety of an intersection. With many of the pieces of equipment not being at ground level a bucket truck is needed to properly complete an aerial PM. It is recommended that Aerial PMs should be once a year at all intersections. Aerial PMs check for deficiencies that can lead to major maintenance issues and accidents. All cabling and wiring in the air are checked as well as all signal head and signs connectors. The PM will also clean cameras and check signal poles for damage outside of the typical viewing area. See Appendix K: Maintenance Forms – TDOT Aerial PM Sheets for an example Aerial PM checklist. A list of deficiencies should be created and documented with a trackable ticket system. A copy of the most recent Aerial PM form should be kept in the cabinet for informational purposes for field staff.

ICM Staff will not have access to a bucket truck initially and it is unknown if a bucket truck option will be available in the future. If ICM Staff do have access to a bucket truck in the future, they will assist with aerial preventative maintenance as their schedule permits. Assistance for preventative maintenance will be a lower priority item. Assistance may not always be available due to the need to resolve higher priority issues on the corridor.

25.4. Conflict Monitor PM

As part of routine maintenance, it is recommended that all conflict monitors be tested annually. This process involves placing the traffic signal into flash removing the existing conflict monitor and replacing with a conflict monitor that has passed the testing procedures. While swapping conflict monitors the diode boards need to be inspected and verified that all conflicting movements are still in place. Special care needs to be taken when new phases or overlaps have been added to the intersection. Furthermore, the Conflict Monitor Tester needs to be calibrated every year by the manufacturer or certified company to ensure proper safety measures are followed.

ICM Staff will not have access to a conflict monitor tester initially and it is unknown if a tester will be available in the future. If ICM Staff do have access to a conflict monitor tester in the future, they will assist with conflict monitor preventative maintenance as their schedule permits. Assistance for preventative maintenance will be a lower priority item. Assistance may not always be available due to the need to resolve higher priority issues on the corridor.

25.5. Communications PM

The key to an integrated and actively managed corridor is the ability to do remote monitoring and troubleshooting. Therefore, maintaining reliable communication to all field devices has become a mandatory maintenance activity. The deployment of fiber on main corridors will serve as the backbone of the network to connect signals and governmental facilities to a central location. The communication network needs to be built so that it is not a flat network, where one failure takes out a large portion of devices in a region. The implementation of VLANs and redundant paths will make the network more reliable. The use of portable cellular communication devices can serve as another

option to restore communications for signals and corridors in the instances where fiber has been damaged and the repair has not been made. These devices can also be used to bring back remote intersections that are not feasible to run fiber too. Communications to these remote intersections will reduce the amount of technician trips needed and will also the technician know what to expect when they arrive on site to make repairs, thus making the staff more efficient and effective. All communication devices should be checked during regular signal PMs as well as the drop fiber coming into the cabinet as these can grow brittle and break and the connection location to the switch.

TDOT will maintain and operate all interstate fiber, hubs, and switches deployed as part of the I-24 project, as well as the connection point to local fiber deployments. Local agencies may opt-out from allowing TDOT to support network switch replacement at local intersections. The local agencies are responsible for the management of switches that are part of their own network. Switches that are used as an interface between TDOT and local agency connections shall be TDOT's responsibility. Additionally, TDOT will be responsible for maintaining C2C utilizing the SDWAN. All equipment down stream of this connection point will be the local jurisdiction's responsibility.

25.6. ITS PM

Intelligent Transportation Systems (ITS) equipment is becoming increasingly prevalent throughout signal systems, and the maintenance and upkeep of these devices will greatly affect the operations and safety of the corridors of where they are installed. With the importance and cost of these devices being so large proper maintenance is key to extend the life of these devices. As with communications and other signal equipment, these devices need to be checked during all routine preventive maintenance activities. It is also crucial that the warranty of these devices is tracked to reduce the cost the maintaining agencies. This information as well as the serial number of devices should be kept in a central asset management system. This information will also be used to access the cycle life of these devices and the cost to do maintenance and replacement of devices outside of their factory warranty. See Table 10 below for the Preventive Maintenance frequency for each device.

Table 10 Preventive Maintenance Frequency

Device Type	PM Frequency
CCTV	Twice a year
Vehicle Detectors	Twice a year
Pedestrian Push Buttons	Twice a year
Lane Control Signals*	Twice a year
Portable CCTV	Twice a year
Changeable Message Signs	Twice a year
Portable CMS	Twice a year
Power Distribution Load Centers	Twice a year
Node telecommunications cabinet	Twice a year
Cabinet Switch (Including patch and drop cables)	Twice a year
Layer 3 Switch	Twice a year
Hub Building	Twice a year
Ramp Meters	Twice a year
Portable CB Radios	Twice a year
Video Detection	Twice a year
Stand Alone Network Cabinet	Twice a year
Traffic Signal - Communications Only	Twice a year
Traffic Signal Cabinet Equipment	Twice a year
Directional Dynamic Message Sign	Twice a year
Video Detection Server	Twice a year
Portable Generator Type 1 - up to 5kw	Twice a year
Portable Generator Type 2 - 5kw - 25kw	Twice a year
Fixed Generators (not associated with Hub Building or Node Telecommunications cabinet)	Twice a year (test monthly)
Highway Advisory Radio System (HAR)	Twice a year and prior to any major weather event
Variable Speed Limit Sign**	Cab twice a year, signs once a year
Wrong Way Driving System	Twice a year/After an WW incident
Flasher Signs	Twice a year
Centracs Server	Once a year
BlueTOAD Units	Once a year
Radar Detection	Twice a year

**Refer Appendix D: Field-Integrated Systems SOG – LCS SOG: Preventive Maintenance*
***Refer Appendix D: Field-Integrated Systems SOG – VSL SOG: Preventive Maintenance*

ICM staff can assist the local agencies with preventative maintenance as their schedule permits. Assistance for preventative maintenance will be a lower priority item. Assistance may not always be available due to the need to resolve higher priority issues on the corridor.

26. Emergency and Non-Emergency Service/Maintenance

Table 11 lists the agency responsible for signal equipment maintenance and replacement depending upon device type.

Table 11 Agency Signal Equipment Maintenance & Replacement Responsibilities

	TDOT	Local Agency
Controller/CPU		X
Controller Power Supply		X
Conflict monitor, Diode boards, and red ribbon cable		X
Load switch		X
Detector Card; 2 channels		X
Cabinet Power Supply		X
Cat-5 patch cable (6 foot)		X
PED Push button		X
PED Push button assembly with signs		X
Network Switches	X	
Miovision	X	
Wavetronix	X	
BlueTOAD DSRC	X	
Cell Modems	X	
Arterial DMS	X	
Arterial CCTV	X	

Potential Maintenance Scenarios and Responsible parties

1. **Signal Malfunction (Emergencies such as knock down)**
    a. ICM staff will create a CAMS Ticket. The local agency will be assigned responsibility first, then TDOT's ITS Maintenance contractor to repair/replace items that TDOT has agreed to maintain (see Table 11 above) once normal operations (Red/Yellow/Green) have been restored. CAMS ticket will be used to track what has been done by each party.
        i. Local agency will be responsible for restoring signal to normal operations (R/Y/G)
        ii. TDOT's ITS Maintenance contractor to repair/replace items that TDOT has agreed to maintain (see Table 11 above).

2. **Signal Malfunction (Non-Emergency / Routine)**
    a. ICM staff will create a CAMS Ticket. The local agency will be assigned responsibility first, then TDOT's ITS Maintenance contractor to repair/replace items that TDOT has

agreed to maintain (see Table 11 above) once normal operations (R/Y/G) have been restored. CAMS ticket will be used to track what has been done by each party.

i. Local Agency will be responsible for restoring safe signal operations (R/Y/G)
ii. TDOT's ITS Maintenance contractor to repair/replace items that TDOT has agreed to maintain (see Table 11 above).

26.1. Emergency Service/Maintenance

The local jurisdiction shall provide and maintain emergency service response for their signals on a 24-hour, 365-day basis, including all holidays. All personnel for the local jurisdiction that may be dispatched shall have continuous communication access through two-way radio and/or cellular phone. The response for all services will be tracked in the Centralized Asset Management System. If the malfunction and/or damage involves devices maintained by TDOT, the local jurisdiction should contact the ICM Coordinator to receive further direction or assistance in resolving the issue.

The local jurisdiction shall acknowledge after TDOT TMC staff has notified the local jurisdiction's representative of the following events:

- Any signal controller malfunction
- Signal equipment knockdowns
- Other situations that are potentially hazardous to public safety

The replacement of burned-out lamps need not be on an emergency basis provided that there are one (1) remaining signal phase indications still in operation. Such replacements should be completed within twenty-four (24) hours.

The local jurisdiction shall maintain local telephone number(s) where they can be reached during normal business hours and after hours / weekends. These telephone number(s) shall be made available to all persons designated by TDOT. If a singular telephone number is provided, the local agency should consider setting up a call forwarding number to forward calls to the person on call after regular business hours. CAMS tickets will be used for coordination with all effected stakeholders. See more detailed descriptions in Appendix E: Communication Protocols.

The local jurisdiction shall be responsible for responding to all emergency calls (including potentially false calls) from designated TDOT & ICM staff. If preventive maintenance is regularly performed, it will drastically reduce the number and cost of emergency maintenance service requests. Improved inventory management can ensure spare parts and replacement devices are on-hand to support a quick return-to-service for down devices.

Reference the ITS Region 3 ITS System Maintenance Agreement for additional details.

See Appendix F: Tennessee Traffic Operations Program (TTOP) Matrix of Responsibilities.

26.2. Non-emergency Service

All other non-emergency calls shall be acknowledged and followed up on based on documented correspondence between TDOT and the local agency. The asset management platform will be used to document the response once there is an agreed upon solution between agencies. TDOT will turn over all equipment installed as a part of this project to the local maintaining agency on all arterials once construction is complete. TDOT will maintain and assist the local agencies in the operation of the arterial ITS devices installed as a part of this project. TDOT will also continue to maintain and operate all TDOT owned devices and fiber infrastructure. Nothing in this ICM Plan shall be construed as changing the maintenance responsibility of either party for any part of the referenced Program that lies on its system of highways. The local maintaining agency will remain responsible for the maintenance of their traffic signals except for the new ITS devices installed as a part of this project. If a local agency is unable to meet their maintenance requirements, TDOT may step in to "assist" to resolve the issue with their own Contract services for maintenance. All TDOT assistance needed should be coordinated through the ICM Coordinator, who will coordinate with TDOT and the local agency to deliver the most efficient mitigation solution.

Reference the ITS Region 3 ITS System Maintenance Agreement for additional details.

27. Central Ticketing System

To better track maintenance activities, a central ticketing system should be implemented for all assets in the I-24 SMART Corridor. The system will need to have user-based roles, so that the interface and usability is associated with their job and service area, as well as being map based to improve usability of the system. Intersections need to be populated in the system with all pertinent information including street names, state routes, maintaining agency, latitude/longitude coordinates, and custom identifier to better assist ICM and field staff. Also, high level inventory information should be captured including controller type, firm ware, and special operations. The ticketing system could be tied to an asset management tool to better coordinate the work at the intersection and to have the field staff better prepared with the correct equipment to fix issues that arise at the intersection. For regional or statewide deployment of the system there needs to be a select number of admins to the site to manage accounts and run reports on unresolved tickets.

The ticketing creation needs to have functionality to assign the ticket to a single person that is responsible for the next step in the resolution of the ticket. There should also be the ability to add additional personnel as subscribers so that they can track the ticket or take action on the ticket if they are more qualified to do so. The following areas need to be included on the ticket:

- Title of task
- Task type (Malfunction, incident, PM, operational inquiry, citizen complaint, etc.)
- Priority (This can be tied to the timeframe to mitigate the ticket)

- Status (All status changes need to be timed stamped to allow for reporting on maintenance times)
    - Open: New ticket that has not been assigned to anyone but is a known issue and is still under initial investigation.
    - Notified: Task has been sent to field staff or responsible party.
    - Troubleshooting: Responsible party have received the task and are working on identifying cause and solution.
    - Under Repair: Resolution of the issue is underway to correct the issue that could not be handled with basic troubleshooting.
    - On Hold: Known issue that could not be handled via troubleshooting but is awaiting other means to correct. The issue being resolved by outside means including long term project, local agency project, TDOT maintenance or other forces, or waiting on proper equipment or funding to address issue.
    - Closed: Issue is resolved and verified, and there is no other work needed.
- Date Reported, resolved, and due date
- Comment section describing the issue.

Once a ticket is created an automated email needs to be sent from the system to the assigned party and all subscribers. This marks the start time for the ticket mitigation timeframe, and the time differs based on priority and task type. The responsible party needs to acknowledge the ticket and change the status to troubleshooting or reassign the ticket to someone better qualified to complete the task. All updates to the ticket shall have a comment that is stored in the system as to the action taken. This information is critical for an after-action report for large incidents to show how the incident was handled and to develop best practices for similar future incidents. Appendix J: TDOT Central Ticket Creation shows a sample ticketing system use case from the Centralized Asset Management System platform currently in use in other states.

Local jurisdictions have the right and responsibility to create tickets for equipment malfunction/incidents outside of their jurisdiction and assign them to the proper maintaining agency. Also, the local agency can contact the ICM technician or coordinator to hand these tickets over to the proper maintaining agency to see that the issue is resolved. If a local agency has a current ticketing system, the Centralized Asset Management System platform should have an API to allow for integration of automatic ticket creation in their platform. There may need to be some development on both platforms to make this API work seamlessly.

All staff that have a role in maintaining and operating the I-24 SMART Corridor should be included in the central ticketing system user base. TDOT cannot guarantee that they will be able to assist in the mitigation of incidents and malfunction. Local agencies should rely on their internal/contract staff to correct issues in their jurisdictions. A generic email account could be used for field staff that are all responsible to resolving issues in the field. At a minimum, the following roles should have access and an account on the central ticketing system:

(Detailed contact information to be added once roles are solidified for all agencies.)

TDOT

- ICM Coordinator – Super Administrator
- ICM Technicians – Local Administrator
- ICM Field Maintenance Technicians – Standard User
- TDOT Administrator – Super Administrator
- TDOT Traffic Operations staff – Standard User
- TDOT TMC Technicians – Standard User
- TDOT Field Technicians – Standard User

Local Maintaining Agencies

- Local Agency Administrator – Local Administrator
- Local Agency Traffic Operations staff – Standard User
- Local Agency TMC Technicians – Standard User
- Local Agency Field Technicians – Standard User

Current Ticketing System

- TDOT – No central ticketing
- City of Nashville – CityWorks
- City of La Vergne – Pubworks
- Town of Smyrna - Pubworks
- City of Murfreesboro – Excel and Access Databases. (Currently in talks with CityWorks)

27.1. Warranty Service

During the period of warranty, it is critical that all parties are informed about the process and timelines. For TDOT maintained devices, the Contractor providing the repair and/or replacement of the malfunctioning device will handle all coordination with the device vendor and keep TDOT and the ICM Staff informed about the status. The ICM Staff will relay communications to any affected local agency regarding any warranty services being performed including any undue delays as informed by the Contractor. For Local Agency maintained devices, it is recommended that the local agency, or their preferred contractor performing repairs, coordinate directly with the device vendor. The local agency should keep TDOT and the ICM Staff informed regarding any warranty repair service that affects the I-24 Corridor. The warranty information should be stored in the project asset management application, so field staff can determine if the equipment is still within the warranty period. Warranty time normally starts from the time of purchase and warehousing equipment can reduce the time the equipment is active in the field under warranty. A best practice is to have the asset management software send an alert or produce a report when the end of the warranty period is approaching to allow staff to confirm the device is still operational.

27.2. Pending Repair List

A computerized monthly report should be created showing all unresolved repair work needed at locations and intersections along the corridor. This should be provided to the TDOT ICM Coordinator

by the fifteenth day of each month This report should be broken down by intersection or interstate lane mile and be separate from the Monthly Activity Report. These reports will allow for TDOT to track cycle life, common malfunctions, and other data sets to better assist in responding to malfunctions or to assist in the procurement of federal funds to offset agency costs.

28. Maintenance Activity KPIs – Performance Goals

In order to track the performance of this maintenance program, performance measures were identified. See Appendix I: Performance Monitoring SOG for details and a summary. These should be monitored and provided by ICM staff to I-24 SMART Corridor stakeholders on a monthly basis via a web-based dashboard. ICM staff will be responsible for updating the dashboard.

29. Active Arterial Maintenance Activities

ICM staff will assist in the set up and configuration of ATMS in Centracs for each local agency. This includes the following:

- Set up alarms and alerts in Centracs. The system shall provide a list of reports, providing information compiled from data retrieved from the system and any field device capable of logging data. These reports shall include, but not be limited to the following:
    - Alerts Log Report
    - Raw Detector Reports
    - Device Communications Configuration Report
    - Scheduler Report
    - Signal Changes Report
    - Signal Detector Events Report
    - Split Monitor Report
    - System Events Report
    - Upload and Compare Report
    - Detector Hourly and Daily VOS Reports
    - Detector Multi-date Hourly and Multi-date Daily VOS Reports

- Set up and configure communication so that both TDOT and local agencies can see signals in Centracs and access the reports.

- Develop procedures for checking Centracs alerts and alarms and recommended response.
    - Frequency
    - What to do if system alerts them of a malfunction

29.1. TTOP Required & Preferred SMART Corridor Signal Equipment

Any new traffic signals that are installed within the limits of the ICM, shall meet the following requirements to maintain compatibility with the existing corridor signals:

29.1.1. Required Equipment

- Traffic Signal Controller – Econolite Cobalt ATC or newer compatible model if available:
  - Shall be capable of communicating via Centracs central signal software.
- Full Intersection Detection:
  - Advance Detection – Mainline only
  - Stop Bar Detection – all approaches
  - All Vehicle Detection shall be non-Intrusive:
  - Fisheye Camera for Stop Bar Detection / Intersection surveillance
    - Accepted alternatives:
      - Presence radar detection
      - Presence video detection
  - Radar Detection for Advanced Detection
- BlueTOAD / DSRC equipment.
- Signal Cabinet (NEMA TS-2 Type 1, TS-2 Type 2 or ATC)
- High-definition CCTV Camera (if applicable)
- Network Connection to the TOC
  - Network switch (IE 3400)
  - Communication method
  - Fiber Connection (preferred)
  - Cellular Connection (alternative)

29.1.2. Preferred Equipment

- BlueTOAD RSU (using multi radio systems BT, CV2X, and DSRC)
- Miovision SmartView 360 camera
- Wavetronix SmartSensor Advance

29.1.3. Preventive / Emergency Maintenance Equipment

- If the preferred equipment is installed, the maintaining agency will benefit by having access to spare parts provided through TTOP. Spare equipment will not be stocked for non-preferred equipment.
- The use of preferred equipment will provide corridor continuity and make it easier for TTOP staff to perform preventive and emergency maintenance.
- If the signal utilizes non-preferred equipment, extended downtimes and non-optimal signal operation may occur due to the time required to order replacement parts if needed.

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: MWRD Purchase of Dump Truck

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Purchase a 2024 International Dump Truck 6x4 Chassis.

Staff Recommendation

Approve purchase from Cumberland International Truck, Inc.

Background Information

O&M is requesting approval to replace a 2000 Mack Dump Truck. The replacement was recommended from Fleet Services due to cost of maintenance and age. This cooperative purchase through Sourcewell is permitted by state statute and the City's Procurement Code. MWRD budgeted in its FY24 O&M Capital Budget $190,000 for this equipment purchase. Therefore, the contract at $141,414 is $48,586 under budget.

Council Priorities Served

Responsible budgeting

Securing and utilizing the most effective method of completing large projects is ultimately the most cost-effective means.

Fiscal Impact

The expense, $141,414, is funded By MWRD's FY24 O&M Capital Budget.

Attachments

Contract with Cumberland International Truck, Inc.

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CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
CUMBERLAND INTERNATIONAL TRUCKS, INC.
FOR PURCHASE OF HV613 SBA DUMP TRICK

This Contract is entered into and effective as of the _____ day of _____ 2022, by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **CUMBERLAND INTERNATIONAL TRUCKS, INC.**, a corporation of the State of Delaware and authorized dealer of Navistar, Inc. dba International Truck ("Contractor").

This Contract consists of the following documents:

- ***This Contract***
- ***Sourcewell Contract #060920-NVS between Sourcewell and Navistar, Inc. dba International Truck***
- ***Contractor's Proposal #16961 dated August 3, 2022, from International Truck for a New 2024 International HV613 6x4 Chassis with Options as Listed***
- ***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, Sourcewell Contract #060920-NVS between Sourcewell and Navistar, Inc. dba International Truck***
- ***Fourth, Contractor's Proposal #16961 dated August 3, 2022, from International Truck for a New 2024 International HV613 6x4 Chassis with Options as Listed***
- ***Lastly, any properly executed amendments to this Agreement***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase: one (1) New 2024 International HV613 6x4 Chassis with Options as Listed as set forth in the Sourcewell Contract #060920-NVS between Sourcewell and Navistar, Inc. dba International Truck using authorized dealer Cumberland International Truck's Proposal #16961 dated August 3, 2022. Furthermore, the City may utilize this Contract to procure additional equipment from Contractor per the Sourcewell Contract #060920-NVS between Sourcewell and Navistar, Inc. dba International Truck through the term of the contract. Such future procurements shall be executed through an Amendment and Purchase Order after purchases exceeding $25,000 have been approved by Council.
2. **Term.** The term of this contract shall be from the Effective Date to the expiration of the Sourcewell Contract #060920-NVS between Sourcewell and Navistar, Inc. dba International Truck on August 1, 2024. 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

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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.

f. Notwithstanding the expiration of the Sourcewell Contract #060920-NVS between Sourcewell and Navistar, Inc. dba International Truck, the terms of this Contract and Contractor's obligations herein shall survive said expiration and continue in full force and effect until: (i) delivery and acceptance of the items or (ii) other termination as provided in this section.

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 Contractor's Proposal #16961 dated August 3, 2022, from International Truck, reflecting a **Total Purchase Price of $141,414.65**. 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 of all items shall be made by June 30, 2023, delivered to Water Resources Department Operations and Maintenance– 1725 South Church Street, Murfreesboro, TN 37130. Contact person Donald Hughes (tel. 615-848-3218; email: dhughes@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 Quotation.

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 shall meet the warranty requirements set forth on the Contractor's Proposal #16961 dated August 3, 2022, and Sourcewell's contract with Navistar, Inc. dba International Truck, #060920-NVS.

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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

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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:	If to the Contractor:
City of Murfreesboro Attn: City Manager 111 West Vine Street Murfreesboro, TN 37130	Cumberland International Truck Attn : Chris Randall 333 Plus Park Boulevard Nashville, TN 37217 crandall@cltte.com 615-917-1372

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

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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]

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IN WITNESS WHEREOF, the parties enter into this agreement as of _____, (the "Effective Date").

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
Adam F. Tucker, City Attorney

CUMBERLAND INTERNATIONAL TRUCK, INC.

DocuSigned by:
By Chris Randall
Chris Randall, Director of Sales

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: MWRD Purchase of Jet/Vacuum Sewer Cleaner

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Purchase a 2023 Peterbilt 567 (6x4) with Hydro Excavator.

Staff Recommendation

Approve contract with 502 Equipment.

Background Information

MWRD requires a new jet/vacuum sewer for the distribution division to repair leaks and clean valves boxes. The estimated delivery of the equipment will be on or after July 1, 2023.

The purchase from 502 Equipment is under the Sourcewell cooperative purchasing contract. State statute and the City's Procurement Code permit cooperative purchases.

Council Priorities Served

Responsible budgeting

Securing and utilizing the most effective method of completing large projects is ultimately the most cost-effective means.

Fiscal Impact

The expense, $474,990, is funded by MWRD's future capital expenditure sinking fund in its FY23 operating budget.

Attachments

Contract with 502 Equipment, LLC

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CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
502 EQUIPMENT, LLC
FOR PURCHASE OF 2023 VHE1012-3S4X HYDRO EXCAVATOR

This Contract is entered into and effective as of the _____ day of _____ 2022, by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **502 EQUIPMENT, LLC.**, a limited liability company of the State of Kentucky ("Contractor").

This Contract consists of the following documents:

- ***This Contract***
- ***Sourcewell Contract #101221-GPV between Sourcewell and GapVax, Inc.***
- ***Price Quote Sheet 22xxx Rev B dated July 26, 2022, from 502 Equipment, LLC for a GapVax 2023 VHE1012-3S4X HYDRO EXCAVATOR***
- ***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***
- ***Sourcewell Contract #101221-GPV between Sourcewell and GapVax, Inc.***
- ***Price Quote Sheet 22xxx Rev B dated July 26, 2022, from 502 Equipment, LLC for a GapVax 2023 VHE1012-3S4X HYDRO EXCAVATOR***
- ***Any properly executed amendments to this Agreement***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase: one (1) GapVax 2023 VHE1012-3S4X HYDRO EXCAVATOR as set forth in the Sourcewell Contract #101221-GPV between Sourcewell and GapVax, Inc. using authorized dealer 502 Equipment, LLC's Price Quote Sheet 22xxx Rev B dated July 26, 2022. Furthermore, the City may utilize this Contract to procure additional equipment from Contractor per the Sourcewell Contract #101221-GPV between Sourcewell and GapVax, Inc. 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.
2. **Term.** The term of this contract shall be from the Effective Date to the expiration of the Sourcewell Contract #101221-GPV between Sourcewell and GapVax, Inc. on November 29, 2025. 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.

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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.

f. Notwithstanding the expiration of the Sourcewell Contract #101221-GPV between Sourcewell and GapVax, Inc., the terms of this Contract and Contractor's obligations herein shall survive said expiration and continue in full force and effect until: (i) delivery and acceptance of the items or (ii) other termination as provided in this section.

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 Quote Sheet 22xxx Rev B dated July 26, 2022, from 502 Equipment, LLC, reflecting a **Total Purchase Price of $474,990.27**. 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 of all items shall be made within 10-12 months of issuance of Purchase Order, delivered to Water Resources Department – 1725 South Church Street, Murfreesboro, TN 37130. Contact person Donald Hughes (tel. 615-893-1223; email: dhughes@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 shall meet the warranty requirements set forth on the Price Quote Sheet 22xxx Rev B dated July 26, 2022, and Sourcewell contract with GapVax, Inc. No.#101221-GPV.

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

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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:

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If to the City of Murfreesboro:	If to the Contractor:
City of Murfreesboro Attn: City Manager 111 West Vine Street Murfreesboro, TN 37130	502 Equipment, LLC Attn: JC Spaulding 7515 Greenfield Place Crestwood, KY 40014 jc@502equipment.com 502-536-9125

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

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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]

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IN WITNESS WHEREOF, the parties enter into this agreement as of _____, (the "Effective Date").

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

502 Equipment, LLC

DocuSigned by:
By: JC Spaulding
Joseph C. Spaulding, Manager

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 09/22/2022

Item Title: Cable Television Commission

Department: Administration

Presented by: Mayor McFarland

Requested Council Action:

Ordinance	☐
Resolution	☐
Motion	☒
Direction	☐
Information	☐

Summary

Appointment to the Cable Television Commission.

Background Information

The purpose of the Cable Television Commission is to oversee the cable television franchise for the City and other cable television functions as designated by ordinance.

As established by M.C.C.§2-166—168, there are seven members appointed for 3-year terms.

Council Priorities Served

Engaging Our Community

As part of engaging the community, residents are encouraged to volunteer for service on a board or commission.

Attachments:

Memo from Mayor McFarland

City of MURFREESBORO TENNESSEE

. . . creating a better quality of life.

September 22, 2022

Members of City Council

RE: Recommended Appointment – Cable Television Commission

As an item for the Council Agenda, I am recommending the following appointments for the Cable Television Commission.

Appointment
Mr. Jimmy Richardson as City Schools Liaison (term expires August 30, 2024)

Sincerely,

Shane McFarland
Mayor

Administration Department
111 West Vine Street * PO Box 1139 * Murfreesboro, Tennessee 37133-1139 * Phone 615 849 2629 * Fax 615 849 2679
TDD 615 849 2689 www.murfreesborotn.gov