

MURFREESBORO CITY COUNCIL
Regular Meeting Agenda
Council Chambers – 6:00 PM
April 6, 2023

PRAYER

Mr. Bill Shacklett

PLEDGE OF ALLEGIANCE

CEREMONIAL ITEMS

STARS Award: TJ Steverson and Nate Bailey

Proclamation: Public Safety Telecommunicators; Barbara Wallace

Consent Agenda

1. Affordable Housing Program - Legacy Pointe (Community Development)
2. Homeowner Rehabilitation - 416 South Highland Avenue (Community Development)
3. Mandatory Referral for Dedication of Electric Easements along North Thompson Lane, Bradyville Pike, and Searcy Street (Planning)
4. Asphalt Purchases Report (Water Resources)
5. Purchase of WRRF Clarifier Scraper Blades (Water Resources)
6. WRRF Pivot System Irrigator (Water Resources)

New Business

Ordinance

7. Development Impact Fees (Administration)
 - a. First Reading: Ordinance 23-O-13
8. Conditions for water and sewer service to property outside City limits (Water Resources)
 - a. First Reading: Ordinance 23-O-12

Land Use Matters

9. Rezoning property along Agripark Drive (Planning)
 - a. Public Hearing: Rezone 9.75 acres
 - b. First Reading: Ordinance 23-OZ-07
10. Amending the Zoning Ordinance (Planning)
 - a. Public Hearing: Amend the Zoning Ordinance
 - b. First Reading: Ordinance 23-O-08
11. Plan of Services and Annexation for Highway 99 Right-of-Way (Planning)
 - a. Public Hearing: Plan of Services and Annexation
 - b. Plan of Services: Resolution 23-R-PS-09
 - c. Annexation: Resolution 23-R-A-09

On Motion

- 11. Purchase of Extrication Equipment (Fire Rescue)
- 13. Purchase of Elgin Street Sweeper (Street)
- 14. Purchase of CTX160 Skid Steer w/ Bucket and Harley Rake (Street)

Board & Commission Appointments

Licensing

Payment of Statements

Other Business

Adjourn

COUNCIL COMMUNICATION

Meeting Date: 4/6/2023

Item Title: Affordable Housing Program – Legacy Pointe Development

Department: Community Development

Presented by: Robert Holtz, Director of Community Development

Requested Council Action:

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

Summary

Down payment assistance from federal Community Development Block Grant (CDBG) funds for the City's Affordable Housing Assistance Program.

Staff Recommendation

Approve the expenditure from CDBG funds for down payment assistance.

Background Information

The purchasers of three new homes (2824 Opportunity Lane, 2809 Humanity Trail, 2813 Humanity Trail) constructed in Legacy Pointe developed by Habitat for Humanity has applied for down payment assistance under the City's Affordable Housing Assistance Program. The applicant meets the qualifications for assistance. The program will provide \$10,000 towards each down payment from existing Community Development Block Grant (CDBG) funds.

Council Priorities Served

Responsible Budgeting

Use of federal funds to assist in community development beneficial supplements the City's budget to improve the living standards of the community.

Fiscal Impact

The expenditure, \$30,000, is fully funded by CDBG funds allocated to the City's Affordable Housing Assistance Program.

COUNCIL COMMUNICATION

Meeting Date: 4/6/2023

Item Title: Housing Rehabilitation – 416 S Highland Ave
Department: Community Development
Presented by: Robert Holtz, Director of Community Development
Requested Council Action:

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

Summary

Complete housing rehabilitation through the Community Development Housing Rehabilitation program.

Staff Recommendation

Approve Change Order No. 1 in the amount of \$1,583 to complete the housing rehabilitation.

Background Information

On February 16, 2023, Council approved the housing rehab contract of \$20,700 for 416 South Highland Avenue. Subsequent to initiating the project, the contractor and homeowner have identified additional issues that need to be addressed by change order.

All parties agree to the change order in the amount of \$1,583.

Council Priorities Served

Safe and Livable Neighborhoods.

This activity will correct exterior and interior deficiencies.

Fiscal Impact

The additional contract value of \$1,583 will be from Community Development Block Grant funds.

Attachments:

1. Change Order #1 to Contract for Rehabilitation

**Change Order #1
To Contract for Rehabilitation
416 S. Highland**

Pursuant to Section VIII and Exhibit B, the Contract is changed as follows:

Summary: Replace existing built-in stove top.

The existing built-in stove top is original to the home that was built in 1960. The stove top needs to be replaced as only one burner is operating and the wiring with-in the stove has deteriorated beyond repair.

Replacing the stove top will make the home safer and more livable. The cost will be paid from CDBG funds.

Original Contract amount	\$20,700.00
Previous adjustments	\$0
Change Order #1	<u>\$1,583.00</u>
New Contract amount	<u>\$22,283.00</u>

Except as modified herein, all other terms and conditions of the Contract remain in full force and effect.



TIM RICE, RICE CONSTRUCTION LLC
CONTRACTOR



RICHARD BATEY,
OWNER

Date: _____

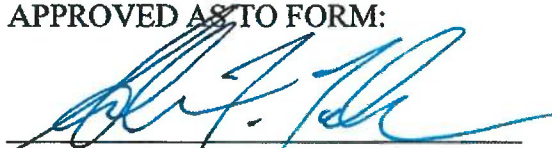
APPROVED BY CITY:

Name: Shane McFarland
Title: Mayor



Name: Robert Holtz
Title: Director, Community Development

APPROVED AS TO FORM:



Name: Adam Tucker
Title: City Attorney

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Mandatory Referral for Dedication of Electric Easements along North Thompson Lane, Bradyville Pike, and Searcy Street

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Consider request to allow dedication of electric easements on City-owned property on North Thompson Lane, Bradyville Pike, and Searcy Street.

Staff Recommendation

Approve the mandatory referral request.

The Planning Commission will consider this mandatory referral request at its April 05, 2023 regular meeting and is expected to recommend its approval at that time. If for some reason the Planning Commission does not recommend approval, then Staff will withdraw this item from the Council agenda.

Background Information

In this mandatory referral [2023-708], Council is being asked to consider the dedication of electric easements to Middle Tennessee Electric (MTE) on City-owned property along North Thompson Lane, Bradyville Pike, and Searcy Street. The easements are needed by MTE in conjunction with the North Thompson Lane and Bradyville Pike road improvement projects and for line upgrades along Searcy Street, respectively.

Council Priorities Served

Expand Infrastructure

The proposed ROW and easement dedication will help facilitate various infrastructure improvements.

Attachments:

1. Memo from Deputy City Attorney
2. Exhibits of proposed easements



**MEMORANDUM
CITY OF MURFREESBORO
LEGAL DEPARTMENT**

TO: Chair Jones and Members of the Planning Commission
FROM: David A. Ives
DATE: February 21, 2023
RE: Utility Easements to MTEMC

MANDATORY REFERRAL

Middle Tennessee Electric is requesting several easements across City-owned property in support of various projects. They are:

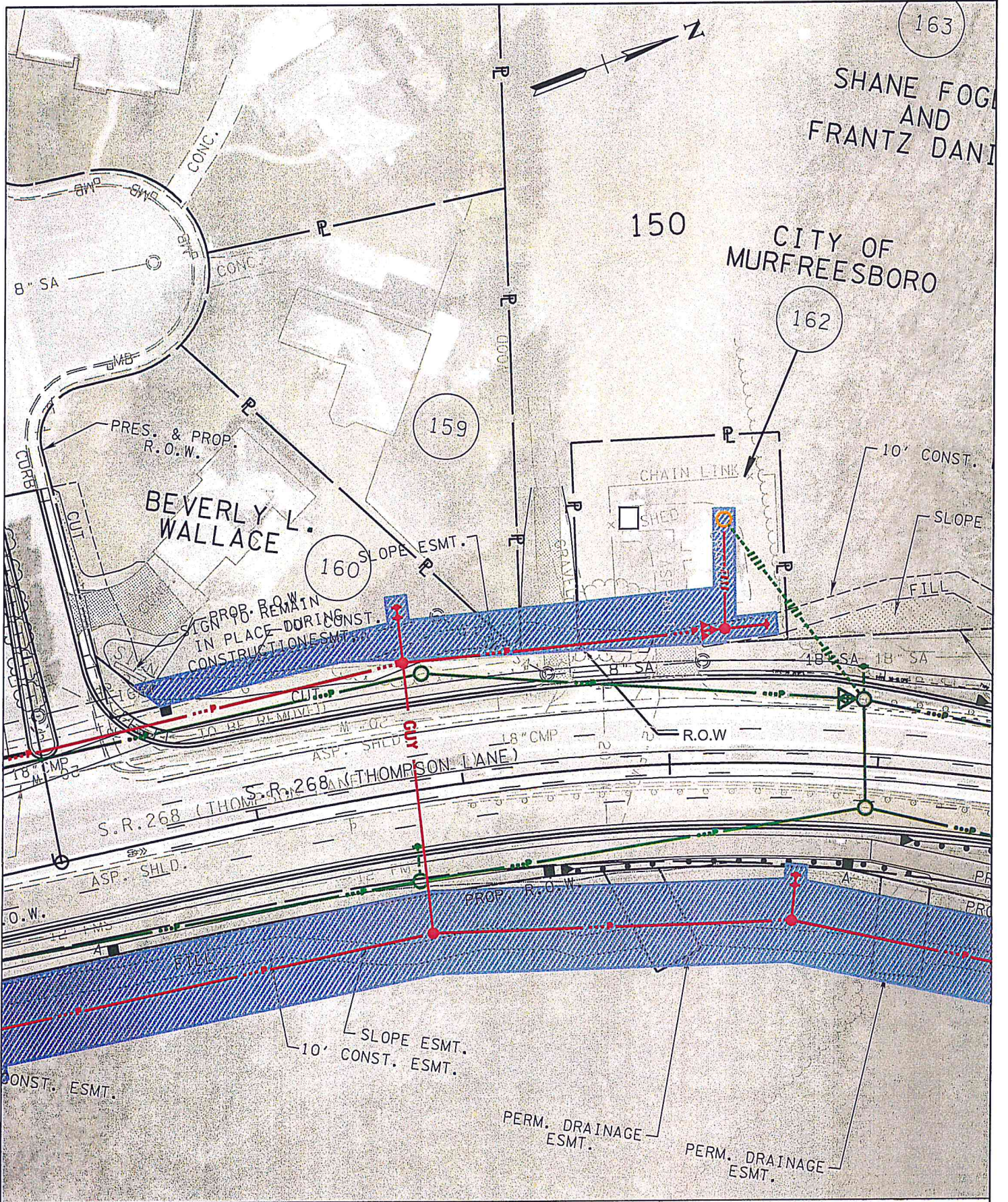
Reconstruction of North Thompson Lane: Exhibits A, B, C and D;

Reconstruction of Bradyville Pike: Exhibit E; and

Line upgrades along Searcy Street: Exhibit F.

Grant of these easements will not create any additional burden on the City-owned properties. Staff requests that Planning Commission consider and recommend to City Council that these easements be donated.

Copies of the Exhibits are attached.



LEGEND

- - - P -	EXISTING ELECTRIC UTILITY TO BE REMOVED	●	PROPOSED UTILITY POLE
- - - P -	EXISTING ELECTRIC UTILITY TO REMAIN	▨	PROPOSED MTE EASEMENT
- - - P -	PROPOSED ELECTRIC UTILITY		
○	EXISTING UTILITY POLE TO BE REMOVED		
◻	EXISTING UTILITY POLE TO REMAIN		

Easement Notes:

1. MTE has the right to install and operate, on the Easement Tract, utility lines and related equipment for the utility service that MTE provides.
2. This Exhibit was prepared in accordance with existing field evidence and recorded information. It is not intended to be a Boundary Survey compliant with the minimum standard detail requirements of the State of Tennessee.

NOTE: PROPERTY LINES WERE COMPILED FROM TDOT DRAWINGS AND DO NOT REPRESENT AN ACTUAL BOUNDARY SURVEY OF AFFECTED PROPERTIES.

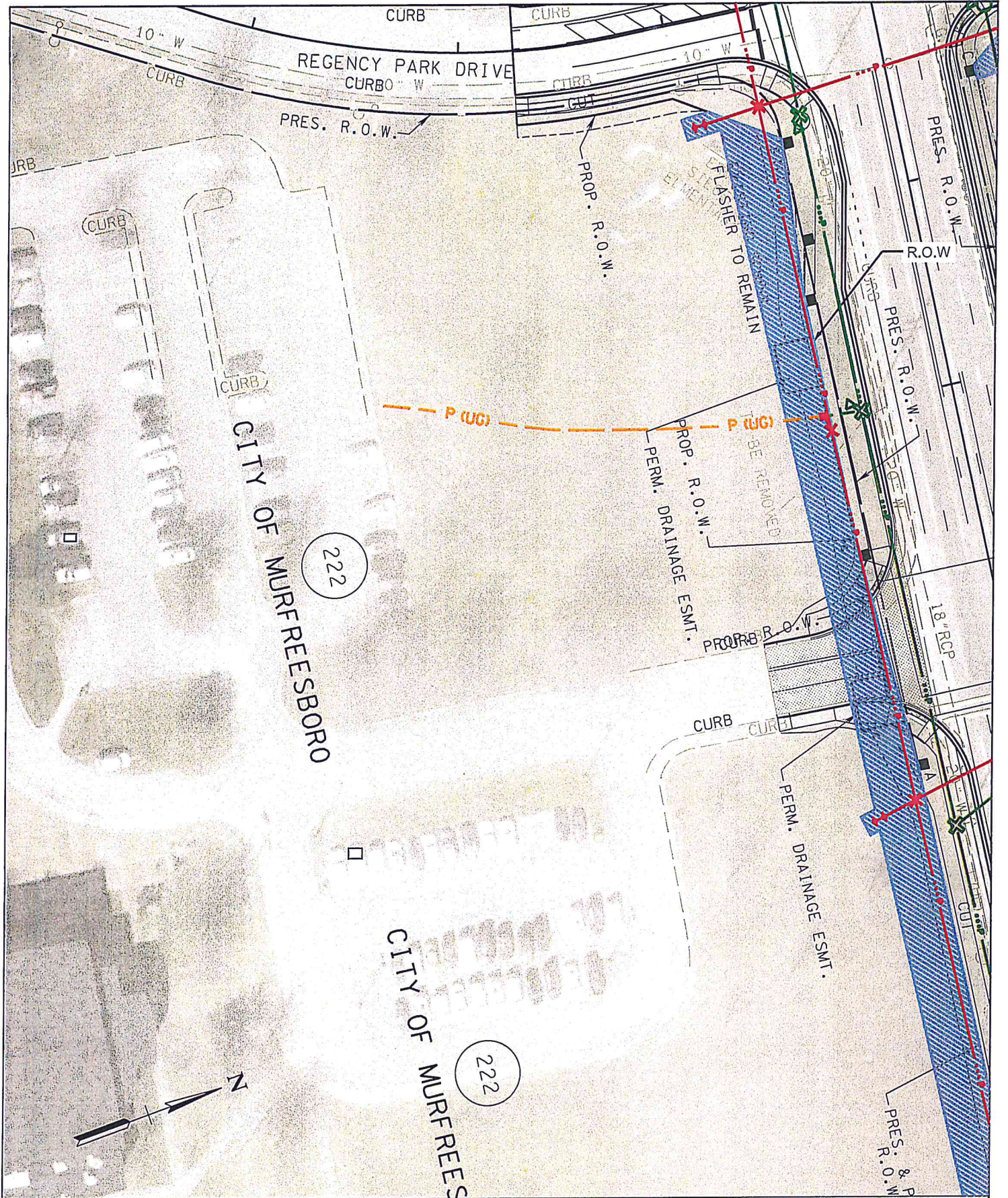
MIDDLE
TENNESSEE
ELECTRIC

COUNTY OF: RUTHERFORD
STATE OF: TENNESSEE
COUNTY CODE: 075
MAP NUMBER: 058
DEED BOOK: 00224

GROUP NO.:
PAGE: 00158

EXHIBIT A

PARCEL NO.: 099.01



LEGEND

- . . . P -	EXISTING ELECTRIC UTILITY TO BE REMOVED	●	PROPOSED UTILITY POLE
- . . . P -	EXISTING ELECTRIC UTILITY TO REMAIN	▨	PROPOSED MTE EASEMENT
- . . . P -	PROPOSED ELECTRIC UTILITY		
○	EXISTING UTILITY POLE TO BE REMOVED		
◻	EXISTING UTILITY POLE TO REMAIN		

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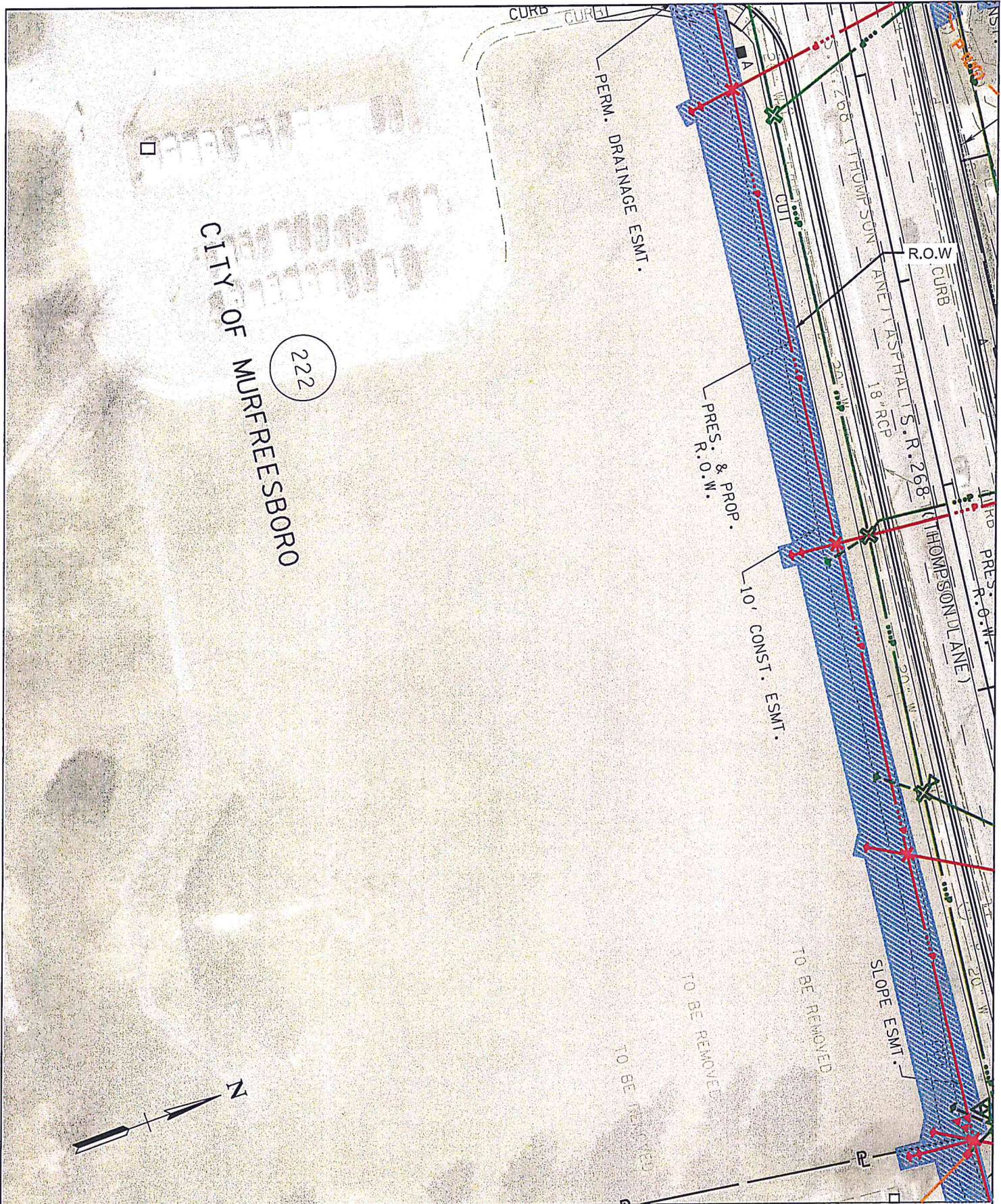
MIDDLE
TENNESSEE
ELECTRIC

COUNTY OF: RUTHERFORD
STATE OF: TENNESSEE
COUNTY CODE: 075
MAP NUMBER: 058
DEED BOOK: 505

GROUP NO.:
PAGE: 483

EXHIBIT B

PARCEL NO.: 069.02



LEGEND

- ...P -	EXISTING ELECTRIC UTILITY TO BE REMOVED	●	PROPOSED UTILITY POLE
- ...P -	EXISTING ELECTRIC UTILITY TO REMAIN	▨	PROPOSED MTE EASEMENT
- ...P -	PROPOSED ELECTRIC UTILITY		
○	EXISTING UTILITY POLE TO BE REMOVED		
◻	EXISTING UTILITY POLE TO REMAIN		

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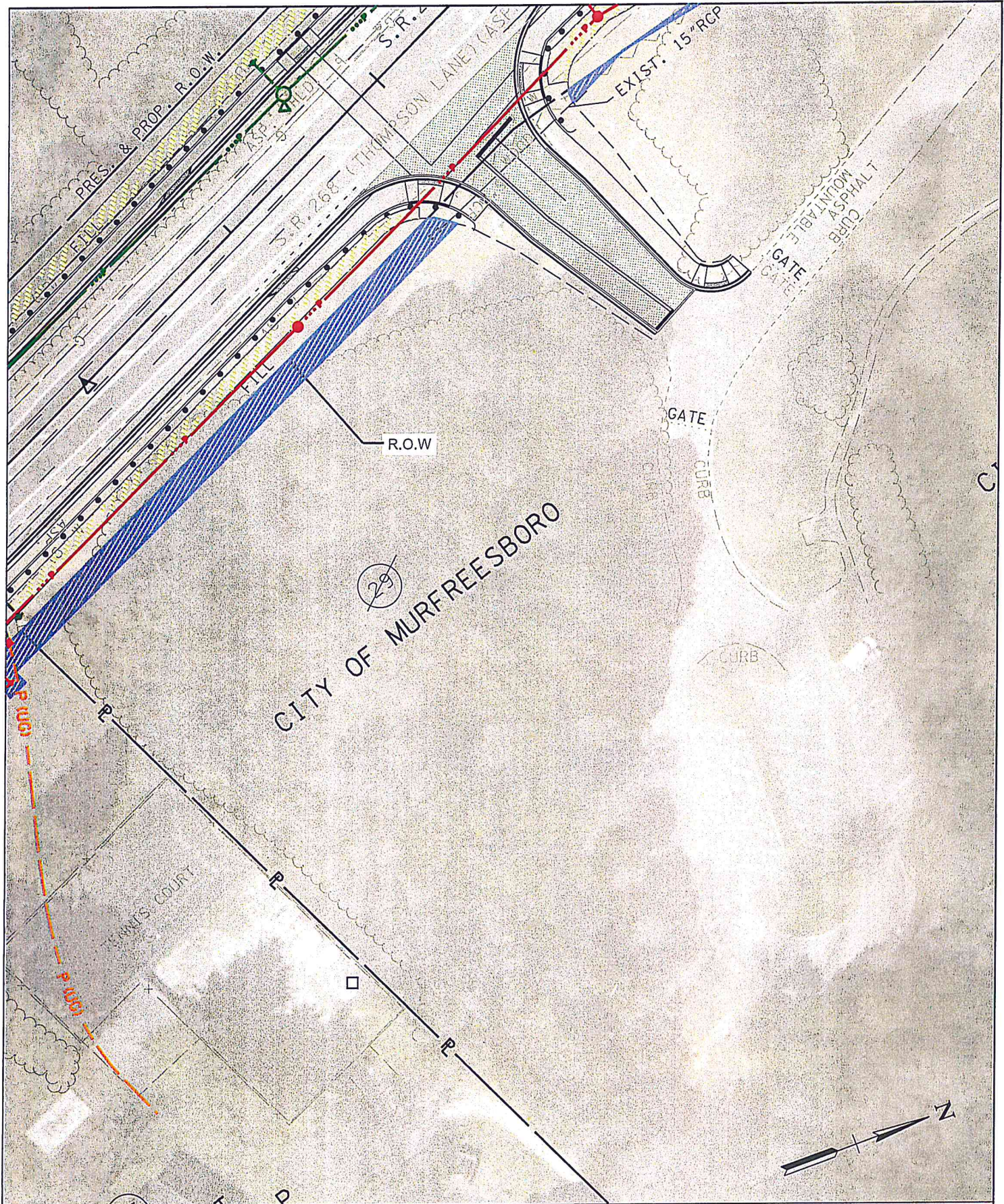
MIDDLE
TENNESSEE
ELECTRIC

COUNTY OF: RUTHERFORD
STATE OF: TENNESSEE
COUNTY CODE: 075
MAP NUMBER: 058
DEED BOOK: 505

GROUP NO.:
PAGE: 483

EXHIBIT B
PAGE 2

PARCEL NO.: 069.02



LEGEND

	EXISTING ELECTRIC UTILITY TO BE REMOVED		PROPOSED UTILITY POLE
	EXISTING ELECTRIC UTILITY TO REMAIN		PROPOSED MTE EASEMENT
	PROPOSED ELECTRIC UTILITY		
	EXISTING UTILITY POLE TO BE REMOVED		
	EXISTING UTILITY POLE TO REMAIN		

Easement Notes:

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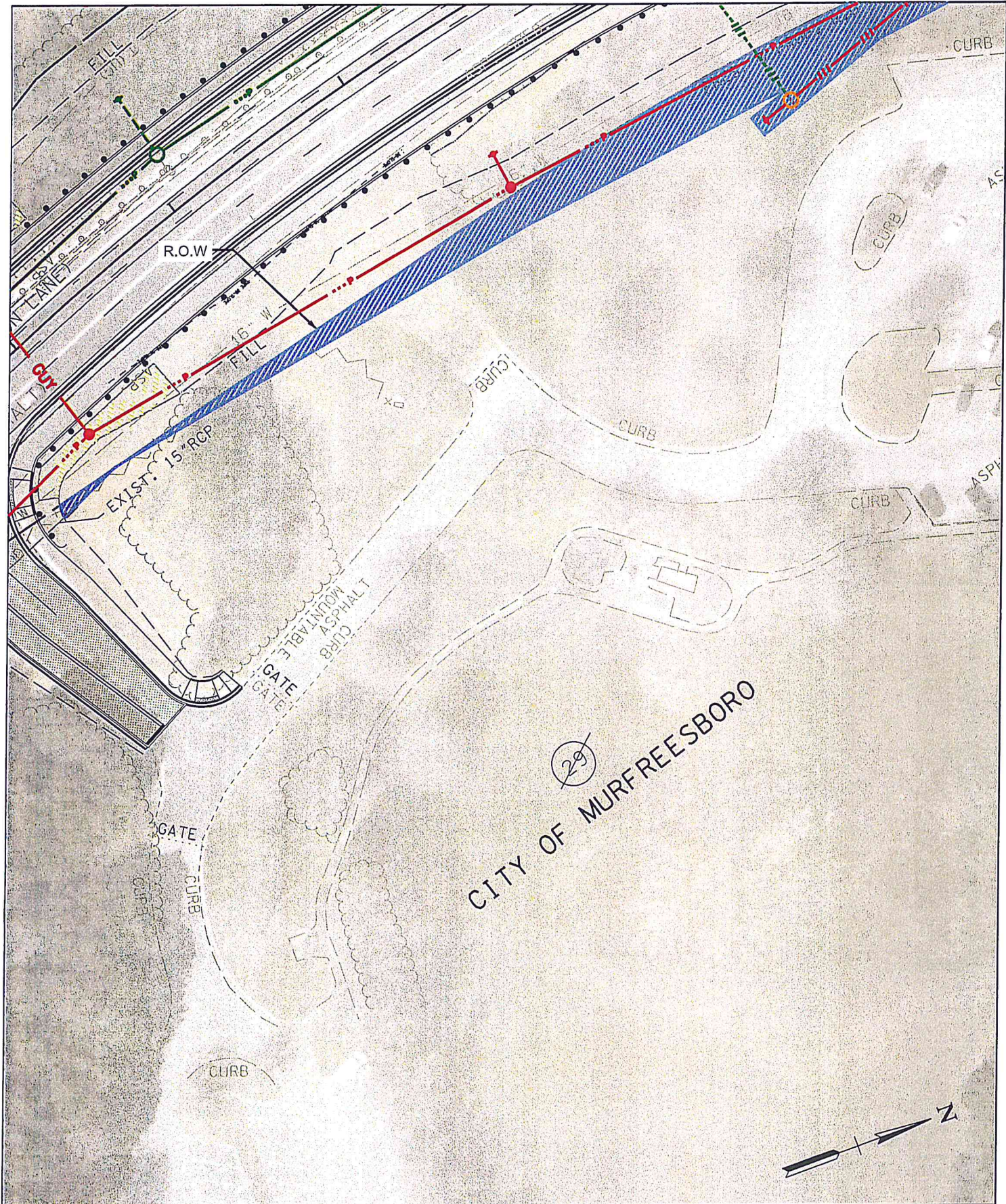
MIDDLE
TENNESSEE
ELECTRIC

COUNTY OF: RUTHERFORD
STATE OF: TENNESSEE
COUNTY CODE: 075
MAP NUMBER: 069
DEED BOOK: 562

GROUP NO.:
PAGE: 653

EXHIBIT C
PAGE 1

PARCEL NO.: 057.01



LEGEND

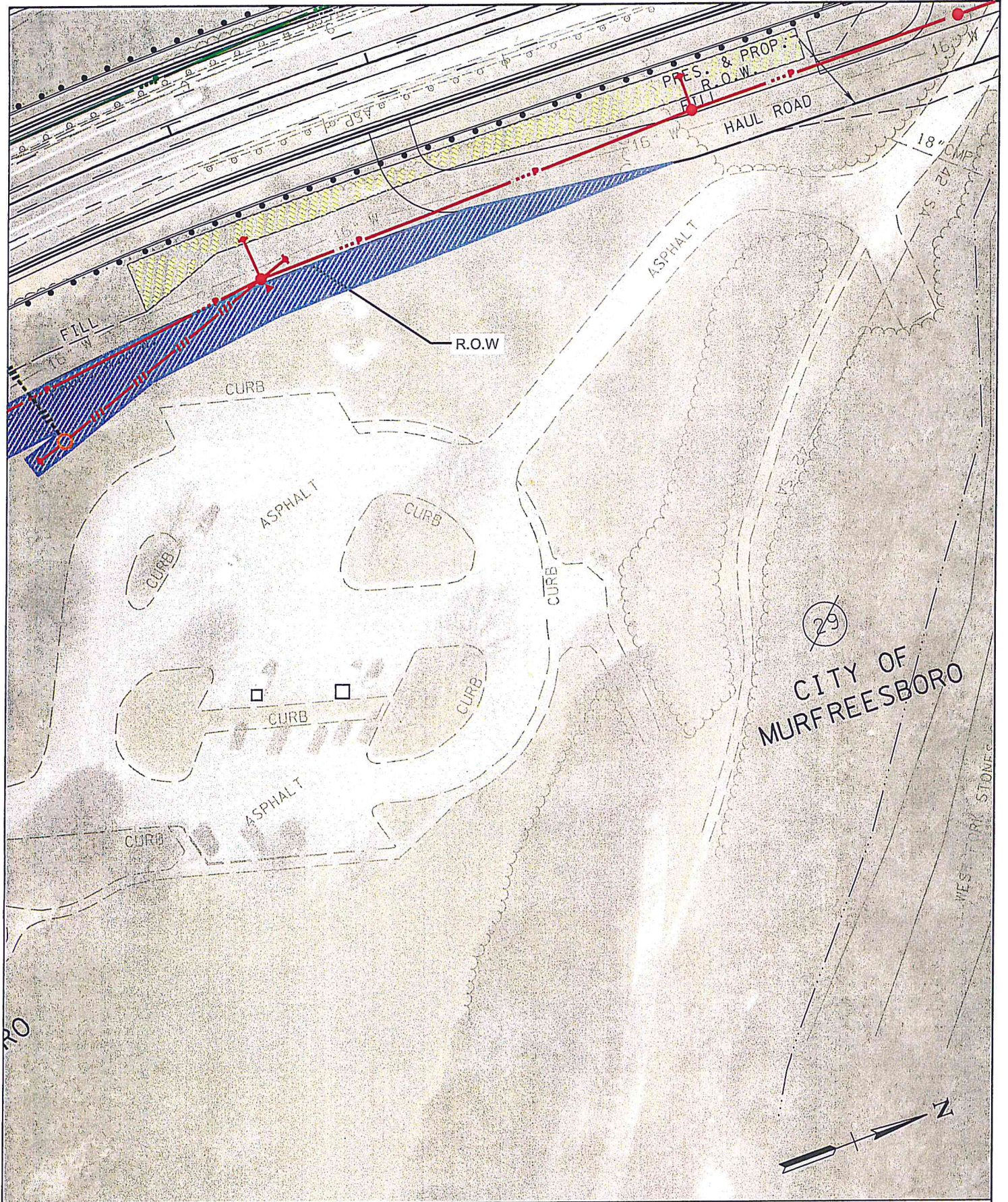
- . . . P -	EXISTING ELECTRIC UTILITY TO BE REMOVED	●	PROPOSED UTILITY POLE
- . . . P -	EXISTING ELECTRIC UTILITY TO REMAIN	▨	PROPOSED MTE EASEMENT
- . . . P -	PROPOSED ELECTRIC UTILITY		
○	EXISTING UTILITY POLE TO BE REMOVED		
◻	EXISTING UTILITY POLE TO REMAIN		

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MIDDLE T E TENNESSEE ELECTRIC	COUNTY OF: RUTHERFORD		EXHIBIT C PAGE 2	PARCEL NO.: 057.01
	STATE OF: TENNESSEE			
	COUNTY CODE: 075			
	MAP NUMBER: 069	GROUP NO.:		
	DEED BOOK: 562	PAGE: 653		



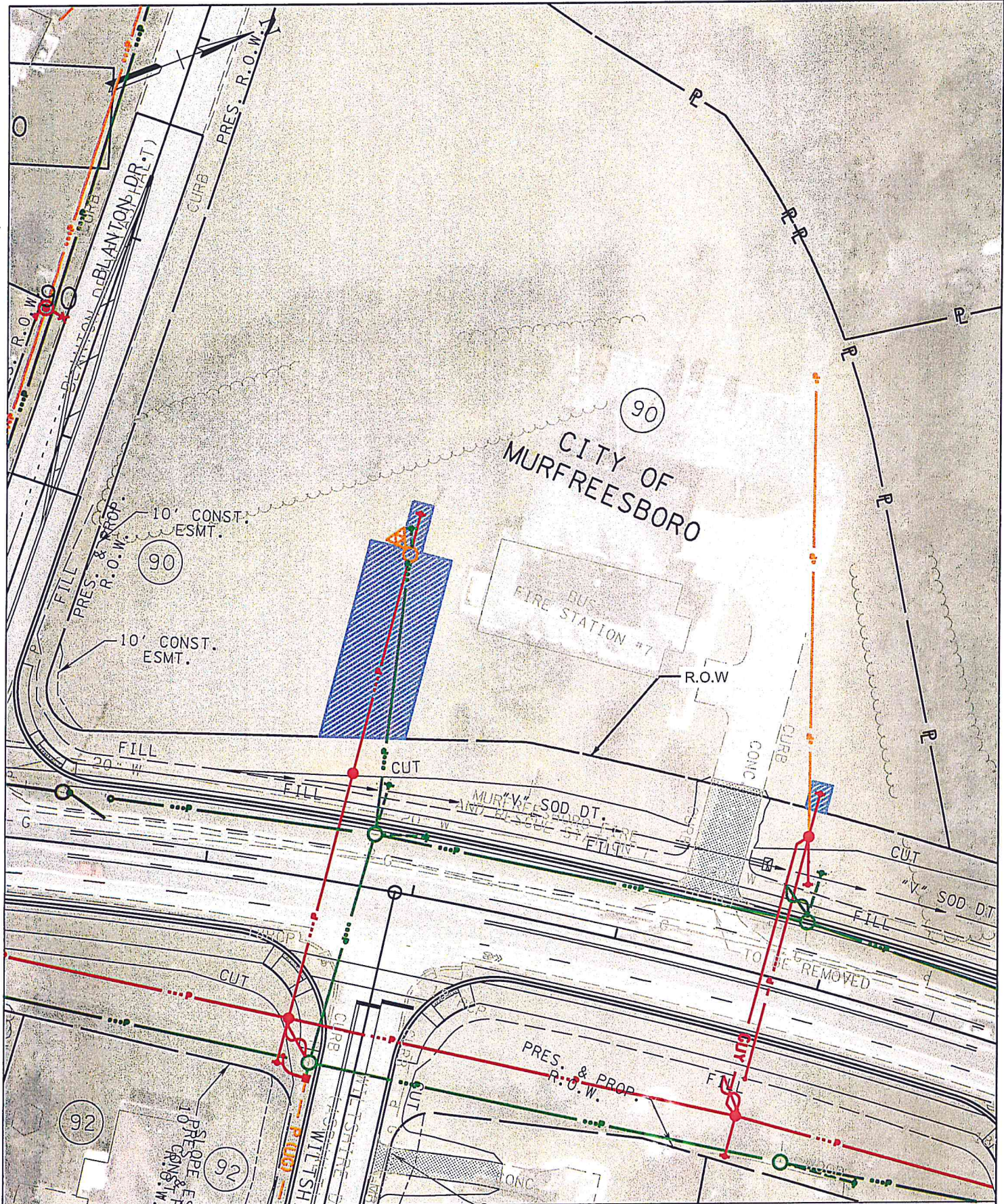
LEGEND

	EXISTING ELECTRIC UTILITY TO BE REMOVED		PROPOSED UTILITY POLE
	EXISTING ELECTRIC UTILITY TO REMAIN		PROPOSED MTE EASEMENT
	PROPOSED ELECTRIC UTILITY		
	EXISTING UTILITY POLE TO BE REMOVED		
	EXISTING UTILITY POLE TO REMAIN		

- Easement Notes:
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 - This Exhibit was prepared in accordance with existing field evidence and recorded information. It is not intended to be a Boundary Survey compliant with the minimum standard detail requirements of the State of Tennessee.

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MIDDLE T E TENNESSEE ELECTRIC	COUNTY OF: RUTHERFORD		EXHIBIT C PAGE 3	PARCEL NO.: 057.01
	STATE OF: TENNESSEE			
	COUNTY CODE: 075			
	MAP NUMBER: 069	GROUP NO.:		
	DEED BOOK: 562	PAGE: 653		



LEGEND

- - - - P - - - -	EXISTING ELECTRIC UTILITY TO BE REMOVED	●	PROPOSED UTILITY POLE
- - - - P - - - -	EXISTING ELECTRIC UTILITY TO REMAIN	▨	PROPOSED MTE EASEMENT
- - - - P - - - -	PROPOSED ELECTRIC UTILITY		
○	EXISTING UTILITY POLE TO BE REMOVED		
□	EXISTING UTILITY POLE TO REMAIN		

- Easement Notes:
- MTE has the right to install and operate, on the Easement Tract, utility lines and related equipment for the utility service that MTE provides.
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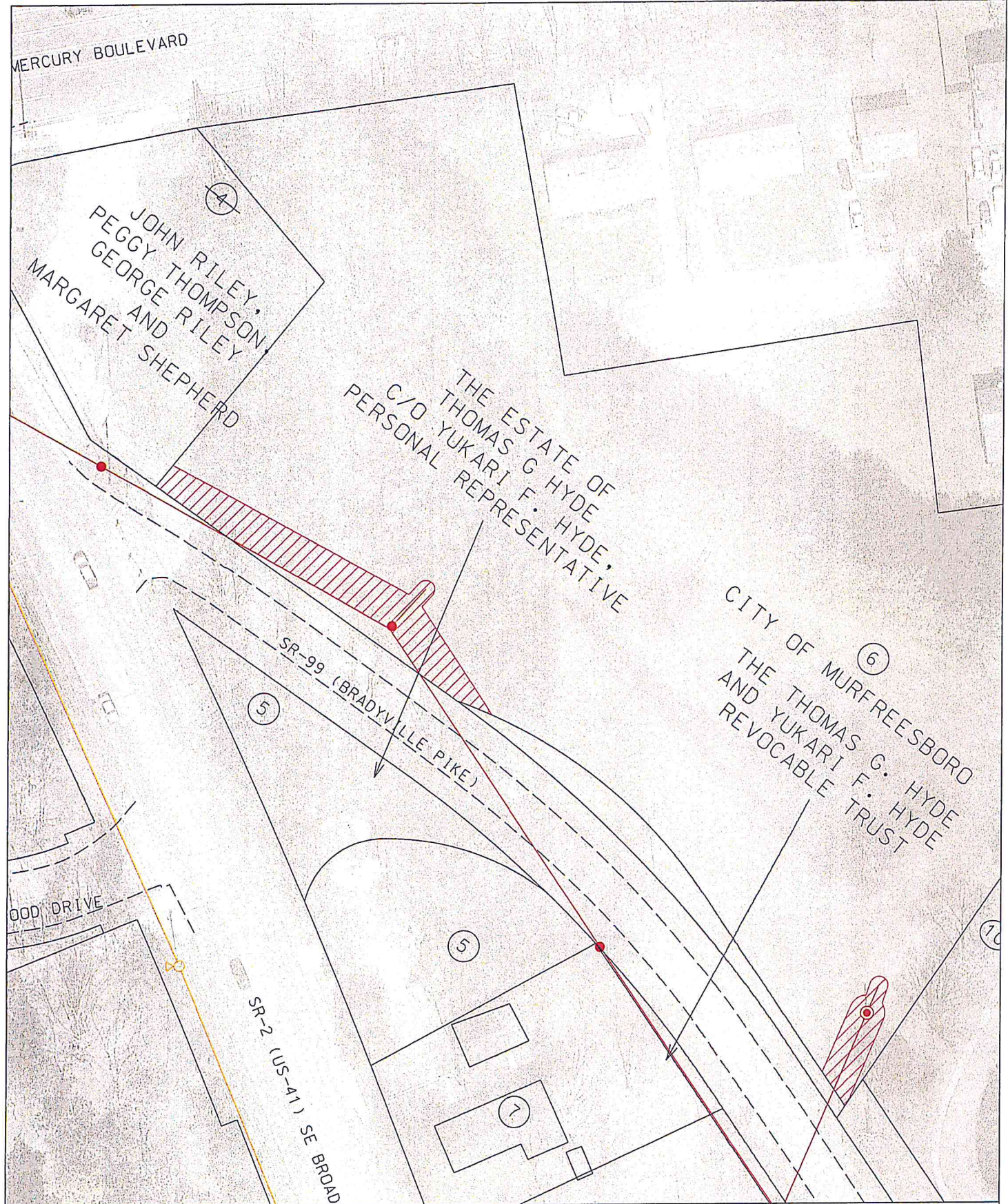
NOTE: PROPERTY LINES WERE COMPILED FROM TDOT DRAWINGS AND DO NOT REPRESENT AN ACTUAL BOUNDARY SURVEY OF AFFECTED PROPERTIES.

MIDDLE
TENNESSEE
ELECTRIC

COUNTY OF: RUTHERFORD
STATE OF: TENNESSEE
COUNTY CODE: 075
MAP NUMBER: 069
DEED BOOK: 424

GROUP NO.:
PAGE: 72-76

EXHIBIT D
PARCEL NO.: 056.00



LEGEND

	EXISTING ELECTRIC UTILITY
	PROPOSED MTEMC EASEMENT
	PROPOSED ELECTRIC UTILITY
	PROPOSED UTILITY POLE
	EXISTING UTILITY POLE

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Middle Tennessee Electric	COUNTY OF:RUTHERFORD		EXHIBIT E	PARCEL NO.:04102
	STATE OF: TENNESSEE			
	COUNTY CODE:75			
	MAP NUMBER:102D	GROUP NO.:M		
	DEED BOOK:113	PAGE:429		

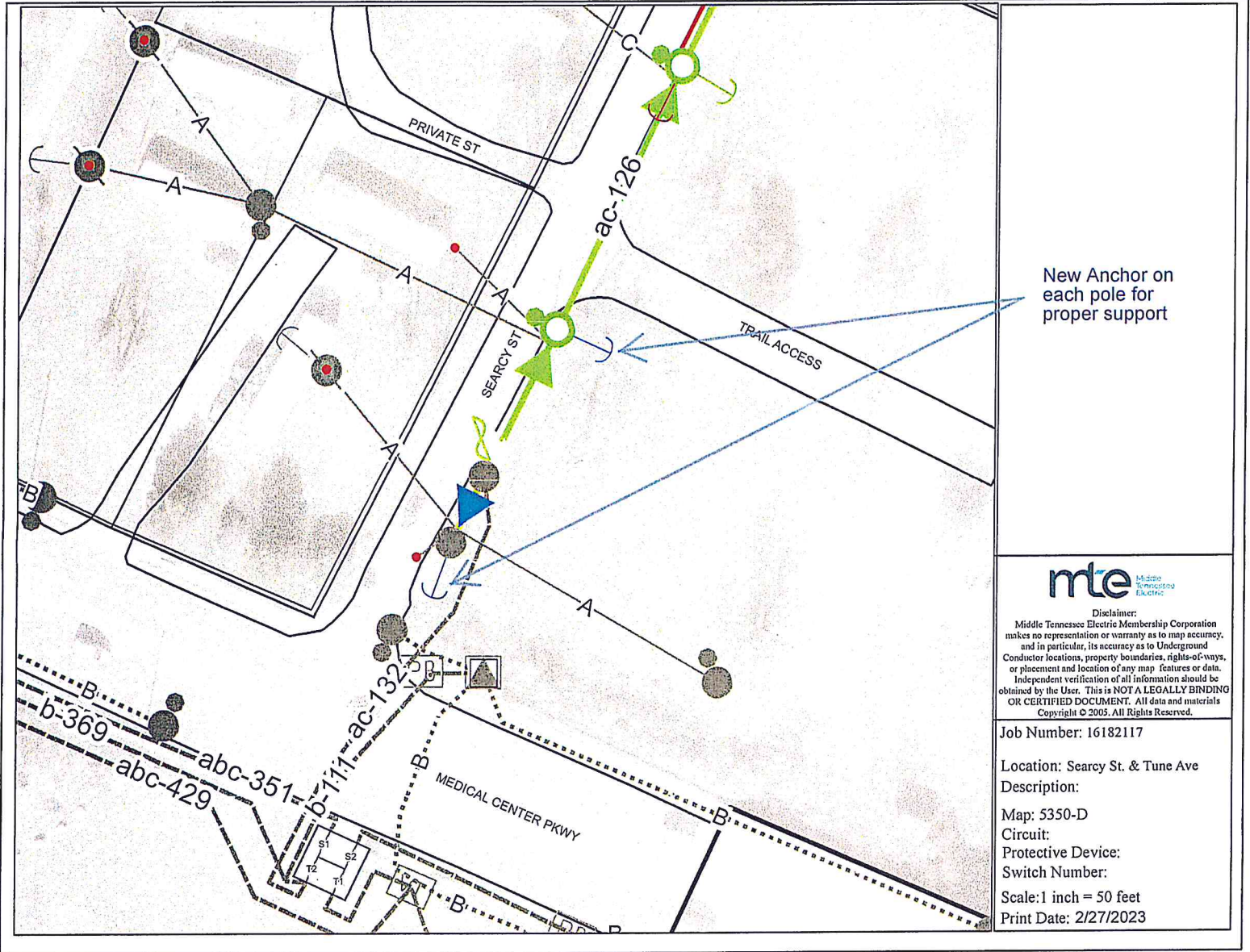


EXHIBIT F

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Asphalt Purchases Report
Department: Water Resources
Presented by: Darren Gore, Assistant City Manager
Requested Council Action:

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

Summary

Report of asphalt purchases.

Staff Recommendation

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

Background Information

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

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

Council Priorities Served

Responsible budgeting

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

Maintain public safety

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

Fiscal Impacts

The overall costs, \$150,000 to \$175,000 per year, are funded by MWRD's operating budget.

Attachments

Asphalt Purchases Report

MWRD - OPERATIONS & MAINTENANCE

Asphalt Quotes FY 2022

	Wire Grass Const Co.		Hawkins		Vulcan		Notes
	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	<i>Binder</i>	<i>Topping</i>	
Jul	\$65.00	\$75.00	\$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	\$69.00	\$78.50	\$73.17	\$85.73	
Oct	\$65.00	\$75.00	\$80.51	\$87.91	\$71.98	\$84.09	
Nov	\$65.00	\$75.00	\$80.29	\$87.62	\$70.86	\$82.65	
Dec	\$65.00	\$75.00	\$78.60	\$85.76	\$70.02	\$81.53	
Jan	\$80.00	\$90.00	\$77.80	\$84.78	\$0.00	\$0.00	Vulcan Plant closed till March
Feb	\$79.85	\$88.62	\$77.80	\$84.78			Vulcan Plant closed till March
Mar	\$73.91	\$86.62	\$73.91	\$85.42	\$72.00	\$83.50	Murfreesboro Plant Closed till April
Apr							
May							
Jun							

MWRD OPERATIONS & MAINTENANCE

Asphalt Purchases FY 2022

<i>Invoice Date</i>	<i>Approval</i>	<i>Vendor</i>	<i>Type</i>	<i>Rate</i>	<i>Qty</i>	<i>Total</i>	<i>FY Total</i>
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

[illegible]

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Purchase of WRRF Clarifier Scraper Blades

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

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

Summary

Purchase of parts from Parkson Corporation for the repair of Water Resource Recovery Facility (WRRF) clarifiers.

Staff Recommendation

Approve the purchase of scraper blades from the Parkson Corporation.

Background Information

The WRRF has six clarifiers. These basins hold two million gallons each and handle most of the liquid-solids separation portion of the treatment process. Scraper blades convey the settled solids to the center of the clarifier where they are removed and sent to sludge holding tanks. A variety of pumps and equipment are utilized within this system. As these items reach the ends of their lifecycles, they must be repaired or replaced.

Scraper blades on WRRF's #4 Clarifier have reached the end of their lifecycle. New Original Equipment Manufacturer parts are available from a single source, Parkson Corporation. Parkson is the manufacturer distributor for the area.

Council Priorities Served

Responsible budgeting

Maintaining the City infrastructure to a high standard avoids the costs associated with untimely repairs and replacements.

Fiscal Impact

The expenses, \$53,315, is funded by MWRD's working capital reserves.

Attachments

Agreement with Parkson Corporation for purchase of scraper blades

**AGREEMENT BETWEEN
CITY OF MURFREESBORO
AND
PARKSON CORPORATION
FOR PURCHASE OF SCRAPER BLADES**

This Agreement is entered into and effective as of the _____, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Parkson Corporation**, a corporation of the State of Delaware and Sole Source Provider of equipment being purchased ("Contractor").

This Agreement consists of the following documents:

- This document;
- Contractor's Quote #568, dated March 14, 2023, for Six (6) Scraper Blades Complete from Bridge to Floor, Including T-Arm Supports, Galvanized ("Contractor's Proposal");
- Any properly executed amendments to this Agreement; and
- Exhibit A – Parkson Corporation Sole Source Letter.

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 Proposal.

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase Six (6) Scraper Blades Complete from Bridge to Floor, Including T-Arm Supports, Galvanized per Contractor's Proposal.

2. **Term.** The term of this Contract shall begin on _____ (the "Effective Date") for a period of one year, or until the Contractor's performance is completed, whichever occurs first. 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 this procurement 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 \$53,315.00**, including

estimated freight charges. Any compensation due to Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.

- b. Deliveries of all items shall be made within 12-14 weeks of order to: 2032 Blanton Drive, Murfreesboro, TN 37129. Delivery Contact: John Strickland (tel.: 615-663-5185, email: jstrickland@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday. Contractor shall maintain responsibility for risk of loss in transit.
 - c. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or this 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 Contractor's Proposals. The City shall promptly perform said inspection and/or testing and notify Contractor within 72 hours of any damage or other failure of specifications.
 - 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 bid price.
4. **Warranty.** Every item supplied by Contractor shall meet the warranty requirements set by Contractor and/or the manufacturer. The warranty period begins on the date the equipment is delivered and accepted by the City.
5. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
6. **Work Product.** Except as otherwise provided herein, all data, documents and materials produced and provided by Contractor under this Agreement are the property of the City, which retains the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Any of the City's property, including but not limited to books, records and equipment, that is in Contractor's possession must be maintained in good condition and repair and returned to the City by Contractor at the end of this Agreement.
7. **Insurance.** During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000, as well as automotive and workers' compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."

8. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
- c. Copyright, Trademark, Service Mark, or Patent Infringement.
 - i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
 - ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 1. Procure for the City the right to continue using the products or services.
 2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
 - iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

9. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro City Manager City of Murfreesboro 111 West Vine Street Murfreesboro, TN 37130	If to Contractor: Parkson Corporation Attn: Contracts Manager 1401 West Cypress Creek Drive Suite 100 Fort Lauderdale, FL 33309asinger@parkson.com
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10. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state and local laws and regulations.
11. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
12. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
13. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
14. **No Waiver of Limitations Periods.** The parties shall have and maintain any applicable limitation period provided by state law in which to provide a notice, present a claim, or initiate an action in a court of competent jurisdiction. To the extent any other provision in the documents forming this Agreement provides a shorter limitation period, the City disclaims such provision, and Contractor acknowledges such disclaimer.
15. **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.
16. **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.
17. **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.

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, 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. **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.
20. **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.
21. **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.
22. **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.
23. **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.

- 24. Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, each party will be responsible for their own expenses associated with the action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
- 25. 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 _____ (the “Effective Date”).

CITY OF MURFREESBORO, TENNESSEE

By: _____
Shane McFarland, Mayor

PARKSON CORPORATION

DocuSigned by:
By: Andrew Singer
Andrew Singer, Contracts Manager

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker
Adam F. Tucker, City Attorney



100 Schreiber Drive
Trussville, AL 35173
Phone 205.655.7466
Fax 205.655.7669

March 7, 2023

Ms. Ryne Smith
Murfreesboro Water Resources Department
Murfreesboro Water Resource Recovery Facility
2032 Blanton Drive
Murfreesboro, TN 37129

Subject: Sole Source Letter – Murfreesboro, TN Job 568

Dear Ryne:

This is to inform you that Schreiber, a Parkson Brand, is the sole source for the Schreiber clarifier scraper blades.

Schreiber designs, manufactures, and services the equipment. There are no other dealers, distributors, or service organizations that offer the equipment.

Please let me know if you need any additional information or if you have any questions.

Sincerely,

Parkson Corporation

A handwritten signature in black ink, appearing to read "Brad Draper", is positioned above the printed name and title.

Brad Draper
Field Service Manager

BWD/rg



100 Schreiber Drive
Trussville, AL 35173
Phone 205.655.7466
Fax 205.655.7669

March 14, 2023

Ms. Ryne Smith
Murfreesboro Water Resources Department
Murfreesboro Water Resource Recovery Facility
2032 Blanton Drive
Murfreesboro, TN 37129

Subject: Job #568 Scraper Blade Quote

Dear Ryne:

Andrew Singer is our Contracts Manager (954-917-1212), he is located in the Ft. Lauderdale office.

We are pleased to offer the following quote:

QTY	UNIT	DESCRIPTION	PRICE EACH	TOTAL PRICE
6	Each	Scraper blades complete from bridge to floor, includes T-arm supports. Galvanized	\$8,720.00	\$53,320.00
1	Each	Freight	\$995.00	<u>\$995.00</u>
				\$53,315.00

Delivery: 12-14 Weeks

These prices are valid for 30 days from the date of this letter.

Thank you for letting us quote. We look forward to hearing from you.

Make your order out to [Parkson Corp. ~100 Schreiber Drive ~Trussville, AL 35173](#)

Please note, Schreiber Products are now a brand of Parkson Corp. Please remove "Schreiber LLC" from our name.

Please use this link to open a current Parkson W-9: [Parkson W-9 2022](#)

***Effective July 1, 2022, please update our REMIT TO address to:

Parkson Corporation - PO Box 947098 – Atlanta, GA 30394-7098

If paying electronically, please use:

Parkson Corporation – Wells Fargo Bank, N.A.

420 Montgomery – San Francisco, CA 94104

ABA: 121000248 – Account: 2014110939987

Terms & Conditions:

[Aftermarket Domestic Terms & Conditions](#)

Sincerely,

Brad Draper
Field Service Manager
Phone: 205-655-7466



technology@parkson.com

[parkson.com](#)

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: WRRF Pivot System Irrigator

Department: Water Resources

Presented by: Darren Gore

Requested Council Action:

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

Summary

Purchase by MWRD of an automated pivot system irrigator.

Staff Recommendation

Approve the purchase of an automated pivot system irrigator from Hughes Farm Services Inc.

Background Information

The City owns farmland along Leanna Road, the Jordan Farm, and Central Valley Road, the Coleman Farm. These were purchased with MWRD funds to ensure compliance with the City's EPA discharge permit. Compliance is achieved through land irrigation of treated water discharge from the WRRF. The irrigator will facilitate utilization of the reuse water pipeline extension to the Coleman Farm.

The proposed pivot system is more automated with remote control capabilities and less set-up time. Additionally, the system can apply more water than current irrigators. The purchase of multiple automated pivot system irrigators are planned. The current purchase will allow staff to assess the operability and cost benefits before investing in others.

The City's Purchasing Department issued an Invitation to Bid and Hughes Farm Services Inc. provided the lowest conforming bid.

Council Priorities Served

Responsible budgeting

Automated irrigation equipment reduces staff costs and greater discharge is a cost-effective means of addressing population growth and associated wastewater disposition.

Fiscal Impact

The expenses, \$220,405, is partially funded, \$190,000, by MWRD's capital budget, with the remaining \$30,405 funded from MWRD Working Capital Reserves.

Attachments

Agreement for Center Pivot Irrigation System Contract with Hughes Farm Services Inc.

Agreement for Center Pivot Irrigation System

This Agreement for a Center Pivot Irrigation System is entered into and effective as of _____, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Hughes Farm Services Inc.**, a Corporation of the State of Kentucky ("Contractor").

This Agreement consists of the following documents:

- This document;
- ITB-38-2023 – Center Pivot Irrigation System issued January 10, 2023 (the "Solicitation");
- Contractor's Proposal, dated January 25, 2023 ("Contractor's Proposal");
- Contractor's Price Proposal, dated January 25, 2023 (the "Price Proposal"); and,
- Any properly executed amendments to this Agreement.

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

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority);
- Second, this Agreement;
- Third, the Solicitation; and
- Lastly, Contractor's Proposal.

1. Duties and Responsibilities of Contractor.

Contractor shall provide and the City shall purchase the materials based on Contractor's Proposal and Price Proposal and the specifications set forth in "ITB-38-2023 - Center Pivot Irrigation System."

2. Term.

The term of this Agreement commences on the Effective Date and expires in one (1) year, unless extended by mutual agreement of the parties or terminated pursuant to the terms set forth in this Agreement. Contractor's services may be terminated in whole or in part:

- a. For the convenience of the City or Contractor, provided that the City or Contractor notifies the other party in writing of its intent to terminate under this paragraph at least thirty (30) days prior to the effective date of the termination.
- b. 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 fifteen (15) days after receiving the notice.
- c. 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.

- d. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.

3. Payment and Delivery.

- a. The price for the goods and other items to be provided under this Agreement is set forth in the Price Proposal which reflects a total **purchase price of \$220,405.00**. Any compensation due to Contractor under this Agreement shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in this Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.
- b. All items must be available for delivery within 24 weeks from execution of this Agreement. 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. Delivery Contact: John Strickland (email: jstrickland@murfreesborotn.gov, phone: 615-848-3225). The materials shall be delivered to the City of Murfreesboro Water Resources Department Coleman Farm, 1406 Central Valley Road, Murfreesboro, TN 37129.
- c. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
- d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any items(s) received which fail to meet the specifications as stated in the ITB.
- e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

4. Warranty. Contractor shall provide all warranties as described in the ITB, Bid Proposal, and the Manufacturer's Standard Warranty.

5. Taxes. The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. The 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 the City.

6. Insurance. During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000, as well as automotive and workers' compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."

7. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
- c. Copyright, Trademark, Service Mark, or Patent Infringement.
 - I. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
 - II. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 - a. Procure for the City the right to continue using the products or services.
 - b. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 - c. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
 - III. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither

designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

8. **Notices.** Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:	If to Contractor:
City Manager	Hughes Farm Services, Inc.
City of Murfreesboro	Attn: Joe Pat Hughes
111 West Vine Street	2939 Van Cleave Road
Murfreesboro, TN 37130	Murray, KY 42071
	hughesfarmservice@gmail.com

9. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
10. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
11. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
12. **Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
13. **Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or

activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or 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 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.
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 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.
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 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 _____, (the "Effective Date").

CITY OF MURFREESBORO, TENNESSEE

HUGHES FARM SERVICES, INC.

By: _____
Shane McFarland, Mayor

DocuSigned by:
By: Blake Hughes
Blake Hughes, Sales Manager

Approved as to form:
DocuSigned by:
Adam F. Tucker
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Development Impact Fees

Department: Administration

Presented by: Craig Tindall, City Manager

Requested Council Action:

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

Summary

Ordinance adopting Development Impact Fees

Staff Recommendation

Pass and adopt Ordinance 23-O-13.

Background Information

Development impact fees are a method of supplementing a municipal budget to offset the costs associated with new development. Most of the other municipalities in Middle Tennessee utilize development impact fee to offset the costs associated with population growth. Council has on several occasions public studied and discussed the proposed fee.

Council Priorities Served

Responsible budgeting

Development impact fees are a source of revenue that offsets the cost of expanding or enhancing services and infrastructure that are incurred as a result of new development.

Fiscal Impact

Impact fees are a revenue source and will have a positive effect on budget revenue that will be offset by the expenses for which this revenue will be restricted.

Attachments

Ordinance 23-O-13

ORDINANCE 23-O-13 amending the Murfreesboro City Code, by establishing Chapter 16, Impact Fees.

WHEREAS, the City of Murfreesboro has been recognized as one of the fastest growing cities in both the State of Tennessee and the nation; and

WHEREAS, the anticipated population and employment growth in Murfreesboro creates demand for additional roadways, park and recreational facilities, public safety facilities, and school facilities; and

WHEREAS, the City is responsible for and committed to providing such public facilities and services at levels of service necessary to support anticipated residential and employment growth; and

WHEREAS, the City's capital improvements plan apportions the costs of providing additional public facilities and services among existing and future users of such facilities in proportion to the demands for these facilities generated by such users; and

WHEREAS, the demand for additional roadways, parks and recreational facilities, public safety facilities, and school facilities is generated in part by residential development and in part by nonresidential development; taking into consideration factors such as usage of public facilities by individuals residing outside of the city and demand for specialized services necessitated by nonresidential development, the ratio of the impact on public facilities and services attributable to new residential development and new nonresidential development is approximately 2:1; and

WHEREAS, City Council finds it is in the best interest of the City to establish and collect the following impact fees in a reasonable and equitable manner to fund these future additional public facilities.

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

SECTION 1. Chapter 16 of the Murfreesboro City Code is hereby amended by creating the following new Chapter and Sections:

“CHAPTER 16 - IMPACT FEES

ARTICLE I. GENERAL PROVISIONS.

Section 16-1 Short Title.

This chapter shall be known and may be cited as the City of Murfreesboro Impact Fee Ordinance.

Section 16-2 Purpose.

It is the intent and purpose of this chapter to establish the regulatory procedure for assessing and collecting fees of new development within the City of Murfreesboro to

ensure timely construction of public capital improvements that are necessary to serve new development by ensuring that necessary financing is available for such improvements. The impact fees to be paid by each new development pursuant to this chapter are to be proportional to the impact that the new development will have on the types of facilities for which the fees are charged.

Section 16-3 Authority.

This chapter is adopted pursuant to the powers conferred by the City of Murfreesboro Charter, Section 4 B(7), as amended by Tennessee Private Acts, 1990, ch. 180 § 1.

Section 16-4 Declaration of Findings and policy.

(A) The Murfreesboro City Council recognizes and finds that:

- (1) The City of Murfreesboro is one of the fastest growing cities in the State of Tennessee and in the nation; and
- (2) The anticipated population and employment growth in Murfreesboro creates the demand for additional roadways, park and recreational facilities, public safety facilities, and school facilities; and
- (3) The City is responsible for and committed to the providing such public facilities and services at levels of service necessary to support anticipated residential and employment growth; and
- (4) The City's capital improvements plan apportions the costs of providing additional public facilities and services among existing and future users of such facilities in proportion to the demands for these facilities generated by such users; and
- (5) The demand for additional roadways, parks and recreational facilities, public safety facilities, and school facilities is generated in part by residential development and in part by Nonresidential development; taking into consideration factors such as usage of public facilities by employees residing outside of the city and demand for specialized services necessitated by Nonresidential development, the ratio of the impact on public facilities and services attributable to new residential development and new Nonresidential development is approximately 2:1.

(B) City Council declares it is in the best interest of the City to establish and collect the impact fees in a reasonable and equitable manner to fund these future additional public facilities.

Section 16-5 Definitions.

For purposes of this chapter, the following terms shall have the meanings ascribed to them in this section:

- (1) *Administrator* means the City's Planning Director or other person(s) designated by City Council to administer this chapter.
- (2) *Building Permit* means a permit issued by the Building Official authorizing performance of a specified activity in or on a Structure.
- (3) *City* means the City of Murfreesboro, Tennessee.
- (4) *Developer* means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group, combination, or entity responsible for a new development or a new development project.
- (5) *Development* means the construction, building, reconstruction, erection, extension, betterment, or improvement of land by providing a new Structure or the addition to any Structure, or any part thereof, which provides, adds to, or increases the floor area of a Residential or Nonresidential use, and includes any interrelated set of developments, approved by the city pursuant to a subdivision plat, planned development, or other development plan.

- (6) *Development Impact Fee District* means an area within the corporate boundaries of the City of Murfreesboro that City Council has designated as subject to specified development impact fees.
- (7) *Nonresidential* refers to a Development or Structure for any use other than residential use, except as may be exempted by this chapter.
- (8) *Place of Worship* means that portion of a Structure owned by a religious institution that has property tax exempt status and that is used primarily for religious worship services and related functions; provided, however, that a place of worship does not include Structures and portions of Structures that are used for purposes other than worship and related functions or that are intended to be leased, rented, or used by persons who do not have a tax exempt status.
- (9) *Residential* means to a Development or Structure that includes one or more dwelling units. A dwelling unit is any room or set of interconnected rooms providing independent permanent facilities for living, sleeping, cooking, eating, and sanitation designed for or used exclusively as living quarters by one or more persons living together as a common household, and physically separated from any other dwelling units that may be located in the same building, including a room or suite of rooms in an extended stay hotel, but excluding a tent, travel trailer, a room in a hotel motel, or boarding house.
- (10) *Roadway Administrator* means the City's Executive Director for Public InfraStructure or other person(s) designated by City Council to administer this chapter.
- (11) *Structure* means anything built, constructed, or erected that is located permanently or semi-permanently on the ground or attached to something having a permanent or semi-permanent location on the ground, but specifically excluding paving or other resurfacing of the ground.

Section 16-6 Applicability; exceptions.

- (A) All new development in the City shall be subject to the assessment and collection of impact fees unless otherwise expressly provided herein. The City will not issue a Building Permit for any Structure until the required impact fee has been paid in full. In addition, the City will issue a stop work order on any development for which the applicable impact fee has not been paid as required.
- (B) No impact fee shall apply or be collected as a result of the following actions:
 - (1) Any development by the federal government or any agency of the federal government, or by the state of Tennessee or any agency or political subdivision of the state of Tennessee, including, but not limited to, Rutherford County, the City, the Rutherford County School District, the Murfreesboro City Schools, the Consolidated Utility District of Rutherford County or other district, the Tennessee Board of Regents, or Middle Tennessee State University;
 - (2) Any development, including but not limited to the mere subdivision of land, installation of utilities, or the use of land for limited recreational, agricultural, filling, or dredging purposes, which, in the opinion of the Administrator, will not result in a significant net increase in the demand for public facilities subject to this chapter;
 - (3) Placing temporary construction trailer or office on a lot during the term of the Building Permit issued for the construction served by the trailer or office;
 - (4) Nonresidential accessory Structures, provided, however, that in the event an existing Industrial Accessory Building is converted, improved or changed in such a manner as to meet the applicable definition(s) stated within the City's code as a non-accessory "Industrial" Structure, the impact fee scheduled cost shall be applied at the current rate upon the initial change. A nonresidential accessory Structure means an enclosed storage shed that lacks heating and plumbing facilities and is used primarily for the storage of equipment, tools, heavy machinery, or similar appliances that are not for sale—either retail or wholesale; or an open perimeter shelter which may be open on one or more sides that lacks heating and plumbing facilities and may be used for the storage of materials available for sale—retail or wholesale;

- (5) Accessory Structures constructed on residential property the construction of which do not require a building permit from the City;
 - (6) Places of Worship;
 - (7) The replacement of a destroyed or partially destroyed Structure with a new Structure of like size, capacity, and use;
 - (8) Developments that received a final site plan approval or building permit prior to the effective date of the Ordinance.
- (C) The park impact fee and the school impact fee shall not apply to Nonresidential Developments.

Section 16-7 Development Impact Fee District.

- (A) The City's corporate boundaries constitute a single Development Impact Fee District and the development impact fees imposed by City Council shall be applicable to all development within the City until such time as City Council, after a duly noticed public hearing, establishes additional development impact fee districts that shall have specific development impact fees applicable to that district.
- (B) The boundaries of a development impact fee district may be modified, separate impact fees may be assessed separately within the districts, and each impact fee may have separate districts should City Council deem it beneficial to do so following notice and a public hearing on the proposed changes.
- (C) Impact fees collected within a development impact fee district shall be spent within that district.

Section 16-8 Impact Fee Schedule

- (A) *Calculation based on fee schedule.* Impact fees shall be calculated as follows.
 - (1) The impact fees shall be calculated for the proposed development based on the development plan approval or permit allowing the use according to the applicable fee schedule.
 - (2) City Council will adopt and may modify by ordinance a development impact fee schedule that will establish the development impact fees that is imposed by new Development on the following:
 - (a) Roadway;
 - (b) Parks;
 - (c) Public Safety; and
 - (d) City Schools.
 - (3) The units of development specified in the fee schedule shall be interpreted in terms of building square footage, which shall be measured in terms of gross floor area, as determined by the Administrator. For purposes of this chapter, "gross floor area" means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or the centerlines of a party wall separating such buildings or portions thereof, or within lines drawn parallel to and two feet within the roof line of any building or portions thereof without walls, but excluding in the case of nonresidential facilities: arcades, porticoes and similar open areas which are accessible to the general public but are not designed or used as sales, display, storage, service or production areas.
 - (4) For categories of uses not specified in the applicable impact fee schedule, the Administrator shall apply the category of use set forth in the applicable fee schedule that is deemed to be most similar to the proposed use.
 - (5) If the development plan approval or permit for the proposed development indicates a mix of uses in the development, the impact fees shall be calculated separately for each use according to the fee schedule, and the results aggregated. Accessory uses that are customarily part of the principal use of a Structure or lot shall be assessed at the same rate as the principal use.

- (6) For an addition to or replacement of existing Structures, or a change of use, the impact fee to be paid shall be the difference, if any, between:
 - (a) The fee, if any, that would be payable for existing development on the site or, in the case of demolition or removal of a Structure or the reuse of a vacant Structure, the previous development and use on the site, provided that the demolition or removal of the Structure or the discontinuation of the previous use has occurred within five years of the date of submittal of the application for which impact fees are assessed; and
 - (b) The fee, if any, that would be payable for the total development on the site after the new development.
- (7) Upon written request of an applicant, the Administrator may provide an estimate of the current fee based on sufficient data being provided prior to submission of an application Building Permit or development plan; provided, however, the Administrator shall not be responsible for determining the accuracy of the information provided or the estimate and the applicant may not act in reliance on the preliminary estimate.

Section 16-9 Collection of impact fees.

- (A) Except as set forth in subsection (B) below, the impact fees for all new development shall be calculated in conjunction with the application for a Building Permit and shall be collected prior to or simultaneous with the issuance of the Building Permit.
- (B) For other uses not ultimately requiring a Building Permit, the fee shall be calculated and collected prior to or at the time of approval of the development plan.
- (C) The Building and Codes Department shall transmit to the Finance Department all fees collected and a copy of all related fee transaction documents for recordation. The Finance Department shall be responsible for depositing all collected fees in the appropriate fund accounts.
- (D) A monthly summary of all fee collection transactions, by service area and type of use, shall be prepared by the Building and Codes Department and transmitted to the City Manager, the Executive Director for Development Services, and the Administrator.

Section 16-10 Fund accounting.

- (A) The City shall establish a separate accounting fund in which the impact fees collected for a particular type of facility within the development impact fee district shall be credited. Such fees shall be invested by the City and the yield on such fees, at the actual rate of return to the City, shall be credited to such accounting fund periodically in accordance with the accounting policies of the City. Such funds shall be segregated from other City monies for accounting purposes.
- (B) Any yield on such accounting fund into which the fees are deposited shall accrue to that fund and shall be used for the purposes specified for such fund.
- (C) The City shall maintain and keep financial records for such accounting fund showing the revenues to such fund and the disbursements from such fund, in accordance with normal City accounting practices. The records of such fund shall be open to public inspection in the same manner as other financial records of the City.

Section 16-11 Expenditure of fees.

- (A) Except as otherwise provided in subsections (B) below, impact fees may be spent only on qualifying improvements.
 - (1) Qualifying improvements on which Roadway Impact fees may be spent are set forth in § 16-20;

- (2) Qualifying improvements on which Park Impact fees may be spent are set forth in § 16-22;
 - (3) Qualifying improvements on which Public Safety Impact Fees may be spent are set forth in § 16-24; and
 - (4) Qualifying improvements on which City School Impact Fees may be spent are set forth in § 16-26.
- (B) Impact fees collected pursuant to this chapter may be used to pay the fees actually paid or contracted to be paid to qualified professionals preparing or updating impact fee studies and ordinances.
- (C) The Finance Department shall have the responsibility for tracking the expenditure of roadway impact fee revenues by service area.

Section 16-12 Refunds.

- (A) If development for which an impact fee has been paid has not begun, the impact fee and any accrued interest thereon shall be returned to the applicant, provided that the applicant applies for the refund in writing within 60 days after the expiration of the Building Permit or other approval (or any extension thereof) on which it was assessed.
- (B) The City shall charge an administrative fee for verifying and computing the refund of 3% of the amount of the refund.

Section 16-13 Offsets.

- (A) Offsets are reductions from the impact fee that would otherwise be due from a development and shall be credited at the same percent of the maximum impact fee rate assessed per fee type.
- (B) The Administrator shall grant an offset for qualifying improvements, as defined in Section 16-11, or cash contributions for such improvements, that are required to be paid as a condition of development approval for the type of facility against which such offset is claimed.
- (C) Offsets shall be allowable and payable only to offset impact fees otherwise due for the same category of improvements and shall not result in reimbursements from, nor constitute a liability of, the City.
- (D) Offsets shall be given only for the value of any construction of improvements or contribution or dedication of land or money by a fee payer or his or her predecessor in title or interest for qualifying improvements of the same category for which an impact fee was imposed.
- (E) No offset shall be provided under this section for contributions, payments, or construction made more than one year prior to the effective date of this chapter.
- (F) The person applying for an offset shall be responsible for providing appraisals of land and improvements, construction cost figures, and documentation of all contributions and dedications necessary to the computation of the offset claimed. The Administrator shall have no obligation to grant offsets to any person who cannot provide the documentation in such form as the Administrator may reasonably require.
- (G) The value of land dedicated or donated shall be based on the appraised land value of the parent parcel (which land value is based on the date of transfer of ownership to the City) as determined by a certified appraiser who was selected and paid for by the applicant, and who used generally accepted appraisal techniques. If the City disagrees with the appraised value, the City may engage another appraiser at the City's expense, and the value shall be an amount equal to the average of the two appraisals.
- (H) Offsets provided for qualifying improvements meeting the requirements of this section shall be valid from the date of approval until two years after the date of approval or until the last date of construction within the project, whichever occurs first.

- (I) The right to claim offsets shall run with the land and may be claimed only by owners of property within the development for which the qualifying improvement was required.
- (J) Any claim for offsets must be made not later than the time of submittal of a Building Permit application or application for another permit subsequent to development plan approval that is subject to impact fees. Any claim not so made shall be deemed waived.

Section 16-14 Development Agreements.

- (A) Where a development includes or requires a qualifying improvement, as defined in Section 16-11, the City and the Developer may agree in writing to have the Developer participate in the financing or construction of part or all of the qualifying improvements. In addition, as an economic incentive for a Development, City Council by resolution may waive, in whole or in part, the amount of the impact fee that would otherwise be assessed for a Development, where City Council reasonably believes, based on objective facts and reasonable projections set forth in the resolution, that the economic or other public benefit of the Development to the City will outweigh the benefit of collecting the impact fee, in whole or in part, from the Developer. Such development agreement may provide for cash reimbursements, offsets, or other appropriate compensation to the Developer for the Developer's participation in the financing and/or construction of the improvements or providing the City with measurable economic improvement.
- (B) The agreement shall include:
 - (1) The estimated cost of the qualifying improvements, using the lowest responsive bid by a qualified bidder, which bid is approved by the Administrator; or, if no bid is available, the estimated cost certified by a licensed engineer and approved by the Administrator;
 - (2) A schedule for initiation and completion of the improvement;
 - (3) A requirement that the improvement be designed and completed in compliance with any applicable City ordinances; and
 - (4) Such other terms and conditions as deemed necessary by the City.
- (C) If City Council waives, in whole or in part, the amount of the impact fee due for a Development as an economic incentive, City Council shall cause to be appropriated from other City funds the amount of the reduction in the impact fee to the account for the service area in which the property is located. The Administrator shall keep a record of all waivers and variances granted pursuant to this section by service area. Prior to the commencement of the next ensuing fiscal year, City Council shall appropriate an amount equal to the sum of all waivers granted as economic incentives within the service area and shall cause that amount to be transferred to the impact fee account for the service area, which shall thereafter be considered funds of the amount. Such funds shall be appropriated from any source other than from the proceeds of impact fees in accordance with the laws of the state.

Section 16-15 Supplemental regulation.

- (A) Except as herein otherwise provided, impact fees are in addition to any other requirements, taxes, fees, or assessments imposed by the City on development or the issuance of Building Permits or certificates of occupancy which are imposed on and due against property within the jurisdiction of the City. Such fees are intended to be consistent with the City's comprehensive plan, capital improvements program, development regulations, and other City policies, ordinances, and resolutions by which the City seeks to ensure the provision of capital facilities in conjunction with development.
- (B) In addition to the use of impact fees, the City may finance qualifying capital improvements through the issuance of bonds, the formation of assessment

districts, or any other authorized mechanism in such manner and subject to such limitations as may be provided by law.

Section 16-16 Updates to Impact Fee Schedules.

Not less often than every five years, City Council, following a public hearing, shall review and, if warranted, recommend changes in the schedules of impact fees. Factors to be considered may include, without limitation, past and projected growth in Residential and Nonresidential development, qualifying improvements actually constructed, changing levels of service, revised cost estimates for qualifying improvements, changes in the availability of other funding sources, changes in demand generation characteristics, sources of non-City funds and such other factors as may be relevant.

Section 16-17 Relief Procedures.

- (A) City Council may grant a variance or waiver from a requirement of this chapter.
- (1) To secure a variance or waiver, a Developer must present a written request to the Administrator detailing the grounds for the waiver and provide any additional information requested by the Administrator. The Administrator and Legal Department shall prepare findings of fact and conclusions of law that includes consideration of uses permitted by right or conditionally under existing development regulations, and a recommendation as to any requested variance or waiver. The Administrator shall submit such findings of fact, conclusions of law, and recommendation to City Council to consider whether a variance or waiver is appropriate.
 - (2) Upon review of the Administrator’s findings of fact, conclusions of law, and recommendation at a public meeting, City Council may a variance or waiver upon determination that a strict application of such requirement would result in de facto taking of the property. City Council may reduce or waive the impact fee.
 - (3) If City Council grants a variance or waiver to the amount of the impact fee due for a Development under this section, it shall cause to be appropriated from other City funds the amount of the reduction in the impact fee to the account for the service area in which the property is located. The Administrator shall keep a record of all waivers and variances granted pursuant to this section by service area. Prior to the commencement of the next ensuing fiscal year, City Council shall appropriate an amount equal to the sum of all waivers and variances granted within the service area and shall cause that amount to be transferred to the impact fee account for the service area, which shall thereafter be considered funds of the amount. Such funds shall be appropriated from any source other than from the proceeds of impact fees in accordance with the laws of the state.

Section 16-18 Appeals.

A fee payer affected by a decision of the Administrator under this chapter may appeal such decision to the City Manager, by filing with the City Recorder written notice specifying the grounds of the appeal within ten business days of the date of the decision. The City Manager shall decide the appeal within 30 days after a fully stated appeal is made.

Sections 16-20—16-29 Reserved.

ARTICLE II. ROADWAY IMPACT FEES.

Section 16-30 Roadway impact fee schedule.

The roadway impact fee shall be calculated based on the fee schedule adopted with the annual budget ordinance or subsequently amended by ordinance. The Administrator and the Roadway Administrator shall jointly determine the land use category in the fee schedule that best represents the proposed use based on the definitions provided in this chapter.

Section 16-31 Individual assessments of roadway impact fees.

- (A) The roadway impact fee for a proposed new development shall be calculated using an individual assessment of roadway impacts if:
 - (1) The Roadway Administrator determines that the nature, timing, or location of the proposed development makes it likely to generate impacts costing substantially more to mitigate than the costs attributable to the development in the fee schedule; or
 - (2) The Developer chooses to have the amount of the fee determined by such method.
- (B) The Developer shall be responsible for preparing the individual assessment of roadway impacts if the Developer chooses to conduct such analysis as provided in subsection (A)(3) above. Otherwise, the City shall be responsible for preparation of the individual assessment.
- (C) An individual assessment shall include a traffic study prepared and signed by a licensed traffic engineer. Such traffic study shall include the following elements:
 - (1) A projection of the number of vehicular trips entering and departing from the project during an average weekday;
 - (2) If the site is already developed, and some or all of the existing development will be replaced by the completed project, a calculation of the number of vehicular trips for that portion of the existing development which will be replaced by the completed project;
 - (3) The percentage of those trips identified in subsections (1) and (2) above, which are “primary trips” (as opposed to “pass-by trips” or “diverted-link trips” for which the project is not the primary destination);
 - (4) The assumptions and conclusions from which any projections are made. If the assumptions or conclusions are derived from the current edition of the ITE manual or other standard reference materials, the materials shall be identified and appropriate excerpts or specific references provided. Otherwise, the reasoning underlying the assumptions and conclusions shall be clearly stated in writing; and
 - (5) Such other information as the Administrator shall reasonably request.
- (D) The Administrator shall determine the fee based on the review of the independent assessment and the following formula.

MAXIMUM FEE = (PK HR VMT x (NET COST/VMT)) x PERCENT

Where:

PK HR VMT = PK HR TRIPS x %NEW x (LENGTH/2)

PK HR TRIPS = Trip ends during PM peak hour of adjacent street traffic.

%NEW = Percent of trips that are primary, as opposed to pass-by or diverted-link trips.

LENGTH = Average length of a trip on the major roadway system.
Note: dividing LENGTH by 2 when calculating PK HR VMT avoids double-counting trips for origin and destination.

NET COST/VMT = Average net cost to accommodate a new vehicle-mile of travel during the peak hour. Until recalculated by an update of the impact fee study, this shall be \$86.58.

PERCENT = Percent at which maximum fees are currently being assessed by the City.

VMT = Vehicle-miles of travel

- (E) The Roadway Administrator shall determine the appropriate impact fee for the development, based on the above formula, the information provided by the applicant and any other information determined to be relevant by the roadway Administrator. The Administrator shall accept the calculations of the individual assessment if the Administrator finds that:
 - (1) The proposed development is in fact so unique in its long-term impacts that the strict application of the fee schedule or administrative determination would result in inaccurate impact projections; and
 - (2) The individual assessment results in a fee that differs by at least 10% from the fees calculated under the fee schedule.
- (F) If the City accepts the computations of the individual assessment under this section, the applicable fee shall be determined from the individual assessment regardless of whether it is higher or lower than the fee calculated under the fee schedule or administrative determination.
- (G) The applicant may appeal the decision of the Roadway Administrator on the individual assessment to City Council pursuant to Section 16-15.

Section 16-32 Use of roadway impact fees.

- (A) The revenues from roadway impact fees collected within the Development Impact Fee District and accrued interest on such revenues shall be used to finance project costs of capacity-expanding improvements to the major roadway system, as determined by City Council, provided that the improvements are located within the same Development Impact Fee District. Such revenues may also fund the cost of consultants used in updating the transportation portion of the capital improvements program and in updating the roadway impact fee computations.
- (B) Capacity-expanding improvements are those that increase the capacity of the major roadway system to accommodate additional traffic. Such improvements include, but are not limited to, widening of roadways to increase lane and/or shoulder width or to add additional travel lanes, signalization, addition of turn lanes, and other intersection improvements. Improvements such as intersection improvements or acceleration/deceleration lanes that primarily serve traffic entering or exiting a development project shall not be considered capacity-expanding improvements.
- (C) Qualifying project costs include project engineering costs; the acquisition cost of rights-of-way and easements, including legal costs; the construction cost of improvements, including, but not limited to, public street travel lanes, public pedestrian and bicycle pathways, turning lanes or the portion thereof located within the right-of-way of a public street, lighting, signalization, signage and landscaping improvements that are required for the roadway improvement to function effectively; and the principal, interest, and other financing costs of bonds, notes, or other obligations issued by or on behalf of the City to finance qualified improvements.
- (D) Monies collected as roadway impact fees shall not be used to pay for any of the following:
 - (1) Construction, acquisition, or expansions of public facilities other than qualifying major roadway system improvements;
 - (2) Repair, operation, or maintenance of existing or new public street or pathway improvements;

- (3) City personnel and consultants hired for purposes other than those expressly permitted under this section; and
- (4) Streets, pathways, and related transportation improvements that are within and intended to serve only a specific development such as a new residential subdivision.

Sections 16-33—16-39 Reserved.

ARTICLE III. PARK IMPACT FEES.

Section 16-40 Park impact fee schedule.

The park impact fee shall be calculated based on the fee schedule adopted with the annual budget ordinance or subsequently amended by ordinance. The Administrator shall determine the land use category in the fee schedule that best represents the proposed use.

Section 16-41 Use of park impact fees.

- (A) The revenues from park impact fees collected within the Development Impact Fee District and accrued interest on such revenues shall be used to finance project costs of capacity-expanding improvements to the City’s parks and recreation facilities, as determined by City Council, provided that the improvements are located within the same Development Impact Fee District. Such revenues may also fund the cost of consultants used in updating the parks and recreation portion of the capital improvements program and in updating the park impact fee computations.
- (B) Capacity-expanding improvements are those that add land and facilities to the City’s park and recreation system that are available to be used by City residents. Such improvements include, but are not limited to, acquiring or developing new parks and recreation facilities, improvements to existing parks that add new facilities, and expansions of existing recreation facilities.
- (C) Qualifying project costs include project design and engineering costs; the acquisition cost of land and easements, including legal costs; the construction cost of improvements; and the principal, interest, and other financing cost of bonds, notes, or other obligations issued by or on behalf of the City to finance qualified improvements.
- (D) Monies collected as park impact fees shall not be used to pay for any of the following:
 - (1) Construction, acquisition, or expansion of public facilities other than qualifying parks and recreation improvements;
 - (2) Repair, operation, maintenance, or replacement of existing parks and recreation facilities; and
 - (3) Private parks and recreational facilities that are not open to the public.

Sections 16-42—16-49 Reserved.

ARTICLE IV. PUBLIC SAFETY IMPACT FEES.

Section 16-50 Public safety impact fee schedule.

The public safety impact fee shall be calculated based on the fee schedule adopted with the annual budget ordinance or subsequently amended by ordinance. The Administrator shall determine the land use category in the fee schedule that best represents the proposed use.

Section 16-51 Use of public safety impact fees.

- (A) The revenues from public safety impact fees collected within the Development Impact Fee District and accrued interest on such revenues shall be used to finance project costs of capacity-expanding improvements to the City's public safety facilities, as determined by City Council, provided that the improvements are located within the same Development Impact Fee District. Such revenues may also fund the cost of consultants used in updating the public safety facilities portion of the capital improvements program and in updating the public safety impact fee computations.
- (B) Capacity-expanding improvements are those that add land and facilities to the City's public safety facilities that are available to serve City residents. Such improvements include, but are not limited to, acquiring or developing new fire and police stations, including land acquisition, expansions to existing fire and police stations that add additional space for personnel or equipment, and acquisition of new apparatus or vehicles for fire protection or police protection services.
- (C) Qualifying project costs include project design and engineering costs; the acquisition cost of land and easements, including legal costs; the construction cost of improvements; and the principal, interest, and other financing costs of bonds, notes, or other obligations issued by or on behalf of the City to finance qualified improvements.
- (D) Monies collected as public safety impact fees shall not be used to pay for any of the following:
 - (1) Construction, acquisition, or expansion of public facilities other than qualifying public safety facilities;
 - (2) Repair, operation, maintenance, or replacement of existing fire or police stations or equipment; or
 - (3) Acquisition of apparatus, vehicles, or equipment that essentially replaces existing or older equipment that is being taken out of service; provided that if the new equipment will provide better service than the comparable equipment being retired and is more costly than the current replacement cost of the existing equipment, the difference in cost may be funded out of public safety impact fees.

Sections 16-52—16-59 Reserved.

ARTICLE IV. SCHOOL IMPACT FEES.

Section 16-60 City Schools Impact Fee schedule.

- (A) The City Schools Impact Fee shall be calculated based on the fee schedule adopted with the annual budget ordinance or subsequently amended by ordinance. The Administrator shall determine the land use category in the fee schedule that best represents the proposed use.

Section 16-61 Use of City Schools Impact Fee.

- (A) The revenues from City Schools Impact Fee collected within the Development Impact Fee District and accrued interest on such revenues shall be used to finance project costs of capacity-expanding improvements to the Murfreesboro City Schools facilities, as may be recommended by the City School Board and determined by City Council, provided that the improvements are located within the same Development Impact Fee District. Such revenues may also fund the cost of consultants used in updating the school portion of the capital improvements program and in updating the City Schools Impact Fee computations.
- (B) Capacity-expanding improvements are those that add land, facilities, and buses to the City's school system that are available to be used by City students. Such

improvement include, but are not limited to, acquiring or developing new school facilities, improvements to existing school facilities that add new facilities, and expansions of existing school facilities.

- (C) Qualifying project costs include project design and engineering costs; the acquisition cost of land and easements, including legal costs; the construction cost of improvements; and the principal, interest, and other financing cost of bonds, notes, or other obligations issued by or on behalf of the City to finance qualified improvements.
- (D) Monies collected as City Schools Impact Fee shall not be used to pay for any of the following:
 - (1) Construction, acquisition, or expansion of public facilities other than qualifying school improvements;
 - (2) Repair, operation, maintenance, or replacement of existing school facilities; and
 - (3) Acquisition of vehicles or equipment that essentially replaces existing or older equipment that is being taken out of service; provided that if the new equipment will provide better service than the comparable equipment being retired and is more costly than the current replacement cost of the existing equipment, the difference in cost may be funded out of school impact fees.

Sections 16-62—16-63 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

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Ordinance 23-O-12 regarding the conditions for water and sewer service to property outside

Department: Water Resources Department

Presented by: Darren Gore

Requested Council Action:

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

Summary

Ordinance amending the City Code and establishing certain conditions for extending water and sewer service to school properties outside the City limits.

Staff Recommendation

Adopt Ordinance 23-O-12

Background Information

At its March 8, 2023, City Council discussed an amendment to the City Code that would allow City sewer to serve a school operated by the Rutherford County Board of Education located outside the City limits without first requiring a petition for annexation and further requested that staff prepare such an amendment for consideration by City Council. The substance of the proposed ordinance was presented to and approved by the City of Murfreesboro Water Resources Board on March 21, 2023.

If adopted by City Council, Ordinance 23-O-12 would allow City Council, acting in its sole discretion, to authorize sewer service by the City to a property located outside the City limits, provided:

- (1) the property is owned by either Rutherford County or the Rutherford County Board of Education;
- (2) a public elementary school and/or secondary school is located on or is intended to be constructed on the property; and
- (3) Rutherford County and the Rutherford County Board of Education enter into a written development agreement with the City with respect to the property, the terms of which are acceptable to City Council.

The Ordinance would also permit City Council to waive or rebate certain fees associated with the construction or expansion of a school that are otherwise typically be assessed by the City in connection with new construction located outside the city limits to be served by the City's sewer system.

Fiscal Impact

None. There are no fiscal impacts to MWRD, sanitary sewer connection fees would still be paid by the County and the school site would be charged 150% of the rates charged for inside City customers.

Attachments

Ordinance 23-O-12

ORDINANCE 23-O-12 amending the Murfreesboro City Code, Chapter 33, Water Resources, Article I, Section 33-2.1.1, regarding the conditions for water and sewer service to property outside City limits.

WHEREAS, at a meeting held on March 8, 2023, City Council discussed an amendment to the City Code that would allow City sewer to service a school operated by the Rutherford County Board of Education located outside the City limits without first requiring a petition for annexation and further requested that staff prepare such an amendment for consideration by City Council; and

WHEREAS, the City of Murfreesboro Water Resources Board voted on March 21, 2023, to recommend to City Council that it adopt the amendment set forth herein, with the exception of the last paragraph of subsection (D) concerning the waiver or rebating of certain fees, which was added by staff following the Board's vote; and

WHEREAS, the City Council finds that the amendment set forth herein is in the best interest of City residents who are both City and County taxpayers and is consistent with providing a quality education to City residents who may attend these schools at the lowest overall cost possible.

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

SECTION 1. Section 33-2.1.1, Conditions for water and sewer service to property outside City limits, of the Murfreesboro City Code is hereby amended by adding the following subsection (D) at the end thereof:

“(D) Notwithstanding anything in this chapter to the contrary, the City Council, acting in its sole discretion, may authorize sewer service by the City to a property located outside the city limits of the City, provided:

- (1) the property is owned by either Rutherford County or the Rutherford County Board of Education;
- (2) a public elementary school and/or secondary school is located on or is intended to be constructed on the property; and
- (3) Rutherford County and the Rutherford County Board of Education enter into a written development agreement with the City with respect to the property, the terms of which are acceptable to City Council.

In addition, and in its sole discretion, City Council may waive any application, permit, inspection, or other fees assessed by the City in connection with constructing a new school or expanding or renovating an existing school. In the alternative, the City Council may agree to rebate to the Rutherford County Board of Education any such fees paid to the City by the Rutherford County Board of Education's contractor. The foregoing authority to waive or rebate certain fees, however, shall not extend to: (i) fees and charges authorized by the City Code and assessed by the Murfreesboro Water Resources Department; or (ii) fees assessed in connection with the construction, expansion, or renovation of non-academic buildings and facilities that will be connected to and served by the City's sewer system.”

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 _____

ATTEST:

Jennifer Brown
City Recorder

SEAL

Shane McFarland, Mayor

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Rezoning property along Agripark Drive
[Public Hearing Required]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Rezoning approx. 9.75 acres located along Agripark Drive north of Old Fort Parkway.

Staff Recommendation

Conduct a public hearing and enact the ordinance establishing the requested zoning.
The Planning Commission recommended approval of the zoning request.

Background Information

FC Murfreesboro, LLC presented to the City a zoning application [2022-427] for approximately 9.75 acres located along Agripark Drive to be rezoned from CH (Highway Commercial District) to PRD (Planned Residential District). During its regular meeting on February 1, 2023, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

Council Priorities Served

Improve Economic Development

This rezoning will enable the development of 166 multi-family residential dwelling units, restricted to ages 55 and up. This development will provide additional housing choices and opportunities for this demographic.

Attachments:

1. Ordinance 23-OZ-07
2. Maps of the area
3. Planning Commission staff comments and minutes from the 02/01/2023 meeting
4. Arden at Murfreesboro PRD pattern book
5. Other miscellaneous exhibits

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
FEBRUARY 1, 2023
PROJECT PLANNER: MARINA RUSH**

- 4.a. Zoning application [2022-427] for approximately 9.75 acres located along the east side of Agripark Drive to be rezoned from CH to PRD (Arden at Murfreesboro PRD), FC Murfreesboro, LLC applicant.**

The applicant is requesting to rezone the property from CH (Commercial Highway) to PRD (Planned Residential District). The subject property, approximately ten acres in size, is currently vacant and is located along the east side of Agripark Drive and north of Old Fort Parkway. The property tax map number is: Tax Map 92, Parcel 33.01.

The rezoning requested is to allow the development of an “age restricted to 55+ for independent living” for a **total of 166 residential rental units**. The overall density will be 17.03 dwelling units per acre.

Arden at Murfreesboro PRD

The requested PRD would allow development of 166 residential units for rent for senior independent living and age restricted to 55+. The applicant described senior independent living as housing for seniors that are active and do not need support with their daily activities and are interested in activities and amenities that the facility would provide.

The Arden at Murfreesboro PRD program book for 166 residential units includes the following elements:

- One 4-story building: 46.5-50 feet height, 136 residential units with 1 BR = 61 units and 2 BR = 75 units. Floor area will range from 670 to 1,400 square feet.
- Fifteen cottages with 2-units each: 30 residential 2 BR units. Floor area will be 1,200 square feet each.
- Parking Total: 198 spaces. This is comprised of 163 surface parking spaces and 35 garaged spaces (5-detached garage buildings with 7 parking spaces per building).
- Detention ponds (2).
- Amenities/interior described in Arden PRD (pages 22 and 23): controlled building access and management offices, two elevators. First floor includes: community dining room for meal service if resident wishes to utilize this amenity, kitchen equipment, library, pet washroom, and storage units. Second floor includes: fitness center, wellness/meditation center, craft/business center, pub/game room, and balcony overlooking the pool and courtyard areas.

- Amenities/exterior described in Arden PRD (page 24): 2 pickle-ball courts, pool house, pool, grilling station, event lawn, fireplace/pit area, seating areas, dog park, extensive landscaping areas and walking paths with benches;
- Additional Services Available (a la carte basis): access to care, community dining/meals, housekeeping, and home maintenance.

Site Design

The PRD includes two driveway entrances via Agripark Drive with the main, 4-story building sited in the center with a pool, patio, BBQ grill area, and two pickleball courts located behind the main building. One-story, 2-unit cottages are at the north and south sides of the building adjacent to a detention pond at each end of the property. There will be five detached garages with 7-car capacity in each building, located along the east property line, and 163 surface parking spaces. Pedestrian walkways are located around the detention ponds and connect to the buildings and public sidewalk.

As depicted on the site plan, the main building faces Agripark Drive and the cottages front out to pedestrian walkways facing another cottage. Mail service will be provided within the main building mailroom and the cottage units will have an external mail collection box. The main building will be sited approximately 70 feet from Agripark Drive right-of-way, the cottage units will be approximately 45 feet from the ROW. The open space provided will be approximately 3.0 acres, exceeding the minimum required of 1.95 acres.



Parking Proposed

Proposed parking is 198 spaces total, including 35 garaged and 163 surface spaces, plus the additional required 14 ADA accessible spaces. Chart 4 of the Murfreesboro Zoning Ordinance for required off-street parking spaces based on use requires multi-family parking spaces based on the number of bedrooms. The Chart 4 calculations for Arden based on the bedrooms would be a total of 256 spaces:

- 1-BR units (61 units) = 1.5 parking spaces per unit is 91 parking spaces
- 2-BR units (105 units) = 2.2 spaces per unit is 165 parking spaces

The applicant is requesting an exception in the Arden program book to allow 198 parking spaces, an exception for a 58 space deficit, due the 55+-age restriction.

Building Design

The PRD program book includes renderings and elevation drawings of each of the buildings.

Main Building will be 4-stories and with an overall height of 46.5 feet and 51 feet for the roof element located above the front entrance. The units include covered balconies and patio, with dormer windows along the front and rear elevations. The primary material proposed is cementitious siding and brick located at the building entrances and used for the base. Staff is requesting this be revised to increase the brick to include the entire first floor to create a stronger base and increase the amount of brick area. The colors are shades of light to dark grey for the siding, dark-red brick and dark-gray shingle roof.



The building elevations are depicted in the attached Arden PRD pattern book on pages 11 and 12 and building renderings are on pages 19, 21 and 26. The roof height exceeds the maximum of three stories and maximum height of 45 feet, and maximum stories of allowed in the zoning ordinance for multi-family zoning. No changes were made to the architecture since the January 18, 2023 Planning Commission meeting.

Cottage Buildings will be 1-story and 35 feet height or less. The unit fronts will face each other and will have covered front porch with column entrances, windows on all four sides, covered rear door entrances, and gabled roofs. The primary materials will be cementitious siding in a plank or board & batten pattern, and brick veneer water table around all four sides. The colors depicted are olive green, blue-gray, and light grey with dark gray asphalt shingle roof.



Garage Buildings and Pool House. The garages will be 14-feet height and contain 7 parking spaces (restricted for vehicle parking and not used for storage) for each of the 5 garage buildings. As noted above, these will be located along the eastern portion of the property, 5-feet from the rear property line. The building material will be cementitious siding, and metal doors with windows. The building will include a brick water table along the front elevation. The pool house building will be one-story, cementitious horizontal siding, materials, and color to match the main building.



Utilities

The solid waste will be managed by the facility with an interior common disposal collection area, that will include a trash chute and compactor within a trash room on the first floor. The facility will provide a trash valet service that will transfer the trash from the trash room to the exterior trash containers/enclosure. A third-party solid waste collection service will collect the trash from the property site. The Murfreesboro Water Resources Department will provide both the water and sanitary sewer services for the site. As part of this development, the project applicant requested, and the City Council granted, a variance from the sewer allocation ordinance to allow for the 166 dwelling units.

Exceptions Requested

The applicant is requesting two exceptions from the Zoning Ordinance standards for development of multi-family, as compared to RM-16 zoning, for the Arden PRD:

1. Building Height and Stories: The applicant is requesting an exception from the maximum height of 45 feet and 3 stories to allow 4-stories and height of 50 feet. The applicant states this is requested in order provide more room for amenities and open space. Per the Zoning Ordinance Appendix A Figure 1 (Building Height), this building would be 46.5 feet and range up to 51-feet for the hip roof portion above the main entrance. Staff is supportive of this exception request.

2. **Parking:** The applicant is requesting an exception for the parking to allow 198 parking spaces (plus 14 ADA), which is a reduction of 58 spaces from the Chart 4 standard for multi-family bedroom count requirement of 256 spaces. The applicant states this is requested due to the age of the residents, as there is less demand for vehicles and parking. The applicant submitted a technical memorandum describing the actual parking needs for this age-restricted development would be 102 parking spaces siting the standards provided in the Institute of Transportation Engineers (ITE) Parking Generation Manual, 5th Edition (attached to this staff report).

Staff conducted research regarding parking related to other senior apartment developments and prepared the following table for reference.

NAME	BEDROOMS	REQUIRED PARKING (2023 - ZO)	PROVIDED PARKING	NET	% LOWER
The Crossing at Vict. Sta (Harmony)	1 BR = 72 2 BR = 21	1.5 per = 108 2.2 per = 46 Total = 154	127	-27	21%
Adams Place (2022)	1 BR = 22 2 BR = 31	1.5 per = 33 2.2 per = 68 Total = 101	75	- 26	35%
Autumn Plaza	1 BR = 38 2 BR = 14	1.5 per = 57 2.2 per = 31	88	0.0	Not constructed
Arden	1 BR = 61 2 BR = 75	1.5 per = 91 2.2 per = 165 Total = 256	198	-58	29%

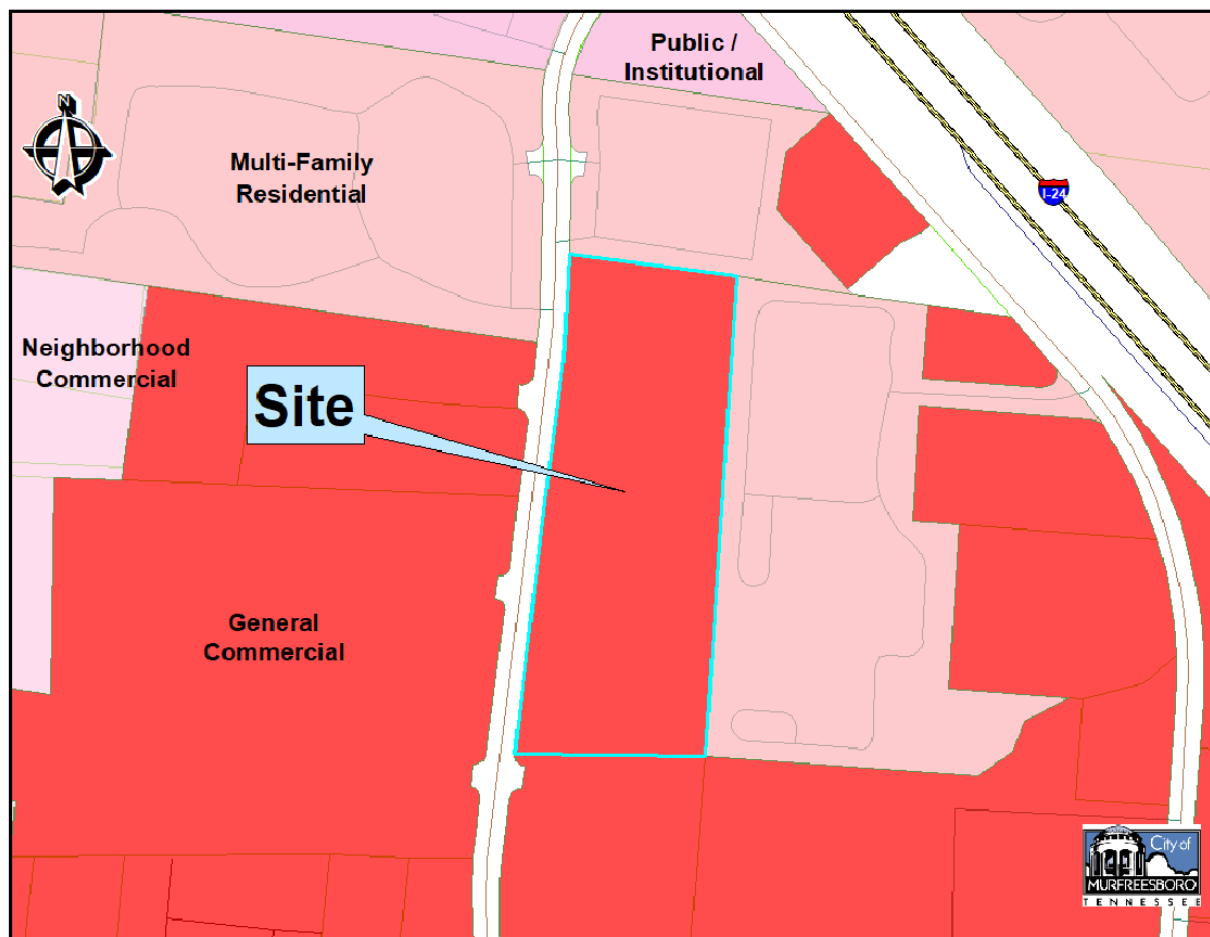
Adjacent Zoning and Land Uses

The surrounding area consists of a mixture of zoning types and uses. The properties to the north, northwest, and east are zoned RM-16. The properties to the west, south and southwest are zoned CH. The surrounding land uses are apartments to the north, northeast and east of the property, and to the west is a mulch facility and vacant land, and to the south is vacant land and southeast is Sam's Club.

Future Land Use Maps

The current Future Land Use Map of the Murfreesboro 2035 Comprehensive Plan indicates that Auto-Urban (General) Commercial is 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 uses, restaurants, etc. and requires a significant amount of space. The requested rezoning to PRD for multi-family residential development is not consistent with the General Commercial land use designation.

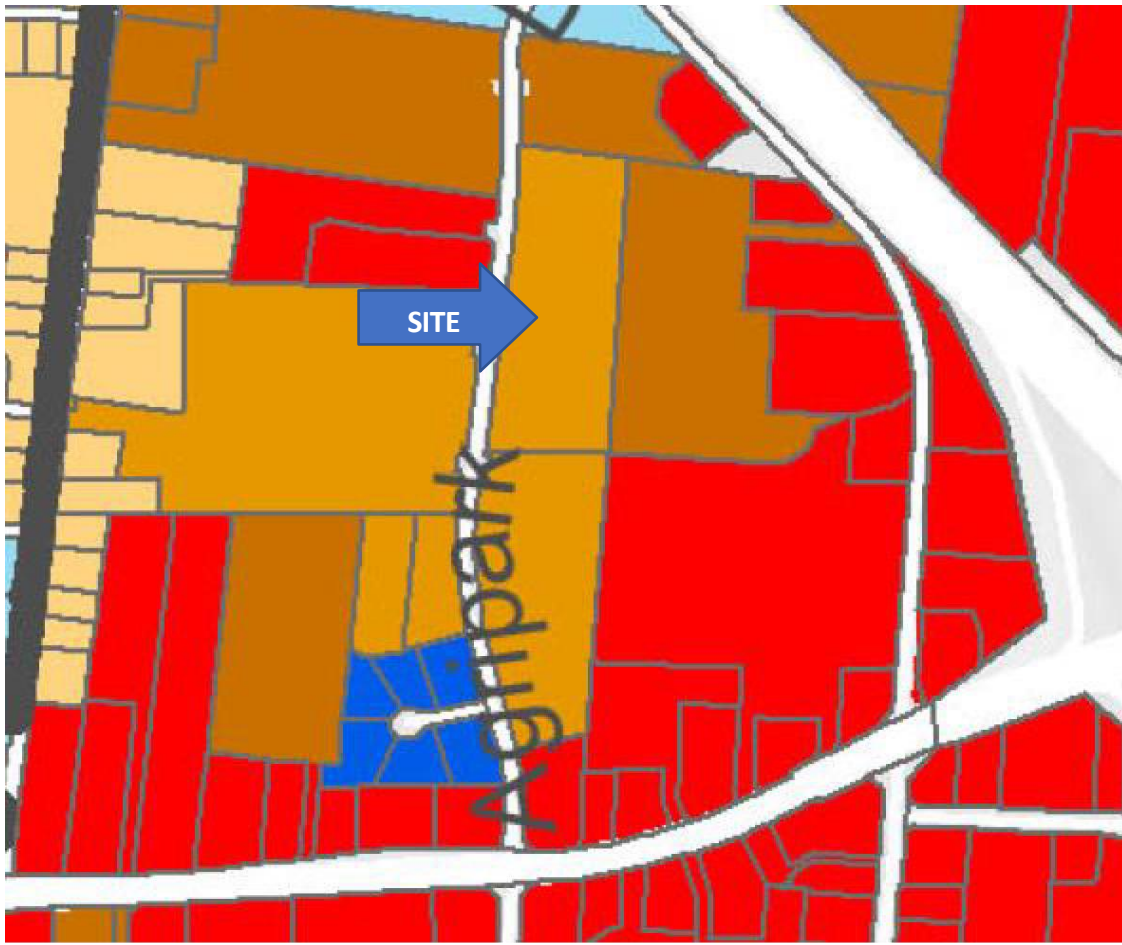
Murfreesboro 2035 Comprehensive Plan Future Land Use Map (excerpt)



The Murfreesboro 2035 Comprehensive Plan Future Land Use Map and Chapter 4 text are in the process of being updated. The proposed update to the Future Land Use Map (FLUM) of the Murfreesboro 2035 Comprehensive Plan indicates that “Auto Urban Residential” (AUR) is the most appropriate land use character for the project area. The characteristics of this land use designation include attached residential development,

strong amenity packages with active recreational areas, connectivity within the development, and densities to be evaluated based on infrastructure and utility capacities. In this case, the proposed PRD zoning is consistent with the Auto Urban Residential designation.

Proposed Update to the Murfreesboro 2035 Comprehensive Plan Future Land Use Map (excerpt)



Recommendation:

Staff supports the zoning request to PRD for the following reasons:

- 1) The PRD zoning, as proposed, is compatible with the existing multi-family residential uses located adjacent to the subject property to the north, northwest, and east.
- 2) The proposed development would be restricted for ages 55+, would fulfill a need in the community for this type of development, and would provide numerous

quality amenities for the residents.

- 3) The PRD is consistent with the proposed Future Land Use Map for the Auto Urban Residential (AUR) land use designation.

Action needed

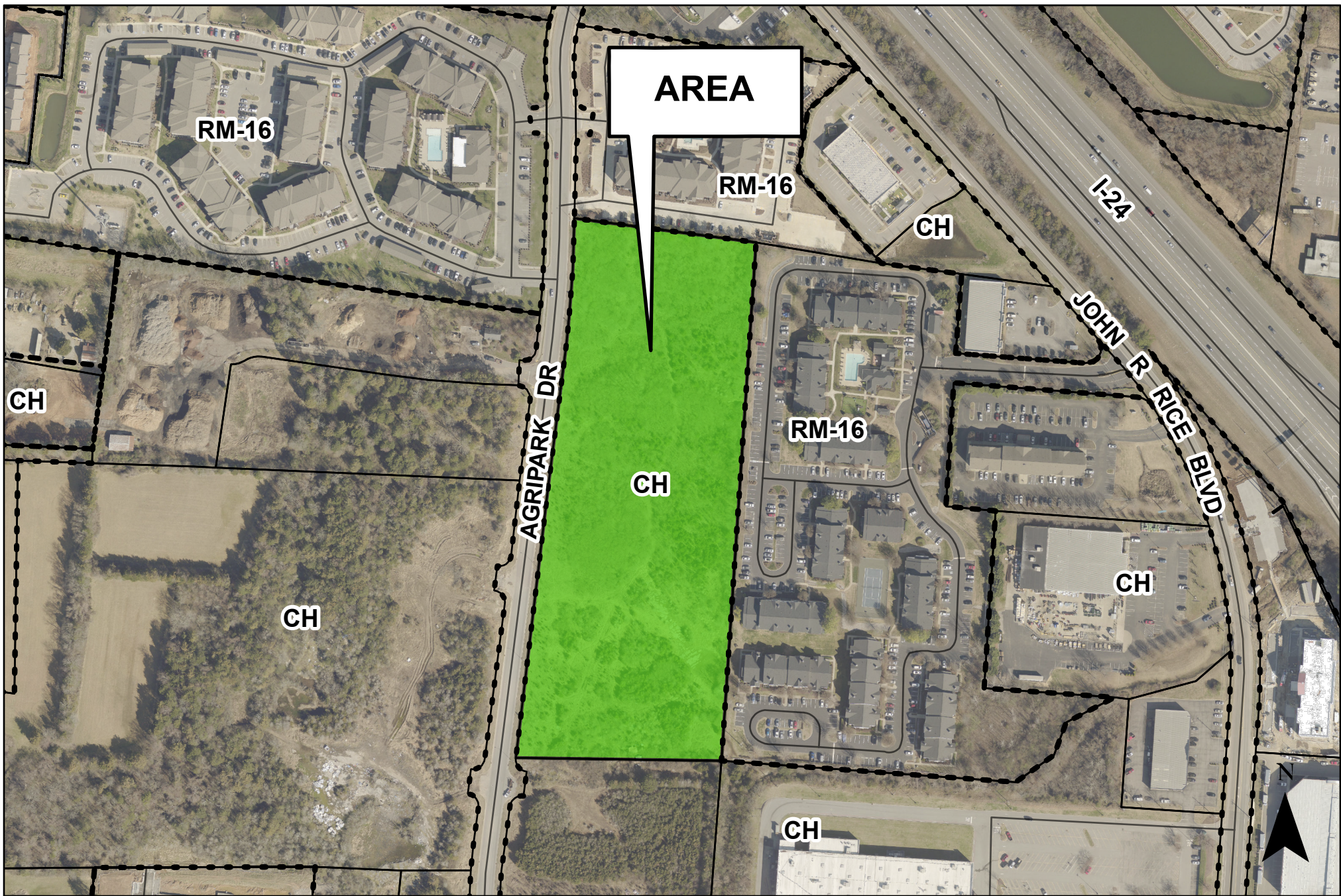
The Planning Commission will need to conduct a public hearing and then discuss the matter, after which it will need to formulate a recommendation for the City Council. The applicant and their representative will be available at the Planning Commission meeting to discuss the proposed rezoning request.



Rezoning request for property along Agripark Drive
CH to PRD (Arden at Murfreesboro PRD)

0 175 350 700 1,050
US Feet

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



Rezoning request for property along Agripark Drive
CH to PRD (Arden at Murfreesboro PRD)



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: FC Murfreesboro, LLC c/o Kevin Woodley

Address: 7315 Wisconsin Avenue, Suite 925 **City/State/Zip:** Bethesda, MD 20814

Phone: 301-654-8802 **E-mail address:** kwoodley@onearden.com

PROPERTY OWNER: Harper's Point Land Partnership, L.P. c/o Michael Fielder

Street Address or property description: Agripark Drive

and/or Tax map #: 92 **Group:** _____ **Parcel (s):** 33.01

Existing zoning classification: CH

Proposed zoning classification: PRD **Acreage:** 9.75 acres

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: _____

*****For Office Use Only*****

Date received: _____ **MPC YR.:** _____ **MPC #:** _____

Amount paid: _____ **Receipt #:** _____

February 22, 2023

Marina Rush
City of Murfreesboro Planning Department
111 West Vine Street
Murfreesboro, TN 37130

RE: Summary of Revisions to the Concept Plan and Rezoning Booklet for City Council
Arden at Murfreesboro PRD
Murfreesboro, TN
SEC No. 22222

Dear Marina,

This letter is to outline the revisions that have been made to the Concept Plan and Rezoning Booklet for Arden at Murfreesboro PRD. These revisions are based on comments made at the February 1, 2023, Planning Commission Public Hearing. Most of the Planning Commission's discussions centered around the restriction of garages being for vehicular use only and not to be allowed to be used for general storage. The book already had language regarding this restriction, but they wanted additional language added to the book before it got to Council. We have made that change as outlined below.

PRD Book Comments from February 1, 2023:

Cover Page:

- Added resubmittal date and City Council Public Hearing dates.

Page 9 Bullet 2:

- Added additional language related to deed restricting this development to 55+, and the recorded deed shall be provided to the Planning Department.

Page 9 Bullet 20 and Page 16 Bullet 5:

- Added additional language to the previous information regarding that the garage spaces are restricted to vehicular use only, and not allowed to be used for storage. We wanted to make it clear as requested by the Planning Commission. Also added language that spells out that this will be enforced by property management, and it is to be written into the lease agreement that resident signs when leasing a garage space.

If you have any questions or if I may be of further assistance, I can be contacted by phone at 615-956-1989. My email address is rmolchan@sec-civil.com.

Sincerely,



Rob Molchan, P.L.A.
Landscape Architect & Land Planner
SEC, Inc.

ARDEN AT MURFREESBORO

A REQUEST FOR REZONING FROM COMMERCIAL HIGHWAY TO PLANNED RESIDENTIAL DISTRICT

Murfreesboro, Tennessee
www.onearden.com



SEC, Inc.

SEC Project #22222

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Initial Submittal
November 9th, 2022

Resubmitted
January 13, 2023 for the January 18, 2023
Planning Commission Workshop Meeting

Resubmitted
January 30, 2023 for February 1, 2023
Planning Commission Public Hearing

Resubmitted
February 22, 2023 for the April 6, 2023
City Council Public Hearing



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



Company Name: FC Murfreesboro, LLC
Profession: Developer
Attn: C/O Kevin Woodley
Email: kwoodley@onearden.com
Web: onearden.com

7315 Wisconsin Ave, Suite 925
Bethesda MD



Company Name: Arden
Profession: Developer
Phone: (704)-378-8853
Email: info@onearden.com
Web: <https://www.onearden.com/>

7315 Wisconsin Ave Suite 925W
Bethesda, MD 20814



Company Name: Roland Architecture
Profession: Architect
Email: john@rolandarchitecture.com
Web: <https://www.rolandarchitecture.com>

Charlotte NC

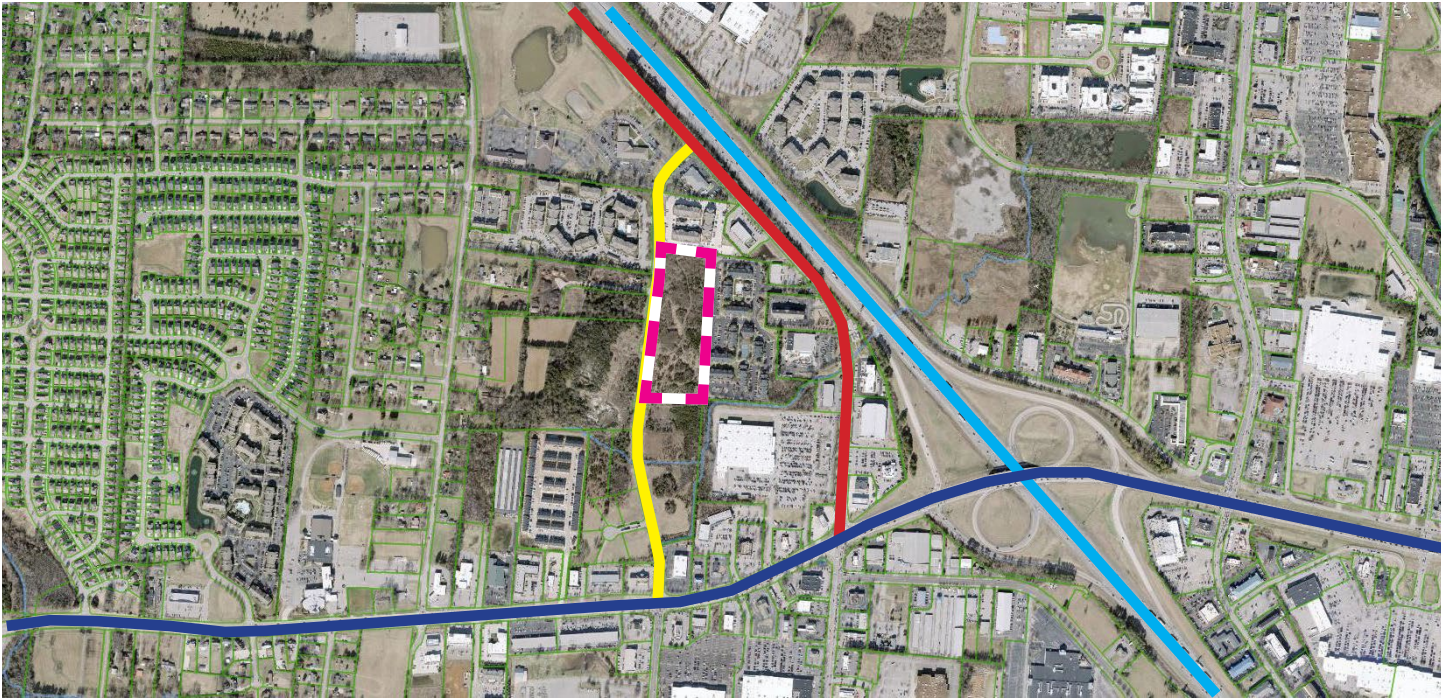


Company Name: Studio 4D
Profession: Graphic Designer
Attn: Diego Sosa
Email: diegososa@studio4d.com
Web: <https://studio4d.com>

5425 Wisconsin Ave
Suite 600
Chevy Chase, MD 20815

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AERIAL PHOTOGRAPH

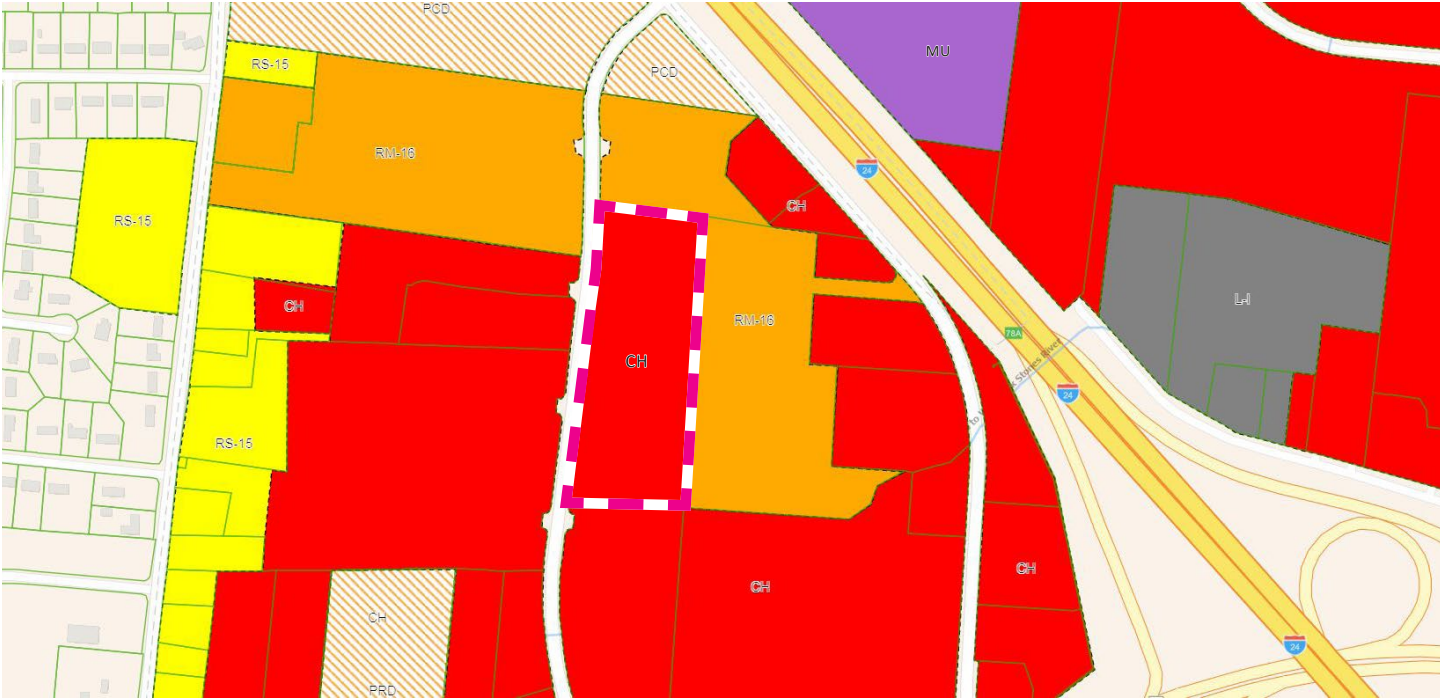
Not To Scale

- Interstate 24
- Old Fort Parkway
- Agripark Drive
- John R. Rice Boulevard
- Site Boundary

FC Murfreesboro respectfully requests rezoning of the Harpers Point Property from Commercial Highway (CH) to Planned Residential District (PRD) to create Arden at Murfreesboro. The property is located east of Agripark Drive and north of Old Fort Parkway. The site is identified as Parcel 33.01 of Tax Map 92, and is approximately 9.75 acres.

Arden at Murfreesboro proposes a mixture of active adult living units and cottages. A total of 166 units are proposed for the 9.75 AC site, for an approximate density of 17.03 units/acre. As part of this development, the project requested and was granted an additional 142 SFUE through a Sewer Allocation Variance to allow for a total of 166 dwelling units. 136 of these units are proposed as “Active Adult” living units, with the remaining 30 being Cottage homes. All units will be age restricted to provide a new 55+ community. The 55+ Active Adult living units shall consist of one or two bedroom living spaces ranging in size from 670 to 1,400 square feet in size. The cottage homes shall consist of two bedrooms and include features such as an open floor plan and porches. Cottages shall be approximately 1,200 square feet in size. The current senior housing market is characterized by government subsidized affordable senior housing on one end, and luxury all-inclusive senior housing on the other; leaving a large demographic of seniors unserved. This group is referred to as the missing middle seniors who earn too much in retirement to qualify for medicare but not enough to afford all-inclusive congregate care facilities; often retired teachers, police officers, and nurses.

Arden seeks to serve missing middle seniors as an active adult, age restricted community with congregate-care style living, controlled access, interior corridors and elevators, walking paths, fitness centers, and natural areas. Arden will offer residents the opportunity to live independently in a community designed specifically for active seniors with amenities such as a community dining room, craft/business center, library, and pool. To ensure affordability to middle market senior residents, Arden will provide some services, including access to care and personal services such as dining, housekeeping, home and grounds maintenance, and security, on an a la carte basis through third party partnerships. This model allows residents to control costs by tailoring their level of services to their specific needs. Residents will also have convenient access to grocery stores and shopping in the surrounding area.



ZONING MAP

Not To Scale

- RS-15

 Residential Single-Family (RS-15)
- RM-16

 Residential Multi-Family (RM-16)
- CH

 Commercial Highway (CH)
- MU

 Mixed Use (MU)
- RM

 Medium Density Residential (RM) Rutherford County
- PRD

 Planned Residential District (PRD)
- LI

 Light Industrial (LI)

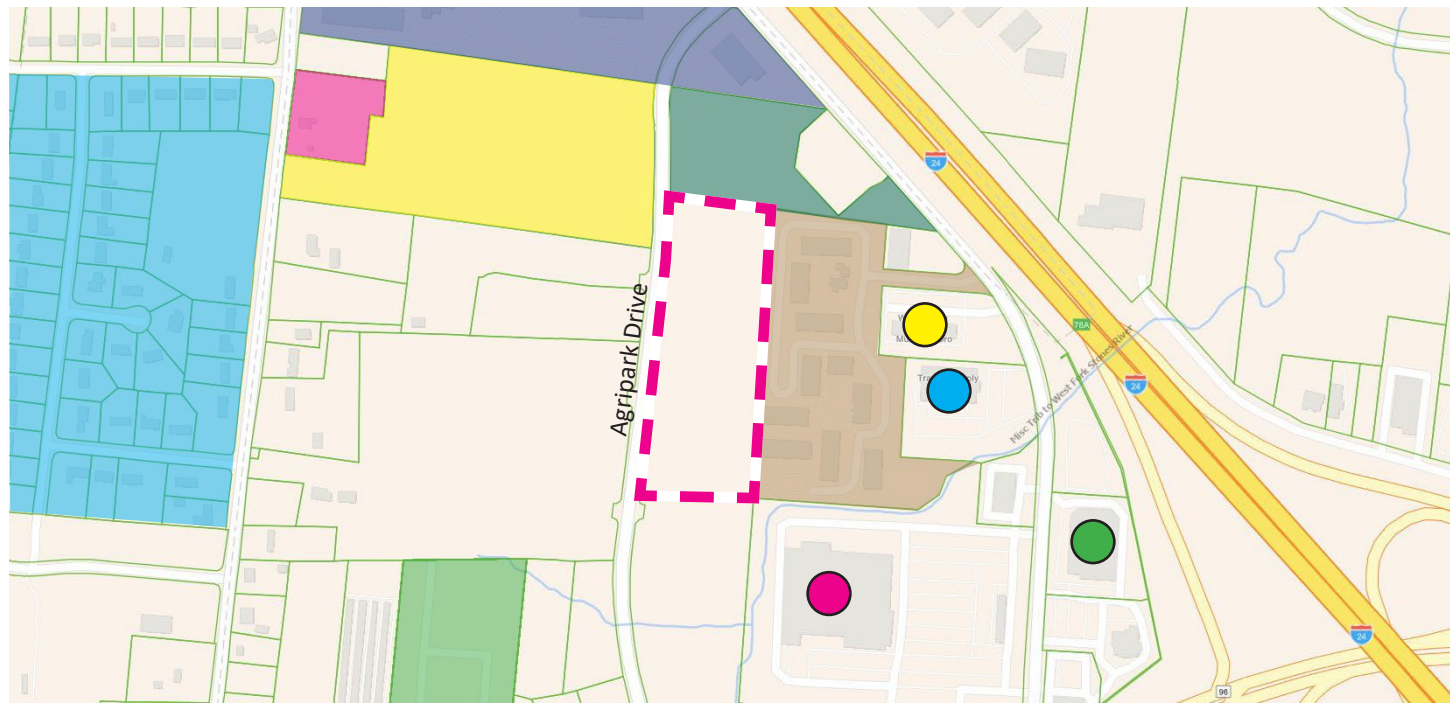
The surrounding area consists of a mixture of zoning types and uses. The land to the north and east is zoned RM-16. The land to the south and to the west across Agripark Drive is zoned CH.



2035 LAND USE PLAN
The Murfreesboro Future Land Use Plan Amendment proposes this area as Multi-Family Residential (RM). The character of this land use includes high density residential with on-site amenities and open space. Density for this character type maxes out at 16 units per acre. Generally compatible zoning districts include RM-12, RM-16, PRD, and PUD.

The proposed development aligns closely with the Murfreesboro Future Land Use Plan in terms of provided amenities, dwelling types, and proposed zoning. Although unit per acre exceeds future land use, the table below summarized how a senior use has 62% less residents per acre than multifamily, despite 17.03 units per acre.

	Murfreesboro RM Land Use	Proposed Independent 55+ Living
Units Per Acre	16	17
Avg Resident(s) Per Unit	1.9	1.1
Residents Per Acre	30.4	18.7
% Difference		62%



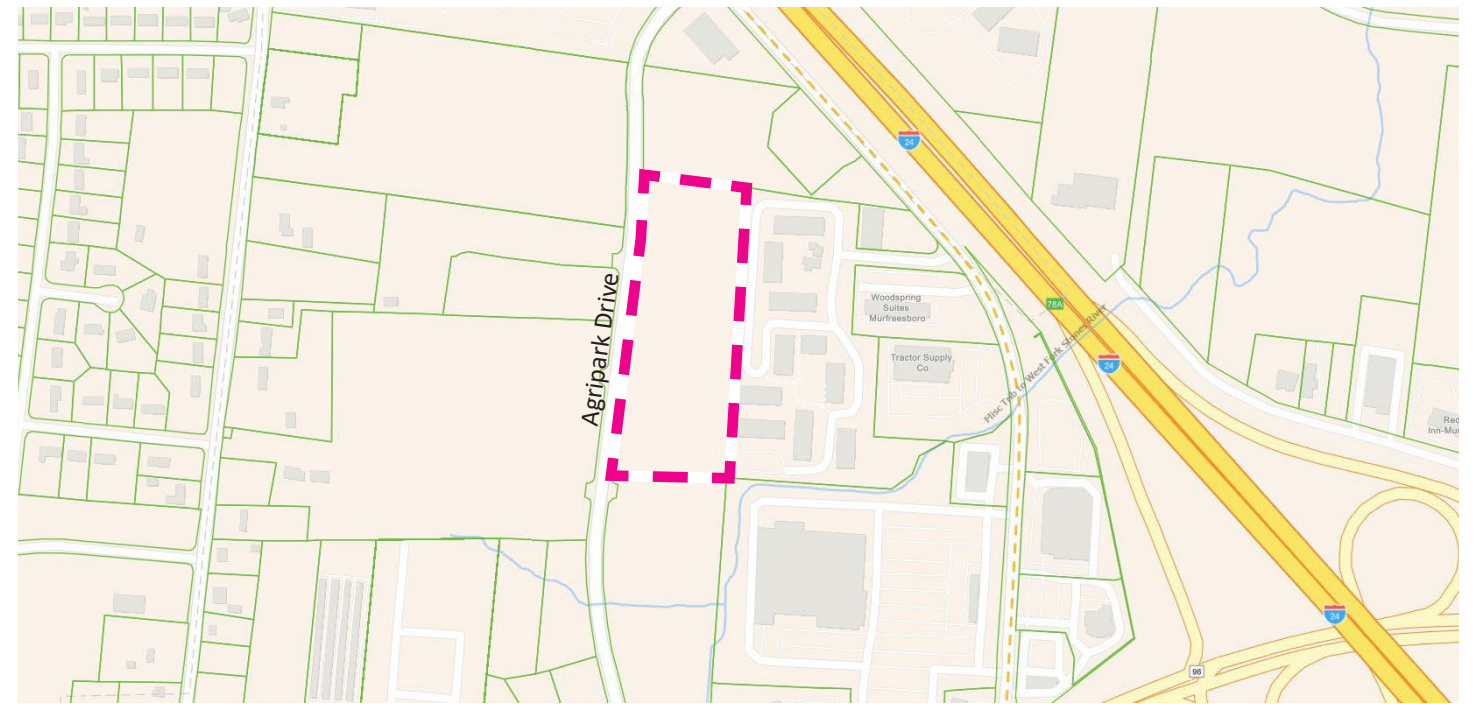
SUBDIVISION MAP

Not To Scale



Arden at Murfreesboro is surrounded by a mixture of residential, undeveloped lots, and commercial properties.

- The Reserve at Harper's Point is a residential apartment development to the east consisting of three-story buildings with one to three bedroom floor-plans. The exterior elevations consist of primarily brick on the first floor with hardie board siding on the second and third floors. There is one primary point of ingress/egress to the development from John R. Rice Boulevard.
- Rutherford Park Apartments is a residential apartment development to the north consisting of three-story single-family attached apartments. The exterior elevations consist of primarily brick on the first floor, hardie board siding on the second and third floors, and board and batten on the 4th floor. There are two primary points of ingress/egress to the development from Agripark Drive.
- Vintage Blackman Apartments is located to the northwest on the other side of Agripark Drive. It consists of three-story buildings with single-family apartments. The exterior elevations consist of primarily stone on the first floor with hardie board and batten siding on the second and third floors. There are two primary points of ingress/egress to the development from Agripark Drive, and one gated emergency only access point of ingress/egress to the development from Gresham Lane.
- South of this development is Old Fort Parkway (HWY 96), a major commercial arterial corridor with various hotels, restaurants, shopping centers, and services are located along this roadway.

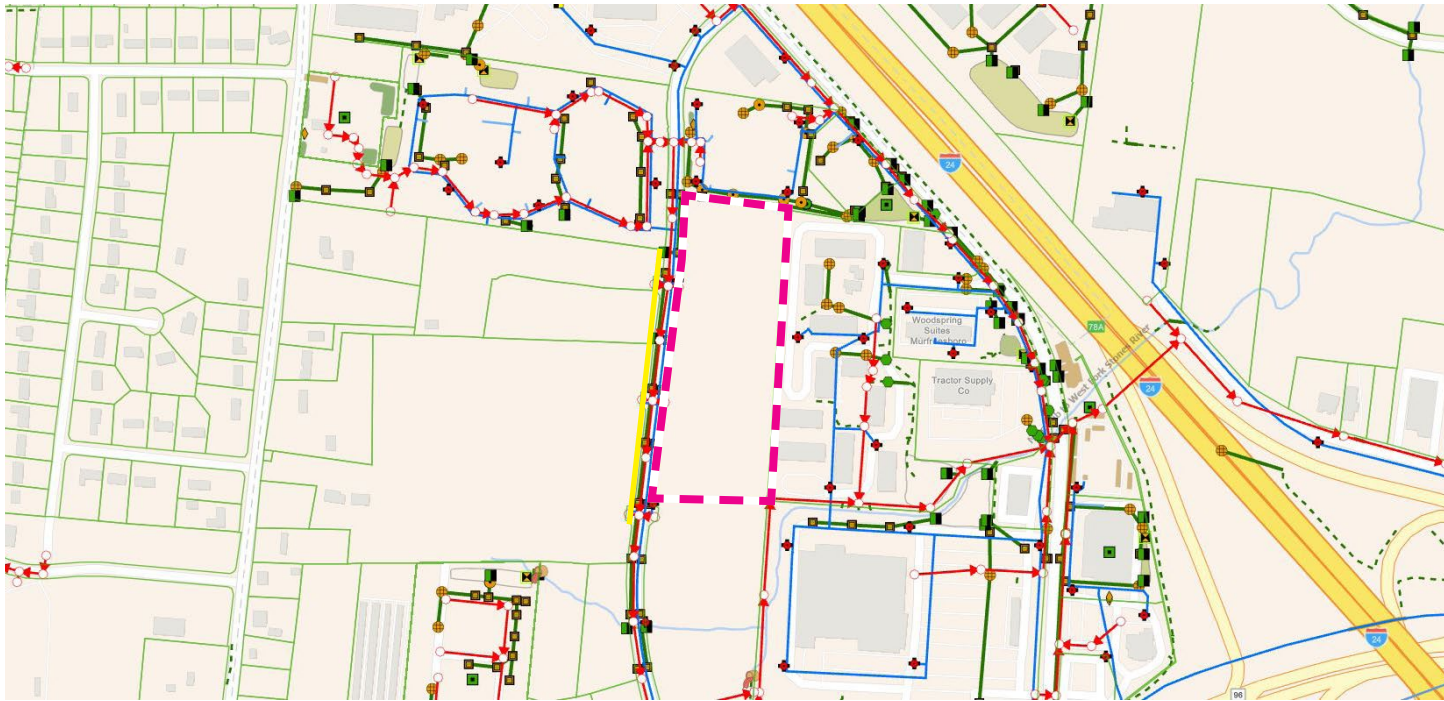


2040 MAJOR THOROUGHFARE PLAN

Not To Scale



The property has/will have access to the existing public rights-of-way of Agripark Drive through two proposed entrances. Agripark Drive is on the City of Murfreesboro's Major Thoroughfare Plan and is up to date as a 2-Lane roadway with a center turn-lane and curb & gutter.



UTILITY MAP

Not To Scale

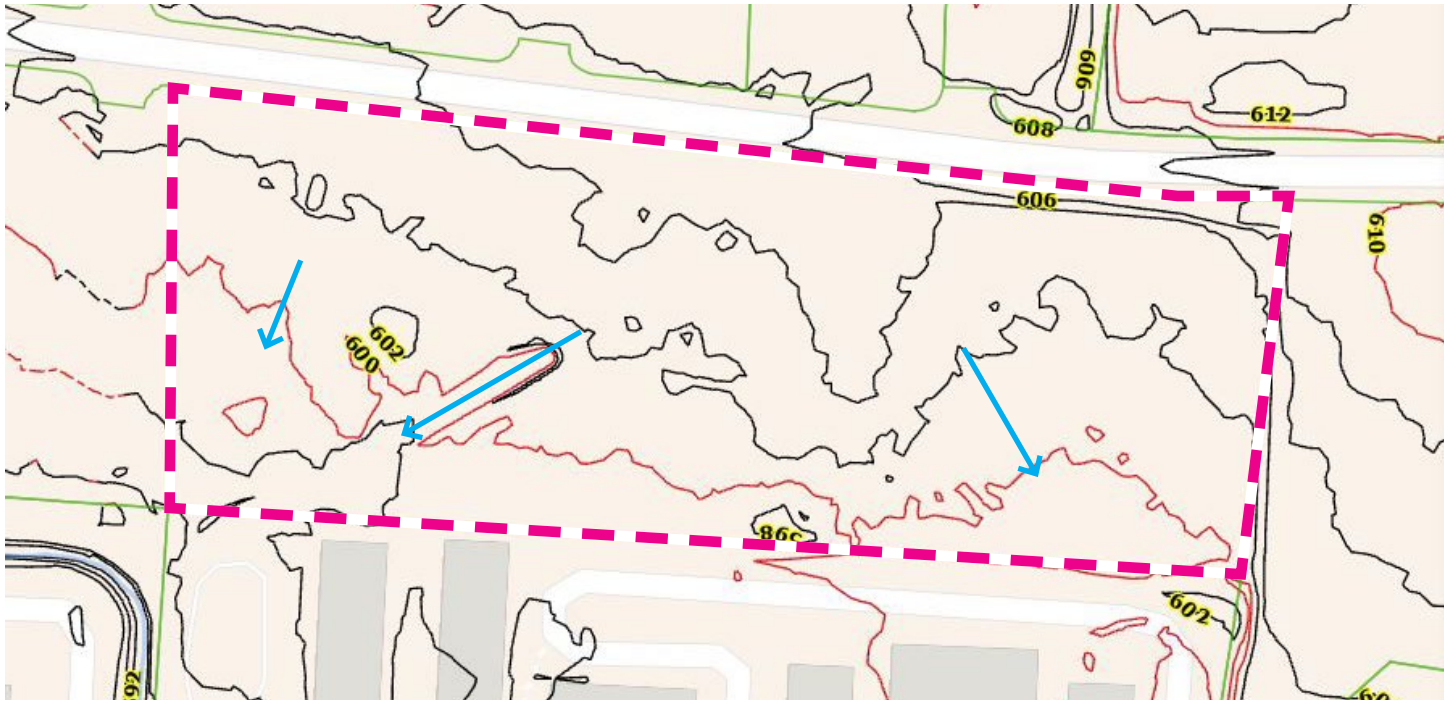


Water service will be provided by the Murfreesboro Water Resources Department. An existing 12 inch ductile iron water line within the R.O.W. of Agripark Drive shall provide service into the site. The developer will be responsible for extending the waterline into the site for domestic and fire water service.

Sanitary sewer service will be provided by the Murfreesboro Water Resources Department. An existing 8" PVC sewer line within the R.O.W. of Agripark Drive shall provide service into the site. The developer will be responsible for extending the sanitary sewer into the property.



Electrical services will be provided by Middle Tennessee Electric. Service will be extended from the east side of Agripark Drive. The developer will be responsible for extending electrical service into the site, and all on-site electric will be underground.



HYDROLOGY AND TOPOGRAPHY

Not To Scale



The topographic map above shows the site's topographic high point generally at the western perimeter of the property. From this point, the property drains towards the northeast and southeast. Stormwater draining from the site heads southeast towards a miscellaneous tributary before ultimately ending up in the West Fork of the Stones River. No portions of this property are within a floodway or floodplain per FEMA Flood Panel 47149C0255H eff. 01/04/2007.

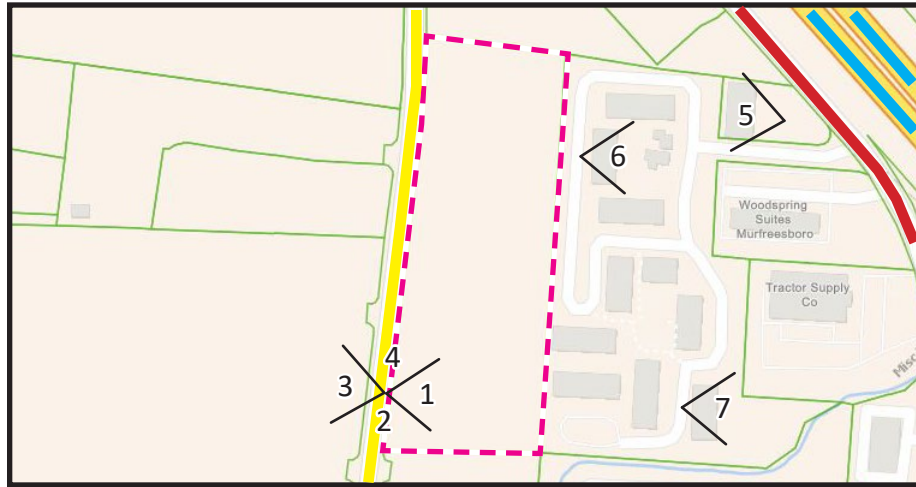


PHOTO DIRECTION MAP

Not To Scale

- Interstate 24
- Agripark Drive
- John R. Rice Boulevard



Site



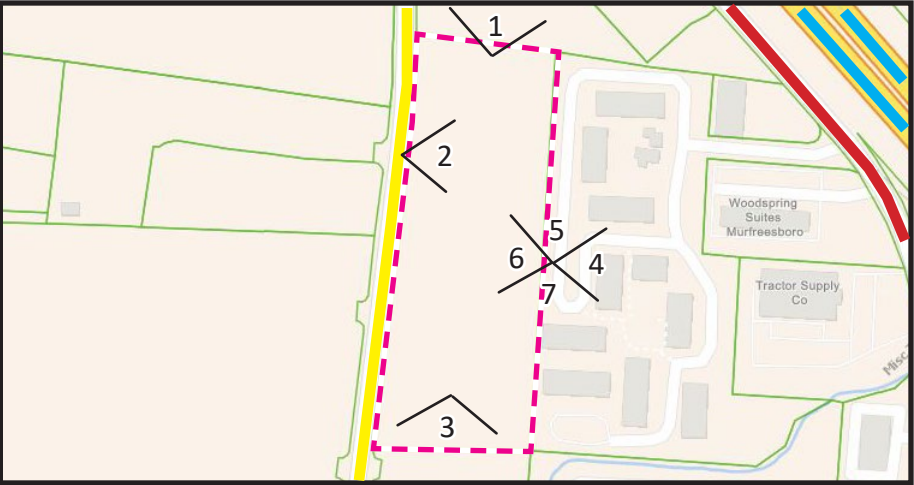


PHOTO DIRECTION MAP

Not To Scale

- Interstate 24
- Agripark Drive
- John R. Rice Boulevard



Site



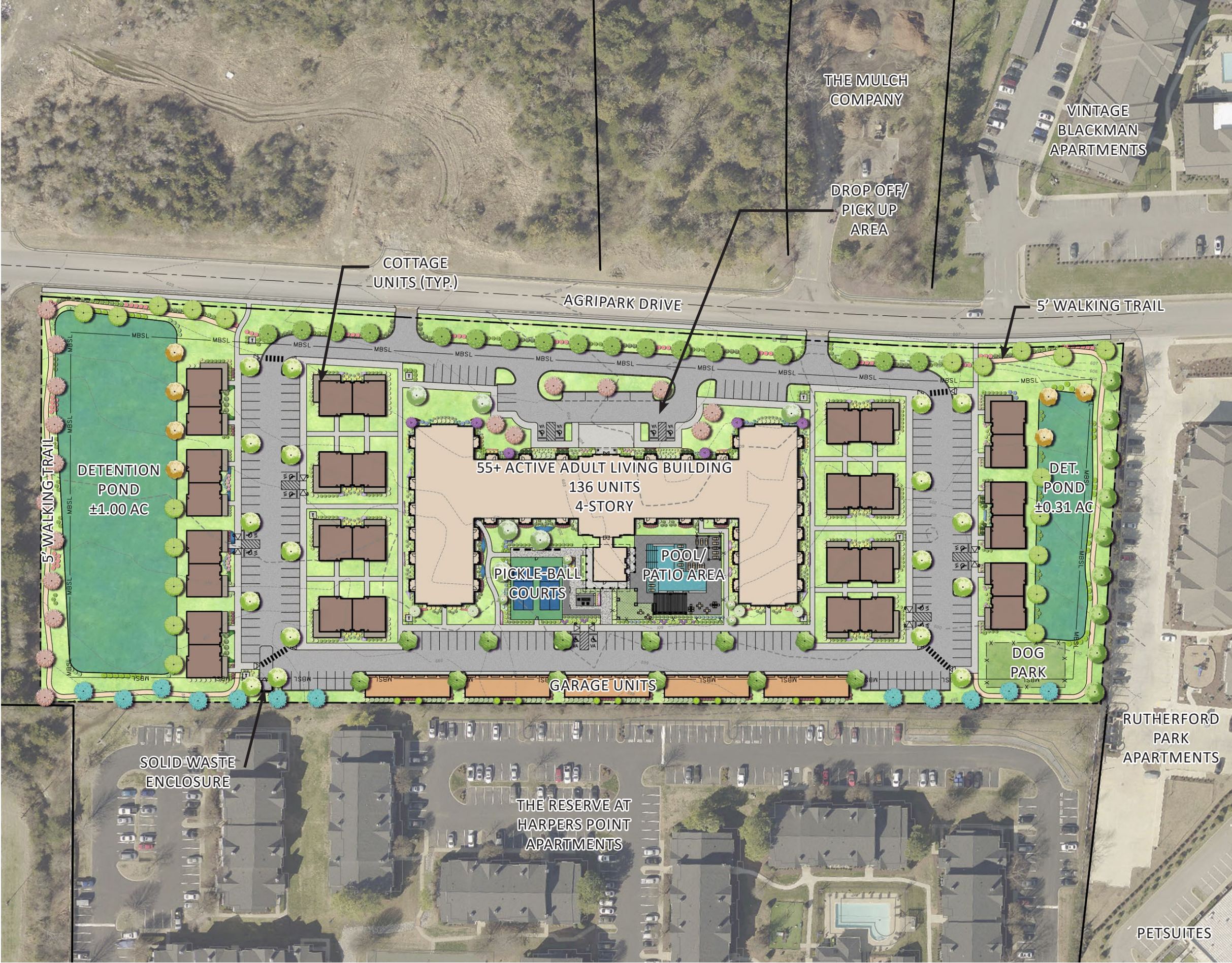
Land Use Data:

Total Land Area:	±9.75 Acres
Main Building Units:	136 Units
Cottage Units:	30 Units
Total Number of Units:	166 Units
Density: 166 Units/9.75 Acres =	±17.03 Units/Acre
Min. Required Open Space:	±1.95 Acres (20%)
Provided Open Space:	±3.00 Acres (31%)
Required Formal Open Space:	±0.49 Acres (5%)
Provided Formal Open Space:	±0.49 Acres (5%)
Stormwater (Detention):	±1.31 Acres (13%)

Provided Parking:

Surface Parking Spaces Provided	= 163 Spaces
Garage Spaces Provided	= 35 Spaces
Accessible Parking Provided	= 14 Spaces
Total Parking Provided	= 212 Spaces

- Main Building
- Cottage Units
- Open Space
- Detention Pond
- Roadway
- Sidewalk
- Walking Trail



SEC, Inc.

SEC Project #22222 Murfreesboro, Tennessee





EXAMPLE OF ENTRANCE SIGNAGE



EXAMPLE OF SOLID WASTE ENCLOSURE



EXAMPLE OF STREET LIGHT



EXAMPLE OF DECORATIVE LIGHTING



EXAMPLE OF POSSIBLE MAIL ROOM

Development Standards:

- 55+ Community consisting of 166 units.
- 55+ Community shall be enforced through deed restriction, and a copy of the recorded deed restriction shall be provided to the City Planning Department.
- 136 one-to-two bedroom Active Adult units within the Active Adult Building.
- 30 two-bedroom Cottage units.
- The Active Adult units will range from 670 square feet of living area to 1,400 square feet.
- Cottage units will be an average of 1,200 feet of living area.
- Each unit will be for rent.
- All stories of the Active Adult Living Building shall have access to **two elevators**.
- The Active Adult Living Building shall be accented with a minimum 3-ft wide foundation plantings along , except within five feet of egress and ingress into the building.
- Cottage units shall provide landscaping along the front elevation and elevations which faces a proposed parking lot or drive aisle.
- Landscaping and sod shall be installed along building foundations.
- Entrances off of Agripark Drive will have new entrance signage constructed on masonry materials and anchored by landscaping.
- All mechanical equipment (i.e. HVAC and transformers) to be screened.
- Air conditioning units for the main building are placed on the roof in mechanical well, out of view and not on the ground for a more aesthetically pleasing ground level view.
- All on-site utilities will be underground.
- Solid waste for residence shall be handled via a Valet Trash Service.
- Main building includes trash chute internal to the building. Trash compactor located in trash room internal to the building as well.
- Any solid waste enclosures will be constructed of masonry materials consistent with building architecture and be at least 8 feet tall with opaque gates and enhanced with landscaping.
- Prior to construction plan review, a complete and thorough design of the stormwater management system and facilities will be completed.
- Garages shall be restricted for vehicular use only, and not for use as a storage space. The garage doors shall remain closed when not in use. This shall be enforced by the development's management, as well as outlined in the lease agreements with residents when leasing a garage space.
- Sidewalks will be included along parking areas and walking trails will be provided throughout the development to create a walkable community.
- Mail service shall be accessible within the Active Adult Living Building mail room.
- There are currently street lights along Agripark Drive. If additional street lights are required along the street frontage of the development, those additional street lights shall be coordinated with MTE, and will meet MTE's standards for management by MTE.
- On site lighting shall comply with the City of Murfreesboro standards to prevent light pollution.
- Lights within and around amenity areas shall be pedestrian scale and decorative.
- Cottage units may have fenced back-yards.
- Internal storage units are available to rent for residents.

Main Building Architectural Characteristics:

- Building height shall not exceed 50-feet in height
- Buildings shall be 4-stories maximum
- Building shall have articulation of planes to create varied facades along exteriors of all buildings
- Building exteriors shall consist of a mixture of materials and shall be varied to accentuate different elements along the building exterior
- All building and development signage shall be designed to the City of Murfreesboro standards and guidelines.
- All floors shall be accessible via elevator.

Building Materials:

- Front Elevations: Brick and Cement Board Siding
Side Elevations: Brick and Cement Board Siding
Rear Elevations: Brick and Cement Board Siding
All Elevations: Vinyl Only Permitted in Trim & Soffit Areas

*Only first floor shall have masonry products

Setbacks External to the Site

- Front: 35-feet
Side: 30-feet
Rear: 25-feet
*Garage units can be a minimum of 5-feet from rear property line

Setbacks Internal to the Site

All: Buildings shall be at least 12-feet from back of curbs, except covered front entrance of main building.

Cottage Units:

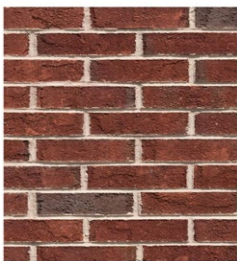
- | | |
|---------------|-----------------------|
| Facing Rears | 15-feet of separation |
| Facing Fronts | 25-feet of separation |
| Facing Sides | 15-feet of separation |

Active Adult Living Building:
All Sides

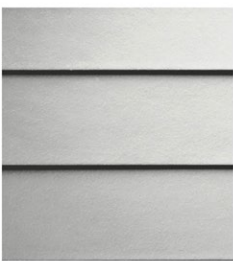
20-feet of separation from Cottage Units



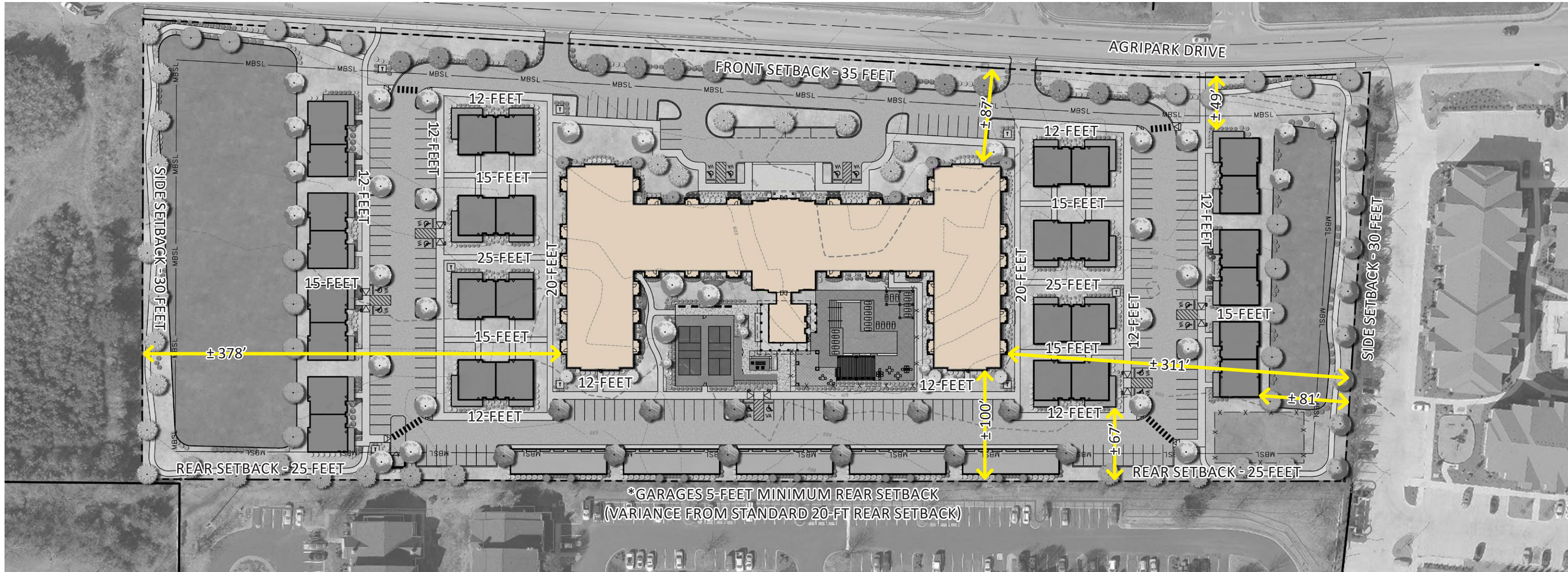
Example of Asphalt Shingles Dark Gray



Example of Brick (Colors and Patterns shall be allowed)

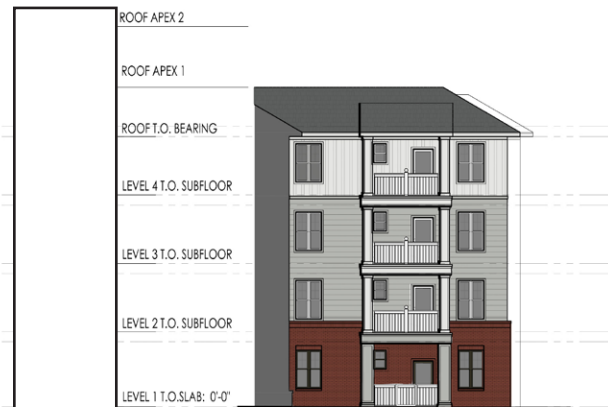


Example of Cement Board Siding Colors





4 FRONT ELEVATION (FRONT LEG - LEFT SIDE)



3 FRONT ELEVATION (FRONT LEG - RIGHT SIDE)



1 ENLARGED ELEVATION 1

Maximum Building Height:

The elevation diagram above shows measurements for building heights for the Independent Living Building. These dimensions are based on 2023 Murfreesboro Zoning Ordinance related to building height measurement standards outline on Page A314. The maximum building height measured per these standards would range from 46-ft 6-inches to 50-ft 11-inches as shown on the elevation diagram above. This development is requesting a 5-ft variance, on Page 31, to allow for a maximum building height 50-ft 0-inches from the 45-ft maximum building height allowed in comparison to RM-16 zoning. The additional 3-ft 6-inches is to allow for design flexibility between in the height of the building between the PRD process and the site plan approval process.



2 RIGHT ELEVATION



1 FRONT ELEVATION

*Architecture shown is conceptual and meant to convey the overall appearance of the development. Finalized architecture shall be provided at the site plan level.



4 REAR ELEVATION (REAR LEG - LEFT SIDE)



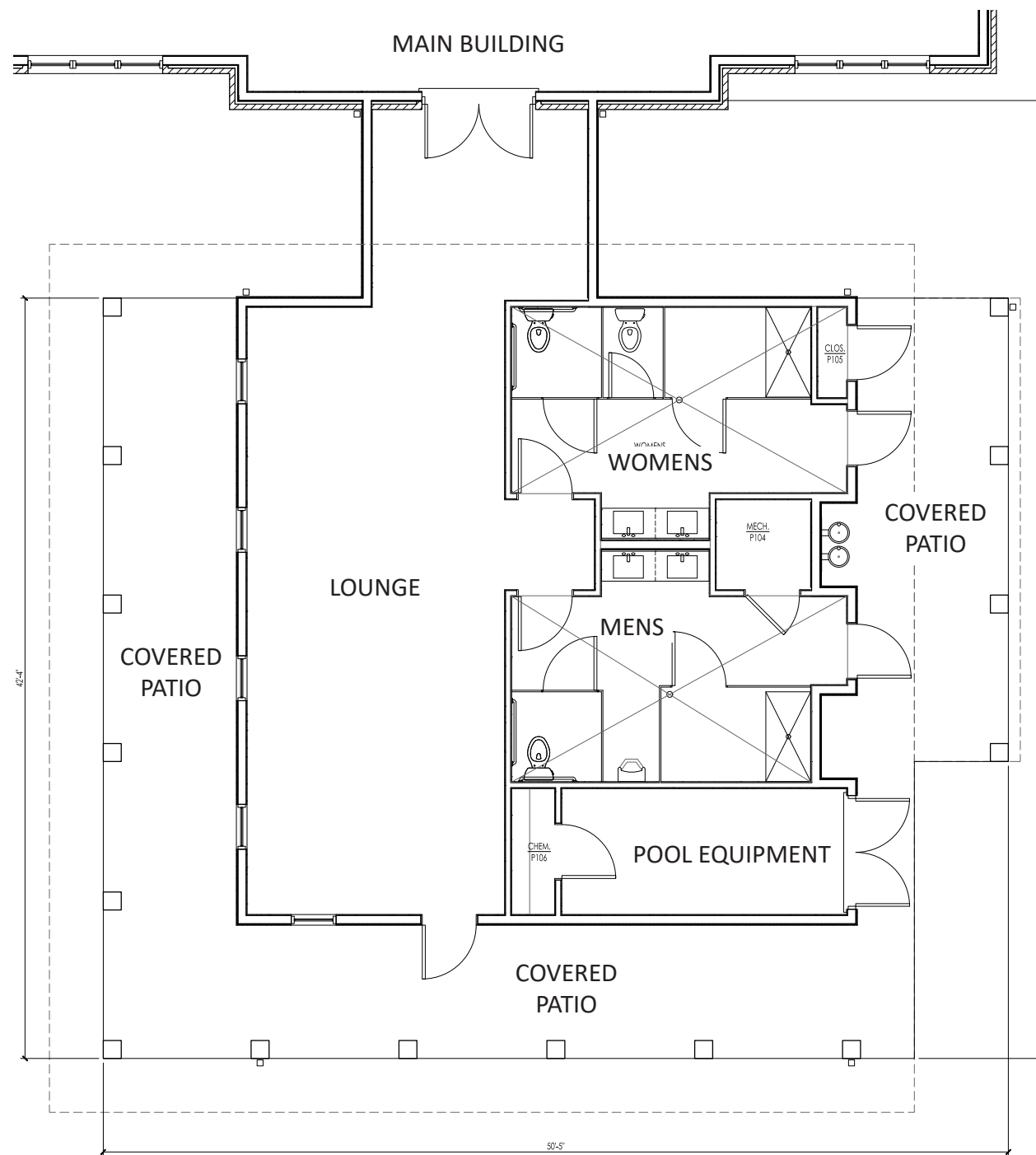
3 REAR ELEVATION (REAR LEG - RIGHT SIDE)



2 LEFT ELEVATION



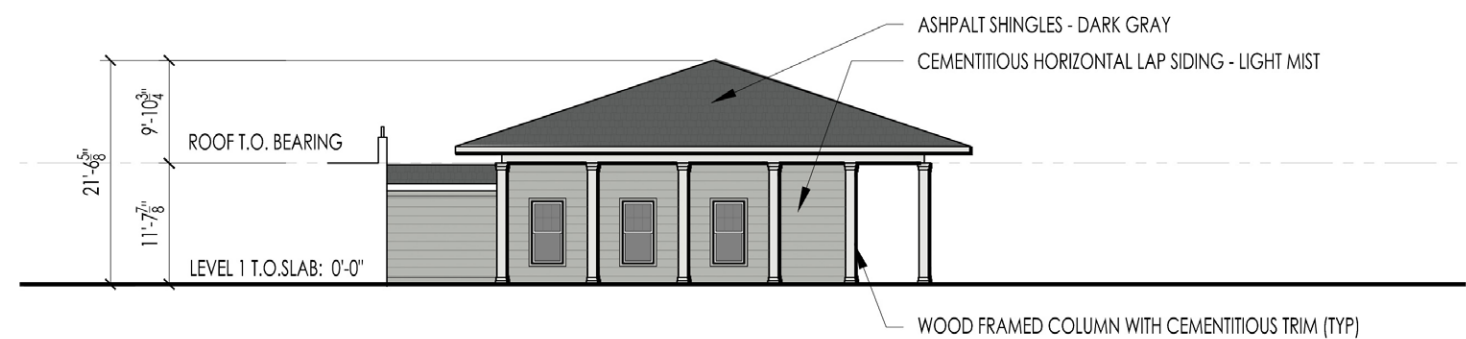
1 REAR ELEVATION



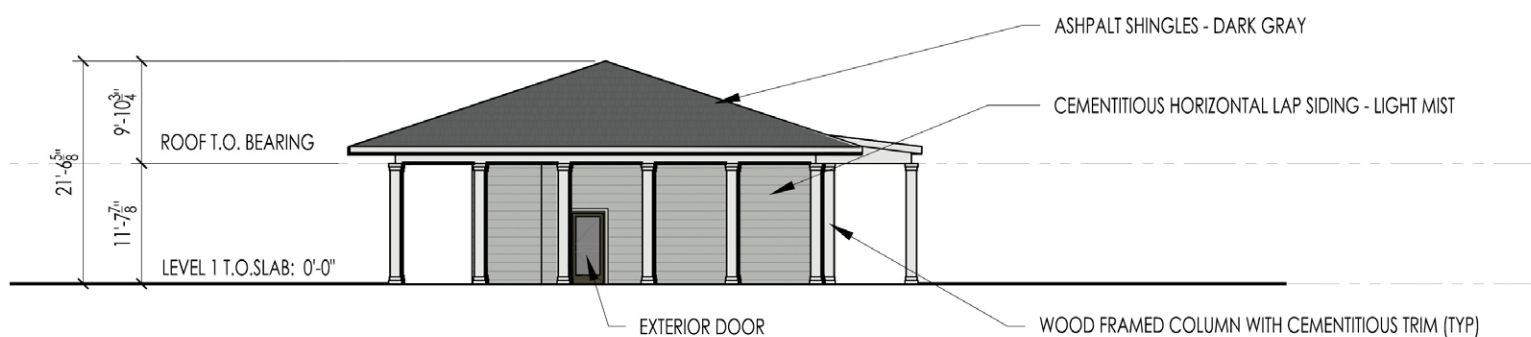
Pool-house Floor Plan



Pool-house Elevation - Pool Side



Pool-house Elevation - Court Side



Pool-house Elevation - Rear

- Cottage Architectural Characteristics:**
- Building height shall not exceed 35 feet in height.
 - Buildings will be 1-story.
 - Building shall have articulation of planes to create varied facades along exteriors of all buildings.
 - Building exteriors shall consist of a mixture of materials and shall be varied to accentuate different elements along the building exterior.
 - All building and development signage shall be designed to the City of Murfreesboro standards and guidelines.
 - Cottages shall have the option to include fences at the rear of units to create a more private space for tenants
 - Cottage fences shall be uniform in height, appearance, and material. Height shall not exceed 6', and fences shall be constructed of vinyl, power coated aluminum, cedar, or composite material.

Building Materials:

Front Elevations: Brick and Cement Board Siding
Side Elevations: Brick and Cement Board Siding
Rear Elevations: Brick and Cement Board Siding
All Elevations: Vinyl Only Permitted in Trim & Soffit Areas

Setbacks Internal to the Site
All: Buildings shall be at least 12-feet from back of curbs, except covered front entrance of main building.

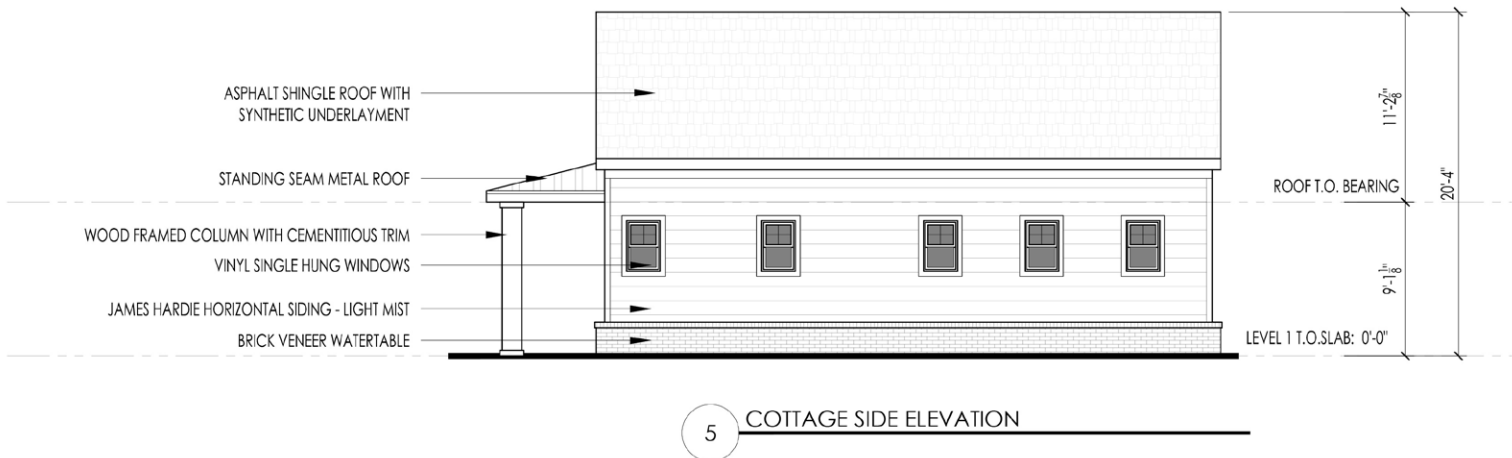
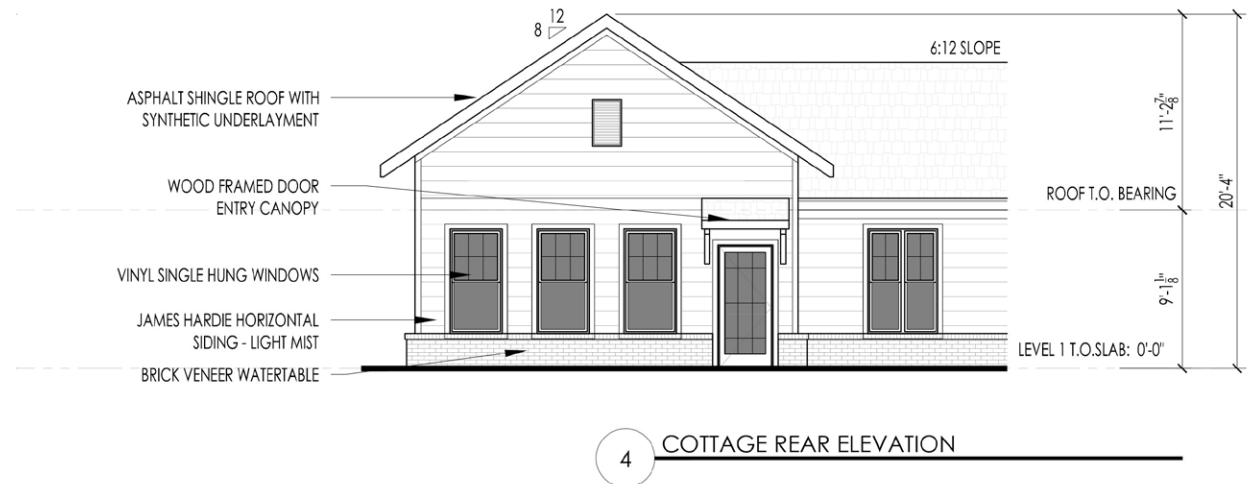
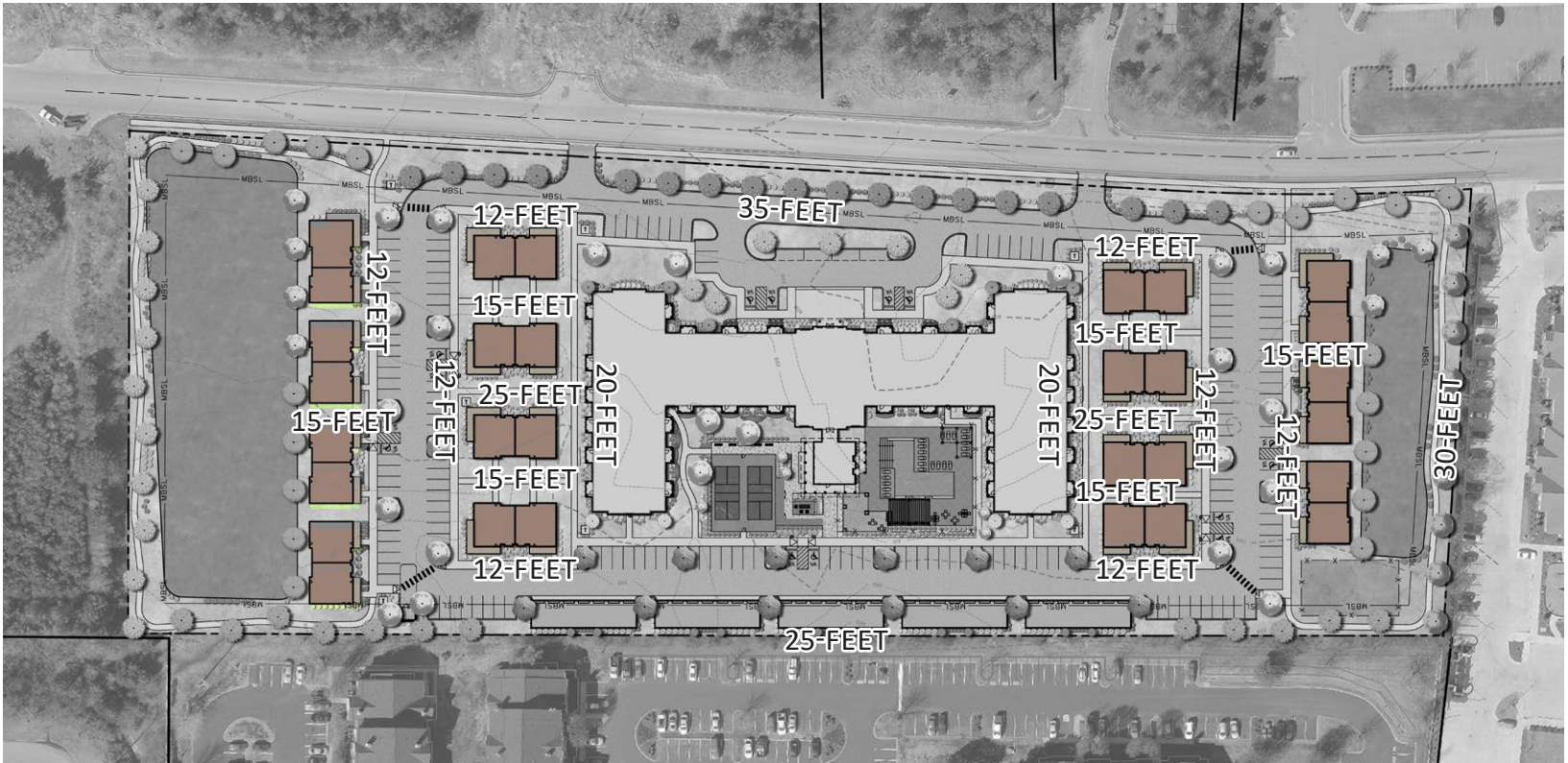
Setbacks External to the Site
Front: 35-feet
Side: 30-feet
Rear: 25-feet
*Garage units can be a minimum of 5-feet from rear property line

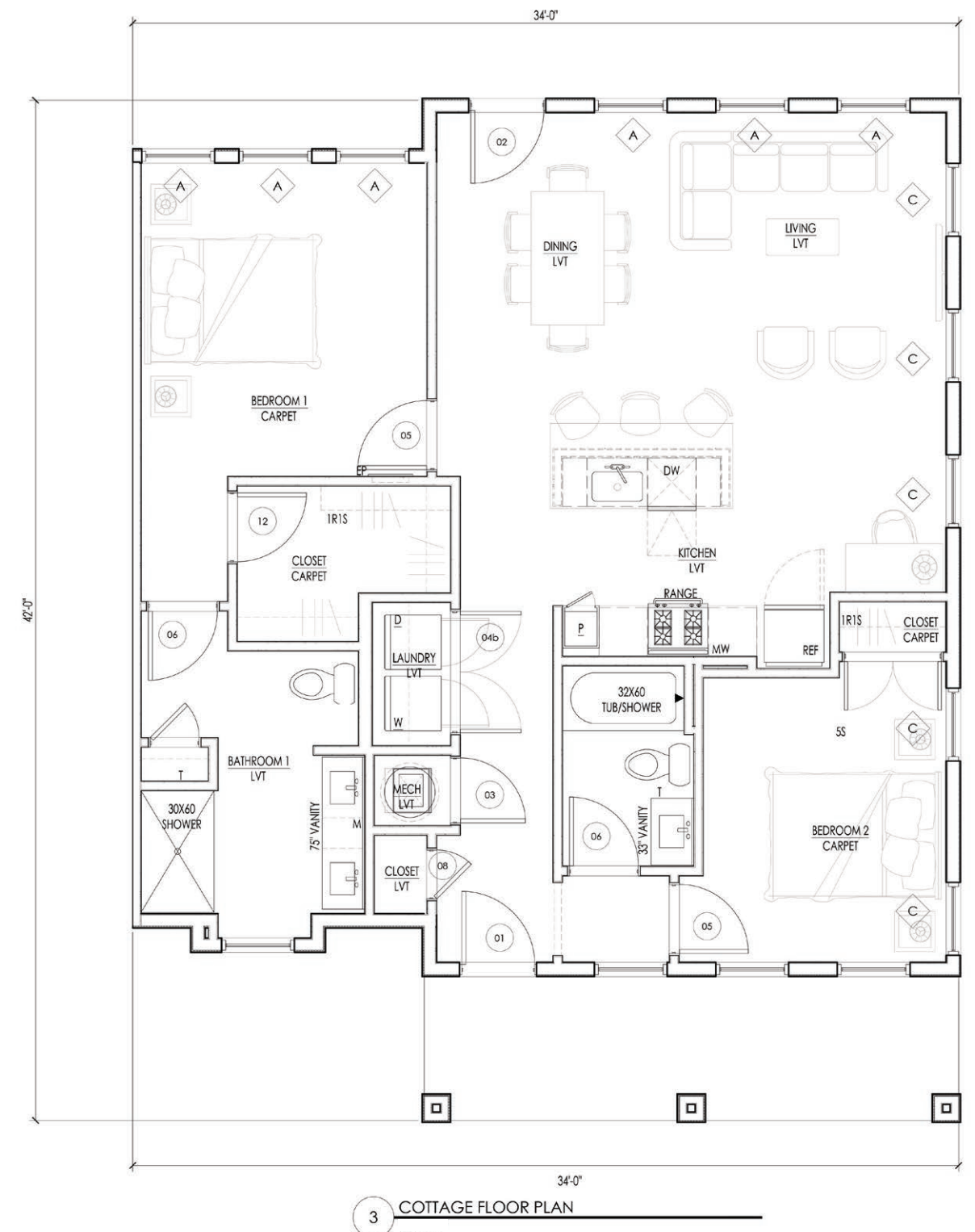
Cottage Units:

Facing Rears	15-feet of separation
Facing Fronts	25-feet of separation
Facing Sides	15-feet of separation

Active Adult Living Building:

All Sides	20-feet of separation
-----------	-----------------------





PROPOSED PLANNED RESIDENTIAL DISTRICT COTTAGE ARCHITECTURAL CHARACTERISTICS

Garage Architectural Characteristics:

- Building height shall not exceed 35 feet in height
- Buildings will be 1-story
- Building exteriors shall consist of a mixture of materials and shall be varied to accentuate different elements along the building exterior
- Garage doors shall be decorative and match the architectural style of the development.
- Garages shall be restricted for vehicular use only, and not for use as a storage space. The garage doors shall remain closed when not in use. This shall be enforced by the development’s management, as well as outlined in the lease agreements with residents when leasing a garage space.

Building Materials:

- Front Elevations: Brick and Cement Board Siding
Side Elevations: Cement Board Siding
Rear Elevations: Cement Board Siding
All Elevations: Vinyl Only Permitted in Trim & Soffit Areas

Setbacks External to the Site

- Front: 35-feet
Side: 30-feet
Rear: 25-feet
*Garage units can be a minimum of 5-feet from rear property line

Setbacks Internal to the Site

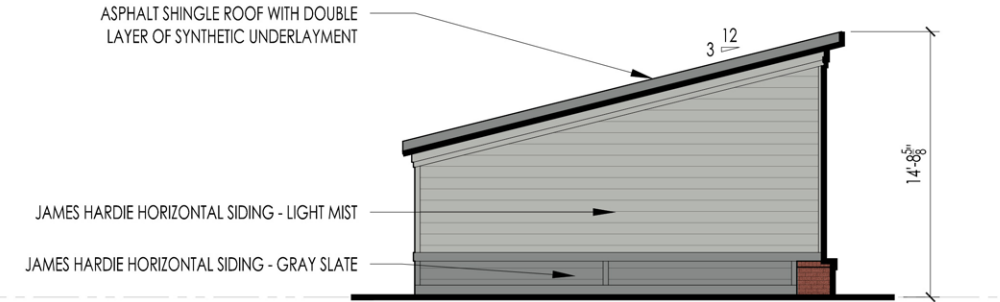
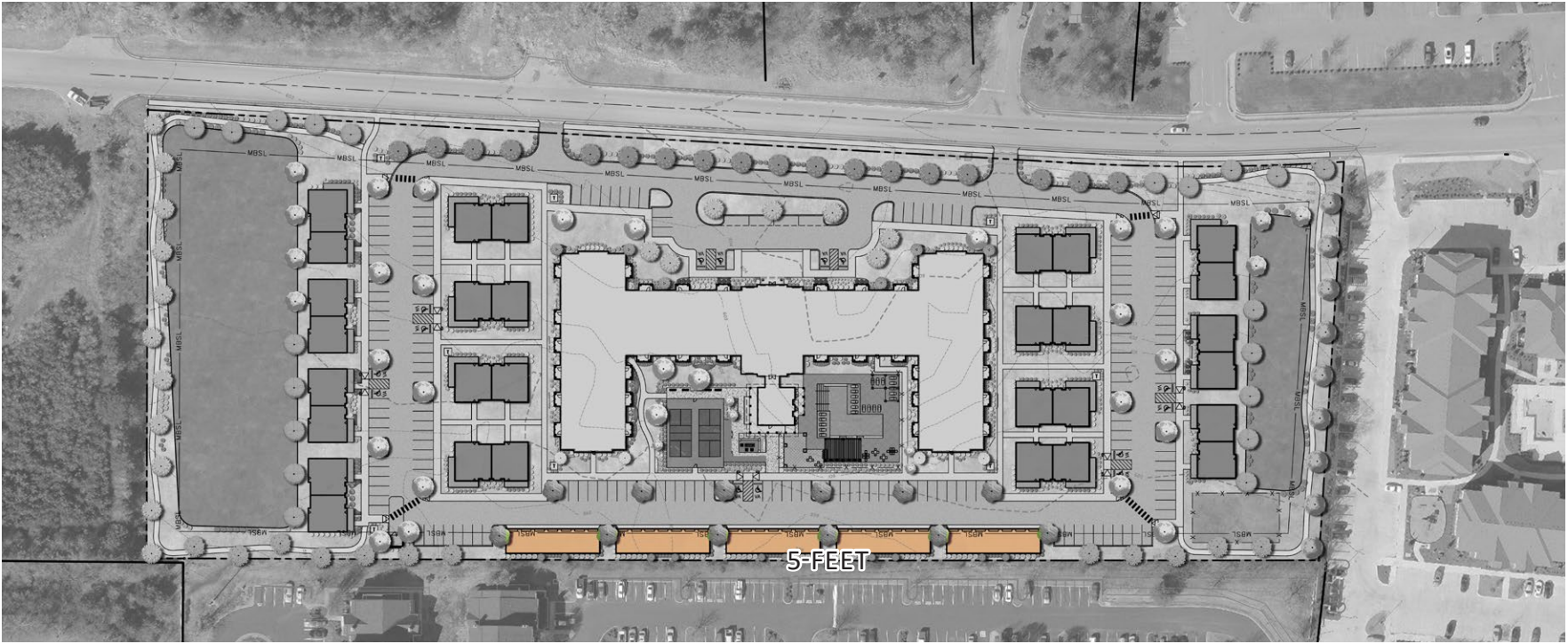
All: Buildings shall be at least 12-feet from back of curbs, except covered front entrance of main building.

Cottage Units:

- | | |
|---------------|-----------------------|
| Facing Rears | 15-feet of separation |
| Facing Fronts | 25-feet of separation |
| Facing Sides | 15-feet of separation |

Active Adult Living Building:

- | | |
|-----------|------------------------------------------|
| All Sides | 20-feet of separation from Cottage Units |
|-----------|------------------------------------------|

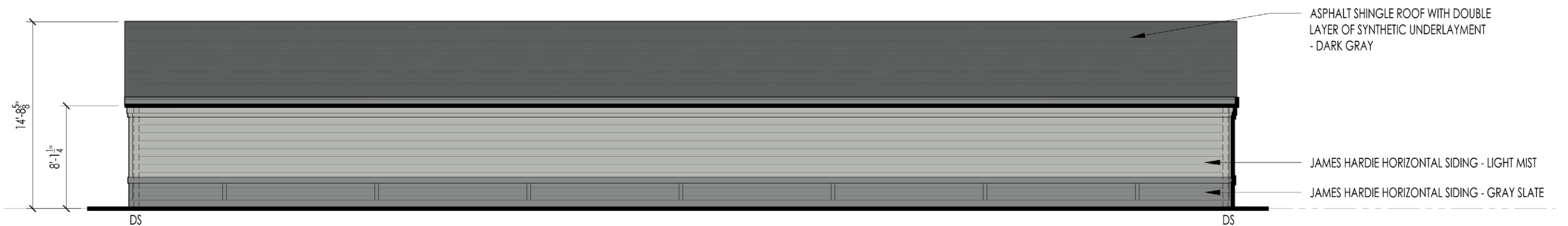


7 GARAGE SIDE ELEVATION

*Architecture shown is conceptual and meant to convey the overall appearance of the development. Finalized architecture shall be provided at the site plan level.



6 FRONT GARAGE ELEVATION - 10 BAY



8 TYPICAL REAR GARAGE ELEVATION

*Architecture shown is conceptual and meant to convey the overall appearance of the development.
 Finalized architecture shall be provided at the site plan level.





*Architecture shown is conceptual and meant to convey the overall appearance of the development.
Finalized architecture shall be provided at the site plan level.





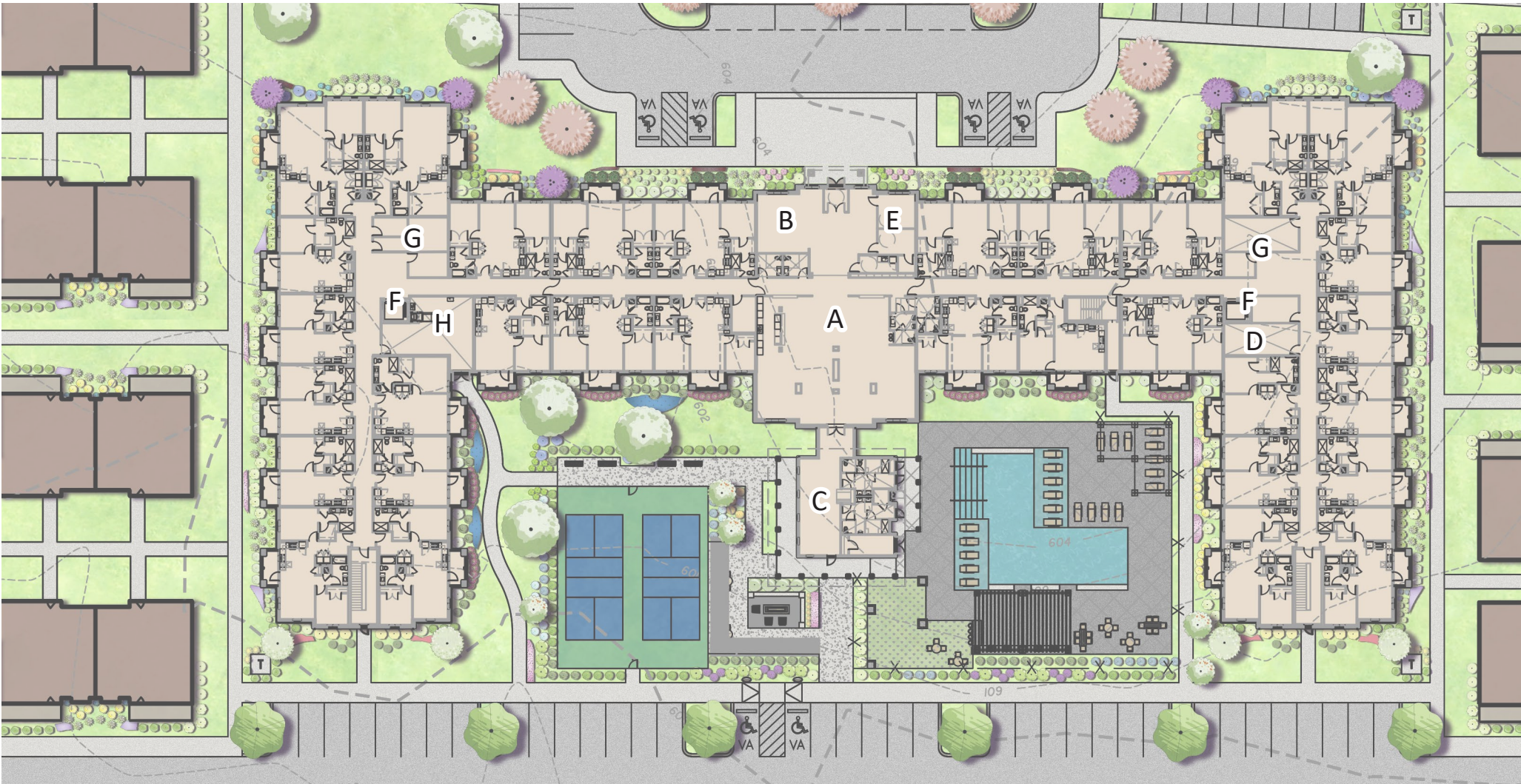
*Architecture shown is conceptual and meant to convey the overall appearance of the development.
Finalized architecture shall be provided at the site plan level.

Arden at Murfreesboro offers a robust and diverse amenity package by providing a variety of amenities both inside and outside the Active Adult Living Building.

The first and second floors of the Active Adult Living Building provides a multitude of amenities. The first floor offers amenities such as the great-hall equipped with a refrigerator, microwave, dishwasher and sink. There is also a library, pet wash room, and pool house lounge with direct access to the exterior amenities.

The second floor provides amenities such as; a fitness center, wellness/meditation center, a crafts/office room, and a green room (pub and game room). The second floor will also have access to the roof-top balcony, overlooking the amenity courtyard.

- A - GREAT ROOM
- B - LIBRARY
- C - POOL HOUSE LOUNGE
- D - PET WASH ROOM
- E - MANAGEMENT OFFICES
- F - ELEVATORS
- G - STORAGE UNITS
- H - TRASH CHUTE/ROOM



MAIN BUILDING - FIRST FLOOR



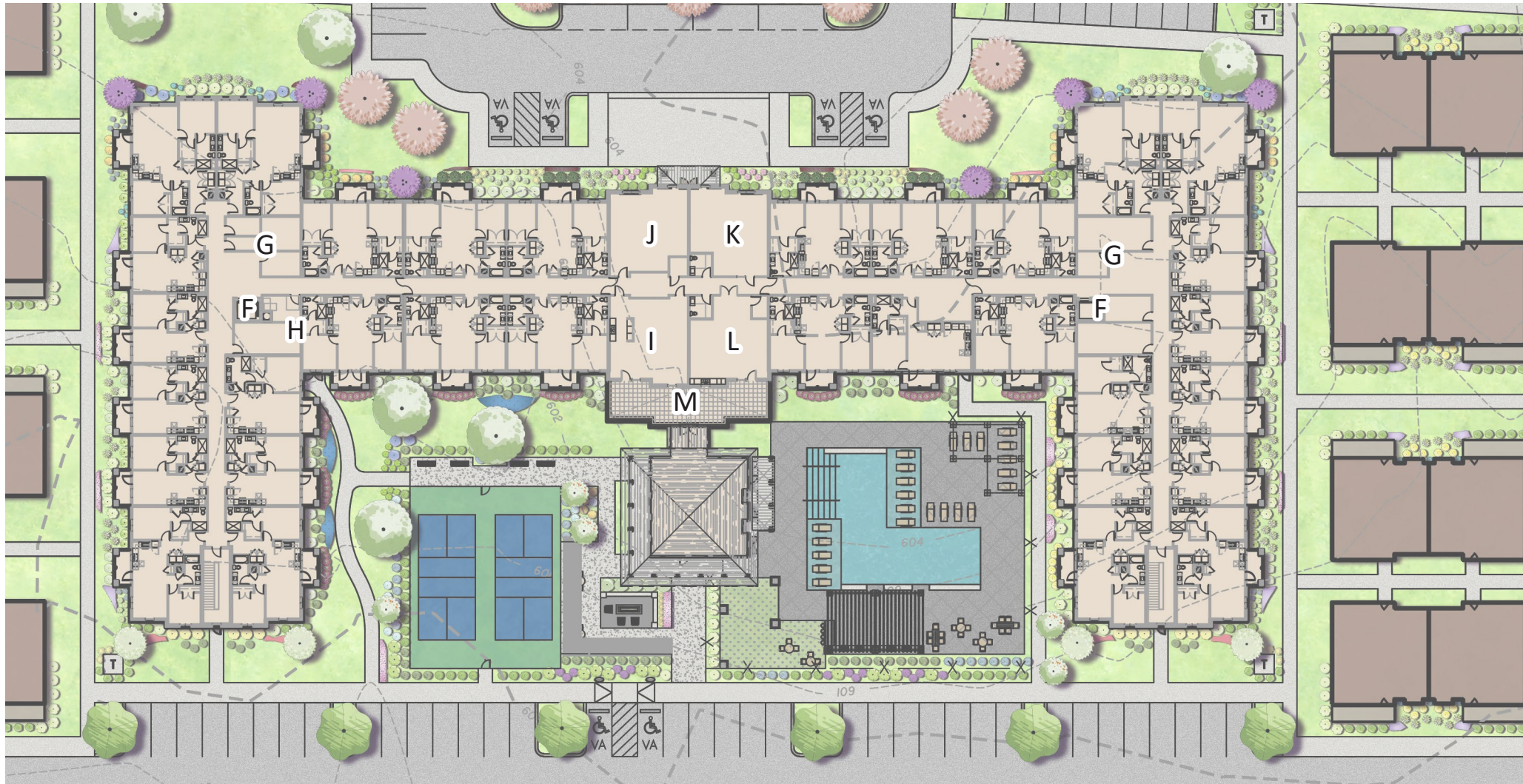
A - Example of Great Room



A - Example of Great Room (Kitchen View)



B - Example of Library



MAIN BUILDING - SECOND FLOOR

F - ELEVATORS

G - STORAGE UNITS

H - TRASH CHUTE/ROOM

I - GREEN ROOM

J - OFFICE/CRAFT STUDIO

K - FITNESS CENTER

L - WELLNESS CENTER

M - AMENITY BALCONY



I - Example of Green Room



J - Example of Office/Crafts Center



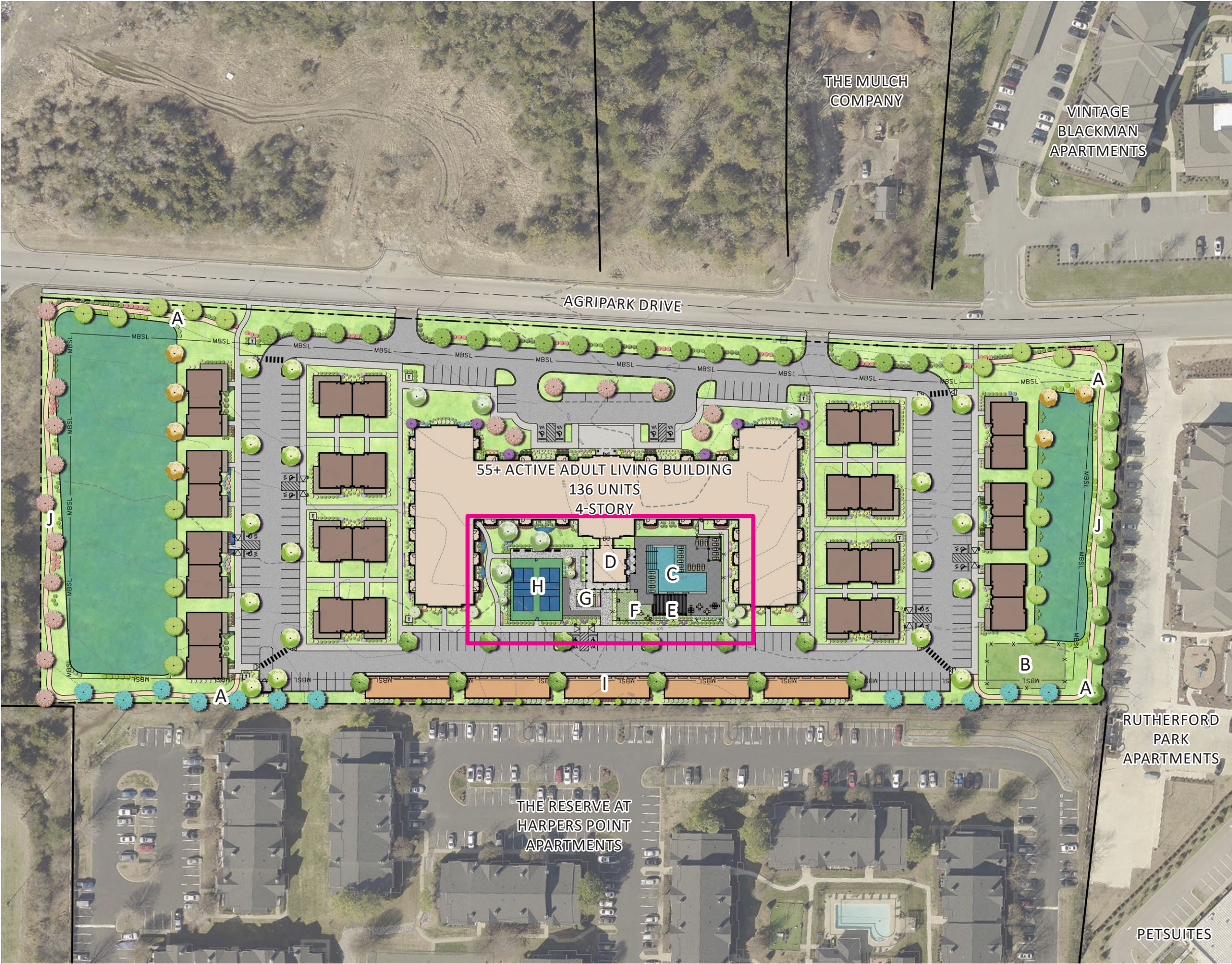
K - Example of Fitness Room

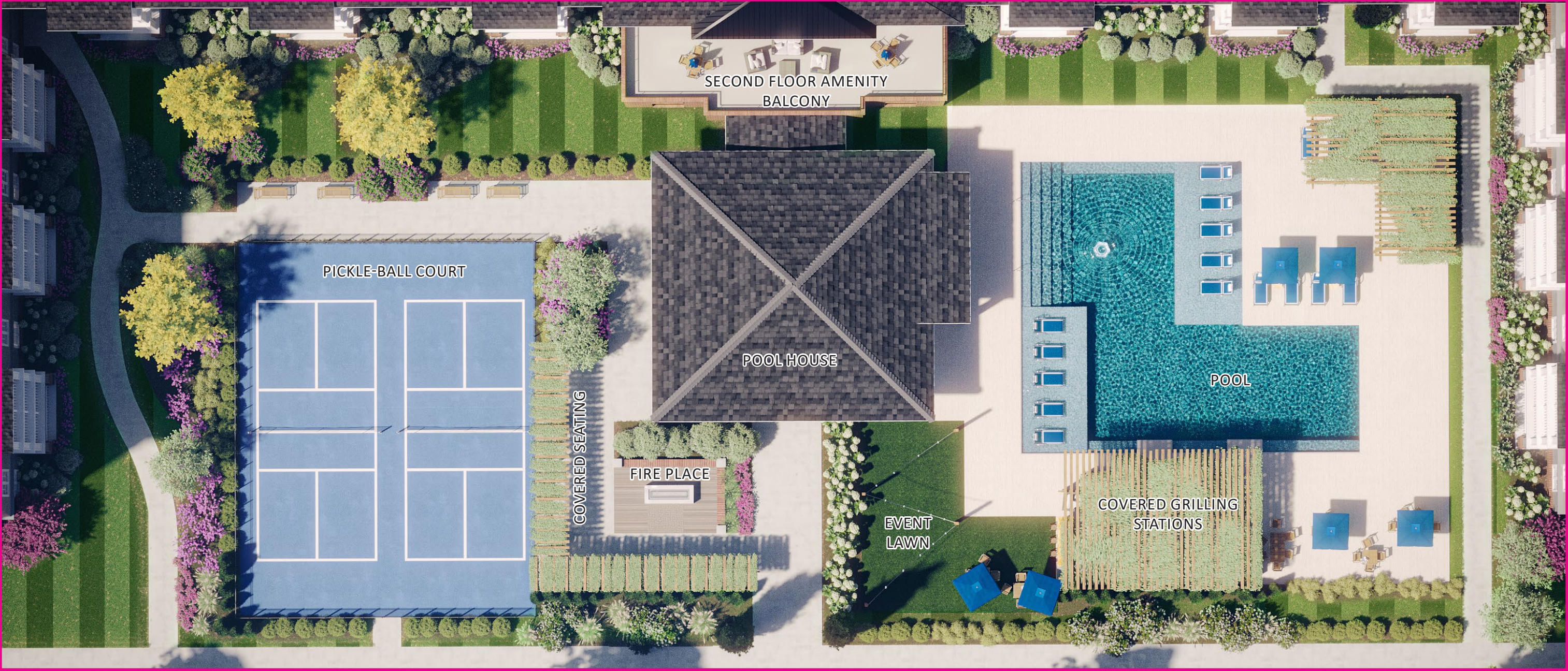


L - Example of Wellness/Meditation Room

With this request, Arden at Murfreesboro will be dedicating a minimum of 1.95 acres (20%) to open-space. The open space areas will be comprised of usable open space, detention areas, and the area along Agripark Drive. Usable open space areas around the development will offer such amenities as; a pickle-ball court, a pool/patio area, walking trails, event lawn, and a dog park. Sidewalks will be provided throughout the development to create a walkable community. The Agripark Drive entrances will incorporate masonry signage and will be anchored with landscaping.

- A - WALKING TRIALS
- B - DOG PARK
- C - POOL/PATIO AREA
- D - POOL HOUSE
- E - GRILLING STATION
- F - EVENT LAWN
- G - FIRE PLACE
- H - PICKLE BALL COURT
- I - GARAGES
- J - SEATING AREAS





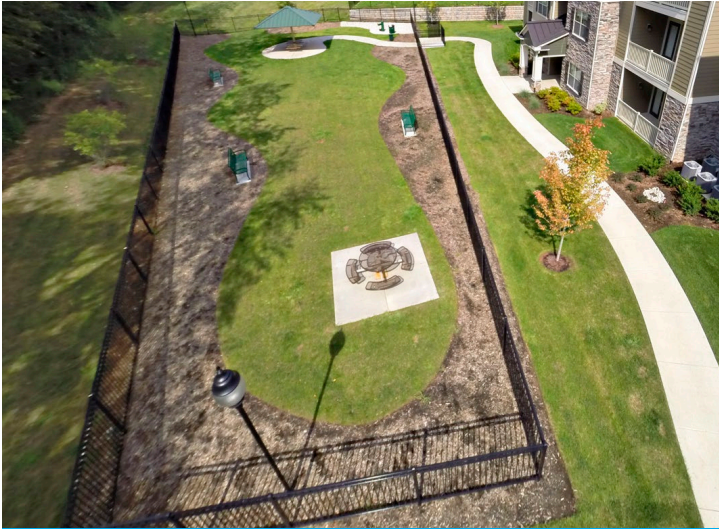
H -Pickle Ball Court



E - Example of Grilling Station (Final Design TBD)



F - Example of Event Lawn



B - Example of Pet Park



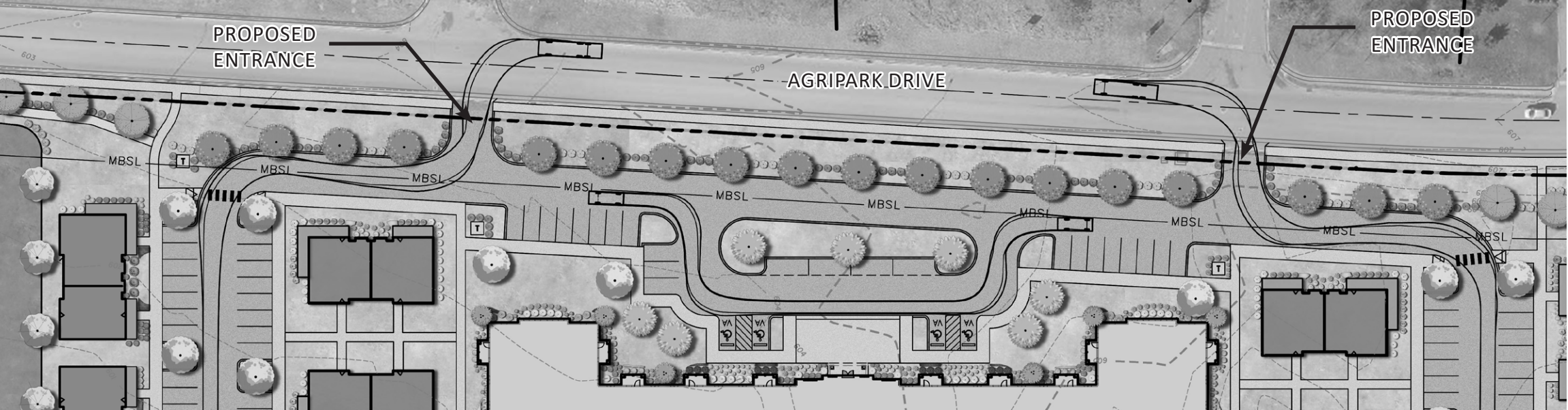


Figure 17.1

Pursuant to the City of Murfreesboro’s Major Thoroughfare Plan (MTP), none of the roadways near this development are slated for improvements. Agripark Drive is a major thoroughfare where the majority of vehicular trips generated by this development will impact. It is currently built as a 2 lane cross-section with a central turning lane and curb & gutter on both sides of the roadway.

The entrances propose two travel lanes for proper circulation into and out of the development onto Agripark Drive. There will be a single lane for traffic entering the site with the remaining lane dedicated to left-or-right turns out of the development. Figure 17.1 on the left shows the proposed entrances onto Agripark Drive, and the illustration below shows the proposed vehicular and pedestrian circulation through the site.

All drives within the development will be private with a typical 22 foot pavement cross-section. These drives will be built in accordance with the Murfreesboro Street Standards.

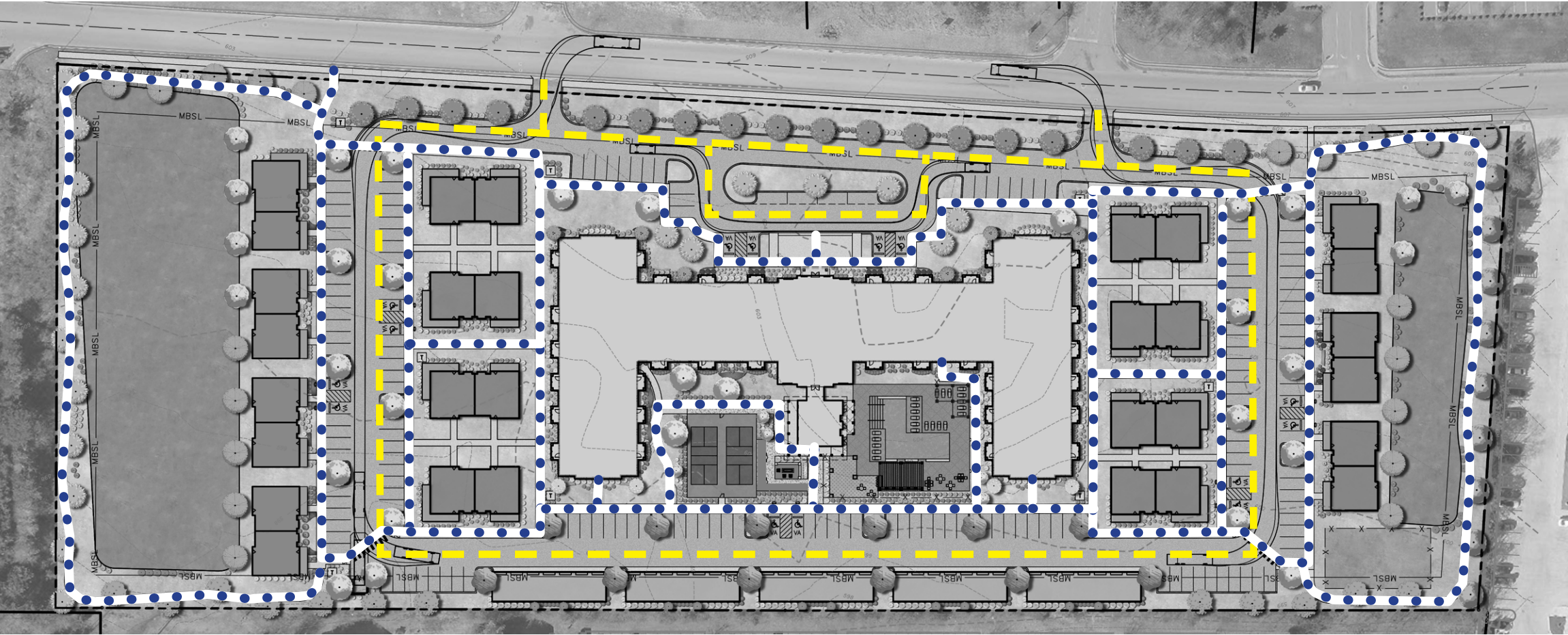
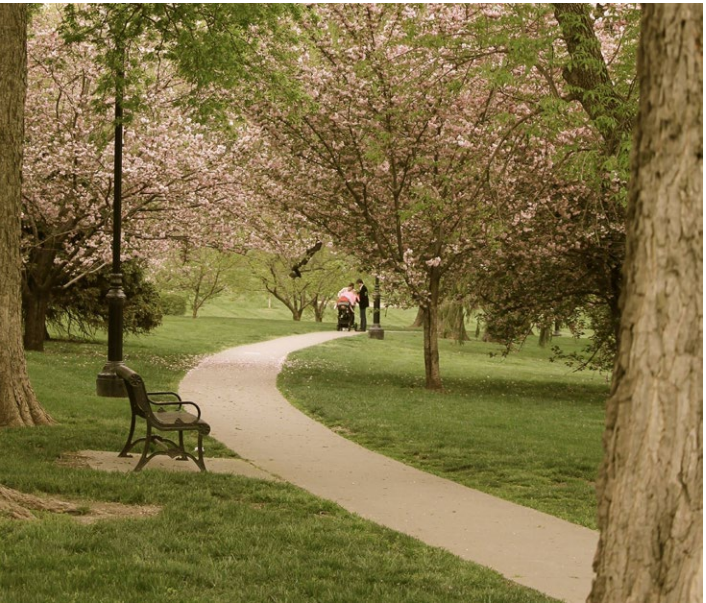


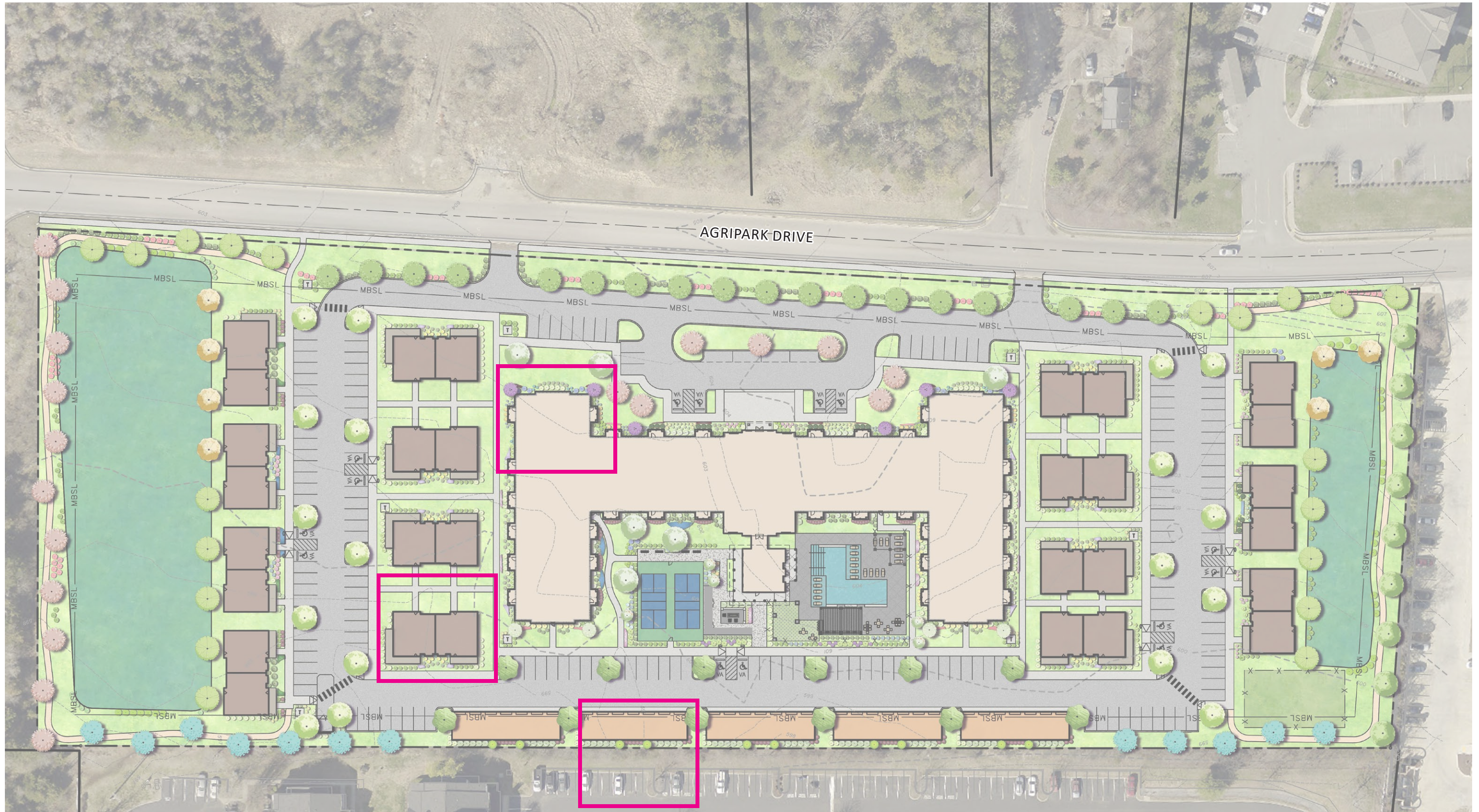
Figure 17.2

- — — — — VEHICULAR CIRCULATION
- • • • • PEDESTRIAN CIRCULATION



WALKING TRAIL EXAMPLE

*Architecture shown is conceptual and meant to convey the overall appearance of the development. Finalized architecture shall be provided at the site plan level.



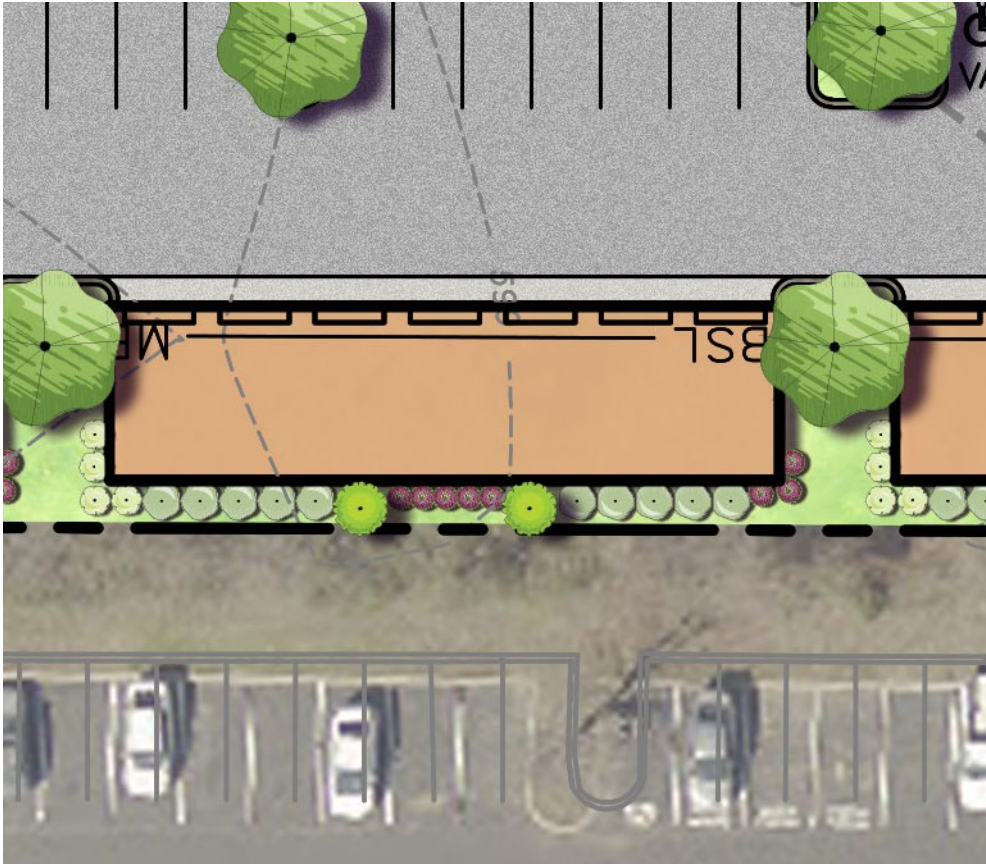
The site has been designed with ample landscaping to provide not only an aesthetically pleasing experience for the residents, but to aid in mitigating impacts to the surrounding areas. To ensure these characteristics, some standards are outlined below.

Landscaping Characteristics:

- A minimum 10 feet of landscape area between parking and all property lines.
- Public rights-of-way screened from parking by use of landscaping and/or berming.
- All above ground utilities and mechanical equipment screened with landscaping and/or fences.
- Solid waste enclosure screened with a masonry wall and enhanced with landscaping.
- The main building will have foundation planting beds along all elevations. Planting beds shall be a minimum of 3-Feet wide but meander and be of variable widths along the length of the elevations to allow for a variety of plant types, sizes and heights. Cottage units shall only be required landscaping along the front elevation and elevations which abut a proposed parking lot.
- Garage buildings shall have a minimum 3-ft wide planting bed along the rear foundations.



EXAMPLE OF TYPICAL BASE OF BUILDING LANDSCAPE OF MAIN BUILDING



EXAMPLE OF TYPICAL BASE OF BUILDING LANDSCAPE FOR GARAGE UNITS



EXAMPLE OF TYPICAL BASE OF BUILDING LANDSCAPE FOR COTTAGE UNITS

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 3-7 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 3-7 provide the requested materials.

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 3-7 provide the requested materials.

4.) 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 district; 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 shown on Pages 8-9 provide the requested materials.

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 exhibits shown on Pages 8-9 provide the requested materials.

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	424,795 s.f.
TOTAL MAXIMUM FLOOR AREA	208,875 s.f.
TOTAL LOT AREA	424,795 s.f.
TOTAL BUILDING COVERAGE	80,625 s.f.
TOTAL DRIVE/ PARKING AREA	83,286 s.f.
TOTAL RIGHT-OF-WAY	0 s.f.
TOTAL LIVABLE SPACE	341,509 s.f.
TOTAL OPEN SPACE	130,680 s.f.
FLOOR AREA RATIO (F.A.R.)	0.49
LIVABILITY SPACE RATIO (L.S.R.)	0.61
OPEN SPACE RATIO (O.S.R.)	0.81

7.) A written statement generally describing the relationship of the proposed planned district to the current policies and plans of the city and how the proposed planned district 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 CH. The surrounding area has a mixture of residential and commercial 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 area.

8.) If the planned district 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 one phases.

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 district. For this purpose, the substance of any proposed restrictions or covenants shall be submitted.

Response: This requirement has been addressed on Pages 9 & 20-23.

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 district or (2) the bulk, use, and/or other regulations under which the planned district is proposed.

Response: The applicant is requesting the following exceptions with this PRD.

SETBACKS	RM-16 (Multi-Family)	PRD	DIFFERENCE
Front Setback	30.0’	35.0’	+5.0’
Side Setback	30.0’ - 4 Story	30’	0.0’
Rear Setback	25.0’	25.0’	0.0’
Minimum Lot Size	N/A	N/A	N/A
Maximum Building Height	45’	50’	+5.0’

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 47149C0255H Eff. Date 01/04/2007.

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 4 & 19 discusses 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 district plans. A primary representative shall be designated.

Response: The primary representative is Matt Taylor of SEC, Inc. Developer/ applicant is FC Murfreesboro. contact info for both is provided on cover.

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 10-18 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 3 and 10.

LAND USE PARAMETERS AND BUILDING SETBACKS			
ZONING (EXISTING VS PROPOSED)	RM-16	PROPOSED PRD	DIFFERENCE
RESIDENTIAL DENSITY			
MAXIMUM DWELLING UNITS MULTI-FAMILY	N/A	166	N/A
MINIMUM LOT AREA	N/A	NA	N/A
MINIMUM LOT WIDTH	N/A	NA	N/A
MINIMUM EXTERNAL SETBACK REQUIREMENTS			
MINIMUM FRONT SETBACK	30'	35'	+5'
MINIMUM SIDE SETBACK	30' - 4 STORY BUILDING	30'	0'
MINIMUM REAR SETBACK	25'	25'	0'
LAND USE INTENSITY RATIOS			
MAX F.A.R.	NONE	NONE	NA
MINIMUM LIVABLE SPACE RATIO	NONE	NONE	NA
MINIMUM OPEN SPACE REQUIREMENT	20%	20%	0%
MINIMUM FORMAL OPEN SPACE REQUIREMENT	5%	5%	0%
MAX HEIGHT	45'	50'	+5'

PRD Exceptions Request Summary:

- Requesting an exception to reduce the amount of parking required for the site from 280 parking spaces to 180 parking spaces. Due to the comparison of RM-16 instead of a similar land-use, such as an assisted living facility, this exception appears at a larger disparity. When compared to the assisted living requirements (1 space per 3 beds), even if all 136 units have two beds the total would be (272 beds / 3 = 91 spaces plus 66 (cottage spaces) = a total of 157. Currently the development proposes 198 spaces with an additional 14 accessible.
- Requesting an exception of allowable building height from 45’ to 50’.
- Requesting an exception for the Active Adult Living Building to have up to a total of 4-stories. This exception allows the development to create more opportunities for open space and amenities.

Density Bonus:

Additionally this development goes above and beyond the minimum required amenities.
Per the Murfreesboro Density Bonus for RM-16 and RM-12 districts, the following amenities would equate to a density bonus as shown below.

- | | | | |
|-----------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|---|------------|
| • Permanent in-ground pool | - One percent for each 500 sqft of pool surface area to a max of 5% not to exceed 6 dwelling units | | |
| | $\pm 2,438 \text{sqft of pool area} = (4.88\%) \times (16 \text{ units/ac} \times 9.75 \text{ac} = 156 \text{ units}) = 7.6 \text{ units}$ | = | 6 units |
| • Standard size tennis court | - One percent per court provided up to a maximum of 3% not to exceed 4 dwelling units | | |
| | $2 \text{ pickle-ball courts (comparable)} = (2\%) \times (16 \text{ units/ac} \times 9.75 \text{ac} = 156 \text{ units}) = 3.12 \text{ units}$ | = | 3.12 units |
| • Clubhouse - such room(s) shall include meeting, weight, game, and kitchen rooms | - 1% for each 1,000 sqft to a maximum of 5% or 6 dwelling units | | |
| | $+5,000 \text{ of clubhouse and internal amenity rooms} = (5\%) \times (16 \text{ units/ac} \times 9.75 \text{ac} = 156 \text{ units}) = 7.8 \text{ units}$ | = | 6 units |

Total density bonus = 15.12 units
156 units (at 16 units/ac) + 15.12 units = 171.12 allowable units per density bonus.

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

January 26, 2023

Marina Rush
City of Murfreesboro Planning Department
111 West Vine Street
Murfreesboro, TN 37130

RE: Parking Reductions Justification Memo
Arden at Murfreesboro PRD
Murfreesboro, TN
SEC No. 22222

Dear Marina,

Our PRD application has requested a reduction in parking. At your request, we have compiled data and information for justification on this request which is listed below.

Our client, Arden, owns and operates 4 independent living, assisted living and memory care facilities, 3 multifamily communities, and 2 age restricted senior communities with an additional 2 under construction and 6 more fully entitled and in pre-development. In addition, they have surveyed a multitude of age restricted communities throughout the country and found that age restricted developments are typically parked at 1.1 space per unit, the parking utilization rate varies but approximately 90% of the residents have cars. Their age restricted communities would not be successful, and they would never develop a community that was under parked and/or over parked for that matter. They design their communities with the necessary parking spaces to create a successful development which allows us to save more green space and provide extra amenities.

Furthermore, we sought guidance from national engineering standards. We researched other available sources of parking data to provide additional information. The source for this calculation is the *Parking Generation Manual*, 5th Edition published by the Institute of Transportation Engineers (ITE). ITE is an international membership association of transportation professionals who work to improve safety and mobility for all transportation system users and help build smart and livable communities.

Parking Generation Manual is an educational tool for planners, transportation professionals, zoning boards, and others who are interested in estimating parking demand of a proposed development.

The manual has a land use applicable to this project: 252 Senior Adult Housing—Attached with the following description:

Senior adult housing consists of attached independent living developments, including retirement communities, age-restricted housing, and active adult communities. This type of housing for active senior adults can take the form of bungalows, townhouses, and apartments. These developments may include limited social or recreational services. They generally lack

centralized dining and on-site medical facilities. Residents in these communities live independently, are typically active (requiring little to no medical supervision) and may or may not be retired.

The manual provides a parking demand per dwelling unit of 0.61 spaces per dwelling. The range of rates from the source data is 0.45 - 0.67 with a standard deviation of 0.11 (18%).

Applying the Parking Generation Manual ratio to this project (166 units) provides the result of 102 required parking spaces to accommodate this land use.

Respectfully,

A handwritten signature in red ink that reads "Matt Taylor". The signature is written in a cursive, flowing style.

Matt Taylor, PE
Vice-President

MINUTES OF THE MURFREESBORO PLANNING COMMISSION FEBRUARY 1, 2023

6:00 P.M.

CITY HALL

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Bryan Prince
Warren Russell
Chase Salas
Shawn Wright

STAFF PRESENT

Sam Huddleston, Assistant City Manager
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Brad Barbee, Planner
Jennifer Knauf, Project Engineer
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney

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 January 11, 2023 and January 18, 2023 Planning Commission meetings.

Ms. Jami Averwater moved to approve the minutes of the January 11, 2023 and January 18, 2023 Planning Commission meetings; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Bryan Prince
Warren Russell

MINUTES OF THE MURFREESBORO PLANNING COMMISSION FEBRUARY 1, 2023

Chase Salas

Shawn Wright

Nay: None

4. Public Hearings and Recommendations to City Council:

Zoning application [2022-427] for approximately 9.8 acres located along the east side of Agripark Drive to be rezoned from CH to PRD (Arden at Murfreesboro PRD), FC Murfreesboro, LLC 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. In addition, it was noted that hard copies of revised architectural renderings were at the Planning Commissioners' desks.

Mr. Rob Molchan (landscape architect) and Mr. Kevin Woodley (developer) were in attendance representing the application. Mr. Rob Molchan 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.

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the zoning application; 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 and the applicant working with staff on revising the language in the pattern book to address garages being used for vehicles only; the motion was seconded by Mr. Warren Russell and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Jami Averwater

MINUTES OF THE MURFREESBORO PLANNING COMMISSION FEBRUARY 1, 2023

Bryan Prince
Warren Russell
Chase Salas
Shawn Wright

Nay: None

**Zoning Ordinance amendment [2023-801] regarding amendments to Section 34:
Floodplain Zoning, City of Murfreesboro Planning Department applicant.** Ms.

Jennifer Knauf 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. In addition, it was noted that hard copies of the latest draft of the ordinance amendment were at the Planning Commissioners' desks.

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the proposed Zoning Ordinance amendment; therefore, Chair Kathy Jones closed the public hearing.

There being no further discussion, Mr. Shawn Wright moved to approve the Zoning Ordinance amendment subject to all staff comments; the motion was seconded by Mr. Warren Russell and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Bryan Prince
Warren Russell
Chase Salas
Shawn Wright

Nay: None

ORDINANCE 23-OZ-07 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 9.8 acres located along the east side of Agripark Drive from Highway Commercial (CH) District to Planned Residential Development (PRD) District (Arden at Murfreesboro PRD); FC Murfreesboro, LLC, applicant, [2022-427].

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, 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 _____

ATTEST:

Jennifer Brown
City Recorder

Shane McFarland, Mayor

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

43A2036E64F0401...
Adam F. Tucker
City Attorney

SEAL

Ordinance 23-OZ-07

PCD

PCD

JOHN R RICE BLVD

I-24

RM-16

RM-16

CH

AGRIPARK DR

CH

RM-16

CH

CH

Area rezoned
from CH to PRD

CH

CH

N



COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Amending the Zoning Ordinance
[Public Hearing Required]

Department: Planning

Presented by: Jennifer Knauf, PE, Project Engineer/Floodplain Administrator

Requested Council Action:

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

Summary

Ordinance amending the Zoning Ordinance regarding Section 34: Floodplain Zoning.

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 [2023-801] to amend the Zoning Ordinance as it pertains to Section 34: Floodplain Zoning. The proposed ordinance amendment would delete the existing Section 34 and replace it with the attached draft ordinance. Among other things, this ordinance amendment will formally adopt the new Flood Insurance Rate Maps for Murfreesboro. During its regular meeting on February 1, 2023, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

Council Priorities Served

Establish Strong City Brand

Adoption of the maps will allow Murfreesboro to continue to be a participating community in the federal government's flood insurance program, allowing our citizens to obtain flood insurance.

Maintain Public Safety

Strong floodplain management regulations help to promote the public health, safety, and welfare of our community.

Attachments:

1. Ordinance 23-O-08
2. Planning Commission staff comments from 02/01/2023 meeting
3. Planning Commission minutes from 02/01/2023 meeting

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
FEBRUARY 1, 2023
PROJECT PLANNER: JENNIFER KNAUF**

- 4.b. Zoning Ordinance amendment [2023-801] regarding amendments to Section 34: Floodplain Zoning, City of Murfreesboro Planning Department applicant.**

Section 34: Floodplain Zoning:

The final flood hazard determination for Rutherford County, Tennessee and Incorporated Areas was issued by the Federal Emergency Management Agency (FEMA) on November 9, 2022 and within six months from the date of this letter, the community is required to adopt the current effective and final revised Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) into their standards and regulations as a condition of continued eligibility in the NFIP (National Flood Insurance Program). The new maps reflect the FEMA Stones River Watershed FIRM Map revisions where portions of this watershed were restudied by FEMA. The new map panels will only impact select panels in the Stones River Watershed and will not impact all areas of the City of Murfreesboro. Those map panel numbers are 47149C0140J, 47149C0145J, 47149C0255J, 47149C0260J, 47149C0270J, 47149C0280J, and 47149C0290J. The FIS report and FIRM for these panels will become effective on May 9, 2023. In addition to the new map panels, the City has identified FIRM panels where City limits have encroached onto neighboring jurisdictions through annexation. To ensure the City adopts all FIRM panels within its jurisdiction, the following map panels will be included in the flood map adoption process: 47479C0153H, 47479C0162H, 47479C0245H, and 47479C0119H.

The City's floodplain regulations are contained within Section 34 of the Zoning Ordinance. In addition to adopting the new panels from the Stones River Watershed FIRM Map Revision and panels for annexed areas, the City will use the opportunity of the new mapping update to add floodplain language to regulate localized flood hazard areas not identified by FEMA on the Flood Insurance Rate Maps (FIRMs). These areas to be identified as Community Identified Flood Hazard Areas shall include but are not limited to Zone X (Shaded and Unshaded), closed depressions, critical lots, critical facilities, and any basins covered by a local drainage study. These areas have historically been identified through the development review process and adding this language to Section 34 of the Zoning Ordinance gives the City authorization to enforce in these areas to protect its

residents from flood risk.

Additional amendments to Section 34 of the Zoning Ordinance include minor revisions as recommended by the State's NFIP Coordinator in order to be consistent with the FEMA model floodplain management ordinance. These revisions include language related to the Conditional Letter of Map Revision (CLOMR) process and the variance procedures. In total, the proposed changes as presented in the draft are a working document in progress and minor changes may be made prior to final adoption.

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended, and 44 CFR Part 59.24. The deadline to come into compliance is May 9, 2023.

Action needed

The Planning Commission will need to conduct a public hearing on this matter, after which it will need to discuss and then formulate a recommendation to City Council. As an aside, Planning Staff expects to have an updated draft of this Zoning Ordinance amendment prior to the public hearing. The updated draft will be distributed to the Planning Commission members separately from the agenda.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION FEBRUARY 1, 2023

6:00 P.M.

CITY HALL

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Bryan Prince
Warren Russell
Chase Salas
Shawn Wright

STAFF PRESENT

Sam Huddleston, Assistant City Manager
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Brad Barbee, Planner
Jennifer Knauf, Project Engineer
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney

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 January 11, 2023 and January 18, 2023 Planning Commission meetings.

Ms. Jami Averwater moved to approve the minutes of the January 11, 2023 and January 18, 2023 Planning Commission meetings; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Bryan Prince
Warren Russell

MINUTES OF THE MURFREESBORO PLANNING COMMISSION FEBRUARY 1, 2023

Bryan Prince

Warren Russell

Chase Salas

Shawn Wright

Nay: None

Zoning Ordinance amendment [2023-801] regarding amendments to Section 34:

Floodplain Zoning, City of Murfreesboro Planning Department applicant. Ms.

Jennifer Knauf 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. In addition, it was noted that hard copies of the latest draft of the ordinance amendment were at the Planning Commissioners' desks.

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the proposed Zoning Ordinance amendment; therefore, Chair Kathy Jones closed the public hearing.

There being no further discussion, Mr. Shawn Wright moved to approve the Zoning Ordinance amendment subject to all staff comments; the motion was seconded by Mr. Warren Russell and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Jami Averwater

Bryan Prince

Warren Russell

Chase Salas

Shawn Wright

Nay: None

ORDINANCE 23-O-08 amending Murfreesboro City Code Appendix A, Zoning, Section 34, Floodplain Zoning, for the purpose of amending the City of Murfreesboro, Tennessee Zoning Ordinance regulating development within the corporate limits of Murfreesboro, Tennessee, to minimize danger to life and property due to flooding, and to maintain eligibility for participation in the National Flood Insurance Program, City of Murfreesboro Planning Department, applicant [2023-801].

WHEREAS, The Legislature of the State of Tennessee General Assembly has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Murfreesboro City Council wish to maintain the City’s eligibility to participate in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3

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

SECTION 1. Appendix A, Section 34, Floodplain Zoning, of the Murfreesboro City Code is hereby amended by deleting the section in its entirety and substituting in lieu thereof the following:

“SECTION 34. FLOODPLAIN ZONING ORDINANCE.

Article I. Statutory Authorization, Findings of Fact, Purpose and Objectives

- (A) *Short Title.* This section shall be known and may be cited as the City of Murfreesboro’s Floodplain Zoning Ordinance.
- (B) *Statutory Authorization.* The Legislature of the State of Tennessee has in Sections 13-7-201 through 13-7-210, Tennessee Code Annotated delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Murfreesboro, Tennessee, Mayor and the Murfreesboro City Council, do ordain as follows:
- (C) *Findings of Fact.*
 - (1) The Murfreesboro City Council wish to maintain the City of Murfreesboro’s eligibility to participate in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in Title 44 of the Code of Federal Regulations (CFR), Ch. 1, Section 60.3.
 - (2) Areas of the City are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
 - (3) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is

inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(D) *Statement of Purpose.* It is the purpose of the City of Murfreesboro's Floodplain Zoning Ordinance ("Ordinance") to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas. This Ordinance is designed to:

- (1) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;
- (2) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage or erosion; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(E) *Objectives.* The objectives of this Ordinance are:

- (1) To protect human life, health, safety, and property;
- (2) To minimize expenditure of public funds for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood-prone areas;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas to minimize blight in flood areas;
- (7) To ensure that potential homebuyers are notified that property is in a flood-prone area;
- (8) To maintain eligibility for participation in the NFIP.

Article II. Definitions

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application given its stated purpose and objectives.

"Accessory Structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this Ordinance, shall conform to the following:

- (1) Accessory structures shall only be used for parking of vehicles and storage;
- (2) Accessory structures shall be designed to have low flood damage potential;
- (3) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (4) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures; and
- (5) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

"Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

"Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this Ordinance or a request for a variance.

"Area of Shallow Flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate; and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of Special Flood-related Erosion Hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After

the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

"Area of Special Flood Hazard" see "Special Flood Hazard Area."

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one (1) percent annual chance flood.

"Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure."

"Critical Facilities" means any facilities that provide services and functions essential to a community, especially during and after a disaster. Critical facilities include, but are not limited to, the following: police stations; fire stations; critical vehicle and equipment storage facilities, and emergency operations centers needed for flood response activities before, during, and after a flood; medical facilities, including hospitals, nursing homes, blood banks, and health care facilities (including those storing vital medical records); schools and day care centers, especially if designated as shelters or evacuation centers; power generating stations and other public and private utility facilities vital to maintaining or restoring normal services to flooded areas before, during, and after a flood; drinking water and wastewater treatment plants; and structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, and/or water-reactive materials. The Floodplain Administrator shall make the final determination as to whether a facility qualifies as a critical facility for the purposes of this Ordinance.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

"Elevated Building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

"Emergency Flood Insurance Program" or "Emergency Program" means the program as implemented on an emergency basis in accordance with Section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

"Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the Program.

"Exception" means a waiver from the provisions of this Ordinance which relieves the applicant from the requirements of a rule, regulation, order, or other determination made or issued pursuant to this Ordinance.

"Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

"Existing Structures" see "Existing Construction."

"Federal Emergency Management Agency (FEMA)" means the Federal agency with the overall responsibility for administering the National Flood Insurance Program (NFIP).

"Expansion to an Existing Manufactured Home Park or Subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood" or "Flooding" means:

- (A) A general and temporary condition of partial or complete inundation of normally dry land areas from:
- (1) The overflow of inland or tidal waters.
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (B) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

"Flood Elevation Determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

"Flood Elevation Study" means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

"Flood Insurance Study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

"Floodplain" or "Floodprone Area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding"), including, but not limited to, Special Flood Hazard Areas.

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

"Flood Protection System" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

"Flood-related Erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe

storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

"Flood-related Erosion Area" or "Flood-related Erosion Prone Area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

"Flood-related Erosion Area Management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including, but not limited to, emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

"Functionally Dependent Use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

"Hydrologic and Hydraulic Engineering Analyses" means analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by TEMA and FEMA, used to determine the base flood elevation, base flood discharge and floodway widths. A complete hydrologic and hydraulic (H&H) study also evaluates upstream and downstream water surface elevations for the proposed water crossing at flood flows consistent with Base Flood Elevations (BFE), to assure that BFE in the community's Special Flood Hazard Area (SFHA) does not increase more than one foot, as a result of the new water conveyance.

"Highest Adjacent Grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

"Historic Structure" means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on the City's inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - (a) By the approved Tennessee program as determined by the Secretary of the Interior or
 - (b) Directly by the Secretary of the Interior.

"Letter of Map Change (LOMC)" means an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property or structure is not located in a special flood hazard area.

Conditional Letter of Map Revision Based on Fill (CLOMR-F) is a determination that a parcel of land or proposed structure that will be elevated by fill would not be inundated by the base flood if fill is placed on the parcel as proposed or the structure is built as proposed.

Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the effective FIRM.

Letter of Map Revision (LOMR): Letter of Map Revisions are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee System" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"Lowest Floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.

"Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle".

"Manufactured Home Park or Subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

"Mean Sea Level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this Ordinance, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

"National Flood Insurance Program (NFIP)" The program authorized by the U.S. Congress in 42 U.S.C. §§4001 - 4129. The NFIP makes flood insurance coverage available in communities that agree to adopt and enforce minimum regulatory requirements for development in areas prone to flooding (see definition of "Special Flood Hazard Area").

"National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

"New Construction" means any structure for which the "start of construction" commenced on or after the effective date of the City's initial floodplain management ordinance and includes any subsequent improvements to such structure.

"New Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Ordinance or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

"North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

"100-year Flood" see "Base Flood."

"Person" includes any individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies.

"Reasonably Safe from Flooding" means base flood waters will not inundate the land or damage structures to be removed from the Special Flood Hazard Area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

"Recreational Vehicle" means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Regulatory Flood Protection Elevation" means the "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one (1) foot. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least three (3) feet above the highest adjacent grade.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special Flood Hazard Area" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

"Special Hazard Area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the

main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" the Tennessee Emergency Management Agency, State NFIP Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the State.

"Structure" for purposes of this Ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be: (1) the appraised value of the structure prior to the start of the initial improvement; or (2) in the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project or; (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Substantially Improved Existing Manufactured Home Parks or Subdivisions" is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities, and pads before the repair, reconstruction or improvement commenced.

"Variance" is a grant of relief from the requirements of this Ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this Ordinance is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

"Zone X (shaded)" are defined as areas of 0.2% annual chance flood; areas subject to 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from base flood.

"Zone X (unshaded)" are areas determined to be outside the 0.2% annual chance floodplain.

Article III. General Provisions

(A) *Application.* This Ordinance shall apply to all areas within the incorporated area of Murfreesboro, Tennessee.

(B) *Basis for Establishing the Areas of Special Flood Hazard.*

- (1) The Areas of Special Flood Hazard identified on the City of Murfreesboro, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47149C0119H, 47149C0245H, 47149C0134H, 47149C0153H, 47149C0161H,

47149C0162H, 47149C0163H, 47149C0164H, 47149C0235H, and 47149C0265H dated January 5, 2007; and 47149C0140J, 47149C0145J, 47149C0255J, 47149C0260J, 47149C0270J, 47149C0280J, and 47149C0290J, dated May 9, 2023, along with all supporting technical data, are adopted by reference and declared to be a part of this Ordinance.

- (2) The areas at or below the Regulatory Flood Protection Area or within 500 feet of Zone X (shaded) on the community Flood Insurance Rate Map (FIRM).

(C) *Requirement for Development Permit.* A development permit shall be required in conformity with this Ordinance prior to the commencement of any development activities.

(D) *Compliance.* No land, structure or use shall hereafter be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations.

(E) *Abrogation and Greater Restrictions.* This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(F) *Interpretation.* In the interpretation and application of this Ordinance, all provisions shall be:

- (1) considered as minimum requirements;
- (2) liberally construed in favor of the governing body and;
- (3) deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(G) *Warning and Disclaimer of Liability.* The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made change or natural causes. This Ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Murfreesboro, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.

(H) *Penalties for Violation.* Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors under the Murfreesboro City Charter, Murfreesboro City Code, and as otherwise provided by applicable law. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon adjudication thereof, be fined as prescribed by the Murfreesboro City Code or Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Murfreesboro, Tennessee from taking such other lawful actions to prevent or remedy any violation.

Article IV. Administration

(A) *Designation of Ordinance Administrator.* The City Manager or designee is hereby appointed as the Administrator to implement the provisions of this Ordinance.

(B) *Permit Procedures.* Application for a development permit shall be made to the Administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to, the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the each applicant or permit holder, as is applicable, shall provide the information set forth in subsections (B)(1) through (B)(3) below.

- (1) *Application stage*

- (a) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
 - (b) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where Base Flood Elevations are available, or to certain height above the highest adjacent grade when applicable under this Ordinance.
 - (c) A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in Article V, Sections A and B.
 - (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 - (e) In order to determine if improvements or damage meet the Substantial Improvement or Substantial Damage criteria, the applicant shall provide to the Floodplain Administrator a detailed accounting or estimate of the cost to repair all damages and/or cost of improvements which includes the complete costs associated with all types of work necessary to completely repair or improve a building. These include the costs of all materials, labor, and other items necessary to perform the proposed work. These must be in the form of:
 - An itemized cost of materials and labor, or estimates thereof, that are prepared by licensed contractors or professional construction cost estimators;
 - Building valuation tables published by building code organizations and cost-estimating manuals and tools available from professional building cost-estimating services;
 - A qualified estimate of costs that is prepared by the local official using professional judgement and knowledge of local and regional construction costs; or
 - A detailed cost estimate provided and prepared by the building owner. This must include as much supporting documentation as possible (such as pricing information from lumber companies, plumbing and electrical suppliers, etc.). In addition, the estimate must include the value of labor, including the value of the owner's labor.
- (2) *Construction Stage.* Within AE Zones, where Base Flood Elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where Base Flood Elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a non-residential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the Administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

- (3) *Finished Construction Stage.* A final Finished Construction Elevation Certificate is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built

construction of the elevation of the reference level and all attendant utilities. The Administrator will keep the certificate on file in perpetuity.

- (C) *Duties and Responsibilities of the Administrator.* The duties and responsibilities of the Administrator shall include, but not be limited to, the following:
- (1) Review all development permits to assure that the permit requirements of this Ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.
 - (2) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
 - (3) Notify adjacent communities and the Tennessee Emergency Management Agency, State NFIP Office, prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
 - (4) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRM's through the Letter of Map Revision process.
 - (5) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.
 - (6) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with Article IV, Section B.
 - (7) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with Article IV, Section B.
 - (8) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with Article IV, Section B.
 - (9) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
 - (10) When Base Flood Elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from a Federal, State, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the City of Murfreesboro, Tennessee FIRM meet the requirements of this Ordinance.
 - (11) Maintain all records pertaining to the provisions of this Ordinance in the office of the Administrator and shall be open for public inspection. Permits issued under the provisions of this Ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files.
 - (12) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least two (2) photographs showing the front and rear of the building taken within ninety (90) days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least two (2) additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

Article V. Provisions for Flood Hazard Reduction

(A) *General Standards.* The following requirements apply in all flood-prone areas within the City:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse and lateral movement of the structure;
- (2) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction, or improvements to a building that is in compliance with the provisions of this Ordinance, shall meet the requirements of "new construction" as contained in this Ordinance;
- (10) Any alteration, repair, reconstruction, or improvements to a building that is not in compliance with the provision of this Ordinance, shall be undertaken only if said non-conformity is not further extended or replaced;
- (11) All new construction and substantial improvement proposals shall provide copies of all necessary Federal and State permits, including Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334;
- (12) All subdivision proposals and other proposed new development proposals shall meet the standards of Article V, Section B;
- (13) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction;
- (14) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple Base Flood Elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest Base Flood Elevation.

(B) *Specific Standards.* In all Areas of Special Flood Hazard, the following provisions, in addition to those set forth in Article V, Section A, are required:

- (1) *Residential Structures.* In AE Zones where Base Flood Elevation data is available, new construction and substantial improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the Base Flood Elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures".

Within approximate A Zones where Base Flood Elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

- (2) *Non-Residential Structures.* In AE Zones, where Base Flood Elevation data is available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one (1) foot above the level of the Base Flood Elevation. Should solid foundation perimeter walls be

used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”

In approximate A Zones, where Base Flood Elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three (3) feet above the highest adjacent grade (as defined in Article II). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: “Enclosures”

Non-Residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Administrator as set forth in Article IV, Section B.

- (3) *Enclosures.* All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.
 - (a) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.
 - [1] Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - [2] The bottom of all openings shall be no higher than one (1) foot above the finished grade;
 - [3] Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - (b) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
 - (c) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of Article V, Section B.
- (4) *Standards for Manufactured Homes and Recreational Vehicles*
 - (a) All manufactured homes placed, or substantially improved, on: (1) individual lots or parcels, (2) in expansions to existing manufactured home parks or subdivisions, or (3) in new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
 - (b) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - [1] In AE Zones, with Base Flood Elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one (1) foot above the level of the Base Flood Elevation or
 - [2] In approximate A Zones, without Base Flood Elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three (3) feet in height above the highest adjacent grade (as defined in Article II).
 - (c) Any manufactured home, which has incurred “substantial damage” as the result of a flood, must meet the standards of Article V, Sections A and B.
 - (d) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (e) All recreational vehicles placed in an identified Special Flood Hazard Area must either:
 - [1] Be on the site for fewer than 180 consecutive days;
 - [2] Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system,

attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;
 [3] The recreational vehicle must meet all the requirements for new construction.

- (5) *Standards for Subdivisions and Other Proposed New Development Proposals.* Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.
 - (a) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.
 - (b) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
 - (c) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (d) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data (See Article V, Section E).
- (C) *Standards for Special Flood Hazard Areas with Established Base Flood Elevations and With Floodways Designated.* Located within the Special Flood Hazard Areas established in Article III, Section B, are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area 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 shall apply:
 - (1) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
 - (2) If the analyses demonstrate that the proposed activities will result in an increase in the *base flood elevation, floodway width or base flood discharge*, prior to start of construction, the applicant shall apply for and receive a Conditional Letter of Map Revision (CLOMR). Upon completion of the project, the applicant shall apply for a Letter of Map Revision (LOMR) from FEMA. Submittal requirements and fees shall be the responsibility of the applicant as established under the provisions of § 65.12.
 - (3) ONLY if Article V, Section C, provisions (1) through (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article V, Sections A and B.
- (D) *Standards for Areas of Special Flood Hazard Zones AE with Established Base Flood Elevations but Without Floodways Designated.* Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:
 - (1) Require until a regulatory floodway is designated, that no new construction, substantial, or other development, including fill shall be permitted within Zone AE on the community's FIRM, unless it is demonstrated through hydrologic and hydraulic analyses performed that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
 - (2) A community may permit encroachments within Zones AE on the community's FIRM, that would result in an increase in the water surface elevation of the base flood, provided that prior to start of construction, the applicant shall apply for and receive a Conditional Letter of Map Revision (CLOMR). Upon completion of the project, the applicant shall apply for a Letter of Map Revision (LOMR) from FEMA. Submittal requirements and fees shall be the responsibility of the applicant as established under the provisions of § 65.12.
 - (3) ONLY if Article V, Section D, provisions (1) through (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article V, Sections A and B.

- (E) *Standards for Streams without Established Base Flood Elevations and Floodways (A Zones)*. Located within the Special Flood Hazard Areas established in Article III, Section B, where streams exist, but no base flood data has been provided and where a Floodway has not been delineated, the following provisions shall apply:
- (1) The Administrator shall obtain, review, and reasonably utilize any Base Flood Elevation and floodway data available from any Federal, State, or other sources, including data developed as a result of these regulations (see 2 below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of Article V, Sections A and B.
 - (2) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals Base Flood Elevation data.
 - (3) Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three (3) feet above the highest adjacent grade (as defined in Article II). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in Article IV, Section B. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of Article V, Section B.
 - (4) Within approximate A Zones, where Base Flood Elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the City of Murfreesboro, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
 - (5) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of Article V, Sections A and B. Within approximate A Zones, require that those subsections of Article V Section B dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.
- (F) *Standards For Areas of Shallow Flooding (Zone AO)*. Located within the Special Flood Hazard Areas established in Article III, Section B, there are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article V, Sections A and B, all new construction and substantial improvements shall meet the following requirements:
- (1) The lowest floor (including basement) shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one (1) foot above the highest adjacent grade; or at least three (3) feet above the highest adjacent grade, if no depth number is specified.
 - (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article V, Section F(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B(1) (c) and Article V, Section B(2).
 - (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- (G) *Standards For Areas of Shallow Flooding (Zone AH)*. Located within the Special Flood Hazard Areas established in Article III, Section B, there are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived

from detailed hydraulic analyses are shown in this zone. In addition to meeting the requirements of Article V, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- (H) *Standards For Areas Protected by Flood Protection System (A-99 Zones)*. Located within the Areas of Special Flood Hazard established in Article III, Section B, there are areas of the 100-year floodplain protected by a flood protection system but where Base Flood Elevations have not been determined. Within these areas (A-99 Zones), all provisions of Article IV and Article V shall apply.
- (I) *Standards for Unmapped Streams*. Located within the City of Murfreesboro, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:
- (1) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the Murfreesboro.
 - (2) When a new flood hazard risk zone, and Base Flood Elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with Articles IV and V.
 - (3) ONLY if Article V, Section I, provisions (1) and (2) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article V, Sections A and B.
- (J) *Standards for X Zones (Shaded)*. Within the City, there exist areas that are located outside the delineated special flood hazard area but are still considered to be low- to moderate-risk flood zones. The following areas shall constitute a flood-prone area:
- (1) Areas outside the 1% annual chance (100-year) floodplain, but within the 0.2% annual chance (500-year) floodplain;
 - (2) Areas within 500 feet of Shaded Zone X; and
 - (3) Areas that are under the influence of the 1% annual chance (100-year) floodplain that are outside the special flood hazard area but (i) the elevations on the property are at or lower than the Regulatory Flood Protection Area or (ii) proposed structures or improvements have the potential to be built out of compliance with Article IV and V.
- If such areas are determined to be flood-prone, then Articles IV and V of this section shall apply.
- (K) *Standards for Critical Facilities*. Construction of new or substantially improved critical facilities shall be, to the maximum extent possible, located outside the limits of the special flood hazard area (SFHA). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated two feet above the base flood elevation or 500-year flood elevation whichever is higher. The minimum elevation of utilities and equipment shall be two feet above the base flood elevation of 500-year flood elevation, whichever is higher. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the maximum extent possible.

Article VI. Variance Procedures

- (A) *Board of Zoning Appeals*
- (1) *Authority*. The City of Murfreesboro, Tennessee Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Ordinance.
 - (2) *Procedure*. Meetings of the Board of Zoning Appeals shall be held at such times, as the Board shall determine. All meetings of the Board of Zoning Appeals shall be open to the public. The Board of Zoning Appeals shall adopt rules of procedure and shall keep records of applications and actions thereof,

which shall be a public record. Compensation of the members of the Board of Zoning Appeals shall be set by the Councilmembers.

- (3) *Appeals: How Taken.* An appeal to the Board of Zoning Appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the Administrator based in whole or in part upon the provisions of this Ordinance. Such appeal shall be taken by filing with the Board of Zoning Appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee in an amount adopted and as amended by the City Council shall be paid by the appellant. The Administrator shall transmit to the Board of Zoning Appeals all papers constituting the record upon which the appeal action was taken. The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest, and decide the same within a reasonable time which shall not be more than thirty-five days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.
- (4) *Powers.* The Board of Zoning Appeals shall have the following powers:
- (a) *Administrative Review.* To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or denial issued by the Administrator or other administrative official in carrying out or enforcing any provisions of this Ordinance.
 - (b) *Variance Procedures.* In the case of a request for a variance the following procedures shall apply:
 - [1] The City of Murfreesboro, Tennessee Board of Zoning Appeals shall hear and decide requests for variances from the requirements of this Ordinance.
 - (2) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this Ordinance to preserve the historic character and design of the structure.
 - [3] In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
 - [a] The danger that materials may be swept onto other property to the injury of others;
 - [b] The danger to life and property due to flooding or erosion;
 - [c] The susceptibility of the proposed facility and its contents to flood damage;
 - [d] The importance of the services provided by the proposed facility to the community;
 - [e] The necessity of the facility to a waterfront location, in the case of a functionally dependent use;
 - [f] The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - [g] The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - [h] The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - [i] The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - [j] The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.
 - [4] Upon consideration of the factors listed above, and the purposes of this Ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this Ordinance.
 - [5] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(B) *Conditions for Variances*

- (1) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in Article VI, Section A.

- (2) (2) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.(3)Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance coverage (as high as \$25 for each \$100 of coverage), and that construction below the Base Flood Elevation increases risks to life and property.
- (3) (4)The Administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request.

Article VII. Legal Status Provisions

- (A) *Conflict with Other Ordinances.* In case of conflict between this Ordinance or any part thereof, and the whole or part of any existing or future Ordinance of the City, the most restrictive shall in all cases apply.
- (B) *Severability.* If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Ordinance which is not of itself invalid or unconstitutional.
- (C) *Effective Date.* This Ordinance shall become effective on May 9, 2023, in accordance with the Charter of the City of Murfreesboro, Tennessee, and the public welfare demanding it.”

Approved and adopted by the City of Murfreesboro, Tennessee, Mayor and the Murfreesboro Councilmembers on second and final reading on April 12, 2023.

SECTION 2. That this Ordinance shall take effect on May 9, 2023, 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

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Plan of Services and Annexation for Highway 99 Right-of-Way
[Public Hearing Required]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Annexation of approximately 3,600 linear feet of Highway 99 right-of-way (ROW) south of Clearidge Drive.

Staff Recommendation

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

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

Background Information

The City initiated a petition of annexation [2023-501] for approximately 3,600 linear feet (approx. 12 acres) of Highway 99 ROW. The City developed its plan of services for this area. During its regular meeting on February 1, 2023, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval. At the time it was considered by the Planning Commission, the annexation study also included the Rockvale Schools parcels on both sides of the highway. However, after learning that Rutherford County would not be submitting a written petition for the annexation of its properties, the annexation was scaled back to remove those parcels and to only include the Highway ROW.

Council Priorities Served

Expand Infrastructure

With this ROW in the City's jurisdiction, the City can become a more active participant in working with the State on future improvements to this segment of Highway 99.

Maintain Public Safety

If this ROW is annexed, the City Police and Fire Departments will provide emergency services in the ROW, including traffic enforcement and responses to accidents and/or other incidents.

Attachments:

1. Resolution 23-R-PS-09
2. Resolution 23-R-A-09
3. Maps of the area
4. Planning Commission staff comments from the 02/01/2023 meeting
5. Planning Commission minutes from 02/01/2023 meeting
6. Plan of services

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
FEBRUARY 1, 2023**

PROJECT PLANNER, MARINA RUSH

4.c. Annexation petition and plan of services [2023-501] for approximately 146 acres located along Highway 99 south of Clearidge Drive, City of Murfreesboro applicant.

The proposed annexation and study area is a total of 146 acres and includes a 3,600 linear feet segment of Highway 99 right-of-way (ROW) and the properties developed with the Rockvale Elementary School and the Rockvale Middle and High Schools, as described below and depicted on the attached maps.

1. Highway 99 ROW (0.68 mile): approximately 3,600 linear feet extending from the City limit at Highway 99, located south of Gladstone Lane, extending to the southwest. The City contacted the Tennessee Department of Transportation regarding this annexation of TDOT-owned ROW and they have responded with “no objection” to the proposal.
2. Tax Map 123, Parcel 01600 (45 acres): currently developed with Rockvale Elementary School. Also, the Rutherford County public safety building is under development on this property.
3. Tax Map 123, part of Parcel 01800 (approximately 89 acres): portion of the property currently developed with Rockvale Middle and Rockvale High Schools.

The annexation study area is contiguous to the City limit at Highway 99 ROW at the north end of the study area. The annexation study area that is located within the City’s Urban Growth Boundary (UGB) includes the Highway 99 ROW segment and the property with the Rockvale Middle and High Schools (part of Parcel 01800 of Tax Map 123). The property developed with the Rockvale Elementary School is located outside the City’s UGB, but it can be annexed when the property ownership is the same as the one within the UGB.

In addition, the City is proposing an update to the Murfreesboro 2035 Comprehensive Plan Chapter 4 - Future Land Use Map and text, and this update proposes a “Service Infill Line” to help facilitate growth and development in the City in an orderly, planned, and sustainable manner and to help plan for future City services. The Highway 99 ROW is within the proposed Service Infill area and the two properties developed with the schools are not

within this Service Infill area. If this annexation is approved, the proposed FLUM will be adjusted to incorporate the study areas.

Plan of Services

Staff has prepared an annexation study and plan of services (POS) for the proposed study area, as described above. The POS provides detailed information regarding each of the City services and is attached to this staff report for reference. The POS demonstrates that City services can be provided to the subject property, although it would impact the City for some services, including those pertaining to Highway 99. Maintenance of the Highway 99 ROW will become the responsibility of the City, per contract with TDoT. In addition, operational improvements of the Highway 99 ROW segment to improve the traffic congestion will become the responsibility of the City of Murfreesboro.

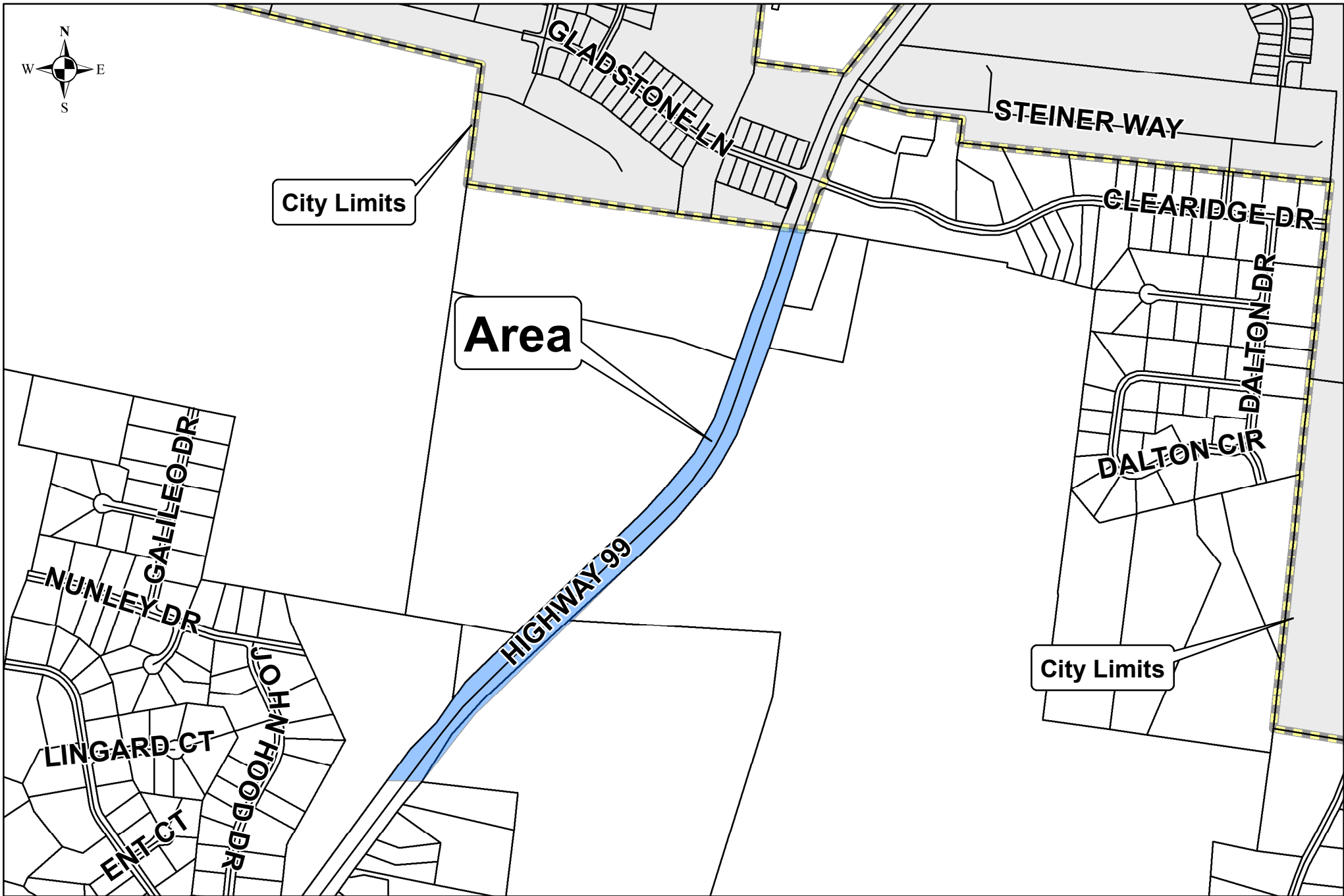
Staff Recommendations:

Staff recommends approval of the annexation based on the following reasons:

- a. Study area is contiguous with the existing City limits.
- b. City services can be provided to the subject property upon annexation:
- c. Rockvale Elementary, Middle and High School properties are already served by City sewer as outside the City sewer customers.
- d. This annexation would make the Ferrari property annexation contiguous with the City limits, eliminating the need for a non-contiguous annexation Inter Agency Agreement.

Action Needed:

The Planning Commission will need to conduct a public hearing and then discuss the matter, after which it will need to formulate a recommendation for the City Council.



Annexation Request for Highway 99 Right-of-Way



1,100 550 0 1,100 Feet

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



Annexation Request for Highway 99 Right-of-Way



1,100 550 0 1,100 Feet

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MINUTES OF THE MURFREESBORO PLANNING COMMISSION FEBRUARY 1, 2023

6:00 P.M.

CITY HALL

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jami Averwater
Bryan Prince
Warren Russell
Chase Salas
Shawn Wright

STAFF PRESENT

Sam Huddleston, Assistant City Manager
Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Brad Barbee, Planner
Jennifer Knauf, Project Engineer
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney
Roman Hankins, Assistant City Attorney

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 January 11, 2023 and January 18, 2023 Planning Commission meetings.

Ms. Jami Averwater moved to approve the minutes of the January 11, 2023 and January 18, 2023 Planning Commission meetings; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Jami Averwater
Bryan Prince
Warren Russell

MINUTES OF THE MURFREESBORO PLANNING COMMISSION FEBRUARY 1, 2023

Annexation petition and plan of services [2023-501] for approximately 146 acres located along Highway 99 south of Clearidge Drive, City of Murfreesboro 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.

Chair Kathy Jones opened the public hearing.

1. **David Ragsdale, 6971 Highway 99 West** – wanted to know why the City changed its position on annexing the Highway 99 right-of-way.
2. **Mr. Timothy Hinote, 2100 Nunley Drive** – wanted to know more about how this annexation would affect the schools located in the study area.
3. **Mr. Michael Bryan, 5809 East Overall Creek Road** – wanted to know, if Rutherford County has not requested annexation, how can the City annex the schools?
4. **Mr. Jon Fuller, 412 Dalton Drive** – wanted to know more about how this annexation would affect the schools located in the study area. He also wanted to know if the balance of the County Schools property along Thompson Road would be annexed.
5. **Mr. Brett Neal, 408 Dalton Drive** – had questions regarding traffic and sanitary sewer.
6. **Mr. Brady Allred, 5871 East Overall Creek Road** – wanted to know more about how this annexation would affect the schools located in the study area.

Chair Kathy Jones closed the public hearing.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION FEBRUARY 1, 2023

Mr. Sam Huddleston came forward to explain in 2006, a sanitary sewer agreement had been signed between the City of Murfreesboro, Rutherford County Government, and Rutherford County Schools. The City is studying this area for annexation and Rutherford County is aware of this study. The new Rutherford County fire station would remain in the county district. However, if there is ever any incident impacting the County schools, City emergency services would respond.

The Planning Commissioners began discussing how there were several Rutherford County schools already within the City limits of Murfreesboro. Annexing County schools into the City doesn't affect which school system they belong to.

There being no further discussion, Mr. Shawn Wright moved to approve the annexation petition and plan of services 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

Bryan Prince

Warren Russell

Chase Salas

Shawn Wright

Nay: None

5. Staff Reports and Other Business:

Mandatory Referral [2023-701] to consider the abandonment of a sanitary sewer easement located along Stonecenter Lane in the Stonebridge at Three Rivers development, John Miner of SEC, Inc. applicant. Mr. Matthew Blomeley presented the

RESOLUTION 23-R-PS-09 to adopt a Plan of Services for approximately 3,600 linear feet (approximately 12 acres) of Highway 99 south of Clearidge Drive, City of Murfreesboro, applicant [2023-501].

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 February 1, 2023 for its consideration and a written report, at which time the Planning Commission held a public hearing and thereafter recommended approval of the Plan of Services 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 April 6, 2023, pursuant to a Resolution passed and adopted by the City Council on February 16, 2023, and notice thereof published in The Murfreesboro Post, a newspaper of general circulation in said City, on March 21, 2023; 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 23-R-A-09**, the public welfare and the welfare of the City requiring it.

Passed: _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

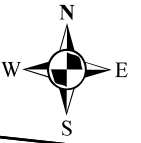
Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

SEAL

Resolution 23-R-PS-09



GLADSTONE LN

JESSUP LN

STEINER WAY

GLEARIDGE DR

City Limits

City Limits

Area
to be
Annexed

Area
to be
Annexed

HIGHWAY 99



Resolution 23-R-PS-09

**ANNEXATION REPORT FOR HIGHWAY 99 RIGHT-OF-WAY
INCLUDING PLAN OF SERVICES
(FILE 2023-501)**



**PREPARED FOR THE
MURFREESBORO PLANNING COMMISSION
FEBRUARY 1, 2023**

REVISED MARCH 2, 2023 FOR THE APRIL 6, 2023 CITY COUNCIL MEETING



Annexation Request for Highway 99 Right-of-Way

1,100 550 0 1,100 Feet

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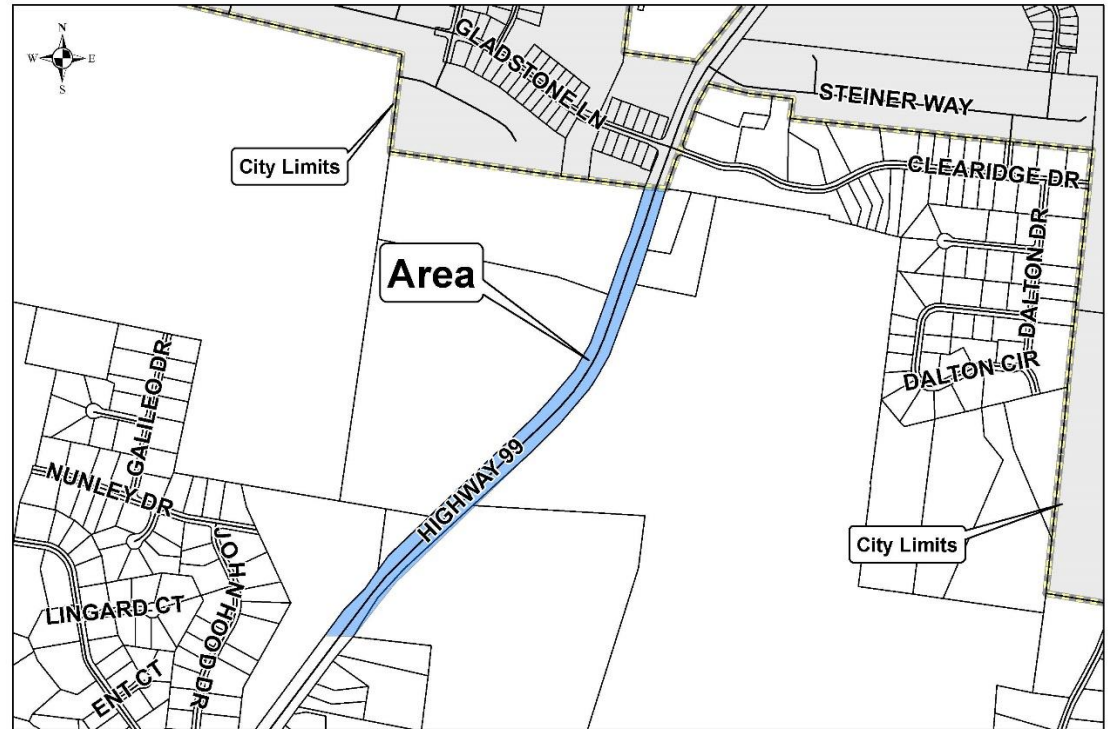
INTRODUCTION

OVERVIEW

The City of Murfreesboro is proposing to annex a segment of Highway 99 right-of-way (ROW), approximately 3,600 linear feet (12.0 acres). This segment of Highway 99 ROW extends from the current city limit line approximately 0.68 of a mile to the southwest.

The annexation study area is contiguous to the existing city limit at its northern end, as depicted on the adjacent map. It is located within the City's Urban Growth Boundary.

The City contacted the Tennessee Department of Transportation regarding this annexation of TDOT-owned ROW and they have responded with "no objection" to the proposal.



Annexation Request for Highway 99 Right-of-Way

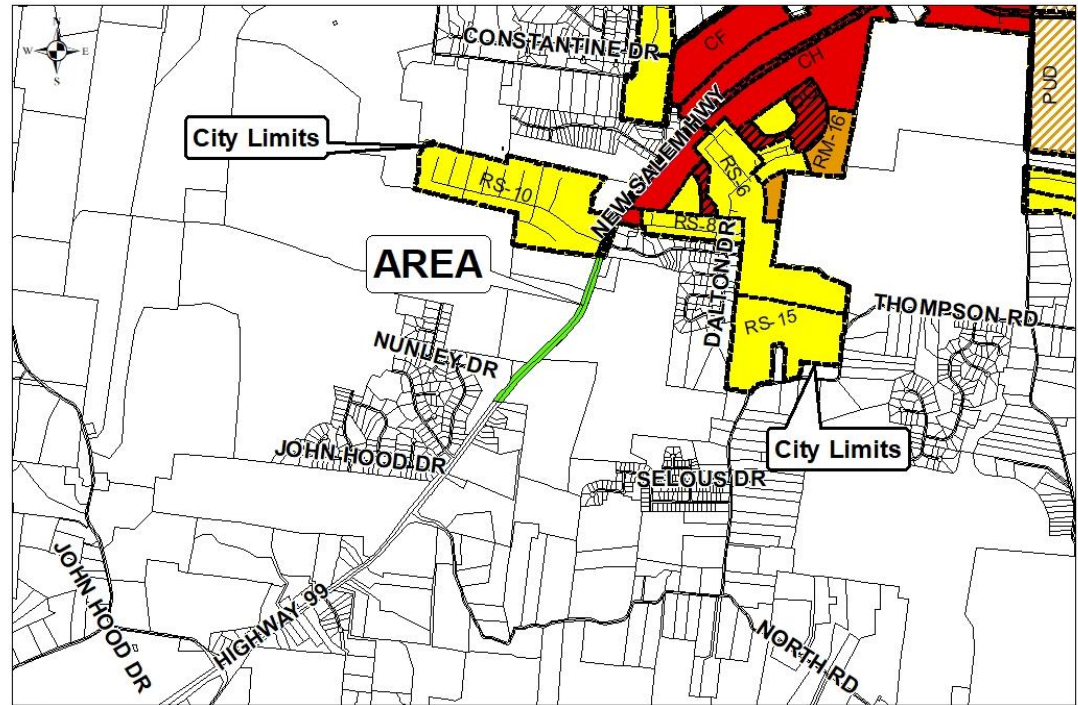
1,100 550 0 1,100 Feet

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CITY ZONING

The adjacent zoning on the properties to the south, west and east are Medium Density Residential (RM) in Rutherford County. The properties to the northwest are zoned Single Family Residential (RS-10) and to the northeast are zoned RS-6, RS-8, and RS-15. The Retreat at Pinnacle Hills to the east of the study area is zoned Planned Unit Development (PUD) in Rutherford County. The Carlton Landing subdivision, located northwest of the property, is in the City of Murfreesboro.

Because the study area is right-of-way only, it will receive no zoning classification upon annexation.



Annexation Request for Highway 99 Right-of-Way

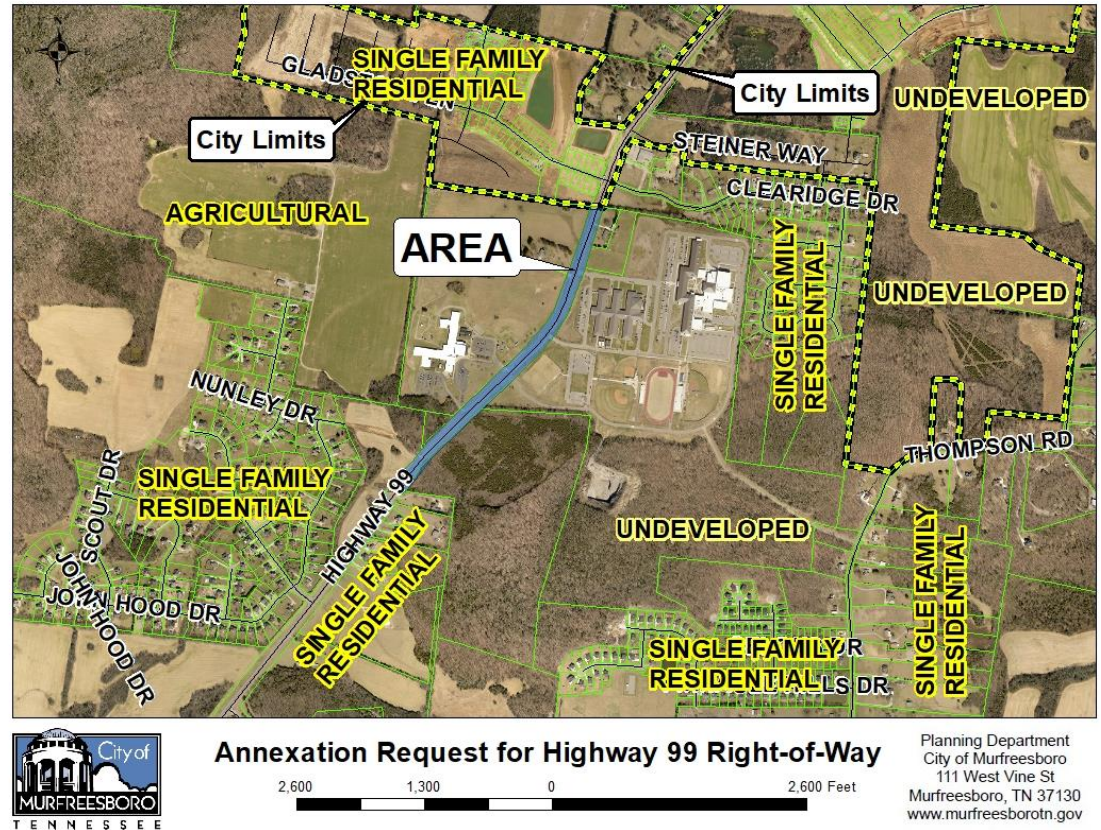
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PRESENT AND SURROUNDING LAND USE

The study area is comprised entirely of a segment of Highway 99 ROW. It is approximately 12 acres and 0.68 mile, or 3,600 linear feet. The study area is surrounded by a mixture of residential subdivisions located in Rutherford County unincorporated.

The Carlton Landing subdivision, located northwest of the ROW is in the City of Murfreesboro and is zoned RS-10. The properties directly to the east and west are developed with Rutherford County public schools (Rockvale Elementary, Rockvale Middle, and Rockvale High Schools) and further to the east and west are single family residential subdivisions within the unincorporated land of Rutherford County. The properties to the south are undeveloped large lots in Rutherford County unincorporated.



PLAN OF SERVICES

POLICE PROTECTION

The annexation is for Highway 99 ROW only. The Murfreesboro Police Department will be able to provide services to the subject ROW immediately upon the effective date of annexation.

ELECTRIC SERVICE

The study area is located inside the service boundary of Middle Tennessee Electric (MTE). MTE has existing electrical infrastructure within the ROW. No new electrical infrastructure is anticipated with this annexation..

STREET LIGHTING

There are no streetlights along the segment of Highway 99 within the study area. No new street lighting is anticipated with this annexation. However, if the City determines that streetlights are necessary along the subject ROW, MTE has the ability to install streetlights upon request by the City of Murfreesboro.

SOLID WASTE COLLECTION

The annexation is for Highway 99 ROW only and will not have an impact on the City Solid Waste Department.

RECREATION

The annexation is for Highway 99 ROW only and will not have an impact on the City Recreation Department.

CITY SCHOOLS

The annexation is for Highway 99 ROW only and will not have an impact on Murfreesboro City Schools.

BUILDING AND CODES

The annexation is for Highway 99 ROW only and will not have an impact on the City Building and Codes Department.

PLANNING, ENGINEERING, AND ZONING SERVICES

The annexation is for Highway 99 ROW only and will not have an impact on the City Planning Department. However, City Engineering Department will be responsible for reviewing new connections to the subject ROW.

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 includes approximately 3,600 linear feet of Highway 99 ROW. There are three County Schools adjacent to the study area that use Highway 99 as their primary access. 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. Based on the State Maintenance Contract, routine ROW mowing and litter clean up,

annualized roadway maintenance reimbursements from TDoT are estimated at \$1,600 for this roadway.

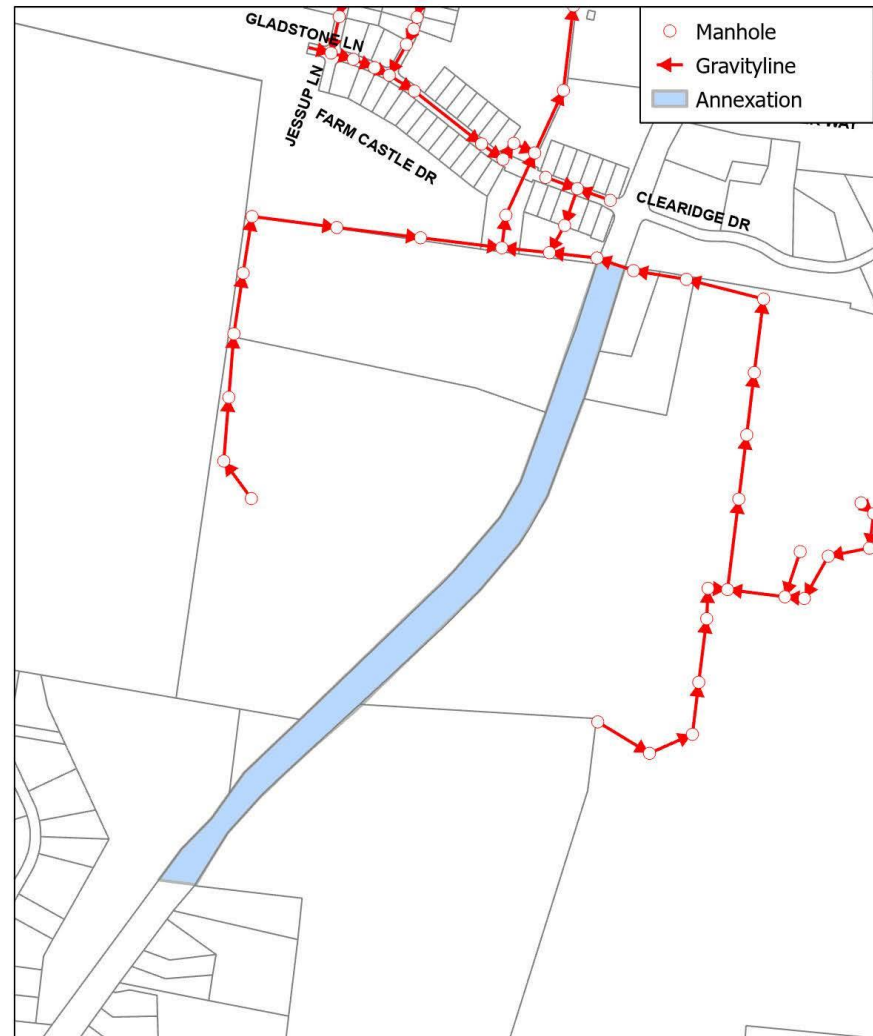
New connections to Highway 99 must be approved by TDoT and the City Engineer. Any development along Highway 99 should consider the Major Transportation Plan.

REGIONAL TRAFFIC & TRANSPORTION

The study area is Highway 99 ROW only. The 2014 Level of Service Model in the 2040 Major Transportation Plan (MTP) indicates that Highway 99 is 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 an undesirable level of service of D without the proposed improvements recommended in the 2040 MTP.

SANITARY SEWER SERVICE

The annexation is for Highway 99 ROW only in the unincorporated portion of Rutherford County and will not have an impact to the City of Murfreesboro Water Resources Department (MWRD).



MURFREESBORO WATER RESOURCES DEPARTMENT

Annexation Request Highway 99

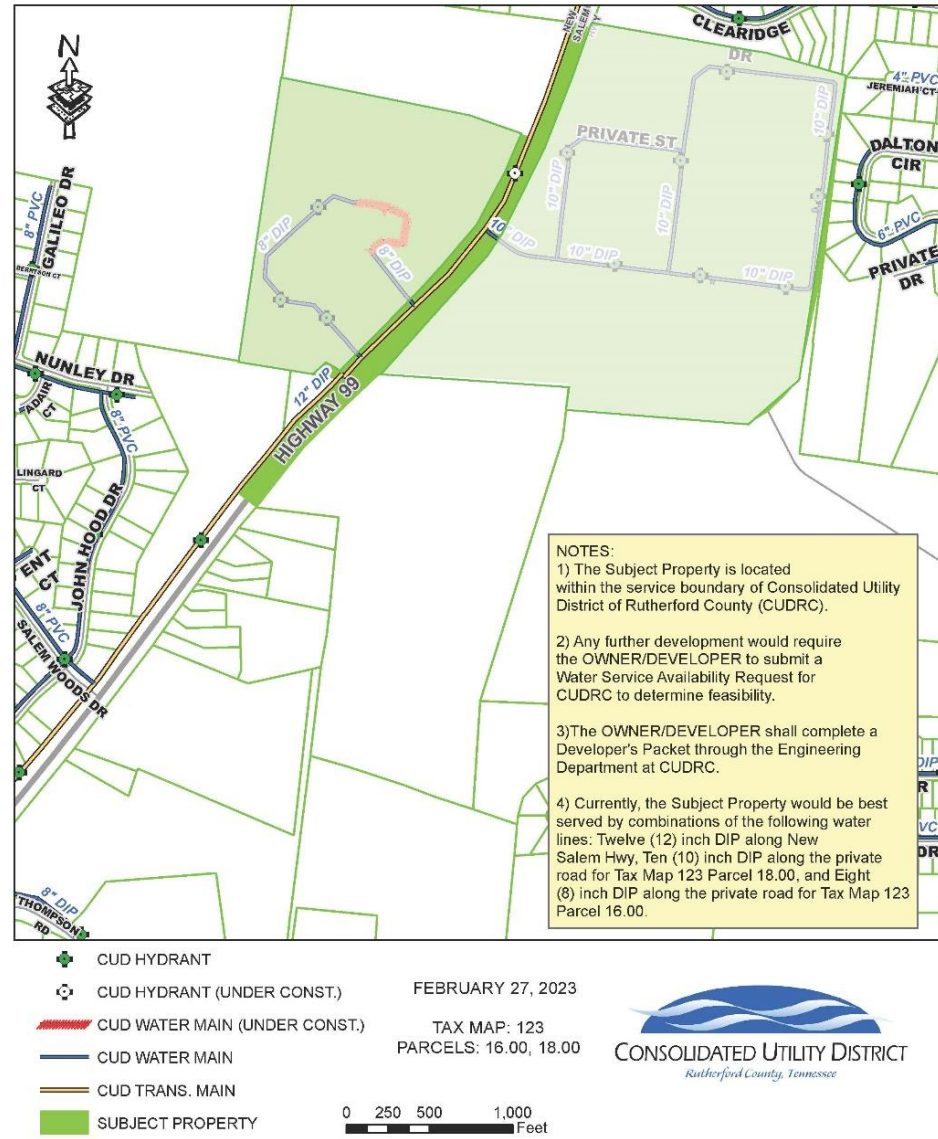


WATER SERVICE

The study area is located within the Consolidated Utility District of Rutherford County's (CUDRC) service area. The annexation is for Highway 99 ROW only and will not have an impact on CUDRC water service.

A 12-inch ductile iron water main (DIP) is located along Highway 99 along the frontage of the study area, as illustrated in this exhibit.

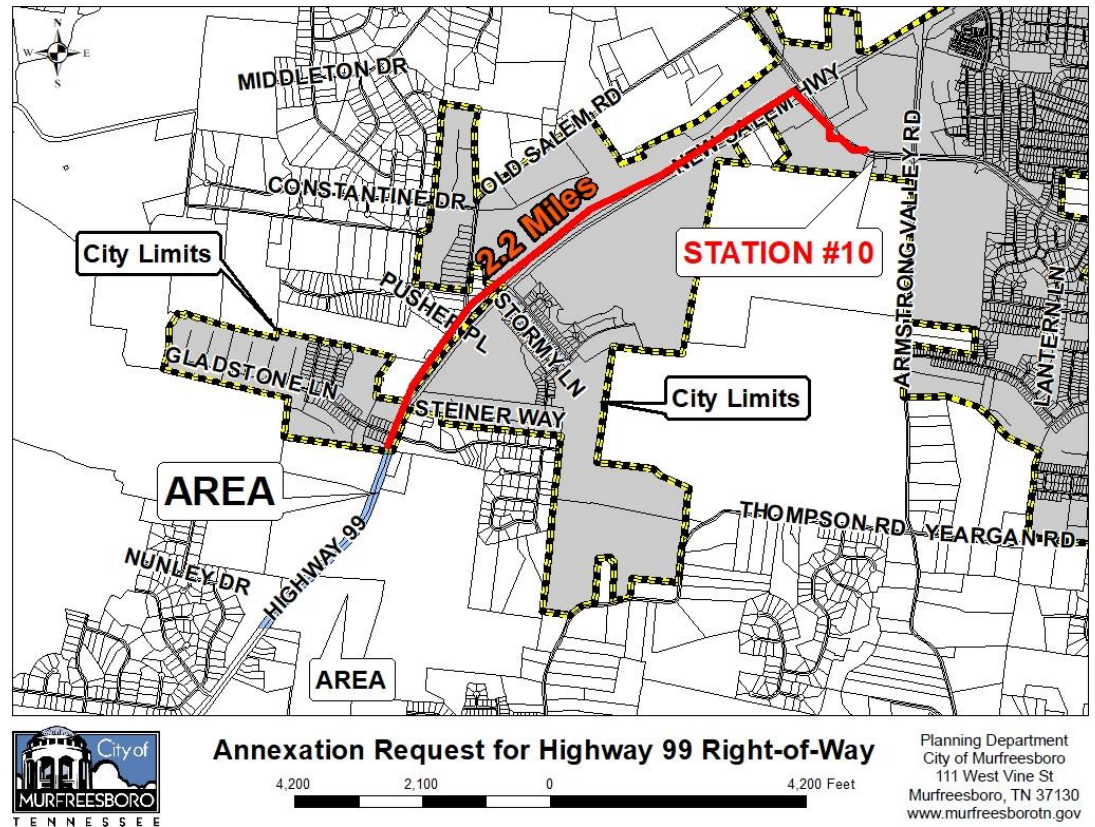
Hwy. 99 Annexation Request Map 123 Parcels 16.00, 18.00



FIRE AND EMERGENCY SERVICE

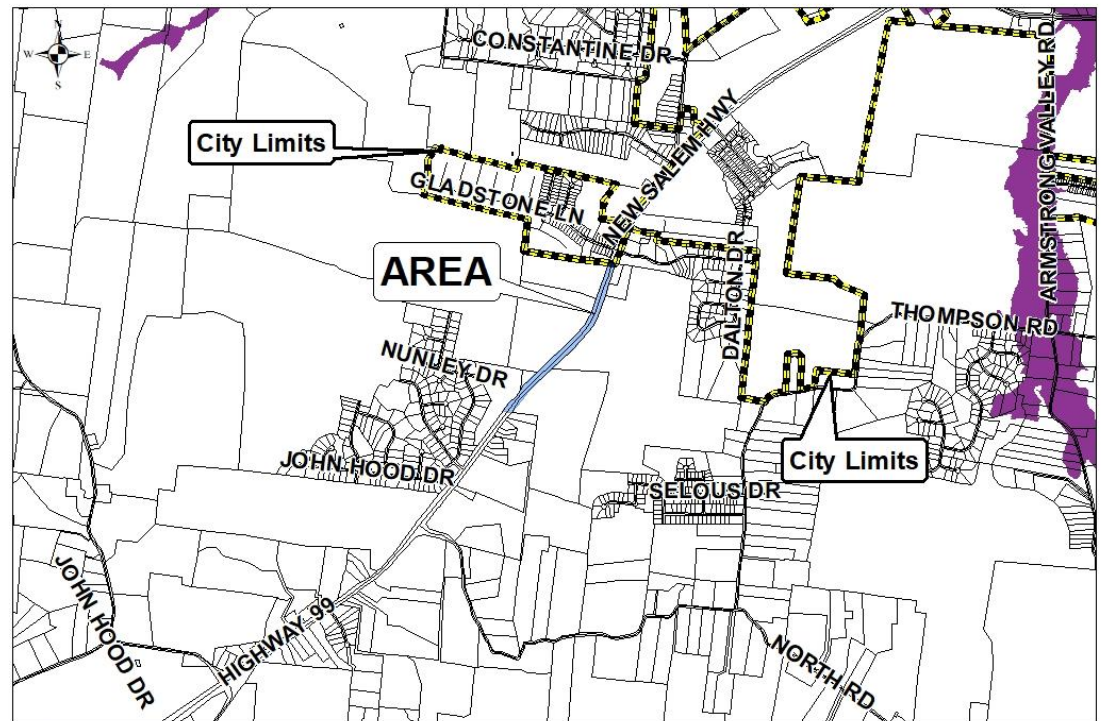
The annexation is for Highway 99 ROW only. The annexation will have minimal impact on the Murfreesboro Fire and Rescue Department (MFRD). MFRD will provide emergency first responder services and fire protection to the ROW immediately upon annexation.

Currently the study area is located 2.2 miles from Fire Station #10 (2563 Veterans Parkway) and 6.0 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.



FLOODWAY

The annexation is for Highway 99 ROW only. 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 are located along and within the Highway 99 ROW. 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.

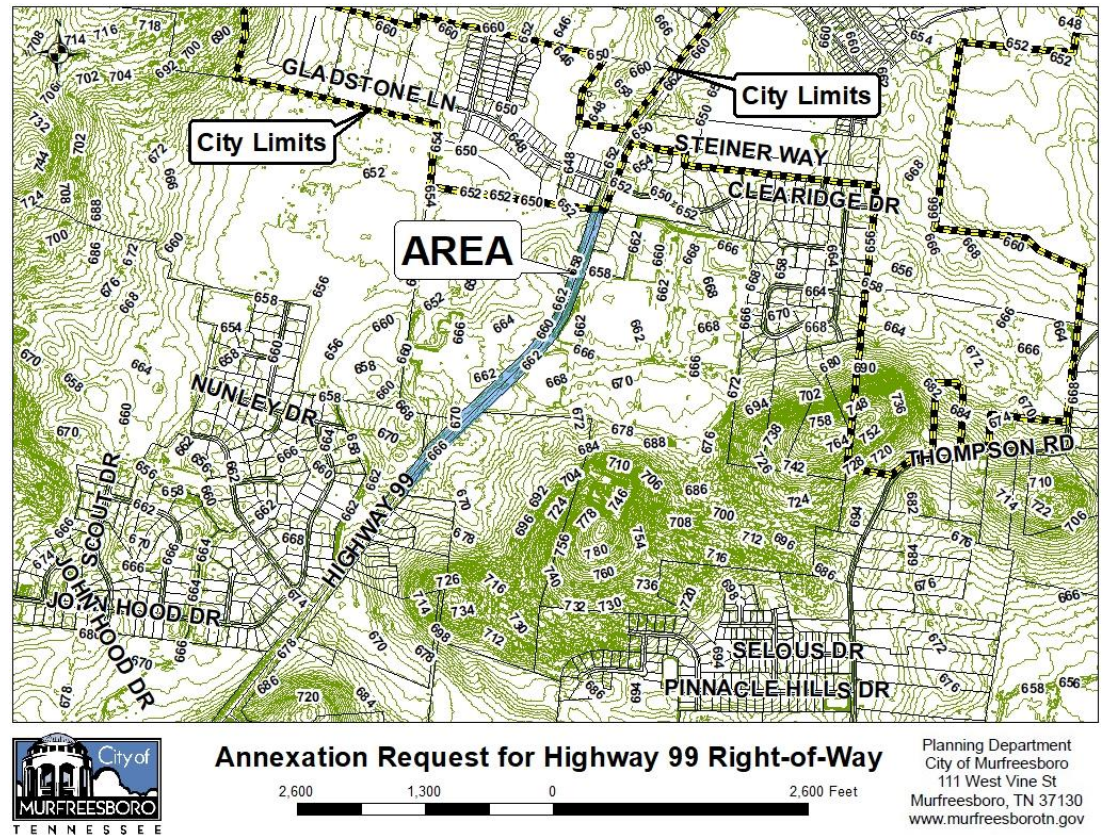
Regional Drainage Conditions

Regional drainage flows 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 annexation study area is limited to the public street ROW and will not generate new revenue for the Stormwater Utility Fee.

The green lines on the adjacent map represent ten-foot contours. The grey lines represent two-foot intervals.



PROPERTY AND DEVELOPMENT

The annexation is for Highway 99 ROW only. Any new connections to the roadway must be approved by the City Engineer. Additionally, development along this roadway will require participation in improvements to upgrade the roadway and ROW/easement dedication in accordance with the City's Substandard Street policy requirements.

Highway 99 is on the City's Major Transportation Plan and is planned to be widened by TDOT to a 5-lane roadway section.

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.

RESOLUTION 23-R-A-09 to annex approximately 3,600 linear feet (approximately 12 acres) of Highway 99 south of Clearidge Drive, and to incorporate the same within the corporate boundaries of the City of Murfreesboro, Tennessee, City of Murfreesboro, applicant [2023-501].

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 23-R-PS-09** on April 6, 2023; and

WHEREAS, the Planning Commission held a public hearing on the proposed annexation of such territory on February 1, 2023 and recommended approval of the annexation; 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 its passage, the public welfare and the welfare of the City requiring it.

Passed: _____

Shane McFarland, Mayor

ATTEST:

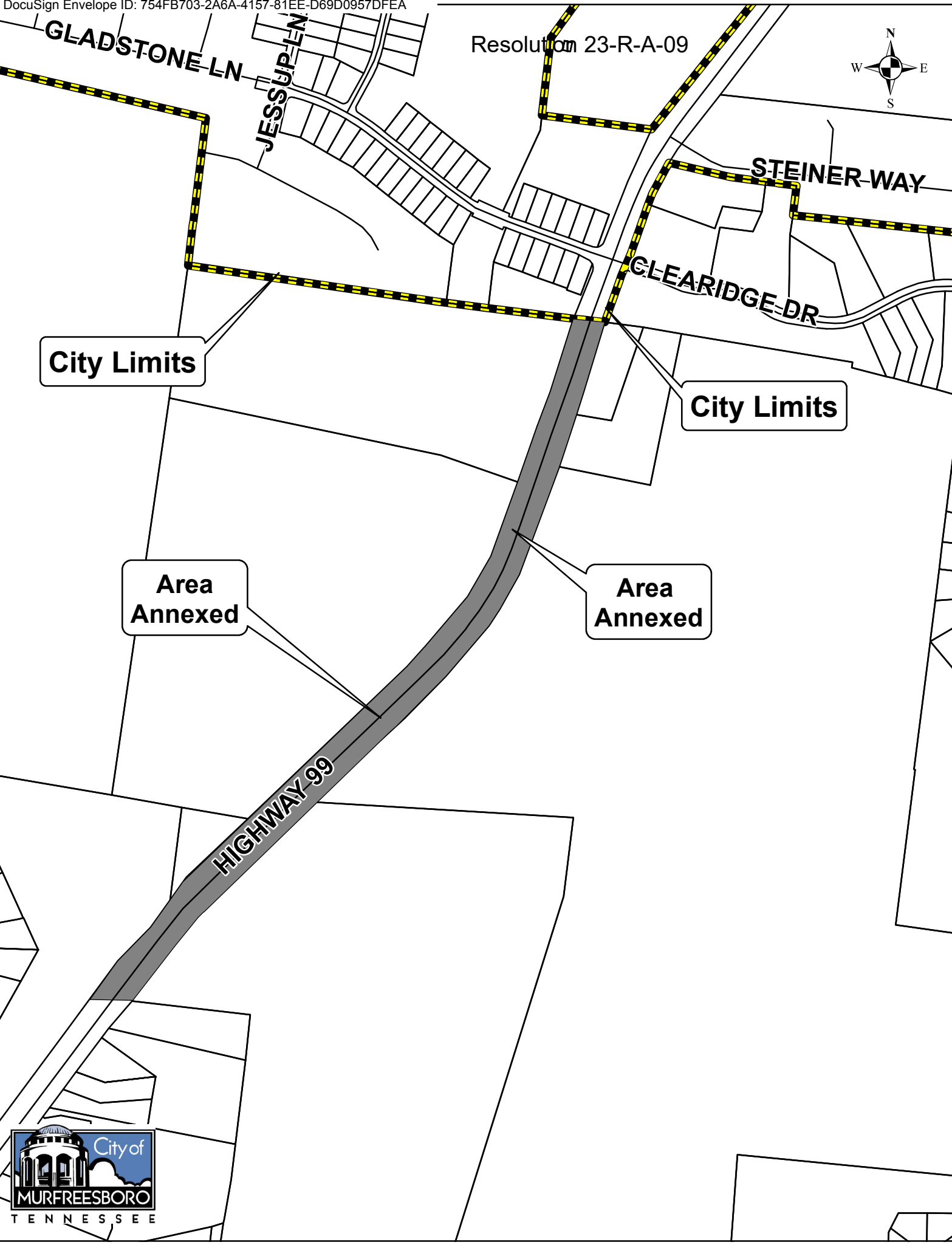
APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

SEAL



Resolution 23-R-A-09



GLADSTONE LN

JESSUP LN

STEINER WAY

CLEARIDGE DR

City Limits

City Limits

Area Annexed

Area Annexed

HIGHWAY 99



COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Purchase of Extrication Equipment

Department: Fire Rescue

Presented by: Chief Mark McCluskey

Requested Council Action:

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

Summary

Purchase of extrication equipment.

Staff Recommendation

Approve the purchase of extrication equipment for three rescue trucks.

Background Information

MFRD proposes to purchase Holmatro extrication equipment for Rescue 1 in the amount of \$51,304 from NAFECO through the Houston-Galveston Area Council Cooperative Purchasing Program. MFRD requests to purchase HURST extrication equipment for Rescues 4 and 11 in the amount of \$94,885 from Municipal Emergency Services (MES) through Sourcewell Cooperative Purchasing Program. Rescue 1's specialty is structural collapse and confined space rescues. Holmatro equipment is much more compact and better for use in tight spaces.

Council Priorities Served

Maintain public safety

Extrication tools are needed for various types of emergencies including vehicle wrecks, structural collapse, and confined space rescues.

Fiscal Impacts

The total equipment cost, \$146,189, is funded by the FY22 CIP Budget.

Attachments

1. NAFECO Contract
2. MES Contract

Agreement for Firefighter Rescue Equipment and Accessories

This Agreement is entered into and effective as of the ____ day of _____ 2023, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **North America Fire Equipment Company, Inc., (NAFECO)** a corporation of the State of Alabama ("Contractor").

This Agreement consists of the following documents:

- This document
- The Houston-Galveston Area Council Cooperative Agreement No. EE08-19, effective date August 1, 2019 through July 31, 2023 (hereinafter, "HGAC Agreement")
- Contractor's Quote 118842 dated 03/9/2023 ("Contractor's Quote") and HGAC Pricing Worksheet
- Any properly executed amendments to this Agreement

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

- First, any properly executed amendment or change order to this Agreement (most recent amendment or change order given first priority)
- Second, this Agreement
- Third, the (HGAC Agreement)
- Lastly, Contractor's Quote and HGAC Pricing Worksheet

1. Duties and Responsibilities of Contractor. Contractor agrees to provide, and City agrees to purchase the Holmatro Pentheon goods as per descriptions and quantities listed on Contractor's Quote and HGAC Pricing Worksheet.

2. Termination. 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 HGAC Agreement and the Contractor's Quote which reflects **Total Purchase Price of Fifty-One Thousand Three Hundred Four Dollars and No Cents (\$51,304.00)**.
- b. 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. Provided goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order, the City agrees to pay

Contractor at net 30 days after receiving an invoice. Invoices must bear the purchase order number.

- a. Deliveries of all items shall be made within 8-12 weeks of order to: Contact Person: Roger Toombs – Tel: 615-893-1422; email: rtoombs@murfreesborotn.gov. Delivery address: 1311 Jones Blvd., Murfreesboro, TN 37129. Contact Person 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.
 - b. Deliveries of all items shall be made as stated on 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 Agreement. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
 - c. 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 that fail to meet the specifications set forth in either Contractor's Proposal.
 - d. All deliveries made pursuant to the Agreement must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the purchase price.
- 4. Warranty.** Contractor agrees to the standard manufacturer's warranty. The warranty period begins on the date the equipment is delivered and accepted by City.
- 5. Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
- 6. Work Product.** Except as otherwise provided herein, all data, documents and materials produced and provided by Contractor under this Agreement are the property of the City, which retains the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Any of the City's property, including but not limited to books, records and equipment, that is in Contractor's possession must be maintained in good condition and repair and returned to the City by Contractor at the end of this Agreement.
- 7. Insurance.** Contractor shall maintain insurance coverage for work performed or services rendered under this Agreement. In addition, Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."
- 8. Indemnification.**
- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
 - b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure,

regardless of any language in any attachment or other document that Contractor may provide.

c. Copyright, Trademark, Service Mark, or Patent Infringement.

- i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (i) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (ii) no cost or expense whatsoever accrues to the City at any time; and (iii) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
- ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 - 1) Procure for the City the right to continue using the products or services.
 - 2) Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 - 3) Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
- iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

9. Notices. Notice of assignment of any rights to money due to Contractor under this Agreement must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:
 City Manager
 City of Murfreesboro
 111 West Vine Street
 Murfreesboro, TN 37130

If to the Contractor:
 North America Fire Equipment Co., Inc.
 (NAFECO)
 Attn: Ronald Woodall, Vice President
 1515 W. Moulton St.
 Decatur, AL 35601
 Ronald.Woodall@NAFECO.com

10. Compliance with Laws. Contractor agrees to comply with any applicable federal, state and local laws and regulations.

- 11. Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
- 12. Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.
- 13. Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
- 14. Waiver.** No waiver of any provision of this Agreement affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
- 15. Employment.** Contractor may not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying-off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
- 16. Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

Contractor further 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 specifically acknowledges and agrees as follows:

- a. The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and sub-contractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**

- b. **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractors and sub-contractors to employ and advance in employment qualified protected veterans.**
- c. **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and sub-contractors to employ and advance in employment qualified individuals with disabilities.**

17. Gratuities and Kickbacks. It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

18. Assignment. The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.

19. Integration. This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and governs the respective duties and obligations of the parties.

20. Force Majeure. No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, epidemic, pandemic, public health crisis, 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.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, 2023 (the “Effective Date”).

CITY OF MURFREESBORO, TENNESSEE

**NORTH AMERICA FIRE AND
EQUIPMENT COMPANY, INC.**

By: _____
Shane McFarland, Mayor

DocuSigned by:
By: Ronald Woodall
Ronald Woodall, Vice President

APPROVED AS TO FORM:

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



NAFECO
1515 West Moulton Street
Decatur, AL 35601
Phone: 800-628-6233

info@nafeco.com

QUOTE

Quote Number: 1188042

Date: 3/09/23

Quote Expiration: EXPIRES 30 DAYS

To: MUR025

MURFREESBORO FIRE DEPARTMENT
DAVID FROST 615-504-1679
220 NORTH WEST BROAD STREET
MURFREESBORO, TN 37130
United States of America

F.O.B. Point: DESTINATION

Salesperson: NAFECO-Fire Division

Quote Prepared By: Brittany Barber

Qty.	U/M	Item No.	Description	Each	Amount
1	EA	159.000.179-D	Holmatro Pentheon Cutter PCU60, D-Stock	11623.00	11,623.00
			LIST PRICE: \$15,111.00		
1	EA	159.000.182-D	Holmatro Pentheon Spreader PSP60, D-Stock	12996.00	12,996.00
			LIST PRICE: \$16,678.00		
1	EA	159.000.207-D	Holmatro Pentheon Telescopic Ram PTR50, D-Stock	8920.00	8,920.00
			LIST PRICE: \$11,597.00		
1	EA	159.000.185-D	Holmatro Pentheon Tele Ram PTR40, D-Stock	8825.00	8,825.00
			LIST PRICE: \$11,258.00		
4	EA	151.000.742-D	Holmatro Pentheon Charger Battery, AC, PBCH2, D-Stock	483.00	1,932.00
			LIST PRICE: \$682.00		
8	EA	151.000.583-D	Holmatro Pentheon Battery PBPA287, D-Stock	629.00	5,032.00
			LIST PRICE: \$948.00		
4	EA	151.000.499-D	Holmatro Pentheon On-Tool Charge Cord, POTC1, D-Stock	91.00	364.00
			LIST PRICE: \$112.00		
2	EA	151.000.503-D	Holmatro Pentheon Daisy Chain Power Cord, DCPC1, D-Stock	11.00	22.00
			LIST PRICE: \$14.00		
1	EA	151.001.902-D	Holmatro Pentheon Ram Ext Pipe, TRE05, D-Stock	825.00	825.00
			LIST PRICE: \$1,073.00		
1	EA	151.001.164-D	Holmatro Pentheon Cross Ram Support Set, XRS01, D-Stock	765.00	765.00
			LIST PRICE: \$970.00		
			PRICING INCLUDES SHIPPING		

Thank you for your business !

NOTE: All accounts are subject to sales tax charges unless a valid state tax exempt certificate is on file with NAFECO, or provided at the time of the order.

If you have any questions concerning this quote, please call our number listed above.

Visit Us On The Internet At: **www.nafeco.com**

Page: 1

info@nafeco.com

Quote Number: 1188042

Date: 3/09/23

Quote Expiration: EXPIRES 30 DAYS

To: MUR025

MURFREESBORO FIRE DEPARTMENT
DAVID FROST 615-504-1679
220 NORTH WEST BROAD STREET
MURFREESBORO, TN 37130
United States of America

F.O.B. Point: DESTINATION

Salesperson: NAFECO-Fire Division

Quote Prepared By: Brittany Barber

Thank you for your business !

If you have any questions concerning this quote, please call our number listed above.

Agreement for Firefighting Equipment and Rescue Tools with Related Supplies and Accessories

This Agreement is entered into and effective as of the ____ day of _____ 2023, by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **Municipal Emergency Services, Inc.**, a Corporation of the State of Nevada ("Contractor").

This Agreement consists of the following documents:

- This document
- Contractor's Price Proposals No. QT1676587 dated: 03/07/2023 (the "Contractor's Proposal")
- Sourcewell Contract #040220; 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 Sourcewell Contract #040220; and
- Lastly, Contractor's Proposal.

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide Firefighting Equipment and Rescue Tools with Related Supplies and Accessories as specified in Contractor's Proposal.
2. **Term.** Contractor's services may be terminated in whole or in part:
 - a. Upon 30-day prior notice, for the convenience of the City.
 - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
 - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
 - e. Should the appropriation for Contractor's work be withdrawn or modified, the City has the right to terminate the Agreement immediately upon written notice to Contractor.
3. **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 Ninety-Four Thousand Eight Hundred Eighty Dollars and Forty-Four Cents (\$94,880.44). The price breakdown is as follows:
 - \$728.23 **each** for Sixteen (16) EWXT 9Ah Battery; and
 - \$469.80 **each** for Eight (8) EWXT/ES Charger 110-240V; and
 - \$11,204.73 **each** for Two (2) S 799 E3Cutter – Tool Only; and
 - \$11,915.10 **each** for Two (2) SP 777 E3 Spreader – Tool Only; and
 - \$7,777.62 **each** for Two (2) R522 E3 Ram – Tool Only; and
 - \$967.95 **each** for Two (2) HURST Jaws of Life Ram Claw Set; and
 - \$690.93 **each** for Two (2) C-Frame Ram Suppt LK841509190; and
 - \$6,953.85 **each** for Two (2) R 320 E3 Ram – Tool Only with Extensions

Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City

agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.

- b. Deliveries of products shall be made within 8-12 weeks of issuance of Purchase Order. Contact Person: Roger Toombs – Tel: 615-893-1422; email: rtoombs@murfreesborotn.gov. Delivery address: 1311 Jones Blvd., Murfreesboro, TN 37129. Contact Person 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 on 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. 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 Invitation to Bid.
- 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. **Work Product.** Except as otherwise provided herein, all data, documents and materials produced by Contractor under this Agreement are the property of the City, which retains the exclusive right to publish, disclose, distribute and otherwise use, in whole or in part, any such data, documents or other materials. Any of the City's property, including but not limited to books, records and equipment, that is in Contractor's possession must be maintained in good condition and repair and returned to the City by Contractor at the end of this Agreement.

5. **Insurance.** During the term of this Agreement, Contractor must maintain comprehensive general liability insurance with limits of not less than \$1,000,000, as well as automotive and workers' compensation insurance policies. Contractor will provide to the City: (i) a standard certificate of insurance evidencing this coverage prior to commencement of work and upon renewal or expiration of the policies reflected thereupon, (ii) upon request, an endorsement naming the City as additional insured under the terms of the policy as follows: "The City of Murfreesboro, Tennessee, its officers, employees, contractors, consultants, and agents."

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 (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:
 - 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:

Municipal Emergency Services
Attn: Tom Bottoms
12 Turnberry Ln
Sandy Hook, CT 06482
tbottoms@mesfire.com

8. **Maintenance of Records.** Contractor must maintain documentation for all charges against the City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Agreement, must be maintained for a period of three full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by the City or its duly appointed representatives. Accounting records must be maintained in accordance with the Generally Accepted Accounting Principles.
9. **Modification.** This Agreement may be modified only by written amendment executed by all parties and their signatories hereto.

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11. **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.
12. **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.
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.
 - a. **The City and Proposer 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 Proposers and sub-Proposers to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**
 - b. **The City and Proposer 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 Proposers and sub-Proposers to employ and advance in employment qualified protected veterans.**
 - c. **The City and Proposer 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 Proposers and sub-Proposers to employ and advance in employment qualified individuals with disabilities.**
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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, pandemic, epidemic, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
18. **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.
19. **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.
20. **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.
21. **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 _____, 2023 (the "Effective Date").

**CITY OF MURFREESBORO,
TENNESSEE**

By: _____
Shane McFarland, Mayor

MUNICIPAL EMERGENCY SERVICES

DocuSigned by:

By: Tom Bottoms
4861691336010 Tom Bottoms, Regional Vice President

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker

Adam F. Tucker, City Attorney



6701-C Northpark Blvd
Charlotte, NC 28216

Quote

Quote # QT1676587
Date 03/07/2023
Expires 03/22/2023
Sales Rep Moore, Jeffrey S
Shipping Method FedEx Ground
Customer MURFREESBORO FIRE DEPT (TN)
Customer # C38006

Bill To

CITY OF MURFREESBORO
PO Box1139
Murfreesboro TN 37133
United States

Ship To

Teri Herron
MURFREESBORO FIRE DEPT (TN)
1311 Jones Blvd
Murfreesboro TN 37129
United States

Item	Alt. Item #	Units	Description	QTY	Unit Price	Amount
90-53-15			EWXT 9 Ah battery List 899.00	16	\$728.23	\$11,651.68
90-53-37			EWXT/E3 Charger 110-240V List 580.00	8	\$469.80	\$3,758.40
272899000-1			S 799 E3 Cutter - TOOL ONLY List 13,833.00	2	\$11,204.73	\$22,409.46
271877000-1			SP 777 E3 Spreader - TOOL ONLY List 14,710.00	2	\$11,915.10	\$23,830.20
274886000-1			R 522 E3 Ram - TOOL ONLY List 9602.00	2	\$7,777.62	\$15,555.24
541C059			HURST Jaws of Life Ram Claw Set List 1195.00	2	\$967.95	\$1,935.90
247R028			C-Frame Ram Suppt LK841509190 List 853.00	2	\$690.93	\$1,381.86
274883000-1K			R 320 E3 Ram - TOOL ONLY with Extensions List 8585.00	2	\$6,953.85	\$13,907.70

Price Summary for MES/ Municipal Emergency Services & Lawmen Supply Sourcewell RFP
#040220 Rev 3 Firefighting Equipment and Rescue Tools with Related Supplies and Accessories

Subtotal \$94,430.44
Shipping Cost \$450.00
Tax Total \$0.00
Total \$94,880.44

This Quotation is subject to any applicable sales tax and shipping & handling charges that may apply. Tax and shipping charges are considered estimated and will be recalculated at the time of shipment to ensure they take into account the most current information.

All returns must be processed within 30 days of receipt and require a return authorization number and are subject to a restocking fee.

Custom orders are not returnable. Effective tax rate will be applicable at the time of invoice.



QT1676587

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Purchase of Street Sweeper
Department: Street Department
Presented by: Raymond Hillis, Executive Director - Public Works
Requested Council Action:

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

Summary

Purchase of an Elgin Street Sweeper.

Staff Recommendation

Approve the purchase contract with Sansom Equipment Company Inc.

Background Information

The proposed purchase is required for the Street Department's daily operations. Street Sweepers can collect up to 1000lb of debris every liner mile catching this material before it enters our storm drain system reducing the number of pollutants in our local Rivers and streams. Street sweeping not only enhances the beauty of our city but also makes our Streets safer for vehicle, Bicycles, and Pedestrians.

State statute and Council Resolution authorizes cooperative purchases. The purchase will better enable the city to perform daily operations throughout the City.

Council Priority Served

Expand Infrastructure

Maintaining current roadways at the highest-level permit maximum utilization of this infrastructure.

Fiscal Impact

The expenses, \$275,850, is funded from the Stormwater FY23 funds.

Attachments

Contract for Sansom Equipment Company, Inc.

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
SANSOM EQUIPMENT COMPANY, INC.
FOR PURCHASE OF ELGIN FREIGHTLINER STREET SWEEPER
WITH ACCESSORIES AS LISTED**

This Contract is entered into and effective as of the _____, ("Effective Date") by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **SANSOM EQUIPMENT COMPANY, INC.**, a corporation of the State of Alabama and authorized dealer of Elgin Sweeper products ("Contractor").

This Contract consists of the following documents:

- *This Contract*
- *Sourcewell's Contract with Elgin Sweeper Company #093021-ELG, hereinafter "Sourcewell Contract"*
- *Price Quote #SECQ5150 from Sansom Equipment Company dated February 9, 2023, for an Elgin Freightliner Street Sweeper with Accessories as Listed, hereinafter "Contractor's Quote"*
- *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, the Sourcewell Contract*
 - *Fourth, Contractor's Quote*
1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase: **One (1) Elgin Freightliner Street Sweeper with Accessories as Listed** and as set forth in the Sourcewell Contract and Contractor's Quote.
 2. **Term.** The term of this contract shall be from the Effective Date to the expiration of the Sourcewell Contract on November 16, 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.
 - 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 Contractor's Quote for **One (1) Elgin Freightliner Street Sweeper with Accessories as Listed**, for a **Total Purchase Price of Two Hundred Seventy-Five Thousand, Eight Hundred Fifty Dollars and No Cents (\$275,850.00)**. 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. All invoices should be sent to accountspayable@murfreesborotn.gov.
- b. Deliveries and pick-up of all items for the Street Department shall be made within 90-120 days of issuance of Purchase Order to Attn: Tracy Brown – Street Department – 620 W. Main Street, Murfreesboro, TN 37130. Contact Person Tracy Brown (tel. 615-893-4380; email: tbrown@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.

4. **Warranty.** Unless otherwise specified, every item quoted shall meet the warranty requirements set forth in the specifications and the manufacturer's standard warranty.

5. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
- c. Copyright, Trademark, Service Mark, or Patent Infringement.

- i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (1) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (2) no cost or expense whatsoever accrues to the City at any time; and (3) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.
 - ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 1. Procure for the City the right to continue using the products or services.
 2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
 - iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.
6. **Notices.** Notice of assignment of any rights to money due to Contractor under this Contract must be mailed first class mail or hand delivered to the following:

<i>If to the City of Murfreesboro:</i> City of Murfreesboro Attn: City Manager 111 West Vine Street Murfreesboro, TN 37130	<i>If to the Contractor:</i> Sansom Equipment Company Attn: Danny Paldino 3196 Highway 231 North Shelbyville, TN 37160 615-856-0534 danny@secequip.com
----------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------
7. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.

8. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
9. **Maintenance of Records.** Contractor shall maintain documentation for all charges against City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by City or its duly appointed representatives. The records shall be maintained in accordance with the Generally Accepted Accounting Principles.
10. **Modification.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto.
11. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
12. **Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
13. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying-off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.
15. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

16. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder.
17. **Integration.** This Contract and State contract set forth the entire agreement between the parties with respect to the subject matter hereof and govern the respective duties and obligations of the parties.
18. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
19. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
20. **Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.
21. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution.
22. **Effective Date.** This Contract shall not be binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, (the "Effective Date").

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

SANSOM EQUIPMENT COMPANY, INC.

DocuSigned by:
By: Danny Paladino
9EB4943E05CB442...
Danny Paldino, Municipal Sales Manager

APPROVED AS TO FORM:

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



QUOTE

QUOTE # SECQ5150

DATE Mar 9, 2023

SOURCEWELL CUSTOMER ID # 20562

SOURCEWELL CONTRACT # 093021-ELG

To: Raymond Hillis
City of Murfreesboro, TN
620 West Main Street
Murfreesboro, TN 37133
United States

Sales Contact: Danny Paladino
615-856-0534
danny@secequip.com

(615) 893-4380
rhillis@murfreesborotn.gov

QUOTE STATUS	SHIPPING TERMS	DELIVERY IN DAYS	PAYMENT TERMS
Sourcewell (NJPA)	Customer Location	90 - 120 Days	Net Delivery

QTY	DESCRIPTION
1	Freightliner M2 Chassis 26K GWR
1	Tier 4F emissions, John Deere 4045 turbocharged diesel engine, 8 cu. yard tilting hopper w/ 50 degree dump angle, right and left side brooms, sweeper powder coated with powder coated gray undercarriage. Includes all standard features plus the equipment listed below:
1	IN-CAB RIGHT HAND GUTTER BROOM TILT - NO DISPLAY
1	IN-CAB LEFT HAND GUTTER BROOM TILT - NO DISPLAY
1	FRONT SPRAY BAR
1	RIGHT HAND INSPECTION DOOR
1	LIFELINER HOPPER SYSTEM W/WARRANTY
1	ADDITIONAL 100 GALLON WATER TANK, TOTALING 365 GALLONS
1	(2) ALTERNATING REAR FLASHERS
1	BATTERY DISCONNECT SWITCH (Chassis)
1	LED/STOP/TURN/TAIL LIGHTS
1	TURBO II PRECLEANER
1	AUXILIARY HYDRAULIC PUMP USE WITH IN-CAB HOPPER DUMP
1	HYDRANT WRENCH
1	SINGLE ARM REST - VINYL (ONLY W/AIR RIDE SEATS)

QTY	DESCRIPTION
1	AIR FILTER CAB LT
1	***IN-CAB HOPPER DUMP
1	***DUAL SIDE BROOM SCRUBBING POSITION provides additional switch on console to allow the side brooms to sweep inboard in front of the pickup head in the scrubbing position.
1	SB & RR FLOOD LIGHTS
1	EXTRA KEY - M2 CHASSIS
1	M2 PARTS BOOK
1	M2 OPERATOR BOOK
1	M2 SERVICE MANUAL
1	JOHN DEERE SERVICE MANUAL
1	REGENX SERVICE MANUAL
1	RIGHT HAND TOOLBOX
1	6 INCH DRAIN REAR DOOR
1	Sourcewell Contract 093021-ELG
1	Freight, delivery and training - Murfreesboro, TN
	Elgin Sweeper LIST Price: \$187,675
	Sourcewell Discount: -\$5,630
	Chassis price passed through: \$90,305
	Freight, Delivery & Training: \$3,500

This quote does not include any federal, state, or local taxes.

* In stock equipment are subject to prior sale. *

TOTAL \$275,850.00

This quote is valid for 30 Days.

BIRMINGHAM AL OFFICE

2800 Powell Avenue
Birmingham, AL 35233
Ph: (205) 324-3104
Fax: (205) 324-2679

MOBILE AL OFFICE

2025 West I-65 Service Road North
Mobile, AL 36618
Ph: (251) 631-3766
Fax: (251) 631-3768

SHELBYVILLE TN OFFICE

3196 Highway 231 North
Shelbyville, TN 37160
Ph: (615) 696-7066
Fax: (615) 413-5323

STONECREST GA OFFICE

2601 S Stone Mountain Lithonia Road
Stonecrest, GA 30058
Ph: (706) 685-6900
Fax: (706) 609-3491



REGENERATIVE AIR SWEEPER

Regen^X

Now available on
**NON-CDL
CHASSIS!**



Built By Elgin[®] ^X Designed By You

CLEAN...WITHOUT GETTING DIRTY.



- 1 Rounded Corners**
For easier cleaning and better load evacuation
- 2 Drop-Down Screens**
Cable-controlled, activated by switch on side of hopper
- 3 Self-Emptying Dust Separator**
Evacuates dust when hopper is dumped
- 4 Dust Separator Washout Doors**
Easy-access for effective washout of dust separator
- 5 Simple Inlet Design with Deflector**
Deflector loads debris evenly without creating challenges for washout
- 6 Pickup Head Clean Out Port**
Efficiently clean out pickup head while staying clean and dry



THE DIFFERENCE IS SIMPLE.

CONTAINER DUMP HEIGHT

- ✗ Large 8 yd³ hopper capacity
- ✗ 56" inch roll-off container dump height
- ✗ Avoid double-handling from dumping on the ground
- ✗ Improve operational efficiency by placing roll-off containers along your route
- ✗ Comply with environmental restrictions prohibiting dumping on the ground

1 Easy-Access to Service/Maintenance Components

2 Easy-to-Use Controls

- No control modules
- Superior Side Broom Design
 - Pneumatic float for adjustable side broom pressure in cab
 - Elgin's trailing arm design provides inward motion to avoid obstacles
 - Standard parallelogram linkage allows side brooms to closely follow road contours, and maintain a consistent broom tilt (angle) with the road surface

4 Left-Hand Exhaust

- Helps to avoid contact with tree limbs

5 Easy-Access Switch to Drop Hopper Screens (standard)

6 Bolt-on Hopper Inlet for Easy Replacement

7 Bolt-on, External Dust Separator

8 Slotted Bolt-on Curtain Assembly

Loosen 4 bolts to remove entire curtain assembly for service

9 Water Level Indicator

Visible from side mirror while operating

10 Dual Quick Disconnect on Suction Tube

Quick disconnects at top and bottom of suction tube for ease of maintenance and access to obstructions

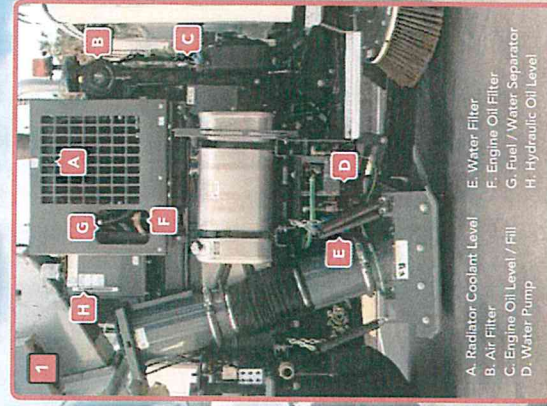
11 Extended Steel Suction Tube

Minimal corrugation in suction tube for improved material flow

12 Adjustable Bumper

Customizable to various debris containers

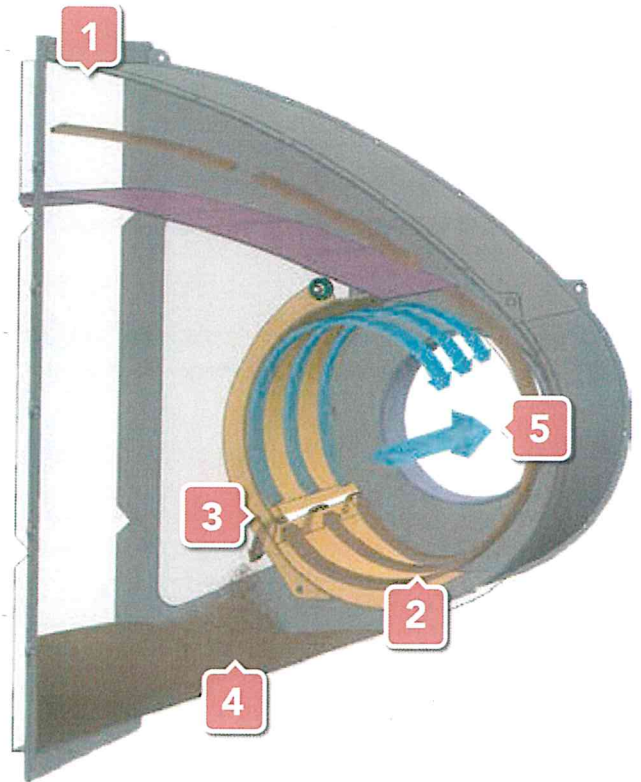
13 Adjustable Hopper Door Locks for Proper Seal



- A. Radiator Coolant Level
- B. Air Filter
- C. Engine Oil Level / Fill
- D. Water Pump
- E. Water Filter
- F. Engine Oil Filter
- G. Fuel / Water Separator
- H. Hydraulic Oil Level

HIGHLY EFFICIENT DUST SEPARATOR

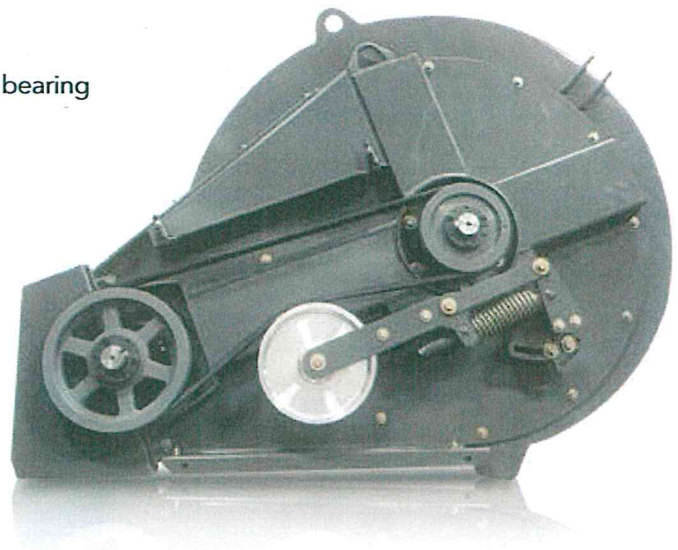
- 1 Dust Separator Inlet**
Dust enters the separator from the hopper
- 2 Centrifugal Separator Design**
Air spins around tube at high speed, forcing dust to outside walls
- 3 Skimmer Slot**
Dust is skimmed off into the collection chamber
- 4 Dust Collection Chamber**
Self-emptying chamber that evacuates when the hopper is dumped
- 5 Fan Inlet**
Clean air exits the separator and returns to the fan



Fan belt change in less than 5 minutes -
NO TOOLS REQUIRED

- 1 Hardox Steel Fan**
 - Highly efficient closed-face fan with backward curved vanes
 - Hardox steel vanes for durability (used in military-grade armor)
 - *Fan change can be executed in approximately 1 hour*
- 2 Sealed-for-Life Bearings**
 - No need to grease fan bearings
 - Secondary seal to prevent dirt from getting into the bearing
- 3 Fluid Coupler**
Acts as torque damper, increases reliability and life of drive system
- 4 Spring-Loaded Belt Tensioner**
Maintains consistent belt tension over time, easy to adjust
- 5 Keyed and Tapered Fan Shaft**
Provides ease of service

FAN DRIVE SYSTEM



Built By Elgin **X** Designed By You

The Elgin innovation team traversed the country, speaking to hundreds of customers at all levels within the street sweeping industry, both municipal and contractor, in pursuit of true voice-of-the-customer insights. Months of real-world prototype testing and feedback refined the sweeper design to provide customers with exactly what they want and need, while proving the reliability and durability along the way. The input of service technicians, operators, and street sweeping supervisors shaped every detail of the new **RegenX®** mid-dump regenerative air street sweeper. **Easy to use, easy to clean, and easy to maintain** while delivering the quality and proven technology that is the hallmark of Elgin Sweeper products.

The new RegenX was **built by Elgin, but designed by you.**

Why Regen**X**®

X Available on Non-CDL*, 26K GVW Chassis

X Roll-Off Dump Height with 50° Dump Angle and 8 yd³ Hopper

- Avoid double-handling, driving back to the facility to dump, and environmental ground-dumping restrictions

X Incredibly Easy to Clean

- Simple hopper – rounded corners and external self-dumping dust separator
- Easy-access washout doors for dust separator and pickup head
- Cable-controlled drop-down screens standard

X Easy to Service

- Easy to access components with locations determined by experienced service technicians
- Bolt-on wear parts wherever possible (dust separator, hopper inlet, etc.)
- Simple design with no control modules for sweeper functions

X Reliable

- Better cleanout and easier serviceability
- Highly efficient dust separator and large screen surface area reduce carryover and sand blasting
- Overall simple design – less moving parts, more uptime



ElginSweeper.com/RegenX

Phone (847) 741-5370 • Fax (847) 742-3035

1300 W. Bartlett Road, Elgin, IL 60120 U.S.A.

*May vary based on local rules and regulations. Specifications subject to change without notice. Some items shown may be optional. Elgin® RegenX® and LifeLiner® are registered trademarks of Federal Signal Corporation. Hardox® is a registered trademark of Hardox wear plate. Federal Signal Corporation is listed on the NYSE by the symbol FSS.

COUNCIL COMMUNICATION

Meeting Date: 04/06/2023

Item Title: Purchase of CTX160 Skid Steer w/ Bucket and Harley rake

Department: Street Department

Presented by: Raymond Hillis, Executive Director – Public Works

Requested Council Action:

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

Summary

Purchase of a CTX160 Skid Steer w/ 42" Bucket and Harley Rake from Vermeer Heartland.

Staff Recommendation

Approve the purchase from Vermeer Heartland.

Background Information

The proposed purchase of the CTX160 Skid Steer w/ 42" Bucket and Harley Rake from Vermeer Heartland will replace an 8-year-old skid steer and Harley rake with over 7,000 hours. A skid steer allows the Stormwater crew to perform routine maintenance of storm drain systems as well as repair roadside ditches. The rake enables the skid steer to perform finish grade work for seed and straw application.

The purchase of the CTX160 Skid Steer w/ 42" Bucket and Harley Rake from Vermeer Heartland will be contracted through Sourcewell to provide the most competitive price for the items the Department requires.

Council Priorities Served

Expand infrastructure

Continual improvement of the City's stormwater management infrastructure benefits the community in responsible managing stormwater disposition and maintains compliance with the statute requirements imposed upon the City.

Fiscal Impact

The expense, \$59,666, will be paid by FY23 Stormwater funds.

Attachments

1. Contract with Vermeer Heartland
2. Price Quote from Vermeer Heartland
3. Sourcewell Contract 031721-VRM



Southern Ohio
2574 US HWY 22 NW
Washington CH, OH 43160
740-335-8571 Office

Kentucky
424 S. Mulberry St
Elizabethtown, KY 42701
270-737-1721 Office

West Virginia
5900 MacCorkle Ave
Saint Albans, WV 25177
304-768-5965 Office

LaVergne
1600 Hell Quaker Blvd
La Vergne, TN 37086
615-535-0222 Office

Knoxville
9724 Parkside Dr
Knoxville, TN 37922
865-524-9174 Office

Ship To: CITY OF MURFREESBORO
620 WEST MAIN ST
MURFREESBORO TN 37133

Invoice To: 400 LA VERGNE CASH
CASH SALES CUSTOMER
. TT 99999

Branch 40 - LA VERGNE, TN		
Date 03/01/2023	Time 14:20:31 (O)	Page 1
Account No 400LA001	Phone No	Est No 04 Q00354
Ship Via		Purchase Order
Tax ID No		
RYAN DICK		Salesperson 304

EQUIPMENT ESTIMATE - NOT AN INVOICE

Description ** Q U O T E ** EXPIRY DATE: 03/02/2023 Amount

NEW 2023 VERMEER CTX160 UNIT (SN) TO INCLUDE: 40HP DIESEL,
PILOT JOYSTICK CONTROLS, DUAL AUX HYDRAULICS AND 9" RUBBER
TRACK UNDERCARRIAGE.

**THIS UNIT COMES WITH VERMEERS 1YR OR 1000HR PARTS AND
LABOR WARRANTY!**

**POSSIBLE PRICE INCREASE BASED ON DELIVERY TIMEFRAME
\$4035.39

SOURCEWELL CONTRACT# 031721-VRM MEMBERSHIP# 20562

Per Vermeer Quote Q-23667

MSRP: \$ 55,829.00

Sourcewell Price: \$49,453.33

Freight: \$550.00

Sale # 01 Subtotal: 50003.33
TOTAL: 50003.33

NEW HARLEY RAKE (MANUAL)

Sale # 02 Subtotal: 8595.00
TOTAL: 8595.00

NEW 42" BUCKET (BD), 20" BACK SMOOTH

Sale # 03 Subtotal: 1068.00
TOTAL: 1068.00

Subtotal: 59666.33
Quote Total: 59666.33

Authorization: _____

CONFIDENCE PLUS 2 YEARS (CTX160) - PREMIUM COV W/M \$4,216.00

CONFIDENCE PLUS 3 YEARS (CTX160) - PREMIUM COV W/M \$5,469.00

If above equipment is New: The Vermeer limited warranty is the only warranty applicable to this new equipment and is expressly in lieu of all other warranties by the seller/dealer, either expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose. Nothing in this language shall modify or change the obligations set forth in the existing manufacturer's written warranty.
If above equipment is Used: Any used equipment sold to the purchaser by the dealer under this written agreement is sold at the time of delivery by seller/dealer without any guarantee or warranty of merchantability or fitness for a particular purpose, as to its condition or the condition of any part thereof except as may be otherwise specifically provided in writing on the face of this purchase order or in a separate writing furnished to the purchaser by the dealer at the time of sale.

A FINANCE CHARGE of 11/2% per month shall be charged to accounts on the 11th day of each month on the amount of the previous balance remaining unpaid. This FINANCE CHARGE is equivalent to an ANNUAL PERCENTAGE RATE OF 18%.
CUSTOMER IS RESPONSIBLE FOR ANY AND ALL TAXES NOT COLLECTED BY VERMEER HEARTLAND, INC. **Thank You For Your Business!**

Vermeer #031721-VRM

Pricing for contract #031721-VRM offers Sourcewell participating agencies the following discounts:

- Up to a 14% discount off list price
- In addition to the discount off MSRP, Vermeer's dealership network has the authority to consider volume discounts, member loyalty, and additional discounts at their discretion. Please contact the appropriate Vermeer Dealer or the Vermeer Corporate Accounts Department to discuss.

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
VERMEER HEARTLAND, INC.
FOR PURCHASE OF VERMEER 2023 CTX160 MINI SKID STEER
WITH 42" BUCKET AND HARLEY RAKE**

This Contract is entered into and effective as of the _____, by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **VERMEER HEARTLAND, INC.** a corporation of the State of Delaware ("Contractor").

This Contract consists of the following documents:

- *This Contract*
- *Sourcewell's Contract with Vermeer Corporation #031721-VRM, hereinafter "Sourcewell Contract"*
- *Price Quotation #04Q00354 from Vermeer Heartland dated 03/01/2023, for a Vermeer 2023 CTX160 Skid Steer with 42" bucket, Harley Rake, and specifications as listed on quote, hereinafter "Contractor's Quote"*
- *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, the Sourcewell Contract*
- *Fourth, Contractor's Quote*

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase: **One (1) Vermeer 2023 CTX160 Skid Steer with 42" bucket, Harley Rake and specifications as listed as set forth in the Sourcewell Contract and Contractor's Quote.**
2. **Term.** The term of this contract shall be from _____, (the "Effective Date") to the expiration of the Sourcewell Contract on May 7, 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.
 - 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 Contractor's Quote for a Vermeer 2023 CTX160 Skid Steer with 42" bucket, Harley Rake, and specifications as listed, for a **Total Purchase Price of Fifty-nine Thousand Six Hundred Sixty-six Dollars and Thirty-three Cents (\$59,666.33)**. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after delivery and acceptance of the goods and/or services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Contract and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.
- b. Deliveries and pick-up of all items for the Street Department shall be made within eight months of issuance of Purchase Order to Attn: Tracy Brown – Street Department – 620 W. Main Street, Murfreesboro, TN 37130. Contact Person Tracy Brown (tel. 615-893-4380; email: tbrown@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 quoted shall meet the warranty requirements set forth in the specifications and the manufacturer's standard warranty.

5. Indemnification.

- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees ("Expenses") arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure,

regardless of any language in any attachment or other document that Contractor may provide.

c. Copyright, Trademark, Service Mark, or Patent Infringement.

i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (1) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (2) no cost or expense whatsoever accrues to the City at any time; and (3) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

1. Procure for the City the right to continue using the products or services.
2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.

iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

6. Notices. Notice of assignment of any rights to money due to Contractor under this Contract must be mailed first class mail or hand delivered to the following:

If to the City of Murfreesboro:
City of Murfreesboro
Attn: City Manager
111 West Vine Street
Murfreesboro, TN 37130

If to the Contractor:
Vermeer Hearland, Inc
Attn: Ryan Dick
1600 Heil Quaker Blvd.
LaVergne, TN 37086
Rdick@vermeerhl.com

7. **Taxes.** The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.
8. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
9. **Maintenance of Records.** Contractor shall maintain documentation for all charges against City. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by City or its duly appointed representatives. The records shall be maintained in accordance with the Generally Accepted Accounting Principles.
10. **Modification.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto.
11. **Relationship of the Parties.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party becomes liable for any representation, act, or omission of any other party contrary to this section.
12. **Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
13. **Employment.** Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying-off of any individual due to race, creed, color, national origin, age, sex, veteran status, or any other status or class protected under federal or state law or which is in violation of applicable laws concerning the employment of individuals with disabilities.
14. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, veteran status, disability, or other status or class protected under federal or state law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this Agreement, Contractor certifies and warrants it will comply with this policy. No person may be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor may they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's Contractors. Accordingly, all proposers entering into contracts with the City may upon request be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.
15. **Gratuities and Kickbacks.** It is a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therewith. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for

the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this Agreement, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under the City contracts.

16. **Assignment.** The provisions of this Agreement inure to the benefit of and are binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Agreement, neither this Agreement nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer does not release Contractor from its obligations hereunder
17. **Integration.** This Contract and State contract set forth the entire agreement between the parties with respect to the subject matter hereof and govern the respective duties and obligations of the parties.
18. **Force Majeure.** No party has any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.
19. **Governing Law and Venue.** The validity, construction and effect of this Agreement and any and all extensions or modifications thereof are governed by the laws of the state of Tennessee regardless of choice of law doctrine or provision in any attachment or other document that Contractor may provide. Any action between the parties arising from this agreement may only be filed in the courts of Rutherford County, Tennessee.
20. **Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.
21. **Attorney Fees.** In the event any party takes legal action to enforce any provision of the Agreement, should the City prevail, Contractor will pay all expenses of such action including attorney fees, expenses, and costs at all stages of the litigation and dispute resolution
22. **Effective Date.** This Contract shall not be binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

IN WITNESS WHEREOF, the parties enter into this agreement as of _____, (the "Effective Date").

CITY OF MURFREESBORO

VERMEER HEARTLAND, INC.

By: _____
Shane McFarland, Mayor

DocuSigned by:
By: Ryan Dick
Ryan Dick, Market Specialist

APPROVED AS TO FORM:

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

No items.

