

MURFREESBORO CITY COUNCIL
Regular Meeting Agenda
Council Chambers – 6:00 PM
January 11, 2024

PRAYER

Mr. Austin Maxwell

PLEDGE OF ALLEGIANCE

CEREMONIAL ITEMS

STARS Award: Mary Smith, School Traffic Patrol

Public Comment on Actionable Agenda Items

Consent Agenda

1. Taxiway A and Apron Pavement Rehabilitation Change Order (Airport)
2. Affordable Housing Program Legacy Pointe (Community Development)
3. Housing Rehabilitation - 511 Eventide Drive (Community Development)
4. Change Order 1-Roof Replacement at Fire Stations 2, 5, 7, 8, and 9 (Facilities)
5. Wine Sales Certificate of Compliance - Kwik Sak #621 (Finance)
6. Donation of Extrication Equipment (Fire Rescue)
7. Mandatory Referral for Abandonment of a Segment of Archer Avenue Right-of-Way (Planning)
8. Mandatory Referral for Abandonment of a Sanitary Sewer Easement along Suzanne Landon Drive (Planning)
9. Mandatory Referral for Dedication of an Electric Easement along Franklin Road (Planning)
10. Concrete and Asphalt Purchase Report (Street)
11. Amendment 2 to Contract with Kimley-Horn (Transit)

Old Business

Ordinance

12. Modify City Code §§ 33-2.1.1 (2nd and Final Reading) (Administration)
13. Ordinance 23-O-48 Repeal of Code Section 21-22 (2nd and Final Reading) (Administration)

New Business

Ordinance

14. FY24 Budget Amendment (Administration)
 - a. First Reading: Ordinance 24-O-01

Land Use Matters

15. Ordinance 23-OZ-39 Zoning for Property West of Sanctuary Place (Planning)
 - a. First Reading: Ordinance 23-OZ-39
16. Ordinance 23-OZ-40 Rezoning Property along Old Fort Parkway (Planning)

- a. First Reading: Ordinance 23-OZ-40
- 17. Ordinance 23-OZ-44 Rezoning Property along Northwest Broad Street (Planning)
 - a. First Reading: Ordinance 23-OZ-44
- 18. Ordinance 23-O-45 Amending the Zoning Ordinance – Miscellaneous Revisions (Planning)
 - a. First Reading: Ordinance 23-O-45
- 19. Sewer Allocation Variance- South Church Street – Retail Building (Planning)
- 20. Sewer Allocation Variance- New Salem Highway – Joelicious Donuts (Planning)
- 21. Sewer Allocation Variance- North Rutherford Boulevard – East Side Village (Planning)
- 22. Rescheduling Public Hearings (Planning)

On Motion

- 23. Acquisition of 223 NW Broad Street (Development Services)
- 24. Demolition of 219 NW Broad Street Structures (Development Services)
- 25. Purchase of Service Truck Amendment (Fleet Services)
- 26. Amendment 1 to the Contract with M3 Technology (Police)
- 27. Purchase of Raven GunShot Detection (Police)
- 28. CentralSquare Solutions and Support Agreement for CAD Software (Police)
- 29. Agreement for Decking and Materials for Discovery Center Walkway (Project Development)
- 30. Purchase of Automated Garbage Trucks (Solid Waste)
- 31. Purchase of Replacement Arms for Automated Garbage Trucks (Solid Waste)
- 32. Contract Renewal Rollins Brush and Limb Collection (Solid Waste)
- 33. Amendment 2 to Contract with Mid-Cumberland Human Resource Agency (Transit)
- 34. Contract with TripSpark (Transit)
- 35. Purchase of Bucket Truck from Altec Industries, Inc. (Transportation)
- 36. Professional Services Contract – Broad Street Pedestrian Bridge (Transportation)

Board & Commission Appointments

- 37. Golf Commission (Administration)
- 38. Airport Commission (Administration)

Licensing

- 39. Beer Permits (Finance)

Payment of Statements

Other Business

Adjourn

CITY COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Taxiway A and Apron Pavement Rehabilitation Change Order 1

Department: Airport

Presented by: Chad L. Gehrke, Airport 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

Change Order 1 for the Taxiway A and Apron Pavement Rehabilitation

Staff Recommendation

Approve Change Order 1 to complete the Taxiway A and Apron Pavement Rehabilitation project for the amount of \$277,574.

Background Information

The pavement on Runway 18-36, Taxiway A, and the majority of the apron space at the Airport required maintenance and rehabilitation. The City contracted with Barge Design Solutions and Cleary Construction to complete this rehabilitation and maintenance project. Change Order 1 covers the cost associated with subgrade repairs that were required on Taxiway A that were identified and completed during construction.

Council Priorities Served

Improve economic development

Maintaining City Facilities in a safe and effective manner while ensuring Economic Growth and Development are priorities and protect the City's investments.

Fiscal Impact

The 95% of this Change Order is covered with the Grant Amendment approved on 11-30-2023 and the local portion is funded by the 2019 CIP.

Attachments

Change Order 1

PROJECT TITLE

TAD PROJECT NO. :	75-555-0173-23	DATE PREPARED:	8/21/2023
AIRPORT:	MURFEESBORO MUNICIPAL	CONTRACTOR:	CLEARY CONSTRUCTION, INC.
ADDRESS:	111 West Vine Street Murfreesboro, TN 37130	ADDRESS:	2006 Edmonton Road Tompkinsvilly, KY 42167

THE PURPOSE OF THIS CHANGE ORDER IS TO ESTABLISH UNIT PRICES FOR ITEMS OF WORK NOT COVERED BY THE ORIGINAL CONTRACT AND TO EXTEND CONTRACT TIME. YOU, THE LICENSED CONTRACTOR, ARE REQUESTED TO PERFORM THE FOLLOWING DESCRIBED WORK UPON RECEIPT OF AN APPROVED COPY OF THIS DOCUMENT OR AS DIRECTED BY THE ENGINEER:

ITEM NO.	ITEM DESCRIPTION	UNIT	UNIT PRICE	QUANTITY	AMOUNT
1	AIRFIELD BARRICADES	LS	\$ 12,000.00	(1.00)	\$ (12,000.00)
2	TEMPORARY RUNWAY CLOSURE	LS	\$ 8,800.00	(1.00)	\$ (8,800.00)
3	CONTRACTOR QAUIITY CONTROL PROGRAM	LS	\$ 250,000.00	0.00	\$ -
4	EROSION CONTROL - CONSTRUCTION ENTRANCE (INSTALLATION AND REMOVAL)	EA	\$ 50,000.00	(0.40)	\$ (20,000.00)
5	MOBILIZATION	LS	\$ 190,000.00	0.00	\$ -
6	COLD MILLING	SY	\$ 7.65	300.00	\$ 2,295.00
7	UNCLASSIFIED EXCAVATION	CY	\$ 200.00	0.00	\$ -
8	BITUMINOUS ASPHALT SURFACE COURSE - RUNWAY (GRADATION 2)	TONS	\$ 285.00	0.00	\$ -
9	EMULSIFIED ASPHALT TACK COAT	GAL	\$ 7.10	0.00	\$ -
10	CRACK REPAIR	LF	\$ 0.70	4,100.00	\$ 2,870.00
11	ASPHALT SURFACE TREATMENT	SY	\$ 3.70	0.00	\$ -
12	EMULSIFIED ASPHALT SEAL COAT	SY	\$ 1.65	(1,400.00)	\$ (2,310.00)
13	PAVEMENT MARKING REMOVAL	SF	\$ 0.60	5,821.00	\$ 3,492.60
14	TEMPORARY PAVEMENT MARKING, WHITE	SF	\$ 0.50	0.00	\$ -
15	TEMPORARY PAVEMENT MARKINGS, YELLOW	SF	\$ 1.00	(2,300.00)	\$ (2,300.00)
16	PERMANENT PAVEMENT MAKRING, REFLECTIVE WHITE	SF	\$ 0.50	0.00	\$ -
17	PERMANENT PAVEMENT MARKING, REFLECTIVE YELLOW	SF	\$ 1.00	0.00	\$ -
18	PERMANENT PAVEMENT MARKING, BLACK	SF	\$ 1.20	0.00	\$ -
19	SODDING	SY	\$ 11.50	(1,000.00)	\$ (11,500.00)
20	TOPOSOIL (OBTAINED ON SITE)	CY	\$ 24.00	0.00	\$ -
21	NO. 8 AWG, 5KV, L-824, TYPE C, INSTALLED INTRENCH, DUCT BANK OR CONDUIT	LF	\$ 1.85	0.00	\$ -
22	NO. 4 AWG, 600 V, THHN/THWN-2 CABLE, INSTALLED IN TRENCH, DUCT BANK OR CONDUIT	LF	\$ 4.00	0.00	\$ -
23	NO. 6 AWG, SOLID BASE COPPER COUNTERPOISE WIRE, INSTALLED ABOVE THE DUCT BANK OR CONDUI, INCLUDING CONNECTIONS/TERMINATIONS AND GROUND RODS	LF	\$ 2.25	(1,400.00)	\$ (3,150.00)
24	NO. 6 AWG, INSULATED, STRANDED EQUIPMENT GROUND, INSTALLED IN DUCT BANK OR CONDUIT	LF	\$ 2.00	0.00	\$ -
25	NON-ENCASED, ELECTRICAL CONDUIT, 1-WAY, 2-INCH PVC	LF	\$ 15.00	(830.00)	\$ (12,450.00)
26	NON-ENCASED ELECTRICAL CONDUIT, DIRECTIONAL BORE, 1-WAY, 2-INCH HDPE	LF	\$ 48.00	0.00	\$ -
27	DIRECTIONAL BORE, 1-WAY, 1-INCH HDPE	LF	\$ 36.00	0.00	\$ -
28	RUNWAY THRSHOLD LIGHT, L-861E(L), BASE OUNTED, MEDIUM INTENSITY (LED), COMPLETE IN PLACE	EA	\$ 1,900.00	0.00	\$ -
29	RUNWAY THRESHOLD LIGHT, L-861E(L), MEDIUM INTENSITY (LED), NEW FIXTURE INSTALLED ON EXISTING STAKE OR BASE CAN	EA	\$ 1,700.00	0.00	\$ -
30	RELOCATE EXISTING PRECISION APPROACH PATH INDICATOR, L-881(L)	EA	\$ 12,000.00	0.00	\$ -
31	RELOCATE EXISTING RUNWAY END IDENTIFICATION LIGHTS, L-849(L), INSTALLED ON NEW CONCRETE PAD	EA	\$ 8,000.00	0.00	\$ -
32	REPLACE EXISTING RUNWAY EDGE LIGHT LENS WITH NEW LENS AS NOTED ON PLANS	EA	\$ 1,150.00	(2.00)	\$ (2,300.00)
33	EROSION CONTROL SILT FENCE (INSTALLATION AND REMOVAL)	LF	\$ 12.00	510.00	\$ 6,120.00
34	HYDROSEEDING	AC	\$ 8,400.00	0.25	\$ 2,100.00
35	ADDITIONAL MOBILIZATION	LS	\$ 33,205.00	1.00	\$ 33,205.00
36	ENGINEERING AND LAYOUT	LS	\$ 7,165.00	1.00	\$ 7,165.00
37	CEMENT TREATED SOIL BASE COURSE	SY	\$ 30.85	4,482.00	\$ 138,269.70
38	EMULSIFIED ASPHALT PRIME COAT	SY	\$ 7.10	4,482.00	\$ 31,822.20

39	BIMUNOUS ASPHALT BINDER COURSE - RUNWAY GRADATION 1, 2.0" COMPACTED THICKNESS)	TON	\$ 244.00	493.00	\$ 120,292.00
40	FINE GRADING/TOPSOILING	CY	\$ 54.00	88.00	\$ 4,752.00

BRIEF DESCRIPTION, LOCATION, AND REASON FOR CHANGE ORDER:
This change order is to provide cemebt stabilization of various sections of Taxiway Alpha to strengthn subgrade, replace asphalt binder in stabilized areas and miscellaneous items as related to the work described above.

CHANGE ORDER # 1 TOTAL \$ 277,573.50

PREVIOUS CHANGE ORDER(S) TOTAL \$ -

ORIGINAL CONTRACT AWARDED \$ 1,827,219.50

REVISED CONTRACT THROUGH CHANGE ORDER # 1 \$ 2,104,793.00

SUBJECT TO THE CONDITIONS SET FORTH BELOW, AN EQUITABLE ADJUSTMENT IS ESTABLISHED AS FOLLOWS:

CONTRACT PRICE	CONTRACT TIME
<input type="checkbox"/> UNCHANGED	<input type="checkbox"/> UNCHANGED
<input checked="" type="checkbox"/> INCREASED BY: \$ 277,573.50	<input checked="" type="checkbox"/> INCREASED BY: 95 CALENDAR DAYS
<input type="checkbox"/> DECREASED BY: \$ -	<input type="checkbox"/> DECREASED BY: CALENDAR DAYS

CHANGES ARE SHOWN ON DRAWING(S) NO. __, WHICH ARE ATTACHED.

ADDITIONAL JUSTIFICATION FOR CHANGE:

1. IS THE CHANGE ORDER SCOPE APPROPRIATE? (DOES THE CHANGE ORDER HELP COMPLETE THE ORIGINAL SCOPE OF THE PROJECT?)
☒ YES ☐ NO

2. JUSTIFICATIONS FOR UNIT PRICES OR TOTAL COST:

3. DOES THE SPONSOR HAVE THE LOCAL SHARE FOR THIS CONTRACT CHANGE?
☒ YES ☐ NO ☐ N/A

4. HAS CONSENT OF SURETY BEEN OBTAINED?
☒ YES ☐ NOT NECESSARY

5. WILL THIS AFFECT THE INSURANCE COVERAGE? ☐ YES ☒ NO
5a. IF YES, WILL THE POLICIES BE EXTENDED?
☐ YES ☐ NO ☐ N/A

6. IS THE DBE GOAL STILL ACHIEVEABLE WITH THIS CHANGE ORDER? IF NO, EXPLAIN:

Some items were removed for the convenience of the owner, i.e. airfield barricades and temporary runway closure. In the engineer's opinion, the contractor has met the good faith effort requirement

☐ YES ☒ NO ☐ THIS PROJECT DOES NOT HAVE A DBE GOAL REQUIREMENT

7. BUY AMERICAN ANALYSIS
☒ NO ADDITIONAL BUY AMERICAN REQUEST IS NECESSARY ☐ ATTACHED IS A BUY AMERICAN WAIVER REQUEST FOR CHANGE ORDER MATERIALS ☐ NO AIP MONEY

8. HAS THIS CHANGE ORDER BEEN DISCUSSED WITH THE TDOT PROJECT MANAGER?
☒ YES ☐ NO IF SO, WHEN? 7/15/2023 IF SO, WITH WHOM? Chuck Hoskins

THE FOREGOING IS IN ACCORDANCE WITH YOUR PROPOSAL DATED AND LISTED BELOW:

- A. THE AFOREMENTIONED CHANGE AND WORK AFFECTED THEREBY SHALL BECOME AN AMENDMENT TO THE CONTRACT AND ARE SUBJECT TO ALL CONTRACT STIPULATIONS AND CONVENANTS;
- B. THE RIGHTS OF THE OWNER (SPONSOR) ARE NOT PREJUDICED;
- C. ALL CLAIMS AGAINST THE OWNER WHICH ARE INCIDENTAL TO OR AS A CONSEQUENCE OF THE AFOREMENTIONED CHANGE ARE SATISFIED.

CONTRACTOR	OWNER
<div>Cable United</div> <div>Cleary Construction, Inc.</div>	City of Murfreesboro
DATE	DATE
12/15/2023	
RECOMMENDED FOR APPROVAL BY:	APPROVAL DETERMINATION: <input type="checkbox"/> ELIGIBLE; <input type="checkbox"/> PARTIALLY ELIGIBLE; <input type="checkbox"/> INELIGIBLE
<div><div></div></div>	
(APPLICABLE ENGINEERING FIRM)	TENNESSEE DEPARTMENT OF TRANSPORTATION AERONAUTICS DIVISION
8/22/2023	DATE
DATE	

NOTE: THIS DOCUMENT REQUIRES TDOT AERONAUTICS APPROVAL PRIOR TO CONSTRUCTION, OTHERWISE STATE AND/OR FEDERAL PARTICIPATION FOR ADDITIONAL WORK MAY BE JEOPARDIZED. PROCEEDING WITH A CONTRACT CHANGE PRIOR TO TDOT AERONAUTICS APPROVAL IS AT THE SPONSOR'S RISK.

DT-1945 (Rev. 01/2023)

FORM UPDATED 07/20/2020
RDA 11083

Approved to form:
DocuSigned by:
Adam Tucker
1342935551F0401
Adam P. Tucker, Esq., Attorney

COUNCIL COMMUNICATION

Meeting Date: 1/11/2024

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 (2821 Humanity Trail, 2834 Humanity Trail and 2833 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: 01/11/2024

Item Title: Housing Rehabilitation – 511 Eventide Drive
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

Rehabilitation through the Community Development Housing Rehabilitation program.

Staff Recommendation

Approve the expenditure of \$55,000 for the rehabilitation activity.

Background Information

A residence at 511 Eventide Drive requires repairs to maintain its habitability. David Underhill, Contractor, is the lowest responsible bidder to complete the necessary work for \$55,000. The Community Development Policy and Procedures Manual requires that council approve all rehabilitation projects over \$25,000.

Council Priorities Served

Responsible budgeting.

Utilizing CDBG funds assists the City in addressing exterior and interior deficiencies in the communities housing stock and maintain funds for other budgetary requirements.

Fiscal Impact

The expense, \$55,000, is fully funded by Community Development Block Grant.

Attachment

Contract for rehabilitation work.

MURFREESBORO COMMUNITY DEVELOPMENT DEPARTMENT

CONTRACT FOR REHABILITATION

CDBG

GRANTEE: City of Murfreesboro, Tennessee, acting through its Community Development Department, hereinafter referred to as "CITY."

THIS CONTRACT FOR REHABILITATION, hereinafter referred to as "CONTRACT," made this _____ day of _____, 2023 by and between

MONICA HIMES, hereinafter referred to as "OWNER," whether one or more, and

DAVID UNDERHILL, A SOLE PROPRIETOR, hereinafter referred to as "CONTRACTOR".

The OWNER hereby employs the CONTRACTOR to do all the work and provide all materials, tools and machinery, supervision, etc., necessary for the rehabilitation of the property known as, 511 Eventide Drive Murfreesboro, TN, for the total sum of --- FIFTY-FIVE THOUSAND DOLLARS -----(\$55,000.00) all in accordance with this CONTRACT.

This CONTRACT consists of all terms, provisions and conditions stated herein, all terms, provisions and conditions contained in the listed Exhibits, together with all terms, provisions and conditions contained in those documents which are specifically incorporated herein by reference.

<u>Exhibit</u>	<u>Title</u>
A	EEO Standards
B	Change Orders
C	Warranty and Warranty Procedure
D	Grievance Procedure
E	ITB-25-2024 – Reroof and Structural Repairs at 511 Eventide Drive

SECTION I General Conditions

1. After execution by the OWNER and CONTRACTOR, this CONTRACT will become effective only after approval by CITY as indicated by the signature of its authorized representative below.
2. The OWNER shall issue a written Proceed Order within ten (10) days from the date of approval of this CONTRACT by CITY.
3. The CONTRACTOR must commence work within fifteen (15) days after issuance of the Proceed Order. At the option of the OWNER, this contract may be canceled by failure of the CONTRACTOR to begin work on the date specified.
4. The CONTRACTOR must complete the work within ninety (90) days after issuance of the Proceed Order in accordance with this CONTRACT, and in good and workmanlike manner. Failure to so complete the work may result in liquidated damages being assessed by the CITY at a rate of **one per cent (1%) of the total CONTRACT value per day** for each day over the time provided for such completion of the work. The assessed damages will be calculated and deducted from the final payment made to the CONTRACTOR and will be credited to the loan balance of the OWNER.

5. In the event the CONTRACTOR fails to properly construct the improvements required by the plan incorporated herein and approved by the CITY, CONTRACTOR shall continue to be responsible to properly construct those improvements, notwithstanding the CITY and / or OWNER over-looked such failures or defects prior to acceptance of the work.

SECTION II General Requirements

1. The work to be performed under this CONTRACT is on a project assisted under the Community Development Block Grant program, which provides Federal financial assistance from the Department of Housing and Urban Development and subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
2. The parties to this CONTRACT will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this CONTRACT. The parties to this CONTRACT certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
3. The CONTRACTOR will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contact or understanding, if any, a notice advising said labor organization or workers' representative of CONTRACTOR'S commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The CONTRACTOR will include this Section 3 clause in every subcontract for work in connection with project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The CONTRACTOR will not let any subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of this CONTRACT, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors or subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.
6. The CONTRACTOR shall comply with the applicable regulations of the Secretary of Labor, United States Department of Labor, made pursuant to the so-called "Anti-Kickback Act" of June 13, 1934 (48 Stat. 94B; 62 Stat. 862; Title 18 U.S.C. Section 874; and Title 40 U.S.C., Section 376c) and any amendments or modifications thereof, shall cause appropriate provisions to be inserted in subcontracts to insure compliance therewith by all subcontractors subject thereto and shall be responsible for the submission of statements required of subcontractors thereunder, except as said Secretary of Labor may

specifically provide for reasonable limitations, variations, tolerances and exemptions from the requirements thereof.

7. The CONTRACTOR will not discriminate against any employee or applicant for employment because of age, race, color, religion, sex, national origin or disability. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their age, race, color, religion, sex, national origin or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CITY setting forth the provisions of this non-discrimination clause.

SECTION III General Statement of Work

A. In addition to all requirements contained in CONTRACTOR'S Bid, in performing work pursuant to this CONTRACT, the CONTRACTOR shall:

1. Be responsible for adjacent property which is or may be affected or endangered by any work done under this contract, taking whatever steps are necessary for the protection of the adjacent property and for notifying the OWNER thereof of such hazard.
2. Not assign or sublet this contract without the written consent of the OWNER. Any request for consent to an assignment shall be addressed to the OWNER, c/o the CITY.
3. Indemnify and hold harmless and defend the OWNER, the CITY, and State of Tennessee, their agents, servants or employees, from and against any and all claims for injuries or damages to persons or property of whatsoever kind of character, whether real or asserted, arising out of this CONTRACT or the work to be performed hereunder. The CONTRACTOR hereby assumes all liability and responsibility for injuries, claims or suits for damages, to persons or property of whatsoever kind of character, whether real or asserted, occurring during the time the work is being performed and arising out of the performance of same.
4. Not commence work under this CONTRACT until all insurance required under this program has been secured and such insurance has been approved by the CITY.
5. All materials and equipment that have been removed and replaced as part of the work hereunder shall belong and be removed by CONTRACTOR.
6. Maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the CONTRACT and such other records as may be deemed necessary by the CITY to assure proper accounting for all funds. These records will be available for audit purposes to the CITY or the State of Tennessee or any authorized representative, and will be retained for three years after CONTRACT completion unless permission to destroy them is granted by the CITY. The CITY, State of Tennessee, and any authorized representative shall have access to any other books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this CONTRACT for the purpose of making audit, examination, excerpts, and transcriptions.

B. During the course of performance of work pursuant to this CONTRACT, the OWNER shall:

1. Not permit any changes or additions to the CONTRACT, work write-up, or plans without approval of the CITY. If any changes or additions are approved, a Change Order must be signed by the OWNER and the CONTRACTOR and approved by the CITY as provided in **Exhibit B**, and no work on such changes or additions shall be initiated until such Change Order is signed.
2. Cooperate with the CONTRACTOR to facilitate the performance of the work, including the removal and replacement of rugs, coverings, and furniture as necessary.
3. Allow inspection by the CITY (and/or HUD) of the property whenever the CITY and/or HUD determines that such inspection is necessary.
4. Permit the CONTRACTOR to use, at no cost, existing utilities such as light, heat, power, and water necessary to carry out and complete the work.
5. Have the option, in the event of any breach of this CONTRACT and with the CITY approval, to engage the services of another contractor to complete the work and to deduct the cost of such completion from any amount due the CONTRACTOR hereunder.
6. Allow payment in full to the CONTRACTOR, from the Community Development Department funds, subject to the CITY'S acceptance of the work as satisfactorily completed in accordance with this CONTRACT.
7. During the course of performance of work pursuant to the CONTRACT and for the duration of OWNER'S compliance period, maintain homeowner's insurance in an amount equal to the value of the residence following completion of the rehabilitation work pursuant to this CONTRACT. Such insurance shall name the CITY as an additional insured. Proof of such insurance shall be provided to the CITY by a certificate of insurance or endorsement as necessary. OWNER must notify CITY if the insurance policy is renewed, canceled or altered in any manner and provide written documentation of such alteration.

SECTION IV Warranty and Warranty Procedure

CONTRACTOR warrants all work performed pursuant to this CONTRACT for a period of one year from the date the homeowner signs the *Certificate of Completion and Final Inspection*. Warranty work shall be requested and performed in accord with the Warranty Procedure contained in **Exhibit C** hereto.

SECTION V Grievance Procedure

Any dispute between or among the CONTRACTOR, OWNER and / or CITY shall be resolved in accord with the Grievance Procedure contained in **Exhibit D** hereto.

SECTION VI Payment

1. Progress Payment - No more than one progress payment will be made on a rehabilitation project, and that only after at least 60 percent of the project is deemed complete. The payment will be no more than 55 percent of the CONTRACT amount, as modified by Change Orders, if any. Progress payment will be made only after the City's representative has completed an inspection and all work performed to date has been accepted by the OWNER.
2. Final Payment -

- A. FINAL INSPECTION - Upon completion of the rehabilitation work, a final inspection is held by the CITY. Any uncompleted work or work that is unsatisfactory is noted on a final "punch list" and sent to the CONTRACTOR in writing. When these items are completed to the satisfaction of the OWNER and the CITY'S inspector, the contract is complete.
- B. CERTIFICATION - After the CITY determines that the rehabilitation work has been fully and satisfactorily completed, it will prepare a *Certificate of Completion and Final Inspection*.
- C. OWNER STATEMENT OF ACCEPTANCE - The OWNER'S signature of the *Certificate of Completion and Final Inspection* indicates acceptance the rehabilitation work as meeting the terms and conditions of the contract. If the OWNER refuses to sign the final acceptance, the CITY may authorize full payment for those items which are undisputed and acceptable to all parties.

SECTION VII Conflict of Interest, Kickback

No elected or appointed Federal, State and local official, member of the Murfreesboro City Council, nor any other public official or employee who exercises any functions or responsibilities in conjunction with the administration of Murfreesboro Housing Rehabilitation Program shall have any interest, direct or indirect, in the proceeds or benefits of the rehabilitation grant program.

No member of the Murfreesboro City Council or any City of Murfreesboro employee shall receive kickbacks or discounts from either CONTRACTORS or OWNERS in return for special favors in regard to housing rehabilitation.

SECTION VIII Entire Agreement; Change Orders

This instrument constitutes the entire agreement between the parties and no written or oral agreement of any kind exists to change these provisions. Specifically no "side" or "additional" contracts are to exist between the OWNER and CONTRACTOR until this contract is completed unless it is a written Change Order, signed by both parties and approved by the Grantee, in accord with **Exhibit B**.

SECTION IX Miscellaneous Provisions

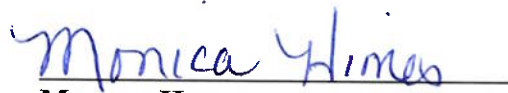
1. Waiver - No waiver of any provision of this CONTRACT shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
2. Governing Law; Venue - The validity, construction and effect of this CONTRACT and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee and the United States of America. Any action between the parties arising from this CONTRACT shall be maintained in the courts of Rutherford County, Tennessee.
3. 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.

[signatures to appear on following page]

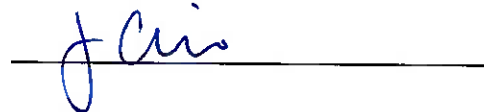
IN WITNESS WHEREOF, the parties have by their duly authorized representatives set out their signatures.


DAVID UNDERHILL, CONTRACTOR

Date: 1-2-2024

 X
MONICA HIMES,
OWNER
Date: 12-19-2023

Witnessed By:




APPROVED BY CITY:

Name: Shane McFarland

Title: Mayor

APPROVED AS TO FORM:


Name: Adam F. Tucker
Title: City Attorney

Date: _____

Date: 1/6/2024

EXHIBIT A

EEO STANDARDS

1. Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).

(1) As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" includes the federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
 - (i) Black persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Island (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

- (2) Whenever the CONTRACTOR, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
- (3) If the CONTRACTOR is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. CONTRACTORS must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each CONTRACTOR or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other CONTRACTORS or subcontractors toward a goal in an approved Plan does not excuse any covered CONTRACTOR's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
- (4) The CONTRACTOR shall implement the specific affirmative action standards provided in paragraphs (7a) through (p) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and

training or minority and female utilization the CONTRACTOR should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction CONTRACTORS performing contract in geographical areas where they do not have a Federal or Federally-assisted construction contract shall apply the minority and female goals established for the geographic area where the contract is being performed.

Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The CONTRACTOR is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

- (5) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the CONTRACTOR has a collective bargaining agreement, to refer either minorities or women shall excuse the CONTRACTOR'S obligations under these specifications. Executive Order 11246, or the regulations promulgated pursuant thereto.
- (6) In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the CONTRACTOR during the training period, and the CONTRACTOR must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- (7) The CONTRACTOR shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the CONTRACTOR'S compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The CONTRACTOR shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the CONTRACTOR'S employees are assigned to work. The CONTRACTOR, where possible, will assign two or more women to each Construction project. The CONTRACTOR shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the CONTRACTOR'S obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the CONTRACTOR or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the CONTRACTOR by the union or, if referred, not employed by the CONTRACTOR, this shall be documented in the file with the reason therefore, along with whatever additional actions the CONTRACTOR may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the CONTRACTOR has a collective bargaining agreement has not referred to the CONTRACTOR a minority person or woman sent by the CONTRACTOR, or when the CONTRACTOR has other

information that the union referral process has impeded the CONTRACTOR'S efforts to meet its obligations.

- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the CONTRACTOR'S employment needs, especially those programs funded or approved by the Department of Labor. The CONTRACTOR shall provide notice of these programs to the sources compiled under (7b) above.
- f. Disseminate the CONTRACTOR'S EEO policy notice of the policy to unions and training programs and request their cooperation in assisting the CONTRACTOR in meeting its EEO obligations: by including it in any policy manual and collective bargaining agreement publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year: and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the CONTRACTOR'S EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the CONTRACTOR'S EEO policy with other CONTRACTORS and subcontractors with whom the CONTRACTOR does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the CONTRACTOR'S recruitment area and employment needs. Not later than one month prior to the date of the acceptance of applications or apprenticeship or other training by any recruitment source, the CONTRACTOR shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of CONTRACTOR'S work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

- m. Ensure that seniority practices, job classifications work assignments and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the CONTRACTOR'S obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction CONTRACTORS and suppliers, including circulation of solicitations to minority and female CONTRACTOR associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to an performance under the CONTRACTOR'S EEO policies and affirmative action obligations.
- (8) CONTRACTORS are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligation (7)a through p. The efforts of a CONTRACTOR association, joint CONTRACTOR-union, CONTRACTOR-community, or other similar group of which the CONTRACTOR is a member and participant, may be asserted as fulfilling any one or more of its obligations under (7)a through p of these Specifications provided that the CONTRACTOR actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the CONTRACTOR'S minority and female work force participation, makes good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the CONTRACTOR. The obligation shall not be a defense for the CONTRACTOR'S non-compliance.
- (9) A single goal for minorities and a separate single goal for women have been established. The CONTRACTOR, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the CONTRACTOR may be in violation of the Executive Order if a particular group is employed in a substantial disparate manner (for example, even though the CONTRACTOR has achieved its goals for women generally the CONTRACTOR may be in violation of the Executive Order if a specific minority group of women is underutilized).
- (10) The CONTRACTOR shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- (11) The CONTRACTOR shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- (12) The CONTRACTOR shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended.
- (13) The CONTRACTOR, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph (7) of these specifications, so as to achieve maximum results from its efforts to ensure equal

employment opportunity. If the CONTRACTOR fails to comply with the requirements of the Executive Order, the implementing regulation, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

- (14) The CONTRACTOR shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number where assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, CONTRACTOR shall not be required to maintain separate records.
- (15) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

EXHIBIT B

CHANGE ORDERS

Situations which did not show up during the work write-up are not uncommon in the housing rehabilitation process, and they can change the scope of work, especially if the new problem must be resolved to correct the underlying code deficiency. In such a case, a change order may be initiated.

- A. Conditions necessitating a change order must meet the guidelines in Section 3 and Section 6 of the Housing Rehabilitation Program Policies and Procedures, all of which are incorporated herein by reference.
- B. Change orders must be submitted in writing to the Community Development Department. The City inspector assigned to the project, the homeowner, the contractor and the Community Development Director must sign off on the change order.
- C. Because a change order may alter the City's financial commitment to the project, all change orders should be approved by the Murfreesboro Mayor and Council. Change orders shall be submitted to the Mayor and Council for approval in a timely manner. If waiting until the next scheduled meeting of the Council will unreasonably delay the rehabilitation project, the Community Development Director may recommend to the City Manager approval of the change order. If the City Manager approves the change order, which must be less than \$10,000 in amount, it will take effect immediately and will be reported to the Mayor and Council at its next meeting.
- D. A change order that would cause the cost of the project to exceed the \$25,000 cap must be approved by the Mayor and Council before work on the change order may proceed.

EXHIBIT C

WARRANTY WORK

All rehabilitation work done by the Contractor shall be warranted for one year from the date the homeowner signs the *Certificate of Completion and Final Inspection* indicating acceptance of the rehabilitation work as meeting the terms and conditions of the contract.

Should the homeowner notify the Community Development Department of a warranty claim, the department will:

1. Review rehabilitation project documents to determine if the complaint might be related to the work done;
2. Conduct an on-site inspection accompanied by the contractor or a designee to investigate the request for warranty work;
3. If an on-site inspection determines the requested repair is under warranty, the contractor will have 10 working days to resolve the warranty issue. Another inspection by the City will determine if the terms of the warranty have been satisfied.
4. If the complaint is not resolved within 10 days, a second notice will be issued to the contractor giving an additional five working days to resolve the warranty issue. If the complaint remains unaddressed or resolved unsatisfactorily, the contractor may be ruled ineligible for further participation in the Murfreesboro Housing Rehabilitation Program;
5. A contractor ruled ineligible will be notified by certified mail. The contractor may appeal the ruling within 15 working days of receiving notification. The appeal must be in writing, addressed to the Community Development Director, City of Murfreesboro, P.O. Box 1139, Murfreesboro, TN 37133;
6. When an appeal is received, the Community Development Director will investigate and either restore the contractor's eligibility for program participation or sustain the earlier decision. The director reserves the right to report a contractor who fails to honor his contractual obligations to THDA and the U.S. Department of Housing and Urban Development with a recommendation for disbarment;
7. Before the Community Development Department will consider restoring eligibility, a contractor will be required to reimburse the City for any expense incurred to have another contractor satisfy the ineligible contractor's warranty work.

EXHIBIT D

GRIEVANCE PROCEDURE

Disputes between the homeowner, the City of Murfreesboro and contractor may arise from time to time during the rehabilitation project. In those instances where a mutually satisfactory agreement cannot be reached between the parties, the Grievance Procedure will be followed. The Grievance Procedure will be made a part of the contract between the homeowner and the contractor.

If there is a dispute:

- A. The grievance by the homeowner or contractor is to be filed with the Community Development Director in writing.
- B. The Community Development Director will meet with the homeowner and contractor and attempt to negotiate a solution.

If these steps are unsuccessful, all claims or disputes between the owners and contractor arising out of or related to the work shall be decided by arbitration in accordance with the construction industry arbitration rules of the American Arbitration Association then obtaining, unless the parties mutually agree otherwise.

If the arbitrator's award is in a sum which is less than that which was offered in settlement by the contractor, the arbitrator may award costs and attorney's fees in favor of the contractor. If the award of the arbitrator is in a sum greater than that which was offered in settlement by the owners, the arbitrator may award costs and attorney's fees in favor of the owner.

The contract and the rehabilitation specifications, along with the housing code compliance inspection, provide the basic documentation by which the relative merits of any dispute will be judged.

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Change Order #1 for Roof Replacements

Department: Facilities

Presented by: Brad Hennessee – Facilities Manager

Requested Council Action:

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

Summary

Change Order #1 to add materials cost increase and deduct unused allowance amounts to reflect the new contract sum amount.

Staff Recommendation

Approve the change order with Caldwell Construction Company.

Background Information

The Fire Stations 2, 5, 7, 8, & 9 Reroofs project replaced the aging roofs on these buildings. Caldwell's contract was approved by Council in February 2023 for \$151,050. Material costs increased by \$4,710 between the bid date and contract execution. Unused allowance for damaged wood roof decking decreased the contract sum by \$2,000. These resulted in a net change of \$2,710 added to the contract sum. A detailed list of these amounts is included in Change Order #1. Current project costs are \$153,760.

Council Priorities Served

Responsible budgeting

Proactive maintenance of the city's largest asset classification is crucial to responsible budgeting and decreased CIP costs over the long term.

Fiscal Impact

The change order, a net increase of \$2,710, is funded by FY22 CIP.

Attachments

Fire Stations 2, 5, 7, 8, & 9 Reroofs Change Order #1 Summary

Johnson + Bailey Architects P.C.

City Center
100 East Vine St., Suite 700
Memphis, TN 37130
(615) 690-4560 • Fax (615) 690-4564



CHANGE ORDER NO. 1

PROJECT: Reroofing of Fire Stations
Memphis Fire rescue Department
Memphis, Tennessee

CHANGE ORDER NO: 1

DATE: December 18, 2023

ARCHITECT'S PROJECT NO: 2211

CONTRACTOR: Caldwell Construction Company
661 Fitzhugh Blvd., Suite 129
Memphis, TN 37167

CONTRACT FOR: Reroofing

CONTRACT DATED: June 14, 2023

You are hereby directed to make the following changes in this Contract

ITEM 1: Project was Bid on January 10, 2023. The Bid Form states that the Contractor will not withdraw his Bid for 45 consecutive calendar days after bid opening, which was February 24, 2023. Due to circumstances beyond the Contractor's control, the Contract for Construction was not fully executed until June 14, 2023. Materials cost increased by \$4,709.87 during the time of this delay. See Attachment A.

ADD:\$4,709.87

ITEM 2: Standard Form of Agreement Between Owner and Contractor dated June 14, 2023, Article 4.3 notes an allowance of 500 square feet for removal of damaged existing wood roof deck and replacement with new wood roof deck. Article 4.4 notes a unit price of \$4.00 per square foot for this work. The Contractor did not report any damaged existing wood roof deck. The deduct for this item is 500 square feet times \$4.00 per square foot equals \$2,000.00. See Attachment B.

DEDUCT:\$2,000.00

TOTAL ADD:\$2,709.87

ATTACHMENTS:

Attachment A: Commercial Roofing Specialties, Inc., letter dated December 11, 2023 (1 page)
Attachment B: AIA Document A101 - Standard Form of Agreement Between Owner and Contractor dated June 14, 2023, page 3 (1 page)

Not valid until signed by both the Owner and Architect.

Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The original Contract Sum was \$151,050.00

Net change by previously authorized Change Orders \$0.00

The Contract Sum prior to this Change Order was \$151,050.00

The Contract Sum will be increased by this Change Order \$2,709.87

The new Contract Sum including this Change Order will be \$153,759.87

The Contract Time will be Unchanged

The Contract Time extensions by previous Change Orders is Zero (0) Days

The Date of Substantial Completion as of the date as of this Change Order therefore is September 17, 2023

CHANGE ORDER NO.1
Reroofing of Fire Stations
Murfreesboro Fire rescue Department
Murfreesboro, Tennessee
December 18, 2023
Page 2

JOHNSON + BAILEY
ARCHITECTS P.C.
ARCHITECT

CALDWELL CONSTRUCTION
COMPANY
CONTRACTOR

CITY OF MURFREESBORO
OWNER

BY *R. Lyle Lynch*
R Lyle Lynch, Architect

BY *Randy Caldwell*
Randy Caldwell, President

BY _____
Shane McFarland, Mayor

DATE December 18, 2023

DATE 12-19-2023

DATE _____



December 11th 2023

Randy,

Per our prior conversation I had quoted you this job in December. CRS was given a price increase of 5% that took effect Jan 1st. We also had another price increase of 5% that took place the beginning of 2nd quarter April 1st. I apologize if there was any confusion on my part. If you have any other questions please let me know.

December quote \$43,596.46	Price Increase of \$4,709.87
1 st qtr pricing \$45,891.01	
Time of purchase \$48,306.33	

Luis C. Castellanos
Commercial/Equipment Sales

A handwritten signature in dark ink, appearing to be 'Luis C. Castellanos', written in a cursive style.

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Hundred Fifty-One Thousand and fifty dollars (\$ 151,050.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
None	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
None		

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
For removal of damaged existing wood roof deck, and replacement with new 19/32" performance category APA rated sheathing 40/20 exposure.	509 Square Feet

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Square Foot (\$0.00)
For removal of damaged existing wood roof deck, and replacement with new 19/32" performance category APA rated sheathing 40/20 exposure.	Square Foot	\$4.00

§ 4.5 Liquidated Damages

§ 4.5.1 Because failure to complete the Project within the time fixed in Section 3.3 will result in substantial injury to the Owner, and as damages arising from such failure cannot be calculated with any degree of certainty, should the Contractor fails to achieve Substantial Completion of the Work within the time so fixed, or within such further time, if any, as shall be allowed for time extensions in accordance with the provisions of the Contract Documents, the Contractor or its Surety shall pay to the Owner as liquidated damages for such delay, and not as a penalty, \$300.00 for each and every calendar day elapsing between the date fixed for Substantial Completion in Section 3.3 and the date such Substantial Completion shall have been fully accomplished.

§ 4.5.2 Any liquidated damages assessed pursuant to Section 4.2.1, shall be payable in addition to any excess expenses or costs payable by the Contractor to the Owner under the provisions of Article 14 of the General Conditions, and shall not preclude the recovery of damages by the Owner under other provisions of the Contract Documents, except for Contractor's delays. This provision for liquidated damages for delay shall in no manner affect the Owner's right to terminate the Contract as provided in Article 14 of the General Conditions ("Termination or Suspension of the Contract") or elsewhere in the Contract Documents. The Owner may deduct from the balance of retainage the liquidated damages stipulated herein or in the next paragraph hereof, as the case may be, or such portion thereof as the retained balance will cover.

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Wine Sales Certificate of Compliance – Kwik Sak #621

Department: Finance

Presented by: Jennifer Brown

Requested Council Action:

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

Summary

Information pertaining to the issuance of a certificate of compliance for wine sales in a grocery store.

Background Information

State law requires that an applicant for wine sales in a retail food store obtain a certificate of compliance from the local jurisdiction to be submitted to the Tennessee Alcoholic Beverage Commission as part of the Commission's licensing process. Compliance for the certificate is based only on the applicant's criminal background information and that the location complies with local zoning ordinances.

A certificate of compliance is requested by Mina Abdelsayed and Viola Ayad for the Kwik Sak #621 at 1121 Bradyville Pike, which is a new location for wine in a retail food store. This request complies with statutory requirements.

Council Priorities Served

Maintain public safety

The City's role in issuing a Certificate of Good Moral Character allows the City to be aware of locations that would like to include wine, to review zoning restrictions, review applicant background issues, and check for past problems with following City Code.

Attachments

Summary of Request for Certificate of Compliance for Sale of Wine in Grocery Store

City of Murfreesboro

Request for Certificate of Compliance for Wine in Retail Stores

Summary of information from the application:

Name of Business Entity Saint George Partnership

Type of Application:

New - wine sale in retail store

Corporation	_____
LLC	_____
Partnership	<input checked="" type="checkbox"/>
Sole Proprietor	_____

Owner

Name	Mina Abdelsayed
Age	39
Home Address	826 River Heights Dr
Residency City/State	Mount Juliet, TN
Race/Sex	White/M

10 Year Background Check Findings:

City of Murfreesboro:	None
Rutherford County:	None
Nashville/Davidson County:	None
TBI/FBI	No indication of any record that may preclude the applicant for consideration.

Owner

Name	Viola Ayad
Age	21
Home Address	7671 Knobdate Rd
Residency City/State	Smyrna, TN
Race/Sex	White/F

10 Year Background Check Findings:

City of Murfreesboro:	None
Rutherford County:	None
Nashville/Davidson County:	None
TBI/FBI	No indication of any record that may preclude the applicant for consideration.

Name of Business	Kwik Sak #621
Business Location	1121 Bradyville Pike

Application Completed Properly?	Yes
--	-----

Location meets zoning requirement?	Yes
---	-----

The actual application is available in the office of the City Recorder.

COUNCIL COMMUNICATION

Meeting Date: 1/11/2024

Item Title: Approval to Donate 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

Donation of outdated extrication equipment to Eagleville Fire Department.

Staff Recommendation

Approve equipment donation.

Background Information

MFRD desires to donate several pieces of extrication equipment to the Eagleville Fire Department. The equipment is outdated and with the recent purchase of new extrication equipment, it is no longer needed by the department. The estimated value of the equipment is \$15,300.

Council Priorities Served

Establish strong City brand

Donation of functional equipment to other public safety entities builds strong community relationships and assists in keeping Tennessee citizens safe.

Attachments

1. Mutual Release of Liability and Hold Harmless Agreement
2. Surplus Property Disposal Form

CITY OF MURFREESBORO

DONATION OF Extrication Equipment

MUTUAL RELEASE OF LIABILITY AND HOLD HARMLESS AGREEMENT

For and in consideration of the mutual promises and agreements and for the donation of Outdated extrication equipment from the City of Murfreesboro ("City") to Eagleville Fire Department

The City and Eagleville Fire Department mutually agree as follows:

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

Eagleville Fire Dept. agrees to hold City harmless in the event any claim is made against either the City or County arising from Eagleville Fire Dept.'s ownership or use or failure to use said extrication equipment.

In executing this Release and Hold Harmless Agreement Eagleville Fire Department acknowledges that City is making no representation as to the fitness, suitability or usability of said extrication equipment for their stated purpose and function; it (they) have been owned, maintained and/or used by the City for multiple years. It (or their) current condition is not known or guaranteed by City; City is providing said extrication equipment on an "as is" basis to Eagleville Fire Department.

Eagleville Fire Department shall be solely responsible for determining whether to use said extrication equipment for any purpose.

IN WITNESS WHEREOF:

CITY OF MURFREESBORO

By: 

Craig Tindall, City Manager

By: 

Title: Fire Chief

Approved as to form:


Adam F. Tucker, City Attorney

City of Murfreesboro

Surplus Property Disposal Form

City Department

FIRE DEPARTMENT

Short description of surplus property

OUTDATED EXTRICATION EQUIPMENT

Check the proposed method of disposal.

Sell	_____	Estimated value	\$ <u>15,300</u>
	_____	Reserve value (Do not sell below this amt)	\$ _____
Trade-In	_____	Trade-in value	\$ _____
Transfer	_____	To whom?	_____
Donate	<u>X</u>	To whom? <u>Eagleview Fire Department</u>	Estimated value <u>\$15,300.00</u>
Throw away	_____		
Recycle	_____		

Describe the Surplus Property:

Approximate age 15-17 years Estimated original cost _____
 Seized Property? _____ Depr value (to be completed by FA Mgr if applicable) \$ _____
 Law Enforcement Restricted? _____

Condition of surplus property:

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

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

<u>2- Holmatro Pumps</u>	<u>OPUGO</u>	<u>2- cutters</u>	<u>3020</u>	<u>6- Hose Sections</u>
<u>2- Spreaders</u>	<u>3260</u>	<u>2- cutters</u>	<u>3040</u>	
<u>2- Spreaders</u>	<u>3240</u>	<u>2- Prdal cutters</u>	<u>3005</u>	
<u>2- Rams</u>	<u>3350</u>	<u>1- Comb Tool</u>	<u>3150</u>	
<u>2- Rams</u>	<u>3340</u>	<u>1-Hose Reel</u>	<u>54507-3</u>	
<u>2- Rams</u>	<u>3321</u>	<u>1-Hose Reel</u>	<u>54394-5</u>	

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

Trade-in value	_____	Equipment dealer	_____
Appraisal	_____	Completed online auctions	_____
Kelley Blue Book	_____	Depreciated value	_____
		Other (Describe)	_____

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

Signed Mark Mollica (Department Head) Date 12-1-23

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

Signed Dicki J Massey (Fixed Assets Manager) Date 12-12-23

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

Signed [Signature] (City Manager or Assist. City Manager) Date 12.13.2023

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

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Mandatory Referral for Abandonment of a Segment of Archer Avenue Right-of-Way

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Consider request to allow abandonment of a segment of Archer Avenue right-of-way (ROW) at its northern terminus.

Staff Recommendation

Approve the mandatory referral request.

The Planning Commission is expected to recommend approval at its January 10, 2024 regular meeting.

Background Information

In this mandatory referral [2023-730], Council is being asked to consider abandoning a small segment of Archer Avenue ROW at its northern terminus just south of the proposed Northridge Park development. The ROW in question was recorded on the Palmer Heights, Section 7 plat in 1973. It is currently stubbed out to the Northridge Park development tract. Council approved the Northridge Park PRD zoning conditioned upon Archer Avenue not extending into the proposed development. This abandonment will remove any possibility or expectation of this roadway connection occurring in the future. Staff studied the abandonment of the ROW in consultation with other departments and utilities and determined that it is no longer needed. Planning Staff recommends that the City Council approve this request subject to the following conditions:

- 1) The applicant must provide to the City Legal Department all the necessary documentation (including any needed legal descriptions and exhibits) required to prepare and record the legal instrument.
- 2) The abandonment shall be subject to the final approval of the legal instrument(s) by the City Attorney.
- 3) The applicant will be responsible for recording the legal instrument(s), including paying any recording fees.
- 4) Easements, including but potentially not limited to water, public utility, access, and drainage easements, shall be recorded as necessary to accommodate any

existing or proposed access, utility, and/or drainage infrastructure.

- 5) If the abandoned ROW is to be transferred to the adjacent landowner(s) to the east and west, then a subdivision plat formally incorporating the abandoned ROW into the lot(s) shall be recorded.

Council Priorities Served

Establish Strong City Brand

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

Improve Economic Development

The abandonment of this ROW is being done as part of the development of a new single-family residential subdivision.

Attachments:

1. Staff comments from 01/10/2024 Planning Commission meeting
2. Maps of ROW in question
3. Letter and exhibits from applicant
4. Memo summarizing responses from utilities and City departments

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
JANUARY 10, 2024
PROJECT PLANNER: JOEL AGUILERA**

5.a. Mandatory Referral [2023-730] to consider the abandonment of a segment of Archer Avenue right-of-way, Huddleston-Steele Engineering, Inc. on behalf of Brightland Homes applicant.

In this mandatory referral, the Planning Commission is being asked to consider the abandonment of a segment of Archer Avenue public right-of-way (ROW). The above-mentioned request for abandonment is depicted on the attached exhibits that are included in the agenda materials. The above-mentioned segment of Archer Avenue right-of-way was recorded with the Palmer Heights Subdivision Section 7 final plat in February 1973.

Earlier this year, in August, a rezoning application for a Planned Residential District (Northridge Park PRD) was heard before Murfreesboro City Council for a new single-family detached residential subdivision. This proposed subdivision was located north of the Palmer Heights Subdivision and had connecting stub streets at Amber Drive, Banner Drive, Tower Drive, an unnamed street, and Archer Avenue. Murfreesboro City Council voted to not have the proposed Northridge Park Subdivision connect via Amber Drive and Archer Avenue, and instead connect only via Banner Drive, Tower Drive, and the unnamed street.

As stated in the attached correspondence, because the permanent termination of Archer Avenue would no longer meet the International Fire Code's requirement to terminate roads greater than 150 feet in a turnaround, the applicant, Huddleston-Steele Engineering, on behalf of Brightland Homes, is requesting to abandon the segment of Archer Avenue right-of-way beginning at 150 feet from the intersection of Archer Avenue and Bluebell Avenue.

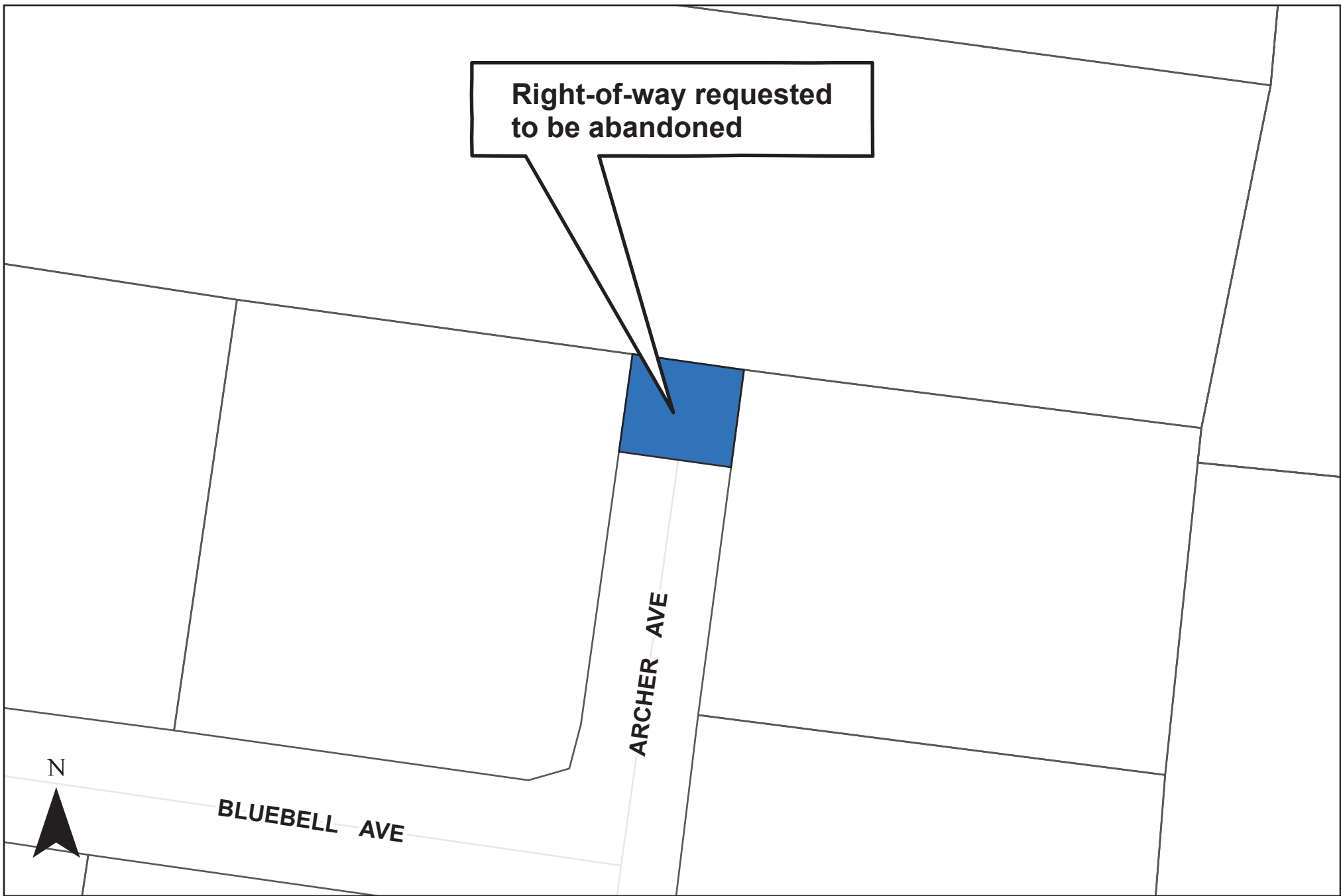
In further review of the requested abandonment, staff has determined that this abandonment will not affect the driveway access to the two existing adjacent lots to the east and west, Lots 133 154 in the Palmer Heights Subdivision. Additionally, this abandonment will also eliminate the possibility of any future street connection between the two neighborhoods at this location.

For the request, the Planning Department has reached out to utilities and other City departments for comment regarding the impact of abandoning the segment of Archer Avenue right-of-way. No objections were received. However, the Engineering Department and MWRD did provide additional conditions.

The City Engineering Department stated that the request to abandon the ROW should be subject to the recording of a 50' access easement, 10' drainage easement on both the east and west side, and a 10' public utility easement on the north side. As stated in the attached memo, MWRD has an 8" existing water main just south of the abandonment area. The Department will require a 20' water easement be retained for the water main and service. The easement must be centered over the water main.

The Planning Commission will need to conduct a public hearing, after which it will need to discuss this application and make a recommendation to the City Council. Staff recommends approval subject to the following conditions in order to facilitate the abandonment process:

1. The applicant must provide to the City Legal Department all the necessary documentation (including any needed legal descriptions and exhibits) required to prepare and record the legal instrument.
2. The abandonment shall be subject to the final approval of the legal instrument(s) by the City Attorney.
3. The applicant will be responsible for recording the document(s), including paying any recording fees.
4. Easements, including but potentially not limited to drainage, public utility, access, and drainage easement, shall be recorded as necessary to accommodate any existing or proposed access, utility, and/or drainage infrastructure.
5. If the abandoned ROW is to be transferred to the adjacent landowner(s) to the east and west, then a subdivision plat formally incorporating the abandoned ROW into the lot(s) shall be recorded.



Request to abandon a segment of Archer Avenue public right-of-way

0 25 50 100 150
US Feet

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



Request to abandon a segment of Archer Avenue public right-of-way



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



City of Murfreesboro Mandatory Referral Application

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

Mandatory Referral Fees:

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

Property Information:

Tax Map/Group/Parcel:

Address (if applicable):

Street Name (if abandonment of ROW): Archer Drive

Type of Mandatory Referral: ROW Abandonment

Applicant Information:

Name of Applicant: Chris Lynch

Company Name (if applicable): Brightland Homes

Street Address or PO Box: 3815 South Capital of Texas Highway Suite 210

City: Austin

State: Texas

Zip Code: 78704

Email Address: clynch@brightlandhomes.com

Phone Number: 512-583-9810

Required Attachments:

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

Chris Lynch

11/7/2023

Applicant Signature

Date



**HUDDLESTON-STEELE
ENGINEERING, INC.**

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

November 11, 2023

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

Re: Abandonment of Right-Of-Way
Northern termination of Archer Avenue
Murfreesboro, TN

Dear Mr. McKnight:

At the request of our client, Brightland Homes, we hereby make a request to abandon the right-of-way at the northern termination of Archer Avenue with a mandatory referral by the Planning Commission and City Council. This request is being made due to the requirement by City Council to not tie to Archer Avenue with the proposed development to the north. Consequently, the permanent termination of this road would no longer meet the International Fire Code's requirement to terminate roads greater than 150' in a turnaround. To solve this issue, we are proposing to terminate the right-of-way at 150' from the intersection of Archer Avenue and Bluebell Avenue.

Sincerely,

HUDDLESTON-STEELE ENGINEERING, INC.

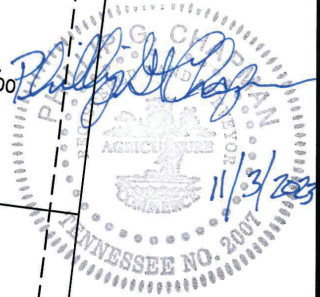
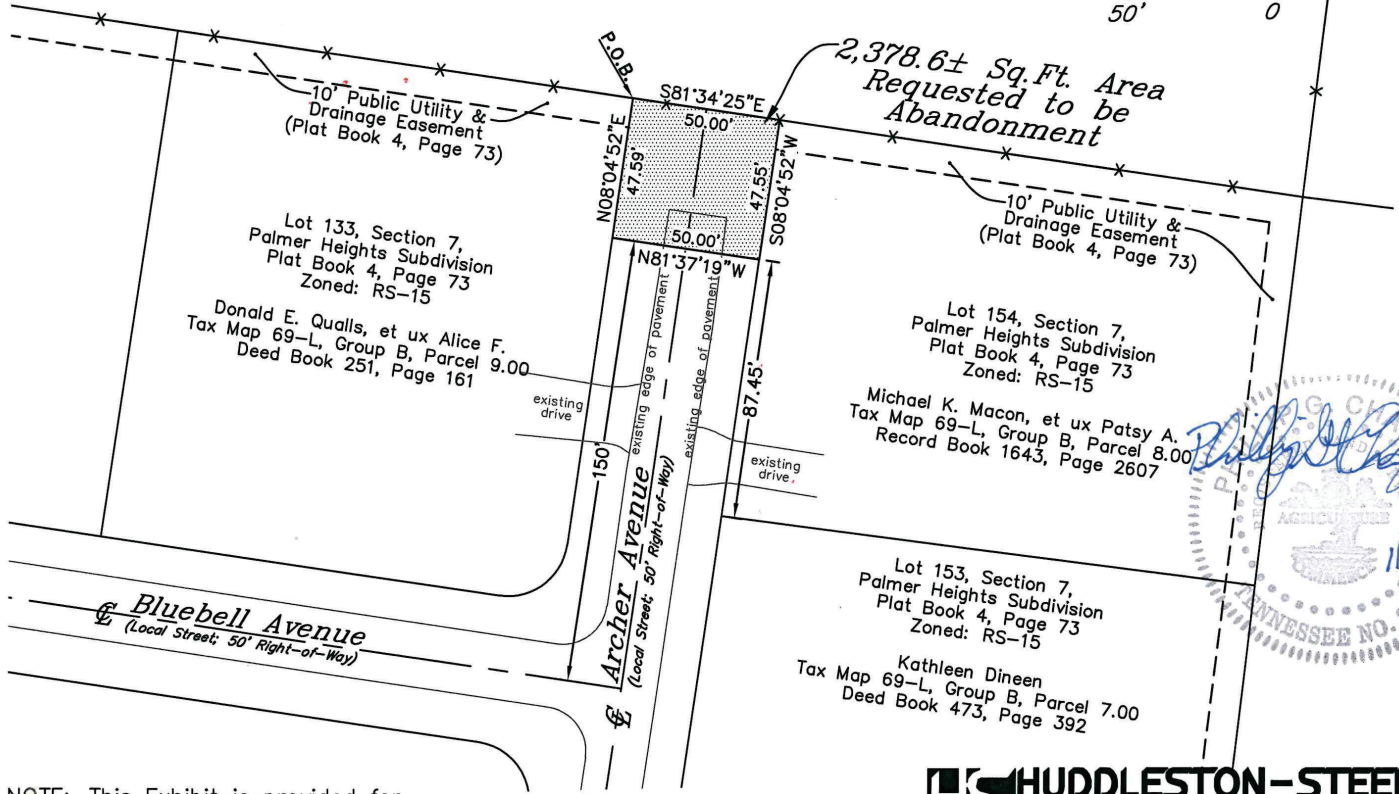
Christopher Maguire, P.E.

EXHIBIT
*Request for Right-of-Way
 Abandonment of
 Archer Avenue*
 November, 2023



50' 0 50'

Patton Family Real Estate Partnership, LP
 Tax Map 69, Parcel 42.00
 Record Book 346, Page 1993
 Zoned: PRD



NOTE: This Exhibit is provided for Planning Commission review only.

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

Archer Avenue
Proposed Abandonment

Located in the 9th Civil District of Rutherford County, Tennessee. Bound on the north by Patton Family Real Estate Partnership, LP (Record Book 346, Page 1993); on the east by Lot 154, Section 7, Palmer Heights Subdivision (Plat Book 4, Page 73); on the south by the remainder of Archer Avenue; and on the west by Lot 133, Section 7, Palmer Heights Subdivision (Plat Book 4, Page 73).

Beginning at a point on the west right-of-way of Archer Avenue at it's north terminus, said point being the NE corner of Lot 133, Section 7, Palmer Heights Subdivision and the NW corner of this tract; thence with the south line of Patton Family Real Estates Partnership, LP S-81°34'25"-E, 50.00 feet to a point, being the NE corner of this tract; thence with the east right-of-way of Archer Avenue S-08°04'52"-W, 47.55 feet to a point, being the SE corner of this tract; thence passing across Archer Avenue N-81°37'19"-W, 50.00 feet to a point on the west right-of-way of Archer Avenue, being the SW corner of this tract; thence with the west right-of-way of Archer Avenue N-08°04'52"E, 47.59 feet to the point at the beginning; containing 2,378.6 square feet, more or less.

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

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



Memorandum

To: Greg McKnight, Planning Director & Matthew Blomeley, Assistant Planning Director
From: Joel Aguilera, Planner
Date: January 3, 2024
Re: Mandatory Referral 2023-730: Abandonment of a portion of Archer Avenue public right-of-way in the Palmer Heights Subdivision

Following is a summary of the City department staff and utility provider comments regarding the requested partial right-of-way (ROW) abandonment.

Engineering & Streets Departments

The request to abandon ROW should be subject to submission and recording of a deed transferring the abandoned ROW. The deed should reserve a 50' access easement, 10' drainage easement on both the east and west side and a 10' public utility easement on the north side.

In order to facilitate the abandonment process, the applicant should provide a legal description and exhibits necessary for the City to draft the legal documents as well as any recording fees. In addition, the ROW abandonment should be subject to the final approval of the legal documents by the City Attorney.

Fire and Rescue Department

MFRD does not object to the abandonment.

Police Department

MPD does not object to the abandonment.

Solid Waste Department

The abandonment will have no effect on the Solid Waste Department.

Murfreesboro Water Resources Department (MWRD)

MWRD has an 8" existing water main just south of the abandonment area. There is an existing water service extending from this main to the south property line of the Patton Family property. The Department will require a 20' water easement be retained for the water main and service. At such time the Patton Family property develops, the developer will be required to connect to the existing water main along Archer Avenue. The easement must be centered over the water main.

The Department has an 8" existing sewer main, that ends just south of the abandonment area, that will not be affected by the abandonment. There is no need to retain easement as it is not deep enough to be utilized by the Patton Family property to the north.

Consolidated Utility District (CUD)

CUD does not have any facilities in the requested area and does not object to the abandonment.

Middle Tennessee Electric Members Cooperative (MTE)

MTE does not have any facilities in the requested area and does not object to the abandonment.

AT&T

Efforts were made to contact AT&T to provide comment for this request but AT&T did not respond.

Atmos Energy

Atmos Energy does not object to the abandonment.

Comcast

Efforts were made to contact Comcast to provide comment for this request but Comcast did not respond.

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Mandatory Referral for Abandonment of a Sanitary Sewer Easement along Suzanne Landon Drive

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 abandonment of a portion of a sanitary sewer easement along Suzanne Landon Drive.

Staff Recommendation

Approve the mandatory referral request.

The Planning Commission is expected to recommend approval at its January 10, 2024 regular meeting.

The Murfreesboro Water Resources Board voted to approve this request at its December 12, 2023 regular meeting.

Background Information

In this mandatory referral [2023-731], Council is being asked to consider abandoning a portion of a sanitary sewer easement on property located east of Suzanne Landon Drive. The easement in question was platted in 2010 with the Regal Square development, which was originally proposed to be developed with offices. Since that time, the subject property has been rezoned to allow a townhome development. The townhome development plan contained modified sanitary sewer routing based on the new layout. The segment of sanitary sewer easement in question is no longer needed, based on the utility plan for the townhome development. MWRD has reviewed the abandonment request and does not object to its approval. Planning Staff recommends that the City Council approve this request subject to the following conditions:

- 1) The sewer easement abandonment should be subject to the final approval of the legal instrument(s) by the City Attorney.
- 2) If approved by the City Council, the applicant will be responsible for providing the information necessary for the Legal Department to prepare the legal instrument(s) for this easement abandonment (including, but not limited to, any exhibits and legal descriptions needed).
- 3) The applicant will be responsible for recording the legal instrument(s), including payment of the recording fee.

- 4) The sewer easement abandonment is subject to the recording of a subdivision plat that relocates the easement as proposed by the applicant.

Council Priorities Served

Establish Strong City Brand

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

Improve Economic Development

The abandonment of this easement will help to facilitate the completion of the next phase of the Villas at Regal Square townhome development.

Attachments:

1. Staff comments from 01/10/2024 Planning Commission meeting
2. Letter and exhibits from applicant
3. Memo from MWRD

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
JANUARY 10, 2024
PROJECT PLANNER: HOLLY SMYTH**

6.a. Mandatory Referral [2023-731] to consider the abandonment of a portion of a sanitary sewer easement on property located east of Suzanne Landon Drive, Benjamin Beasley on behalf of Cypress Homes, Inc. applicant.

In this mandatory referral, the Planning Commission is being asked to consider abandoning an approximately 54'-long segment of a 30' wide sanitary sewer easement located on vacant property along two parcels currently known as Tax Map 69E, Group C, Parcels 009.00 and 010.00, with a larger segment towards the west side of the lots to remain.



The sanitary sewer easement was dedicated by plat book 35, page 83 to the City of Murfreesboro with the Regal Square subdivision recorded on March 11, 2010 on lots #15 and #16. At that time, it was anticipated that office development would take place. Since then, the area has been rezoned to PRD for a townhome development, with the re-routing of the sewer making a portion surplus. Final Plat #2020-2024 was filed to consolidate six lots into one lot of record to accommodate the development and dedicate new sewer and water easements. An exhibit showing the existing sewer easement to remain and the sewer easement to be abandoned is attached for your review along with the draft Final Plat that will provide new easements.

The Murfreesboro Water Resources Board met on December 12, 2023 and voted to recommend that the Planning Commission and City Council approve the abandonment being requested. The memo from MWRD is attached for your review.

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

- 1) The sewer easement abandonment should be subject to the final approval of the legal documents by the City Attorney.
- 2) If approved by the City Council, the applicant will be responsible for providing the information necessary for the Legal Department to prepare the legal document for this easement abandonment (including, but not limited to, any exhibits and legal descriptions needed).
- 3) The applicant will be responsible for recording the legal document, including payment of the recording fee.
- 4) The sewer easement abandonment is subject to the submission and recording of a subdivision plat that relocates the easement as proposed by the applicant.



City of Murfreesboro

Mandatory Referral Application

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

Mandatory Referral Fees:

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

Property Information:

Tax Map/Group/Parcel:

Address (if applicable):

Street Name (if abandonment of ROW):

Type of Mandatory Referral:

Applicant Information:

Name of Applicant:

Company Name (if applicable):

Street Address or PO Box:

City:

State:

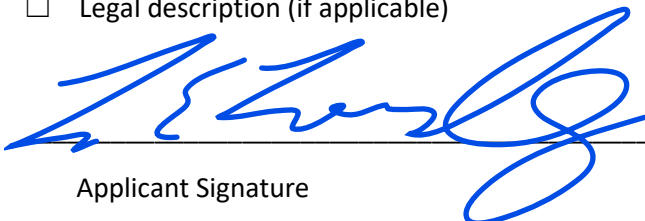
Zip Code:

Email Address:

Phone Number:

Required Attachments:

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


Applicant Signature

Date



November 20, 2023

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

Re: Regal Square Subdivision, Phase 3 Sanitary Sewer Abandonment

City of Murfreesboro Planning Department,

Cypress Homes LLC, owners of Regal Square Subdivision Phase 3, hereby request that a portion of sanitary sewer easement, as shown in the included exhibit, on Tax Map 69, Group C, Parcel 7.0 (Lot 15 and Lot 16) be abandoned in order to meet the design of the Site Plan. This specific easement is currently a surplus. The sanitary sewer in that location was removed per the design of the approved engineering drawings. Due to the removal of the sewer, an easement should not be required. Additional sanitary and water easements will be established to appropriately service and complete the recording for the Final Plat, Regal Square Subdivision, Resubdivision of Lots 13-17.

Cypress Homes, LLC,
a Tennessee limited liability company

By: 

Print Name: Benjamin Beasley

Title: Managing Member

Date: _____

PROJECT:
SUSAN LANDON
DRIVE
Mufreesboro, Tennessee

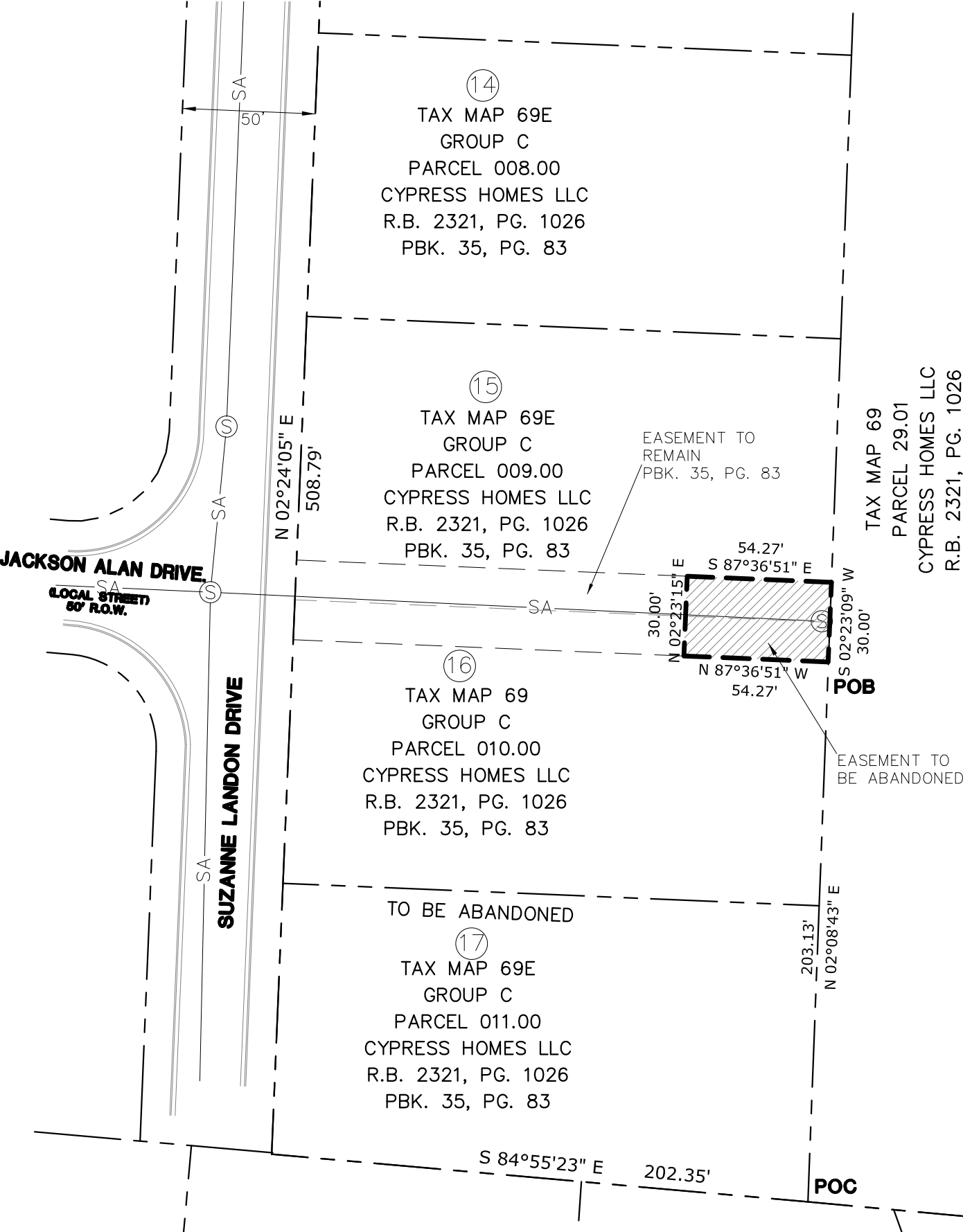


PREPARED BY
STIVERS LAND SURVEYING
RLS 2219
1134 LAKEWOOD DR., GALLATIN TN. 37066
615-939-1171
stiverslandsurveying@gmail.com



**TITLE: SEWER LINE
ABANDONMENT EXHIBIT**

PROJ #	20-017	SCALE:
DATE: 12/22/2023		1"=50'



A tract of land in the 9th District, Rutherford County, Tennessee. Being a portion of the Cypress Home, LLC tract as recorded in Record Book 2321, Page 1026, Register's Office Rutherford County, Tennessee. Being bounded on all sides by said tract. Tract being described as follows:

Point of Commencement being the southwestern corner of said tract; thence North 02°24'05" East 508.79' to a point; thence South 87°36'51" East 146.95' to the Point of beginning; thence North 02°23'15" East a distance of 30.00' to a point; thence South 87°36'51" East a distance of 54.27' to a point; thence South 02°23'09" West a distance of 30.00' to a point; thence North 87°36'51" West a distance of 54.27' to the point of beginning,

Having an area of 1,628 square feet, 0.037 acres.

LEGEND

- IRON ROD (OLD)
- IRON ROD (NEW)
- BOUNDARY LINE
- EXTRUDED CURB
- SA — SANITARY SEWER LINE
- W — WATER LINE
- G — GAS LINE
- STORM SEWER
- WATER VALVE
- SANITARY SEWER MANHOLE

0 50 100 150

Draft
Final
Plat



Certificate of Approval for Electric Power - I hereby certify that the subdivision shown hereon has been approved by the Murfreesboro Electric Department (MED) for electric power service, that the subdivision is within the service area of MED, and that MED is able to provide electric power service to the subdivision subject to the Owner complying with the applicable rules and regulations of MED. No electric power service will be provided until MED's requirements for electric power service have been met.

Date _____ Murfreesboro Electric Department Official

Certificate of Approval of Sewer Systems - I hereby certify that: (1) the sewer lines and appurtenances for the sewer system of the subdivision shown hereon have been installed in accordance with city codes and specifications and the requirements of the Tennessee Department of Environment and Conservation, Design Criteria for Sewage Works; or (2) that a Surety for these improvements has been posted with the City of Murfreesboro to assure completion of same; or (3) that a subsurface sewage system will be permitted subject to the approval of the Rutherford County Health Department.

Date _____ Murfreesboro Water Resources Department

Certificate of Ownership and Dedication - I (we) hereby certify that I am (we are) the Owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent and establish the minimum building restriction lines, and dedicate all streets, alleys, walks, and utilities therein, parks and other open spaces to public or private use as noted. (Note: this certification shall include the deed book and page numbers of deeds and shall include for corporations and partnerships the company name and the titles of the individuals authorized to execute documents).

Date _____ Larry Gilliland

Date _____ LandQuestor, LLC

Certificate of Accuracy - I hereby certify that this is a category 1 survey and the ratio of precision of the unadjusted survey is 1:10,000 as shown hereon. I also certify that the monuments have been or will be placed as shown hereon to the specifications of the City Engineer.

Date _____ Surveyor
Tennessee Reg. No. 2219

Certificate of Approval of Water Systems Located in the Water Service Jurisdiction of the City of Murfreesboro - I hereby certify that: (1) the water lines and appurtenances for the water system of the subdivision shown hereon have been installed in accordance with city codes and specifications and the Tennessee

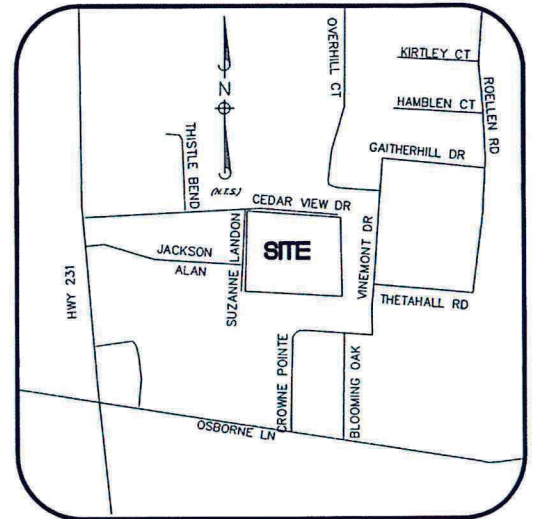
Date _____ Murfreesboro Water Resources Department

Certificate of Approval of Streets and Drainage - I hereby certify that (1) the streets, drainage structures, drainage improvements, and stormwater quality controls for the subdivision shown hereon have been installed in accordance with city specifications, or (2) that a Surety for these improvements has been posted with the City of Murfreesboro to assure completion of same.

Date _____ City Engineer

Certificate of Approval for Recording - I hereby certify that the subdivision plan shown hereon has been found to comply with the Subdivision Regulations for the City of Murfreesboro, Tennessee with the exception of such variances, if any, as are noted in the minutes of the Planning Commission and that it has been approved for recording in the office of the Rutherford County Register of Deeds provided that it is so recorded within one year of this date.

Date _____ Planning Commission Secretary



VICINITY MAP

SURVEYOR'S NOTES:

1. THIS SURVEYOR WAS NOT FURNISHED WITH A TITLE SEARCH OR TITLE POLICY, THEREFORE THIS SURVEY IS SUBJECT TO THE FINDINGS OF AN ACCURATE TITLE SEARCH. ONLY THE DOCUMENTS NOTED HEREON WERE SUPPLIED TO THIS SURVEYOR. THERE MAY EXIST OTHER DOCUMENTS THAT WOULD AFFECT THE SUBJECT PROPERTY. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH.
2. THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES SHOWN WERE TAKEN FROM SURFACE IMPROVEMENTS, UTILITY COMPANY RECORDS, AND/OR PLANS BY OTHERS. ACTUAL FIELD LOCATIONS AND SIZES OF THESE LINES SHOULD BE OBTAINED PRIOR TO ANY CONSTRUCTION ON THIS SITE. ADDITIONAL BURIED UTILITIES AND/OR STRUCTURES MAY BE ENCOUNTERED. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES AND/OR STRUCTURES. BEFORE ANY EXCAVATION HAS BEGUN ON THIS SITE CALL 1-800-351-1111 FOR UNDERGROUND UTILITY LOCATIONS.
3. ALL BUILDINGS, SURFACE IMPROVEMENTS, AND SUBSURFACE IMPROVEMENTS ON AND ADJACENT TO THIS SITE ARE NOT NECESSARILY SHOWN HEREON.
4. SUBSURFACE AND/OR ENVIRONMENTAL CONDITIONS WERE NOT EXAMINED OR CONSIDERED AS A PART OF THIS SURVEY.
5. BEARINGS SHOWN ARE BASED ON THE TENNESSEE STATE PLANE COORDINATE SYSTEM, ZONE 4100, NAD 1988.
6. THIS IS A CATEGORY 1 SURVEY IN COMPLIANCE WITH THE RULES OF THE STATE OF TENNESSEE, BOARD OF EXAMINERS FOR LAND SURVEYORS, CHAPTER 0820-3, STANDARDS OF PRACTICE. THE ERROR OF CLOSURE FOR THE UNADJUSTED FIELD SURVEY IS BETTER THAN 1 : 10,000.
7. A REVIEW OF F.E.M.A. FLOOD INSURANCE RATE MAPS, COMMUNITY PANEL NO. 47149C1145H EFFECTIVE DATE JANUARY 1, 2007, SHOWS NONE OF THIS PROPERTY TO BE WITHIN THE 100 YEAR FLOOD PLAIN ZONE X.
8. ALL LOT CORNERS ARE TO BE MARKED WITH A 1/2" CAPPED IRON RODS.
9. NO BUILDINGS OR STRUCTURES WILL BE PERMITTED IN ANY EASEMENT.
10. THE PURPOSE OF THE PLAT IS TO RESUBDIVIDE LOTS 13-17 TO CREATE 1 LOT OF RECORD AND TO RECORD EASEMENTS AND TO RECORD EASEMENTS AND ABANDON RIGHT OF WAY AS SHOWN.
11. THE RECORDING OF THIS PLAT VOIDS, VACATES AND SUPERCEDES LOTS 13-17 THE FINAL PLAT OF REGAL SQUARE AS RECORDED IN BOOK 35, PAGE 83, ROSC, TN.
12. THE PROPERTY IS WITHIN THE OSBORNE LN. ASSESSMENT DISTRICT.
13. UNDER THE CURRENT ADOPTED PLUMBING CODE, THE CITY OF MURFREESBORO REQUIRES THE MINIMUM FLOOR ELEVATION TO BE SET AT OR ABOVE THE TOP OF CASTING ELEVATION OF THE NEAREST MANHOLE THAT IS UPSTREAM OF THE SEWER SERVICE CONNECTION. AS AN ALTERNATIVE THE HOMEOWNER SHALL INSTALL A BACKWATER VALVE PER THE PLUMBING CODE AND EXECUTE AND RECORD A RELEASE OF INDEMNIFICATION AGAINST THE CITY OF MURFREESBORO WITH REGARDS TO THE SANITARY SEWER CONNECTION. THE BUILDER AND/OR HOMEOWNER SHALL BE RESPONSIBLE FOR THE COMPLIANCE WITH THIS REQUIREMENT.
14. PRD SETBACKS:
FRONT YARD: 15 FT
SIDE YARD: 20 FT
REAR YARD: 25 FT

CURVE	ARC	LENGTH	RADIUS	DELTA	ANGLE	CHORD	BEARING	CHORD	LENGTH
C1	31.44'	20.00'	190'04"08"	S 47°26'06" W	28.30'				

DATE OF RECORDING: _____
TIME OF RECORDING: _____
PLATBOOK/RECORD BOOK: _____
PAGE: _____

FINAL PLAT RESUBDIVISION OF REGAL SQUARE

SUBDIVISION LOTS 13-17

SUZANNE LANDON DRIVE & CEDAR VIEW DRIVE

CITY OF MURFREESBORO, 9TH CIVIL DISTRICT, RUTHERFORD COUNTY, TENNESSEE

TOTAL ACRES = 7.86 ±	TOTAL LOTS = 1
2018-430 REGAL SQUARE SUBD.	CIVIL DISTRICT: 9TH
OWNER: LARRY GILLILAND	CITY OF MURFREESBORO
SCALE: 1"=50'	JOB #20-018
SURVEYOR: JASON J. STIVERS	STATE OF TENNESSEE
RUTHERFORD COUNTY	
DATE: MARCH 31, 2020	SHEET NO. 1 OF 1



STIVERS LAND SURVEYING
1134 LAKEWOOD DR., GALLATIN TN. 37066
615-939-1171
stiverslandsurveying@gmail.com

2020-2024
Regal Square
Received
Planning Department
APR 01 2020
111 West Vine Street
Murfreesboro, TN 37130



... creating a better quality of life

MEMORANDUM

DATE: November 16, 2023
TO: Water Resources Board
FROM: Valerie H. Smith
SUBJECT: Sewer Easement Abandonment Request
Regal Square - Phase 3

BACKGROUND

Cypress Homes, LLC is requesting the abandonment of a portion of the existing sanitary sewer easement. With the redevelopment of the property, this shaded portion of easement is not being utilized as this portion of the existing sewer main was abandoned.

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

RECOMMENDATION

Approval of abandoning the highlighted portion of the existing sewer easement.

FISCAL IMPACT

The original easement was dedicated by plat.

ATTACHMENTS

Easement Abandonment Request
Exhibit

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Mandatory Referral for Dedication of an Electric Easement along Franklin Road

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 an electric easement on City-owned property located at 7096 Franklin Road.

Staff Recommendation

Approve the mandatory referral request.

The Planning Commission is expected to recommend approval at its January 10, 2024 regular meeting.

Background Information

In this mandatory referral [2023-732], Council is being asked to consider the dedication of an electric easement to Middle Tennessee Electric (MTE) on City-owned property located at 7096 Franklin Road. MTE proposes to route power from the north side of Franklin Road to the residential development on the south side of Franklin Road, and the proposed easement will accommodate a guy wire. Planning Staff recommends that the City Council approve this request subject to the following conditions:

1. MTE provide to the City Legal Department documents and exhibits to be approved as to form by the City Attorney.
2. Upon execution of the necessary document(s), MTE record said document(s) at its expense.
3. MTE shall notify Atmos Energy prior to commencement of work to coordinate the final location of all pole(s) and guy anchor(s).

Council Priorities Served

Expand Infrastructure

The proposed easement dedication will assist MTE in providing electric infrastructure to serve the residential development across Franklin Road.

Improve Economic Development

The proposed easement dedication will help to facilitate the development of property

across Franklin Road.

Attachments:

1. Memo from Assistant City Attorney
2. Exhibit of proposed easement



**MEMORANDUM
CITY OF MURFREESBORO
LEGAL DEPARTMENT**

TO: Chair Jones and Members of the Planning Commission

CY: Chris Griffith, Michele Emerson, Greg McKnight, David Ives

FROM: Roman Hankins

DATE: January 3, 2024

RE: Additional Easement to MTEMC

MANDATORY REFERRAL

Middle Tennessee Electric (MTE) has need for an additional guy easement related to an existing power pole on the City's property located at 7096 Franklin Road, substantially as shown on the attached exhibit. Atmos Energy has notified the City that the proposed additional easement is in the area of a gas main within an easement. Atmos requests that MTE maintain a minimum five feet (5') of separation from the gas main.

Staff request that Planning Commission recommend to City Council granting this easement to MTE, subject to the following conditions:

1. MTE provide to the City Legal Department documents and exhibits to be approved as to form by the City Attorney;
2. Upon execution of the necessary document(s), MTE record said document(s) at its expense; and
3. MTE shall notify Atmos Energy prior to commencement of work to coordinate the final location of all pole(s) and guy anchor(s).

I will be available if you have any questions.



CITY OF
MURFREESBORO
LAND

Veterans
Parkway / Rt.96

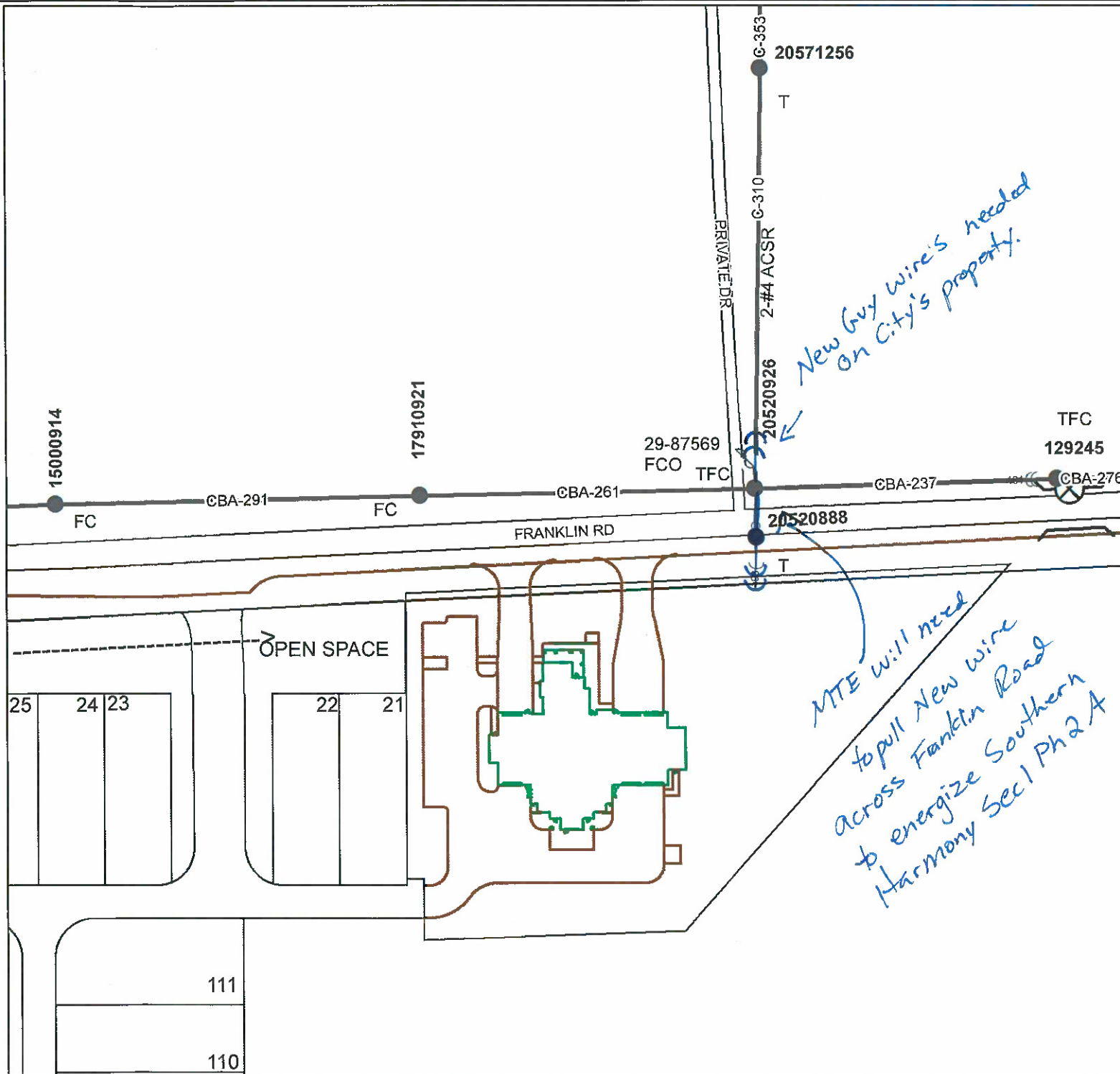
Rt.96

MTE Pole located on
City Land

Rt.96

Del Webb Community

Google



Disclaimer:
 Middle Tennessee Electric Membership Corporation makes no representation or warranty as to map accuracy, and in particular, its accuracy as to Underground Conductor locations, property boundaries, rights-of-ways, or placement and location of any map features or data. Independent verification of all information should be obtained by the User. This is NOT A LEGALLY BINDING OR CERTIFIED DOCUMENT. All data and materials Copyright © 2005. All Rights Reserved.

Job Number:

Location:

Description:

Map: 5149-E

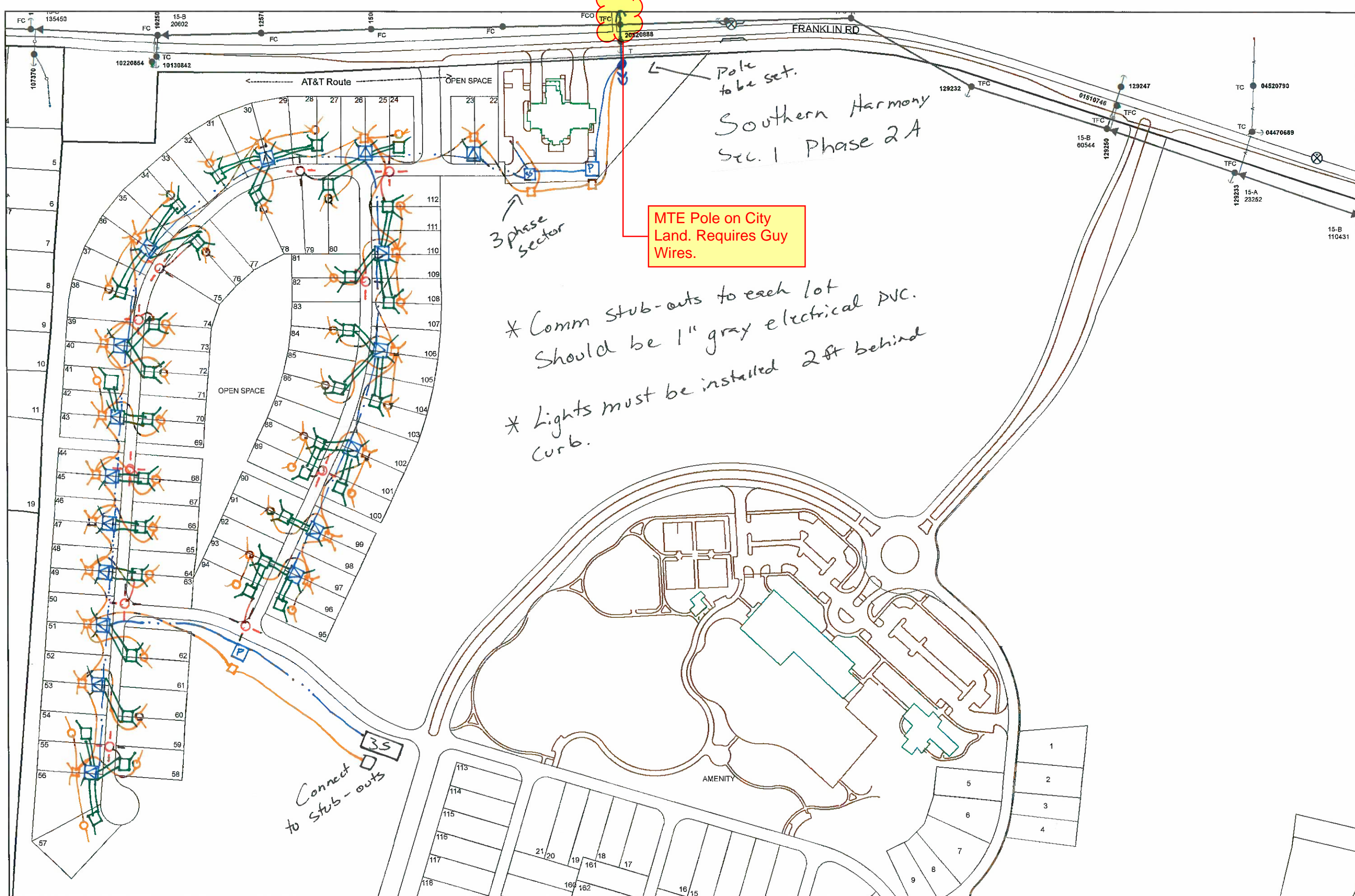
Circuit:

Protective Device:

Switch Number:

Scale: 1 inch = 104 feet

Print Date: 10/6/2023



UG Symbol Legend

- #1 ALCNC Primary – Blue
- Secondary – Green
- Street Lighting – Red
- #1 Express Feeds – Brown
- Smart Grid – Orange

#1 Circuits

- 1 Ø 1-2" sch. 40
 - 2 Ø 2-2" sch. 40
 - 3 Ø 3-2" sch. 40
 - 3 Ø Commercial 2-4"
- *Call out each span
note size & quantity on each span

- P** Primary Pull Box
 - 1S** 1 Ø Sector
 - 3S** 3 Ø Sector
 - 1 Ø Transformer**
 - 3 Ø Transformer**
- *Illustrate stubout direction

- Secondary**
 - 1-3" sch. 40
 - 2-3" sch. 40
 - Large Sec. Pull Box**
- *Illustrate stubout direction

- Street Lighting**
- Street Light Pullbox
- Decorative Street Light

#1 Express Feeds

- Smart Grid**
- 17 x 30 x 18 Comm Handhole
- 10" Round Flower Pot Comm Handhole
- 2" HDPE Orange with Red Stripe
- 1" PVC

- Miscellaneous**
- Manhole
- Pad Mounted Switch
- Pole
- Pole, Install
- Anchor Guy
- Anchor Guy, Install
- Member Wire (Secondary)
- Feeder Conductor
- OH Primary
- OH Powerline

Title Block

Development Name and Section _____

Address _____

Developer Name _____

WO# _____

SO# _____



Smart Grid Boxes Yes _____ No _____

Type of S.G. Conduit HDPE _____ PVC _____



5149-A

Disclaimer:
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Independent verification of all information should be obtained by the User.
This map is NOT A LEGALLY BINDING OR CERTIFIED DOCUMENT.
All data and materials Copyright © 2005. All Rights Reserved.

Ctrl Map, Grp, Par
075094 05500
MURFREESBORO CITY OF

PRIVATE DR

C-310
2-#4 ACSR
20520926

17910921

29-87569
FCO TFC

CBA-291
FC

CBA-261

CBA-237

FRANKLIN RD

20320878

20550845

OPEN SPACE

LBCO

Ctrl Map, Grp, Par
075099 02107

PULTE HOMES TENNESSEE LIMITED PARTNERSHIP



Disclaimer:

Middle Tennessee Electric Membership Corporation ("MTE") makes no representation, warranty, or certification as to map accuracy, including, but not limited to, its accuracy as to underground conductor locations, property boundaries, rights-of-ways, or placement and location of any map features or data. This exhibit is not intended to be an ALTA/ACSM, Category I Boundary, or any other type of land survey. The drawing is not to scale. The location of the easement centerline and/or easement dimensions as shown are approximate and may vary with actual construction. After actual construction, the as-built electric lines and/or equipment shall be deemed to be the centerline of the easement. MTE expressly disclaims liability for any errors or omissions.

Job Number: 16415850

Location: Southern Harmony Sec1 Ph2 rise
Description:

Map: 5149-E

Circuit:

Protective Device:

Switch Number:

Scale: 1 inch = 67 feet

Print Date: 1/8/2024

Right-of-Way

Easement

This instrument prepared by: MTE
555 New Salem Highway, Murfreesboro, TN 37129
____ Employee Initials



Service Location # _____ Meter Set SO # _____ WO# _____

Grantor: _____ And/by _____

Select one of the following: ☐unmarried ☐married ☐business entity

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Grantor, whether one or more, does hereby grant unto Middle Tennessee Electric Membership Corporation, a Tennessee not-for-profit corporation ("Grantee" or "MTE"), its affiliates, successors or assigns, a perpetual easement (the "Easement") that, except as may be otherwise indicated on Exhibit 1, if attached, shall be twenty feet (20') from the centerline (total of 40') for any overhead transmission and/or distribution line or system, including anchoring, and ten feet (10') from the centerline (total of 20') for any underground transmission and/or distribution line or system with the right to:

- install, construct, reconstruct, rephase, operate and maintain an electric transmission and/or distribution line or system;
- inspect and make such repairs, changes, alterations, improvements, removals from, substitutions and additions to its facilities as Grantee may from time to time deem advisable, including, by way of example and not by way of limitation, the right to increase or decrease the number of conduits, wires, cables, poles, guy wire and anchors, hand holes, manholes, connection boxes, transformers and transformer enclosures;
- cut, trim and control the growth by chemical means, machinery or otherwise of trees and shrubbery within the Easement, or any tree that may interfere with or threaten to endanger the operation and maintenance of said line or system;
- prohibit, prevent and restrict the planting and/or maintenance of any trees, shrubbery or vegetation not approved in writing by Grantee (except those trees that appear on MTE's approved standard planting guide) which approval may be withheld by Grantee in its sole discretion if it determines said trees, shrubbery or vegetation may in the future interfere with or threaten to endanger the operation and maintenance of said line or system;
- prohibit the planting of any trees, shrubbery or vegetation within 15' of a pole or pad-mounted equipment;
- keep the Easement clear of all buildings, structures or other obstructions;
- license, permit or otherwise agree to the joint use or occupancy of the lines, system or, if any of said system is placed underground, of the trench and related underground facilities, by any other person, association or corporation for electrification, for other utility or commercial purposes;
- install and maintain guy additions to overhead lines if any portion of the lines or system is placed underground;

over, across; and through the land owned by Grantor as further described below (the "Property");

County _____ State of Tennessee Tax Map: _____ Group: _____ Parcel: _____

Address _____
House/building# _____ Street/Road Name _____ City _____ Zip _____

and such Property being of record in Deed Book _____, Page _____, Register's Office of the above-named county, and as may be further described according to Exhibit 1 attached hereto and incorporated herein by reference, if attached, together with the right of ingress and egress over adjacent lands of the Grantor, and Grantor's successors and assigns for the purposes of this Easement.

The Grantor agrees that all poles, wires, and other facilities, including any main service entrance equipment, installed in, upon or under the Property at Grantee's expense shall remain the property of the Grantee and removable at the option of the Grantee. The Grantor hereby expressly releases any claims, demands, actions, or causes of action for trespass related to the Grantee's use of this Easement as described herein. The grant and other provisions of this Easement shall run with the land for the benefit of the Grantee, its affiliates, successor and assigns.

IN WITNESS WHEREOF, the Grantor has executed this instrument this _____ day of _____, 202____.

Print Name/Title of Authorized Signatory

Print Name/Title of Authorized Signatory

Legal Signature

Legal Signature

STATE OF _____

STATE OF _____

COUNTY OF _____

COUNTY OF _____

On the ____ day of _____, 202____, personally appeared before me, the within named bargainor(s), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that such person(s) executed the within instrument for the purposes therein contained.

On the ____ day of _____, 202____, personally appeared before me, the within named bargainor(s), with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who acknowledged that such person(s) executed the within instrument for the purposes therein contained.

Notary Signature

My Commission Expires

Notary Signature

My Commission Expires

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Asphalt and Concrete Purchase Report
Department: Street
Presented by: Raymond Hillis, Executive Director, Public Works
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 and concrete purchases.

Background Information

Purchases of asphalt and concrete are made throughout the month and reported with Street Department construction projects. The attached report is provided pursuant to City Code, § 2-10(E)(7) in compliance with this reporting requirement. This report is for the months of July and August of 2023.

Pursuant to the 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.

Fiscal Impacts

Asphalt purchases, \$100,000, and concrete purchases, \$60,000, are funded by the Department's FY24 Budget.

Attachments

Asphalt and Concrete Purchases Report

STREET DEPARTMENT CONCRETE PURCHASES FY 24

Invoice Date	Vendor	Type	Rate	Yards	Surcharge	Total	FY Total
7/3/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2.5		\$ 345.00	\$ 345.00
7/3/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2.5		\$ 276.00	\$ 621.00
7/7/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2.5		\$ 345.00	\$ 966.00
7/10/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	1.5		\$ 207.00	\$ 1,173.00
7/11/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	1		\$ 138.00	\$ 1,311.00
7/11/2023	Nashville Ready Mix	Retarder 1%	\$ 4.00	1		\$ 4.00	\$ 1,315.00
7/11/2023	Nashville Ready Mix	Full Fibers	\$ 5.00	1		\$ 5.00	\$ 1,320.00
7/26/2023	Nashville Ready Mix	4000 PSI Chips	\$ 140.00	1.5		\$ 210.00	\$ 1,530.00
	Nashville Ready Mix	Full Fibers	\$ 5.00	1.5		\$ 7.50	\$ 1,537.50
7/31/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	1.5		\$ 207.00	\$ 1,744.50
8/1/2023	Nashville Ready Mix	4000 PSI Chips	\$ 140.00	3.5		\$ 490.00	\$ 2,234.50
	Nashville Ready Mix	Min Load Charge	\$ 75.00	1		\$ 75.00	\$ 2,309.50
	Nashville Ready Mix	Fuel Surcharge		1	\$ 50.00	\$ 50.00	\$ 2,359.50
	Nashville Ready Mix	Full Fibers	\$ 5.00	3.5		\$ 17.50	\$ 2,377.00
8/2/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2		\$ 276.00	\$ 2,653.00
8/9/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2		\$ 276.00	\$ 2,929.00
8/21/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	1.5		\$ 207.00	\$ 3,136.00
8/24/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2		\$ 276.00	\$ 3,412.00
8/29/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2		\$ 276.00	\$ 3,688.00
9/5/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	1		\$ 138.00	\$ 3,826.00
9/6/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2		\$ 276.00	\$ 4,102.00
9/7/2023	Nashville Ready Mix	3500 PSI Chips	\$ 138.00	2		\$ 276.00	\$ 4,378.00
9/8/2023	Nashville Ready Mix	3500 PSI AE	\$ 137.00	1.5		\$ 205.50	\$ 4,583.50
9/11/2023	Nashville Ready Mix	3500 PSI AE	\$ 138.00	2		\$ 276.00	\$ 4,859.50
9/12/2023	Nashville Ready Mix	3500 PSI AE	\$ 138.00	1		\$ 138.00	\$ 4,997.50
9/13/2023	Nashville Ready Mix	3500 PSI AE	\$ 138.00	1.5		\$ 207.00	\$ 5,204.50
9/14/2023	Nashville Ready Mix	3500 PSI AE	\$ 138.00	1		\$ 138.00	\$ 5,342.50
9/19/2023	Nashville Ready Mix	3500 PSI AE	\$ 138.00	3		\$ 414.00	\$ 5,756.50
9/20/2023	Nashville Ready Mix	3500 PSI AE	\$ 137.00	1		\$ 137.00	\$ 5,893.50
9/25/2023	Nashville Ready Mix	3500 PSI AE	\$ 138.00	3		\$ 414.00	\$ 6,307.50
9/26/2023	Nashville Ready Mix	4000 PSI Chips AE	\$ 140.00	2		\$ 280.00	\$ 6,587.50
	Nashville Ready Mix	Full Fibers	\$ 5.00	2		\$ 10.00	\$ 6,597.50
9/28/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	1.5		\$ 207.00	\$ 6,804.50
11/1/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	2.5		\$ 345.00	\$ 7,149.50
11/2/2023	Nashville Ready Mix	4000 PSI Chips AE	\$ 140.00	16		\$ 2,240.00	\$ 9,389.50
	Nashville Ready Mix	Fuel Surcharge	\$ -		\$ 100.00	\$ 100.00	\$ 9,489.50
	Nashville Ready Mix	Non-Chloride Accelerator	\$ 14.00	16		\$ 224.00	\$ 9,713.50
	Nashville Ready Mix	Full Fibers	\$ 5.00	16		\$ 80.00	\$ 9,793.50
11/3/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	3		\$ 414.00	\$ 10,207.50
	Nashville Ready Mix	Full Fibers	\$ 5.00	3		\$ 15.00	\$ 10,222.50
11/13/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	2.5		\$ 345.00	\$ 10,567.50
11/20/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	2		\$ 276.00	\$ 10,843.50
11/27/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	2		\$ 276.00	\$ 11,119.50
	Nashville Ready Mix	Non-Chloride Accelerator	\$ 14.00	2		\$ 28.00	\$ 11,147.50
	Nashville Ready Mix	Hot Water	\$ 4.00	2		\$ 8.00	\$ 11,155.50
11/28/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	1.5		\$ 207.00	\$ 11,362.50
	Nashville Ready Mix	Non-Chloride Accelerator	\$ 7.00	1.5		\$ 10.50	\$ 11,373.00
12/7/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	2.5		\$ 345.00	\$ 11,718.00
12/8/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	1.5		\$ 207.00	\$ 11,925.00
12/13/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	1.5		\$ 207.00	\$ 12,132.00
12/14/2023	Nashville Ready Mix	3500 PSI Chips AE	\$ 138.00	2		\$ 276.00	\$ 12,408.00

Invoice Date	Vendor	Type	Rate	Yards	Surcharge	Total	FY Total
10/27/2023	Orgain Ready Mix	Flowable Fill	\$ 127.00	2		\$ 254.00	\$ 254.00

Invoice Date	Vendor	Type	Rate	Yards	Surcharge	Total	FY Total
	Smyrna Ready Mix						

STREET DEPARTMENT ASPHALT PURCHASES FY 24

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
Hawkins						

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/14/2023	Vulcan	411E PG 64-22	\$ 84.50	4.19	\$ 354.02	\$ 354.02
8/31/2023	Vulcan	411E PG 64-22	\$ 84.50	22.72	\$ 1,919.62	\$ 2,273.64
8/31/2023	Vulcan	307BM PG 64-22	\$ 73.00	56.72	\$ 4,140.72	\$ 6,414.36
10/17/2024	Vulcan	411E PG 64-22	\$ 84.50	11.10	\$ 937.84	\$ 7,352.20
10/20/2023	Vulcan	411E PG 64-22	\$ 84.50	22.92	\$ 1,936.53	\$ 9,288.73
10/24/2023	Vulcan	411E PG 64-22	\$ 84.50	18.73	\$ 1,582.51	\$ 10,871.24
11/17/2023	Vulcan	307BM PG 64-22	\$ 73.00	3.50	\$ 255.50	\$ 11,126.74
11/17/2023	Vulcan	411E PG 64-22	\$ 84.50	8.43	\$ 712.34	\$ 11,839.08

Invoice Date	Vendor	Type	Rate	Tons	Total	FY Total
7/5/2023	Wiregrass Construction	411-E	\$ 86.54	6.54	\$ 565.97	\$ 565.97
7/13/2023	Wiregrass Construction	411-E	\$ 86.54	1.14	\$ 98.66	\$ 664.63
7/26/2023	Wiregrass Construction	411-E	\$ 86.54	10.43	\$ 902.61	\$ 1,567.24
8/17/2023	Wiregrass Construction	307-BM PG 64-22	\$ 74.01	10.74	\$ 794.87	\$ 2,362.11
8/18/2023	Wiregrass Construction	411-E	\$ 86.54	4.17	\$ 360.87	\$ 2,722.98
8/22/2023	Wiregrass Construction	411-E	\$ 86.54	5.99	\$ 518.38	\$ 3,241.36
8/23/2023	Wiregrass Construction	411-E	\$ 86.54	10.34	\$ 894.82	\$ 4,136.18
8/24/2023	Wiregrass Construction	411-E	\$ 86.54	1.37	\$ 118.56	\$ 4,254.74
9/15/2023	Wiregrass Construction	411-E	\$ 86.54	6.52	\$ 564.24	\$ 4,818.98
9/18/2023	Wiregrass Construction	411-E	\$ 86.54	16.77	\$ 1,451.28	\$ 6,270.26
9/22/2023	Wiregrass Construction	411-E	\$ 86.54	6.27	\$ 542.61	\$ 6,812.87
9/27/2023	Wiregrass Construction	411-E	\$ 86.54	9.80	\$ 848.09	\$ 7,660.96
10/24/2023	Wiregrass Construction	411-E	\$ 86.54	18.37	\$ 1,589.74	\$ 9,250.70
10/27/2023	Wiregrass Construction	411-E	\$ 86.54	16.10	\$ 1,393.29	\$ 10,643.99
11/2/2023	Wiregrass Construction	411-E	\$ 86.54	3.08	\$ 266.54	\$ 10,910.53
11/3/2023	Wiregrass Construction	411-E	\$ 86.54	12.48	\$ 1,080.02	\$ 11,990.55
11/6/2023	Wiregrass Construction	411-E	\$ 86.54	11.58	\$ 1,002.13	\$ 12,992.68
11/8/2023	Wiregrass Construction	411-E	\$ 86.54	13.02	\$ 1,126.75	\$ 14,119.43
11/9/2023	Wiregrass Construction	411-E	\$ 86.54	15.10	\$ 1,306.75	\$ 15,426.18
11/15/2023	Wiregrass Construction	411-E	\$ 86.54	13.31	\$ 1,151.85	\$ 16,578.03
11/30/2023	Wiregrass Construction	411-E	\$ 86.54	13.16	\$ 1,138.87	\$ 17,716.90
12/6/2023	Wiregrass Construction	411-E	\$ 86.54	5.38	\$ 465.59	\$ 12,308.67

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Amendment No. 2 to Contract for Engineering Study of Transit Route and Shelter Placement

Department: Transportation – Transit

Presented by: Russ Brashear, Assistant Transportation 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

Amendment of the scope of work contracted with Kimley-Horn and the City.

Staff Recommendation

Approve the amendment to the agreement with Kimley-Horn.

Background Information

In January 2022, the Council approved a contract with Kimley-Horn to perform a Transit Route and Shelter Placement Study to prepare for the construction of the Transit Facility. Amendment No. 1 was subsequently approved in January 2023 for the implementation of the initial eight transit shelter locations that were identified in Phase 1 of the study.

This Amendment 2 with Kimley-Horn is for project coordination services, survey, NEPA reevaluation, and limited construction phase services. The Amendment is an hourly rate with a not to exceed amount of \$40,910. Funding for this project request is a 10% local match, which will be approximately \$4,091.

Council Priorities Served

Expand Infrastructure

The realignment of routes and shelter placements is directly related to the Transit Facility project which will improve transportation options and expansion of future services.

Fiscal Impact

This expense is appropriately budgeted in the Department's FY24 Operating Budget.

Attachments

1. Amendment No. 2 to Agreement with Kimley-Horn
2. Original contract and Amendment

**AMENDMENT NUMBER 002
TO THE AGREEMENT BETWEEN
THE CITY OF MURFREESBORO, TENNESSEE
AND KIMLEY-HORN AND ASSOCIATES, INC.**

AMENDMENT NUMBER 002 dated _____, 2024 to the agreement between the City of Murfreesboro, Tennessee ("City"), and Kimley-Horn and Associates, Inc., ("Consultant") dated January 27, 2022 ("the Agreement") concerning professional services to study, develop, design, and implement plans for new transit routes and transit shelters (the "Project").

The Consultant has entered into the Agreement with the City for the furnishing of professional services, and the parties now desire to amend the Agreement.

Therefore, it is mutually agreed that the Agreement is amended to include Additional Services to be performed by the Consultant and provisions for additional compensation by the City to the Consultant, all as set forth in Exhibit A hereto. The parties ratify the terms and conditions of the Agreement not inconsistent with this Amendment, all of which are incorporated by reference.

CITY OF MURFREESBORO

KIMLEY-HORN AND ASSOCIATES, INC.

Shane McFarland



Christopher D. Rhodes, P.E.

Title: Mayor

Title: Vice President

Date: _____

Date: 01/02/2024

APPROVED AS TO FORM:

DocuSigned by:



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City Attorney, Adam Tucker

**EXHIBIT A TO AMENDMENT 002
TRANSIT ROUTE AND SHELTER STUDY****CITY OF MURFREESBORO**

During Phase I of the Transit Route and Shelter Study, a total of 31 transit shelter locations throughout the City of Murfreesboro were identified. These 31 locations were prioritized for implementation in four prioritization groups based on the following factors:

- Availability of right-of-way
- Availability of sidewalk/pedestrian crossing
- Suitability of grade at location
- Proximity to a city planned roadway widening

During Phase II of the Transit Route and Shelter Study, the City of Murfreesboro determined that one of these shelter locations (Shelter 8) should be moved to a different location. This amendment is for the preparation of the survey, easement exhibits, and the National Environmental Policy Act (NEPA) Reevaluation for Shelter 8, as well as construction administration services for the initial eight (8) transit shelters. The Consultant shall perform the following services:

Task 1: Project Coordination Services

This task will consist of general project management, administrative, and accounting activities for the project. It will further consist of monthly virtual (i.e., Microsoft Teams) meetings (as needed) with the City of Murfreesboro Transportation Department staff (Assistant Transportation Director is the primary contact), preparing and distributing project correspondence, schedule of meetings and activities, periodic project status reporting, and discussion of project issues throughout the life of the project. Kimley-Horn will also coordinate with our Subconsultant surveyor as part of this task.

Task 1.1: Monthly Project Documentation, Reporting, and Administration

Kimley-Horn will use our firm-wide electronic accounting system for storage and retrieval of project accounting information. This system provides a mechanism for tracking and reporting the progress of a project monthly. Information developed in this task will consist of updates on schedule, budget status, elements of tasks completed, tasks remaining, and problems / issues to be addressed. Kimley-Horn will submit an invoice and status report for each month on, or before the deadline as determined by the City of Murfreesboro Transportation Department.

Deliverables:

- Monthly Virtual Meeting Summary (one (1) electronic copy via email)
- Monthly Status Reports
- Monthly Invoices

Task 2: Public and Stakeholder Outreach

Completed during Phase I.

Task 3: Planning and Research to Identify Route Realignments

Completed during Phase I.

Task 4: Planning and Research to Identify Potential Shelter Locations

Completed during Phase I.

**Task 5: Survey/Data Collection Services**

This task will consist of the collection of the base mapping and survey data necessary for the development of the design plan sheets and preparation of the easement exhibits.

Task 5.1: Survey Services

This task will consist of the collection of the base mapping and survey data necessary for the development of the design plan sheets.

Kimley-Horn, and/or its Subconsultants, will provide survey data for use in the development of the construction plans for site known as Shelter 8 as outlined in red in Figure 1: Survey Area. This location will be surveyed in a 50' x 50' area that contains the proposed transit shelter area. This data will consist of collecting property corners for the parcel(s) within the survey area, horizontal and vertical locations of existing features that are visible and accessible from the surface of the ground, such as sidewalks, roadways, curbs, parking lots, drainage structures, signs, benches, fences, grassed areas, utilities, pavement markings, edge of pavements, curb cuts and medians, ditches, right-of-way limits, and easements for the project locations. The Subconsultant will make a Tennessee One-Call request to locate utilities within each 50' x 50' survey area. The survey will also consist of topographic data associated with the above collected existing features. Topography must be captured with sufficient accuracy and density to meet ADA standards. This data will be collected under the supervision of a Tennessee Registered Land Surveyor. Survey data is to be delivered in Tennessee State Plane 4100, USFT. Vertical datum will be delivered in NAVD 88. The survey results shall meet or exceed Category I minimum standards as defined in 0820-03-.05 ACCURACY OF SURVEYS of the Tennessee State Board of Examiners Standard of Practice.

Deliverables:

- Survey for transit shelter location (one (1) electronic copy via email) in AutoCAD (DWG) format

Task 5.2: Administrative Services

Kimley-Horn will submit the easement exhibits necessary to request a change in easement type to the City of Murfreesboro. Additionally, Consultant will produce requisite copies and gather the required signatures of the exhibit for recordation.

Deliverables:

- Draft Easement Exhibit
- Final Easement Exhibit

Figure 1: Survey Area



Task 6: NEPA Reevaluation

In 2023, a NEPA Checklist was prepared for Phase II of the Transit Route and Shelter project in Murfreesboro, Tennessee, which reviewed locations for eight (8) proposed shelter locations. Since approval of the 2023 NEPA checklist, the City of Murfreesboro has determined that one of these shelter locations (Shelter 8) should be moved to a different location. Due to this proposed change, a NEPA Reevaluation is warranted for the subject project. The NEPA Reevaluation will consist of the following items:

- Review of existing studies and updates, as warranted, to account for the new impact area;
- Summary of environmental technical studies conducted for the previous NEPA document as well as a summary of updated environmental technical studies conducted for the NEPA Reevaluation, and any noted changes in impacts; and
- Summary and findings will be captured in the Federal Transit Authority (FTA) provided reevaluation checklist.

Task 6.1: FTA Coordination

The purpose of this task is to plan, organize, and implement the tasks stipulated in this scope of services in a timely manner. In this task, the Consultant will maintain direct contact with the designated FTA Region 4 representative.



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TRANSIT ROUTE AND SHELTER STUDY**

CITY OF MURFREESBORO

Task 6.2: Agency Coordination

It is assumed that no initial coordination letters to federal and state agencies requesting a review of the proposed project's impacts to threatened and endangered species, wetlands, and/or streams or to historic resources will be required for the development of the NEPA Reevaluation. If any agency coordination activities are deemed necessary for the proposed project, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.3: Public Involvement

It is assumed that no public involvement activities will be required for the proposed project. If any public involvement activities are deemed necessary, this effort will be considered Additional Services beyond this scope of services.

Task 6.4: Updated Environmental Technical Studies

As part of the preparation of the NEPA Reevaluation, the previously prepared environmental technical reports will be reviewed by the Consultant to determine if the results presented in the approved NEPA document remain valid. As warranted, the Consultant will update the applicable environmental technical studies as outlined below:

Ecology

The Consultant will complete a desktop review of the USFWS National Wetlands Inventory (NWI) database and USGS topographic mapping to identify all wetlands and streams within the area of the new location for Shelter 8. This information along with all relevant NWI and USGS topographic mapping will be referenced in determining the presence or absence of ecological areas of concern. Any areas of concern will be noted in the NEPA Reevaluation.

It is assumed that an Environmental Boundaries Survey will not be required for the completion of the NEPA Reevaluation. If an Environmental Boundaries Survey is deemed necessary by the Client, FTA, or another state and/or federal agency for the completion of the NEPA Reevaluation, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

It is assumed that no individual plant or animal species survey will be conducted as part of this proposed scope of services and cost estimate. If the Client, FTA, or another state and/or federal agency requests a species survey, these services can be provided, but will be considered Additional Services beyond this scope of services.

Floodplains

Floodplains and floodways in the new location proposed for Shelter 8 will be identified only through the review of National Flood Insurance Rate Maps (FIRMs). All FIRMs specific to the project area will be compiled and the relevant floodplains and floodways information will be provided as part of the NEPA Reevaluation.

Recreational Resources

No Section 4(f) resources are anticipated to be affected by the proposed project. If a Section 4(f) evaluation or coordination is required by any agency, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Cultural Resources

Though updates to the proposed project warrant the addition of new areas for improvement, no new right-of-way and/or easement amounts are anticipated; therefore, it is assumed that an Assessment of Effects

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TRANSIT ROUTE AND SHELTER STUDY****CITY OF MURFREESBORO**

for Historic Properties Survey and/or Phase I Archaeological Survey will not be required. Based on this assumption, the Consultant will review and research the architectural/historical records for the proposed new location of Shelter 8 through a desktop review only. As part of this Section 106 Desktop Assessment, the Consultant will generate the following items:

- USGS topographic mapping of the project area;
- Photographs of all historic properties along the project area, along with a key map; and
- Dates of construction for buildings in the project area, as warranted and as available.

The Consultant will summarize the results of this review in the NEPA Reevaluation and include any relevant supporting documentation as an attachment to that document.

Archaeology

It is not anticipated that a Phase I Archaeological Survey will be deemed necessary by FTA and/or the Tennessee State Historic Preservation Office (TN-SHPO) since the proposed new location for Shelter 8 is expected to occur within existing (previously distributed) right-of-way. If a Phase I Archaeology Survey is deemed necessary by FTA or the TN-SHPO, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Tribal Consultation

If requested, a draft tribal consultation letter will be prepared by the Consultant and submitted to FTA. Tribal Consultation will be completed by the FTA Region 4 environmental staff, if/when warranted. If so requested, this letter and resulting consultation documentation would be incorporated directly into the environmental document by the Consultant.

Historic Architecture

It is not anticipated that an Historic Architecture Survey will be deemed necessary by FTA and/or the TN-SHPO since the proposed new location for Shelter 8 is expected to occur within existing (previously distributed) right-of-way. If a Historic Architecture Survey is deemed necessary by FTA or the TN-SHPO, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Environmental Justice

An Environmental Justice (EJ) evaluation will be undertaken in conformance with Executive Order 12898 and FHWA Order 6640.23 (December 2, 1998). The analysis will consider the composition of the affected area to determine whether minority or low-income populations are present in the area affected by the proposed action, and if so, whether there may be disproportionately high and adverse human health or environmental effects on minority and low-income populations.

Baseline data will be collected for low income and minority populations using U.S. Census data. Any identified potential areas of EJ populations will be displayed on GIS mapping. The EJ analysis will be limited to desk-top research only. No field work will be completed. If a disproportionately high and adverse effect on a low-income population or minority population is revealed, the analysis will show how the effects are distributed within the affected community.

If potential mitigation measures or potential community outreach efforts are identified, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement. The EJ analysis will be incorporated directly into the environmental document.



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Hazardous Materials

The Consultant will complete a desktop review of available hazardous materials databases to determine whether the proposed new location for Shelter 8 has the potential to contain hazardous materials that may be impacted by the project. Hazardous materials databases to be reviewed are the Underground Storage Tank (UST) Data and Reports database provided by Tennessee Department of Environment and Conservation (TDEC), the “EnviroMapper” database maintained by the Environmental Protection Agency (EPA), and the Public Data Viewer maintained by the TDEC Division of Water Resources.

If additional studies such as a Phase I or Phase II Environmental Site Assessment are required, these services can be provided in accordance with the Additional Services clause of this agreement.

Assumptions:

- It is assumed that no Phase I Environmental Site Assessment (ESA), Phase II ESA, or Asbestos Containing Materials (ACM) surveys will be conducted as part of this proposed scope of services and cost estimate. If the Client, TDOT, or another state and/or federal agency requests additional hazardous materials studies, these services can be provided, but will be considered Additional Services beyond this scope of services.

Noise

It is not anticipated that a detailed Noise Analysis will be deemed necessary by FTA since the project involves the construction of bus shelters and will not result in additional transit service. If a Noise Analysis is deemed necessary by FTA, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Air Quality

It is not anticipated that a detailed Air Quality Analysis will be deemed necessary by FTA since the project involves the construction of bus shelters and will not result in additional transit service. If an Air Quality Analysis is deemed necessary by FTA, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Relocations

No business, residential or non-profit organization displacements are anticipated within the construction limits of the proposed project. If a relocation study is deemed necessary for this project, this service can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Farmland

Given the project is located in an urban environment, it is assumed that coordination with the Natural Resource and Conservation Service (NRCS) will not be required. If farmland resources are identified and coordination with the NRCS is deemed necessary by FTA, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.5: Document Preparation and Approval

The purpose of this task is to develop the NEPA Reevaluation documentation, consistent with FTA requirements and in consideration of Council on Environmental Quality (CEQ) and FTA regulations for NEPA compliance.

Following completion of the NEPA Reevaluation by the Consultant, the NEPA Reevaluation will be submitted to the Client for review and comment. The Consultant will then revise the NEPA Reevaluation based on the Client’s comments. Once the Client approves the NEPA Reevaluation, the document will be submitted to FTA for initial review and subsequent approval.



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Deliverables:

- Draft NEPA Reevaluation document for the Client's review (electronic copy in Adobe PDF format)
- Draft NEPA Reevaluation document for FTA review (electronic copy in Adobe PDF format)
- Final NEPA Reevaluation document for FTA review and approval (electronic copy in Adobe PDF format)

Task 7: Design Phase Services

Included in Amendment 001.

Task 8: Submittals and Permitting Services

Included in Amendment 001.

Task 9: Limited Construction Phase Services

Kimley-Horn understands that the City of Murfreesboro Transportation Department will lead day-to-day construction engineering inspection (CEI) services as required by federal, state, and local regulations. However, Kimley-Horn's assistance and participation as requested by the City of Murfreesboro Transportation Department staff will be provided as detailed in the subtasks below.

Task 9.1: Procurement Bid Assistance

Kimley-Horn will answer questions, tabulate the bids received, and evaluate the compliance of the bids received with the bidding documents. Kimley-Horn will prepare a written summary of this tabulation and evaluation. Kimley-Horn will submit the bid tabulation, our recommendation of the award, and other required documentation to the City of Murfreesboro Transportation Department staff for review and approval.

Task 9.2: Pre-Construction Meeting

Upon award of the construction contract, Kimley-Horn staff will facilitate a pre-construction meeting to outline project goals, scope of work, expectations, and requirements. Kimley-Horn will review the construction schedule with the Contractor and coordinate procedures to be followed during construction.

Task 9.3: Shop Drawing Review

Kimley-Horn will review, comment on, and reject / approve up to seven (7) shop drawings and samples and other data which the Contractor is required to submit, but only for conformance with the information in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs. It is assumed that shop drawing review will only be required for concrete mix designs and pedestrian amenities (benches, shelters, trash can, bike racks, etc.).

Task 9.4: Site Visits and Observation of Construction

Kimley-Horn will provide on-site construction observation services during the construction phase. Kimley-Horn staff will make up to ten (10) site visits at intervals as directed by the City of Murfreesboro Transportation Department staff in order to observe the progress of work. Such visits and observations by Kimley-Horn staff are not intended to be exhaustive or to extend to every aspect of the Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the work based on Consultant's exercise of professional judgement. Based on information obtained during such visits and such observations, Kimley-Horn will evaluate whether the Contractor's work is generally proceeding in accordance with the contract documents, and Kimley-Horn

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staff will keep the City of Murfreesboro Transportation Department staff informed of the general progress of the work. Additional site visits can be provided as Additional Services, if requested by the City of Murfreesboro Transportation Department staff.

The purpose of the site visits will be to enable Kimley-Horn to better carry out the duties and responsibilities specifically assigned in this Agreement, and to provide the City of Murfreesboro Transportation Department a greater degree of confidence that the completed work will conform in general to the Contract Documents. Kimley-Horn shall not, during such visits or as a result of such observations of the Contractor's work in progress, supervise, direct, or have control over the Contractor's work, nor shall Kimley-Horn have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by the Contractor, for safety precautions and programs incident to the Contractor's work, nor for any failure of the Contractor to comply with laws and regulations applicable to the Contractor's furnishing and performing the work. Accordingly, Kimley-Horn neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract documents.

Concerning limitations of responsibility, Kimley-Horn shall not be responsible for the acts or omissions of any contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing the work. Kimley-Horn shall not have authority or responsibility to stop the work of any contractor.

Task 9.5: Substantial Completion

Promptly after notice from the Contractor that it considers the entire work ready for its intended use, Kimley-Horn will accompany the City of Murfreesboro Transportation Department staff and the Contractor to conduct a site visit to determine if the work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list. If after considering any objections of the City of Murfreesboro Transportation Department staff, Kimley-Horn considers the work substantially complete, Kimley-Horn will notify the City of Murfreesboro Transportation Department and the Contractor.

Task 9.6: Final Notice of Acceptability of Work

Kimley-Horn will conduct a final site visit to determine if the completed work of the Contractor is generally in accordance with the contract documents and the final punch list is so that Kimley-Horn may recommend, in writing, final payment to the Contractor. Accompanying the recommendation for final payment, Kimley-Horn shall also provide a notice that the work is generally in accordance with the contract documents to the best of Kimley-Horn's knowledge, information, and belief based on the extent of its services and based upon information provided to Kimley-Horn upon which it is entitled to rely.

Deliverables:

- Up to two (2) bid addenda, if warranted (one (1) electronic copy)
- Bid Summary (one (1) electronic copy)
- Shop Drawing Review Summary (one (1) electronic copy)
- Site Visits and Observation of Construction Summary (one (1) electronic copy)
- Substantial Completion Summary (one (1) electronic copy)
- Final Notice of Acceptability of Work Summary (one (1) electronic copy)


Task 10: Additional Services

Any services not specifically provided for in the above scope, as well as any changes in the scope the City of Murfreesboro Transportation Department requests, will be considered additional services and will be performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Attendance / participation at other meetings outside of those mentioned in Tasks 1 and 5-8.
- Revisions to the plans after site plan approval
- Land Surveying services, not referenced above
- Public involvement activities
- Phase I Archaeological Survey
- Historic Architecture Survey
- Waters of the U.S. Survey or protected species survey (including a protected bat survey)
- Phase I or Phase II Environmental Site Assessment
- Noise Analysis
- Air Quality Analysis
- Relocation study
- Coordination with the NRCS
- Section 4(f) / 6(f) evaluation or coordination
- Roadway improvements or modifications
- Environmental engineering services (i.e. wetland and stream delineations, etc.), USACE Permits (i.e., Section 404, etc.), TDEC Permits (i.e., NOC, ARAP, etc.)
- Increased Construction Support Services (i.e. T-2 submittals, contractor payroll review / approval, increased site visits, etc.)
- Right-of-Way or easement acquisition services
- Utility relocation design services
- Electrical routing and design for bus shelters
- Renderings and graphics
- Other services as requested by the City of Murfreesboro Transportation Department

The specific scope of these tasks will be defined if the City of Murfreesboro Transportation Department elects to move forward with any Additional Services.

Schedule

Given a notice to proceed and contract execution, Kimley-Horn is prepared to provide these services based upon a mutually agreed upon schedule.

**EXHIBIT A TO AMENDMENT 002
TRANSIT ROUTE AND SHELTER STUDY****CITY OF MURFREESBORO****Fee and Expenses**

Kimley-Horn will perform the services in Tasks 1, 5, 6, and 9 on a labor fee plus expense basis with the maximum labor fee shown below.

Task 1 – Project Coordination Services	\$3,120.00
Task 5 – Survey/Data Collection Services	\$11,280.00
Task 6 – FTA NEPA Reevaluation	\$8,525.00
Task 9 – Limited Construction Phase Services	\$17,985.00
Maximum Labor Fee	\$40,910.00

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Kimley-Horn will perform the services described in Task 10 (Additional Services) of the Scope of Services on a labor fee plus expense basis. Effort associated with Task 10 will not be performed without written authorization by the OWNER.

Transit Route and Shelter Study, Phase II
Design / Construction
December 14, 2023
Doug Delaney
Zac Dufour / Chris Rhodes

Labor Task / Task Description:		Principal	Project Manager	Senior Professional II	Senior Professional I	Analyst	Administrative	Task Hour Subtotals	Task Fee Subtotals
Task 1	Project Coordination Services	2.0	6.0	0.0	0.0	0.0	8.0	16.0	\$ 3,120.00
1.1	Monthly Project Documentation, Reporting, and Administration	2.0	6.0	0.0	0.0	0.0	8.0	16.0	\$ 3,120.00
Task 5	Survey/Data Collection Services	0.0	0.0	3.0	0.0	14.0	0.0	17.0	\$ 2,880.00
5.1	Surveying Services	0.0	0.0	2.0	0.0	12.0	0.0	14.0	\$ 2,320.00
5.2	Administration Services	0.0	0.0	1.0	0.0	2.0	0.0	3.0	\$ 560.00
Task 6	FTA NEPA Reevaluation	0.0	3.0	7.0	0.0	39.0	0.0	49.0	\$ 8,525.00
6.1	FTA Coordination	0.0	1.0	0.0	0.0	0.0	0.0	1.0	\$ 285.00
6.2	Agency Coordination	0.0	1.0	0.0	0.0	0.0	0.0	1.0	\$ 285.00
6.3	ETSA for new areas and update mapping/GIS for various subject matters below	0.0	0.0	1.0	0.0	6.0	0.0	7.0	\$ 1,160.00
6.4	Relocations	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.5	Ecology / Natural Resources	0.0	0.0	0.0	0.0	4.0	0.0	4.0	\$ 600.00
6.6	Floodplains	0.0	0.0	0.0	0.0	1.0	0.0	1.0	\$ 150.00
6.7	Air Quality	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.8	Noise	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.9	Farmland	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.10	Section 4(f) Impacts	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.11	Parks and Recreational Resources / Section 6(f)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.12	Cultural Resources / Section 106 Coordination	0.0	0.0	0.0	0.0	5.0	0.0	5.0	\$ 750.00
6.13	Environmental Justice	0.0	0.0	0.0	0.0	2.0	0.0	2.0	\$ 300.00
6.14	Hazardous Materials	0.0	0.0	0.0	0.0	5.0	0.0	5.0	\$ 750.00
6.15	Document Preparation and Approval	0.0	1.0	6.0	0.0	16.0	0.0	23.0	\$ 4,245.00
Task 9	Limited Construction Phase Services	0.0	31.0	0.0	0.0	61.0	0.0	92.0	\$ 17,985.00
9.1	Bid Assistance	0.0	3.0	0.0	0.0	10.0	0.0	0.0	\$ 2,355.00
9.2	Pre-Construction Meeting	0.0	3.0	0.0	0.0	5.0	0.0	0.0	\$ 1,605.00
9.3	Shop Drawing Review	0.0	3.0	0.0	0.0	6.0	0.0	0.0	\$ 1,755.00
9.4	Site Visits and Observation of Construction (up to 10)	0.0	12.0	0.0	0.0	30.0	0.0	0.0	\$ 7,920.00
9.5	Substantial Completion	0.0	5.0	0.0	0.0	5.0	0.0	0.0	\$ 2,175.00
9.6	Final Notice of Acceptability of Work	0.0	5.0	0.0	0.0	5.0	0.0	0.0	\$ 2,175.00
	Hour Totals:	2.0	40.0	10.0	0.0	114.0	8.0	174.0	
	Loaded Rate	\$ 305.00	\$ 285.00	\$ 260.00	\$ 235.00	\$ 150.00	\$ 100.00		
	Extension	\$ 610.00	\$ 11,400.00	\$ 2,600.00	\$ -	\$ 17,100.00	\$ 800.00		
Labor Subtotal: \$									32,510.00
Expenses:									
	Allocation						Quantity	Rate	Extension
	Meals						2	\$ -	\$ -
	Hotel						1	\$ -	\$ -
	Mileage						500	\$ -	\$ -
	Rental Car						1	\$ -	\$ -
	Rental Car (Gas)						1	\$ -	\$ -
	Airfare						1	\$ -	\$ -

**AMENDMENT NUMBER 001
TO THE AGREEMENT BETWEEN
THE CITY OF MURFREESBORO, TENNESSEE
AND KIMLEY-HORN AND ASSOCIATES, INC.**

AMENDMENT NUMBER 001 dated January 6, 2023 to the agreement between the City of Murfreesboro, Tennessee ("City"), and Kimley-Horn and Associates, Inc., ("Consultant") dated January 27, 2022 ("the Agreement") concerning professional services to study, develop, design, and implement plans for new transit routes and transit shelters (the "Project").

The Consultant has entered into the Agreement with the City for the furnishing of professional services, and the parties now desire to amend the Agreement.

Therefore, it is mutually agreed that the Agreement is amended to include Additional Services to be performed by the Consultant and provisions for additional compensation by the City to the Consultant, all as set forth in Exhibit A hereto. The parties ratify the terms and conditions of the Agreement not inconsistent with this Amendment, all of which are incorporated by reference.

CITY OF MURFREESBORO

KIMLEY-HORN AND ASSOCIATES, INC.

DocuSigned by:



Share McFarland

Title: Mayor

Date: 1/6/2023



Christopher D. Rhodes, P.E.

Title: Vice President

Date: 12/09/2022

APPROVED AS TO FORM:

DocuSigned by:



City Attorney, Adam Tucker



**EXHIBIT A TO AMENDMENT 001
TRANSIT ROUTE AND SHELTER STUDY**

CITY OF MURFREESBORO

During Phase I of the Transit Route and Shelter Study, a total of 31 transit shelter locations throughout the City of Murfreesboro were identified. These 31 locations were prioritized for implementation in four prioritization groups based on the following factors:

- Availability of right-of-way
- Availability of sidewalk/pedestrian crossing
- Suitability of grade at location
- Proximity to a city planned roadway widening

This amendment is for implementation of the initial eight (8) transit shelter locations (Prioritization Group 1) identified in Phase I and listed in the table below:

Prioritization Group 1

Route Name	Direction	Location
MLK	Outbound	Save-A-Lot/Kroger
Memorial	Inbound	Walgreens north of Northfield Boulevard
Memorial	Inbound	Airport Road across from Walmart
South Church	Inbound	McDonalds north of Warrior/Butler Drive
South Church	Inbound	Regal Inn at far side of Shelby Street
Highland	Outbound	Northfield Boulevard at North Tennessee Boulevard
Highland	Inbound	Hazelwood Student Housing
Highland	Inbound	Greenland Drive

Consultant shall perform the following services:

Task 1: Project Coordination Services

This task will consist of general project management, administrative, and accounting activities for the project. It will further consist of monthly virtual (i.e., Microsoft Teams) meetings (as needed) with the City of Murfreesboro Transportation Department staff (Assistant Transportation Director is the primary contact), preparing and distributing project correspondence, schedule of meetings and activities, periodic project status reporting, and discussion of project issues throughout the life of the project. Kimley-Horn will also coordinate with our Subconsultant surveyor as part of this task.

Task 1.1: Monthly Project Documentation, Reporting, and Administration

Kimley-Horn will use our firm-wide electronic accounting system for storage and retrieval of project accounting information. This system provides a mechanism for tracking and reporting the progress of a project monthly. Information developed in this task will consist of updates on schedule, budget status, elements of tasks completed, tasks remaining, and problems / issues to be addressed. Kimley-Horn will submit an invoice and status report for each month on, or before the deadline as determined by the City of Murfreesboro Transportation Department.

Deliverables:

- Monthly Virtual Meeting Summary (one (1) electronic copy via email)
- Monthly Status Reports
- Monthly Invoices



Task 2: Public and Stakeholder Outreach

Completed during Phase I.

Task 3: Planning and Research to Identify Route Realignment

Completed during Phase I.

Task 4: Planning and Research to Identify Potential Shelter Locations

Completed during Phase I.

Task 5: Survey/Data Collection Services

This task will consist of the collection of the base mapping and survey data necessary for the development of the design plan sheets.

Task 5.1: Survey of Existing Features

Kimley-Horn, through a Subconsultant, will provide survey data for use in the development of the construction plans for up to eight (8) transit shelter locations. Each of the up to eight (8) proposed locations will be surveyed in a 50' x 50' area that contains the proposed transit shelter area. This data will consist of collecting property corners for the parcel(s) within the survey area, horizontal and vertical locations of existing features that are visible and accessible from the surface of the ground, such as sidewalks, roadways, curbs, parking lots, drainage structures, signs, benches, fences, grassed areas, utilities, pavement markings, edge of pavements, curb cuts and medians, ditches, right-of-way limits, and easements for the project locations. The Subconsultant will make a Tennessee One-Call request to locate utilities within each 50' x 50' survey area. The survey will also consist of topographic data associated with all of the above collected existing features. Topography must be captured with sufficient accuracy and density to meet Americans with Disabilities Act (ADA) standards. This data will be collected under the supervision of a Tennessee Registered Land Surveyor. All survey data is to be delivered in Tennessee State Plane 4100, USFT. Vertical datum will be delivered in NAVD 88. The survey results shall meet or exceed Category I minimum standards as defined in 0820-03-.05 ACCURACY OF SURVEYS of the Tennessee State Board of Examiners Standard of Practice.

Deliverables:

- Survey for up to eight (8) transit shelter locations (one (1) electronic copy via email)

Task 6: Checklist of Information Required to Initiate NEPA/FTA Coordination

This task shall consist of the development of the Federal Transit Administration (FTA) Checklist for Information Required to Initiate National Environmental Policy Act (NEPA) documentation (the Checklist) and FTA coordination for the initial eight (8) transit shelter locations throughout the City of Murfreesboro. The NEPA document determination can only be made by FTA and FTA will use the Checklist to confirm the appropriate NEPA class of action. Given the nature of the proposed project and the following assumptions, the NEPA document for this project is a likely candidate for classification as a C-List Categorical Exclusion (C-List CE).

- The majority of the proposed improvements will occur within existing right-of-way, but minor amounts of additional right-of-way and/or easements (permanent or temporary) may be needed in some locations; and
- The majority of the proposed improvements will occur in urbanized and/or or areas of previously disturbed ground.



**EXHIBIT A TO AMENDMENT 001
TRANSIT ROUTE AND SHELTER STUDY**

CITY OF MURFREESBORO

This amendment does not include development of the NEPA document. Development of the NEPA document will be considered Additional Services beyond this scope of services. Development of the Checklist will be based on conceptual plans identifying the location and configuration of the initial eight (8) transit shelter locations throughout the City of Murfreesboro.

Task 6.1: FTA Coordination

The purpose of this task is to plan, organize, and implement the tasks stipulated in this scope of services in a timely manner. In this task, the Consultant will maintain direct contact with the designated FTA Region 4 representative.

Deliverables

- Meeting Minutes for up to two project meetings (one (1) electronic copy each, Adobe PDF format) to the City and all meeting attendees.

Task 6.2: Development of Need and Purpose and Description of Existing Conditions

The Consultant will prepare a “Purpose and Need” statement for inclusion in the environmental document. The statement will clearly describe the need that exists for the proposed improvements and will describe the problems that the proposed action is intended to correct.

The Consultant will also review the project area and prepare a project location map and a description of the area of potential effect (APE) for inclusion in the Checklist.

Task 6.3: Agency Coordination

It is assumed that no initial coordination letters to federal and state agencies requesting a review of the proposed project’s impacts to threatened and endangered species, wetlands, and/or streams will be required for the development of the Checklist. If any agency coordination activities are deemed necessary for the proposed project, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.4: Public Involvement

It is assumed that no public involvement activities such as public meetings, newsletters, or website updates will be required for the proposed project. If any public involvement activities are deemed necessary for the proposed project, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.5: Environmental Areas of Concern

The Environmental Technical Study Area (ETSA), as developed under Task 3, will serve as the study area limits for the reviews for environmental areas of concern outlined below. If further design details or plans become available during preparation of the Checklist and the expected right-of-way limits exceed what is presented in the ETSA, then these reviews for environmental areas of concern will need to be updated to reflect the latest design plans. Updates to the reviews for environmental areas of concern can be completed in accordance with the Additional Services clause of this agreement.

Task 6.5.1: Section 106 / Cultural Resources

It is assumed that an Assessment of Effects for Historic Properties Report and/or a Phase I Archaeological Survey will not be required for the completion of the Checklist. Based on this assumption, the Consultant will review and research the architectural/historical records for the general project area through a desktop review only. As part of this Section 106 Desktop Assessment, the Consultant will generate the following items:



**EXHIBIT A TO AMENDMENT 001
TRANSIT ROUTE AND SHELTER STUDY**

CITY OF MURFREESBORO

- United States Geological Survey (USGS) topographic map of the project area
- Photographs of the site, along with a key map
- Dates of construction for buildings in the project area where this information is readily available.

The above items will support the information provided in the Checklist and will be made available upon request. Following completion of the Section 106 Assessment, any identified potential areas of concern will be summarized in the Checklist. If further studies are deemed necessary for the proposed project, these services can be provided by the Consultant in accordance with Additional Services clause of this agreement.

- **Archaeology**
It is not anticipated that a Phase I Archaeological Survey will be deemed necessary by FTA and/or the Tennessee State Historic Preservation Office (TN-SHPO) since a majority of the improvements are expected to occur within existing (previously distributed) right-of-way. If a Phase Archaeology Survey is deemed necessary by FTA or the TN-SHPO, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.
- **Tribal Consultation**
A draft tribal consultation letter will be prepared by the Consultant and submitted to FTA. Tribal Consultation will be completed by the FTA Region 4 environmental staff, if/when warranted. If Consultant is later tasked with developing the NEPA document, this letter and resulting consultation documentation would be incorporated directly into the environmental document by the Consultant in accordance with the Additional Services clause of this agreement.
- **Historic Architecture**
It is not anticipated that an Historic Architecture Survey will be deemed necessary by FTA and/or the Tennessee State Historic Preservation Office (TN-SHPO) since a majority of the improvements are expected to occur within existing (previously distributed) right-of-way. If a Historic Architecture Survey is deemed necessary by FTA or the TN-SHPO, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.5.2: Ecology

The Consultant will complete a desktop review of the USFWS National Wetlands Inventory (NWI) database and USGS topographic mapping to identify all wetlands and streams within the project area. This information along with all relevant NWI and USGS topographic mapping will be referenced in determining the presence or absence of ecological areas of concern. Any areas of concern will be noted in the Checklist.

It is assumed that an Environmental Boundaries Survey will not be required for the completion of the Checklist. If an Environmental Boundaries Survey is deemed necessary by the Client, FTA, or another state and/or federal agency for the completion of the Checklist or for the later development of a NEPA document, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

It is assumed that no individual plant or animal species survey will be conducted as part of this proposed scope of services and cost estimate. If the Client, FTA, or another state and/or federal agency requests a



species survey, these services can be provided, but will be considered Additional Services beyond this scope of services.

Task 6.5.3: Hazardous Materials

The Consultant will complete a desktop review of available hazardous materials databases to determine whether the proposed project area has the potential to contain hazardous materials that may be impacted by the project. Hazardous materials databases to be reviewed are the Underground Storage Tank (UST) Data and Reports database provided by Tennessee Department of Environment and Conservation (TDEC), the “EnviroMapper” database maintained by the Environmental Protection Agency (EPA), and the Public Data Viewer maintained by the TDEC Division of Water Resources.

If additional studies such as a Phase I or Phase II Environmental Site Assessment are required, these services can be provided in accordance with the Additional Services clause of this agreement.

Task 6.5.4: Noise

It is not anticipated that a detailed Noise Analysis will be deemed necessary by FTA since the project involves the construction of bus shelters and will not result in additional transit service. If a Noise Analysis is deemed necessary by FTA, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.5.5: Air Quality

It is not anticipated that a detailed Air Quality Analysis will be deemed necessary by FTA since the project involves the construction of bus shelters and will not result in additional transit service. If an Air Quality Analysis is deemed necessary by FTA, one can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.5.6: Relocations

No business, residential or non-profit organization displacements are anticipated within the construction limits of the proposed project. If a relocation study is deemed necessary for this project, this service can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.5.7: Farmland

Given the project is located in an urban environment, it is assumed that coordination with the Natural Resource and Conservation Service (NRCS) will not be required. If farmland resources are identified and coordination with the NRCS is deemed necessary by FTA, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.5.8: Section 4(f)

No Section 4(f) resources are anticipated to be affected by the proposed project. If a Section 4(f) evaluation or coordination is required by any agency, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement.

Task 6.5.9: Parks and Recreational Resources/ Section 6(f)

No parks or Section 6(f) resources are anticipated to be affected by the proposed project. If a Section 6(f) evaluation or coordination is required by any agency, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement.



**EXHIBIT A TO AMENDMENT 001
TRANSIT ROUTE AND SHELTER STUDY**

CITY OF MURFREESBORO

Task 6.5.10: Environmental Justice

An Environmental Justice (EJ) evaluation will be undertaken in conformance with Executive Order 12898 and FHWA Order 6640.23 (December 2, 1998). The analysis will consider the composition of the affected area to determine whether minority or low-income populations are present in the area affected by the proposed action, and if so, whether there may be disproportionately high and adverse human health or environmental effects on minority and low-income populations.

Baseline data will be collected for low income and minority populations using U.S. Census data. Any identified potential areas of EJ populations will be displayed on GIS mapping. The EJ analysis will be limited to desk-top research only. No field work will be completed. If a disproportionately high and adverse effect on a low-income population or minority population is revealed, the analysis will show how the effects are distributed within the affected community.

If potential mitigation measures or potential community outreach efforts are identified, these services can be provided by the Consultant in accordance with the Additional Services clause of this agreement. The EJ analysis will be incorporated directly into the environmental document.

Task 6.5.11: Floodplains

The Consultant will conduct a preliminary analysis of floodplains and floodways as part of the review for potential environmental areas of concern for development of the Checklist. Floodplains and floodways in the study area will be identified as part of the environmental screening, through the review of National Flood Insurance Rate Maps (FIRMs). The Consultant will also identify in the Checklist if the proposed project encroaches into any base (100-year) floodplain and/or any regulatory floodways.

Task 6.6: Checklist Preparation and Coordination

The purpose of this task is to develop the FTA Checklist of Information Required to Initiate NEPA, consistent with FTA requirements and in consideration of Council on Environmental Quality (CEQ) and FTA regulations for NEPA compliance. The Consultant will incorporate the Purpose and Need, a project description and results of the review for environmental areas of concern into the Checklist.

As a part of the Checklist, tables and figures will be developed to illustrate and explain the project area characteristics, alternatives, location of potential environmental areas of concern and comparison of those potential areas of concern.

Following completion of the document by Consultant, the Checklist will be submitted to the City of Murfreesboro for review and comment. Consultant will then revise the Checklist based on the City's comments. Once the City approves of the Checklist, the Checklist will be submitted to the FTA for initial review and subsequent acceptance.

Deliverables:

- Copy of all correspondence and submittals to various regulatory agencies (one (1) electronic copy each, Adobe PDF format) to the City
- Section 106 Desktop Assessment to FTA (one (1) electronic copy, Adobe PDF format)
- Draft Checklist for City review (one (1) electronic copy, Adobe PDF format)
- Draft Checklist for FTA review (one (1) electronic copy, Adobe PDF format)
- Final Checklist for FTA review and approval (one (1) electronic copy, Adobe PDF format)

**Task 7: Design Phase Services**

This task shall consist of the development of construction plans and documents for transit shelter installations at up to eight (8) transit shelter locations.

Task 7.1: Preliminary Design (75 Percent Submittal)

Draft Construction Plans (75 percent complete) will be provided to the City of Murfreesboro for review and comment. For the up to eight (8) transit shelter locations, Kimley-Horn will prepare one (1) set of construction plans. The plans will consist of the following:

- Cover sheet, index of sheets, location map
- Proposed Layout, Grading, and Drainage plans
- Erosion Prevention and Sediment Control (EPSC – Phase 1) plans
- Construction General Notes
- Construction Details

Task 7.1.1: Preliminary Engineer's Opinion of Probable Construction Cost

Kimley-Horn will prepare an engineer's opinion of the probable construction cost for the overall project consisting of up to eight (8) transit shelter locations. The opinion of probable construction cost will be based on actual bid prices for recent projects which involve similar equipment and construction, to the extent that such information is available.

Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

Task 7.1.2: Preliminary Technical Specifications

Kimley-Horn will prepare preliminary technical specifications for the proposed project. These specifications are intended to be a supplement to the general conditions and bidding information that will be provided by the City of Murfreesboro Transportation Department for the purposes of bidding this project. The specifications will consist of site elements that are not covered by the construction plans or by manufacturer's specifications.

Deliverables:

- 75 percent plans package (up to five (5) hard copies in 11 x 17-inch sheet size and one electronic copy via email)
- 75 percent engineer's opinion of probable construction cost (one (1) electronic copy)
- 75 percent technical specifications (one (1) electronic copy)


Task 7.2: Final Plans Package

Upon receiving comments on the plans, updated cost estimate, and technical specifications, Kimley-Horn will update the preliminary plans and produce final construction plans suitable for competitive bidding by the City of Murfreesboro.

Deliverables:

- Construction plans package (up to five (5) hard copies in 11 x 17-inch sheet size and one electronic copy via email)
- Updated engineer's opinion of probable construction cost (one (1) electronic copy)
- Technical Specifications (one (1) electronic copy)

Task 8: Submittals and Permitting Services

Kimley-Horn will compile the Construction Plans, Updated Engineer's Opinion of Probable Construction Cost and Technical Specifications and submit to the City of Murfreesboro Transportation Department. Kimley-Horn will also submit the construction plans to FTA Region 4, and the City of Murfreesboro Engineering and Planning departments. It is assumed that one round of comments will be received on the construction plans from each of these agencies. Kimley-Horn will compile all comments and make one revision to the plans and resubmit to the agencies listed above.

Deliverables:

- Construction plans package (up to five (5) hard copies in 11 x 17-inch sheet size and one electronic copy via email)
- Engineer's opinion of probable construction cost (one (1) electronic copy)
- Technical Specifications (one (1) electronic copy)

Task 9: Additional Services

Any services not specifically provided for in the above scope, as well as any changes in the scope the City of Murfreesboro Transportation Department requests, will be considered additional services and will be performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Attendance / participation at other meetings outside of those mentioned in Tasks 1 and 5-8.
- Additional surveying services
- Public involvement activities
- Phase I Archaeological Survey
- Historic Architecture Survey
- Waters of the U.S. Survey or protected species survey (including a protected bat survey)
- Phase I or Phase II Environmental Site Assessment
- Noise Analysis
- Air Quality Analysis
- Relocation study
- Coordination with the NRCS



**EXHIBIT A TO AMENDMENT 001
TRANSIT ROUTE AND SHELTER STUDY**

CITY OF MURFREESBORO

- Section 4(f) / 6(f) evaluation or coordination
- Roadway improvements or modifications
- Environmental engineering services (i.e. wetland and stream delineations, etc.), USACE Permits (i.e., Section 404, etc.), TDEC Permits (i.e., NOC, ARAP, etc.)
- Limited Construction Phase Services (i.e. bid assistance, pre-construction meeting, shop drawing review, site visits and observation of construction, substantial completion summary, final notice of acceptability of work summary)
- Increased Construction Support Services (i.e. T-2 submittals, Contractor payroll review / approval, increased site visits, etc.)
- Right-of-Way or easement acquisition services
- Utility relocation design services
- Electrical routing and design for bus shelters
- Renderings and graphics
- Other services as requested by the City of Murfreesboro Transportation Department

The specific scope of these tasks will be defined if the City of Murfreesboro Transportation Department elects to move forward with any Additional Services.

Schedule

Given a notice to proceed and contract execution, Kimley-Horn is prepared to provide these services based upon a mutually agreed upon schedule.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 and 5 - 8 on a labor fee plus expense basis with the maximum labor fee shown below.

Task 1 – Project Coordination Services	\$17,710
Task 5 – Survey/Data Collection Services	\$17,380
Task 6 – NEPA Documentation/FTA Coordination	\$17,000
Task 7 – Design Phase Services	\$43,259
Task 8 – Submittals and Permitting Services	\$9,760
Maximum Labor Fee	\$105,109

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client



**EXHIBIT A TO AMENDMENT 001
TRANSIT ROUTE AND SHELTER STUDY**

CITY OF MURFREESBORO

request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Kimley-Horn will perform the services described in Task 9 (Additional Services) of the Scope of Services on a labor fee plus expense basis. Effort associated with Task 9 will not be performed without written authorization by the OWNER.

<div><div>Kimley»Horn</div><div>City of Murfreesboro Transit Route and Shelter Study, Phase II (Amendment 001)</div></div>							Transit Route and Shelter Study, Phase II Design / Construction December 9, 2022 Doug Delaney Zac Dufour / Chris Rhodes		
Labor Task / Task Description:		Principal	Project Manager	Senior Professional II	Senior Professional I	Analyst	Administrative	Task Hour Subtotals	Task Fee Subtotals
Task 1	Project Coordination Services	2.0	18.0	36.0	6.0	0.0	12.0	74.0	\$ 17,710.00
1.1	Monthly Project Documentation, Reporting, and Administration	2.0	18.0	36.0	6.0	0.0	12.0	74.0	\$ 17,710.00
Task 5	Survey/Data Collection Services	0.0	4.0	8.0	0.0	30.0	0.0	42.0	\$ 7,720.00
5.1	Survey of Existing Features	0.0	4.0	8.0	0.0	30.0	0.0	42.0	\$ 7,720.00
Task 6	Checklist of Information Required to Initiate NEPA/FTA Coordination	0.0	4.0	0.0	18.0	60.0	0.0	82.0	\$ 14,370.00
6.1	FTA Coordination	0.0	2.0	0.0	2.0	0.0	0.0	4.0	\$ 1,040.00
6.2	Development of Need and Purpose and Description of Existing Conditions	0.0	0.0	0.0	2.0	6.0	0.0	8.0	\$ 1,370.00
6.3	Agency Coordination	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.4	Public Involvement	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.5	Environmental Areas of Concern	0.0	0.0	0.0	6.0	0.0	0.0	6.0	\$ 1,410.00
6.5.1	Section 106/Cultural Resources	0.0	0.0	0.0	0.0	8.0	0.0	8.0	\$ 1,200.00
6.5.2	Ecology	0.0	0.0	0.0	0.0	4.0	0.0	4.0	\$ 600.00
6.5.3	Hazardous Materials	0.0	0.0	0.0	0.0	6.0	0.0	6.0	\$ 900.00
6.5.4	Noise	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.5.5	Air Quality	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.5.6	Relocations	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.5.7	Farmland	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.5.8	Section 4(f)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.5.9	Parks and Recreational Resources / Section 6(f)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	\$ -
6.5.10	Environmental Justice	0.0	0.0	0.0	0.0	14.0	0.0	14.0	\$ 2,100.00
6.5.11	Floodplains	0.0	0.0	0.0	0.0	2.0	0.0	2.0	\$ 300.00
6.6	Checklist Preparation and Coordination	0.0	2.0	0.0	8.0	20.0	0.0	30.0	\$ 5,450.00
Task 7	Design Phase Services	0.0	14.0	14.0	0.0	220.0	0.0	248.0	\$ 40,630.00
7.1	Preliminary Design (75 Percent Submittal)	0.0	6.0	6.0	0.0	130.0	0.0	142.0	\$ 22,770.00
7.1.1	Preliminary Engineer's Opinion of Probably Construction Cost	0.0	4.0	4.0	0.0	30.0	0.0	38.0	\$ 6,680.00
7.1.2	Preliminary Technical Specifications	0.0	2.0	2.0	0.0	36.0	0.0	40.0	\$ 6,490.00
7.2	Final Plans Package	0.0	2.0	2.0	0.0	24.0	0.0	28.0	\$ 4,690.00
Task 8	Submittals and Permitting Services	0.0	8.0	8.0	0.0	36.0	0.0	52.0	\$ 9,760.00
	Hour Totals:	2.0	48.0	66.0	24.0	346.0	12.0	364.0	
	Loaded Rate	\$ 305.00	\$ 285.00	\$ 260.00	\$ 235.00	\$ 150.00	\$ 100.00		
	Extension	\$ 610.00	\$ 13,680.00	\$ 17,160.00	\$ 5,640.00	\$ 51,900.00	\$ 1,200.00		
Labor Subtotal:									\$ 90,190.00
Expenses:									
	Allocation						Quantity	Rate	Extension
	Meals						1	\$ 4,148.74	\$ 4,148.74
	Hotel						2	\$ 60.00	\$ 120.00
	Mileage						1	\$ 120.00	\$ 120.00
	Rental Car						500	\$ 0.47	\$ 235.00
	Rental Car (Gas)						1	\$ 75.00	\$ 75.00
	Airfare						1	\$ 60.00	\$ 60.00
	Subconsultant (Survey)						1	\$ 500.00	\$ 500.00
	None						0	\$ -	\$ 9,660.00
							0	\$ -	\$ -
Expense Subtotal:									\$ 14,918.74
Overall Project Fee:									\$ 105,109.00

**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT made as of January 27, 2022 between the CITY OF MURFREESBORO, TENNESSEE, (OWNER) and KIMLEY-HORN AND ASSOCIATES, INC. (ENGINEER).

OWNER intends to secure professional services to study, develop, design, and implement plans for new transit routes and transit shelters, (hereinafter called the Project.)

OWNER and ENGINEER in consideration of their mutual covenants herein agree in respect of the performance of professional Engineering services by ENGINEER and the payment for those services by OWNER as set forth below.

**SECTION 1
BASIC SERVICES OF ENGINEER**

1.1 General

1.1.1 ENGINEER shall provide the OWNER professional Engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional Engineering representative for the Project, providing professional Engineering consultation and advice and furnishing customary civil, structural, mechanical and electrical engineering services and customary architectural services incidental hereto.

The Specific Scope of Services for the Project are detailed in Exhibit A.

**SECTION 2
ADDITIONAL SERVICES OF ENGINEER**

2.1 Services Requiring Authorization in Advance

If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1 through 2.1.14, inclusive. These services are not included part of Basic Services except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters;" these will be paid for by OWNER as indicated in Section 5.

2.1.1 Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3 Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond ENGINEER's control.

2.1.4 Providing renderings or models for OWNER's use.

2.1.5 Preparing documents for alternate bids requested by OWNER for Contractor(s)' work which is not executed or documents for out-of-sequence work.

2.1.6 Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.7 Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical and electrical engineering and customary architectural design incidental thereto); and providing data or services of the type described in paragraph 3.4 when OWNER employs ENGINEER to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.8 If ENGINEER's compensation is on the basis of a lump sum or percentage of Construction Cost or cost-plus-a-fixed-fee method of payment, services resulting from the award of more separate prime contracts for construction, materials, or equipment for the Project than are contemplated by paragraph 5.1.1.2. If ENGINEER's compensation is on the basis of a percentage of Construction Cost and ENGINEER has been required to prepare Contract Documents on the assumption that more than one prime contract will be awarded for construction, materials and equipment, but only one prime contract is awarded for construction, materials and equipment for the Project, services attributable to the preparation of contract documentation that was rendered unusable and any revisions or additions to contract documentation used that was necessitated by the award of only one prime contract.

2.1.9 Services during out-of-town travel required of ENGINEER other than visits to the site or OWNER's office as required by Section 1.

2.1.10 Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services called for in paragraph 6.2.2.5.

2.1.11 Providing any type of property surveys or related Engineering services needed for the transfer of interests in real property and field surveys for

design purposes and Engineering surveys and staking to enable Contractor(s) to proceed with their work; and providing other special field surveys.

2.1.12 Preparation of operating, maintenance, and staffing manuals to supplement Basic Services under paragraph 1.7.3.

2.1.13 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration, or other legal or administrative proceeding involving the Project (except for assistance in consultations which is included as part of Basic Services under paragraphs and 1.4.2).

2.1.14 Additional services in connection with the Project, including services which are to be furnished by OWNER in accordance with Article 3, and services not otherwise provided for in this Agreement.

2.2 Required Additional Services (See Sections 8.3 and 8.5)

When required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall furnish or obtain from others, as circumstances require during construction and without waiting for specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive (except to the extent otherwise provided in Exhibit A, "Further Description of Basic Engineering Services and Related Matter"). These services are not included as part of Basic Services. ENGINEER shall advise OWNER promptly after starting any such Additional Services which will be paid for by OWNER as indicated in Section 5.

2.2.1 Services in connection with work directive changes and change orders to reflect changes requested by OWNER if the resulting change in compensation of Basic Services is not commensurate with the additional services rendered.

2.2.2 Services in making revision to Drawings and Specifications occasioned by the acceptance of substitutions proposed by Contractor(s); and services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3 Services resulting from significant delays, changes, or price increases occurring as a direct or

indirect result of material, equipment, or energy shortages.

2.2.4 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, and (4) default by any Contractor.

2.2.5 Services (other than Basic Services during the Operational Phase) in connection with any partial utilization of any part of the Project by OWNER prior to Substantial Completion.

2.2.6 Evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

SECTION 3 OWNER'S RESPONSIBILITY

OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER.

3.1 The Transportation Director shall act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have primary authority to transmit instruction, receive information, and interpret and define OWNER's policies and decisions with respect to ENGINEER's services for the Project.

3.2 The OWNER has provided the information deemed necessary for the ENGINEER to carry out the services scoped in EXHIBIT A.

3.3 Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

3.4 Furnish to ENGINEER, as required for performance of ENGINEER's Basic Services (except to the extent provided otherwise in Exhibit A, "Further Description of Basic Engineering Services and Related Matters") the following:

3.4.1 Data prepared by or services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;

3.4.2 appropriate professional interpretations of all the foregoing;

3.4.3 environmental assessment and impact statements;

3.4.4 property, boundary, easement, right-of-way, topographic, and utility surveys;

3.4.5 property descriptions;

3.4.6 zoning, deed, and other land use restrictions; and

3.4.7 other special data or consultations not covered in Section 2;

all of which ENGINEER may use and rely upon in performing services under this Agreement.

3.6 Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

3.7 Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER; obtain advice of an attorney, insurance counselor, and other consultants as OWNER deems appropriate for such examination; and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.

3.8 Facilitate approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

3.9 Provide such accounting, independent cost estimating, and insurance counseling services as may be required for the Project, such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as OWNER may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as OWNER may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code, or order applicable to their furnishing and performing the work.

3.10 If OWNER designates a person to represent OWNER at the site who is not ENGINEER or

ENGINEER's agent or employee, the duties, responsibilities, and limitations of authority of such other person and the effect thereof on the duties and responsibilities of ENGINEER will be set forth in an exhibit that is to be identified, attached to and made a part of this Agreement before such services begin.

3.11 If more than one prime contract is to be awarded for construction, materials, equipment, and services for the entire Project, designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

3.12 Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.7 through 3.11, inclusive, and other costs of the type referred to in paragraph 1.2.6) so that ENGINEER may make the necessary findings to support opinions of probable Total Project Costs.

3.13 Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings and substantial completion inspections, and final payment inspections.

3.14 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services, or any defect or non-conformance in the work of any Contractor.

3.15 Furnish or direct ENGINEER to provide Additional Services as stipulated in paragraph 2.1 of this Agreement, or other services as required.

3.16 Bear all costs incident to compliance with the requirements of this Section 3.

SECTION 4 PERIODS OF SERVICE

4.1 The provisions of this Section 4 and the various rates of compensation for ENGINEER's services provided elsewhere in this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project. ENGINEER's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of contracts, construction, and initial operation of the Project, including extra work and required extensions thereto. If in Exhibit A, "Further

Description of Basic Engineering Services and Related Matters," specific periods of time for rendering services are set forth, or specific dates by which services are to be completed are provided, and if such dates are exceeded through no fault of ENGINEER, all rates, measure, and amount of compensation provided herein shall be subject to equitable adjustments.

4.2 The services called for in the Tasks will be completed within the stipulated period indicated in Exhibit A, "Further Description of Basic Engineering Services and Related Matters," after written authorization to proceed with the phase of services which will be given by OWNER within thirty days after ENGINEER has signed this Agreement.

SECTION 5 PAYMENTS TO ENGINEER

5.1 Methods of Payment for Services and Expense of ENGINEER

5.1.1 For Basic Planning and Study Report Services. OWNER shall pay ENGINEER for Basic Services rendered under Section 1 (as amended and supplemented by Exhibit A, "Further Description of Basic Engineering Services and Related Matters") a not-to-exceed amount of \$103,219.00 based on the tasks outlined in Exhibit A.

5.1.1A For Basic Design Services. OWNER shall pay ENGINEER for Basic Services rendered under Section 1 as amended and supplemented by Exhibit A, "Further Description of Basic Engineering Services and Related Matters".

5.1.2 For Additional Services. OWNER shall pay ENGINEER for Additional Services rendered under Section 2 as follows:

5.1.2.1 General. For Additional Services of ENGINEER's principals and employees engaged directly on the Project and rendered pursuant to paragraph 2.1 or 2.2 (except services as a consultant or witness under paragraph 2.1.13) on the basis of ENGINEER's hourly rates provided in paragraph 8.4.

5.1.2.2 Professional Associates and Consultants. For Services and Reimbursable Expenses of independent professional associates and consultant employed by ENGINEER to render Additional Services pursuant to paragraph 2.1 or 2.2, the amount billed to

ENGINEER therefor times a factor of 1.00. (See Section 8.4.)

5.1.2.3 Serving as a Witness. For services rendered by ENGINEER's principals and employees as consultants or witnesses in any litigation, arbitration, or other legal or administrative proceeding in accordance with paragraph 2.1.13, at the rate of \$1,920.00 per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, arbitration, or proceeding will be on the basis provided in paragraph 5.1.2.1). Compensation for ENGINEER's independent professional associates and consultants will be on the basis provided in paragraph 5.1.2.2.

5.1.3 For Reimbursable Expenses. In addition to payments provided for in paragraphs 5.1.1 and 5.1.2, OWNER shall pay ENGINEER the actual costs of all Reimbursable Expenses incurred in connection with all Basic and Additional Services.

5.1.4 As used in this paragraph 5.1, the terms "Salary Costs" and "Reimbursable Expenses" have the meanings assigned to them in paragraph 5.4; and the term "Construction Cost" has the meaning assigned to it in paragraph 6.1. When Construction Cost is used as a basis for payment, it will be based on one of the following sources with precedence in the order listed for work designed or specified by ENGINEER:

5.1.4.1 For completed construction work, the total cost of all work performed as designed or specified by ENGINEER.

5.1.4.2 For work designed or specified but not constructed, the lowest *bona fide* bid received from a qualified bidder for such work; or, if the work is not bid, the lowest *bona fide* negotiated proposal for such work.

5.1.4.3 For work designed or specified but not constructed and for which no such bid or proposal is received, the most recent estimate of Construction Cost; or, if none is available, ENGINEER's most recent opinion of probable Construction Cost.

Labor furnished by OWNER for the Project will be included in the Construction Cost at current market rates, including a reasonable allowance for overhead and profit. Materials and equipment furnished by OWNER will be included at current market prices. No deduction is to be made from Construction Costs on account of any penalty, liquidated damages, or

other amounts withheld from payments to Contractor(s).

5.2 Time of Payments

5.2.1 ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. The statements will be based upon ENGINEER's estimate of the proportion of the total services actually completed at the time of billing. OWNER shall make prompt monthly payments in response to ENGINEER's monthly statements.

5.3 Other Provisions Concerning Payments

5.3.1 If OWNER fails to make any undisputed payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's statement therefor, the amounts due ENGINEER will be increased at the rate of 1 percent per month from said thirtieth day; and in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and charges.

5.3.2 In the event of termination by OWNER under paragraph 7.1 upon the completion of any phase of the Basic Services, progress payments due ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Basic Services, ENGINEER will be paid for services rendered during that phase on the Basis of Section 8.4 for services rendered by ENGINEER's principals and employees engaged directly on the Project during that phase to date of termination. In the event of any such termination, ENGINEER will also be reimbursed for the charges of independent professional associates and consultants employed by ENGINEER to render Basic Services, and for all unpaid Additional Services and unpaid Reimbursable Expenses.

5.3.3 Records of ENGINEER's Salary Costs pertinent to ENGINEER's compensation under this Agreement will be kept in accordance with generally accepted accounting principles. Copies will be made available to OWNER at cost on request prior to final payment for ENGINEER's services.

5.3.4 Whenever a factor is applied to Salary Costs in determining compensation payable to ENGINEER, that factor will be adjusted periodically and equitably to reflect changes in the various elements that

comprise such factor. All such adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by ENGINEER and consistent with ENGINEER's overall compensation practices and procedures.

5.4 Definitions

5.4.1 Salary Costs used as a basis for payment mean salaries and wages (basic and incentive) paid to all ENGINEER's personnel engaged directly on the Project, including but not limited to engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including but not limited to social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday and other group benefits. For the purposes of this Agreement, the principals of ENGINEER and their current hourly Salary Costs are defined in Section 8.4.

5.4.1.1 The hourly Salary Costs of principals of ENGINEER will be adjusted equitably to reflect changes in personnel and in ENGINEER's overall compensation procedures and practices.

5.4.1.2 The amount of customary and statutory benefits of all other personnel of ENGINEER will be considered equal to 35 percent of salaries and wages, subject to equitable adjustment to reflect changes in ENGINEER's overall compensation procedures and practices.

5.4.2 Reimbursable Expenses mean the actual expenses incurred by ENGINEER or ENGINEER's independent professional associates or consultants, directly or indirectly in connection with the Project, such as expenses for: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); toll telephone calls and telegrams; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Section 1; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates. See Sections 8.3, 8.5, and 8.6.

SECTION 6 (RESERVED)

SECTION 7 GENERAL CONSIDERATION

7.1 Termination

The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

7.2 Reuse of Documents

All documents, including Drawings and Specifications, prepared or furnished by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement are instruments of service in respect of the Project; and ENGINEER shall retain an ownership and property interest therein, whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Project by OWNER and others; however, such documents may be suitable for reuse by OWNER or others on extensions of the Project. Any reuse without written verification or adaptation by ENGINEER for the specific purposes intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants; and OWNER shall, to the extent currently permitted under state law, indemnify and hold harmless ENGINEER and ENGINEER's independent professional associates and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

7.3 Insurance

7.3.1 ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury, including personal injury, sickness or disease, or death of any and all employees, or of any person other than such employees, and from claims or damages because of injury to or destruction of property, including loss of use resulting therefrom. ENGINEER shall carry, and shall provide proof of coverage, a minimum of \$1,000,000 in errors and

omissions insurance for four years from execution of agreement. ENGINEER shall, at its own expense, procure and maintain throughout the term of this Agreement comprehensive general liability insurance at \$1,000,000 per occurrence and comprehensive automobile liability insurance at \$1,000,000 per occurrence.

7.4 Controlling Law

This Agreement is to be governed by the laws of Tennessee.

7.5 Successors and Assigns

7.5.1 OWNER and ENGINEER each is hereby bound; and the partners, successors, executors, administrators, and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 7.5.2, the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect to all covenants, agreements, and obligations of this Agreement.

7.5.2 Neither OWNER nor ENGINEER shall assign, sublet, or transfer any rights under or interest in (including without limitation monies that may become due or monies that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional associates and consultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.

7.5.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

7.6 Dispute Resolution If and to the extent that OWNER and ENGINEER have agreed on a method and procedure for resolving disputes between them

arising out of or relating to this Agreement, such dispute resolution method and procedure, if any, is set forth in Exhibit C, "Dispute Resolution." OWNER and ENGINEER agree to negotiate in good faith for a period of thirty days from the date of notice of all disputes between them prior to exercising their rights under Exhibit C or other provisions of this Agreement or under law.

SECTION 8 EXHIBITS AND SPECIAL PROVISIONS

8.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement

8.1.1 Exhibit A, "Further Description of Basic Engineering Services and Related Matters," consisting of two pages.

8.1.2 Exhibit B, "Dispute Resolution," consisting of one page.

8.2 This Agreement (consisting of pages 1 through 11 inclusive, and the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may be amended, supplemented, modified, or canceled only by a duly executed written instrument.

8.3 In the event an error is made in the plans, the ENGINEER will correct the error in the plans, and the ENGINEER's services rendered in connection with correcting the error shall be considered as part of the Basic Services. However, if the cost to the OWNER for correcting the error includes tearing out or redoing any portion of the Project, the cost associated with the tearing out or redoing shall not be considered a part of the overall Project Cost for the purposes of calculating the ENGINEER's fee for Basic Services.

8.4 Notwithstanding any provision to the contrary, the maximum billing rates shall be as follows:

Principal	\$280/hour
Senior Professional	\$240/hour
Professional	\$190/hour
Production Team Member	\$160/hour
Clerical Staff	\$ 95/hour

These hourly rates shall be valid for a period of at least twelve (12) months. Increases in the hourly rates

may be necessary to reflect changes in salary, benefits, or other statutory requirements which could affect the hourly rates established herein. Any changes in these billing rates will be submitted for review and discussion prior to effecting such changes.


8.5 ENGINEER will obtain prior written approval before performing such work considered "Additional Services" and charging for same.

8.6 Notwithstanding any provision to the contrary, OWNER will not be invoiced for travel within Davidson, Williamson, and Rutherford Counties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

CITY OF MURFREESBORO

By:  DocuSigned by:
A2F6A4BF7CD74E7...


Mayor

Title: _____

Address for giving notice:
Engineering Department
City of Murfreesboro
111 West Vine Street
Murfreesboro, Tennessee 37130

ENGINEER:

KIMLEY-HORN AND ASSOCIATES, INC.

By:  DocuSigned by:
(Christopher D. Rhodes, P.E.)

Title: Vice President

Address for giving notice:
Kimley-Horn and Associates, Inc.
214 Oceanside Drive
Nashville, Tennessee 37204
Phone: 615-564-2701

APPROVED AS TO FORM:


By:  DocuSigned by:
City Attorney, Adam Tucker



EXHIBIT A

FURTHER DESCRIPTION OF BASIC ENGINEERING SERVICES
AND RELATED MATTERS

This is an Exhibit attached to, made a part of and incorporated by reference into the Agreement made on January 27, 2022 between the City of Murfreesboro, Tennessee, (OWNER or City) and Kimley-Horn and Associates, Inc. (ENGINEER or Kimley-Horn), for providing professional engineering services. The Basic Services of ENGINEER and the responsibility of the OWNER as described in the Agreement are amended or supplemental as indicated below, and the time periods for the performance of certain services as indicated in Section 4 of the Agreement are as indicated below.

This exhibit details the study to develop, design, and implement plans for new transit routes and transit shelters. A detailed description of the ENGINEER's Scope of Services, Schedule, and Fee are as follows:

Phase I**Task 1: Project Coordination Services**

This task will consist of general project management, administrative, and accounting activities for the project. It will further consist of every other week virtual (i.e., Microsoft Teams) meetings (as needed) with the City of Murfreesboro Transportation Department staff (Assistant Transportation Director is the primary contact), preparing and distributing project correspondence, schedule of meetings and activities, periodic project status reporting, and discussion of project issues throughout the life of the project. Kimley-Horn will also coordinate with our subconsultant surveyor as part of this task.

Task 1.1: Monthly Project Documentation, Reporting, and Administration

Kimley-Horn will use our firm-wide electronic accounting system for storage and retrieval of project accounting information. This system provides a mechanism for tracking and reporting the progress of a project monthly. Information developed in this task will consist of updates on schedule, budget status, elements of tasks completed, tasks remaining, and problems / issues to be addressed. Kimley-Horn will submit an invoice and status report for each month on, or before the deadline as determined by the City of Murfreesboro Transportation Department.

Deliverables:

- Every Other Week Virtual Meeting Summary (one (1) electronic copy via email)
- Monthly Status Reports
- Monthly Invoices

Task 1.2: Kickoff and Data Collection Meeting

Kimley-Horn shall coordinate and facilitate a site visit and kick-off/data collection meeting with the City of Murfreesboro Transportation Department staff after the official notice-to-proceed has been granted. The purpose of this meeting will be to review the project scope, receive data information from the City of Murfreesboro Transportation Department staff, discuss key issues, and to discuss potential route changes and transit shelter locations. Up to three (3) Kimley-Horn staff are anticipated to participate in this in-person meeting.

Deliverables:

- Kickoff and Data Collection Meeting Materials
- Kickoff and Data Collection Meeting Summary (one (1) electronic copy via email)



TRANSIT ROUTE AND SHELTER STUDY

EXHIBIT A MURFREESBORO, TENNESSEE

Task 1.3: Initial Transit Route and Shelter Meeting

Kimley-Horn shall prepare for, facilitate, and document an initial transit route and shelter meeting with the City of Murfreesboro Transportation Department staff to present the proposed transit route realignment and/or adjustments and proposed transit shelter locations and memorandum drafted to summarize the results of Tasks 3 and 4 and the stakeholder input received as a result of Task 2. The City of Murfreesboro Transportation Director and Assistant Transportation Director will be involved in this meeting; however, others can be added at the discretion of the City of Murfreesboro Transportation Department.

The purpose of this meeting is to receive feedback from the City of Murfreesboro Transportation Department staff regarding the initial proposed transit route realignment and/or adjustments and the initial proposed transit shelter locations, proposed shelter facility styles, project goals, and objectives.

Deliverables:

- Initial Transit Route and Shelter Meeting Materials
- Initial Transit Route and Shelter Meeting Summary (one (1) electronic copy via email)

Task 1.4: Final Transit Route and Shelter Meeting

Kimley-Horn shall prepare for, facilitate, and document a transit route and shelter meeting with the City of Murfreesboro Transportation Department staff to present the final transit route realignment and/or adjustments and final transit shelter locations and memorandum drafted to summarize the results of Tasks 3 and 4 and the public comments received as a result of Task 2. The City of Murfreesboro Transportation Director and Assistant Transportation Director will be involved in this meeting; however, others can be added at the discretion of the City of Murfreesboro Transportation Department staff.

The purpose of this meeting is to provide information to and receive feedback from the City of Murfreesboro Transportation Department staff regarding the final transit route realignment and/or adjustments, as well as the final transit shelter locations and final shelter facility styles.

Deliverables:

- Final Transit Route and Shelter Meeting Materials
- Final Transit Route and Shelter Meeting Summary (one (1) electronic copy via email)

Task 2: Public and Stakeholder Outreach

When the City of Murfreesboro Transportation Department staff have approved the proposed transit route realignment and/or adjustments and proposed transit shelter locations for release to the public, Kimley-Horn will plan and conduct outreach at the current Downtown Hub. Kimley-Horn will develop public notifications and provide information about the date, time(s), location, and meeting content in accordance with the City of Murfreesboro's public notice requirements. The City of Murfreesboro will be responsible for posting this information on the City of Murfreesboro's website, placing any public notices in the newspaper (if required), and placing notices on the transit buses.

Task 2.1: Stakeholder Outreach

In coordination with Tasks 2 and 3, Kimley-Horn will gather input on route realignment or adjustments to existing routes and potential additional routes with up to six (6) stakeholders via in-person, or virtual meetings. The input from these stakeholders will be summarized in a Stakeholder Outreach Summary and will be incorporated into the recommendations presented to the City of Murfreesboro Transportation Department staff during Tasks 1.3.



TRANSIT ROUTE AND SHELTER STUDY

EXHIBIT A MURFREESBORO, TENNESSEE

Deliverables:

- Stakeholder Outreach Summary (one (1) electronic copy via email)

Task 2.2: Downtown Hub Outreach

Kimley-Horn will conduct morning and afternoon outreach efforts at the current Downtown Hub. Kimley-Horn and the City of Murfreesboro Transportation Department staff will set up displays and provide handouts explaining the proposed transit route realignment and/or adjustments and proposed transit shelter locations, as well as answer questions and gather comments on the proposed changes. Kimley-Horn will prepare one (1) draft of the displays and handout materials for review by the City of Murfreesboro Transportation Department staff. Kimley-Horn will prepare one (1) final version of the meeting materials based on review / comments provided by the City of Murfreesboro Transportation Department staff. Members of the public and transit riders will be encouraged to complete an online survey and/or comment cards and leave their names and email addresses so that they can be invited to review online information about the project. Up to four (4) Kimley-Horn staff are anticipated to participate in this in-person outreach.

Deliverables:

- Proposed Transit Route and Shelter Public Outreach Materials
 - Presentation, boards, handouts, online survey, comment cards and other materials

Task 2.3: Public and Stakeholder Outreach Summary

After the Downtown Hub Outreach event, Kimley-Horn will provide a formal written summary of the stakeholder input and public comments. Kimley-Horn and the City of Murfreesboro Transportation Department staff will conduct a meeting, or virtual meeting, to discuss whether changes to the proposed transit routes and transit shelter locations are required as a result of the stakeholder input and public comments and, if so, what changes should be made, after which Kimley-Horn will record how each comment was considered or addressed in refining the recommendations.

Deliverables:

- Draft/Final Public Outreach Summary (one (1) electronic copy via email)

Task 3: Planning and Research to Identify Route Realignments

Once completed and operational, the new multimodal transit facility will replace the current Downtown Hub and will become the location where a majority of the existing Murfreesboro Transit routes connect. Kimley-Horn will undertake an analysis to determine if the relocation will require route realignment or adjustments to the existing six (6) Murfreesboro Transit routes in order to maintain their schedule while also serving the new transit facility. Kimley-Horn will also conduct a needs assessment of up to three (3) potential additional routes.

Task 3.1: Transit Route Realignment and/or Adjustment Evaluation

Kimley-Horn will evaluate the existing six (6) Murfreesboro Transit routes to identify route realignment and/or adjustments needed to maintain effective and efficient service and connect the existing routes to the new multimodal transit facility. The intent of this evaluation will be to maintain as much of the existing routes as possible. This analysis will use existing operational and ridership data supplied by the City of Murfreesboro and will not involve the collection of new operational and/or ridership data by Kimley-Horn.

Initial route realignment and/or adjustments will be discussed and evaluated with the City of Murfreesboro Transportation Department staff during Task 1.2 and 1.3. The proposed route realignment



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and/or adjustments will be discussed and evaluated with the City of Murfreesboro Transportation Department staff during Task 1.3, prior to being presented to the public during Task 2.2. The final route realignment and/or adjustments, based on the input received during Task 2 will be presented to the City of Murfreesboro Transportation Department staff during Task 1.4.

Task 3.2: Needs Assessment of Additional Routes

Kimley-Horn will conduct a needs assessment of up to three (3) potential additional routes including a Core City Flex route and a New Salem Road route as part of the evaluation of the existing six (6) Murfreesboro Transit routes. To identify potential new route alignments and connections, Kimley-Horn will:

- Conduct a site visit and ride each of the six (6) existing Murfreesboro Transit routes;
- Conduct interviews with up to three (3) Murfreesboro Transit drivers;
- Identify major travel nodes and activity centers within the Murfreesboro Transit service area that are currently not being served by one of the existing six (6) Murfreesboro Transit routes. This analysis will include the identification of major commercial and employment areas, health care facilities, etc.;
- Perform an analysis of U.S. Census Commuting (Journey to Work) data to identify travel patterns for travelers in the Murfreesboro Transit service area;
- Develop demographic information for the Murfreesboro Transit service area based on U.S. Census and American Community Survey data (most recent five-year dataset);
- Compare existing route alignments to the locations and concentrations of groups of potential transit users (i.e., low-income, disabled and elderly populations, and zero-or-one car households); and
- Document existing local and projected regional development patterns, information on future development, and likely changes to land use and development patterns over the next ten years using data provided by the City of Murfreesboro.

Based on this information, Kimley-Horn will develop an initial map and narrative summary of up to three (3) potential additional routes to serve major travel nodes, activity centers, and nodes of interest to various major ridership groups (students, seniors, work-trips, etc.) that are not currently being served by the existing six (6) Murfreesboro Transit routes.

Up to three (3) potential additional routes will be discussed and evaluated with the City of Murfreesboro Transportation Department staff during Task 1.2 and 1.3. The potential additional routes (if identified) will be discussed and evaluated with the City of Murfreesboro Transportation Department staff during Task 1.3, prior to being presented to the public during Task 2.2. Based on the public comments received during Task 2.2, the final additional routes (if identified) will be presented to the City of Murfreesboro Transportation Department staff during Task 1.4.

Task 3.3: Transit Route Realignment and/or Adjustment Recommendations

Kimley-Horn will prepare a memorandum based on discussions from Tasks 1 and 2. The memorandum will outline the recommended route realignment and/or adjustments to maintain effective and efficient service and connect the existing six (6) Murfreesboro Transit routes to the new multimodal transit facility, as well as recommendations for any additional routes (if identified).

Deliverables:

- Draft/Final Memorandum on Route Realignment and/or Adjustment Recommendations (one (1) electronic copy via email)



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- Map of Proposed/Final Route Realignment and/or Adjustment Recommendations (GIS shapefiles and one (1) electronic copy via email)

Task 4: Planning and Research to Identify Potential Shelter Locations

Task 4.1: Transit Shelter Location Evaluation

Kimley-Horn will prepare a proposed transit shelter map based on discussions from Tasks 1 and 2. Kimley-Horn will use this data to create a graphical map identifying the recommended transit shelter locations. Kimley-Horn will rely on input from the City of Murfreesboro Transportation Department staff and available GIS data to make recommendations for bus shelter locations. Items to be considered during transit shelter locations will consist of:

- Information and data provided by the City of Murfreesboro Transportation Department
- Proximity to attractions (retail, commercial, recreational uses, etc.)
- Proximity to residential areas
- Proximity to office buildings
- Available right-of-way (based on available GIS data)
- Site visit performed by Kimley-Horn staff

Task 4.2: Transit Shelter Location Recommendations

Kimley-Horn will prepare a memorandum based on discussions from Tasks 1 and 2. Kimley-Horn will rely on input from this meeting to perform transit shelter style and amenity research. Kimley-Horn will provide up to three (3) transit shelter facility recommendations and will prepare a rough order of magnitude cost (ROM) estimation, as well as a GIS map of the recommended transit shelter locations.

It is understood the City of Murfreesboro would prefer bus shelter locations in close proximity to existing utility poles to provide electricity for lighting.

Deliverables:

- Draft/Final Memorandum on Transit Shelter Facility Recommendations (one (1) electronic copy via email)
- Map of Proposed/Final Transit Shelter Locations (GIS shapefiles and one (1) electronic copy via email)

Task 5: Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Additional meetings / conference calls outside of those referenced in this Exhibit
- Public Presentation(s)
- Design Phase Services
- Construction Phase Services
- Others as requested by the Client

The specific scope of these tasks will be defined if the City of Murfreesboro Transportation Department elects to move forward with any Additional Services.



Phase II

At the conclusion of Phase I, Kimley-Horn will prepare a scope of services and fee proposal for Phase II activities. A more detailed summary of Phase II activities will be developed, but in general Phase II activities are anticipated to consist of:

Task 6: Data Collection Services

Kimley-Horn, through a subconsultant, will collect base mapping and survey data necessary for the development of the design plan sheets for the transit shelter locations identified in Task 4 (Phase I).

Task 7: NEPA Documentation/FTA Coordination

Kimley-Horn will gather environmental data, conduct site visits, prepare maps, and photographic documentation to support the completion of the FTA Region 4 Categorical Exclusion (CE) Worksheet for the transit shelter locations identified in Task 4 (Phase I).

Task 8: Design Phase Services

Kimley-Horn will prepare construction plans and related documents for the transit shelter locations identified in Task 4 (Phase I).

Task 9: Submittals and Permitting Services

Kimley-Horn will compile the Construction Plans, Engineer’s Opinion of Probable Construction Cost and Technical Specifications for the transit shelter locations identified in Task 4 (Phase I).

Task 10: Limited Construction Phase Services

Kimley-Horn will provide limited construction phase services for the City of Murfreesboro for the transit shelter locations identified in Task 4 (Phase I).

Schedule

Given a notice to proceed and contract execution, the ENGINEER is prepared to provide these services based upon a mutually agreed upon schedule.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1-4 on a labor fee plus expense basis with the maximum labor fee shown below.

Task 1 – Project Coordination Services	\$18,090.00
Task 2 – Public and Stakeholder Outreach	\$15,595.00
Task 3 – Planning and Research to Identify Route Realignments	\$40,937.00
Task 4 – Planning and Research to Identify Potential Shelter Locations	\$28,597.00
Maximum Labor Fee	\$103,219.00

Kimley-Horn will not exceed the total maximum labor fee shown without authorization from the Client. Individual task amounts are provided for budgeting purposes only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary.

Labor fee will be billed on an hourly basis according to our then-current rates. As to these tasks, direct reimbursable expenses such as express delivery services, fees, air travel, and other direct expenses will be billed at 1.15 times cost. A percentage of labor fee will be added to each invoice to cover certain other expenses as to these tasks such as telecommunications, in-house reproduction, postage, supplies, project



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related computer time, and local mileage. Administrative time related to the project may be billed hourly. All permitting, application, and similar project fees will be paid directly by the Client. Should the Client request Kimley-Horn to advance any such project fees on the Client's behalf, a separate invoice for such fees, with a fifteen percent (15%) markup, will be immediately issued to and paid by the Client.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Kimley-Horn will perform the services described in Task 5 (Additional Services) of the Scope of Services on a labor fee plus expense basis. Effort associated with Task 5 will not be performed without written authorization by the OWNER.

EXHIBIT B

DISPUTE RESOLUTION

- 7.6.1 In the event a dispute arises between OWNER and ENGINEER relating to any obligation undertaken in this agreement, they agree to utilize the following procedure to resolve any such dispute.
- 7.6.2 OWNER and ENGINEER will attempt to resolve all disputes by first engaging in good faith negotiations between them as soon as possible after the dispute arises.
- 7.6.3 If negotiations are not successful, OWNER and ENGINEER will submit their dispute to a mutually acceptable mediator for nonbinding mediation.
- 7.6.4 If mediation is not successful, OWNER and ENGINEER will seek a resolution of their dispute through the normal legal process in a court of competent jurisdiction.
- 7.6.5 If a dispute is resolved through the procedure of paragraph 7.6.4, the prevailing party shall be entitled to recover from the other all court costs.
- 7.6.6 If the complete resolution of a dispute requires the joiner of a third party that does not agree to follow the procedure set out in paragraph 7.6, such dispute shall not be resolved between OWNER and ENGINEER in accordance with said paragraph. However, this paragraph 7.6.6 shall have no application unless formal written notice of objection is given by the party wishing to utilize this subsection to avoid the procedure set forth in paragraph 7.6 within 30 days of formal notice of the dispute invoking paragraph 7.6.

EXHIBIT C

FEDERAL AND TDOT REQUIRED CLAUSES

FEDERAL AND TDOT REQUIRED CLAUSES

This Document is incorporated as part of the Agreement between the City of Murfreesboro and Kimley-Horn and Associates, Inc, to the extent applicable to the scope of services provided by Kimley-Horn as part of the Project referenced above. The City of Murfreesboro's purchasing procedures are governed by the State of Tennessee, the City of Murfreesboro, and various Federal laws, executive orders, and regulations, by Office of Management and Budget Circular A-102, Executive Order 12612, Federalism and Federal Transit Administration Circular 4220.1F "Third Party Contracting Requirements". These require, among other things, that purchases (including purchases for fixed assets, materials and supplies, construction, and/or services) utilizing federal grant funds be made according to approved plans and specifications, including the Federal and State clauses set forth below:

1. **Public Accountability.** If the "City or Contractor" (Grantee) is subject to Tenn. Code Ann. § 8-4-401 et seq., or if this Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The City shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Tennessee Department of Transportation (Grantor State Agency) shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

2. **Public Notice.** All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee, Department of Transportation." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.
3. **Records.** The Contractor and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Contractor and any approved subcontractor, insofar as they relate to work performed or money received under this Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Contractor's records shall be subject to audit at any reasonable time and upon reasonable notice by the Tennessee Department of Transportation, the Comptroller of the Treasury, or their duly appointed representatives.

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

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

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

The Contractor shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

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

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

4. **Prompt Payment.** All non-TVM contracts with subcontractors if threshold for a DBE program met 49 CFR Part 26.29(a)

The prime contractor shall pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment City makes to the prime contractor.

5. **Return of Retainage.** All non-TVM contracts with subcontractors if threshold for a DBE program met 49 CFR Part 26.29(b)

The prime contractor shall make prompt and full payment of retainage to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. The City may use one of the following methods to ensure compliance with this requirement:

1. *The City may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.*
2. *The City may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.*
3. *The City may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after the City's payment to the prime contractor.*

6. **Notice to FTA and USDOT Disputes, Breaches, Defaults, and Litigation.** Notice to FTA and USDOT Inspector General of information related to fraud, waste, abuse, or other legal matters. 2021 MA §39.(b)

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Contractor is located. The Contractor must include a similar notification in its sub-agreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

1. *The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.*
2. *Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interest in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.*
3. *Additional Notice to U.S. DOT Inspector General. The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Contractor is located, if the Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient/Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including division tasked with law enforcement or investigatory functions.*
7. **Davis-Bacon Act.** (2 CFR 200 Appendix II (D); 4220.1F.IV.2.i.(5); 2021 MA 16d(4)) Under 49 U.S.C. Section 5333(a), Davis-Bacon Act prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Common Grant Rules require third party contracts for construction, alteration, or repair at any contract tier exceeding \$2,000 to include provisions requiring compliance with the Davis-Bacon Act, 40 U.S.C. Sections 3141 et seq., and implementing DOL regulations "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction," 29 CFR Part 5. The Davis-Bacon Act requires that contractors pay wages to laborers and mechanics at a rate not less than the minimum wages specified in the wage determination made by the Secretary of Labor. The Davis-Bacon Act also requires contractors to pay wages not less than once a week. The recipient must include a copy of the current prevailing wage determination issued by DOL in each contract solicitation and must condition contract award upon the acceptance of that wage determination. These requirements are in addition to the separate Wage and Hour Requirements addressed in paragraph 2.c(1) of this Chapter IV.
8. **Gratuities and Kickbacks - Copeland Anti-Kickback Act.** (2 CFR 200 Appendix II (D); 4220.1F.IV.2.i.(6); 29 CFR 3.1 and 3.11; 18 USC §874; 40 USC §3145; 2021 MA 16d(4))
 - a. Contractor shall comply with the provisions of the Copeland Anti-Kickback Act, 18 U.S.C. Section 874, as amended, and implementing DOL regulations, which prohibits anyone from inducing, by any means, any person employed on construction, prosecution, completion, or repair of a federally assisted building or work, to give up part of his or her compensation to which he or she is otherwise entitled.
 - b. Contractor shall comply with Section 2 of that Act, at 40 U.S.C. Section 3145, as amended, and implementing DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States," 29

CFR Part 3, impose record keeping requirement on all third party contracts for construction, alteration, or repair exceeding \$2,000.

- c. 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. Contractor warrants that no part of the total contract amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to City in connection with any work contemplated or performed relative to this Agreement.
9. **Contract Work Hours and Safety Standards Act.** (2 CFR 200 Appendix II (E); 4220.1F.IV.2.i.(7); 40 USC 3701 – 3708; 2021 MA 16d(5); 2021 MA 24(a))
 - a. Wages based on 40 hour standard work week
 - b. Pay at 1.5 times standard rate for hours over 40
 - c. No unsanitary, hazardous, or dangerous conditions
 - d. Does not apply to supplies, materials, articles available on the open market.

The Common Grant Rules require provisions to ensure safety at construction sites so that no laborer or mechanic shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous as prohibited by the safety requirements of Section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. Section 3704, and its implementing DOL regulations, "Safety and Health Regulations for Construction," 29 CFR Part 1926. Notably, Section 4104(c) of the Federal Acquisition Streamlining Act of 1994, 40 U.S.C. Section 3701 (b)(3)(A)(iii), increased the threshold for construction safety protections to \$100,000 from \$2,000 as set forth in the Common Grant Rules, so that a federally assisted construction contract must exceed \$100,000 before these construction safety requirements apply to that contract.

10. **Debarment and Suspension.**

- a. The City certifies, to the best of its knowledge and believe, that the Selected Contractor:
 - i. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - ii. has not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - iii. is not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and

- iv. has not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.
- b. The City will provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, the Selected Contractor is excluded or disqualified, or presently falls under any of the prohibitions of sections i-iv.
- c. The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Non-procurement Suspension and Debarment,” 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement),” 2 CFR Part 180. The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by a Federal department or agency to be:
 - i. Debarred from participation in any federally assisted Award;
 - ii. Suspended from participation in any federally assisted Award;
 - iii. Proposed for debarment from participation in any federally assisted Award;
 - iv. Declared ineligible to participate in any federally assisted Award;
 - v. Voluntarily excluded from participation in any federally assisted Award; or
 - vi. Disqualified from participation in any federally assisted Award.
 - vii. By signing this Agreement, Contractor certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the City that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 2 CFR Part 180, Subpart C, as supplemented by 2 CFR Part 1200, throughout the period of the awarded Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

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

- a. Contractors that apply or bid for an award exceeding \$100,000 must file the lobbying certification before the awarding of the contract, and if applicable, a lobbying disclosure from a prospective third party contractor. See, DOT regulations, “New Restrictions on Lobbying” 49 CFR Part 20, modified as necessary by 31 U.S.C. Section 1352, which implement the Byrd “Anti-Lobbying” Amendment, 31 U.S.C. Section 1352. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.
- b. The Contractor certifies, to the best of its knowledge and belief, that:
 - i. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- ii. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Promisor shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- iii. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

12. Standard Form LLL and Quarterly Updates (when required). 49 CFR Part 20

- 13. 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. Contractor warrants that no part of the total contract amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to City in connection with any work contemplated or performed relative to this Agreement.

14. Disadvantage Business Enterprise (DBE) – (49 CFR Part 26)

- a. **Policy.** It is the policy of the Department of Transportation that disadvantage business enterprises, as defined in 49 CFR part 26, shall have the equal opportunity to participate in the performance of contracts financed in whole or in part with federal funds under the Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to the awarded Agreement.
- b. **DBE Obligation.** The City and its contractors agree to ensure that disadvantage business enterprises as defined in 49 CFR Part 26 have the equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under the awarded Agreement. In this regard, the City and its contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The City and its contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of contracts assisted by the Department of Transportation.

15. Access to Records

- a. Contractor agrees to provide the City, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the awarded Agreement for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 CFR 633.17 to provide the FTA Administrator or the FTA's authorized representatives, including any FTA Project Management Oversight Contractor, access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- b. Contractor shall permit any of the foregoing parties to reproduce without any cost by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. Contractor shall maintain all books, records, accounts and reports required under the Contract for a period of not less than three years after the date of termination or expiration of the awarded contract, except in the event of litigation or settlement of claims arising from the performance of the awarded Contract, in which case Contractor agrees to maintain same until the City, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

16. Federal Funding, Incorporation of Federal Transit Administration (FTA) Terms, and Federal Changes.

- a. The awarded Agreement includes, in part, certain Standard Terms and Conditions required by Department of Transportation (DOT), whether or not expressly set forth in the Agreement provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008 (including any changes, revisions or successor circulars) is automatically hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the awarded Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City requests which would cause the City to be in violation of the FTA terms and conditions.
- b. This Agreement is subject to a financial assistance agreement between the City and the Federal Transit Administration of the US Department of Transportation, and all laws, regulations, guidelines, and provisions of the financial assistance agreement apply to the awarded Agreement and are incorporated by reference as if fully set forth herein.
- c. Contractor shall at all times comply with all applicable federal laws and regulations, including without limitation FTA regulations, policies, procedures and directives, including those listed directly or by reference in Applicable Grant Agreements between the City and FTA, as they may be amended or promulgated from time to time during the term of this Agreement collectively "Federal Requirements". These Federal Requirements may change, and the changed Federal Requirements will apply to this Agreement as required unless the Federal Government determines otherwise. Contractor's failure to so comply with the Federal Requirements shall constitute a material breach of the awarded Contract.

17. Energy Conservation Requirements – Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42USC §6321 et seq.**18. Civil Rights Requirements.**

- a. **Nondiscrimination.**
 - i. In accordance with Title VI of the Civil Rights Act, as amended, 42 USC §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC § 12132, and Federal transit law

- at 49 USC §5332, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Contractor shall comply with applicable Federal implementing regulations and other implementing requirements FTA may issue. 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.
- ii. 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:
 1. **The City and Contractor shall abide by the requirements of 41 CFR 60-1.4(a). This regulation prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin, and requires federal government contractors and subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**
 2. **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**
 3. **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**
 - b. **Equal Employment Opportunity. Race, Color, Creed, National Origin, Sex** – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, and Federal transit laws at 49 USC §5332, Contractor shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC §2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the awarded Contract. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be

limited to, the following: employment; upgrading demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor shall comply with any implementing requirements FTA may issue.

- c. **Age.** In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, Contractor shall refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor shall comply with any implementing requirements FTA may issue.
 - d. **Disabilities.** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor shall comply with any implementing requirements FTA may issue.
19. **No government obligation to third parties.** The City and Contractor acknowledge and agree that, notwithstanding any concurrence Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to the awarded Agreement and shall not be subject to any obligations or liabilities to the City, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the awarded Contract. Contractor shall include this Clause in each subcontract and shall not modify the Clause, except to identify the subcontractor who will be subject to its provisions.
20. **Program fraud and false or fraudulent statements or related acts.**
- a. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, shall apply to actions pertaining to the awarded Contract. Upon execution of the awarded Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the awarded Agreement or the FTA assisted project for which the awarded Agreement work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
 - b. Contractor also acknowledges that this Agreement is connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307 and if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.
21. **Seismic Safety.** The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under the awarded contract, including work performed by a

subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Modify City Code §§ 33-2.1.1
(Second Reading)

Department: Administration

Presented by: Sam Huddleston, Assistant 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

Modification of City Code §§ 33-2.1.1 to provide for outside City sewer to County facilities other than schools.

Staff Recommendation

Pass and adopt Ordinance 23-O-47

Background Information

City Code §§ 33-2.1.1 provides for conditions of service for outside City sewer customers. The section was previously modified to provide conditions for extending sewer services to County schools. Recently, Rutherford County has inquired regarding sewer and water service to a proposed solid waste transfer station to be located outside City Limits. Additionally, the County may request outside City sewer service for other County facilities in the future. Therefore, the modification of City Code §§ 33-2.1.1 to include County facilities is proposed.

Council Priorities Served

Improve economic development

Safe and efficient management of solid waste provides for a strong economic development environment.

Expand infrastructure

Providing for additional public infrastructure for solid waste management benefits the City.

Operational Issues

Providing outside City sewer services to Rutherford County will be in accordance with this section and a Development Agreement approve by both City Council and Rutherford County Commission.

Fiscal Impact

None.

Attachments

Ordinance 23-O-47

ORDINANCE 23-O-47 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, it is the will of City Council to allow City sewer service to Rutherford County facilities located outside the City limits without first requiring a petition for annexation while also retaining the City Council’s authority to determine, in its sole discretion, whether not to authorize such sewer service to the facility; 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 (E) at the end thereof:

- “(E) 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 Rutherford County;
 - (2) a facility serving a government or other public purpose owned and operated by Rutheford Couty is located or is intended to be constructed on the property; and
 - (3) Rutherford County enters into a written development agreement with the City with respect to the property, the terms of which are acceptable to City Council.”

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: 01/11/2024

Item Title: Ordinance 23-O-48 Repeal of Code Section 21-22
[Second Reading]

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

Repeal of Code Section 21-22.

Staff Recommendation

Approve Ordinance 23-O-48

Fiscal Impact

None.

Attachments

Ordinance 23-O-48

ORDINANCE 23-O-48 repealing the Murfreesboro City Code, Chapter 21, Offenses and Miscellaneous Provisions, Article I, Section 21-22.

WHEREAS, it is the will of City Council to repeal Murfreesboro City Code, Chapter 21, Offenses and Miscellaneous Provisions, Article I, Section 21-22.

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

SECTION 1. Be it resolved that Murfreesboro City Code, Chapter 21, Offenses and Miscellaneous Provisions, Article I, Section 21-22 is hereby repealed.

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

Passed:

1st reading _____

2nd reading _____

ATTEST:

Jennifer Brown
City Recorder

Shane McFarland, Mayor

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

SEAL

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: FY24 Budget Amendment
Department: Administration
Presented by: Erin Tucker, Budget 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

Amendment to the City's FY24 Budget Ordinance.

Staff Recommendation

Approve Ordinance 24-O-01, amending the City's budget on first reading.

Background Information

General Fund: An amendment is requested to add an additional \$500,000 for outside legal services to fund ongoing litigation matters.

Information Technology is requesting an additional position for a Business Systems Manager to assist internal and external customers with use of the City's permit, land, and licensure software. This position will plan, organize, and manage the network. This year's costs are anticipated to be absorbed by previous salary savings within the department.

Airport Fund: Council approved the purchase of property located in the runway protection zone at the December 7, 2023, Council meeting. The Airport Fund is paying \$276,000 of this purchase out of the Airport Fund balance.

Council Priorities Served

Responsible Budgeting

The budget amendments reflect the City's increased revenues and expenses.

Fiscal Impact

The amendment to General Fund will increase expenses by \$500,000, funded from General Fund's Unassigned Fund Balance and will also provide an increase of one position to the Information Technology Department's headcount.

The amendment to the Airport's budget results in an increase in the budgeted use of Airport's fund balance of \$276,000.

Attachments

FY24 City Budget Ordinance 24-O-01 and Exhibits A and B

ORDINANCE 24-O-01 amending the Fiscal Year 2024 (hereafter “FY2024”) Budget (3rd Amendment).

WHEREAS, the City Council adopted the FY2024 Budget by motion; and,

WHEREAS, the City Council adopted an appropriations ordinance, Ordinance 23-O-18, on June 8, 2023 to implement the FY2024 Budget; and,

WHEREAS, it is now desirable and appropriate to adjust and modify the FY2024 Budget and authorized full-time position counts adopted by this Ordinance to incorporate expenditure and hiring decisions made during the 2023-2024 fiscal year.

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

SECTION 1. The FY2024 Budget adopted by the City Council is hereby revised and amended as shown on Exhibit A, attached hereto.

SECTION 2. The FY2024 Authorized Full-time Position Counts adopted by the City Council is hereby revised and amended as shown on Exhibit B, attached hereto.

SECTION 3. That this Ordinance take effect immediately upon and after its passage upon second and final reading, as an emergency Ordinance, an emergency existing, and it being imperative to provide for the necessary expenses, general and special, of said City of Murfreesboro for the FY2024 at the earliest practicable time, the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

Jennifer Brown
City Recorder

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

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Adam F. Tucker
City Attorney

SEAL

Department		Account	BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
General Fund					
Revenues					\$ -
Expenditures					
	Unassigned				
Legal	Legal Services & Expenses		\$ 775,000.00	\$ 1,275,000.00	\$ 500,000.00
					\$ 500,000.00
CHANGE IN ASSIGNED FUND BALANCE - PRIOR YEAR CARRYFORWARD			\$ (12,644,208.91)	\$ (12,644,208.91)	\$ -
CHANGE IN RESTRICTED/ASSIGNED FUND BALANCE			\$ (48,809,379.53)	\$ (48,809,379.53)	\$ -
CHANGE IN UNASSIGNED FUND BALANCE			\$ (16,913,934.45)	\$ (17,413,934.45)	\$ 500,000.00
ESTIMATED ENDING FUND BALANCE (BUDGET PLUS FY24 ADJUSTMENTS)			\$ 100,262,032.11		
Adjustments for FY23 Closing Entries			\$ 42,702,214.76		
TOTAL ESTIMATED ENDING FUND BALANCE			\$ 142,964,246.87	\$ 142,464,246.87	\$ (500,000.00)

Department		Account		BUDGET AS PASSED OR PREV AMENDED	AMENDED BUDGET	AMENDMENT INCREASE (DECREASE)
<u>Airport Fund</u>						
<u>Expenditures</u>						
		Land Expense		\$ 450,000.00	\$ 726,000.00	\$ 276,000.00
						<u>\$ 276,000.00</u>
		CHANGE IN FUND BALANCE (CASH)		\$ (32,177.00)	\$ (308,177.00)	(276,000.00)

EXHIBIT B					
City of Murfreesboro					
Authorized Full Time Position Counts FY 2021 to FY 2024					
	Actual	Actual	Estimated	Adopted	Budget Amendment
Department	FY 2021	FY 2022	FY 2023	FY 2024	FY 2024
Mayor and Council	7	7	7	7	7
City Manager's Office	10	12	12	12	12
Finance and Tax	18	21	21	23	23
Legal	9	10	10	10	10
City Court	6	7	7	7	7
Purchasing	2	3	3	3	3
Information Technology	23	25	24	26	27
Communications	6	6	7	7	7
Employee Services	10	11	11	11	11
Facilities Maintenance	13	14	16	16	16
Fleet Services	17	20	21	22	22
Police	369	376	393	396	397
Fire & Rescue	238	241	243	243	243
Building & Codes	25	26	26	26	26
Planning	15	15	17	17	17
Community Development	3	3	4	4	4
Transportation	27	27	28	28	28
Engineering	14	13	14	14	14
Street	51	52	54	54	54
Civic Plaza	1	1	1	1	1
Parks and Recreation	89	98	100	105	105
Golf Course	15	17	16	16	16
Solid Waste	46	47	47	48	48
Airport	4	4	4	6	6
	1018	1056	1086	1102	1104

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Zoning for property west of Sanctuary Place
[First Reading]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Zoning of approximately 5.24 acres located west of Sanctuary Place simultaneous with annexation

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the zoning request.

Background Information

W. Andrew Adams presented to the City a zoning application [2023-416] for 5.24 acres located west of Sanctuary Place to be zoned as a part of the Marymont Springs PUD (Planned Unit District) simultaneous with annexation. During its regular meeting on November 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

Council has expressed a desire to promote homeownership and the development of single-family neighborhoods. This request will further this goal by allowing three existing lots in a single-family residential neighborhood to increase in size.

Attachments:

1. Ordinance 23-OZ-39
2. Maps of the area
3. Planning Commission staff comments from the 11/01/2023 meeting
4. Planning Commission minutes from 11/01/2023 meeting
5. Other miscellaneous exhibits

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

6.e. Zoning application [2023-416] for 5.24 acres located west of Sanctuary Place to be zoned PUD (Marymont Springs PUD) simultaneous with annexation, W. Andrew Adams applicant.

The applicant, W. Andrew Adams, represented by Clyde Rountree, is requesting to zone 5.24 acres located west of Sanctuary Place to Marymont Springs PUD simultaneous with annexation. The owners of Lots 187, 188, and 190 of the Marymont Springs Subdivision, which are located along Sanctuary Place in the City limits, are in negotiations to each purchase 200' of the subject property to add to the rear of their lots. For the sake of consistency, staff recommended to the applicants that the area they are adding to their lots be zoned PUD -- the same as the existing lots. The property tax number for the subject property is:

- Portion of Tax Map 100, Parcel 027.01 (5.24 acres)



A subdivision plat to combine the subject property with the three Marymont Springs lots was recently approved by the Planning Commission. Staff expects the three property owners to acquire the subject property from Mr. Adams and record the

plat prior to the Planning Commission public hearing. In addition, they will be providing an updated rezoning application form bearing their signatures, instead of the current owner. As such, after the public hearing, the Planning Commission will be acting on zoning to PUD the rear portion of three existing lots that are substantially in the City limits and already zoned PUD. However, as of the time of the writing of this staff report, the property transfer has not yet taken place.

Adjacent Zoning and Land Uses

The subject property is currently zoned RM (Residential Medium Density) in the unincorporated County. The properties to the east are zoned PUD (Marymont Springs PUD) and the properties to the north, west, and south are zoned RM in the County. The land uses are single family residences to the east and vacant and agricultural land to the west, north, and south. The subject property would be added into the Marymont Springs PUD.

Future Land Use Map

The Future Land Use Map (FLUM) of the Murfreesboro 2035 Comprehensive Plan indicates “Suburban Residential” is the land use character most appropriate for the project site. The “Suburban Residential” characteristics are large lot residential developments with detached residences, lower densities, and is intended to provide a transition from rural areas to urban areas. The typical zoning suggested is RS-15, RS-12, and RS-10. The proposed PRD is consistent with the SR characteristics.

Murfreesboro 2035 Comprehensive Plan Future Land Use Map (excerpt)



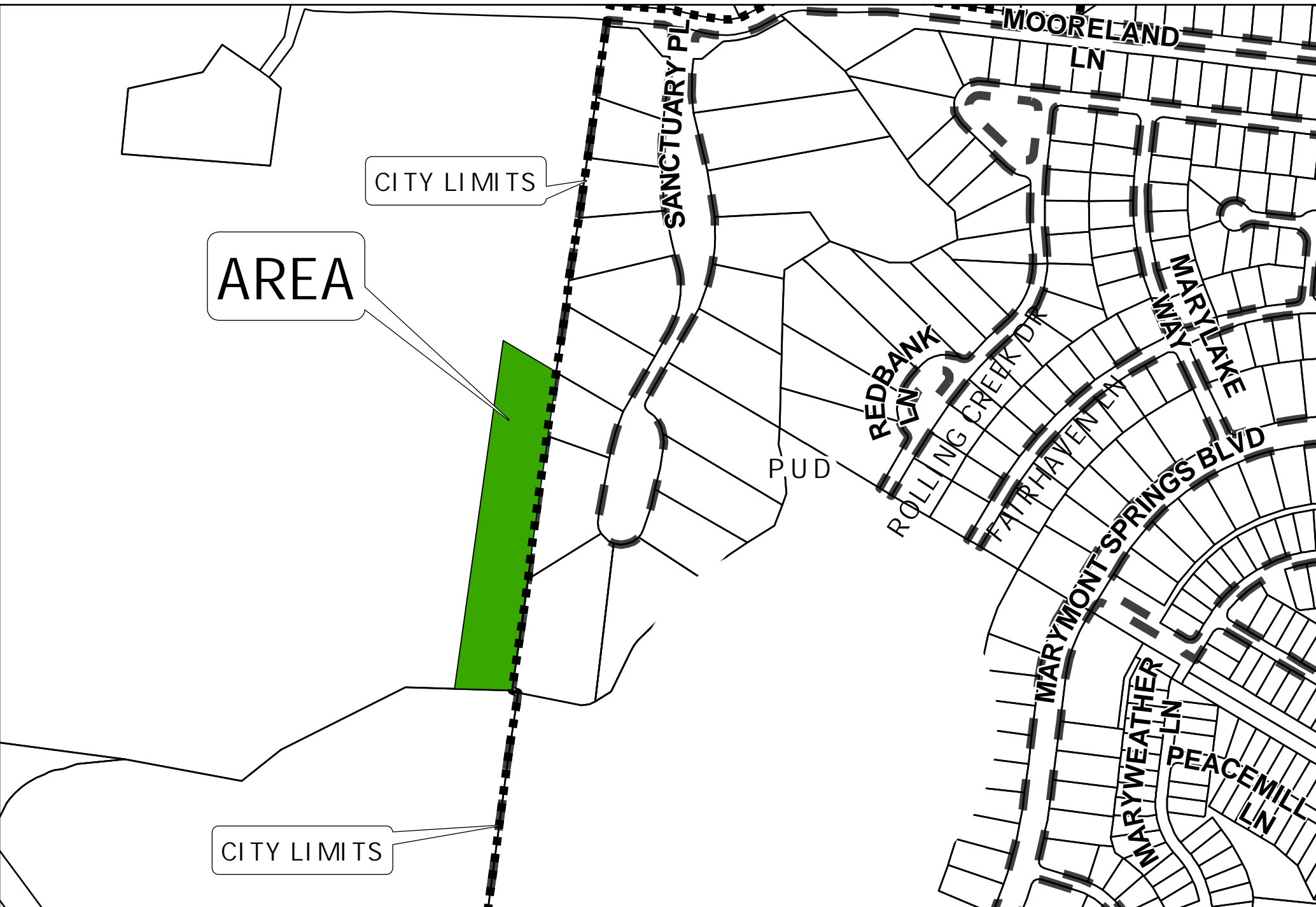
Recommendation:

Staff is supportive of this zoning request for the following reasons:

- 1) Marymont Springs PUD zoning is consistent with the FLUM because it allows single-family residential development. The rezoned property will comply with the Marymont Springs PUD for the intended use.
- 2) The proposed use of the property is compatible with the adjacent land uses.

Action Needed:

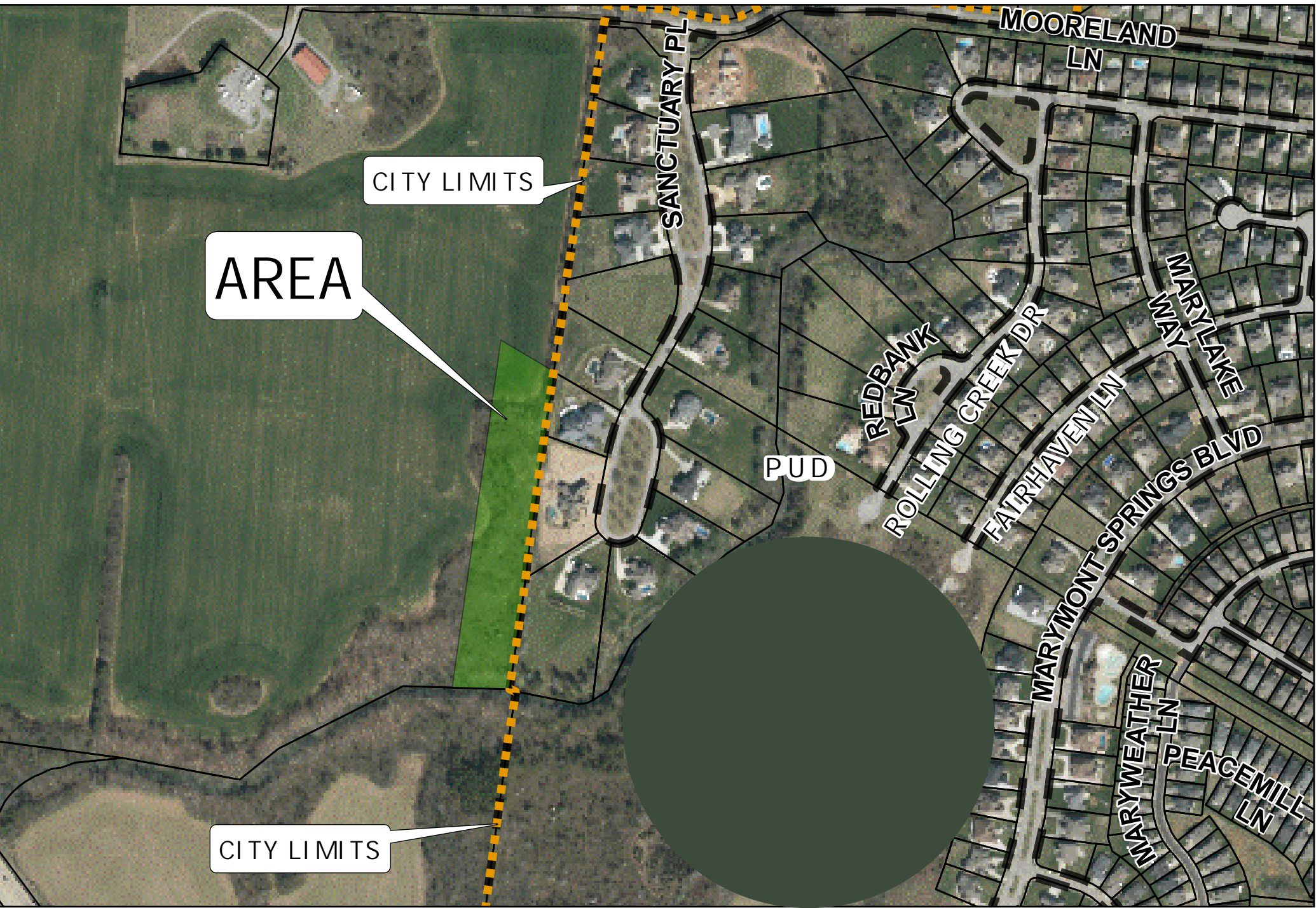
The Planning Commission will need to conduct a public hearing and then discuss the matter, after which it will need to formulate a recommendation for the City Council. The applicant's representative will be present to answer any questions or provide clarifications regarding the proposed zoning.



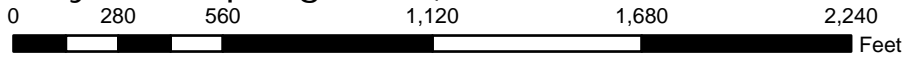
Zoning Request for Property located West of Sanctuary Place
PUD (Marymont Springs PUD) simultaneous with Annexation



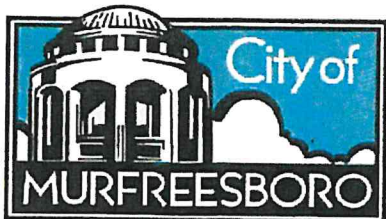
Planning Department
City of Murfreesboro
111 W. Vine St.
Murfreesboro, TN 37130
www.murfreesborotn.gov



Zoning Request for Property located West of Sanctuary Place
PUD (Marymont Springs PUD) simultaneous with Annexation



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



T E N N E S S E E

Creating a better quality of life

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

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: W. Andrew Adams

Address: 801 Mooreland Lane City/State/Zip: Murfreesboro, TN 37128

Phone: (615) 849-6461 E-mail address: aadams@mgmtsource.net

PROPERTY OWNER: W. Andrew Adams

Street Address or
property description: _____

and/or Tax map #: 100 Group: _____ Parcel (s): 08000

Existing zoning classification: RM

Proposed zoning classification: PUD Acreage: 5.24 AC +/-

Contact name & phone number for publication and notifications to the public (if different from the applicant): CLYDE ROUNTREE / HUDDLESTON-STEEL ENG.

E-mail: rountree.associates@yahoo.com

APPLICANT'S SIGNATURE (required): W. Andrew Adams

DATE: 9-12-23

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

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

Amount paid: _____ Receipt #: _____

Revised 7/20/2018

9.13.2023

Greg McKnight, Planning Director
111 W. Vine Street, P.O. Box 1139
Murfreesboro, TN 37133-1139

Re: Request for annexation and rezoning of land of land into the City of Murfreesboro adjacent to the Marymont Springs Subdivision. The rezoning being requested is from RM to PUD.

Dear Mr. Greg,

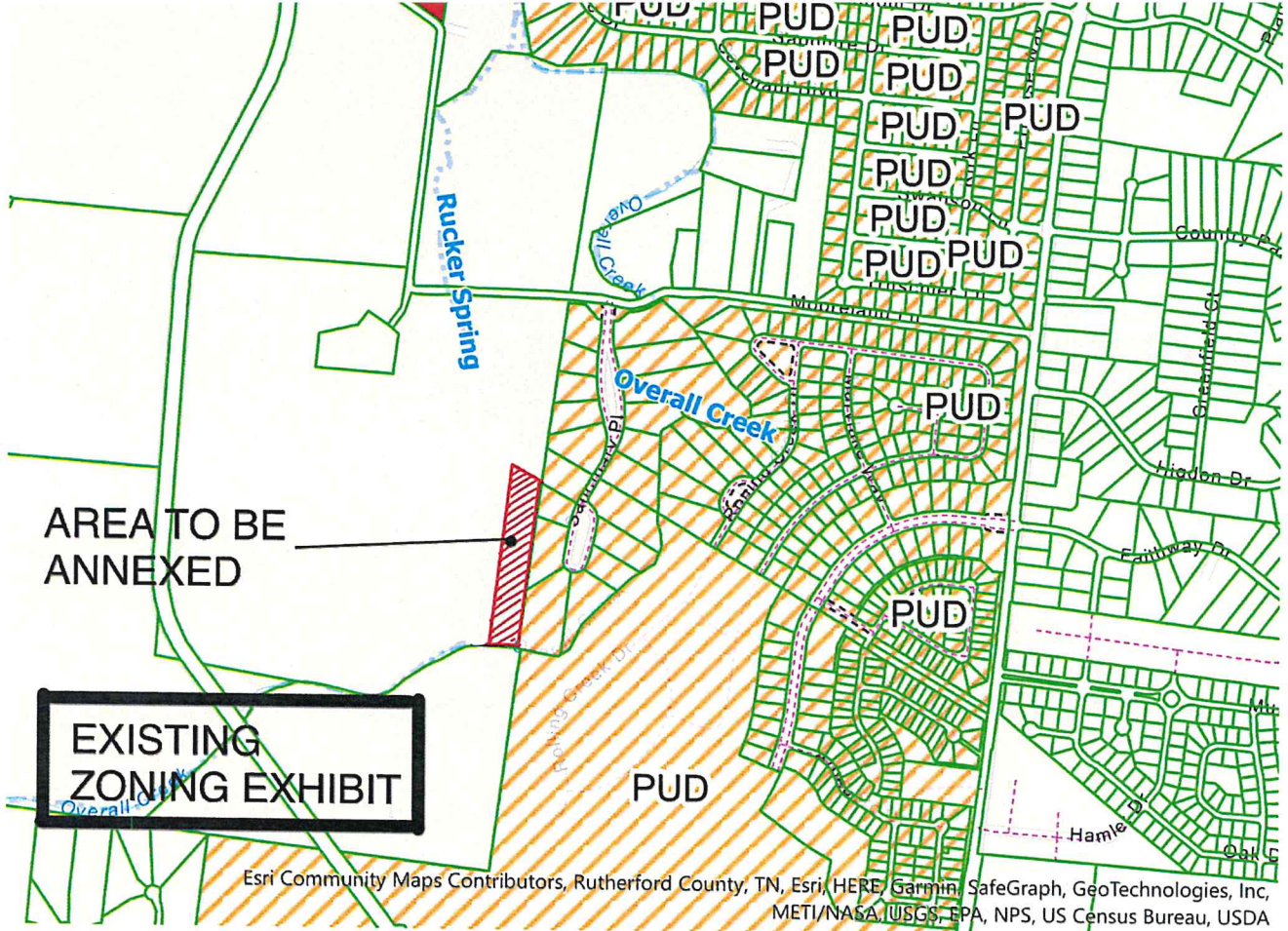
On behalf of our client Mr. Steve Flatt, we hereby request lots 187, 188, and 190 on Sanctuary Place, in the Marymont Springs Subdivision, Section 1, Phase IV, (The Enclave) be expanded to include an additional 200' depth. The land is currently zoned RM and we are requesting the PUD zoning. The land requested will provide additional distance between the existing homes located on the above lots and the potential development on land identified as Map 100, Parcel 27.01 owned by Spring Land Ventures, LLC. Specifically, we are requesting to expand lot 187 by 1.09 acres, lot 188 by 2.35 acres, and lot 190 by 1.80 acres (See Attached exhibit).

Please let me know if you need any additional information and thank you for your assistance with this request.

Sincerely,

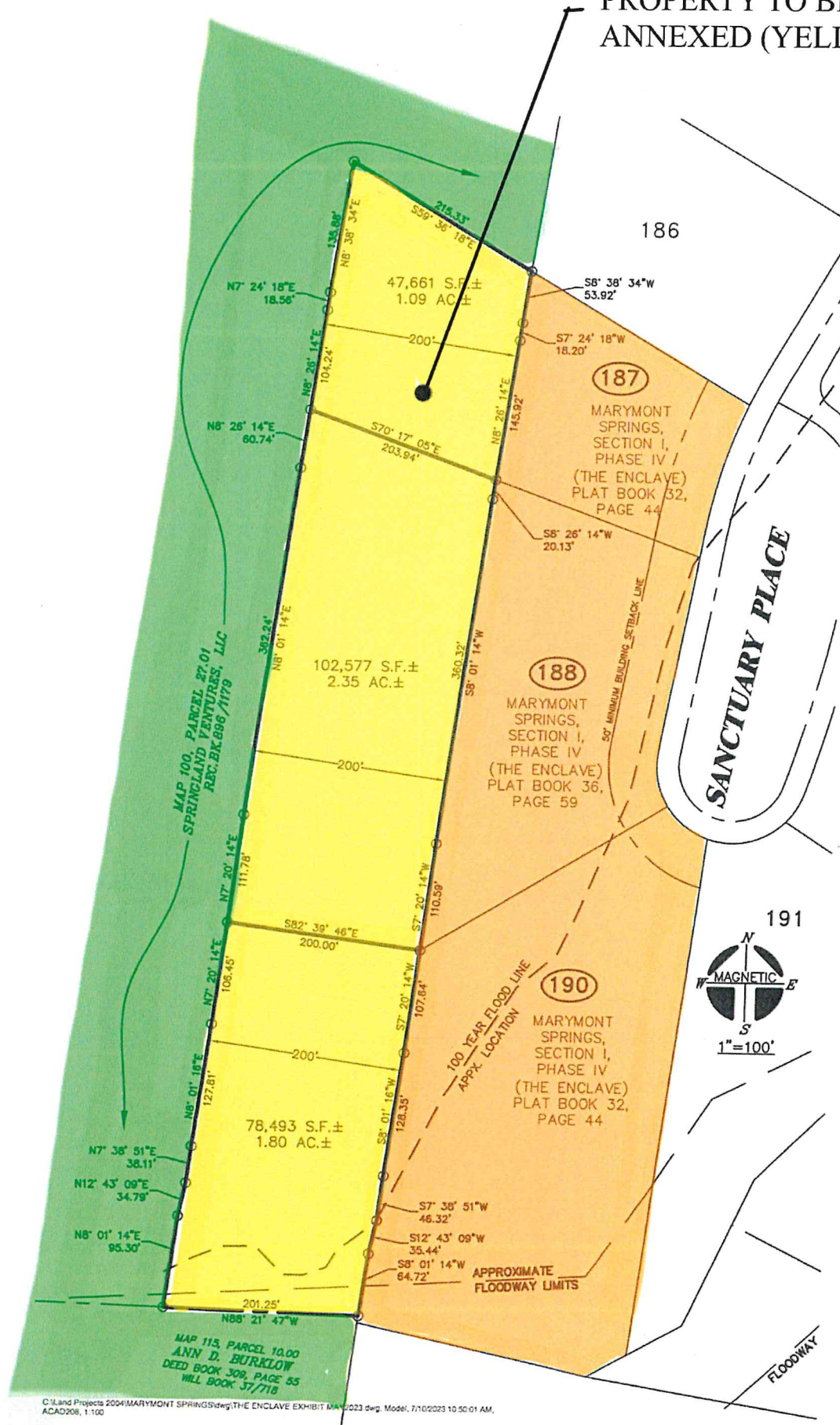


Clyde Rountree, RLA



Esri Community Maps Contributors, Rutherford County, TN, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

PROPERTY TO BE
ANNEXED (YELLOW)



C:\Land Projects 2004\MARYMONT SPRINGS\dwg\THE ENCLAVE EXHIBIT MAP 100.dwg, Model, 7/10/2023 10:50:01 AM, ACAD2008, 1:100

ANNEXATION EXHIBIT

MINUTES OF THE MURFREESBORO PLANNING COMMISSION NOVEMBER 1, 2023

6:00 P.M.

CITY HALL

MEMBERS PRESENT

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

STAFF PRESENT

Greg McKnight, Exec. Director Dev. Services
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Marina Rush, Principal Planner
Holly Smyth, Principal Planner
Amelia Kerr, Planner
Brad Barbee, Planner
Carolyn Jaco, Recording Assistant
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. Public Comments.

Chair Kathy Jones announced no one signed up to speak during the Public Comments portion of the agenda.

4. Approve minutes of the October 11, 2023 and October 18, 2023 Planning Commission meeting.

Ms. Jami Averwater made a motion to approve the minutes of the October 11, 2023 and October 18, 2023 Planning Commission meetings; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

MINUTES OF THE MURFREESBORO PLANNING COMMISSION NOVEMBER 1, 2023

Mr. Bricke Murfree (attorney) was in attendance to represent the applicants.

Chair Kathy Jones opened the public hearing. No one came forward to speak for or against the annexation petition; therefore, Chair Kathy Jones closed the public hearing.

There being no further discussion, Mr. Shawn Wright moved to approve the annexation petition subject to all staff comments, including the property being transferred from the current property owner to the three adjacent lot owners before Council's consideration of the annexation and the plan of services being revised accordingly; the motion was seconded by Ms. Jami Averwater and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Jami Averwater

Reggie Harris

Bryan Prince

Chase Salas

Shawn Wright

Nay: None

Zoning application [2023-416] for 5.2 acres located west of Sanctuary Place to be zoned PUD (Marymont Springs PUD) simultaneous with annexation, W. Andrew

Adams 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.

Mr. Bricke Murfree (attorney) was in attendance to represent the applicants.

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.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION NOVEMBER 1, 2023

There being no further discussion, Vice-Chairman Ken Halliburton moved to approve the zoning application subject to all staff comments; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Jami Averwater

Reggie Harris

Bryan Prince

Chase Salas

Shawn Wright

Nay: None

7. Staff Reports and Other Business:

Mr. Matthew Blomeley reminded the Planning Commissioners about the workshop meeting scheduled on November 14, 2023, at 9:00 a.m., City Hall Room 218. Mr. Blomeley also reminded the Planning Commissioners about some continuing education opportunities.

8. Adjourn.

There being no business the meeting adjourned at 7:15 p.m.

Chair

Secretary

GM: cj

ORDINANCE 23-OZ-39 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect to zone approximately 5.2 acres located west of Sanctuary Place as Planned Unit Development (PUD) District (Marymont Springs PUD), simultaneous with annexation; W. Andrew Adams, applicant [2023-416].

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

SECTION 1. That the same having been heretofore recommended to the City Council by the City Planning Commission, the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as herein referred to, adopted and made a part of this Ordinance as heretofore amended and as now in force and effect, be and the same are hereby amended so as to zone the territory indicated on the attached map.

SECTION 2. That from and after the effective date hereof the area depicted on the attached map be zoned and approved Planned Unit Development (PUD) 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
43A2035E51F9401...

Adam F. Tucker
City Attorney

SEAL



Ordinance 23-OZ-39

MOORELAND LN

MOORELAND LN

FAIRHAVEN LN

SANCTUARY PL
SANCTUARY PL

CITY LIMITS

Area Zoned PUD
Simultaneous with
Annexation

REDBANK LN

ROLLING CREEK DR

FAIRHAVEN LN

PUD

MARYMONT SPRINGS BLVD
MARYMONT SPRINGS BLVD

CITY LIMITS

VETERANS PKWY

PUD



COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Rezoning property along Old Fort Parkway
[First Reading]

Department: Planning

Presented By: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Rezoning of approximately 48.3 acres located along Old Fort Parkway, Stones River Mall Boulevard, and Mall Circle Drive.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the zoning request.

Background Information

Kimley-Horn, representing Sterling Organization, presented to the City a zoning application [2023-417] for approximately 48.3 acres located along Old Fort Parkway, Stones River Mall Boulevard, and Mall Circle Drive to be rezoned from CH (Highway Commercial District) and PSO (Planned Signage Overlay District) to PCD (Planned Commercial District) and PSO. During its regular meeting on December 6, 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 allow additional flexibility for an existing shopping center, helping to maintain its viability in an ever-changing retail landscape.

Attachments:

1. Ordinance 23-OZ-40
2. Maps of the area
3. Planning Commission staff comments and draft minutes from the 12/06/2023 meeting
4. Stones River Town Centre PCD pattern book

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
DECEMBER 6, 2023**

PROJECT PLANNER: AMELIA KERR

5.a. Zoning application [2023-417] for approximately 48.3 acres located along Old Fort Parkway to be rezoned from CH & PSO to PCD (Stones River Town Centre PCD) & PSO, Kimley-Horn representing Sterling Organization applicant.

Introduction

The subject property consists of six (6) parcels located along Old Fort Parkway, Stones River Mall Boulevard, and Mall Circle Drive. The parcels are platted land identified as Tax Map 0911 Group A, Parcels 18.00, 18.02, 18.03, 18.04, 18.05 and 18.06. The property included in the zoning map amendment request is a total of 48.299 acres and is developed with the Stones River Mall. Parcels 18.00, 18.02, and 18.03 are owned by the applicant and are included in the applicant's request. Parcels 18.04 (JC Penney), 18.05 (Miller's Alehouse), and 18.06 (Olive Garden) are included as additional study area by the City of Murfreesboro, since they are part of the overall Stones River Mall development. The property is zoned CH (Commercial Highway District) and PSO (Planned Signage Overlay District). The subject property is located north of Old Fort Parkway, adjacent to the Home Depot to the west, and Old Fort Park to the north and east.

Stones River Town Centre PCD – 48.299 acres
Overview

The existing AMC theater has expressed a desire to own the property their business is located on but is unable to meet minimum setback and landscaping requirements in order to subdivide. The request for rezoning to PCD is to create separate lots for the existing AMC building (lot #4) and a proposed future building (lot #5) and the ability to provide future subdivisions within the context of the overall Stones River Town Centre development. If the PCD is approved, subdivided parcels will be governed by the proposed PCD regulations and the private declarations of the Stones River Town Centre, including shared parking with cross access easements and agreements.

Transportation, Circulation and Access:

The Stones River Town Centre development has two primary access points from Old Fort Parkway, a public major arterial roadway on the southeast and southwest corners of the overall development. Stones River Mall Boulevard and Mall Circle Drive are public commercial collector roadways, bordering the east, north, and west sides of the development and provide multiple access points to the parking lots surrounding the development.

Purposes of Planned Develop District:

According to the Zoning Ordinance, the purposes of planned development district regulations are as follows:

1. to promote flexibility in development design and to permit planned diversification in the location of structures;
2. to promote the efficient use of land by permitting a planned arrangement of buildings, circulation systems, land uses, and utilities;
3. to preserve existing landscape features and amenities and to utilize such features in a harmonious fashion;
4. to encourage the total planning of land tracts consistent with adopted long-range plans;
5. to permit the use of new and innovative land development techniques while assuring protection of existing adjacent development;
6. to encourage the functional and beneficial use of open spaces and to preserve natural features of a development site;
7. to promote the creation of a safe and desirable living environment for residential areas characterized by a unified site and development program;
8. to permit the creation of a variety of housing types compatible with surrounding development to provide a greater choice of types of environment and living units;
9. to promote the provision of attractive and appropriate locations for business and manufacturing uses in well-designed developments and the provision of opportunities for employment closer to residences with a reduction in travel time from home to work;
10. to encourage the revitalization of established commercial centers;
11. to promote the diversification in the uses permitted and variation in the relationship of uses, structures, open space, and height of structures in developments intended as cohesive, unified projects;
12. to encourage design in the development of land that is of a higher quality than is possible under the regulations otherwise applicable to the property; and,
13. to promote the significance of architectural and aesthetic improvements and details in atypical developments.

Exceptions

Exceptions must be specifically identified and requested in the application for a planned development. The Zoning Ordinance states the following regarding exceptions within planned developments:

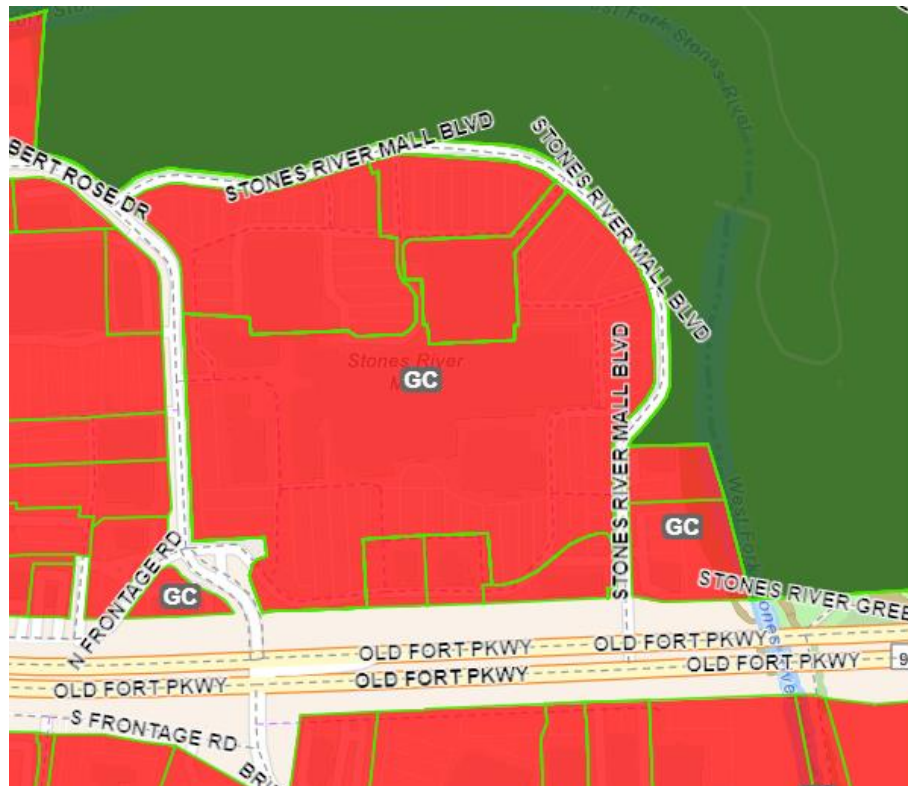
The planned development approval may provide for such exceptions from the Subdivision Regulations and Design Guidelines, district zoning regulations governing use, density area, bulk, parking, architecture, landscaping, and open space as may be necessary or desirable to achieve the objectives of the proposed planned development, provided such exceptions are consistent with the standards and criteria contained in this section and have been specifically identified and requested in the application for a planned development.

Unless the application for a planned development contains a clear statement of exceptions to them, the standards and criteria of the Subdivision Regulations, Design Guidelines, and district zoning regulations will apply to all planned developments. The specific zone district used as a comparison for the planned development shall be the most like zone district to the planned development, as determined by the Planning Director.

The PCD book identify two exceptions on page 16 of the program book. They are:

1. Landscaping exception for interior perimeter planting yards.
2. Rear setback to be "0" as opposed to the required 20' per the Zoning Ordinance.

Future Land Use Map



(GENERAL) COMMERCIAL CHARACTER (GC)

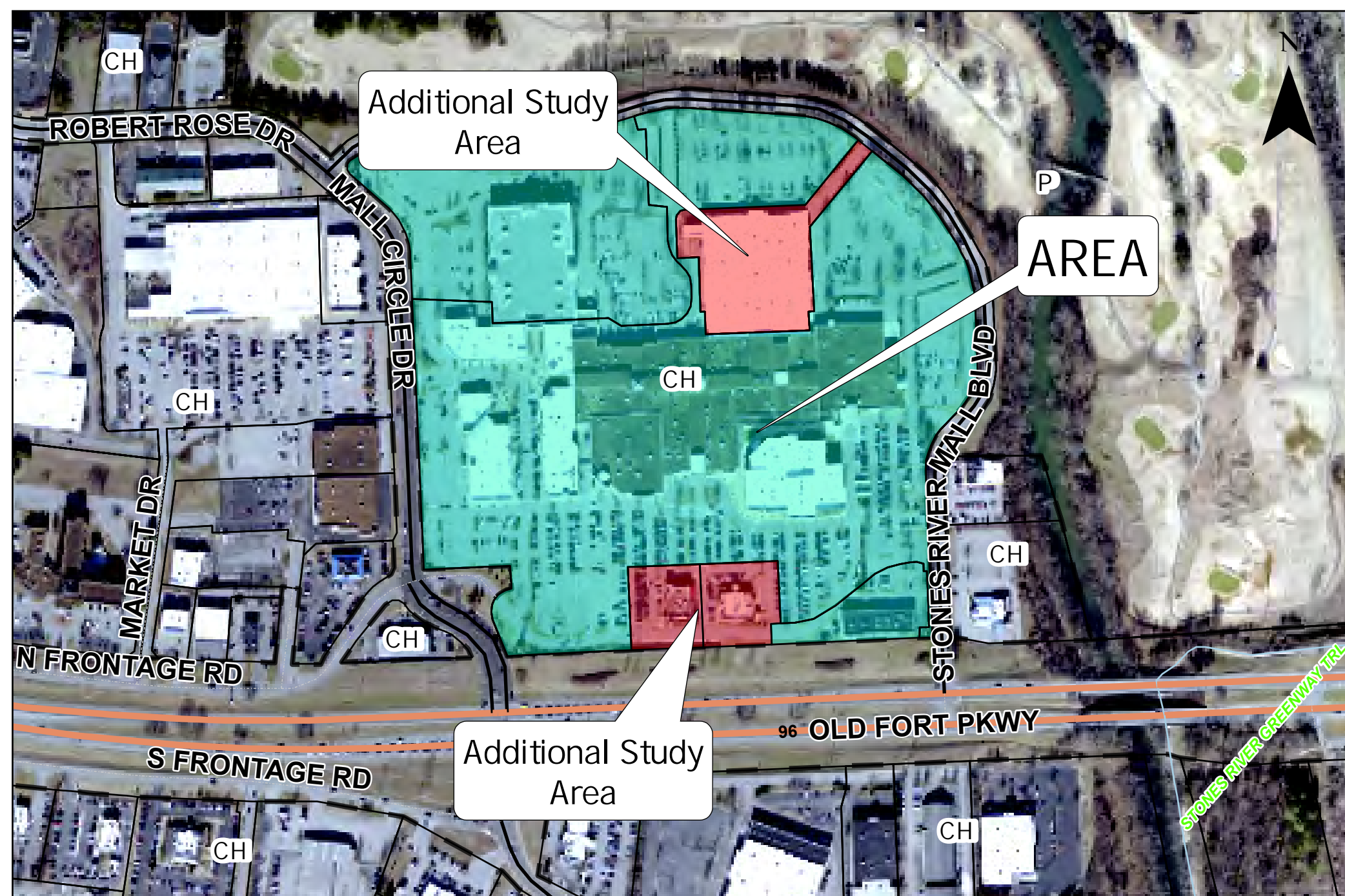
This designation pertains to commercial development as well as outparcels located on arterial and collector transportation routes. The primary difference in Urban and Auto-Urban character categories is the role of the automobile in its site design. Rather than buildings oriented to the street, as in an urban setting, such as what is found in downtown, auto-urban environments are characterized by large parking lots surrounding the buildings. Auto-Urban commercial uses include high intensity commercial businesses that have a trade area outside of Murfreesboro and/or require a large amount of land for their operations. Uses like regional shopping center, grocery, hotels, gas stations, restaurants, and “big box” retailers. Due to the potential for these uses to generate high traffic volumes, their location should be on or with adequate access to arterial roadways. The existing mall development is consistent with the GC land use character, and the proposed PCD zoning continues to allow the mall and its various uses by right.

Recommendation:

Staff is supportive of this request as it is intended to allow additional flexibility in order to help this development be successful in an ever changing retail landscape. Staff requests the Planning Commission to consider the following items in its review of this request:

1. The proposed development type and characteristics are consistent with the approved *Murfreesboro 2035 Comprehensive Plan* and the *Future Land Use Map*.
2. The Planning Commission should consider the appropriateness of the exceptions that are a part of the PCD.

The applicant will be available at the Planning Commission meeting to discuss the proposed rezoning request. A copy of the PCD program book is included with the agenda materials. The Planning Commission should conduct a public hearing prior to formulating a recommendation to the City Council.

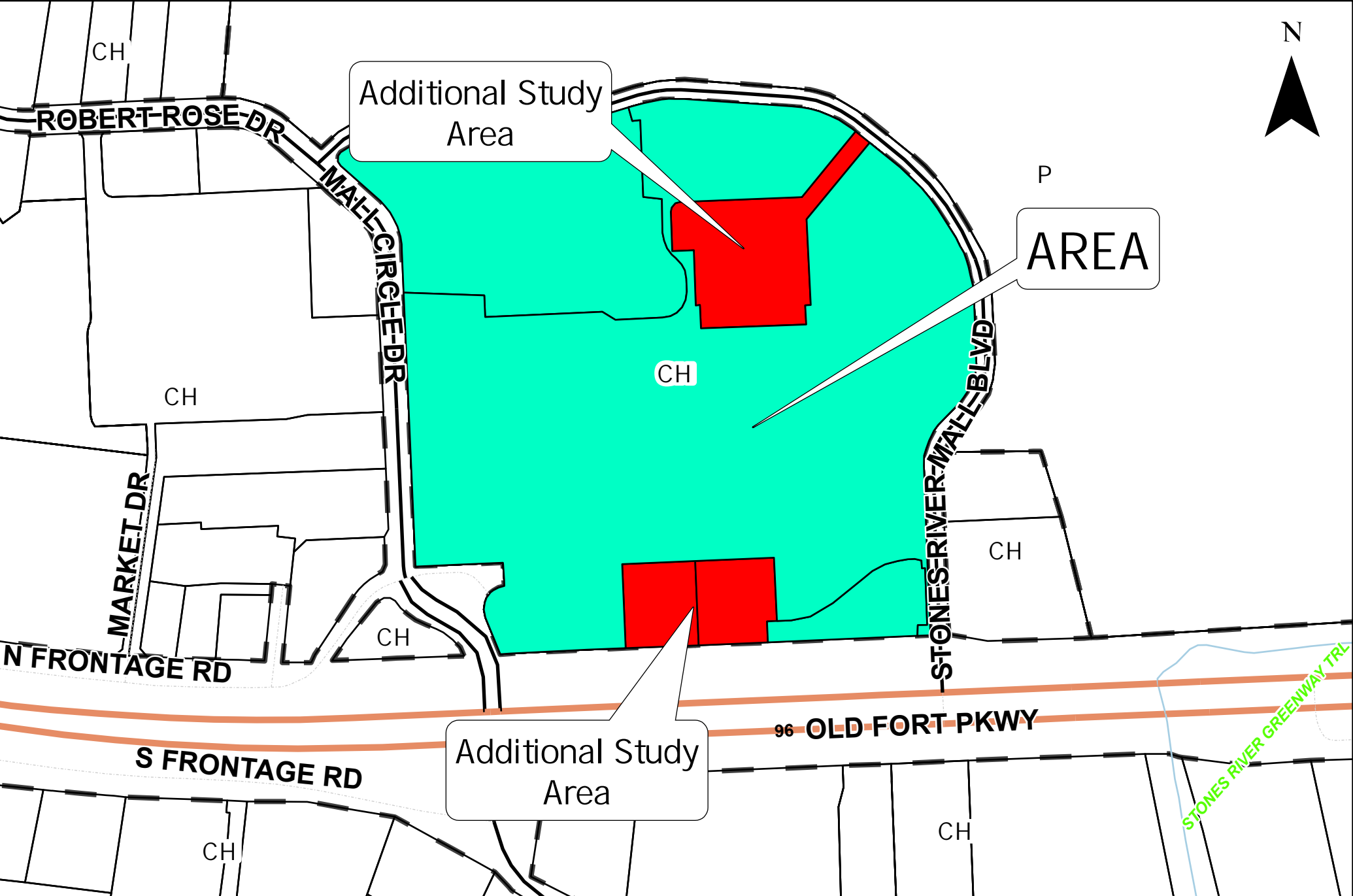


Zoning Request for Property located along Old Fort Parkway
CH and PSO to PCD (Stones River Town Centre PCD) and PSO

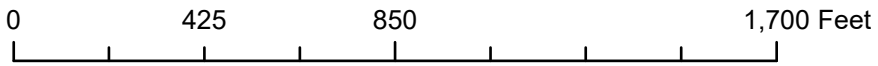
Planning Department
City of Murfreesboro
111 W. Vine St.
Murfreesboro, TN 37130
www.murfreesborotn.gov



N



Zoning Request for Property located along Old Fort Parkway
CH and PSO to PCD (Stones River Town Centre PCD) and PSO



Planning Department
City of Murfreesboro
111 W. 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: Shawn Schaub, Kimley-Horn and Associates

Address: 4031 Aspen Grove Drive City/State/Zip: Franklin, TN, 37067

Phone: 615-564-2701 E-mail address: shawn.schaub@kimley-horn.com

PROPERTY OWNER: SVAP II Stones River LLC.

Street Address or property description: 1706-1720 Old Fort Parkway Murfreesboro TN, 37129

and/or Tax map #: 0911 Group: Parcel (s): 0911-A-018.00-000

Existing zoning classification: CH Commercial Highway

Proposed zoning classification: CH Commercial Highway Acreage: 40.21 acres

Contact name & phone number for publication and notifications to the public (if different from the applicant): Additional Email Correspondence to: Dustin Hicks, Sterling Organization

E-mail: dhicks@sterlingorganization.com

APPLICANT'S SIGNATURE (required): 

DATE: 10-11-2023

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

Date received: MPC YR.: MPC #:

Amount paid: Receipt #:

October 05, 2023

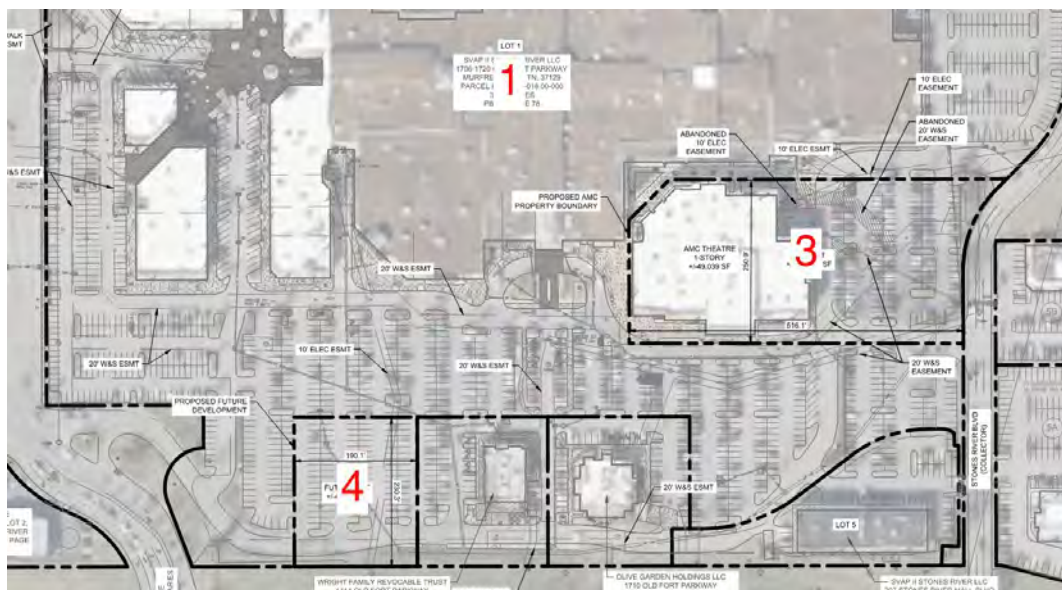
Ms. Amelia Kerr

111 W Vine St,
Murfreesboro,
TN 37130

RE: *Stones River PCD Resubdivision*

Dear Amelia,

The intent for the Stones River Planned Commercial District (PCD) rezoning application is to subdivide lot 1 into three separate parcels. Lot 1 will remain the Stones River Mall, lot 4 will be proposed for future development of an out-parcel and lot 3 will be provided for the existing AMC theater (see below). The new proposed lots will not meet all requirements within the zoning ordinance therefore, a Planned Commercial District (PCD) submittal is required.



If you have any questions, please contact me at (615) 564-2701 or shawn.schaub@kimley-horn.com.

Sincerely,

Shawn Schaub, E.I.T
Project Manager

STONES RIVER TOWN CENTRE

1720 Old Fort Parkway, Murfreesboro, TN 37129

Pre-app Submittal 10/06/23
Resubmittal 01/02/24



Dustin Hicks
302 Datura St., Suite 100
West Palm Beach, FL 33401
772-486-9212



Anneka Gilliam
10 Lea Avenue, Suite 400,
Nashville, Tennessee 37210
615-669-7923

Submitted for the January 11th, 2024 City Council Meeting

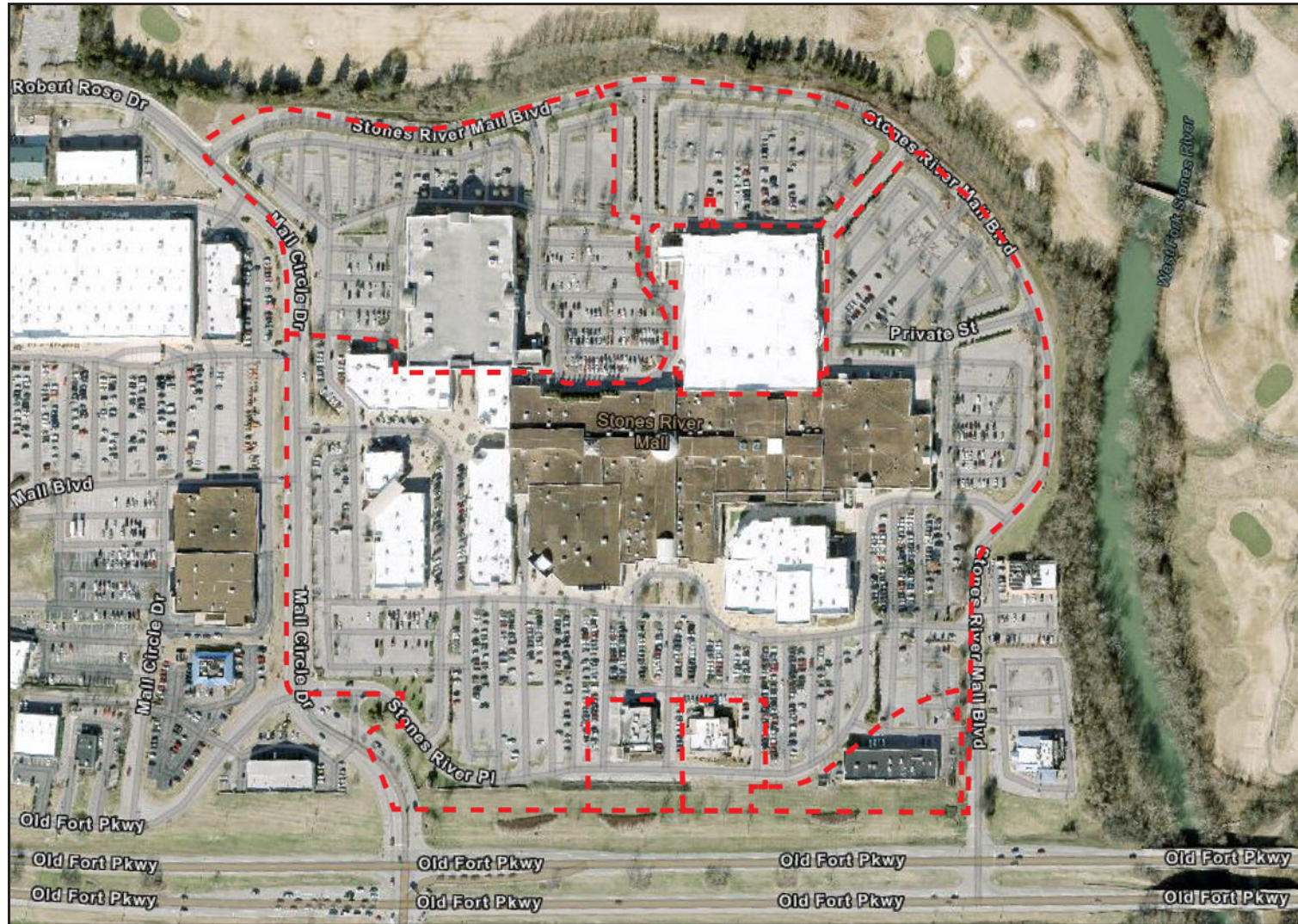
A request for rezoning the Stones River Town Centre development parcels from Commercial Highway (CH) to Planned Commercial District (PCD).



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EXISTING CONDITIONS SITE PHOTOS OLIVE GARDEN & FEDEX.....	11		

EXISTING CONDITIONS | AERIAL PHOTO & ZONING

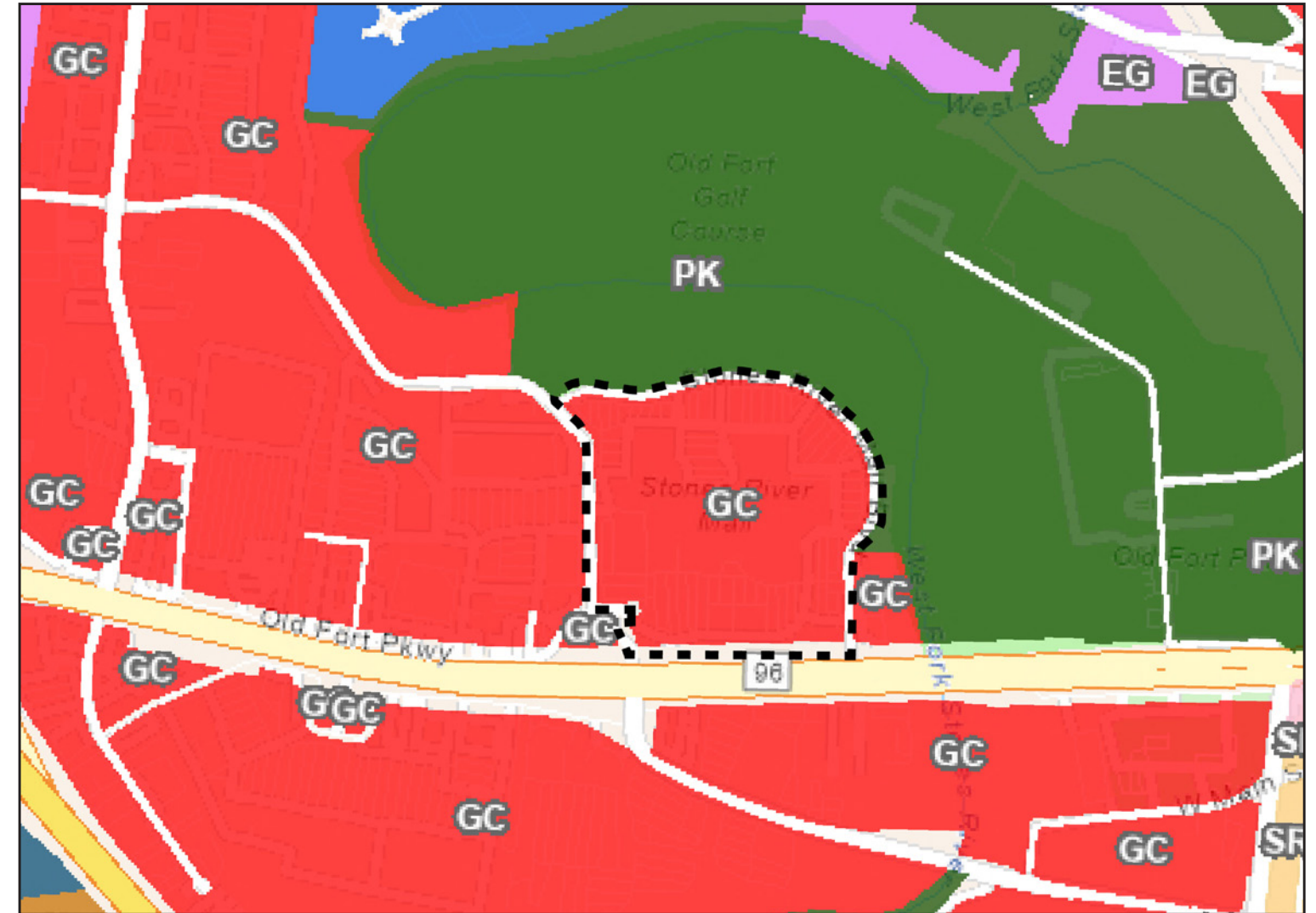


EXISTING SITE AERIAL AND PARCEL BOUNDARY MAP

PROJECT DESCRIPTION

The Sterling Group respectfully requests the rezoning of the Stones River Town Centre development parcels at 1720 Old Fort Parkway from Commercial Highway (CH) to Planned Commercial District (PCD) to establish development standards consistent with past and future subdivisions of development parcels. The properties are located along the north side of Old Fort Parkway, bordered to the east and north by the Old Fort Golf Course and West Fork River, and bordered to the west by other highway commercial uses.

The request for rezoning to PCD is to create separate lots for parcels 4 and 5 and provide development standards to accommodate past and future parcel subdivisions within the context of the overall Stones River Town Centre development. By doing so, the Stones River Town Centre development will provide the flexibility to accommodate the future development of commercial services and products for the Murfreesboro area. Subdivided parcels shall continue to be governed by the private declarations of the Stones River Town Centre, including shared parking and cross access easements and agreements, and City of Murfreesboro regulations.

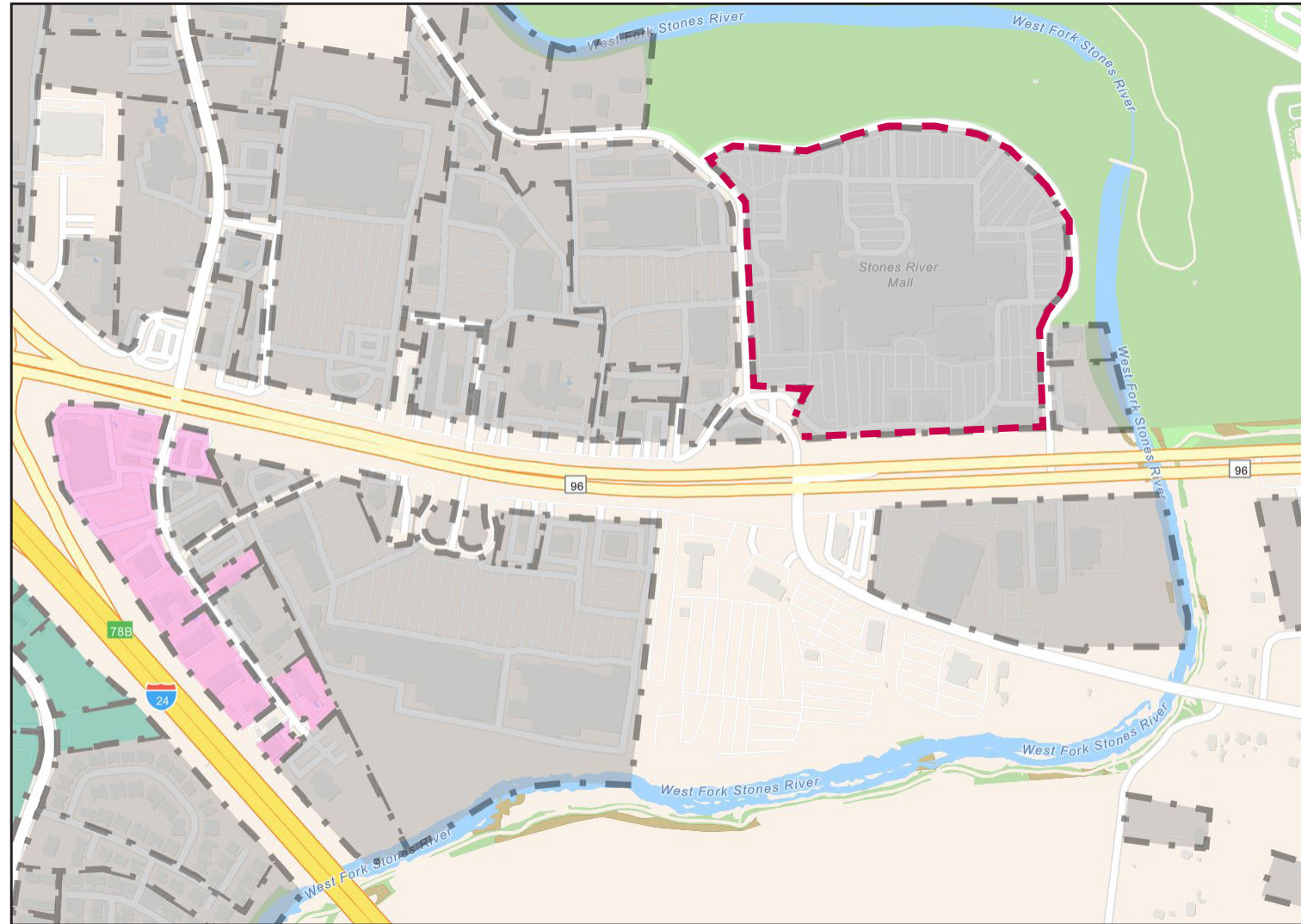


FUTURE LAND USE MAP

DESCRIPTION:

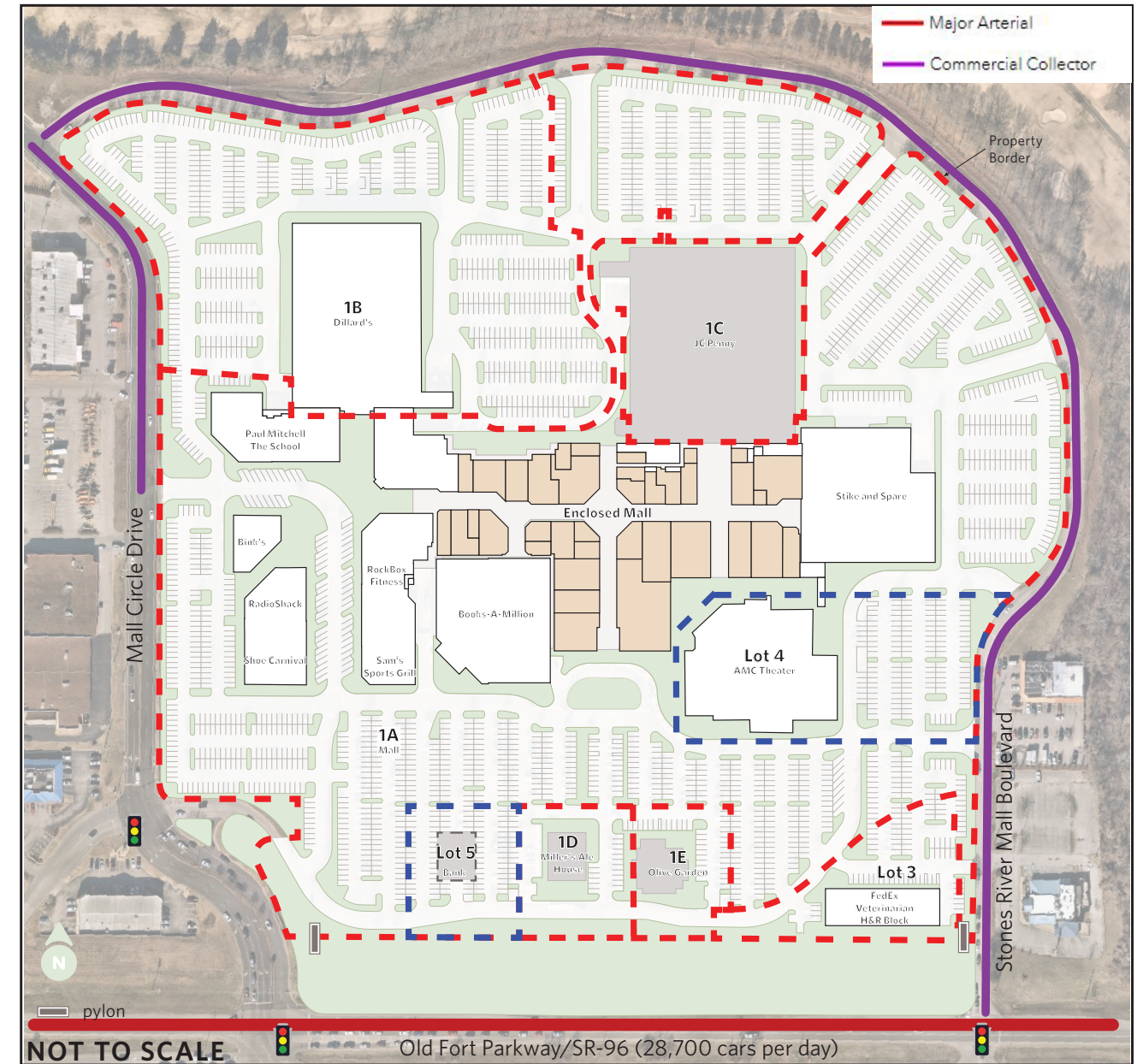
The surrounding area consists of Commercial Highway (CH) uses along the north and south frontages of Old Fort Parkway with Park and Open Space uses to the north along the West Fork River. The Murfreesboro 2035 Future Land Use Plan mirrors the current zoning of surrounding Commercial Highway uses. The proposed Planned Commercial Development zoning is consistent and compatible with surrounding uses. Existing developments within this PCD align with the recommendations for the Future Land Use Plan and future subdivision and development of parcels within this PCD will also be consistent with these recommendations.

- GC - GENERAL COMMERCIAL
- PK - PARK



DESCRIPTION:

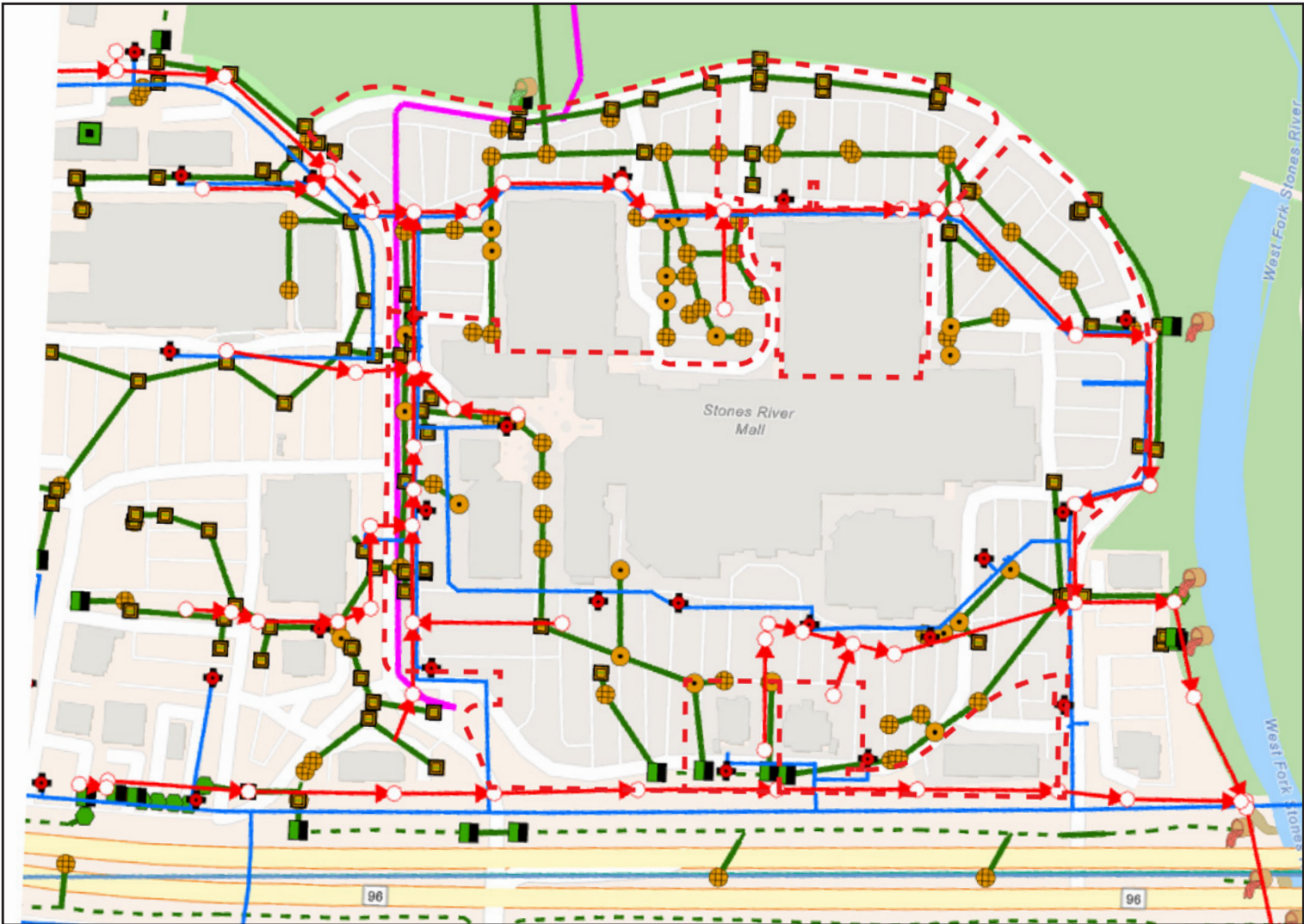
The Stones River Town Centre development is surrounded by a mixture of highway commercial developments. The Home Depot and PetSmart shopping centers are located to the west with associated outparcels situated along the Old Fort Parkway frontage. Hobby Lobby, Lowe's Home Improvement, and Target shopping centers are located to the south across Old Fort Parkway.



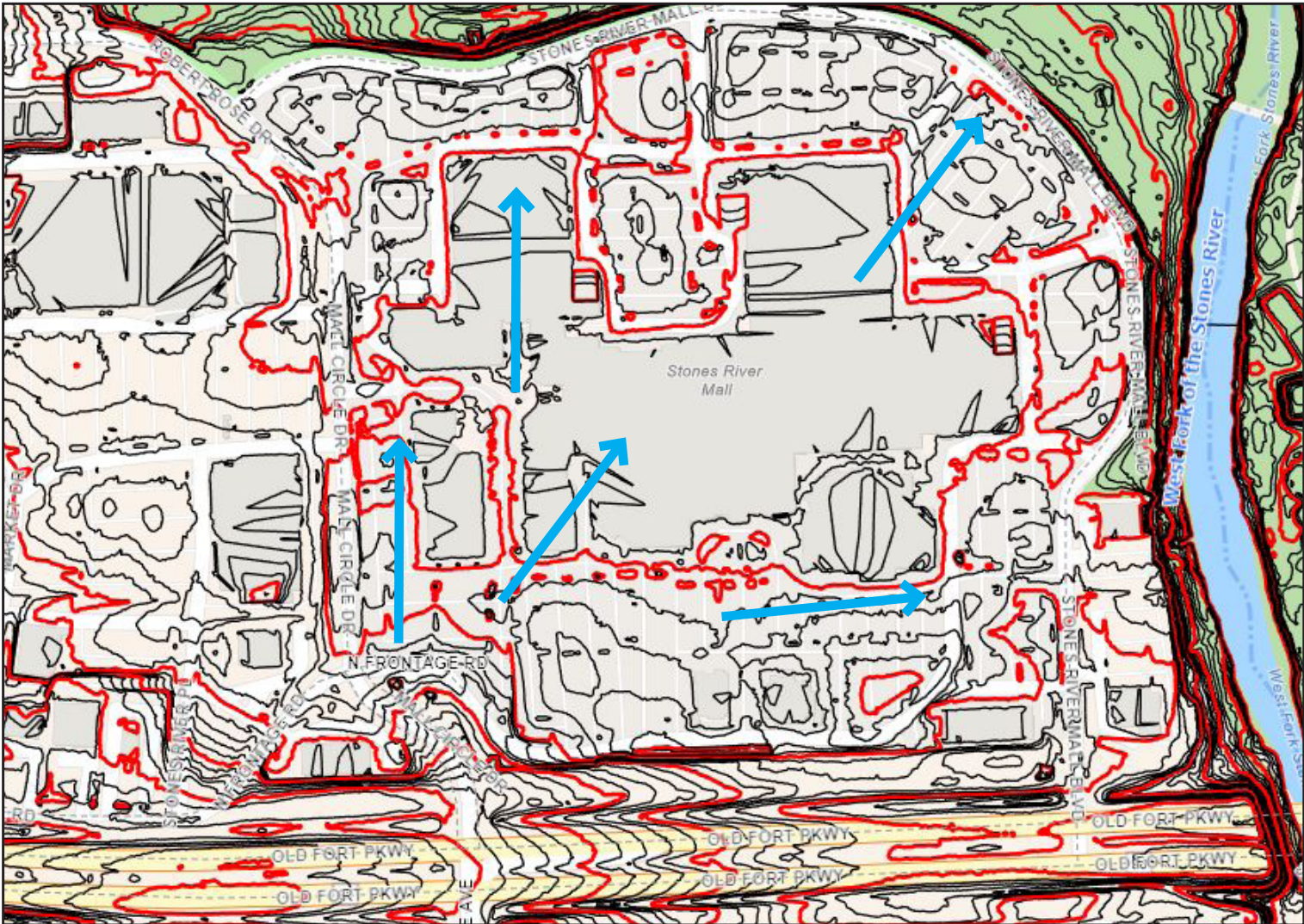
DESCRIPTION:

The Stones River Town Centre development has two primary access points from Old Fort Parkway, a public major arterial roadway on the southeast and southwest corners of the overall development. Stones River Mall Boulevard and Mall Circle Drive, and public commercial collector roadway, borders the east, north, and west sides of the development as a ring road and provides multiple access points to the parking lots surrounding the development.

EXISTING CONDITIONS | UTILITY & TOPOGRAPHY/HYDROLOGY



EXISTING UTILITIES MAP & LEGEND

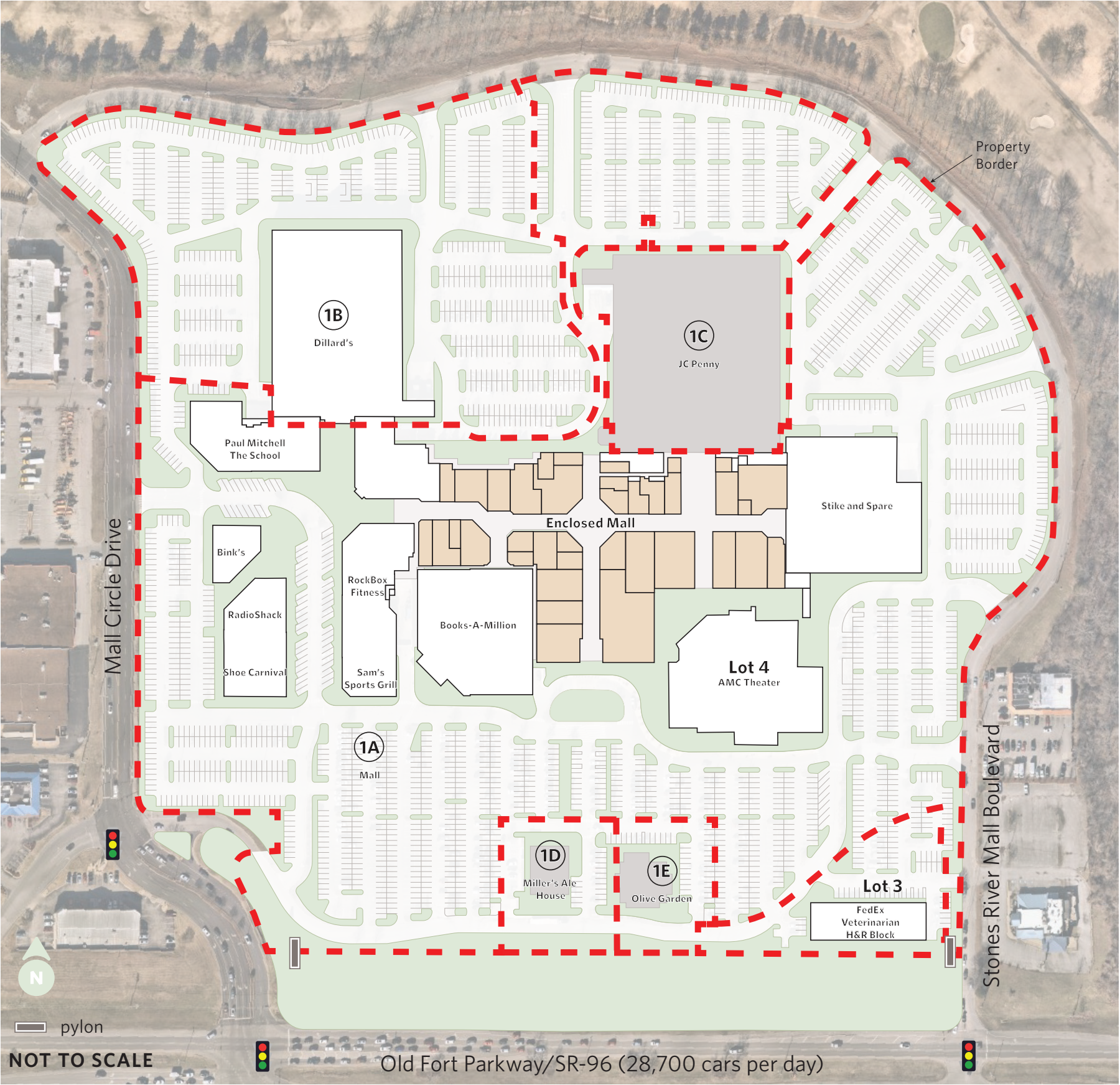


EXISTING TOPOGRAPHY & HYDROLOGY MAP

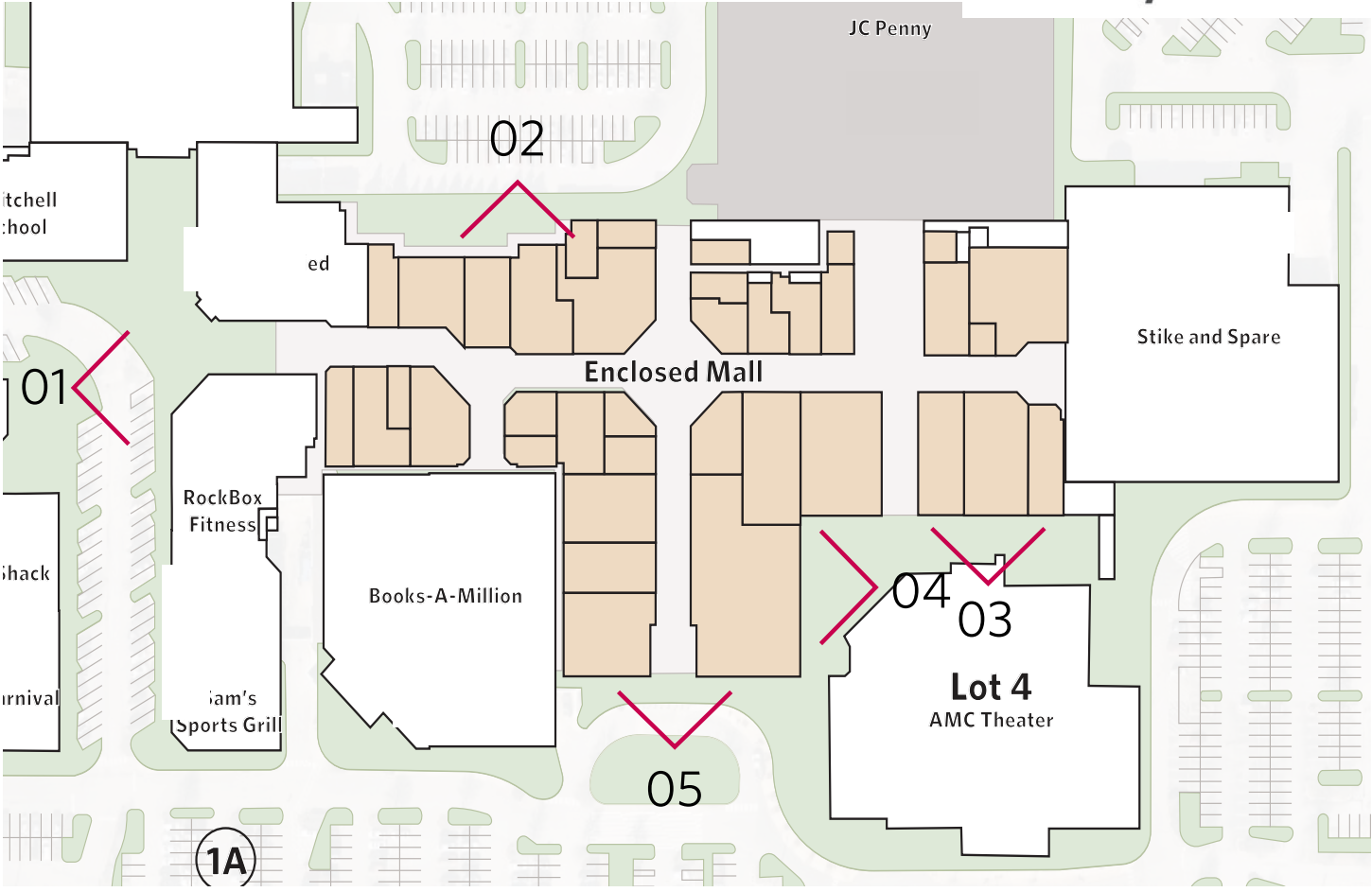
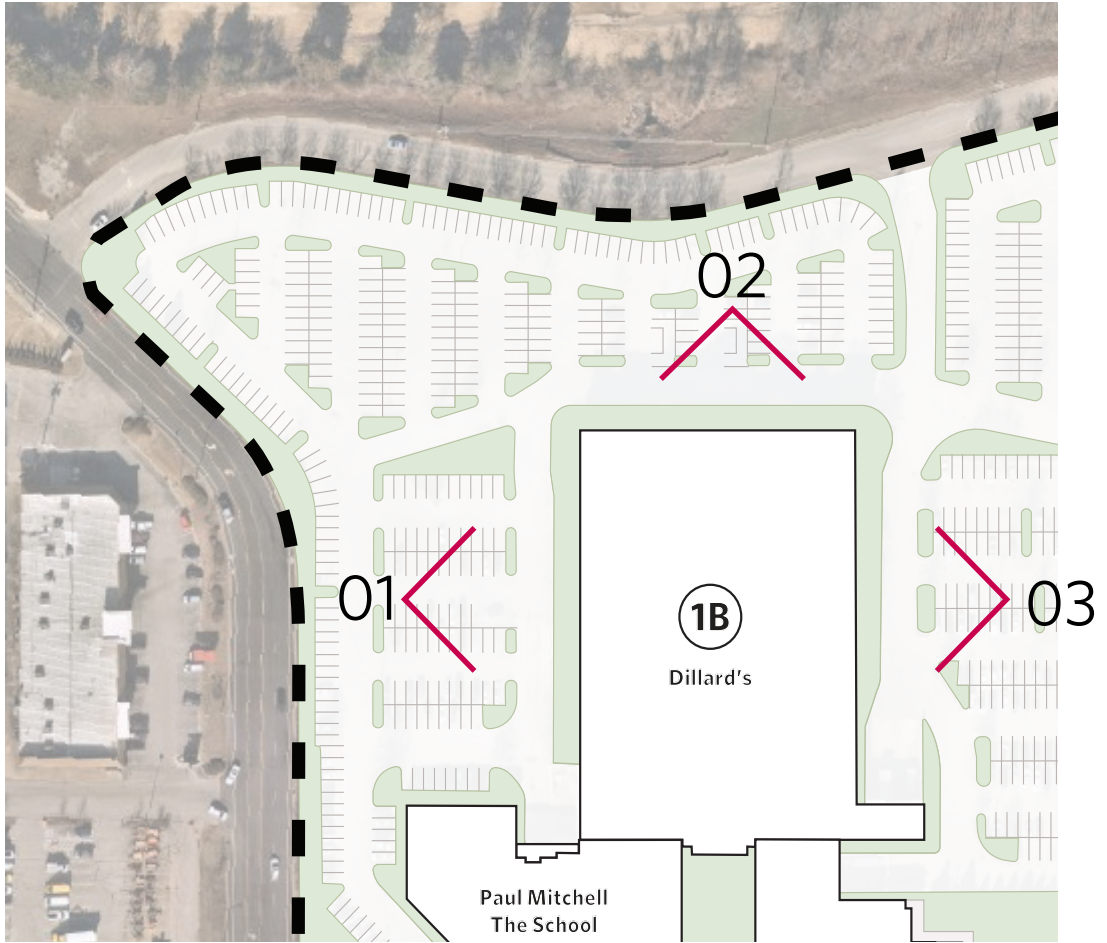
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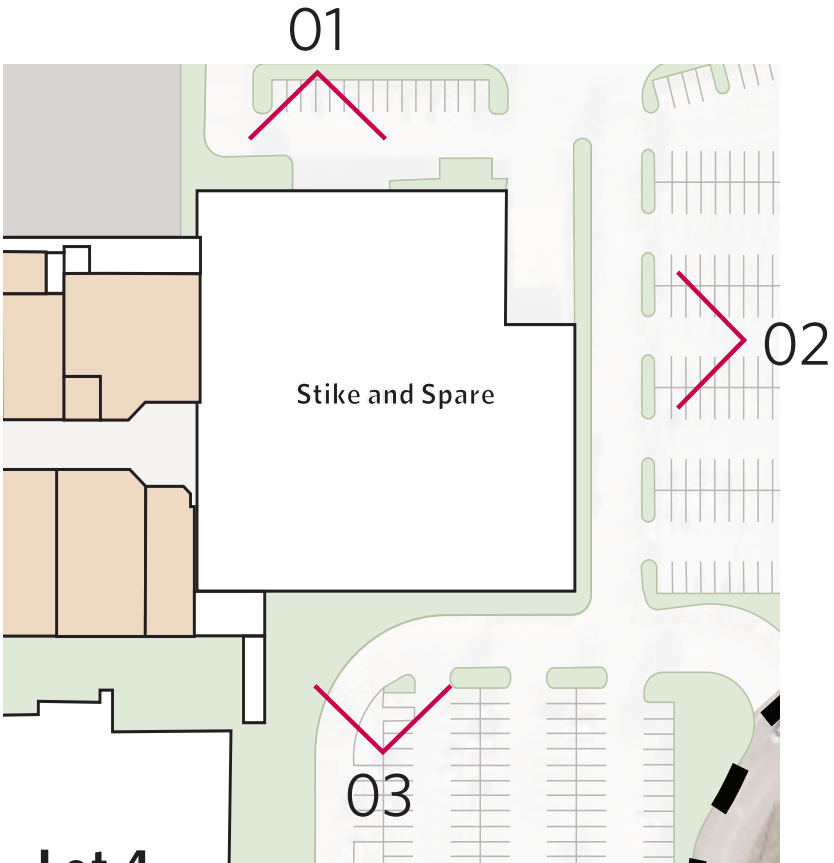
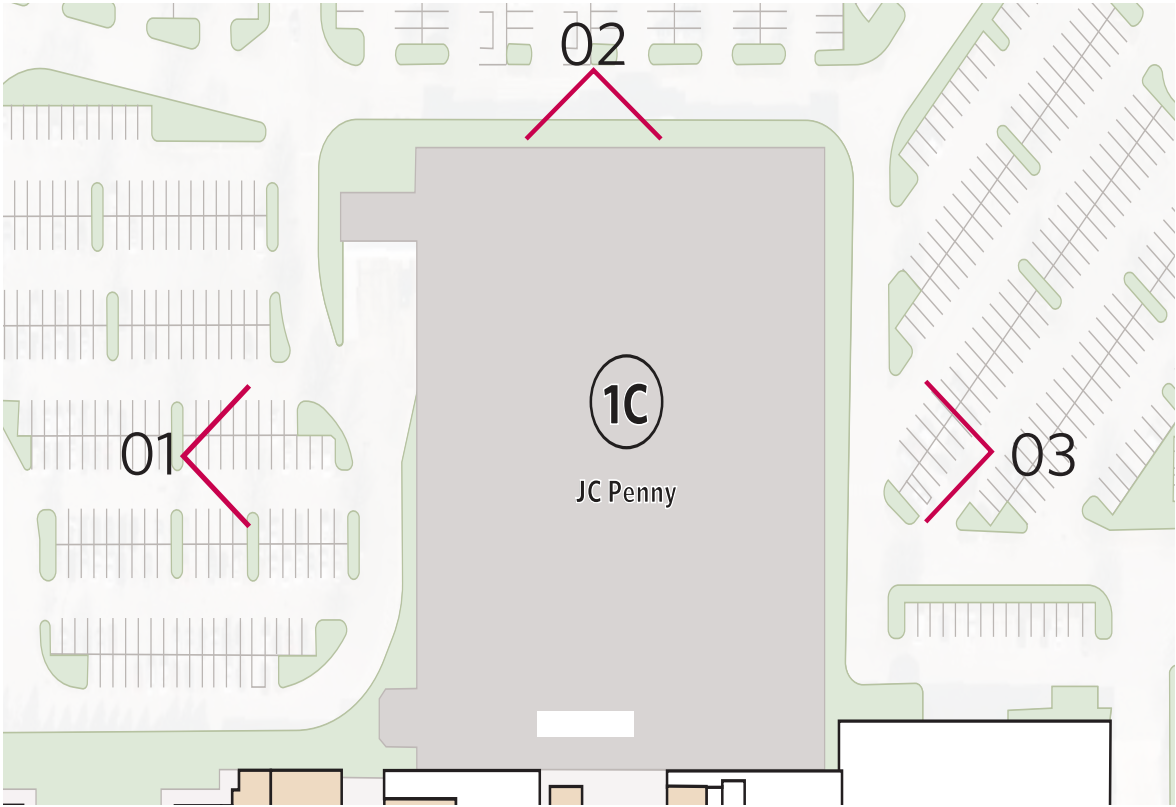
The topographic map above shows the sites topographic high point in the southwest corner of the property. The property drains to the north and east towards the West Fork River basin into swales that border the Stones River Mall Boulevard and to the river.

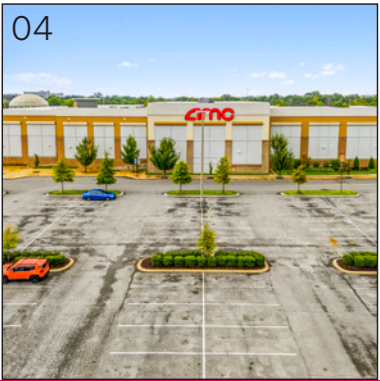
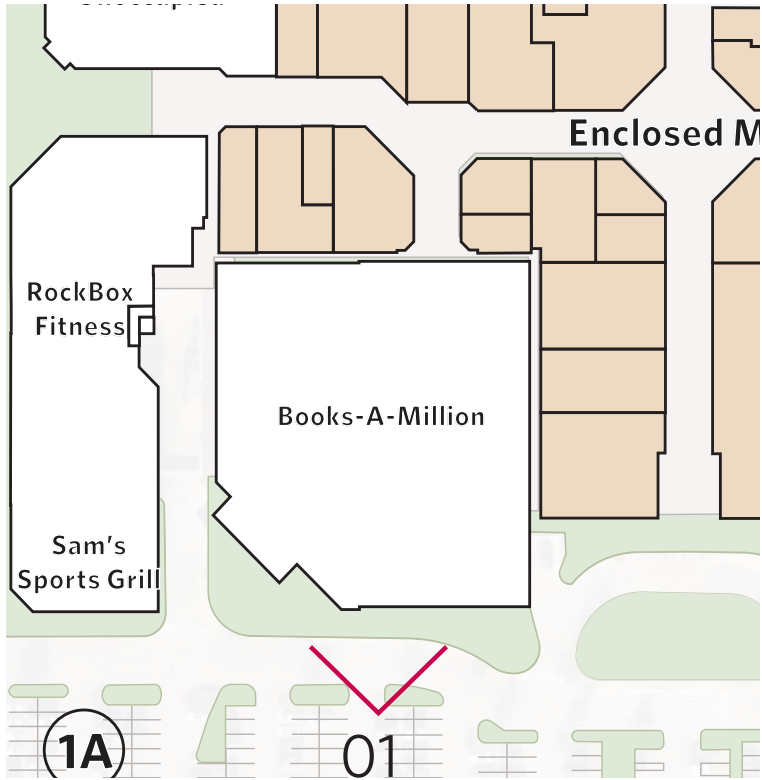
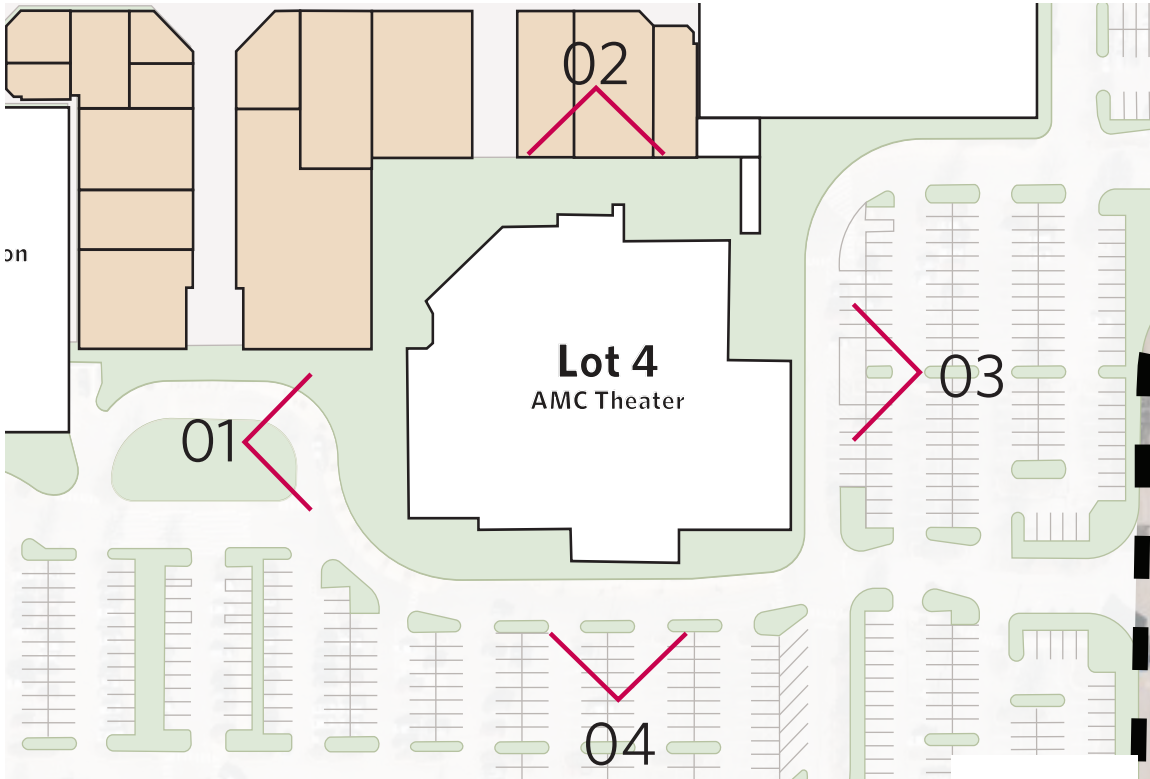
EXISTING CONDITIONS | OVERALL MAP



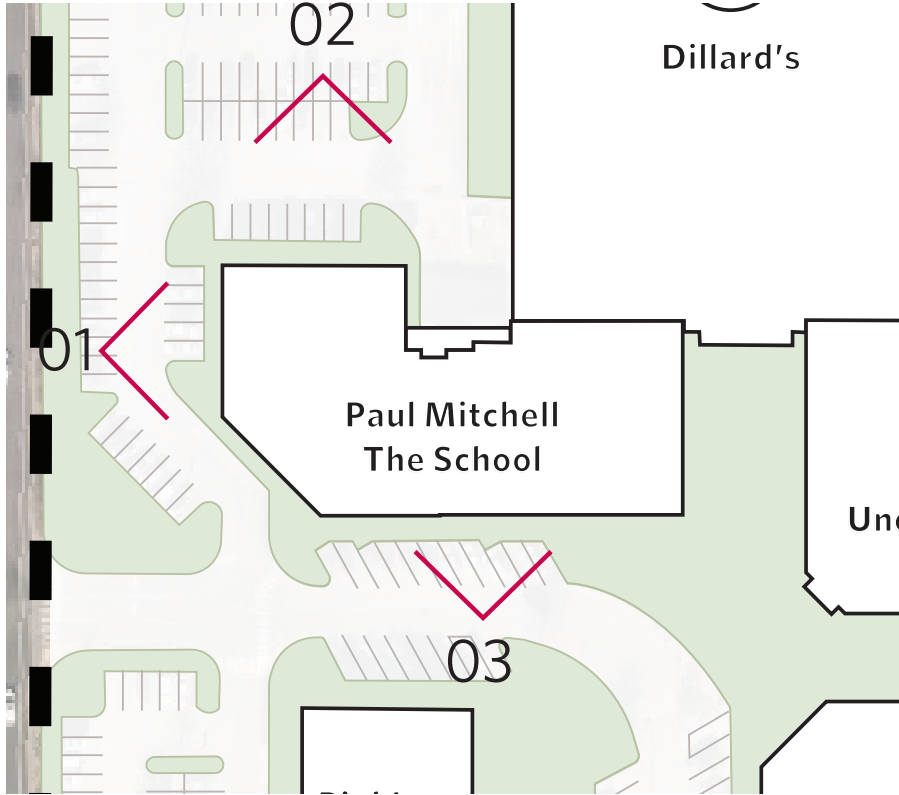
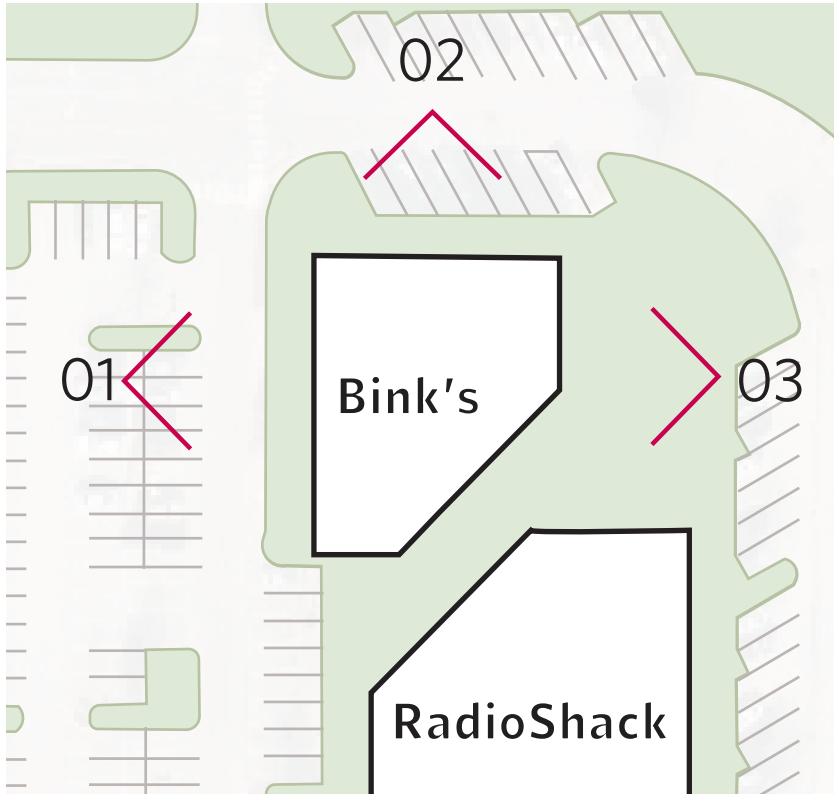
EXISTING CONDITIONS | SITE PHOTOS | DILLARD'S & ENCLOSED MALL

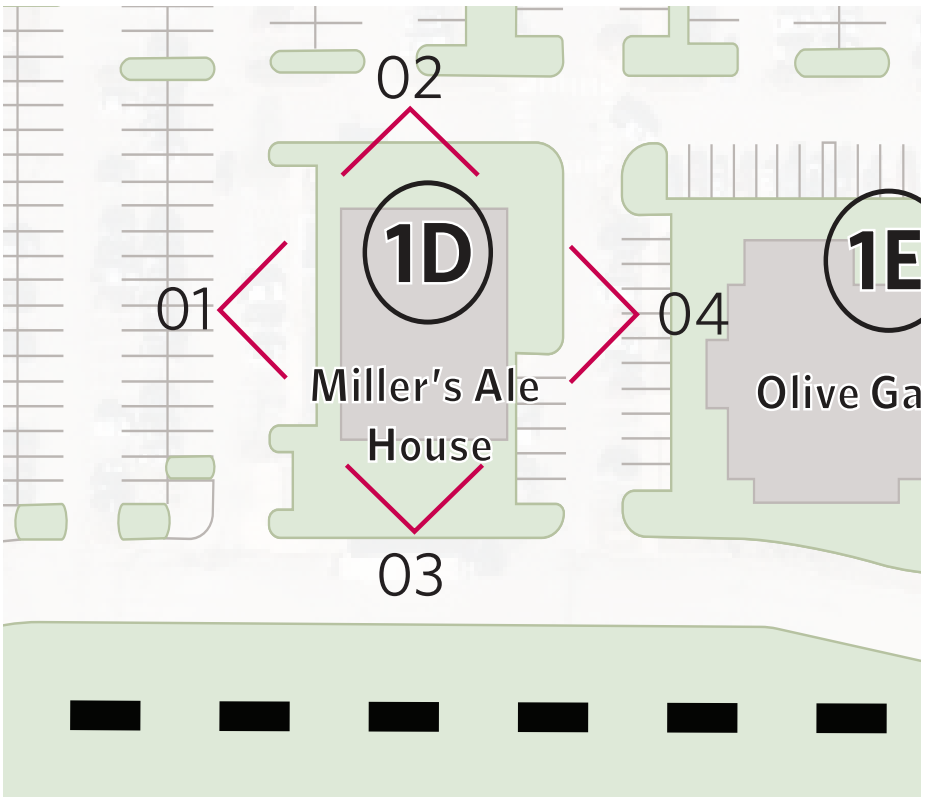
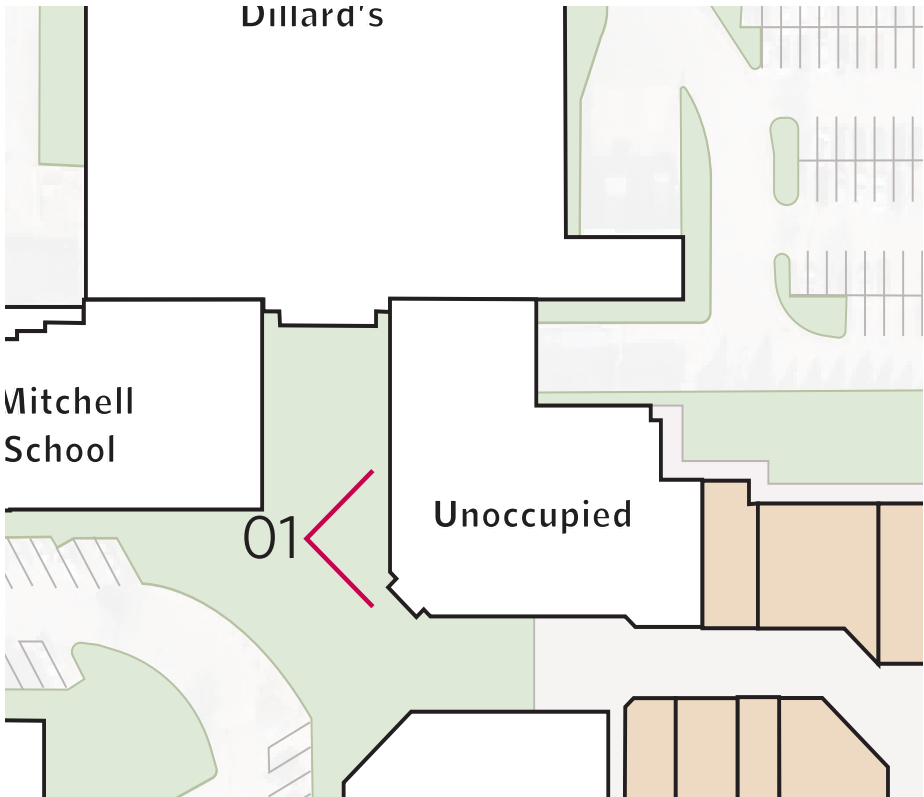


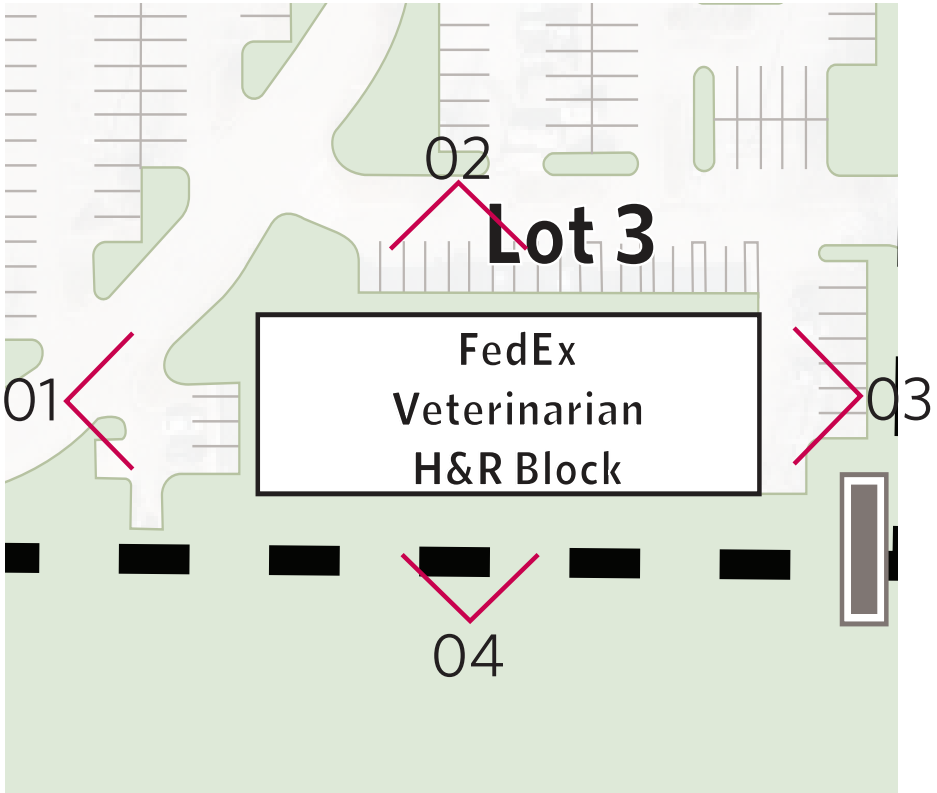
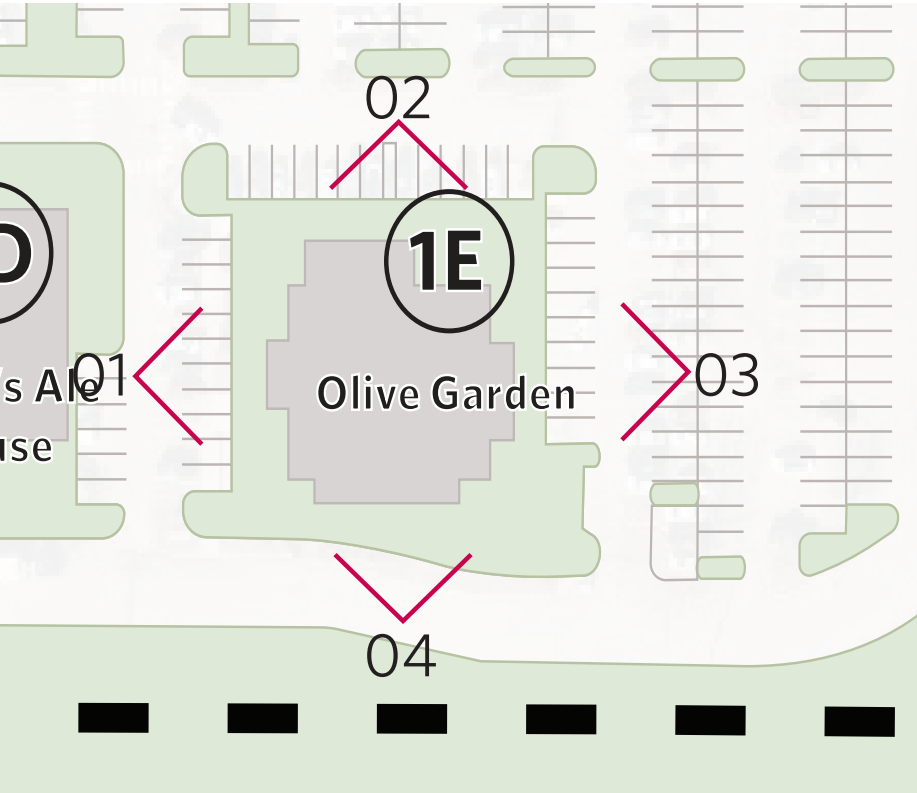




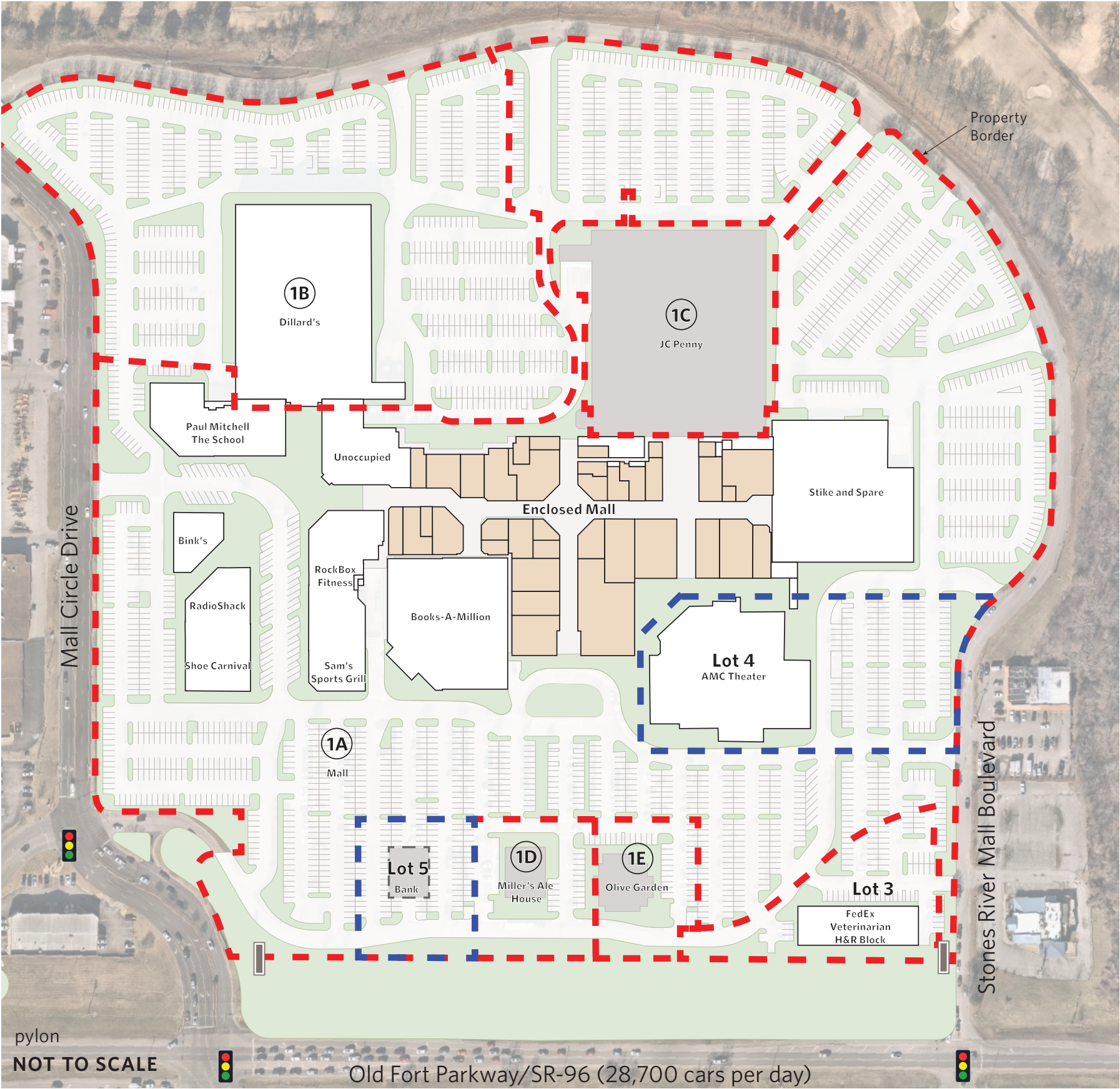








PROPOSED PLANNED COMMERCIAL DISTRICT | OVERALL MAP



- EXISTING PARCELS/LOTS
- PROPOSED PARCELS/LOTS

PROPOSED PLANNED COMMERCIAL DISTRICT | DEVELOPMENT STANDARDS & ZONING

SITE USE DATA:

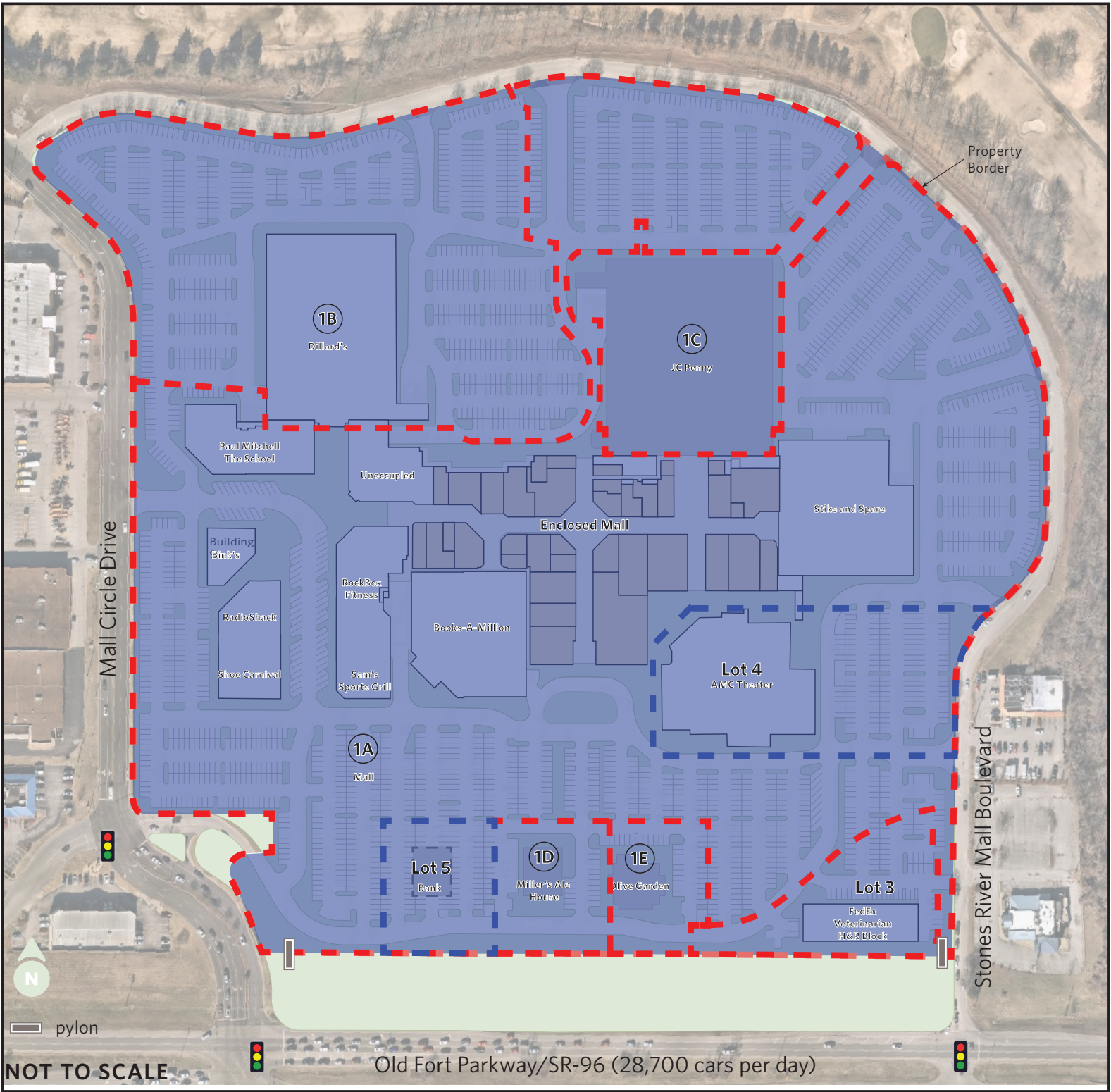
EXISTING ZONING:	CH
PROPOSED ZONING:	PCD

TOTAL LAND AREA: 48.299 ACRES

TOTAL LAND AREA (PARCEL 1A)	29.000 ACRES
TOTAL LAND AREA (PARCEL 1B)	8.777 ACRES
TOTAL LAND AREA (PARCEL 1C)	3.006 ACRES
TOTAL LAND AREA (PARCEL 1D)	1.070 ACRES
TOTAL LAND AREA (PARCEL 1E)	1.130 ACRES
TOTAL LAND AREA (LOT 3)	1.306 ACRES
TOTAL LAND AREA (LOT 4)	3.010 ACRES
TOTAL LAND AREA (LOT 5)	1.000 ACRES

DEVELOPMENT STANDARDS DESCRIPTION:

- Planned development establishes minimum setback lines for the existing buildings consistent with the current locations of the buildings in relation to the existing property lines.
- With the approval of the Planned Development, the locations of the existing buildings are deemed compliant.
- Each parcel shall comply with any and all regulations as outlined in the city of Murfreesboro Zoning Ordinance and Design Standards.
- These parcels shall remain as part of the overall Stones River Town Centre Master Plan and shall continue to benefit from the shared parking agreement and aggregate open space calculations.
- The shared parking agreement will be recorded prior to the resubdivision plat being recorded.
- Buildings shall be one to two stories and occupied by a single or multiple tenant(s).
- Parcel will have signage located on the building and along Old Fort Parkway frontage and will be managed through the Stones River Mall PSO.
- Existing and future owners of each parcel shall maintain the existing landscape and is responsible for landscape replacement which meet the City requirements except as noted in this pattern book.
- The Stones River Town Centre owner will maintain landscaping between Old Fort Parkway right-of-way and the curbing closest to that right-of-way line.
- Any undeveloped outparcels shall provide landscape designs as required by the City.
- All mechanical equipment (i.e. HVAC and transformers) located on the ground shall be screened with landscaping or fencing. If mechanical equipment is located on the roof then they shall be screened from view via a parapet wall.
- All on-site utilities will be underground.
- Solid waste shall be handled by private haulers and utilize dumpster /compactor.
- 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.
- All parking areas will have curbing and be screened with a row of evergreen shrubs from Old Fort Parkway.
- Mail service will be provided via cluster box unit if required by UPS.
- On site lighting will comply with City of Murfreesboro standards to prevent light pollution.
- Parking will comply with Murfreesboro’s Zoning Ordinance but will benefit from the shared parking agreement.
- All open space and formal open space will be maintained by owners.
- All parking areas will be screened with a planting yard of shade or ornamental trees per the Zoning Ordinance along the property lines of Stones River Mall Boulevard and Mall Circle Drive.



PROPOSED PLANNED COMMERCIAL DISTRICT | OPEN SPACE

LAND USE DATA:

EXISTING ZONING:
PROPOSED ZONING:

CH
PCD

OPEN SPACE REQUIREMENTS:

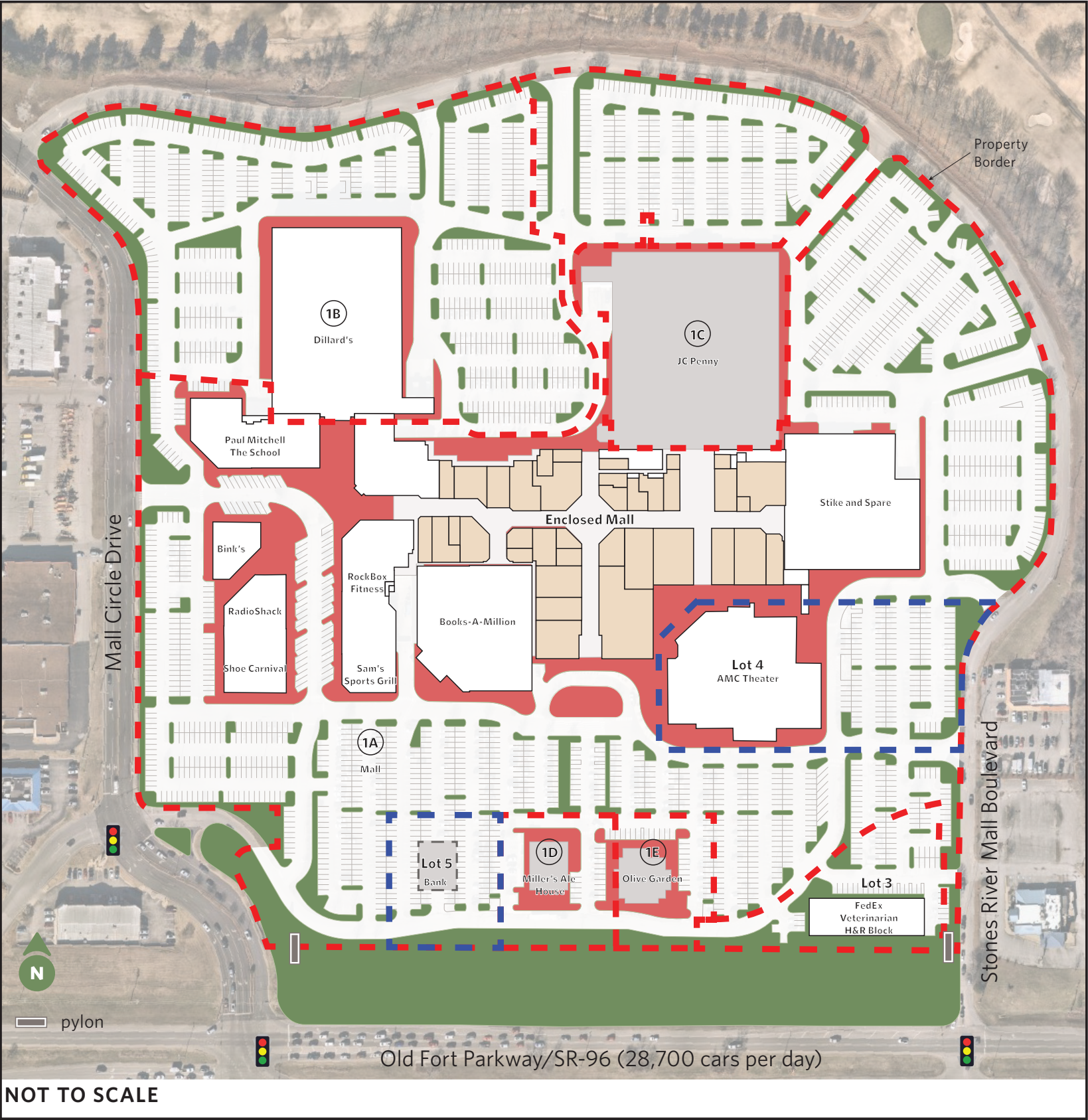
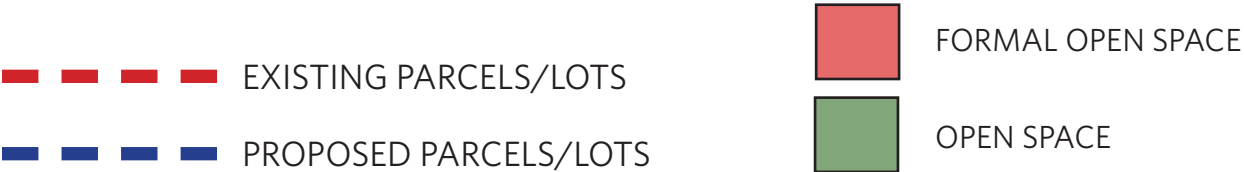
OVERALL DEVELOPMENT LAND AREA:
REQUIRED OPEN SPACE:
PROVIDED OPEN SPACE:
REQUIRED FORMAL OPEN SPACE:
PROVIDED FORMAL OPEN SPACE:

48.299 ACRES
9.6694 ACRES (20%)
+/- 11.85 ACRES (29%)
1.448 ACRES (3%)
+/- 4.03 ACRES (10%)

Article 9 Section 9.01 Use and Operation of Shopping Center:

Penney and Dillard covenant and agree for the benefit of the Developer Parcel that for so long as Developer is operating the Developer Buildings on its Parcel during the Term in accordance with the terms and conditions of this Agreement and Penney and Dillard respective Separate Agreements and Developer covenants and agrees for the benefit of the Penney Parcel and the Dillard Parcel that for so long as Penney and Dillard, respectively, or their successor or assign is operating its Building during the Term in accordance with the terms and conditions of this Agreement and such Separate Agreement of Penney or Dillard, the covenanting Party's Building (the Penney Department Store Building, the Dillard Department Store Building and the Developer's Buildings, respectively) may not be used for any purpose other than (i) retail, (ii) a use compatible with the operation of a first-class regional shopping center, or (iii) use or operations that are not obnoxious to or inconsistent with the development or operation of a first-class regional shopping center (or inconsistent with the operations at the Shopping Center from time to time); provided, however, that none of the following uses or operations shall be made, conducted or permitted on or with respect to all or any part of its respective Parcel:

Continued on page 15.



PROPOSED PLANNED COMMERCIAL DISTRICT | PROHIBITED USES

PROHIBITED USES:

All CH uses from the Zoning Ordinance are allowed except the following prohibited uses:

- Gas Stations
- Automotive Repair
- Motor Vehicle Sales
- Car Washes
- Beer & Tobacco Store
- Liquor Store
- Convenience Store
- Pay Day Store/Cash Advance
- Vape Shops.

Article 9 Section 9.01 Use and Operation of Shopping Center:

- (a) any public or private nuisance;
- (b) any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness;
- (c) any obnoxious odor;
- (d) any noxious, toxic, caustic or corrosive fuel or gas;
- (e) any dust, dirt or fly ash in excessive quantities;
- (f) any fire, explosion or other damaging or dangerous hazard (including the storage, display or sale of explosives or fireworks);
- (g) any warehouse use (any area within a Building for the storage of goods intended to be sold at any retail establishment in such Building will not be deemed to be a warehouse use);
- (h) assembling, manufacturing, distilling, refining, smelting, agriculture or mining operation or drilling for oil, gas or other minerals;
- (i) any second hand store, flea market, fire sale, laundry, animal hospital, funeral establishment, living quarters (the operation of a hotel facility shall not be deemed to be living quarters restricted by this subsection);
- (j) any distribution, sale, viewing or use of pornographic material (NC-17 movies shall not be deemed pornographic);
- (k) any pet shop within 150 feet from the customer entrances to the Dillard Building or the Penney Building;
- (l) any manufacture, use, storage or release of any Hazardous Material except to the extent expressly permitted by Section 24,24 hereof;
- (m) any emission of any substance, gas, particulate matter, audio, radio or infrared electromagnetic wave frequency or other form of radiation that materially interferes with the business of any Occupant;
- (n) any mobile home or trailer court or storage trailer, labor camp (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction or remodeling);
- (o) any dumping, disposing, incineration or reduction of garbage or storage of junk yard;
- (p) any dry cleaning processing plant;
- (q) any massage parlor (excluding massages that are offered in connection with a spa operation);
- (r) any tavern, bar, night club, discotheque or any establishment selling alcoholic beverages for on-premises consumption without a majority of its sales from food consumed on premises;
- (s) an off-track betting facility, bingo game facility, or other gambling venue;
- (t) any coin operated self-service laundry;
- (u) any outdoor sales or display of merchandise, other than ancillary to the operation of a business conducted on the Parcel;
- (v) any public health or welfare center;
- (w) any shooting gallery or target range unless indoors and ancillary to a permitted use; and
- (x) any storage trailers (accessory use).

Developer agrees that none of its leases with Occupants of the Developer Buildings will permit uses prohibited by this Section 9.01. This Section 9.01 shall not be applicable with respect to uses in existence, pursuant to valid and enforceable leases or other occupancy agreements (including any options existing as of the date hereof), as of the date of this Agreement.

PROPOSED PLANNED COMMERCIAL DISTRICT | SITE ACCESS & PARKING REQUIREMENTS

INGRESS & EGRESS:

Pursuant to the to the City of Murfreesboro’s Major Transportation Plan (MTP), none of the roadways surrounding this development are currently slated for improvements. Old Fort Parkway is currently a 4-lane road with turn-lanes provided at each site access point. The primary access point of ingress/egress at Mall Circle Drive to the west provides six travel lanes, two lanes for ingress and four lanes for egress and is signalized. The primary access point of ingress/egress at Stones River Mall Boulevard to the east provides three travel lanes, one lane for ingress and two lanes for egress. There is also a primary access point at the northwest corner of the site onto Mall Circle Drive.

There are nine secondary access points off of Mall Circle Drive and Stones River Mall Boulevard into the Stones River Town Centre parking lots that incorporate two to three travel lanes, one in each direction, with some access point accommodating an additional egress turn lane depending on intersection conditions.

PARKING REQUIREMENTS:

The Stones River Town Centre commercial shopping area is governed by a shared parking and access agreement which outlines a required ratio, and parking structure standards (COREA, Article XVII, Section 17). The project currently has an excess of parking per City of Murfreesboro requirements. Parking spaces for the primary mall parcels and exterior parcels, including the shopping center and restaurants, may be provided in parking areas not included in the parcel boundaries. Below is a summary or parking currently provided within the project.

BUILDING SQ. FT. BY PARCEL

- PARCEL 1A - 361,070 SQ. FT.
- PARCEL 1B - 75,631 SQ. FT.
- PARCEL 1C - 99,644 SQ. FT.
- PARCEL 1D - 5,386 SQ. FT.
- PARCEL 1E - 7,568 SQ. FT.
- LOT 3 - 13,134 SQ. FT.
- LOT 4 - 131,115 SQ. FT.
- LOT 5 - 6,342 SQ. FT.

PARKING REQUIRED BY PARCEL

- 1,203 SPACES (1/300 SQ. FT. - SHOPPING CENTER)
- 252 SPACES (1/300 SQ. FT. - SHOPPING CENTER)
- 332 SPACES (1/300 SQ. FT. - SHOPPING CENTER)
- 54 SPACES (1/100 SQ. FT. - RESTAURANT)
- 76 SPACES (1/100 SQ. FT. - RESTAURANT)
- 44 SPACES (1/300 SQ. FT. - SHOPPING CENTER)
- 147 SPACES (1/300 SQ FT - SHOPPING CENTER)
- OMITTED FOR FUTURE DEVELOPMENT

TOTAL PARKING SPACES REQUIRED: 2,108 SPACES
TOTAL PARKING SPACES EXISTING: 2,645 SPACES
TOTAL PARKING SPACES PROPOSED: 2,560 SPACES

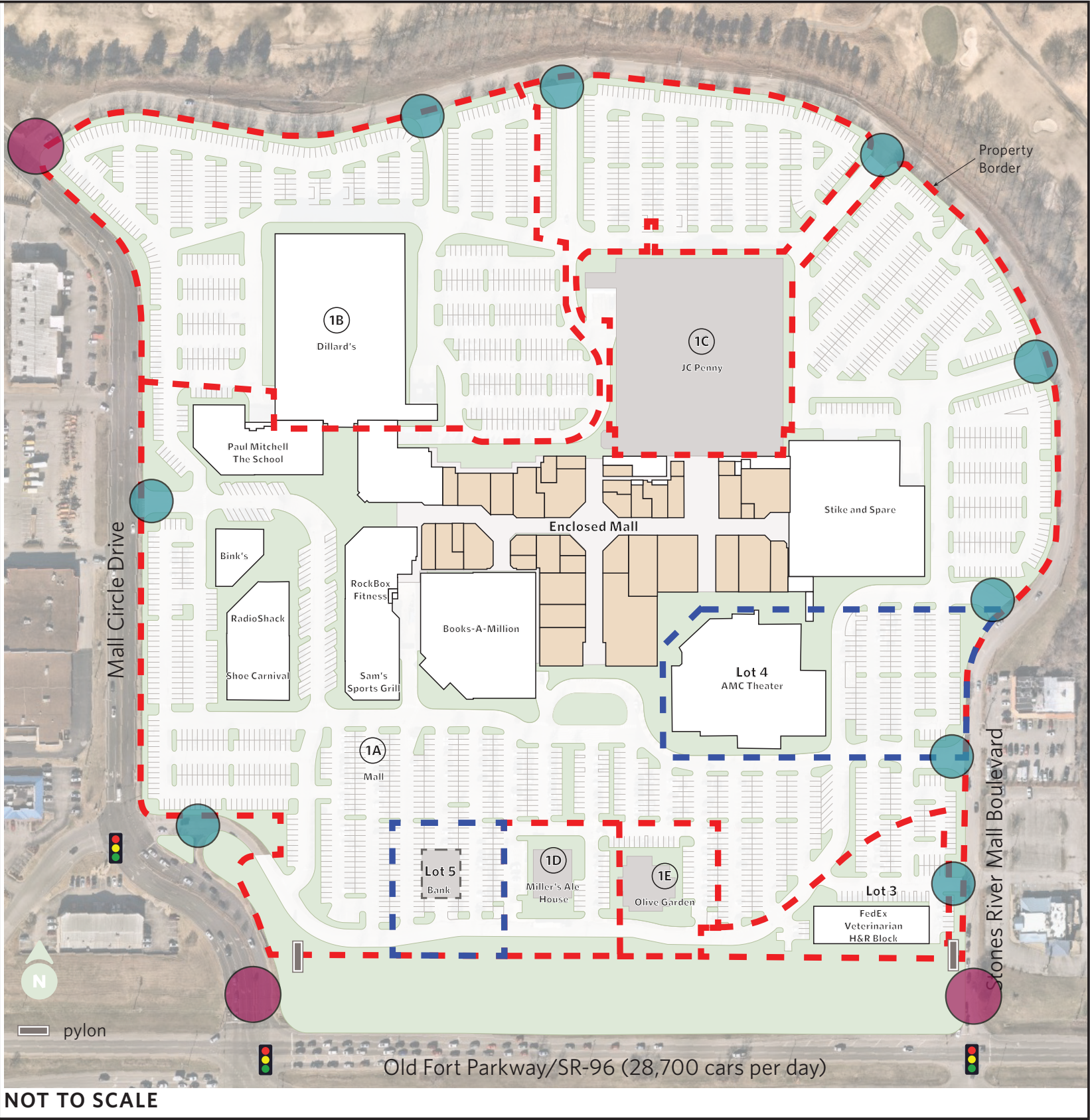
See page 17 for parking addendum.

PRIMARY ACCESS POINT

SECONDARY ACCESS POINT

EXISTING PARCELS/LOTS

PROPOSED PARCELS/LOTS



PROPOSED PLANNED COMMERCIAL DISTRICT | PARKING REQUIREMENTS CONTINUED

Article 4 Section 4.04 Easements for Use of Common Area:

(a) Commencing upon completion of construction of each portion of the Common Area on its Parcel and ending as provided by Section 4.04(c) hereof, each Party grants to each of the other Parties, for the benefit of each other Party and its Parcel, the nonexclusive right, privilege and easement, in common with the Grantor and the Occupants and Permittees of the Grantor, to use each portion of the Common Area so constructed on its Parcel (other than the Mall, as to which Section 4.06 shall be controlling, the Access Roads, as to which Section 4.08 hereof shall be controlling, and Common Utility Facilities, as to which Section 4.09 hereof shall be controlling) for its intended purposes. Included with the easements granted by this Section 4.04 are:

- (i) easements to use the respective Parking Area (except the landscaped or planted portions) for the parking and passage of passenger motor vehicles; notwithstanding the foregoing, such easements will be deemed to include the use of the Parking Area (except the landscaped or planted portions) for the passage of trucks for delivery purposes only;
- (ii) easements to use the respective Parking Area for the passage by pedestrians;
- (iii) easements to use roadways to provide passage by motor vehicles (passenger and truck) and pedestrians between each Parcel in the Shopping Center Site and to the public roads and highways abutting the Shopping Center Site;
- (iv) easements to use the various walkways and all other portions of the Common Area for the general use, comfort and convenience of the Grantee, the Grantor and the Occupants and Permittees of either; and
- (v) easements to use the fire service corridors, if any, that are required to be open to the public by governmental authorities having jurisdiction.

(b) The easements granted by this Section 4.04 are subject to the rights to use the Common Area for other purposes specifically provided in this Agreement, and the rights, if any, of each Grantor to change and relocate portions of the Common Area to the extent provided in this Agreement.

(c) The easements granted by this Section 4.04 will terminate and expire on the Termination Date (both as a burdened and benefited Parcel); provided, however, that (i) any easements for fire service corridors under Section 4.04(a)(v) hereof shall survive the Termination Date and continue so long as the Building (or any replacement thereof) constructed during the Term in which a fire corridor is located shall stand; and (ii) the other easements granted to Penney by this Section 4.04 with respect to the portion of the Common Area designated on the Site Plan as the “Penney Perpetual Parking Easement Area” and herein so called shall be perpetual. From and after the Termination Date, Penney shall, at its own cost, keep the Penney Perpetual Parking Easement Area in good repair and condition, properly lighted and available for its intended purposes and, if it fails to do so, the owners of the other Parcels shall have the right of self-help under the provisions of Article XI hereof, which right shall survive the Termination Date.

(d) Each Party may permit its Occupants and Permittees (and no other Person) to utilize the rights and privileges granted to such Party under this Section 4.04; provided, however, that (i) such Occupants and Permittees shall not be entitled to any greater rights than have been granted to such Party under this Section 4.04, and (ii) no easement rights shall be deemed to have been granted by the granting of such rights and privileges.

Article 17 Section 17.01 Required Ratio:

(a) All vehicular parking spaces will be of the minimum dimensions shown on the Site Plan.

(b) Each Party agrees that it will not interfere with or obstruct the Parking Area configuration shown on the Site Plan, including parking bays and lanes, except as may be necessary in connection with improvements constructed pursuant to Sections 5.02 or 6.03 hereof or as otherwise permitted under Sections 10.03 and 12.02(c) hereof.

(c) Dillard agrees that it will provide or cause to be provided within the Parking Area on its Parcel, at all times from and after its Opening Date and continuing until the Termination Date, the greater of (i) 4.5 automobile parking spaces for each 1,000 square feet of 95% of the Gross Building Area in its Building, or (ii) the parking ratio required by all applicable laws. Dillard agrees to take no action that would reduce the parking ratio below that specified herein. Notwithstanding the foregoing, this Section 17.01(c) shall only be applicable from and after the Dillard Parcel Purchase Date.

(d) Developer agrees that it will provide or cause to be provided within the Parking Area on its Parcel, at all times from and after the earliest Opening Date of a Department Store Party and continuing until the Termination Date, the greater of: (i) an aggregate amount equivalent to (A) 4.5 automobile parking spaces for each 1,000 square feet of the retail Floor Area of the Developer Buildings, (B) 4.5 automobile parking spaces for each 1,000 square feet of 95% of the Gross Building Area in the Penney Building, the Dillard Building and the Sears Building, and

(C) 1.0 automobile parking spaces for each room unit in any hotel facility on the Developer Parcel; or (ii) the parking ratio required by all applicable laws. Developer, Penney and Dillard agree to take no action that would reduce the parking ratio below that specified herein. Notwithstanding the foregoing, the reference to the Dillard Building in this Section 17.01(d) shall no longer be applicable after the Dillard Parcel Purchase Date.

Article 17 Section 17.02 Parking Structures:

Except as shown on the Site Plan, no multi-level parking structures will be allowed in the Shopping Center Site without the prior written consent of all Parties, which consent may be granted or withheld in their sole and absolute discretion. Prior to construction of any such parking structure, Developer shall obtain the approval of the Department Store Parties to the plans, specifications, configuration, layout, graphics, and signage of and for such parking structure, which approval shall not be unreasonably withheld or delayed. In no event shall construction of any parking structure commence during the period commencing on November 15 of any year and ending on January 31 of the following year or during the 45 day period preceding

Easter Sunday. Any such parking structures shall be deemed part of the Parking Area to be maintained by Developer in accordance with the provisions of Section 10.01 and included under the Commercial General Liability Insurance coverage to be maintained, or caused to be maintained, by Developer pursuant to Section 14.02. In addition, throughout the Term, Developer shall carry property insurance and pay all taxes and assessments on such parking structures in compliance with the provisions of Sections 14.03 and 18.01, respectively, as if the parking structure were a Developer Improvement, and Developer’s obligation to Rebuild Common Area under the provision of Section 13.03 shall apply to such parking structures during the entire term and without qualification.

PROPOSED PLANNED COMMERCIAL DISTRICT | EXCEPTIONS SUMMARY

Land Use Parameters and Building Setbacks			
Zoning (Existing vs Proposed)	CH	PCD	Difference
Landscape Buffers			
Required Perimeter Landscaping	8' buffer < 5 acre parcel / 10'buffer > 5 acre parcel	No internal parcel perimeter landscaping yards required along interior property lines. Development shall maintain all existing buffers along public perimeter R.O.W. Exterior perimeter landscape yard adjacent to public ROW shall meet minimum requirements in the zoning ordinance.	NA
Minimum % Landscape for Parking Lots	6% > 5 acres	6%	0%
Maximum Spaces without Landscape Island	12 spaces	37 in existing development, future development will be required to meet minimum required parking landscape islands per the zoning ordinance	-25
Minimum Setback Requirements			
Minimum Front Setback	42'	42' from perimeter of public R.O.W. for new parcels	0'
Minimum Side Setback	0'	0'	0'
Minimum Rear Setback	20'	0'	- 20'
Land Use Intensity Ratios			
Minimum Open Space Requirement	20%	20%	0%
Minimum Formal Open Space Requirement	3%	3%	0%
Maximum Height	75'	75'	0'
Parking Ratio (see page 15 for Parking Calculations)	All Uses: Per Chart 4 of the 2023 Zoning Ordinance	Parking shall abide by the City of Murfreesboro Parking Standards subject to the Shared Parking Agreement	

EXCEPTIONS:

- Landscape exception for interior perimeter planting yard.
- Setback exception for 0' minimum rear setback.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION DECEMBER 6, 2023

6:00 P.M.

CITY HALL

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Reggie Harris
Bryan Prince
Chase Salas
Shawn Wright

STAFF PRESENT

Greg McKnight, Exec. Director Dev. Services
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Holly Smyth, Principal Planner
Amelia Kerr, Planner
Carolyn Jaco, Recording Assistant
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. Public Comments.

Chair Kathy Jones announced no one signed up to speak during the Public Comments portion of the agenda.

4. Approve minutes of the November 14, 2023, and November 15, 2023 Planning Commission meetings.

Mr. Chase Salas made a motion to approve the November 14, 2023 and November 15, 2023 Planning Commission meetings; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Reggie Harris
Bryan Prince
Chase Salas

MINUTES OF THE MURFREESBORO PLANNING COMMISSION DECEMBER 6, 2023

Shawn Wright

Nay: None

Ms. Kathy Jones announced item 5.c. [2023-804] had been withdrawn from this meeting. The proposed amendment would be presented at a later date after further review.

[WITHDRAWN BY STAFF] Proposed amendment to the City Zoning Ordinance [2023-804] related to regulations for electric vehicles and pertaining to the following sections:

☐ **Section 2: Definitions;**

☐ **Section 26: Off-Street Parking, Queuing, and Loading; and**

☐ **Endnotes for Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios.**

City of Murfreesboro Planning Department applicant.

Murfreesboro Planning Department applicant.

5. Public Hearings and Recommendations to City Council

Zoning application [2023-417] for approximately 48.3 acres located along Old Fort Parkway to be rezoned from CH & PSO to PCD (Stones River Town Centre PCD) & PSO, Kimley-Horn representing Sterling Organization applicant.

Ms. Amelia Kerr presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Ms. Mary McGowan (project engineer) with Kimley-Horn was in attendance representing the application. Ms. Mary McGowan 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.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION DECEMBER 6, 2023

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

There being no further discussion, Mr. Shawn Wright moved to approve the zoning application subject to all staff comments; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Reggie Harris
Bryan Prince
Chase Salas
Shawn Wright

Nay: None

Zoning application [2023-418] for approximately 7.3 acres located along Northwest Broad Street and West Vine Street to be rezoned from CH & CCO to PUD & CCO, approximately 0.1 acres to be rezoned from CBD & CCO to PUD & CCO, and approximately 0.4 acres to be rezoned from CH & CCO to CBD & CCO, HRP Residential applicant. Ms. Holly Smyth presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Mr. Matt Taylor (design engineer) and Mr. Bart Kline (architect) were in attendance representing the application.

The Planning Commission began discussing the proposal and wanted to know who would be responsible for some of the other developments adjoining this proposal.

ORDINANCE 23-OZ-40 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 48.3 acres located along Old Fort Parkway from Highway Commercial (CH) District and Planned Signage Overlay (PSO) District to Planned Commercial Development (PCD) District (Stones River Town Centre PCD) and Planned Signage Overlay (PSO) District; Kimley-Horn representing Sterling Organization, applicant [2023-417].

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 Commercial Development (PCD) District and Planned Signed Overlay (PSO) 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

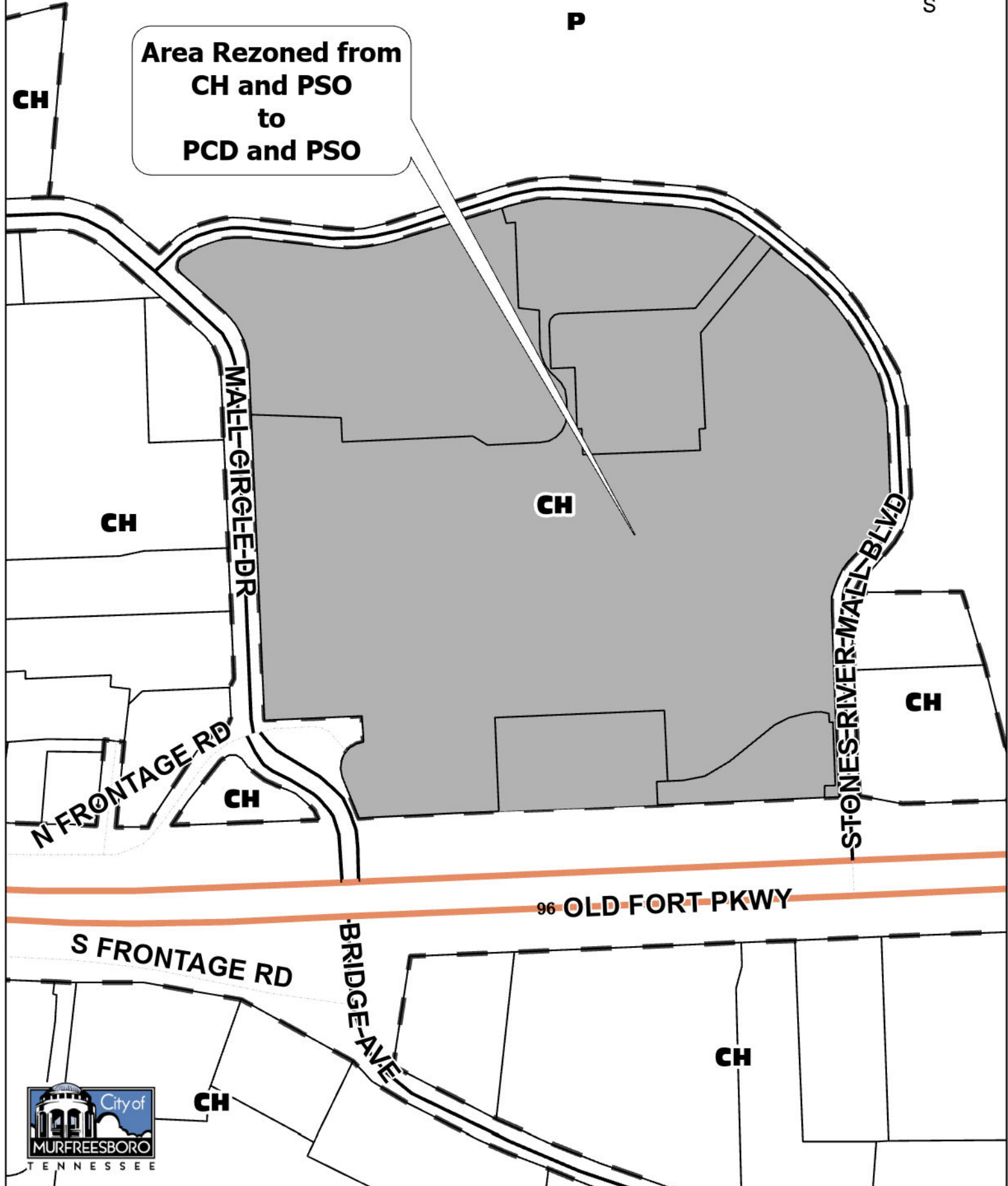
43A2035E51F9401...
Adam F. Tucker
City Attorney

SEAL

Ordinance 23-OZ-40



**Area Rezoned from
CH and PSO
to
PCD and PSO**



COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Rezoning property along Northwest Broad Street
[First Reading]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Rezone approximately 7.8 acres located along Northwest Broad Street, West Vine Street, South Church Street, and East Sevier Street.

Staff Recommendation

Enact the ordinance establishing the requested zoning.

The Planning Commission recommended approval of the rezoning.

Background Information

HRP Residential presented a zoning application [2023-418] for approximately 7.3 acres located along Northwest Broad Street, West Vine Street, South Church Street, and East Sevier Street to be rezoned from CH (Highway Commercial District) and CCO (City Core Overlay District) to PUD (Planned Unit District) and CCO; 0.1 acres to be rezoned from CBD (Central Business District) and CCO to PUD and CCO; and 0.4 acres to be rezoned from CH and CCO to CBD and CCO. During its regular meeting on December 6, 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 entitle commercial and hotel development, which will create employment opportunities for the community and generate tax revenue for the City.

Establish Strong City Brand

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

Attachments:

1. Ordinance 23-OZ-44
2. Maps of the area
3. Planning Commission staff comments from 12/06/2023 meeting

4. Draft Planning Commission minutes from 12/06/2023 meeting
5. Keystone on Broad PUD pattern book
6. Other miscellaneous exhibits

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
DECEMBER 6, 2023
PROJECT PLANNER: HOLLY SMYTH**

- 5.b. Zoning application [2023-418] for approximately 7.3 acres located along Northwest Broad Street and West Vine Street to be rezoned from CH & CCO to PUD (Keystone on Broad PUD) & CCO, approximately 0.1 acres to be rezoned from CBD & CCO to PUD & CCO, and approximately 0.4 acres to be rezoned from CH & CCO to CBD & CCO, HRP Residential applicant.**

This development includes 7 full parcels and a large portion of an 8th parcel abutting the north side of Northwest Broad Street. The mixed-use portion of the development, along with Murfreesboro City Hall and Linebaugh Public Library, are bound by Northwest Broad Street, South Church Street, and West Vine Street. Additionally, a parcel on the east side of South Church Street, south of East Sevier Street and west of East State Street is also included in this rezoning as well. The proposed development includes the following parcels; (Group D) 6.00, (Group C) 8.00, 23.00, 24.00, 25.00, 26.00, 26.01, and approximately 5.09 acres of parcel 9.00, all of which reside within Tax Map 91N. The request includes a total deeded area of approximately 7.25 acres for the Keystone on Broad PUD with CCO overlay remaining. Portions of the existing City Hall that will remain as property of the City are incorporated into a rezone request to CBD and CCO as generally shown on the attached map.

A neighborhood meeting took place on the project on November 14, 2023 at the City of Murfreesboro Firehouse #4 on Medical Center Parkway that was noticed to a 500' radius from the project boundaries by the applicant. Approximately 25 persons attended and were generally supportive of the project.

Adjacent Zoning and Land Uses

The surrounding area consists of a mixture of zoning types and uses; however, most uses directly adjacent to the development are used for commercial, office, and municipal government. The lands to the east, west, and south are zoned Commercial Highway (CH). The land to the north is zoned Central Business District (CBD) containing City Hall and the Linebaugh Public Library. The subject property is currently zoned CH and CBD with the City Core Overlay (CCO) District. The project area is also part of the Historic Bottoms (as shown on page 04 of the program book) and the North Highland Avenue Planning Study Areas (which is missing from the program book), which are both shown in the below diagram on page 5 within this report. Additionally, the portion of the project along Northwest Broad Street is part of the Main Street Revitalization Plan Type 3 streetscape.

Proposed PUD

The City of Murfreesboro owns the entire project site and is in the process of negotiating various sales and a development agreement that may continue to modify the project description as it moves through the City zoning process. At this time, the development consists primarily of four buildings, with 3 of them incorporating parking garages, providing mixed-use, retail, residential units, office space, and a hotel. Retail shall be selectively located on the first floor on a portion of all buildings, which is generally outlined on the **conceptual drawing on page 8** of the program book with some flexibility to shift locations within the buildings. The following updated descriptive summary of the overall project should be used in conjunction with that conceptual drawing and its zoomed in sections following.

	Building 1 (Studio, 1,&2)	Building 2 (1&2 bed)	Building 3 (Studio, 1,&2)	Hotel –	TOTAL	MAX Allowed by DA
Stories	4-story	4 - 5 stories	4-story	4 - 5 story		
Condo Units		37+54 =91			91 condos	100
Rental Units	7+92+69=168		2+33+23=58		226 apts	239
Retail Space	±22,215 SF	±6,540 SF	2,020	Potentially	30,775 SF	40K
Radio Station			2,000		2,000 SF	
Hotel Rooms				146	146 rooms	
Garage Parking Provided	328	179 + 146= 325	58	In Bldg. 2	711	
Parking Lot Spaces Provided			32		32	
Street Parking Provided	17	9	5		31	
Sub-Total	345	334	95		774	
Required Parking based on existing layout (excluding HC)	326	145+26+146 = 317	81+8+5=94	In Bldg. 2	737	
Surplus Parking	19	17	1		37	

The above parking requirements are based on the existing proposal which does have some flexibility to be increased using the following base requirements. The baseline requirements for the dwelling units are based on 1 stall per bedroom for “multi-family” component (as allowed in Section 24, Article IV of the CCO subsection (C)(3)). The baseline requirement of 1 stall per 250 square feet of “neighborhood shopping center” uses and 1 stall per 400 square feet of radio station use are required per Section 26 – Chart 4. Therefore, any increases to the current proposal up to the maximum allowable in the Development Agreement (DA) shall provide additional parking using these baselines. As shown above, when accounting for on-street proposed parking, the project has a surplus of 37 parking spaces. When only accounting for proposed on-site parking, the surplus is 6 spaces. It is staff’s understanding that secured parking for tenants only will be at upper levels of the parking structures, leaving the 1st and 2nd floors open for general parking. A statement needs to be added to page 33 of the program book as well as the parking exceptions discussed later in this report.

As to zone changes, the intent is to have the City Hall complex property be zoned CBD with the project's property becoming PUD, all with the CCO overlay. The negotiated property lines between City Hall and the project may need some further refinements to ensure the Building and Fire Codes can still be met without triggered new improvements to City Hall, thereby potentially affecting the zoning lines.

The project is broken into 6 phases that are generally outlined on page 16 in a map layout and on page 17 as a timeline schedule within the program book and are tied to the development agreement. Throughout all phases, City Hall will maintain functionality of its utilities (such as water, sewer, electrical, signal fiber) and circulation access to P1 and P2 parking garages. Most of the utilities south of City Hall are proposed to be relocated which will require new extensions to City Hall before full demolition can take place. New easements will need to be created and recorded throughout the site for all utilities. Additionally, the project will be dedicating right-of-way for the realignment of the South Front Street/West Vine Street and Northwest Broad Street intersection. It is anticipated that these recorded easements, rights-of-way, and new parcel layouts will be incorporated in a plat that will also be creating the new lot lines to separate City Hall and create the necessary lots for the project.

Outside of the program book, staff is starting to review proposed utilities removal and replacements at a high level to ensure that they will not conflict with the building layout. It is anticipated that phases will overlap in construction timing, and work will be continuous on-site until all work is complete. Additionally, improvements to various adjacent streets are planned to be carried out by the developer and are part of the Development Agreement in process with the City Council.

Exceptions Requested:

Page 42 of the Program Book summarizes all requested exceptions when compared to the Mixed Use (MU) and City Core Overlay (CCO) zone districts (which are most similar to the proposed project). However, standards of the existing Highway Commercial (CH), Central Business District (CBD), and the Historic Bottoms/North Highlands Downtown Central Business Districts are also shown for reference. Most of the requested **exceptions are shown in red text within the program book**. However, in staff's review of the project proposal, **it appears that additional exceptions may need to be further incorporated into the program book as discussed below**. Most of the exceptions are related to parking standards, landscape, setbacks, building coverage, and density (which is currently **44 units per acre**, excluding the hotel units) as follows:

1) Exceptions related to parking stated in Zoning Ordinance Section 26(C)(6)(a), Section 26(E)(4), Chart 3 and Chart 5:

- 1.1 Allow 35% (instead of 20%) of 774 parking stalls to be 'compact spaces'.
- 1.2 Allow compact spaces to be 7.6' wide (instead of 8.5' compact space width) with the capability of reducing the depth to 16' in front of columns if needed.
- 1.3 Allow standard stalls to be 8.5' wide (instead of the 9' wide required) by the 19' standard depth
- 1.4 Allow sidewalks adjacent to parking to be reduced from 7' to 6'.
- 1.5 Allow handicap spaces to be included within the minimum required parking count (instead of being excluded per parking standards Section 26(C)(2)(c)).

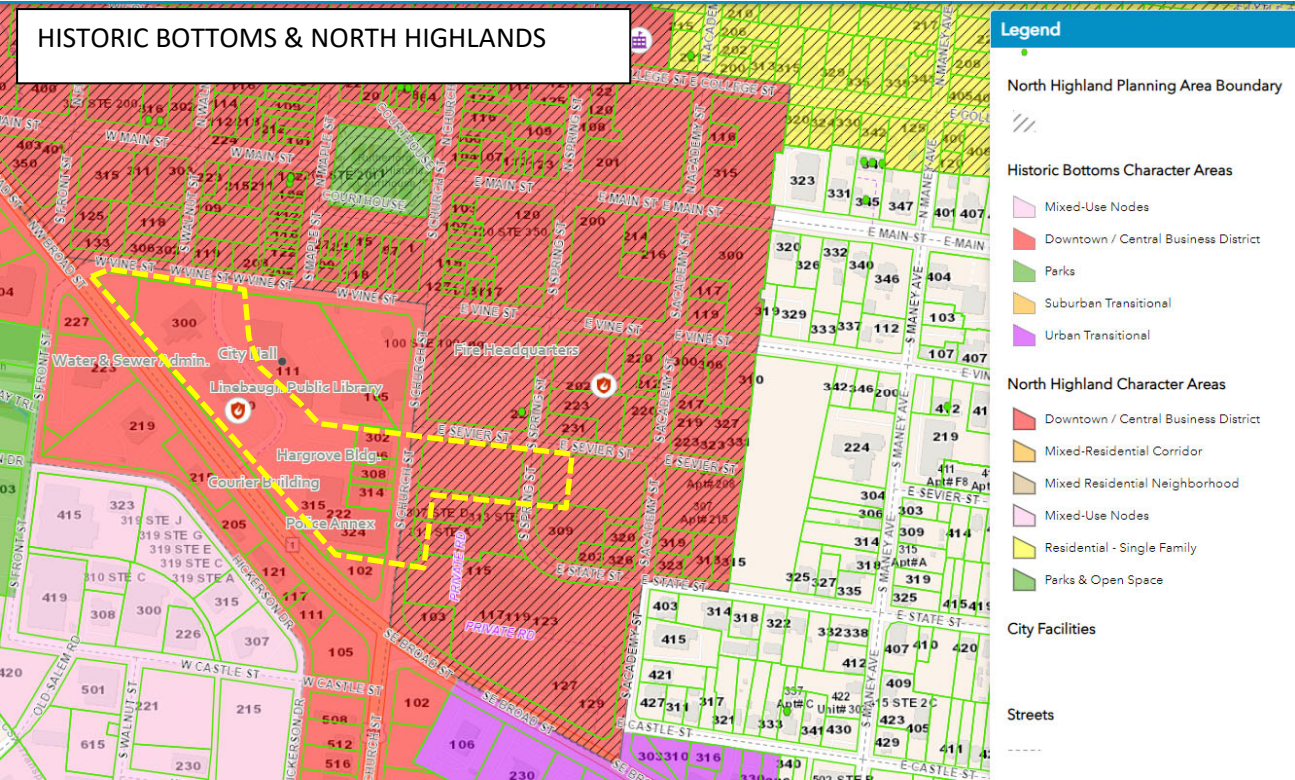
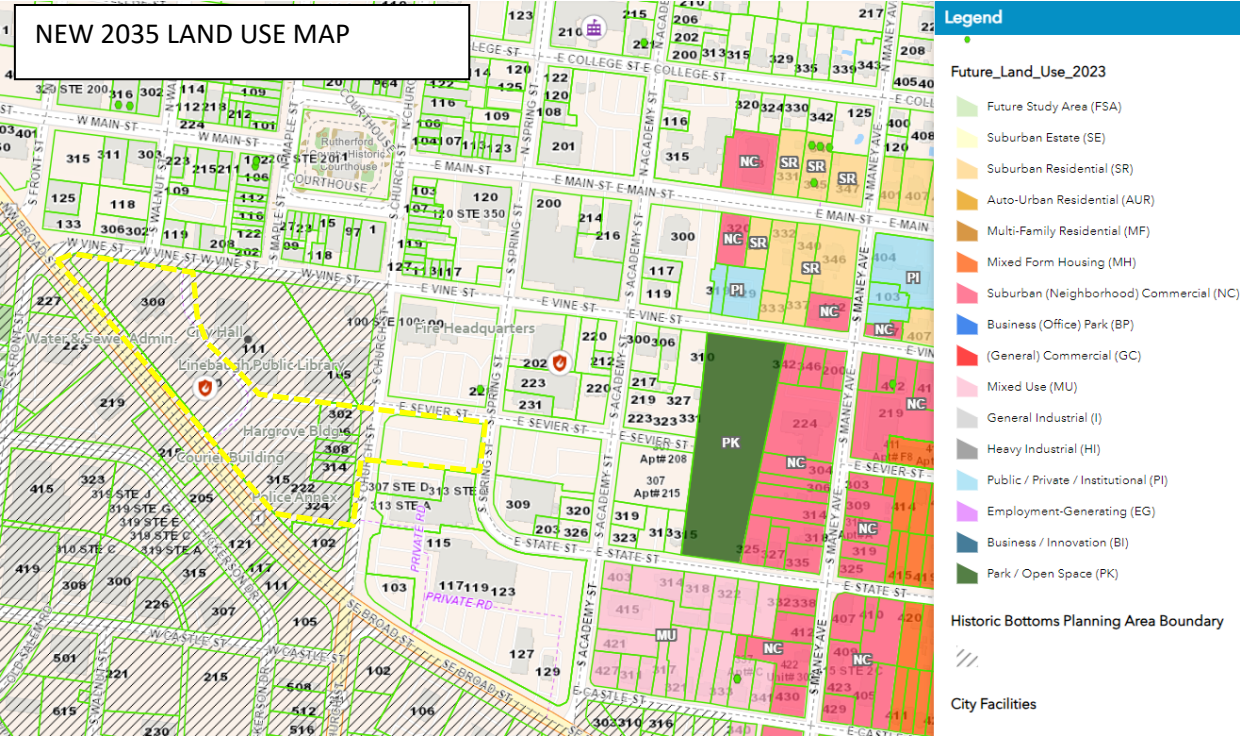
- 1.6 It is not clear where the required 2 loading spaces (with 10'x50' with 14' vertical clearance) are located within the project, so staff is unclear if this standard is anticipated to be included or an exception within the project (which comes out of Section 26(E)(4) and Chart 5).
- 2) Exceptions related to Landscape stated in Zoning Ordinance Section 27 and Section 24 Article VI-CCO:
 - 2.1 Exclude any base of building plantings
 - 2.2 Exclude any landscape yard requirements
 - 2.3 Exclude any perimeter landscape requirements
- 3) Allow setbacks to be 0' adjacent to all street ROWs and within the project interior as depicted on **page 18** of the program book (so long as they meet building and fire codes).
- 4) Allow lot coverage of 80% (instead of the 75% allowed in the CCO, for 5% higher coverage)
- 3 Allow density of 44 units per acre (instead of the 25 units per acre that would be in the comparative mixed-use zoning district).

Future Land Use Map

Area bounded by W Vine/ NW Broad/ S Church Streets: The newly adopted future land use map that is now part of the Murfreesboro 2035 Comprehensive Plan, designates this portion of the project area as "Historic Bottoms Overlay" within the "Downtown/Central Business District" character area (see excerpt map below). The goal of the Downtown/Central Business District is to expand the downtown "feeling" to capture more opportunities for a mixture of retail and restaurant establishments and residential housing opportunities that responds to the age and economic needs of Murfreesboro residents. This character area looks at expanding the downtown to become a stronger destination point for visitors and tourists. The following elements from the plan should be incorporated.

<i>Use</i>	Retail, Restaurant, Entertainment, office, residential multi-family and single-family attached, institutional, civic, and/or structured parking
<i>Character Setbacks</i>	-Mixed-use and commercial buildings are placed close to sidewalk -Residential buildings have shallow setbacks -Institutional buildings have setbacks appropriate to purpose -Structured parking placed close to sidewalk with active uses at street level
<i>Parking & Access</i>	-Locate behind or below buildings -Access primarily from secondary streets and/or alleys -Central parking garages utilized
<i>Streetscape</i>	-6'-12' sidewalks along public streets -Street trees -Formal on-street parking -Outdoor cafes/plazas/pocket parks -Street amenities -Pedestrian scaled street lighting
<i>Landscape</i>	-Allow for greater amount of impervious surface -Greater emphasis on hardscape details, less on foundation plantings -High level of detail in public spaces -Service areas, garbage collection, utility boxes and connections at the rear
<i>Height</i>	-2 story encouraged, -4 stories maximum without residential, -6 stories maximum with density bonus for including residential
<i>Building Design</i>	-Greater emphasis on building design and materials -Encourage materials consistent with existing downtown character -Require a high percentage of door and window area on front facades

Area bounded by S Church / E Sevier/ State Streets: The newly adopted future land use map that is now part of the Murfreesboro 2035 Comprehensive Plan, designates this portion of the project area as” *North Highlands Overlay*” within the “*Downtown/Central Business District*” character area (see excerpt map below). This character area is the same as what is in the Historic Bottoms summarized above.



City Core Overlay (CCO)

The purposes of the CCO district are: to “promote infill development that is compatible with existing development patterns; to encourage new development patterns in areas where existing patterns are inconsistent or unestablished; and to promote reinvestment in Downtown Murfreesboro and surrounding neighborhoods.”

The CCO section includes some special “carve-out” standards as it relates to parking reductions when adjacent to other available parking areas, front setbacks based on block averages (but no more than 20’), open space reduced to 15%, formal open space at 5%, and building coverage allowed up to 75%. According to the PUD program book page 41, those standards are broken down compared to other districts. The project proposes to meet the 15% open space requirement and the 5% formal open space requirement. However, the project is requesting an exception to allow the “lot coverage” to be increased to 80% versus the 75% maximum for mixed-use projects in the CCO. This may need to be verified, as visually it does not appear that the project is proposing more than the 75% “lot coverage” as defined by our Zoning Ordinance.

Staff has provided the developer team with an Initial Infrastructure memo with many of the items to be addressed as future site plan reviews are submitted, such as a life-safety plan to ensure existing City facilities are not compromised or made non-compliant with Building and Fire Codes. Additionally, **staff is still working through some fine tuning in the program book that may need some additional language to be modified or incorporated into the program book to provide clarity where it may be lacking.**

The largest item that staff is still working with the applicant on is enhancements to the exposed parking structures. There are three areas which may be partially or highly visible to right-of-way. Staff will be finalizing its reviewing of all elevations for consistency with the City’s Design Guidelines and downtown context and will provide additional information on these topics at the Planning Commission meeting.

Department Recommendation

Staff will continue to work with the applicant throughout the process to address outstanding opportunities for updates to the program book and is supportive of this rezoning request for the following reasons:

- 1) It is consistent with the Murfreesboro 2035 Comprehensive Plan policy that growth should “Encourage infill development and redevelopment, which maximizes existing infrastructure, maintains the existing character of neighborhoods, and preserves a compact community form.”
- 2) It is consistent with the Future Land Use Map which designates the project location as “*Downtown/Central Business District*” character area within both the “*Historic Bottoms Overlay*” and “*North Highlands Overlay*”. It appears that most of the character area elements shown in the summary table on page 4 above are incorporated into the project.
- 3) The open areas will meet the 15 % open space and 5% formal open space general zoning requirements.
- 4) The requested density of 44 units per acre will be providing adequate parking that meets or exceeds City standards while staying below 6 stories in height of the character area.

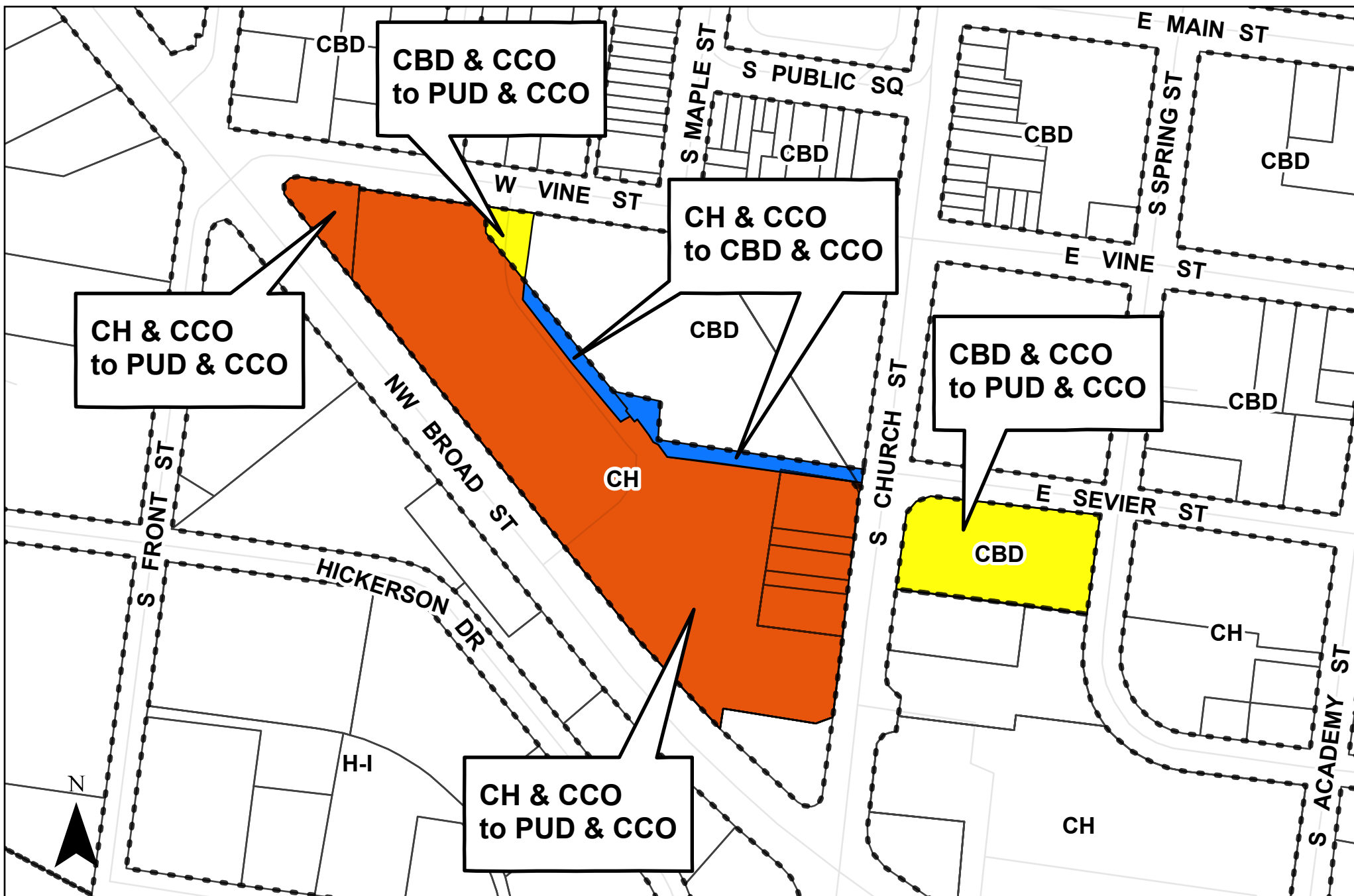
- 5) The layout provides a compact development in downtown that promotes walkability.

Action Needed

The applicant will be in attendance at the meeting to make a full presentation and share the modified building architecture. 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.

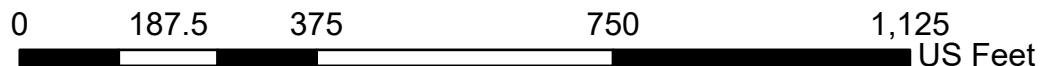
Attachments:

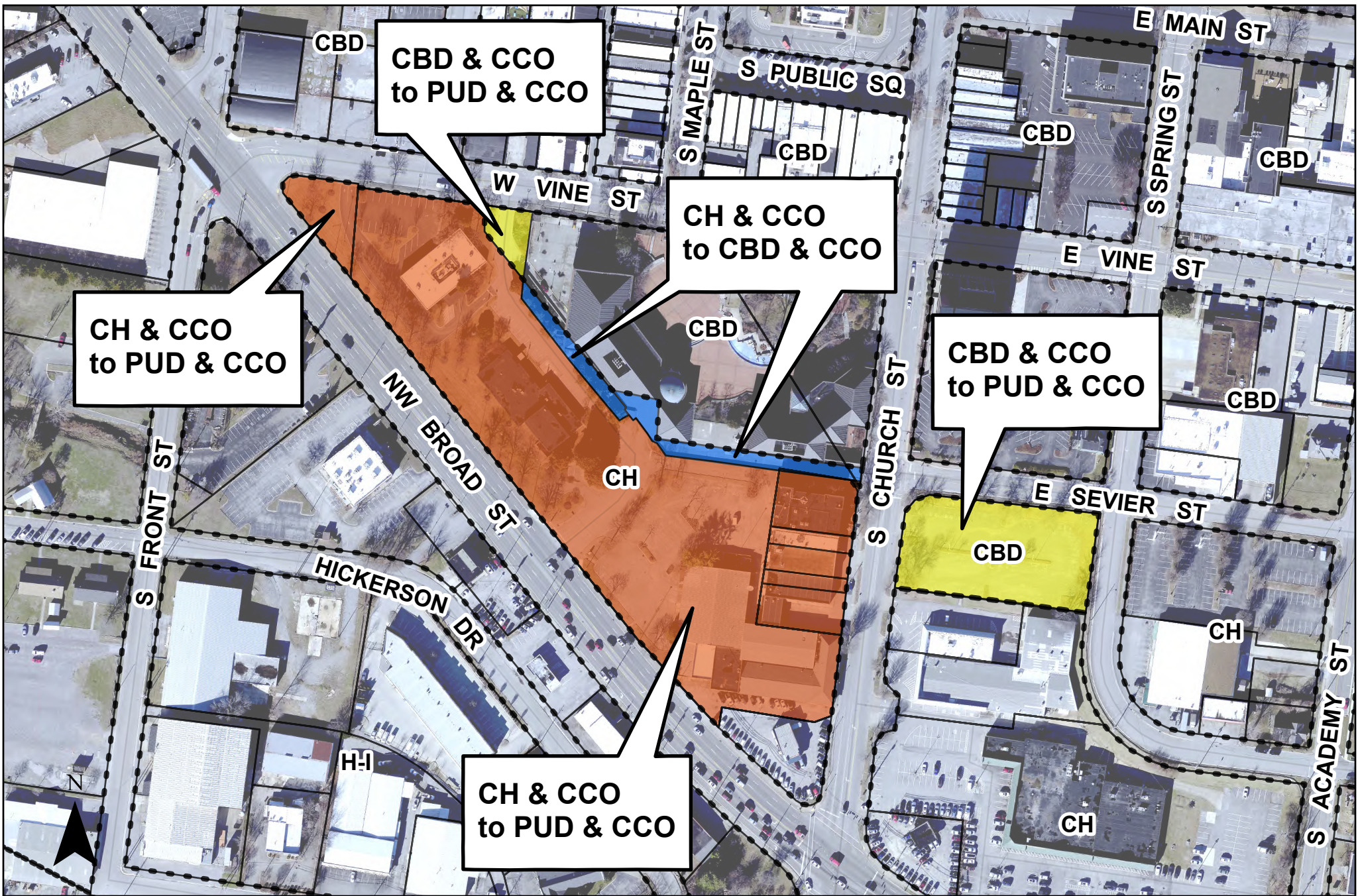
- NoOrtho Map-
- Ortho Map
- Program Book



Rezoning request for property along Northwest Broad Street
 CBD, CH, & CCO to PUD (Keystone on Broad PUD) & CCO;
 and CH & CCO to CBD & CCO

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





Rezoning request for property along Northwest Broad Street
 CBD, CH, & CCO to PUD (Keystone on Broad PUD) & CCO;
 and CH & CCO to CBD & CCO

0 187.5 375 750 1,125 US Feet

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



City of Murfreesboro
Planning and Engineering Department
111 W. Vine Street, P.O. Box 1139
Murfreesboro, TN 37133-1139
(615) 893-6441 Fax (615) 849-2606
www.murfreesborotn.gov

Creating a better quality of life

Zoning & Rezoning Applications – other than rezoning to planned unit development	\$700.00
Zoning & Rezoning Applications – Planned Unit Development, initial or amended	\$950.00

Procedure for applicant:

The applicant must submit the following information to initiate a rezoning:

1. A completed rezoning application (below).
2. A plot plan, property tax map, survey, and/or a legal description of the property proposed for rezoning. (Please attach to application.)
3. A non-refundable application fee (prices listed above).

For assistance or questions, please contact a planner at 615-893-6441.

To be completed by applicant:

APPLICANT: HRP Residential

Address: 5100 Maryland Way City/State/Zip: Brentwood, TN 37027

Phone: 615.308.9545 E-mail address: rob@hrpresidential.com

PROPERTY OWNER: HRP Residential

Street Address or
property description: 111 W Vine St, Murfreesboro TN 37130

and/or Tax map #: 91N Group: Group D (6.00) & Group C (8.00, 23.00, 24.00, 25.00, 26.00, and 28.00) Parcel (s): 091n - c - 0090 0-0 00 & 091n - d - 0060 0-000

Existing zoning classification: CHand CBD

Proposed zoning classification: PUD Acreage: 7.25

Contact name & phone number for publication and notifications to the public (if different from the applicant):

E-mail: _____

APPLICANT'S SIGNATURE (required): 

DATE: 10/12/2023

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

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

Amount paid: _____ Receipt #: _____

Revised 7/20/2018



Site Engineering Consultants
850 Middle Tennessee Blvd
Murfreesboro, TN 37129
(615)890-7901
www.sec-civil.com

December 27, 2023

Holly Smyth
City of Murfreesboro Planning Department
111 West Vine Street, 2nd Floor
Murfreesboro, TN 37133

RE: Keystone on Broad PUD
Responses to Staff Comments
SEC Project No. 22026

Dear Holly,

The development team has reviewed the Planning Department's 12-7-2023 comments on the Keystone on Broad PUD book. The book was revised as per those comments and discussions held with Staff and Administration since 12-7-2023. The revised book was submitted on 12-21-2023, and this letter outlines the development team's responses to those comments.

Cover Page

- Add resubmittal date.
 - Response: Resubmittal date added to cover.

Page 6

- Add North Highlands Overlay District to cover the Sevier property.
 - Response: Added North Highland Avenue District/CBD map.
- Add text related to street connection scenarios to Old Salem Road and NW Broad Street
 - Response: New paragraph added to outline connection scenarios.

Page 8

- Add existing traffic signal location to the concept plan.
 - Response: Graphics added.

- Add the street name for Vine Street to the concept plan.
 - Response: Street name added.
- Use different shape to signify locations for trash service locations.
 - Response: Graphic symbol revised.
- Update site data chart related to SF of various uses within the development, and update parking calculations relative to DA.
 - Response: Site data chart has been updated to show current SF numbers for each of the land uses within the development. Site data chart has been updated to show current parking calculations for the various land uses within the development.

Page 9

- Add allowable parking language to Building #2 per the DA.
 - Response: Added text outlining that the DA allows up to 100 condo units as an additional 5th story on Building #2.
- Clarify building heights for Building #2 and Hotel Building.
 - Response: Revised to state they can be 4-5 stories.
- Add additional notes to general parking information block relative to who is responsible for parking enforcement, and that the DA shall be utilized to adjust parking counts relative to adjustments to the project SF and unit counts.
 - Response: Both notes were added in bottom right corner of the page in the Parking Calculations and Notes Block.

Page 12

- Add note to site data chart that the DA allows up to 100 condo units.
 - Response: Note added stating that the DA allows up to 100 condo units as an additional 5th story on Building #2.

Page 15

- Correct language in Bullet Point #1 under Development Standards: Commercial.
 - Response: Text revised.

Page 18

- Revise text in Bullet Point #6 under Architectural Standards to correctly state that the total coverage of the architectural materials of the buildings can vary by 10% to allow for architectural fluidity across the development.
 - Response: Percentage revised to 10%.

- Revise text relative to Setbacks Internal to the Site to include language stating that there can be 0.0-ft between existing and proposed buildings as long as they maintain current building and fire codes.
 - Response: Added the additional text in that portion of the setbacks section.
- Add additional information relative to what architectural materials are considered Primary, Secondary, and Tertiary.
 - Response: Added text noting which architectural materials fall into each of those three categories.

Page 19

- Add and/or delete the allowable uses as marked on the page.
 - Response: Updated Allowable Uses Chart to remove Single-Family and correctly include Multi-Family and Condo. Removed: Photo Finishing. Modified: Fitness Studio/Personal Instruction. Kept: Reducing and Weight Control Services.

Page 21

- Provide revised Building #1 North Elevation to include enhance look as presented towards City Hall and Library.
 - Response: Revised elevation showing brick panels along edges of parking levels and added faux brick windows to improve visual quality towards public buildings.

Page 22

- No visible cap on building and enhance main entrance to Building #2 from NW Broad Street.
 - Response: Thickened up cap line on building and added additional architectural character to main entranceway.

Page 27

- Add key map to the page.
 - Response: Added key map.

Pages 30 & 31

- Removed from book update due to garage elevations solutions notes on previous pages.

Page 30 (New)

- Move Main Street Revitalization Plan Street section from later page to this page.
 - Response: Street Section moved to this page.

Page 35 (Previously Page 37)

- Revise concept plan symbol denoting Remaining Ingress/Egress in the key and on the concept plan to make it easier to stand out versus other symbols on the concept plan.
 - Response: Symbol revised.
- Add language to key stating that proposed Ingress/Egress to be evaluated and approved by TDOT prior to permitting.
 - Response: Text added.

Page 40

- Chart under #10 seems to conflict with chart on Page 41, remove and say see Page 41.
 - Response: Chart removed and added text.

Page 41

- Update chart as per staff comments and red lines.
 - Response: Chart revised as per staff comments.

Page 42 (Previously Page 44)

- Update chart as per staff comments and red lines.
 - Response: Chart revised.

If you need any clarification concerning the revised book and our responses to the staff comments outlined in your markups dated 12-7-2023, please feel free to contact me at rmolchan@sec-civil.com or at 890-7901.

Sincerely,



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

KEYSTONE ON BROAD

A REQUEST FOR REZONING FROM COMMERCIAL
HIGHWAY (CH) TO A PLANNED UNIT DISTRICT WITH
CITY CORE OVERLAY(PUD-CCO)

MURFREESBORO TENNESSEE



Initial Submittal
October 12th, 2023

Re-Submitted
November 6th, 2023 for the November 15th, 2023
Planning Commission Workshop

Re-Submitted
December 1, 2023 for the December 7, 2023
Planning Commission Public Hearing

Re-Submitted
January 3, 2024 for the January 11, 2024
City Council Public Hearing



SEC, Inc.

SEC Project #22026

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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: HRP Residential
Profession: Developer
Attn: Rob Turner
Phone: (615) 308-9545
Email: Rob@hrpresidential.com
Web: <https://www.hrpresidential.com>

231 Public Square, Suite 300
Franklin, Tennessee 37064



Company Name: Kline Swinney Associates Architects
Profession: Architects
Attn: Bart Kline
Phone: 615-255-1854
Email: bkline@ksarchitects.com
Web: <https://www.ksarchitects.com>

22 Middleton Street
Nashville, TN 37210

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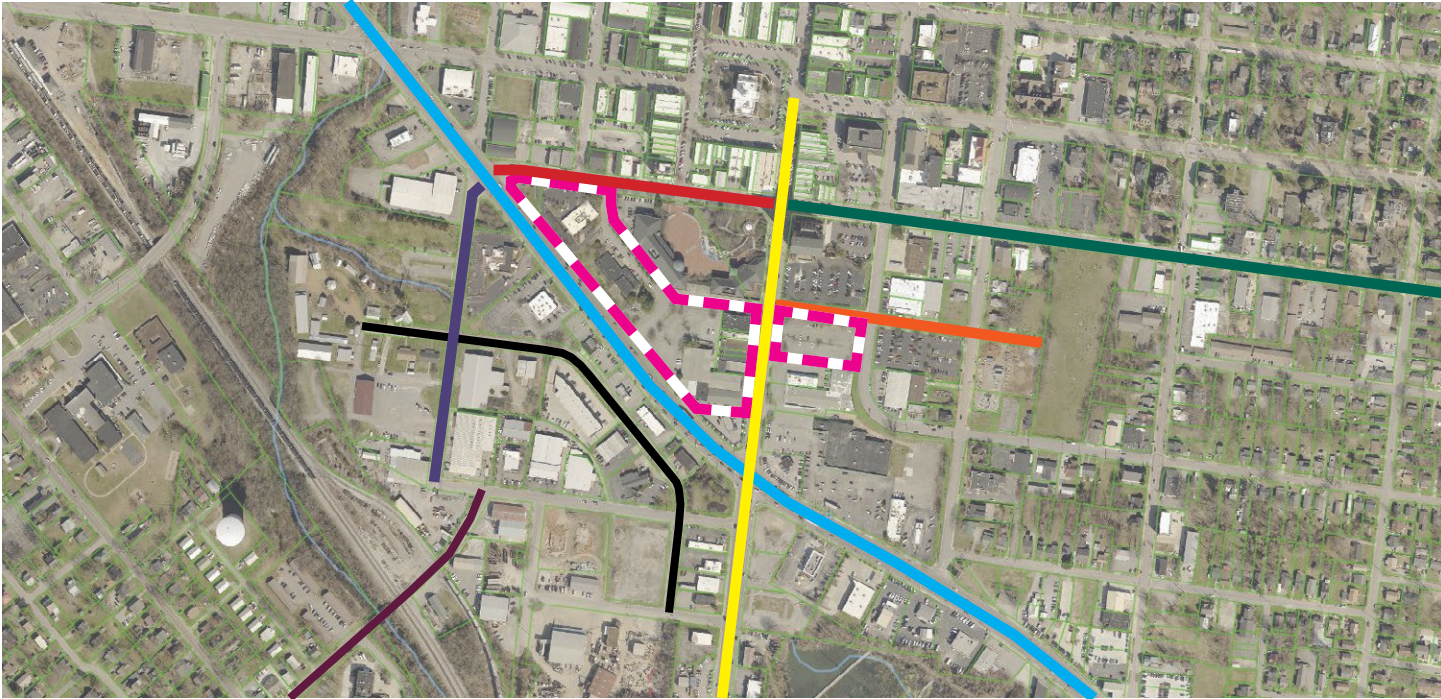
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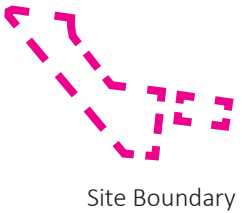
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AERIAL PHOTOGRAPH

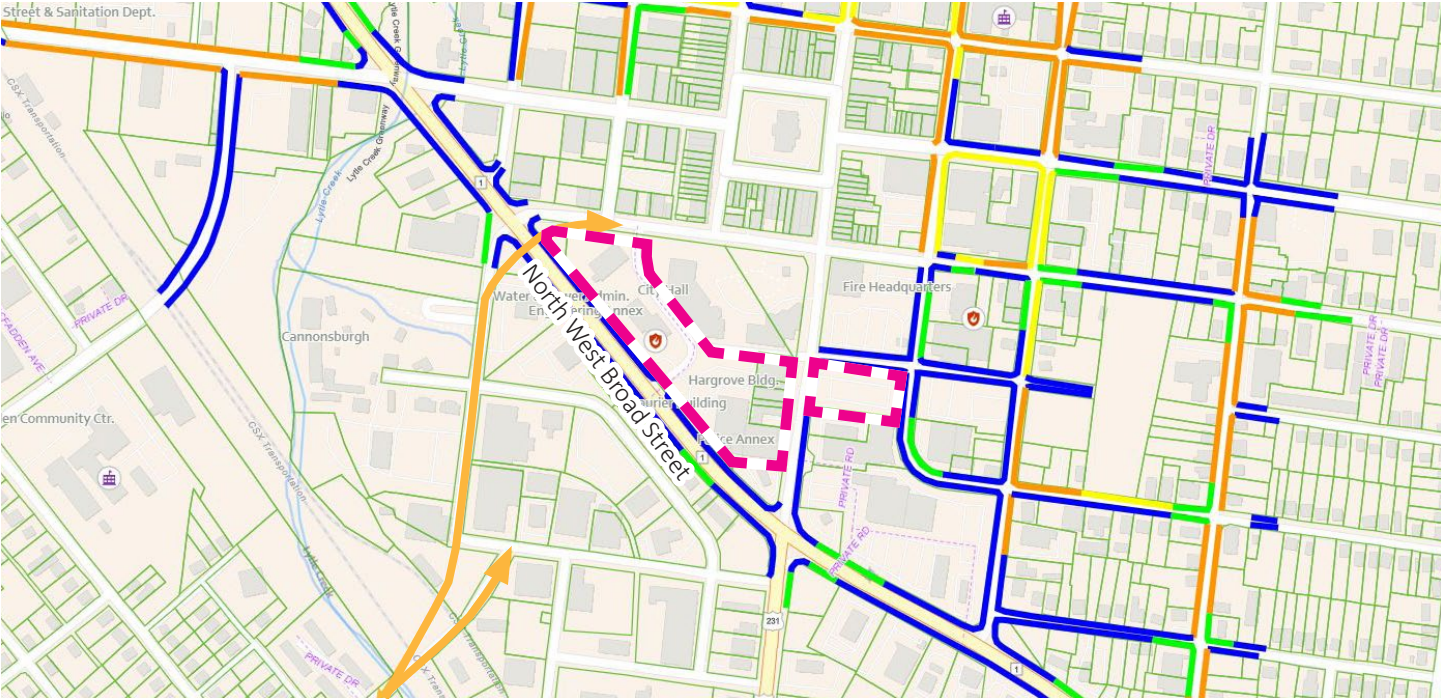
Not To Scale

- | | | |
|--|---|---|
|  Northwest Broad Street |  East Vine Street |  Hickerson Drive |
|  South Church Street |  East Sevier Street |  Old Salem Highway |
|  West Vine Street |  South Front Street | |



HRP Residential respectfully requests rezoning of the Broad Street Development properties at and near 111 West Vine Street from Commercial Highway (CH) to a Planned Unit District with City Core Overlay (PUD/CCO) to create Keystone on Broad. City property tied to City Hall that are not zoned Central Business District with City Core Overlay (CBD/CCO) are also part of this rezoning. This development includes several areas/parcels around the Broad Street area. The mixed-use portion of the development, along with Murfreesboro City Hall and Linebaugh Public Library, are bound by Northwest Broad Street, South Church Street, and West Vine Street. Additionally, the parcel on the southeast corner of the intersection of South Church Street and East Sevier Street is also included in this rezoning application. The proposed development includes the following Parcels; (Group D) 6.00, (Group C) 8.00, 23.00, 24.00, 25.00, 26.00, 26.01, and approximately 5.09 Acres of Parcel 9.00, all of which reside within Tax Map 91N. All these properties together are approximately 7.25 acres in size.


The request for rezoning to a Planned Unit District (PUD) within the City Core Overlay District (CCO) is to create Keystone on Broad. The development consists of three mixed-use buildings with a mixture of retail spaces, offices, residential dwelling units, and one separate building that will be a hotel. The retail component of the development shall be selectively located on portions of the first floor of each of the three mixed-use buildings and hotel building. The retail and office spaces shall comprise at least 30,000 sf and shall not exceed 40,000 sf. The residential portion of the development will be spread across the three mixed-use buildings. The residential units shall have access to an amenity package consisting of courtyard pool, fitness center, outdoor plazas, and other activity areas for the residents. The residential portion shall be managed by the Keystone on Broad Residential HOA. A hotel is proposed at the corner of West Vine Street and Northwest Broad Street, and the portion of the first floor at the corner of the intersection will include a portion of the overall retail component of the development. The development is proposing three new parking garages to accommodate the new mixed-use program, and will provide additional public parking for the surrounding downtown area. The two existing levels of parking garage under City Hall shall remain open and accessible to general public. The development proposes improvements to the pedestrian environment along the frontages of West Vine Street, Northwest Broad Street and South Church Street, along with new internal pedestrian circulation throughout the development.







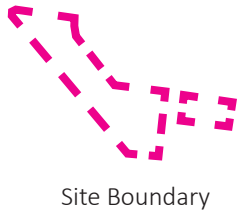
2040 MAJOR THOROUGHFARE PLAN

MAIN STREET REVITALIZATION PLAN

Not To Scale

-  Front Street and Old Salem Highway
3-Lane Roadway Improvement

- | | |
|---|----------------|
|  | Section-Type 1 |
|  | Section-Type 2 |
|  | Section-Type 3 |
|  | Section-Type 4 |

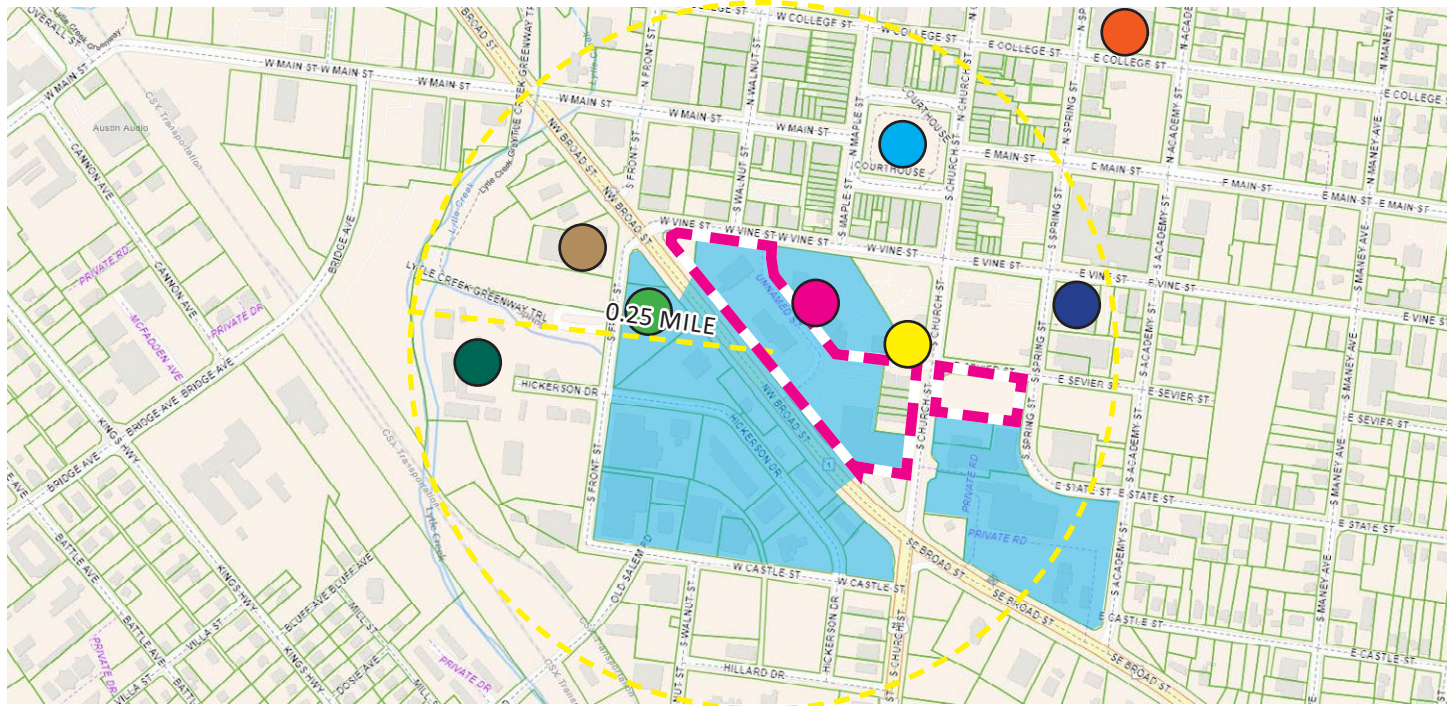


The property has/will have access to the existing public rights-of-way of Northwest Broad Street through two entrances plus one service drive, West Vine Street through one entrance, and South Church Street through one entrance. South Front Street is on the City of Murfreesboro's Major Thoroughfare Plan and is slated to be improved from a two-lane roadway to a three-lane roadway and is anticipated to be tied into New Salem Highway at some point in the future.

The Broad Street Redevelopment will be dedicating R.O.W. for the realignment of the South Front Street/West Vine Street and Northwest Broad Street intersection. This development is also located in Quadrant 1 of the Main Street Revitalization Plan, which calls for a Type-3 section along this property.

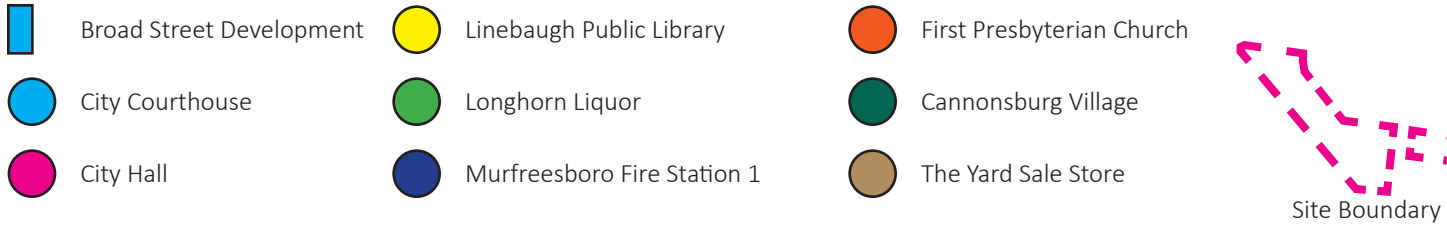
GREENWAYS, BLUEWAYS, AND BIKEWAYS MASTER PLAN (GBBP)



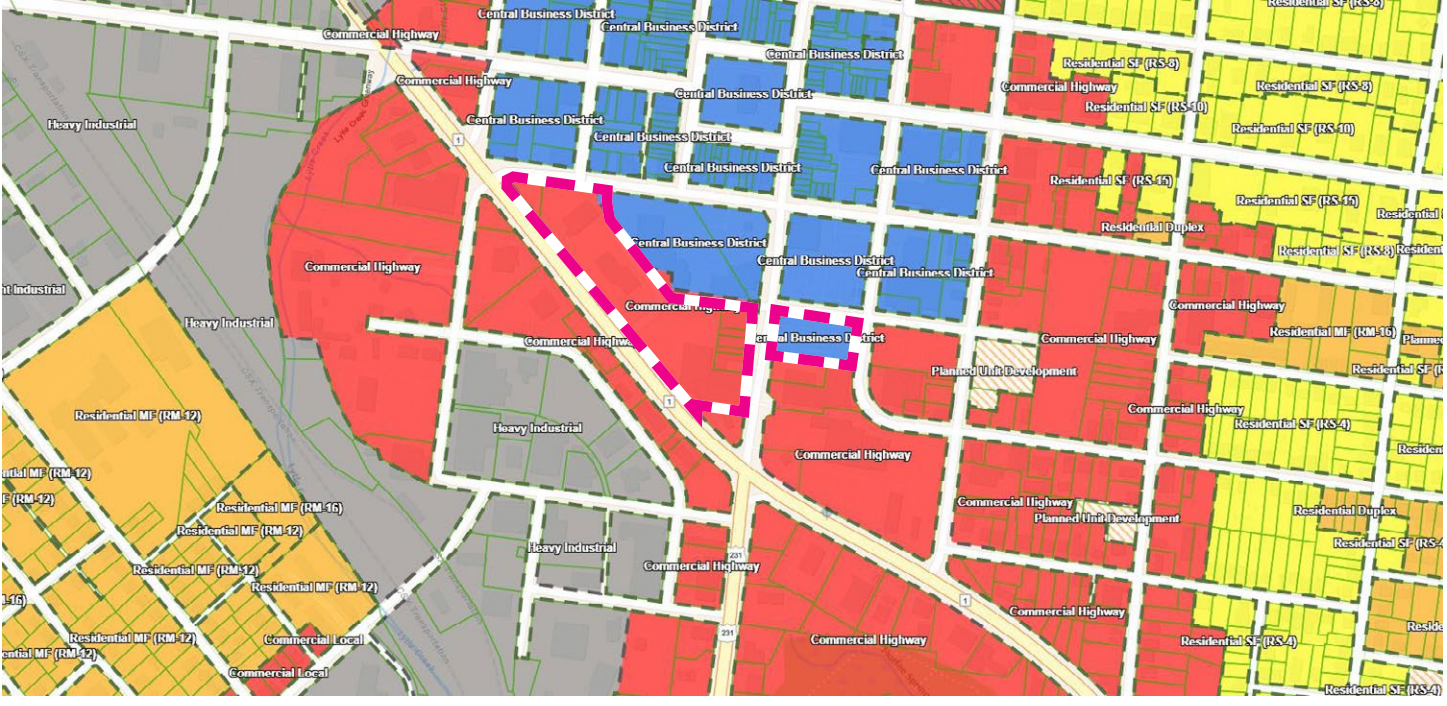


SUBDIVISION MAP

Not To Scale

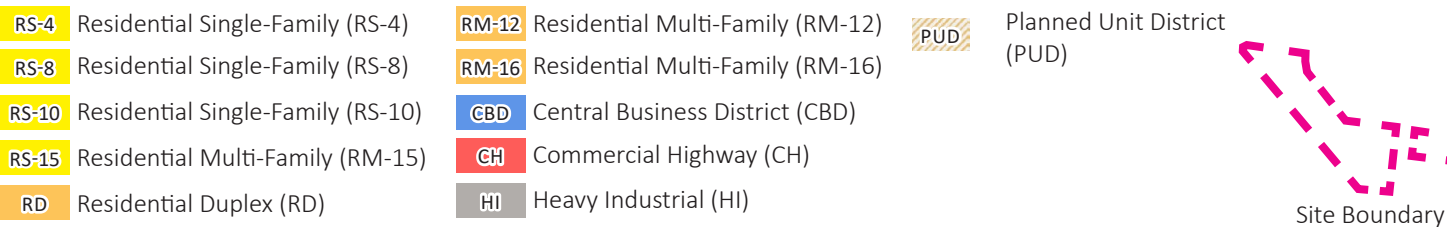


Keystone on Broad is surrounded by a mixture of commercial, industrial, and civic uses. Within a quarter mile radius of the site is a large majority of Murfreesboro’s main civic buildings, including City Hall, Linebaugh Public Library, and the County Courthouse. This development is part of the Broad Street Development subdivision, which houses a variety of civic and commercial uses. Most of the buildings within the Broad Street Development subdivision are composed primarily of either red or white brick with black or similar dark colored accents and trims. Historic Cannonsburg Village and museum are located just southwest of Longhorn Liquors. This museum is a reproduction pioneer village that offers educational tours and public programming to the community.



ZONING MAP

Not To Scale

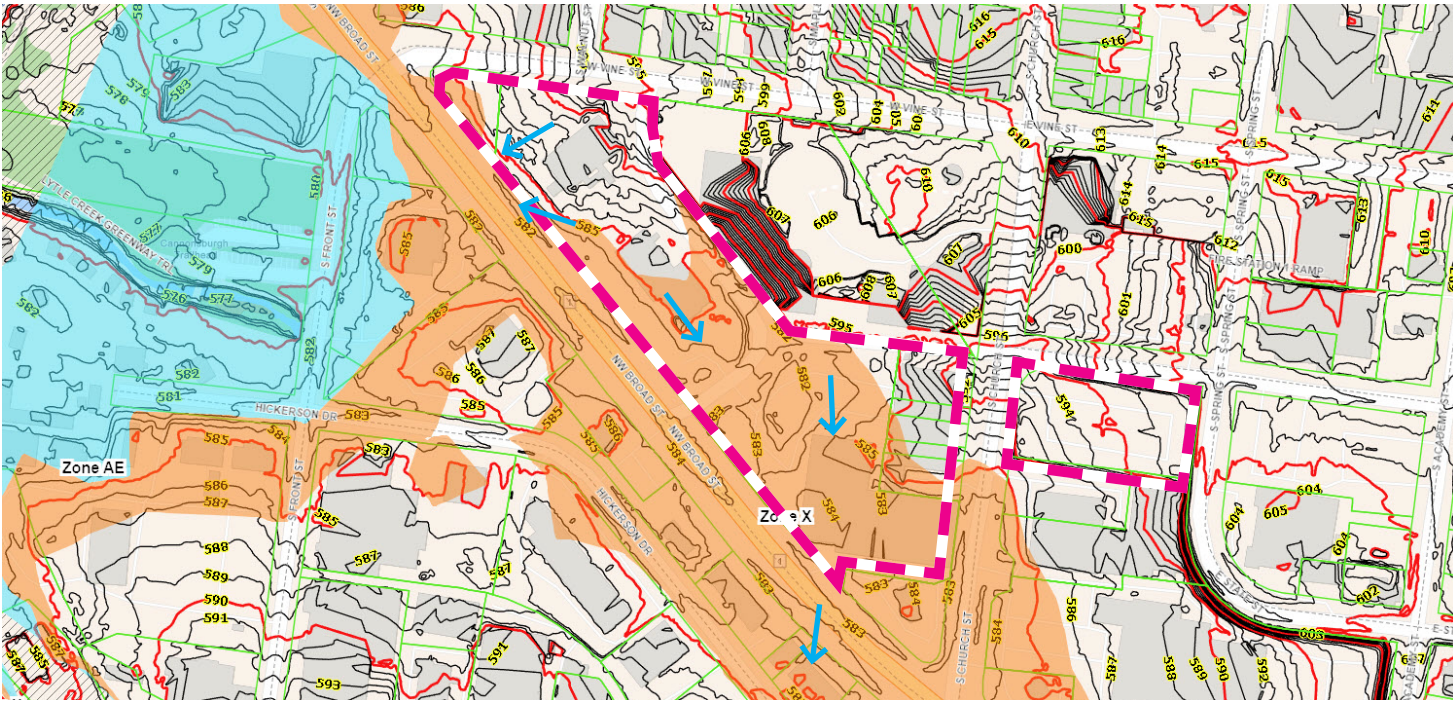
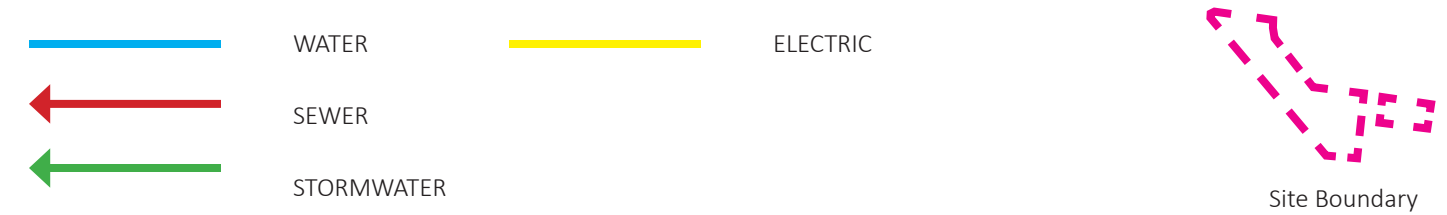


The surrounding area consists of a mixture of zoning types and uses, however most uses directly adjacent to the development are used for commercial, office, and municipal. The lands to the east, west and south are zoned Commercial Highway (CH). The land to the north is zoned Central Business District (CBD). This property lies within the City Core Overlay District and the Historic Bottoms Planning Study Area.



UTILITY MAP

Not To Scale



HYDROLOGY AND TOPOGRAPHY

Not To Scale



The topographic map above shows the site's topographic high point generally at the middle of the property. From this high point, the property drains towards the northwest and the southeast. All stormwater on site drains to existing stormwater systems along the roadways surrounding the site.

The site is located within Zone X, not within 100 year flood zone, per FEMA Flood Panel 47149C0260J eff 5/9/2023.

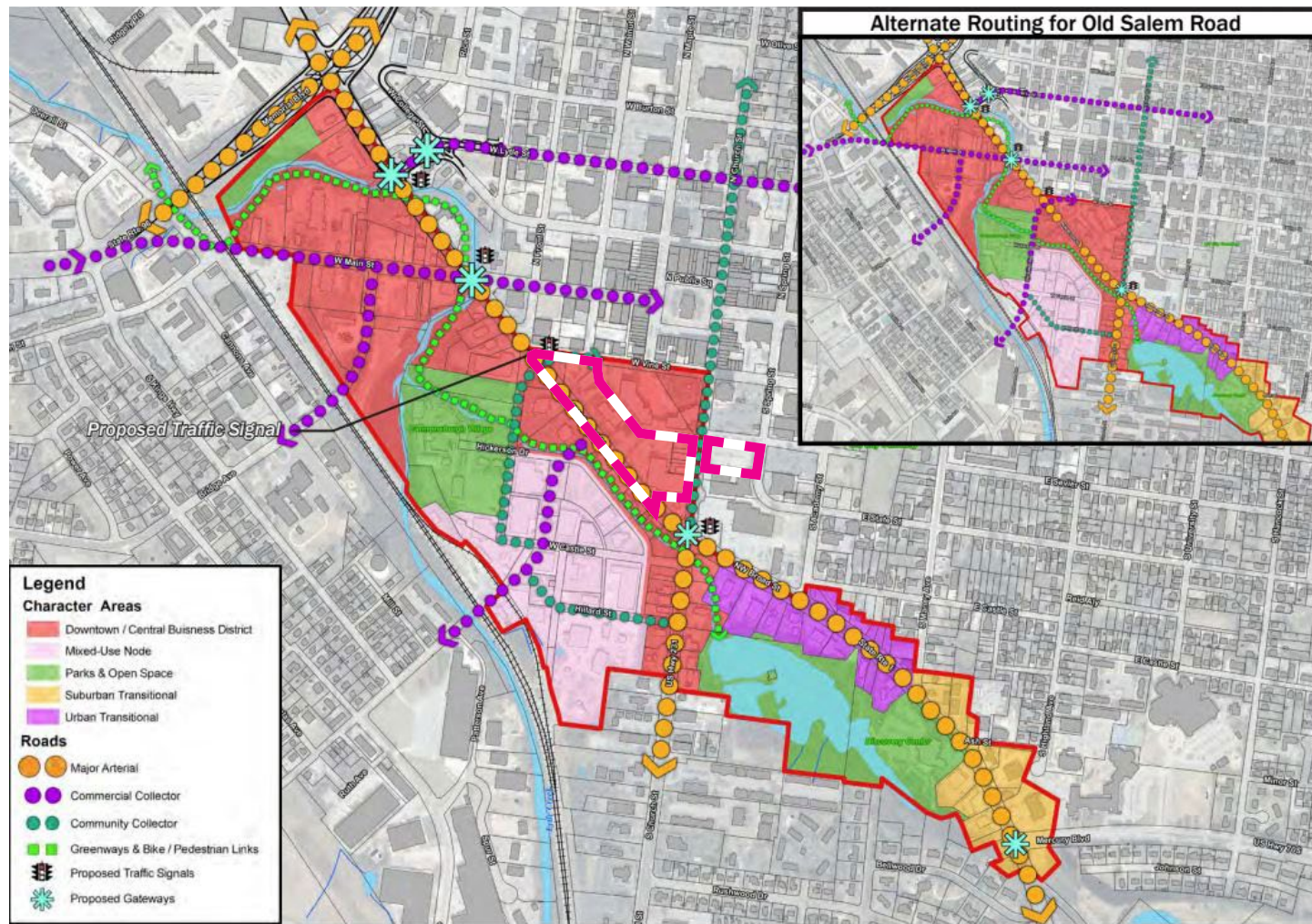


Water service will be provided by the Murfreesboro Water Resources Department. There is an existing 12 inch ductile iron water line along the southwest property line for water service into the site. The developer will be responsible for extending and/or relocating the waterline into the site for domestic and fire water service.

Sanitary sewer service will be provided by the Murfreesboro Water Resources Department. Sanitary sewer service can connect to an existing 8" CIP gravity sewer line along the southwest property line. Construction will extend the sewer service into the site and the developer will be responsible for extending and/or relocating the sewer into this property.



Electric service will be provided by Middle Tennessee Electric. Service will be extended from Northwest Broad Street. The developer will be responsible for extending the electric lines into the site, and all on-site electric will be underground.

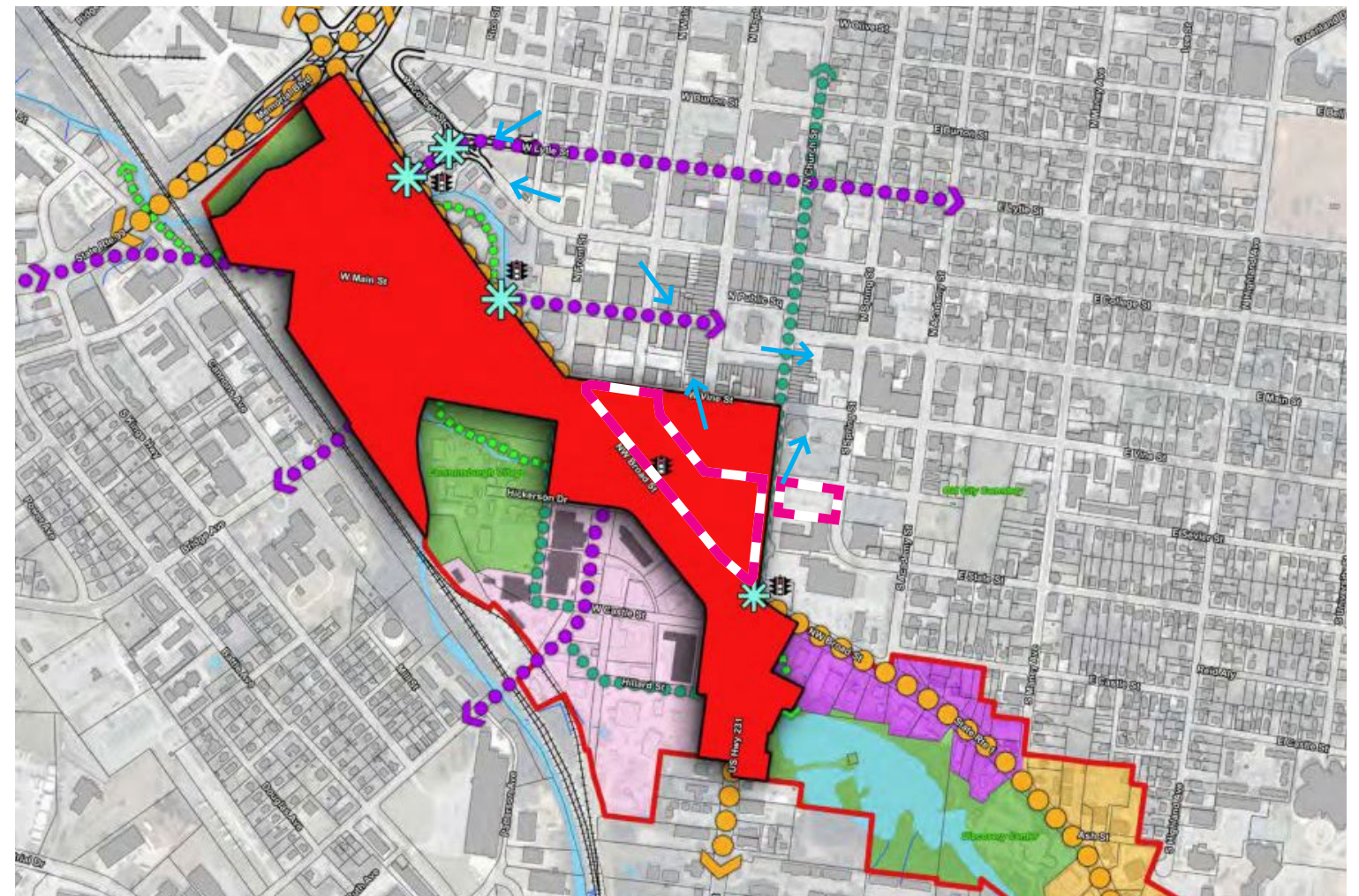


HISTORIC BOTTOMS OVERLAY

Not To Scale

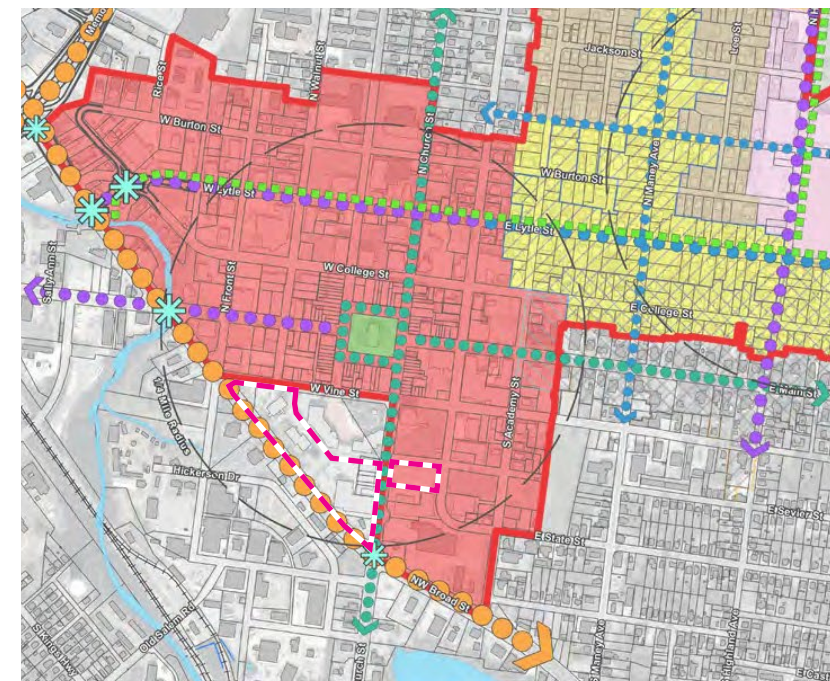
This development falls within the Historic Bottoms Overlay District. This overlay district was created with the intent of providing possible land use patterns while preserving the character and feeling of the old Murfreesboro and simultaneously providing for Murfreesboro's growing population and their needs. The Historic Bottoms Overlay District is separated into five distinct character areas with various characteristics and uses. The plan calls for commercial and other privately owned businesses to remain closer to the City Square and Northwest Broad street. From this centralized area near the Square, the uses slowly transition to less dense and more natural and urban uses.

This plan anticipated two different street connection scenarios that tie Old Salem Road to Northwest Broad Street. The City's preferred option is the inset drawing, labeled "Alternate Routing for Old Salem Road," that would tie into the re-aligned Front Street that ties into Vine Street.



HISTORIC BOTTOMS DOWNTOWN/CENTRAL BUSINESS DISTRICT

Not To Scale



NORTH HIGHLAND AVENUE DOWNTOWN/CENTRAL BUSINESS DISTRICT

This development falls within the Downtown/Central Business District of the Historic Bottoms and North Highland Avenue Plan Area. This district recommends commercial use, retail, hotels, and privately owned businesses with a focus on beautifying the areas around these businesses for pedestrian use. Characteristics of this District include multi-story buildings with shallow setbacks and enhanced pedestrian streetscape. The goal of the Downtown/Central Business district is to expand the character, feeling, and architectural style of The Square and to expand the overall downtown area to meet the growing needs of the Murfreesboro population. The goals of this development closely align with those found within the Downtown/Central Business District.

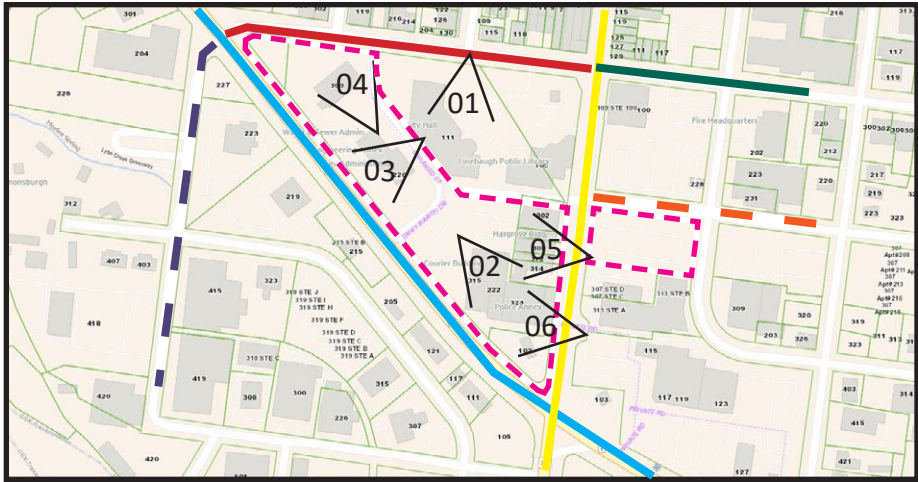
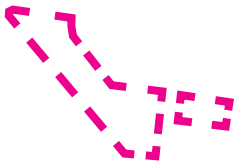


PHOTO DIRECTION MAP

Not To Scale

- North West Broad Street
- South Church Street
- West Vine Street
- East Vine Street
- East Sevier Street
- South Front Street



Site

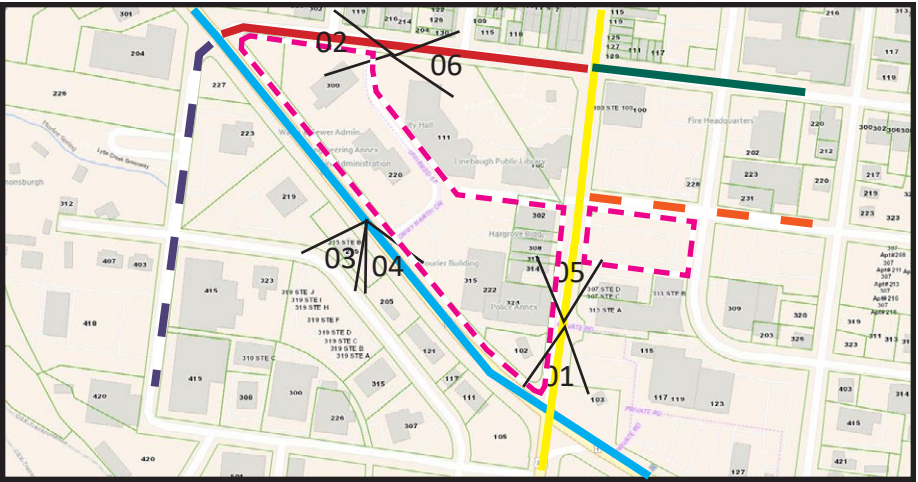
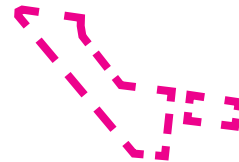


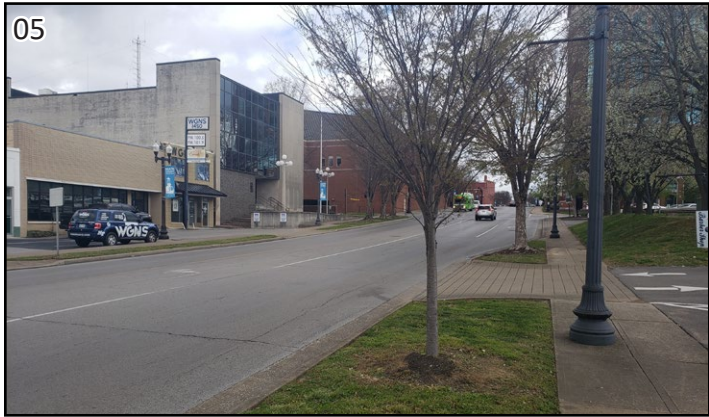
PHOTO DIRECTION MAP

Not To Scale

- North West Broad Street
- South Church Street
- West Vine Street
- East Vine Street
- East Sevier Street
- South Front Street



Site



SITE DATA:

PROPOSED ZONING	PUD
TOTAL SITE AREA	7.25 AC
TOTAL NUMBER OF UNITS:	317 UNITS
ONE BEDROOM UNITS	162 UNITS
TWO BEDROOM UNITS	146 UNITS
STUDIO UNITS	9 UNITS
*DA ALLOWS FOR A MAXIMUM OF 239 APARTMENT UNITS AND 100 CONDOMINIUM UNITS FOR A TOTAL OF 339 UNITS.	
HOTEL UNITS	146 UNITS 150 MAX PER DA
DENSITY: 317 UNITS/7.25	42.72 UNITS/AC
RETAIL SPACE = RADIO STATION =	30,000-40,000 S.F. 2,000 S.F.
TOTAL PARKING REQUIRED:	738 STALLS
PARKING PROVIDED:	774 STALLS

*SEE PAGE 9 FOR PARKING SUMMARY



BUILDING #1 COUNTS

ONE BEDROOM UNITS = 92
TWO BEDROOM UNITS = 69
STUDIO UNITS = 7

TOTAL BUILDING UNITS = 168

RETAIL SPACE = 22,215 S.F.

BUILDING #1 REQUIRED PARKING CALCULATIONS

92 1-BEDROOM UNITS (1.0 / UNIT)= 92 STALLS
69 2-BEDROOM UNITS (2.0 / UNIT) = 138 STALLS
7 STUDIO UNITS (1.0 / UNIT) = 7 STALLS

PARKING REQUIRED FOR RESIDENTIAL UNITS = 237 STALLS

PARKING REQUIRED FOR RETAIL:
22,215 S.F. (1 STALL PER 250 S.F.) = 90 STALLS

BUILDING #1 TOTAL PARKING REQUIRED = 327 STALLS

BUILDING #1 PARKING PROVIDED

PARKING GARAGE = 328 STALLS
STREET PARKING = 17 STALLS

BUILDING #1 TOTAL PARKING PROVIDED = 345 STALLS

BUILDING #2 COUNTS

ONE BEDROOM UNITS = 37
TWO BEDROOM UNITS = 54

TOTAL BUILDING UNITS = 91

RETAIL SPACE = 6,540 S.F.

BUILDING #2 REQUIRED PARKING CALCULATIONS

37 1-BEDROOM UNITS (1.0 / UNIT) = 37 STALLS
54 2-BEDROOM UNITS (2.0 / UNIT) = 108 STALLS

PARKING REQUIRED FOR RESIDENTIAL UNITS = 145 STALLS

PARKING REQUIRED FOR RETAIL:
6,540 S.F. (1 STALL PER 250 S.F.) = 26 STALLS

*** PARKING REQUIRED FOR HOTEL (SHARED) = 146 STALLS
(146 KEY HOTEL – 1 STALL PER KEY)

BUILDING #2 TOTAL PARKING REQUIRED = 317 STALLS

BUILDING #2 PARKING PROVIDED

PARKING GARAGE = 325 STALLS
STREET PARKING = 9 STALLS

BUILDING #2 TOTAL PARKING PROVIDED = 334 STALLS
(DA ALLOWS UP TO AN ADDITIONAL 100 CONDO UNITS AS AN ADDITIONAL (5TH) STORY)

BUILDING #3 COUNTS

ONE BEDROOM UNITS = 33
TWO BEDROOM UNITS = 23
STUDIO UNITS = 2

TOTAL RESIDENTIAL BUILDING UNITS = 58

RETAIL SPACE = 2,020 S.F.
RADIO STATION = 2,000 S.F.

BUILDING #3 REQUIRED PARKING CALCULATIONS

33 1-BEDROOM UNITS (1.0 / UNIT) = 33 STALLS
23 2-BEDROOM UNITS (2.0 / UNIT) = 46 STALLS
2 STUDIO UNITS (1.0 / UNIT) = 2 STALLS

PARKING REQUIRED FOR RESIDENTIAL UNITS = 81 STALLS

PARKING REQUIRED FOR RETAIL:
2,020 S.F. (1 STALL PER 250 S.F.) = 8 STALLS
PARKING REQ. FOR RADIO STATION:
2,000 S.F. (1 STALL PER 400 S.F.) = 5 STALLS
BUILDING #3 TOTAL PARKING REQUIRED = 94 STALLS

BUILDING #3 PARKING PROVIDED

PARKING GARAGE = 58 STALLS
OPEN PARKING LOT = 32 STALLS
STREET PARKING = 5 STALLS

BUILDING #3 TOTAL PARKING PROVIDED = 95 STALLS

BUILDING HEIGHTS

BUILDING #1 (BROAD STREET / CHURCH STREET)
4 STORIES: UP TO 70’-0” (OCCURS AT GREATEST HEIGHT)

BUILDING #2 (BROAD STREET)
4-5 STORIES: UP TO 70’-0” (OCCURS AT GREATEST HEIGHT)

BUILDING #3 (SEVIER STREET)
4 STORIES: UP TO 70’-0” (OCCURS AT GREATEST HEIGHT)

HOTEL (SEVIER STREET)
4-5 STORIES: UP TO 81’-0” (OCCURS AT GREATEST HEIGHT)

* BUILDING HEIGHTS ARE TAKEN FROM THE FINISHED GRADE OF THE LOWEST LEVEL TO THE HIGHEST POINT OF EACH BUILDING.

HOTEL COUNTS

NUMBER OF FLOORS: 5

ROOMS: 146 KEYS

HOTEL REQUIRED PARKING CALCULATIONS

HOTEL TOTAL PARKING REQUIRED = 146 STALLS

TOTAL PARKING PROVIDED: ***
(SEE GARAGE PARKING FOR BUILDING #2, ADJACENT TO HOTEL, TO INCLUDE HOTEL PARKING)

TOTAL PARKING REQUIRED FOR PROPOSED DEVELOPMENT
RESIDENTIAL UNITS = 463 STALLS
HOTEL = 146 STALLS
OFFICE / RETAIL = 129 STALLS
TOTAL = 738 STALLS

* THE 25% SHARED PARKING REDUCTION APPLIES TO THE “NEIGHBORHOOD SHOPPING CENTER” USE.

TOTAL REQUIRED PARKING FOR HOTEL(146), OFFICE (5), RETAIL (129) = 280 STALLS

25% PARKING REDUCTION = 70 STALLS
TOTAL REQUIRED PARKING AFTER REDUCTION (738 – 70 STALLS) = 668 STALLS

TOTAL PROVIDED PARKING = 774 STALLS

35% OF 774 STALLS PROVIDED PARKING CAN BE COMPACT SPACES (IF NEEDED) = 270 STALLS

* THE ABOVE CALCULATIONS ARE BASED ON THE CURRENT DESIGN. THE DEVELOPMENT AGREEMENT ALLOWS A TOTAL OF 239 APARTMENTS AND 100 CONDOMINIUMS, MAX.

* THIRTY FIVE PERCENT (35%) OF THE PARKING SPACES WITHIN THE PARKING STRUCTURE ARE COMPACT SPACES (7’-6” WIDE). THE COMPACT SPACES WILL BE SPREAD OUT AMONGST ALL FLOORS OF THE PARKING GARAGE. THE REMAINING STANDARD SPACES ARE 8’-6” WIDE x 18’-0” DEEP. AS A COMPARISON THE STANDARD PARKING STALL IN MURFREESBORO IS 9’-0” WIDE

X 19’-0” DEEP. HOWEVER AREAS WITH 18’-0” DEEP PARKING STALLS SHALL HAVE 24’ DRIVE AISLES INSTEAD OF 22’. BOTH THE COMPACT AND STANDARD SPACES SIZES ARE TYPICAL FOR PARKING GARAGES IN SURROUNDING MUNICIPALITIES.

*ALL HANDICAP SPACES ARE INCLUDED WITHIN THE REQUIRED PARKING AND ARE ALLOWED TO BE USED FOR REQUIRED PARKING.

* PARKING MANAGMENT SERVICES SHALL DELINEATE AND ENFORCE PRIVATE VS PUBLIC PARKING AREAS.

*SHOULD UNIT COUNTS OR SQUARE FOOTAGE BE ADJUSTED, AS ALLOWED BY THE DA, PARKING SHALL BE ADJUSTED TO MATCH VIA 1 SPACE PER BEDROOM AND 1 SPACE PER 250 SQFT OF RETAIL SPACE.

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BUILDING #1 COUNTS

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STUDIO UNITS = 7

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RETAIL SPACE = 22,215 S.F.

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22,215 S.F. (1 STALL PER 250 S.F.) = 90 STALLS

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BUILDING #1 PARKING PROVIDED

PARKING GARAGE = 328 STALLS
STREET PARKING = 17 STALLS

BUILDING #1 TOTAL PARKING PROVIDED = 345 STALLS

BUILDING #2 COUNTS

ONE BEDROOM UNITS = 37

TWO BEDROOM UNITS = 54

TOTAL BUILDING UNITS = 91

(DA ALLOWS UP TO 100 CONDO UNITS AS AN ADDITIONAL
5TH STORY)

RETAIL SPACE = 6,540 S.F.

BUILDING #2 REQUIRED PARKING CALCULATIONS

37 1-BEDROOM UNITS (1.0 / UNIT) = 37 STALLS

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PARKING REQ. FOR RADIO STATION:
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BUILDING #3 TOTAL PARKING REQUIRED = 94 STALLS

BUILDING #3 PARKING PROVIDED

PARKING GARAGE = 58 STALLS
OPEN PARKING LOT = 32 STALLS
STREET PARKING = 5 STALLS

BUILDING #3 TOTAL PARKING PROVIDED = 95 STALLS

HOTEL COUNTS

NUMBER OF FLOORS: 5

ROOMS: 146 KEYS

HOTEL REQUIRED PARKING CALCULATIONS

HOTEL TOTAL PARKING REQUIRED = 146 STALLS

TOTAL PARKING PROVIDED: ***

(SEE GARAGE PARKING FOR BUILDING #2,
ADJACENT TO HOTEL, TO INCLUDE HOTEL PARKING)



Development Standards: Residential

- Total of 317 residential units (Final numbers may fluctuate up to the maximum/ minimum allowed per development agreement).
- Per the development agreement a total of 239 apartment units and 100 condominiums would be allowed within this development.
- 80 minimum, 100 maximum residential units for sale.
- 239 maximum residential units for lease.
- Building one shall contain approximately 168 units.
- Building two shall contain approximately 91 units.
- Building three shall contain approximately 58 units.
- Residential units shall be a mix of studios, one bedroom, and two-bedroom units.
- All mechanical equipment (i.e. HVAC and transformers) to be screened
- All on-site utilities will be underground
- Solid waste will be handled via a trash compactor and standard dumpsters.
- 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
- All homeowners will be required to be a member of the Owners Association (O.A.)
- As a member of the O.A., The residents will be subject to restrictive covenants, and be required to pay membership dues as determined by a 3rd party management company
- O.A. will be managed by independent 3rd party management company
- The common areas will be owned and maintained by an O.A.
- Mail service will be provided via centralized mail rooms with parcel pick-up accommodations.
- Lighting shall be provided to increase safety and security throughout the site and should accentuate key exterior architectural elements.

Development Standards: Commercial

- Approximate locations of Proposed Commercial retail shall be located on the first floor of all buildings. Final locations for retail may vary but shall adhere to the 30,000 sqft minimum and 40,000 sqft maximum.
- All mechanical equipment (i.e. HVAC and transformers) to be screened
- All on-site utilities will be underground
- Solid waste will be handled via a trash compactor or standard dumpsters.
- 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
- All commercial tenants will be required to be a member of the O.A.
- As a member of the O.A., the commercial tenants will be subject to restrictive covenants, and be required to pay membership dues as determined by a 3rd party management company
- O.A. will be managed by independent 3rd party management company
- The common areas will be owned and maintained by an O.A.
- Centralized mail rooms with parcel pick-up accommodations



Example of outdoor seating area and architectural emphasized entrances.



Example pedestrian oriented street-scape



Example of possible street-scape



Example of pedestrian scale lighting



Example of possible outdoor dining and plaza area



Example of activity areas

- Phase 1 (WGNS Relocation)
- Phase 2 (Parking Garages)
- Phase 3 (Building 3)
- Phase 4 (Building 1)
- Phase 5 (Building 2)
- Phase 6 (Hotel)

- The project is anticipated to be built in 6 phases.
- During this process City Hall shall maintain the functionality of its utilities unless a temporary shut-off is needed to proceed with construction.
- Demo of existing buildings and utilities will occur during Phase 1 and 2.
- All phases will overlap in construction timing and work will be continuous on-site until all work is complete
- All amenities and open spaces shall be constructed within the phase they are shown and must be operational prior to the recording of the final section's plat.
- Centralized mail rooms for the development must be constructed and operational prior to the first home receiving their certificate of occupancy, per building.

Phase 1 Package:

- Northwest Broad Street and South Church Street Improvements to be completed by Certificate of Occupancy for building 1.
- Relocation of the WGNS building and construction of the new WGNS facility.

Phase 2 Package:

- Parking garages.

Phase 3 Package:

- Building 3

Phase 4 Package:

- Building 1

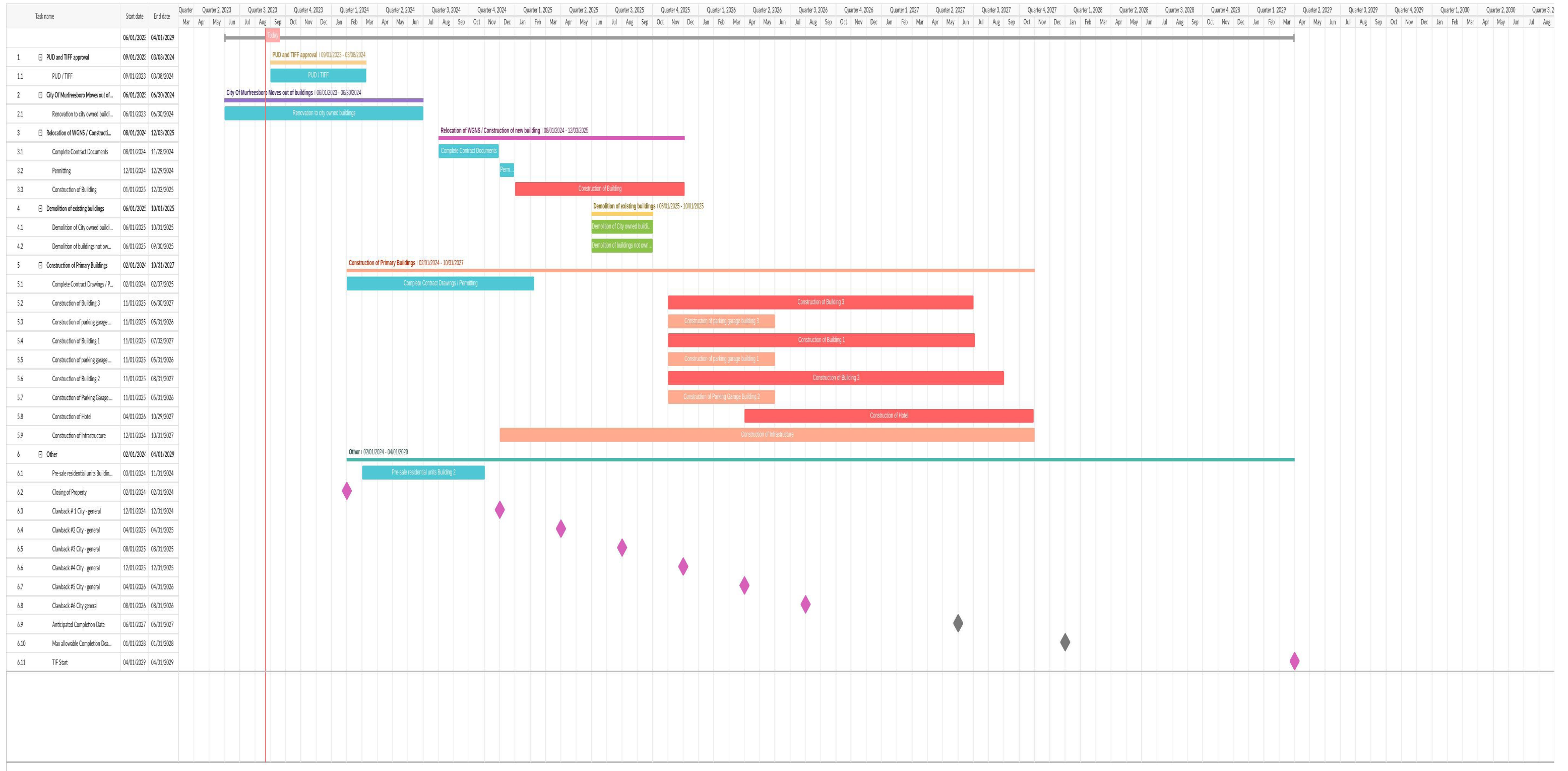
Phase 5 Package:

- Building 2

Phase 6 Package:

- East Vine Street and Northwest Broad Street Improvements to be completed by Certificate of Occupancy for Hotel.





Architectural Characteristics:

- All buildings will be a minimum of 4-stories, with potential 5-story in building 2 and the hotel.
- Building architectural style shall mimic the overall characteristics of the Historic Bottoms District, The Murfreesboro Square, and the North Highlands.
- Building elevation colors, material, and patterns, shall closely align with those of the surrounding architecture.
- Architecture shall abide by the sections as seen on page (20-28).
- All architecture shall be approved at the site plan level. But maintain to the guideline herein this pattern book.
- To facilitate a degree of architectural fluidity throughout the development, the total coverage of material, by category, can vary up to 10%. Such material categories shall include cementitious, stone, metal, wood, and void materials such as glass, etc. Such variations shall be approved by staff at the site plan level.
- Proposed colors shall complement and harmoniously exist with the color palette of downtown Murfreesboro. Exceptions can be made for accents or development defining themes as approved by planning commission at the site plan level.

Building heights:

Building #1 (NW Broad Street / Church Street)
4 Stories: up to 70'-0"
(Occurs at greatest height)

Building #2 (NW Broad street)
5 Stories: up to 70'-0"
(Occurs at greatest height)

Building #3 (Sevier street)
4 Stories: up to 70'-0"
(Occurs at greatest height)

Hotel (Vine street)
5 Stories: up to 81'-0"
(Occurs at greatest height)

* Building heights are taken from the finished grade of the lowest level to the highest point of each building.

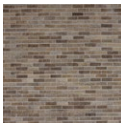


Setbacks External to the Site

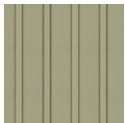
Fronts: 0-feet
Sides: 0-feet
Rears: 0-feet

Setbacks Internal to the Site

*All buildings will have a minimum of 0.0-ft separation between all other buildings including the existing Murfreesboro City Hall and Linebaugh Public Library so long as building and fire codes for existing structures and proposed structures are maintained.



Example of Brick
(Different colors will be allowed)



Example of Board and Batten
(Different colors, cuts, patterns will be allowed)



Example of Fiber Cement Board
(Different colors will be allowed)



Example of Stone Veneer
(Different colors, cuts, patterns will be allowed)

Building Materials:

Front Elevations:

Side Elevations:

Rear Elevations:

All Masonry (Brick, Stone, Cement Board Siding)
Cement Board Siding in the Dormers/Gables
All Masonry (Brick, Stone, Cement Board Siding)
Cement Board Siding in the Dormers/Gables
All Masonry (Brick, Stone, Cement Board Siding)
Cement Board Siding in the Dormers/Gables

*Primary materials are to be brick, cast stone, or natural or synthetic stone.

**Secondary materials are to be cement board siding and split-face or polished concrete masonry.

***Tertiary materials can include trim, flashings, or cementitious trim.



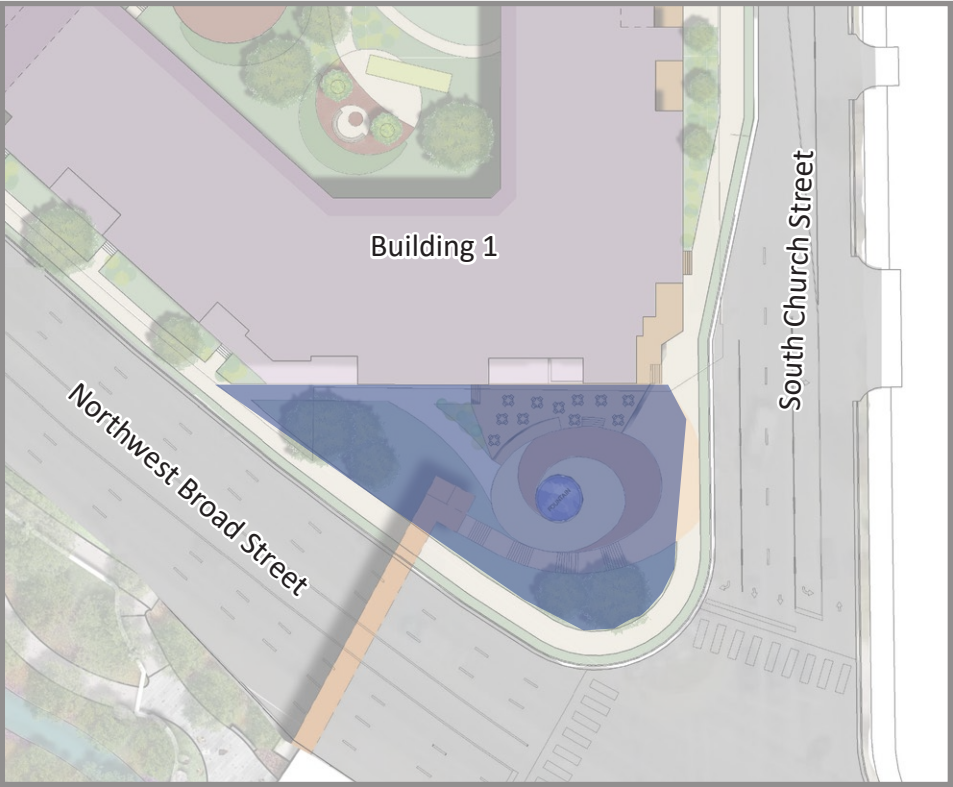
Setbacks External to the Site

Fronts: 0-feet
Sides: 0-feet
Rears: 0-feet

Allowable Uses
DWELLINGS
Multi-Family
Condo
OTHER HOUSING
Accessory Dwelling Unit
Bed-and-Breakfast Homestay
Bed-and-Breakfast Inn
Emergency Shelter
Hotel
INSTITUTIONS
Church
Lodge, Club, Country Club
Park
Philanthropic Institution
Public Building
AGRICULTURAL USES
Farm Labor and Management Services
COMMERCIAL
Antique Shop <3,000 sq. ft.
Apothecaries (pharmaceuticals only)
Art or Photo Studio or Gallery
Bakery, Retail
Bank, Branch Office
Bank, Drive-Up Electronic Teller
Bank, Main Office

Barber or Beauty Shop
Beer, Packaged
Book or Card Shop
Business School
Business and Communication Service
Catering Establishment
Clothing Store
Coffee, Food, or Beverage Kiosk
Convenience Sales and Service, maximum 5,000 sq. ft. floor area
Delicatessen
Dry Cleaning
Dry Cleaning Pick-Up Station
Convenience Sales and Service, maximum 5,000 sq. ft. floor area
Delicatessen
Dry Cleaning
Dry Cleaning Pick-Up Station
Financial Service - Excluding Cash Advance Business
Flower or Plant Store
Garage, Parking
Garden and Lawn Supplies
Glass--Stained and Leaded
Grocery Store
Group Assembly, <250 persons
Health Club
Ice Retail
Interior Decorator

Janitorial Service
Fitness Studio/Personal Instruction
Keys, Locksmith
Offices
Optical Dispensaries
Personal Service Establishment
Pet Shops
Pharmacies
Reducing and Weight Control Service
Restaurant and Carry-Out Restaurant
Restaurant, Specialty
Restaurant, Specialty -Limited
Retail Shop, other than enumerated elsewhere
Specialty Shop
Tavern
Video Rental
Wholesaling
INDUSTRIAL
Printing and Publishing
PUBLIC SERVICES
Police Precinct
TRANSPORTATION AND PUBLIC UTILITIES
Post Office or Postal Facility
Telephone or Communication Services



Entertainment District Limits

Allowable Use Standards:

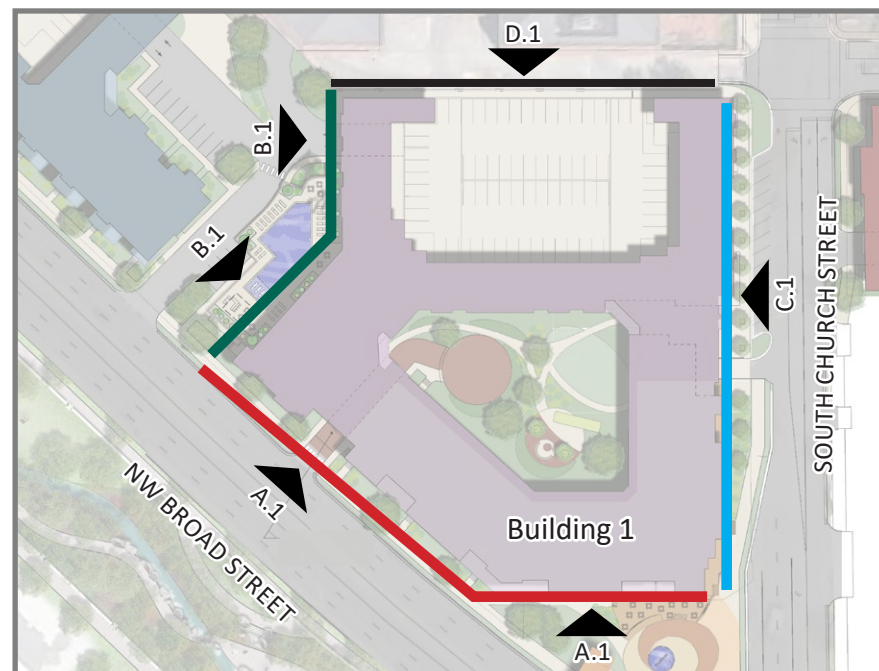
- An entertainment district is proposed for the “Bridge Plaza” of this development to facilitate the distribution of alcoholic beverages during permitted events.
- Serving of alcohol shall be allowed under the direct supervision of a professional catering service.

Prohibited Use:

- Vape/Cigarette Shop/Tobacco Shop
- Primary Pain Clinic
- Primary Drug and Alcohol Rehab Centers
- Liquor Store



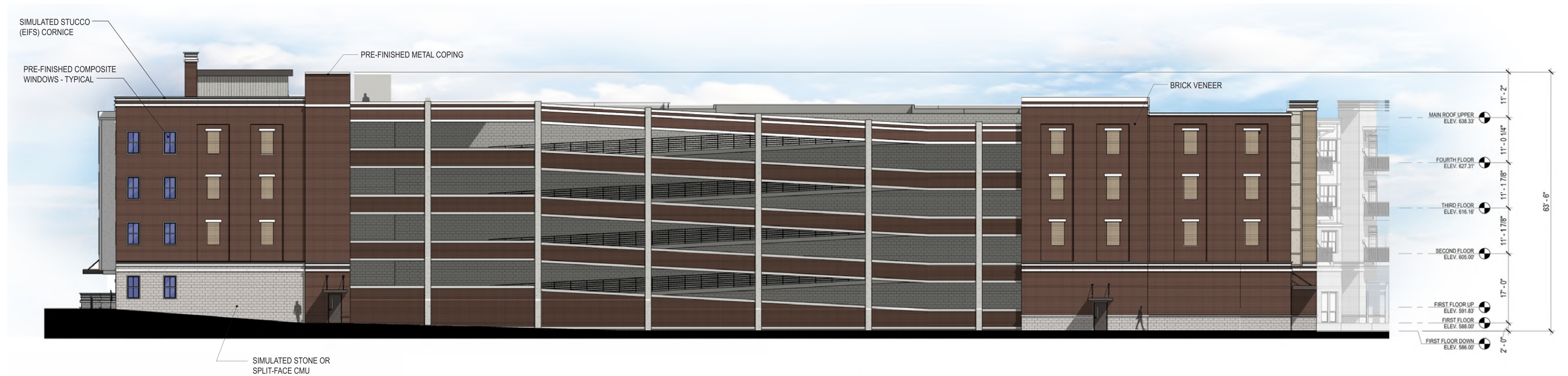
BUILDING 1 - ELEVATION A.1 (RED) - NORTH WEST BROAD STREET ELEVATION | BROAD STREET AND SOUTH CHURCH INTERSECTION ELEVATION



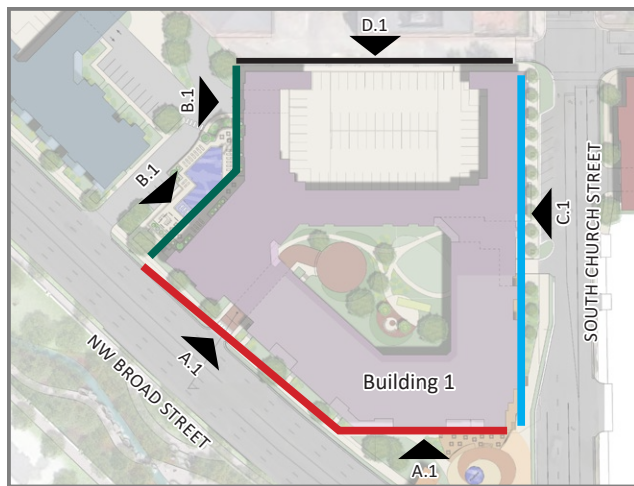
BUILDING 1 - ELEVATION B.1 (GREEN) - POOL SIDE AND LEASING OFFICE SIDE ELEVATION



BUILDING 1 - ELEVATION C.1 (BLUE) - SOUTH CHURCH STREET ELEVATION



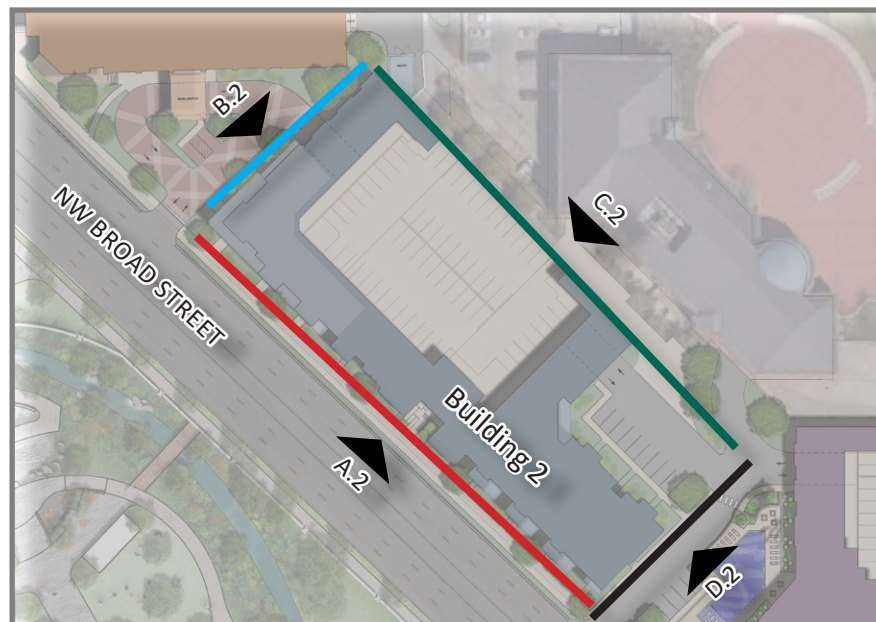
BUILDING 1 - ELEVATION D.1 (BLACK) - NORTH (FACING CITY HALL & LIBRARY) ELEVATION



*Architecture shown above is not to scale



BUILDING 2 - ELEVATION A.2 (RED) - NORTH WEST BROAD STREET ELEVATION

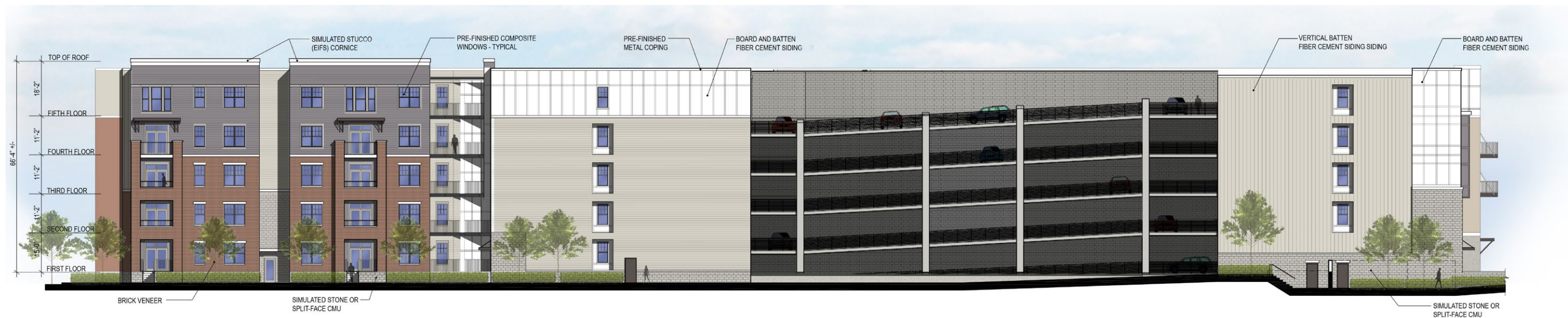


***Building 2 consists of 80-100 for sale residential units. In order to provide 100 for-sale residential units the building must be five stories. If the development team decides to build 80 for-sale residential units due to market constraints the elevations will be reduced to four stories. If that takes place, a floor will be removed but the general composition of massing and material use as depicted in the elevations will be maintained.

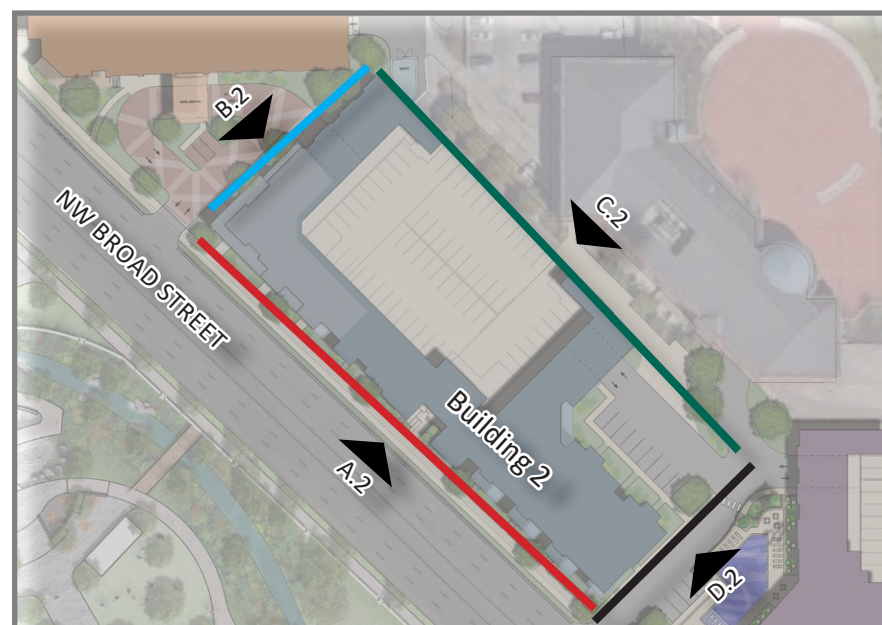


BUILDING 2 - ELEVATION B.2 (BLUE) - NORTHWEST (FACING HOTEL) ELEVATION

*Architecture shown above is not to scale



BUILDING 2 - ELEVATION C.2 (GREEN) - NORTH EAST (FACING CITY HALL) ELEVATION



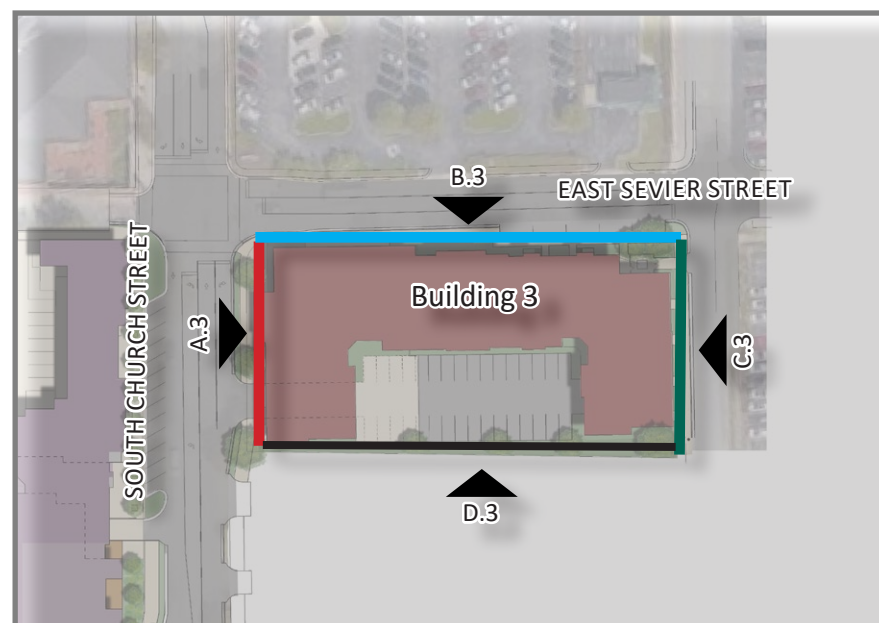
C.2 Rotunda Window South

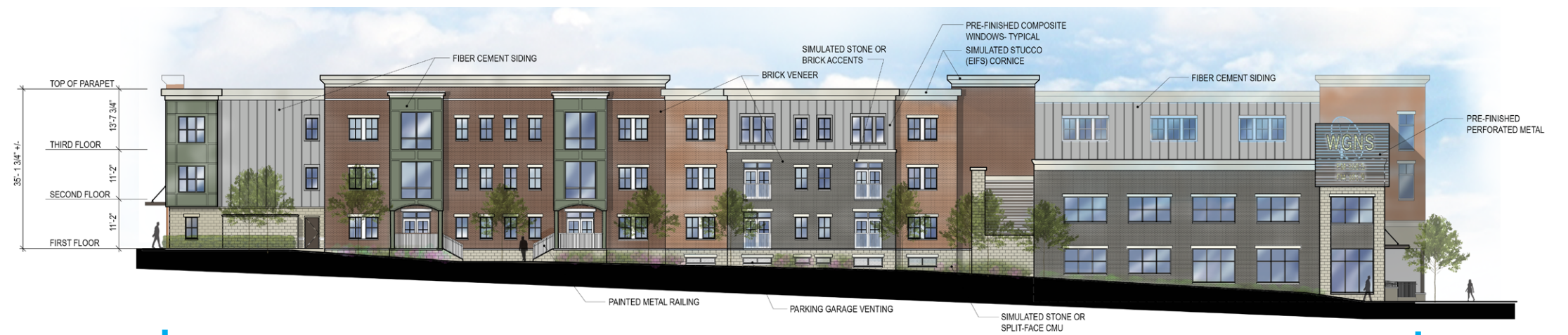


BUILDING 2 - ELEVATION D.2 (BLACK) - SOUTHEAST (NORTHWEST BROAD ENTRANCE) ELEVATION



BUILDING 3 - ELEVATION A.3 (RED) - SOUTH CHURCH STREET ELEVATION

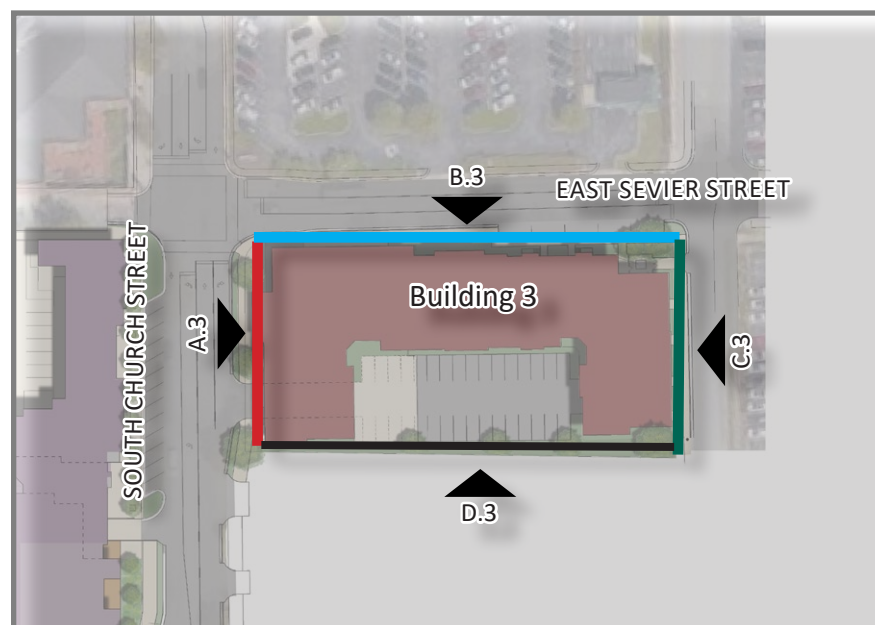




BUILDING 3 - ELEVATION B.3 (BLUE) - EAST SEVIER STREET ELEVATION



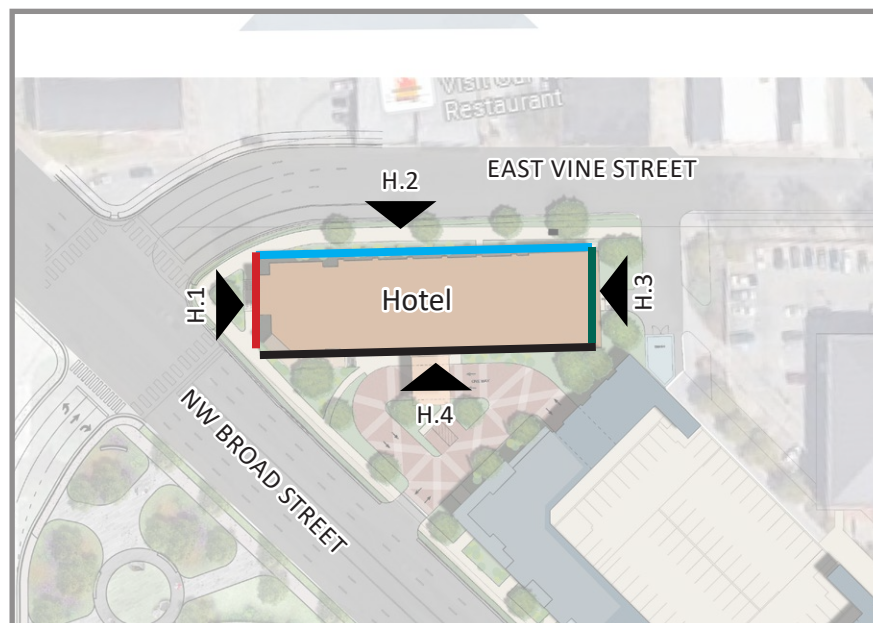
BUILDING 3 - ELEVATION C.3 (GREEN) - STATE STREET ELEVATION



BUILDING 3 - ELEVATION D.3 (BLACK) - SOUTH ELEVATION



HOTEL - ELEVATION H.1 (RED) - NORTH WEST BROAD AND VINE INTERSECTION ELEVATION



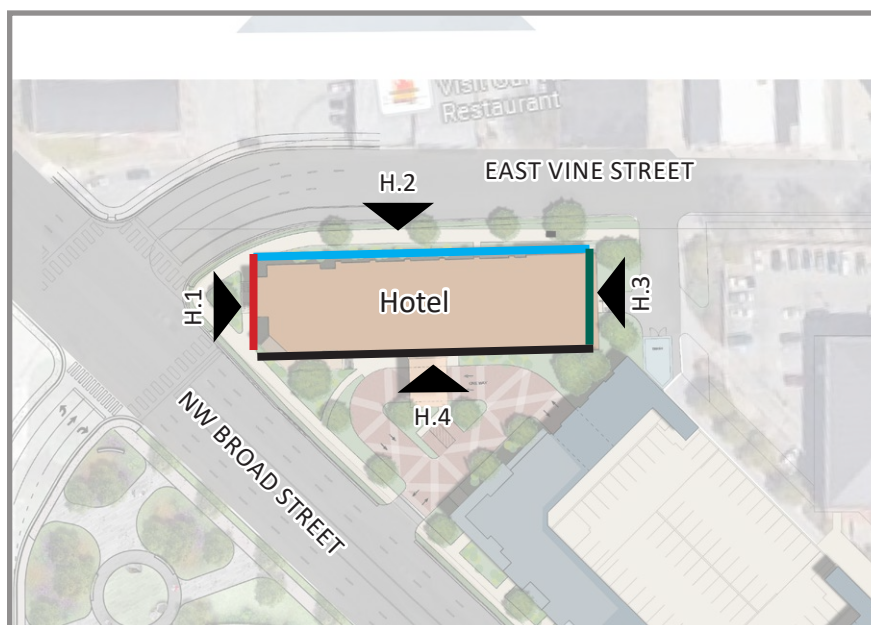
*** Hotel consists of 80-150 keys. In order to provide 150 keys the building must be five stories. If the development team decides to build 80 keys due to Hotel Operator preference the elevations will be reduced to four stories. If that takes place, floors will be removed but the general composition of massing and material use as depicted in the elevations will be maintained.



HOTEL - ELEVATION H.2 (BLUE) - EAST VINE STREET ELEVATION



HOTEL - ELEVATION H.3 (GREEN) - EAST (VINE STREET ENTRANCE) ELEVATION

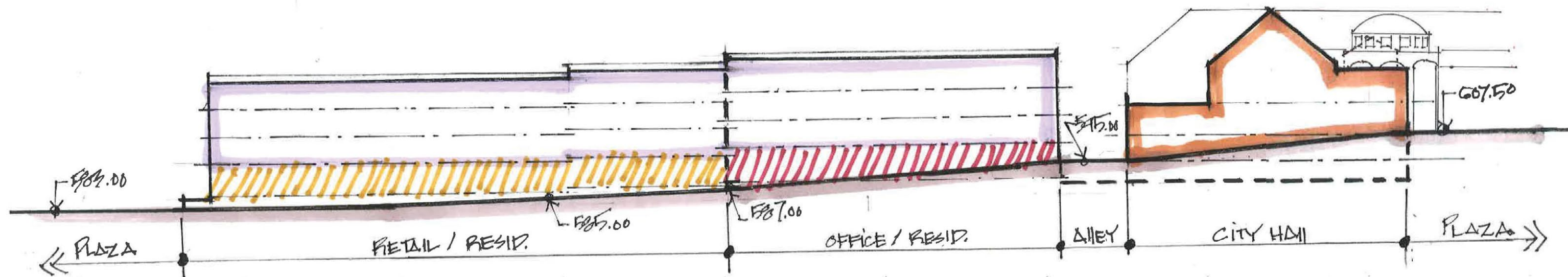


*** Hotel consists of 80-150 keys. In order to provide 150 keys the building must be five stories. If the development team decides to build 80 keys due to Hotel Operator preference the elevations will be reduced to four stories. If that takes place, floors will be removed but the general composition of massing and material use as depicted in the elevations will be maintained.



HOTEL - ELEVATION H.4 (BLACK) - DROP-OFF ELEVATION

CROSS SECTION



SECTION THRU
SOUTH CHURCH ST.

0 40'

RETAIL
OFFICE

RESIDENTIAL
CITY HALL

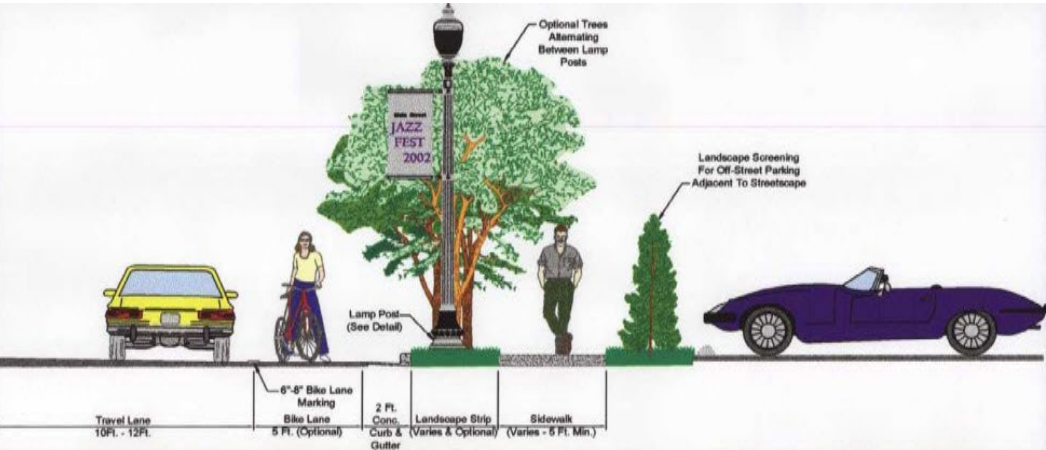
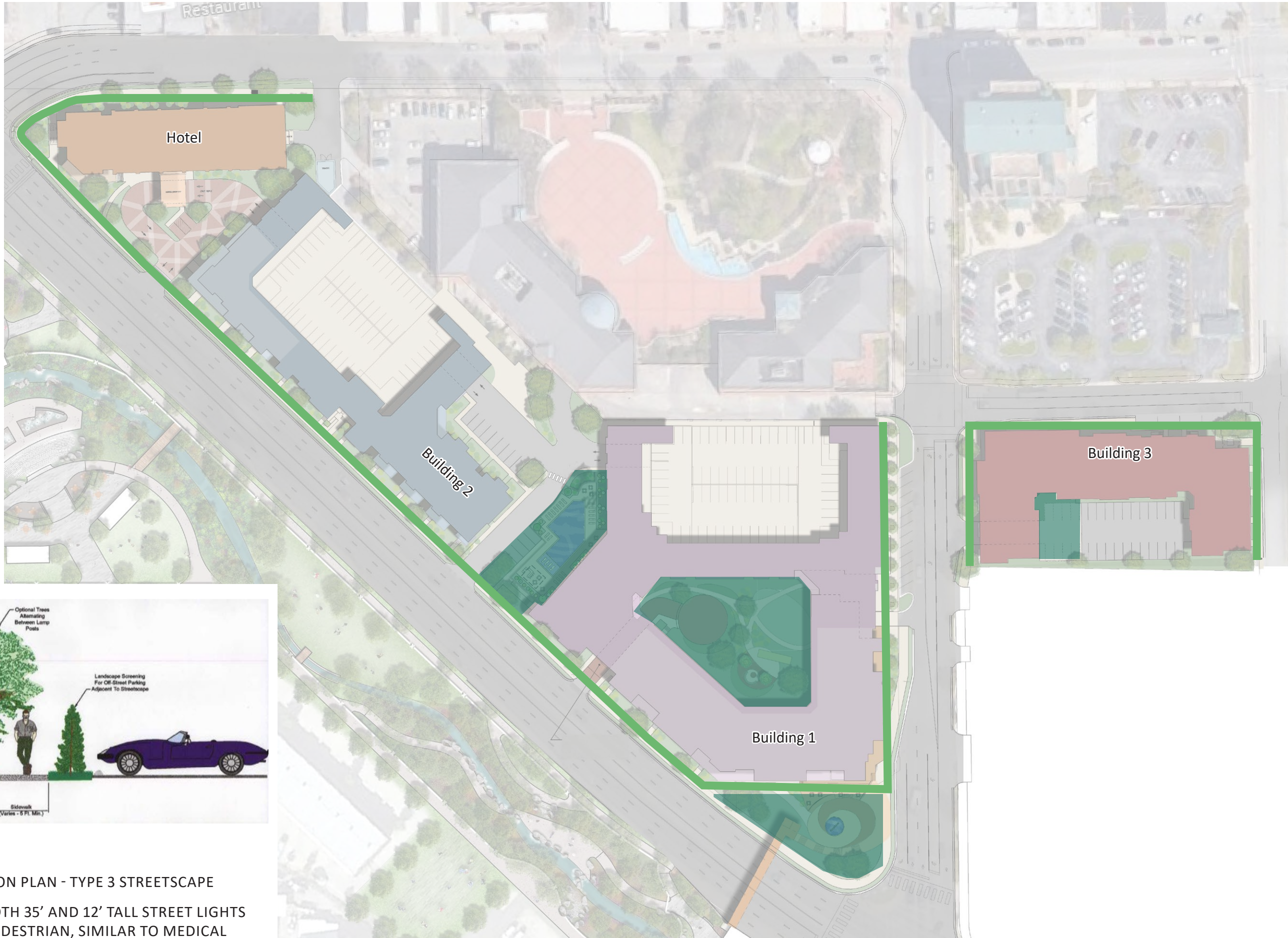


MASSING STUDY VIEW



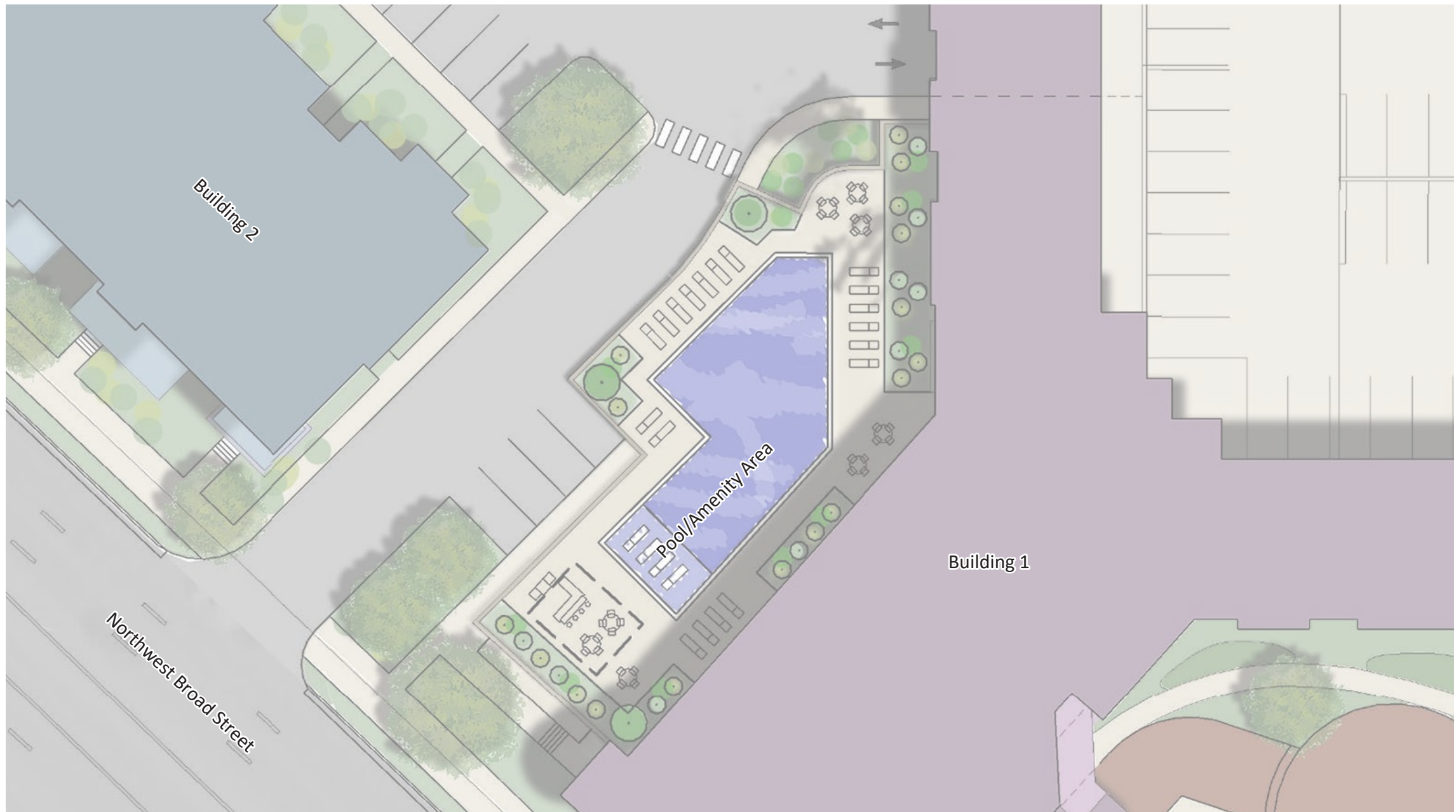
With this request, Broad Street Redevelopment will be dedicating open space throughout the site. The open space areas will be comprised of usable open space areas dedicated to both pedestrian and resident uses. Usable open space areas around the development will offer such amenities as; plazas, a pool, community space & game room, dog wash station and salon, fitness center, shared dog park, and grilling station.

- Amenity Areas
- Urban Streetscape



MAIN STREET REVITALIZATION PLAN - TYPE 3 STREETSCAPE

SITE LIGHTING WILL CONSIST OF BOTH 35' AND 12' TALL STREET LIGHTS TO SERVICE BOTH VEHICLES AND PEDESTRIAN, SIMILAR TO MEDICAL CENTER PARKWAY PER MTE.



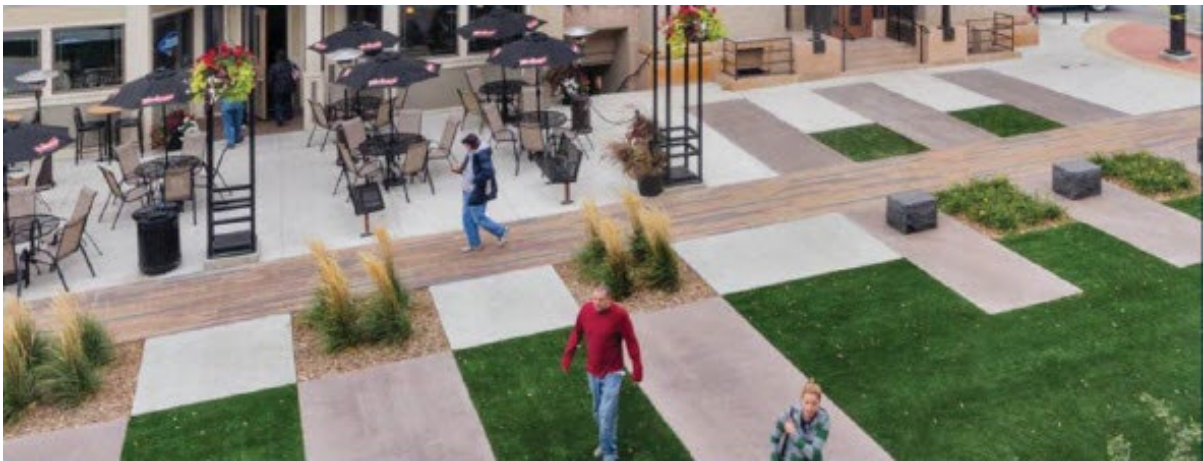
Example of Pool



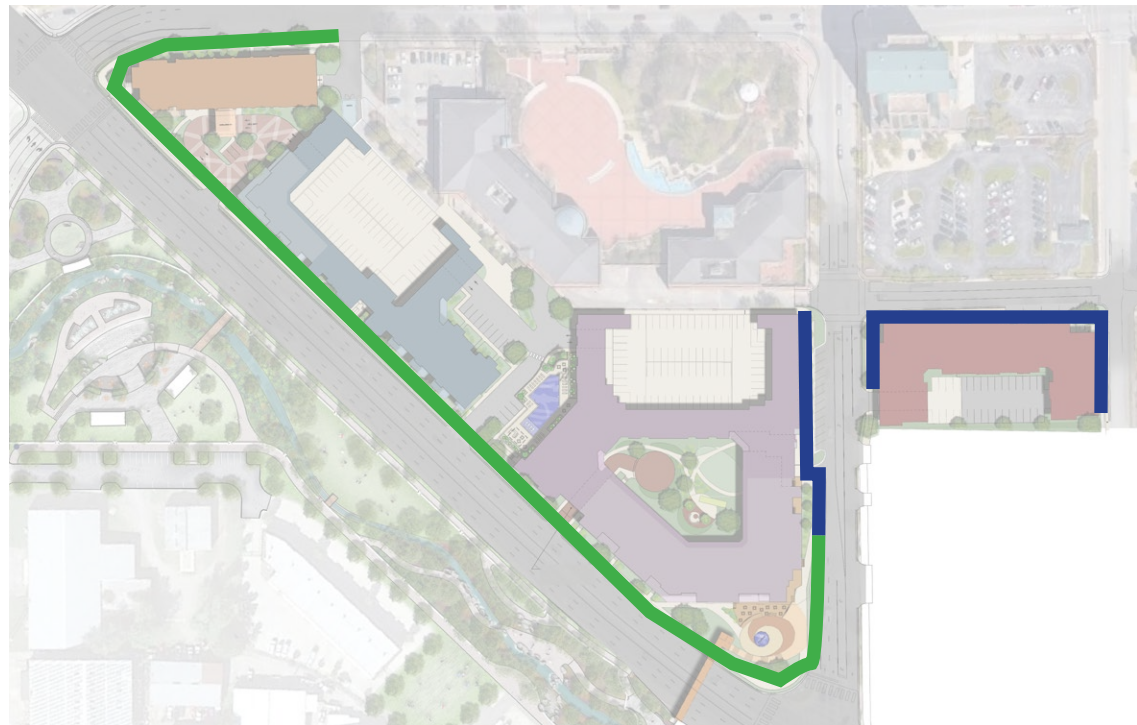
Example of Community Space



Example of Outdoor Seating



Example of Outdoor Plaza Area

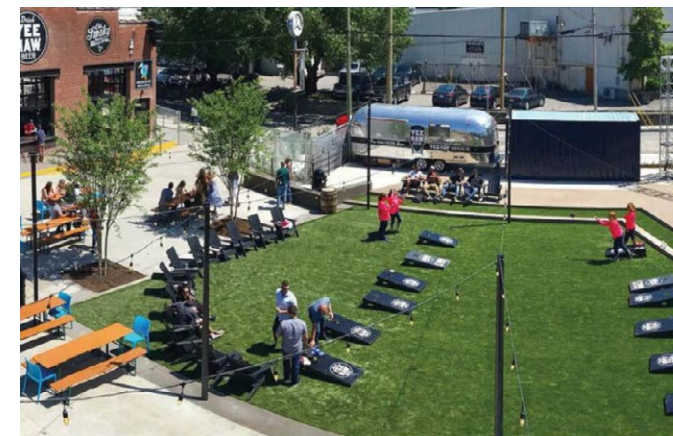
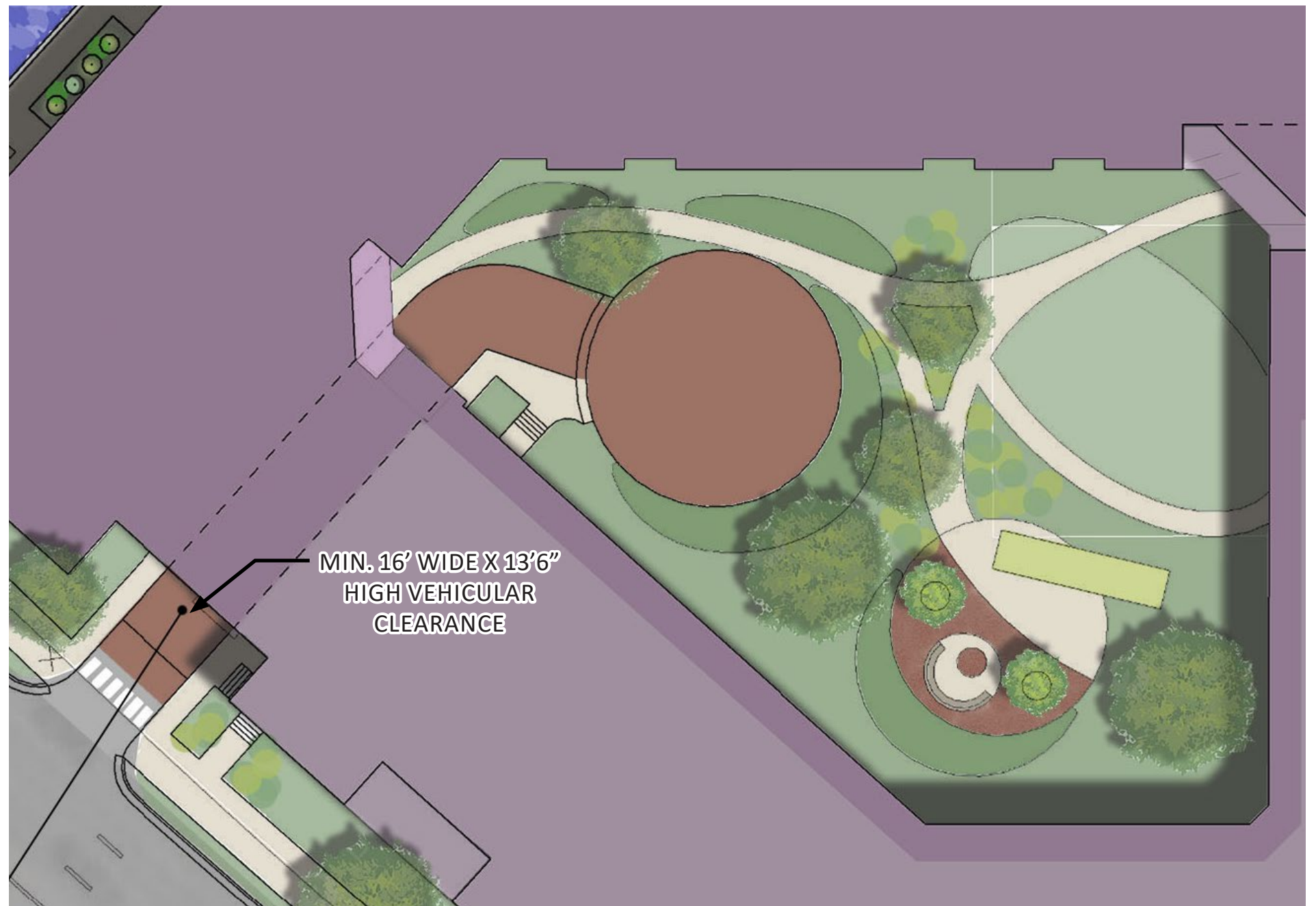


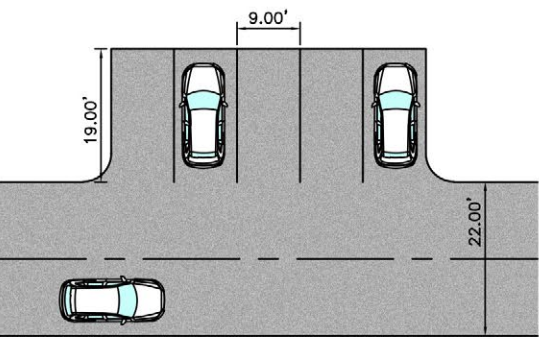
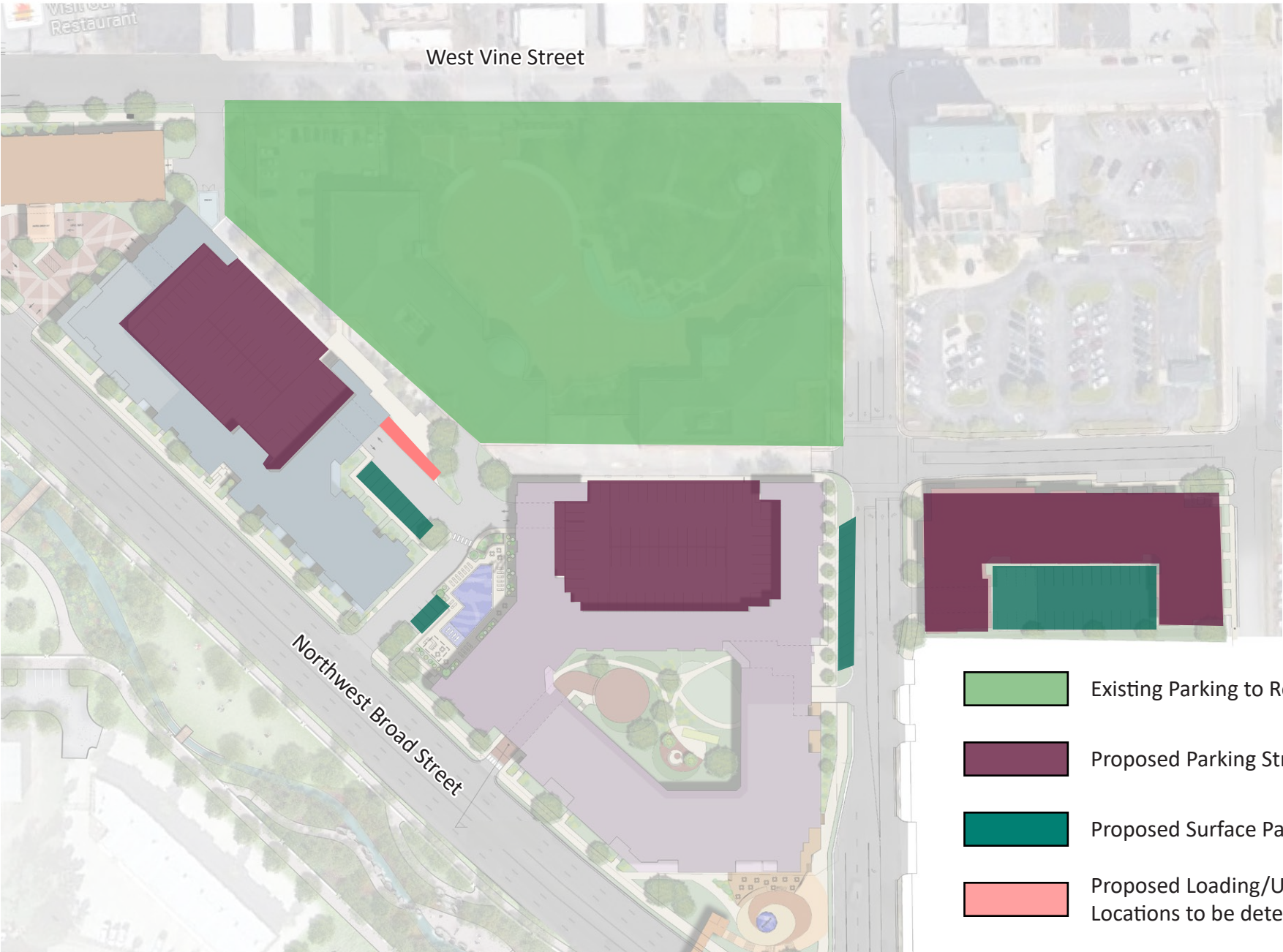
- 4' Grass Strip with 10' Sidewalk
- 6' sidewalk with tree wells or enhanced landscape alternative

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 as well as a sample palette provided.

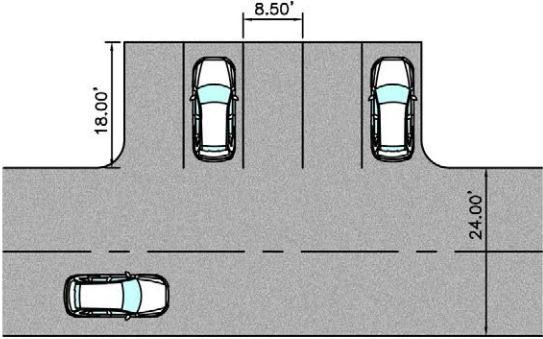
Landscaping Characteristics:

- 4-foot wide grass strip between street and pedestrian paths, planted with trees located approximately 40 feet on center.
- Public rights-of-way screened from off-street surface parking by use of landscaping and/or berming.
- All above ground utilities and mechanical equipment screened with landscaping and/or walls.
- Solid waste enclosure screened with a masonry wall and enhanced with landscaping.

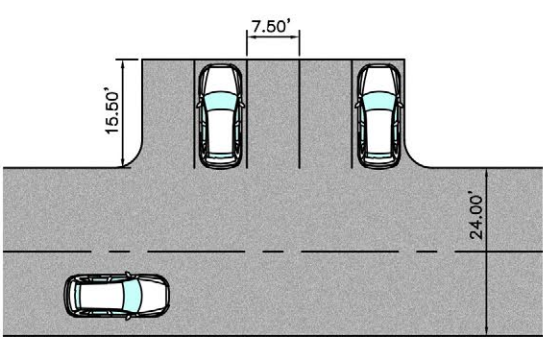




MURFREESBORO TYPICAL PARKING STALL SIZE
(9'x19' with 22' Drive Aisles)



PROPOSED PARKING STALL AND DRIVE AISLES
(8.5'x18' with 24' Drive Aisles)



PROPOSED COMPACT PARKING AND DRIVE AISLES
(7.5'x15.5' with 24' Drive Aisles)

TOTAL PARKING REQUIRED FOR PROPOSED DEVELOPMENT
 RESIDENTIAL UNITS = 463 STALLS
 HOTEL = 146 STALLS
 OFFICE / RETAIL = 129 STALLS
 TOTAL = 738 STALLS

* THE 25% SHARED PARKING REDUCTION APPLIES TO THE
 “NEIGHBORHOOD SHOPPING CENTER” USE.

TOTAL REQUIRED PARKING FOR HOTEL(146), OFFICE (5),
 RETAIL (129) = 280 STALLS

25% PARKING REDUCTION = 70 STALLS

TOTAL REQUIRED PARKING AFTER REDUCTION
 (738 – 70 STALLS) = 668 STALLS

TOTAL PROVIDED PARKING = 774 STALLS

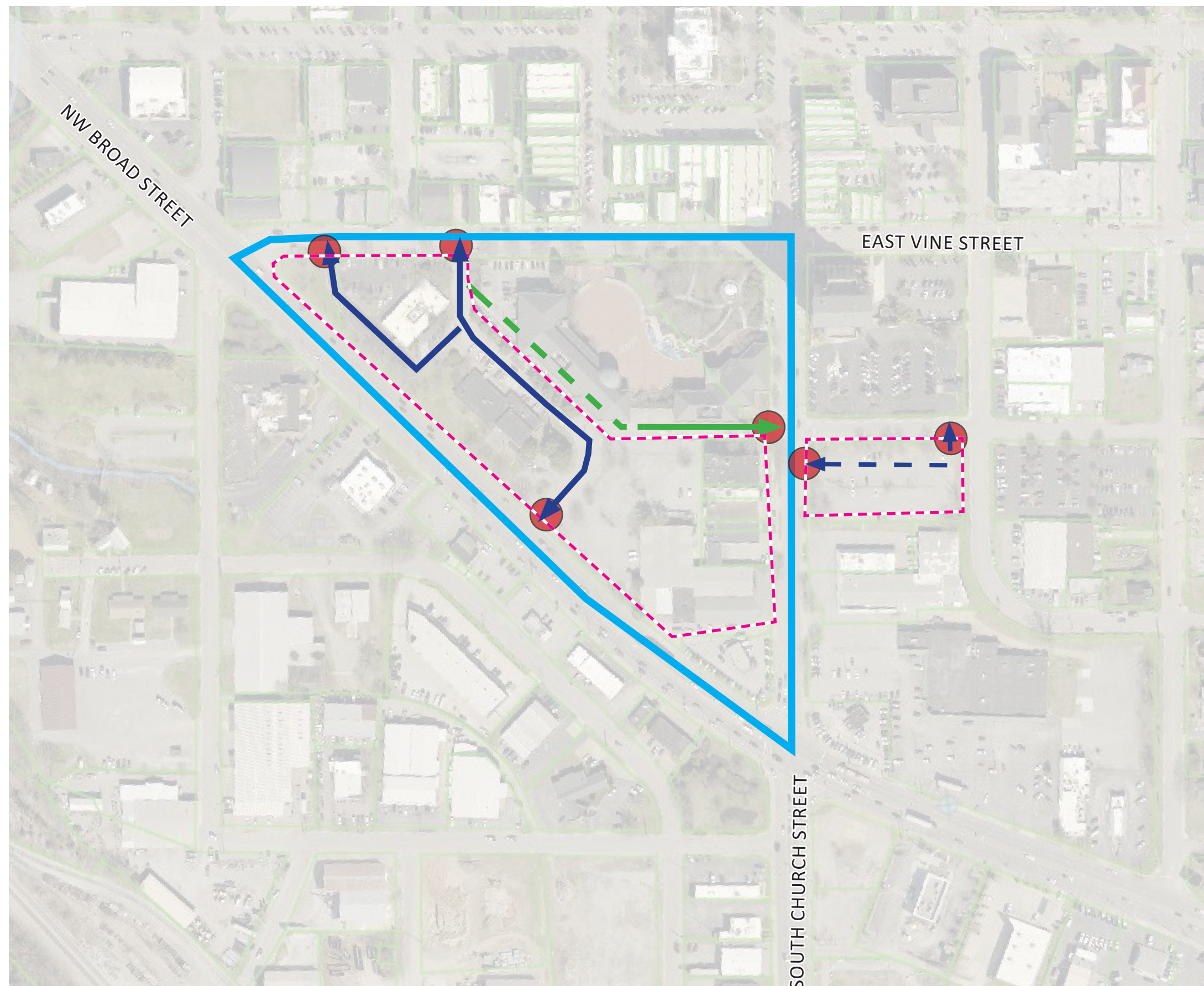
35% OF 774 STALLS PROVIDED PARKING CAN BE COMPACT SPACES (IF
 NEEDED) = 270 STALLS

* THE ABOVE CALCULATIONS ARE BASED ON THE CURRENT DESIGN. THE
 DEVELOPMENT AGREEMENT ALLOWS A TOTAL OF 239 APARTMENTS AND 100
 CONDOMINIUMS, MAX.

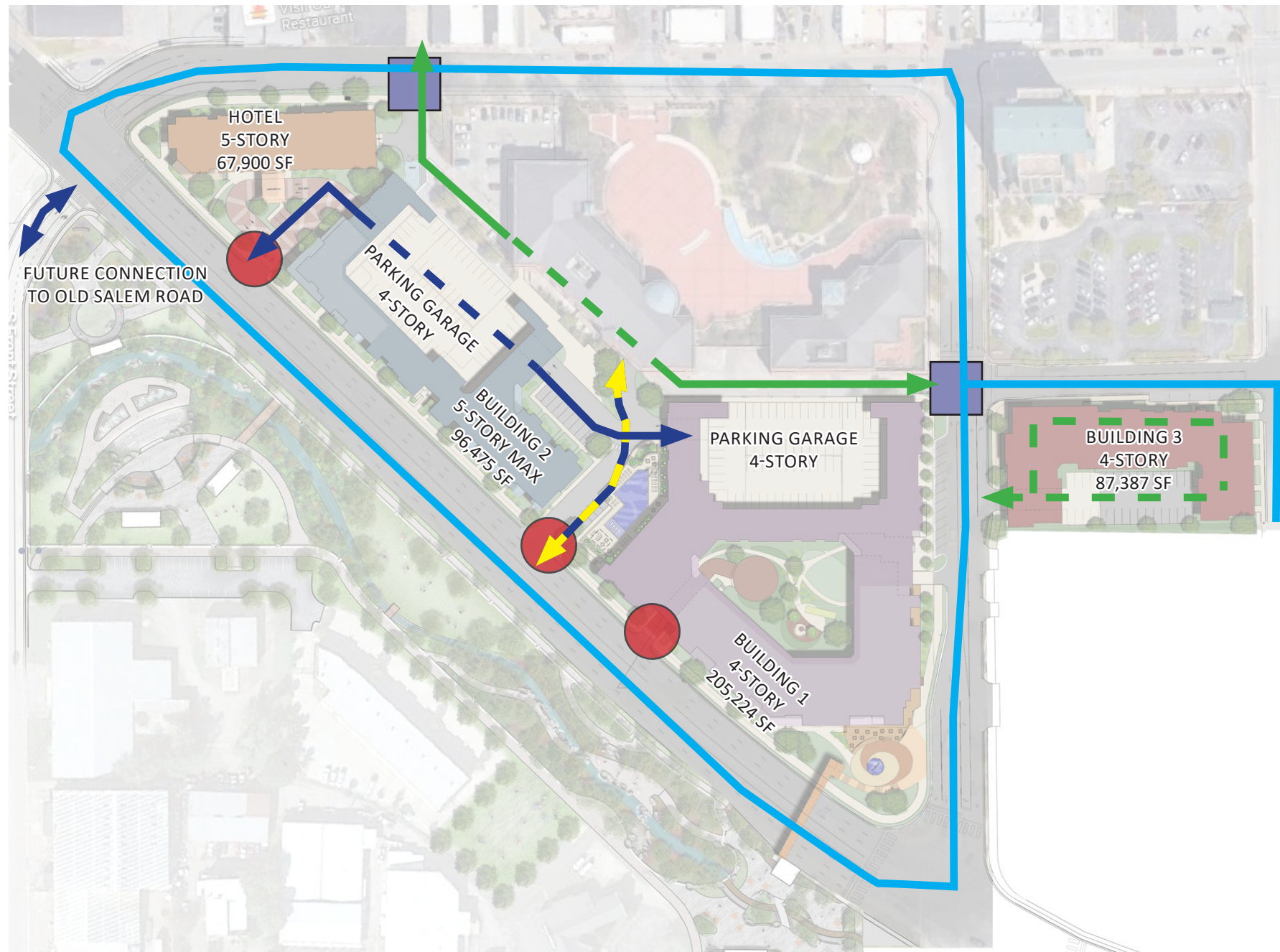
* THE UPPER LEVEL(S) OF THE PARKING STRUCTURES SHALL BE SECURED
 ENTRY FOR THE RESIDENTIAL UNITS, WITH PUBLICLY AVAILABLE PARKING ON
 THE LOWER LEVEL(S) TO ALLOW FOR ADEQUATE RESIDENTIAL PARKING.

* THIRTY FIVE PERCENT (35%) OF THE PARKING SPACES WITHIN THE PARKING
 STRUCTURE ARE COMPACT SPACES (7'-6" WIDE). THE COMPACT SPACES WILL BE
 SPREAD OUT AMONGST ALL FLOORS OF THE PARKING GARAGE. THE REMAINING
 STANDARD SPACES ARE 8'-6" WIDE x 18'-0" DEEP. AS A COMPARISON THE
 STANDARD PARKING STALL IN MURFREESBORO IS 9'-0" WIDE X 19'-0" DEEP.
 HOWEVER AREAS WITH 18'-0" DEEP PARKING STALLS SHALL HAVE 24' DRIVE
 AISLES INSTEAD OF 22'. BOTH THE COMPACT AND STANDARD SPACES SIZES ARE
 TYPICAL FOR PARKING GARAGES IN SURROUNDING MUNICIPALITIES.

*ALL HANDICAP SPACES ARE INCLUDED WITHIN THE REQUIRED PARKING AND
 ARE ALLOWED TO BE USED FOR REQUIRED PARKING.

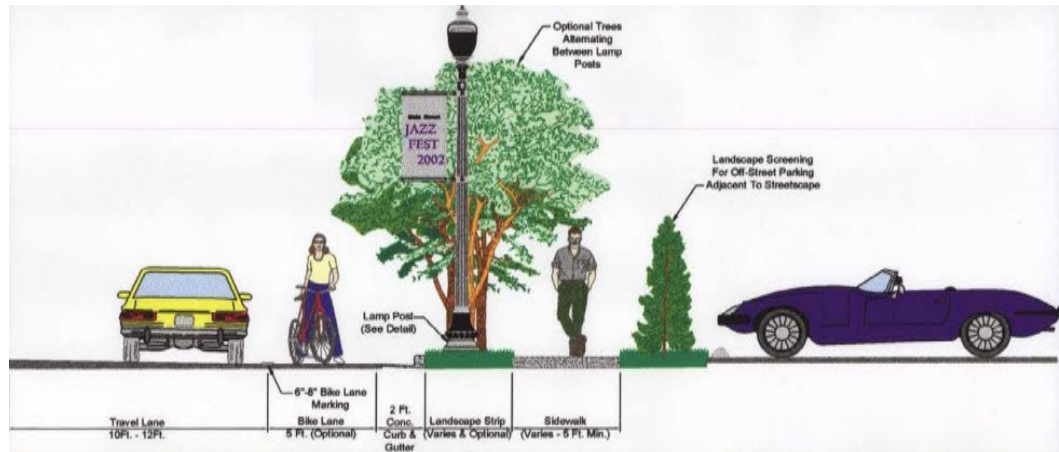
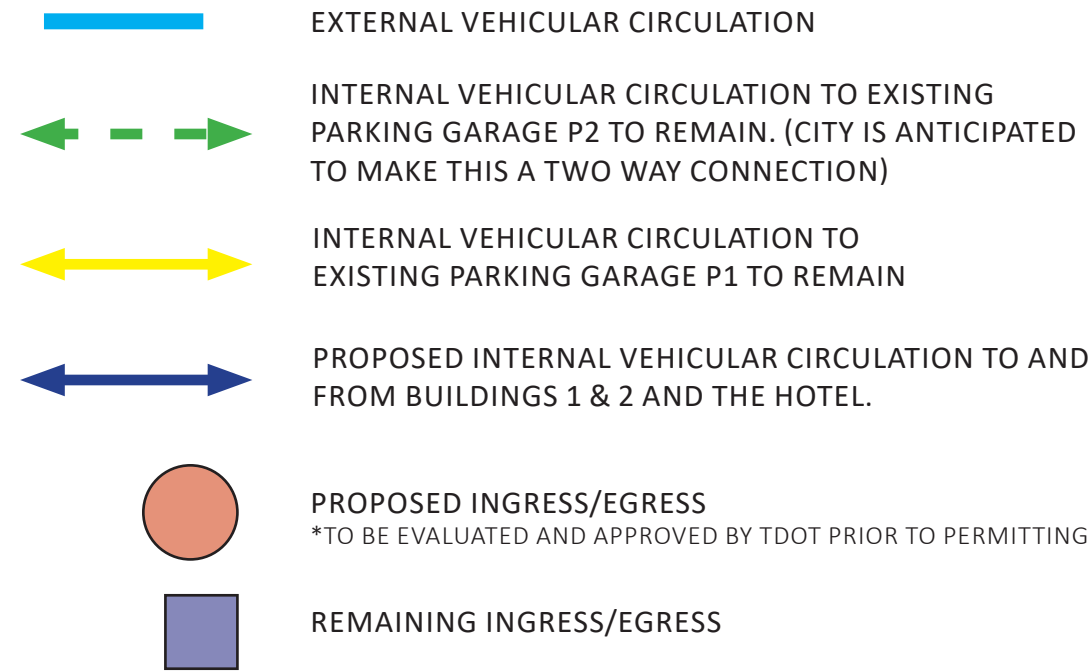


- ● ● EXTERNAL VEHICULAR CIRCULATION
- ↔ INTERNAL VEHICULAR CIRCULATION
- ↔ INTERNAL VEHICULAR CIRCULATION TO PARKING GARAGE P2 (INSIDE GARAGE)
- ↔ INTERNAL VEHICULAR CIRCULATION TO PARKING GARAGE P2 (OUTSIDE GARAGE)
- EXISTING INGRESS/EGRESS



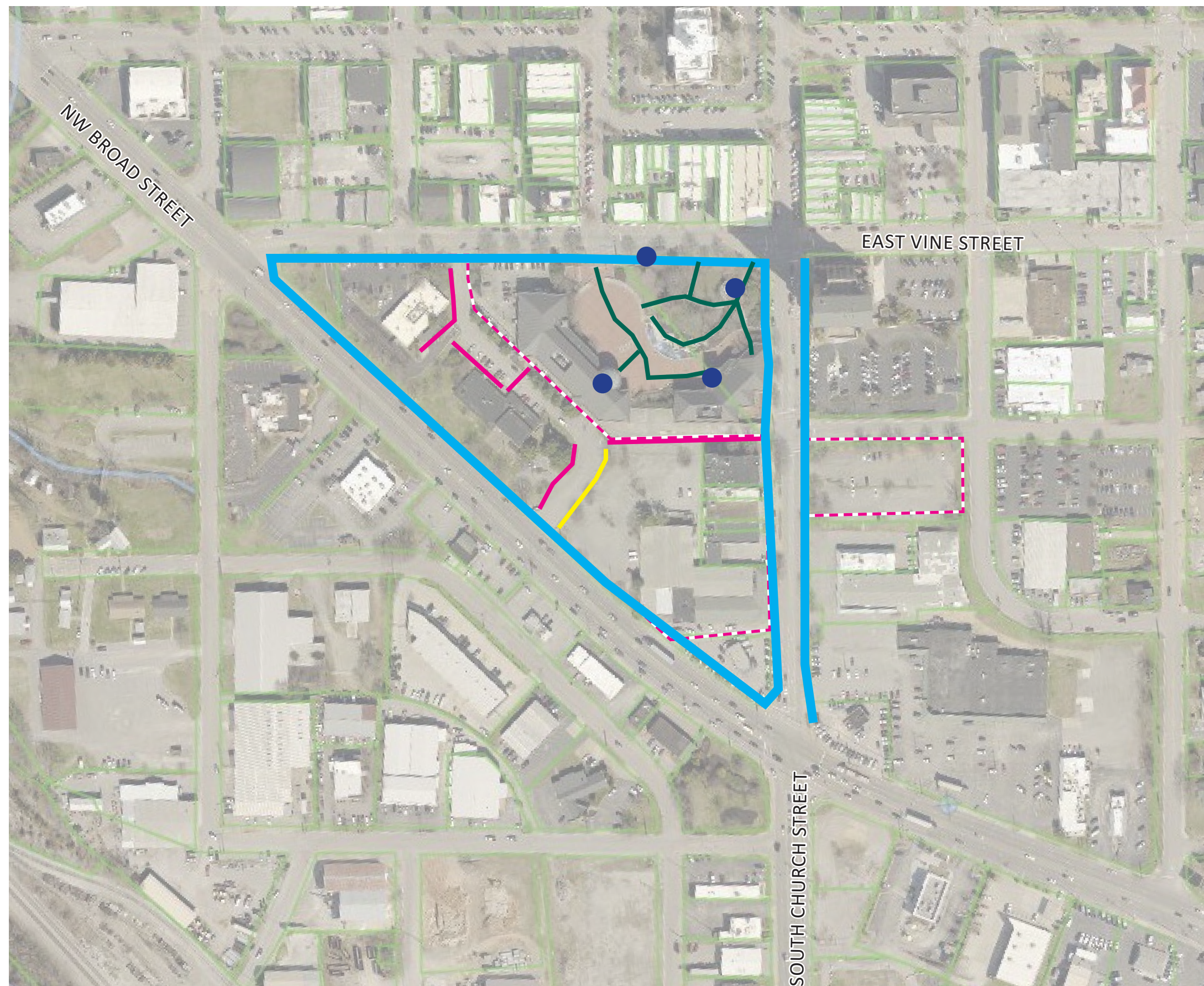
The proposed site layout provides three additional parking garages within the development. Vehicular circulation will continue to have access to the existing City Hall parking garage per floor as it exists. However, there are some changes to this traffic pattern. Tommy Martin Drive will no longer connect Northwest Broad Street to West Vine Street, instead it shall be utilized as part of the proposed internal circulation connecting Building 1 parking garage, Building 2 parking garage, and the Hotel main entrance/drop-off area (As seen per the blue arrows). Entrances to the site have been established along existing roadways and will be emphasized by the proposed architecture.

This site is also part of the Main Street Revitalization Plan. This plan calls for the Northwest Broad Street to be upgraded, at a minimum, to a Type 3 streetscape.

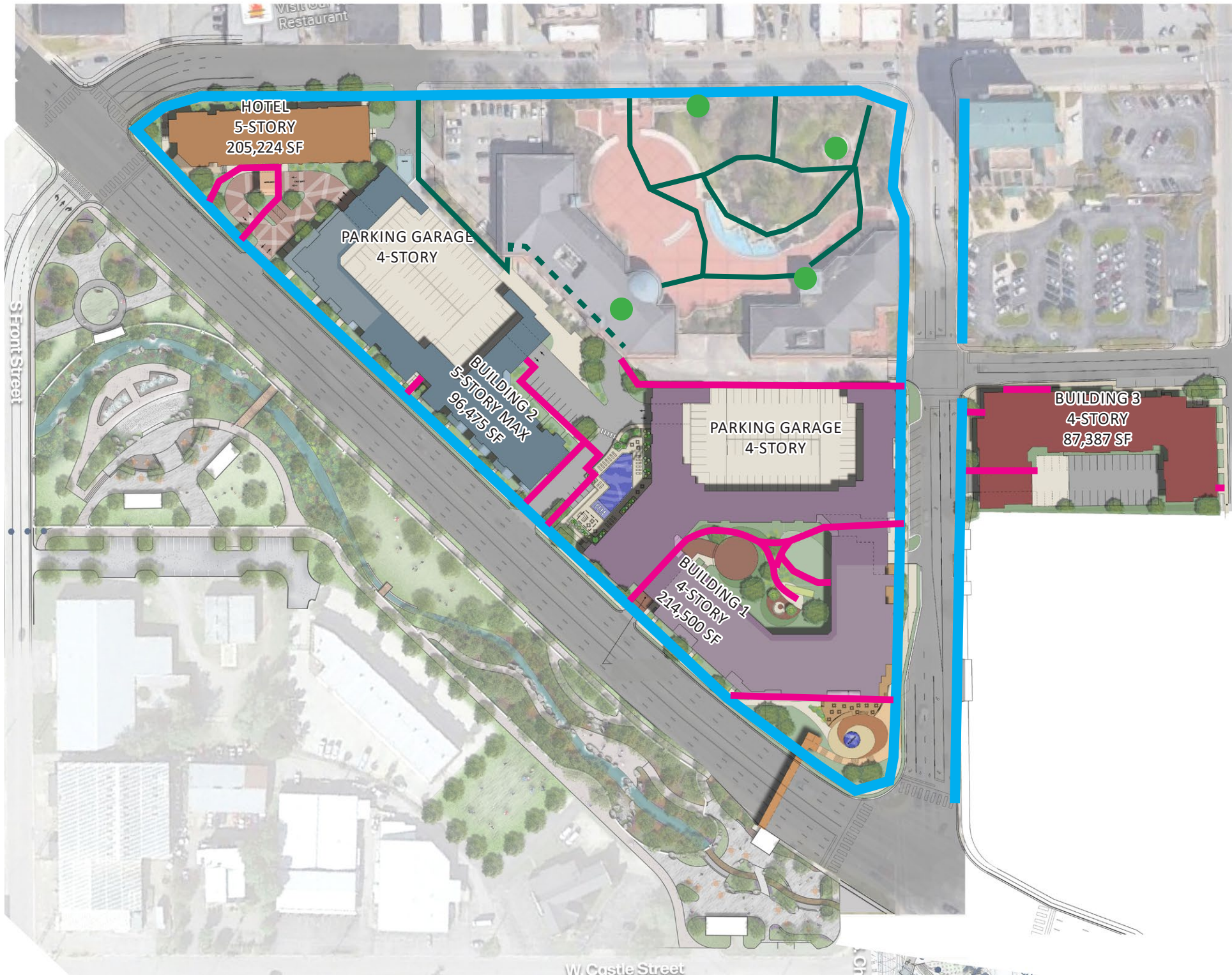


MAIN STREET REVITALIZATION PLAN - TYPE 3 STREETScape

SITE LIGHTING WILL CONSIST OF BOTH 35' AND 12' TALL STREET LIGHTS TO SERVICE BOTH VEHICLES AND PEDESTRIAN, SIMILAR TO MEDICAL CENTER PARKWAY PER MTE.



- EXTERNAL EXISTING PEDESTRIAN CIRCULATION
- INTERNAL EXISTING PEDESTRIAN CIRCULATION
- CITY MAINTAINED PEDESTRIAN CIRCULATION
- PEDESTRIAN ACCESS TO PARKING GARAGE



The proposed site layout provides for ample pedestrian circulation to the various portions of the site and neighboring businesses and amenities. The exterior pedestrian circulation around the perimeter of the site will provide a 10' walking path, except at Sevier and State Street, which will have a minimum 5' sidewalk. The internal pedestrian circulation will provide the residence, tenants, and visitors access from the exterior pathways to the parking garages, retail areas, and amenities. Crosswalks have been provided at the signalized intersections along Northwest Broad Street to provide for pedestrian circulation into and out of the site. Internal pedestrian circulations will be predominantly for those parking on site as well as for those working in the various businesses proposed there-in. By keeping the majority of the pedestrian circulation to the exterior of the site, the development is able to implement the pedestrian characteristics set forth in the Historic Bottoms Overlay Plan.

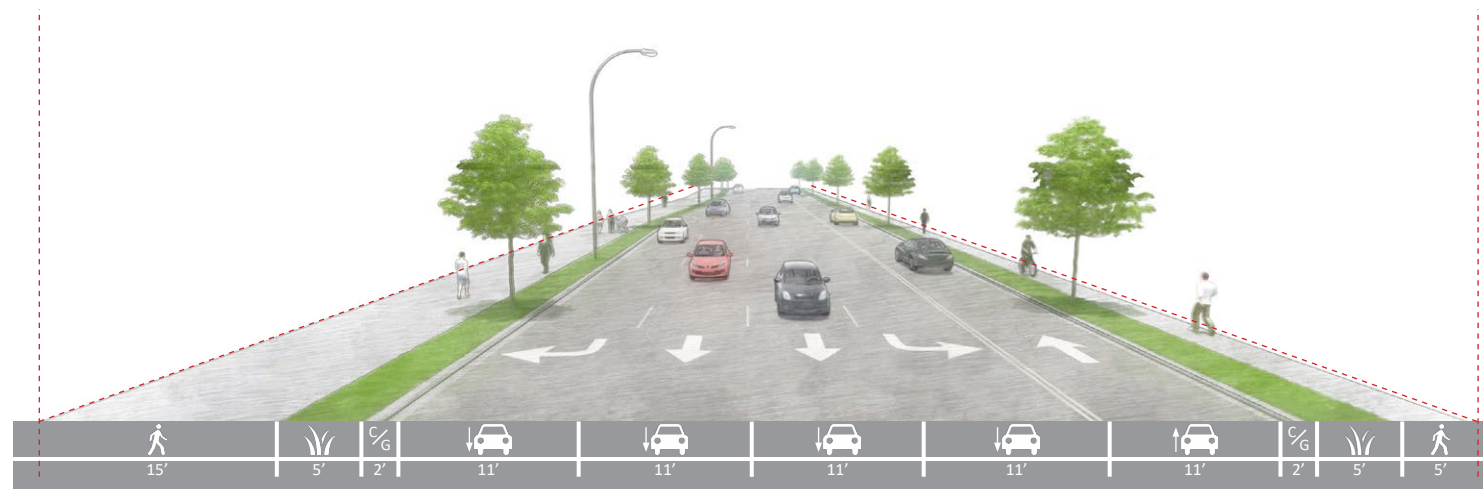
- EXTERNAL PROPOSED PEDESTRIAN CIRCULATION
- INTERNAL PROPOSED PEDESTRIAN CIRCULATION
- CITY MAINTAINED PEDESTRIAN CIRCULATION
- CITY MAINTAINED PEDESTRIAN CIRCULATION BELOW GRADE (STAIRS OR ELEVATORS)

The proposed site layout provides for ample pedestrian circulation to the various portions of the site and neighboring businesses and amenities. The exterior pedestrian circulation around the perimeter of the site will provide a 10' walking path, except at Sevier Street, State Street, and along a small portion of South Church Street between buildings 1 and 3, which will have a minimum 6' sidewalk. The internal pedestrian circulation will provide the residence, tenants, and visitors access from the exterior pathways to the parking garages, retail areas, and amenities. Crosswalks have been provided at the signalized intersections along Northwest Broad Street to provide for pedestrian circulation into and out of the site. Internal pedestrian circulations will be predominantly for those parking on site as well as for those working in the various businesses proposed therein. By keeping the majority of the pedestrian circulation to the exterior of the site, the development is able to implement the pedestrian characteristics set forth in the Historic Bottoms Overlay Plan.





NW Broad Street Section - Typical Mid-Block Length



South Church Street Cross Section at Intersection with NW Broad Street



NW Broad Street Section at Intersection with South Church Street



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 on Pages 03-07 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 on Pages 03-07 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 on Pages 03-07 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 development; the general location and maximum amount of area to be developed for parking; the general location and maximum amount of area to be devoted to open space and to be conveyed, dedicated, or reserved for parks, playgrounds, recreation uses, school sites, public buildings and other common use areas; the approximate location of points of ingress and egress and access streets; the approximate location of pedestrian, bicycle and vehicular ways or the restrictions pertaining thereto and the extent of proposed landscaping, planting, screening, or fencing.

Response: The plan(s) shown on Page 08 show 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 plan(s) shown on Page 08 show 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	401,623 s.f.
TOTAL MAXIMUM FLOOR AREA	462,000 s.f.
TOTAL LOT AREA	401,623 s.f.
TOTAL BUILDING COVERAGE	92,378 s.f.
TOTAL DRIVE/ PARKING AREA	289,415 s.f.
TOTAL RIGHT-OF-WAY	0 s.f.
TOTAL LIVABLE SPACE	112,208 s.f.
TOTAL OPEN SPACE	80,324 s.f.
FLOOR AREA RATIO (F.A.R.)	1.15
LIVABILITY SPACE RATIO (L.S.R.)	0.05
OPEN SPACE RATIO (O.S.R.)	0.77

7.) A written statement generally describing the relationship of the proposed planned development to the current policies and plans of the city and how the proposed planned development is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of this article.

Response: The property is currently zoned CH. The surrounding area has a mixture of commercial and civic use properties. The concept plan and development standards combined with the architectural requirements of the homes shown within this booklet align and closely mimic the type of developments in the surrounding neighborhoods and are envisioned to complete the development in this area.

8.) If the planned development is proposed to be constructed in stages or units during a period extending beyond a single construction season, a development schedule indicating:

(aa) the approximate date when construction of the project can be expected to begin;

Response: The project is anticipated to be developed in six 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 development. For this purpose, the substance of any proposed restrictions or covenants shall be submitted.

Response: This requirement has been addressed on Pages 09 and 16.

10.) A statement setting forth in detail either (1) the exceptions which are required from the zoning and subdivision regulations otherwise applicable to the property to permit the development of the proposed planned development or (2) the bulk, use, and/or other regulations under which the planned development is proposed.

Response: See Page 41 for requested setbacks and exceptions.

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 in the Historic Bottoms Character Area and the City Core Overlay District. No portions of this property lies in Zone AE, within the 100-year floodplain, according to the current FEMA Flood Panel 47149C0260J eff 5/9/2023.

12.) The location and proposed improvements of any street depicted on the Murfreesboro Major Thoroughfare Plan as adopted and as it may be amended from time to time.

Response: Pages 3 & 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 development plans. A primary representative shall be designated.

Response: The primary representative is Matt Taylor of SEC, Inc. developer/ applicant is HPR Residential, Inc. 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: Page 11-15 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, and will be reviewed by Planning Commission at site plan level.

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.

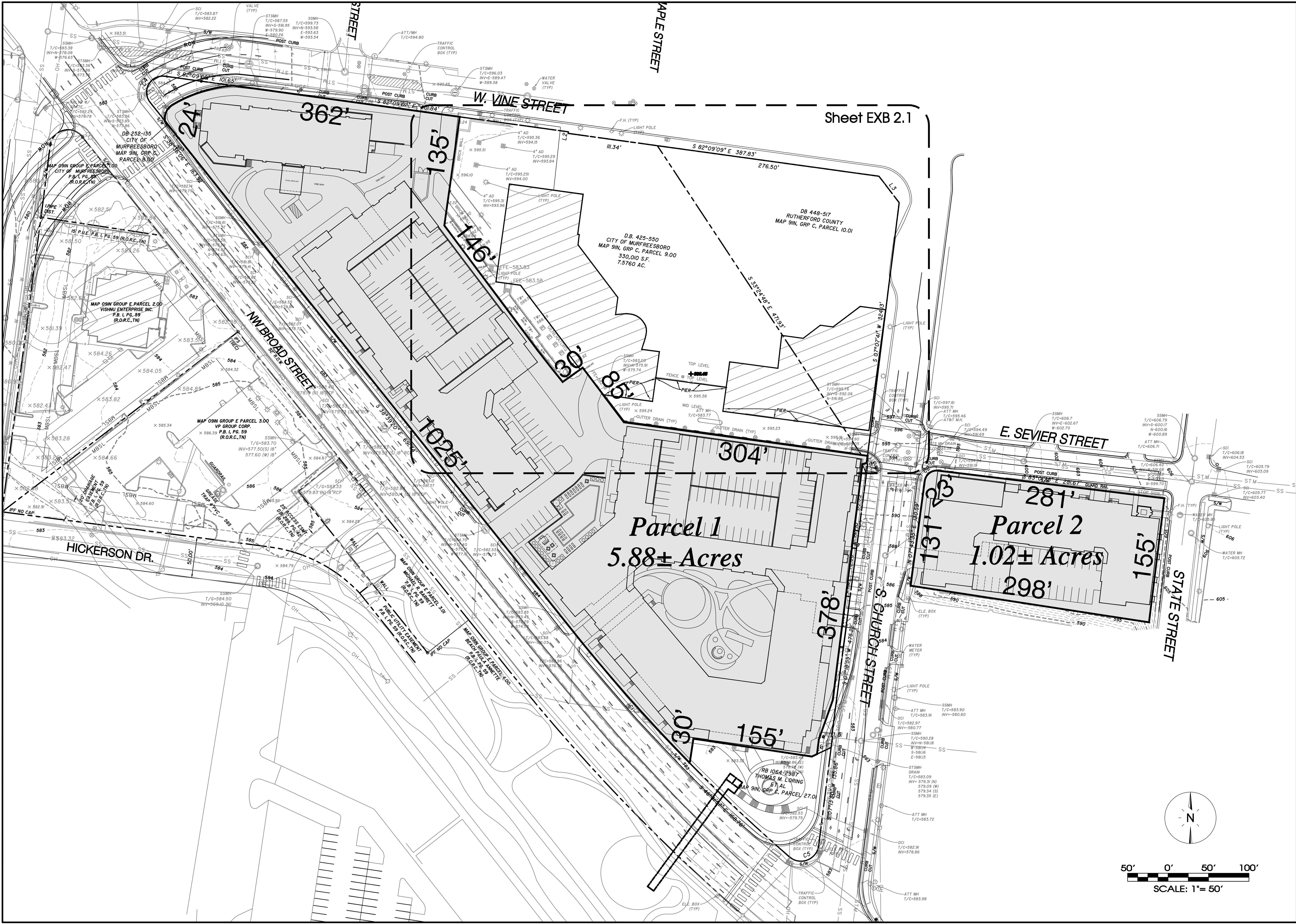
Response: No monument signage is proposed at this time.

Land Use Parameters and Building Setbacks							
Zoning (Existing vs Proposed)	CH (Existing)	CBD (Existing)	MU (Comparative)	Historic Bottoms & North Highlands DCB (Comparative)	CCO (Comparative)	Proposed PUD	Difference
Residential Density							
Maximum Dwelling Units Multi-Family	Not Allowed	none	25 units/acre		N/A	44 units/acre	+19 units/acre
Minimum Lot Area	none	none	5 AC		N/A	NA	NA
Minimum Lot Width	none	none	100'		N/A	NA	NA
Minimum Setback Requirements							
Minimum Front Setback	42'	0'	15'	Close to sidewalk	Average of Block Face Build-To-Line - 20'	0'	-20'
Minimum Northwest Broad Street Setback (Major Arterial)	42'	0'	50'		Average of Block Face Build-To-Line - 20'	0'	-20'
Minimum South Church Street Setback (Collector)	42'	0'	50'		Average of Block Face Build To Line - 16.7'	0'	-16.7'
Minimum East Sevier Street Setback (Local)	42'	0'	15'		Average of Block Face Build-To-Line - 20'	0'	-20'
Minimum West Vine Street Setback (Collector)	42'	0'	50'		Average of Block Face Build-To-Line - 20'	0'	-20'
Minimum Side Setback	10'	none	10'		N/A	0'	0'
Minimum Rear Setback	20'	none	20'		N/A	0'	0'
Minimum Setback Between Buildings or Parking Structures	20'	none	20'		20'	10'	-10'
*Building separation shall comply to Murfreesboro Codes							
Land Use Intensity Ratios							
MAX FAR	none	none	None		Not Required	None	NA
Maximum Lot Coverage	none	none	None		75%	80%	+5%
Minimum Livable Space Ratio	none	none	None		Not Required	None	NA
Minimum Open Space Requirement	20%	0%	20%		15%	15%	0%
Minimum Formal Open Space Requirement	5%	0%	5%		5%	5%	0%
Max Height	75'	75'	75' For Multi-Family 150' for Mixed-Use	6-story With Residential	Underlying District	See page 16 for proposed building heights (81' Max)	-69'
Parking Ratios (See Page 8&9 for Parking Calculations)	Per Chart 4 of the 2023 Zoning Ordinance		<u>Multi-Family Units:</u> 1.5 space per single bedroom unit 1.1 space per bedroom in multi-bedroom units <u>All Other Uses:</u> Per Chart 4 of the 2022 Zoning Ordinance	<u>Residential:</u> Formal on-street parking encouraged. Structured parking close to sidewalk w/ active uses (6-12' sidewalk), utilizing street trees of compact species	For commercial, Parking shall abide by Chart 4 of the 2023 Zoning Ordinance, however may be reduced by 50% if on-street parking is available and/or may be reduced up to 75% if located within 750' of publicly available parking. In the CCO, per Section 24, Article IV(C)(3)(4), one (1) off-street, on-site parking space shall be required for each bedroom provided in each multi-family family dwelling unit.	Parking shall abide by Development Agreement at 1 space per 1 bedroom/studio units and 2 spaces per two bedroom unit.	

***The development agreement takes precedent/supersedes the City of Murfreesboro Zoning Ordinance.

Exception Summary

- 1)Exceptions related to Parking stated in Zoning Ordinance Section 26(C)(6)(a), Section 26(E)(4), Chart 3 and Chart 5:
 - 1.1 Parking shall be calculated upon the Development Agreement as shown on page 9
 - 1.2 Allow compact spaces to be 7’-6” wide by 15’-6” deep (instead of 8.5’ compact space width by 19’ depth)
 - 1.3 Allow standard stalls to be 8.5’ wide x 18’ deep instead of the 9’ wide by 19’ deep (Standard Murfreesboro parking stall size) with the capability of reducing the depth to 16’ in front of columns if needed. Drive aisles will also be 24 feet wide in these locations instead of 22 feet. This is to allow the support columns to be a more cost effective distance from one another.
 - 1.4 Allow sidewalks adjacent to parking to be reduced from 7’ to 6’.
 - 1.5 Allow handicap spaces to be included within the minimum required parking count (instead of being excluded per parking standards Section 26(C)(2)(c)).
- 2) Exceptions related to Landscape stated in Zoning Ordinance Section 27 and Section 24 Article VI-CCO:
 - 2.1 Exclude any base of building plantings
 - 2.2 Exclude any landscape yard requirements
 - 1.3 Exclude any perimeter landscape requirements
- 3) Allow setbacks to be 0’ adjacent to all streets ROWs and within the project interior as depicted on page 18 of the program book (so long as they meet building and fire codes).
- 4) Allow lot coverage of 80% (instead of the 75% allowed in the CCO, for 5% higher coverage)
 - 5) Allow density of 44 units per acre (instead of the 25 units per acre that would be in the comparative mixed-use zoning district).



Sheet EXB 2.1

REVIEW SET

Not Intended For Construction

KEYSTONE ON BROAD

Development Area Exhibit

EXB 2.0

22026

JOB NO.

22026

SCALE:

1" = 50'

FILE NAME:

22026_Exhibit

CHECKED:

MT

DATE:

10-04-2023

DRAWN:

BPG

REVISIONS:

Keystone on Broad

Murfreesboro, TN

SEC, Inc.

SITE ENGINEERING CONSULTANTS

ENGINEERING • SURVEYING • LAND PLANNING

LANDSCAPE ARCHITECTURE

850 MIDDLE TENNESSEE BOULEVARD

MURFREESBORO, TENNESSEE 37129

PHONE: (615) 890-7901

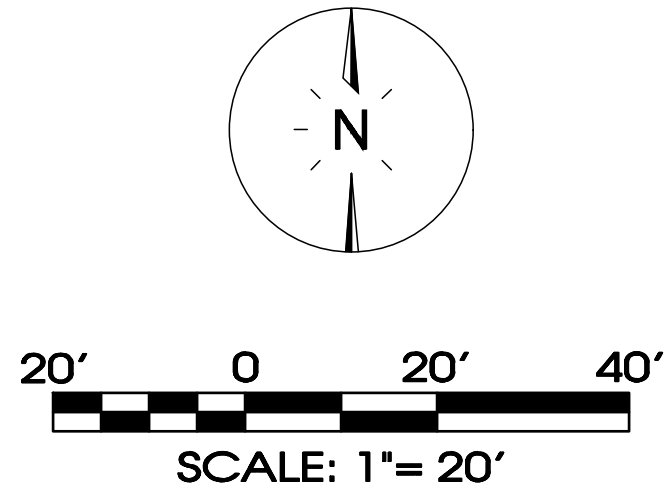
WWW.SEC-CIVIL.COM

FAX: (615) 895-2567

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The site as shown on these construction drawings is intended to achieve specific engineering design criteria and objectives. It is the sole responsibility of the owner/developer to ensure that the construction of the site shown on these construction drawings is in accordance with the design as noted, described, and otherwise indicated on these drawings, and that the construction is completed in accordance with the assurance that the site is constructed in accordance with the construction plans.



SEC, Inc.
SITE ENGINEERING CONSULTANTS
ENGINEERING • SURVEYING • LAND PLANNING
LANDSCAPE ARCHITECTURE
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REVIEW SET
Not Intended For Construction

Keystone on Broad
Murfreesboro, TN

Development Area Exhibit
EXB 2.1

REVISIONS:	
DRAWN: BPG	
DATE: 10-04-2023	
CHECKED:	
MT	
FILE NAME:	
22026_Exhibit	
SCALE:	
1" = 20'	
JOB NO.	
22026	
SHEET:	

MINUTES OF THE MURFREESBORO PLANNING COMMISSION DECEMBER 6, 2023

6:00 P.M.

CITY HALL

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Reggie Harris
Bryan Prince
Chase Salas
Shawn Wright

STAFF PRESENT

Greg McKnight, Exec. Director Dev. Services
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Holly Smyth, Principal Planner
Amelia Kerr, Planner
Carolyn Jaco, Recording Assistant
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. Public Comments.

Chair Kathy Jones announced no one signed up to speak during the Public Comments portion of the agenda.

4. Approve minutes of the November 14, 2023, and November 15, 2023 Planning Commission meetings.

Mr. Chase Salas made a motion to approve the November 14, 2023 and November 15, 2023 Planning Commission meetings; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Reggie Harris
Bryan Prince
Chase Salas

MINUTES OF THE MURFREESBORO PLANNING COMMISSION DECEMBER 6, 2023

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

There being no further discussion, Mr. Shawn Wright moved to approve the zoning application subject to all staff comments; the motion was seconded by Mr. Chase Salas and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Reggie Harris
Bryan Prince
Chase Salas
Shawn Wright

Nay: None

Zoning application [2023-418] for approximately 7.3 acres located along Northwest Broad Street and West Vine Street to be rezoned from CH & CCO to PUD & CCO, approximately 0.1 acres to be rezoned from CBD & CCO to PUD & CCO, and approximately 0.4 acres to be rezoned from CH & CCO to CBD & CCO, HRP

Residential applicant. Ms. Holly Smyth presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Mr. Matt Taylor (design engineer) and Mr. Bart Kline (architect) were in attendance representing the application.

The Planning Commission began discussing the proposal and wanted to know who would be responsible for some of the other developments adjoining this proposal.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION DECEMBER 6, 2023

Mr. Matt Taylor explained the developments referenced by the Planning Commission, such as the pedestrian bridge and the adjacent outdoor plaza, are City projects that would have their own designers, but that his team would be working with the City to make sure that their proposal will work in conjunction with those projects. Mr. Reggie Harris wanted to know about the view of the parking garage between the library and City Hall. Mr. Matt Taylor explained the architect would be providing additional details regarding architectural enhancements during site plan review. There was also some discussion about parking.

Chair Kathy Jones opened the public hearing.

1. **Mr. Shaun Miller, 204 Northwest Broad Street** – wanted to know what happens to the properties across the street at the intersection of Vine and Broad Street.

There being no one else to speak, Chair Kathy Jones closed the public hearing.

There was additional discussion between the Planning Commission and the applicant regarding the proposed City improvements across Northwest Broad Street, the architectural design for the hotel, the phasing of the development, and the dimensions of the proposed parking stalls.

There being no further discussion, Vice-Chairman Ken Halliburton moved to approve the zoning application subject to all staff comments; the motion was seconded by Mr. Bryan Prince and carried by the following vote:

Aye: Kathy Jones

Ken Halliburton

Reggie Harris

Bryan Prince

Chase Salas

Nay: Shawn Wright

ORDINANCE 23-OZ-44 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 7.3 acres located along Northwest Broad Street and West Vine Street from Highway Commercial (CH) District and City Core Overlay (CCO) District to Planned Unit Development (PUD) District (Keystone on Broad PUD) and City Core Overlay (CCO) District; approximately 0.1 acres from Central Business (CBD) District and City Core Overlay (CCO) District to Planned Unit Development (PUD) District and City Core Overlay (CCO) District; and approximately 0.4 acres from Highway Commercial (CH) District and City Core Overlay (CCO) District to Central Business (CBD) District and City Core Overlay (CCO) District; HRP Residential, applicant, [2023-418].

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 Unit Development (PUD) District, Central Business (CBD) District and City Core Overlay (CCO) District, as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said 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

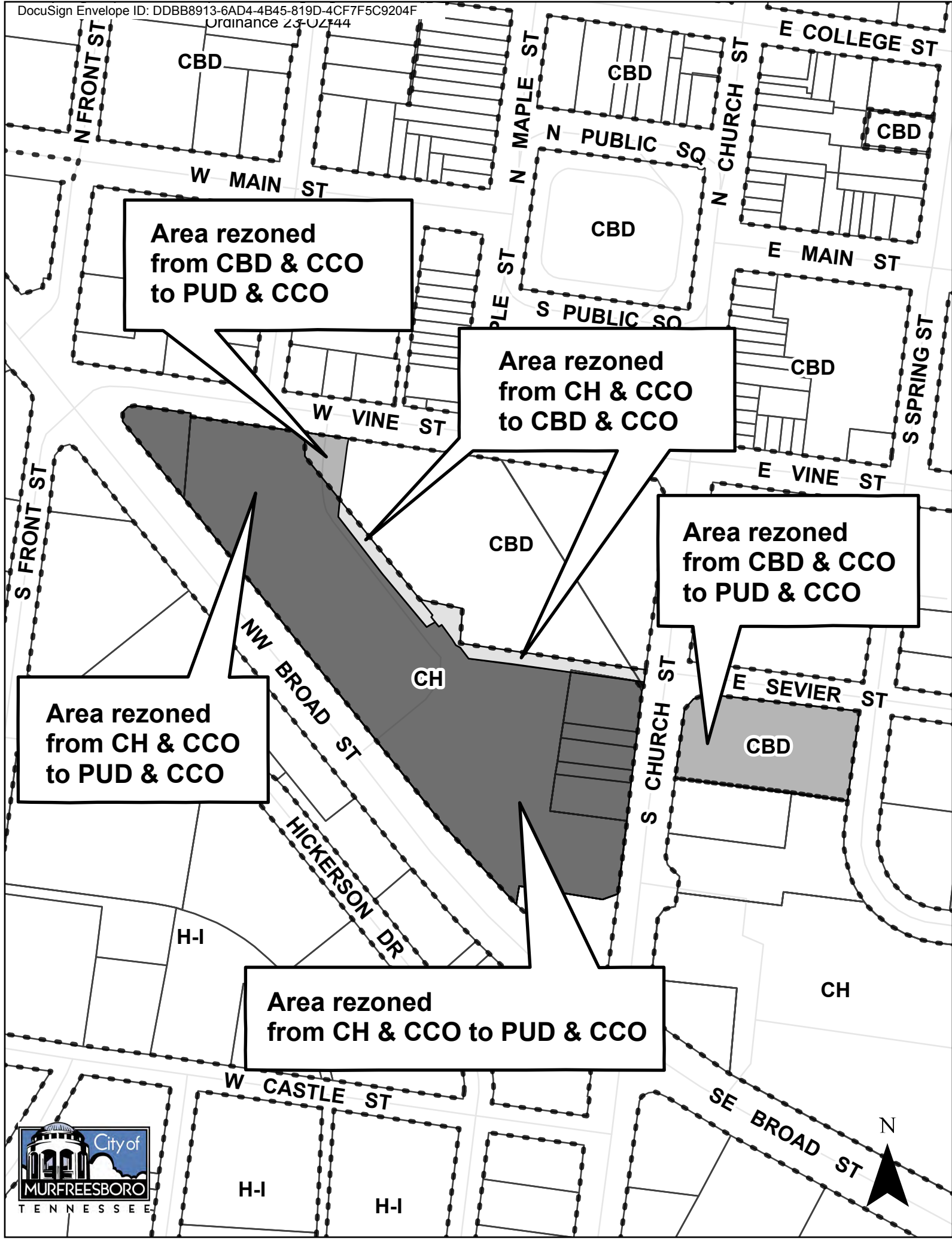
Shane McFarland, Mayor

APPROVED AS TO FORM:

DocuSigned by:
Adam F. Tucker

43A2035E51F9401...
Adam F. Tucker
City Attorney

SEAL



COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Amending the Zoning Ordinance – Miscellaneous Revisions
[First Reading]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Ordinance amending the Zoning Ordinance regarding miscellaneous revisions to Sections 2, 6, 7, 9, 24, 25, 26, 28, Chart 1 (including Chart 1 endnotes), and Chart 2 (including Chart 2 endnotes).

Staff Recommendation

Enact the ordinance amendment.

The Planning Commission recommended approval of this ordinance amendment.

Background Information

The Planning Department presented an ordinance amendment [2023-803] regarding miscellaneous revisions to Sections 2, 6, 7, 9, 24, 25, 26, 28, Chart 1 (including Chart 1 endnotes), and Chart 2 (including Chart 2 endnotes). During its regular meeting on December 6, 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

This amendment reinforces the City's commitment to customer service, as it works to address gaps and inconsistencies in the Zoning Ordinance, making it more user-friendly for the numerous stakeholders who use it.

Improve Economic Development

Streamlined zoning regulations is a benefit to those desiring to invest in Murfreesboro.

Attachments:

1. Ordinance 23-O-45
2. Planning Commission staff comments from 12/06/2023 meeting
3. Draft Planning Commission minutes from 12/06/2023 meeting
4. Working copy of revisions

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
DECEMBER 6, 2023
PROJECT PLANNER: HOLLY SMYTH**

- 5.d. Proposed amendment to the Zoning Ordinance [2023-803] pertaining to**
- Section 2: Definitions**
 - Section 6: Amendments**
 - Section 7: Site Plan Review**
 - Section 9: Standards for Special Permit Uses**
 - Section 24: Overlay District Regulations, Article VI. CCO, City Core Overlay District**
 - Section 25: Temporary and Accessory Structures and Uses**
 - Section 26: Off-Street Parking, Queuing, and Loading**
 - Section 28: Non-Conformities**
 - Chart 1: Uses Permitted by Zoning District, with endnotes**
 - Chart 2 with endnotes, City of Murfreesboro Planning Department applicant.**

Throughout the year the City's Zoning Ordinance is modified in order to keep up with new policy direction, like the recently adopted updates to the 2035 Comprehensive Plan Land Use section, and for easier implementation. One of the challenges is to address outdated or missing definitions clearly so that particular uses are clearly understood and that use terminology is consistent with Chart 1. Additionally, opportunities may exist to reduce the amount of text within the overall document when items can be incorporated into tables.

The proposed changes add or modify existing definitions, make modifications to the City Core Overlay (CCO) District section, move existing prohibited uses listed in the CCO chapter into Chart 1, modify/add/delete some uses in Chart 1 with its endnotes, and modify Chart 2 mostly related to the RD district with its endnotes. Multiple planners within the department collaborated on these text revisions which staff has been tracking in redlined changes so the modifications may be clearly expressed to the Commission. Additions are shown via underlined text, moved text via double underlined text, and deletions via strike-through text. Only the proposed changes will be included; therefore, it may be helpful to review with a current copy of the Zoning Ordinance as a reference to better understand the context of the proposed amendments. Chart 1 modifications are highlighted in yellow for ease in locating the specific cells of change, with additional modifications since the workshop highlighted in orange.

The following is a brief synopsis of potential proposed changes that will be considered during a public hearing:

- 1) Updated definitions by removing the ones no longer used, modifying existing ones, and adding some new definitions consistent with Chart 1 uses.
- 2) Updated City Council's process on setting a public hearing for text and map amendments to reduce processing periods.
- 3) Updated the Site Plan section to include one foot contours which are now available, require information on potentially visible roof projections and equipment with site plan submittals, and potentially requiring a traffic impact report or analysis when peak hour traffic exceeds 100 trips.
- 4) Modified the City Core Overlay section to include references to the New General Plan Land Uses, clarifying non-conforming use/ structure policy consistent with practice, moving all prohibited uses from the text into a new column in Chart 1, cleaning up front setback and height language and the like.
- 5) Clarified accessory structure standards such that stand alone parking lots are still not allowed and increased the area that an accessory structure can be within the required rear yard from 25% to 50%.
- 6) Clarified policies on non-conforming structures.
- 7) Modified Chart 1 to add a CCO overlay column to reflect prohibited uses and make sure it is consistent with the CBD column as applicable (as the CBD is part of the CCO), modifying and adding some of the use titles consistent with the definitions, and modifying some of the Chart 1 endnotes.
- 8) Modified Chart 2 RS-4 district to have 50% maximum lot coverage, R-D District standards for #1 single family detached to use RS-4 standards, updated the side yard requirements for zero lot line types in all district to be 5', and modified Chart 2 endnotes.

The Planning Commission held a special workshop meeting on November 14, 2023 and brought up several areas for staff to look into further relating to parking lot policy, incorporating CBD and THC sales with the Tobacco/Vape Shop definition, providing technology and trade school definitions, and verifying Chart 1 CCO prohibitions are existing or new via underlined text if it is new.

Staff also reviewed the public comments provided at the workshop and incorporated some of those suggestions as well which will be reviewed during the public hearing. These modified sections that occur in the text portion of the document have been highlighted in yellow and reflected in orange on Chart 1 so that Planning Commission can more easily see the changes since the workshop.

Action Needed:

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

ZONING ORDINANCE UPDATES

SECTION 2. INTERPRETATION AND DEFINITIONS

SECTION 6. AMENDMENTS

SECTION 7. SITE PLAN REVIEW

SECTION 9. STANDARDS FOR SPECIAL PERMIT USES

SECTION 24. OVERLAY DISTRICT REGULATIONS

Article VI CCO City Core Overlay District

SECTION 25. TEMPORARY AND ACCESSORY STRUCTURES AND USES

SECTION 26. OFF-STREET PARKING AND QUEUING SPACES BY USE

SECTION 28. NON-CONFORMITIES

CHART 1 USES PERMITTED BY ZONING DISTRICT (In Excel Spreadsheet)

CHART 1 ENDNOTES USES PERMITTED BY ZONING DISTRICT

CHART 2 MINIMUM LOT REQUIREMENTS, MINIMUM YARD REQUIREMENTS AND LAND USE
INTENSITY RATIOS (In Excel Spreadsheet)

CHART 2 ENDNOTES MINIMUM LOT REQUIREMENTS, MINIMUM YARD REQUIREMENTS AND
LAND USE INTENSITY RATIOS

SECTION 2. INTERPRETATION AND DEFINITIONS.

Accessory apartment: A secondary dwelling unit either in or added to an existing single family detached dwelling, or in a separate accessory structure on the same lot of record with its own separate exterior entry door, for use as an independent living facility with provisions provision within the accessory apartment for cooking and food preparation (including sink and electrical outlets to accommodate kitchen appliances such as refrigerator, oven or stove), sanitation (including toilet, sink, and shower or bathtub), and sleeping. Such a dwelling shall be accessory to the main dwelling.

Amusements, commercial indoor: Indoor commercial recreational or entertainment activities including but not limited to games of skill (such as arcades, archery, billiards, batting cages, bowling alleys, golf simulation, rock climbing, soccer), movie theaters, concert or music halls.

Artisan (use): A small commercial use for individual craft making or manufacturing that may be suitable outside of industrial zones. Artisan uses will typically involve work by hand or with limited smaller machinery. Representative artisan uses may include (without limitation) the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, metalwork, hand-woven articles, and related items, ~~as well as uses specifically defined as "artisan" herein.~~ The total floor area for artisan uses shall not exceed 3,000 square feet.

Automobile: Any vehicle designed for carrying 10 passengers or less, is used for transportation of persons, and has a gross weight of less than ~~40,000~~8,500 pounds. ~~but excluding motorcycles and vehicles used to carry passengers for a fee.~~

Automobile Body Shop: A facility which provides collision repair services, including frame straightening, replacement of damaged parts, painting, or undercoating of the body or frame of vehicles with a gross vehicle weight of 10,000 pounds or less.

Automotive dismantlers and recyclers: Any person, firm, association, corporation, or resident or nonresident who is engaged in the business and/or providing facilities for the purposes of recovering parts from automobiles and trucks which have been wrecked or otherwise rendered inoperable as transportation vehicles with said parts recovered being for resale and further reduce used automobiles and trucks to a condition capable of salvage for their metal scrap content by scrap processors.

~~*Automobile graveyard:* Any establishment or place of business which is maintained, used, or operated as a principal, accessory or ancillary use for storing, keeping, buying, or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts. One or more such vehicles will constitute an automobile graveyard. This definition for automobile graveyard does not include automobile dismantlers and recyclers, recycling centers or wrecker service storage yards as defined by Appendix A—Zoning. WAS ALREADY COMBINED WITH JUNKYARDS PREVIOUSLY~~

Automotive/Motor Vehicle Repair: The repair of automobiles, motorcycles, light duty trucks (not exceeding 8,500 lbs), including but not limited to engine, transmission, upholstery work, tire service/sales/rotations and the like. This excludes body work and automobile dismantling and recycling.

and outdoor storage of inoperable, wrecked, or dismantled vehicles is only allowed if screened according to the requirements of this article.

~~Automotive service station~~Automotive/Motor Vehicle Service: Any building, structure, or land used for the dispensing, sale or offering for sale at retail of automotive fuel oils and accessories in connection therewith and for the Routinelight maintenance of automobiles, motorcycles, light duty non-commercial trucks or similar vehicles, including but not limited to, muffler replacement, oil change and lubrication, tire sales/ service/rotations, alignments, brakes, etc. servicing of motor vehicles. When such dispensing, sale or offering for sale is incidental to the conduct of a commercial garage, the premises shall be classified as a commercial garage. Excludes body work, automobile dismantling and recycling, and the outdoor storage of inoperable, wrecked, or dismantled vehicles.

Building height: The vertical distance measured from grade to the highest point of the roof for flat roofs, to the highest point of a parapet wall, to the deck line for mansard roofs, or to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

Cigar Lounge: An establishment where the principal use is the sale of cigars to patrons who smoke cigars on or off-site and where any sales of food or alcohol is accessory to the use.

Contractor's/Construction Equipment, Sales and Rental: An establishment that engages in the sale and/or rental of construction equipment and construction vehicles, including but not limited to earth-moving equipment, dump trucks, construction trailers, scissor lifts, lighting, scaffolding, etc.

Convenience Store: A retail store primarily engaged in the sale of pre-packaged food and, beverages, and a limited stock of household goods and toiletries and where convenience and speed of transaction is of primary importance. This may or may not have gasoline sales attached to the business.

Data Center: A building or complex of buildings in which 51% of the gross floor area is dedicated to the housing of computer or data processing equipment or systems. This does not include a Server Farm.

Fitness/ Exercise/ Health club facility: A building or a portion of a building > 5,000 square feet of gross floor area designed and equipped for the conduct of fitness activities, including but not limited to sports activities, exercise, weight training, and dance and may be operated either for profit or not-for profit.

Fitness studio/Personal fitness instruction: An establishment ≤ 5,000 square feet of gross floor area equipped for the conduct of individual or small group physical exercise instruction and fitness activities, including, but not limited to, exercise, weight training, yoga, meditation, pilates, aerobics, martial arts, dance, and self-defense training.

Floodplain or floodprone area: Any land susceptible to being inundated by water from any source. See Section 34 of the Zoning Ordinance.

Floor area: The sum of the horizontal areas of the several all floors of all buildings on a lot measured from the exterior face of exterior walls. The following shall be excluded from calculation of the floor area, (including for the purposes of calculating the required number of parking spaces):

(A) open exterior balconies or other covered open spaces.

(B) uncovered terraces, patios, porches, ~~atriums,~~ or steps.

(C) garages, carports, ~~or other areas,~~ enclosed or ~~un~~enclosed areas used for the parking or circulation of motor vehicles.

(D) ~~areas for housing~~ major mechanical equipment areas which serves the building as a whole or a major portion thereof, ~~but not including utility areas within individual dwelling units.~~

(E) areas of common special purpose used by a substantial portion of the occupants of the premises, including laundries, recreation areas, sitting areas, libraries, storage areas, common halls, lobbies, stairways and elevator shafts, attics and areas devoted exclusively to management and/or maintenance of the premises, ~~but not including incidental commercial activities.~~

Floor area, gross: The total of the gross horizontal areas 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. The exclusions listed in the definition of "floor area" shall not be applicable to the calculation of gross floor area.

Floor area ratio (FAR): The total square foot amount of gross floor area of all structures on all building levels (without any exclusions) on a lot ~~for each~~ divided by the square footage of gross land area.

General Service and Repair Shop: Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses. Typical uses include but are not limited to appliance repair, shoe repair, watch or jewelry repair, or repair of musical instruments. This ~~excludes~~ automotive and commercial or contractor's equipment repair.

Group home: See definition of "family" sub-item "c".

Lot coverage: The percentage of lot area occupied by the ground area of principal and accessory buildings on such lot. (i.e., Ground level building footprint divided by gross land area multiplied by 100 = lot coverage percentage). This is different than impervious area.

Motor vehicle sales, rental (automobiles): The display, sales, and rental, storage, servicing, and repairing of new and/or used motor vehicles ~~(does not include assembly or partial assembly from wrecked vehicles)~~, including but not limited to automobiles, motorcycles, and all-terrain vehicles. Automobile storage, service, and repair are permissible accessory uses but body work, automobile dismantling and recycling, and the outdoor storage of dismantled vehicles are not.

Motor vehicle: Sales, rental (Other than automobiles): The display, sales, and rental of new and/or used recreational vehicles, motor homes, and camping trailers. The storage, service, and repair of such vehicles are permissible accessory uses but body work or dismantling and recycling of such vehicles and the outdoor storage of such dismantled vehicles are not.

Motor vehicle: Sales, rental, repair (Medium & Heavy Duty Commercial Vehicles): The display, sales, and rental ~~servicing, repairing and accessory storage,~~ of new and/or used heavy duty commercial vehicles weighing in excess of 16,000 8,500 pounds, including but not limited to box trucks, truck

~~tractors, semi-trucks, tractors-trailers, excavation equipment and transit buses, and~~ whereas storage, service, and repair of such vehicles are permissible accessory uses but body work, dismantling and recycling of such vehicles, and the outdoor storage of such dismantled vehicles are not.

~~**Motor vehicle service:** A building or portion thereof to be used for equipping, servicing and repair of motor driven vehicles, with or without the sale of motor fuels and oils. See "Automotive/Motor Vehicle repair".~~

~~**Motor vehicle storage:** The use of any premises for outdoor parking of wrecked or abandoned vehicles.~~

~~**Parking structure and parking garage:** A structure used for the parking of vehicles and consisting of one or more than one stories. A parking structure may be either a principal structure or an accessory structure, part of a building containing other uses or may be a stand-alone building. This is not the same as a parking lot discussed in Section 25.~~

~~**Personal Service Establishment:** A business providing non-medical services, including but not limited to tailor, seamstress, tanning salon, spa services (including manicure, pedicure, facials, massage therapy) and formal rentals shop. The sale of merchandise shall be permitted only as an accessory use to the personal service(s) provided.~~

Retail Shop: Tobacco, Vape, Dispensary: A store that devotes at least 51 % of its floor area, or earns at least 51% of gross sales, to the display, sale, distribution, delivery, offering, furnishing, or marketing of products intended for recreational/ non-prescription use including but not limited to cigarettes, smokeless tobacco, pipe tobacco, vapes, products made from cannabinoid derivative plants (e.g., CBD or THC products), or other nicotine or cannabinoid delivery devices, components, products, liquid nicotine or cannabinoids, or liquid nicotine or cannabinoid containers.

Tavern: An establishment where the principal use is the individual sale of beer and other alcoholic beverages to be consumed on the premises and where any sales of food is accessory to the above.

Technology / Vocation School: A post-secondary school that teaches students the skills necessary to perform the duties of a profession that typically requires a specific set of skills, training, certifications or licensing. All onsite instruction areas are conducted indoors and are generally conducted in a classroom or lab setting.

Trade School: A facility that teaches skills necessary for specific trades, including but not limited to, construction trades and those trades involving the operation of heavy machinery and medium-to-heavy duty vehicles. Some or all onsite instruction areas are outdoors.

Yard: A required open space on a lot between a lot line and a building or structure which is unoccupied and unobstructed from the grade to the sky, except for the following permitted obstructions:

- (A) accessory uses, subject to the provisions of Section 25 herein;
- (B) statuary, arbors, trellises, and barbecue stoves;
- (C) awnings and canopies;
- (D) bay windows, covered or uncovered balconies (including juliet balconies), and covered porches and/or balconies may project up to sixty inches within a front or rear yard;
- (E) chimneys, flues, fireboxes, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like projecting not more than twenty-four inches from an exterior wall;
- (F) fire escapes or outside stairways projecting from an exterior wall not more than four feet;
- (G) flagpoles, subject to the limitations of the Sign Ordinance;
- (H) non-mechanical laundry drying equipment, except in a front yard;
- (I) off-street parking and loading, but only as expressly authorized in Section 26 in Appendix A - Zoning;
- (J) terraces;
- (K) recreational equipment, except in front yards; and,
- (L) attached and/or detached uncovered decks may be located within a required side or rear yard but shall be no closer than five feet from a side or rear property line.

SECTION 6: AMENDMENTS (E)(1)(e-f):

(E)(1) Procedure for Amendments to the Text of the Zoning Ordinance:

(e) The Department shall forward the recommendation of the Commission, and the Department's recommendations, if different from the Commission's, to the City Manager Council within ten days from the date of the Commission's action. The City Manager shall place the recommendation of the Commission, together with the Department's recommendation, if different, on the City Council agenda for a public hearing and consideration at a meeting no more than 60 days from the date of the Planning Commission's action.

(f) The Council shall hold a public hearing on ~~such proposed~~ the amendment as scheduled by the City Manager unless City Council votes to defer the public hearing to a specific later date. ~~after receipt of the recommendations of the Commission.~~ Notice of any public hearing shall be published in a local newspaper of general circulation stating the date, time, and place of the hearing not more than thirty days nor less than fifteen days before such public hearing.

SECTION 6(E)(2)(f-g):

(E)(2) Procedure for Amendments to the Zoning Map excluding Planned Developments.

(f) The Department shall forward the recommendation of the Commission and the Department's recommendations, if different from the Commission's, to the City Manager. to the Council within ten days from the date of the Commission's action. The City Manager shall place the recommendation of the Commission, together with the Department's recommendation, if different, on the City Council agenda for a public hearing and consideration at a meeting no more than 60 days from the date of the Planning Commission's action unless the applicant requests to defer Council's consideration of the amendment indefinitely or to a specific later date.

(g) ~~The Council shall hold a public hearing on such proposed~~ the amendment on the date set by the City Manager unless the applicant withdraws its application. ~~after the receipt of the recommendations of the Commission.~~ Notice of any public hearing shall be published in a local newspaper of general circulation stating the date, time, and place of the hearing not more than thirty days nor less than fifteen days before such public hearing. In addition, a sign shall be maintained on the subject property by the applicant which meets with the size and content requirements of the Commission, and notice shall be mailed to property owners within two hundred fifty feet. Failure to mail notice to such owner(s) will not invalidate the amendment.

City Of Murfreesboro Planning Commission Site Plan Review Checklist

A. GENERAL SITE PLAN:

- ____(14) the existing and proposed elevation contours at a vertical interval of ~~two~~one ~~feet~~foot based on sea level with existing contours shown as dashed lines and proposed grading contours shown in solid lines;

K. OTHER:

- ____(4) preliminary architectural elevations for all proposed buildings with final architectural elevations to be submitted prior to issuance of building permits. All elevations submitted shall indicate building height as defined by the Zoning Ordinance, label all exterior building materials, and indicate any visible roof projections/mechanical equipment, including the height of such.; Illustrations and/or details of all hardscape, lighting, and street furniture, and conceptual signage should also be incorporated;
- ____(5) any other information necessary for the Planning Commission and Planning Director to adequately review the site plan. This could include but may not be limited to a traffic impact study or a traffic analysis when a proposed development generates 100 trips during the peak hour as determined by the City Engineer. .;

SECTION 9. STANDARDS FOR SPECIAL PERMIT USES.

(D) Authorized special uses and additional standards.

(2) (rr) Home occupations shall be subject to the following additional standards:

[9] the following activities and land uses shall not be permitted as home occupations:

[f] Age restricted sales of any kind, including but not limited to vape, alcohol, and tobacco.

SECTION 24. OVERLAY DISTRICT REGULATIONS.

Article VI. CCO, City Core Overlay District

(A) (3) *Subarea Plans within the CCO*: The CCO includes the study areas of the North Highland Avenue and Historic Bottoms planning studies. These planning studies informed the writing of the CCO regulations and are of significant value. To the extent possible, developments within the CCO also located within the study areas of the North Highland and Historic Bottoms planning studies shall attempt to honor the recommendations of those plans.

(A) (4) *New General Plan Land Uses within the CCO*: Some areas of the CCO are not included in the North Highland Avenue or the Historic Bottoms planning studies. However, the General Plan was drafted to address these gaps and recommends appropriate land use characters for these areas the General Plan land use element created a new "Mixed Form Housing-MH" land use category and a new "Neighborhood Compatible overlay" to provide more specific guidance as to how to develop these sensitive residential areas within the context of existing neighborhoods. These inclusions into the General Plan were made to better address planning gaps and are of significant value. To the extent possible, developments shall honor the recommendations of this plan.

(B) *Application of regulations.*

~~(B) (3) — *Extension and reconstruction of lawfully established non-conforming structures.* The requirements set forth in this subsection shall apply to all new development in the CCO district from the effective date of this subsection. Notwithstanding the requirements of Section 28 — Nonconformities of the Zoning Ordinance, a lawfully established pre-existing structure that does not comply with the regulations set forth in this Section may be extended or reconstructed one (1) time in accordance with the zoning standards in effect on September 30, 2019. All additional extensions and reconstructions shall comply with the terms of this subsection and Section 28 — Nonconformities of the Zoning Ordinance.~~

~~(4)~~ (B) (3) *Planned developments.* The regulations set forth in this subsection shall not prevent a property owner from seeking planned development zoning when such zoning is necessary or desirable to promote the purposes of the CCO district. However, to the extent possible, they should adhere to the regulations of the CCO, Design Guidelines, and other base zoning districts that best approximate the proposed development type. Exceptions to any of the above applicable regulations, including the CCO regulations, shall be explicitly noted in the planned development application.

~~(B)(4) Extension and Reconstruction of lawfully established non-conforming structures. The requirements set forth in this subsection shall apply to all new development in the CCO district from the effective date of this subsection. Notwithstanding the requirements of Section 28 – Nonconformities of the Zoning Ordinance, a lawfully-established pre-existing structure that does not comply with the zoning standards currently in effect regulations set forth in this Section may be extended or reconstructed one (1) time provided that such structure shall not increase the degree of non-conformity nor create any new non-conformities in accordance with the zoning standards currently in effect within 3 years of demolition. All additional extensions and reconstructions shall comply with the terms of this subsection and Section 28 – Nonconformities of the Zoning Ordinance.~~

(B)(5) Use regulations. Land uses in the CCO district shall be as permitted by the underlying zoning district, with the following exceptions:

(a) ~~(d)~~ Lawfully-established residential non-conforming uses. Notwithstanding the requirements of Section 28 of the Zoning Ordinance, ~~a structure devoted to a~~ lawfully-established pre-existing residential use that is not permitted in the CCO or in the base zoning district may be ~~extended, or reconstructed one (1) time and the use(s) allowed to resume upon extension, enlargement, or reconstruction, provided that 1) such extension or reconstruction is only within the boundaries of the existing tract or lot of record; 2) that the extension, or reconstruction of a residential use does not increase the number of dwelling units is not increased; 3) that such extension, enlargement, or reconstruction shall meet all current zoning requirements, including but not limited to parking and building setback requirements and the structure meet the provisions outlined in section (B)(4) directly above. – All other terms of Section 28 of the Zoning Ordinance regarding non- conforming uses will apply to the CCO District.~~

(b) For properties having underlying zoning that permits two-family dwellings, duplex residential units shall not be required to have a shared wall, but will still be considered 2-family dwellings.

~~(b)-(c)~~ For properties having underlying zoning that permits accessory apartments, a Special Use Permit shall not be required, provided that the following standards are satisfied:

~~(c)-(d)~~ The following Various uses listed on Chart 1 USES PERMITTED of the Zoning Ordinance and which may be otherwise permitted by right or by special use permit in the underlying zones but shall not be permitted uses in the CCO district. These prohibited uses are detailed in Chart 1's "CCO" column designated "N" for "not allowed".. Those listed "N*" (with an asterisk) are prohibited if such use occupies more than 3,000 square feet in floor area:

OTHER HOUSING

Fraternity/Sorority
Mobile Homes
Motel

INSTITUTIONS

Airport/Heliport
Morgue
Pet Cemetery

COMMERCIAL

~~Amusements, Commercial Outdoor excluding Motorized~~
~~Amusements, Commercial Outdoor Motorized~~
~~Boat Rental, Sales, or Repair~~
~~Campground, Travel Trailer Park~~
~~Carnivals~~
~~Crematory~~
~~Drive-in Theater~~
~~Fireworks Retailer~~
~~Fireworks Seasonal Retailer~~
~~Greenhouse or Nursery~~
~~Ice Retail~~
~~Iron Work > 3,000 square feet of floor area~~
~~Kennels~~
~~Liquor Store~~
~~Livestock, Auction~~
~~Lumber, Building Material~~
~~Manufactured Home Sales~~
~~Motor Vehicle Sales (Automobiles)~~
~~Motor Vehicle Sales (Other than Automobiles)~~
~~Pawn Shop~~
~~Pet Crematory~~
~~Pet Funeral Home~~
~~Radio and Television Transmission Towers~~
~~Restaurant, Drive-in~~
~~Sheet Metal Shop~~
~~Shopping Center, Community~~
~~Shopping Center, Regional~~
~~Salvage and Surplus Merchandise~~
~~Taxidermy Studio~~
~~Towing~~

~~Vehicle Sales (Non-Motorized)~~
~~Vehicle Wash~~
~~Veterinary Hospital~~
~~Wholesaling~~
~~Wireless Telecommunications Tower~~
~~Wrecker Service~~
~~Wrecker Storage Yard~~

~~INDUSTRIAL (Manufacture, Storage, Distribution of:)~~

~~Abrasive Products~~
~~Asbestos Products~~
~~Animal or Poultry Slaughter, Stockyards, Rendering~~
~~Automobile Dismantlers and Recyclers~~
~~Automobile Manufacture~~
~~Automobile Parts and Components Manufacture~~
~~Automobile Seats Manufacture~~
~~Bakery Goods, Candy > 3,000 square feet of gross floor area~~
~~Boat Manufacture~~
~~Bottling Works~~
~~Brewery~~
~~Canned Goods~~
~~Chemicals~~
~~Composting Facility~~
~~Contractor's Storage, Indoor~~
~~Contractor's Yard or Storage, Outdoor~~
~~Cosmetics~~
~~Custom Wood Products > 3,000 square feet of gross floor area~~
~~Distillery~~
~~Electrical or Electronic Equipment, Appliances, and Instruments~~
~~Fabricated Metal Products and Machinery > 3,000 square feet of gross floor area~~
~~Fertilizer~~
~~Food and Beverage Products, including animal slaughter, stockyards, rendering, but not including brewery~~
~~Furniture and Fixtures > 3,000 square feet of gross floor area~~
~~Jewelry > 3,000 square feet of gross floor area~~
~~Leather and Leather Products > 3,000 square feet of gross floor area~~
~~Leather and Leather Products, Tanning and Finishing~~
~~Lumber and Wood Products~~
~~Mobile Home Construction~~
~~Musical Instruments > 3,000 square feet of gross floor area~~
~~Office/Art Supplies > 3,000 square feet of gross floor area~~
~~Paints~~

~~Paper Mills~~
~~Paper Products~~
~~Petroleum, Liquified Petroleum Gas, and Coal Products~~
~~Petroleum and Coal Products Refining~~
~~Pharmaceuticals~~
~~Photographic Film Manufacture~~
~~Pottery, Figurines, and Ceramic Products > 3,000 square feet of gross floor area~~
~~Primary Metal Distribution and Storage~~
~~Primary Metal Manufacturing~~
~~Rubber and Plastic Products~~
~~Rubber and Plastic Manufacture~~
~~Saw Mills~~
~~Scrap Processing Yard~~
~~Scrap Metal Processors~~
~~Scrap Metal Distribution and Storage~~
~~Secondary Material Dealers~~
~~Silverware and Cutlery > 3,000 square feet of gross floor area~~
~~Small Moulded Metal Products~~
~~Sporting Goods~~
~~Stone, Clay, Glass, and Concrete Products > 3,000 square feet of gross floor area~~
~~Textile, Apparel Products, Cotton Factoring, Grading > 3,000 square feet of gross floor area~~
~~Textile, Apparel Products, Cotton Gin~~
~~Tire Manufacture~~
~~Tobacco Products~~
~~Toiletries > 3,000 square feet of gross floor area~~
~~Transportation Equipment~~
~~Warehousing, Transporting/Distributing~~
~~Winery~~

~~TRANSPORTATION AND PUBLIC UTILITIES~~

~~Garbage or Refuse Collection Service Freight Terminal, Service Facility~~
~~Refuse Processing, Treatment, and Storage~~
~~Landfill~~
~~Railroad Switching Yard, Terminal, Piggyback Yard~~
~~Taxicab Dispatch Station~~

~~OTHER~~

~~Junkyard~~
~~Recycling Center~~
~~Self-Service Storage Facility~~
~~Temporary Mobile Recycling Center~~

(C) Off-street parking.

(4) Parking for commercial uses and mixed-uses.

(b) The number of required on-site off-street parking spaces may be reduced by up to seventy-five (75) percent if the property is located within seven hundred fifty (750) feet of a parking structure or lot where parking is freely and publicly available to the users as determined by the Planning Director.

(D) *Design standards.* Development in the CCO district shall be subject to the standards set forth in this Article and the Murfreesboro Design Guidelines, with the following exceptions:

(1)

(b) For residential developments, the principal structure shall be "built to" the average front setback of all structures on the same block face ±2' front lot, provided however that no structure shall be built less than 10' nor more than twenty-five (25) feet behind the front property line. For the purposes of this section, "block face" shall mean within the same block on the same street side as the subject property and shall exclude vacant lots. No structure shall be built in the public right-of-way.

(c) Porches may project up to sixty inches beyond the front "build to" line or within the required rear yard setback, so long as the covered areas do not impact more than 50% of the respective front or rear building façade and that no portion of the porch is located closer than 10' to the front lot line.

(7) *Building entrances.* Building entrances shall be oriented to the primary street frontage. For corner lots, entrances shall be either oriented to the street with the higher functional classification or angled and oriented to the street intersection-. However, the side of the structure facing the street with the lower functional classification shall include architectural detailing so as to also appear as a front façade.

(11) *Formal Open Space.*

For the purposes of this section, formal open space is defined as planned and structured areas, including but not limited to formally designed landscape areas, streetscape furnishings, plaza areas, rooftop patios, and recreational improvements available for common use. Formal open space of 5% of the lot area shall be required for the following uses:

(a) Single-family attached residential developments of 8 dwelling units or more;

Developments containing fewer than 8 units shall provide private patios, balconies, or open space of at least 50 square feet with a minimum 5' of depth for each unit clear of obstructions.

(F) *Landscaping, screening, and buffering requirements.*

(3) *Required perimeter landscaping.* Perimeter landscaping yards shall be required around all properties in the CCO district except properties with buildings permitted to be constructed to the edge of the sidewalk or property line(s). In cases where a building has been constructed to the sidewalk or property lines, perimeter landscaping yards shall be installed along the remaining boundaries of the site where practical. Where the building is set back less than 5' from the front property but not on the front property line, an alternative landscape plan must be submitted to achieve the general landscaping goals of this section. A perimeter landscaping yard shall have a minimum width of:

- (a) five (5) feet on a front planting yard and three (3) feet on other planting yards where the site is two (2) acres or less. Where the 3' planting yards shall be allowed to be planted with only shrubbery instead of trees; or
- (b) eight (8) feet on a front planting yard and five (5) feet on other planting yards where the site is greater than two (2) acres.

SECTION 25. TEMPORARY AND ACCESSORY STRUCTURES AND USES

(B) Particular permitted temporary and/or accessory structure and uses.

(7) off-street parking subject to the provisions of Section 26 of this article; stand alone parking lots must be accessory to an allowed permitted principal use and its structure(s).

(C) Prohibited temporary and accessory structures and uses.

(6) Parking lots as a principal use. This does not include parking structures that are addressed in Chart 1 use table.

(E) Bulk and location regulations.

(3) no accessory structure or use in any residential district shall occupy more than twenty-five percent (25%) fifty percent (50%) of the required rear yard;

SECTION 26. OFF-STREET PARKING, QUEUING, AND LOADING

(C) Regulations Applicable to Parking Spaces and Parking Lots.

(1) Location of required parking spaces.

(b) Multi-family residential, and nonresidential uses.

[aa] Such off-site parking spaces are located within a zoning district which would permit the use to which such parking is accessory. Off-street parking (except parking structures) shall be accessory to a permitted principal use and its associated principal structure(s) and shall not be the principal use on a lot of record. ——— A parking lot cannot be a stand alone primary use but must be tied to an allowed primary business and its structure(s), with the parking acting as an accessory use.

SECTION 28. NONCONFORMITIES.

(C) *Nonconforming structures*

(2) Enlargement, repair, alterations. Any nonconforming structure may be enlarged, maintained, repaired or altered; provided, however, that no such enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure ~~unless said additional nonconformity or degree of nonconformity is only with the requirements of the Gateway Design Overlay (GDO) District, and the nonconforming structure was in existence on the effective date of the ordinance creating the GDO District, in which case enlargement, maintenance, repair or alteration of a nonconforming structure may create an additional nonconformity or an increase in the degree of nonconformity with the requirements of the GDO District for twenty years after creation of the GDO District, provided that a variance must be obtained for any enlargement in accordance with Sections 10 and 24(D).~~

(a) A structure that is non-conforming by being wholly or partially within a minimum required building setback may expand vertically up to one additional story above its current height even if such vertical addition is within the required minimum building setback, provided that the vertical addition does not exceed the maximum building height of the respective zone, but may not expand horizontally in any direction within the minimum required building setback.

(b) If such additional nonconformity or degree of nonconformity is only with the requirements of the Gateway Design Overlay (GDO) District and the nonconforming structure was in existence on the effective date of the ordinance creating the GDO District, in which case the enlargement, maintenance, repair, or alteration of such nonconforming structure proposed within 20 years after the original adoption of the GDO requirements may create an additional nonconformity or an increase in the degree of nonconformity with the requirements of the GDO District for twenty years after creation of the GDO District, a variance must be obtained for any enlargement in accordance with Sections 10 and 24(D).

(D) *Nonconforming lots of record.*

(2) *Regulations for single-family use of nonconforming lots.*

(c) No side yard shall be less than ~~three~~five feet.

APPENDIX A - ZONING

Chart 1 and Chart 1 Endnotes. Uses Permitted by Zoning District

See separate documents

CHART 2 MINIMUM LOT REQUIREMENTS, MINIMUM YARD REQUIREMENTS AND LAND USE INTENSITY RATIOS.

See separate document

USES PERMITTED ³	ZONING DISTRICTS																				OVERLAY						
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI	LI	CM-RS-8	CM-R	CM	CU	P	CCO
DWELLINGS																											
Single-Family detached	X	X	X	X	X	X	X	X	X	X ²⁷		X		X								X	X		X		
Single-Family attached or detached, zero-lot line (max. 2 units attached) ²³							X	X	X	X ²⁴		X		X									X		X		
Single-Family attached, townhouse ^{25, 26, 28}								X	X	X				X									X		X		
Two-Family							X	X	X			X		X									X		X		
Three-Family								X	X			X		X									X		X		
Four-Family								X	X			X		X									X		X		
Multiple-Family								X ²¹	X ²¹								X ²¹	X ²¹							X		
OTHER HOUSING																											
Accessory Apartment ⁸	S ⁸	S ⁸	S ⁸	S ⁸	S ⁸	S ⁸				S ⁸																	
Accessory Dwelling Unit												X ¹	X ¹	X ¹	X ¹	X ¹	X ¹	X ¹	X ¹	X ¹	X ¹	X ¹	X ¹	X ¹			
Assisted-Care Living Facility ¹⁵							S	X	X	X		X	X	X	X	X	X	X				X	X	X	S		
Bed-and-Breakfast Homestay	S	S	S	S	S		S	S	X	S		S		X	X	X		X				S	S	S	X		
Bed-and-Breakfast Inn	S	S	S	S	S		S	S	S	S		S		S	X	X		X				S	S	S	S		
Boarding House ¹⁵							S	S	X	X		S		X	X	X		X					S	S	X		
Emergency Shelter	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Extended Stay Hotel/Motel																X	X										
Family Crisis Shelter												S		S	S	S			S	S	S		S				
Family Violence Shelter								S	S			S	S	S	X	X			X	X	X		X	S	S		
Fraternity/Sorority												S		S	S	S							S	S	S		
Group Shelter								S	S			S	S	S	S	S			S	S							
Class I Home for the Aged ¹⁵	S	S	S	S	S	S	S	X	X	X		X		X	X	X		X				S	S	S	S		
Class II Home for the Aged ¹⁵	S	S	S	S	S		S	S	S	S		S		X	X	X		X				S	S	S	S		
Class III Home for the Aged ¹⁵								S	S			S		S	X	X	X	X				S	S	S	S		
Hotel																X	X	X	X	X	X						
Home Occupations ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹		X ¹¹			X ¹¹					S ¹¹	S ¹¹	S ¹¹			
Mission ⁴⁰																			S	S	S						
Mobile Homes											X								S	S	S						
Motel																X	X		X	X	X						
Rooming House							S	S	S									X					S	S	X		
Student Dormitory									S																X		
Transitional Home							S	S	S			S	S										S	S			

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

N = Not Allowed, if N* = Not Allowed if > 3,000 sf

USES PERMITTED ³	ZONING DISTRICTS																														OVERLAY																			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI	LI	CM-RS-8	CM-R	CM	CU	P	CCO																							
INSTITUTIONS																											N																							
Adult Day Care Center	S	S	S	S	S	S	S	S	S	S		X	X	X	X	X	X		X	X	X	S	X	X				N																						
Adult Day Care Home	S	S	S	S	S	S	S	S	S	S	S	X	S	X	X	X		X	X	X	X	X	X	X					N																					
Airport, Heliport	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	S				N																				
Cemetery, Mausoleum	S	S	S	S	S	S	S	S	S	S	S	S	S			S			S	S	S										N																			
Church ¹³	S	S	S	S	S	S	S	X	X	S	S	S	X	X	X	X	X	X	X	X	X	S	S	X	X							N																		
College, University												X	X			X	X						X		X								N																	
Day-Care Center							S	S	S		S	S	S	X	X	X	X	X	X	X	X	S	S	S										N																
Family Day-Care Home	S	S	S	S	S	S	S	S	S	S	S	S		X	X	X		X	X	X	X	S	S	S	X										N															
Group Day-Care Home	S	S	S	S	S	S	S	S	S	S	S	S		X	X	X		X	X	X	X	S	S	S	X											N														
Hospital												X	X			X	X		X	X	X	X	X	X													N													
Mental Health Facility												X	X	X		X	X		X	X	X		X	X														N												
Lodge, Club, Country Club ¹³	S	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X	X	X	X	X	X	S	S	S															N											
Morgue																X	X		X	X	X		X	X																N										
Museum							S	S	S			S	S	S	X	X	X	X	X	X	X	S	S	S	X	S															N									
Nursing Home												X	X	S	S	S	X		X	X	X	X	X	X																		N								
Nursery School							S	S	S		S	S	S	S	S	S	X		S	S	S	S	S	S	X																		N							
Park	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X																		N						
Philanthropic Institution							S	S	S			X	X	X	X	X	X	X	X	X	X	X	X	X																					N					
Pet Cemetery	S	S	S												S	S			S	S	S																									N				
Public Building ¹³	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X	X	X	X	X	X	X	S	S	S	X																						N			
Recreation Field ¹³	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X	X	X		X	X	X	S	S	S	X	X																						N		
Senior Citizens Center	S	S	S	S	S	S	S	X	X	S		X	X	X	X	X	X		X	X	X	S	X	X																									N	
School, Public or Private, Grades K - 12 ¹³	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X	X	X	X	X	X	X	S	S	S	X																									N
Student Center								S	S			S	S	S	S	S	X						S	S	X																									
Technology/Vocation School (indoor)													X		X	X	X		X	X	X		X		X		N																							
Trade School (includes outdoor)																			X	X	S							N																						
AGRICULTURAL USES																													N																					
Customary General Farming	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X	X	X	X ⁶	X	X	X	X	X	X	X	X	X	X	X				N																				
Crop, Soil Preparation Agricultural Services	S	S	S	S	S	S	S	S	S	S	S				X	X			X	X	X				X	X					N																			
Farm Labor and Management Services												X	X	X	X	X		X	X	X	X				X							N																		
Fish Hatcheries and Preserves																			X	X	X												N																	
Grain, Fruit, Field Crop and Vegetable Cultivation and Storage	X	X	X	X	X	X	X	X	X	X	X								X	X	X				X									N																

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

N = Not Allowed, if N* = Not Allowed if > 3,000 sf

USES PERMITTED ³	ZONING DISTRICTS																				OVERLAY						
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI	LI	CM-RS-8	CM-R	CM	CU	P	CCO
Livestock, Horse, Dairy, Poultry, and Egg Products	S	S	S	S	S	S	S	S	S	S									X	X	X				X		N

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

N = Not Allowed, if N* = Not Allowed if > 3,000 sf

USES PERMITTED ³	ZONING DISTRICTS																							OVERLAY			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI	LI	CM-RS-8	CM-R	CM	CU	P	CCO
Business and Communication Service												X	X	X	X	X	X	X	X	X	X						N
Campground, Travel-Trailer Park																S			S	S	S						
Carnivals																S			S	S	S				S		
Catering Establishment												X	X	X	X	X	X	X	X	X	X		X				
Cigar Lounge																S	S	S	X	X	X						N
Clothing Store														X	X	X	X	X	X	X	X						
Coffee, Food, or Beverage Kiosk														X	X	X	X		X	X	X						
Commercial Center (≤25,000 SF)														X	X	X	X	X	X	X	X						
Convenience Sales and Service Store, ≤5,000 SF														X	X	X	X	X	X	X	X						N
Convenience Store > 5,000 SF																X	X		X	X	X						
Crematory																			S	S	S						
Data Center ≤15,000 SF													X		X	X			X	X	X						
Department or Discount Store															X	X	X	X	X	X	X						N
Distillery, Artisan ²⁹																X		X	X	X	X						
Drive-In Theater																X			X	X	X						
Dry Cleaner ≤3,000 SF (No On-Site Cleaning)														X	X	X	X	X	X	X	X						
Financial Service												X	X	X	X	X	X	X	X	X	X						N
Fireworks Public Display																									X		
Fireworks Retailer																S			S	S	S						
Fireworks Seasonal Retailer														S	S	S			S	S	S						
Fitness/ Health Club Facility >5,000 SF												X	X	X	X	X	X	X	X	X	X		X	X			N
Fitness studio/ personal instruction ≤5,000 SF												X	X	X	X	X	X	X	X	X	X	X	X	X			
Flower or Plant Store												X	X	X	X	X	X	X	X	X	X		X				
Funeral Home														S		X	X		X	X	X						
Garage, Parking																X	X	X	X	X	X						N
Garden and Lawn Supplies															S	X	X	X	X	X	X						
Gas--Liquified Petroleum, Bottled and Bulk																X			X	X	X						
Gasoline Station Sales														X	X	X	X	X	X	X	X						
General Service and Repair Shop																X	X	X	X	X	X						N
Glass--Auto, Plate, and Window																X	X		X	X	X						
Glass--Stained and Leaded														X	X	X	X	X	X	X	X						
Greenhouse or Nursery																X	X		X	X	X						
Grocery Store														X	X	X	X	X	X	X	X						N
Group Assembly, <250 persons												S	S		X	X	X	X	X	X	X	S	S	S			
Group Assembly, >250 persons												S	S		S	S	X	S	S	S	S	S	S	S			
Health Club Consolidated above												X	X	X	X	X	X	X	X	X	X		X				

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

N = Not Allowed, if N* = Not Allowed if > 3,000 sf

USES PERMITTED ³	ZONING DISTRICTS																								OVERLAY		
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI	LI	CM-RS-8	CM-R	CM	CU	P	
Ice Kiosk, Automated															X	X		X	X	X							N
Interior Decorator												X	X	X	X	X	X	X	X	X	X		X				N*
Iron Work																X			X	X	X						
Janitorial Service															X	X	X	X	X	X	X						
Karate, Instruction—Consolidating with fitness studio															X	X	X	X	X	X	X						N
Kennels																X			X	X	X						
Keys, Locksmith															X	X	X	X	X	X	X						
Laboratories, Medical												X	X		X	X	X		X	X	X	X	X	X			
Laboratories, Testing															X	X	X		X	X	X						
Laundries, Self-Service														X	X	X			X	X	X						
Lawn, Tree, and Garden Service																X			X	X	X						
Liquor Store															X	X	X		X	X	X						N
Livestock, Auction																			X	X	X						N
Lumber, Building Material																			X	X	X						N
Manufactured Home Sales																			X	X							N
Massage Parlor																			X ⁹								N
Motor Vehicle: Sales , Rental (Automobiles) ³																S	S		X ³	X ³	X ³						N
Motor Vehicle: Sales, Rental (Other Than Automobiles) ³																S	S		X ³	X ³	X ³						N
Motor Vehicle: Sales, Rental, Repair (Medium & Heavy Duty Commercial Vehicles) ³																			X ³	X ³							N
Motor Vehicle Service ⁴²																X	X		X	X	X						
Movie Theater															X	X	X	X	X	X	X						
Music or Dancing Academy															X	X	X		X	X	X						
Offices												X	X	X	X	X	X	X	X	X	X	X ⁵	X ⁵	X ⁵			
Optical Dispensaries												X	X		X	X	X	X	X	X	X	X	X	X			
Parking Structure																X	X	X	X	X	X				X	X	
Parking Lot																											N
Pawn Shop																X			X	X	X						N
Payday Loan, Title Loan, or Check-Cashing Service																X			X	X	X						N
Personal Service Establishment														X	X	X	X	X	X	X	X						
Pet Crematory																X			S	S	S						
Pet Funeral Home															X	X			X	X	X						
Pet Shops															X	X	X	X	X	X	X						
Pharmacies, Apothecaries												X	X	X	X	X	X	X	X	X	X	X	X	X			

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

N = Not Allowed, if N* = Not Allowed if > 3,000 sf

USES PERMITTED ³	ZONING DISTRICTS																							OVERLAY			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI	LI	CM-RS-8	CM-R	CM	CU	P	ECO
Plasma Donation Center																			X	X	X			X			
Radio, TV, or Recording Studio																X	X	X	X	X	X						
Radio and Television Transmission Towers															S	S			S	S	S				S		
Range – Firearms – (NOT IN NOW – REMOVED)																											
Rap Parlor																			X ⁹								
Reducing and Weight Control Service												X	X	X	X	X	X	X	X	X	X	X	X	X			
Restaurant and Carry-Out Restaurant														X	X	X	X	X	X	X	X						
Restaurant, Drive-In																X			X	X	X						
Restaurant, Specialty														X	X	X	X	X	X	X	X						
Restaurant, Specialty -Limited												S	S	X	X	X	X	X	X	X	X	S	S	S			
Retail Shop, firearms																			X	X	X						
Retail Shop, other than enumerated elsewhere															X	X	X	X	X	X	X						
Retail Shop: Tobacco, Vape, Dispensary³¹																X ³¹			X ³¹	X ³¹	X ³¹						
Salvage and Surplus Merchandise																X			X	X	X						
Sauna																			X ⁹								
Self-Service Storage Facility¹⁶														S	S	X	S		X	X	X						
Sheet Metal Shop																X			X	X	X						
Shopping Center, Community (150-300K SF)																X	X		X	X	X						
Shopping Center, Neighborhood (25-150K SF)															X	X	X	X	X	X	X						
Shopping Center, Regional (>300,000 SF)																X	X		X	X	X						
Specialty Shop												X	X	X	X	X	X	X	X	X	X		X				
Tavern																X		X	X	X	X						
Taxidermy Studio																S			S	S	S						
Veterinary Office												X	X	X	X	X	X		X	X	X		X				
Veterinary Clinic															X	X	X		X	X	X						
Veterinary Hospital																X	X		X	X	X						
Vehicle Sales, Rental (Non-Motorized)																X	X		X	X	X						
Vehicle Wash														X		X			X	X	X						
Wholesaling, Wholesale Establishments																X			X	X	X						
Winery, Artisan ²⁹														X	X	X		X	X	X	X						
Wireless Telecommunications Towers, Antennas ¹⁷	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	S	S
Wrecker/Towing Service, Wrecker Storage Yard ¹²																			X	X	X						

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

N = Not Allowed, if N* = Not Allowed if > 3,000 sf

USES PERMITTED ³	ZONING DISTRICTS																				OVERLAY						
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI	LI	CM-RS-8	CM-R	CM	CU	P	CCO
INDUSTRIAL																											
Manufacture, Storage, Distribution of:																											
Abrasive Products																			X	X							N
Asbestos Products																			S								N
Automobile Dismantlers and Recyclers ^{7 & 12}																			S ⁷								N
Automobile Manufacture																			X	X							N
Automobile Parts and Components Manufacture																			X	X							N
Automobile Seats Manufacture																			X	X							N
Bakery Goods, Candy																			X	X	X						N*
Boat Manufacture																			X	X							N
Bottling Works																			X	X	X						N
Brewery ²⁰																			X	X	X						N
Canned Goods																			X	X							N
Chemicals																			X								N
Composting Facility																			S						S		N
Contractor's Storage, Indoor																	X		X	X	X						N
Contractor's Yard or Storage, Outdoor ³²																			X	X	X						N
Contractor's/Construction Equipment: Sales, Rental, Repair ³²																			X	X	X						N
Cosmetics																			X	X	X						N
Custom Wood Products																			X	X	X						N*
Data Center / Server Farm > 15,000																			S	S	S						N
Dry Cleaning- Laundering Facility > 3,000																X			X	X	X						N
Distillery ²⁰																			X	X	X						N
Electrical or Electronic Equipment, Appliances, and Instruments																			X	X	X						N
Fabricated Metal Products and Machinery																			X	X	X						N*
Fertilizer																			X								N
Food and Beverage Products except animal slaughter, stockyards, rendering, and brewery																			X	X	X						N
Furniture and Fixtures																			X	X							N*
Jewelry																			X	X	X						N*
Junkyard																			S								N
Leather and Leather Products except tanning and finishing																			X	X	X						N*

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

N = Not Allowed, if N* = Not Allowed if > 3,000 sf

8

N = Not Allowed, if N* = Not Allowed if > 3,000 sf

USES PERMITTED ³	ZONING DISTRICTS																										OVERLAY
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI	LI	CM-RS-8	CM-R	CM	CU	P	
Tire Manufacture																			X	X							cc N

X = Use permitted by right.
S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.
N = Not Allowed, if N* = Not Allowed if > 3,000 sf

APPENDIX A - ZONING

CHART 1 ENDNOTES. USES PERMITTED BY ZONING DISTRICT.

The uses permitted in the various districts established in this article shall be as identified in this section on Chart 1 USES PERMITTED BY ZONING DISTRICT. Those uses identified in Chart 1 with a "X" at the intersection of the uses row and a zoning district column shall be uses that are permitted by right subject to site plan review and approval and the issuance of building permits in those zoning districts. Those uses identified in Chart 1 with a "S" at the intersection of the uses row and a zoning district column shall be uses requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article in those zoning districts. Those uses that are shown with no "X" or "S" at the intersection of a uses row and a zoning district column shall be uses that are prohibited and are not permitted or allowed in those districts. The CCO district is to be used in concert with the base zoning district with the more stringent CCO standards applying. The CCO Overlay column in Chart 1 indicates uses that are not permitted in the CCO that are shown with a "N" at the intersection of the use row and the CCO overlay district column. Those listed "N*" (with an asterisk) are prohibited if such use occupies more than 3,000 square feet in floor areas.

±

3. Motor Vehicle Sales and/or Rentals (~~Automobile~~) shall be subject to the following additional standards:
 - (B)(5) Parking and display of automobile inventory shall occur only in areas designated on the special use permit approved site plan application. Driveway aisles, public right-of-way, ~~and landscaped areas, and unimproved areas,~~ shall not be used for automobile parking or display;
8. An accessory apartment may be ~~created established in owner-occupied single-family dwellings~~ in the RS-15, RS-12, RS-10, RS-8, RS-6, RS-4, and RS-A districts upon approval by the Board of Zoning Appeals subject to the standards and criteria of Section 9 of Appendix A – Zoning. An accessory apartment within the City Core Overlay (CCO) District may be established upon administrative approval by the Planning Department subject to the standards and criteria of Section 24, Article VI (B)(5)(b) of Appendix A – Zoning.
11. Home occupations may be permitted by special use permit provided, however, if home occupation approval is requested in order for the applicant to establish an address necessary for obtaining a business license and can meet the following standards, the special use permit for the home occupation may be issued by the Planning Director. In the event the Director has doubt regarding the compatibility of the proposed home occupation with adjoining land uses, the Director shall deny approval. The applicant may apply to the Board of Zoning Appeals as pro-vided in Sections 8 and 9 of Appendix A-Zoning. The standards mentioned above are as follows:

(i) The following activities and land uses shall not be approved ~~by the Planning Director administratively as home occupations:~~

(1) automotive repair (body or mechanical), upholstery or painting;

(2) kennels;

~~(3) barber or beauty shop;~~

~~(4)(3) taxi service;~~

~~(5) professional office;~~

~~(6) artist studio; or,~~

~~(4) gun dealers; or~~

~~(5) charter bus service~~

~~(7)(6) Age restricted sales of any kind, including but not limited to vape, alcohol, and tobacco.~~

12. Sites used for the storage of inoperable, wrecked, or partially dismantled vehicles, whether as principal, accessory, or ancillary use, used in conjunction with an automobile body shop, automotive/motor vehicle re-pair establishments, motor vehicle service establishments, wrecker or towing services, or wrecker service storage yards, shall provide at a minimum a 10' Ttype D-B buffer zone as described in Section 27 of Appendix A - Zoning in addition to a permanent 8' masonry wall or a Type A buffer zone as described in Section 27 of Appendix A – Zoning in addition to an 8' berm (with appropriate width to accommodate the allowed maximum slope) measured from the highest adjacent grade for screening of the area used for the storage of inoperable, wrecked, or partially dismantled vehicles. Provid-ed, however, the screening requirement shall not be for the entire site unless otherwise required by Appendix A - Zoning and shall be applicable to only those areas used for such storage. It is the intent of this requirement to screen such storage areas from the view of any adjacent property and from the view of any public right-of-way adjacent to the site.

31. Tobacco/Vape Shops, where permitted by right, shall be subject to a minimum 1,000 foot separation from another vape shop, public or private school, City park, daycare centers, or churches; and a minimum 250 foot separation from properties zoned or used for residential purposes. The required distance shall be -measured from property line to property line.

32. Outdoor Storage and Display for non-residential uses: see Zoning Ordinance Section 25(C)(1) and Section 25(E)(8) for further information.

33. Only artisan uses that are less than 3,000 square feet are allowed.

DISTRICT AND USE	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			Maximum Lot Coverage (percent)
	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	
RS-15 DISTRICT											
1. Dwellings and other uses permitted	15,000	75 ^[12]	40	12.5	30	35	2.9	none	none	none	25
RS-12 DISTRICT											
1. Dwellings and other uses permitted	12,000	70 ^[12]	35	10	25	35	3.63	none	none	none	25
RS-10 DISTRICT											
1. Dwellings and other uses permitted	10,000	65 ^[12]	35	10	25	35	4.4	none	none	none	25
RS-8 DISTRICT											
1. Dwellings and other uses permitted ^[28]	8,000	55 ^[12]	35 ^{[1][29]}	5	20	35	5.4	none	none	none	35 30-
RS-6 DISTRICT											
1. Dwellings and other uses permitted ^[28]	6,000	50 ^[12]	35 ^{[1][29]}	5	20	35	7.2	none	none	none	50
RS-4 DISTRICT											
1. Dwellings and other uses permitted ^[28]	4,000	40 ^[12]	35 ^{[1][29]}	5	20	35	10.8	none	none	none	50 40-
R-D DISTRICT											
1. Single-family detached dwellings and other uses permitted except ^[28]	8,000	55 ^[12]	35 ^{[1][29]}	5	25	35	5.4	none	none	none	30
1. Single-family detached dwellings and other uses permitted except ^[28]	4,000	40 ^[12]	35 ^{[1][29]}	5	20	35	10.8	none	none	none	50
2. Two-family dwellings	6,500 8000	50' 55 ^[12]	30 ^[1]	5	25	35	14.5 10.9	none	none	none	35 30-
3. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	4,000	27 ^[12]	35 ^[1]	5 10 ^[7]	25	35	10.9	none	none	none	none

	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			
DISTRICT AND USE	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	Maximum Lot Coverage (percent)
RM-12 DISTRICT											
1. Single-family detached dwellings and other uses permitted except ^[28]	7,500	50 ^[12]	35 ^{[1][37]}	5	25	35	5.8	none	none	none	30
2. Two-family dwellings	7,500	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
3. Three-family dwellings	11,250	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
4. Four-family dwellings	15,000	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
5. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	3,750	18 ^[12]	35 ^{[1][37]}	540 ^[7]	25	35	11.6	none	none	none	none
6. Multiple-family dwellings and Single-family attached townhouse dwellings ^[30]	FN ^[14]	50 ^[12]	30 ^[1]	FN ^[3]	25	45 ^[11]	FN ^[14]	none	none	FN	none
RM-16 DISTRICT											
1. Single-family detached dwellings and other uses permitted except ^[28]	6,000	50 ^[12]	35 ^{[1][37]}	5	25	35	7.3	none	none	none	35
2. Two-family dwellings	6,000	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	35
3. Three-family dwellings	9,000	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	30
4. Four-family dwellings	12,000	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	30
5. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	3,000	18 ^[12]	35 ^{[1][37]}	540 ^[7]	25	35	14.5	none	none	none	none
6. Multiple-family dwellings and Single-family attached townhouse dwellings ^[30]	FN ^[9]	50 ^[12]	30 ^[1]	FN ^[3]	25	45 ^[11]	FN ^[9]	none	none	FN	none
RS-A DISTRICT^[35]											
1. Single-family detached and single-family attached or detached with zero-lot line (max. 2 units attached) ^{[7][28][31]}	3,000	30 ^[12]	35 ^{[1][37]}	5	20	35	14.5	none	none	none	none
2. Single-family attached townhouse on one lot or individual lots (Suburban Type) ^{[30][32][33]}	2,000 ^[36]	20 ^[36]	35 ^[1]	5	20	35	12	1	0.5	0.25	none
3. Single-family attached townhouse on one lot or individual lots (Urban Type) ^{[30][32][33][34]}	2,000 ^[36]	20 ^[36]	20 ^{[1][34]}	5	20	45 ^[34]	12	1	none	none	none
4. Other uses permitted	6,000	30 ^[12]	30 ^[1]	10	20	35	none	none	none	none	35

DISTRICT AND USE	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			Maximum Lot Coverage (percent)
	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	
R-MO DISTRICT											
1. Mobile homes	4,000	40 ^[12]	25 ^[1]	10	15	12	10.9	none	none	none	none
CM-R DISTRICT											
1. Single-family detached	5,000	50 ^[12]	35 ^{[1][29]}	10	20	35	8.7	none	none	none	none
2. Two-family dwellings	5,000	50 ^[12]	30 ^[1]	10	20	35	16	none	none	none	none
3. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	2,500	30	35 ^[1]	540 ^[7]	20	35	16	none	none	none	none
4. Single-family attached townhouse dwellings ^[30]	2,500	50 ^[12]	30 ^[1]	10	20	35	16 ^[9]	0.3	0.48	0.7	none
5. Four-family dwellings	15,000	50 ^[12]	30 ^[1]	5	25 ^[4]	35	11.6	none	none	none	30
6. Medical offices, clinics, and other related uses	none	50 ^[12]	30 ^[1]	10	20	60	none	none	none	none	none
CM DISTRICT											
1. Medical offices, clinics, and other related uses	none	50 ^[12]	30 ^[1]	10	20	60	none	none	none	none	none
CM-RS-8 DISTRICT											
1. Single-family detached	8,000	50 ^[12]	35 ^{[1][29]}	10	20	35	5.4	none	none	none	none
2. Medical offices, clinics, and other related uses	none	50 ^[12]	30 ^[1]	10	20	60	none	none	none	none	none
OG-R DISTRICT											
1. Offices and other uses except	5,000	50 ^[12]	30 ^[1]	10	20	35	none	0.3	0.28	0.6	none
2. Single-family detached	5,000	50 ^[12]	35 ^{[1][29]}	10	20	35	8.7	none	none	none	none
3. Two-family dwellings	5,000	50 ^[12]	30 ^[1]	10	20	35	17.4	none	none	none	none
4. Three-family dwellings	7,500	50 ^[12]	30 ^[1]	10	20	35	17.4	none	none	none	30
5. Four-family dwellings	12,000	50 ^[12]	30 ^[1]	10	20	35	14.5	none	none	none	30
6. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	2,500	25 ^[12]	35 ^[1]	540 ^[7]	20	35	17.4	none	none	none	none
OG DISTRICT											
1. Offices and other uses	5,000	50 ^[12]	30 ^[1]	10	20	35	none	0.3	0.28	0.6	none

DISTRICT AND USE	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			Maximum Lot Coverage (percent)
	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	
CL DISTRICT											
1. All commercial uses except	none	none ^[13]	42	10 ^[6]	20	35	none	none	none	none	none
2. Single-family detached dwellings ^[28]	7,500	50 ^[12]	35 ^{[1][29]}	5	25	35	5.8	none	none	none	30
3. Two-family dwellings	7,500	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
4. Three-family dwellings	11,250	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
5. Four-family dwellings	15,000	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
6. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	3,750	18 ^[12]	35 ^[1]	540 ^[7]	25	35	11.6	none	none	none	none
CF DISTRICT											
1. All uses	none	none ^[13]	42	10 ^[15]	20 ^[15]	45	none	none	none	none	none
CH DISTRICT											
1. All uses	none	none ^[13]	42	10 ^[6]	20	75	none	none	none	none	none
MU DISTRICT											
1. Multiple family dwellings	5 acres	100 ^[20]	15 ^[21]	10 ^[22]	20 ^[23]	75	25 ^[24]	none	none	none	none
2. All commercial uses except mixed use	none	100 ^[20]	15 ^[21]	10 ^[22]	20 ^[23]	150	none	none	none	none	none
3. Mixed uses (vertical mix)	none	100 ^[20]	15 ^[21]	10 ^[22]	20 ^[23]	150	25 ^[24]	none	none	none	none
CBD DISTRICT											
1. All uses except	none	none ^[13]	none	none	none	75	none	none	none	none	none
2. Multiple-family dwellings	none	none ^[13]	none	none	none	75	FN ^[8]	none	none	none	none
H-I DISTRICT											
1. Industrial uses	none	50 ^[13]	42	10	20	75 ^[8]	none	none	none	none	none
2. All other permitted uses	none	50 ^[13]	42	10	20	75	none	none	none	none	none
G-I DISTRICT											
1. Industrial uses	none	50 ^[13]	42	10	20	75 ^[8]	none	none	none	none	none
2. All other permitted uses	none	50 ^[13]	42	10	20	75	none	none	none	none	none
L-I DISTRICT											
1. Industrial uses	none	50 ^[13]	42	10	20	75 ^[8]	none	none	none	none	none
2. All other permitted uses	none	50 ^[13]	42	10	20	75	none	none	none	none	none

	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			
DISTRICT AND USE	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	Maximum Lot Coverage (percent)
CU DISTRICT											
1. Single-family detached	10,000	65 ^[12]	35	10	20	35	4.4	none	none	none	25
2. Two-family dwellings	10,000	65 ^[12]	35	10	20	35	8.7	none	none	none	25
3. Three-family dwellings	15,000	65 ^[12]	35	10	20	35	8.7	none	none	none	25
4. Four-family dwellings	20,000	65 ^[12]	35	10	20	35	8.7	none	none	none	25
5. Multiple-family dwellings and Single-family attached townhouse dwellings ^[30]	25,000	65 ^[12]	35	10 ^[3]	20 ^[4]	35	FN ^[9]	0.35	0.45	0.65	none
6. Educational institutions and other uses	25,000	65 ^[12]	35	10	20	35 65	none	0.3	0.28	0.6	none
P DISTRICT											
1. All uses permitted	none	none ^[13]	none	none	none	none	none	none	none	none	none

**CHART 2 ENDNOTES. MINIMUM LOT REQUIREMENTS, MINIMUM YARD REQUIREMENTS
AND LAND USE INTENSITY RATIOS.**

3. The ~~size~~ width of the required side yard shall be ten feet ~~at the~~ for single story buildings that are ~~perpendicular to the side lot line and~~, ~~fifteen~~ twenty feet for two story, structures ~~twenty~~ feet for any three story, and twenty five feet for any four story buildings. ~~plus an additional five feet for each story over two. The size of the required side yard shall be twenty feet for one and two story buildings that are running parallel with the side lot line plus five feet for each additional story over two.~~
8. See Section 25 of this article for applicable building setback and height regulations for accessory structures.
38. If there is any conflict between Section 24, Article VI (City Core Overlay District) and the minimum front ~~setback yard~~ requirements denoted in Chart 4-2 and its endnotes and/or the accessory structure setbacks and heights within bulk requirements denoted in Section 25, then Section 24, Article VI (City Core Overlay District) shall prevail.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION DECEMBER 6, 2023

6:00 P.M.

CITY HALL

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Reggie Harris
Bryan Prince
Chase Salas
Shawn Wright

STAFF PRESENT

Greg McKnight, Exec. Director Dev. Services
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Holly Smyth, Principal Planner
Amelia Kerr, Planner
Carolyn Jaco, Recording Assistant
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. Public Comments.

Chair Kathy Jones announced no one signed up to speak during the Public Comments portion of the agenda.

4. Approve minutes of the November 14, 2023, and November 15, 2023 Planning Commission meetings.

Mr. Chase Salas made a motion to approve the November 14, 2023 and November 15, 2023 Planning Commission meetings; the motion was seconded by Mr. Shawn Wright and carried by the following vote:

Aye: Kathy Jones
Ken Halliburton
Reggie Harris
Bryan Prince
Chase Salas

MINUTES OF THE MURFREESBORO PLANNING COMMISSION DECEMBER 6, 2023

Proposed amendment to the City Zoning Ordinance [2023-803] pertaining to miscellaneous revisions to the following sections:

☐ Section 2: Definitions;

☐ Section 6: Amendments;

☐ Section 7: Site Plan Review;

☐ Section 9: Standards for Special Permit Uses;

☐ Section 24: Overlay District Regulations, Article VI. CCO, City Core Overlay District;

☐ Section 25: Temporary and Accessory Structures and Uses;

☐ Section 26: Off-Street Parking, Queuing, and Loading;

☐ Section 28: Non-Conformities;

☐ Chart 1: Uses Permitted by Zoning District (including Chart 1 endnotes);
and

☐ Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios (including Chart 2 endnotes)

City of Murfreesboro Planning Department applicant. Ms. Holly Smyth 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. Mr. Matt Taylor of SEC, Inc., complimented staff for reviewing the Zoning Ordinance to streamline items moving forward from Planning Commission to City Council.

Chair Kathy Jones closed the public hearing.

There being no further discussion, Mr. Chase Salas moved to approve the proposed Zoning Ordinance amendment subject to all staff comments; the motion was seconded by Vice-Chairman Ken Halliburton and carried by the following vote:

MINUTES OF THE MURFREESBORO PLANNING COMMISSION DECEMBER 6, 2023

Aye: Kathy Jones
Ken Halliburton
Reggie Harris
Bryan Prince
Chase Salas
Shawn Wright

Nay: None

6. Staff Reports and Other Business:

Request for Outside the City Water & Sewer Service [2023-505] for approximately 288 acres located along Lebanon Pike, East Jefferson Pike, & Landfill Road, Rutherford County applicant. Mr. Matthew Blomeley presented the Staff Comments regarding this item, a copy of which is maintained in the permanent files of the Planning Department and is incorporated into these Minutes by reference.

Mr. Mike Hughes (Rutherford County Engineer), Mr. Bishop Wagener (Rutherford County Solid Waste Director), and Mr. Matt Taylor (design engineer) were all in attendance to represent the application.

The Planning Commission asked how would water be provided to this location. Mr. Matt Taylor explained there are connections to water and sewer located at Sam Jared Drive. They propose underground boring from the river to the approximate location. Currently, there is only well water at this property.

There being no further discussion, Mr. Shawn Wright moved to approve the request for Outside the City Water & Sewer Service subject to all staff comments; the motion was seconded by Mr. Chase Salas and carried by the following vote:

ORDINANCE 23-O-45 amending Murfreesboro City Code Appendix A, Zoning, Sections 2, 6, 7, 9, 24, 25, 26, 28, Chart 1, Chart 1 Endnotes, Chart 2 and Chart 2 Endnotes, pertaining to miscellaneous revisions, including, but not limited to: 1) adding new definitions; 2) modifying existing definitions; 3) modifying the prohibited uses for home occupations; 4) clarifying non-conforming structure rebuild allowances and porch encroachments in the City Core Overlay (CCO) District; 5) relocating the list of prohibited uses in the CCO section into Chart 1; 6) adding some uses to Chart 1 and modifying some existing uses listed in Chart 1; 7) modifying specific bulk requirements in Chart 2; and 8) revising the language pertaining to the zoning amendment process where the City of Murfreesboro Planning Department is the applicant [2023-803].

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

SECTION 1. Appendix A, Section 2, Definitions, of the Murfreesboro City Code is hereby amended by amending, adding, or deleting the following definitions to read as follows and inserting them in alphabetical order:

Accessory apartment: A secondary dwelling unit either in or added to an existing single family detached dwelling, or in a separate accessory structure on the same lot of record with its own separate exterior entry door, with provisions for cooking and food preparation (including sink and electrical outlets to accommodate kitchen appliances such as refrigerator, oven, or stove), sanitation (including toilet, sink, and shower or bathtub), and sleeping. Such a dwelling shall be accessory to the main dwelling.

Amusements, commercial indoor: Indoor commercial recreational or entertainment activities including, but not limited to: games of skill (such as arcades, archery, billiards, batting cages, bowling alleys, golf simulation, rock climbing, skating, soccer); movie theaters; and theaters, halls, and other indoor venues used primarily for dramatic or musical performances.

Artisan (use): A small commercial use for individual craft making or manufacturing that may be suitable outside of industrial zones. Artisan uses will typically involve work by hand or with limited smaller machinery. Representative artisan uses may include (without limitation) the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, metalwork, hand-woven articles, and related items. The total floor area for artisan uses shall not exceed three thousand (3,000) square feet.

Automobile: Any vehicle designed for carrying ten (10) passengers or less, used for transportation of persons, and having a gross weight of less than eighty-five hundred (8,500) pounds.

Automobile Body Shop: A facility which provides collision repair services, including frame straightening, replacement of damaged parts, painting, or undercoating of the body or frame of vehicles with a gross vehicle weight of eighty-five hundred (8,500) pounds or less.

Automotive dismantlers and recyclers: Any natural person, firm, association, or corporation engaged in the business of and/or providing facilities for recovering parts from automobiles and trucks that have been wrecked or otherwise rendered inoperable as transportation vehicles with said parts being recovered for resale

and/or reducing used automobiles and trucks to a condition capable of salvage for their metal scrap content by scrap processors.

Delete definition for Automobile graveyard in its entirety.

Automotive/Motor Vehicle Repair: The repair of automobiles, motorcycles, light duty trucks (not exceeding eighty-five hundred (8,500) pounds), including but not limited to engine, transmission, upholstery work, tire service/sales/rotations, and the like. This excludes body work and automobile dismantling and recycling; outdoor storage of inoperable, wrecked, or dismantled vehicles is only allowed if screened according to the requirements of this article.

Automotive/Motor Vehicle Service: Routine maintenance of automobiles, motorcycles, light duty non-commercial trucks, or similar vehicles, including but not limited to, muffler replacement, oil change and lubrication, tire sales/service/rotations, alignments, brakes, etc. Excludes body work, automobile dismantling and recycling, and the outdoor storage of inoperable, wrecked, or dismantled vehicles.

Building height: The vertical distance measured from grade to the highest point of the roof for flat roofs, to the highest point of a parapet wall, to the deck line for mansard roofs, or to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

Cigar Lounge: An establishment where the principal use is the sale of cigars to patrons who smoke cigars on or off-site and where any sale of food or alcohol is accessory to the use.

Contractor's/Construction Equipment, Sales and Rental: An establishment that engages in the sale and/or rental of construction equipment and construction vehicles, including but not limited to earth-moving equipment, dump trucks, construction trailers, scissor lifts, lighting, scaffolding, etc.

Convenience Store: A retail store primarily engaged in the sale of pre-packaged food and beverages, with a limited stock of household goods and toiletries, and where convenience and speed of transaction is of primary importance. Such businesses may or may not also conduct gasoline sales.

Data Center: A building or complex of buildings in which fifty-one percent (51%) of the gross floor area is dedicated to the housing of computer or data processing equipment or systems. This does not include a Server Farm.

Fitness/Exercise/Health club facility: A building or a portion of a building greater than five thousand (5,000) square feet of gross floor area designed and equipped for fitness activities, including but not limited to sports activities, exercise, weight training, and dance; the facility may be operated either for profit or not-for profit.

Fitness studio/Personal fitness instruction: An establishment less than or equal to five thousand (5,000) square feet of gross floor area equipped for individual or small group physical exercise instruction and fitness activities, including, but not limited to, exercise, weight training, yoga, meditation, Pilates, aerobics, martial arts, dance, and self-defense training.

Floodplain or floodprone area: See Section 34 of the Zoning Ordinance.

Floor area: The sum of the horizontal areas of all floors of all buildings on a lot measured from the exterior face of exterior walls. The following shall be excluded from calculation of the floor area, (including for the purposes of calculating the required number of parking spaces):

- (A) open exterior balconies or other covered open spaces;
- (B) uncovered terraces, patios, porches, atriums, or steps;
- (C) garages, carports, and other enclosed or unenclosed areas used for the parking or circulation of motor vehicles;
- (D) major mechanical equipment areas which serve the building as a whole or a major portion thereof; and
- (E) areas of common special purpose used by a substantial portion of the occupants of the premises, including laundries, recreation areas, sitting areas, libraries, storage areas, common halls, lobbies, stairways, elevator shafts, attics, and areas devoted exclusively to management and/or maintenance of the premises.

Floor area, gross: The total of the gross horizontal areas 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. The exclusions listed in the definition of “floor area” shall not be applicable to the calculation of gross floor area.

Floor area ratio (FAR): The total square foot amount of gross floor area of all structures on all building levels on a lot divided by the square footage of gross land area.

General Service and Repair Shop: Establishment primarily engaged in the provision of repair services to individuals and households, rather than businesses. Typical uses include but are not limited to appliance repair, shoe repair, watch or jewelry repair, or repair of musical instruments. This excludes automotive and commercial or contractor’s equipment repair.

Group home: See definition of “family” sub-item “c”.

Lot coverage: The percentage of lot area occupied by the ground area of principal and accessory buildings on such lot. (i.e., Ground level building footprint divided by gross land area multiplied by one hundred (100) = lot coverage percentage). Lot coverage is different than impervious area.

Delete definition for *Motor vehicle sales* in its entirety.

Motor vehicle sales, rental (automobiles): The display, sales, and rental, of new and/or used motor vehicles including but not limited to automobiles, motorcycles, and all-terrain vehicles. Automobile storage, service, and repair are permissible accessory uses but body work, automobile dismantling and recycling, and the outdoor storage of dismantled vehicles are not.

Motor vehicle: Sales, rental (other than automobiles): The display, sales, and rental of new and/or used recreational vehicles, motor homes, and camping trailers. The storage, service, and repair of such vehicles are permissible accessory uses, but body work on such vehicles, the dismantling and recycling of such vehicles, and the outdoor storage of such dismantled vehicles are not.

Motor vehicle: Sales, rental, repair (Medium & Heavy Duty: Commercial Vehicles): The display, sales, and rental of new and/or used commercial vehicles weighing in excess of eighty-five hundred (8,500) pounds, including but not limited to box trucks, semi-trucks, tractors-trailers, and transit buses. The storage, service, and repair of such vehicles are permissible accessory uses, but body work on such vehicles, the dismantling and recycling of such vehicles, and the outdoor storage of such dismantled vehicles are not.

Motor vehicle service: See “Automotive/Motor Vehicle repair”.

Delete definition for *Motor vehicle storage* in its entirety.

Parking structure: A structure used for the parking of vehicles and consisting of more than one story. A parking structure may be either a principal structure or an accessory structure. This is not the same as a parking lot discussed in Section 25.

Personal Service Establishment: A business providing non-medical services, including, but not limited to, tailor, seamstress, tanning salon, spa services (including manicure, pedicure, facials, massage therapy), and formal rentals shop. The sale of merchandise shall be permitted only as an accessory use to the personal service(s) provided.

Retail Shop: Tobacco, Vape, Dispensary: A store that devotes at least fifty-one percent (51%) of its floor area, or earns at least fifty-one percent (51%) of gross sales, to the display, sale, distribution, delivery, offering, furnishing, or marketing of products intended for recreational/ non-prescription use including but not limited to cigarettes, smokeless tobacco, pipe tobacco, vapes, products made from cannabinoid derivative plants (e.g., CBD or THC products), or other nicotine or cannabinoid delivery devices, components, products, liquid nicotine or cannabinoids, or liquid nicotine or cannabinoid containers.

Tavern: An establishment where the principal use is the individual sale of beer and other alcoholic beverages to be consumed on the premises and where any sale of food is accessory to the above.

Technology/ Vocation School: A post-secondary school that teaches students the skills necessary to perform the duties of a profession that typically requires a specific set of skills, training, certification, or licensing. All onsite instruction areas are conducted indoors and are generally conducted in a classroom or lab setting.

Trade School: A facility that teaches skills necessary for specific trades, including but not limited to, construction trades and those trades involving the operation of heavy machinery and medium-to-heavy duty vehicles. Some or all onsite instruction areas may be outdoors.

Yard: A required open space on a lot between a lot line and a building or structure which is unoccupied and unobstructed from the grade to the sky, except for the following permitted obstructions:

- (A) accessory uses, subject to the provisions of Section 25 herein;
- (B) statuary, arbors, trellises, and barbecue stoves;
- (C) awnings and canopies;
- (D) bay windows, covered or uncovered balconies (including juliet balconies), and covered porches may project up to sixty inches within a front or rear yard;
- (E) chimneys, flues, fireboxes, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters and the like projecting not more than twenty-four inches from an exterior wall;
- (F) fire escapes or outside stairways projecting from an exterior wall not more than four feet;
- (G) flagpoles, subject to the limitations of the Sign Ordinance;
- (H) non-mechanical laundry drying equipment, except in a front yard;
- (I) off-street parking and loading, but only as expressly authorized in Section 26 in Appendix A - Zoning;
- (J) terraces;
- (K) recreational equipment, except in front yards; and,
- (L) attached and/or detached uncovered decks may be located within a required side or rear yard but shall be no closer than five (5) feet from a side or rear property line.

SECTION 2. Appendix A, Section 6, Amendments, of the Murfreesboro City Code is hereby amended at subsection (E)(1) Procedure for Amendments to the Text of the Zoning Ordinance by replacing subsections (e) and (f) with the following:

- (e) The Department shall forward the recommendation of the Commission, and the Department’s recommendations, if different from the Commission’s, to the City Manager. The City Manager shall schedule the recommendation of the Commission, together with the Department’s recommendation, if different, for a public hearing and consideration at a City Council meeting no more than sixty (60) days from the date of the Planning Commission’s action. The City Council shall hold a public hearing on the amendment as scheduled by the City Manager unless City Council votes to defer the public hearing to a specific later date. Notice of any public hearing shall be published in a local newspaper of general circulation stating the date, time, and place of the hearing not more than thirty (30) days nor less than fifteen (15) days before such public hearing.

SECTION 3. Appendix A, Section 6, Amendments, of the Murfreesboro City Code is hereby amended at subsection (E)(2), Procedure for Amendments to the Zoning Map excluding Planned Developments, by replacing subsections (f) and (g) with the following:

- (f) The Department shall forward the recommendation of the Commission and the Department’s recommendations, if different from the Commission’s, to the City Manager. The City Manager shall schedule the recommendation of the Commission, together with the Department’s recommendation, if different, for a public hearing and consideration at a City Council meeting no more than sixty (60) days from the date of the Planning Commission’s action unless the applicant requests to defer City Council’s consideration of the amendment indefinitely or to a specific later date. The City Council shall hold a public hearing on the amendment on the date set by the City Manager unless the applicant withdraws its application. Notice of any public hearing shall be published in a local newspaper of general circulation stating the date, time, and place of the hearing not more than thirty (30) days nor less than fifteen (15) days before such public hearing. In addition, a sign shall be maintained on the subject property by the applicant which meets with the size and content requirements of the Commission, and notice shall be mailed to property owners within two hundred fifty (250) feet. Failure to mail notice to such owner(s) will not invalidate the amendment.

SECTION 4. Appendix A, Section 7, Site Plan Review, of the Murfreesboro City Code is hereby amended at by revising the City of Murfreesboro Planning Commission Site Plan Review Checklist at subsection A. and K. by amending A.(14) and K.(4) and (5) to read as follows:

A. GENERAL SITE PLAN:

- ____(14) the existing and proposed elevation contours at a vertical interval of one (1) foot based on sea level with existing contours shown as dashed lines and proposed grading contours shown in solid lines;

K. OTHER:

- ____(4) preliminary architectural elevations for all proposed buildings with final architectural elevations to be submitted prior to issuance of building permits. All elevations submitted shall indicate building

height as defined by the Zoning Ordinance, label all exterior building materials, and indicate any visible roof projections/mechanical equipment, including the height of such. Illustrations and/or details of all hardscape lighting, and street furniture, and conceptual signage should also be incorporated;

- ____(5) any other information necessary for the Planning Commission and Planning Director to adequately review the site plan. This could include but may not be limited to a traffic impact study or a traffic analysis when a proposed development generates one hundred (100) trips during the peak hour as determined by the City Engineer.

SECTION 5. Appendix A, Section 9, Standards for Special Permit Uses, of the Murfreesboro City Code is hereby amended at subsection (D)(2)(rr)[9] by adding a new subsection [f] as follows:

[f] Age-restricted sales of any kind, including but not limited to vape, alcohol, and tobacco.

SECTION 6. Appendix A, Section 24, Overlay District Regulations, Article VI, CCO, City Core Overlay District, of the Murfreesboro City Code is hereby amended as follows:

- Amend (A)(3) and add a new (A)(4) to read:

(A)(3) *Subarea Plans within the CCO:* The CCO includes the study areas of the North Highland Avenue and Historic Bottoms planning studies. These planning studies informed the writing of the CCO regulations and are of significant value. To the extent possible, developments within the CCO also located within the study areas of the North Highland and Historic Bottoms planning studies shall honor the recommendations of those plans.

(A)(4) *New General Plan Land Uses within the CCO:* Some areas of the CCO are not included in the North Highland Avenue or the Historic Bottoms planning studies. However, the General Plan was drafted to address these gaps and recommends appropriate land use characters for these areas. The General Plan land use element created a new “Mixed Form Housing-MH” land use category and a new “Neighborhood Compatible overlay” to provide more specific guidance as to how to develop these sensitive residential areas within the context of existing neighborhoods. These inclusions into the General Plan were made to better address planning gaps and are of significant value. To the extent possible, developments shall honor the recommendations of this plan.

- Amend (B)(3), (B)(4) and (B)(5) to read:

(B)(3) *Planned developments.* The regulations set forth in this subsection shall not prevent a property owner from seeking planned development zoning when such zoning is necessary or desirable to promote the purposes of the CCO district. However, to the extent possible, they should adhere to the regulations of the CCO, Design Guidelines, and other base zoning districts that best approximate the proposed development type. Exceptions to any of the above applicable regulations, including the CCO regulations, shall be explicitly noted in the planned development application.

(B)(4) *Reconstruction of lawfully established non-conforming structures.* Notwithstanding the requirements of Section 28 – Nonconformities of the Zoning Ordinance, a lawfully-established pre-existing structure that does not comply

with the zoning standards currently in effect may be reconstructed one (1) time provided that such structure shall not increase the degree of non-conformity nor create any new non-conformities within three (3) years of demolition.

(B)(5) *Use regulations.* Land uses in the CCO district shall be as permitted by the underlying zoning district, with the following exceptions:

- (a) *Lawfully established residential non-conforming uses.* Notwithstanding the requirements of Section 28 of the Zoning Ordinance, a lawfully-established pre-existing residential use that is not permitted in the CCO or in the base zoning district may be, reconstructed one (1) time and the use(s) allowed to resume, provided that such reconstruction is only within the boundaries of the existing tract or lot of record; that the number of dwelling units is not increased, and the structure meet the provisions outlined in section (B)(4) directly above. All other terms of Section 28 of the Zoning Ordinance regarding non- conforming uses will apply to the CCO District.
- (b) For properties having underlying zoning that permits two-family dwellings, duplex residential units shall not be required to have a shared wall but will still be considered two-family dwellings.
- (c) For properties having underlying zoning that permits accessory apartments, a Special Use Permit shall not be required, provided that the following standards are satisfied:
 - [1] only one accessory apartment shall be allowed upon a lot zoned for single family purposes;
 - [2] the accessory apartment shall be designed so that to the degree reasonably feasible, the appearance of the building remains that of a one-family residence. In general, any new entrances in an existing structure shall be located on the side or in the rear of the building;
 - [3] if attached to or located within the principal structure, the accessory apartment shall be designed and constructed to allow it to be part of the principal structure at such time as the use of the accessory apartment discontinues;
 - [4] the design and size of the accessory apartment shall conform to all applicable standards in the health, building, and other codes;
 - [5] the accessory apartment shall not exceed seven hundred (700) square feet of floor area; and
 - [6] except for bona fide temporary absences, the owner(s) of the lot upon which the accessory apartment is created shall occupy at least one of the dwelling units on the premises.
- (d) Various uses listed on Chart 1 USES PERMITTED of the Zoning Ordinance may be otherwise permitted by right or by special use permit in the underlying zones but shall not be permitted uses in the CCO district. These prohibited uses are detailed in Chart 1's "CCO" column designated "N" for "not allowed". Those listed "N*" (with an asterisk) are prohibited if such use occupies more than three thousand (3,000) square feet in floor area.

- Amend (C)(4)(b) to read:

(C)(4)(b) The number of required on-site off-street parking spaces may be reduced by up to seventy-five percent (75%) if the property is located within seven hundred fifty (750) feet of a parking structure or lot where parking is freely and publicly available to the users as determined by the Planning Director.

- Amend (D)(1)(b), (D)(1)(c), (D)(7), and (D)(11)(a) to read:

(D)(1)(b) For residential developments, the principal structure shall be "built to" the average front setback of all structures on the same block face plus or minus two (2) feet however, no structure shall be built less than ten (10) feet nor more than twenty-five (25) feet behind the front property line. For the purposes of this section, "block face" shall mean within the same block on the same street side as

the subject property and shall exclude vacant lots. No structure shall be built in the public right-of-way.

(D)(1)(c) Porches may project up to sixty inches beyond the front “build-to” line or within the required rear yard setback, so long as the covered areas do not impact more than fifty percent (50%) of the respective front or rear building façade and that no portion of the porch is located closer than ten (10) feet to the front lot line.

(D)(7) *Building entrances.* Building entrances shall be oriented to the primary street frontage. For corner lots, entrances shall be either oriented to the street with the higher functional classification or angled and oriented to the street intersection. However, the side of the structure facing the street with the lower functional classification shall include architectural detailing so as also to appear as a front façade.

(D)(11)(a) Single-family attached residential developments of eight (8) dwelling units or more; developments containing fewer than eight (8) units shall provide private patios, balconies, or open space of at least fifty (50) square feet with a minimum five (5) feet of depth for each unit clear of obstructions;

- Amend (F)(3)(a) to read:

(F)(3)(a) five (5) feet on a front planting yard and three (3) feet on other planting yards where the site is two (2) acres or less. Where the three (3) foot planting yards shall be allowed to be planted with only shrubbery instead of trees; or

SECTION 7. Appendix A, Section 25, Temporary and Accessory Structures and Uses, of the Murfreesboro City Code is hereby amended at subsection (B)(7), (C)(6) and (E)(3) as follows:

(B)(7) off-street parking subject to the provisions of Section 26 of this article; stand-alone parking lots must be accessory to an allowed permitted principal use and its structure(s).

(C)(6) Parking lots as a principal use. This does not include parking structures that are addressed in Chart 1 use table.

(E)(3) no accessory structure or use in any residential district shall occupy more than fifty percent (50%) of the required rear yard;

SECTION 8. Appendix A, Section 26, Off-Street Parking, Queuing and Loading, of the Murfreesboro City Code is hereby amended at subsection (C)(1)(b)[1][aa] as follows:

(C)(1)(b)[1][aa] Such off-site parking spaces are located within a zoning district which would permit the use to which such parking is accessory. Off-street parking (except parking structures) shall be accessory to a permitted principal use and its associated principal structure(s) and shall not be the principal use on a lot of record.

SECTION 9. Appendix A, Section 28, Non-Conformities, of the Murfreesboro City Code is hereby amended at subsections (C)(2) and (D)(2)(c) as follows:

(C) (2) Enlargement, repair, alterations. Any nonconforming structure may be enlarged, maintained, repaired, or altered; provided, however, that no such enlargement, maintenance, repair, or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure.

- (a) A structure that is non-conforming by being wholly or partially within a minimum required building setback may expand vertically up to one additional story above its current height even if such vertical addition is within the required minimum building setback, provided that the vertical addition does not exceed the maximum building height of the respective zone, but may not expand horizontally in any direction within the minimum required building setback.
- (b) If such additional nonconformity or degree of nonconformity is only with the requirements of the Gateway Design Overlay (GDO) District and the nonconforming structure was in existence on the effective date of the ordinance creating the GDO District, in which case the enlargement, maintenance, repair, or alteration of such nonconforming structure proposed within twenty (20) years after the original adoption of the GDO requirements may create an additional nonconformity or an increase in the degree of nonconformity with the requirements of the GDO District for twenty years after creation of the GDO District, a variance must be obtained for any enlargement in accordance with Sections 10 and 24(D).

(D)(2)(c) No side yard shall be less than five (5) feet.

SECTION 10. Appendix A, Chart 1, Uses Permitted by Zoning District, of the Murfreesboro City Code is hereby amended by deleting it in its entirety and substituting in lieu thereof the attached Chart 1.

SECTION 11. Appendix A, Chart 1 Endnotes, Uses Permitted by Zoning District, of the Murfreesboro City Code is hereby amended as follows:

- Add the following sentence to the end of the opening paragraph:

The CCO district is to be used in concert with the base zoning district with the more stringent CCO standards applying. The CCO Overlay column in Chart 1 indicates uses that are not permitted in the CCO that are shown with a “N” at the intersection of the use row and the CCO overlay district column. Those listed “N*” (with an asterisk) are prohibited if such use occupies more than three thousand (3,000) square feet in floor area.

- Amend subsection 3 and 3(b)(5) to read:

3. Motor Vehicle Sales and/or Rentals shall be subject to the following additional standards:

3.(b)(5) Parking and display of automobile inventory shall occur only in areas designated on the approved site plan application. Driveway aisles, public right-of-way, landscaped areas, and unimproved areas shall not be used for automobile parking or display;

- Amend subsection 8 to read:

8. An accessory apartment may be established in the RS-15, RS-12, RS-10, RS-8, RS-6, RS-4, and RS-A districts upon approval by the Board of Zoning Appeals subject to the standards and criteria of Section 9 of Appendix A – Zoning. An accessory apartment within the City Core Overlay (CCO) District may be

established upon administrative approval by the Planning Department subject to the standards and criteria of Section 24, Article VI of Appendix A – Zoning.

- Amend subsection 11(i) to read:

11. (i) The following activities and land uses shall not be approved as home occupations:
 - (1) automotive repair (body or mechanical), upholstery or painting;
 - (2) kennels;
 - (3) taxi service;
 - (4) gun dealers;
 - (5) charter bus service; or
 - (6) Age-restricted sales of any kind, including but not limited to vape, alcohol, and tobacco.

- Amend subsection 12 to read:

12. Sites used for the storage of inoperable, wrecked, or dismantled vehicles, whether as principal, accessory, or ancillary use, used in conjunction with an automobile body shop, automotive/motor vehicle repair establishments, wrecker or towing services, or wrecker service storage yards, shall provide at a minimum a ten (10) foot Type B buffer zone as described in Section 27 of Appendix A - Zoning in addition to a permanent eight (8) foot masonry wall or a Type A buffer zone as described in Section 27 of Appendix A – Zoning in addition to an eight (8) foot berm (with appropriate width to accommodate the allowed maximum slope) measured from the highest adjacent grade for screening of the area used for the storage of inoperable, wrecked, or dismantled vehicles; provided, however, the screening requirement shall not be for the entire site unless otherwise required by Appendix A - Zoning and shall be applicable to only those areas used for such storage. It is the intent of this requirement to screen such storage areas from the view of any adjacent property and from the view of any public right-of-way adjacent to the site.

- Add new subsections 31 and 32 to read:

31. Retail Shop: Tobacco, Vape, Dispensary, where permitted by right, shall be subject to a minimum one thousand (1,000) foot separation from another vape shop, public or private school, City park, daycare center, or church, and a minimum two hundred fifty (250) foot separation from properties zoned or used for residential purposes. The required distance shall be measured from property line to property line.
32. Outdoor Storage and Display for non-residential uses: see Zoning Ordinance Section 25(C)(1) and Section 25(E)(8) for further information.

SECTION 12. Appendix A, Chart 2, Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios, of the Murfreesboro City Code is hereby amended by deleting it in its entirety and substituting in lieu thereof the attached Chart 2.

SECTION 13. Appendix A, Chart 2 Endnotes, Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios, of the Murfreesboro City Code is hereby amended at subsections 3, 8 and 38 by deleting in their entirety and substituting in lieu thereof the following:

- 3. The width of the required side yard shall be ten (10) feet for single story, fifteen (15) feet for two story, twenty (20) feet for any three story, and twenty-five (25) feet for any four-story buildings.
- 8. See Section 25 of this article for applicable building setback and height regulations for accessory structures.
- 38. If there is any conflict between Section 24, Article VI (City Core Overlay District) and the minimum front yard requirements denoted in Chart 2 and its endnotes and/or the accessory structure bulk requirements denoted in Section 25, then Section 24, Article VI (City Core Overlay District) shall prevail.

SECTION 14. 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:

APPROVED AS TO FORM:

Jennifer Brown
City Recorder

DocuSigned by:
Adam F. Tucker
43A2036E61F0401...

Adam F. Tucker
City Attorney

SEAL

USES PERMITTED ³	ZONING DISTRICTS																		
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI
DWELLINGS																			
Single-Family detached	X	X	X	X	X	X	X	X	X	X ²⁷		X		X					
Single-Family attached or detached, zero-lot line (max. 2 units attached) ²³							X	X	X	X ²⁴		X		X					
Single-Family attached, townhouse ^{25, 26, 28}								X	X	X									
Two-Family							X	X	X			X		X					
Three-Family								X	X			X		X					
Four-Family								X	X			X		X					
Multiple-Family								X ²¹	X ²¹								X ²¹	X ²¹	
OTHER HOUSING																			
Accessory Apartment ⁸	S ⁸	S ⁸	S ⁸	S ⁸	S ⁸	S ⁸				S ⁸									
Accessory Dwelling Unit												X ¹	X ¹	X ¹	X ¹	X ¹	X ¹	X ¹	X ¹
Assisted-Care Living Facility ¹⁵							S	X	X	X		X	X	X	X	X	X	X	X
Bed-and-Breakfast Homestay	S	S	S	S	S		S	S	X	S		S		X	X	X	X		
Bed-and-Breakfast Inn	S	S	S	S	S		S	S	S	S		S		S	X	X	X	X	
Boarding House ¹⁵							S	S	X	X		S		X	X	X	X		
Class I Home for the Aged ¹⁵	S	S	S	S	S	S	S	X	X	X		X		X	X	X	X		
Class II Home for the Aged ¹⁵	S	S	S	S	S		S	S	S	S		S		X	X	X	X		
Class III Home for the Aged ¹⁵							S	S				S		S	X	X	X		
Emergency Shelter	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Extended Stay Hotel/Motel															X	X			
Family Crisis Shelter												S		S	S	S		S	S
Family Violence Shelter							S	S				S	S	S	X	X		X	X
Fraternity/Sorority												S		S	S	S		S	S
Group Shelter							S	S				S	S	S	S	S		S	S
Hotel															X	X	X	X	X
Home Occupations ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹	S ¹¹		X ¹¹			X ¹¹		
Mission																		S	S
Mobile Homes											X								
Motel															X	X		X	X
Rooming House							S	S	S								X		
Student Dormitory									S										
Transitional Home							S	S	S			S	S						
INSTITUTIONS																			
Adult Day Care Center	S	S	S	S	S	S	S	S	S	S		X	X	X	X	X	X	X	X
Adult Day Care Home	S	S	S	S	S	S	S	S	S	S	S	X	S	X	X	X	X	X	X

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

USES PERMITTED ³	ZONING DISTRICTS																			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI
Airport, Heliport	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		S	S
Cemetery, Mausoleum	S	S	S	S	S	S	S	S	S	S	S	S	S			S	S		S	S
Church ¹³	S	S	S	S	S	S	S	X	X	S	S	S	X	X	X	X	X	X	X	X
College, University												X	X			X	X			
Day-Care Center							S	S	S		S	S	S	X	X	X	X	X	X	X
Family Day-Care Home	S	S	S	S	S	S	S	S	S	S	S	S		X	X	X		X	X	X
Group Day-Care Home	S	S	S	S	S	S	S	S	S	S	S	S		X	X	X		X	X	X
Hospital												X	X			X	X		X	X
Lodge, Club, Country Club ¹³	S	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X	X	X	X	X
Mental Health Facility												X	X	X		X	X		X	X
Morgue																X	X		X	X
Museum							S	S	S			S	S	S	X	X	X	X	X	X
Nursery School							S	S	S		S	S	S	S	S	S	X		S	S
Nursing Home												X	X	S	S	S	X		S	S
Park	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pet Cemetery	S	S	S												S	S			S	S
Philanthropic Institution							S	S	S			X	X	X	X	X	X	X	X	X
Public Building ¹³	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X	X	X	X	X	X
Recreation Field ¹³	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X	X	X		X	X
Senior Citizens Center	S	S	S	S	S	S	S	X	X	S		X	X	X	X	X	X		X	X
School, Public or Private, Grades K - 12 ¹³	S	S	S	S	S	S	S	S	S	S	S	S	S	X	X	X	X	X	X	X
Student Center								S	S			S	S	S	S	S	X			
Technology/Vocation School (indoor)													X		X	X	X		X	X
Trade School (includes outdoor)																			X	X
AGRICULTURAL USES																				
Customary General Farming	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X ⁶	X	X	X	X ⁶	X	X	X	X	X
Crop, Soil Preparation Agricultural Services	S	S	S	S	S	S	S	S	S	S	S				X	X			X	X
Farm Labor and Management Services												X	X	X	X	X		X	X	X
Fish Hatcheries and Preserves																			X	X
Grain, Fruit, Field Crop and Vegetable Cultivation and Storage	X	X	X	X	X	X	X	X	X	X	X								X	X
Livestock, Horse, Dairy, Poultry, and Egg Products	S	S	S	S	S	S	S	S	S	S									X	X
Timber Tracts, Forest Nursery, Gathering of Forest Products	S	S	S	S	S	S	S	S	S	S	S								X	X
COMMERCIAL																				
Adult Cabaret																			X ⁹	

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USES PERMITTED ³	ZONING DISTRICTS																			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	RMO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI
Adult Entertainment Center																			X ^a	
Adult Motel																			X ^a	
Adults-Only Bookstore																			X ^a	
Adults-Only Motion Picture Theater																			X ^a	
Amusements, Commercial Indoor															X	X	X	X	X	X
Amusements, Commercial Outdoor excluding Motorized																X	X		X	X
Amusements, Commercial Outdoor Motorized except Carnivals																			S	S
Animal Grooming Facility															X	X	X		X	X
Antique Mall															X	X	X	X	X	X
Antique Shop <3,000 sq. ft.												X	X	X	X	X	X	X	X	X
Art or Photo Studio or Gallery												X	X	X	X	X	X	X	X	X
Artisan Use < 3,000 sf, other than enumerated elsewhere														X	X	X	X	X	X	X
Automobile Body Shop ¹²																			X	X
Automotive/Motor Vehicle Repair ¹²																			X	X
Automotive/Motor Vehicle Service															S	X	X		X	X
Bakery, Retail														X	X	X	X	X	X	X
Bank or Credit Union, Branch Office or Main Office												X	X	X	X	X	X	X	X	X
Bank, Drive-Up Electronic Teller												X	X	X	X	X	X	X	X	X
Barber or Beauty Shop												X	X	X	X	X	X	X	X	X
Beer, Packaged														X	X	X		X	X	X
Boat Rental, Sales, or Repair																			X	X
Book or Card Shop												X	X	X	X	X	X	X	X	X
Brewery, Artisan ²⁹														X	X	X		X	X	X
Brewery, Micro ²⁹																X		X	X	X
Brewpub ³⁰														X	X	X	X	X	X	X
Business and Communication Service												X	X	X	X	X	X	X	X	X
Business School												X	X		X	X	X	X	X	X
Campground, Travel-Trailer Park																			S	S
Carnivals																S			S	S

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USES PERMITTED ³	ZONING DISTRICTS																			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	RM-O	OG-R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI
Catering Establishment												X	X	X	X	X	X	X	X	X
Cigar Lounge																S	S	S	X	X
Clothing Store														X	X	X	X	X	X	X
Coffee, Food, or Beverage Kiosk														X	X	X	X		X	X
Commercial Center (≤25,000 SF)														X	X	X	X	X	X	X
Convenience Store, ≤5,000 SF														X	X	X	X	X	X	X
Convenience Store > 5,000 SF																X	X	X	X	X
Crematory																			S	S
Data Center ≤15,000 SF													X		X	X			X	X
Department or Discount Store															X	X	X	X	X	X
Distillery, Artisan ²⁹																X		X	X	X
Drive-In Theater																X			X	X
Dry Cleaner ≤3,000 SF (No On-Site Cleaning)														X	X	X	X	X	X	X
Financial Service												X	X	X	X	X	X	X	X	X
Fireworks Public Display																				
Fireworks Retailer																S			S	S
Fireworks Seasonal Retailer														S	S	S			S	S
Fitness/ Health Club Facility >5,000 SF														X	X	X	X	X	X	X
Fitness studio/ personal instruction ≤5,000 SF												X	X	X	X	X	X	X	X	X
Flower or Plant Store												X	X	X	X	X	X	X	X	X
Funeral Home														S		X	X		X	X
Garden and Lawn Supplies															S	X	X	X	X	X
Gas--Liquified Petroleum, Bottled and Bulk																X			X	X
Gasoline Sales														X	X	X	X		X	X
General Service and Repair Shop																X		X	X	X
Glass--Auto, Plate, and Window																X	X		X	X
Glass--Stained and Leaded														X	X	X	X	X	X	X
Greenhouse or Nursery																X	X		X	X
Grocery Store														X	X	X	X	X	X	X
Group Assembly, <250 persons												S	S		X	X	X	X	X	X
Group Assembly, >250 persons												S	S		S	S	X	S	S	S
Ice Kiosk, Automated															X	X			X	X
Interior Decorator												X	X	X	X	X	X	X	X	X
Iron Work																X			X	X
Janitorial Service															X	X	X	X	X	X
Kennels																X			X	X
Keys, Locksmith															X	X	X	X	X	X

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

USES PERMITTED ³	ZONING DISTRICTS																			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI
Laboratories, Medical												X	X		X	X	X		X	X
Laboratories, Testing												X	X		X	X	X		X	X
Laundries, Self-Service														X	X	X			X	X
Lawn, Tree, and Garden Service																X			X	X
Liquor Store															X	X	X		X	X
Livestock, Auction																			X	X
Lumber, Building Material																			X	X
Manufactured Home Sales																			X	X
Massage Parlor																			X ⁹	
Motor Vehicle: Sales , Rental (Automobiles) ³																S	S		X ³	X ³
Motor Vehicle: Sales, Rental (Other Than Automobiles) ³																			X ³	X ³
Motor Vehicle: Sales, Rental, Repair (Medium & Heavy Duty Commercial Vehicles) ³																			X ³	X ³
Movie Theater															X	X	X	X	X	X
Music or Dancing Academy															X	X	X	X	X	X
Offices												X	X	X	X	X	X	X	X	X ⁵
Optical Dispensaries												X	X		X	X	X	X	X	X
Parking Structure																X	X	X	X	X
Pawn Shop																X			X	X
Payday Loan, Title Loan, or Check-Cashing Service																X			X	X
Personal Service Establishment														X	X	X	X	X	X	X
Pet Crematory																			S	S
Pet Funeral Home															X	X			X	X
Pet Shops															X	X	X	X	X	X
Pharmacies, Apothecaries												X	X	X	X	X	X	X	X	X
Plasma Donation Center																			X	X
Radio, TV, or Recording Studio																X	X	X	X	X
Radio and Television Transmission Towers															S	S			S	S
Rap Parlor																			X ⁹	
Restaurant and Carry-Out Restaurant														X	X	X	X	X	X	X
Restaurant, Drive-In																X			X	X
Restaurant, Specialty														X	X	X	X	X	X	X
Restaurant, Specialty -Limited												S	S	X	X	X	X	X	X	X
Retail Shop, firearms																			X	X
Retail Shop, other than enumerated elsewhere															X	X	X	X	X	X
Retail Shop: Tobacco, Vape, Dispensary ³¹															X ³¹				X ³¹	X ³¹

X = Use permitted by right.

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USES PERMITTED ³	ZONING DISTRICTS																			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	R MO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI
Salvage and Surplus Merchandise																X			X	X
Sauna																			X ⁹	
Self-Service Storage Facility ¹⁶															S	X	S		X	X
Sheet Metal Shop																X			X	X
Shopping Center, Community (150-300K SF)																X	X		X	X
Shopping Center, Neighborhood (25-150K SF)															X	X	X	X	X	X
Shopping Center, Regional (>300,000 SF)																X	X		X	X
Specialty Shop												X	X	X	X	X	X	X	X	X
Tavern																X		X	X	X
Taxidermy Studio																S			S	S
Veterinary Clinic															X	X	X		X	X
Veterinary Hospital																X	X		X	X
Veterinary Office												X	X	X	X	X	X		X	X
Vehicle Wash														X		X			X	X
Wholesaling, Wholesale Establishments																X			X	X
Winery, Artisan ²⁹														X	X	X		X	X	X
Wireless Telecommunications Towers, Antennas ¹⁷	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		S	S
Wrecker/Towing Service, Wrecker Storage Yard ¹²																			X	X
INDUSTRIAL																				
Manufacture, Storage, Distribution of:																				
Abrasive Products																			X	X
Asbestos Products																			S	
Automobile Dismantlers and Recyclers ^{7 & 12}																			S	
Automobile Manufacture																			X	X
Automobile Parts and Components Manufacture																			X	X
Automobile Seats Manufacture																			X	X
Bakery Goods, Candy																			X	X
Boat Manufacture																			X	X
Bottling Works																			X	X
Brewery ²⁰																			X	X
Canned Goods																			X	X
Chemicals																			X	
Composting Facility																			S	
Contractor's Storage, Indoor																X			X	X
Contractor's Yard or Storage, Outdoor ³²																			X	X
Contractor's/Construction Equipment: Sales, Rental, Repair ³²																			X	X

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

USES PERMITTED ³	ZONING DISTRICTS																			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	RMO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI
Cosmetics																			X	X
Custom Wood Products																			X	X
Data Center / Server Farm > 15,000																			S	S
Distillery ²⁰																			X	X
Dry Cleaning- Laundering Facility > 3,000																X			X	X
Electrical or Electronic Equipment, Appliances, and Instruments																			X	X
Fabricated Metal Products and Machinery																			X	X
Fertilizer																			X	
Food and Beverage Products except animal slaughter, stockyards, rendering, and brewery																			X	X
Furniture and Fixtures																			X	X
Jewelry																			X	X
Junkyard																			S	
Leather and Leather Products except tanning and finishing																			X	X
Leather and Leather Products, Tanning and Finishing																			X	
Lumber and Wood Products																			X	X
Mobile Home Construction																			X	
Musical Instruments																			X	X
Office/Art Supplies																			X	X
Paints																			X	X
Paper Mills																			S	
Paper Products excluding paper and pulp mills																			X	X
Petroleum, Liquified Petroleum Gas and Coal Products except refining																			S	
Petroleum, Liquified Petroleum Gas and Coal Products refining																				
Pharmaceuticals																			X	X
Photographic Film Manufacture																			X	X
Pottery, Figurines, and Ceramic Products																			X	X
Primary Metal Distribution and Storage																			X	X
Primary Metal Manufacturing																			X	X
Printing and Publishing																X	X	X	X	X
Recycling center																S			X	X
Recycling Center: Temporary Mobile															S	S			S	S

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

USES PERMITTED ³	ZONING DISTRICTS																			
	RS 15	RS 12	RS 10	RS 8	RS 6	RS 4	RD	RM 12	RM 16	RS-A	RMO	OG R	OG	CL	CF ¹⁴	CH	MU	CBD	HI	GI
Rubber and Plastic Products except rubber or plastic manufacture																			X	X
Rubber and Plastic Products, Rubber and Plastic Manufacture																			X	X
Saw Mills																			X	
Scrap Metal Processors																			S	
Scrap Metal Distribution and Storage																			S	
Scrap Processing Yard																			S	
Secondary Material Dealers																			S	
Silverware and Cutlery																			X	X
Small Moulded Metal Products																			X	X
Sporting Goods																			X	X
Stone, Clay, Glass, and Concrete Products																			X	X
Textile, Apparel Products, Cotton--Factoring, Grading																			X	X
Textile, Apparel Products, Cotton Gin																			X	X
Tire Manufacture																			X	X
Tobacco Products																			X	X
Toiletries																			X	X
Transportation Equipment																			X	X
Warehousing, Transporting/Distributing ¹⁸																			X	X
Winery ²⁰																			X	X
TRANSPORTATION AND PUBLIC UTILITIES																				
Bus Terminal or Service Facility																X			X	X
Electric Transmission, Gas Piping, Water/Sanitary Sewer Pumping Station	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Freight Terminal, Service Facility																X			X	X
Garbage or Refuse Collection Service																			X	X
Gas, Electric (Including Solar Farms), Water, Sewerage Production and/or Treatment Facility, Landfill ¹⁹																			X	X
Post Office or Postal Facility														X	X	X	X	X	X	X
Railroad Station/Terminal																S			S	S
Refuse Processing, Treatment, and Storage																			S	
Telephone or Communication Services															X	X	X	X	X	X
Taxicab Dispatch Station																X			X	X

X = Use permitted by right.

S = Use requiring site plan review and approval subject to the issuance of a special use permit in accordance with the provisions of Sections 8 and 9 of this article.

DISTRICT AND USE	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			
	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	Maximum Lot Coverage (percent)
RS-15 DISTRICT											
1. Dwellings and other uses permitted	15,000	75 ^[12]	40	12.5	30	35	2.9	none	none	none	25
RS-12 DISTRICT											
1. Dwellings and other uses permitted	12,000	70 ^[12]	35	10	25	35	3.63	none	none	none	25
RS-10 DISTRICT											
1. Dwellings and other uses permitted	10,000	65 ^[12]	35	10	25	35	4.4	none	none	none	25
RS-8 DISTRICT											
1. Dwellings and other uses permitted ^[28]	8,000	55 ^[12]	35 ^{[1][29]}	5	20	35	5.4	none	none	none	35
RS-6 DISTRICT											
1. Dwellings and other uses permitted ^[28]	6,000	50 ^[12]	35 ^{[1][29]}	5	20	35	7.2	none	none	none	50
RS-4 DISTRICT											
1. Dwellings and other uses permitted ^[28]	4,000	40 ^[12]	35 ^{[1][29]}	5	20	35	10.8	none	none	none	50
R-D DISTRICT											
1. Single-family detached dwellings and other uses permitted except ^[28]	4,000	40 ^[12]	35 ^{[1][29]}	5	20	35	10.8	none	none	none	50
2. Two-family dwellings	6,500	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	35
3. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	4,000	27 ^[12]	35 ^[1]	5	25	35	10.9	none	none	none	none
RM-12 DISTRICT											
1. Single-family detached dwellings and other uses permitted except ^[28]	7,500	50 ^[12]	35 ^{[1][37]}	5	25	35	5.8	none	none	none	30
2. Two-family dwellings	7,500	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
3. Three-family dwellings	11,250	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
4. Four-family dwellings	15,000	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
5. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	3,750	18 ^[12]	35 ^{[1][37]}	5	25	35	11.6	none	none	none	none
6. Multiple-family dwellings and Single-family attached townhouse dwellings ^[30]	FN ^[14]	50 ^[12]	30 ^[1]	FN ^[3]	25	45 ^[11]	FN ^[14]	none	none	FN	none
RM-16 DISTRICT											
1. Single-family detached dwellings and other uses permitted except ^[28]	6,000	50 ^[12]	35 ^{[1][37]}	5	25	35	7.3	none	none	none	35
2. Two-family dwellings	6,000	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	35
3. Three-family dwellings	9,000	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	30
4. Four-family dwellings	12,000	50 ^[12]	30 ^[1]	5	25	35	14.5	none	none	none	30
5. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	3,000	18 ^[12]	35 ^{[1][37]}	5	25	35	14.5	none	none	none	none
6. Multiple-family dwellings and Single-family attached townhouse dwellings ^[30]	FN ^[9]	50 ^[12]	30 ^[1]	FN ^[3]	25	45 ^[11]	FN ^[9]	none	none	FN	none

DISTRICT AND USE	Minimum Lot Requirements		Minimum Yard Requirements ^{[5][17][25]}					Land Use Intensity Ratios			Maximum Lot Coverage (percent)
	Area (Sq. Ft.)	Width (Ft.)	Front ^[38] (Ft.)	Side (Ft.)	Rear (Ft.)	Maximum Height ^[16] (Ft.)	Maximum Gross Density ^[2] (D.U./Acre)	Maximum F.A.R.	Minimum L.S.R.	Minimum O.S.R.	
RS-A DISTRICT^[35]											
1. Single-family detached and single-family attached or detached with zero-lot line (max. 2 units attached) ^{[7][28][31]}	3,000	30 ^[12]	35 ^{[1][37]}	5	20	35	14.5	none	none	none	none
2. Single-family attached townhouse on one lot or individual lots (Suburban Type) ^{[30][32][33]}	2,000 ^[36]	20 ^[36]	35 ^[1]	5	20	35	12	1	0.5	0.25	none
3. Single-family attached townhouse on one lot or individual lots (Urban Type) ^{[30][32][33][34]}	2,000 ^[36]	20 ^[36]	20 ^{[1][34]}	5	20	45 ^[34]	12	1	none	none	none
4. Other uses permitted	6,000	30 ^[12]	30 ^[1]	10	20	35	none	none	none	none	35
R-MO DISTRICT											
1. Mobile homes	4,000	40 ^[12]	25 ^[1]	10	15	12	10.9	none	none	none	none
CM-R DISTRICT											
1. Single-family detached	5,000	50 ^[12]	35 ^{[1][29]}	10	20	35	8.7	none	none	none	none
2. Two-family dwellings	5,000	50 ^[12]	30 ^[1]	10	20	35	16	none	none	none	none
3. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	2,500	30	35 ^[1]	5	20	35	16	none	none	none	none
4. Single-family attached townhouse dwellings ^[30]	2,500	50 ^[12]	30 ^[1]	10	20	35	16 ^[9]	0.3	0.48	0.7	none
5. Four-family dwellings	15,000	50 ^[12]	30 ^[1]	5	25 ^[4]	35	11.6	none	none	none	30
6. Medical offices, clinics, and other related uses	none	50 ^[12]	30 ^[1]	10	20	60	none	none	none	none	none
CM DISTRICT											
1. Medical offices, clinics, and other related uses	none	50 ^[12]	30 ^[1]	10	20	60	none	none	none	none	none
CM-RS-8 DISTRICT											
1. Single-family detached	8,000	50 ^[12]	35 ^{[1][29]}	10	20	35	5.4	none	none	none	none
2. Medical offices, clinics, and other related uses	none	50 ^[12]	30 ^[1]	10	20	60	none	none	none	none	none
OG-R DISTRICT											
1. Offices and other uses except	5,000	50 ^[12]	30 ^[1]	10	20	35	none	0.3	0.28	0.6	none
2. Single-family detached	5,000	50 ^[12]	35 ^{[1][29]}	10	20	35	8.7	none	none	none	none
3. Two-family dwellings	5,000	50 ^[12]	30 ^[1]	10	20	35	17.4	none	none	none	none
4. Three-family dwellings	7,500	50 ^[12]	30 ^[1]	10	20	35	17.4	none	none	none	30
5. Four-family dwellings	12,000	50 ^[12]	30 ^[1]	10	20	35	14.5	none	none	none	30
6. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	2,500	25 ^[12]	35 ^[1]	5	20	35	17.4	none	none	none	none
OG DISTRICT											
1. Offices and other uses	5,000	50 ^[12]	30 ^[1]	10	20	35	none	0.3	0.28	0.6	none
CL DISTRICT											
1. All commercial uses except	none	none ^[13]	42	10 ^[6]	20	35	none	none	none	none	none
2. Single-family detached dwellings ^[28]	7,500	50 ^[12]	35 ^{[1][29]}	5	25	35	5.8	none	none	none	30
3. Two-family dwellings	7,500	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
4. Three-family dwellings	11,250	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
5. Four-family dwellings	15,000	50 ^[12]	30 ^[1]	5	25	35	11.6	none	none	none	30
6. Single-family attached or detached with zero lot line (max. 2 units attached) ^{[7][31]}	3,750	18 ^[12]	35 ^[1]	5	25	35	11.6	none	none	none	none

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Sewer Allocation Variance- South Church Street – Retail Building

Department: Planning

Presented by: Brad Barbee, Planner

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

A proposed development request for additional density above the sewer allocation ordinance's zoning allowance.

Staff Recommendation

Approval of variance request allowing higher single-family unit equivalent density (sfu) by approximately 1.1 sfu's for the proposed commercial building.

Background Information

The Planning Department has conducted a due-diligence meeting for the annexation and zoning of property located at 3416 South Church Street for the development of a two-tenant commercial building. The property is proposed to be zoned Planned Commercial District (PCD), which, per the ordinance, only allows 2.5 sfu's/acre. The proposed lot in question is approximately 0.48 acres in size and thus is allowed only 1.2 sfu's. The anticipated usage is approximately 2.3 sfu's; therefore, the development of the commercial building will use more than the ordinance allows by approximately 1.1 sfu's. According to MWRD, the sanitary sewer collection system can convey the estimated sewer flows resulting from this development and can accommodate the request to vary from the density requirements associated with the proposed zoning. Staff views the advantages of job creation and tax revenue of greater benefit than the requested additional sewer capacity.

Council Priorities Served

Improve economic development

The development will create jobs and provide additional tax revenue.

Concurrence

MWRD concurs with the request based on sewer system capacity and indicates that the sanitary sewer collection system can convey the estimated sewer flows resulting from this development and can accommodate the request to vary from the density requirements. However, MWRD also advises that variance requests be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to the proposed development requesting a variance.

Fiscal Impact

The development will generate commercial tax rate revenue as well as pay one-time development fees.

Attachments

1. Request letter from applicant
2. Site plan
3. Memo from MWRD

December 21, 2023

Greg McKnight
Planning Director
Murfreesboro Water Resources Department
220 NW Broad Street
Murfreesboro, TN 37130

**Re: 3416 S Church Street
Murfreesboro TN
Tax Map 125O, Group A, Parcel 02.00
Sewer Allocation Variance Request**

Dear Greg:

The property we are requesting a variance on is at 3416 S Church Street, Murfreesboro TN at Tax Map 125O, Group A, Parcel 02.00 for a Retail Center. This property is currently zoned RM in Rutherford County but a proposal is in the works to get this property annexed into the City of Murfreesboro and zoned Planned Commercial Development (PCD). This zoning allows for 2.5 single family units (s.f.u.) per acre or 650 gpd/acre. The property in question is 0.48 Acres and thus is allowed 312 GPD or 1.2 s.f.u. The anticipated usage for the retail center is approximately 600 GPD or 2.3 s.f.u; therefore, the development of this property will use more than the ordinance allows by 1.1 s.f.u.

We appreciate the opportunity to submit this variance request and hope to continue with this development to serve the surrounding areas. Please feel free to reach out with any questions.

Sincerely,

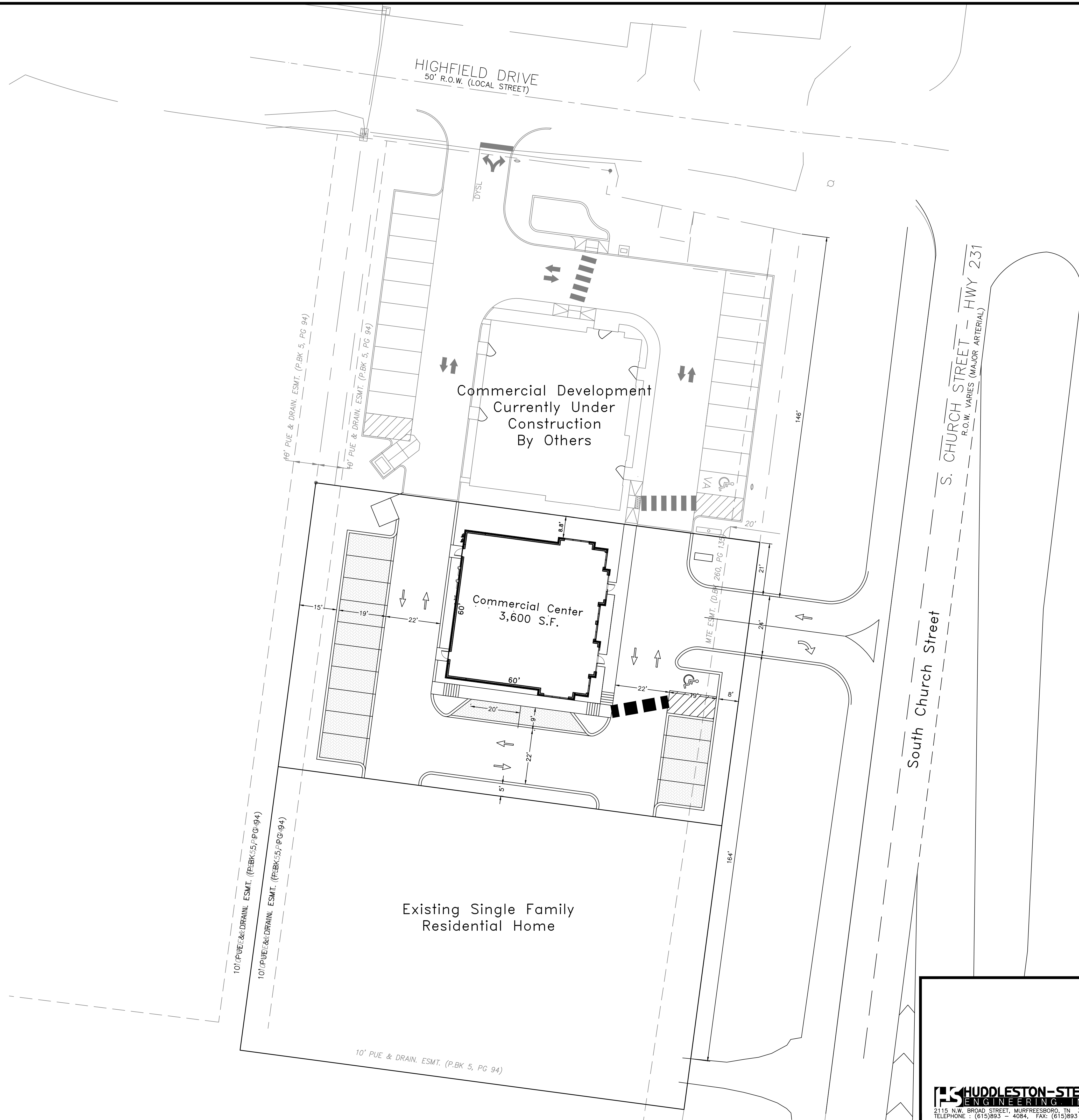
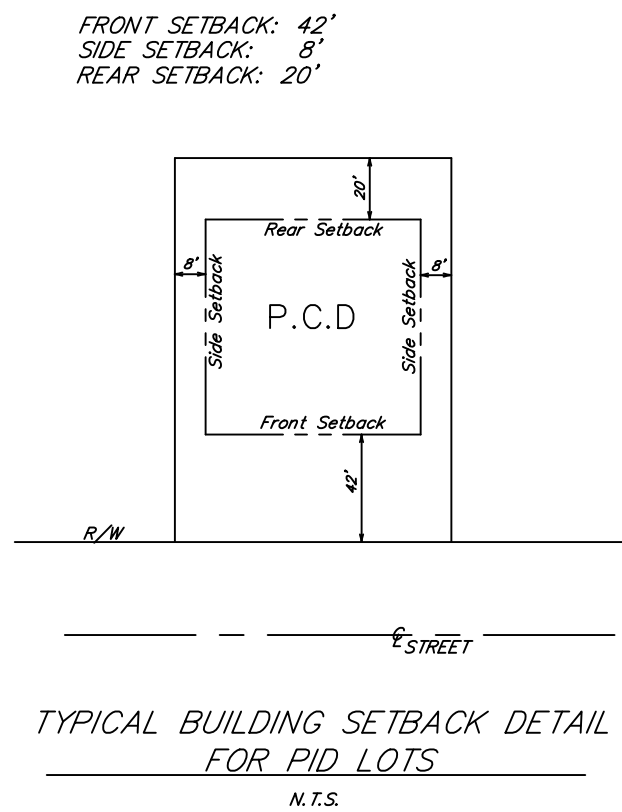
HUDDLESTON-STEELE ENGINEERING, INC.



Christopher Maguire, P.E., R.L.S.

Cc: Margaret Ann Green
Matthew Blomeley
Valerie H. Smith

C:\Civil 3D Projects\3416 South Church\DWG\Concept-December 2023.dwg, T.DOT, 1/4/2024 7:21:24 AM, ACAD204



- LEGEND**
- Ø Power Pole
 - ⊕ Existing Fire Hydrant
 - W— Existing Water Line
 - S— Existing Sanitary Sewer Line
 - SSMH Existing Sanitary Sewer Manhole
 - Existing Telephone Box
 - Existing Electric Box
 - SDMH Existing Storm Drain Manhole
 - ⊙ Existing Light Pole
 - UGT— Existing Underground Telephone Line
- LEGEND FOR MONUMENTS**
- IPS ○ IRON PIN SET
 - IPF ○ IRON PIN FND.
 - RAILROAD SPIKE
 - ✱ FENCE
 - SURVEY POINT
 - △ NAIL
 - CONC. MARKER FND.

DRAWING REVISIONS		
NO.	DATE	DESCRIPTION
0	9/28/2023	ORIGINAL ISSUE

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

CONCEPT PLAN

3416 SOUTH CHURCH STREET

DATE: DECEMBER, 2023

SCALE 1"=20'

SHEET: C1.0

PRELIMINARY
NOT FOR
CONSTRUCTION

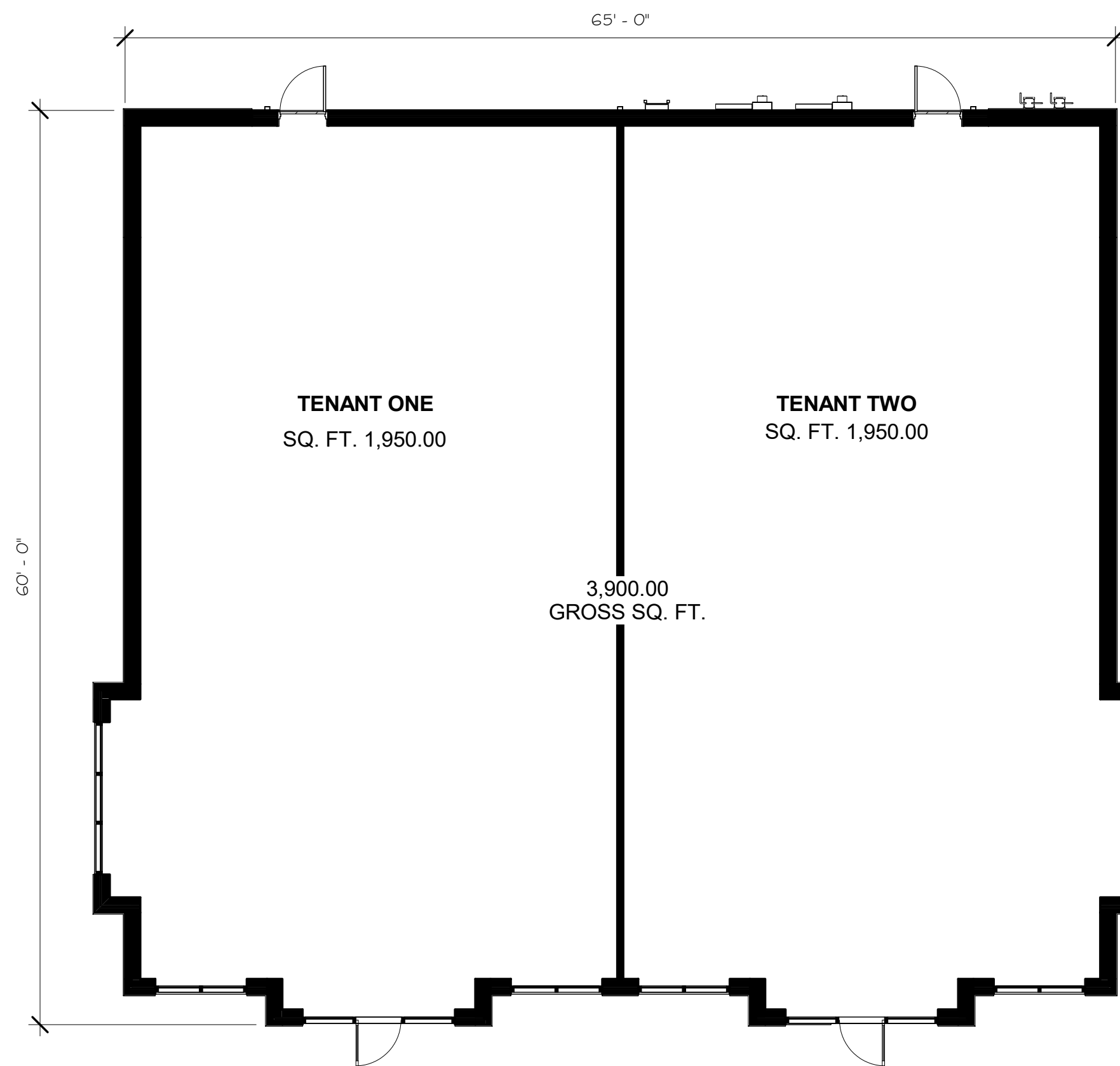
W. Michael Stewart
Architect

540 Grove Isle Cir. 103
Vero Beach, Florida 32962

SHOPPING CENTER
SOUTH CHURCH STREET
MURFREESBORO, TENNESSEE

11/14/2023

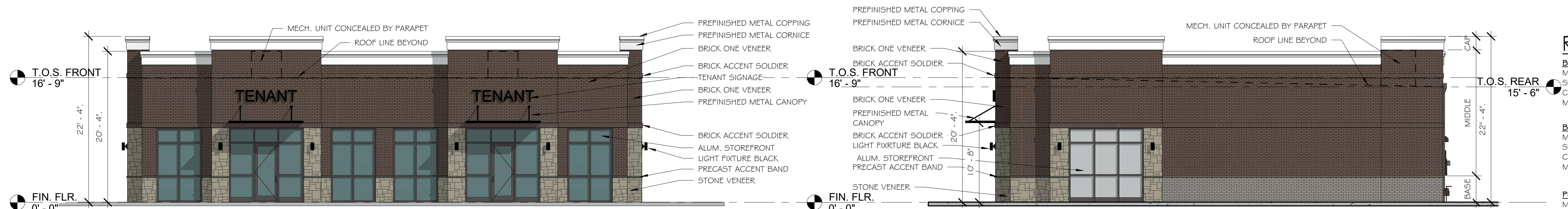
A1.0



A BUILDING FLOOR PLAN
1/8" = 1'-0"



B PERSPECTIVE VIEW



1 NORTH FRONT ELEVATION PRES
1/8" = 1'-0"

FACADE MATERIAL SURFACE AREA:		
BRICK ONE	731.44 S.F.	49.54%
STONE VENEER	174.68 S.F.	11.83%
METAL CORNICE	130.23 S.F.	8.76%
GLASS AREA	440.00 S.F.	29.87%
TOTAL MASS AREA	1,476.35 S.F.	

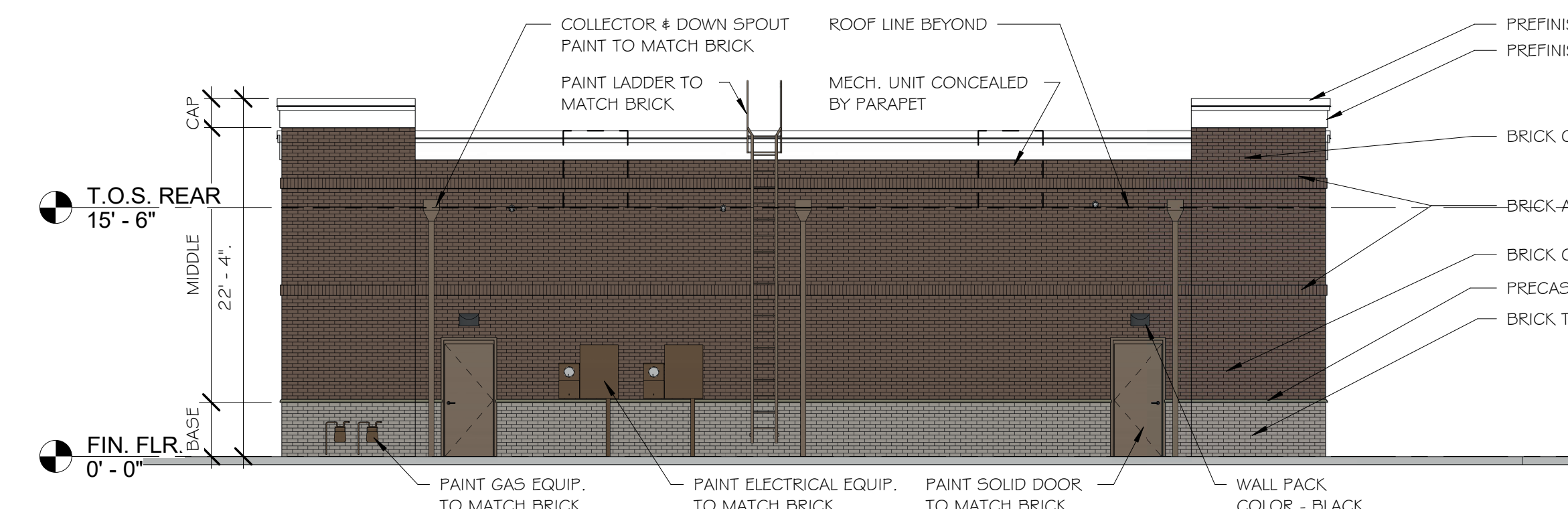


3 EAST LEFT ELEVATION PRES
1/8" = 1'-0"

FACADE MATERIAL SURFACE AREA:		
BRICK ONE #TWO	973.68 S.F.	76.44%
STONE VENEER	88.85 S.F.	6.97%
METAL CORNICE	111.25 S.F.	8.73%
GLASS AREA	100.00 S.F.	7.86%
TOTAL MASS AREA	1,273.78 S.F.	

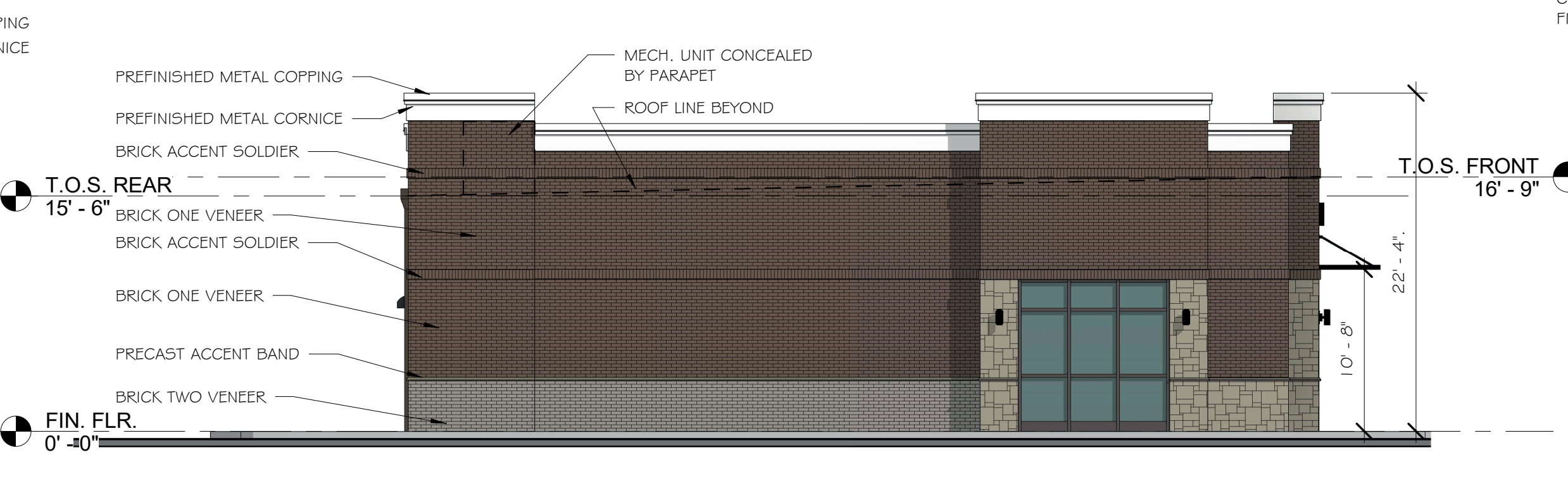
RETAIL CENTER EXTERIOR MATERIALS:

BRICK VENEER ONE MANUFACTURE: STYLE / SIZE: COLOR: MORTAR COLOR:	MERIDIAN BRICK MODULAR PEPPERCORN TYPE "N"	STOREFRONT MANUFACTURE: STYLE / SIZE: COLOR:	TUBELITE 2"x4" ALUMINUM DARK BRONZE
BRICK VENEER TWO MANUFACTURE: STYLE / SIZE: COLOR: MORTAR COLOR:	BELDON MODULAR VELOUR GRAY TYPE "N"	GLAZING MANUFACTURE: STYLE / SIZE: COLOR:	PPG 1" INSULATED LOW-E LITE GREY
PRECAST CONC. ACCENT MANUFACTURE: STYLE / SIZE: COLOR: MORTAR COLOR:	CAST STONE MODULAR MATCH STONE VENEER TYPE "N"	METAL CANOPY MANUFACTURE: STYLE / SIZE: COLOR: REMARK:	MAPES METAL RECTANGULAR BLACK INTRICAL GUTTER 4 WOOD SOFFIT
STONE VENEER MANUFACTURE: STYLE / SIZE: COLOR: MORTAR COLOR:	BRAMPTON BRICK MULTIPLE VIVACE - DOVER TYPE "N"	AWNINGS MANUFACTURE: STYLE / SIZE: COLOR: REMARK:	T.B.D. FABRIC / METAL BLACK / BLACK 3'-0" OVERHANG
PREFINISHED METAL CORNICE MANUFACTURE: STYLE / SIZE: COLOR: FINISH:	T.B.D. T.B.D. WHITE SATIN	UP & DOWNLIGHTS MANUFACTURE: STYLE / SIZE: COLOR:	T.B.D. T.B.D. BLACK



2 SOUTH REAR ELEVATION PRES
1/8" = 1'-0"

FACADE MATERIAL SURFACE AREA:		
BRICK ONE & TWO	1,101.63 S.F.	87.44%
METAL CORNICE	119.04 S.F.	8.80%
SOLID DOORS	50.69 S.F.	3.76%
TOTAL MASS AREA	1,351.36 S.F.	



4 WEST RIGHT ELEVATION PRES
1/8" = 1'-0"

FACADE MATERIAL SURFACE AREA:		
BRICK ONE #TWO	973.68 S.F.	76.44%
STONE VENEER	88.85 S.F.	6.97%
METAL CORNICE	111.25 S.F.	8.73%
GLASS AREA	100.00 S.F.	7.86%
TOTAL MASS AREA	1,273.78 S.F.	

FACADE MATERIAL SURFACE AREA:		
BRICK ONE #TWO	4,090.66 S.F.	72.97%
STONE VENEER	352.38 S.F.	6.28%
METAL CORNICE	471.77 S.F.	8.41%
DOOR & GLASS AREA	690.69 S.F.	12.34%
TOTAL MASS AREA	5,605.50 S.F.	

GENERAL NOTE:
1. MECHANICAL EQUIPMENT ROOF MOUNTED SHALL BE INSTALLED SUCH THAT THE TOP OF THE EQUIPMENT IS BELOW THE HIGHEST POINT OF THE PARAPET WALLS.
2. PARAPET WALLS OR TOWERS THAT PROJECT ABOVE OTHER PORTIONS OF THE BUILDING SHALL BE FINISHED ON REAR SIDES WITH THE MATERIALS SIMILAR TO THE PRESENTATION SIDE.



... creating a better quality of life

MEMORANDUM

DATE: December 22, 2023

TO: Greg McKnight

FROM: Valerie H. Smith

SUBJECT: 3416 S. Church St.
Sewer Allocation Ordinance (SAO)
Variance Request

Sewer System Capacity

The sanitary sewer collection system can convey the estimated sewer flows resulting from this development and its request to vary from the density requirements associated with its current land use zoning.

Effects within Basin by Providing Variance to Sewer Allocation

Per the most recent sewer connection model of the system and per the 2022 Sewer Allocation report, this Basin MF12 currently has capacity for 4663 connections. By committing sewer service to this development, Staff is determining that basin 12's sewer connection capacity will be reduced by 1 connection, resulting in 4662 available connections for future developments. Currently, staff has determined there is capacity downstream of the site. Please note that while this development is counted as one sewer connection, the anticipated single-family unit (sfu) equivalency is approximately 2.3 sfu's, resulting in a larger sewer discharge than the 490 gallon per day per connection average the model is based upon.

Per the proposed Planned Commercial Development (PCD) (allotted 2.5 sfu/acre) and acreage, .48 acres, the property is allowed 1.2 sfu's. Therefore, the development is requesting a variance of 1.1 sfu's.

The S. Church St. corridor is a very attractive area within the City. Water Resources staff advises variance requests to be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to any proposed development requesting a variance to the sewer allocation ordinance.

Water Resources Department

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

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Sewer Allocation Variance- New Salem Highway – Joelicious Donuts

Department: Planning

Presented by: Brad Barbee, Planner

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

A proposed development request for additional density above the sewer allocation ordinance's zoning allowance.

Staff Recommendation

Approval of variance request allowing higher single-family unit equivalent density (sfu) by approximately seven sfu's for the proposed commercial building.

Background Information

The Planning Department has conducted a public inquiry meeting for a multi-tenant commercial building, which will include a donut shop, to be located along the south side of New Salem Highway east of Cason Lane. The property is zoned Commercial Highway (CH), which, per the ordinance, only allows 2.5 sfu's/acre. The proposed lot in question is approximately 1.4 acres in size and thus is allowed only 3.5 sfu's. The anticipated usage is approximately 10.4 sfu's; therefore, the development of the commercial building will use more than the ordinance allows by approximately seven sfu's. According to MWRD, the sanitary sewer system can convey the estimated sewer flows resulting from this development during dry weather. Staff views the advantages of job creation and tax revenue of greater benefit than the requested additional sewer capacity.

Council Priorities Served

Improve economic development

The development will create jobs and provide additional tax revenue.

Concurrence

MWRD indicates that the sanitary sewer collection system can convey the estimated sewer flows resulting from this development during dry weather. However, MWRD advises that variance requests be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to the proposed development requesting a variance.

Fiscal Impact

The development will generate commercial tax rate revenue as well as pay one-time development fees.

Attachments

1. Request letter from applicant
2. Site plan
3. Memo from MWRD

December 13, 2023

Mr. Greg McKnight
City of Murfreesboro
111 W. Vine St.
Murfreesboro, Tennessee 37130

RE: Joelicious Donuts Sewer Allocation Variance Request
New Salem Hwy
Murfreesboro, Tennessee
SEC Project No. 23362

Dear Mr. McKnight:

Please accept this as our variance request for the proposed site to be located along the south side of New Salem Hwy/Hwy 99. The property in question is approximately 1.4 acres in size and is zoned Commercial Highway (CH). The sewer allocation ordinance allows for 2.5 sfue/acre or 650 gpd/acre sewer flow for CH property. For this property, the allocation ordinance would allow 910 gpd or 3.5 sfue. Based on historical flow of my client's existing commercial building at 1220 East Northfield which includes a restaurant, retail and laundromat, the projected average sewer usage is 2709 gpd or 10.4 sfue.

Given this information, Raj Patel requests a variance from the sewer allocation ordinance to grant an **additional 7 sfue** of sewer flow.

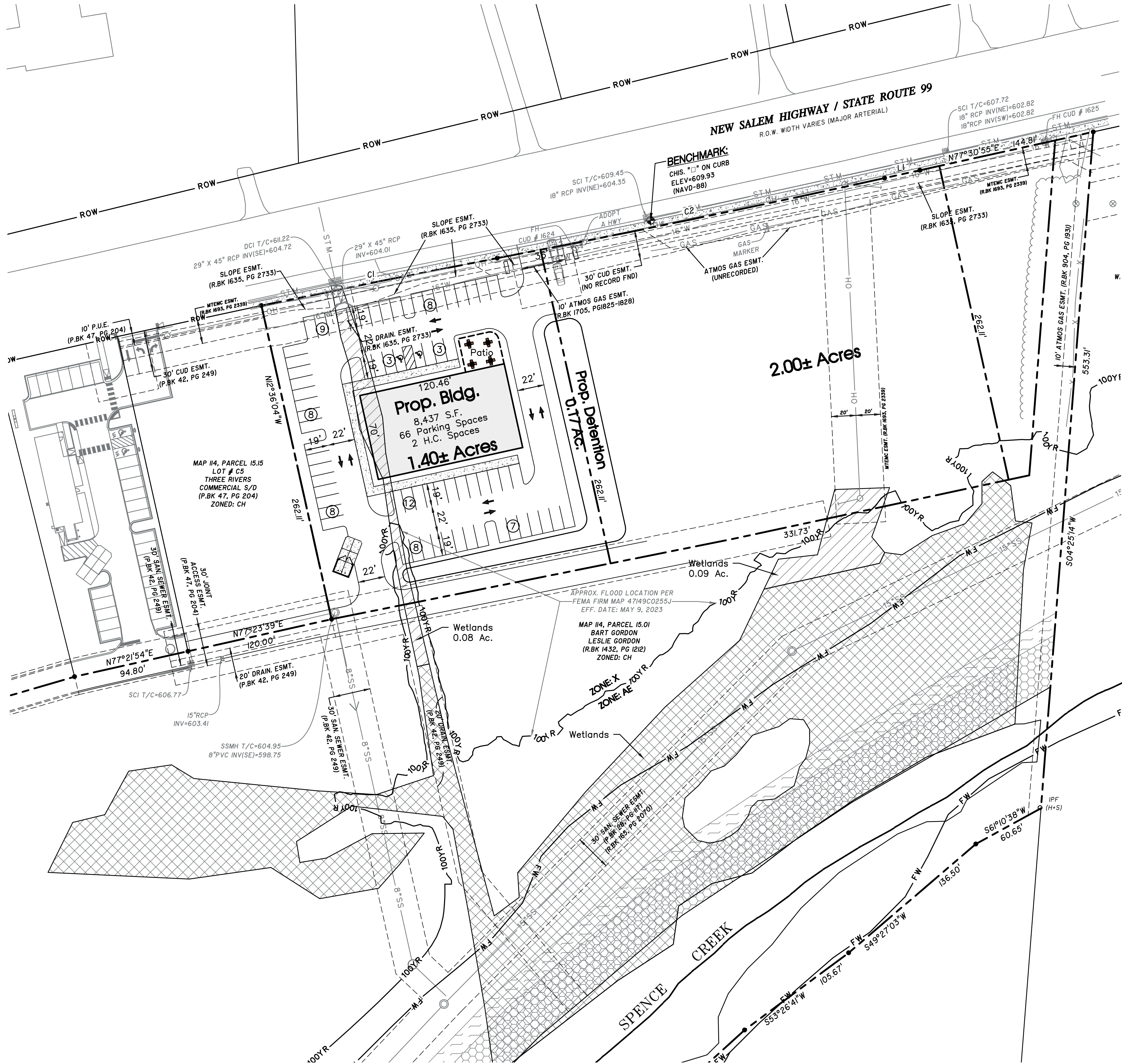
We appreciate the opportunity to present this variance and the opportunity to create new jobs, bring additional tax revenue to the City of Murfreesboro through increased sales and property taxes, as well as better serve our customers, your residents, with better accessibility to this site.

If you have any questions or need additional information, please contact me at 890-7901 or via email at mtaylor@sec-civil.com.

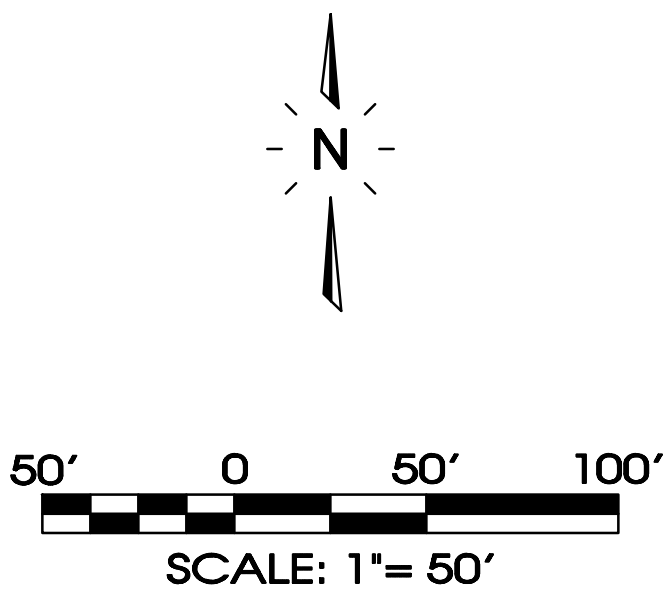
Sincerely,



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



Legend:			
	EXIST. CONCRETE MONUMENT		INLET FILTER PROTECTION
	IRON PIN SET (I.P.S.)		HANDICAP PARKING SYMBOL
	IRON PIN FOUND (I.P.F.)		HC SIGN
	EXIST. SIGN POST		PROPOSED SIGN POST
	EXIST. SEWER CLEANOUT		HEADWALL
	EXIST. MANHOLE (SEWER and PHONE)		WINGED HEADWALL
	EXIST. CATCH BASIN (STORM SEWER)		MANHOLE
	EXIST. WATER/GAS VALVE		PROPOSED SPOT ELEVATION
	EXIST. TELEPHONE RISER		EXIST. SPOT ELEVATION
	EXIST. GAS RISER		POST INDICATOR VALVE
	ELECTRICAL ENCLOSURE		REDUCER
	EXIST. WATER METER		REMOTE FIRE DEPT. CONNECTION
	EXIST. UTILITY POLE		REVISION NUMBER
	EXIST. FIRE HYDRANT		RIP RAP
	BENCHMARK		RUNOFF FLOW ARROW
	BLOW OFF VALVE		SEWER/STORM FLOW DIRECTION
	CONCRETE BOLLARD		TRAFFIC ARROW
	CATCH BASIN		TURN LANE ARROWS
	CURB INLET		VAN ACCESSIBLE HANDICAP DESIGNATION
	AREA DRAIN		WHEEL STOP
	CONCRETE THRUST BLOCK		GREASE TRAP
	DOUBLE DETECTOR CHECK VALVE		DRAINAGE STRUCTURE DESIGNATION
	FIRE DEPT. CONNECTION		DRAINAGE PIPE DESIGNATION
	FIRE HYDRANT		CONCRETE SIDEWALK
	GAS METER		EXTRUDED CURB
	GATE VALVE and BOX		CURB and GUTTER
	EXTERIOR CLEANOUT ECO		CONCRETE SWALE
	WATER METER		TYPE - "U" HEADWALL
EXISTING PHONE		PH	
EXISTING ELECTRIC		OH	
PROPERTY LINE		---	
EASEMENTS		---	
RIGHT OF WAY		50' ROW	
EROSION CONTROL SILT FENCE		SF SF	
EXISTING TREELINE		---	
EXISTING FENCELINE		X X	
MINIMUM BUILDING SETBACK LINE		MBSL	
PHASE BOUNDARY		---	
EXISTING GAS LINE		GAS	
PROPOSED GAS LINE		GAS	
EXISTING STORM		STM	
PROPOSED STORM		STM	
EXISTING CONTOUR LINES		601	
PROPOSED CONTOUR LINES		601	
EXISTING SANITARY SEWER		SS SS	
PROPOSED SANITARY SEWER		SS SS	
EXISTING WATER		W W	
PROPOSED WATER		W W	
EROSION EEL		E E E	



REVISIONS:

DRAWN: PRN

DATE: 8-24-2023

CHECKED:

MAT

FILE NAME: MasterPlan3-09

SCALE: 1"=50'

JOB NO. 23362

SHEET:

SEC, Inc.

ENGINEERING • SURVEYING • LAND PLANNING
LANDSCAPE ARCHITECTURE

850 MIDDLE TENNESSEE BOULEVARD
MURFREESBORO, TENNESSEE 37129
PHONE: (615) 890-7901
WWW.SEC-CIVIL.COM
FAX: (615) 895-2567

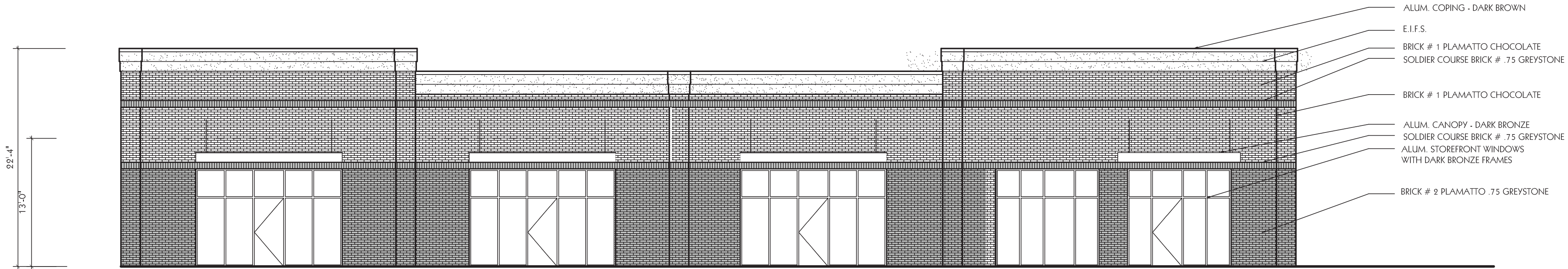
NO PORTION OF THIS DRAWING MAY BE REPRODUCED WITHOUT THE EXPRESSED WRITTEN CONSENT OF SEC, INC.
COPYRIGHT SEC, INC., 2023

This site plan shows a three-dimensional view of the proposed development. It is the responsibility of the owner/developer to ensure that the construction of the site shown on these construction drawings is in total accordance with the design as noted, described, and illustrated. The engineer assumes no administrative liability or responsibility in the assurance that the site is constructed in accordance with the construction plans.

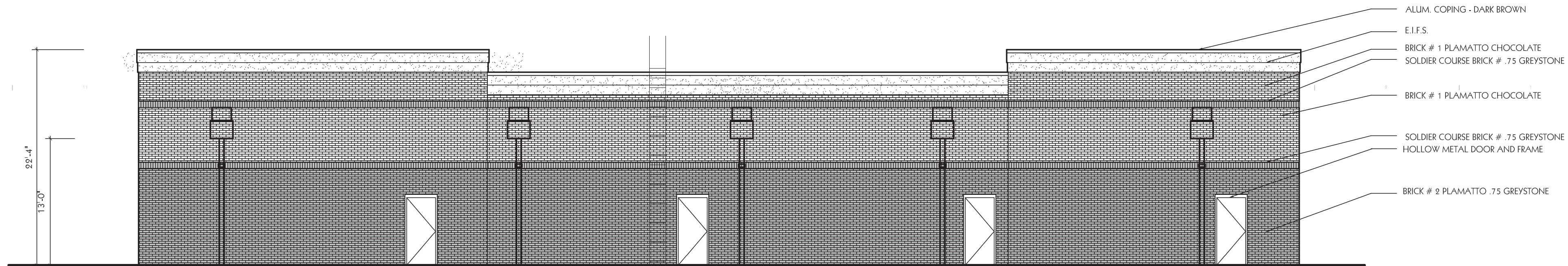
Three Rivers
Commercial Property
Murfreesboro, Tennessee

Concept Plan

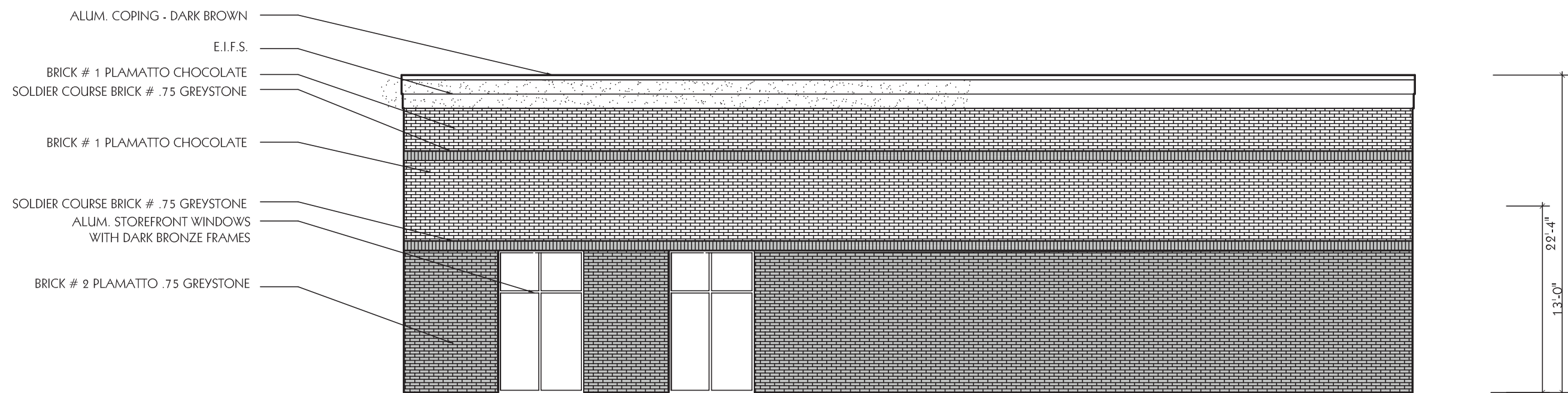
1 of 1



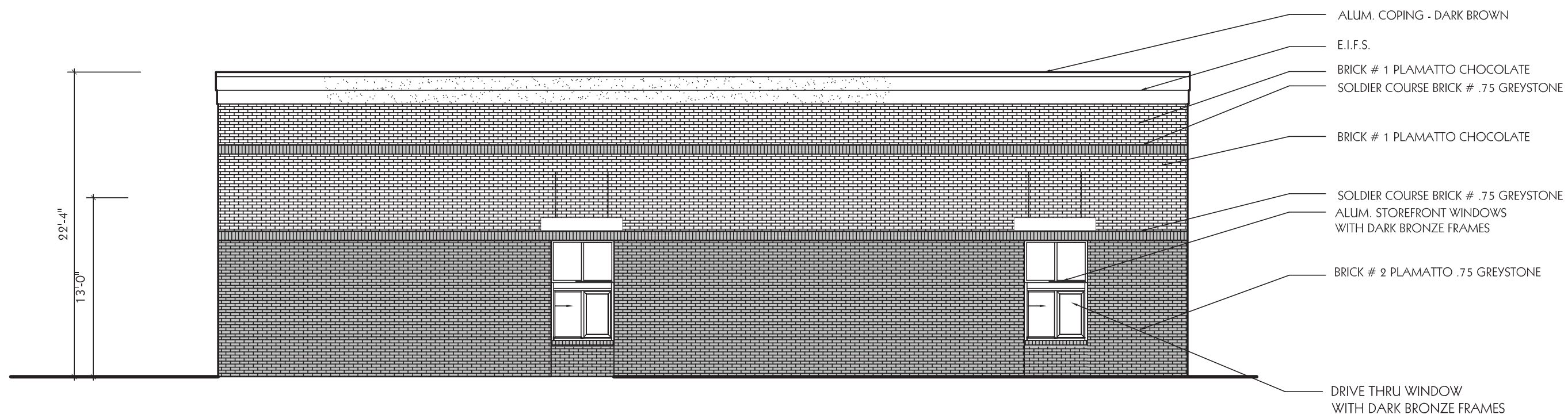
1 FRONT ELEVATION
SCALE: 1/8" = 1'-0"



2 REAR ELEVATION
SCALE: 1/8" = 1'-0"



4 RIGHT ELEVATION
SCALE: 1/8" = 1'-0"



3 LEFT ELEVATION
SCALE: 1/8" = 1'-0"



ROBERTS ARCHITECTURE

818 BROOKSHIRE WAY
KNOXVILLE, TN 37993
P.O. BOX 10761
MURFREESBORO, TN 37139
615.804.0799 (o) roberts88@comcast.net

SALEM HIGHWAY RETAIL CENTER

HIGHWAY 99 MURFREESBORO, TENNESSEE 37128

PROJ. NO.: 2023065

DATE: 07.17.2023

EXTERIOR
ELEVATIONS

A4.10



... creating a better quality of life

MEMORANDUM

DATE: December 22, 2023

TO: Greg McKnight

FROM: Valerie H. Smith

SUBJECT: Joelicious Donuts
New Salem Hwy.
Sewer Allocation Ordinance (SAO)
Variance Request

Sewer System Capacity

The sanitary sewer collection system can convey the estimated sewer flows resulting from this development during dry weather.

Effects within Basin by Providing Variance to Sewer Allocation

Per the most recent sewer connection model of the system and per the Basin 11A Study, this Basin currently has capacity for 3473 single family units (sfu's) after the upgrades to the gravity sewer system currently under construction. By committing sewer service to this development, staff has determined that Basin 11A's sewer connection capacity will be reduced by 10.4 sfu's, resulting in 3462 available sfu's for future developments in this Basin. Currently, staff has determined there is capacity downstream of the site during dry weather.

Per the existing Commercial Highway zoning (allotted 2.5 sfu/acre) and acreage, 1.4 acres, the property is allowed 3.5 sfu's. Therefore, the development is requesting a variance of 7.0 sfu's.

The Salem Highway corridor is a vary attractive area within the City. Water Resources staff advises variance requests to be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to any proposed development requesting a variance to the sewer allocation ordinance.

Water Resources Department

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

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Sewer Allocation Variance- North Rutherford Boulevard – East Side Village

Department: Planning

Presented by: Brad Barbee, Planner

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

A proposed development request for additional density above the sewer allocation ordinance's zoning allowance.

Staff Recommendation

Approval of variance request allowing higher single-family unit equivalent density (sfu) by approximately 10.5 sfu's for three proposed food service uses.

Background Information

The Planning Department has conducted a due-diligence meeting for the rezoning of property along the east side of North Rutherford Boulevard north of Louise Street for the development of three commercial lots, each to be developed with a food service use. The property is proposed to be zoned Planned Commercial District (PCD) and is also located in sewer basin 10A-4. In 2020, Council approved a restriction for this basin of 2.5 sfu's/acre due to wet weather flows reaching an EPA guideline of three feet from the top of manhole. The proposed development in question is approximately 3.66 acres in size and thus is allowed only 9.15 sfu's. The anticipated usage is approximately 19.57 sfu's; therefore, the development of the three food service uses will use more than the ordinance allows by approximately 10.42 sfu's. According to MWRD, the sanitary sewer system can convey the estimated sewer flows resulting from this development during dry weather. Staff views the advantages of job creation and tax revenue of greater benefit than the requested additional sewer capacity.

Council Priorities Served

Improve economic development

The development will create jobs and provide additional tax revenue.

Concurrence

MWRD indicates that the sanitary sewer collection system can convey the estimated sewer flows resulting from this development during dry weather. However, MWRD also notes that should this development be granted a variance, other undeveloped properties may not be able to develop to the full 2.5 sfu's/acre allotted. MWRD advises

that variance requests be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to the proposed development requesting a variance.

Fiscal Impact

The development will generate commercial tax rate revenue as well as pay one-time development fees.

Attachments

1. Request letter from applicant
2. Site plan
3. Memo from MWRD

November 30, 2023

Mr. Greg McKnight
City of Murfreesboro
111 W. Vine St.
Murfreesboro, Tennessee 37130

RE: Sewer Allocation Variance Request
232 N Rutherford Boulevard and
303 Yearwood Avenue

Dear Mr. McKnight:

Please accept this as our variance request for the proposed site at 232 N Rutherford Boulevard and 303 Yearwood Avenue. The property in question is approximately 3.66 acres in size and is zoned PCD, RM and RS-15. The sewer allocation ordinance allows for 2.5 sfu/acre or 650 gpd/acre sewer flow for these properties. As such, the allocation ordinance would allow 9.15 sfu total for these properties. Below is the historical average flow of our proposed three users at other locations within the City of Murfreesboro:

• 950 sf Drive Thru Coffee (proposed Dutch Brothers):	5.52 sfu
• 3,694 sf Drive Thru QSR (proposed McDonald's):	9.20 sfu
• 2,325 sf Fast Casual Drive Thru (proposed Chipotle):	4.85 sfu
Total:	19.57 sfu

Given this information, CSC Properties, LLC, as contract purchaser, requests a variance from the sewer allocation ordinance to grant an **additional 10.42 sfu** of sewer flow.

We appreciate the opportunity to present this variance and the opportunity to create new jobs, bring additional tax revenue to the City of Murfreesboro through increased sales and property taxes. The growth within the City of Murfreesboro is truly remarkable and is a testament to the standards of conduct within all departments and the community as a whole.

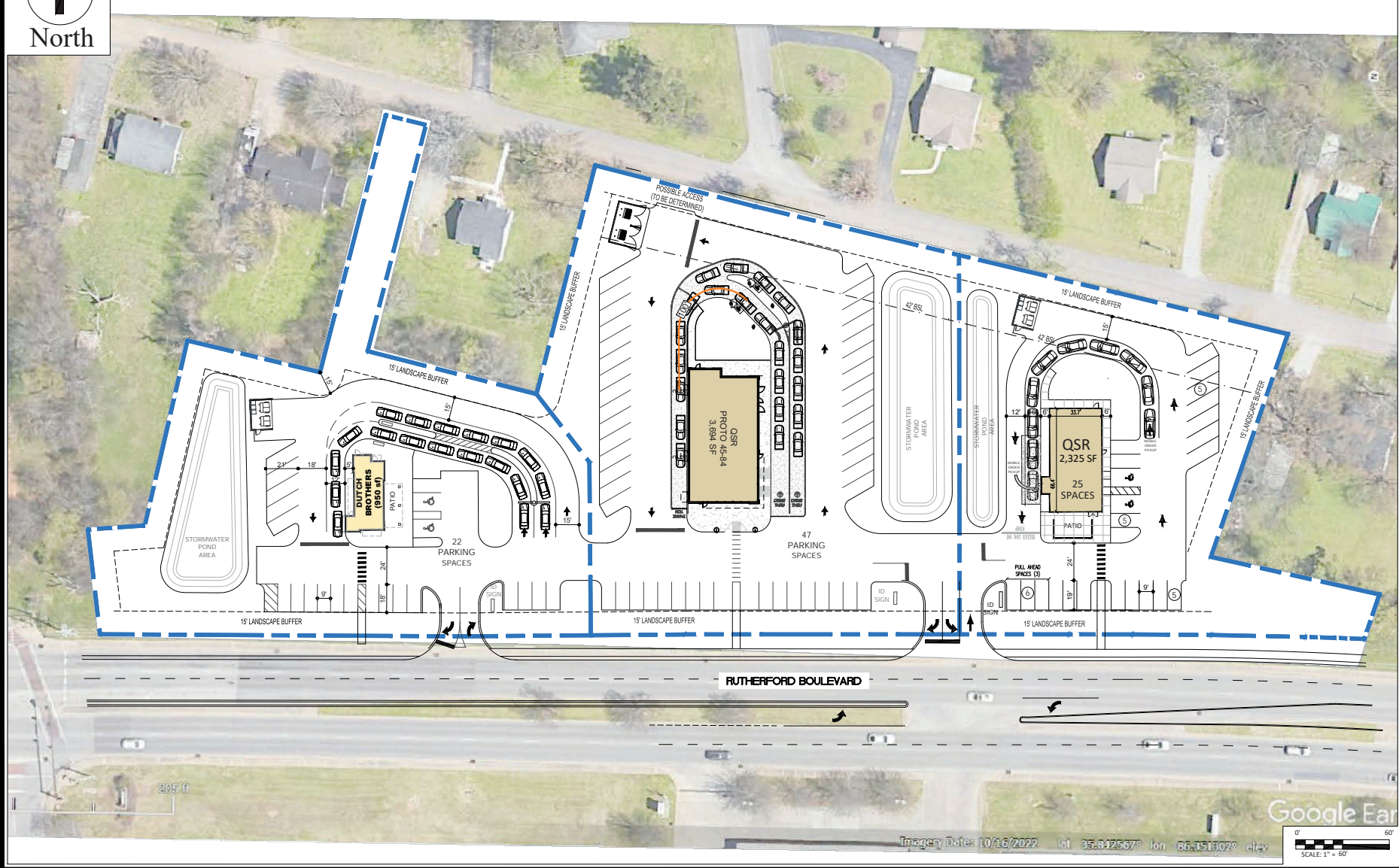
If you have any questions or need additional information, please contact me at 540-629-3113 or via email at andrew@cscproperties.com.

Sincerely,

Andrew Smith
CSC Properties, LLC
Acquisition and Development Manager



North



CONCEPTUAL SITE PLAN @
MURFREESBORO TN
232 Rutherford Boulevard

PROJECT NAME

PROJECT LOCATION

DATE DEC 1, 2023

CSC Properties, LLC
5795 Ulmerton Rd, Suite 200
Clearwater, Florida, 33760
727-446-3444





... creating a better quality of life

MEMORANDUM

DATE: December 22, 2023

TO: Greg McKnight

FROM: Valerie H. Smith

SUBJECT: Eastside Village – Rutherford Blvd & Yearwood
Sewer Allocation Ordinance (SAO)
Variance Request

Sewer System Capacity

The sanitary sewer collection system can convey the estimated sewer flows resulting from this development during dry weather.

Effects within Basin by Providing Variance to Sewer Allocation

Per the most recent sewer connection model of the system and per the 2022 Sewer Allocation report, this Basin MF-10 currently has capacity for 1559 connections. Eastside Village is specifically located within Basin 10A-4, and in June 2020 Council approved a restriction for this area of 2.5 sfu's/acre or 650 gpd/acre due to wet weather sewer flows reaching an EPA guideline of 3 feet from the top of the manhole.

By committing sewer service to this development, staff has determined that Basin 10's sewer connection capacity will be reduced by 1 connection, resulting in 1558 available connections for future developments in 76 developable acres. Currently, staff has determined there is capacity downstream of the site during dry weather. Please note that while the Eastside Village is counted as one sewer connection, the current single-family unit (sfu) equivalency based their request is for 19.57 sfu's or 5088 gpd.

The Eastside Village acreage is 3.66 acres, therefore the allotment as previously approved is 9.15 sfu's per Council's restriction or 2,379 gallons per day.


Should Eastside Village be afforded a variance, other undeveloped area may not be able to develop to the full 2.5 sfu's/acre allotted. Water Resources staff advises variance requests to be diligently considered to ensure the benefit to the City is commensurate with the sewer capacity committed to any proposed development requesting a variance to the sewer allocation ordinance.

Water Resources Department

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

**Murfreesboro Water Resources
Temporary Flow Monitoring Results
December 2018-January 2019**

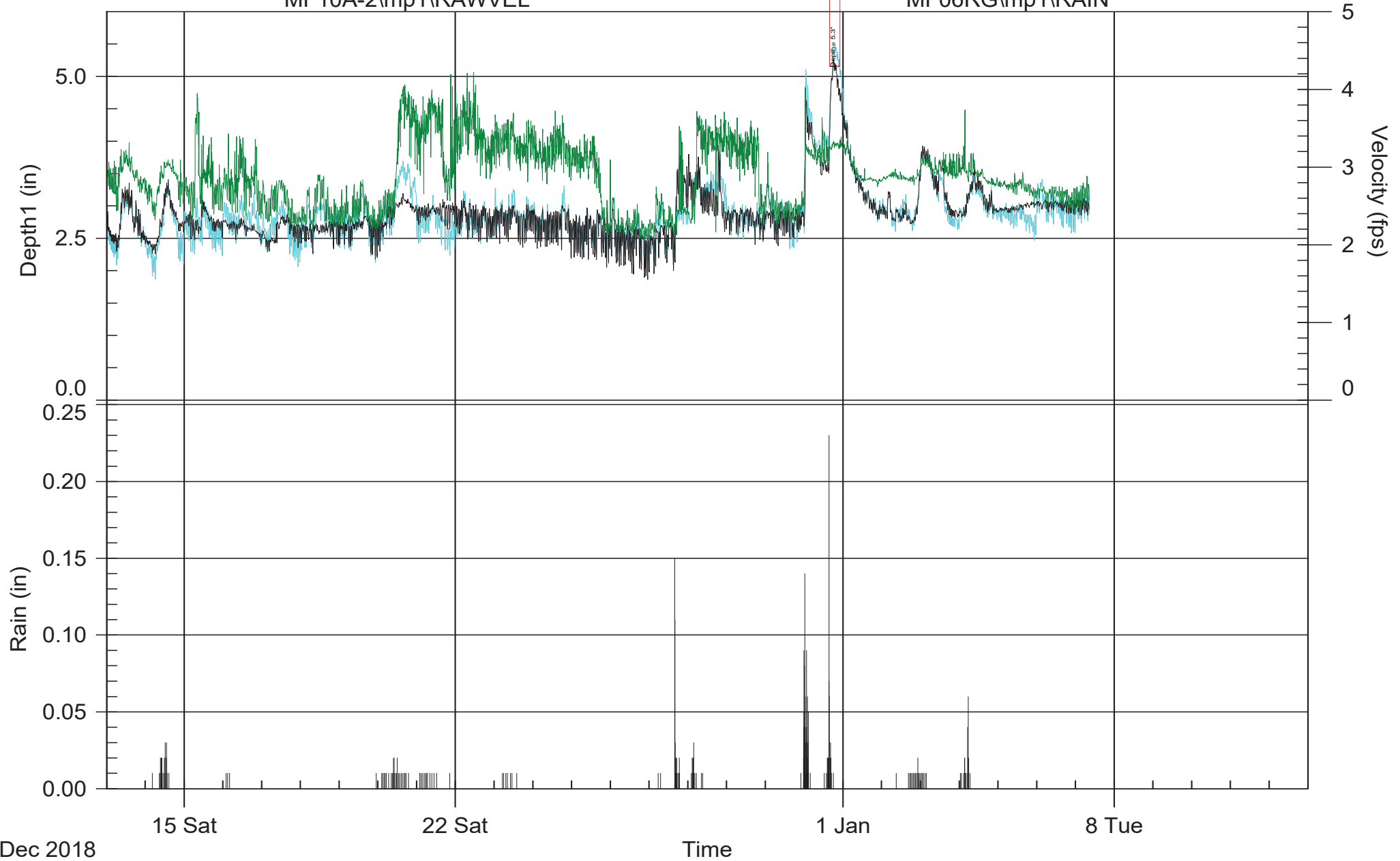
Manhole No.	Monitor No.	Sewer Main Size (Inches)	Depth of Sewer Flow (Inches)	Depth of Sewer Flow (Feet)	Invert Elevation of Manhole	Sewer Flow Elevation @Monitor	Manhole of Concern #1	Top of Casting of Manhole of Concern #1	Manhole of Concern #2	Top of Casting of Manhole of Concern #2	Sewer Depth Below Rim Manhole #2	Sewer within 3 FT of Rim?
											(Feet)	
016A0130	10A-2	18	5.3	0.44	599.56	600.00	016A0130	605.44	-----	-----	5.44	No
016B0160	10A-3	15	12.68	1.06	601.02	602.08	016B0160	605.77	016B0170	604.71	2.63	Yes
012B0040	10A-4	12	20.2	1.68	605.08	606.76	06B0190	606.12	012B0010	607.25	0.49	Yes

 Sewer Flow within 3 Feet of the Top of Casting or Above.

ADS Environmental Services

Pipe Height: 18.50

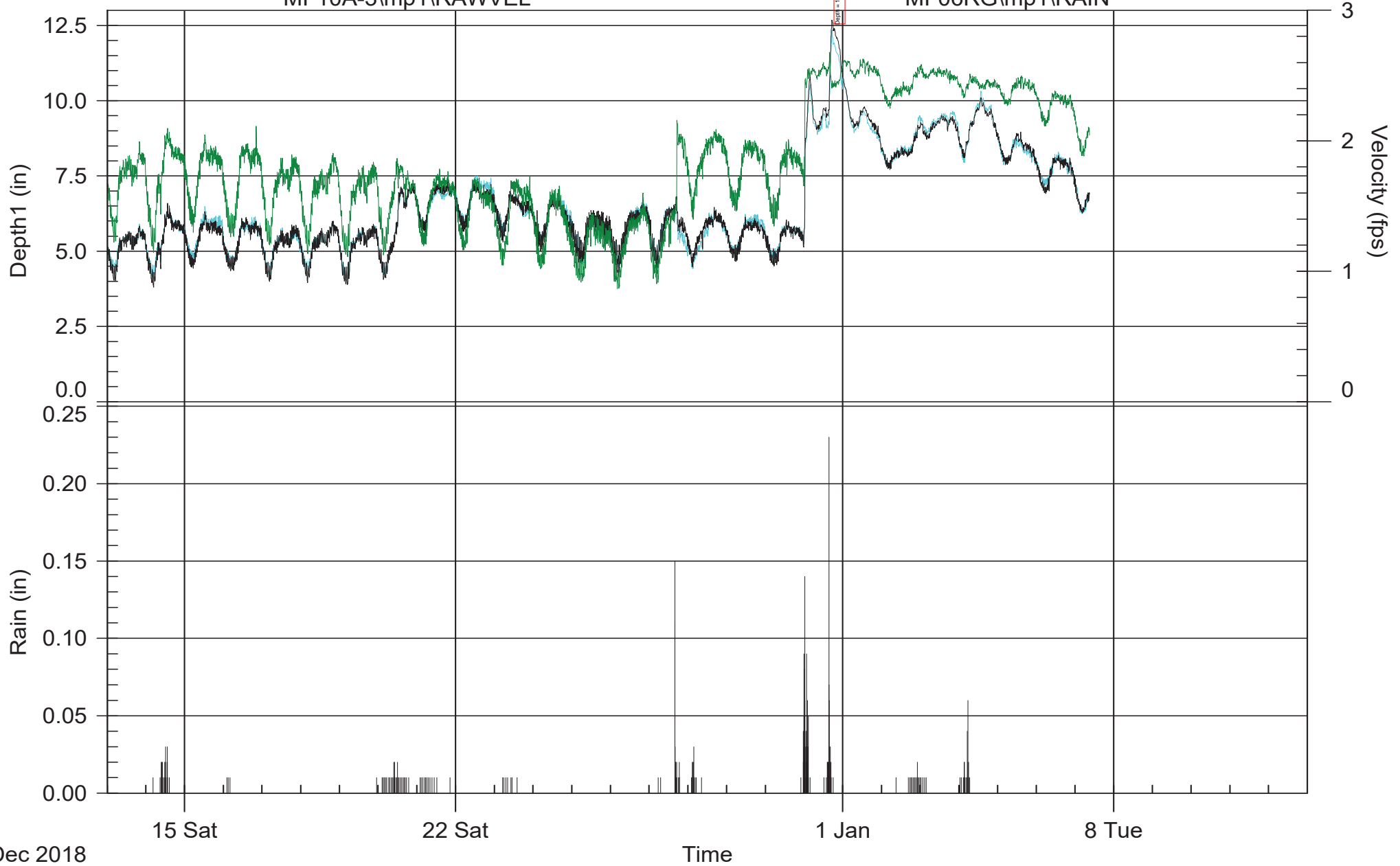
MF10A-2\mp1\PDEPTH_1
MF10A-2\mp1\RAWVEL
MF10A-2\mp1\UNIDDEPTH
MF06RG\mp1\RAIN



ADS Environmental Services

Pipe Height: 15.13

MF10A-3\mp1\PDEPTH_1
MF10A-3\mp1\RAWVEL
MF10A-3\mp1\UNIDDEPTH
MF06RG\mp1\RAIN



ADS Environmental Services

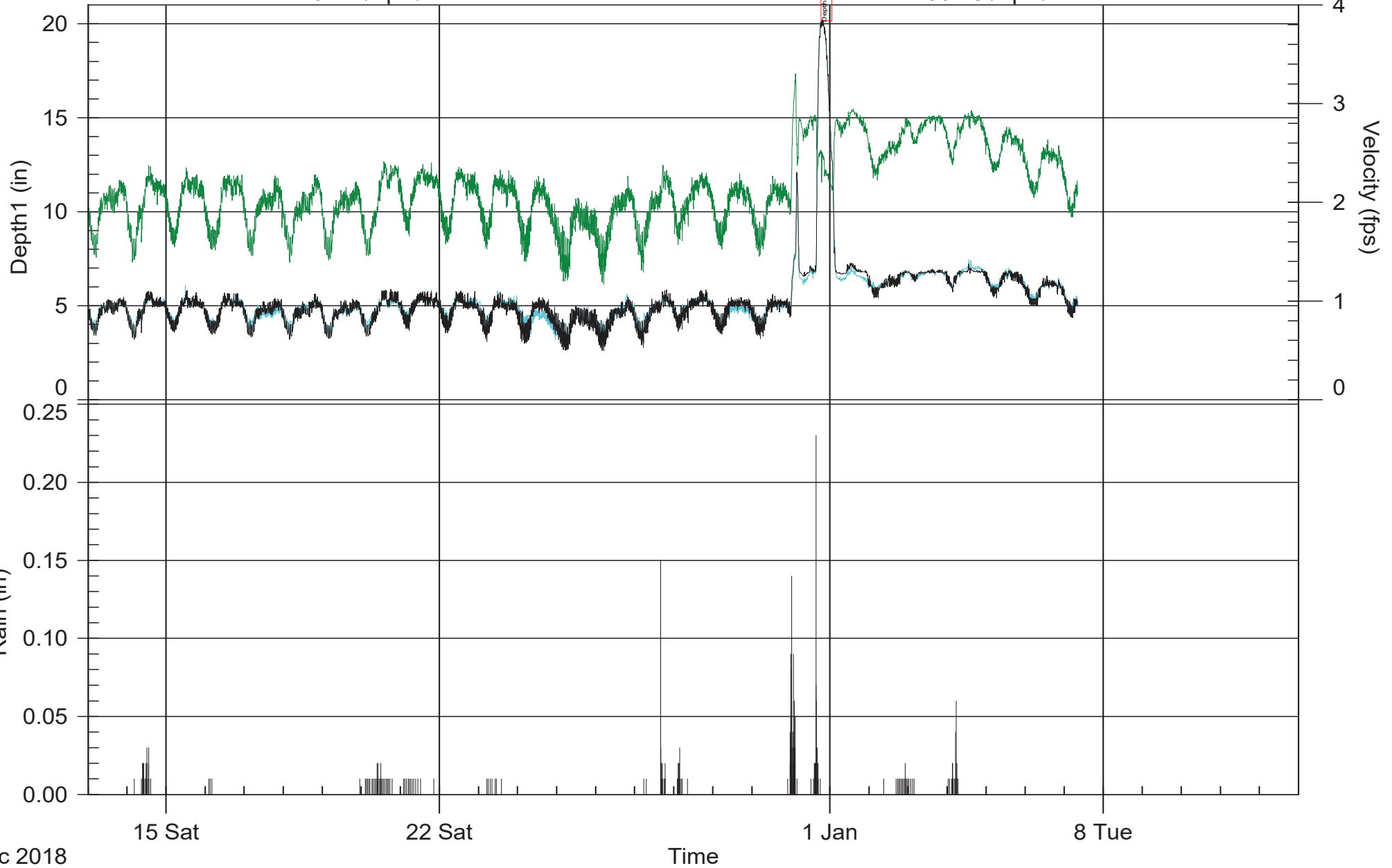
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MF10A-4\mp1\UNIDEPATH

MF10A-4\mp1\RAWVEL

MF06RG\mp1\RAIN





NTS

MURFREESBORO WATER AND SEWER DEPARTMENT

MF10A-3



KMC 2/11/19
MF10A-3 MXT

KMC 2/11/19
MF10A-4.MXD

SECTION 1. As of the effective date of this resolution, each property located within the City's corporate limits and each property located outside the City's corporate limits that are currently served by the City's Sewer System shall be assigned the maximum daily wastewater generation allowance (measured in gallons per day per acre) set forth in **Table 1** that corresponds to the individual property's land-use classification. Except as otherwise provided in Section 33-80 of the City Code, all Projects approved by the City after the effective date of this resolution shall maintain an average wastewater generation at or below the maximum daily wastewater generation allowance set forth in **Table 1** for the Project's land-use category. The maximum allowances set forth in **Table 1** shall not apply to properties currently receiving sewer service as of the effective date of this resolution or to Projects approved by the City as of the effective date of this resolution, unless either: (1) an owner or developer applies to the City for approval of a new building, facility, or group of buildings and/or facilities on the property that will require one or more new water meters or a new or larger connection to the City's Sewer System; or (2) an owner or developer applies to the City for the approval of a renovation of an existing building or facility will require one or more new water meters or a new or larger connection to the City's Sewer System.

TABLE 1
Maximum Daily Wastewater Generation Allowance

Land-Use Classification	Included Zoning Classifications	Maximum Daily Allowance (gallons per acre per day)	Single-Family-Unit Equivalents (SFUE) per Acre
Commercial	CM-R, CM, CM-RS-8, OG-R, OG, CL, CF, CH, and PCD	650	2.5
Industrial	G-I, H-I, L-I, PID	1,040	4.0
Low-Density Residential	RS-15, RS-12, RS-10, and PRD (if average lot size \geq 10,000 sq. ft.)	780	3.0
Medium-Density Residential	RS-8, RS-6, RS-4, R-D, RS-A, PRD (townhome only), and PRD (mixed-housing type or where average lot size < 10,000 sq. ft.)	1,820	7.0
High-Density Residential	RM-12, RM-16, R-MO, PRD (apartment only) and CU (dormitories only)	2,340	9.0
Mixed-Use	MU and PUD	1,040	4.0
College and University; Institutional	CU (except dormitories), PND	880	3.4

Land-Use Classification	Included Zoning Classifications	Maximum Daily Allowance (gallons per acre per day)	Single-Family-Unit Equivalents (SFUE) per Acre
Parks	P	130	0.5
Central Business District, City Core Overlay, and Gateway Overlay	CBD, CCO, GDO	No Limit	No Limit

SECTION 2. Notwithstanding the fact that projects located in the City's CBD, CCO, and GDO Zones are not subject to any maximum daily wastewater generation allowance, an Owner/Developer (as defined in the Section 33-73 of the City Code) for such projects must pay a one-time fee equal to \$2,550.00 for every 260 gallons per acre per day of wastewater in excess of 2,340 gallons per day that the project is expected to generate. The City will not grant the requested allocation or issue a Will-serve Letter for the project until this fee plus any applicable special sanitary sewer assessment fees are paid in full. Furthermore, and notwithstanding the payment of the aforementioned fees, the City reserves the right to deny a rezoning application in the event the City Council, upon considering the criteria set forth in Section 33-79 of the City Code, that the proposed development project's expected wastewater generation is likely to place an undue burden on the City's Sewer System relative to the proposed project's likely benefits to the City or that the proposed development is otherwise inconsistent with the general welfare of the City and its residents.

SECTION 3. In the interest of mitigating the burden of the new sewer-capacity allocation regulations on development projects already underway, the following development projects shall be exempted from the maximum daily wastewater generation allowances set forth in Table 1:

1. Projects that have received a Will-serve letter from the City less than 365 days before this Resolution's effective date;
2. Projects where the developer has undertaken a capacity study through either a flow-monitoring analysis or pump station assessment and where such study has demonstrated adequate capacity for the proposed development density;
3. Projects whose site plan receives Planning Commission or Administrative approval on or before April 15, 2020;
4. Projects whose preliminary plat receives Planning Commission or Administrative approval on or before April 15, 2020;
5. Projects subject to current bulk zoning requirements, provided the site plan or preliminary plat for such projects receives Planning Commission or Administrative approval on or before April 15, 2020; an applicant may request a higher sewer allocation per the proposed ordinance prior to or simultaneous with the submittal of a site plan or a preliminary plat.

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Rescheduling public hearings
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

Rescheduling matters previously heard by the Planning Commission for public hearings before Council.

Staff Recommendation

Reschedule public hearings for the items below on January 25, 2024.

Background Information

During its regular meeting on November 1, 2023, the Planning Commission conducted public hearings on the items "a" and "b" listed below. At the November 30, 2023 Council meeting, these two items were scheduled for public hearings on January 11, 2024. During its regular meeting on December 6, 2023, the Planning Commission conducted public hearings on items "c", "d", and "e" listed below. At the December 7, 2023 Council meeting, these three items were also scheduled for public hearings on January 11, 2024. However, due to the legal notices not running in the newspaper as scheduled, Staff is recommending that these five public hearings be rescheduled for January 25, 2024.

- a. Annexation petition and plan of services [2023-503] for approximately 5.2 acres located west of Sanctuary Place, W. Andrew Adams applicant.
- b. Zoning application [2023-416] for approximately 5.2 acres located west of Sanctuary Place to be zoned PUD (Marymont Springs PUD) simultaneous with annexation, W. Andrew Adams applicant.
- c. Zoning application [2023-417] for approximately 48.3 acres located along Old Fort Parkway to be rezoned from CH & PSO to PCD (Stones River Town Centre PCD) & PSO, Kimley-Horn representing Sterling Organization applicant.
- d. Zoning application [2023-418] for approximately 7.3 acres located along Northwest Broad Street and West Vine Street to be rezoned from CH & CCO to PUD (Keystone on Broad PUD) & CCO, approximately 0.1 acres to be rezoned from CBD & CCO to PUD & CCO, and approximately 0.4 acres to be rezoned from CH & CCO to CBD & CCO, HRP Residential applicant.

- e. Proposed amendment to the City Zoning Ordinance [2023-803] pertaining to miscellaneous revisions to the following sections:
- Section 2: Definitions;
 - Section 6: Amendments;
 - Section 7: Site Plan Review;
 - Section 9: Standards for Special Permit Uses;
 - Section 24: Overlay District Regulations, Article VI. CCO, City Core Overlay District;
 - Section 25: Temporary and Accessory Structures and Uses;
 - Section 26: Off-Street Parking, Queuing, and Loading;
 - Section 28: Non-Conformities;
 - Chart 1: Uses Permitted by Zoning District (including Chart 1 endnotes); and
 - Chart 2: Minimum Lot Requirements, Minimum Yard Requirements, and Land Use Intensity Ratios (including Chart 2 endnotes)

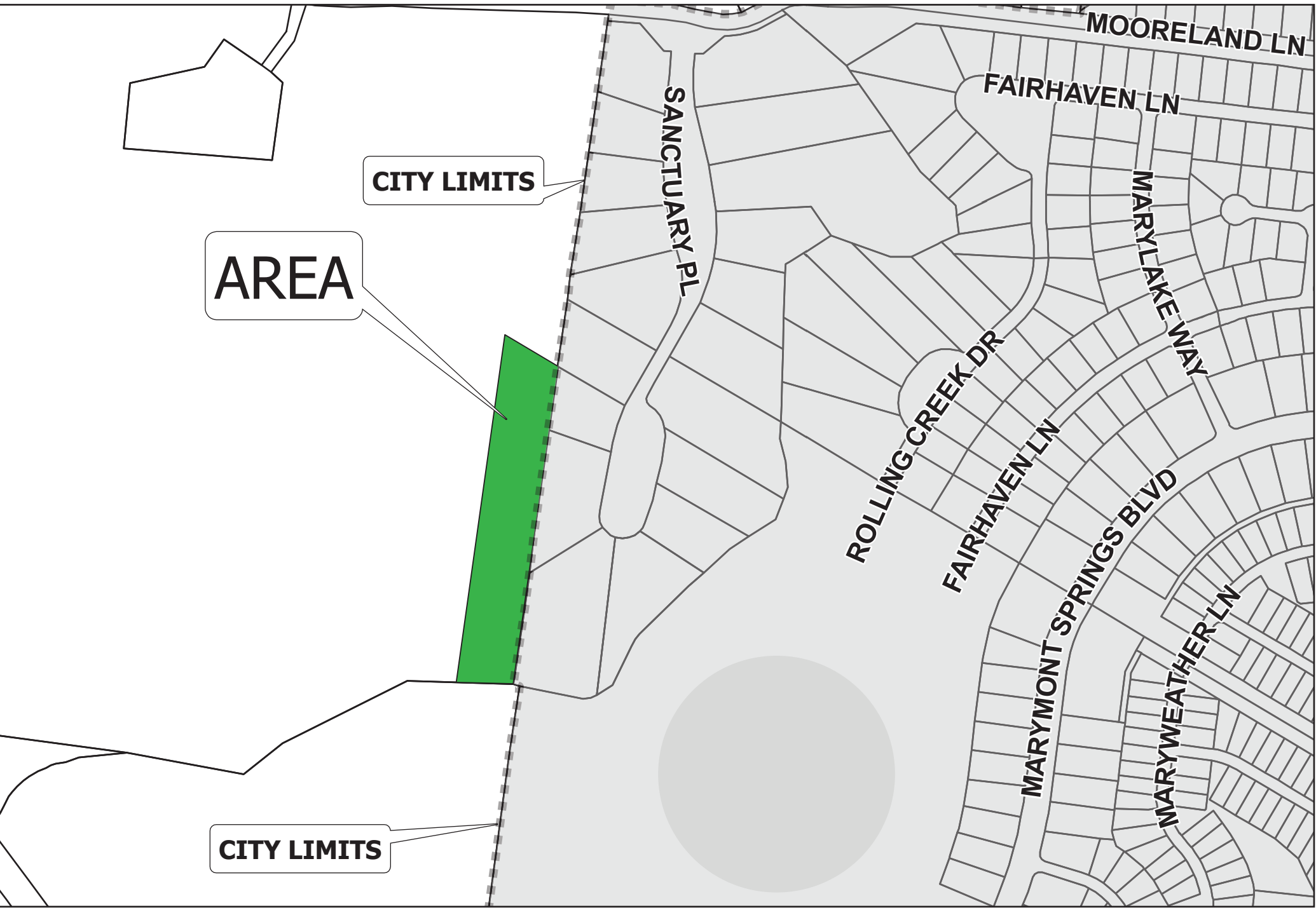
City of Murfreesboro Planning Department applicant.

Fiscal Impact

Advertising expense for notice publication in the newspaper, which is unknown at this time, is provided for in the Department Operating Budget.

Attachments:

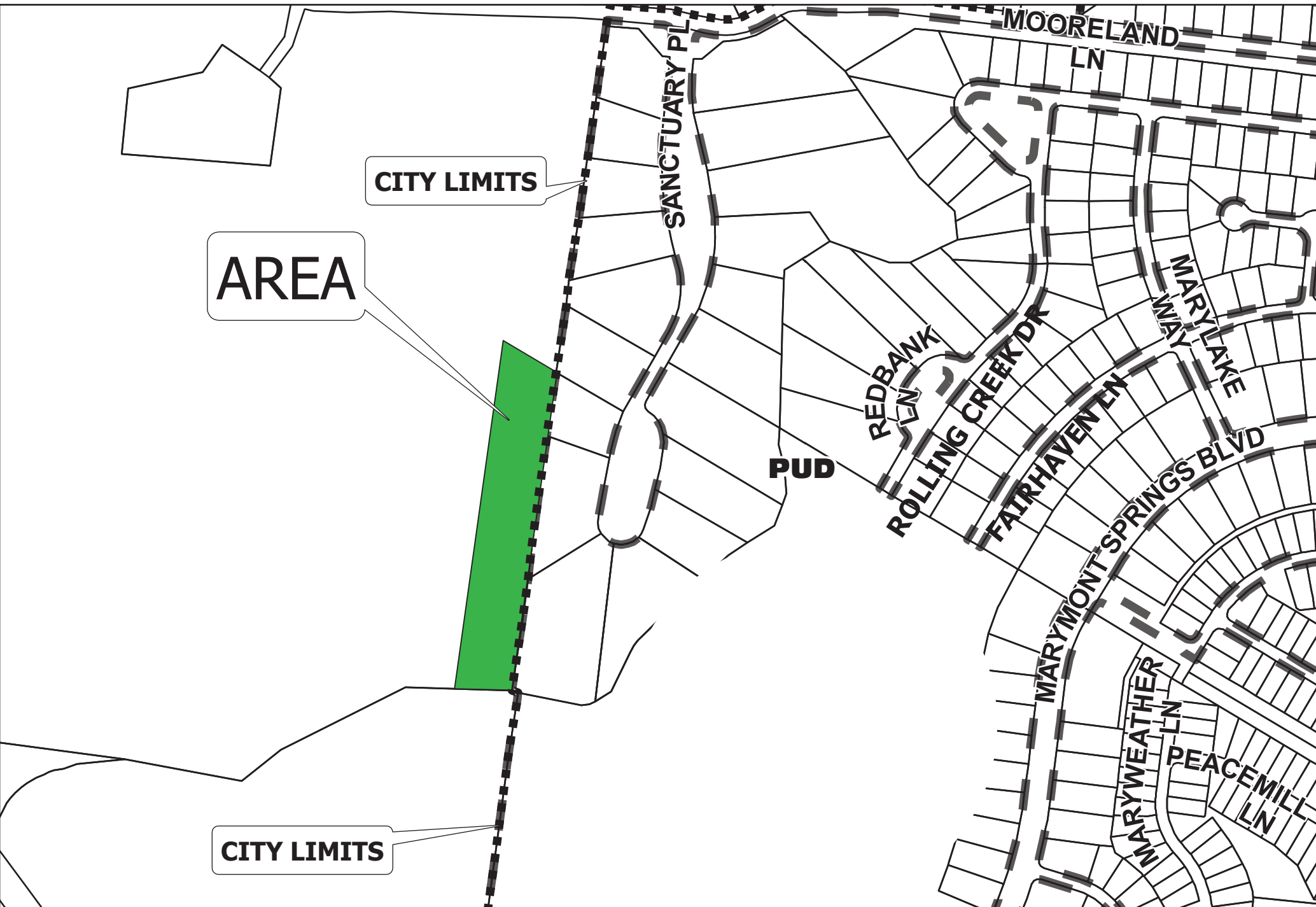
1. Map for annexation petition for approx. 5.2 acres located west of Sanctuary Place
2. Map for zoning application for approx. 5.2 acres located west of Sanctuary Place
3. Map for zoning application for approx. 48.3 acres located along Old Fort Parkway
4. Map for zoning application for approx. 7.8 acres located along Northwest Broad Street



Annexation Request for Property located West of Sanctuary Place



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



Zoning Request for Property located West of Sanctuary Place
PUD (Marymont Springs PUD) simultaneous with Annexation

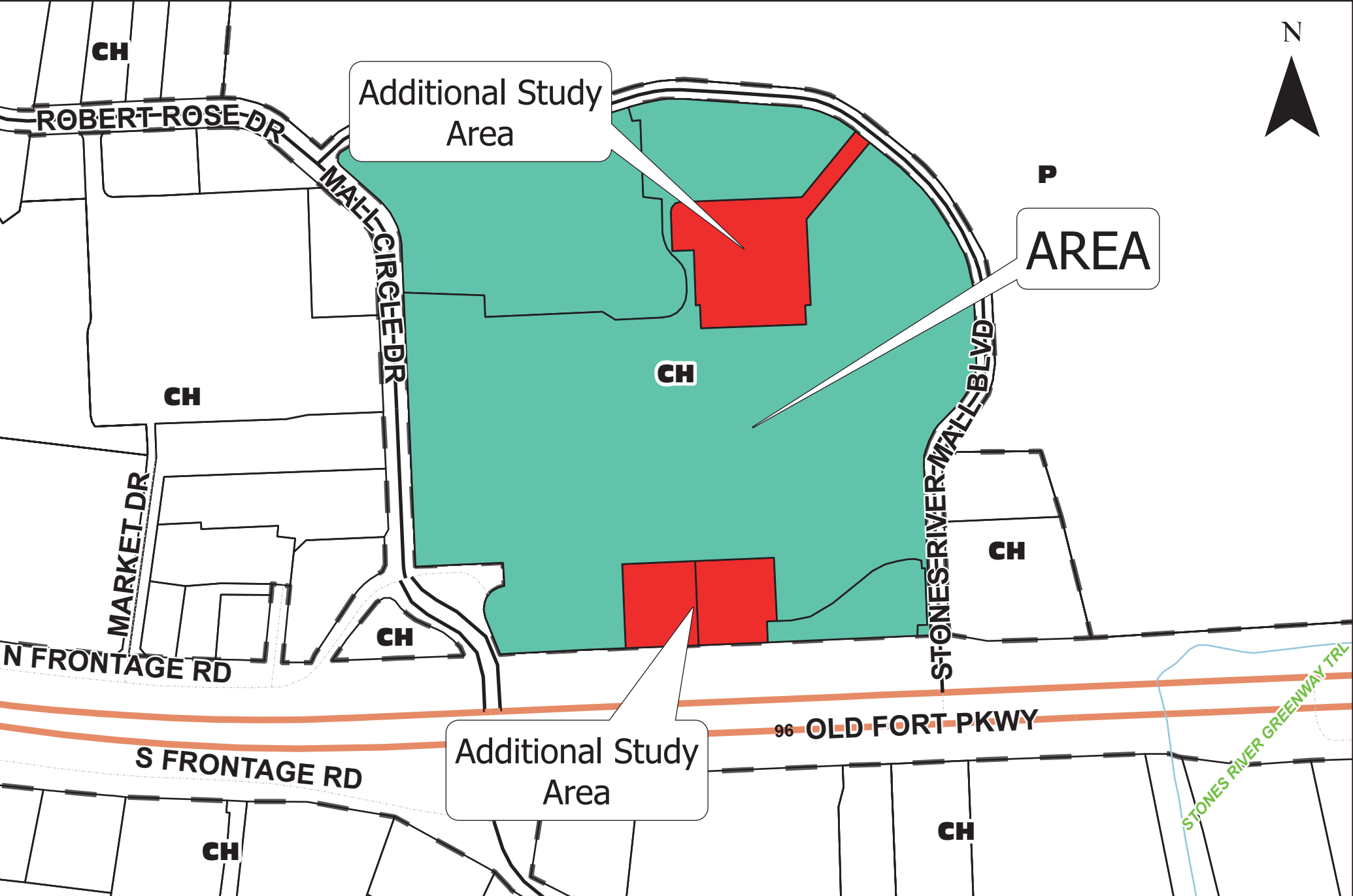


T E N N E S S E E

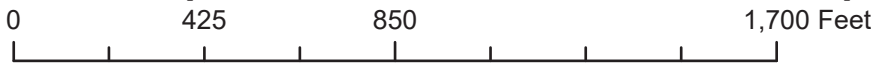
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Feet

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

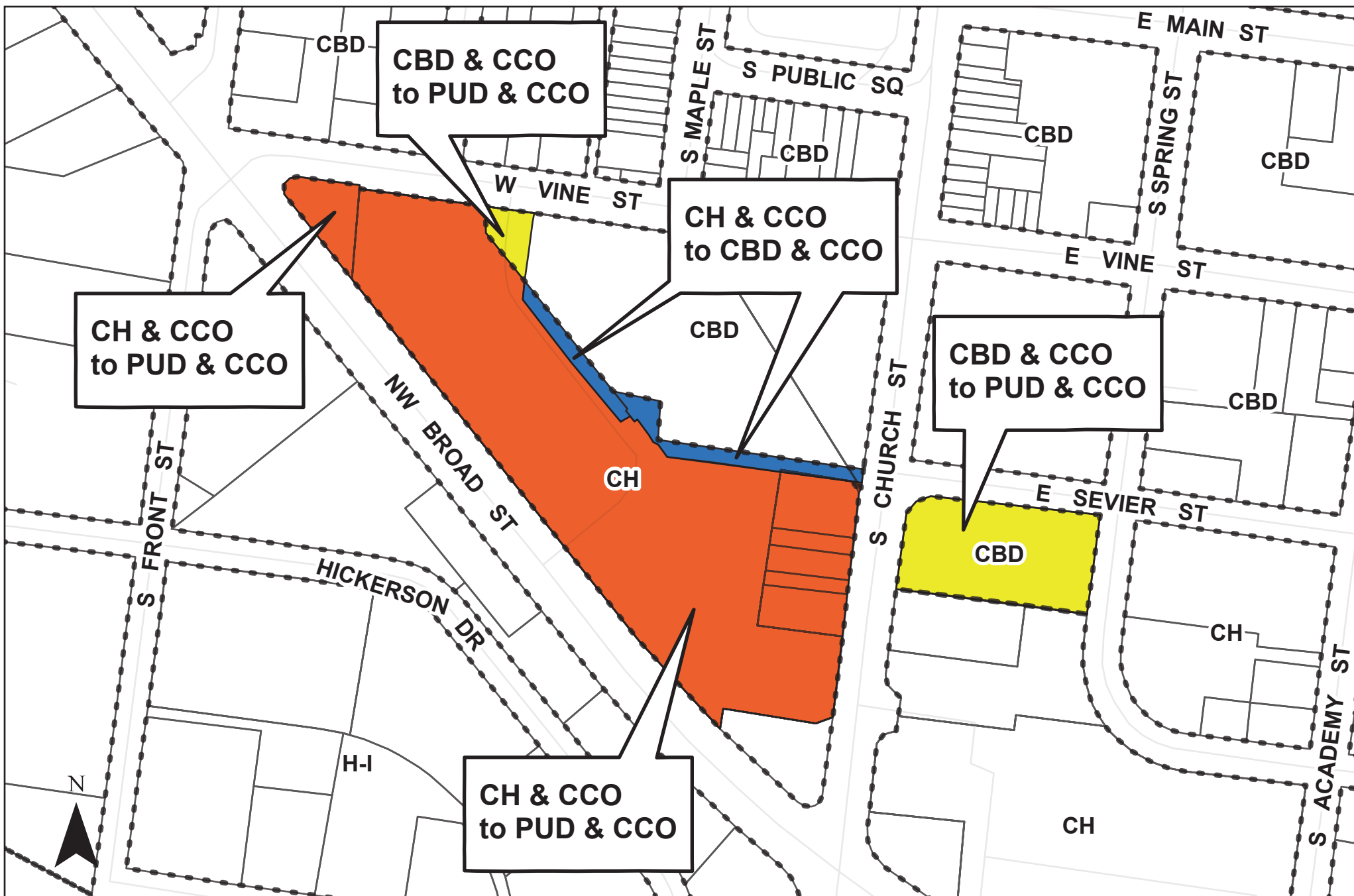
N



Zoning Request for Property located along Old Fort Parkway
CH and PSO to PCD (Stones River Town Centre PCD) and PSO

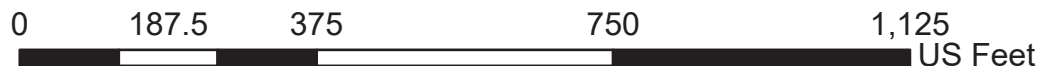


Planning Department
City of Murfreesboro
111 W. Vine St.
Murfreesboro, TN 37130
www.murfreesborotn.gov



Rezoning request for property along Northwest Broad Street
 CBD, CH, & CCO to PUD (Keystone on Broad PUD) & CCO;
 and CH & CCO to CBD & CCO

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



COUNCIL COMMUNICATION

Meeting Date: 1/11/2024

Item Title: Acquire 223 NW Broad St for Town Creek Daylighting Project

Department: Development Services

Presented by: Gabriel Moore, Project Engineer

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

Acquire by condemnation 223 NW Broad St for Town Creek Daylighting Project.

Staff Recommendation

Approve initiation of condemnation proceedings by tendering the appraised value of \$2,081,000 and authorization to negotiate a settlement to limits allowed under Federal property acquisition requirements.

Background Information

The acquisition of this property will allow for the daylighting of Town Creek at the southern end of the project limits. The City has an appraised value for the subject property in the amount of \$2,081,000 and previously tendered \$49,400 with a Petition of Condemnation for a partial take. Negotiations with the property owner were not successful and we request authorization to initiate condemnation at the appraised amount by filing an Amended Petition with an additional \$2,031,600. Following the Amended Petition filing, the Owner may be amenable to a negotiated settlement and approval of this item includes authorization to accept a negotiated settlement up to the Federal limits.

Council Priorities Served

Responsible budgeting

Utilization of federal stimulus funds for the stormwater elements of this project offset City funds to be applied toward local expenditures.

Improve economic development

Town Creek Project and the related public improvements enhance the entrance to downtown area and encourage redevelopment in the Historic Bottoms.

Fiscal Impact

The Amended Petition will include an additional tender of \$2,031,600 for a total tender of \$2,081,000 to be funded by the General Fund.

Attachments

None

COUNCIL COMMUNICATION

Meeting Date: 1/11/2024

Item Title: Demolition Bid for 219 NW Broad St. Structures

Department: Development Services

Presented by: Gabriel Moore, Project Engineer

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

Demolition bid for all structures located on the 219 NW Broad St. property for the Town Creek daylighting project.

Staff Recommendation

Approve the demolition bid for all structures located on the 219 NW Broad St. property for the Town Creek daylighting project with Timber Ridge Builders.

Background Information

The City of Murfreesboro issued ITB-27-2024 on December 5, 2023, to provide demolition of the structures on the 219 NW Broad St. property. Timber Ridge Builders, LLC was the respondent with the lowest bid of \$81,000. The demolition of the structures on this property is required for the Town Creek daylighting project.

Council Priorities Served

Responsible budgeting

Utilization of federal stimulus funds for the stormwater elements of this project offset City funds to be applied toward local expenditures.

Improve economic development

Town Creek Project and the related public improvements enhance the entrance to downtown area and encourage redevelopment in the Historic Bottoms.

Fiscal Impact

The cost of this purchase, \$81,000, is funded by the General Fund.

Attachments

Contract with Timber Ridge Builders, LLC

CITY OF MURFREESBORO
CONTRACT FOR
Demolition of 219 NW Broad Street
(Contract for Projects less than \$500,000)

This Contract is entered into as of _____ (the "Effective Date"), by and between the **CITY OF MURFREESBORO**, a Tennessee municipal corporation (the "City") and **TIMBER RIDGE BUILDERS, LLC**, a limited liability company of the State of Tennessee ("Contractor").

PROJECT DESCRIPTION

- A. The project for which Contractor is providing demolition services (the "Work") is described as follows (the "Project"): Complete Demolition of building and appurtenances located at 219 NW Broad Street, Murfreesboro, TN. The Work is detailed in Section 2 of the ITB.
- B. There is no architect or engineer for this project as the contemplated expenditure for the complete project does not require the professional services of either.
- C. The following constitute the contract documents for the Project (the "Contract Documents"):
 - (1) This Contract
 - (2) ITB-27-2024, including Attachment A
 - (3) Exhibit A – Scope of Work
 - (4) Exhibit B – Insurance Requirements
 - (5) Non-Collusion Affidavit
 - (6) Drug-Free Workplace Affidavit

AGREEMENT

1. Date of Commencement; Contract Time; Final Completion

- 1.1. The date of commencement of the Work shall be the date set forth in the Notice to Proceed by the City. The City has no liability whatsoever for any costs incurred by Contractor prior to the date set in the Notice to Proceed.
- 1.2. Contract Time shall be measured from the date of commencement of the Work.
- 1.3. Contractor shall achieve Final Completion of the Work not later than 30 calendar days after the Notice to Proceed.

2. Contract Sum.

- 2.1. The maximum amount due to Contractor for performance of the Work is Eighty-One Thousand Dollars (\$81,000.00) (the "Contract Sum"), which will be paid to Contractor by the City in accordance with the Payment section of this Agreement.
- 2.2. The Contract Sum includes all items and services necessary for the Project. No increases in the price of this Contract is authorized unless a written Change Order is signed by a person duly authorized by the City, and no course of conduct, verbal agreement, singularly or cumulatively, is a valid means of modifying the Contract price and no

person may waive this provision. The parties further acknowledge that change orders that individually or in the aggregate will cause the Contract Sum to exceed \$50,000 must be approved by City Council before any such change order or orders are binding against the City.

3. Payment.

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

4. Duties and Responsibilities of City.

4.1. Information and Services Provided by the City.

4.1.1. The City shall furnish all necessary surveys and a legal description of the site, upon Contractor's written request.

4.1.2. The City will obtain the zoning approval, right-of-way access, and easements required for the Project unless the Contract Documents state that the Contractor will obtain.

4.2. City's Right to Stop the Work. If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the City may direct the Contractor in writing to stop the Work until this correction is made.

4.3. The City's Right to Carry Out the Work. If Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from The City to commence and continue correction of such default or neglect with diligence and promptness, The City may, without prejudice to other remedies, correct such deficiencies. In such case, the Contract Sum shall be adjusted to deduct the cost of correction from payments due the Contractor.

4.4. The City's Right to Perform Operations and to Award Separate Contracts. The City reserves the right to perform operations related to the Project with the City's own forces, and to award separate contracts in connection with other portions of the Project. Contractor shall coordinate and cooperate with the City's own forces and separate contractors employed by the City. Costs caused by delays or by improperly timed activities or defective operations shall be borne by the party responsible therefor.

5. Duties and Responsibilities of Contractor. In addition to the duties and responsibilities set forth in Contract Documents, including, without limitation Exhibit A hereto, the Contractor:

5.1. Will provide demolition services consistent with the Contract Documents that are beneficial in completing the Project.

- 5.2. Obtain all necessary permits and approvals necessary to conduct the Work, as well as comply with all federal, state, and local laws, regulations, and ordinances, including without limitation the Tennessee Blasting Standards Act, Tenn. Code Ann. § 68-105-101 et seq., and the City's Noise Control Ordinance, City Code § 21-101 et seq.
- 5.3. Provide all supervision, supplies, labor, transportation and equipment reasonably required for the proper execution of the Work. Contractor is solely responsible for all construction means, methods, techniques, sequences, and procedures, including properly coordinating all portions of the Work.
- 5.4. Maintain sole responsibility for the safety of Contractor personnel, all subcontractors and materialmen, and all other persons within the worksite and in the immediate vicinity of the worksite that is affected by any Work. Establishment and execution of a comprehensive personnel safety program appropriate for the type of work involved with the various Work Assignments as may be required by the appropriate local, state, and federal agencies such as OSHA and TOSHA.
- 5.5. Keep the premises of the Work and the surrounding area reasonably free from any accumulation of debris or trash and will properly and legally dispose of all surplus or waste materials upon completion of the Work.
- 5.6. Comply with any additional Contractor duties and responsibilities as specified in the Supplementary Conditions if attached hereto.
- 5.7. Dispose of all debris in accordance with applicable environmental laws, rules, and regulations.
6. **Representations of the Contractor.** In order to induce the City to enter into this Contract, Contractor makes the following representations:
 - 6.1.1. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - 6.1.2. Contractor has had the opportunity to visit and has inspected the work site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - 6.1.3. Contractor is familiar with and is satisfied as to all laws and regulations that may affect cost, progress, and performance of the Work.
 - 6.1.4. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing the activities and delivering the services constituting the Work; information and observations obtained or that should have been obtained from site inspections; the Contract Documents; with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures to be employed by Contractor; and (3) Contractor's safety precautions and programs.
 - 6.1.5. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests,

studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

- 6.1.6. Contractor is aware of the general nature of work to be that may be performed by the City and/or others at the various Work Assignment sites that relates to the Work as indicated in the Contract Documents.
 - 6.1.7. Contractor has given the City written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by the City is acceptable to Contractor.
 - 6.1.8. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 - 6.1.9. Contractor has all licenses required by applicable law to perform the Work.
7. **Term and Progress of the Work.** This Contract is not effective until approved by the City and signed by all required parties.
 - 7.1.1. The Contract time is for a period specified in the documents identified in Section 1(a) of this Agreement. No adjustment to this time will be made except by a written Change Order signed by a person duly authorized by the City and no course of conduct, verbal agreement, singularly or cumulatively, is a valid means of modifying the Contract price and no person may waive this provision.
 - 7.1.2. No work on this Project may begin prior to a Notice to Proceed being issued by the City and Contractor hereby waives any claim for any compensation or reimbursement performed prior to the Notice to Proceed.
 - 7.1.3. Additional Progress of Work requirements are as specified in the Supplementary Conditions.
8. **Termination for Breach.** In the event that any of the provisions of the Contract are violated by the Contractor, the City may serve written notice upon the Contractor of its intention to terminate the Contract, and unless within 72 hours after the serving of such notice upon the Contractor such violation or delay ceases and satisfactory arrangement for correction be made, the City may immediately terminate the Contract at any time after said 72 hours. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.
9. **Suspension of Work.** Any unauthorized work stoppage due to any types of strike by the Contractor's labor force is grounds for immediate termination of this Contract by the City; provided however, in the City's sole discretion, during any period of work stoppage by the Contractor's labor force, the City reserves the right to have any and all Work Assignments performed by the City crews or crews from another Contractor or Contractors and to deduct from the Contract Price all costs associated with such performance.
10. **Termination for Convenience.** The City may terminate this Contract at any time upon 30 days written notice to Contractor. In that event, the Contractor is entitled to receive just and

equitable compensation for any satisfactory authorized work completed as of the termination date.

11. **Compliance with Laws.** Contractor agrees to comply with any applicable federal, state, and local laws and regulations.
12. **Maintenance of Records.** Contractor must maintain documentation for all charges associated with services provided pursuant to this Contract. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the Contract, will be maintained for a period of three full years from the date of final payment and will be subject to audit at any reasonable time and upon reasonable notice by the City or its duly appointed representatives.
13. **Modification of Contract.** This Contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City Council may be required.
14. **Priority of Documents.** In the event of conflicting provisions, all documents are to be construed according to the following priority: (i) any properly executed amendment or change order to this contract (most recent with first priority); then (ii) this Contract and exhibits thereto; then (iii) the specifications referenced herein; and lastly (iv) any other documents referenced herein.
15. **No Partnership or Joint Venture.** Nothing herein may in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto may hold itself out in a manner contrary to the terms of this paragraph. No party is liable for any representation, act, or omission of any other party contrary to the terms of this paragraph.
16. **Waiver.** No waiver of any provision of this Contract, include modification of the Contract price, affects the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
17. **Non-Discrimination.** It is the policy of the City not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, the Contractor certifies and warrants it will comply with this policy.
18. **Indemnification.** Contractor indemnifies and hold harmless the City, its officers, agents, and employees from (i) any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the contract, and (ii) any claims, damages, costs, and attorney fees, as well as any government imposed fines or penalties, arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent Contractors, to observe applicable laws, including, but not limited to, environmental, labor, or minimum wage laws. Contractor must pay the City any expenses incurred as a result of

Contractor's failure to fulfill any obligation in a professional and timely manner under this Contract.

19. **Insurance and Bonds.** Contractor must secure and maintain the types and limits of insurance specified in and subject to the terms and conditions set forth in this Exhibit B hereto. In addition, if the Contract Sum exceeds \$100,000, the Contractor must furnish the City a Performance Bond and a Payment Bond, as security for faithful performance and payment, in accordance with Section 17 of Exhibit B.
20. **Attorney Fees.** Contractor agrees that should either party deems it necessary to take legal action to enforce any provision of the Contract and the City prevails to any extent, Contractor must pay all expenses of such action including the City's attorney fees and costs incurred at all stages of the litigation or dispute resolution.
21. **Assignment—Consent Required.** The provisions of this Contract inure to the benefit of and is binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to Contractor under this Contract, neither this Contract nor any of the rights and obligations of Contractor hereunder may be assigned or transferred in whole or in part without the prior written consent of the City. Any such assignment or transfer will not release Contractor from its obligations hereunder. NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF: CITY ATTORNEY, CITY OF MURFREESBORO, 111 WEST VINE STREET, MURFREESBORO, TN 37130.
22. **Entire Contract.** This Contract and all documents listed above, set forth the entire agreement between the parties with respect to the subject matter hereof and are govern the respective duties and obligations of the parties and supersedes any and all prior or contemporaneous, written or oral negotiations, correspondence, understandings and agreements, between the parties respecting the subject matter of this Contract. No supplement, modification or amendment to this Contract is binding unless evidenced by a writing signed by the party against whom it is sought to be enforced. No waiver of any of the provisions of this Contract constituted, or may be deemed to constitute, a waiver of any other provision, whether or not similar, nor does any waiver constitute a continuing waiver. No waiver is binding unless executed in writing by the party making the waiver.
23. **Force Majeure.** In the event of any occurrence of an event of *force majeure*, meaning any act of war, order of legal authority, act of nature, or other unavoidable causes that could not have been prevented by and which are not attributed to fault or negligence of Contractor, (i) the City may choose to cancel this Contractor, pay only for work performed by Contractors, and have no further liability whatsoever under the Contract, or (ii) at the City option, Contractor will be granted an equitable extension of the period of performance.
24. **Governing Law.** The validity, construction and effect of this Contract and any and all extensions or modifications thereof is governed by the laws of the State of Tennessee. Tennessee law governs regardless of any language in any attachment or other document that the Contractor may provide.
25. **Venue.** Any action between the parties arising from this Agreement must be maintained in the courts for Rutherford County, Tennessee.


26. **Severability.** Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Contract.
27. **Notices.** Notices to the City including but not limited to notice of assignment of any rights to money due to Contractor under this Contract must be mailed or hand-delivered to the address below. Any notice to Contractor from the City relative to any part of the Contract will be considered delivered and the service thereof completed when said notice is posted by registered mail, to the said Contractor at its last given address or delivered in person to said Contractor or its authorized representative on the work.

TIMBER RIDGE BUILDERS, LLC

CITY OF MURFREESBORO

By: Greg Layman
Its: Procurement Officer

By: Shane McFarland
Its: Mayor

Approved as to form:
DocuSigned by:

43A2036E51F9401
Adam F. Tucker, City Attorney

Address for notice to Contractor:
Timber Ridge Builders, LLC
856 Middle Creek Road
Sevierville, TN 37862
greglayman1968@gmail.com

Address for notice to the City:
City Manager
City of Murfreesboro
111 West Vine Street
Murfreesboro, TN 37130

Exhibit A

Scope of Work

Contractor shall be responsible for the demolition of all structures, formerly used as or in connection with a dine-in restaurant, at 219 NW Broad Street. **Site photos, ALTA survey, and asbestos inspection of the property were included as Attachment A to ITB-27-2024.**

1. Demolition and removal of structures/appurtenances

- 1.1. The Contractor shall provide all personnel, equipment, tools, materials, supervisors, and all other items and services necessary to perform the demolition as described below.
- 1.2. Demolition and removal to include:
 - 1.2.1. 81'x 76' single-story frame and brick structure building that includes attached 8'x 38' coolers including all below grade elements
 - 1.2.2. Sign that is approximately 25'-30' high including foundation
 - 1.2.3. Decorative light poles and parking lot light poles
 - 1.2.4. 24'x 10' detached shed and dumpster structure including foundation and below grade elements
 - 1.2.5. Flagpole base
 - 1.2.6. Approximately 50'-60' of decorative fence/railing, parking signs, wheel stops, and any other above-ground structures and/or appurtenances.
 - 1.2.7. Underground grease trap
 - 1.2.8. Pavement, concrete, sidewalk, curb, and similar materials to natural ground or subgrade.
- 1.3. All personal property and fixtures remaining in the structures shall become the property of the Contractor upon the City issuing a notice to proceed to the Contractor.
- 1.4. Contractor is solely responsible for salvaging or properly decommissioning all HVAC and refrigeration equipment, including proper management of all refrigerants in accordance with U.S. E.P.A. requirements.
- 1.5. Contractor is responsible for properly decommissioning of all commercial fire suppression equipment.
- 1.6. Demolition will also include the removal of any other impervious items within the site boundary such that the site can be fully seeded and strawed with grass upon completion. A site survey has been attached.
- 1.7. Contractor is responsible for proper erosion prevention and sediment control measures to protect from off-site migration of sediment in construction site runoff or tracking of mud onto streets. Contractor shall sequence work to reduce the amount of exposed soil by retaining the parking lot pavement until latter stages of work. Where appropriate, sediment barriers should be used to protect from offsite transport of sediment.

Disturbed areas should be temporarily or permanently stabilized as soon as practice during the work.

- 1.8. Contractor is responsible for control of dust and litter originating from the site. Contractor shall employ methods that reduce excessive dust and shall manage the site to prevent wind-blown litter and debris from leaving the site.
- 1.9. Contractor is responsible for site safety for site workers and visitors as well as securing the site and buildings from unauthorized access or trespassing. Contractor shall comply with safety rules and regulations pertaining to the work and shall govern employees according to, and in compliance with all applicable Tennessee OSHA/OSHA regulations, requirements, precautions, guidelines, and practices.
- 1.10. Contractor shall observe City ordinance on noise and construction times.
- 1.11. Tree and shrub removal is not required. However, the Contractor is responsible for properly managing any tree or shrub debris by mulching onsite or hauling offsite.
- 1.12. Contractor shall grade the site to a smooth, uniform surface using materials on site. The contractor shall seed and straw the site with a fescue/annual rye seed blend appropriate for the season of the year at 7 lbs./1000 sq ft. Straw shall cover all disturbed and seeded areas 1-2 inches thick.
- 1.13. Upon completion of site stabilization, Contractor shall install and leave temporary orange safety (snow) fence and posts around the perimeter of the site.

2. Permitting

Contractor shall comply with all applicable federal, state, and local laws, regulations, and ordinances. It is the responsibility of the Contractor to obtain all necessary permits, licenses, and approvals to conduct demolition operations for the work, including, without limitation, the necessary permits, licenses, and approvals from the Tennessee Department of Commerce and Insurance, the Tennessee Department of Environment and Conservation, and the City of Murfreesboro.

3. Debris removal/rubble fill

- 3.1. Contractor is responsible for removing all rubble, debris, and other waste from the site. Contractor shall arrange for the removal and proper management, salvage, recycling, and disposal of all such materials from the site in accordance with applicable federal and state law.
- 3.2. Before commencing work, Contractor shall provide a letter to the City advising as to how and where all rubble, debris, and other waste will be disposed of. In addition, Contractor shall provide records for materials recycled or disposed of including waste

disposal manifests/tickets or receipts of recycling. These records should accompany invoices submitted to the City for payment.

- 3.3. City will accept rubble fill that consists solely of natural rock, dirt, pavement, concrete and rebar, and/or brick rubble at 2120 Butler Drive. Rubble fill should be reduced in size to a maximum dimension of 12-18 inches. Contractor must transport rubble fill and coordinate with City staff (Raymond Hillis, Executive Director – Public Works, 615-893-4380) and dump rubble fill as directed by the City. The City will monitor rubble fill at 2120 Butler Drive. Contractor will be responsible for removal of any unacceptable material or to properly process any oversized material.

4. Completion

Contractor must complete demolition and removal of the structures and appurtenances, along with any debris or unwanted contents, within **30 days** from Notice to Proceed.

5. Miscellaneous Items

Contractor is responsible for all equipment and incidentals required in the demolition, removal, hauling, disposal, and cleanup of this project site. Bidder will be responsible for contacting TN 811 for utility location prior to demolition. Proper disconnection of all remaining utility connections and coordination with utility providers (water, sewer, gas, etc.) will also be the responsibility of the contractor.

Exhibit B

Insurance and Bond Requirements

Contractor must, as a material obligation to the Owner and a condition precedent to any payment otherwise due to Contractor, furnish and maintain, and cause its Subcontractors to furnish and maintain, insurance in accordance with the provisions of this Exhibit.

Contractor must secure and maintain without interruption, from the date of commencement of the Work until the later of the date of Final Completion, the date of final payment, or the date until which this Agreement requires any coverage to be maintained after final payment, policies of commercial general liability, commercial auto, umbrella/excess, workers' compensation and employer's liability insurance, providing the following coverages, limits and endorsements:

1. Commercial General Liability Insurance.

- 1.1 The CGL policy must be written on an occurrence basis, on ISO form CG 001 or its equivalent, providing coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), contractual liability, incidental professional liability, the hazards commonly referred to as XCU, and products and completed operations, with a combined single limit of liability of not less than \$2,000,000 for each occurrence applicable to the Work, and an annual aggregate limit of liability of not less than \$2,000,000 applicable solely to the Work, and meeting all other requirements of this Exhibit.
- 1.2 The general liability insurance may be accomplished with a combination of a general liability and an excess/umbrella liability policy.
- 1.3 Each general liability policy must be endorsed or written to:
 - a. Include the per project aggregate endorsement;
 - b. Name as additional insureds the following: the City of Murfreesboro and its elected officials, officers, employees, representatives and agents (collectively, the "Additional Insureds");
 - c. Stipulate that the insurance afforded by the policies furnished by Contractor will be primary insurance and that any insurance, self-insured retention, deductibles, or risk retention programs maintained or participated in by the Additional Insureds, or their agents, officials or employees will be excess and not contributory to the liability insurance furnished by Contractor and by its Subcontractors;
 - d. Includes a severability of interest clause; and
 - e. Waive all rights of recovery against the Additional Insureds.
- 1.4 The liability insurance furnished by Contract shall comply with all statutory and regulatory requirements for the operations of Contractor, including without limitation the requirement provided in Tenn. Code Ann. § 68-105-115.

2. **Workers' Compensation Insurance.** Workers' Compensation policy must meet all Tennessee statutory requirements, including Employers' Liability Insurance with limits of at least \$ 1,000,000 per accident or disease per employee, both policies endorsed to waive subrogation against the Additional Insureds.
3. **Auto Liability Insurance**
 - 3.1 Commercial auto liability must be carried with minimum combined single limit of \$1,000,000 per occurrence.
 - 3.2 This policy must include a duty to defend and cover all owned, non-owned, leased, hired, assigned or borrowed vehicles.
 - 3.3 This policy must be endorsed, by specific or blanket endorsement, to name the Additional Insureds as such, stipulate that any insurance carried by the Additional Insureds must be excess and not contributory, and to waive subrogation against the Additional Insureds.
4. **Environmental Liability.** Contractor must secure, pay for, and maintain Contractor's Pollution Liability (CPL) coverage in an amount not less than \$2,000,000 and endorsing the Owner as an Additional Insured. Contractor must also provide to the Owner proof of Contractor's Pollution Legal Liability (PLL) for sites owned or operated by Contractors and by any Subcontractors handling hazardous or potentially hazardous materials. Environmental liability coverage may be part of a package policy.
5. **Umbrella Coverage.** Contractor must secure, pay for, and maintain umbrella coverage in the amount of not less than \$5,000,000 on a form acceptable to the Owner. Umbrella coverage must not be limited to excess coverage that merely follows form of underlying coverages.
6. **Equipment Property Insurance.** Contractor must secure, pay for, and maintain all-risk insurance as necessary and without exceptions in order to protect the Owner against loss of owned, non-owned, rented, or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor, its Subcontractors, or Lower Tier Entities and any construction material in transit (unless shipped FOB destination Project Site or (Incoterm) DAP Project site) or materials stored in any location other than the Site.
7. **Waiver of Subrogation.** Contractor hereby waives and will require each of its Subcontractors and Lower Tier Entities to waive, all rights of subrogation under all policies against the Owner and other Additional Insureds for losses or damages covered by any policy of insurance. Contractor, Subcontractors, and Lower Tier Entities must provide notice of waiver to all insurance carriers.
8. **Term of Coverage**
 - 8.1 The products and completed operations liability coverage required by this Agreement must extend for a period of not less than five years after the earlier of Final Payment for the Work, or the termination of the Agreement (the "Completed Operations Term").

- 8.2 If at any time during the Completed Operations Term Contractor cannot obtain equivalent coverage by replacement or renewal, Contractor must acquire a tail policy prior to expiration of the existing policy that will extend coverage until the end of the Completed Operations Term.
- 8.3 Contractor will furnish certificates of insurance and other evidence that the Owner may reasonably require during the Completed Operations Term to establish compliance with the requirements of this paragraph.
- 8.4 All other policies of insurance must be maintained continuously in force from commencement of the Work until the date of Final Payment.

9. Subcontractor and Lower-Tier Entities Insurance Requirements

- 9.1 Contractor must require all of Contractor's Subcontractors and must require its Subcontractors to require their Lower Tier Entities, as a condition of working on the Project, and of receiving payment, to:
 - a. Purchase and maintain Commercial General Liability, Workers' Compensation and Employer's Liability, and Automotive insurance policies, with the same coverages, endorsements, terms of coverage and other provisions as are required of Contractor under by this Exhibit, **EXCEPT THAT** the combined coverage limits of the general liability insurance to be furnished by Lower Tier Entities must be \$ 1,000,000 per occurrence, and \$ 1,000,000 as the annual aggregate limit; and
 - b. Timely furnish to the Owner proper certificates, endorsements, copies of declarations pages, and other documents necessary to establish the Subcontractor's compliance with this Exhibit.
 - c. The Lower Tier Entities' general liability policy must also be endorsed to provide the policy must be primary insurance, the general liability insurance furnished by Contractor must be the secondary and non-contributory, and any insurance carried by the Additional Insureds must be excess, tertiary and non-contributory to the insurance furnished by Contractor and Subcontractor.
 - d. The Owner has the right to inspect and copy all such certificates, endorsements, or other proof at any reasonable time.

10. Other Policy Provisions. Each policy to be furnished by Contractor and each Subcontractor must:

- 10.1 Be issued by an insurance carrier having a rating from A.M. Best Company of at least A-VII or better;
- 10.2 Provide that attorney's fees are outside of the policy's limits and be unlimited;
- 10.3 Include the Project per aggregate endorsement;
- 10.4 Waive all rights of subrogation against the Owner;

- 10.5 Provide a Certificate that contains a provision that coverages afforded under the policies will not be canceled, allowed to expire, or reduced in amount until at least thirty (30) days' prior written Notice has been given to the Owner; and
- 10.6 Be otherwise satisfactory to the Owner. The Owner agrees to consider alternatives to the requirements imposed by this Exhibit but only to the extent that the Owner is satisfied the insurance is not commercially available to the insured. In such event, the Owner has the right to set conditions for such waiver, including, but not limited to, additional indemnities, and the request that the Owner be a loss-payee under the policy.

11. Certificates and Endorsements

- 11.1 Within 10 days after the execution of this Agreement, Contractor must provide the Owner with certificates and endorsements.
- 11.2 Upon the Owner request, Contractor must provide the Owner with certificates and endorsements from each of its Subcontractors, in all cases evidencing compliance by Contractor, each Subcontractor, and Lower Tier Entities with the requirements of this Exhibit together with letters from the respective carriers (including, but not limited to, the Errors and Omissions insurance carriers) that there are no known or pending claims or incidents which have resulted in the establishment of a reserve or otherwise have reduced the amount of coverage potentially available to the Owner under the policy and that available coverage has not been reduced because of revised limits or payments made (or, in the event such representations cannot be given, Contractor, its Subcontractors, and its Lower Tier Entities must furnish the particulars thereof to the Owner.
- 11.3 If any of the foregoing insurance coverages are required to remain in force after Final Completion, Contractor must submit an additional certificate evidencing continuation of such coverage with its application for final payment.

- 12. Reduction in Coverage.** Contractor must promptly inform the Owner of any reduction of coverage resulting from revised limits, claims paid, or both and must require its Subcontractors and Lower Tier Entities to promptly inform Contractor of same. The Owner has the right to require Contractor or the applicable Subcontractor to obtain supplemental or replacement coverage to offset such reduced coverage, at the sole cost or expense of Contractor or the applicable Subcontractor.

13. Condition Precedent to Starting Work

- 13.1 Prior to, and as a condition of its right to begin performing any Work on the Site, Contractor and each Subcontractor and Lower Tier Entities must deliver to the Owner certificates of insurance representing that the required insurance is in force, together with the additional insured endorsements and waivers of subrogation required above, and such other proof satisfactory to the Owner that the required insurance is in place; together with the original of each bond required under this Agreement. Contractor and each Subcontractor and Lower Tier Entities hereby authorize the Owner to communicate directly with the respective

insurance agents, brokers and/or carriers and sureties to verify their insurance and bond coverage.

- 13.2 The Owner is under no obligation or duty to make any such inquiry and the Owner is entitled to rely on any proofs of insurance tendered by Contractor or its Subcontractors and Lower Tier Entities. The Owner's acceptance of any proof of insurance and bonds offered by Contractor or any Subcontractor or Lower Tier Entities will not be deemed a waiver of the obligations of Contractor and Subcontractors and Lower Tier Entities to furnish the insurance and bonds required by this Exhibit.
14. **Additional Proofs of Insurance.** Contractor must, within 10 days after request, provide the Owner with certified copies of all policies and endorsements obtained in compliance with this Agreement.
15. **Indemnity.** The fact that Contractor and its Subcontractors are required by this Agreement to purchase and maintain insurance in no way limits or restricts any other obligations or duties Contractor and its Subcontractors and Lower Tier Entities may have to indemnify, defend or hold harmless the Owner and the other Additional Insureds from and against any and all demands, liabilities, losses or expenses of whatever kind or nature.
16. **Interpretation.** In the event of any inconsistency between the provisions of this Exhibit and those of the other provisions of the Agreement, the terms of this Exhibit will govern.
17. **Performance Bond and Payment Bond.**

17.1 The Contractor shall provide surety bonds as follows:

Type	Penal Sum (\$0.00)
Performance Bond	100% of Contract Sum
Labor and Material Payment Bond	100% of Contract Sum

- 17.2 Bonds shall be issued by a surety licensed in the State of Tennessee and satisfactory to the Owner.
- 17.3 The Contractor must provide evidence of Bonds prior to the beginning of work. If the Performance and Payment Bonds are not furnished within ten (10) days of execution of the Agreement, the Owner, in its sole discretion, may elect to terminate the Agreement and award the Project to an alternate contractor.
- 17.4 The Owner will require the Contractor to increase the Performance and Payment Bonds to accommodate Change Orders that individually or cumulatively exceed 10% of the original Contract Sum. The Contractor shall furnish to the Owner and keep in force during the term of the Contract, performance and labor and material payment bonds guaranteeing that the Contractor will perform its obligations under the Contract and will pay for all labor and materials furnished for the Work.
- 17.5 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Purchase of Service Truck – Contract Amendment

Department: Fleet Services

Presented by: Kyle Lingo, Assistant Director, Fleet Services

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 2023 Chevrolet 5500 2WD Service Body Truck

Staff Recommendation

Approve the purchase contract amendment with Wilson County Motors, LLC

Background Information

The vendor was unable to supply the 2023 Chevrolet 5500 4WD previously approved October 20, 2023. Staff worked with Wilson County Motors to secure a similar truck. The original purchase price was \$125,104. By changing from 4WD to 2WD, the price was reduced by \$4,831.

Council Priorities Served

Responsible budgeting

By purchasing from the statewide contract, we located a cost-effective replacement vehicle.

Fiscal Impact

The expenses, \$120,273, is funded from the Other Capital Sources Fund.

Attachments

Amendment for Wilson County Motors, LLC

**FIRST AMENDMENT
TO THE CONTRACT
BETWEEN THE CITY OF MURFREESBORO
AND
WILSON COUNTY MOTORS, LLC**

This First Amendment ("First Amendment") to the Contract for Purchase of a Vehicle, entered into October 20, 2023 ("Contract"), is effective as of _____ ("Effective Date"), by and between the City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee, and Wilson County Motors, LLC ("Contractor"), a Tennessee limited liability company.

RECITALS

WHEREAS, on October 20, 2023, the City entered into the Contract with Contractor for the purchase of one 2023 Chevrolet Silverado MD 4WD Crew Cab Work Truck with optional equipment listed per Contractor's Quote pursuant to State of Tennessee Contract Number 209/72307 ("State Contract");

WHEREAS, due to manufacturer supply chain and inventory issues, the Work Truck will not be available to Contractor in a timely manner;

WHEREAS, the City has identified an alternate vehicle which may also be purchased pursuant to the State Contract with timely availability; and

WHEREAS, Section 10 of the Contract provides for modifications to the Contract by written agreement of the parties.

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

1. **Price Quote Sheet:** The Price Quote Sheet referenced in the Contract shall be amended to reflect ***Price Quote Sheet dated December 12, 2023 from Wilson County Motors, LLC for a 2023 Chevrolet Silverado MD 2WD Crew Cab Work Truck (CC56043) with options as listed on quote,*** attached hereto as Attachment 1 and incorporated into the Contract by reference.
2. **Duties and Responsibilities of Contractor:** Section 1 of the Contract shall be amended to delete the reference to "2023 Chevrolet Silverado MD 4WD Crew Cab Work Truck with optional equipment" and replace it with "***2023 Chevrolet Silverado MD 2WD Crew Cab Work Truck (CC56043) with optional equipment.***"
3. **Price; Compensation; Method of Payment:** Section 3.a of the Contract shall be amended to delete the following language "a Total Price of One Hundred Twenty-Five Thousand, One Hundred Four Dollars and Zero Cents (\$125,104.00)" and replace with "a Total Purchase Price of One Hundred Twenty Thousand, Two Hundred Seventy-Two Dollars and Sixty Cents (\$120,272.60)" as set forth in the Price Quote Sheet dated December 12, 2023.
4. **No Other Amendment or Modification:** Except as provided herein, the parties make no other modifications or amendments, and all other terms of the Contract shall continue in full force and effect.

ENTERED INTO this _____, 202_.

CITY OF MURFREESBORO

WILSON COUNTY MOTORS, LLC

By: _____
Shane McFarland, Mayor

DocuSigned by:
By Danielle Rodriguez
CD Danielle Rodriguez, Fleet Manager

Approved as to form:

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



Wilson County Motors

Danielle Rodriguez | 615-444-9642 | danielle@wilsoncountyauto.com

4x2 2023 Murfreesboro 5500 Crew w Service Bdy

Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck





Wilson County Motors

Danielle Rodriguez | 615-444-9642 | danielle@wilsoncountyauto.com

Wilson County Motors

Prepared By:

Danielle Rodriguez
Wilson County Motors
615-444-9642
danielle@wilsoncountyauto.com

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Wilson County Motors

Danielle Rodriguez | 615-444-9642 | danielle@wilsoncountyauto.com

Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (Complete)

Price Summary

PRICE SUMMARY		
	VQ2	MSRP
Base Price	\$56,581.18	\$61,905.00
Total Options	\$61,769.78	\$78,609.76
Vehicle Subtotal	\$118,350.96	\$140,514.76
Tire Weight Tax (TWT)	\$26.64	\$26.64
Destination Charge	\$1,895.00	\$1,895.00
Grand Total	\$120,272.60	\$142,436.40

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck ( Complete)

Weight Ratings

WEIGHT RATINGS

Front Gross Axle Weight Rating:	7000 lbs
Rear Gross Axle Weight Rating:	15000 lbs
Gross Vehicle Weight Rating:	19500.00 lbs

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Wilson County Motors

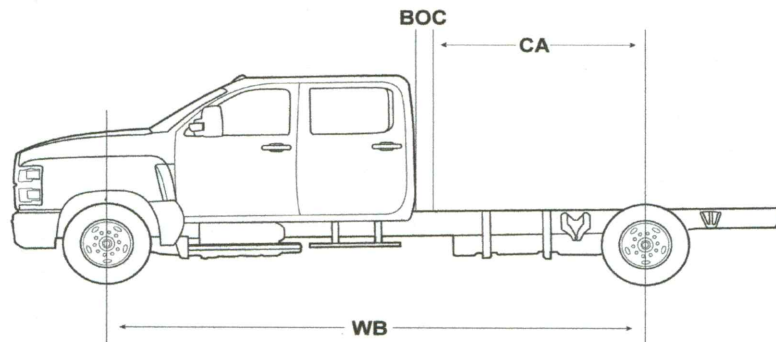
Danielle Rodriguez | 615-444-9642 | danielle@wilsoncountyauto.com

Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (✓ Complete)

Weight Distribution

SPECIFICATION SUMMARY

Model #	CC56043
Truck/Tractor	
Wheelbase (WB)	199 in
Cab to Axle (CA)	84.09 in
Cab to Body/Swing Clear (BOC)	3.0 in
Body Length	0.0 ft
Body Weight	0.0 lbs
Cargo Weight	0.00 lbs
Front GAWR	7000 lbs
Rear GAWR	15000 lbs
GVWR	19500.00 lbs



CA: 84.09 in
BOC: 3.0 in
WB: 199 in

Fr%: 63.05

Front Wt: 5528.00 lbs

Rr%: 36.95

Rear Wt: 3240.00 lbs

GAWR/GVWR	GVW	Remaining Payload Wt
19500.00 lbs	8768.00 lbs	10,732.00 lbs

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (Complete)

Weight Distribution

SPECIFICATION DETAILS			
	Front Axle	Rear Axle	Total
Actual			
Chassis	5178.00 lbs	3240.00 lbs	8418.00 lbs
Body	0.00 lbs	0.00 lbs	0.0 lbs
Payload	0.00 lbs	0.00 lbs	0.00 lbs
Trailer			0.0 lbs
Totals	5528.00 lbs	3240.00 lbs	8768.00 lbs
Capacity			
Axle	7000 lbs	15000 lbs	22000.00 lbs
Suspension	7000 lbs	15500 lbs	22,500.00 lbs
Tire	7940 lbs	15000 lbs	22940.00
Total Axle Rating	7000.00 lbs	15000.00 lbs	22000.00 lbs

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**Wilson County Motors**

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (Complete)

Selected Model and Options**MODEL**

CODE	MODEL	VQ2	MSRP
CC56043	2023 Chevrolet Silverado MD 2WD Crew Cab Work Truck	\$56,581.18	\$61,905.00

COLORS

CODE	DESCRIPTION
GAZ	Summit White

MODEL OPTION

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
R7N	5500 HD Series (Included and only available with (GZX) 17,500 lb. GVWR, (GZJ) 18,000 lb. GVWR or (GZG) 19,500 lb. GVWR.)	0.00 lbs	0.00 lbs	Inc.	Inc.

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (✓ Complete)

GVWR

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
GZG	GVWR, 19,500 lb. (8845 kg) (Silverado 5500 HD 2WD Crew Cab models require one of the following combinations: (1) (FTA) 7k front axle and (FK6) 7k front suspension and (HD2) 13.5k rear axle and one of the following rear suspensions: (GR4) 13.5k rear suspension, (GP1) 13.5k Rear air suspension, (91B) 13.5k LiquidSpring prep single volume rear suspension or (91C) 13.5k LiquidSpring prep stacked volume rear suspension. (2) (FTA) 7k front axle and (FK6) 7k front suspension and (HD1) 15k rear axle or (J27) 15.5k rear axle and one of the following rear suspensions: (GR4) 13.5k rear suspension, (FU7) 15.5k rear suspension, (GP1) 13.5K rear air suspension, (GP8) 15.5k rear air suspension, (91B) 13.5k LiquidSpring prep single volume rear suspension, (91C) 13.5k LiquidSpring prep stacked volume rear suspension, (91D) 15.5k LiquidSpring prep single volume rear suspension or (91E) 15.5k LiquidSpring prep stacked volume rear suspension. (3) (FTL) 8k front axle and (FSN) 8k front suspension and (HD2) 13.5k rear axle and one of the following rear suspensions: (GR4) 13.5k rear suspension, (G40) 12k rear air suspension, (GP1) 13.5k Rear air suspension, (91B) 13.5k LiquidSpring prep single volume rear suspension or (91C) 13.5k LiquidSpring prep stacked volume rear suspension. (4) (FTL) 8k front axle and (FSN) 8k front suspension and (HD1) 15k rear axle or (J27) 15.5k rear axle and one of the following rear suspensions: (GR4) 13.5k rear suspension, (FU7) 15.5k rear suspension, (GP1) 13.5K rear air suspension, (GP8) 15.5k rear air suspension, (91B) 13.5k LiquidSpring prep single volume rear suspension, (91C) 13.5k LiquidSpring prep stacked volume rear suspension, (91D) 15.5k LiquidSpring prep single volume rear suspension or (91E) 15.5k LiquidSpring prep stacked volume rear suspension.)	0.00 lbs	0.00 lbs	\$1,984.40	\$2,255.00

REQUIRED OPTION

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
R6G	26,000 lb. GCWR (11,793 kg) (Requires 26k GCWR transmission (MWA, MWB, MIU, MIA, MH1, MG0, MIX, MF0, MA6 or MB6).)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (Complete)

ENGINE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
L5D	Engine, Duramax 6.6L Turbo-Diesel V8, B20-Diesel compatible 350 hp @ 2700 rpm, 700 lb.-ft. torque @ 1600 rpm (STD)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

POWER TAKE OFF

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
PTX	Power Take-Off (PTO), not installed	0.00 lbs	0.00 lbs	\$0.00	\$0.00

TRANSMISSION

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
MWA	Highway Service Transmission, Automatic close-ratio 6 SPD with double overdrive, Allison, A1700HS ratios: 3.10 1ST, 1.80 2ND, 1.40 3RD, 1.00 4TH, 0.70 5TH, 0.61 6TH Highway Series, 19.5K GVW & 26K GCW Max., requires PTX and park pawl. Available with GVWs less than or equal to 19.5K (Requires (C7Y) 14,001 lb. GVWR, (C5B) 15,000 lb. GVWR, (C7P) 16,000 lb. GVWR, (C7R) 16,500 lb. GVWR, (GZX) 17,500 lb. GVWR, (GZJ) 18,000 lb. GVWR or (GZG) 19,500 lb. GVWR. Requires (R6G) 26,000 lb. GCWR (11,793 kg.) (STD)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

AXLE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
066	Rear axle, 4.10 ratio Max road speed: 79 MPH	0.00 lbs	0.00 lbs	\$0.00	\$0.00

FRONT AXLE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
FTA	Front axle, 7,000 lb., Dana Spicer D800-N, "I"-beam, non-driving (Requires (FK6) 7,000 lb. (3,175 kg) front suspension.)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (Complete)

FRONT SUSPENSION

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
FK6	Front suspension, 7,000 lb. (3,175 kg) multi-leaf, includes shock absorbers (STD)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

REAR AXLE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
HD1	Rear axle, 15,000 lb. (6,804 kg) Dana Spicer S16-130, single reduction	0.00 lbs	0.00 lbs	\$594.00	\$675.00

REAR SUSPENSION

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
FU7	Rear suspension, 15,500 lb. (7,031 kg) multi-leaf, vari-rate (Not available with air suspension.)	0.00 lbs	0.00 lbs	\$44.00	\$50.00

WHEELBASE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
EM1	Wheelbase, 199" (505.5 cm), 84" CA (Requires (F0C) 49" axle to end of frame or (F0D) 63" axle to end of frame.)	0.00 lbs	0.00 lbs	\$158.40	\$180.00

PREFERRED EQUIPMENT GROUP

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
1WT	Work Truck Preferred Equipment Group includes standard equipment	0.00 lbs	0.00 lbs	\$0.00	\$0.00

WHEEL TYPE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
PWQ	Wheels, 19.5" x 6.75", steel, Black painted, 8-holes, hub piloted (STD)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (Complete)

FRONT TIRES

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
XEY	Tires, front 225/70R19.5G highway blackwall Pirelli Max Axle Load: 7,940 lb. (Standard on models built after July 17th, 2023) (Requires (YEY) Tires, rear 225/70R19.5G highway blackwall Pirelli, Max Axle Load: 15,000 lb. or (YEZ) Tires, rear 225/70R19.5G traction blackwall Pirelli, Max Axle Load: 15,000 lb.) (STD)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

REAR TIRES

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
YEY	Tires, rear 225/70R19.5G highway blackwall Pirelli Max Axle Load: 15,000 lb. (Standard on models built after July 17th, 2023) (Requires (XEY) Tires front 225/70R19.5G Highway blackwall Pirelli.) (STD)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

SPARE TIRE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
9L3	Spare tire delete (STD)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

PAINT SCHEME

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
ZY1	Paint, solid	0.00 lbs	0.00 lbs	\$0.00	\$0.00

PAINT

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
GAZ	Summit White	0.00 lbs	0.00 lbs	\$0.00	\$0.00

SEAT TYPE

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
AE7	Seats, front 40/20/40 split-bench, 3-passenger driver and front passenger recline with outboard head restraints and center fold-down armrest with storage. Vinyl has fixed lumbar and cloth has manually adjustable driver lumbar. (STD)	0.00 lbs	0.00 lbs	\$0.00	\$0.00

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (Complete)

SEAT TRIM

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
H2Q	Dark Ash seats with Jet Black interior accents, Vinyl seat trim	0.00 lbs	0.00 lbs	\$0.00	\$0.00

RADIO

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
IOB	Audio system, 7" diagonal color touch-screen with Chevrolet Infotainment AM/FM stereo with seek-and-scan and digital clock, includes Bluetooth streaming audio for music and select phones. (Not available to Order at this time. Not available with (TG5) Single slot CD/MP3 player.)	0.00 lbs	0.00 lbs	\$242.00	\$275.00

ADDITIONAL EQUIPMENT - ENTERTAINMENT

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
—	Bluetooth for phone, personal cell phone connectivity to vehicle audio system (Included and only available with (IOB) 7" diagonal color touch-screen with Chevrolet Infotainment.)	0.00 lbs	0.00 lbs	Inc.	Inc.

CUSTOM EQUIPMENT

CODE	DESCRIPTION	FRONT WEIGHT	REAR WEIGHT	VQ2	MSRP
Aftermkt	Aftermarket Service Body	0.00 lbs	0.00 lbs	\$75,164.76	\$75,164.76
Assist	Assistance	0.00 lbs	0.00 lbs	(\$7,000.00)	\$0.00
Fed Tire	Federal Tire Fee	0.00 lbs	0.00 lbs	\$10.00	\$10.00
SWC	SWC Adjustment	0.00 lbs	0.00 lbs	(\$9,427.78)	\$0.00
Options Total		0.00 lbs	0.00 lbs	\$61,769.78	\$78,609.76
As Specified Curb Weight		5178.00 lbs	3240.00 lbs		

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (✓ Complete)

Standard Equipment

Mechanical

GVWR, 16,500 lb. (7484 kg) (Silverado 4500 HD 2WD Crew Cab models require one of the following combinations: (1) (FTA) 7k front axle and (FK6) 7k front suspension and (FN1) 10k rear axle or (GL4) 11k rear axle and (GR3) 11k rear suspension or (G40) 12K Rear air suspension. (2) (FTA) 7k front axle and (FK6) 7k front suspension and (HD1) 15k rear axle or (J27) 15.5k rear axle and one of the following rear suspensions: (GR4) 13.5k rear suspension, (FU7) 15.5k rear suspension, (GP1) 13.5K rear air suspension, (GP8) 15.5k rear air suspension, (91B) 13.5k LiquidSpring prep single volume rear suspension, (91C) 13.5k LiquidSpring prep stacked volume rear suspension, (91D) 15.5k LiquidSpring prep single volume rear suspension or (91E) 15.5k LiquidSpring prep stacked volume rear suspension.) (STD)

Emissions, 50 state certification

Emissions, USA 50 State certified

Engine, Duramax 6.6L Turbo-Diesel V8, B20-Diesel compatible 350 hp @ 2700 rpm, 700 lb.-ft. torque @ 1600 rpm (STD)

Highway Service Transmission, Automatic close-ratio 6 SPD with double overdrive, Allison, A1700HS ratios: 3.10 1ST, 1.80 2ND, 1.40 3RD, 1.00 4TH, 0.70 5TH, 0.61 6TH Highway Series, 19.5K GVW & 26K GCW Max., requires PTX and park pawl. Available with GVWs less than or equal to 19.5K (Requires (C7Y) 14,001 lb. GVWR, (C5B) 15,000 lb. GVWR, (C7P) 16,000 lb. GVWR, (C7R) 16,500 lb. GVWR, (GZX) 17,500 lb. GVWR, (GZJ) 18,000 lb. GVWR or (GZG) 19,500 lb. GVWR. Requires (R6G) 26,000 lb. GCWR (11,793 kg.) (STD)

Rear axle, 4.10 ratio Max road speed: 79 MPH

Wheelbase, 175" (444.5 cm), 60" CA (Requires (F0C) 49" axle to end of frame. Not available with (G40) 12,000 lb., (GP1) 13,500 lb. or (GP8) 15,500 lb. rear air suspension, or (NPK) Exhaust System.) (STD)

Front axle, 7,000 lb., Dana Spicer D800-N, "I"-beam, non-driving (Requires (FK6) 7,000 lb. (3,175 kg) front suspension.)

Front suspension, 7,000 lb. (3,175 kg) multi-leaf, includes shock absorbers (STD)

Rear axle, 10,000 lb. (4,536 kg) Dana Spicer S14-110, single reduction

Rear suspension, 11,000 lb. (4,990 kg) multi-leaf, vari-rate (Not available with air suspension.) (STD)

Neutral-at-Stop Automatic transmission shifts to neutral when the service brake is depressed while the vehicle is at a complete stop, and remains in neutral until the service brake is released

Transmission shift control calibration, fuel sense Performance

Rear wheel drive

Batteries, heavy-duty dual 1100 cold-cranking amps includes battery box mounted to left side under cab

Alternator, 150 amps

Trailer provisions, trailering wire harness only, trailer combined (Stop/Tail/Turn) connection socket and harness mounted at rear of frame.

Trailer brake controller, integrated

Incomplete vehicle

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Wilson County Motors

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (✔ Complete)

Mechanical

- Axle to End of Frame, 49" (Requires wheelbase (EM1) 199" or (FNV) 175". Not available with (G40), (GP1) or (GP8) rear air suspension.)
- Axle, Open rear axle, non-locking rear
- Axle lubricant, rear, synthetic oil EmGard FE -75W-90
- Steering, power (Bosch S2 8014 Plus)
- Brakes, hydraulic, heavy duty Bosch/Meritor/Wabco system with 4-channel (ABS) (Includes (J69) driveline park brake.)
- Fuel tank, rear only, 40 gallon mounted between frame side rails and behind rear axle
- Fuel, diesel B20
- Capped Fuel Fill
- Exhaust system, rear exit
- Exhaust brake

Exterior

- Wheels, 19.5" x 6.75", steel, Black painted, 8-holes, hub piloted (STD)
- Tires, front 225/70R19.5G highway blackwall Pirelli Max Axle Load: 7,940 lb. (Standard on models built after July 17th, 2023) (Requires (YEY) Tires, rear 225/70R19.5G highway blackwall Pirelli, Max Axle Load: 15,000 lb. or (YEZ) Tires, rear 225/70R19.5G traction blackwall Pirelli, Max Axle Load: 15,000 lb.) (STD)
- Tires, rear 225/70R19.5G highway blackwall Pirelli Max Axle Load: 15,000 lb. (Standard on models built after July 17th, 2023) (Requires (XEY) Tires front 225/70R19.5G Highway blackwall Pirelli.) (STD)
- Spare tire delete (STD)
- Wheel, spare delete
- Bumper, front, Black
- Assist steps
- Front fender extension, painted body color
- Grille, base, molded in color, Black
- Grille guard screen, insect protection (mounted behind grille)
- Headlamps, halogen projector-beam
- Lamps, cargo area, cab mounted with switch on center switch bank
- Lamps, Smoked Amber roof marker
- Lamps, rear, stop/turn/backup (1-piece assembly) with license plate light
- Mirrors, outside high-visibility vertical camper-style, Black with manual folding and extension and lower convex spotter glass
- Glass, solar absorbing, tinted

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Data Version: 21187. Data Updated: Dec 11, 2023 6:40:00 PM PST.



Wilson County Motors

Danielle Rodriguez | 615-444-9642 | danielle@wilsoncountyauto.com

Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (✔ Complete)

Exterior

Antenna, fixed mast

Door handles, Black

Entertainment

Audio system, 4.2" diagonal color display AM/FM stereo with USB port and auxiliary jack (Requires (AE7) front 40/20/40 split-bench seat. Not available with (UE1) OnStar or (U2K) SiriusXM Radio.) (STD)

SiriusXM, delete

6-speaker audio system

Interior

Seats, front 40/20/40 split-bench, 3-passenger driver and front passenger recline with outboard head restraints and center fold-down armrest with storage. Vinyl has fixed lumbar and cloth has manually adjustable driver lumbar. (STD)

Interior trim, Jet Black/Dark Ash (Required and only available with (H2Q/H2R) Dark Ash seats with Jet Black interior accents.)

Seat trim, Vinyl

Seat, rear 60/40 folding bench (folds up), 3-passenger (includes child seat top tether anchor)

Seat Belt, Black

Floor covering, Graphite-colored rubberized-vinyl

Steering wheel, urethane

Steering column, manual Tilt-Wheel

Instrumentation, 6-gauge cluster featuring speedometer, fuel level, engine temperature, tachometer, voltage and oil pressure

Speedometer, miles/kilometers

Driver Information Center, 3.5-inch diagonal monochromatic display, provides warning messages and basic vehicle information

Upfitter switch kit provides up to 4-30 amp circuits to facilitate installation of aftermarket electrical accessories located on the instrument panel

Windows, power with driver express up and down and express down on all other windows

Door locks, power

Cruise control, steering wheel-mounted

Air conditioning, single-zone

Mirror, inside rearview manual day/night

Visors, driver and front passenger, vinyl

Assist handle, front passenger and driver on A-pillars

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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (✓ Complete)

Safety-Mechanical

Brake, parking, driveline park brake system

StabiliTrak, Electronic Stability Control System with Traction Control includes Electronic Trailer Sway Control and Hill Start Assist

Traction control

Safety-Exterior

Daytime Running Lamps, with automatic exterior lamp control

Safety-Interior

Airbags, Single-stage frontal airbags for driver and front outboard passenger; Seat-mounted side-impact airbags for driver and front outboard passenger; Head-curtain airbags for front and rear outboard seating positions; (Always use seat belts and child restraints. Children are safer when properly secured in a rear seat in the appropriate child restraint. See the Owner's Manual for more information.)

Airbag deactivation switch, frontal passenger-side (Included and only available with (AY0) airbags.)

OnStar, delete

Rear Vision Camera, display integrated into Radio (Shipped loose in cab for upfitter installation.)

Horn, single-note

WARRANTY

Basic Years: 3

Basic Miles/km: 36,000

Drivetrain Years (Allison Basic): 5

Drivetrain Years: 5

Drivetrain Miles/km (Allison Basic): Unlimited

Drivetrain Miles/km: 100,000

Drivetrain Note: Duramax Diesel

Corrosion Years (Rust-Through): 6

Corrosion Years: 3

Corrosion Miles/km (Rust-Through): 100,000

Corrosion Miles/km: 36,000

Roadside Assistance Years: 5

Roadside Assistance Miles/km: 100,000

Maintenance Note: First Visit: 12 Months/12,000 Miles

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**Wilson County Motors**

Danielle Rodriguez | 615-444-9642 | danielle@wilsoncountyauto.com

Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (Complete)

Geared Road Speed**SPECIFICATION SUMMARY**

Model #	CC56043
Engine Order Code	L5D
Model Manufacturer	Duramax
Type	Turbocharged Diesel V8
Displacement	6.6L/402
Horsepower	350 @ 2700
Starting Torque	N/A
Transmission Order Code	MWA
Model Manufacturer	Allison
Type	6-Speed Automatic
Second Hip Room	60.24 in
Rear Axle Order Code	HD1
Model Manufacturer	A1700HS Allison
Weight Rating	15000 lbs
Ratio:1	4.10
Rear Tires	225/70R19.5G
Revolutions/Mile Front	N/A
Revolutions/Mile Rear	N/A
Surface Type	Concrete
Desired Grade	2%

Geared Road Speed

0% Grade in gear

Actual Loaded Speed

2% Grade in gear

Note: Simulated speedometer appearance may not correspond with selected equipment.

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Wilson County Motors

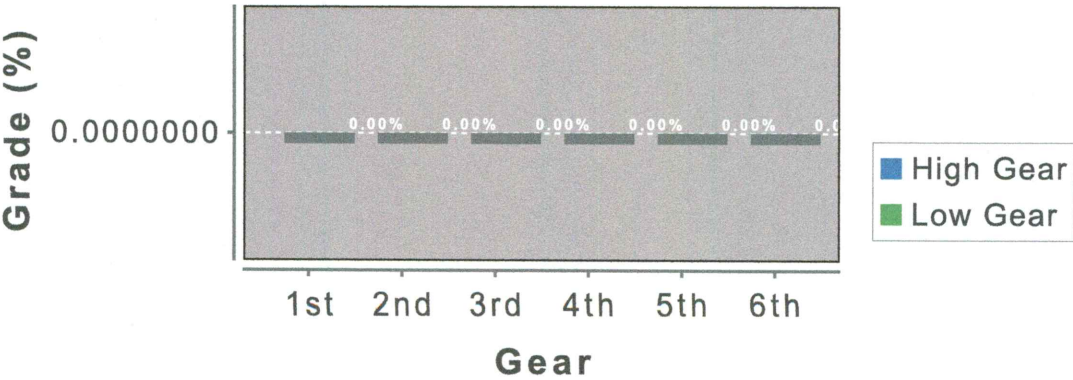
Danielle Rodriguez | 615-444-9642 | danielle@wilsoncountyauto.com

Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (✔ Complete)

Gradeability Chart

SPECIFICATION SUMMARY

Model #	CC56043
Engine Order Code	L5D
Model Manufacturer	Duramax
Type	Turbocharged Diesel V8
Displacement	6.6L/402
Horsepower	350 @ 2700
Starting Torque	N/A
Transmission Order Code	MWA
Model Manufacturer	Allison
Type	6-Speed Automatic
Second Hip Room	60.24 in
Rear Axle Order Code	HD1
Model Manufacturer	A1700HS Allison
Weight Rating	15000 lbs
Ratio:1	4.10
Rear Tires	225/70R19.5G
Revolutions/Mile Front	N/A
Revolutions/Mile Rear	N/A
Surface Type	Concrete
Desired Grade	2%



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Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (Complete)

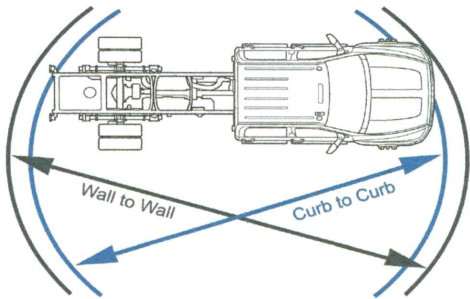
Turning Circle

SPECIFICATION SUMMARY

Model #	CC56043
Front Axle Order Code	FTA
Capacity (lbs)	7000 lbs
Wheelbase Order Code	EM1
Wheelbase (in)	199 in
Front Wheel Order Code	
Size/Type (in)	19.5 x 6.75 in
Front Tire Order Code	XEY
Size/Type	225/70R19.5G

Wall to Wall (ft): 57.3 ft

Wall to Wall diameter is measured from the outermost part of the cab.



Curb to Curb (ft): 55.7 ft

Curb to Curb diameter is measured from the outside of the front tire.

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Wilson County Motors

Danielle Rodriguez | 615-444-9642 | danielle@wilsoncountyauto.com

Vehicle: [Fleet] 2023 Chevrolet Silverado MD (CC56043) 2WD Crew Cab Work Truck (✓ Complete)



Note:Photo may not represent exact vehicle or selected equipment.

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COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Amendment 1 to the Contract with M3 Technology

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

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

Summary

Amendment 1 to the contract with M3 Technology.

Staff Recommendation

Approve the amendment for the purchase of additional integration and audio-visual equipment for the real time crime center.

Background Information

MPD has been working towards the implementation of a real time crime center. This purchase is for integration and wall mounted audio-video equipment for the center. This equipment is necessary to provide high quality audio and visual feeds for real-time investigation capabilities.

This equipment is available for purchase through a METRO Nashville Government contract, which is permitted by State statute and Council Resolution. Staff has verified the cost effectiveness of the contract.

Council Priorities Served

Maintain public safety

Addition of these components allows for proper reception and tools for analysis of information for investigative efforts.

Fiscal Impact

The cost of this purchase, \$60,749, is funded by MPD's FY24 operating budget.

Attachments

Amendment 1 to the Contract with M3 Technology Group, Inc.

**AMENDMENT # 1
TO
CONTRACT BETWEEN CITY OF MURFREESBORO AND
M3 TECHNOLOGY GROUP, INC. FOR
AUDIO-VIDEO EQUIPMENT PURCHASE, REPAIR, AND MAINTENANCE SUPPORT
SERVICES**

WHEREAS, the City of Murfreesboro, a municipal corporation of the State of Tennessee (“City”) and M3 Technology Group, Inc., a for-profit corporation of the State of Tennessee (“Contractor”), entered into an Agreement on November 3, 2023, (the “Agreement”) for purchase of Audio Video Equipment, and Repair and Maintenance Support Services; and

WHEREAS, Clause 2, Duties and Responsibilities of Contractor, authorize the procurement of additional products and services through an amendment to the Agreement entered on November 3, 2023; and

WHEREAS, the City desires to purchase additional equipment pursuant to the Agreement as set forth in Contractor’s Quote PQ232860 dated December 6, 2023, (Attachment A to Amendment #1); and

NOW THEREFORE, the Agreement is amended by adding the purchase of additional equipment and services listed in Contractor’s Quote PQ232860 dated December 6, 2023, (Attachment A to Amendment #1) to the Agreement at a price of \$60,749.94.

In all other respects the Agreement between the City of Murfreesboro and M3 Technology Group, Inc., is affirmed with no additional changes or modifications. This Amendment #1 is hereby effective

_____.

CITY OF MURFREESBORO

By: _____

Shane McFarland, Mayor

M3 TECHNOLOGY GROUP, INC.

DocuSigned by:

By: Rusty Howell

Rusty Howell, Vice President of Sales Operations

Approved as to form:

DocuSigned by:

Adam F. Tucker

Adam F. Tucker, City Attorney



Nashville | Knoxville | Memphis | Birmingham | Huntsville | Houston

www.M3TechGroup.com 877-227-0717

Quote
PQ232860

BILL TO

City of Murfreesboro
Police Department
1004 North Highland Ave
Murfreesboro, TN, 37130
Phone: (615) 648-7169

SHIP TO

City of Murfreesboro
Attn: James Beasley
Police Department
1004 North Highland Ave
Murfreesboro, TN, 37130
Phone: (615) 648-7169

Quote Date:	12/06/2023
Valid Until:	01/06/2024
Your Customer #:	MURCIT
Terms:	Net 30 Days
Contact:	James Beasley

Project Summary			Salesperson		Shipping Method		Shipping Terms	
Real Time Crime Room Monitors			Larry Jackson		Ground		Quoted Line (Shipping)	
LINE	ITEM	DESCRIPTION	QTY	UNIT PRICE	EXTENDED PRICE			
1	SONFWD85X80K	Sony 85" 4K HDR Pro Tuner Display	3.00	3,278.75	9,836.25			
2	CHFXTM1U	Chief Micro-Adjust Tilt Wall Mount X-Large	3.00	335.92	1,007.76			
3	EXT60149701	Extron DXP 16x16 HDMI switcher	1.00	12,559.60	12,559.60			
4	EXT60160701	Two Output 4K/60 HDMI Distribution Amplifier	12.00	632.39	7,588.68			
5	ZEEZVSYNCNA	Zee Vee HD Digital Tuner/Decoder QAM	3.00	149.03	447.09			
6	AMXPRWP412	Precis 4x1:2 4K60 Windowing Processor	3.00	2,240.84	6,722.52			
7	AMXNX2200	NX-2200 NetLinx NX Integrated Controller with 512 MB RAM, 1600 MIPS Processor, 8 UK of FLASH, 4 Serial Ports, 4 IR Ports, 4 I/O Ports, 4 Relays, IPv6, and Dual NIC	1.00	1,813.45	1,813.45			
8	AMXPSR5.4	PSR5.4, Power Supply, 12 VDC, 5.4 A Power Supply with 3.5 mm Phoenix Connector with Retention Screws	1.00	134.47	134.47			
9	AMXMT1002	MT-1002, 10.1" Modero G5 Tabletop Touch Panel	1.00	1,819.26	1,819.26			
10	ALONETGEARGSM4212P	Netgear M4250, 8x 1G PoE+, 2x 1G SFP, 125W	1.00	792.86	792.86			
11	COMHD18G35PROBLKA	Pro AV/IT Certified 18Gb 4K High Speed HDMI Cable with ProGrip 35ft Black (active)	2.00	137.48	274.96			
12	COMHD18G25PROBLKA	Pro AV/IT Certified 18Gb 4K High Speed HDMI Cable with ProGrip 25ft Black (active)	1.00	111.70	111.70			
13	COMHD18G20PROBLK	Pro AV/IT Certified 18Gb 4K High Speed HDMI Cable with ProGrip 20ft Black	8.00	63.58	508.64			
14	COMHD18G15PROBLK	Pro AV/IT Certified 18Gb 4K High Speed HDMI Cable with ProGrip 15ft Black	5.00	54.12	270.60			
15	COMHD18G6PROBLK	Pro AV/IT Certified 18Gb 4K High Speed HDMI Cable with ProGrip 6ft Black	12.00	22.33	267.96			
16	COMHD18G3PROBLK	Pro AV/IT Certified 18Gb 4K High Speed HDMI Cable with ProGrip 3ft Black	3.00	18.03	54.09			
17	MIDRK20	20SP(35)RACK 16DEEP	1.00	184.21	184.21			
18	MIDPD915R	9OUT15ARCKMNT POWER CEN	1.00	134.64	134.64			
19	MIDU1V	1SP VENTED UTILITY SHELF	4.00	46.21	184.84			
20	MIDEB1	1SP FLANGED ECONO BLANK	7.00	9.48	66.36			
21	MISCELLANEOUS	Cables, Connectors, Hardware, Etc.	1.00	800.00	800.00			
22	SHIPPING	Shipping	1.00	1,050.00	1,050.00			
23	INSTALLATION	Labor to Install	1.00	8,450.00	8,450.00			
24	PROGRAMMINGTN	System Programming	1.00	4,050.00	4,050.00			
25	PROJECTMGMT	Project Management	1.00	1,620.00	1,620.00			

Continued...

Nashville Headquarters: 925 Airpark Center Drive, Nashville, TN 37217 | 877-227-0717
Knoxville Branch Office: 10613 Braden Dickey Lane, Knoxville, TN 37932 | 865-691-1124
Houston Branch Office: 7055 Old Katy Road, Suite 22, Houston, TX 77024 | 346-200-8883



Nashville | Knoxville | Memphis | Birmingham | Huntsville | Houston

www.M3TechGroup.com 877-227-0717

Quote
PQ232860

BILL TO

City of Murfreesboro
Police Department
1004 North Highland Ave
Murfreesboro, TN, 37130
Phone: (615) 648-7169

SHIP TO

City of Murfreesboro
Attn: James Beasley
Police Department
1004 North Highland Ave
Murfreesboro, TN, 37130
Phone: (615) 648-7169

Quote Date:	12/06/2023
Valid Until:	01/06/2024
Your Customer #:	MURCIT
Terms:	Net 30 Days
Contact:	James Beasley

Project Summary

Real Time Crime Room Monitors

Salesperson

Larry Jackson

Shipping Method

Ground

Shipping Terms

Quoted Line (Shipping)

LINE ITEM

DESCRIPTION

QTY

UNIT PRICE

EXTENDED
PRICE

Standard Workmanship Warranty

M3 Technology Group, Inc. guarantees system installations to be free of defects in hardware, cables, connectors (materials) and workmanship for a period of 90 days from the date of completion. Completion is defined as the date of installation and training completion. Defective materials or equipment will, at M3's option, be repaired or replaced at no cost to the owner during the warranty period, provided any work does not void the manufacturers' warranties or adversely affects the products' performance.

This Warranty does not cover problems caused by associated equipment that has been provided and/or connected by others, or damage caused by accident, misuse, abuse, theft, vandalism, improper power source, fire, flood, lightning, earthquakes, (or any other acts of God), repair, or alteration by parties other than M3. This Standard Workmanship warranty is independent of all manufacturers' warranties.

Manufacturer Warranties

For equipment purchases, the manufacturers' warranties apply and shall be supported by M3 if said warranty period is greater than the length of the M3 Standard Workmanship Warranty. For warranty periods less than the M3 Standard Workmanship Warranty period, M3 shall be liable only for defects in a given item until the end of that period.

Terms

Terms are Due Upon Receipt and NET30 with approved credit.

For orders that exceed ten thousand dollars (\$10,000.00); 50% to initiate order (due upon receipt), balance due upon progress billing based on purchase agreement at time of order.

Payments made by credit card are subject to a 3.0% fee.

Due to global semiconductor ("chip") shortages and supply chain disruptions, pricing quoted in this proposal may change. Installation schedules are subject to current (daily) product availability and may be delayed or postponed.

Any changes to the items, scope of work (SOW), and/or timeline detailed in this quote, after receipt of customer PO, may impact the quoted system price. Any requested change that the parties mutually accept will be agreed to with a Change Order signed by both parties that specifically references the relevant change(s).

Quote Total:	60,749.94
Tax Total:	0.00
Total:	60,749.94

Signature

Date

Nashville Headquarters: 925 Airpark Center Drive, Nashville, TN 37217 | 877-227-0717
Knoxville Branch Office: 10613 Braden Dickey Lane, Knoxville, TN 37932 | 865-691-1124
Houston Branch Office: 7055 Old Katy Road, Suite 22, Houston, TX 77024 | 346-200-8883

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Purchase of Raven Gunshot Detection

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

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

Summary

Purchase of Raven gunshot detection.

Staff Recommendation

Approve the purchase of Raven gunshot detection from Insight Public Sector.

Background Information

Gunshot detection systems provide real-time alerts to law enforcement, enabling quicker responses to incidents and providing a precise location of gunfire. Additionally, this technology will assist the department with investigations and statistical analysis.

This purchase is available through an Omnia Partners cooperative contract, which is permitted by State statute and Council Resolution. Staff has verified the cost effectiveness of this contract. Cooperative purchasing is permitted by state statute and council resolution.

Council Priorities Served

Maintain Public Safety

Providing crime investigation tools and data analytics for crime solvability.

Fiscal Impact

The proposed expense of \$250,000 is for a two-year contract and is funded by the Violent Crime Intervention Fund.

Attachment

Contract with Insight for Gunshot Detection

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
INSIGHT PUBLIC SECTOR, INC.
FOR GUNSHOT DETECTION**

This Contract is entered into and effective as of _____ (“Effective Date”), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **INSIGHT PUBLIC SECTOR, INC.**, a corporation of the State of Illinois ("Contractor").

This Contract consists of the following documents:

- ***This Contract***
- ***Omnia Partners Cooperative Contract #23-6692-03 (“Omnia Agreement”)***
- ***Price Quotation #0226852322 dated November 10, 2023 (“Contractor’s Proposal”)***
- ***Any properly executed amendments to this Agreement***

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

- * ***First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority)***
- * ***Second, this Contract***
- * ***Third, Contractor’s Omnia Partners Contract #23-6692-03 (“Omnia Agreement”)***
- * ***Price Quotation #0226852322 dated November 10, 2023 (“Contractor’s Proposal”)***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase two years of GunShot Detection equipment and services as set forth on Contractor’s Proposal using the Omnia Contract #23-6692-03.
2. **Term.** The term of this contract shall be from the Effective Date to the expiration of Omnia Agreement on April 30, 2026, or as amended by Omnia Partners. 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 services to be provided under this Contract is set forth in Contractor's Proposal reflecting a **Total Purchase Price of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00)**. 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 must be submitted to accountspayable@murfreesborotn.gov with a copy to the Contact person listed below.
 - b. Deliveries of all items shall be made within 90 days of issuance of Purchase Order to: 1004 N. Highland Ave., Murfreesboro, TN 37130. Delivery Contact: Matt Jarratt Phone: 615-542-4085 (email: mjarratt@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 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 Contractor's Proposal.
 - 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 provided shall meet the warranty requirements set forth by the manufacturer and bid.
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: Insight Public Sector Attn: Erica Falchetti 801 Adlai Stevenson Dr. Springfield, IL 62703 480-333-3071 erica.falchetti@insight.com
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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.

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 subcontractors to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.**

- b. **The City and Contractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**
 - c. **The City and Contractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**
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. **Iran Divestment Act of Tennessee.** By submission of the Contractor's Quote, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.

23. **Non-Boycott of Israel.** By submission of the Contractor's Quote, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.
24. **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" first written above.

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

Insight Public Sector, Inc.

DocuSigned by:
By: Erica Falchetti
Erica Falchetti
Senior SLED Capture Manager

APPROVED AS TO FORM:

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



INSIGHT PUBLIC SECTOR SLED
2701 E INSIGHT WAY
CHANDLER AZ 85286-1930
Tel: 800-467-4448

SOLD-TO PARTY 10183254

CITY OF MURFREESBORO
111 W VINE ST
MURFREESBORO TN 37130-3573

SHIP-TO

CITY OF MURFREESBORO
111 W VINE ST
MURFREESBORO TN 37130-3573

We deliver according to the following terms:

Payment Terms : Net 30 days
Ship Via : Electronic Delivery
Terms of Delivery : FOB DESTINATION
Currency : USD

Customer understands, accepts and agrees that this purchase is subject to Flock Safety's End User License Agreement, available at: <https://www.flocksafety.com/terms-and-conditions-eula>
Term: 24 Months
Billing: Contract will be billed 100% upon last device validation

Quotation	
Quotation Number	: 0226852322
Document Date	: 10-NOV-2023
PO Number	:
PO release:	:
Sales Rep	: Ashley McDonald
Email	: ASHLEY.MCDONALD@INSIGHT.COM
Telephone	: +18004674448
Sales Rep 2	: Branden Maiorano
Email	: BRANDEN.MAIORANO@INSIGHT.COM
Telephone	: +17372473702

Material	Material Description	Quantity	Unit Price	Extended Price
FLCK-RAVEN-1	RAVEN AUDIO DETECTION DEVICE - 1 MILE 1 SQUARE MILE OF RAVEN INTEGRATED AUDIO DETECTION COVERAGE FOR 12 MONTHS. UNITS DEPLOYED DEPENDS ON GEOGRAPHY DENSITY OF AREA. Coverage Dates: 01-DEC-2023 - 30-NOV-2024 OMNIA PARTNERS (COBB COUNTY) IT PRODUCTS AND SERVICES(# 23-6692-03) List Price: 27664.99 Discount: 9.633%	5	25,000.00	125,000.00
FLCK-RAVEN-1	RAVEN AUDIO DETECTION DEVICE - 1 MILE 1 SQUARE MILE OF RAVEN INTEGRATED AUDIO DETECTION COVERAGE FOR 12 MONTHS. UNITS DEPLOYED DEPENDS ON GEOGRAPHY DENSITY OF AREA. Coverage Dates: 01-DEC-2024 - 30-NOV-2025 OMNIA PARTNERS (COBB COUNTY) IT PRODUCTS AND SERVICES(# 23-6692-03) List Price: 27664.99 Discount: 9.633%	5	25,000.00	125,000.00
Product Subtotal				250,000.00
TAX				0.00
Total				250,000.00



Thank you for choosing Insight. Please contact us with any questions or for additional information about Insight's complete IT solution offering.

Sincerely,

Ashley McDonald
+18004674448
ASHLEY.MCDONALD@INSIGHT.COM
Fax +14807608991

Branden Maiorano
+17372473702
BRANDEN.MAIORANO@INSIGHT.COM

To purchase under this contract, your agency must be registered with OMNIA Partners Public Sector.

Insight Global Finance has a wide variety of flexible financing options and technology refresh solutions. Contact your Insight representative for an innovative approach to maximizing your technology and developing a strategy to manage your financial options.

This purchase is subject to Insight's online Terms of Sale unless you have a separate purchase agreement signed by you and Insight, in which case, that separate agreement will govern. Insight's online Terms of Sale can be found at the "terms-and-policies" link below.

SOFTWARE AND CLOUD SERVICES PURCHASES: If your purchase contains any software or cloud computing offerings ("Software and Cloud Offerings"), each offering will be subject to the applicable supplier's end user license and use terms ("Supplier Terms") made available by the supplier or which can be found at the "terms-and-policies" link below. By ordering, paying for, receiving or using Software and Cloud Offerings, you agree to be bound by and accept the Supplier Terms unless you and the applicable supplier have a separate agreement which governs.
<https://www.insight.com/terms-and-policies>

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: CentralSquare Solutions and Support Agreement for CAD Software

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

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

Summary

Agreement with CentralSquare for the support and maintenance of CAD software.

Staff Recommendation

Approve the agreement with CentralSquare for the support and maintenance of Computer Aided Dispatch software.

Background Information

MPD has been successfully utilizing the CAD software from CentralSquare (previously TriTech) since 2015. This is the software that runs the dispatch call center and interfaces with all police and fire mobile units. This is a five-year contract with a total cost of \$1,977,487, billed in annual installments.

Council Priorities Served

Maintain public safety

Maintaining public safety IT infrastructure is critical to effective and efficient operations.

Fiscal Impact

The first annual payment of \$357,875 is provided for in the department's FY24 operating budget. Future payments as outlined in the contract will be budgeted for accordingly.

Attachment

CentralSquare Solutions and Support Agreement

CentralSquare Solutions and Support Agreement

This CentralSquare Solutions and Support Agreement (the "Agreement"), effective as of _____ (the "Effective Date"), is entered into between CentralSquare Technologies, LLC, a limited liability company of Delaware with its principal place of business in Lake Mary, FL ("CentralSquare") and the City of Murfreesboro on behalf of the Murfreesboro Police Department, TN, municipal corporation of the State of Tennessee, ("Customer"), together with CentralSquare, the "Parties", and each, a "Party".

WHEREAS, CentralSquare licenses and gives access to certain software applications ("Solutions") to its customers and also provides maintenance, support, migration, installation and other professional services; and

WHEREAS, This Agreement and its Addenda or Amendment(s) represent the entire agreement between the Parties hereto and a final expression of their agreements with respect to the subject matter of this Agreement and supersedes all prior written agreements, oral agreements, representations, understandings or negotiations with respect to the matters covered by this Agreement; and

WHEREAS, Customer desires to license and/or gain access to certain Solutions and receive professional services described herein, and CentralSquare desires to grant and provide Customer license and access to such offerings as well as to provide support and maintenance, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by the signatures of their duly authorized representative below, the Parties intending to be legally bound, agree to all of the following provisions and exhibits of this Agreement:

CentralSquare Technologies, LLC	City of Murfreesboro on behalf of the Murfreesboro Police Department
1000 Business Center Drive Lake Mary, FL 32746	1004 N Highland Ave, Murfreesboro, TN , 37130
DocuSigned by: By: Ron Anderson	By:
Print Name: Ron Anderson	Print Name:
Print Title: Chief Sales Officer	Print Title: Mayor
Date Signed: 1/3/2024	Date Signed:
	APPROVED AS TO FORM: Adam Tucker Adam F. Tucker, City Attorney

Solution: PSJ Enterprise

Term.

Initial Term. The Initial Term of this Agreement commences as of the Effective Date and will continue in effect for five (5) year(s) from such date unless terminated earlier pursuant to any of the Agreement's express provisions (the "Initial Term").

Renewal Term. This Agreement will automatically renew for additional successive one (1) year terms unless earlier terminated pursuant to any of the Agreement's provisions (a "Renewal Term" and, collectively, with the Initial Term, the "Term").

Non-Renewal. Either Party may elect to end renewal of the Agreement by issuing a notice of non-renewal, in writing, to the other Party six (6) months prior to the expiration of the Agreement term.

Fees.

In consideration of the rights and services granted by CentralSquare to Customer under this Agreement, Customer shall make payments to CentralSquare pursuant to the amounts and payment terms outlined in Exhibit 1 (the Solution(s) Support and Maintenance Fees).

All invoices shall be billed and paid in U.S. dollars (USD) and in accordance with the terms set forth in Exhibit 1. If Customer delays an invoice payment for any reason, Customer shall promptly notify CentralSquare in writing the reasons for such delay. Unless otherwise agreed by both Parties, CentralSquare may apply any payment received to any delinquent amount outstanding.

Standard Terms and Conditions

1. **Definitions.** Capitalized terms not otherwise defined in this Agreement have the meanings set forth below:

- 1.1. **"Affiliate"** means any other Entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Entity.
- 1.2. **"Authorized User"** means Customer's employees, consultants, contractors, and agents who are authorized by Customer to access and use the Solutions pursuant to this Agreement, and for whom access to the Solutions has been purchased.
- 1.3. **"Baseline Solution"** means the version of a Solution updated from time to time pursuant to CentralSquare's warranty services and maintenance, but without any other modification.
- 1.4. **"CentralSquare Systems"** means the information technology infrastructure used by or on behalf of CentralSquare to deliver the Solutions, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by CentralSquare or through the use of third-party services.
- 1.5. **"Customer Data"** means information, data, and content, in any form or medium, collected, downloaded, or otherwise received, directly or indirectly from Customer, an Authorized User or end-users by or through the Solutions, provided the data is not personally identifiable and not identifiable to Customer.
- 1.6. **"Customer Systems"** means the Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated by Customer or through the third-party services.
- 1.7. **"Defect"** means a material deviation between the Baseline Solution and its Documentation, for which Customer has given CentralSquare sufficient information to enable CentralSquare to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under CentralSquare's control. Further, with regard to any custom modification, Defect means a material deviation between the custom modification and the CentralSquare generated specification and Documentation for such custom modification, and for which Defect Customer has given CentralSquare sufficient information to enable CentralSquare to replicate the deviation on a computer configuration that is both comparable to the Customer Systems and that is under CentralSquare's control.
- 1.8. **"Delivery"** means:
 - 1.8.1. For on-premise Solutions, Delivery shall be when CentralSquare delivers to Customer the initial copies of the Solutions outlined in Exhibit 1 by whichever the following applies and occurs first (a) electronic delivery, by posting it on CentralSquare's network for downloading, or similar suitable electronic file transfer method, or (b) physical shipment, such as on a disc or other suitable media transfer method, or (c) installation, or (d) delivery of managed services server. Physical shipment is on FOB - CentralSquare's shipping point, and electronic delivery is at the time CentralSquare provides Customer with access to download the Solutions.
 - 1.8.2. For cloud-based Solutions Delivery shall be whichever the following applies and occurs first when Authorized Users have (a) received log-in access to the Solution or any module of the Solution or (b) received access to the Solution via a URL.
- 1.9. **"Documentation"** means any manuals, instructions, or other documents or materials that CentralSquare provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Solution(s), including any aspect of its installation, configuration, integration, operation, use, support, or maintenance.
- 1.10. **"End User Training"** means the process of educating general users of the Software on the operation of the Software.
- 1.11. **"Entity"** means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other organization.
- 1.12. **"Hardware"** means any equipment, computer systems, servers, storage devices, peripherals, and any other tangible assets purchased under this Agreement.
- 1.13. **"Intellectual Property Rights"** means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- 1.14. **"Managed Services Hardware"** means any equipment, computer systems, servers, peripherals, and any other tangible asset purchased as a subscription under this Agreement.
- 1.15. **"Maintenance"** means optimization, error correction, modifications, and Updates (defined herein) to CentralSquare Solutions to correct any known Defects and improve performance. Maintenance will be provided for each Solution, the hours and details of which are described in Exhibit 2 (Maintenance and Support)

- 1.16. **"New or Major Releases"** means new versions of a Baseline Solution (e.g., version 4.0, 5.0 etc.) not provided as part of Maintenance.
- 1.17. **"Personal Information"** means any information that does or can identify a specific individual or by or from which a specific individual may be identified, contacted, or located. Personal Information includes all "nonpublic personal information" as defined under the Gramm-Leach-Bliley Act, "protected health information" as defined under the Health and Insurance Portability and Accountability Act of 1996, "Personal Data" as defined in the EU General Data Protection Regulation (GDPR 2018), "Personal Information" as defined under the Children's Online Privacy Protection Act of 1998, and all rules and regulations issued under any of the foregoing.
- 1.18. **"Professional Services"** means configuration, installation, implementation, development work, training or consulting services including custom modification programming, support relating to custom modifications, on-site support services, assistance with data transfers, system restarts and reinstallations provided by CentralSquare.
- 1.19. **"Project Kickoff"** is a meeting to occur shortly after contract execution between CentralSquare and Customer in which goals and objectives are set forth, all parties relevant team members are identified, and scope, timelines, and milestones are reviewed.
- 1.20. **"Reliability Period"** is the time period in which the Software is tested and confirmed reliable by successfully completed fifteen (15) continuous days in a live environment with no repeatable Priority 1 or Priority 2 issues as defined in Exhibit 2, unless otherwise agreed in a statement of work.
- 1.21. **"Software"** means the software program(s) (in object code format only) identified on Exhibit 1 (Solution(s) Support and Maintenance Fees). The term "Software" excludes any Third-Party Software.
- 1.22. **"Software Version"** means the base or core version of the Solution Software that contains significant new features and significant fixes and is available to the Customer. The nomenclature used for updates and upgrades consists of major, minor, build, and fix and these correspond to the following digit locations of a release, a,b,c,d. An example of which would be 7.4.1.3, where the 7 refers to the major release, the 4 refers to the minor release, the 1 refers to the build, and the 3 refers to a fix.
- 1.23. **"Solutions"** means the software, Documentation, development work, CentralSquare Systems and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, provided or used by CentralSquare or any Subcontractor in connection with Professional Services or Support Services rendered under this Agreement.
- 1.24. **"Support Services"** means Maintenance, Enhancements, implementation of New Releases, and general support efforts to respond to incidents reported by Customer in accordance with Exhibit 2 (Maintenance & Support) and Exhibit 7 (Managed Services Provisions), if applicable.
- 1.25. **"Third-Party Materials"** means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, related services, equipment, or components of or relating to the Solutions that are not proprietary to CentralSquare.

2. **License, Access, and Title.**

- 2.1. **License Grant.** For any Solution designated as a "license" on Exhibit 1, Customer is granted a perpetual (unless terminated as provided herein), nontransferable, nonexclusive right and license to use the Software for Customer's own internal use for the applications described in the Statement of Work, in the applicable environment (e.g., production, test, training, or disaster recovery system) and in the quantity set forth in Exhibit 1. Additional software licenses purchased after the execution of this Agreement shall also be licensed in accordance with the provisions of this section. Customer shall not use, copy, rent, lease, sell, sublicense, modify, create derivative works from/of, or transfer any software, or permit others to do said acts, except as provided in this Agreement. Any such unauthorized use shall be void and may result in immediate and automatic termination of the applicable license. In such event, Customer shall not be entitled to a refund of any license fees paid. Notwithstanding, Customer shall be entitled to use software at the applicable designated location for the purpose of the application(s) described in the Statement of Work to provide services for itself and other Affiliate governmental agencies/entities, provided that the Software is installed and operated at only one physical location. The Software license granted in this Agreement or in connection with it are for object code only and do not include a license or any rights to source code whatsoever.
- 2.2. **Access Grant.** For any Solution designated as a "subscription" on Exhibit 1, so long as subscription fees are paid and current, (unless terminated as provided herein), Customer is granted a nontransferable, nonexclusive right to use the software for the Customer's own internal use for the applications described in the Statement of Work, in the applicable environment (e.g., production, test, training, or disaster recovery system) and in the quantity set forth in Exhibit 1. Additional CentralSquare software subscriptions purchased after the execution of this Agreement shall also be accessed in accordance with the provisions of this section. Customer shall not use, copy, rent, lease, sell, sublicense, modify, create derivative works from/of, or transfer any software, or permit others to do said acts, except as provided in this Agreement. Any such unauthorized use shall be void and may result in immediate and automatic termination of the applicable access. In such event, Customer shall not be entitled to a refund of any subscription fees paid. Notwithstanding, Customer shall be entitled to use software at

the applicable designated location for the purpose of the application(s) described in the Statement of Work to provide services for itself and other Affiliate governmental agencies/entities. The subscription access granted in this Agreement or in connection with it are for object code only and do not include a license or any rights to source code whatsoever.

- 2.3. **Documentation License.** CentralSquare hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use the Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Solutions.
- 2.4. **Hardware.** Subject to the terms and conditions of this Agreement, CentralSquare agrees to deliver, through hardware vendors, the Hardware itemized on Exhibit 1. The risk of loss or damage will pass to Customer upon the date of delivery to the Customer specified facility. Upon delivery and full satisfaction of the Hardware payment obligations, Hardware shall be deemed accepted and Customer will acquire good and clear title to Hardware. All Hardware manufacturer warranties will be passed through to Customer. CentralSquare expressly disclaims, and Customer hereby expressly waives all other Hardware warranties, express or implied, without limitation, warranties of merchantability and fitness for a particular purpose.
- 2.5. **Managed Services Hardware.** Subject to the terms and conditions of this Agreement, CentralSquare agrees to deliver the Managed Services Hardware itemized on Exhibit 1. So long as the applicable subscription fees are paid and current, Customer shall maintain a limited right in possessory interest in the Managed Services Hardware. No title in the Managed Services Hardware will pass to Customer at any time or for any reason. Customer agrees to maintain adequate insurance against fire, theft, or other loss for the Managed Services Hardware full insurable value. CentralSquare shall coordinate any defect or warranty claims in accordance with Exhibit 7, if applicable.
- 2.6. **Reservation of Rights.** Nothing in this Agreement grants any right, title, or interest in or to any Intellectual Property Rights in or relating to the Solutions, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in the Solutions, and the Third-Party Materials are and will remain with CentralSquare and the respective rights holders.

3. Use Restrictions. Authorized Users shall not:

- 3.1. copy, modify, or create derivative works or improvements of the Solutions, or rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Solutions to any Entity, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service;
- 3.2. reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Solutions, in whole or in part;
- 3.3. bypass or breach any security device or protection used by Solutions or access or use the Solutions other than by an Authorized User through the use of his or her own then valid access;
- 3.4. input, upload, transmit, or otherwise provide to or through the CentralSquare Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any harmful code (any software, hardware, device, or other technology, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede any (i) computer, software firmware, hardware, system or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data processed thereby; or (b) prevent Customer or any Authorized User from accessing or using the Solutions as intended by this Agreement;
- 3.5. damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the CentralSquare Systems, or CentralSquare's provision of services to any third-party, in whole or in part;
- 3.6. remove, delete, alter, or obscure any trademarks, specifications, Documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Documentation or Solutions, including any copy thereof;
- 3.7. access or use the Solutions in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third-party, or that violates any applicable law;
- 3.8. access or use the Solutions for purposes of competitive analysis of the Solutions, the development, provision, or use of a competing software service or product or any other purpose that is to CentralSquare's detriment or commercial disadvantage or otherwise access or use the Solutions beyond the scope of the authorization granted in Section 2.

4. Audit.

- 4.1. CentralSquare shall have the right to audit Customer's use of the Software to monitor compliance with this Agreement. Customer shall permit CentralSquare and its directors, officers, employees, and agents to have on-site access at Customer's premises (or remote access as the case may be) during normal business hours to such systems, books, and records for the purpose of verifying license counts, access counts, and overall compliance with this Agreement. Customer shall render reasonable cooperation to CentralSquare as requested. If as a result of any audit or inspection CentralSquare substantiates a deficiency or non-compliance, or if an audit reveals that

Customer has exceeded the restrictions on use, Customer shall promptly reimburse CentralSquare for all its costs and expenses incurred to conduct such audit or inspection and be required to pay for any delinquencies in compliance and prompt payment of any underpayment of Fees.

5. Customer Obligations.

- 5.1. Customer Systems and Cooperation. Customer shall at all times during the Term: (a) set up, maintain, and operate in good repair all Customer Systems on or through which the Solutions are accessed or used; (b) provide CentralSquare Personnel with such access to Customer's premises and Customer Systems as is necessary for CentralSquare to perform the Support Services in accordance with the Support Standards and specifications and if required by CentralSquare, remote access in accordance with Exhibit 3 (CentralSquare Access Management Policy); and (c) provide all cooperation as CentralSquare may reasonably request to enable CentralSquare to exercise its rights and perform its obligations under this Agreement.
- 5.2. Effect of Customer Failure or Delay. CentralSquare is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement.
- 5.3. Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by Section **Error! Reference source not found.**, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Solutions and permanently erasing from their systems and destroying any data to which any of them gained unauthorized access); and (b) notify CentralSquare of any such actual or threatened activity.
- 5.4. Maintaining Current Versions of CentralSquare Solutions. In accordance with Exhibit 2 (Maintenance & Support) and Exhibit 7 (Managed Services Provisions), if applicable. Customer shall install and/or use any New or Major Release within one year of being made available by CentralSquare to mitigate a performance problem, ineligibility for Support Services, or an infringement claim.

6. Professional Services.

- 6.1. Compliance with Customer Policies. While CentralSquare personnel are performing services at Customer's site, CentralSquare personnel will comply with Customer's reasonable procedures and site policies that are generally applicable to Customer's other suppliers providing similar services and that have been provided to CentralSquare in writing or in advance.
- 6.2. Contributed Material. In the process of CentralSquare's performing Professional Services, Customer may, from time to time, provide CentralSquare with designs, plans, or specifications, improvements, works or other material for inclusion in, or making modifications to, the Solutions, the Documentation or any other deliverables ("**Contributed Material**"). Customer grants to CentralSquare a nonexclusive, irrevocable, perpetual, transferable right, without the payment of any royalties or other compensation of any kind and without the right of attribution, for CentralSquare, CentralSquare's Affiliates and CentralSquare's licensees to make, use, sell and create derivative works of the Contributed Material.

7. Confidentiality.

- 7.1. Nondisclosure. The Parties agree, unless otherwise provided in this Agreement or required by law, not to use or make each other's Confidential Information available to any third party for any purpose other than as necessary to perform under this Agreement. "**Confidential Information**" means the Solution(s), Software, and customizations in any embodiment, and either Party's technical and business information relating to inventions or software, research and development, future product specifications, engineering processes, costs, profit or margin information, marketing and future business plans as well as any and all internal Customer and employee information, and any information exchanged by the Parties that is clearly marked with a confidential, private or proprietary legend or which, by its nature, is commonly understood to be confidential.
- 7.2. Exceptions. A Party's Confidential Information shall not include information that: (a) is or becomes publicly available through no act or omission of the recipient; (b) was in the recipient's lawful possession prior to the disclosure and was not obtained by the recipient either directly or indirectly from the disclosing Party; (c) is lawfully disclosed to the recipient by a third party without restriction on recipient's disclosure, and where recipient was not aware that the information was the confidential information of discloser; (d) is independently developed by the recipient without violation of this Agreement; or (e) is required to be disclosed by law.

8. Security.

- 8.1. CentralSquare will implement commercially reasonable administrative, technical and physical safeguards designed to ensure the security and confidentiality of Customer Data, protect against any anticipated threats or hazards to the security or integrity of Customer Data, and protect against unauthorized access or use of Customer Data. CentralSquare will review and test such safeguards on no less than an annual basis.

- 8.2. Customer shall maintain, in connection with the operation or use of the Solutions, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, authentication, non-repudiation, virus detection and eradication.
- 8.3. To the extent that Authorized Users are permitted to have access to the Solutions, Customer shall maintain agreements with such Authorized Users that adequately protect the confidentiality and Intellectual Property Rights of CentralSquare in the Solutions and Documentation and disclaim any liability or responsibility of CentralSquare with respect to such Authorized Users.

9. Personal Data. If CentralSquare processes or otherwise has access to any personal data or Personal Information on Customer's behalf when performing CentralSquare's obligations under this Agreement, then:

- 9.1. Customer shall be the data controller (where "**data controller**" means an entity which alone or jointly with others determines purposes for which and the manner in which any personal data are, or are to be, processed) and CentralSquare shall be a data processor (where "**data processor**" means an entity which processes the data only on behalf of the data controller and not for any purposes of its own);
- 9.2. Customer shall ensure that it has obtained all necessary consents and it is entitled to transfer the relevant personal data or Personal Information to CentralSquare so that CentralSquare may lawfully use, process and transfer the personal data and Personal Information in accordance with this Agreement on Customer's behalf, which may include CentralSquare processing and transferring the relevant personal data or Personal Information outside the country where Customer and the Authorized Users are located in order for CentralSquare to provide the Solutions and perform its other obligations under this Agreement; and
- 9.3. CentralSquare shall process personal data and information only in accordance with lawful and reasonable written instructions given by Customer and as set out in and in accordance with the terms of this Agreement; and
- 9.4. CentralSquare shall take reasonable steps to ensure that its employees, agents and contractors who may have access to Personal Information are persons who need to know / access the relevant Personal Information for valid business reasons; and
- 9.5. each Party shall take appropriate technical and organizational measures against unauthorized or unlawful processing of the personal data and Personal Information or its accidental loss, destruction or damage so that, having regard to the state of technological development and the cost of implementing any measures, the measures taken ensure a level of security appropriate to the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction or damage in relation to the personal data and Personal Information and the nature of the personal data and Personal Information being protected. If necessary, the Parties will cooperate to document these measures taken.

10. Representations and Warranties.

- 10.1. Intellectual Property Warranty. CentralSquare represents and warrants that (a) it is the sole and exclusive owner of (or has the right to license) the software; (b) it has full and sufficient right, title and authority to grant the rights and/or licenses granted under this Agreement; (c) the software does not contain any materials developed by a third party used by CentralSquare except pursuant to a license agreement; and (d) the software does not infringe any patent, or copyright.
- 10.2. Intellectual Property Remedy. In the event that any third party asserts a claim of infringement against the Customer relating to the software contained in this Agreement, CentralSquare shall indemnify and defend the Customer pursuant to section 13.1 of this Agreement. In the case of any such claim of infringement, CentralSquare shall either, at its option, (1) procure for Customer the right to continue using the software; or (2) replace or modify the software so that that it becomes non-infringing, but equivalent in functionality and performance.
- 10.3. Software Warranty. CentralSquare warrants to Customer that: (i) for a period of one year from the Effective Date (the "Warranty Period") the Software will substantially conform in all material respects to the specifications set forth in the Documentation, when installed, operated and used as recommended in the Documentation and in accordance with this Agreement; and (ii) at the time of delivery the Software does not contain any virus or other malicious code.
- 10.4. Software Remedy. If, during the Warranty Period a warranty defect is confirmed in the CentralSquare Software, CentralSquare shall, at its option, reinstall the Software or correct the Defects. Defects that occur in the Software after the Warranty Period will be corrected pursuant to Exhibit 2 (Maintenance & Support) and Exhibit 7 (Managed Services Provisions), if applicable.
- 10.5. Services Warranty. CentralSquare warrants that the Professional Services delivered will substantially conform to the deliverables specified in the applicable statement of work and that all Professional Services will be performed in a professional and workmanlike manner consistent with industry standards for similar work. If Professional Services do not substantially conform to the deliverables, Customer shall notify CentralSquare of such non-conformance in writing, within 10 days from completion of Professional Service, and CentralSquare shall promptly repair the non-conforming deliverables.
- 10.6. Disclaimer of Warranty. **EXCEPT FOR THE EXPRESS LIMITED WARRANTIES SET FORTH ABOVE, CENTRALSQUARE MAKES NO WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, WITH**

REGARD TO THE INTELLECTUAL PROPERTY, SOFTWARE, PROFESSIONAL SERVICES, AND/OR ANY OTHER MATTER RELATING TO THIS AGREEMENT, AND THAT CENTRALSQUARE DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND SPECIFICALLY DISCLAIMS IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR TITLE. FURTHER, CENTRALSQUARE EXPRESSLY DOES NOT WARRANT THAT A SOLUTION, ANY CUSTOM MODIFICATION OR ANY IMPROVEMENTS WILL BE USABLE BY CUSTOMER IF THE SOLUTION OR CUSTOM MODIFICATION HAS BEEN MODIFIED BY ANYONE OTHER THAN CENTRALSQUARE PERSONNEL, OR WILL BE ERROR FREE, WILL OPERATE WITHOUT INTERRUPTION OR WILL BE COMPATIBLE WITH ANY HARDWARE OR SOFTWARE EXCEPT TO THE EXTENT EXPRESSLY SET FORTH IN THE DOCUMENTATION. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS-IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY. THIS AGREEMENT DOES NOT AMEND, OR MODIFY CENTRALSQUARE'S WARRANTY UNDER ANY AGREEMENT OR ANY CONDITIONS, LIMITATIONS, OR RESTRICTIONS THEREOF.

11. **Notices.** All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given when delivered personally, sent by United States registered or certified mail, return receipt requested; transmitted by facsimile or email confirmed by first class mail, or sent by overnight courier. Notices must be sent to a Party at its address shown below, or to such other place as the Party may subsequently designate for its receipt of notices in writing by the other Party.

If to CentralSquar **CentralSquare Technologies, LLC**
1000 Business Center Dr.
Lake Mary, FL 32746
Phone: 407-304-3235
Attention: Legal/Contracts

If to Customer: **Murfreesboro Police Department**
1004 N Highland Ave
Murfreesboro, TN 37130
Phone: 629-201-5599
Email: 0093@murfreesborotn.gov
Attention: Seth W. Russell, Director-Murfreesboro Emergency Communications

12. **Force Majeure.**

Neither Party shall be responsible for failure to fulfill its obligations hereunder, or be liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, pandemic or epidemic, delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unavailability of equipment, software, or services from suppliers, default of a subcontractor or vendor to the Party if such default arises out of causes beyond the reasonable control of such subcontractor or vendor, the acts or omissions of the other Party, or its officers, directors, employees, agents, contractors, or elected officials, and/or other occurrences beyond the Party's reasonable control ("Excusable Delay" hereunder). In the event of such Excusable Delay, performance shall be extended on a day for day basis or as otherwise reasonably necessary to compensate for such delay.

13. **Indemnification.**

- 13.1. **CentralSquare Indemnification.** CentralSquare shall indemnify, defend, and hold harmless Customer from any and all Claims or liability, including attorneys' fees and costs, brought by a third party, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising solely from a wrongful or negligent act, error or omission of CentralSquare, its employees, agents, contractors, or any subcontractor as a result of CentralSquare's or any subcontractor's performance pursuant to this Agreement; however, CentralSquare shall not be required to indemnify Customer for any claims caused to the extent of the negligence or wrongful act of Customer, its employees, agents, or contractors. Notwithstanding anything to the contrary in the foregoing, if a Claim or liability results from or is contributed to by the actions or omissions of Customer, or its employees, agents or contractors, CentralSquare's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault.
- 13.2. **Customer Indemnification.** To the extent allowable by law, Customer shall indemnify, defend, and hold harmless CentralSquare from any and all Claims or liability, including attorneys' fees and costs, allegedly arising out of, in connection with, or incident to any loss, damage or injury to persons or property or arising solely from a wrongful or negligent act, error or omission of Customer, its employees, agents, contractors, or any subcontractor as a result of Customer's or any subcontractor's performance pursuant to this Agreement; however, Customer shall not be required to indemnify CentralSquare for any Claims or actions caused to the extent of the negligence or wrongful act of CentralSquare, its employees, agents, or contractors. Notwithstanding anything to the contrary

in the foregoing, if a Claim or liability results from or is contributed to by the actions or omissions of CentralSquare, or its employees, agents or contractors, Customer's obligations under this provision shall be reduced to the extent of such actions or omissions based upon the principle of comparative fault.

- 13.3. "**Claim**" in this Section 13 means any claim, cause of action, demand, lawsuit, dispute, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or other, whether at law, in equity, or otherwise.

14. Termination.

- 14.1. Either Party may terminate this Agreement for a material breach in accordance with this subsection. In such event, the disputing Party shall deliver written notice of its intent to terminate along with a description in reasonable detail of the problems for which the disputing Party is invoking its right to terminate and the specific requirement within this Agreement or any exhibit or schedule hereto that the disputing Party is relying upon. Following such notice, the Parties shall commence dispute resolution procedures in accordance with the dispute resolution procedure pursuant to Section 17.
- 14.2. CentralSquare shall have the right to terminate this Agreement based on Customer's failure to pay undisputed amounts due under this Agreement more than ninety (90) days after delivery of written notice of non-payment.
- 14.3. Customer shall have the right to terminate if the proper appropriation of funds for the continuation of this Agreement is not available for any fiscal year after the first fiscal year during the Term, then this Agreement may be terminated. To effect the termination of this Agreement, Customer shall, within forty-five (45) days following the beginning of the fiscal year for which the proper appropriation is not available, provide CentralSquare with written notice of the failure to obtain the proper appropriation of funds. Such notice shall be accompanied by the payment of all sums then owed CentralSquare under this Agreement, if any.

15. Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement:

- 15.1. All rights, licenses, and authorizations granted to Customer hereunder will immediately terminate and Customer shall immediately cease all use of CentralSquare's Confidential Information and the Solutions, and within thirty (30) days deliver to CentralSquare, or at CentralSquare's request destroy and erase CentralSquare's Confidential Information from all systems Customer directly or indirectly controls; and
- 15.2. All licenses, access or subscription fees, services rendered but unpaid, and any amounts due by Customer to CentralSquare of any kind shall become immediately payable and due no later than thirty (30) days after the effective date of the termination or expiration, including anything that accrues within those thirty (30) days.
- 15.3. The provisions set forth in the following sections, and any other right or obligation of the Parties in this Agreement that, by its nature (including but not limited to: Use Restrictions, Confidential Information, Warranty Disclaimers, Indemnifications, & Limitations of Liability), will survive any expiration or termination of this Agreement.
- 15.4. In the event that Customer terminates this Agreement or cancels any portions of a project (as may be set forth in a Statement of Work) prior to Go Live (which shall be defined as "first use of a Solution or module of a Solution in a production environment, unless otherwise agreed by the Parties in a statement of work"), Customer shall pay for all Professional Services actually performed by CentralSquare on a time and materials basis, regardless of the payment terms in Exhibit 1.
- 15.5. Return of Customer Data. If Customer requests in writing at least ten (10) days prior to the effective date of expiration or earlier termination of this Agreement, CentralSquare shall within sixty (60) days following such expiration or termination, deliver to Customer in CentralSquare's standard format the then most recent version of Customer Data maintained by CentralSquare, provided that Customer has at that time paid all Fees then outstanding and any amounts payable after or as a result of such expiration or termination.
- 15.6. Deconversion. In the event of (i) expiration or earlier termination of this Agreement, or (ii) Customer no longer purchasing certain Solutions (including those indicated to be Third-Party Materials), if Customer requests assistance in the transfer of Customer Data to a different vendor's applications ("Deconversion"), CentralSquare will provide reasonable assistance. CentralSquare and Customer will negotiate in good faith to establish the relative roles and responsibilities of CentralSquare and Customer in effecting Deconversion, as well as the appropriate date for completion. CentralSquare shall be entitled to receive compensation for any additional consultation, services, software, and documentation required for Deconversion on a time and materials basis at CentralSquare's then standard rates.
- 15.7. Termination of this Agreement shall not relieve either Party of any other obligation incurred one to the other prior to termination.

16. Assignment. Neither this Agreement nor any rights or obligations hereunder shall be assigned or otherwise transferred by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld; provided however, that in the event of a merger or acquisition of all or substantially all of CentralSquare's assets, CentralSquare may assign this Agreement to an entity ready, willing and able to perform CentralSquare's executory obligations hereunder.

17. Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this Agreement (each, a "Dispute"), including the breach, termination, or validity thereof, shall be resolved as follows:

- 17.1. Good Faith Negotiations. The Parties agree to send written notice to the other Party of any Dispute ("Dispute

Notice"). After the other Party receives the Dispute Notice, the Parties agree to undertake good faith negotiations to resolve the Dispute. Each Party shall be responsible for its associated travel and other related costs.

- 17.2. **Escalation to Mediation.** If the Parties cannot resolve any Dispute through good faith negotiations, the dispute will be escalated to non-binding mediation, with the Parties acting in good faith to select a mediator and establishing the mediation process. The Parties agree the mediator's fees and expenses, and the mediator's costs incidental to the mediation, will be shared equally between the Parties. The Parties shall bear their own fees, expenses, and costs.
- 17.3. **Confidential Mediation.** The Parties further agree all written or oral offers, promises, conduct, and statements made in the course of the mediation are confidential, privileged, and inadmissible for any purpose in any litigation, arbitration or other proceeding involving the Parties. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.
- 17.4. **Litigation.** If the Parties cannot resolve a Dispute through mediation, then once an impasse is declared by the mediator either Party may pursue litigation in a court of competent jurisdiction.
18. **Waiver/Severability.** The failure of any Party to enforce any of the provisions hereof will not be construed to be a waiver of the right of such Party thereafter to enforce such provisions. If any provision of this Agreement is found to be unenforceable, that provision will be enforced to the maximum extent possible, and the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.
19. **LIABILITY. NOTWITHSTANDING ANY PROVISION WITHIN THIS AGREEMENT TO THE CONTRARY, AND REGARDLESS OF THE NUMBER OF LOSSES, WHETHER IN CONTRACT, EQUITY, STATUTE, TORT, NEGLIGENCE, OR OTHERWISE:**
 - 19.1. **NEITHER PARTY SHALL HAVE LIABILITY TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, LIQUIDATED, OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO, REPLACEMENT COSTS, AND NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR LOSSES OF PROFIT, REVENUE, INCOME, BUSINESS, ANTICIPATED SAVINGS, DATA, AND REPUTATION, AND MORE GENERALLY, ANY LOSSES OF AN ECONOMIC OR FINANCIAL NATURE, REGARDLESS OF WHETHER SUCH LOSSES MAY BE DEEMED AS CONSEQUENTIAL OR ARISING DIRECTLY AND NATURALLY FROM THE INCIDENT GIVING RISE TO THE CLAIM, AND REGARDLESS OF WHETHER SUCH LOSSES ARE FORESEEABLE OR WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES; AND**
 - 19.2. **CENTRALSQUARE'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT(S) ACTUALLY PAID BY CUSTOMER TO CENTRALSQUARE HEREUNDER FOR THE LAST TWELVE (12) MONTHS PRIOR TO THE DATE THE CLAIM AROSE.**
20. **Insurance.** During the term of this Agreement, CentralSquare shall maintain insurance coverage covering its operations in accordance with Exhibit 4 (Certificate of Insurance (Evidence of Coverage)). Upon request by Customer, CentralSquare shall include Customer as an additional insured on applicable insurance policies provided under this Agreement. CentralSquare shall provide proof of current coverage during the term of this Agreement.
21. **Third-Party Materials.** CentralSquare may, from time to time, include third parties to perform services, provide software, or provide equipment. Customer acknowledges and agrees CentralSquare provides front-line support services for these Third-Party Materials, but these third parties assume all responsibility and liability in connection with the Third-Party Materials. CentralSquare is not authorized to make any representations or warranties that are binding upon the third-party or to engage in any other acts that are binding upon the third-party, except specifically that CentralSquare is authorized to represent third-party fees and to accept payment of such amounts from Customer on behalf of the third-party for as long as such third-party authorizes CentralSquare to do so. As a condition precedent to installing or accessing certain Third-Party Materials, Customer may be required to execute a click-through, shrink-wrap End User License Agreement ("EULA") or similar agreement provided by the Third-Party Materials provider. If mapping information is supplied with the CentralSquare Software, CentralSquare makes no representation or warranty as to the completeness or accuracy of the mapping data provided with the CentralSquare Software. The completeness or accuracy of such data is solely dependent on the information supplied by the Customer or the mapping database vendor to CentralSquare. All third-party materials are provided "as-is" and any representation or warranty concerning them is strictly between Customer and the third-party.
22. **Subcontractors.** CentralSquare may from time to time, in its discretion, engage third parties to perform services on its behalf including but not limited to Professional Services, Support Services, and/or provide software (each, a "Subcontractor"). CentralSquare shall be fully responsible for the acts of all subcontractors to the same extent it is responsible for the acts of its own employees.
23. **Entire Agreement.** This Agreement, and any Exhibits specifically incorporated therein by reference, constitute the entire agreement between the Parties with respect to the subject matter. These documents supersede and merge all previous and contemporaneous proposals of sale, communications, representations, understandings and agreements, whether oral or written, between the Parties with respect to the subject hereof.
24. **Amendment.** Either Party may, at any time during the term, request in writing changes to this agreement. The Parties shall evaluate and, if agreed, implement all such requested changes. No requested changes will be effective unless and until memorialized in either a CentralSquare issued add-on quote signed by Customer, or a written change order

or amendment to this Agreement signed by both Parties.

25. **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other person any legal or equitable right, benefit, or remedy of any nature under or by reason of this Agreement.
26. **Counterparts.** This Agreement, and any amendments hereto, may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. The Agreement (and any amendments) shall be considered properly executed by a Party if executed by that Party and transmitted by facsimile or other electronic means, such as DocuSign, Tagged Image Format Files (TIFF), or Portable Document Format (PDF).
27. **Material Adverse Change.** If any law, regulation, applicable standard, process, OEM requirement is changed or comes into force after the Effective Date, including but not limited to PCI standards or Americans with Disabilities Act compliance (collectively, a "Material Adverse Change"), which is not explicitly addressed within this Agreement and results in *significant extra* costs for either Party in relation to the performance of this Agreement, both Parties shall promptly meet, discuss in good faith, and agree upon reducing the technical, operational, and/or commercial impact of such Material Adverse Change.
28. **Cooperative Purchases.** This Agreement may be used by Customer Affiliates. CentralSquare agrees to offer similar services to other Affiliates under the same terms and conditions as stated herein except that the Fees may be negotiated between CentralSquare and other Affiliates based on the specific revenue expectations, agency reimbursed costs, and other Affiliate requirements. The Customer will in no way whatsoever incur any liability in relation to specifications, delivery, payment, or any other aspect of purchases by such Affiliates. CentralSquare and the Affiliate will enter into any such arrangement with an amendment to this Agreement.
29. **Order of Precedence.**
 - 29.1. In the event of any conflict or inconsistency between this Agreement, the Exhibits, or any purchase order, then the following priority shall prevail:
 - 29.1.1. The main body of this Agreement and any associated amendments, statements of work, or change orders and then the attached Exhibits to this Agreement in the order in which they appear.
 - 29.2. Customer's purchase terms and conditions or CentralSquare's sales terms and conditions are not applicable and shall have no force or effect, whether referenced in any document in relation to this Agreement.
 - 29.3. Incorporated Exhibits to this Agreement:
 - Exhibit 1:** Solution(s) Support and Maintenance Fees
 - Exhibit 2:** Maintenance & Support
 - Exhibit 3:** CentralSquare Access Management Policy
 - Exhibit 4:** Certificate of Insurance (Evidence of Coverage)
 - Exhibit 5:** Service Level Commitments

EXHIBIT 1
Solutions(s) Support and Maintenance Fees

Murfreesboro Police, TN		Renewal Period(s)				
Custom Name	Qty	1/17/2024- 1/16/2025	1/17/2024- 1/16/2025	1/17/2024- 1/16/2025	1/17/2024- 1/16/2025	1/17/2024- 1/16/2025
CrimeMapping Hosted	1	\$1,688.53	\$1,772.95	\$1,861.60	\$1,954.68	\$2,052.41
Field Ops (C - 101-250 Devices)	1	\$29,482.11	\$30,956.22	\$32,504.03	\$34,129.23	\$35,835.69
IQ CrimeView Advance Reports	1	\$3,116.73	\$3,272.56	\$3,436.19	\$3,608.00	\$3,788.40
Additional Server Backup Agents Annual Subscription	1	\$1,108.09	\$1,163.49	\$1,221.66	\$1,282.75	\$1,346.89
Vision CAD to Inform CAD Position (Murfreesboro PD)	1	\$34,051.84	\$35,754.43	\$37,542.15	\$39,419.26	\$41,390.22
Connectivity (Formerly Go to Assist)	1	\$510.51	\$536.04	\$562.84	\$590.98	\$620.53
CrimeView Dashboard Hosting	1	\$9,708.99	\$10,194.44	\$10,704.16	\$11,239.37	\$11,801.34
Disaster Recovery Option 20GB Annual Subscription	1	\$2,881.04	\$3,025.09	\$3,176.35	\$3,335.17	\$3,501.93
FBR Server, 135 WS	1	\$21,017.43	\$22,068.30	\$23,171.72	\$24,330.30	\$25,546.82
Inform CAD Administration License (CAD Monitor)	1	\$1,857.39	\$1,950.26	\$2,047.77	\$2,150.16	\$2,257.67
Inform CAD Browser (A - 1-40 Concurrent Users)	1	\$2,786.06	\$2,925.36	\$3,071.63	\$3,225.21	\$3,386.47
Inform CAD Disaster Recovery System	1	\$2,653.39	\$2,786.06	\$2,925.36	\$3,071.63	\$3,225.21
Inform CAD Disaster Recovery System (6 21-40 Users)	1	\$2,925.37	\$3,071.64	\$3,225.22	\$3,386.49	\$3,555.81
Inform CAD Mapping Test or Training	1	\$139.31	\$146.28	\$153.59	\$161.27	\$169.34
Inform CAD Rotation Provider	1	\$3,095.62	\$3,250.40	\$3,412.92	\$3,583.57	\$3,762.75
Inform CAD Routing Server	1	\$5,788.81	\$6,078.25	\$6,382.16	\$6,701.27	\$7,036.33
Inform CAD Server Software	1	\$1,393.04	\$1,462.69	\$1,535.82	\$1,612.61	\$1,693.24
Inform CAD Standard Operating Procedure	1	\$2,321.72	\$2,437.80	\$2,559.69	\$2,687.68	\$2,822.06
Inform CAD Test or Training System	1	\$2,653.39	\$2,786.06	\$2,925.36	\$3,071.63	\$3,225.21
Inform CAD the Archive Server Software City of Murfreesboro	1	\$663.35	\$696.52	\$731.34	\$767.91	\$806.30
Inform CAD The GISLink Utility Position	1	\$6,191.24	\$6,500.80	\$6,825.84	\$7,167.14	\$7,525.49
Inform Mobile Base Position	1	\$4,953.00	\$5,200.65	\$5,460.68	\$5,733.71	\$6,020.40
Inform Mobile Base Position (with NCIC Access)	1	\$63,460.24	\$66,633.25	\$69,964.91	\$73,463.16	\$77,136.31
Inform Mobile Base with CJIS/NCIC Forms	1	\$7,739.06	\$8,126.01	\$8,532.31	\$8,958.93	\$9,406.87
Inform Mobile Mapping	1	\$1,547.82	\$1,625.21	\$1,706.47	\$1,791.79	\$1,881.38
Inform Mobile Server Software-City of Murfreesboro	1	\$30,956.24	\$32,504.05	\$34,129.25	\$35,835.71	\$37,627.50
MNHS	1	\$5,445.08	\$5,717.33	\$6,003.20	\$6,303.36	\$6,618.53
Mobile Mapping Support Fees	1	\$6,837.22	\$7,179.08	\$7,538.04	\$7,914.94	\$8,310.69
NCIC/State Message Switch	1	\$18,573.73	\$19,502.42	\$20,477.54	\$21,501.42	\$22,576.49
RMS Server, 10 WS, RMS Bar Coding, Equip mtc, Traffic, IA, #10101076 30 WS	1	\$26,143.11	\$27,450.27	\$28,822.78	\$30,263.92	\$31,777.11
Standard Alpha Numeric Paging Interface	1	\$2,786.06	\$2,925.36	\$3,071.63	\$3,225.21	\$3,386.47
Standard ANI/ALI Interface	1	\$2,786.06	\$2,925.36	\$3,071.63	\$3,225.21	\$3,386.47
Standard ANI/ALI Interface Additional PSAP	1	\$835.82	\$877.61	\$921.49	\$967.57	\$1,015.95
Standard Inform CAD to External System Incident Data Transfer Interface (Zoll F	1	\$4,179.09	\$4,388.05	\$4,607.45	\$4,837.82	\$5,079.72
TN Tracs Interface	1	\$4,072.92	\$4,276.56	\$4,490.39	\$4,714.91	\$4,950.66
Vision CAD Server to Inform CAD Server (B 6-20 Positions) License	1	\$9,286.86	\$9,751.20	\$10,238.76	\$10,750.70	\$11,288.24
CAD Mapping Support Fees	1	\$351.92	\$369.51	\$387.99	\$407.39	\$427.76
Standard LowCode Interface - Priority Dispatch Annual Maintenance Fee	1	\$5,603.88	\$5,884.07	\$6,178.27	\$6,487.19	\$6,811.55
BEAST to InformRMS One Way Interface	1	\$5,214.53	\$5,475.25	\$5,749.02	\$6,036.47	\$6,338.29
CryWolf Alarm Full Use Additional Workstation Annual Maintenance Fee	1	\$2,285.82	\$2,400.12	\$2,520.12	\$2,646.13	\$2,778.43
CryWolf Alarm Full Use Workstation Annual Maintenance Fee	1	\$6,862.57	\$7,205.69	\$7,565.98	\$7,944.28	\$8,341.49
Standard Station Alert Interface Annual Maintenance Fee	1	\$4,851.84	\$5,094.43	\$5,349.15	\$5,616.61	\$5,897.44
Inform CAD ASAP Interface Annual Subscription	1	\$5,775.00	\$6,063.75	\$6,366.94	\$6,685.28	\$7,019.55
Enterprise CAD Integrated Solution Annual Maintenance Fee	1	\$1,293.60	\$1,358.28	\$1,426.19	\$1,497.50	\$1,572.38
Total		\$357,875.40	\$375,769.17	\$394,557.63	\$414,285.51	\$434,999.78

Payment Terms:

- a. Support and Maintenance Fees are due prior to the beginning of the next Renewal Period and annually thereafter.
- b. Annual Subscription Fees are due prior to the beginning of the next Renewal Period and annually thereafter.
- c. Annual Software Maintenance Fees and Annual Subscription Fees shall increase by 5% year over year.

Invoice Terms:

CentralSquare shall provide an invoice for the items in the schedule above no less than thirty (30) days prior to the due date.

Ancillary Fees:

- a. Customer is responsible for paying all taxes relating to this Agreement. Applicable tax amounts (if any) are not included in the fees set forth in this Agreement. If Customer is exempt from the payment of any such taxes, Customer must provide CentralSquare valid proof of exemption; otherwise, CentralSquare will invoice Customer and Customer will pay to CentralSquare all such tax amounts.
- b. To the extent allowable by law, if Customer fails to make any payment when due, then CentralSquare may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly, or, if lower, the highest rate permitted under applicable law; and if such failure continues for 90 days following written notice thereof, CentralSquare may suspend performance or access until past due amounts have been paid.

EXHIBIT 2

Maintenance & Support

This Maintenance & Support Exhibit describes support and maintenance relating to technical support that CentralSquare will provide to Customer during the Term of the Agreement.

1. Product Updates and Releases

- 1.1. Software Version. "Software Version" means the base or core version of the Software that contains significant new features and significant fixes and is available to the Customer. Software Versions may occur as the Software architecture changes or as new technologies are developed. The nomenclature used for updates and upgrades consists of major, minor, build, and fix and these correspond to the following digit locations of a release, a,b,c,d. An example of which would be 7.4.1.3, where the 7 refers to the major release, the 4 refers to the minor release, the 1 refers to the build, and the 3 refers to a fix. All Software Versions are provided and included as part of this Agreement.
- 1.2. Updates. From time to time CentralSquare may develop permanent fixes or solutions to known problems or bugs in the Software and incorporate them in a formal "Update" to the Software. If Customer is receiving technical support from CentralSquare on the general release date for an Update, CentralSquare will provide the Customer with the Update and related Documentation at no extra charge. Updates for custom configurations will be agreed upon by the Parties and outlined in a Statement of Work or Change Order.
- 1.3. Releases. Customer shall agree to install and/or use any New or Major Release within one year of being made available by CentralSquare to avoid or mitigate a performance problem, ineligibility for Support and Maintenance Services or infringement claim. All modifications, revisions and updates to the Software shall be furnished by means of new Releases of the Software and shall be accompanied by updates to the Documentation whenever CentralSquare determines, in its sole discretion, that such updates are necessary.

2. Support

- 2.1. CentralSquare shall provide to Customer support via toll-free phone number 833-278-7877 or via the CentralSquare Support Portal. CentralSquare shall provide to Customer, commercially reasonable efforts in solving errors reported by the Customer as well as making available an online support portal. Customer shall provide to CentralSquare reasonably detailed documentation and explanation, together with underlying data, to substantiate errors and to assist CentralSquare in its efforts to diagnose, reproduce and correct the error. Should either Party not be able to locate the error root cause and Customer and CentralSquare agree that on-site services are necessary to diagnose or resolve the problem CentralSquare shall provide a travel estimate and estimated hours in order to diagnose the reported error.
- 2.2. If after traveling onsite to diagnose a reported error and such reported error did not, in fact, exist or was not attributable to a defect in the Software provided by CentralSquare or an act or omission of CentralSquare, then Customer shall pay for CentralSquare's investigation, travel, and related services in accordance with provided estimate. Customer must provide CentralSquare with such facilities, equipment and support as are reasonably necessary for CentralSquare to perform its obligations under this Exhibit, including remote access in accordance with the Remote Access Policy.

3. Online Support Portal

Online support is available via <https://support.centalsquare.com/s/contact-us>, offering Customer the ability to resolve its own problems with access to CentralSquare's most current information. Customer will need to enter its designated username and password to gain access to the technical support areas on CentralSquare's website. CentralSquare's technical support areas allow Customer to: (i) search an up-to-date knowledge base of technical support information, technical tips, and featured functions; and (ii) access answers to frequently asked questions (FAQ).

4. Exclusions from Technical Support Services

CentralSquare shall have no support obligations to provide Support or Maintenance for Solutions that are not kept current to one version prior to the then current version of the Solution. CentralSquare shall have no support obligations with respect to any third-party hardware or software product not licensed or sold to Customer by CentralSquare ("Nonqualified Product"). Customer shall be solely responsible for the compatibility and functioning of Nonqualified Products with the Software.

5. Customer Responsibilities

In connection with CentralSquare's provision of technical support as described herein, Customer acknowledges that Customer has the responsibility to do each of the following:

- 5.1 Provide hardware, operating system and browser software that meets technical specifications, as well as a fast, stable, high-speed connection and remote connectivity for accessing the Solution.
- 5.2 Maintain any applicable computer system and associated peripheral equipment in good working order in accordance with the manufacturers' specifications, and ensure that any problems reported to CentralSquare are not due to hardware malfunction;
- 5.3 For CentralSquare Solutions that are implemented on Customer Systems, maintain the designated

operating system at the latest code revision level reasonably deemed necessary by CentralSquare for proper operation of the Software;

- 5.4 Supply CentralSquare with access to and use of all information and facilities reasonably determined to be necessary by CentralSquare to render the technical support described herein;
- 5.5 Perform any test or procedures reasonably recommended by CentralSquare for the purpose of identifying and/or resolving any problems;
- 5.6 At all times follow routine operator procedures as specified in the Documentation or any error correction guidelines of CentralSquare posted on the CentralSquare website;
- 5.7 Customer shall remain solely responsible at all times for the safeguarding of Customer's proprietary, confidential, and classified information contained within Customer Systems; and
- 5.8 Reasonably ensure that the Customer Systems are isolated and free from viruses and malicious code that could cause harm before requesting or receiving remote support assistance.

6. Priorities and Support Response Matrix

The following priority matrix relates to software errors covered by this Agreement. Causes secondary to non-covered causes - such as hardware, network, and third-party products - are not included in this priority matrix and are outside the scope of this Exhibit. CentralSquare will make commercially reasonable efforts to respond to Software incidents for live remote based production systems using the following guidelines:

Priority	Issue Definition	Response Time
Priority 1 – Urgent	The software is completely down and will not launch or function.	Priority 1 issues must be called in via 833-278-7877 and will be immediately answered and managed by the first available representative.
Priority 2 – Critical	A high-impact problem that disrupts the customer's operation but there is capacity to remain productive and maintain necessary operations.	Priority 2 issues must be called in via 833-278-7877 and will be immediately answered and managed by the first available representative.
Priority 3 – Non-Critical	A Software Error related to a user function which does not negatively impact the User from the use of the system. This includes system administrator functions or restriction of user workflow but does not significantly impact their job function.	Priority 3 issues called in via 833-278-7877 will be immediately answered and managed by the first available representative. Non-Critical Priority 3 issues may also be reported via https://support.centalsquare.com/s/contact-us
Priority 4 – Minor	Cosmetic or documentation errors, including Customer technical questions or usability questions.	Priority 4 issues called in via 833-278-7877 will be immediately answered and managed by the first available representative. Minor Priority 4 issues may also be reported via https://support.centalsquare.com/s/contact-us

7. Exceptions. CentralSquare shall not be responsible for failure to carry out its Support and Maintenance obligations under this Exhibit if the failure is caused by adverse impact due to:

- 7.1. defectiveness of the Customer's Systems (including but not limited to environment, hardware or ancillary systems), or due to Customer corrupt, incomplete, or inaccurate data reported to the Solution, or documented defect.
- 7.2. denial of reasonable access to Customer's System or premises preventing CentralSquare from addressing the issue.
- 7.3. material changes made to the usage of the Solution by Customer where CentralSquare has not agreed to such changes in advance and in writing or the modification or alteration, in any way, by Customer or its subcontractors, of communications links necessary to the proper performance of the Solution.
- 7.4. a Force Majeure event (as outlined in Section 12), or the negligence, intentional acts, or omissions of Customer or its agents.

8. Incident Resolution. Actual response times and resolutions may vary due to issue complexity and priority. For critical impact level and above, CentralSquare provides a continuous resolution effort until the issue is resolved. CentralSquare will make commercially reasonable efforts to resolve Software incidents for live remote based production systems using the following guidelines:

Priority	Resolution Process	Resolution Time
Priority 1 – Urgent	CentralSquare will provide a procedural or configuration workaround or a code correction that allows the Customer to resume live operations on the production System.	CentralSquare will work continuously to provide the Customer with a solution that allows the Customer to resume live operations on the production system. CentralSquare will either resolve the issue or provide a resolution plan as soon as possible and not later than twenty-four (24) hours after notification.
Priority 2 – Critical	CentralSquare will provide a procedural or configuration workaround or a code correction that allows the Customer to resume normal operations on the production System.	CentralSquare will work continuously to provide the Customer with a solution that allows the Customer to resume normal operations on the production System. CentralSquare will either resolve the issue or provide a resolution plan as soon as possible and not later than thirty-six (36) hours after notification.
Priority 3 – Non – Critical	CentralSquare will provide a procedural or configuration workaround that allows the Customer to resolve the problem.	CentralSquare will work to provide the Customer with a resolution which may include a workaround or code correction within a timeframe that takes into consideration the impact of the issue on the Customer and CentralSquare's User base. Priority 3 issues have priority scheduling in a subsequent release.
Priority 4 – Minor	If CentralSquare determines that a reported Minor Priority error requires a code correction, such issues will be addressed in a subsequent release when applicable.	CentralSquare will work to provide the Customer with a resolution which may include a workaround or code correction in a future release of the software. Priority 4 issues have no defined resolution time.

9. Non-Production Environments. CentralSquare will make commercially reasonable efforts to provide fixes to non-production environment(s). Non-production environments are not included under the response or resolution tables provided in this Exhibit.

9.1. Maintenance. All non-production environment resolution processes will follow the structure and schedules outlined above for production environments.

9.2. Incidents and service requests. Non-production environment incidents are considered priority 3 or 4, dictated by circumstances and will be prioritized and scheduled subordinate to production environment service requests.

10. Training. Outside the scope of training services purchased, if any, Customer is responsible for the training and organization of its staff in the operation of the Software.

11. Development Work. Software support and maintenance does not include development work either (i) on software not licensed from CentralSquare or (ii) development work for enhancements or features that are outside the documented functionality of the Software, except such work as may be specifically purchased and outlined in the Agreement. CentralSquare retains all intellectual property rights in development work performed and Customer may request consulting and development work from CentralSquare as a separate billable service.

12. Technology Life Expectancy. Customer understands, acknowledges and agrees that the technology upon which the Hardware, Solution and Third-Party Software is based changes rapidly. Customer further acknowledges that CentralSquare will continue to improve the functionality and features of the Solution to improve legal compliance, accuracy, functionality and usability. As a result, CentralSquare does not represent or warrant that the Hardware, Solution and/or Third-Party Software provided to Customer under this Agreement or that the Customer Systems recommended by CentralSquare will function for an indefinite period of time. Rather, CentralSquare and Customer may, from time to time, analyze the functionality of the Hardware, Solution, Third-Party Software and Customer Systems in response to changes to determine whether Customer must upgrade the same. Customer upgrades may include without limitation, the installation of a new Release, additional disk storage and memory, and workstation and/or server upgrades. Customer upgrades may also include the installation and/or removal of Third-Party Software. Customer is solely responsible for all costs associated with future resources and upgrades.

EXHIBIT 3
CentralSquare Access Management Policy

In order to provide secure, federally compliant connections to agency systems CentralSquare Technologies ("CentralSquare") requires BeyondTrust or SecureLink as the only approved methodology of connection. BeyondTrust and Securelink provide the necessary remote access in order to service and maintain CentralSquare products while adhering to the Federal Bureau of Investigations Criminal Justice Information Services requirements. Both solutions utilize two-factor authentication Federal Information Processing Standard Publication ("FIPS") 140-2 validated cryptographic modules and AES encryption in 256-bit strengths.

BeyondTrust and Securelink are addressed in turn via this Access Management Policy; Customers may choose which remote privileged access management solution will be utilized by CentralSquare.

BeyondTrust

The BeyondTrust remote support solution may be utilized via escorted session or a jump Customer. As for an escorted session, when an agency needs assistance from CentralSquare, the agency employee requesting assistance will receive verbal or email communication with a session key necessary to enable remote access. If a verbal key is provided, the user enters the session key after visiting <https://securesupport.centalsquare.com>.

Jump Customers are a Windows service that can be stopped/started to facilitate a support session. Connections made via jump Customer can be active or passive. An active jump Customer is always available. A passive connection is enabled for a specific purpose and then disabled when not used. Regardless of the option selected, CentralSquare's support team will arrange a BeyondTrust session to establish the jump Customer.

The jump Customer resides on the agency side on the installed device, where an agency administrator can manage. Instructions on how to enable/disable jump Customers can be provided upon request. A sample workflow of a passive jump Customer is provided below:

Should an agency require support from CentralSquare, a call would be placed and/or a support ticket opened in the portal on the CentralSquare customer support website. Before accessing the agency's system and/or environment, the CentralSquare representative would send a notice of connection from the CentralSquare support portal instance. This notice can be sent to the individual at the agency that the CentralSquare representative is working with or other designated contacts as necessary. Upon receipt of the notice of connection, the agency personnel would enable the BeyondTrust jump Customer. The CentralSquare representative would then be admitted to the agency's system and/or environment to perform the necessary task. Upon completion of the task, the CentralSquare representative sends a notice of disconnection from the CentralSquare support portal instance. Upon receipt of the notice of disconnection, the agency personnel would then disable the BeyondTrust jump Customer.

Securelink

Similar to BeyondTrust's escorted session, Securelink may be utilized via "quick connect". To enable a quick connect session when an agency needs assistance from CentralSquare, the Agency employee requesting assistance will enter a key code in order to connect for screen sharing on a device.

Similar to the jump Customer methodology, SecureLink may also be utilized via "gatekeeper". The sample workflow description for a jump Customer provided above is substantially similar to the workflow for gatekeeper.

Summation

BeyondTrust and Securelink allow customers the ability to monitor connectivity to the customer's network and maintain CJIS compliance while enabling CentralSquare to perform the necessary support functions.

EXHIBIT 4

Certificate of Insurance (Evidence of Coverage)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/01/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA, LLC. TWO ALLIANCE CENTER 3560 LENOX ROAD, SUITE 2400 ATLANTA, GA 30326		CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:	
CN130114897-EOIC-GAWU-23-24		INSURER(S) AFFORDING COVERAGE	
INSURED CentralSquare Technologies, LLC 1000 Business Center Drive Lake Mary, FL 32746		INSURER A: The Charter Oak Fire Insurance Co.	25615
		INSURER B: Phoenix Insurance Company	25623
		INSURER C: Travelers Property Casualty Company Of America	25674
		INSURER D: Travelers Casualty And Surety Company	19038
		INSURER E: AIG Specialty Insurance Company	26883
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

ATL-005494481-01

REVISION NUMBER: 0

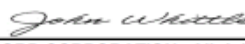
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		H-630-6S758660-COF-23	08/31/2023	08/31/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPIOP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		BA-6S783539-23-I3-G	08/31/2023	08/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		CUP-6S801390-23-I3	08/31/2023	08/31/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	UB-6S783668-23-I3-G	08/31/2023	08/31/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	E&O/Cyber		01-424-27-66	08/31/2023	08/31/2024	Limit \$ 5,000,000 SIR \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Evidence of Insurance

CERTIFICATE HOLDER

CANCELLATION

CentralSquare Technologies LLC 1000 Business Center Drive Lake Mary, FL 32746	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA LLC 
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ACORD 25 (2016/03)

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EXHIBIT 5**Service Level Commitments****1. Service Level Commitments**

- A. **Availability.** During any calendar month, the availability of the Solution shall be no less than 99.9%, excluding scheduled maintenance. CentralSquare shall provide Customer with prompt notification as soon as it becomes aware of any actual or potential unscheduled downtime of the Solution, as well as continual periodic updates during the unscheduled downtime regarding CentralSquare's progress in remedying the unavailability and estimated time at which the Solution shall be available.
- B. **Measurement.** Service availability is measured as the total time that the solutions are available during each calendar month for access by Customer ("Service Availability"). Service Availability measurement shall be applied to the production environment only, and the points of measurement for all monitoring shall be the servers and the internet connections at CentralSquare's hosted environment.
- C. **Calculation.** Service availability for a given month shall be calculated using the following calculation:
- The total number of minutes which the service was not available in a given month shall be subtracted from the total number of minutes available in the given month. The resulting figure is divided by the total number of minutes available in the given month.
 - Service availability targets are subject to change due to the variance of the number of days in a month.
 - The total number of minutes which the service was not available in a given month shall exclude minutes associated with scheduled or emergency maintenance.
- D. **Remedy.** If the service period target measurement is not met, then the customer shall be entitled to a credit calculated as follows:

Service availability	Credit percentage
Less than 99.9% but greater than or equal to 99.0%	5%
Less than 99.0% but greater than or equal to 95.0%	10%
Less than 95%	20%

Service Availability in the relevant Service Period	Percentage Reduction in Monthly Fee for the Subsequent Service Period
Less than 99.9% but greater than or equal to 99.0%	5%
Less than 99.0% but greater than or equal to 95.0%	10%
Less than 95%	20%

- E. Credit must be requested by the customer within sixty (60) days of the failed target. Any credit awarded shall be applied to the next applicable invoice. Customer shall not be eligible for credits where customer is more than thirty (30) days past due on their account.
2. **Server Performance & Capacity.** The standard provisioning of storage for the cloud solutions is 1 terabyte. If Customer requests to add additional Software, increase storage or processing requirements, and/or request additional environments, these requests will be evaluated and if additional resources are required to support modifications, additional fees may apply at per unit (gigabyte, hour, license, etc).
3. **Non-Production Environments.** Included in the subscription fee is access to the training environment during the hours of 8:00am – 4:00pm EST, Monday through Friday. Should the Customer require extended access for items such as internal training, CentralSquare can make exceptions provided that Customer provide reasonable advance written notice. CentralSquare will then work with the Customer to enable access in accordance with an agreed upon schedule.

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Agreement for Composite Decking and Materials for the Discovery Center Walkway

Department: Project Development

Presented by: Scott Elliott, Manager of Project 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

Agreement with New Creations Construction, LLC.

Staff Recommendation

Approve the Agreement with New Creations Construction, LLC.

Background Information

In the early 2000's the Corps of Engineering constructed an elevated boardwalk system around the Murfree Springs wetlands adjacent to the Discovery Center. Following construction, the City has responded to requests for maintenance, including board replacement, rail painting, and rail repair. This past year the City discovered that substantial maintenance was required due to lateral movement observed along the boardwalk. Much of the trail has been repaired and reopened. Remaining are repairs need for two sections and replacement of the decking.

Council Priorities Served

Responsible budgeting

Maintaining infrastructure in a proactive manner assures safe and extended use of City assets.

Fiscal Impact

The Agreement of \$82,000 will be funded from FY 21 bond proceeds.

Attachments

Agreement with New Creations Construction, LLC.

Agreement for Composite Decking & Materials Discovery Center Walkway Project

This Agreement is entered into and effective as of _____ 2023 ("Effective Date"), by and between the **City of Murfreesboro**, a municipal corporation of the State of Tennessee (the "City"), and **New Creations Construction, LLC**, a limited liability company of the State of Tennessee ("Contractor").

This Agreement consists of the following documents:

- This document
- ITB-28-2024 – Composite Decking and Materials – Discovery Center Walkway Project issued 11/28/2023 (the "Solicitation");
- Contractor's Proposal, dated December 5, 2023 ("Contractor's Proposal");
- Contractor's Price Proposal, dated December 5, 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 City shall purchase the materials based on Contractor's Proposal and Price Proposal and the specifications set forth in "ITB-28-2024 – Composite Decking and Materials – Discovery Center Walkway Project."

2. Term.

The term of this Agreement commences on the Effective Date and expires in six months, unless extended by mutual agreement of Contractor and the City or earlier terminated as set forth herein Termination. Contractor's services may be terminated in whole or in part:

- a. Upon 30-day prior notice, for the convenience of the City.
- b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
- c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
- d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.

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

3. Payment and Delivery.

- a. The price for the goods and other items to be provided under this Agreement is set forth in the Price Proposal which reflects a total **purchase price of Eighty-One Thousand, Four Hundred, Seventy-one Dollars (\$81,471.00)**. Any compensation due Contractor under the Agreement shall be made upon submittal of an invoice after performance of the portion of the services which each payment represents. The City agrees to pay Contractor after goods and/or services have been received, accepted, and properly invoiced as indicated in the Agreement and/or purchase order. Invoices must bear the purchase order number. Final payment shall not be made until after performance is complete.
- b. All items must be available for delivery within 12 weeks from execution of this contract. Delivery shall be done Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. Forty-eight (48) hours advance notice should be given prior to delivery. Delivery Contact: Scott Elliott (email: selliott@murfreesborotn.gov phone: 615-642-3228). The materials shall be delivered and unloaded to the Parks and Recreation Storage Building at 315 Tommy Martin Drive, Murfreesboro, TN 37130.
- c. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
- d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any items(s) received which fail to meet the specifications as stated in the ITB.
- e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.

4. Warranty. Contractor shall provide all warranties as described in the ITB and Bid Proposal.

5. Taxes. The City of Murfreesboro is exempt from State sales tax and will issue a tax exemption certificate to the Contractor as requested. City shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to City.

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

7. Indemnification.

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

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

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

If to the City of Murfreesboro:	If to Contractor:
City Manager	New Creations Construction, LLC
City of Murfreesboro	Attn: Jason Moore
111 West Vine Street	9636 N Milton Road
Murfreesboro, TN 37130	Milton, TN 37118
	jasonmoore@newcreationsinchrist.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 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.

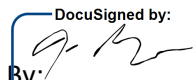
20. **Severability.** Should any provision of this Agreement be declared to be invalid by any court of competent jurisdiction, such provision will be severed and not affect the validity of the remaining provisions of this Agreement.
21. **Attorney Fees.** In the event any party takes legal action to 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" first listed above.

CITY OF MURFREESBORO, TENNESSEE

NEW CREATIONS CONSTRUCTION, LLC

By: _____
Shane McFarland, Mayor

DocuSigned by:

By: _____
5C94F814706A4EE...
Jason Moore, Sole Member

Approved as to form:
DocuSigned by:

43A2085E51F840F...
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Purchase of Automated Garbage Trucks

Department: Solid Waste

Presented by: Russell Gossett, Director of Solid Waste

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 six Labrie Automated Garbage trucks from Environment Products Group.

Staff Recommendation

Approve the purchase of six automated side loader garbage trucks.

Background Information

The Solid Waste department is requesting the approval of the purchase of six automated side loader garbage trucks. These trucks will help replace nine route trucks that have aged and become operationally inefficient. Environmental Products Group will deliver these trucks by Fall of 2024. This quick delivery will enable the Solid Waste Dept to make needed route changes to be safer and more efficient.

Council Priorities Served

Responsible Budgeting

The current condition of nine route trucks costs the City in higher maintenance costs, loss of productivity and increased safety concerns. Replacing these trucks with newer, high functioning trucks will allow the department the ability to re-route and become more efficient on collection.

Fiscal Impact

The expense, \$2,435,273, is budgeted in the FY24 CIP.

Attachments

1. EPG quote
2. Executed agreement



Seller

Labrie Environmental Group

175-B Rte Marie Victorin

Lévis, Québec

Canada

G7A 2T3

Phone : 418-831-8250
Toll-Free : 1-800-463-6638
Website : www.labriegrup.com

QUOTE FORM

Quote # / Rev. #	Reference #	Quoted Date
2863 / 1		2023-11-15
Price List / Currency	Terms	Quote Valid Until
2024-A-SW / USD	Net 30 Days	2024-01-14
Regional Sales Manager	Customer Service Rep.	Product Specialist
Craig Williams	Tracie Mauthe	Vincent Denis
Opportunity Type	Carrier	Departure Region
SW End Client	To Be Determined	LaFayette, GA, US

SOLD TO	SHIP TO	END CLIENT
Environmental Products Group Inc. 4410 Wendell Dr SW Atlanta, GA 30336 United States Email : Phone : 813-267-2968	Environmental Products Group Inc. 4410 Wendell Dr SW Atlanta, GA 30336 United States Email : Phone :	City of Murfreesboro - Solid Waste 4765 Florence Rd Murfreesboro, TN 37129 United States Email : Phone :

CHASSIS INFORMATION

Chassis Provided By : Supplied by Customer	Engine Make :
Chassis Manufacturer : Autocar	Engine Model :
Chassis Model : ACX	Engine Power :
Cab Style : Cab Over	Engine Torque :
Drivetrain : 4X2	Transmission Make : Without
Auxiliary Axle : Without Auxiliary Axle	Transmission Model : Without
CNG System Upon Arrival : Without	Transmission Type :
Driving Configuration at Delivery : Sit-Down from Company on Curbside Only	
Chassis Delivery Address : USA: 1198 Shattuck Industrial Blvd., Lafayette, GA 30728	

COLOR INFORMATION

Cab Color : To Be Confirmed	Cab Color Code : To Be Confirmed
Body Color : To Be Confirmed	Body Color Code : To Be Confirmed
Chassis Color : Black from Factory	Chassis Color Code : Color Code NOT Required
Paint Scheme Number : Without	Match Cab :

CARTS INFORMATION

Cart Make : Without or NOT Required	Cart Type : Without or NOT Required
Cart Capacity : Without or NOT Required	

BODY CONFIGURATION

Body Model : AUTOMIZER TTD	Total Capacity : 31yd³ (27+4)
Arm Model : Single Right-Hand (Curb)	Body Capacity : 27yd³
Body Type : Standard	Tallgate Capacity : 4yd³
Body Division : Without Division	

BASE PRICE 301,140.00\$**OPTIONS**

#	Category	Option Description	Price
2	Lifting	ALHG-STD01 Standard Height Gripper	0.00 \$
3	Lifting	AGRA-0010 Heavy Duty Arm & Gripper, "32 to 95 US gal"	7,560.00 \$
4	Lifting	EAOA-STD01 Arm out alarm at 6 km/h - 4 mph	0.00 \$
5	Lifting	AGSS-0000 Spill shield on Gripper	900.00 \$



Seller

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Price List / Currency	Terms	Quote Valid Until
2024-A-SW / USD	Net 30 Days	2024-01-14
Regional Sales Manager	Customer Service Rep.	Product Specialist
Craig Williams	Tracie Mauthe	Vincent Denis
Opportunity Type	Carrier	Departure Region
SW End Client	To Be Determined	LaFayette, GA, US

#	Category	Option Description	Price
6	Hopper Area	BCPH-0000 Crusher Panel (1)	8,980.00 \$
7	Hopper Area	QUSS-0000 Crusher Panel Full Width	0.00 \$
8	Hopper Area	HAPT-STD01 RAM Type Packer Panel	0.00 \$
9	Hopper Area	BRTB-0000 Retainer Teeth Under Breaker Bar	1,040.00 \$

#	Category	Option Description	Price
10	Consoles & Controls	AAAC-0070 Aux. Arm Ctrl. Inside Cab on Curbside (Mini Joystick Under Seat + Rocker Switches on Door)	5,380.00 \$
11	Consoles & Controls	AAJC-0010 Dual Arm joysticks NON-Moveable	3,460.00 \$
12	Consoles & Controls	APJC-0000 Packer Control on Joystick	660.00 \$
13	Consoles & Controls	ACJC-0000 Crusher Panel Control on Joystick	660.00 \$

#	Category	Option Description	Price
14	Hydraulic	HCON-STD01 JIC	0.00 \$
15	Hydraulic	HHOC-0000 Hydraulic Oil Cooler	7,560.00 \$
16	Hydraulic	HPTO-0040 PTO Chlesea 870 Hot Shift for Remote Pump	6,760.00 \$
17	Hydraulic	CCPM-INC01 Dual Pump Denison T6DC Work-at-Idle (Remote)	0.00 \$
18	Hydraulic	CHFT-STD02 Hydraulic Tank Mounted on Chassis	0.00 \$
19	Hydraulic	HHPG-0000 Hydraulic Pressure Gauge for Main Valve with Quick Coupler	280.00 \$
20	Hydraulic	EBCV-STD01 Pneumatic Over Hydraulic Body Main Valve	0.00 \$

#	Category	Option Description	Price
21	Accessories	BCOT-0000 Broom and Shovel Front of Hopper on Curbside & Hoe Front of Hopper on Streetside	880.00 \$
22	Accessories	BBTS-STD01 Standard Tailgate Seal	0.00 \$

#	Category	Option Description	Price
23	Lighting	LWLK-0035 Work Light Package - LED (3)	2,260.00 \$
24	Lighting	WL01-0000 Hopper Streetside (1)	0.00 \$
25	Lighting	WL03-0000 Curbside Post (3)	0.00 \$
26	Lighting	WL04-0000 Rail Curbside (4)	0.00 \$

#	Category	Option Description	Price
27	Electronic	CCCC-0043 Triple Safety Vision Camera (3) With Heater/With Shutter	10,760.00 \$
28	Electronic	CL01-0000 Tailgate Center 2/3 (1) - Pointing Back	0.00 \$
29	Electronic	CL04-0000 Hopper Streetside (4) - Pointing Curbside	0.00 \$
30	Electronic	CL35-0000 Top of Right-Hand Arm (35) - Pointing Curbside	580.00 \$
31	Electronic	CCCM-INC41 Safety Vision 7" Color Monitor (Included in Camera System Base Price)	0.00 \$
32	Electronic	AGCD-0000 Cart/Container Counting Device on Arm(s)	660.00 \$

#	Category	Option Description	Price
33	Electrical	ESYV-STD01 12V Body Electrical System	0.00 \$



Seller

Labrie Environmental Group**175-B Rte Marie Victorin****Lévis, Québec****Canada****G7A 2T3**

Phone : 418-831-8250

Toll-Free : 1-800-463-6638

Website : www.labriegroup.com

QUOTE FORM

Quote # / Rev. #	Reference #	Quoted Date
2863 / 1		2023-11-15
Price List / Currency	Terms	Quote Valid Until
2024-A-SW / USD	Net 30 Days	2024-01-14
Regional Sales Manager	Customer Service Rep.	Product Specialist
Craig Williams	Tracie Mauthe	Vincent Denis
Opportunity Type	Carrier	Departure Region
SW End Client	To Be Determined	LaFayette, GA, US

#	Category	Option Description	Price
34	Service & Maintenance	BRLS-0000 Ground Level Grease Point for Follower Panel Rollers (Centralized)	2,000.00 \$
35	Service & Maintenance	BPLS-0000 Ground Level Grease Points for Packer Rails (Centralized)	1,580.00 \$
36	Service & Maintenance	BALS-0010 Ground Level Grease Points for Tailgate (Centralized) & Hopper Door(s)	2,720.00 \$
#	Category	Option Description	Price
37	Structure, Liners & Materials	BSFL-0020 Body floor liner Full Length x 4mm (0.160") - Hardox 450	5,820.00 \$
38	Structure, Liners & Materials	BHWS-0000 Hopper Floor Liner 1/4" - Hardox 450	2,500.00 \$
39	Structure, Liners & Materials	BHSL-0000 Hopper Side Wall Liners 4mm (0.160") - Hardox 450	1,860.00 \$
#	Category	Option Description	Price
40	Unit Appearance	PCBP-STD01 Urethane Body Paint	0.00 \$
41	Unit Appearance	UAPP-STD01 One (1) Coat of Urethane Primer	0.00 \$
42	Unit Appearance	PCCP-STD01 Paint Chassis Components same Color as Chassis	0.00 \$
43	Unit Appearance	BASA-STD01 Rubber Mud Guards - Rear of Rear Axle	0.00 \$
44	Unit Appearance	BASR-0000 Anti-sail Bars on Rear Mud Guards (Rear Wheels)	360.00 \$
45	Unit Appearance	BASN-STD01 Mud Guards with Labrie Logo	0.00 \$
46	Unit Appearance	BODL-STD01 Informative Decals English	0.00 \$
#	Category	Option Description	Price
47	Chassis	CFTD-STD01 Diesel Tank from Company or CNG/Electric	0.00 \$
SUBTOTAL OPTIONS :			75,220.00\$
NON-STANDARD OPTIONS			
SUBTOTAL NON-STANDARD OPTIONS :			0.00\$
COMMENTS			
End-User City of Murfreesboro, TN FOB TO MEMPHIS, TN			



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Canada
G7A 2T3

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Quote # / Rev. #	Reference #	Quoted Date
2863 / 1		2023-11-15
Price List / Currency	Terms	Quote Valid Until
2024-A-SW / USD	Net 30 Days	2024-01-14
Regional Sales Manager	Customer Service Rep.	Product Specialist
Craig Williams	Tracie Mauthe	Vincent Denis
Opportunity Type	Carrier	Departure Region
SW End Client	To Be Determined	LaFayette, GA, US

Expected Delivery Date :		
		Subtotal Base Price and Options : 376,360.00 \$
		Discount (51.00%) : 191,943.60 \$
		Subtotal Base Price and Options (Net) : 184,416.40 \$
Chassis Terms (if applicable) : Net on delivery for release of MSO. Weight Distribution: Quotes and pricing are subject to changes according to WD analysis which can alter specs. Upon receipt of PO and chassis specs, WD will be conducted and a confirmation of acceptance will be issued. Taxes : Not Included. Disclaimer : It is the quoting distributor's responsibility to verify the accuracy of this quote versus the specifications for the body and chassis. Labrie Environmental Group will not be responsible for any price differential between this quotation and what is required by the provided specifications. Interest fees on past due account of 1.5% per month (18% annual). Price list subject to change at all time due to the steel price index. Labrie Environmental Group (LEG) does not accept floorplan charges, back charges, liquidated damages or third-party claims for any reason or cause, whether expressed or implied by specifications or other form of communication, including purchase order terms and conditions unless approved in writing by CEO or CFO at time of quotation. Labrie Environmental Group (LEG) and/or seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic.		Body Miscellaneous Charge #1 : 0.00 \$
		Body Miscellaneous Charge #2 : 0.00 \$
		Body Miscellaneous Charge #3 : 0.00 \$
		Sourcewell Fee : 0.00 \$
		Material Surcharge : 7,000.00 \$
		Extended Warranty : 0.00 \$
		Extended Warranty Other : 0.00 \$
		Additional Trade Discount : 0.00 \$
		Subtotal Body (Net) : 191,416.40 \$
		Chassis Price : 206,615.00 \$
		Subtotal Unit (Net) : 398,031.40 \$
		FET (12%) : 0.00 \$
		Change Fee #1 : 0.00 \$
		Change Fee #2 : 0.00 \$
		EV Fee : 0.00 \$
		Miscellaneous Charge #1 : 0.00 \$
		Miscellaneous Charge #2 : 0.00 \$
		Miscellaneous Charge #3 : 0.00 \$
		Freight Charges : 2,184.00 \$
		Total Unit (Net) : 400,215.40 \$
		Number of Units : 3
		Grand Total : 1,200,646.20 \$
		Currency : USD

Labrie Representative :

Customer : Environmental Products Group Inc.



Seller
Labrie Environmental Group
175-B Rte Marie Victorin
Lévis, Québec
Canada
G7A 2T3

Phone : 418-831-8250
Toll-Free : 1-800-463-6638
Website : www.labriegroup.com

QUOTE FORM		
Quote # / Rev. #	Reference #	Quoted Date
2526 / 3		2023-11-16
Price List / Currency	Terms	Quote Valid Until
2024-A-SW / USD	Net 30 Days	2024-01-15
Regional Sales Manager	Customer Service Rep.	Product Specialist
Craig Williams	Tracie Mauthe	Vincent Denis
Opportunity Type	Carrier	Departure Region
SW End Client	To Be Determined	LaFayette, GA, US

SOLD TO	SHIP TO	END CLIENT
Environmental Products Group Inc. 4410 Wendell Dr SW Atlanta, GA 30336 United States Email : Phone : 813-267-2968	Environmental Products Group Inc. 4410 Wendell Dr SW Atlanta, GA 30336 United States Email : Phone :	City of Murfreesboro - Solid Waste 4765 Florence Rd Murfreesboro, TN 37129 United States Email : Phone :

CHASSIS INFORMATION		
Chassis Provided By : Supplied by Customer	Engine Make :	
Chassis Manufacturer : Autocar	Engine Model :	
Chassis Model : ACX	Engine Power :	
Cab Style : Cab Over	Engine Torque :	
Drivetrain : 4X2	Transmission Make : Without	
Auxiliary Axle : Without Auxiliary Axle	Transmission Model : Without	
CNG System Upon Arrival : Without	Transmission Type :	
Driving Configuration at Delivery : Sit-Down from Company on Curbside Only		
Chassis Delivery Address : USA: 1198 Shattuck Industrial Blvd., Lafayette, GA 30728		

COLOR INFORMATION		
Cab Color : To Be Confirmed	Cab Color Code : To Be Confirmed	
Body Color : To Be Confirmed	Body Color Code : To Be Confirmed	
Chassis Color : Black from Factory	Chassis Color Code : Color Code NOT Required	
Paint Scheme Number : Without	Match Cab :	

CARTS INFORMATION		
Cart Make : Without or NOT Required	Cart Type : Without or NOT Required	
Cart Capacity : Without or NOT Required		

BODY CONFIGURATION		
Body Model : AUTOMIZER TTD	Total Capacity : 31yd³ (27+4)	
Arm Model : Single Right-Hand (Curb)	Body Capacity : 27yd³	
Body Type : Standard	Tailgate Capacity : 4yd³	
Body Division : Without Divison		

	BASE PRICE	301,140.00\$
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OPTIONS

#	Category	Option Description	Price
2	Lifting	ALHG-STD01 Standard Height Gripper	0.00 \$
3	Lifting	AGRA-0010 Heavy Duty Arm & Gripper, "32 to 95 US gal"	7,560.00 \$
4	Lifting	EAOA-STD01 Arm out alarm at 6 km/h - 4 mph	0.00 \$
5	Lifting	AGSS-0000 Spill shield on Gripper	900.00 \$



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Website : www.labriegroup.com

QUOTE FORM		
Quote # / Rev. #	Reference #	Quoted Date
2526 / 3		2023-11-16
Price List / Currency	Terms	Quote Valid Until
2024-A-SW / USD	Net 30 Days	2024-01-15
Regional Sales Manager	Customer Service Rep.	Product Specialist
Craig Williams	Tracie Mauthe	Vincent Denis
Opportunity Type	Carrier	Departure Region
SW End Client	To Be Determined	LaFayette, GA, US

#	Category	Option	Description	Price
6	Hopper Area	BCPH-0000	Crusher Panel (1)	8,980.00 \$
7	Hopper Area	QUSS-0000	Crusher Panel Full Width	0.00 \$
8	Hopper Area	HAPT-STD01	RAM Type Packer Panel	0.00 \$
9	Hopper Area	BRTB-0000	Retainer Teeth Under Breaker Bar	1,040.00 \$
#	Category	Option	Description	Price
10	Consoles & Controls	AAAC-0070	Aux. Arm Ctrl. Inside Cab on Curbside (Mini Joystick Under Seat + Rocker Switches on Door)	5,380.00 \$
11	Consoles & Controls	AAJC-0010	Dual Arm joysticks NON-Moveable	3,460.00 \$
12	Consoles & Controls	APJC-0000	Packer Control on Joystick	660.00 \$
13	Consoles & Controls	ACJC-0000	Crusher Panel Control on Joystick	660.00 \$
#	Category	Option	Description	Price
14	Hydraulic	HCON-STD01	JIC	0.00 \$
15	Hydraulic	HHOC-0000	Hydraulic Oil Cooler	7,560.00 \$
16	Hydraulic	HPTO-0040	PTO Chlesea 870 Hot Shift for Remote Pump	6,760.00 \$
17	Hydraulic	CCPM-INC01	Dual Pump Denison T6DC Work-at-Idle (Remote)	0.00 \$
18	Hydraulic	CHFT-STD02	Hydraulic Tank Mounted on Chassis	0.00 \$
19	Hydraulic	HHPG-0000	Hydraulic Pressure Gauge for Main Valve with Quick Coupler	280.00 \$
20	Hydraulic	EBCV-STD01	Pneumatic Over Hydraulic Body Main Valve	0.00 \$
#	Category	Option	Description	Price
21	Accessories	BCOT-0000	Broom and Shovel Front of Hopper on Curbside & Hoe Front of Hopper on Streetside	880.00 \$
22	Accessories	BBTS-STD01	Standard Tailgate Seal	0.00 \$
#	Category	Option	Description	Price
23	Lighting	LWLK-0035	Work Light Package - LED (3)	2,260.00 \$
24	Lighting	WL01-0000	Hopper Streetside (1)	0.00 \$
25	Lighting	WL03-0000	Curbside Post (3)	0.00 \$
26	Lighting	WL04-0000	Rail Curbside (4)	0.00 \$
#	Category	Option	Description	Price
27	Electronic	CCCC-0043	Triple Safety Vision Camera (3) With Heater/With Shutter	10,760.00 \$
28	Electronic	CL01-0000	Tailgate Center 2/3 (1) - Pointing Back	0.00 \$
29	Electronic	CL04-0000	Hopper Streetside (4) - Pointing Curbside	0.00 \$
30	Electronic	CL35-0000	Top of Right-Hand Arm (35) - Pointing Curbside	580.00 \$
31	Electronic	CCCM-INC41	Safety Vision 7" Color Monitor (Included in Camera System Base Price)	0.00 \$
32	Electronic	AGCD-0000	Cart/Container Counting Device on Arm(s)	660.00 \$
#	Category	Option	Description	Price
33	Electrical	ESYV-STD01	12V Body Electrical System	0.00 \$



Seller
Labrie Environmental Group
175-B Rte Marie Victorin
Lévis, Québec
Canada
G7A 2T3

Phone : 418-831-8250
Toll-Free : 1-800-463-6638
Website : www.labriegrup.com

QUOTE FORM		
Quote # / Rev. #	Reference #	Quoted Date
2526 / 3		2023-11-16
Price List / Currency	Terms	Quote Valid Until
2024-A-SW / USD	Net 30 Days	2024-01-15
Regional Sales Manager	Customer Service Rep.	Product Specialist
Craig Williams	Tracie Mauthe	Vincent Denis
Opportunity Type	Carrier	Departure Region
SW End Client	To Be Determined	LaFayette, GA, US

#	Category	Option	Description	Price
34	Service & Maintenance	BRLS-0000	Ground Level Grease Point for Follower Panel Rollers (Centralized)	2,000.00 \$
35	Service & Maintenance	BPLS-0000	Ground Level Grease Points for Packer Rails (Centralized)	1,580.00 \$
36	Service & Maintenance	BALS-0010	Ground Level Grease Points for Tailgate (Centralized) & Hopper Door(s)	2,720.00 \$
#	Category	Option	Description	Price
37	Structure, Liners & Materials	BSFL-0020	Body floor liner Full Length x 4mm (0.160") - Hardox 450	5,820.00 \$
38	Structure, Liners & Materials	BHWS-0000	Hopper Floor Liner 1/4" - Hardox 450	2,500.00 \$
39	Structure, Liners & Materials	BHSL-0000	Hopper Side Wall Liners 4mm (0.160") - Hardox 450	1,860.00 \$
#	Category	Option	Description	Price
40	Unit Appearance	PCBP-STD01	Urethane Body Paint	0.00 \$
41	Unit Appearance	UAPP-STD01	One (1) Coat of Urethane Primer	0.00 \$
42	Unit Appearance	PCCP-STD01	Paint Chassis Components same Color as Chassis	0.00 \$
43	Unit Appearance	BASA-STD01	Rubber Mud Guards - Rear of Rear Axle	0.00 \$
44	Unit Appearance	BASR-0000	Anti-sail Bars on Rear Mud Guards (Rear Wheels)	360.00 \$
45	Unit Appearance	BASN-STD01	Mud Guards with Labrie Logo	0.00 \$
46	Unit Appearance	BODL-STD01	Informative Decals English	0.00 \$
#	Category	Option	Description	Price
47	Chassis	CFTD-STD01	Diesel Tank from Company or CNG/Electric	0.00 \$
SUBTOTAL OPTIONS :				75,220.00\$
NON-STANDARD OPTIONS				
SUBTOTAL NON-STANDARD OPTIONS :				0.00\$
COMMENTS				
End-User City of Murfreesboro, TN FOB TO MEMPHIS, TN				

**Seller****Labrie Environmental Group****175-B Rte Marie Victorin****Lévis, Québec****Canada****G7A 2T3**

Phone : 418-831-8250

Toll-Free : 1-800-463-6638

Website : www.labriegrup.com

QUOTE FORM

Quote # / Rev. #	Reference #	Quoted Date
2526 / 3		2023-11-16
Price List / Currency	Terms	Quote Valid Until
2024-A-SW / USD	Net 30 Days	2024-01-15
Regional Sales Manager	Customer Service Rep.	Product Specialist
Craig Williams	Tracie Mauthe	Vincent Denis
Opportunity Type	Carrier	Departure Region
SW End Client	To Be Determined	LaFayette, GA, US

Expected Delivery Date :	Subtotal Base Price and Options :	376,360.00 \$
	Discount (51.00%) :	191,943.60 \$
	Subtotal Base Price and Options (Net) :	184,416.40 \$
Chassis Terms (if applicable) : Net on delivery for release of MSO.	Body Miscellaneous Charge #1 :	0.00 \$
Weight Distribution: Quotes and pricing are subject to changes according to WD analysis which can alter specs. Upon receipt of PO and chassis specs, WD will be conducted and a confirmation of acceptance will be issued.	Body Miscellaneous Charge #2 :	0.00 \$
	Body Miscellaneous Charge #3 :	0.00 \$
Taxes : Not Included.	Sourcewell Fee :	0.00 \$
	Material Surcharge :	7,000.00 \$
Disclaimer : It is the quoting distributor's responsibility to verify the accuracy of this quote versus the specifications for the body and chassis. Labrie Environmental Group will not be responsible for any price differential between this quotation and what is required by the provided specifications. Interest fees on past due account of 1.5% per month (18% annual). Price list subject to change at all time due to the steel price index. Labrie Environmental Group (LEG) does not accept floorplan charges, back charges, liquidated damages or third-party claims for any reason or cause, whether expressed or implied by specifications or other form of communication, including purchase order terms and conditions unless approved in writing by CEO or CFO at time of quotation. Labrie Environmental Group (LEG) and/or seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic.	Extended Warranty :	0.00 \$
	Extended Warranty Other :	0.00 \$
	Additional Trade Discount :	0.00 \$
	Subtotal Body (Net) :	191,416.40 \$
	Chassis Price :	217,942.00 \$
	Subtotal Unit (Net) :	409,358.40 \$
	FET (12%) :	0.00 \$
	Change Fee #1 :	0.00 \$
	Change Fee #2 :	0.00 \$
	EV Fee :	0.00 \$
	Miscellaneous Charge #1 :	0.00 \$
	Miscellaneous Charge #2 :	0.00 \$
	Miscellaneous Charge #3 :	0.00 \$
	Freight Charges :	2,184.00 \$
	Total Unit (Net) :	411,542.40 \$
	Number of Units :	3
	Grand Total :	1,234,627.20 \$
	Currency :	USD

Labrie Representative :

Customer : Environmental Products Group Inc.

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
ENVIRONMENTAL PRODUCTS GROUP, INC.
FOR PURCHASE OF GARBAGE TRUCKS**

This Contract is entered into and effective as of the _____ 2024, by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **ENVIRONMENTAL PRODUCTS GROUP, INC.** a Corporation of the State of Florida and authorized dealer for Labrie Environmental Group ("Contractor").

This Contract consists of the following documents:

- *This Contract*
- *Sourcewell Contract #091219-LEG with Labrie Environmental Group, hereinafter, "Sourcewell Contract"*
- *Quote Form #2863/1 dated November 15, 2023, from Labrie Environmental Group for three (3) Garbage Trucks with options as listed and Quote Form #2526/3 dated November 16, 2023, for three (3) Garbage Trucks with options as listed, hereinafter, "Quote Forms"*
- *Any properly executed amendments to this Agreement*

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

- *First, any properly executed amendment or change order to this Contract (most recent amendment or change order given first priority)*
- *Second, this Contract*
- *Third, Sourcewell Contract*
- *Fourth, Quote Forms*

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase: Six (6) Autocar Garbage Trucks with options as listed on the Quote Forms, and as set forth in the Sourcewell Contract.
2. **Term.** The term of this contract shall be from the Effective Date to the expiration of the Sourcewell Contract on November 15, 2024. Contractor's performance may be terminated in whole or in part:
 - a. Upon 30-day prior notice, for the convenience of the City.
 - b. For the convenience of Contractor, provided that Contractor notifies the City in writing of its intent to terminate under this paragraph at least 30 days prior to the effective date of the termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under this Agreement. Termination under this subsection is subject to the condition that the terminating party notifies the other party of its intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to remedy the problem within 15 days after receiving the notice.
 - d. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Agreement or if it should violate any of the terms of this Agreement, the City has the right to immediately terminate the Agreement. Such termination does not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor.

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

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 Quote Forms from Labrie Environmental Group as follows:
 - Quote Form #2863/1 dated November 15, 2023, from Labrie Environmental Group for three (3) Autocar Garbage Trucks with options as listed per unit at \$400,215.40 for a purchase price of \$1,200,646.20.
 - Quote Form #2526/3 dated November 16, 2023, for three (3) Autocar Garbage Trucks with options as listed per unit at \$411,542.40 for a purchase price of \$1,234,627.20.

A total of Six (6) **Autocar Garbage Trucks with options as listed** on the Quote Forms, and as set forth in the Sourcewell Contract shall be purchased for a **Total Purchase Price of Two Million, Four Hundred Thirty-Five Thousand, Two Hundred, Seventy-Three Dollars and Forty Cent (\$2,435,273.40)**. 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 Solid Waste Department shall be made by August 30, 2024, to Attn: Russell Gossett – Solid Waste Department – 4765 Florence Road, Murfreesboro, TN 37129. Contact Person Russell Gossett (tel. 615-893-3681; email: rgossett@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
 - c. Deliveries of all items shall be made as stated in the Contract documents. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
 - d. Delivered items will not be considered "accepted" until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor's Quote.
 - e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.
4. **Warranty.** Unless otherwise specified, every item purchased shall meet the warranty requirements set forth by the manufacturer and Sourcewell Contract.
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:

Environmental Products Group, Inc.
Attn: Derik Albin
4410 Wendell Drive SW
Atlanta, GA 30336
DAAlbin@myepg.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. **Iran Divestment Act of Tennessee.** By submission of the Contractor's Quote, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.
23. **Non-Boycott of Israel.** By submission of the Contractor's Quote, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.

24. **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" first listed above.

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

ENVIRONMENTAL PRODUCTS GROUP, INC.

DocuSigned by:
By: Derek Albin
2488C93208E74C2
Derek Albin, Territory Sales Manager

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker

43A2085F51F0401
Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Purchase of Replacement Arms for Automated Garbage Trucks

Department: Solid Waste

Presented by: Russell Gossett, Director of Solid Waste

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 two replacement arm assemblies for NewWay Roto pack garbage trucks.

Staff Recommendation

Approve the purchase two arm assemblies from Municipal Equipment.

Background Information

The Solid Waste department is requesting the approval of the purchase of two new Roto pack arm assemblies. These assemblies will replace the automated arm for trucks 230 and 231. Each truck is 7 years old with over 11,000 operating hours. Each arm has operated over 2 million dump actions with a life expectancy of only 1 million. In their current condition, these trucks are unable to keep up with the route standard pace due to the inefficient arm. Additionally, the current arms do not function correctly and sometimes create spilled garbage and hydraulic leaks. Fleet department has deemed this replacement necessary to keep these trucks on a route.

Council Priorities Served

Responsible Budgeting

The current condition of these arms leads to various expenses with repair and clean ups. Once replaced, general maintenance expenses, clean up expenses and cart replacement expenses will be reduced.

Fiscal Impact

The expense, \$100,700, is budgeted in the Solid Waste department's FY24 operational budget.

Attachments

1. Municipal Equipment quote
2. Executed agreement
3. Arm assembly diagram

Customer:
CITY OF MURFREESBORO
PO BOX 1139
ATTENTION: REBECCA LEHEW
MURFREESBORO TN 37133

Contact:
Phone:
Email:

Salesperson: DAVID STASINSKI

Part Number	Description	Qty	Unit Price	Amount
133404	ASSY ARM R-PAC	2 EA	\$49,750.00	\$99,500.00
FREIGHT	FREIGHT approximate charge for direct ship	1 EA	\$1,200.00	\$1,200.00
Sub Total:				\$100,700.00
Discount:				
Sales Tax:				\$0.00
Grand Total:				\$100,700.00

Customer must fill out the information below before the order can be processed...

Accepted by:	
Date:	
P.O. Number:	

- * Terms are Due Upon Receipt unless prior credit arrangements are made at the time of order.
- * Please note if chassis is furnished, it is as a convenience and terms are Net Due on Receipt of Chassis.

Notes:

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
MUNICIPAL EQUIPMENT, INC.
FOR PURCHASE OF REPLACEMENT ARMS FOR GARBAGE TRUCKS**

This Contract is entered into and effective as of the _____ 2023 ("Effective Date"), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **MUNICIPAL EQUIPMENT, INC.** a Corporation of the State of Kentucky, and sole authorized dealer in Rutherford County for New Way Vehicles and Equipment ("Contractor").

This Contract consists of the following documents:

- ***This Contract***
- ***Quote #Q10328 dated December 6, 2023, from Municipal Equipment for two (2) New Way Replacement arms and freight, 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, Contractor's Quote***

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase: **Two (2) New Way Replacement Arms as listed on Contractor's Quote.**
2. **Term.** The term of this contract shall be one year from the Effective Date. 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 Two (2) New Way Replacement Arms as listed at a unit price of

\$49,750.00 each and freight charge of \$1,200.00 for a **Total Purchase Price of One Hundred Thousand, Seven Hundred Dollars and No Cents (\$100,700.00)**. 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.

- b. Deliveries and pick-up of all items for the Solid Waste Department shall be made by August 30, 2024, to Attn: Russell Gossett – Solid Waste Department – 4765 Florence Road, Murfreesboro, TN 37129. Contact Person Russell Gossett (tel. 615-893-3681; email: rgossett@murfreesborotn.gov) must be notified of delivery date and time within two (2) calendar days prior to delivery. Deliveries shall be made during the normal working hours of the City, Monday through Friday.
 - c. Deliveries of all items shall be made as stated in the Contract documents. Should the Contractor fail to deliver items on or before its stated date, the City reserves the right to cancel the order or contract. The Contractor shall be responsible for making any and all claims against carriers for missing or damaged items.
 - d. Delivered items will not be considered “accepted” until an authorized agent for the City has, by inspection or test of such items, determined that they fully comply with specifications. The City may return, for full credit and at no expense to the City, any item(s) received which fail to meet the specifications as stated in the Contractor’s Quote.
 - e. All deliveries made pursuant to the contract must be made pursuant to the written purchase order of the City. The City assumes no liability for goods and/or services provided without a written purchase order from the City. Delivery and freight charges are to be prepaid and included in the bid price.
4. **Warranty.** Unless otherwise specified, every item purchased shall meet the warranty requirements set forth by the manufacturer.
5. **Indemnification.**
- a. Contractor must indemnify, defend, and hold harmless the City, its officers, agents and employees from any claims, penalties, damages, costs and attorney fees (“Expenses”) arising from injuries or damages resulting from, in part or in whole, the negligent or intentional acts or omissions of contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, in connection with the performance of this Agreement, and, Expenses arising from any failure of Contractor, its officers, employees and/or agents, including its subcontractors or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
 - b. Pursuant to Tennessee Attorney General Opinion 93-01, the City will not indemnify, defend or hold harmless in any fashion Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that Contractor may provide.
 - c. **Copyright, Trademark, Service Mark, or Patent Infringement.**
 - i. Contractor, at its own expense, is entitled to and has the duty to defend any suit which may be brought against the City to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. Contractor will indemnify, defend, and hold harmless the City against any award of damages and costs made against the City. The City will provide

Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority from the City in order to enable Contractor to do so. The City reserves the right to participate in the defense of any such action. Contractor has the right to enter into negotiations for and the right to effect settlement or compromise of any such action provided (1) any amounts due to effectuate fully the settlement are immediate due and payable and paid by Contractor; (2) no cost or expense whatsoever accrues to the City at any time; and (3) such settlement or compromise is binding upon the City upon approval by the Murfreesboro City Council.

- ii. If the products or services furnished under this Agreement are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
 - 1. Procure for the City the right to continue using the products or services.
 - 2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to the City, so that they become non-infringing.
 - 3. Remove the products or discontinue the services and cancel any future charges pertaining thereto; provided however, Contractor will not exercise this option until Contractor and the City have determined that each of the other options are impractical.
- iii. Contractor has no liability to the City if any such infringement or claim thereof is based upon or arises out of the use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor, the use of the products or services in a manner for which the products or services were neither designated nor contemplated, or the claimed infringement in which the City has any direct or indirect interest by license or otherwise, separate from that granted herein.

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

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

If to the Contractor:
 Municipal Equipment, Inc
 Attn: Jimmy Hoben, Regional Territory Manager
 6305 Shepherdsville Road
 Louisville, KY 40228
 hoben@meieq.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. **Iran Divestment Act of Tennessee.** By submission of the Contractor's Quote, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.
23. **Non-Boycott of Israel.** By submission of the Contractor's Quote, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.
24. **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" first listed above.

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

MUNICIPAL EQUIPMENT, INC.

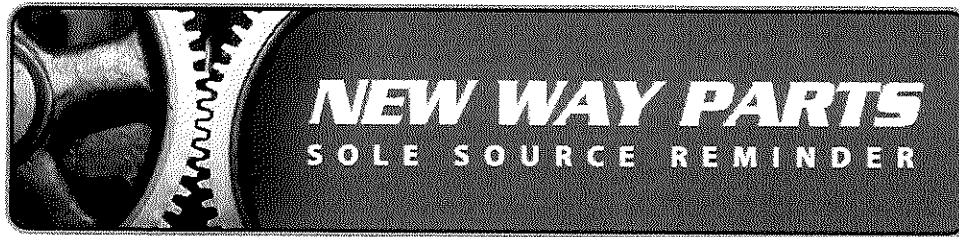
DocuSigned by:
By: Mark Clindaniel
Mark Clindaniel, President

APPROVED AS TO FORM:

DocuSigned by:

Adam F. Tucker

Adam F. Tucker, City Attorney



Parts Manager: Tim Dvorak; tdvorak@newwaytrucks.com
Sr. Parts Specialist: Keith Kult; kkult@newwaytrucks.com

Replacement Parts for Municipal Customers

City of Murfreesboro,

I am writing to inform you that Municipal Equipment is our sole source distributor of New Way® & ROTO PAC® parts, for your area.

Our distributor territories are protected, and we do not allow other distributors to ship into areas that they do not service. If you have any questions on this matter, please feel free to call us.

Keep in mind that the use of parts and other assemblies from another manufacturer as substitutes for New Way original equipment manufacturer (OEM) products WILL void a unit's limited warranty.

Sincerely,
Keith Kult
Senior Parts Specialist

A handwritten signature in black ink, appearing to read "Keith Kult", is written over a faint background image of a New Way truck.



Contact New Way's Parts Department

217 Griffith Road • Carroll, IA 51401

TF: 844.652.3395 | D: 712.652.3395

parts@newwaytrucks.com

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Contract Renewal Rollins Brush and Limb Collection

Department: Solid Waste

Presented by: Russell Gossett, Director of Solid Waste

Requested Council Action:

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

Summary

Contract renewal for Rollins dba REC Pro for brush and limb collection

Staff Recommendation

Approve the renewal of REC Pro brush and limb collection contract.

Background Information

A renewal is required for the current REC Pro contract to keep their services for brush and limb collection. This renewal will serve the City until January 8, 2025. REC Pro won the bid for services awarded in January 2023 with an annual contract total of \$1,456,800. That contract allows REC Pro to be renewed each year, not to exceed three years total. In 2023, REC Pro served 35,046 homes with 3,500 tons of yard waste monthly.

Council Priorities Served

Responsible budgeting

This contract was selected as the lowest, most responsible bidder. This contract renewal allows for the City's priorities to be served at a responsible cost.

Fiscal Impact

The expense, \$727,350 is budgeted in the FY24 operational budget with the remaining \$729,450 to be approved in FY25 operational budget.

Attachments

REC Pro letter of renewal

COUNCIL COMMUNICATION

Meeting Date: 1/11/2024

Item Title: Amendment 2 to Contract with Mid-Cumberland Human Resource Agency

Department: Transportation (Transit)

Presented by: Russ Brashear, Assistant Transportation 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

Amendment securing cost of paratransit service for FY25 and FY26.

Staff Recommendation

Approve Amendment 2 to contract with Mid-Cumberland Human Resource Agency (MCHRA).

Background Information

The current contract with Mid-Cumberland expires June 30, 2024. The contract contains provisions allowing two 2-year extensions. Both the City and Mid-Cumberland wish to extend the contract for two additional years at the current per trip rate of \$45 M-F and \$80 on Saturday. Mid-Cumberland will also continue to provide Veteran Trips with no co-pay required.

Total annual cost of the paratransit service is expected to remain between \$475,000 and \$510,000. Federal and State funds cover 75% of the cost.

Council Priorities Served

Responsible Budgeting

Securing the current costs for the next two fiscal years will reduce the affects of inflation.

Fiscal Impacts

The costs of paratransit services is accounted for within the Department's operating budget.

Attachments:

1. Amendment 2 to MCHRA Contract
2. Original and Amendment 1 to MCHRA Contract

**SECOND AMENDMENT
TO THE
SHARED-RIDE PARATRANSIT SERVICE AGREEMENT
BETWEEN THE
CITY OF MURFREESBORO AND THE
MID CUMBERLAND HUMAN RESOURCE AGENCY**

This Second Amendment ("Second Amendment") to the Contract dated December 3, 2019, ("Contract") is effective as of _____, by and between City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee and the Mid-Cumberland Human Resource Agency ("MCHRA").

RECITALS

WHEREAS, on December 3, 2019, the City entered into a contract with MCHRA, for the provision of paratransit services; and,

WHEREAS, per Clause A(1), Agreement Term, the initial term of the Agreement is from December 3, 2019 to June 30, 2024; and,

WHEREAS, Clause A(1), Agreement Term, states the term of the Agreement may be extended by the City at its sole discretion for up to two extensions of two years each on the same terms and conditions as set forth in the Agreement; and,

WHEREAS, on November 21, 2023, MCHRA notified the City, in writing, setting forth the pricing for years 3, 4, and 5 as follows:

Pricing for Year 3 (July 1, 2024 – June 30, 2025)	Monday-Friday \$45.00 per trip leg Saturday \$80.00 per trip leg
Pricing for Year 4 (July 1, 2025 – June 30, 2026)	Monday-Friday \$45.00 per trip leg Saturday \$80.00 per trip leg

WHEREAS, the City agrees to extend the Agreement for two years, July 1, 2024 – June 30, 2026, and,

WHEREAS, the City agrees to the pricing set forth about for Year 3 (July 1, 2024 – June 30, 2025) and Year 4 (July 1, 2025 – June 30, 2026) and such pricing change shall be effective July 1, 2024;

NOW THEREFORE, the City and MCHRA mutually agree to the following:

1. The Agreement is amended for an additional two years from July 1, 2024 to June 30, 2026 per Clause A(1).
2. Clause 55(b) shall be deleted in its entirety and replaced with the following pricing information:

<u>YEAR</u>	<u>PRICE PER REVENUE SERVICE TRIP</u>	
	Monday-Friday	Saturday
July 1, 2024 – June 30, 2025	\$45.00	\$80.00
July 1, 2025 – June 30, 2026	\$45.00	\$80.00

3. The letter from Anna Perry, Transportation Director, MCHRA, to Russ Brashear, dated November 21, 2023, regarding the pricing for Years 3, 4, and 5 of the Agreement shall be made an Attachment to the Agreement.
4. Except as provided herein, the parties make no other modifications or amendments, and all other terms of the Agreement shall continue in full force and effect.
5. This amendment shall take effect as of July 1, 2024 (the "Effective Date").

IN WITNESS WHEREOF:

CITY OF MURFREESBORO

By: _____
Shane McFarland, Mayor

MCHRA

DocuSigned by:
By: Jane Hamrick
Jane Hamrick, Executive Director

Approved as to form:

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



midCUMBERLAND

Human Resource Agency

November 21ST 2023

**Russ Brashear
City of Murfreesboro
Public Transportation
4765 Florence Road
Murfreesboro TN 37129**

Dear Russ Brashear,

This letter is in regards to Mid Cumberland Human Resource Agency interest in a possible amendment to extend our current contract with the City of Murfreesboro to continue to provide Paratransit Services. Mid Cumberland Human Resource Agency is interested amending the contract that expires in June 2024 for an additional 3-5 years. The prices per trip would be as follows:

July 2024-June 2026 Monday-Friday \$45.00 per trip leg

July 2024-June 2026 Saturday \$80.00 per trip leg

July 2026 price would increase \$2.00 per trip leg for the remainder of the contract.

Please feel free to contact me if you have any questions.

Sincerely,

Anna Perry

**Transportation Director
Mid Cumberland Human Resource Agency
615-517-8940
Anna.perry@mchra.com**

**FIRST AMENDMENT
TO THE
SHARED-RIDE PARATRANSIT SERVICE AGREEMENT
BETWEEN THE
CITY OF MURFREESBORO AND THE
MID CUMBERLAND HUMAN RESOURCE AGENCY**

This First Amendment ("First Amendment") to the Contract dated December 3, 2019, ("Contract") is effective as of this 22nd day of April 2022, by and between City of Murfreesboro ("City"), a municipal corporation of the State of Tennessee and the Mid-Cumberland Human Resource Agency ("MCHRA").

RECITALS

WHEREAS, on December 3, 2019, the City entered into a contract with MCHRA, for the provision of paratransit services; and,

WHEREAS, clause 60, Contract Amendment, states the Agreement may be amended upon mutual consent by both parties in writing; and,

WHEREAS, on March 4, 2022, MCHRA notified the City, in writing, that "as of July 1, 2022, the price will drop from:

Monday-Friday \$60.00 per trip leg to \$45.00 per trip leg
Saturday \$90.00 per trip leg to \$80.00 per trip leg; and,

WHEREAS, the City agrees to such pricing change effective July 1, 2022;

NOW THEREFORE, the City and MCHRA mutually agree to the following:

1. Clause 55(b) shall be deleted in its entirety and replaced with the following pricing information:

<u>YEAR</u>	<u>PRICE PER REVENUE SERVICE TRIP</u>	
	<u>Monday-Friday</u>	<u>Saturday</u>
December 7, 2019-June 2020	\$55.00	\$85.00
July 2020 – June 2021	\$55.00	\$85.00
July 2021 – June 2022	\$60.00	\$90.00
July 1, 2022 – June 2023	\$45.00	\$80.00
July 2023 – June 2024	\$45.00	\$80.00


2. The letter from Anna Perry, Transportation Director, MCHRA, to Russ Brashear, dated March 4, 2022, regarding the price drop effective July 1, 2022, shall be made an Attachment to the Agreement.
3. Except as provided herein, the parties make no other modifications or amendments, and all other terms of the Agreement shall continue in full force and effect.
4. This amendment shall take effect as of July 1, 2022 (the "Effective Date").

IN WITNESS WHEREOF:

CITY OF MURFREESBORO

DocuSigned by:
By: 
A2F6A4BF7CD74E7...
Shane McFarland, Mayor

MCHRA

By: 
Jane Hamrick, Executive Director

Approved as to form:

DocuSigned by:
Adam F. Tucker
4/21/2022
43A2035E51F9401...
Adam F. Tucker, City Attorney

SHARED-RIDE PARATRANSIT SERVICE AGREEMENT

WHEREAS, CITY OF MURFREESBORO hereinafter referred to as "CITY" or "Purchaser", desires to promote and provide Shared-Ride Paratransit Services in the City of Murfreesboro, Tennessee; and

WHEREAS, CITY is empowered to provide Shared-Ride Paratransit transportation to the general public; and

WHEREAS, CITY desires to provide shared-ride, accessible, affordable transportation to the general public, including, without limitation, persons with disabilities; and

WHEREAS, MID-CUMBERLAND HUMAN RESOURCE AGENCY, hereinafter referred to as "Contractor" is a public transportation provider; and

WHEREAS, Contractor is prepared to furnish such transportation services in the form of Shared-Ride Paratransit Services open to individuals determined to be eligible for such shared-ride services, all in accordance with applicable legal guidelines and regulations of the Federal Transit Administration and the Tennessee Department of Transportation;

WHEREAS, CITY desires to have Contractor provide Shared-Ride Paratransit Services as described in this Agreement; and

WHEREAS, Contractor has agreed that it will provide said Shared-Ride Paratransit Services in a reasonable and workmanlike manner.

NOW THEREFORE, as of the 3rd day of December, 2019, in furtherance of the above desires, it is agreed by and between the parties intending to be legally bound hereby as follows:

A. GENERAL PROVISIONS

1. **Agreement Term** - This Agreement shall be effective as of December 3, 2019 and shall terminate June 30, 2024, unless terminated prior to the expiration of this Agreement in accordance with the terms and conditions set forth herein. The term of this Agreement may be extended by CITY at its sole discretion for up to two extensions of two years each on the same terms and conditions as set forth herein.
2. **Definitions** – The following terms shall have the indicated meanings when used in this Agreement:
 - a. *Shared Ride Paratransit Service* means accessible, affordable, origination to destination service to persons with disabilities.
 - b. *On-Time* means a pick-up that occurs within 15 minutes before to 15 minutes after the scheduled pick-up time.
 - c. A *drop-off* will be deemed on-time if it occurs 30 minutes before to 5 minutes after the passenger's desired drop-off time.
 - d. *Missed Trip* means a scheduled trip that is not provided by Contractor at all or a scheduled trip for which the Contractor's vehicle arrives 30 minutes or more after the scheduled pick-up time.

- e. *ADA* means the Americans with Disabilities Act and all rules and regulations applicable thereto.
 - f. *FTA* means the Federal Transit Administration.
 - g. *DOT* means the Tennessee Department of Transportation.
3. **Scope of Work** –CITY hereby engages Contractor and Contractor agrees to perform the Shared-Ride Paratransit Services, hereinafter described, subject to the general policies and directions of CITY and to the provisions and requirements of this Agreement. Contractor shall, upon receiving CITY's notice to proceed, do all things necessary to manage, operate, and maintain the services described in this Agreement, including but not limited to:
- a. Employ and supervise all personnel, including managers, supervisors, vehicle operators, mechanics and other maintenance personnel;
 - b. Provide management and supervision with respect to such operations and personnel;
 - c. Administer training, drug and alcohol testing and safety programs;
 - d. Prepare reports and provide information as required by CITY;
 - e. Enforce a Dress-Code Policy agreed to by CITY;
 - f. Provide all equipment, parts and supplies unless specifically provided by CITY in this Agreement.
4. **Compliance with Laws and Regulations** - Contractor agrees to comply with all applicable laws, rules, and regulations; including without limitation those of the United States, the State of Tennessee, and the City of Murfreesboro.
5. **Contractor Responsibility** – The Contractor agrees that:
- a. As of the date of the execution of this contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the United States, State of Tennessee, any governmental entity, instrumentality, or authority;
 - b. As of the date of the execution of this Contract, it has no tax liabilities or other Commonwealth obligations with the United States, the State of Tennessee, or local governmental bodies;
 - c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the CITY if at any time during the term of this Contract, it becomes delinquent in the payment of taxes, or other United States, State of Tennessee or local governmental body obligations, or if it or any of its subcontractors are suspended or debarred by the federal government, or any other state governmental entity. Such notification shall be made within 15 days of suspension or debarment;
 - d. The failure of the Contractor to notify the CITY if it becomes delinquent in the payment of taxes or of its suspension or debarment by the State, or the federal government shall constitute an event of default of the Contract with the CITY; and,
 - e. The Contractor agrees to reimburse the CITY for the reasonable costs of investigation incurred by the CITY, or the Office of the Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the CITY, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including

overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations, which do not result in the Contractor's suspension or debarment.

6. **Conflicts of Interest** - It is agreed that all conflicts of interest will be prohibited. No CITY Council Member, nor any member of the immediate family of any CITY Council Member, nor any CITY management/supervisory employee, nor any member of the immediate family of any CITY management/supervisory employee shall be in any way interested in this Agreement nor in the business of Contractor as a principal or as an employee, nor shall any Council Member nor member of the immediate family of any Council Member, nor CITY management/supervisory employee, nor member of the immediate family of any CITY management/supervisory employee receive any compensation, salary, commission or other payment from Contractor.
7. **Cooperative Agreements** - Contractor agrees to abide by cooperative agreements between CITY and other counties or transit authorities.
8. **Contract Approval and Funds** - This Agreement may be subject to approval by the United States Department of Transportation and the Tennessee Department of Transportation. CITY will be bound by the terms of this Agreement only to the extent funds are available. This Agreement's funds and Contractor payment rely on Federal, State and Local funding and participation. This Agreement is conditioned upon the approval and release of those funds. By executing this Agreement, Contractor acknowledges that any Agreement or notice(s) communicated from CITY will be considered to be null and void if at any time, for whatever reason, the Federal and State funds are not released in the full purchase amount.
9. **Assignment/Subcontracting** - Contractor certifies that no assignment or subcontracting of Contractor's rights or obligations under this Agreement shall be permitted by Contractor without prior written authorization from CITY, and any attempted assignment or subcontracting without such written authorization shall be void. CITY shall expect all requirements of this Agreement to be fulfilled by Contractor. All applicable requirements of this Agreement shall be required of any assignees/subcontractor(s) that have been approved in writing by CITY. CITY's approval of any assignment, subcontract, award or delegation shall not release Contractor of any obligation under the Agreement. Contractor shall be fully responsible for the acts and omissions of the subcontractors, and of persons either directly or indirectly employed by Contractor. Contractor is responsible for the acts and omissions of persons that it directly employs. Nothing contained in this Agreement shall create any contractual relationship between any assignee/subcontractor and CITY.
10. **Complete Contract** - It is agreed that this document including all Exhibits and Attachments, Contractor's Proposal, the Request for Proposal (all reviewed and executed by CITY), Clauses and Procedures, Federal and State clauses and certifications and all Addendums to the RFP are incorporated herein, constituting the entire Agreement and understanding between parties hereto with respect to the subject matter hereof and that no other agreement, understanding, representation, or warranty expressed or implied, whether oral or written, exists which in any way limits, extends, or alters any provisions hereof. The invalidity in whole or in part of any provision of this Agreement shall not affect the validity of other provisions. CITY's failure to insist in one

or more instances upon the performance of any term or terms of the Agreement shall not be construed as a waiver or relinquishment of CITY's right to such performance by Contractor.

11. **Force Majeure** – Any delay or failure of performance by either party shall not constitute a default or give rise to any claims for damages if and to the extent the failure is primarily caused by any act, event or condition reasonably beyond that party's control and adversely affecting its ability to perform its obligations, including but not limited to:
 - a. Acts of God, lightening, earthquake, fire, epidemic, landslide, drought, hurricane, tornado, storm, explosion, failure of utilities, flood, nuclear radiation, or any other act by third parties that interferes with operations.
 - b. Condemnation or other taking by any government body, change in any applicable law, rule, regulation, ordinance, or permit condition not in effect as of the date hereof.
 - c. Any order, judgment, action or determination of any federal or state court administrative agency or government body.
12. **Meetings** – Upon request, Contractor shall, at its own expense, attend CITY Council meetings, public meetings and other meetings to provide information concerning the operation of Shared-Ride Paratransit Services under this Agreement. The General Manager or a supervisor designated by the General Manager shall meet with CITY transit staff at least monthly and at times and locations to be determined by CITY.
13. **Confidentiality** – Any and all reports, information or data of whatever nature provided to, or prepared, generated or assembled by Contractor in connection with the performance of the Agreement shall not be made available to any individual or organization outside Contractor without the prior written approval of CITY, unless such is required by a court process. Contractor shall promptly notify CITY of any request for such information in a court proceeding.

B. OPERATIONS

14. **General Requirements** – Contractor shall provide the necessary management, technical and operating services for the operation of shared-ride paratransit transportation services as specified by CITY. Contractor shall assist and cooperate with CITY in meeting CITY's goals of providing quality Shared-Ride Paratransit Services. Unless specifically identified as being provided by CITY in this Agreement, Contractor shall furnish all facilities, equipment, personnel and services required to manage and operate the Shared- Ride Paratransit Services.
15. **Shared-Ride Services to be Provided**—Contractor shall provide Shared-Ride Paratransit Service as specified by CITY and as follows:
 - a. The geographic areas to be serviced under the contract will be in the City Limits of Murfreesboro with both origination and destination of each trip being within the City Limits.
 - b. Shared-Ride Paratransit service to be operated involves demand-responsive, origination-to-destination service for persons with disabilities, and medical assistance recipients as determined eligible by the City. Contractors should be prepared to provide regular service with a 6:00 AM pick-up until a 6:00 PM drop-off, Monday through Friday, with

travel time before and after these hours. Saturday Service will operate with service hours of 9:00 AM pick-up, until 4:00 PM drop-off. Travel time should be factored in to meet these pick-up and drop-off times. NOTE: Actual commencement of Saturday service will be mutually agreed upon at a currently unknown date after the start of the Contract.

- c. In-Vehicle Time - Passengers shall not spend more than forty (40) minutes in a vehicle. Contractor will endeavor to group passengers onto vehicles to the maximum practical extent, consistent with ride time, on-time performance and trip completion requirements.
- d. Attendants - Contractor does not supply attendants, but must allow a passenger one attendant, if so requested. Attendants are allowed to ride for free as set forth in applicable ADA Regulations. Customer must notify reservations they will have an attendant when booking their trip.
- e. Contractor shall prepare and utilize a complete and comprehensive preventive maintenance program for all vehicles used in CITY service. The program shall meet or exceed manufacturer's guidelines and shall be submitted to CITY representatives upon request.
- f. Contractor shall identify Contractor vehicles providing CITY Shared-Ride Paratransit Service with signage or decals to be agreed upon.
- g. Contractor shall supply sufficient personnel as necessary to provide on-time shared-ride service for all rides scheduled by Contractor. Contractor shall immediately notify CITY if a vehicle is running late by 15 minutes or more. If contractor is unable to provide sufficient runs and personnel to cover the route obligations, contractor staff agrees to notify CITY as soon as possible. CITY may fill the unmet obligation with another contractor of its choice in an effort to provide uninterrupted service to passengers.
- h. Reservations - Passengers are required to make reservations no later than the day before the service is provided. Reservations Personnel must be on duty on Sundays answering calls 0800-1630 and any additional time required to properly schedule trips for Monday. Call hold times shall not exceed 2 minutes 30 seconds.
- i. The Contractor may provide service to other agencies; however, ROVER riders cannot be denied trips in order to accommodate other agencies/services. Contractor shall be responsible for all customer registration, trip reservation and trip scheduling functions. By 7:00 PM the workday before the service is to be provided, Contractor personnel will schedule next day trips for all ADA service requests received by Contractor by 4:30 PM that workday. Contractor personnel will provide to the City a schedule of next day ADA service trips.

No service is provided on the following Holidays:

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Friday Following Thanksgiving Day
- Christmas Eve
- Christmas Day

- j. City will have view access only to the scheduling software portal for purposes of monitoring. Contractor will have electronic tablets for drivers to access electronic manifests which will include passenger information such as name, origin, destination, scheduled time of pickup, scheduled time of arrival at destination, fares to be collected, and other important information relative to the trip and/or passenger. Contractor shall be responsible for supplying the consumable materials required by said equipment.
 - k. Passenger co-pays for shared-ride paratransit service will be charged on a per person, per trip basis as noted on the daily manifest. Fares will be assessed for transportation only. Passengers currently are required to pay \$2.00 cash fare per one-way trip. The City must approve any increases in fare and is regulated to no more than twice the regular fixed route fare. All collected fares are to be returned to the City through credit by means of a deduction from the Contractor invoice. This returned revenue will be a means by which the City tracks the effectiveness of the service provided by the Contractor. Neither the passenger nor the CITY will be charged for nor pay any costs or penalties associated with waiting fees, or any other surcharge, nor will drivers accept tips from passengers. It shall be the Contractor's responsibility to collect these co-pays, and its accounts and records shall adequately document the collection and remittance of co-pays. No Shows may be billed to the City at a rate equal to the passenger Co-pay which is currently \$2.00 per trip.
16. **Emergency Services** - In the event of a declared civil disorder or natural catastrophe, Contractor shall direct the employees to operate as ordered by federal, state, and/or the City, Local or County Civil Authorities.
17. **Communications System** – All vehicles used in Shared-Ride Service are required to be equipped with radio or telephone communication systems.
18. **Supervisor / Dispatcher** - A supervisor or dispatcher is required to be on duty or available at all times when Shared-Ride Paratransit Service vehicles are in service and at least one hour prior to going into service. This person will be required to evaluate employee's readiness and ability to perform scheduled work – ensuring that each employee is not experiencing any impairment that will have any possible outcome on the delivery of services or vehicle maintenance. This person must also monitor and respond to radio communications and communicate with operators, supervisors, and maintenance personnel concerning operations, service, safety and customer service issues.
19. **Operators** - All vehicle operators shall, at all times during performance of their duties, conduct themselves in a professional manner and operate vehicles safely.
- a. Vehicle operators shall greet passengers in a pleasant manner and be sensitive to all passenger needs. Vehicle operators shall minimize conversations with passengers while any vehicle is in motion. Vehicle operators shall assist disabled, elderly, and other needy passengers board/exit the vehicle as necessary. Vehicle operators shall not discuss aspects of the operations and vehicle maintenance with passengers. Political, religious and cultural view points and debates shall not be discussed in the workplace or on vehicles, and especially not with customers.

- b. Vehicle operators shall not eat, drink, or use tobacco products while their vehicle is in scheduled service, but may eat or drink nonalcoholic beverages on board while their vehicle is on scheduled break or layovers. The use of tobacco products on vehicles shall be prohibited at all times. Contractor will remove the operator from operating a vehicle and or route if such operator uses tobacco at any time onboard a vehicle.
- c. Vehicle Operators are prohibited from personal use of any cell phones, tablets or other electronic communication devices while driving such as typing, texting or talking on the phone. Only electronic communication devices authorized for work-related purposes may be used and shall never be used in a manner that would distract from safe operations of the vehicle or for personal purposes.
- d. Vehicle operators, when requested by CITY, shall distribute notices and surveys to passengers or otherwise render assistance in any promotion, special survey, service monitoring or other special project sponsored by CITY.
- e. Contractor shall require all vehicle operators to complete daily ridership reports if needed, National Transit Database surveys and collect other data and information as required or requested by CITY, the Tennessee Department of Transportation, the United States Department of Transportation, or the Federal Transit Administration for system monitoring and reporting requirements.
- f. All vehicle operators shall be neat in appearance and in conformance with an approved Contractor dress code policy that has been approved by CITY.
- g. Contractor is encouraged to adopt and promote on-the-job use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or the City.
- h. Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately- owned vehicle when on official business in connection with the work performed under this agreement.

20. **Public Information** - The Contractor agrees to make available on all vehicles, timetables, schedules, fare schedules, and other public relations materials, not only for service being run by the Contractor but also for other transit authorities or organizations that connect with service of the CITY.

21. **Issues/Complaints** – Any complaint, or applicable comments/suggestions received by CITY that concerns the delivery of transportation services under this Agreement or the behavior of Contractor employees shall be forwarded to Contractor for a full investigation, as soon as possible, but no later than the next regular operating day after the complaint, or applicable comment/suggestion is received by Contractor.

- a. Contractor shall provide a written response to complaints received to CITY within two business days of receiving the complaint. Contractor's response shall include action(s) taken, if any, to address any problem or complaint. If any serious matters are reported to CITY, CITY may require that the operator or operators in question be removed by Contractor from operating routes of CITY.

- b. Contractor shall report to CITY immediately by electronic means any problems encountered in the provision of Shared-Ride Paratransit Services, any and all complaints received directly concerning the provision of this service and the steps taken to remedy any such problems.

C. MAINTENANCE

22. All Vehicles, Equipment, and Other Fixed Assets –Contractor is responsible for the provision of both physical damage and public liability insurance for these vehicles, and they will be operated, maintained, and housed by the Contractor. Contractor shall be responsible for the vehicles, equipment, and other fixed assets used in the performance of the services called for under the Contract and shall be responsible for all loss or damage with respect to any such vehicles, equipment, and other fixed assets.

23. General Maintenance Requirements - It is agreed that the Contractor shall:

- a. Properly service, maintain, repair, and perform preventative maintenance on the vehicles and furnish all parts and labor which may be required to keep the vehicles in a safe mechanical condition according to the manufacturer's recommendations and industry norms. All repairs and maintenance shall comply with all applicable federal, state, and local laws and regulations.
- b. Promptly repair or make arrangements for the repair of vehicles damaged due to accidents. The Contractor shall be responsible for the cost of all vehicle repairs due to accidents.
- c. Not defer maintenance for reasons of shortage of maintenance staff or operable vehicles, nor shall service be curtailed for the purpose of performing maintenance without prior written consent of the CITY. Preventative maintenance inspections and running repairs shall receive first priority in the use of the Contractor's maintenance resources. Contractor shall adjust work schedules of its employees as necessary to meet all scheduled services and complete preventative maintenance activities. Contractor shall retain additional personnel or the services of outside firms, if necessary, to meet maintenance requirements;
- d. Use parts, materials, tires, lubricants, fluids, oils that meet or exceed original equipment manufacturer specifications and requirements;
- e. Keep the vehicles properly serviced with all necessary oil, fuel, tires, and other fluids necessary for the safe operation of the vehicles.
- f. Keep the interior and exterior of the vehicles neat and clean and the interior free of debris.
- g. Provide for any and all inspections or servicing of the vehicles according to the warranty or warranties pertaining to the vehicles to keep warranties in full force and effect.
- h. Provide liability, fire, theft, comprehensive, and collision insurance as required by this Contract.
- i. Exercise due diligence in the tracking, filing and general administration of all vehicle or vehicle component warranties.
- j. Maintain records of all maintenance and repairs to Contractor vehicles including a hard copy history folder for each vehicle. This folder shall contain, in chronological order, all work orders generated for each vehicle including documentation of preventative

maintenance inspections according to the Contractors Preventative Maintenance standards. Records shall be available for the CITY's inspection at any time. The folder shall also contain the vehicle's make, model, year, and serial number along with any invoice information.

- k. Require that all vehicle operators perform a pre-trip inspection. These inspections are to be performed on a daily basis and recorded on a Vehicle Inspection Form.
 - l. Require that all vehicle operators inspect and report any defects that may occur during the service day. At the end of the driver's shift, the form will be turned over to the Contractor's maintenance department for correction.
 - m. Conform to all State, Federal, and Municipal laws, rules, and regulations with respect to the maintenance and operation of the vehicles.
 - n. Furnish and maintain all necessary support vehicles in order to ensure road call maintenance and vehicle towing throughout the service area at all times when vehicles are operated.
24. **Maintenance Evaluations** – The Contractor shall allow the CITY access to the Contractors vehicles and maintenance records to monitor the Contractor's maintenance performance, as the CITY deems necessary.
25. **Vehicle Registration** - Contractor is responsible for Vehicle Registration.

D. CONTRACTOR PERSONNEL

26. **Independent Contractor** - It is agreed that Contractor is, and will remain in all respects, an independent contractor and not the agent or servant of CITY and it is further agreed that CITY neither has, nor shall in the future, have the power to hire or fire employees of Contractor nor control the actions of the employees of Contractor. Contractor attests that it is authorized under the laws of the State of Tennessee to carry out activities as an independent contractor. Contractor agrees to hire and pay employees and shall make all necessary payroll deductions and payments to federal, state, and local governments, and shall make provisions for Workmen's Compensation where it is required.
27. **General Qualifications** - For the purposes of this Agreement and interpretation thereof, it is agreed that Shared-Ride Paratransit Service is an unusual and specialized function. It is the essence of this Agreement that the passengers be transported regularly, promptly, safely and without interruption or incident. It shall be a primary obligation of Contractor to operate its affairs so that CITY will be assured of this continuous and reliable service. It is recognized that for the protection of the public, vehicle operators must be of stable personality and of the highest moral character. CITY places upon Contractor and Contractor agrees to accept the full responsibility of assuring such qualities in personnel. Contractor agrees that it will not knowingly allow any person to drive a vehicle whose moral character is not of the highest level, or whose conduct might in any way expose the public to any impropriety of word or conduct whatsoever, nor shall Contractor allow any person to drive a vehicle who is not physically competent or, at that time, not in a condition of mental and emotional stability. The responsibility for hiring and discharging personnel in respect to all of the foregoing shall rest entirely upon Contractor.

28. Management and Supervision - The overall management and daily supervision of transportation services provided by Contractor shall be the responsibility of Contractor. Contractor shall meet the following minimum requirements unless an alternative Management and Supervision structure is approved in writing by CITY:

- a. Designate and provide the services of a General Manager who shall provide overall management and supervision of the services to be provided under the terms of this Agreement. The General Manager shall have the appropriate education, five (5) or more years of experience in public transportation operations or equivalent managerial experience deemed acceptable by CITY, and supervisory skills and experience necessary to effectively manage all the transportation services to be provided under this Agreement.
 - i. CITY shall be the sole judge in determining whether the General Manager possesses the necessary education, qualifications and experience. The General Manager shall work cooperatively with CITY in matters relating to service quality, providing operational and other data, responding to comments from passengers and the general public, and responding to specific requests for other assistance as the need arises.
 - ii. The office of the General Manager shall be physically located at the facility where the Contractor will operate transportation services and maintain vehicles.
 - iii. At all times, the General Manager or a supervisor designated to act for the General Manager shall be available by telephone, email or in person to make decisions regarding day-to-day operations and shall be authorized to act on behalf of Contractor regarding all matters pertaining to the transportation services provided under this Contract.
 - iv. Contractor shall assure that any replacements to the proposed General Manager during the term of this Agreement will possess the appropriate and, at a minimum, the qualifications indicated herein.
- b. Support Staff - Contractor must provide dispatchers and other support staff who have two to three (2-3) years of operating and/or transit experience. All support staff are required to be fully trained and familiar with all contractual and operational requirements relating the provision of services under this Agreement. Contractor must provide support staff responsible for:
 - i. Timely and efficient provision of real-time service, vehicle operator conduct and proper documentation of all service-related activity.
 - ii. Providing special attention to timely departures from base for any run pull-outs.
 - iii. Providing continuous monitoring of communication.
 - iv. Answer and respond to telephone calls.
 - v. Basic troubleshooting.
 - vi. Scheduling and assigning drivers and vehicles in accordance with the service hour schedules and scheduled trips for each day.
 - vii. Responding to customer comments and questions daily.
- c. Maintenance Staff - Contractor must provide mechanics, vehicle cleaners, and other maintenance personnel necessary to maintain vehicles and respond to road calls.
- d. CITY will review the performance of Contractor's managerial staff. If poor performance by any member of the management staff is determined, CITY reserves the right to require

remedial and/or corrective action as well as removal from continuing to provide services under this Agreement for just cause.

- e. CITY reserves the right to request the removal of any member of Contractor's managerial staff for just cause from assignment at its discretion.

29. Key Personnel – The Contractor's managerial staff are essential to the work being performed under this Agreement. Contractor is required to provide a replacement for a Key Personnel position(s) within thirty (30) days.

30. Vehicle Operators - All vehicle operators shall, at all times during performance of their duties, conduct themselves in a professional manner and operate vehicles safely.

- a. All vehicle operators shall be neat in appearance, wear a uniform approved by the Contractor and a Contractor provided badge indicating the driver's first name at all times while on duty. The Contractor shall be responsible for supplying uniforms.
- b. Vehicle operators shall greet passengers in a pleasant manner and be sensitive to all passenger needs. At all times during performance of their duties, conduct themselves in a professional manner. Vehicle operators shall minimize conversations with passengers while any vehicle is in motion. Vehicle operators shall assist disabled, elderly, and other needy passengers board/exit the vehicle as necessary. Vehicle operators shall not discuss aspects of the operations and vehicle maintenance with passengers. Political, religious and cultural view points and debates shall not be discussed in the workplace or on vehicles, and especially not with customers.
- c. Vehicle operators shall not eat, drink, or use tobacco products while their vehicle is in scheduled service, but may eat or drink nonalcoholic beverages on board while their vehicle is on scheduled break or layovers. The use of tobacco products on vehicles shall be prohibited at all times.
- d. Vehicle Operators are prohibited from personal use of any cell phones, tablets or other electronic communication devices while driving such as typing, texting or talking on the phone. Only electronic communication devices authorized for work- related purposes may be used and shall never be used in a manner that would distract from safe operations of the vehicle or for personal purposes.
- e. Vehicle operators, when requested by CITY, shall distribute notices and surveys to passengers or otherwise render assistance in any promotion, special survey, service monitoring or other special project sponsored by CITY.
- f. Contractor shall require all vehicle operators to complete daily ridership reports if needed, National Transit Database surveys and collect other data and information as required or requested by CITY, the Tennessee Department of Transportation, the United States Department of Transportation, or the Federal Transit Administration for system monitoring and reporting requirements.

31. Minimum Requirements for Vehicle Operators –The Contractor agrees that all drivers operating vehicles under this Contract shall:

- a. Possess the proper Drivers License required by the State of Tennessee to operate such vehicle. Drivers shall not be permitted to have licenses in more than one state. All drivers shall notify the Contractor of any suspensions, revocations or cancellations of their license. The Contractor shall not permit a driver to operate a vehicle if the driver has no

license and/or more than one license or their license has been suspended, revoked or canceled;

- b. Have not been convicted of a felony unless approved by the Contractor and the CITY. Approval will be made on a case-by-case basis;
- c. Have not been convicted of a misdemeanor involving theft or dishonesty in the last ten years unless approved by the Contractor and the CITY. Approval will be made on a case-by-case basis;
- d. Not be allowed to drive a vehicle and transport passengers under 18 years of age if they have a record showing "indicated" or "founded" for child abuse;
- e. Be suspended from transporting passengers if charged with a felony or a misdemeanor involving theft or dishonesty pending the outcome of the case, unless continued work under this contract is approved by the Contractor and the CITY. Approval will be made on a case-by-case basis;
- f. Pass a U. S. Department of Transportation physical examination prior to the initiation of this Contract and every two years thereafter;
- g. Not be addicted to the use of alcohol or controlled substances and participate in a substance abuse testing program if required, in accordance with the U.S. Department of Transportation regulations.
- h. Be unacceptable and be permanently eliminated from driving a vehicle under this Contract if one or more of the following exists in the driver's or applicant's personal or professional driving background:
 - i. Two or more chargeable accidents in the last three (3) years.
 - ii. One or more type A violations in the last five (5) years. Type A violations are:
 - 1. Driving while intoxicated;
 - 2. Driving under the influence of drugs;
 - 3. Negligent homicide arising out of the use of a motor vehicle;
 - 4. Operating during a period of suspension or revocation;
 - 5. Using a motor vehicle for the commission of a felony;
 - 6. Aggravated assault with a motor vehicle, and;
 - 7. Operating a motor vehicle without owner's permission (grand theft).
 - 8. Reckless driving;
 - 9. Speed contest; and
 - iii. Hit and run (BI and PD) driving.
 - iv. Any combination of chargeable accidents and type B violations that equal four or more in the last five years (5 years). Type B violations are defined as all moving violations not listed as Type A violations.
- i. Make passenger safety a primary concern and responsibility;
- j. Possess a good working knowledge of the area in which service is being provided;
- k. Be charged with the responsibility for viewing eligibility cards, collecting fares as determined by the CITY, and accurately completing vehicle and passenger logs;

32. **Minimum Training Requirements for Vehicle Operators** - Prior to permitting a driver to operate a vehicle in service on behalf of the CITY, the Contractor shall adequately provide orientation, training, including but not limited to, vehicle orientation, safe vehicle operation, passenger relations, fare collection, identification cards, on-time performance, completion of required reports, use of communications equipment, accident/incident and emergency procedures, Program Regulations inclusive of proper operation of vehicle wheelchair lift/ramps, required

training concerning the use of drugs and alcohol including over-the-counter/Rx medications, and any other training required by the Contractor, the CITY, or governmental agency. The Contractor shall retrain drivers in any of the above areas, as needed, due to unsatisfactory performance. Any costs associated with the orientation and training sessions shall be the responsibility of the Contractor. The Contractor shall provide the CITY documentation that operators have been trained.

33. Training Requirements for Maintenance Personnel – The Contractor agrees that only properly trained mechanics will be used by the Contractor to maintain and service the vehicles.

34. Personnel Reporting Requirements - The Contractor shall provide the CITY with the following information:

- a. A list of all drivers, including maintenance, dispatching and supervisory personnel, who will operate any vehicle while providing Shared-Ride Paratransit Service on behalf of the CITY. This list is to include the name, address, date of birth, date of hire, social security number and the Tennessee Department of Transportation Bureau of Motor Vehicles Class number and license number. This information shall be submitted no later than 10 working days prior to the effective date of this contract. The Contractor further agrees to provide the CITY with an updated list of Contractor drivers if such personnel change during the term of this Contract.
- b. The Contractor shall request a Criminal Record Check from the State of Tennessee and a Federal Bureau of Investigation Criminal Background Check prior to the employment and annually for any person who drives a vehicle and transports passengers on behalf of the CITY. The Contractor shall provide the CITY with a list of Contractor employees who have or will drive a vehicle and transport passengers on behalf of the CITY and a copy of the Criminal Record Check for each employee on the list. This information shall be submitted no later than 10 working days prior to the effective date of this contract or the effective date of any extension of this contract. If there are any changes to the driver list submitted by the Contractor after the initial contract effective date or the effective date on any extension of this contract, the Contractor shall submit to the CITY an updated list and copies of Criminal Record Checks, if necessary.
- c. The Contractor shall request the Motor Vehicle Record for any person who drives a vehicle and transports passengers on behalf of the CITY prior to the employment and annually. The Contractor shall provide the CITY with a list of Contractor employees who have or will drive a vehicle and transport passengers on behalf of the CITY and a copy of the Motor Vehicle Record for each employee on the driver's list. This information shall be submitted no later than 10 working days prior to the effective date of this contract or the effective date of any extension of this contract. If there are any changes to the driver list submitted by the contractor after the initial contract effective date or the effective date on any extension of this contract, the Contractor shall submit to the CITY an updated list and copies of Motor Vehicle Records(s), if necessary.

35. Confidentiality - No information or records on Contractor employees will be released by the CITY without the written approval of the employee or if required by a court order or subpoena.

36. Public Transportation Employees Protective Arrangements

- a. The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):
 - i. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.
 - ii. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
 - b. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required. The Contractor also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.
37. **Disciplinary Action Policy** - Contractor is expected to develop a Disciplinary Action Policy, which indicates what steps will be taken in the event of unsatisfactory performance by its employees. The policy must include steps for remediation and retraining.
38. **Removal of Employees** – Promptly upon the written demand of CITY, Contractor shall remove from activities associated with this Agreement any employees whom CITY considers unsuitable for such work.
39. **Labor Disputes** – If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor immediately shall give notice, including all relevant information, to the CITY.
40. **Equal Employment Opportunity** – Contractor shall develop and implement an Equal Employment Opportunity and Affirmative Action Programs as required by federal, state and local law.
41. **Hours of Service** – Contractor must maintain records of hours worked by all public transit bus drivers, including the name of the driver, shift start and end times and dates, as well as drive start and end times and dates.

E. SAFETY

42. **Safety Program** – Contractor shall assume full responsibility for assuring the safety of passengers, personnel, and members of the public, and for assuring that vehicles and equipment are properly maintained throughout the term of this Agreement. In this regard, Contractor shall

develop and implement an ongoing comprehensive safety program. The safety program shall, at a minimum, meet all applicable federal, state, and local regulations. Contractor shall require all vehicle operators, supervisors, dispatchers, mechanics, and managers to participate in the safety program. CITY reserves the right to participate in the Safety Program, including but not limited to attending meetings, content development, accident investigation and follow up.

- a. ADA Requirements – Contractor's safety program shall include provisions for meeting the Americans with Disabilities Act (ADA) public transit requirements, including policies, regulations and training of all vehicle operators in the safe use of all ADA vehicle equipment. Requirements shall include the operation of the wheelchair lift equipment, wheelchair tie-down procedures, wheelchair lift standee policies, boarding and securing of mobility devices, service animal regulations, and disability awareness training.
- b. Drug and Alcohol Testing Program – Contractor agrees to establish and implement a Drug and Alcohol Testing Program that complies with 49 CFR Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, or CITY, to inspect the facilities and records associated with the implementation of the Drug and Alcohol Testing Program as required under 49 CFR Part 655 and to review the testing process under 49 CFR Part 40. Contractor shall have a written Drug and Alcohol Testing Policy along with detailed procedures for implementing this policy including the identification of any third-party administrator, scope of work that the administrator will perform on behalf of Contractor, and employee training certifications, for review and approval of CITY prior to beginning service under this Agreement and shall provide any updates thereto during the term of this Agreement. Contractor agrees further to certify annually its compliance with Parts 655 and to submit an original signed copy of the annual Federal Transit Administration (FTA) Management Information System (MIS) Drug and Alcohol reports no later than February 15 of every year to CITY.

The Contractor will be financially and administratively responsible for, and will indemnify, defend and hold harmless the CITY and the City Council from and against, any losses, liabilities, claims and expenses (including, without limitation, any reasonable attorneys' fees) incurred by the CITY to the extent arising from Contractor's violation or non-compliance with any certifications covered by this paragraph.

F. AGENCIES' DUTIES AND RESPONSIBILITIES

43. **Advertising, Media Inquiries and Promotion** - CITY shall be the official source for the issuing of all press releases and marketing activities related to this Contract. Contractor shall notify City of all media inquiries and collaborate with CITY on such media inquiries.
44. **Communication with Vehicle Operators/Other Contracted Employees** - CITY shall have the right through its authorized representatives to communicate directly with Contractor's vehicle operators or other employees during hours of service operation to obtain general information.

G. CONTRACTOR PERFORMANCE

45. Performance Standards – Contractor will perform all Shared-Ride Paratransit Services required by the Agreement according to the performance standards as outlined throughout the agreement and below. Failure by the Contractor to meet these standards may result in the CITY assessing an appropriate liquidated damage amount for each incident of non-compliance as set forth in the Request for Proposal.

46. Operating Standards for Shared-Ride Paratransit Service

- a. The Contractor shall make every reasonable effort to limit rider time on board a vehicle to a reasonable limit. In most cases, this should be no more than 40 minutes.
- b. The service will be provided, and CITY shall be billed only for those customers specifically eligible as determined by the City. The CITY will provide an updated Eligibility List at least monthly or as often as necessary. Contractor will ensure the Eligibility Status is included in the passenger profile of Contractors scheduling software. Transport of unauthorized passengers will be at the expense of the Contractor.
- c. The Contractor shall inform CITY of any difficulties experienced in transporting a rider, whether related to safety, behavior, or other reason. In consultation the CITY and Contractor shall determine the course of action.
- d. The Contractor must consult with CITY prior to any refusal of service except in emergency situations where safety dictates immediate action. The Contractor may refuse to transport any person or persons who are a threat to the health, safety or welfare of the Contractor's employees or other passengers. Additionally, the Contractor will be responsible for making accommodations to return a customer so as not to leave the customer stranded. In no event will the Contractor leave a disabled customer unattended at his/her destination (referred to as the Do Not Leave Unattended Policy.) The Contractor shall notify CITY within twenty-four (24) hours of action taken in emergency situations when CITY offices are closed.
- e. Passengers shall be allowed a maximum of five (5) minutes to report to the vehicle, measured from the time the vehicle arrives at the pick-up address and the driver notifies passenger of the vehicle's arrival. If rider fails to acknowledge the vehicle's presence and report to the vehicle within five (5) minutes, driver shall report the trip as a no-show. In the event that the driver arrives at the address more than 15 minutes before the scheduled pick-up time, and the customer has not been contacted to confirm an earlier pick-up time, customer shall have five minutes into the fifteen- minute window to report to the vehicle.
- f. CITY and the Contractor shall undertake reasonable efforts to minimize no- shows and late passengers.
- g. For will calls, Contractor will be allowed a maximum of 60 minutes to pick-up the rider from time call is received from rider. If the Contractor determines that this objective cannot be met, it shall notify CITY and request instructions.
- h. Shared-Ride Paratransit Service shall be in all cases door-to-door. This means that all drivers will give passengers whatever reasonable assistance they want and need between the door of the passenger's pick-up or destination point and the door of the vehicle. It does NOT include lifting a passenger, going into a residence, or taking a wheelchair up or down steps.

- i. In all cases where pick-ups will be more than 15 minutes after the scheduled pick-up time, the Contractor's dispatcher will attempt to call passengers and so advise them.
- j. On-time performance of 87% or above is required. A pick-up will be deemed on-time if it occurs within 15 minutes before to 15 minutes after the scheduled pick-up time. A drop-off will be deemed on-time if it occurs 30 minutes before to 5 minutes after the passenger's desired drop-off time.
- k. Contractor is responsible for maintaining procedures for the prevention, detection and reporting of suspected fraud and abuse, and must report any instances of customer or driver fraud to CITY immediately.

47. **Vehicle Maintenance Standards** - The CITY's maintenance requirements do not refer solely to the task of performing normal preventive maintenance tasks on a specified schedule, but rather that the task is done well and that the operation of the vehicle and all equipment on board the vehicle is in fact operable and reliable when in-service.

H. RECORD KEEPING AND REPORTING

48. **General Requirements** - Contractor shall keep all records and data pertinent to the provision of services described in this Agreement, separate and apart from all other services provided by Contractor.

49. **Audit and Inspection by Governmental Agencies** - Contractor understands that the business conducted under the terms of this Agreement is subject to audit by the State of Tennessee and the United States Department of Transportation and their designated representatives at any time during the term of this Agreement or at a later date established by the State and/or the United States Department of Transportation. Both parties shall agree to abide by any audit findings in terms of refunds or payments due. Any payments or refunds due by or to Contractor shall be paid in full within sixty (60) days of the audit findings. If Contractor is not in agreement with the results of an audit performed by CITY or any funding agency of CITY, Contractor may appeal to CITY following the Protest Procedures contained in Part I, Section I of the RFP.

50. **Records Retention** - All records pertaining to the operation and maintenance as well as ridership, transfers, fares, expenses and the like shall be retained by Contractor for three (3) years after the termination of this Contract and shall be accessible to CITY and duly authorized representatives of CITY, the Tennessee Department of Transportation, and the Federal Transit Administration. Said records shall be kept separate and apart from all other services provided by Contractor.

- a. **Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- b. **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which

case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

- c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

51. **Open Records** – In compliance with Tennessee Public Records Act, all information within Contractor's proposal and contained within this contract document or attached, including financial information of a Contractor may be provided as a public record as required by law.

I. PAYMENT

52. **Costs Included in the Price per Trip** - The Contractor shall be required to supply and pay for all administrative, operating and maintenance costs not specifically identified as being the responsibility of the CITY in this agreement.

53. **Prompt Payment of Subcontractors, Vendors, and Suppliers** - The Contractor agrees to pay each subcontractor, vendor, supplier under this Contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the Contractor receives from the CITY. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the CITY. This clause applies to both DBE and non-DBE subcontractors.

If the Contractor has not made payments to subcontractors in compliance with the above paragraph, the CITY shall consider the Contractor in Breach of Contract and may elect to make payments directly to the subcontractors(s) on the Contractor's behalf and deduct any such payments from the amount due to the Contractor.

54. **Taxes** – Proposer will be responsible for the payment of any applicable tax on the services it will provide.

55. **Payment to Contractor** - Payment to Contractor shall be made as follows:

- a. Properly completed and reconciled data from the Contractor scheduling system must be completed by the contractor. Late and/or incomplete Invoices may delay payment.

- b. The CITY shall reimburse the Contractor for each actual revenue service Trip, EXCLUDING PASSENGER CO-PAY, provided according to the following rate schedule:

<u>YEAR</u>	<u>PRICE PER REVENUE SERVICE TRIP</u>	
	<u>Monday-Friday</u>	<u>Saturday</u>
December 7, 2019 - June 2020	\$55.00	\$85.00
July 2020 – June 2021	\$55.00	\$85.00
July 2021 – June 2022	\$60.00	\$90.00
July 2022 – June 2023	\$60.00	\$90.00
July 2023 – June 2024	\$65.00	\$95.00

- c. Contractor shall not be reimbursed for fares it was required to collect but failed to collect.
d. The CITY may withhold payment or portions of the payment if CITY determines that the CITY has incurred partial liquidated damages.
e. Payments will be made to Contractor by the end of 30 days following receipt of invoice on or after the 10th of the month following the month of service invoiced.

J. INDEMNIFICATION AND INSURANCE

56. **Indemnification.** Contractor is a Local Governmental Entity as set out under the Governmental Tort Liability Act in TCA 29-20-101, et seq., and as such, has its liability limits defined by law. As a Local Governmental Entity, Grantee carries no insurance; however, it is self-insured for general liability in an adequately funded Self-Insurance Program up to the limits as set out in the statute. This self-insurance is for the benefit of the Local Governmental only and provides no indemnification for any other entity whatsoever. The Local Governmental Entity does not have the authority under current law to indemnify other parties..

57. **Insurance** - The Contractor shall maintain such insurance as will protect the Contractor from claims under Workmen's Compensation laws, disability benefit laws or other employee benefit laws; from claims for damages because of injury, sickness, disease, or death of any person(s) other than his employees; and from claims for damages to property, any or all of which may arise out of or result from the Carrier's operations under this Contract, whether such operations be by the Contractor or by anyone directly or indirectly employed by the Contractor for whose acts any of them may be legally liable. It is acknowledged and understood that the Contractor is a Local Governmental Entity as set out under the Governmental Tort Liability Act in TCA 29-20-101, et seq., and as such, has its liability limits defined by law. As a Local Governmental Entity, Contractor carries no insurance, however, it is self-insured for general liability in an adequately funded Self-Insurance Program up to the limits as set out in the statute. The parties hereto acknowledge and agree that Grantee's status as a Local Governmental Entity satisfies all insurance requirements.

K. CANCELLATION AND AMENDMENT

58. **Termination for Convenience** – See Attachment 9 (Required Clauses & Certifications). CITY may terminate this agreement, in whole or in part, for convenience and without cause when it is in the City's best interest upon 30 days written notice to the Contractor. Upon such termination for convenience, Contractor shall be entitled to payment, in accordance with the payment provisions, for services rendered up to the termination date and CITY shall have no further obligations to Contractor. Contractor shall be obligated to continue performance of contract services, in accordance with this contract, until the termination date and shall have no further obligation to perform services after the termination date. The Contractor shall promptly submit its termination claim to the City to be paid the Contractor. If the Contractor has any property in its possession belonging to the City, the Contractor will account for the same, and dispose of it in the manner the City directs.
59. **Termination for Default** – Either party may terminate this Agreement for default, in accordance with this paragraph, if the other party fails to perform a material requirement of this Agreement in a timely manner and in accordance with the other provisions of this Agreement. Prior to termination for default, the non-defaulting party shall give the defaulting party a Notice of Default setting forth the circumstances of the default. The defaulting party shall have thirty (30) days to cure such default (measured from the defaulting party's receipt of the Notice of Default). If the defaulting party fails to cure the default before the expiration of the thirty (30) day cure period, the Agreement shall be terminated upon the expiration of the cure period and the non-defaulting party shall be entitled to exercise all remedies under the law or in equity. Neither party shall not be found in default for events arising due to Force Majeure.
60. **Contract Amendment** - This Agreement may be amended upon mutual consent by both parties, Contractor and the Agencies, and must be confirmed in writing.
61. **Breach or Non-Compliance with Contract** - CITY shall have the right to inspect vehicles and other assets supplied by them and/or investigate operations at any time to determine compliance with the Agreement standards and if CITY should find any breach of Contract or noncompliance with the Agreement or with any rules or regulations pertaining to the same, CITY shall notify Contractor within five (5) days thereafter and if action to correct such noncompliance is not undertaken within three (3) days thereafter and completed within ten (10) days thereafter, this Agreement may, at the option of CITY, be canceled.
62. **Notice Requirement** - In all matters pertaining to this Agreement or to any dispute arising hereunder, both parties hereby appoint the following to represent them in all negotiations, discussions, and other matters related to this Contract and all notices and correspondences to CITY shall be addressed as follows:

CITY OF MURFREESBORO

ATTN: Russ Brashear, Assistant Transportation Director

111 West Vine Street

Murfreesboro, TN 37130

rbrashear@murfreesborotn.gov

All notices and correspondences to Contractor shall be addressed as follows:

Mid-Cumberland Human Resources Agency
ATTN: Jane Hamrick, Executive Director
1101 Kermit Drive, Suite 300
Nashville, TN 37217

63. **Dispute Resolution** - Any and all disputes or disagreements arising between the parties concerning this Agreement, or the interpretation of this Agreement, shall be referred by the parties to non-binding mediation.

64. **Article General Provisions**

- a. Contractor shall pay CITY for all costs and expenses, including attorney's fees, incurred by CITY in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions, or provisions hereof.
- b. No right or remedy herein conferred on or reserved to the Lessor is exclusive of any other right or remedy herein or by law or by equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder, now or hereafter existing at law, in equity, by statute or otherwise, and may be enforced concurrently therewith or from time to time.
- c. No covenant or condition of this Agreement may be waived except by the written consent of CITY. Forbearance or indulgence by CITY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Contractor to which the same may apply, and, until complete performance by Contractor of any covenant or condition, CITY shall be entitled to invoke any remedy available to CITY under this Agreement or by law or in equity despite said forbearance of indulgence.
- d. Service of all notices under this Agreement shall be sufficient if given personally or mailed to the party involved at its respective address hereinabove set forth, or at such address as such party may provide in writing from time to time. Any such notice mailed to such address shall be effective when deposited in the United States mail, duly addressed and with postage prepaid.
- e. This Agreement shall be constructed under and in accordance with the laws of the State of Tennessee, and all obligations of the parties created hereunder are performable in Murfreesboro, Tennessee.
- f. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Lease.
- g. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision has never been contained herein.
- h. **FEDERAL PROVISIONS** - The federally required contract clauses and provisions set forth in to this Agreement are part of this Agreement. The federally required clauses and

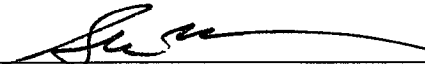
provisions supersede and take precedence over any other conflicting clause or provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto agree to the conditions of this Agreement and hereto, have set their hands and seal the date first written above.

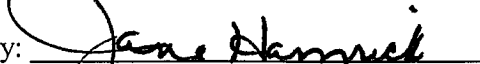
[signatures appear on the following page]

IN WITNESS WHEREOF, the parties enter into this agreement as of Dec 3, 2019 (the "Effective Date").

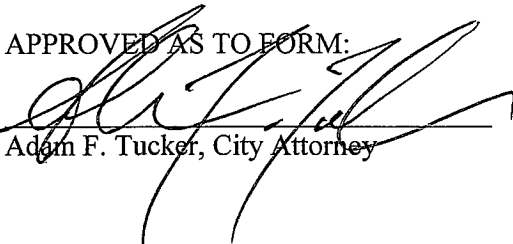
CITY OF MURFREESBORO, TENNESSEE

By: 
Shane McFarland, Mayor

**MID-CUMBERLAND HUMAN RESOURCES
AGENCY**

By: 
Jane Hamrick, Executive Director

APPROVED AS TO FORM:


Adam F. Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 1/11/2024

Item Title: Contract with TripSpark
Department: Transportation – Transit
Presented by: Russ Brashear, Assistant Transportation Director
Requested Council Action:

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

Summary

Contract for software and equipment used in transit operations.

Staff Recommendation

Approve Contract with Trapeze Software Group, Inc.

Background Information

Software provided by Trapeze Software Group, Inc., which does business as TripSpark, has been used for transit scheduling, tracking, and reporting since 2014. Recent upgrades including additional equipment and licenses would have resulted in numerous amendments to the original contract. The Transportation department worked with TripSpark to secure everything into one new contract for the next 3 years beginning with FY24.

This software and equipment qualify for federal and state funding. The total contract cost is \$183,619 of which the City's match is \$22,002.

Council Priorities Served

Responsible budgeting

Software and associated equipment eliminate the necessity of manually documenting the Transit Operations and significantly increases the efficiency of the process.

Fiscal Impact

The first-year expenditure, \$72,715, is funded by the Department's FY24 budget.

Attachments

Contract with Trapeze Software Group, Inc. (d/b/a TripSpark)

SYSTEM SUPPLY AND SUPPORT AGREEMENT

This Agreement effectively made on _____, between:

Name and Address of Licensor:

Trapeze Software Group, Inc. d.b.a. TripSpark
Technologies ("TripSpark"), with a place of business at:
5265 Rockwell Drive NE
Cedar Rapids, Iowa 52402

Name and Address of Customer:

City of Murfreesboro
("Customer") with a place of business at:
111 West Vine Street
Murfreesboro, Tennessee 37133

This Agreement, including its Exhibits (Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E, Exhibit F, Exhibit G, Exhibit H), attached hereto, represents the complete and exclusive agreement between TripSpark and Customer with respect to the subject matter hereof and supersedes all prior agreements, negotiations, or understandings between TripSpark and Customer in any way relating to the subject matter of this Agreement, including but not limited to the System Supply and Support Agreement made effective July 1, 2017, Amendment #1 of Contract between City of Murfreesboro and Trapeze Software Group, Inc. d.b.a. TripSpark for System Supply and Support Agreement, Amendment #2 of Contract between City of Mufreesboro and Trapeze Software Group, Inc. d.b.a. TripSpark for System Supply and Support Agreement, Amendment #3 of Contract between City of Murfreesboro and Trapeze Software Group, Inc. d.b.a. TripSpark for System Supply and Support Agreement, Amendment #4 of Contract between City of Murfreesboro and Trapeze Software Group, Inc. d.b.a. TripSpark for System Supply and Support Agreement, and Amendment #5 of Contract between City of Murfreesboro and Trapeze Software Group, Inc. d.b.a. TripSpark for System Supply and Support Agreement (collectively the "Purchase Contract"). No other terms, conditions, representations, warranties or guarantees, whether written or oral, express, or implied, will form a part of this Agreement or have any legal effect whatsoever. In the event of any conflict or inconsistency between the provisions of this Agreement and the exhibits, the terms and conditions of this Agreement will govern to the extent of such inconsistency. This Agreement may not be modified except by a later written amendment signed by both parties.

The parties acknowledge and agree that the Purchase Contract has no further force or effective as of the effective date of this Agreement.

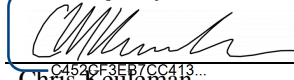
TRAPEZE SOFTWARE GROUP, INC.

Signature: _____

Name: _____

Title: _____

DocuSigned by:


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Chris Keuleman

Director

CITY OF MURFREESBORO

Signature: _____

Name: _____

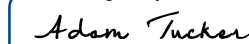
Title: _____

Shane McFarland

Mayor

APPROVED AS TO FORM:

DocuSigned by:



43A2035E51F9401...
Adam Tucker, City Attorney

TERMS AND CONDITIONS

NOW THEREFORE, the parties agree as follows:

1. **Definitions** In this Agreement the capitalized words set out below will have the following meanings:

- | | |
|-------------------------|--|
| “Agreement” | this system supply and support agreement between TripSpark and Customer, and the attached exhibits, all of which form an integral part of this Agreement; |
| “Documentation” | the user documentation pertaining to the System as supplied by TripSpark; |
| “Equipment” | means collectively, the TripSpark Equipment and the Third Party Equipment; |
| “Hosting Services” | the specifications for the hosting services to be provided by TripSpark, attached hereto as Exhibit G; |
| “New Product” | any update, new feature, or major enhancement to the TripSpark Software that TripSpark markets and licenses for additional fees separately from Upgrades; |
| “Statement of Work” | the specifications for the services to be provided by TripSpark, any subcontractors, and the Customer, attached hereto as Exhibit D; |
| “Summary of Pricing” | the summary of pricing information related to the System, attached hereto as Exhibit C; |
| “System” | means the Software products specified in Exhibit A and the Equipment specified in Exhibit B; |
| “Third Party Equipment” | the computer hardware, system software and any other related items to be provided by TripSpark, as identified in Exhibit B of this Agreement; |
| “Trade Secrets” | any information proprietary to either party (including software source code), concerning a design, process, procedure, formula, or improvement that is commercially valuable and secret (in the sense that the confidentiality of such information affords a competitive advantage to the owner), but shall not include any information that (1) is or becomes generally known to the public through no fault of the recipient; (2) is obtained without restriction from an independent source having a bona fide right to use and disclose such information, without restriction as to further use or disclosure; (3) the recipient independently develops through persons who have not had access to such information; or (4) the disclosing party approves for unrestricted release by written authorization. |
| “TripSpark Equipment” | the TripSpark proprietary equipment units identified in Exhibit B of this Agreement; |
| “TripSpark Software” | the TripSpark existing and new proprietary software applications identified in Exhibit A of this Agreement; |

2. **Services** TripSpark will provide all services and perform all actions required by, and in accordance with, the Statement of Work (the “Services”), attached hereto as Exhibit D. The Customer will perform all applicable activities and provide all information as required by the Statement of Work.

3. **TripSpark Software License**

a) TripSpark grants to Customer a personal, non-transferable, and non-exclusive license restricted for use by Customer at their place of business:

(i) to use a production copy of the object code version of the Software in the form supplied by TripSpark and on hardware approved by TripSpark as of the License Date referred to in Exhibit A ("License Date"), in accordance with the operational characteristics described in Exhibit A.

(ii) To use the TripSpark Documentation, but only as required to exercise this license.

c) The license to use the Transit Database is granted to Customer solely for the development of internal reports by Customer and for the integrated operation of the TripSpark Software in both Production Environment and Staging Environment. Unless expressly included herein all other access rights to the Transit Database are excluded from this Agreement, and the Customer shall not develop or use, or authorize the development or use of, any other application interfaces to or from the Transit Database without the express written consent of TripSpark.

d) Customer may make two back-up copies of the TripSpark Software. Customer may use the production copy of the TripSpark Software solely to process Customer's proprietary data. The TripSpark Software may not be used on a service bureau or similar basis to process data of any third parties.

e) Other than the rights of use expressly conferred upon Customer by this paragraph, Customer will have no further rights to use the TripSpark Software or the Documentation. Customer will not copy, reproduce, modify, adapt, translate, or add new features to the TripSpark Software or the Documentation without the express written consent of TripSpark. Customer will not permit disclosure of, access to, or use of the TripSpark Software or the Documentation by any third party unless authorized in writing by TripSpark. Customer will not attempt to reverse compile or reverse engineer all or any part of the System.

f) The Equipment may include embedded third party software, including but not limited to software licensed by:

- a. Microsoft® Corporation
- b. HERE MAP, territory-specific geographic/map data consisting of data for the North America Territory
- c. Esri (Mapping software)
- d. Blacklight Solutions ("Blacklight Solutions")
- e. Nuance/Loquendo S.p.A., (Text to Speech software)
- f. Winmate Inc. (hardware, software)
- g. TextSpeak Corporation (Text to Speech software)

The terms and restrictions of TripSpark's software license grants will apply to the use of the third party software identified above and the licensors of such software are third party beneficiaries of the rights granted under those terms. If required, Customer shall enter into a separate end-user-license agreement depending on the product(s) procured. Customer may only transfer any embedded software product with the Equipment in accordance with the terms and conditions of this Agreement.

g) Customer acknowledges and agrees that the Software may record and transmit to TripSpark statistical and other information about Customer's use of the Software ("Usage Data"), provided the Usage Data is collected in a form that does not contain any Customer Confidential Information.

4. Title to Equipment and Risk of Loss

It is agreed that title and risk of loss to any Equipment sold hereunder shall pass to Customer at the time of delivery of the Equipment at the premises designated by the Customer.

5. System Acceptance

The parties agree as of the date of the effective date of this Agreement, the Software in Exhibit A has been accepted by Customer pursuant to the Purchase Agreement. Equipment purchased pursuant to this Agreement shall be inspected by Customer within (5) business day from the date of delivery to Customer location for Customer to verify that the Equipment is not damaged. If TripSpark does not receive written notification of damage within the five (5) days' period, the Equipment is deemed accepted by Customer.

6. Warranty

a) TripSpark warrants the TripSpark Equipment purchased pursuant to this Agreement, to operate in all material respects as specified in the Documentation for a period of **ninety days (90)** from the shipped delivery to Customer location.

b) The sole remedy of Customer for any breach of the above warranty will be to require TripSpark to use reasonable efforts to repair, at its own expense, any defects in the TripSpark Equipment that are brought to TripSpark's attention by Customer.

c) TripSpark warrants that it is the owner of the TripSpark Software and of each and every component thereof, or the recipient of a valid license thereto, and that it has and will maintain the full power and authority to grant the intellectual property and other rights granted in this Agreement without further consent of any third party. Customer's remedy for breach of this warranty and/or infringement shall be as provided in Section 12, below.

e) The parties agree that the above warranty shall not apply to include any Third Party Equipment. Such Third Party Equipment will be provided by TripSpark with any available manufacturer's warranty only and any corrective or remedial services with respect to such items shall be the exclusive responsibility of the Customer. Other than as provided under this Section 6, no warranty is provided for TripSpark Software, third party software, and third party services. The parties further agree that the above warranty does not include coverage for errors, defects or performance issues in the System caused by the actions of the Customer, its employees, contractors, or vehicle riders. This warranty is in lieu of all other warranties, conditions, or other terms, express or implied, concerning the System. It explicitly excludes any other warranty, condition or other term which might be implied or incorporated into this Agreement, whether by statute, regulation, common law, equity or otherwise, including without limitation any implied warranties or conditions of quiet usage, merchantability, merchantable quality, fitness for a particular purpose, or from the course of dealing or usage of trade as allowed by law. In particular, TripSpark does not warrant that: (i) the System will meet all or any of Customer's particular requirements; (ii) that the operation of the System will operate error free or uninterrupted; or (iii) all programming errors in the System can be found in order to be corrected.

The parties acknowledge and agree, third party sms/messaging services ("Third Party Transaction Services") are provided "as is" and "as available". TripSpark disclaims all representation and warranties, express, implied, or statutory, including the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. TripSpark makes no representation, warranty or guarantee regarding the reliability, timeliness, quality, suitability, or availability of the Third Party Transaction Services or that such Third-Party Transaction Services will be uninterrupted or error-free.

7. Payment TripSpark will invoice Customer for the TripSpark Software license fees, Services fees, and Equipment fees as set out in and according to the Summary of Pricing. TripSpark will invoice Customer in accordance with the payment schedule in the Summary of Pricing. The total amounts due for the Services and Expenses, as those fees are set out in the Summary of Pricing, are firm fixed amounts and will be invoiced on that basis. Expenses related to the Services are not to exceed those amounts set out in the Summary of Pricing. In the

event that the operational parameters set out in Exhibit A of this Agreement are exceeded, TripSpark reserves the right to charge Customer its standard license fees and maintenance fees applicable to such additional levels of use.

Subject to receipt of an accurate invoice, Customer will pay invoices within thirty (30) days of receipt. Overdue payments will bear interest at the annual rate of fifteen percent (15%) on the amount outstanding from the date when payment is due until the date payment in full is received by TripSpark. Customer, as a Tennessee municipal government, is a tax-exempt entity. Customer has provided, or will provide, a tax exemption certificate to TripSpark upon request.

8. Maintenance Services and Extended Warranty

For the purposes of this Section 8 of this Agreement, the following definitions apply:

“Rogue Unit”: TripSpark Equipment that exhibits a recurring problem subject to the following: (i) the undesired symptom reported is the same for three (3) sequential removals, and (ii) the undesired interval is seven (7) operating days or less;

“Turnaround Time”: Commences on the date of receipt by TripSpark’s Service Center, and continues to the date of shipment back to Customer;

No Fault Found (“NFF”) / No Trouble Found (“NTF”): TripSpark Equipment which requires no repair, replacement, or adjustment by TripSpark in order to return it to a serviceable level in accordance with subsection 8 (B) (iv) below;

“Updates and Upgrades”: Those general releases to the TripSpark Equipment or TripSpark Software that TripSpark generally makes available as part of the annual maintenance program;

“Priority One (1) Variance”: A TripSpark Equipment or TripSpark Software performance anomaly resulting in the loss or use of critical system functions and system is “down” to the extent that such loss affects the safety of the public and/or personnel;

“Priority Two (2) Variance”: A TripSpark Equipment or TripSpark Software deficiency of lesser severity than a Priority One (1) that does not substantially reduce the capability of the System to accomplish its primary system functions (e.g., vehicle communications, and/or AVL, and/or fare collection). A Priority One (1) Variance for which an acceptable workaround has been established shall be reassigned to a Priority Two (2); and

“Service Notification”: A notification or bulletin provided by TripSpark that describes a change to TripSpark Equipment or TripSpark Software.

A) TripSpark Software

Upon TripSpark receipt of Customer payment in full of annual maintenance fees, TripSpark agrees to provide the following maintenance and support services:

- (i) TripSpark will maintain the TripSpark Software so that it operates in conformity, in all material respects, with the descriptions and specifications for the TripSpark Software set out in the Documentation;
- (ii) in the event that Customer detects any errors or defects in the TripSpark Software, TripSpark will provide reasonable support services through a telephone software support line from Monday to Friday, 8 am to 5 pm EST (Except North American holidays). Upon registration by Customer, TripSpark will also provide Customer with access to its software support website;
- (iii) TripSpark will provide Customer with Upgrades of the TripSpark Software at no additional license fee charge;
- (iv) Customer shall provide TripSpark with remote access to Customer’s computers on which the TripSpark Software is installed. TripSpark shall provide updates and Upgrades to the TripSpark Software via remote connection. Customer shall be solely responsible for the security and integrity of any remote connection provided by Customer for TripSpark to provide the Services herein. TripSpark shall take commercially reasonable efforts to ensure that computers/equipment used to remotely access Customer’s system during the provision of TripSpark’s Services herein by utilizing a valid, current endpoint protection software with signature updates as soon as they released by endpoint protection vendor..

Should Customer request any on-site maintenance and support services, TripSpark reserves the right to charge its standard applicable service fees plus expenses related to such services; and

- (v) Upgrades will be provided with updated Documentation where available and appropriate.

B) TripSpark Equipment

Subject to purchase of extended warranty by Customer for additional Equipment only, as outlined in Summary of Pricing, TripSpark agrees to provide the following maintenance and support services:

- (i) TripSpark shall provide phone support to Customer's authorized callers to assist with troubleshooting of installation, configuration, and operational problems of covered TripSpark Equipment;
- (ii) Customer shall send all TripSpark Equipment covered by this Agreement directly to the designated TripSpark Service Center outlined in the Return Materials Authorization ("RMA") Request Process, Exhibit F. Upon repair, TripSpark shall return the TripSpark Equipment to Customer's designated receiving facility, or other locations as designated by Customer's applicable Return Order. Cost of shipping to the designated TripSpark Service Center shall be borne by Customer. Cost of shipping the repaired TripSpark Equipment to the Customer's facilities shall be borne by TripSpark unless the TripSpark Equipment is deemed NFF / NTF. TripSpark Equipment returned for repair under this Agreement and subsequently determined by TripSpark to be NTF or NFF or upon warranty expiry is subject to the Time and Material pricing contained in Summary of Pricing. TripSpark reserves the right to substitute functionally equivalent parts for those parts returned to TripSpark for repair. TripSpark will use commercially reasonable efforts to obtain equally functional equivalent parts. Notwithstanding anything to the contrary herein, should equally functional equivalent parts be not available, Customer acknowledges and agrees that TripSpark will have no further obligation to support the TripSpark Equipment and Customer shall be obligated to pay to TripSpark bench fees at the then current TripSpark pricing. The bench fee amount applies to the services performed by TripSpark for testing and assessment of TripSpark Equipment issues whether or not TripSpark Equipment parts are available as described hereunder and whether or not Customer chooses to replace parts as advised by TripSpark;
- (iii) TripSpark shall make commercially reasonable efforts to provide a Turnaround Time of thirty (30) calendar days for TripSpark Equipment listed in Exhibit B, which is returned to TripSpark in accordance with Exhibit F;
- (iv) TripSpark shall apply special testing and repair to any Rogue Unit at no additional charge to Customer. Any special testing and repair shall not be subject to the Turnaround Time specified in subsection (iii) above; and
- (v) TripSpark may issue Service Notifications indicating recommended or mandatory changes to the TripSpark Equipment and Software covered under this Agreement.

C) Documentation for Equipment Difficulty

Prior to delivery to TripSpark of TripSpark Equipment to be repaired, Customer shall provide TripSpark with a return order, which shall include the following information:

- (i) Date of performance anomaly;
- (ii) Vehicle Number;
- (iii) Detailed system description of performance anomaly;
- (iv) Type number, part number, and serial number of the TripSpark Equipment;
- (v) Customer Return / Repair Order Number; and,
- (vi) Ship To address and Contact Name for return of TripSpark Equipment to Customer;

D) Documentation for Software Difficulty

Upon the identification of a possible fault or difficulty within any of the TripSpark Software to be supported hereunder, Customer shall promptly issue a trouble report to TripSpark that shall include the following information:

- (i) Date of performance anomaly;
- (ii) TripSpark Software module in question and location of where TripSpark Software is installed;
- (iii) Detailed system description of performance anomaly;
- (iv) Version number of TripSpark Software and severity/ impact to Customer's operations; and
- (v) Contact name and phone number.

The trouble report information shall also be communicated verbally via 1-877-411-8727 or via email at cc@TripSparkgroup.com or via customer portal www.MyTripSpark.com to TripSpark. TripSpark shall forward the trouble report to the designated repair technician.

E) Equipment and Software Excluded from Maintenance

The parties agree that the above maintenance services shall not apply to include maintenance of Third Party Equipment, and TripSpark shall be under no obligation to provide any maintenance services to the Customer with respect to such Third Party Equipment or third party software. The parties further agree that the above maintenance services shall not include services which may be required to identify or correct errors, defects or performance issues in the TripSpark Software or the TripSpark Equipment which are caused by the actions or omissions of the Customer, its employees, contractors, or vehicle riders.

In the event that TripSpark Equipment and Software covered under this Section 8 is subjected to any of the conditions below by Customer or any third parties, such TripSpark Equipment and Software shall be excluded from maintenance service coverage.

- (i) TripSpark Equipment or TripSpark Software subjected to carelessness or negligence;
- (ii) TripSpark Equipment or TripSpark Software subjected to cannibalization or vandalism;
- (iii) TripSpark Equipment or TripSpark Software subjected to alteration or repair in a manner which conflicts with TripSpark's written repair procedures, specifications, and license terms;
- (iv) TripSpark Equipment or TripSpark Software subjected to inadequate packing, shipping, storage, or handling;
- (v) TripSpark Equipment or TripSpark Software subjected to fire, wind, flood, leakage, collapse, lightning, explosion, or other Acts of God, including but not limited to acts of war (declared or undeclared), terrorism, or the public enemy; and
- (vi) TripSpark Software altered as a result of third party service bulletins.

F) Disclaimer

During any annual maintenance support or extended warranty period, TripSpark does not represent or warrant that (a) the TripSpark Equipment or TripSpark Software shall meet any or all of Customer's particular requirements; or (b) the operation of the TripSpark Equipment or TripSpark Software shall be error-free or uninterrupted.

9. Payment of Maintenance Fees and Hosting Fees

(a) Customer shall pay the annual maintenance fees and Hosting Services fees to TripSpark as provided in Exhibit E. These fees shall be subject to change as set out in Exhibit E. Customer shall issue a Purchase Order annually specifying the amount set forth in the TripSpark invoice for maintenance services and Hosting Services fees in accordance with Exhibit E. The Purchase Order shall be governed by the terms and conditions of this Agreement. In

the event that the Customer wishes to terminate the maintenance services or Hosting Services to be provided under this Agreement, Customer must provide TripSpark with no less than sixty (60) days written notice of such termination, during which ninety day period the applicable maintenance fees and Hosting Services fees will remain payable. TripSpark may suspend provision of any maintenance services and Hosting Services fees during any period of time during which the applicable maintenance fees remain unpaid by Customer.

(b) Non-appropriation. TripSpark acknowledges that Customer is a governmental entity, and the validity of the Agreement is based upon the availability of public funding under its authority. In the event Customer fails to appropriate funds or make monies available for any fiscal year covered by the term of this Agreement for the Services to be provided, this Agreement shall be terminated in writing in accordance with Section 9 (a) above, and such termination shall be deemed a termination for convenience.

10. Trade Secrets Customer acknowledges that all Trade Secrets relating to or concerning the System, including any modifications made thereto, are owned by TripSpark or TripSpark has the applicable rights of use and Customer will maintain the Trade Secrets in strict confidence and not disclose the Trade Secrets to any third party without TripSpark's prior written consent. Customer shall prohibit any persons other than Customer employees from using any components of the System and Customer shall restrict the disclosure and dissemination of all Trade Secrets reflected in the System to Customer employees who are bound to respect the confidentiality of such Trade Secrets. These obligations of confidentiality will survive termination of this Agreement.

11. Media and Publication Unless express prior written consent is granted, Customer does not consent to the use of its name or logo in any advertising or promotional material or distributions or other commercial use by TripSpark. Additionally, Customer does not waive any moral right to the use of the Customer name submitted to TripSpark. Neither party will communicate with representatives of the general or technical press, radio, television, or other communication media regarding the work performed under this Agreement without the prior written consent of the other party.

12. Intellectual Property Indemnification TripSpark will defend Customer in respect of any claims brought against Customer by a third party based on the claim that the TripSpark Software or the TripSpark Equipment infringes the intellectual property rights of that third party. TripSpark will pay any award rendered against Customer by a court of competent jurisdiction in such action, provided that Customer gives TripSpark prompt notice of the claim and TripSpark is permitted to have full control of any defense. If all or any part of the TripSpark Software or TripSpark Equipment becomes, or in TripSpark's opinion is likely to become, the subject of such a claim, TripSpark may either modify the TripSpark Software or TripSpark Equipment to make it non-infringing or procure the right for the Customer's use of the System. This is TripSpark's entire liability concerning intellectual property infringement. TripSpark will not be liable for any infringement or claim based upon any modification of any part of the System developed by Customer, or use of the System in combination with software, hardware, or other technology not supplied or approved in advance by TripSpark, or use of any part of the System contrary to this Agreement or the Documentation.

13. Exclusion of Liability

a) TripSpark and Customer do not rely on and will have no remedy arising from any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement. The only remedy available to Customer for breach of warranty is for breach of contract under the terms of this Agreement. This does not preclude a claim for fraud.

b) The parties do not guarantee the privacy, security, authenticity, or non-corruption of any information transmitted through the internet or any information stored in any system connected to the internet. Neither party shall be responsible for any claims, damages, costs, or losses whatsoever arising out of or in any way related to the other party's connection to or use of the internet.

c) TripSpark will not be liable to Customer or any third party for any claims, expenses, damages, costs, or losses whatsoever arising out of or in any way related to:

(i) Customer's use of map or geographical data, owned by Customer or any third party, in conjunction with the System or otherwise; or

(ii) Customer's use of the System insofar as the System may be used to store, transmit, display, disclose or otherwise use data or information which is considered private, confidential, proprietary, or otherwise exempt from public disclosure under applicable law.

(d) TripSpark's liability and responsibility for any claims, damages, costs or losses whatsoever arising either jointly or solely from or in connection with this Agreement or the use of the System (whether or not in the manner permitted by this Agreement), including claims for breach of contract, tort, misrepresentation, or otherwise, will be absolutely limited to the greater of: (i) One Hundred Thousand Dollars (\$100,000.00) or (ii) two-times (2x) the fees paid for the Software license or Service fee or Equipment hardware that is the subject of a claim. .

(e) TripSpark will not be liable to the Customer or any third party for losses or damages suffered by Customer or any third party which fall within the following categories:

- i) incidental or consequential damages, whether foreseeable or not;
- ii) special damages even if TripSpark was aware of circumstances in which special damages could arise;
- iii) loss of profits, anticipated savings, business opportunity, goodwill, or loss of information of any kind.

(f) Paragraphs (d) and (e) do not apply to claims arising out of death or bodily injury caused by TripSpark's gross negligence or willful misconduct.

(g) The Customer acknowledges and agrees that it is solely responsible for providing and ensuring the proper training of its drivers, owners, or operators in the operation of the motor vehicle or motor vehicles in conjunction with the use or operation of the TripSpark Software, Equipment and Third Party Equipment described in this Agreement. "Motor vehicle" includes any automotive machinery utilized for the transport of persons or goods in which TripSpark Software, Equipment, and Third Party Equipment has been incorporated or installed.

The Customer acknowledges and agrees that TripSpark shall not be liable to the Customer for any claim or action including costs arising out of the use or misuse of any motor vehicle operated by the Customer in conjunction with or separate from the use of the TripSpark Software, Equipment and Third Party Equipment described in this Agreement including any personal injury claim or action and to the extent permitted by Tennessee state law, the Customer shall defend and hold TripSpark harmless from any such claim or action including costs.

(h) The limitations and exclusions in this section shall not apply to (i) TripSpark's indemnity obligations provided in this Agreement..

(j) Article II, Section 29 of the Tennessee Constitution prohibits municipalities from lending their credit to private entities and, therefore, prohibits an agreement by Customer to indemnify a third party or agree to a limitation of liability provision. Any indemnity or hold harmless provision contained in the Agreements requiring Customer to indemnify or hold harmless TripSpark or any other person or entity and any limitation of liability in favor of TripSpark is enforceable only to the extent permitted by Tennessee law provided Customer's monetary limits of liability under any such provision is limited to the monetary limits of liability as provided for in the Tennessee Governmental Tort Liability Act, T.C.A. § 29-20-101 et seq. No provision of the Agreements shall act or be deemed a waiver by Customer of any immunity, including its rights or privileges or of any provision of the Tennessee Governmental Tort Liability Act, T.C.A. section 29-20-101 et seq.

(k) No member, official, or employee of Customer shall be personally liable to TripSpark or any other person or entity, including a third-party beneficiary, in the event any provision of this Agreement is unenforceable, there is any default or breach by Customer, for any amount which may become due and this Agreement, or on any obligations under the terms of this Agreement.

14. Termination

- (a) This Agreement will remain in effect until terminated.
 - (b) Either party may terminate this Agreement, in whole or part, by providing (30) days written notice.
 - (c) TripSpark has the right to terminate this Agreement if Customer is in default of any term or condition of this Agreement and fails to cure such default within thirty (30) days after receipt of written notice of such default. Without limitation, the following are deemed Customer defaults under this Agreement: (i) Customer fails to pay any amount when due hereunder; (ii) Customer becomes insolvent or any proceedings will be commenced by or against Customer under any bankruptcy, insolvency, or similar laws.
 - (d) If Customer develops software that is competitive with the TripSpark Software, or Customer is acquired by or acquires an interest in a competitor of TripSpark, TripSpark shall have the right to terminate this Agreement immediately.
 - (e) If this Agreement is terminated, Customer will immediately return to TripSpark all physical copies of the TripSpark Software (and remove all Software installations thereof from Customer systems) and the Documentation and any other Equipment provided to Customer pursuant to this Agreement which have not been paid for in full and will certify in writing to TripSpark that all physical copies or partial copies of the TripSpark Software, the Documentation and such other materials have been returned to TripSpark (and all Software installations and Documentation has been removed Customer systems). In the event of termination, TripSpark will be entitled to retain all fees paid by Customer for all license fees, service fees and expenses related to services or deliverables provided up to the termination date.
15. Force Majeure TripSpark will not be responsible for, and its performance of obligations will automatically be postponed as a result of, delays beyond TripSpark's reasonable control as a result of force majeure, provided that TripSpark notifies the Customer with a reasonably detailed explanation of its inability to perform with reasonable promptness and performs its obligations hereunder as soon as circumstances permit.
16. Assignment This Agreement is for the sole benefit of Customer and may not be assigned by Customer without the prior written consent of TripSpark.
17. Applicable Law This Agreement will be governed by and construed in accordance with the laws of the State of Tennessee. Each party agrees to the applicable governing laws of the State of Tennessee without regard to choice or conflicts of law rules, and to the jurisdiction of the applicable courts located in Rutherford County, Tennessee or, in the event of a federal question only, the Middle District of Tennessee. The parties exclude the operation of the United Nations Convention on Contracts of the International Sale of Goods.
18. Third Parties No party other than Customer shall be licensed to use the TripSpark Software by this Agreement unless such use is expressly permitted by the terms of this Agreement. In the event that this Agreement does allow for the use of the TripSpark Software by certain designated third party service providers, the Customer shall be responsible for taking all reasonable steps to ensure that the service provider is fully compliant with the terms of this Agreement including without limitation any restrictions on use of the TripSpark Software and obligations of confidentiality. TripSpark does not assume, and hereby expressly excludes, any obligations or duties to any third parties, whether expressly named in this Agreement or not, which may be inferred or implied by statute, regulation, common law, equity or otherwise.
19. Notices All notices must be in writing and will be duly given if delivered personally or sent by registered or certified mail to the respective addresses of the parties appearing on page one of this Agreement. Any notice given will be deemed to have been received on the date it is delivered if delivered personally, or, if mailed, on the fifth business day next following its mailing. Either party may change its address for notices by giving notice of such change, as required in this Section.
20. Purchase Order Upon execution of this Agreement, Customer will issue a Purchase Order specifying the amount of as set out in the Summary of Pricing, (this amount excludes any sales taxes, first year maintenance fees or

escrow fees which may apply) for the provision of the System and the Services. The Purchase Order will be governed exclusively by the terms and conditions of this Agreement.

21. Audits In addition to the provisions Section 3 (g), TripSpark may perform audit(s) on the use of the System. Customer agrees, upon reasonable notice, to make the necessary operational records, databases, equipment, employees, and facilities available to TripSpark for the audit(s). The purpose of the audit will be to verify compliance with the terms and conditions of this Agreement.

22. Dispute Resolution Upon any dispute, controversy, or claim between the parties, each of the parties will designate a representative from senior management to attempt to resolve such dispute. The designated representatives will negotiate in good faith to resolve the dispute over a period of thirty (30) calendar days. If the dispute is not resolved in the thirty (30) calendar day period, the parties may submit the dispute to non-binding mediation prior to the initiation of legal proceedings for which costs shall equally borne by each party. The foregoing provision will not limit the ability of a party to seek immediate injunctive relief.

23. Federal Certifications and Assurances TripSpark shall comply with all of the required federal certifications and assurances set forth in Exhibit H. Notwithstanding any to the contrary in Exhibit H, attached hereto, it is the understanding of TripSpark and Customer that TripSpark will be subject to federal certifications and assurances as they apply only to TripSpark's performance of Services pursuant to this Agreement and any hardware and Software licensed under the Agreement is commercial "off the shelf". It is the intent of TripSpark and Customer that federal certifications and assurances shall:

- (i) not transfer ownership of any intellectual property to Customer;
- (ii) not include bonding requirements for this Agreement;
- (iii) not include any liquidated damages under this Agreement;
- (iv) not exceed the limitation of liability and indemnification obligations under this Agreement.

Should any federal or state laws cause the scope, schedule, or deliverable to change and increase the expenses required by TripSpark to perform the Agreement, then TripSpark and Customer agree TripSpark shall be allowed to submit a written request for a change order providing an equitable adjustment. Customer will have fourteen (14) days to evaluate such request and respond in writing as to whether the change order is accepted or not. If Customer does not accept such change order or does not reply to the change order request within the fourteen (14) day period, the request will be deemed denied, and either party is free to terminate the Agreement without penalty. TripSpark makes no representation that TripSpark Software or its subcontractor's software, hardware and related documentation contain features and functionality that is Customer compliant or meets any specific requirements pursuant to any federal or state laws.

24. Public Records; Disclosure. The Agreement is a public record, and it, along with all documents or materials, in any format, including, but not limited to, paper, electronic, or virtual, that are public records pursuant to the Tennessee Open Records Act, set out in T.C.A. §10-7-503 et seq., are not confidential and are subject to disclosure in whole or in part, without regard to any provision contained in the Agreement declaring information confidential. Additionally, Customer must, upon proper request, release public documents and records as defined by T.C.A. §10-7-503 et seq., including, but not limited to, the Agreement and all records created and maintained related to the Agreement, without any requirement to disclose such request to TripSpark or provide TripSpark with notice or the time to obtain a protective order. Customer does not have the burden of establishing that information is not confidential information or that its release is authorized to release the records. This section serves to meet such burden and authorization of disclosure.

25. Binding Effect. This Agreement is the entire agreement between Customer, (including Customer's employees and other end users) and TripSpark. No employee of Customer or any other person, without authorization of the City Council can bind Customer to any contract or agreement and anything contrary contained in the

Agreement, the Terms of Service or other agreements or understandings, whether electronic, click-through, or shrink-wrap, and whether verbal or written, with Customer's employees or other end users, to the contrary are null, void and without effect as it applies to Customer.

EXHIBIT A

Item	TripSpark Software	Application Description	Configuration	License Date
1.	*TripSpark Mobile (Fixed Route)	Mobile Application for Fixed Route Bus Operators	Mobile Based	Effective date of this Agreement
2.	*TripSpark XGate (Fixed Route)	Wireless Communication Module	Mobile Based	Effective date of this Agreement
3.	*TripSpark XMobile Manager (XMM) Fixed Route)	Over the Air Programming Application	Mobile Based	Effective date of this Agreement
4.	*TripSpark Streets CAD/AVL Server License (Schedule/Import, Reporting, Web Services/GTFS Export (Google Trip Planner))	Fixed Route Computer Aided Dispatching and Automated Vehicle Location	Server Based	Effective date of this Agreement
5.	*TripSpark Streets Route Monitor	Headway Monitoring	Server Based	Effective date of this Agreement
6.	*TripSpark Streets-CAD/AVL Client License	Fixed Route Computer Aided Dispatching and Automated Vehicle Location	Server Based	Effective date of this Agreement

7.	*TripSpark XGate Server License	Wireless Communication Module	Server Based	Effective date of this Agreement
8.	TripSpark XMobile Manager Server License	Over the Air Programming Application	Server Based	Effective date of this Agreement
9.	TripSpark MyRide Passenger Information	Real Time Passenger Information Module	Mobile Based	Effective date of this Agreement
10.	TripSpark Streets GTFS Real Time Feed	Schedule Data Export for Google Maps	Mobile Based	Effective date of this Agreement
11.	TripSpark MyRide Native Application	Dynamic Passenger Information App for mobile users	Mobile Based	Effective date of this Agreement
12.	Transit Database		Included	Included

Note:

1. Licenses are provided for operations of up to fourteen (14) fixed route vehicles.
2. *Licenses are provided for an additional three (3) fixed route vehicles, subject to TripSpark's receipt of payment pursuant to Exhibit B, attached hereto.
3. Third Party Runtime licenses, if required to operate the TripSpark Software, are not included.
4. Proposed software solution is designed for the Windows operating environments, with an ODBC database infrastructure (the Transit Database) designed by and proprietary to TripSpark, as applicable.
5. Except as may be included in the Equipment or otherwise specifically required in the Agreement, the Customer is responsible for purchasing hardware and any other pre-requisite products.
6. Any software applications may be operated on any of the licensed workstations within a configuration approved by TripSpark. Licenses for additional local or remote workstations may be purchased at the then current rates.

EXHIBIT B**List of Additional TripSpark Equipment:**

Description	Quantity
In-Vehicle Equipment – Fixed Route	
Ranger 4 (Internal modem, GPS, WIFI)	3
Mount	3

EXHIBIT C: SUMMARY OF PRICING

Products	Description	Quantity	Price	Total
R44-V110T-01	Ranger 4.4 MDT - power cables included	3	\$4,217	\$12,651
65T0125-001	RAM Mount	3	\$18	\$54
65T0125-003	RAM Arm	3	\$32	\$96
*Ranger - Mobile Application License		3	\$262	\$786
*Ranger - XGate License		3	\$131	\$393
*Ranger - XMM License		3	\$131	\$393
*Streets Ranger Interface License		3	\$1,838	\$5,514
Project Management and Deployment Services		1	\$3,300.00	\$3,300.00
Shipping		1	\$43	\$43
Total USD				\$23,230.00

Assumptions

TripSpark will provide:

- 1 All of the TripSpark Equipment and Services identified above.

Customer will be responsible for providing the following:

- 1 Public data network activations and monthly airtime subscriptions for each vehicle.
- 2 Swap-out maintenance of in-vehicle equipment during and after the warranty period.
- 3 Third party interface fees to existing agency equipment (fareboxes, onboard signs, destination signs, etc.).

- 4 Installation of equipment in Customer vehicles (unless provided by TripSpark within the above pricing).
- 5 SQL for databases for all TripSpark Software (unless hosted by TripSpark).
- 6 Space, power, network (LAN/WAN) connectivity, for required servers and workstations (unless hosted by TripSpark).
- 7 Access to servers via the internet (i.e., VPN, PCAnywhere) for remote troubleshooting and support (unless hosted by TripSpark),
- 8 Configuration of firewall to allow two-way IP based communications with the mobile devices (unless hosted by TripSpark).

Extended Warranty Pricing

**	Extended Warranty Pricing	Year 1	Year 2	Year 3
	Ranger 4.4	\$393	\$435	\$474

General

1. Pricing is in US dollars and expires January 31, 2024.
2. Applicable taxes are not included and will be assessed at invoicing.
3. *Pricing corresponds to the TripSpark Mobile (Fixed Route), XGate (Fixed Route), XMobile Manager (XXM) (Fixed Route), CAD/AVL Server License (Schedule/Import, Reporting, Web Services/GTFS Export (Google Trip Planner), Streets Route Monitor, Streets-CAD/AVL Client License, XGate Server License, XMobile Manager Server License Software products for up to three (3) fixed route vehicles.
4. **Should Customer wish to purchase extended warranty, Customer shall issue a Purchase Order to TripSpark on or before the ninety (90) days warranty expiry date. Upon expiry of Year 3, extended Warranty support shall be subject to program availability and TripSpark's then current pricing.

EXHIBIT C: SUMMARY OF PRICING

Payment Schedule

Milestone	Description	Percentages Due
Milestone 1:	Due upon execution of this Agreement	100% License Fees and 50% Services Fee
Milestone 2:	Due upon drop ship delivery to Customer location	100% TripSpark Equipment Fee and 100% Shipping Fee
Milestone 3:	Due upon completion of TripSpark's Services in accordance with Exhibit D of this Agreement	50% Services Fee

EXHIBIT D: STATEMENT OF WORK

Statement of Work: In-Vehicle TripSpark Equipment

This document defines the implementation services to be provided by TripSpark for the Customer, as well as the roles and responsibilities of the Customer's staff and resources.

Unless otherwise indicated, TripSpark will provide 'standard' implementation services (project management, operational review, testing, installation, training, etc.) as defined by TripSpark. Any services beyond what is defined in this document will be considered out of scope, and a change order outlining any additional costs will be required. Any additional costs uncovered from a change order will be the responsibility of the Customer. All implementation Services, materials, and training will be provided in English, unless otherwise stated.

Overview

This implementation involves the following high-level tasks:

1. Offsite Support Services

Offsite Support

A Kick-Off Call will be scheduled as agreed upon by both parties. The Kick-Off Call will involve one or more meetings with the Customer's project team to discuss the project, its timelines, and to review the scope of work.

TripSpark Will Provide:

- Software Configuration, System Testing, & Commissioning

- Up to eight (8) hours of remote support services to assist Customer in the installation and troubleshooting of the equipment in the vehicle; Rangers, Power Cables, and Mounts

TripSpark Resource Responsibilities

TripSpark will provide Project Management services, including but not limited to; Scheduling of TripSpark resources, coordination with Customer resources, follow up and update communications, invoicing based on milestones, and acting as a single point of contact.

Customer Resource Responsibilities

If Customer causes delays by not adhering to the below responsibilities and requirements listed in this SOW, and these delays result in additional service work being incurred by TripSpark, then TripSpark reserves the right to charge Customer additional services fees, which shall be the responsibility of the Customer.

The table below identifies the resource requirements for the Customer.

Resource	Description	Time Dedication	Tasks
Project Manager	The project manager coordinates all efforts between Customer and TripSpark	20% of time for duration of project.	<ul style="list-style-type: none"> ○ Coordinate the scheduling of all of the Customer resources. ○ Coordination of conference calls and meetings, as required.
Subject Matter Expert	Someone with intimate knowledge of the processes and procedures	75% of time for duration of project.	<ul style="list-style-type: none"> ○ Participation in the completion of the Kick-Off Call.
System Administrator		25% of their time for the duration of the project.	<ul style="list-style-type: none"> ○ Provide TripSpark Remote Desktop (RDP) over secured Virtual Private Network (VPN) access to servers where Software and Software databases will be installed.
Operations Manager & Maintenance	The Operations Manager is responsible for coordinating availability of buses and drivers, as well as providing support for installers	50% during installs	<ul style="list-style-type: none"> ○ Coordinate availability of vehicles and installation locations ○ Liaison between TripSpark and maintenance department ○ Support the pre and post installation inspections ○ Manage Installations as necessary

Timeline

TripSpark's Project Manager will reach out within 3 weeks from the execution of this agreement in order to schedule a Kick-Off Call. The Kick-Off Call shall be scheduled as agreed upon by both parties.

The services as outlined in this document can be completed within approximately two (2) months from the Kick-Off Call.

Assumptions

The key assumptions that TripSpark has employed while determining the level of effort involved with this implementation are presented below:

- Customer must choose and schedule vehicles for installation once the schedule is confirmed by all stakeholders.
- Customer must have a test environment or test method at their facility that can be used for testing new versions of the Software. It is the Customers responsibility to ensure adequate user testing is completed before implementation of the Software in a live environment.
- Customer must provide TripSpark with access to software servers via the internet (e.g., VPN, PCAnywhere, etc.) for remote troubleshooting/support.
- Customer must supply public data network activations and monthly airtime subscriptions for each vehicle and provide or procure Sim Cards.
- Software will be delivered 'off-the-shelf'. Off the shelf means:
 - Software will be installed "as-is" (no customizations) and existing functionality within the Software will be used or adapted for the needs of this project. Feature requests or improvements will be considered after Software acceptance, as described under this Agreement Amendment #6, for this project is completed
- Once an installation is completed and passes installation testing, all further hardware troubleshooting will be accomplished by Customer's maintenance staff. TripSpark will be available for consultation.
- Customer is responsible for existing in-vehicle equipment not provided by TripSpark and any repairs or replacements required for equipment meant to interface to TripSpark's Software or TripSpark Equipment.
- Customer must obtain necessary permits or permissions for any activities requiring outside authorization.
- Customer must provide any power converters required for TripSpark Equipment as necessary.
- Customer must provide a safe and secure location to store TripSpark Equipment prior to installation.
- Customer is responsible for installation of the TripSpark Equipment in the vehicles.
- All Services to be provided remotely.

EXHIBIT E: MAINTENANCE FEES AND HOSTING SERVICES**Long Term Software Maintenance and Hosting Services Fees**

Item	TripSpark Software	Maintenance and Hosting Services Period Covered	Maintenance Fee and Hosting Services
1.	Mobile (Fixed Route), XGate (Fixed Route), XMobile Manager (XXM) (Fixed Route), CAD/AVL Server License (Schedule/Import, Reporting, Web Services/GTFS Export (Google Trip Planner), Streets Route Monitor, Streets-CAD/AVL Client License, XGate Server License, XMobile Manager Server License, MyRide Passenger Information, & GTFS-Real Time Feed (up to 14 fixed route vehicles)	July 01, 2023, to June 30, 2024	\$47,675.00
2.	Mobile (Fixed Route), XGate (Fixed Route), XMobile Manager (XXM) (Fixed Route), CAD/AVL Server License (Schedule/Import, Reporting, Web Services/GTFS Export (Google Trip Planner), Streets Route Monitor, Streets-CAD/AVL Client License, XGate Server License, XMobile Manager Server License, MyRide Passenger Information, & GTFS-Real Time Feed (up to 14 fixed route vehicles)	July 01, 2024, to June 30, 2025	\$50,065.00

3.	Mobile (Fixed Route), XGate (Fixed Route), XMobile Manager (XXM) (Fixed Route), CAD/AVL Server License (Schedule/Import, Reporting, Web Services/GTFS Export (Google Trip Planner), Streets Route Monitor, Streets-CAD/AVL Client License, XGate Server License, XMobile Manager Server License, MyRide Passenger Information, & GTFS-Real Time Feed (up to 14 fixed route vehicles)	July 01, 2025, to June 30, 2026	\$52,710.00
4.	MyRide Native Application	October 01, 2024, to September 30, 2025	\$2,035.00
5.	MyRide Native Application	October 01, 2025, to September 30, 2026	\$2,135.00

EXHIBIT E: MAINTENANCE FEES AND HOSTING SERVICES

Item	TripSpark Software	Maintenance Period Covered	**Maintenance Fees
1.	Mobile (Fixed Route), XGate (Fixed Route), XMobile Manager (XXM) (Fixed Route), CAD/AVL Server License (Schedule/Import, Reporting, Web Services/GTFS Export (Google Trip Planner), Streets Route Monitor, Streets-CAD/AVL Client License, XGate Server License, XMobile Manager Server License, MyRide Passenger Information, GTFS-Real Time Feed, & MyRide Native Application (up to three (3) additional fixed route vehicles).	Year 1 (2023)	\$1,417.00
2.	Mobile (Fixed Route), XGate (Fixed Route), XMobile Manager (XXM) (Fixed Route), CAD/AVL Server License (Schedule/Import, Reporting, Web Services/GTFS Export (Google Trip Planner), Streets Route Monitor, Streets-CAD/AVL Client License, XGate Server License, XMobile Manager Server License, MyRide Passenger Information, GTFS-Real Time Feed, & MyRide Native Application (up to three (3) additional fixed route vehicles).	Year 2 (2024)	\$1,488.00

3.	Mobile (Fixed Route), XGate (Fixed Route), XMobile Manager (XXM) (Fixed Route), CAD/AVL Server License (Schedule/Import, Reporting, Web Services/GTFS Export (Google Trip Planner), Streets Route Monitor, Streets-CAD/AVL Client License, XGate Server License, XMobile Manager Server License, MyRide Passenger Information, GTFS-Real Time Feed, & MyRide Native Application (up to three (3) additional fixed route vehicles).	Year 3 (2025)	\$1,562.00
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EXHIBIT E: MAINTENANCE FEES AND HOSTING SERVICES

Note: The Software maintenance fees, and Hosting Services fees stated above under this Exhibit E, apply to the corresponding time frames only and exclude applicable taxes. For all future annual renewals, Software maintenance fees and Hosting Services fees shall be subject to TripSpark then current pricing. Hosting Services fee assumes up to seven (7) user ids.

***The Software maintenance fees shall be invoiced on a prorated basis to meet the existing common anniversary renewal date

Note: The Software maintenance fees, and Hosting Services fees stated above apply to the corresponding time frames only and exclude applicable taxes. For all future annual renewals, maintenance fees shall be subject to TripSpark then current pricing. Hosting Services fee assumes:

Includes five (5) user ids-***each additional user	\$15	per user per month
Includes 320GB of transfer per month		
***Each additional 1GB	\$1	per month
***Each 1GB of Disk Space after 50GB	\$1	per month

*****Note:** Pricing subject to change without notice.

EXHIBIT F: RETURN MATERIALS AUTHORIZATION ("RMA")

RETURN MATERIAL AUTHORIZATION ("RMA") PROCESS

All items returned to TripSpark must have the following information presented prior to the issuing of a Return Material Authorization ("RMA") number. The reason for return (as specific as possible), the item(s) part number(s), serial number, and Customer contact. For vehicle installed TripSpark Equipment please provide the vehicle id, vehicle make/model and vehicle year.

RETURN MATERIAL AUTHORIZATION ("RMA") REQUEST

Customers who have TripSpark Equipment needing repair, having received TripSpark approval for the repair shall follow the procedure outlined below:

Buyer (or authorized representative) has TripSpark Equipment needing repair.

Buyer (or authorized representative) provides to TripSpark: Part Number, Serial Number, and Detailed Problem Description with Unit by logging onto www.MyTripSpark.com and selecting "Request an RMA" on the left side. You will need to enter the following information:

- a) Serial number
- b) corresponding problem description for each device being returned
- c) return shipping address
- d) billing address

A complete and accurate description of the condition or problem of the component or unit and the initial trouble shooting shall be done by the Customer (or authorized representative).

The Customer (or authorized representative) shall ship the unit and CRG (Customer Returned Goods) form to:

Trapeze Software Group, Inc. d.b.a. TripSpark Technologies
5265 Rockwell Dr NE
Cedar Rapids, IA 52402
Attention: RMA Department

For International shipments, please include a commercial invoice to prove place of origin for the repair.

Packing

- Customer (or authorized representative) places all TripSpark Equipment (EXCEPT IVLU's) in a nonstatic bag along with a copy of RMA form. IVLU's shall be sent in an ESD static sensitive bag. TripSpark will provide non-static bags at Customer's request. Customer shall place a copy of the CRG Form, which shall be provided by TripSpark at the time of the RMA request, inside the box or taped to the outside of the bag of the unit being returned. Customer (or authorized representative) shall pack all returned units carefully, using packing peanuts and bubble wrap when necessary. All returns are Customer property and must be protected during shipping and through the entire return process.

- Use the values on the commercial invoice for entering the 'Value for Customs' on shipping forms (for International shipments)
- Do not enter a 'Total Declared Value for Carriage'. (For International shipments)
- Mark the RMA number on the top of the outside boxes.
- Attach one copy of the commercial invoice to each box (for international shipments)
- Attach the waybill.

Please note:

- TripSpark will provide proper packaging at a nominal fee if the units are not sent to us in original packaging or if the packaging is damaged.
- Customer is responsible for shipping to and from TripSpark on all non-warranty/non-maintenance repairs and per the agreement on warranty/maintenance repairs.
- If the quantity or serial numbers are not filled out correctly on the commercial invoice, customs may hold the shipment, or the shipment may be refused.

If you have any questions, please contact our Customer Care Department (cc@tripspark.com).

EXHIBIT G: HOSTING SERVICES

Hosting Services

1. OVERVIEW

This Exhibit G describes the hosting services for the Software licensed under Exhibit A of this Agreement ("Hosting Services") to be provided by TripSpark, the respective responsibilities of the parties, the service level objectives ("SLOs"), and the problem management process.

2. HOSTING SERVICES

The general scope of services addressed by this Agreement includes the operation, maintenance, and support of the:

- Database software for the Software hosted under this Agreement
- Database security
- Data Center server operation

The scope of services specifically excludes operation and maintenance of the following:

- Customer hardware, including Customer's servers, printers, network hardware (including routers and switches) and other Customer site computing equipment;
 - Customer application software
 - Customer Local Area Networks ("LAN")
 - Customer network infrastructure for connecting to the Internet and to the TripSpark Data Center

All Hosting Services will be provided by TripSpark to and for the Customer's benefit in a manner that will meet the objectives outlined in the Service Level Objectives below.

Support Software

Support Software includes the operating system, utilities, database software, and all necessary licenses required to operate the Software as provided by TripSpark as part of the Hosting Services.

Hardware

Customer shall provide the telecommunications equipment, communication lines, and associated internet services for connection from Customer's site to the Data Center.

Database Instances

TripSpark will maintain a single production database instance up to 50GB. This production database will provide the daily, real-time transaction data to the Software users.

Internet Bandwidth

TripSpark will provide up to 1Mbps pursuant this Agreement. Additional bandwidth is charged at the then current rate.

Backups

Full database backups and incremental database backups are taken on a regular basis. Backup data is retained for 14 days.

Hours of System Operations

The Software will be accessible and available to the Customer and capable of any and all normal operating functions 24 hours a day, seven days a week except for periods of scheduled maintenance and previously approved outages. TripSpark will not be held responsible for inaccessibility arising from communications problems occurring anywhere beyond the TripSpark side of the router resident at the Data Center, nor will these hours of unavailability be counted as unavailable.

Data Center Maintenance

TripSpark will complete routine maintenance on the Software systems quarterly. TripSpark will provide at least seven (7) business days' notice of these planned outages.

If TripSpark is required to perform additional maintenance outside of the scheduled maintenance window, it will notify the Customer via email of its request. The Customer and TripSpark will mutually agree on the downtime, which will then be considered a period of scheduled maintenance.

Travel Expense

In addition to the fees set forth above, if TripSpark is required by Customer to attend and perform Services on-site, Customer shall reimburse TripSpark for air fare, meals, ground transportation, and other reasonable travel and living expenses incurred by TripSpark in support of this Agreement during provision of support services at the Customer site.

3. SERVICE LEVEL OBJECTIVES

These Service Level Objectives are intended to provide an understanding of the level of service to be delivered by TripSpark for the Hosting Services specified in this Exhibit G-1. The service levels set forth below apply to the Hosting Services provided by TripSpark under this Agreement.

AVAILABILITY

TripSpark will use commercially reasonable efforts to provide Hosting Services with an average of 95% Availability (as such term is hereinafter defined) for each quarter during the Term. For purposes of the Agreement, "Availability" during any quarter refers to an Authorized User's ability to log into the Software during such quarter, and will be calculated in accordance with the following formula:

$$x = (y - z) / y * 100$$

Where,

- "x" is the Availability of the Software during the quarter;
- "y" is the total number of hours in such quarter minus the number of hours during such quarter that the Customer is unable to log into the Software because of (a) regularly scheduled maintenance windows for the Software and for times in which Customer has been notified in writing (including e-mail) by TripSpark in advance thereof; (b) a Force Majeure Event; (c) non-performance of hardware, software, ISP connections, and other equipment that is not provided by TripSpark or certified by TripSpark for use in conjunction with the Hosting Services (except as such non-performance is directly or indirectly caused by TripSpark).
- "z" is the number of hours in such month during which the Customer is unable to log into the Software (other than for reasons set forth in the definition of "y" above); provided that TripSpark has been notified or is otherwise aware (or reasonably should be aware) of Customer's inability to utilize the Software.

4. CUSTOMER RESPONSIBILITIES

The Customer is responsible for:

- Assigning a primary and alternate Customer representative to coordinate all communications and activities related to TripSpark services.
- Providing contact information for a primary and an alternate contact to TripSpark that will be added to the notification lists upon execution of this Agreement.
- Providing user identification data and determining the appropriate security profile for each user. Customer will control security at the Software level.
- All printing. No print job will print at the Data Center and all physical printing requirements will be handled by the Customer.
- The purchase and installation of printers at Customer's sites for the Software being utilized.
- Installation, operation, and maintenance of all workstation software (and Customer's LAN, existing data communications configuration, hardware, or software required at the Customer's site. TripSpark network and network responsibility extends from the TripSpark routers at TripSpark's sites to all connected equipment at TripSpark's sites.
- Testing updates and fixes applied by TripSpark to Software used by Customer. With the exception of emergency fixes, Customer will test updates and fixes prior to their introduction to the production environment within a mutually agreed upon time frame.
- Testing upgrades. Upgrades will be moved to production by TripSpark at the end of the Customer testing period unless specific problems are documented in writing to TripSpark.
- Diligent analysis of suspected problems to determine their specific nature and possible causes before calling TripSpark for assistance. Notwithstanding this diligence requirement, Customer is responsible for informing TripSpark of any problems encountered in a timely manner.

5. OWNERSHIP OF SOFTWARE AND DATA

Customer shall not obtain any ownership rights, title or interest in the Software, hardware or systems developed or employed by TripSpark in providing any Services under the Agreement. TripSpark shall not obtain any ownership rights, title or interest to Customer's data contained within the Software database. Upon expiration or termination of the Agreement for any reason, TripSpark agrees to, upon a written request by Customer, either provide Customer with a copy of or destroy the Customer's data, as it exists at the date of expiration or termination. If the Customer desires TripSpark to provide a copy of all of the Customer's data at any period other than expiration or termination of the Agreement, TripSpark will provide a quote detailing the scope and cost for such services for Customer's approval.

EXHIBIT H:
FEDERAL AND STATE REQUIRED CLAUSES

The City of Murfreesboro's (the "City," "Owner," or "Agency" as appropriate) purchasing procedures are governed by the State of Tennessee, the City of Murfreesboro, and various Federal laws, executive orders, and regulations, by Office of Management and Budget Circular A-102, Executive Order 12612, Federalism and Federal Transit Administration Circular 4220.1F "Third Party Contracting Requirements". These require, among other things, that purchases (including purchases for fixed assets, materials and supplies, construction, and/or services) utilizing federal grant funds be made according to approved plans and specifications, including the Federal and State clauses set forth below:

Federal Transit Administration Clauses

1. Incorporation of Federal Transit Administration (FTA) Terms

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

2. Federal Changes

49 CFR Part 18 Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

3. Civil Rights Laws and Regulations

The following Federal Civil Rights laws and regulations apply to all contracts.

1. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:
 - a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
 - b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
2. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
3. **Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment

discrimination against individuals age 40 and over on the basis of age.

4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
5. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

4. Disadvantaged Business Enterprise (DBE)

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

The contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

5. No Government Obligation to Third Parties

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

6. Program Fraud and False or Fraudulent Statements and Related Acts

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."

7. Prompt Payment

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

8. Access to Records and Reports

- a) **Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.
- b) **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts

and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

- c) Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d) Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

9. Energy Conservation

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

10. Safe Operation of Motor Vehicles

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

11. Termination

Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency’s best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

Termination for Cause (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency

setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Cause (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for cause. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the failure. In this event, the Agency may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within seven (7) days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.
3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

12. Debarment and Suspension

a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

13. Notification to FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient

is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

14. Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency.

15. Clean Air Act and Federal Water Pollution Control Act

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

2. The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.”

16. Buy America Requirements

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

17. Violation and Breach of Contract

Rights and Remedies of the Agency

The Agency shall have the following rights in the event that the Agency deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

For purposes of this Contract, breach shall include.

Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Agency, the Contractor expressly agrees that no default, act or omission of the Agency shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the Agency directs Contractor to do so) or to suspend or abandon performance. Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, the Agency will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Contract by the Contractor before the Agency takes action contemplated herein, the Agency will provide the Contractor with sixty (60) days written notice that the Agency considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of Agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Agency's authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Agency's authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the Agency's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by Agency, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Agency and the Contractor arising out of or relating to this Contract or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Agency or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

18. Simplified Acquisition Threshold

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)

19. Davis Bacon Act and Copeland Anti-Kickback Act

- a) In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- b) The Non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

"Compliance with the Copeland Anti-Kickback" Act.

1. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FTA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
3. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

20. Contract Work Hours and Safety Standards Act

- a) Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b) Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c) Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d) The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e) The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

- 1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- 3. Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- 4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

21. Seismic Safety

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

22. Special DOL EEO Clause

Applies to construction contracts > \$10,000; This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60- 741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

23. Veterans Hiring Preference

Veterans Employment - Recipients of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

24. Bond Requirements

Bid Guarantee. Bidders shall furnish a bid guaranty in the form of a bid bond, or certified treasurer's or cashier's check issued by a responsible bank or trust company, made payable to the Agency. The amount of such guaranty shall be equal to the value or a percentage of the total bid price.

In submitting this bid, it is understood and agreed by bidder that the Agency reserves the right to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [90] days subsequent to the opening of bids, without the written consent of Agency.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the undersigned bidder agrees to indemnify Agency and pay over to Agency the difference between the bid guarantee and Agency's total damages so as to make Agency whole.

The undersigned understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee. A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten (10) business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand-By Letter of Credit will only be accepted by the Agency if:

1. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The Agency is identified as the Beneficiary.

5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of the contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds. A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

25. Cargo Preference Requirements

The contractor agrees:

- a) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities
- b) pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- c) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading); and
- d) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

26. Fly America

- a) Definitions. As used in this clause—
 - 1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.
 - 2) "United States" means the 50 States, the District of Columbia, and outlying areas.
 - 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S. – Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

- e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

27. Procurement of Recovered Materials

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
 - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - ii. Meeting contract performance requirements; or
 - iii. At a reasonable price.
- (2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.”

28. Conformance with its National Architecture

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

29. Prohibition on certain telecommunications and video surveillance services or equipment

Recipients and sub recipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
- (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Tennessee State Contract Clauses

To the extent they do not conflict with the above FTA Terms, the following clauses also form a part of the Contract Documents and, in the event of a conflict, will control over A101-2017, A201-2017, and any other Supplemental Conditions related thereto, as follows:

30. Conflicts of Interest.

The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Contract.

31. Lobbying.

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

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

32. Nondiscrimination.

The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

33. Public Accountability.

If the City is subject to Tenn. Code Ann. § 8-4-401 et seq., or if this Contract involves the provision of services to citizens by the City on behalf of the State, the City agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The City shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Tennessee Department of Transportation (Grantor State Agency) shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the City, provide City with any necessary signs.

34. Public Notice.

All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the City and/or Contractor in relation to this Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee, Department of Transportation." All notices by the City and/or Contractor in relation to this Contract shall be approved by the State.

35. Records.

The Contractor and any approved subcontractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor and any approved subcontractor, insofar as they relate to work performed or money received under this Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Contractor's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

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

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

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

The Contractor shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

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

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

36. Environmental Tobacco Smoke.

Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn Code Ann. §§39-17-1601 through 1606, the City and Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The City and/or Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES

It is the responsibility of the Vender to ensure that all clauses applicable to the Work of this Agreement are adhered to by the Contractor and its Sub -contractors when applicable.

Sec.	Contract Clause	Applicability to Type of Contract
1	Fly America Requirements	When Transportation Paid By FTA Funds
2	Buy America Requirements	Value > 100K for Construction, Goods, Rolling Stock
3	Charter Bus Requirements	Operational Service
4	School Bus Requirements	Operational Service
5	Cargo Preference Requirements	Equipment/Material/Commodities Transported By Ocean
6	Seismic Safety Requirements	New Construction/Additions
7	Special Department of Labor (DOL) Equal Employment Clause	Value > 10K for Construction
8	Energy Conservation Requirements	All
9	Clean Water Requirements	Value > 100K
10	Bus Testing	Rolling Stock Acquisition
11	Pre-Award and Post Delivery Audit Requirements	Rolling Stock Acquisition
12	Lobbying	All
13	Access to Records and Reports	All
14	Federal Changes	All
15	Bonding Requirements	Construction > 100K
16	Clean Air	Value > 100K
17	Recycled Products	Value > 10K In Fiscal Year
18	Davis-Bacon and Copeland Anti-Kickback Acts	Construction > \$2000
19	Contract Work Hours and Safety Standards Act	Construction > \$2000, Rolling Stock, Operational > \$2,500
20	No Government Obligation to Third Parties	All
21	Program Fraud and False or Fraudulent Statements and Related Acts	All
22	Termination	Value > 10K
23	Government-Wide Debarment and Suspension (Non-procurement)	Value > 25K
24	Privacy Act	All
25	Civil Rights Requirements	All
26	ADA Access Requirements	All
27	Breaches and Dispute Resolution	Value > 100K
28	Patent and Rights in Data	Research Projects Only
29	Transit Employee Protective Agreements	Transit Operations
30	Disadvantaged Business Enterprise (DBE)	All
31	Incorporation of FTA Terms	All
32	Drug and Alcohol Testing	Operational Service/Safety Sensitive
33	Transit Vehicle Manufacturer (TVM) Certifications	Rolling Stock, All Vehicle Procurements
34	Metric Requirements	Sealed Bid Procurements, Rolling Stock, Construction
35	Conformance with National ITS Architecture	Contracts and Solicitations for ITS projects only
36	Corridor Preservation	Right of Way Development
37	Veterans Employment	Capital Projects

1. FLY AMERICA REQUIREMENTS

49 U.S.C. §40118

41 CFR Part 301-10.131 - 301-10.143

Applicability to Contracts: The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

Flow down Requirements: The Fly America requirements flow down from City of Murfreesboro, TN to first tier Contractors, who are responsible for ensuring that lower tier Contractors and sub-Contractors are in compliance.

Fly America - The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10.131 - 301-10.143, which provide that recipients and sub-recipients of Federal funds and their Contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

2. BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j)

49 U.S.C. 5323(h)

49 CFR Part 661

Applicability to Contracts: The Buy America requirements apply to the following types of contracts: Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$100,000).

Flow down Requirements: The Buy America requirements flow down from City of Murfreesboro, TN to first tier Contractor, who are responsible for ensuring that lower tier Contractors and sub-Contractors are in compliance.

Buy America - The Contractor agrees to comply with 49 U.S.C. 5323(j) as amended by MAP-21, 49 U.S.C. 5323(h), 49 CFR Part 661, and FAST Act (Pub. L. 114-94) which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7 and was amended by Section 3011 of the FAST Act (Pub. L. 114-94). Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a sixty percent (60%) domestic content for FY16 & FY17; sixty-five percent (65%) domestic content for FY18 & FY19; and seventy percent (70%) domestic content for FY20 & beyond.

General waivers for small purchases do not apply to Contractors equipment purchases when Contractor's contract value exceeds \$150,000 in value. Contractor must submit to City of Murfreesboro, TN the appropriate Buy America certification with all bids on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as non-responsive. This requirement does not apply to lower tier sub-Contractors.

3. CHARTER BUS REQUIREMENTS

49 U.S.C. 5323(d)
49 CFR Part 604

Applicability to Contracts: The Charter Bus requirements apply to the following type of contract: Operational Service Contracts.

Flow down Requirements: The Charter Bus requirements flow down from City of Murfreesboro, TN to first tier service Contractors.

Charter Service Operations - The Contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and sub-recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604. 9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

4. SCHOOL BUS REQUIREMENTS

49 U.S.C. 5323(F)
49 CFR Part 605

Applicability to Contracts: The School Bus requirements apply to the following type of contract: Operational Service Contracts.

Flow down Requirements: The School Bus requirements flow down from City of Murfreesboro, TN to first tier service Contractors.

School Bus Operations - Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub-recipients may not use federally funded equipment, vehicles, or facilities.

5. CARGO PREFERENCE REQUIREMENTS

46 U.S.C. 55305

Applicability to Contracts: The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Flow down Requirements: The Cargo Preference requirements apply to all subcontracts when the subcontract may be involved with the transport of equipment, material, or commodities by ocean vessel.

Cargo Preference - Use of United States-Flag Vessels - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

Carriages Procured, Furnished, or Financed by the United States Government –

(a) Definition.- In this section, the term "privately-owned commercial vessel of the United States" does not include a vessel that, after September 21, 1961, was built or rebuilt outside the United States or documented under the laws of a

foreign country, until the vessel has been documented under the laws of the United States for at least three (3) years.

(b) **Minimum Tonnage.**-When the United States Government procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country, organization, or persons without provision for reimbursement, any equipment, materials, or commodities, or provides financing in any way with Federal funds for the account of any persons unless otherwise exempted, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing or obtaining of the equipment, materials, or commodities, the appropriate agencies shall take steps necessary and practicable to ensure that at least fifty percent (50%) of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned commercial vessels of the United States, to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a manner that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas.

(c) **Waivers.**-The President, the Secretary of Defense, or Congress (by concurrent resolution or otherwise) may waive this section temporarily by-

- (1) Declaring the existence of an emergency justifying a waiver; and
- (2) Notifying the appropriate agencies of the waiver.

(d) **Programs of Other Agencies.**-

(1) Each department or agency that has responsibility for a program under this section shall administer that program with respect to this section under regulations and guidance issued by the Secretary of Transportation. The Secretary, after consulting with the department or agency or organization or person involved, shall have the sole responsibility for determining if a program is subject to the requirements of this section.

(2) The Secretary-

(A) shall conduct an annual review of the administration of programs determined pursuant to paragraph (1) as subject to the requirements of this section;

(B) may direct agencies to require the transportation on United States-flagged vessels of cargo shipments not otherwise subject to this section in equivalent amounts to cargo determined to have been shipped on foreign carriers in violation of this section;

(C) may impose on any person that violates this section, or a regulation prescribed under this section, a civil penalty of not more than \$25,000 for each violation willfully and knowingly committed, with each day of a continuing violation following the date of shipment to be a separate violation; and

(D) may take other measures as appropriate under the Federal Acquisition Regulations issued pursuant to section 25(c)(1) 1 of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1) 2 or contract with respect to each violation.

(e) **Security of Government-Impelled Cargo.**-

(1) In order to ensure the safety of vessels and crewmembers transporting equipment, materials, or commodities under this section, the Secretary of Transportation shall direct each department or agency (except the Department of Defense), when responsible for the carriage of such equipment, materials, or commodities, to provide armed personnel aboard vessels of the United States carrying such equipment, materials, or commodities if the vessels are transiting high-risk waters.

(2) The Secretary of Transportation shall direct each department or agency responsible to provide armed personnel under paragraph (1) to reimburse, subject to the availability of appropriations, the owners or operators of applicable vessels for the cost of providing armed personnel.

(3) In this subsection, the term "high-risk waters" means waters so designated by the Commandant of the Coast Guard in the Port Security Advisory in effect on the date on which an applicable voyage begins.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1642; Pub. L. 110–417, div. C, title XXXV, §3511(a), (b), Oct. 14, 2008, 122 Stat. 4769; Pub. L. 112–213, title V, §503, Dec. 20, 2012, 126 Stat. 1575.)

6. SEISMIC SAFETY REQUIREMENTS

**42 U.S.C. 7701 et seq.
49 CFR Part 41**

Applicability to Contracts: The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

Flow down Requirements: The Seismic Safety requirements flow down from City of Murfreesboro, TN to first tier Contractors to assure compliance, with the applicable building standards for Seismic Safety, including the work performed by all sub-Contractors.

Seismic Safety - The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this contract including work performed by a sub-Contractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project. The Contractor will facilitate and follow Executive Order No. 12699, "Seismic Safety of Federal and Federally -Assisted or Regulated New Building Construction," 42 U.S.C. 7704 note, except as the Federal Government determines otherwise in writing.

7. SPECIAL DOL EQUAL EMPLOYMENT CLAUSE

41 CFR Part 60

See Section 25 – Contract Clause Civil Rights Requirements

8. ENERGY CONSERVATION REQUIREMENTS

**42 U.S.C. 6321 et seq.
49 CFR Part 622**

Applicability to Contracts: The Energy Conservation requirements are applicable to all contracts.

Flow down Requirements: The Energy Conservation requirements extend to all third party Contractors and their contracts at every tier and, sub-recipients and their sub-agreements at every tier.

Energy Conservation - The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act. The Contractor agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA funds required under FTA regulations, "Requirements for Energy Assessments," 49 CFR part 622, subpart C.

9. CLEAN WATER REQUIREMENTS

33 U.S.C. 1251 - 1377

Applicability to Contracts: The Clean Water requirements apply to each contract and subcontract which exceeds \$100,000.

Flow down Requirements: The Clean Water Act requirements flow down to N City of Murfreesboro, TN CTD third party Contractors and their contracts at every tier, and sub-recipients and their sub-agreements at City of Murfreesboro, TN every tier.

Clean Water - (a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Water Act, as amended, 33 U.S.C. 1251 – 1377 et seq.

(b) The Contractor agrees to report each violation to City of Murfreesboro, TN and understands and agrees that City of Murfreesboro, TN will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office in compliance with the notice of violating facility provisions in section 508 of the Clean Water Act, as amended, 33 U.S.C. 1368

- (c) The Contractor agrees to protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f – 300j-6.
- (d) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

10. BUS TESTING

49 U.S.C. 5318(e)

49 U.S.C. 5323(c)

49 CFR Part 665

Applicability to Contracts: The Bus Testing requirements pertain only to the acquisition of Rolling Stock/Turnkey.

Flow down Requirements: The Bus Testing requirements should not flow down, except to the turnkey Contractor as stated in the most current FTA Master Agreement.

Bus Testing - The Contractor [Manufacturer] agrees to comply with 49 U.S.C. 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

- a) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.
- b) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- c) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- d) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

11. PRE-AWARD AND POST-DELIVERY AUDITS REQUIREMENTS

49 U.S.C. 5323

49 C.F.R. 661.12

49 CFR Part 663

Applicability to Contracts: These requirements apply only to the acquisition of Rolling Stock/Turnkey.

Flow down Requirements: These requirements should not flow down, except to the turnkey Contractor as stated in Master Agreement

- Buy America certification is mandated under FTA regulation, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. 663.13.

A Buy America certification under this part shall be issued in addition to any certification which may be required by part 661 of this title. Nothing in this part precludes FTA from conducting a Buy America investigation under part 661 of this title "**Pre-Award and Post-Delivery Audit Requirements**" - The Contractor agrees to comply with "Buy America Requirements--Surface Transportation Assistance Act of 1982, as amended," 49 C.F.R. 661.12, but has been modified to include FTA's Buy America requirements codified at 49 U.S.C. A 5323(j).

Pre-Award and Post-Delivery Audit Requirements - The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

- (1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Firm certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; 2) The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
- (2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.
- (3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit a) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or b) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

12. LOBBYING

**31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20**

Applicability to Contracts: The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

Flow Down Requirements The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of a Federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier certifies to the tier above that it will not and has not taken any action involving the Project or the Underlying Agreement for the Project, including any award, extension, or modification. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to City of Murfreesboro, TN.

13. ACCESS TO RECORDS AND REPORTS

**49 U.S.C. 5325
18 CFR 18.36(i)
49 CFR 633.17**

Applicability to Contracts: Reference Chart "Requirements for Access to Records and Reports by Type of Contracts", Item 6 of this Section.

Flow down Requirements FTA does not require the inclusion of these requirements in subcontracts.

Access to Records - The following access to records requirements apply to this Contract:

- (1) The Contractor agrees to provide City of Murfreesboro, TN, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's

Contract Characteristics	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
Non State Grantees						
a. Contracts below SAT (\$100,000)	Yes ¹	Those imposed on non- state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
b. Contracts above \$100,000/ Capital Projects	Yes ¹		Yes	Yes	Yes	Yes

records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

(2) Where City of Murfreesboro, TN or a sub-grantee of City of Murfreesboro, TN in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a) 1) through other than competitive bidding, the Contractor shall make available records related to the contract to City of Murfreesboro, TN, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

(3) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(4) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until City of Murfreesboro, TN, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

(5) FTA does not require the inclusion of these requirements in subcontracts.

(6) Requirements for Access to Records and Reports by Types of Contract

Sources of Authority: ¹ 18 CFR 18.36 (i)

14. FEDERAL CHANGES

49 CFR Part 18

Applicability to Contracts: The Federal Changes requirement applies to all contracts.

Flow down Requirements: The Federal Changes requirement flows down appropriately to each applicable changed requirement.

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between City of Murfreesboro, TN and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

15. BONDING REQUIREMENTS

This section applies only to construction or facility improvement contracts exceeding \$100,000.

16. CLEAN AIR

**42 U.S.C. 7401 – 7601(q)
40 CFR 15.61
49 CFR Part 18**

Applicability to Contracts: The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.

Flow down Requirements: The Clean Air requirements flow down to all subcontracts which exceed \$100,000.

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 – 7601(q) *et seq*. The Contractor agrees to report each violation to City of Murfreesboro, TN and understands and agrees that City of Murfreesboro, TN, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

17. RECYCLED PRODUCTS

**42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873**

Applicability to Contracts: The Recycled Products requirements apply to all contracts for items designated by the EPA, when the Contractor procures \$10,000 or more of one (1) of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds.

Flow down Requirements: These requirements flow down to all Contractor and sub-Contractor tiers.

Recovered Materials - The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. The Contractor agrees to comply with the U.S. Environmental Protection Agency (US EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247.

18. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

**49 U.S.C. 5333
40 U.S.C. 3141 – 3144
40 U.S.C. 3146 – 3147
18 U.S.C. 874
40 U.S.C. 3145**

Applicability to Contracts: The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that "at least partly are financed by a loan or grant from the Federal Government." 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)

(5). The Acts apply to any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or repair, including painting and decorating." 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (see 29 FR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

Flow down Requirements: Applies to third party Contractors and sub-Contractors

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without

subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than Monthly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one (1) classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its sub-Contractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) Except with respect to helpers as defined as 29 CFR 5.2(n) (4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) With respect to helpers as defined in 29 CFR 5.2(n) (4), such a classification prevails in the area in which the work is performed.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and shall advise the Contracting Officer or will notify the Contracting Officer within the thirty (30) day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within thirty (30) days of receipt and shall advise the Contracting Officer or will notify the Contracting Officer within the thirty (30) day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

- ¶ Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit

as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(i v) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the thirty (30) day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with thirty (30) days of receipt and shall advise the Contracting Officer or will notify the Contracting Officer within the thirty (30) day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - City of Murfreesboro, TN shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime Contractor, or any other federally- assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any sub-Contractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, City of Murfreesboro, TN may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates

of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b) (2) (B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to City of Murfreesboro, TN for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a) (3)

(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime Contractor is responsible for the submission of copies of payrolls by all sub-Contractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or sub-Contractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a) (3) (i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or sub-Contractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The Contractor or sub-Contractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or sub-Contractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to

journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Sub-Contractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The Contractor or sub-Contractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the sub-Contractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any sub-Contractor or lower tier sub-Contractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a Contractor and a sub-Contractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its sub-Contractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility** - (i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or Contractor who has an interest in the Contractor's Contractor is a person or Contractor ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

⌚ No part of this contract shall be subcontracted to any person or Contractor ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

⌚ The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by §5.5(a) or §4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No Contractor or sub-Contractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1.5) times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any sub-Contractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and sub-Contractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or sub-Contractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or sub-Contractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The Contractor or sub-Contractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the sub-Contractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any

sub-Contractor or lower tier sub-Contractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in §5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the Contractor or sub-Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the Contractor or sub-Contractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the Contractor or sub-Contractor will permit such representatives to interview employees during working hours on the job.

(The information collection, recordkeeping, and reporting requirements contained in the following paragraphs of this section were approved by the Office of Management and Budget:

OMB Control Number (a)(1)(ii)(B) 1215-0140

(a)(1)(ii)(C) 1215-0140

(a)(1)(iv) 1215-0140

(a)(3)(i) 1215-0140,

1215-0017

(a)(3)(ii)(A) 1215-0149

(c) 1215-0140,

1215-0017

[48 FR 19540, Apr. 29, 1983, as amended at 51 FR 12265, Apr. 9, 1986; 55 FR 50150, Dec. 4, 1990; 57 FR 28776, June 26, 1992; 58 FR 58955, Nov. 5, 1993; 61 FR 40716, Aug. 5, 1996; 65 FR 69693, Nov. 20, 2000; 73 FR 77511, Dec. 19, 2008]

Effective Date Note: At 58 FR 58955, Nov. 5, 1993, §5.5 was amended by suspending paragraph (a)(1)(ii) indefinitely.

19. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

29 CFR Part 5

40 U.S.C. 3701 et seq.

40 U.S.C. 3702

Applicability to Contracts: The Contract Work Hours and Safety Standards Act is codified at 40 USC 3701, et seq. The Act applies to grantee contracts and subcontracts "financed at least in part by loans or grants from ... the [Federal] Government." 40 USC 3701(b) (1) (B) (iii) and (b) (2), 29 CFR 5.2(h), 49 CFR 18.36(i) (6).

The Act applies to construction contracts and, in very limited circumstances, non-construction projects that employ "laborers or mechanics on a public work" with a value greater than \$100,000. These non- construction applications do not generally apply to transit procurements because transit procurements (to include rail cars and buses) are deemed "commercial items." 40 USC 3707, 41 USC 403 (12)

Flow down Requirements: Applies to third party Contractors and sub-Contractors.

- (1) **Overtime requirements** - No Contractor or sub-Contractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1.5) times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

- (2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any sub-Contractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and sub-Contractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) **Withholding for unpaid wages and liquidated damages** - City of Murfreesboro, TN shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or sub- Contractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or sub-Contractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) **Subcontracts** - The Contractor or sub-Contractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the sub-Contractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any sub-Contractor or lower tier sub-Contractor with the clauses set forth in paragraphs (1) through (4) of this section.

20. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts: Applicable to all contracts.

Flow down Requirements: This concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

No Obligation by the Federal Government.

- (1) City of Murfreesboro, TN and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to City of Murfreesboro, TN, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the sub-Contractor who will be subject to its provisions.

21. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

31 U.S.C. 3801 et seq.

49 CFR Part 31

18 U.S.C. 1001

49 U.S.C. 5307

Applicability to Contracts: These requirements are applicable to all contracts.

Flow down Requirements: These requirements flow down to Contractors and sub-Contractors who make, present, or submit covered claims and statements.

Program Fraud and False or Fraudulent Statements or Related Acts

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies the truthfulness and accuracy of any statement it has made, it makes, it may make, or

causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two (2) clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the sub-Contractor who will be subject to the provisions.

22. TERMINATION

**49 CFR Part 18
FTA Circular 4220.1F**

See Section 16 of the Purchase Order Terms & Conditions

23. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT)

**49 CFR 18
2 CFR 1200
2 CFR 180
Executive Orders 12549 and 12689
31 U.S.C. 6101**

Background and Applicability: In addition to the contracts covered under 2 CFR 180.220(b) of the OMB guidance, this part applies to any contract, regardless of tier, that is awarded by a Contractor, sub-Contractor, supplier, Contractor, or its agent or representative in any transaction, if the contract is to be funded or provided by the Department of Transportation under a covered non-procurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the Department of Transportation non-procurement suspension and debarment requirements to all lower tiers of subcontracts under covered non-procurement transactions, as permitted under the OMB guidance at 2 CFR 180.220(c) (see optional lower-tier coverage in the figure in the appendix to 2 CFR part 180). This government-wide regulation implements Executive Order 12549, *Debarment and Suspension*, Executive Order 12689, *Debarment and Suspension*, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

These provisions apply to all City of Murfreesboro, TN contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for federally required auditing services. These are contracts and subcontracts referred to in the regulation as “covered transactions.”

Grantees, Contractors, and sub-Contractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System (EPLS), (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract.

Grantees, Contractors, and sub-Contractors who enter into covered transactions also must require the entities they contract with to comply 2 CFR 180 and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Flow down Requirements: These requirements flow down to Contractors and sub-Contractors at all levels.

Suspension and Debarment: This contract is a covered transaction for purposes of 49 CFR Part 18. As such, the Contractor is required to verify that none of the Contractor, its principals, are excluded or disqualified as defined under Executive Orders Nos. 12549 and 12689.

The Contractor is required to comply with 2 CFR 1200, and must include the requirement to comply with 2 CFR 1200, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the Firm certifies as follows:

The certification in this clause is a material representation of fact relied upon by City of Murfreesboro, TN. If it is later determined that the Firm knowingly rendered an erroneous certification, in addition to remedies available to City of Murfreesboro, TN, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Firm agrees to comply with the requirements 2 CFR 180 while this offer is valid and throughout the period of any contract that may arise from this offer. The Firm further agrees to include a provision requiring such compliance in its lower tier covered transactions.

24. PRIVACY ACT

5 U.S.C. 552

Applicability to Contracts: When City of Murfreesboro, TN maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

Flow down Requirements: The Federal Privacy Act requirements flow down to each third party Contractor and their contracts at every tier.

Contracts Involving Federal Privacy Act Requirements: The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

25. CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000

42 U.S.C. § 6102, 42 U.S.C. § 12112

42 U.S.C. § 12132, 49 U.S.C. § 5332

29 CFR Part 1630, 41 CFR Parts 60 et seq.

1. The Contractor will be required to comply with these applicable civil rights, nondiscrimination, and equal employment opportunity laws and regulations:
 - i. 49 CFR Part 21, 49 CFR Part 25, 49 CFR Part 26, 49 CFR Part 27, 49 CFR Part 37, 49 CFR Part 38, 49 CFR Part 39, 20 U.S.C. §§ 1681 – 1683 and 1685 – 1687, 21 U.S.C. § 1101, 29 U.S.C. § 794, et seq., 42 U.S.C. § 290dd – 290dd-2, 42 U.S.C. § 2000d, 42 U.S.C. § 3601, 42 U.S.C. § 4541, 42 U.S.C. § 6101 – 6107, 42 U.S.C. § 12101, et seq., 42 U.S.C. § 12132, 49 U.S.C. § 5307 (c)(1)(D)(ii), 49 U.S.C. § 5332, California Civil Code § 51, California Government Code § 11135
 - ii. 29 CFR Part 1630, 41 CFR Part 60, 29 U.S.C. § 623, 42 U.S.C. § 2000e, 42 U.S.C. § 12112, California Government Code § 12900 - 12996
 - iii. 49 U.S.C. § 5325 (k).
 - iv. Fixing America's Surface Transportation (FAST) Act, Public Law No: 114-94, as may be amended.
2. The Civil Rights requirements flow down to all third party sub-contractors and their subcontracts at every tier.
3. The following requirements apply to a contract awarded as a result of this solicitation:

– Nondiscrimination - In accordance with U.S. Department of Transportation (DOT), Federal, and State of California regulations 49 CFR Part 21, 49 CFR Part 25, 49 CFR Part 27, 49 CFR Part 37, 49 CFR Part 38, 49 CFR Part 39, the Rehabilitation Act of 1973, as amended, 20 U.S.C. §§ 1681 - 1683 and 1685 – 1687, 21 U.S.C. § 1101, 29 U.S.C. § 794, Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 290dd – 290dd-2, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 3601, 42 U.S.C. § 4541, 42 U.S.C. § 6102, 42 U.S.C. § 6101 - 6107, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, 42 U.S.C. § 12132, Federal transit law 49 U.S.C § 5307 (c)(1)(D)(ii), Federal transit law 49 U.S.C. § 5332, FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients.”, DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order No. 13166 and DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (70 FR 74087, Dec. 14, 2005), the Unruh Civil Rights Act, California Civil Code § 51, and California Government Code § 11135, the Contractor agrees that it will comply with the identified Federal and State of California laws and regulations, pertaining to City of Murfreesboro, TN programs and activities, to ensure that no person will be denied the benefits of, or otherwise be subjected to, discrimination (particularly in the level and quality of transportation services and transportation-related benefits) on the bases of race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, gender expression, age, marital status, genetic information, medical condition, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations, other implementing requirements that DOT or FTA may issue, and any other applicable Federal and State of California statutes and/or regulations that may be signed into law or promulgated.

- i. Equal Employment Opportunity - The following equal employment opportunity requirements apply to a contract awarded as a result of this solicitation:
 - a) Race, Color, Ancestry, Marital Status, Medical Condition, Genetic Information, Religion, National Origin, Sex, Sexual Orientation, Gender Identity, Gender Expression - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, 49 U.S.C. § 5332, FTA Circular 4704.1, “Equal Employment Program Guidelines for Grant Recipients”, and , the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, including "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60, et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), Fair Employment and Housing Act, California Government Code Sections 12900 - 12996 and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect Bidder agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, ancestry, religion, marital status, medical condition, genetic information, national origin, sex, sexual orientation, gender identity, gender expression, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements that DOT or FTA may issue, and any other applicable Federal statutes that may be signed into law or Federal regulations that may be promulgated.
 - b) Sex – The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1975, as amended, 20 U.S.C. § 1681, and 49 CFR part 25. In addition, the Contractor agrees to comply with any implementing requirements that DOT or FTA may issue.
 - c) Age - The Contractor agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101, 45 CFR part 90, the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, and Equal Employment Opportunity Commission (EEOC) implementing regulations 29 CFR part 1625. In addition, the Contractor agrees to comply with any implementing requirements that DOT or FTA may issue.

- d) Disabilities - The Contractor agrees to comply with Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794(d), 36 CFR part 1194, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101, 49 CFR parts 27, 37, 38, and 39, and FTA Circular 4710.1, "Americans with Disabilities Act: Guidance". In addition, the Contractor agrees to comply with any implementing requirements that DOT or FTA may issue.
4. The Contractor agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

26. ADA ACCESS REQUIREMENTS

49 U.S.C. § 5301, 29 U.S.C. § 794, 42 U.S.C. § 12101

Applicability to Contracts: The Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

27. BREACHES AND DISPUTE RESOLUTION

**49 CFR Part 18
FTA Circular 4220.1F**

Applicability to Contracts: All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where Contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Flow Down Requirements: The Breaches and Dispute Resolutions requirements flow down to all tiers.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of City of Murfreesboro, TN. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City of Murfreesboro, TN. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of City of Murfreesboro, TN shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by City of Murfreesboro, TN, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City of Murfreesboro, TN and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City of Murfreesboro, TN is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by City of Murfreesboro, TN or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

28. PATENT AND RIGHTS IN DATA

37 CFR Part 401 49 CFR Parts 18 and 19

Applicability to Contracts: Patent and rights in data requirements for federally assisted projects ONLY apply to research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.

Flow down Requirements: The Patent and Rights in Data requirements apply to all Contractors and their contracts at every tier.

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

A. **Rights in Data** - The following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, City of Murfreesboro, TN or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may City of Murfreesboro, TN or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by City of Murfreesboro, TN or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, City of Murfreesboro, TN and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for City of Murfreesboro, TN or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, City of Murfreesboro, TN and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by City of Murfreesboro, TN or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither CITY OF MURFREESBORO, TN nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by CITY OF MURFREESBORO, TN or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that CITY OF MURFREESBORO, TN or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), CITY OF MURFREESBORO, TN and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Contractors under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, CITY OF MURFREESBORO, TN and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), CITY OF MURFREESBORO, TN and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Contractors Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

29. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS**49 U.S.C. § 5310, § 5311, and § 5333
29 CFR Part 215**

Applicability to Contracts: The Transit Employee Protective Provisions apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator. (Because transit operations involve many activities apart from directly driving or operating transit vehicles, FTA determines which activities constitute transit "operations" for purposes of this clause.)

Flow down Requirements: These provisions are applicable to all contracts and subcontracts at every tier.

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to CITY OF MURFREESBORO, TN 's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body sub-recipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U. S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Non-urbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

30. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**49 CFR Part 26****Section 1101(b) of MAP-21 (23 U.S.C. § 101 note)**

1. CITY OF MURFREESBORO, TN encourages DBE participation in this solicitation. In order to qualify as a DBE, a Contractor, or a Contractor's sub-contractor, must be certified as a DBE under 49 CFR Part 26. As a recipient of Federal funds, CITY OF MURFREESBORO, TN must comply, and insure that it's Contractor(s) comply with 49 CFR Part 26 and Section 1101(b) of the Fixing America's Surface Transportation Act (FAST Act).
2. DBE Requirements/DBE Obligation:

- i. The Contract to be awarded may be funded in part by the U.S. Department of Transportation (DOT) FTA. As a condition of financial assistance agreements between CITY OF MURFREESBORO, TN and the U.S. DOT, CITY OF MURFREESBORO, TN has established a DBE Program and overall triennial DBE goal in accordance with Title 49 CFR, Part 26.
- ii. The Contract to be awarded may be funded in part by the U.S. DOT FTA. As a condition of financial assistance agreements between CITY OF MURFREESBORO, TN and the U.S. DOT, CITY OF MURFREESBORO, TN has established a DBE Program and overall triennial DBE goal in accordance with Title 49 CFR, Part 26.
- iii. Pursuant to Race-Neutral DBE policy directive issued by the U.S. DOT in response to the Ninth Circuit U.S. Court of Appeals decision in *Western States Paving v. Washington State Department of Transportation* and the FTA's Guidance (Docket No. FTA-2006-24063; dated March 23, 2006), CITY OF MURFREESBORO, TN will strictly utilize race-neutral measures to meet its overall DBE goals and objectives. Contractors are encouraged to afford small businesses, including DBEs, an equitable opportunity to compete for and perform on a contract resulting from this solicitation.
- iv. The Contractor, and any of its sub-contractors, are to ensure that DBE as defined in 49 CFR Part 26 have equal opportunities to participate in the performance of CITY OF MURFREESBORO, TN contracts. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the equal opportunities to compete for and are awarded contracts. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this U.S. DOT- assisted contract. Each subcontract the Contractor signs with a sub-contractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- v. 1101(b) of the FAST Act extends the Federal statutory requirement that FTA make available at least 10 percent (10%) of its funding under that Act for contracts with small business concerns owned and controlled by socially and economically disadvantaged people. CITY OF MURFREESBORO, TN and sub- recipients (Contractor and its sub-contractors) of FTA-funding assists FTA in meeting this national goal. To receive FTA assistance, CITY OF MURFREESBORO, TN and sub-recipients (Contractor and its sub-contractors) of FTA-funding must comply with applicable requirements of DOT regulations 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs".

3. DBE Financial Institutions

- i. The Contractor is to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage sub-contractors to make use of these institutions also.
- ii. A list of Minority Owned Banks is on the Federal Reserve website at <http://federalreserve.gov/releases/mob/current/default.htm>. The Federal Reserve website is updated periodically.
- iii. The Contractor is encouraged to use the services offered by banks in the community which are owned and controlled by minorities or women when feasible and beneficial.

4. DBE Reporting and Certification

- i. Monthly reporting requires the submittal of a "Monthly Sub-contractor Payment Report", which is used by CITY OF MURFREESBORO, TN to verify payments to DBE and non-DBE sub- contractors. When completing this form, the Contractor must designate DBE sub- contractors by placing an asterisk in front of their name. As Federal law requires that CITY OF MURFREESBORO, TN have proof of payment to a DBE sub-contractor, the sub-contractor must initial the form and verify payment received. Failure to submit a properly executed form will result in delayed payment. Failure to submit these reports in a timely manner may result in a penalty of \$10 per day, per report.
- ii. In order for the Contractor to submit a properly executed "Monthly Sub-contractor Payment Report," the Contractor must verify that Sub-contractors DBE certification is current at time of payment.

- iii. Certified Contractors can be found at the State of California web site:
http://www.dot.ca.gov/hq/bep/find_certified.htm

5. DBE Contract Assurance (49 CFR 26.13)

- i. CITY OF MURFREESBORO, TN does not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. CITY OF MURFREESBORO, TN takes all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of U.S. DOT assisted contracts. CITY OF MURFREESBORO, TN's DBE Program as required by 49 CFR Part 26 and as approved by U.S. DOT will be incorporated by reference into the contract resulting from this solicitation.
- ii. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate, which may include, but is not limited to:
 - a. Withholding monthly progress payments;
 - b. Assessing sanctions;
 - c. Liquidated damages; and/or
 - d. Disqualifying the Contractor from future bidding as non-responsible.

6. DBE Prompt Payment (49 CFR 26.29)

- i. Not later than ten (10) days after receipt of each progress payment from CITY OF MURFREESBORO, TN, the successful Offeror shall pay to any sub-Contractor performing any work, the respective amounts allowed to the successful Offeror for work performed by the sub-Contractor, to the extent of each sub-Contractor's interest therein, unless otherwise agreed to in writing. In addition, for projects that invoice only at the completion of the project, within seven (7) days of the successful Offeror's receipt of released retention from CITY OF MURFREESBORO, TN upon completion of the project as defined in California Public Contract Code section 7107 the successful Offeror shall pay each of its sub-Contractors from whom retention has been withheld, each sub-Contractors share of the retention received, in accordance with the provisions of California Public Contract Code section 7107. For projects that issue progress payment invoices, upon incremental acceptance of any portion of the work by CITY OF MURFREESBORO, TN, the successful Offeror shall pay each of its sub-Contractors from whom retention has been withheld, each sub-Contractors share of the retention received, in accordance with the provisions of California Public Contract Code section 7107. This clause applies to both DBE and non-DBE sub-Contractors.
- ii. Failure to comply with these provisions or delay in payment without prior written approval from CITY OF MURFREESBORO, TN will constitute noncompliance, which will result in appropriate administrative sanctions, including, but not limited to a penalty of 2% of the amount due per month for every month that payment is not made.

31. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1F

Applicability to Contracts: The incorporation of FTA terms applies to all contracts and subcontracts at every tier.

Flow Down Requirements The incorporation of FTA terms has unlimited flow down.

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the most current FTA Circular 4220, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any CITY OF MURFREESBORO, TN requests which would cause CITY OF MURFREESBORO, TN to be in violation of the FTA terms and conditions.

32. DRUG AND ALCOHOL TESTING

**49 U.S.C. §5331
49 CFR Part 655
49 CFR Part 382**

Applicability to Contracts: The Drug and Alcohol testing provisions apply to Operational Service Contracts.

Flow down Requirements: Anyone who performs a safety-sensitive function for the recipient or sub-recipient is required to comply with 49 CFR 655 as amended by MAP-21, with certain exceptions for contracts involving maintenance services. Maintenance CONTRACTORS for non-urbanized area formula program grantees are not subject to the rules. Also, the rules do not apply to maintenance sub-Contractors.

Drug and Alcohol Testing: The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or CITY OF MURFREESBORO, TN, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with Part 655 before June 30 and to submit the Management Information System (MIS) reports before January 15 to CITY OF MURFREESBORO, TN. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

33. TRANSIT VEHICLE MANUFACTURER (TVM) CERTIFICATIONS

49 CFR Part 26

49 CFR §26.49 Contractor must submit to CITY OF MURFREESBORO, TN a certification from each transit vehicle manufacture that desires to bid or propose upon a DOT-assisted transit vehicle procurement that it has complied with the requirements of 49 CFR §26.49. CITY OF MURFREESBORO, TN may, however, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying through the overall goal-setting procedures.

34. METRIC REQUIREMENTS

**15 U.S.C. §§205
2007-Pub. L. 110-69**

As required by U.S. DOT or FTA, CITY OF MURFREESBORO, TN agrees to use the metric system of measurement in its Project activities, pursuant to the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. §§ 205a *et seq.*; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. § 205a note; and other U.S. DOT or FTA regulations, guidelines, and policies. To the extent practicable and feasible, the CITY OF MURFREESBORO, TN agrees to accept products and services with dimensions expressed in the metric system of measurement.

35. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) ARCHITECTURE AND STANDARDS

23 U.S.C. Section 517(d) 23 U.S.C. §502

Intelligent transportation system (ITS) property and services must comply with the National ITS Architecture and Standards to the extent required by 23 U.S.C. Section 517(d) and FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 FR 1455 et seq., January 8, 2001, and later published policies or implementing directives FTA may issue. Consequently, third party contracts involving ITS are likely to require provisions to ensure compliance with Federal requirements.

36. CORRIDOR PRESERVATION

49 U.S.C. 5323(q)

The Recipient agrees not to develop right-of way acquired under 49 U.S.C. § 5323(q), as amended by MAP-21, in anticipation of its Project until all required environmental reviews for that Project have been completed.

37. VETERANS EMPLOYMENT

49 U.S.C. 5325 (k)

Veterans Employment. As provided by 49 U.S.C. § 5325(k):

- a. To the extent practicable, Contractor agrees that it:
 1. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, and
 2. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee, and
- b. Contractor also assures that its sub-contractor will:
 1. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, to the extent practicable, and
 2. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Purchase of Bucket Truck from Altec Industries, Inc.

Department: Transportation

Presented by: Jim Kerr, Transportation 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

Purchase of bucket truck from Altec Industries, Inc.

Staff Recommendation

Approve contract with Altec Industries, Inc., pending Legal Department approval.

Background Information

The Transportation Department currently contracts all the aerial maintenance of our traffic signals and school zone signs with our on-call signal contractor. This purchase would allow City staff to perform minor maintenance and perform aerial preventive maintenance for the City's signal and CBD lighting systems.

Transportation requests approval to purchase a bucket truck through the Sourcewell Contract with Altec Industries Inc. State law and City Code allows for the use of contracts competitively bid through cooperative purchasing agencies like Sourcewell.

Council Priorities Served

Maintain Public Safety

A City-owned bucket truck allows for quicker response times to perform minor signal and lighting maintenance as well as establishing a more robust preventive maintenance program.

Fiscal Impacts

This expense, \$157,510, is funded by Other Capital Sources in FY24 budget.

Attachments

Contract with Altec Industries, Inc.

**CONTRACT BETWEEN
CITY OF MURFREESBORO
AND
ALTEC INDUSTRIES, INC.
FOR PURCHASE OF BUCKET TRUCK**

This Contract is entered into and effective as of the _____ 2023 ("Effective Date"), by and between the **CITY OF MURFREESBORO**, a municipal corporation of the State of Tennessee ("City") and **ALTEC INDUSTRIES, INC.** a Corporation of the State of Alabama ("Contractor").

This Contract consists of the following documents:

- *This Contract*
- *Sourcewell Contract #110421-ALT with Altec Industries, Inc., hereinafter referred to as "Sourcewell Contract"*
- *Sales Quotation Form #1345919-7 dated January 4, 2024, from Altec Industries, Inc. for one (1) Bucket Truck AT37G with optional equipment 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, Sourcewell Contract #110421-ALT with Altec Industries, Inc.*
- *Finally, the Contractor's Quote dated January 4, 2024*

1. **Duties and Responsibilities of Contractor.** Contractor agrees to provide, and City agrees to purchase the following vehicle and optional equipment as set forth in the Sourcewell Contract and Contractor's Quote: One (1) **Bucket Truck AT37G with options as listed on the Quote Form**, and as set forth in the Sourcewell Contract.
2. **Term.** The term of this contract shall be from the Effective Date to the expiration of the Sourcewell Contract on December 27, 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 from Altec Industries, Inc. for One **(1) Bucket Truck AT37G with options as listed** on the Quote Form, and as set forth in the Sourcewell Contract for a **Total Purchase Price of One Hundred Fifty-Seven Thousand Five Hundred Ten Dollars and Zero Cent (\$157,510.00)**, including delivery and five year warranty. 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 or goods are received.
 - b. Deliveries of all items for the Transportation Department shall be made by **February 28, 2024**, to Attn: Jim Kerr - Transportation Department – 4765 Florence Road, Murfreesboro, TN 37129. Contact Jim Kerr (tel. 615-893-6441; email: jkerr@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.** Every item purchased shall meet the warranty requirements set forth by the manufacturer, Sourcewell Contract plus the additional warranty purchased by City. The contract includes manufacturer's standard warranty plus the additional "Five-Year TLME Warranty" as listed on the Quote Form.
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:
Altec Industries Inc.
Attn: Tanner Brandenburg
200 Altec Drive
Elizabethtown, KY 42701
Tanner.Brandenburg@Altec.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. **Iran Divestment Act of Tennessee.** By submission of the Contractor's Quote, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that Contractor is not on the list created pursuant to Tenn. Code Ann. §12-12-106.
23. **Non-Boycott of Israel.** By submission of the Contractor's Quote, Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to Tenn. Code Ann. § 12-4-119 and will not boycott Israel during the term of contract. This applies to contracts of \$250,000 or more and to contractors with ten (10) or more employees.
24. **Effective Date.** This Contract shall not be binding upon the parties until signed by each of the Contractor and authorized representatives of the City and is thereafter effective as of the date set forth above.

CITY OF MURFREESBORO

ALTEC INDUSTRIES, INC.

By: _____
Shane McFarland, Mayor

By: _____
Tanner Brandenburg, Tech Sales Rep

APPROVED AS TO FORM:

Adam F. Tucker, City Attorney

IN WITNESS WHEREOF, the parties enter into this agreement as of the “Effective Date” first listed above.

COUNCIL COMMUNICATION

Meeting Date: 1/11/2024

Item Title: Professional Services Contract – Broad Street Pedestrian Bridge

Department: Transportation

Presented by: Jim Kerr, Transportation 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

Professional Services Contract for the design of the Broad Street Pedestrian Bridge.

Staff Recommendation

Approve contract with Energy, Land and Infrastructure, Inc. (ELI), pending Legal Department approval.

Background Information

Staff, through TDOT's competitive TAP grant program, submitted a proposal for a pedestrian bridge project near the intersection of Broad Street and South Church Street. The intent of this project is to provide a safe pedestrian alternative from Murfreesboro's Downtown to the proposed Town Creek project and the Historic Bottoms Corridor.

Staff issued an advertisement soliciting Qualifications and Letters of Interest to provide the professional design services necessary for the project development as outlined in TDOT's Local Program Development Office Manual. Staff then shortlisted three firms to provide proposals and after reviewing the shortlisted proposals, staff recommended ELI to perform the desired services. This contract is for preliminary design and NEPA only, once the concept is defined, the final design and construction administration will be negotiated and brought back to Council for approval.

Council Priorities Served

Expand infrastructure

A pedestrian bridge will provide a safe alternative for pedestrians to cross the Broad Street Corridor.

Fiscal Impact

This expense is time and material not to exceed \$267,006 and is funded by FY21 & FY22 Bond.

Attachments

Contract between ELI and the City.



January 5, 2024

Jim Kerr
Transportation Director
City of Murfreesboro
111 W. Vine Street
Murfreesboro TN, 37130

RE: Professional Services Agreement – PIN 134128.00 - Broad Street Pedestrian Bridge

Dear Mr. Kerr,

Energy Land & Infrastructure, LLC (ELI) is pleased to offer the following Professional Services Agreement for professional services required for the design of the Broad Street Pedestrian Bridge in accordance with the TDOT Local Programs guidelines for the City of Murfreesboro (City), TN.

ELI proposes to conduct these professional services, as outlined in the attached Fee Proposal Estimate and Professional Services Agreement (Exhibit "A"), at an hourly rate not to exceed **\$ 267,006.40** for the **Survey and NEPA/Preliminary Design Phases** of the project. Based upon the design selected, the cost for the ROW & Utility Cert/Final Design, Bidding Assistance and Construction Engineering and Inspection services will be determined at a later date.

We appreciate this opportunity and if you have any questions or require any additional information, please do not hesitate to give me a call.

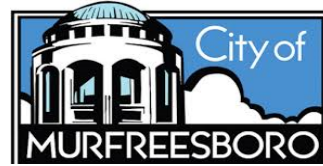
Sincerely,

ENERGY LAND & INFRASTRUCTURE, LLC (PLLC in NC)

A handwritten signature in blue ink, appearing to read "Th. L. Saunders", is positioned above the printed name.

Thomas L. "Chuck" Saunders, PE
President

Attachments: Fee Proposal Summary and Breakdown
EJCDC E-500 Agreement Between Owner and Engineer for Professional Services
EJCDC E-500 Exhibits "A-J"
Scope and Fee Proposal Breakdown (HDR, SSR)

**SUMMARY OF DESIGN FEE****PIN****134128.00 - Broad Street Pedestrian Bridge (Survey, PE-N)***

Task/Phase	Consultant/Subconsultant and WBS Scope Items	Cost
Survey	ELI (WBS 3)	\$ 19,670.72
Preliminary Design/NEPA Phase	ELI, SSR & HDR (WBS 1, 2, 4, 5)	\$ 247,335.68
ROW & Utility Cert./Final Design Phase	ELI, HDR, SSR, TTL (WBS 6, 7, 8, 9)	TBD
Bidding Assistance	ELI, SSR (WBS 10.1, 10.2)	TBD
Construction Engineering and Inspection (CEI)	SSR and ELI (WBS 10.3)	TBD
TOTAL		\$ 267,006.40

*(Reserved TBD PE-D, ROW, BIDDING, CEI)



Work Breakdown Structure (WBS) Task	PIN 134128.00 - Broad Street Pedestrian Bridge (PE-N, PE-D, ROW, BIDDING)	Senior Project Manager	Senior Engineer	Project Engineer(s)	Senior Designer(s)	Register Surveyor	2-Man Survey Crew	Clerical Support/Admin	DIRECT LABOR COST	OVERHEAD	FIXED FEE	TOTAL COST (DIRECT + INDIRECT + NET FEE)
WBS 1	Project Management	20	20	16				12	\$ 3,600.00	\$ 6,115.32	\$ 1,165.84	\$ 10,881.16
WBS 2	Project Study and Development (Project Kickoff Mtg.) and Design Charettes	24	20	40	40			12	\$ 6,624.00	\$ 11,252.19	\$ 2,145.14	\$ 20,021.33
WBS 3	Survey (Set control, topographic survey, locate property lines and existing ROW, locate marked utilities and existing conditions)		12	12	48	20	40	6	\$ 6,508.00	\$ 11,055.14	\$ 2,107.58	\$ 19,670.72
WBS 4	Environmental Studies - NEPA Documentation	32	120	120	40			16	\$ 16,912.00	\$ 28,728.41	\$ 5,476.85	\$ 51,117.26
WBS 5	Preliminary Design and Bridge Concepts (30% Design Plans)	12	40	60	80			4	\$ 9,320.00	\$ 15,831.88	\$ 3,018.23	\$ 28,170.11
WBS 6 and WBS 9	ROW Design and Utility Coordination and Design	TBD - Fee to be Determined Once After TDOT Concurrence of NEPA/PE Design Phase										
WBS 7	Final Design and Approval from TDOT LP	TBD - Fee to be Determined Once After TDOT Concurrence of ROW and Utility Certification Phase										
WBS 8	Environmental Permitting (SWPPP/NOI)	TBD - Fee to be Determined Once Final Construction Plans Are Complete										
WBS 10.1 & 10.2	Bidding and Concurrence with TDOT LP for Award	TBD - Fee to be Determined Once After TDOT Concurrence of Final Design and Approval to Proceed to Construction										
WBS 10.3	Construction Engineering & Inspection (CEI) Services	TBD - Fee to be Determined Once Final Construction Plans and Estimate Are Complete										

Total Hours	88	212	248	208	20	40	50		
Hourly Rate	\$68.00	\$58.00	\$48.00	\$40.00	\$52.00	\$53.00	\$26.00		
TDOT OH Rate (169.87%)	\$115.51	\$98.52	\$81.54	\$67.95	\$88.33	\$90.03	\$44.17		
Direct Labor Cost	\$5,984.00	\$12,296.00	\$11,904.00	\$8,320.00	\$1,040.00	\$2,120.00	\$1,300.00	\$	42,964.00
Indirect Labor Cost	\$10,165.02	\$20,887.22	\$20,221.32	\$14,133.18	\$1,766.65	\$3,601.24	\$2,208.31	\$	72,982.95
12% Net Fee	\$1,937.88	\$3,981.99	\$3,855.04	\$2,694.38	\$336.80	\$686.55	\$421.00	\$	13,913.63
ELI TOTAL	\$18,086.90	\$37,165.20	\$35,980.36	\$25,147.57	\$3,143.45	\$6,407.79	\$3,929.31	\$	129,860.58

\$ 129,860.58

Subconsultant Costs

SSR	PE/NEPA TDOT LP Coordination (WBS 2, 4, 5)	\$7,972.17
	LPA and Utility Coordination Assistance (WBS 4, 5, 6, 7, 9, 10.1 & 10.2)	
HDR	NEPA Review Oversight and Assistance (WS 4)	\$22,150.09
HDR	Prelim Architectural and Bridge Design for NEPA (WBS 5)	\$104,461.91
HDR	ROW Design and Final Design & Direct Expenses (WBS 6, 7, & 9)	
HDR	Bidding Concurrence and Award (WBS 10.1 & 10.2)	
HDR	Total	\$126,612.00
HDR	Expenses	\$2,561.65
	TOTAL SUBCONSULTANT (NEPA/PE Design)	\$137,145.82

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

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AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

This is an Agreement between **City of Murfreesboro, TN** (Owner) and **Energy Land & Infrastructure, LLC** (Engineer). Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as **Broad Street Pedestrian Bridge** (Project). Other terms used in this Agreement are defined in Article 7. Engineer's services under this Agreement are generally identified as **Survey, NEPA and Preliminary Design Drawings for the development of contract documents for the Broad Street Pedestrian Bridge project and related pedestrian improvements located near the intersection of Broad Street (SR-2/US-41/70) and Church Street (SR-10/US-231) in the City of Murfreesboro.**

Owner and Engineer further agree as follows:

ARTICLE 1—SERVICES OF ENGINEER

1.01 Scope

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.
- B. All phases of service will include Management of Engineering Services as shown in Exhibit A.

ARTICLE 2—OWNER'S RESPONSIBILITIES

2.01 Project Information

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of Basic and Additional Services, including Owner's:
 - 1. design objectives and constraints;
 - 2. space, capacity, and performance requirements;
 - 3. flexibility and expandability needs;
 - 4. design and construction standards;
 - 5. budgetary limitations; and
 - 6. any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- B. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services. Such additional information or data may include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.
 - 3. Surveys, topographic mapping, and utility documentation.



4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
 7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- C. Owner shall examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
 - D. Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) so that Engineer may assist Owner in collating the various cost categories that comprise Total Project Costs.
 - E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.
 - F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
 - G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- 2.02 Owner's Instructions Regarding Bidding/Proposal and Front-End Construction Contract Documents
- A. Owner shall give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
 1. Owner's standard contract forms, general conditions (if other than the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to include in the draft Bidding/Proposal Documents, and in draft Front-End Construction Contract Documents;



2. insurance and bonding requirements;
 3. protocols for electronic transmittals during bidding and construction;
 4. Owner's safety and security programs applicable to Contractor and other Constructors;
 5. diversity and other social responsibility requirements;
 6. bidding and contract requirements of funding, financing, or regulatory entities;
 7. other specific conditions applicable to the procurement of construction or contract documents;
 8. any other information necessary for Engineer to assist Owner in preparing its Bidding/Proposal Documents and Front-End Construction Contract Documents.
- B. Owner shall have responsibility for the final content of (1) such Bidding/Proposal Documents, and (2) such Front-End Construction Contract Documents, other than content furnished by Engineer concerning the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters.
1. Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. If there will be an advertisement soliciting bids for construction, Owner shall place and pay for such advertisement.

2.03 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, Owner shall obtain, as required for the Project:
1. Accounting, bond and financial advisory services (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 2. Legal services, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
 3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- C. Owner shall acquire or arrange for acquisition of the Site(s) and any temporary or permanent rights of access, easements, or property rights needed for the Project.



- D. With respect to the portions or phases of the Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:
 - 1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, and
 - 2. such reviews, approvals, and consents from others as may be necessary for completion of each portion or phase of the Project.
- E. Owner may delegate to Contractor or others the responsibilities set forth in Paragraphs 2.03.C and D.

2.04 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement.
- B. Owner shall provide Engineer with Owner's budget for the Project, including type and source of funding to be used, and will promptly inform Engineer if the budget or funding sources change.
- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement.
- D. Owner shall arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement.
- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- G. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or
 - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.
- H. Owner shall advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.



- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, Owner shall define and set forth as an exhibit to this Agreement the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- J. Owner shall:
 1. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
 2. Primarily communicate with Engineer's Subcontractors and Subconsultants through the Engineer.
 - a. Promptly inform Engineer of the substance of any communications between Owner and Engineer's Subcontractors or Subconsultants.
 - b. Refrain from directing the services of Engineer's Subcontractors or Subconsultants.
 3. Authorize Engineer to provide Additional Services as set forth in Article 2 of Exhibit A of the Agreement, as required.

2.05 Payment

- A. Owner shall pay Engineer as set forth in Article 4 and Exhibit J.
- B. Engineer's compensation is summarized as follows; if there is a conflict between the following summary and the contents of Exhibit J, then Exhibit J will prevail.

Description of Service		Amount	Basis of Compensation
1.	Basic Services (Article 2 of Exhibit J)	\$ 267,006.40	Direct Labor Costs Plus Overhead Plus a Fixed Fee

1. Compensation items and totals based in whole or in part on Direct Labor Cost, Overhead Plus a Fixed Fee are estimates only.
2. Lump sum amounts incorporate Engineer's labor, overhead, profit, and Engineer's Subcontractor and Subconsultants' charges.

ARTICLE 3—SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

- A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit B, and are hereby agreed to be reasonable.



- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- D. If Engineer fails, for reasons within control of Engineer, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages to the extent, if any, resulting from such failure by Engineer.

ARTICLE 4—INVOICES AND PAYMENTS

4.01 Invoices

- A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices, the progress reporting and special invoicing requirements (if any) in Exhibit A Paragraph 1.01.A, and the terms of Exhibit J. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 Payments

- A. Application to Interest and Principal: Payment will be credited first to any interest owed to Engineer and then to principal.
- B. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so; may withhold only that portion so disputed; and must pay the undisputed portion, subject to the terms of Paragraph 4.01. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.
- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and
 - 2. Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.
- D. Sales or Use Taxes: If after the Effective Date any governmental entity takes an action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement will be in addition to the compensation to which Engineer is entitled under the terms of Exhibit J.



ARTICLE 5—OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions of probable Construction Cost (if any) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs will be limited to assisting the Owner in tabulating the various categories that comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6—GENERAL CONSIDERATIONS

6.01 Standards of Performance

- A. **Standard of Care:** The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. **Technical Accuracy:** Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. **Engineer's Subcontractors and Subconsultants:** Engineer may retain such Engineer's Subcontractors and Subconsultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. **Reliance on Others:** Subject to the standard of care set forth in Paragraph 6.01.A, Engineer may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. **Compliance with Laws and Regulations, and Policies and Procedures**
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in



Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.

3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations,
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures, and
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. General Conditions of Construction Contract: The general conditions for any Construction Contract Documents prepared hereunder are to be the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract, prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise.
- G. Copies of Drawings and Specifications: If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- J. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- K. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer.
- L. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- M. Engineer's services do not include providing legal advice or representation.
- N. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and



Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.

- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer, subject to the following provisions:
 - 1. Upon receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents and subject to the express exclusions that follow, Engineer and any Subconsultants will grant to Owner the ownership of the Documents, including all associated copyrights and the right of reuse.
 - 2. When requested by Owner, Engineer will perform any clerical or administrative acts reasonably necessary to confirm or record the transfer of Engineer's interests in the Documents to the Owner, and Owner will reimburse the Engineer for its costs to comply with the transfer request.
 - 3. Engineer shall have and retain the ownership, title, and property rights, including copyright, patent, intellectual property, and common law rights, in any design elements (including but not limited to standard details, drawings, plans, specifications, methodologies, and engineering computations) used in the Documents, but developed by Engineer or its Subconsultants previous to or independent of this Agreement ("Previously/Independently Created Works"). Engineer shall provide appropriate verification of such previous or independent development upon Owner's request.
 - 4. Upon receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, Engineer will issue to Owner a royalty-free, nonexclusive and irrevocable license to use such Previously/Independently Created Works on the Project or on any extension of the Project.
 - 5. Owner acknowledges that the Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer.
 - 6. Any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants.
 - 7. To the extent allowable by Tennessee law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants from all claims, damages, losses, and expenses, including attorneys'



fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer.

8. Such limited license to Owner shall not create any rights in third parties.
 9. Nothing herein limits the Engineer's right of use or reuse of Previously/Independently Created Works or any of Engineer's non-Documents work product.
- B. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.
 - C. Engineer shall inform Owner if Engineer is aware of any invention, design, process, product, or device specified in the Drawings, Specifications, or other Documents that is subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights. If Engineer's good-faith inclusion in the Drawings, Specifications, or other Documents of new, innovative, or non-standard technologies, for the benefit of Owner and the Project, results in third-party claims of infringement or violation of intellectual property rights, then Owner and Engineer shall share equally the costs of defending against, settling, or paying such claims.
 - D. Engineer will obtain Owner's consent, at Owner's sole discretion, prior to releasing any publicity, including news and press releases, promotional publications, award and prize competition submittals, and other advertising regarding the subject matter of this Agreement. Nothing herein will limit the Engineer's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with Exhibit F, Electronic Documents Protocol (EDP).
 1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP.
 2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.
- B. If this Agreement does not include Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and Engineer may operate without specific protocols or may jointly develop such protocols at a later date.
- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer



hardware differing from those used in the drafting or transmittal of the Electronic Documents, or from those established in applicable protocols.

- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.
- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:
 - 1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
 - 2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
 - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
 - 4. not seek contribution from insurance maintained by the additional insured.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.
- D. Engineer shall deliver to Owner certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
 - 1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any documentation furnished under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.
- E. All construction contracts entered into by Owner with respect to the Project must require builder's risk or similar property insurance.
- F. All policies of property insurance relating to the Project, including but not limited to any builder's risk or similar policy, must allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against



each other, Contractor, Engineer's Subcontractors and Subconsultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any such builder's risk or similar policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.

- G. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, and that renewal will not be refused, until at least 10 days' prior written notice has been given to the primary insured. Upon receipt of such notice, the primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.
- H. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require Engineer's Subcontractors or Subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 Suspension and Termination

A. Suspension

- 1. By Owner: Owner may suspend Engineer's services for up to 90 days upon 7 days' written notice to Engineer.
- 2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement:
 - a. if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraphs 4.02.B and 4.02.C;
 - b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
 - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under this Agreement.

B. Termination for Cause

- 1. Either party may terminate the Agreement for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of the Agreement, through no fault of the terminating party.
 - a. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30-day period, and if such party has diligently



attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein will extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate this Agreement for cause upon 7 days' written notice:
 - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;
 - b. if Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
 - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
 3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.
- C. Termination for Convenience: Owner may terminate this Agreement for convenience, effective upon Engineer's receipt of notice from Owner.
- D. Extension of Effective Date of Termination: If Owner terminates the Agreement for cause or convenience, Owner may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Engineer shall be entitled to compensation for such tasks.
- E. Payments Upon Termination: In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination. Upon making such payment, Owner will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
1. If Owner has terminated the Agreement for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Agreement or as otherwise agreed in writing.
 2. If Owner has terminated the Agreement for convenience, or if Engineer has terminated the Agreement for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit J.

6.06 Successors, Assigns, and Beneficiaries

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by



Paragraph 6.06.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 - 1. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 - 2. Nothing in this Agreement will be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in the Construction Contract Documents.

6.07 Dispute Resolution

- A. Unless otherwise required by Exhibit H, Owner and Engineer shall resolve all disputes in the following manner:
 - 1. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to invoking mediation.
 - 2. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
 - 3. If the parties fail to resolve a Dispute through negotiations under Paragraph 6.07.A.1 or mediation under Paragraph 6.07.A.2, then:
 - a. either or both may invoke the applicable dispute resolution procedures of Exhibit H for final resolution of Disputes.
 - b. If Exhibit H is not included, or if no final dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.08 Controlling Law; Venue

- A. This Agreement is to be governed by the Laws and Regulations of the State of Tennessee.
- B. Venue for any exercise of rights at law will be the state courts of Rutherford County, Tennessee.



6.09 Environmental Condition of Site

- A. Owner represents to Engineer that, as of the Effective Date, to the best of Owner's knowledge, no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. Undisclosed Constituents of Concern: For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as "undisclosed" Constituents of Concern.
 - 1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.
 - 2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under this Agreement are not undisclosed Constituents of Concern.
 - 3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Project adversely affected thereby until such portion of the Project is no longer so affected; and Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- E. If the presence at the Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer's services under this Agreement, then:
 - 1. if the adverse effects do not preclude Engineer from completing its Project services in general accordance with this Agreement on unaffected or marginally affected portions of the Project, Engineer may accept an equitable adjustment in its compensation or in



the time of completion, or both; and the Agreement will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or

2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its services without significant changes to the scope of services, time of completion, and compensation, then Engineer may terminate this Agreement for cause on 7 days' written notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 Indemnification and Mutual Waiver

- A. Indemnification by Engineer: To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."
- B. Environmental Indemnification: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer, its Subconsultants, Engineer's Subcontractors, and their officers, directors, members, partners, agents, employees, and subconsultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorney's fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that:
1. any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and
 2. nothing in this paragraph obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- C. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- D. Percentage Share of Negligence: To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, will not



exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

- E. Mutual Waiver: To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's officers, directors, members, partners, agents, employees, subconsultants, and insurers, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes. Such excluded damages include but are not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.

6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, or such other period as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Agreement will be in writing, and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line. All such notices are effective upon the date of receipt.
- B. Survival: Subject to applicable Laws and Regulations, all express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. Severability: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.
- D. No Waiver: A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Agreement.
- E. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if Engineer's services do not include Construction Phase services, or the Project is not completed, then no later than the date of Owner's last payment to Engineer.

ARTICLE 7—DEFINITIONS

7.01 Defined Terms

- A. Wherever used in this Agreement (including the exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:



1. Addenda—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
2. Additional Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 2 of Exhibit A of this Agreement.
3. Agreement—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
4. Application for Payment—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
5. Basic Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 1 of Exhibit A of this Agreement.
6. Bidding/Proposal Documents—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
7. Change Order—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
8. Change Proposal—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
9. Constituents of Concern—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
10. Construction Contract—The entire and integrated written contract between Owner and Contractor concerning the Work.
11. Construction Contract Documents—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. Construction Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.



13. Construction Contract Times—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. Construction Cost—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner's costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
15. Constructor—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer's Subcontractors), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. Contractor—The entity or individual with which Owner enters into a Construction Contract.
17. Documents—All documents expressly identified as deliverables in this Agreement, whether in printed or Electronic Document form, required by this Agreement to be provided or furnished by Engineer to Owner. Such specifically required deliverables may include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.
18. Drawings—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. Effective Date—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. Electronic Document—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. Electronic Means—Electronic mail (e-mail), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.



22. Engineer—The individual or entity named as such in this Agreement.
23. Engineer's Subcontractor—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to the Project as an independent contractor.
24. Field Order—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
25. Front-End Construction Contract Documents—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
26. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
27. Owner—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
28. Project—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
29. Record Drawings—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
30. Resident Project Representative—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of the RPR.
31. Samples—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
32. Shop Drawings—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
33. Site—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way



and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

34. Specifications—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
35. Subconsultant—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to the Project as an independent contractor.
36. Subcontractor—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
37. Submittal—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Construction Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
38. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
39. Supplier—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
40. Total Project Costs—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties and private utilities (including relocation if not part of Construction Cost), Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.



41. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
 42. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
 43. Work Change Directive—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.
- B. Terminology
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8—EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits to Agreement

The following exhibits are incorporated by reference and included as part of this Agreement:

- A. Exhibit A, Engineer’s Services.
- B. Exhibit B, Deliverables Schedule.
- C. Exhibit C, Amendment to Owner-Engineer Agreement (form).
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. **(NOT USED)**
- E. Exhibit E, EJCDC® C-626, Notice of Acceptability of Work (form). **(NOT USED)**
- F. Exhibit F, Electronic Documents Protocol (EDP). **(NOT USED)**
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution.
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Payments to Engineer for Services and Reimbursable Expenses.

8.02 Total Agreement

- A. This Agreement (which includes the exhibits listed above) constitutes the entire contractual agreement between Owner and Engineer and supersedes all prior written or oral



understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit C to this Agreement.

8.03 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall each designate a specific individual to act as representative under this Agreement. Such an individual must have authority to transmit instructions, receive information, and render decisions with respect to this Agreement on behalf of the party that the individual represents.

8.04 Engineer's Certifications

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

8.05 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
 - 1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict of interest; and, if necessary and feasible, to modify this Agreement to address the conflict of interest and its consequences, such that progress under the Agreement may continue.
 - 2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.



This Agreement's Effective Date is _____.

Owner:

City of Murfreesboro, Tennessee

(name of organization)

By: _____

(individual's signature)

Date: _____

(date signed)

Name: _____

(typed or printed)

Title: _____

(typed or printed)

Attach evidence of authority to sign.

Attest: _____

(individual's signature)

Title: _____

(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____

(typed or printed)

Title: _____

(typed or printed)

Address:

Phone: _____

Email: _____

Engineer:

Energy Land & Infrastructure, LLC

(name of organization)

By: _____

(individual's signature)

Date: _____

(date signed)

Name: _____

Thomas L. "Chuck" Saunders, PE

(typed or printed)

Title: _____

President

(typed or printed)

Attach evidence of authority to sign.

Attest: _____

(individual's signature)

Title: _____

(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____

Thomas L. "Chuck" Saunders, PE

(typed or printed)

Title: _____

President

(typed or printed)

Address:

745 South Church Street, Suite 801

Murfreesboro, TN 37130

Phone: _____

(615) 566-5494

Email: _____

Chuck.Saunders@eli-llc.com

APPROVED AS TO FORM:

Adam Tucker, City Attorney



EXHIBITS TO AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

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EXHIBIT A—ENGINEER'S SERVICES

This is an Exhibit attached to, made a part of and incorporated by reference into the Agreement made on _____, between the City of Murfreesboro, Tennessee, (OWNER) and Energy Land & Infrastructure, LLC (ENGINEER), for providing professional engineering services. The Basic Services of ENGINEER and the responsibility of the OWNER as described in the Agreement are amended or supplemental as indicated below, and the time periods for the performance of certain services as indicated in Section 4 of the Agreement are as indicated below.

The Study and Report Phase services are not included in the Basic Services and have not been included in the Basic Services fee, but are available as part of the Agreement should the OWNER request such services in writing, in accordance with paragraph 5.1.2.1.

Project Understanding

The work is generally described as survey, NEPA and preliminary design for the Broad Street Pedestrian Bridge project and related pedestrian improvements located near the intersection of Broad Street (SR-2/US-41/70) and Church Street (SR-10/US-231) in the City of Murfreesboro, TN (hereinafter called the Project). ROW and utility certification and final design, bidding assistance for the development of contract documents, and Construction Engineering and Inspection are reserved to be performed under a supplemental scope of work.

More specifically, the work will be subdivided into the following Work Breakdown Structure (WBS) and the work will be guided by the TDOT Local Programs order of operations and will be subject to the reviews, approvals and required Notice to Proceed (NTP) certifications and documentation prior to proceeding to the next Phase of work.

WBS 1 - Project Management

This WBS will consist of the following project management activities:

- Project Coordination and Administration - Coordination with the City to provide updates, coordinate project reviews, and communicate with project stakeholders regarding progress of the project. Administrative and accounting activities related to the day-to-day management of the project.
- Project Kick-off Meeting - consists of scheduling, setting the agenda, and producing meeting minutes for one project kick-off meeting.
- Plans Review Meetings - consists of scheduling, setting the agenda, and producing meeting minutes for up to three plan review meetings at project milestones (30%, 60%, and 100% design plans).
- Project Meetings - consists of scheduling, setting the agenda, and producing meeting minutes for up to three additional project meetings as needed throughout the project.



WBS 2 – Project Study and Development

WBS 2.1 -Kickoff Meeting

ELI will meet with City of Murfreesboro staff, HRP Residential/Project Keystone Team, and other stakeholders to discuss the overall project regarding high level project design objectives. The following preliminary analyses will be prepared to use as discussion material for the kickoff meeting:

- Obtain Key information from City and Stakeholders to confirm design assumptions
- Develop Exhibits to present and confirm desired sections to City
- Adjust and refine bridge designs and alignment based on findings if necessary

WBS 3 – Existing Conditions Surveys

WBS 3.1 – Initial Survey of Existing Conditions

Engineer will perform a full engineering design survey along Broad Street (SR-2/US-41/70) from Tommy Martin Drive thru the intersection of Church Street (SR-10/US -231) with a total length of approximately 0.15 miles. The DTM width will be 250' centered on existing Broad Street (SR-2/US-41/70). This will include the intersection with Church Street (SR-10/US-231) along with the adjacent parcels with varying DTM widths to capture various features that may affect the design. See the attached map for a more detailed location.

Engineer will use traditional ground survey methods to collect topographic and roadway features. The outline of landscaping areas will be collected. Individual shrubs, bushes, and decorative trees within the landscaping areas will not be included. Engineer will provide field survey services to collect aboveground utilities and storm and sanitary inverts. Underground utilities will be limited to 811 markings and records provided to Engineer by individual utility owners. No quality level "A" or quality level "B" S.U.E. will be included. Right of way lines will be resolved throughout the survey limits along with the resolution of 8 property tracts (see attached map for tract count). Right-of-way and property resolution will be excluded east of the intersection of Broad and Church Street. Deliverables will include planimetrics, contours, and digital terrain model. CAD deliverables will be in ORD formats per TDOT CADD standards. The utility model will be excluded from the delivery.

Project Team member TTL will provide geotechnical services for existing conditions at bridge abutment and pier locations, and any other locations necessary.

WBS 3.2 – Right-of-Way Staking [Reserved; Not in Scope]

Engineer will perform ROW staking throughout the corridor. This will be a one-time staking of ROW and proposed easements. Our assumption is that Engineer will be released to perform staking for the entire corridor upon initial request.

WBS 3.3 – Tract Exhibits and Legal Descriptions [Reserved; Not in Scope]



Engineer will provide tract surveys, ROW/easement exhibits and legal descriptions for specified tracts.

WBS 4- Environmental Studies – NEPA Documentation

ELI will perform the Environmental Studies as required by the National Environmental Policy Act (NEPA) documentation in accordance with the Federal Highway Administration (FHWA) requirements as outlined in FHWA Technical Advisory T6640.8A and the TDOT Local Governmental Guidelines. It is our understanding that the project will have a Categorical Exclusion (CE). Based on the urban and developed nature of the project corridor, and the potential previous uses for the parcels, a Phase 1 Environmental Assessment will be conducted. ELI will submit a request to initiate coordination with the TDOT Sections: Cultural Resources, Air Quality/Noise, Hazardous Materials, and Ecology. ELI will also coordinate with the U.S. Fish and Wildlife Service (USFWS), Tennessee Wildlife Resources Agency (TWRA), Tennessee Department of Environment and Conservation (TDEC) to obtain concurrence for the project. ELI will also coordinate and obtain approvals from NRHP, SHPO, LWCF and the Native American Tribes. [HDR will provide support to ELI for WBS 4; scope attached.](#)

WBS 5- Preliminary Design Services (Approximately 30% Design Plans for NEPA Documentation)

WBS 5.1 - Preliminary Design

ELI will prepare a preliminary design in accordance with TDOT's Roadway Design Guidelines and current City of Murfreesboro roadway design standards. The preliminary plans will be prepared to conform to TDOT's current MicroStation and ORD CAD standards. The plans will consist of the following sheets:

- Title Sheet with index
- Roadway and Pedestrian Bridge Typical Sections
- Present Layout
- Proposed Layout
- Preliminary Bridge Layout and Design
- Mainline/Sideroad Profiles
- Driveway Profiles (if applicable)
- Culvert Cross Section(s) (if applicable)
- Preliminary Signing and Marking
- Roadway Cross Sections

WBS 5.2– Preliminary Bridge Design



- HDR will provide architectural and structural bridge designs. Scope and Fee Estimates included.

WBS 5.4 - Preliminary Design Submittal and Review

ELI will submit preliminary plans (approx. 30% design plans) to the City for review and comment. ELI will meet with the City to discuss the City's comments. Following this review meeting, ELI will revise the plans based on the comments received and direction from the review meeting. ELI will document the comments and decisions in meeting minutes that will be distributed to all attendees of the review meeting.

WBS 5.5 – Local Programs Coordination [Reserved; Not in Scope]

ELI and SSR to work with TDOT Local Programs to obtain approvals.

WBS 5.6 - Preliminary Engineer's Opinion of Probable Construction Cost

ELI will prepare an initial opinion of the probable construction cost of the proposed improvements. Given broad variability in factors that impact construction cost, ELI can only provide limited information based on recent historical cost of similar facilities constructed in the project area. Opinions made on the basis of experience and judgment does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. ELI may apply contingency at an amount desired by the City to opinions for probable cost.

WBS 5 ELI Deliverables:

1. Preliminary Plans package (one electronic copy, Adobe PDF format)
2. Preliminary Engineer's Opinion of Probable Construction Cost (one electronic copy, Adobe PDF format)

WBS 5 ELI Assumptions and Clarifications:

3. ELI has made some provision with stakeholder engagement with adjacent projects, however, the underlying assumption is that the bridge siting will be the controlling project for approach appurtenances. ELI will make reasonable efforts to incorporate stakeholder input, however multiple iterations could result in request for supplemental fee.

WBS 6- Right-of-Way and Utility Certification Services (RESERVED; Not in Scope – Fee TBD)

WBS 6.1- Right-of-Way Design Plans [Reserved; Not in Scope]



Upon completion of WBS 5 and TDOT Concurrence, ELI will prepare the right-of-way design plans (60% design plans) and utility plans in accordance with TDOT's Roadway Design Guidelines and current City of Murfreesboro roadway design standards. However, the cost associated with this will not be determined until the design is complete and a supplement for this work has been negotiated with the City of Murfreesboro. For this task, the plans will be prepared to conform to TDOT's current MicroStation and ORD CAD standards and will provide appropriate detail to support Right-of-Way acquisition. The plans will consist of the following sheets:

- Title Sheet
- Index with Standard Drawings
- Roadway and Pedestrian Bridge Typical Sections
- Detail Sheets
- Right-of-Way Notes
- Property Map and Right-of-Way Acquisition Table
- Present Layout
- Right-of-Way Layout
- Proposed Layout
- Mainline/Sideroad Profiles
- Culvert Cross Section(s)
- Driveway Profiles (if applicable)
- Drainage Map
- Erosion Prevention and Sediment Control Plans
- Traffic Control Plan
- Signing and Marking
- Roadway Cross Sections

WBS 6.2 – Right-of-Way Phase (60%) Bridge Design [Reserved; Not in Scope]

- HDR to determine and provide 60% Design Plans and Details in Regard to Proprietary Items Required for the Proposed Bridge Structure
- SSR will perform Design QA/QC Services on the Plans Provided by HDR

WBS 6.3– Geotechnical Investigation [Reserved; Not in Scope]

- TTL will perform a geotechnical investigation at the proposed abutments/bridge supports after the locations have been determined.
- Findings, Recommendations and Report will be provided to ELI and the design team for review and coordination with structural plans.

WBS 6.4 – Right-of Way Design Submittal and Review[Reserved; Not in Scope]



ELI will submit Right-of-Way design plans to the City for review and comment. ELI will meet with the City to discuss the comments. Following this review meeting, ELI will revise the plans based on the comments received and direction from the review meeting. ELI will document the comments and decisions in meeting minutes that will be distributed to all attendees of the review meeting.

WBS 6.4 – Local Programs Coordination [Reserved; Not in Scope]

- SSR to work with TDOT Local Programs to obtain approvals and concurrence for ROW and Utility Certifications

WBS 6 ELI Deliverables:

- I. Right-of-Way plans package (one electronic copy, Adobe PDF format)

WBS 7 - Final Design Services (RESERVED; Not in Scope – Fee TBD)

WBS 7.1 - Final Design Plans

ELI will prepare final construction plans for the project. However, the cost associated with this phase will not be determined until a supplement for this work has been negotiated with the City of Murfreesboro. The final design plans are anticipated to consist of the following sheets:

- Title Sheet
- Index and Standard Drawings
- Estimated Roadway Quantities
- Roadway and Pedestrian Bridge Typical Sections
- General Notes
- Special Notes
- Detail Sheets
- Property Map and Right-of-Way Acquisition Table
- Present Layout
- Right-of-Way Layout
- Proposed Layout
- Mainline/Sideroad Profiles
- Culvert Cross Section(s)
- Driveway Profiles (if applicable)
- Bridge Plans
- Drainage Map
- Erosion Prevention and Sediment Control Plans



- Traffic Control Plans
- Signing and Marking
- Roadway Cross Sections

WBS 7.2 – Final Bridge Design

- HDR will Create sheets for bidding and construction
- SSR will perform Final Design QA/QC Services on the Plans Provided by HDR

WBS 7.3 – Local Programs Coordination

- SSR to assist ELI in obtaining approval for various Proprietary Items as required by the project

WBS 7.4 - Final Engineer's Opinion of Probable Construction Cost

ELI will prepare a limited opinion of the probable construction cost of the proposed improvements. Given broad variability in factors that impact construction cost, ELI can only provide limited information based on recent historical cost of similar facilities constructed in the project area. Opinions made on the basis of experience and judgment does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. ELI may apply contingency at an amount desired by the City to opinions for probable cost.

WBS 7.5 -Final Design Submittal

ELI will prepare a set of final construction plans. ELI will submit draft construction plans to the City for review and comment. ELI will meet with the City to discuss the City's comments and coordinate the revisions received. Following the review meeting, ELI will revise the plans based on the comments received. The Final Construction plans will be signed and sealed by a State of Tennessee licensed Professional Engineer.

WBS 7 ELI Deliverables:

1. Final sealed plans for City submittal (1 full-size hard copy, 2 half-size hard copies, and 1 electronic copy, Adobe PDF format)
2. Final sealed plans for bidding (1 electronic copy, Adobe PDF format) to the City
3. Final engineer's opinion of probable construction cost (1 electronic copy, Adobe PDF format) to the City

WBS 8 - Environmental Permitting (RESERVED; Not in Scope – Fee TBD)

WBS 8.1-Stormwater Pollution Prevention Plan (SWPPP)



ELI will prepare and submit the Storm Water Pollution Prevention Plan (SWPPP) permit documents required by TDEC for the land disturbance activities associated with this project. However, the cost associated with this will not be determined until a supplement for this work has been negotiated with the City of Murfreesboro. The SWPPP will consist of drawings and a technical narrative describing erosion and sediment control measures that should be implemented during construction to reduce the negative downstream impacts due to pollutant run-off related to construction activities.

ELI will submit the SWPPP document to TDEC for review. ELI will revise the SWPPP document in accordance with comments received from TDEC and will resubmit a final SWPPP document to TDEC for approval. The City of Murfreesboro shall be responsible for all permitting and review fees associated with this task.

WBS 8.2 - NPDES Permit Application

Based on the assumed impact of the project improvements on the surrounding environment, it is assumed that a National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity will be required for the project. ELI will prepare the NPDES General Permit application and will submit it to TDEC along with the approved SWPPP document for processing by TDEC.

Preparation of technical studies or applications for other project-specific environmental permits are not part of this task. If additional environmental permits are required by TDEC, USACE, or any other agency, those permits can be provided by ELI in accordance with Additional Services clause of this agreement.

WBS 8 ELI Deliverables:

1. Draft Project SWPPP (1 electronic copy, Adobe PDF format) to Client and TDEC
2. Final Project SWPPP (1 electronic copy, Adobe PDF format) to Client and TDEC
3. NPDES Permit Application (1 electronic copy, Adobe PDF format) to Client and TDEC

WBS 9 - Utility Coordination and Design (RESERVED; Not in Scope – Fee TBD)

WBS 9.1 - Preliminary Utility Coordination

Upon receiving a notice to proceed to the Preliminary Engineering for Final Design Phase, ELI will provide a notification to the potentially affected utility owners along the project corridor. However, the cost associated with this will not be determined until a supplement for this work



has been negotiated with the City of Murfreesboro. The notification to each utility owner will consist of project map and a letter requesting that the utility company review the project map to determine if they own facilities within the project limits. The letter will request a written response from each utility.

Upon completion of WBS 5, ELI will submit Preliminary Plans to the identified utility owners within the project limits. The submittal to each utility owner will consist of an electronic set of plan drawings (PDF format) and a letter requesting that the utility company review the potential impacts of the proposed project to their facilities. The letter will request preliminary relocation plans from each utility and will also request that the utility company identify any private utility easements that fall within the project limits but are not shown on the Preliminary plans.

ELI with the assistance of SSR will prepare for and host a utility coordination meeting as part of this task. Utility providers within the project limits will be invited to attend a coordination meeting to discuss potential utility relocations within the project limits. ELI will document the discussions and decisions made during the meeting and distribute them to the meeting attendees. Utility Owners will be responsible for identifying utility conflicts within the project limits and the design and relocation of their utilities.

WBS 9.2- Final Utility Coordination

Upon completion of WBS 6, ELI and SSR will submit the approved Right-of-Way plans to utility owners identified in WBS 10.1. The submittal to each utility owner will consist of an electronic set of plan drawings), information detailing any design changes made during Right-of-Way design, and a letter requesting that the utility company review the potential impacts of the proposed project to their facilities and prepare final utility relocation plans.

During the Final Design phase, if there are any changes made to the proposed design plans that will impact final utility relocation plans, ELI will submit the revised plans to the utility owners. Via this task, utility companies will also be invited to attend the final plans review meeting. ELI will not perform any utility relocation design services as part of this task. It is assumed that each utility owner will design, provide plans for, and construct their utility relocations.



WBS 9.3 – Utility Design Services

ELI has excluded Utility Design from this scope; however, ELI has the capacity and capabilities to perform utility design upon request of additional services.

WBS 10 - Bid Phase Services and Construction Engineering and Inspection (CEI) Services **(RESERVED; Not in Scope – Fee TBD)**

WBS 10.1 - Proposal Contract Preparation

ELI will prepare a proposal contract in accordance with TDOT Local Programs Guidelines and the City of Murfreesboro standards. However, the cost associated with this will not be determined until a supplement for this work has been negotiated with the City of Murfreesboro. ELI will prepare technical specifications for those proprietary items that are not covered by TDOT or City of Murfreesboro specifications. The remainder of the technical specifications will be based upon TDOT's Standard Specifications for Road and Bridge Construction or will be documented in the construction plans. The proposal contract will contain the Request for Proposals, the contract documents, bid forms, specifications, required special provisions, and an 11" x 17" plan set. The proposal contract will be submitted to the City of Murfreesboro and the TDOT Local Programs Office for approval. Upon authorization from the TDOT and then the City, ELI will proceed with bidding the project by placing the bid advertisement in the local papers and will print and deliver 10 bound copies of the plans and Proposal Contract to the City.

WBS 10.2 - Bid Assistance

ELI and SSR will assist the City with drafting the advertisement for bids and conduct one pre-bid meeting with potential bidders. ELI will be responsible for plans distribution during the bid phase. ELI assist the City with requests for information (RFI) that arise during the bidding process and issue statements of clarification or bid addenda as appropriate. ELI will conduct the bid opening and meet with City of Murfreesboro staff following the bid opening to assist with bid review. In addition, ELI will tabulate the bids received and evaluate the compliance of the bids with the bidding documents. ELI will prepare a written summary of this tabulation and evaluation. ELI will submit the bid tabulation and other required documentation to the City and TDOT Local Programs for review, concurrence, and approval to award the contract to the lowest responsive bidder.

WBS 10 ELI Deliverables:

1. Draft Proposal Contract (one electronic copy in Adobe PDF format) to the City
2. Final Proposal Contract (one electronic copy in Adobe PDF format) to the City



3. Plans Package and Proposal Contract copies for bidders (ten bond copies)
4. Responses to bidder questions (one electronic copy in Adobe PDF format)
5. Bid tabulation and recommendation of lowest responsive bidder submittal to the City (one electronic copy in Adobe PDF format)
6. Submittal and Concurrence from TDOT Local Programs in regard to the lowest responsive bidder submittal

WBS 10.3 – Construction Engineering and Inspection (CEI) Services

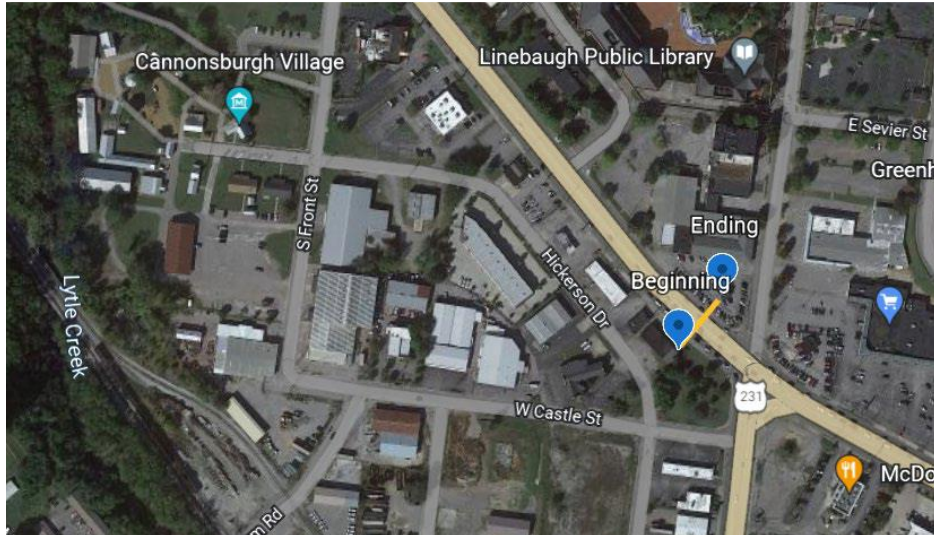
SSR, as a subconsultant to ELI, will provide CEI services for this project. However, the specific CEI tasks necessary during construction cannot be determined until the design is complete. Once the final design is complete (WBS 7) and an estimate has been generated (WBS 10), ELI will provide a contract supplement to the City with detailed scope for CEI services.

Services currently excluded from scope of work:

- Design of new traffic signal modifications at the intersection of Broad Street and Church Street
- Roadway improvements to Broad Street or side roads
- Lighting Design
- Utility Relocation Design / Subsurface Utility Engineering



PROJECT LOCATION



PROJECT BEGINNING AND ENDING TERMINI

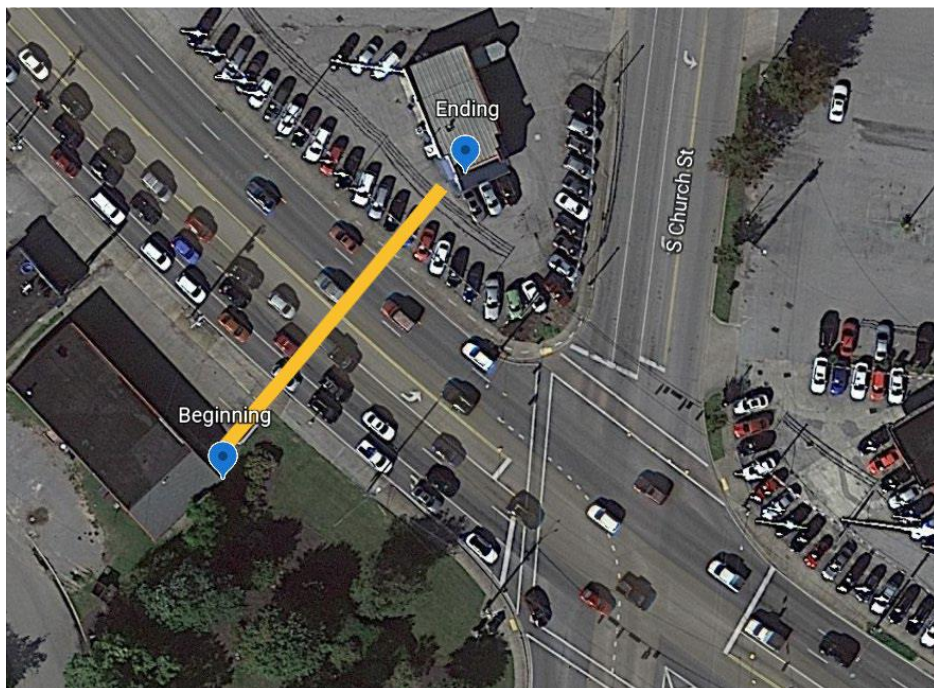


EXHIBIT B—DELIVERABLES SCHEDULE

Upon written authorization, ELI will proceed with completion of the National Environmental Policy Act (NEPA) documentation and Preliminary Engineering Design (Approx. 30% Design Plans). Please allow (10) complete months for completion of the NEPA and Preliminary Engineering Design Phase.

Upon receiving authorization/concurrence from TDOT Local Programs to proceed the Final Design Phase including the Utility/ROW Certification, ELI will negotiate a supplement to the original contract for the services to complete Work Breakdown Structure Items 6, 7, 8, 9, 10.1 and 10.2.

The fee for the Construction Engineering and Inspection Services (WBS 10.3) will also be negotiated at a later date once the Construction Bidding/Bid Phase Services (WBS 10.1 and 10.2) are completed and TDOT Concurrence to proceed to the Construction Phase are received.



EXHIBIT C—AMENDMENT TO OWNER-ENGINEER AGREEMENT

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. [Enter Amendment Number]

Owner: [Name of Owner]

Engineer: [Name of Engineer]

Project: [Name of Project]

Effective Date of Owner-Engineer Agreement: [Effective Date of Agreement]

Nature of Amendment: (Check those that apply)

- ☐ Additional Services to be performed by Engineer
- ☐ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☐ Modifications of payment to Engineer
- ☐ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

[Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary. Include cost breakdown and documentation, if applicable.]

Agreement Summary:

Original agreement amount: \$

Net change for prior amendments: \$

This amendment amount: \$

Adjusted Agreement amount: \$

Change in time for services (days or date, as applicable):

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. The Effective Date of the Amendment is [Enter Effective Date of Amendment].

Owner

Engineer

(typed or printed name of organization)

(typed or printed name of organization)

By: _____
(individual's signature)

By: _____
(individual's signature)

(Attach evidence of authority to sign.)

(Attach evidence of authority to sign.)

Date: _____
(date signed)

Date: _____
(date signed)

Name: _____
(typed or printed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Title: _____
(typed or printed)



EXHIBIT G—INSURANCE

ARTICLE 1—INSURANCE

Paragraph 6.04 of the Agreement, Insurance, is supplemented to include the following Exhibit G Paragraphs 1.01 and 1.02:

1.01 Insurance Policies and Limits

- A. Commencing with the performance of the Services hereunder, and continuing until the termination of the Agreement including during the performance of any warranty services, Consultant (and any tier subcontractors) shall maintain or cause to be maintained occurrence form insurance policies as follows: (a) Workers' Compensation specific to the applicable statutory requirements for the Services to be performed; provided that Consultant (or its subcontractor(s)) must notify if exempt from the statutory Workers' Compensation requirements; (b) Employer's Liability Insurance of not less than \$1,000,000 each accident/employee/disease; (c) Commercial General Liability Insurance having an available limit of at least \$1,000,000 per occurrence/\$2,000,000 in the annual aggregate for contractual liability, personal injury, bodily injury to or death of persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) years after completion), and premises and operations liability coverage (d) Commercial/Business Automobile Liability Insurance (including owned, non-owned or hired autos) having an available limit of at least \$1,000,000 each accident for bodily injury, death, property damage, with any fellow employee exclusion removed, and contractual liability; (e) Umbrella/Excess Liability insurance with available limits of at least \$4,000,000 per occurrence and follow form of the underlying Employer's Commercial General and Auto Liability insurance, and providing at least the same scope of coverages thereunder; (f) Professional Liability/Errors & Omissions (E&O) Insurance (claims-made form acceptable with reporting requirements of at least three (3) years after completion) with no resulting bodily injury or property damage exclusion with available limits of at least \$1,000,000 each claim.
- B. During the term of this Agreement the Engineer shall notify Owner of any other Subconsultant or Engineer's Subcontractor to be listed as an additional insured on Owner's and applicable Contractor's general liability policies of insurance.

1.02 Additional Insureds

- A. The Owner must be listed on Engineer's general liability policy as provided in Paragraph 6.04.B.
- B. ~~For applicable Contractor's general liability policies of insurance, the additional insured endorsements will include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.~~
- C. ~~For applicable Contractor's general liability policies of insurance, Contractor shall provide ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors~~

Exhibit G—Insurance.

Exhibits to EJCDC® E-500, Agreement between Owner and Engineer for Professional Services.
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and American Society of Civil Engineers. All rights reserved.

~~Not Engaged by the Named Insured" or its equivalent for Engineer, Subconsultants, and other design professional additional insureds~~



EXHIBIT H—DISPUTE RESOLUTION

Paragraph 6.07 of the Agreement, Dispute Resolution, is supplemented to include the following Exhibit H Paragraph 1.01:

- 1.01 Non-Binding Mediation. If a good faith effort to resolve a dispute on terms satisfactory to both parties is unsuccessful, Engineer and Owner shall submit the dispute to non-binding mediation unless the parties mutually agree otherwise. The mediation will be conducted by a mediator acceptable to Engineer and will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by the Construction Industry Mediation Procedures of the American Arbitration Association. Each party agrees to pay its own costs in connection with the mediation and its proportionate share of the fees and costs of the mediation. Any dispute not resolved within thirty days after submission to mediation may be resolved by litigation in a court of competent jurisdiction in the State of Tennessee. If Engineer's Services relate to a Project in a state that requires venue for any action related to the Project lie within the state where the Project is located, venue may also lie in a court of competent jurisdiction within that state.
- 1.02 Duty to Continue Performance. Each party shall continue to perform under this Agreement pending the final resolution of any dispute or disagreement between Engineer and Owner.



EXHIBIT I—LIMITATIONS OF LIABILITY

ARTICLE 1—LIMITATIONS OF LIABILITY

Paragraph 6.10 of the Agreement is supplemented to include Exhibit I Paragraph(s) 1.01, Mutual Indemnification, and 1.02, Limitation of Engineer's Liability:

1.01 Limitation of Engineer's Liability

- A. Engineer's Liability Limited to Amount of Insurance Proceeds: Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors (hereafter "Owner's Claims"), but excluding indemnity claims, will be limited to (1) responsibility for payment of all or the applicable portion of any deductibles, either directly to the Engineer's insurers or in settlement or satisfaction, in whole or in part, of Owner's Claims; (2) total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's applicable insurance policies up to the amount of insurance required under this Agreement; or (3) for Owner's Claims not covered by an insurance policy under (1) or (2), the total amount of (i) \$250,000 or (ii) the total compensation received by Engineer under this Agreement, whichever is greater.
 1. Such limitation will not be reduced, increased, or adjusted on account of legal fees paid, or costs and expenses of investigation, claims adjustment, defense, or appeal.



EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

ARTICLE 2—COMPENSATION PACKET BC-5: BASIC SERVICES—DIRECT LABOR COSTS PLUS OVERHEAD PLUS A FIXED FEE

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraphs 1.01, 1.02, and 1.03:

2.01 Compensation for Basic Services (other than Resident Project Representative)—Direct Labor Costs Plus Overhead Plus a Fixed Fee Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A (except for Resident Project Representative services, if any) as follows:

1. An amount equal to Engineer's Direct Labor Costs plus overhead for the services of Engineer's personnel engaged directly on the Project, plus Reimbursable Expenses, plus Engineer's Subcontractors' and Subconsultants' charges, if any.
2. Engineer's Reimbursable Expenses Schedule is attached to this Exhibit J as Appendix 1.
3. The total compensation for such services is estimated to be **\$267,006.40** based on the following estimated distribution of compensation:

a. Survey, NEPA/Preliminary Eng. Design	<u>\$267,006.40</u>
b. ROW/Utility Cert. & Final Design Phase	<u>\$ TBD</u>
c. Bidding/Proposal Phase	<u>\$ TBD</u>
d. Construction Phase (CEI)	<u>\$ TBD</u>
4. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but compensation will not exceed the total estimated compensation amount unless approved in writing by Owner. See Exhibit J Paragraph 1.03.C.2 below.
5. The total estimated compensation for Engineer's services included in the breakdown by phases incorporates all labor, overhead, fixed fees, Reimbursable Expenses, and Engineer's Subcontractors' and Subconsultants' charges.
6. The portion of the amounts billed for Engineer's services will be based on the applicable Direct Labor Costs for the cumulative hours charged to the Project during the billing period by Engineer's employees plus overhead, Reimbursable Expenses, Engineer's Subcontractors' and Subconsultants' charges, and the proportionate portion of the fixed fee.
7. Direct Labor Costs means salaries and wages paid to Engineer's employees but does not include payroll-related costs or benefits.
8. Overhead will be computed as a percentage of Direct Labor Costs. The Overhead factor to be applied to Direct Labor Costs will be: **1.6987 for ELI and 1.5724 for HDR**. Such Overhead factor will include or otherwise account for the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement



benefits, bonuses, sick leave, vacation, and holiday pay applicable thereto; the cost of general and administrative overhead which includes salaries and wages of employees engaged in business operations not directly chargeable to projects, plus non-Project operating costs, including but not limited to, business taxes, legal, rent, utilities, office supplies, insurance, and other operating costs.

9. The fixed fee is the lump sum amount paid to Engineer by Owner as margin or profit, and will only be adjusted by an amendment to this Agreement.

2.02 Compensation for Reimbursable Expenses

- A. Owner shall reimburse Engineer for all Reimbursable Expenses directly related to Basic Services, using the rates set forth in Appendix 1 to this Exhibit J when applicable.
- B. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of **1.00**.

2.03 Other Provisions Concerning Payment

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Subcontractors and Subconsultants, those charges will be the amounts billed by Engineer's Subcontractors and Subconsultants to Engineer times a factor of **1.00**.
- B. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. Estimated Compensation Amounts
 1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer will promptly review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount,



or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.

- D. Direct Labor Costs, Overhead applied to Direct Labor Costs, and the Reimbursable Expenses Schedule will be adjusted annually (as of **July 1st**) to reflect equitable changes in the compensation payable to Engineer.
- E. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.



SCOPE OF WORK

ENVIRONMENTAL DOCUMENTATION REVIEW, ARCHITECTURAL AND STRUCTURAL DESIGN

Broad Street Pedestrian Bridge Project

near the intersection of Broad Street (SR-2/US-41/70) and Church Street (SR-10/US-231) Murfreesboro, TN

Prepared for:

Energy Land & Infrastructure, LLC

Prepared by:

Valerie Birch, AICP, HDR Engineering, Inc.

Carter Bearden, PE, HDR Engineering, Inc.

Michael Fitzpatrick, Assoc. AIA, HDR Engineering, Inc.

Date: November 28, 2023

PROJECT DESCRIPTION

Energy Land & Infrastructure, LLC (ELI) is contracting with HDR Engineering, Inc., henceforth known as the Consultant, to provide architectural bridge design, structural design and to provide the environmental documentation support, pursuant to National Environmental Policy Act (NEPA), for the proposed Broad Street Pedestrian Bridge project and related pedestrian improvements located near the intersection of Broad Street (SR-2/US-41/70) and Church Street (SR-10/US-231) in the City of Murfreesboro, TN (hereinafter called the Project).

The Consultant services will be performed for obtaining a Survey and completing the PE-NEPA Phase of the project. Preliminary Design, ROW/Final Design, and Construction Phase services will be performed under a supplemental agreement.

1.0 PROJECT MANAGEMENT AND COORDINATION

The purpose of this task is to plan, organize, and implement the tasks stipulated in this scope of services in a timely manner. In this task, the Consultant will:

- a. Provide general project management and administration.
- b. Maintain contact with the ELI designated project manager.
- c. Attend a project kick-off meeting in Murfreesboro.
- d. Attend one (1) project progress meeting with the ELI project team electronically monthly.
- e. Prepare monthly invoices and progress reports.

2.0 NEPA DOCUMENT REVIEWS

The Consultant will provide review and comment only to draft and final NEPA-related deliverables before submittal to the City of Murfreesboro and TDOT Environmental Division (Local Programs). This will include attendance at a kickoff meeting in Murfreesboro and up to three (3) virtual meetings to discuss comments.

Clarifications:

- ELI, or others under contract to ELI, will prepare all NEPA-related documents, conduct coordination with regulatory agencies, manage the NEPA process and schedule including coordination and submittal of the TDOT Local Programs Environmental Coordination Package, and provide public involvement.
- NEPA-related deliverables include NEPA document and associated technical studies in Microsoft Word format and comments will be provided via tracked changes. All deliverables for Consultant review will be provided with sufficient time for adequate review by Consultant and subsequent revisions by ELI or others. ELI will obtain Consultant concurrence on deliverable appropriacy prior to submittal to the City or TDOT.
- ELI will copy the Consultant on coordination with the City and TDOT Local Programs Environmental Review staff.

3.0 BRIDGE CONCEPTUAL DESIGN

The Consultant will provide conceptual pedestrian bridge engineering and architectural services to assist ELI and the City to select a preferred concept including an initial bridge type, span arrangement, and basic architectural features as needed for NEPA studies and approval by City Council. Tasks are more specifically scoped as follows.

- a. The Consultant will coordinate with ELI to provide available bridge related information for conducting field surveys for the project.
- b. Concept Development - The Consultant will provide the following services to develop a preferred bridge concept and associated environmental boundaries.
 - i. Review initial design constraints and goals provided by the City, including anticipated construction budget and initial geometric constraints to prepare for a visioning meeting with City Staff.
 - ii. Identify up to three (3) potential options most likely to meet initial project goals and constraints.
 - iii. Prepare up to three (3) visuals (sketches) representing initial concepts the Consultant would see as possible solutions.
 - iv. Workshop - The Consultant will attend one (1) one-day workshop comprising a site review of the project area and a half-day meeting with City staff to discuss the potential options and design features. With input from the Consultant, the City will choose an option and the basic architectural features for further development including the bridge form, materials, connection points, and detailing.
- c. Attend up to three (3) follow up virtual design coordination meetings with ELI and the City.
- d. Provide conceptual level bridge limits and span arrangement including layout, profile, and one (1) isometric rendering of the bridge concept for inclusion in the NEPA document and presentation to City Council.
- e. Provide planning level bridge construction cost estimate.

Deliverables by Consultant:

- Up to three (3) bridge concept sketches for discussion with City.
- Conceptual level bridge layout and profile sketches in PDF format.
- One (1) conceptual isometric bridge rendering in PDF format.
- Planning level bridge construction cost estimate.

Note, if iterations of design concepts, bridge types, forms, and features are required, they will be additional services subject to additional compensation under supplemental agreement.

4.0 INFORMATION AND SERVICES PROVIDED BY OTHERS

- a. Initial design goals and constraints including: architectural and community design guidelines, construction budget, maintenance considerations, access/connection points, known geometric constraints, contextual elements to be considered, bridge width, design loads, and completion schedule.
- b. Survey mapping in Microstation ORD format and digital terrain model in accordance with TDOT CAD Standards and Level Structure.
- c. Roadway typical section, horizontal alignment, and profile grade. Roadway and drainage design.
- d. Traffic projections and analysis. Traffic signal design and plans.
- e. Geotechnical boring logs, data, and reports. Foundation recommendations for bridge substructure elements. Geotechnical data in Microstation ORD format for bridge foundation data drawings.
- f. Pavement marking plans and details.
- g. Permit Application and Permitting Fees, if applicable.
- h. Public and Stakeholder Involvement.
- i. Preparation of Draft and Final NEPA documents and associated Environmental Technical Studies.
- j. Utility Relocation Design / Subsurface Utility Engineering, if required.
- k. Bid Procurement.
- l. Construction Administration and Inspection.

5.0 EXCLUDED SERVICES

The following services are specifically excluded from the Consultant's Scope of Work at this time. These services will be added as additional services to the Consultant's scope of work in accordance with the terms of a supplemental agreement if/when needed:

- a. Community Visioning Process
- b. Bridge Type Study
- c. Preliminary Bridge Design and Plans
- d. Final Bridge Design and Plans
- e. Retaining Wall Design and Plans
- f. Bridge and Roadway Lighting Design
- g. Wind and Vibration Studies

6.0 COMPENSATION

The Consultant will perform the scope of services defined above on a cost-plus-fixed-fee basis with a not-to-exceed amount of \$129,173.66, which includes a fixed fee amount of \$13,565.57. The project will utilize Federal funding and the associated Consultant's FAR overhead rate. The consultant will not provide any services beyond the ceiling amount unless provided in

writing as an amendment to this work order with appropriate modification to the ceiling amount and associated schedule.

7.0 SCHEDULE

The Consultant will begin work immediately after receiving written authorization to proceed and receipt of information by others necessary for the scope of work. The estimated schedule milestone durations for the project phases are as follows:

- PE-NEPA Phase: 10 months
 - Successive review and comment to deliverables provided within 5 business days.

The Consultant is not responsible for delays in receipt of information required to perform the scope of work or for other reasons outside the Consultant's control.

8.0 ATTACHMENTS

The following are attached and incorporated by reference into the project scope of work and fee estimate.

A. Manday Estimate and Fee Proposal


ATTACHMENT A

MANDAY ESTIMATE AND FEE PROPOSAL

BROAD STREET PEDESTRIAN BRIDGE

MURFREESBORO, TN



NEPA DOCUMENT REVIEW							
<div><div>PROJECT DESCRIPTION</div><div><div>Route: Broad Street</div><div>Description: Broad Street Pedestrian Bridge</div><div>County: Rutherford</div><div>Consultant: HDR Engineering, Inc.</div><div>Project No.:</div><div>PIN:</div></div><div></div></div>							
Task Number	Task/Activity Description						
		Principal	Project Manager	Environmental Manager	Environmental Planner	Administrative	
Direct Labor Rate		\$862.00	\$792.08	\$800.24	\$264.48	\$287.04	
1.0 NEPA Support							
1.1	Project Management and Administration	0.25	0.50			1.50	
1.2	NEPA Review and Coordination **			5.00	10.00		
Total Mandays		0.25	0.50	5.00	10.00	1.50	0.00

** Level of effort based on typical reviews for Categorical Exclusion NEPA document.

Direct Labor Costs: \$7,688.10

17.25

ARCHITECTUAL DESIGN SERVICES

PROJECT DESCRIPTION

Route: Broad Street
Description: Broad Street Pedestrian Bridge
County: Rutherford
Consultant: HDR Engineering, Inc.
Project No.:
PIN:



Task Number	Task/Activity Description						
		Principal	Project Manager	Bridge Architect	Designer	Administrative	
Direct Labor Rate		\$862.00	\$792.08	\$736.00	\$480.00	\$287.04	
1.0 Initial Tasks & Project Management							
1.1	Project Management and Administration	1.00	2.00			1.50	
1.2	Miscellaneous meetings			1.00	1.00		
1.0 - Sub-Total Mandays		1.00	2.00	1.00	1.00	1.50	0.00
1.0 - Sub-Total Direct Costs		\$ 862.00	\$ 1,584.16	\$ 736.00	\$ 480.00	\$ 430.56	\$ -
2.0 Conceptual Design							
2.1	Type, Size and Location Concept			1.50	1.00		
2.2	Design Alternatives			8.00	5.00		
2.3	Workshop (including prep and travel)			3.00			
2.4	Renderings			0.50	5.00		
2.0 - Sub-Total Mandays		0.00	0.00	13.00	11.00	0.00	0.00
2.0 - Sub-Total Direct Costs		\$ -	\$ -	\$ 9,568.00	\$ 5,280.00	\$ -	\$ -
Total Mandays		1.00	2.00	14.00	12.00	1.50	0.00
Total Direct Costs		\$ 862.00	\$ 1,584.16	\$ 10,304.00	\$ 5,760.00	\$ 430.56	\$ -

6.50
4,092.72

24.00
14,848.00
30.50

Direct Labor Costs: \$18,940.72

BRIDGE PLANS MANDAY ESTIMATE

PROJECT DESCRIPTION

Route: Broad Street
Description: Broad Street Pedestrian Bridge
County: Rutherford
Consultant: HDR Engineering, Inc.
Project No.:
PIN:



Task Number	Task/Activity Description						
		Principal	Project Manager	Sr. Bridge Engineer	Bridge Engineer	Jr. Bridge Engineer/Struc. CAD Tech.	Administrative
Direct Labor Rate		\$862.00	\$792.08	\$692.32	\$502.64	\$336.56	\$287.04
1.0 Initial Tasks & Project Management							
1.1	Project Management and Administration	0.50	1.00	0.50			1.50
1.2	Miscellaneous meetings	0.50	0.50	0.50			
1.0 - Sub-Total Mandays		1.00	1.50	1.00	0.00	0.00	1.50
1.0 - Sub-Total Direct Costs		\$ 862.00	\$ 1,188.12	\$ 692.32	\$ -	\$ -	\$ 430.56
2.0 Conceptual Design							
2.1	Type, Size and Location Concept		1.00	3.00	4.00	6.00	
2.2	Design Alternatives			3.00	4.00	6.00	
2.3	Workshop (including prep and travel)		1.00	0.50			
2.0 - Sub-Total Mandays		0.00	2.00	6.50	8.00	12.00	0.00
2.0 - Sub-Total Direct Costs		\$ -	\$ 1,584.16	\$ 4,500.08	\$ 4,021.12	\$ 4,038.72	\$ -
Total Mandays		1.00	3.50	7.50	8.00	12.00	1.50
Total Direct Costs		\$862.00	\$2,772.28	\$5,192.40	\$4,021.12	\$4,038.72	\$430.56

5.00

3,173.00

28.50

14,144.08

33.50

Direct Labor Costs: \$ 17,317.08

DIRECT EXPENSES

PROJECT DESCRIPTION

Route: Broad Street

Description: Broad Street Pedestrian Bridge

County: Rutherford

Consultant: HDR Engineering, Inc.

Project No.:

PIN:

Reproduction Costs:							Item Subtotal	Item Total Cost
Item Description		Number / Unit		Unit Price				
Photo-copies		100		\$0.04		\$4.00		
Full size bond		0		\$0.70		\$0.00		
Half size bond		200		\$0.08		\$16.00		
Exhibit Roll Plots		3		\$16.20		\$48.60		
							\$ 68.60	
Travel:								
Number of Trips		No. of Miles/No. of People		RATE *				
Per Diem (75%)	1.00 Man-Days	X	1.00 People	X	\$ 44.25 Per Day	\$44.25		
Per Diem	2.00 Man-Days	X	1.00 People	X	\$ 59.00 Per Day	\$118.00		
Flight	1.00 Trips	X	1.00 People	X	\$ 1,750.00 Trip	\$1,750.00		
Transportation	8.00 Round Trips	X	70.00 Miles	X	\$ 0.655 Per Mile	\$366.80		
Lodging	2.00 Nights	X	1.00 People	X	\$ 107.00 Per Night	\$214.00		
* Rate must agree with most current State of Tennessee travel regulations. First and last day of travel must be at the 75% Per Diem Rate.								\$ 2,493.05
Other Expenses:								
Item Description		Number / Unit		Unit Price				
				\$0.00		\$0.00		
				\$0.00		\$0.00		
				\$0.00		\$0.00		
				\$0.00		\$0.00		
				\$0.00		\$0.00		
				\$0.00		\$0.00		
				\$0.00		\$0.00		
							\$ -	
TOTAL DIRECT EXPENSES							\$ 2,561.65	

FEE PROPOSAL

PROJECT DESCRIPTION

Route: Broad Street
Description: Broad Street Pedestrian Bridge
County: Rutherford
Consultant: HDR Engineering, Inc.
Project No.:
PIN:



Direct Labor Costs

Task	Mandays	Direct Labor Costs	Overhead	DL+OH	Fixed Fee	Sub-Total
NEPA Document Review	17.25	\$7,688.10	\$12,088.77	\$19,776.87	\$2,373.22	\$22,150.09
Conceptual Design						
Architectual Design Services	30.50	\$18,940.72	\$29,782.39	\$48,723.11	\$5,846.77	\$54,569.88
Bridge Design	33.50	\$17,317.08	\$27,229.38	\$44,546.46	\$5,345.57	\$49,892.03
Totals:	81.25	\$43,945.90	\$69,100.53	\$113,046.43	\$13,565.57	\$126,612.01

Overhead Rate = 157.24%
Direct Expenses = \$2,561.65

Total = \$129,173.66

CITY OF MURFREESBORO

MANDAY ESTIMATE AND FEE PROPOSAL

**FOR ENGINEERING, COORDINATION
AND CONSULTANT SERVICES**

MURFREESBORO PEDESTRIAN BRIDGE
Planning Phase

State Project No

Federal Aid Project No

Smith Seckman Reid, Inc

Prepared By:
David Donoho

2995 Sidco Drive
(615) 514-6129
(615) 386-8469
ddonoho@ssr-inc.com

Date prepared: 10/20/23



**CONSULTANT SERVICES FOR
CITY OF MURFREESBORO BROAD STREET PEDESTRIAN BRIDGE
ESTIMATED MAN-HOURS - Planning Phase**

SUMMARY

Item			Cost
	Timeframe	Office	Field
1a. Direct Labor (CEI)			
		\$2,507.67	\$0.00
		1a Office	1b Field
	Sub Total:	\$2,507.67	\$0.00
2. Overhead			
2a. Office	179.94%		\$4,512.30
2b. Field	169.29%		\$0.00
2a + 2b			\$4,512.30
3. SubTotal 1a + 1b + 2a + 2b			\$7,019.97
4. Direct Expenses			
a. (Itemized)	See Itemized sheet		\$104.80
b.			
c.			
d.			
e. Premium Labor			\$0.00
		Total Direct	\$107.80
5. Net Fee	12.00%	SSR	\$842.40
		Total Net Fee	\$844.40
6. Project Total (3 + 4 + 5)			\$7,972.17

**CONSULTANT SERVICES FOR
CITY OF MURFREESBORO BROAD STREET PEDESTRIAN BRIDGE
ESTIMATED MAN-HOURS - Planning Phase**

PERSONNEL RATES

CLASSIFICATION	2023	2024	2025	2026	2027
Senior Project Manager - David Donoho	\$95.67	\$98.54	\$101.50	\$104.54	\$107.68
Construction Manager -	\$71.46	\$73.60	\$75.81	\$78.09	\$80.43
EPSC Inspector -	\$35.00	\$36.05	\$37.13	\$38.25	\$39.39
Project Engineer/Patrick Harrington	\$62.50	\$64.38	\$66.31	\$68.30	\$70.34
Records Clerk	\$26.16	\$26.94	\$27.75	\$28.59	\$29.44
Asst Const Mgr	\$42.44	\$43.71	\$45.02	\$46.37	\$47.76
Senior Inspector - Bridge -	\$36.84	\$37.95	\$39.08	\$40.26	\$41.46
Senior Inspector - Roadway	\$37.51	\$38.64	\$39.79	\$40.99	\$42.22
Inspector -	\$32.00	\$32.96	\$33.95	\$34.97	\$36.02
Asphalt Plant Inspector -	\$35.00	\$36.05	\$37.13	\$38.25	\$39.39
Inspector -	\$32.00	\$32.96	\$33.95	\$34.97	\$36.02
Erosion Control Inspector	\$30.00	\$30.90	\$31.83	\$32.78	\$33.77
General Inspector	\$30.00	\$30.90	\$31.83	\$32.78	\$33.77
Party Chief	\$30.00	\$30.90	\$31.83	\$32.78	\$33.77
Rodman	\$21.22	\$21.85	\$22.51	\$23.19	\$23.88

Annual Pay Rate Increased By: 3.00% Effective date of rate change is July 1st.

**CONSULTANT SERVICES FOR
CITY OF MURFREESBORO BROAD STREET PEDESTRIAN BRIDGE
DIRECT EXPENSES
ESTIMATED MAN-HOURS - Planning Phase**

Reproduction Costs:

Item Description	Number / Month	Unit Price	Item Subtotal	Total
Photo-copies		\$0.12	\$0.00	
Full size bond		\$0.50	\$0.00	
Half size bond		\$0.35	\$0.00	
Full size vellum		\$4.50	\$0.00	
Half size vellum			\$0.00	
Full size mylar		\$10.50	\$0.00	
Monthly Sub-Total:			\$0.00	
Number of Months:				\$0.00

Aerial photography:

Item Description	Number / Month	Unit Price	Item Subtotal	Total
Aerial Photography/Quarterly		\$300.00	\$300.00	
Quarterly Sub-Total:			\$300.00	
Number of Quarters:				\$0.00

Travel:

	Number of Trips	No. of Miles/No. of People	RATE *	Item Subtotal	Total
Per Diem			\$46.00 / day	\$0.00	
Per Diem (75%)		X 2.00 People X	\$34.50 / day	\$0.00	
Transportation	4	40 miles	\$0.66 / day	\$104.80	
Lodging		X 1.00 People X	\$77.00 / person	\$0.00	\$104.80

* Rate must agree amounts in effect with State of Tennessee travel regulations.
First and last day of travel must be at the 75% Per Diem Rate.

Other Expenses:

Vehicle Days	Days/month	Unit Price	Months	Item Subtotal	Total
Senior Project Manager		\$ 30.25		\$0.00	\$0.00
Construction Manager		\$ 30.25		\$0.00	\$0.00
Project Engineer		\$ 30.25		\$0.00	\$0.00
Senior Inspector		\$ 30.25		\$0.00	\$0.00
Utility Coordinator		\$ 30.25		\$0.00	\$0.00
Railroad Coordinator		\$ 30.25		\$0.00	\$0.00
EPSC Inspector		\$ 30.25		\$0.00	\$0.00
Asphalt Project Inspector		\$ 30.25		\$0.00	\$0.00
Project Inspector		\$ 30.25		\$0.00	\$0.00
Project Inspector		\$ 30.25		\$0.00	\$0.00
Project Inspector		\$ 30.25		\$0.00	\$0.00
Project Inspector		\$ 30.25		\$0.00	\$0.00
Asphalt Roadway Inspector		\$ 30.25		\$0.00	\$0.00
Asphalt Plant Inspector		\$ 30.25		\$0.00	\$0.00
Records Clerk		\$ 30.25		\$0.00	\$0.00
Construction Manager		\$ 30.25		\$0.00	\$0.00
Inspector		\$ 30.25		\$0.00	\$0.00

TOTAL DIRECT EXPENSES

\$104.80



CONSULTANT SERVICES FOR
CITY OF MURFREESBORO BROAD STREET PEDESTRIAN BRIDGE

ESTIMATED MAN-HOURS - Planning Phase

ESTIMATED MAN-HOURS - Planning Phase																	Hours			Rates			Direct Labor			Total DL	Total OT				
SSR	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	2023	2024	2025	2023	2024	2025			2023	2024	2025	
Senior Project Manager							4	1	1	1	1	1	1							4	6	0	\$95.67	\$98.54	\$101.50	\$382.68	\$591.24	\$0.00	\$973.92		
Construction Manager																				0	0	0	\$71.46	\$73.60	\$75.81	\$0.00	\$0.00	\$0.00	\$0.00		
EPSC Inspector/Engineer																				0	0	0	\$35.00	\$36.05	\$37.13	\$0.00	\$0.00	\$0.00	\$0.00		
Project Engineer/Utility Coordination							6	3	3	3	3	3	3							6	18	0	\$62.50	\$64.38	\$66.31	\$375.00	\$1,158.75	\$0.00	\$1,533.75		
Records Clerk																				0	0	0	\$26.16	\$26.94	\$27.75	\$0.00	\$0.00	\$0.00	\$0.00		
Engineer																							\$42.44	\$43.71	\$45.02						
																														\$2,507.67	
Bridge Inspector- Senior																				0	0	0	\$36.84	\$37.95	\$39.08	\$0.00	\$0.00	\$0.00	\$0.00		
Bridge Inspector - Senior OT																				0	0	0	\$18.42	\$18.97	\$19.54	\$0.00	\$0.00	\$0.00		\$0.00	
Roadway Inspector-Senior																				0	0	0	\$37.51	\$38.64	\$39.79	\$0.00	\$0.00	\$0.00	\$0.00		
Roadway Inspector - Senior OT																				0	0	0	\$18.76	\$19.32	\$19.90	\$0.00	\$0.00	\$0.00		\$0.00	
Inspector - drainage/utilities																				0	0	0	\$32.00	\$32.96	\$33.95	\$0.00	\$0.00	\$0.00	\$0.00		
Inspector OT																				0	0	0	\$16.00	\$16.48	\$16.97	\$0.00	\$0.00	\$0.00	\$0.00		
Asphalt Plant Inspector																				0	0	0	\$35.00	\$36.05	\$37.13	\$0.00	\$0.00	\$0.00	\$0.00		
Asphalt Plant Inspector OT																				0	0	0	\$17.50	\$18.03	\$18.57	\$0.00	\$0.00	\$0.00	\$0.00		
Inspector																				0	0	0	\$32.00	\$32.96	\$33.95	\$0.00	\$0.00	\$0.00	\$0.00		
Inspector OT																				0	0	0	\$16.00	\$16.48	\$16.97	\$0.00	\$0.00	\$0.00	\$0.00		
Roadway Inspector Util, etc.																				0	0	0	\$30.00	\$30.90	\$31.83	\$0.00	\$0.00	\$0.00	\$0.00		
Roadway Inspector OT																				0	0	0	\$15.00	\$15.45	\$15.91	\$0.00	\$0.00	\$0.00		\$0.00	
Roadway Inspector-Drainage																				0	0	0	\$30.00	\$30.90	\$31.83	\$0.00	\$0.00	\$0.00	\$0.00		
Roadway Inspector OT																				0	0	0	\$15.00	\$15.45	\$15.91	\$0.00	\$0.00	\$0.00		\$0.00	
Roadway Inspector Util, etc.																				0	0	0	\$30.00	\$30.90	\$31.83	\$0.00	\$0.00	\$0.00	\$0.00		
Roadway Inspector OT																				0	0	0	\$15.00	\$15.45	\$15.91	\$0.00	\$0.00	\$0.00	\$0.00		
RLS -																				0	0	0	\$21.22	\$21.85	\$22.51	\$0.00	\$0.00	\$0.00	\$0.00		
PM-																				0	0	0	\$10.61	\$10.93	\$11.26	\$0.00	\$0.00	\$0.00	\$0.00		
Engineer																									\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Party Chief																									\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Rodman1																									\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	
Rodman2																									\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	

Weekdays excluding Holidays

Saturdays

Overtime Hours per Weekday

Overtime Hours per Saturday

Holidays

Monthly Regular Hours

Monthly Overtime Hours

Total Hours

Vehicle Days

Months

Vehicle Days Total

Vehicle Days per Month

Dec-23

Jan-24

Feb-24

Mar-24

Apr-24

May-24

Jun-24

Jul-24

Aug-24

Sep-24

Oct-24

Nov-24

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Golf Commission

Department: Administration

Presented by: Mayor

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

Appointment to the Golf Commission.

Background Information

The Golf Commission supervises the operation of the Old Fort Golf Course and any other golfing facility operated by the City. It consists of 7 members, one of whom is a Council Member, who are appointed for 3-year terms.

Attachments

Memo from Mayor McFarland.



. . . creating a better quality of life.

January 11, 2024

Members of City Council

RE: Recommended Appointment – Murfreesboro Golf Commission

As an item for the City Council Workshop Agenda, I am recommending the following appointment to the Golf Commission.

Appointment
Austin Loomis

Sincerely,

Shane McFarland
Mayor

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Airport Commission

Department: Administration

Presented by: Mayor McFarland

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

Appointment to the Airport Commission.

Staff Recommendation

Approval by the City Council.

Background Information

The Airport Commission oversees the operations, maintenance, and leasing arrangements of the Murfreesboro Municipal Airport located at 1930 Memorial Boulevard. The Commission consists of seven members and two ex-officio members appointed by the Mayor and approved by the City Council for three-year terms. Meetings (M.C.C.§3-51)

Attachments:

Memo from Mayor Shane McFarland



. . . creating a better quality of life.

January 11, 2024

Members of City Council

RE: Recommended Reappointment – Airport Commission

As an item for the Council Agenda, I am recommending the following reappointments to the Airport Commission.

Reappointments

Valeska Starnes (term expires February 28, 2024)

Steve Waldron (term expires February 28, 2024)

Sincerely,

Shane McFarland
Mayor

COUNCIL COMMUNICATION

Meeting Date: 01/11/2024

Item Title: Beer Permits
Department: Finance
Presented by: Jennifer Brown, City Recorder
Requested Council Action:

Ordinance ☐
Resolution ☐
Motion ☒
Direction ☐
Information ☐

Summary

TCA 57-5-103 delegates the authority to regulate the sale, distribution, manufacture, or storage of beer to the City where the business is located.

Staff Recommendation

The applications from the following applicants meet requirements and are recommended to be approved. The permits will only be issued once the permits are approved by the City Council (Beer Board) and building and codes final inspections are passed for regular beer permits or a special event permit is approved for special event beer permits.

Regular Beer Permits

Name of Applicant	Name of Business	Address	Type of Permit	Type of Business	Reason
XGolf Murfreesboro, LLC	XGolf Murfreesboro	1720 Old Fort Pkwy Suite L220	On-Premises	Indoor Golf with Bar	New Location
Main Street Entertainment, Inc.	Main Street Entertainment	1510 Gresham Park Dr	On-Premises	Restaurant	New Location
Delicias Colombiana RR, LLC	Delicias Colombiana RR Columbian Restaurant	2042 Lascassas Pike Suite A12	On-Premises	Restaurant	New Location
CHB&B Entertainment, a series of CHB&B, LLC	Lanes, Trains, and Automobiles	450 Butler Dr	On-Premises	Bowling Alley	Ownership Change

Background Information

All applicants meet the requirements for issuing a beer permit per the City Code Chapter 4 Alcoholic Beverages with the exception of pending building and codes inspections for

regular beer permits or pending special event permit for special event beer permits.

Council Priorities Served

Maintain public safety

Controlling the sale of beer within the City provides enforcement tools by the City for restrictions as to where beer is sold, ability to obtain the right to sell beer, time of beer sales and onsite consumption.

Attachments

Summaries of Request

Beer Application

Summary of information from the beer application:

Name of Business Entity/Sole Proprietor	XGolf Murfreesboro, LLC
Name of Business	XGolf Murfreesboro
Business Location	1720 Old Fort Pkwy Suite L220
Type of Business	Indoor Golf with Bar
Type of Permit Applied For	On-Premises Retail Permit

Type of Application:

New Location	<u> X </u>
Ownership Change	<u> </u>
Name Change	<u> </u>
Permit Type Change	<u> </u>
Corporation	<u> </u>
Partnership	<u> </u>
LLC	<u> X </u>
Sole Proprietor	<u> </u>

5% or more Ownership

Name	Matthew L. Hollingsworth
Age	39
Residency City/State	Murfreesboro, TN
Race/Sex	White/M
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Francis H. Speer
Age	42
Residency City/State	Murfreesboro, TN
Race/Sex	White/M
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly? Yes

Occupancy Application Approved? No

The actual beer application is available in the office of the City Recorder.

***I request permission to issue the beer permit upon successful completion of all required building and codes inspections.

Beer Application

Summary of information from the beer application:

Name of Business Entity/Sole Proprietor	Main Event Entertainment, Inc.
Name of Business	Main Event Entertainment
Business Location	1510 Gresham Park Drive
Type of Business	Restaurant
Type of Permit Applied For	On-Premises Retail Permit

Type of Application:

New Location	<u> X </u>
Ownership Change	<u> </u>
Name Change	<u> </u>
Permit Type Change	<u> </u>
Corporation	<u> X </u>
Partnership	<u> </u>
LLC	<u> </u>
Sole Proprietor	<u> </u>

Local Manager:

Name	Kristina Williams
Age	38
Residency City/State	Murfreesboro, TN
Race/Sex	White/F
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly? Yes

Occupancy Application Approved? Yes

The actual beer application is available in the office of the City Recorder.

***I request permission to issue the beer permit upon successful completion of all required building and codes inspections.

Beer Application

Summary of information from the beer application:

Name of Business Entity/Sole Proprietor	Delicias Colombiana RR, LLC
Name of Business	Delicias Colombiana RR Colombian Restaurant
Business Location	2042 Lascassas Pike Suite A12
Type of Business	Restaurant
Type of Permit Applied For	On-Premises Retail Permit

Type of Application:

New Location	<u> X </u>
Ownership Change	<u> </u>
Name Change	<u> </u>
Permit Type Change	<u> </u>
Corporation	<u> </u>
Partnership	<u> </u>
LLC	<u> X </u>
Sole Proprietor	<u> </u>

5% or more Ownership

Name	Ruth Rico
Age	57
Residency City/State	
Race/Sex	Hispanic/F
Background Check Findings	
City of Murfreesboro:	No indication of any record that may preclude the applicant for consideration.
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly? Yes

Occupancy Application Approved? No

The actual beer application is available in the office of the City Recorder.

***I request permission to issue the beer permit upon successful completion of all required building and codes inspections.

Beer Application

Summary of information from the beer application:

Name of Corporation	CHB&B Entertainment, a series of CHB&B, LLC
Name of Business	Lanes, Trains, and Automobiles
Business Location	450 Butler Drive
Type of Business	Bowling Alley
Type of Permit Applied For	On-Premises Retail Permit

Type of Application:

New Location	_____
Ownership Change	_____ X _____
Name Change	_____
Permit Type Change	_____
Corporation	_____
Partnership	_____
LLC	_____ X _____
Sole Proprietor	_____

5% or more ownership:

Name	Chris Crockett
Age	31
Residency City/State	Huntsville, AL
Race/Sex	Black/M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Kedron Hilario
Age	34
Residency City/State	Murfreesboro, TN
Race/Sex	Black/M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Charles Brooks Jr
Age	32
Residency City/State	Murfreesboro, TN
Race/Sex	Black/M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Name	Markus Betts
Age	31
Residency City/State	Murfreesboro, TN
Race/Sex	Black/M
Background Check Findings	
City of Murfreesboro:	None
TBI/FBI:	No indication of any record that may preclude the applicant for consideration.

Application Completed Properly? Yes

Occupancy Application Approved? No

The actual beer application is available in the office of the City Recorder.

No Items.

