

MURFREESBORO CITY COUNCIL
Regular Meeting Agenda
Council Chambers – City Hall – 6:00 PM
July 23, 2020

PRAYER

Mr. Bill Shacklett

PLEDGE OF ALLEGIANCE

CEREMONIAL ITEM

Recognition of the Power Board

Consent Agenda

1. CDBG Consolidated Plan Extension Request to HUD (Community Development)
2. Contract with Rice Construction for the replacement of the City Hall internal gutter system (Facilities)
3. Professional Services Agreements with Tennis Instructors (Parks & Recreation)
4. Consider contract with Griggs and Maloney for On-call Plans Review Services (Planning)
5. School Patrol Service Contracts for Private Schools (Police)
6. Transit Agency Safety Plan (Transportation)

New Business

Ordinances and Resolutions

7. Resolution 20-R-20: Safety Partners Grant Program (Human Resources)
8. Ordinance 20-O-27: Amendment to City Code regarding Discharging Firearms (Administration)

Land Use Matters

9. Ordinance 20-OZ-20: Rezone approximately 0.47 acres located along S Maney Avenue, south of E State Street and north of E Castle Street (Planning)
 - a. Public Hearing: Rezone approximately 0.47 acres
 - b. First Reading: Ordinance 20-OZ-20
10. Ordinance 20-OZ-21: Amend the Gateway Village PUD (formerly known as the North Thompson Place PUD) on approximately 5.09 acres located along North Thompson Lane north of Medical Center Parkway
 - a. Public Hearing: Amend Gateway Village PUD
 - b. First Reading: Ordinance 20-OZ-21
11. Ordinance 20-O-22: Establishment of Shelton Square Special Sanitary Sewer Assessment District (Water Resources)
 - a. Public Hearing: Shelton Square Special Sanitary Sewer Assessment District
 - b. First Reading: Ordinance 20-O-22

On Motion

12. Amend the Community Development 2019-2020 Action Plan for CDBG CV-19 funds (Community Development)
13. Wireless Equipment Purchase (Schools)

Licensing

Board & Commission Appointments

14. Reappointments to the Board of Electrical Examiners (Administration)

Payment of Statements

Other Business

Adjournment

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: CDBG Consolidated Plan Extension Request to HUD
Department: Community Development
Presented by Helen Glynn, Assistant Director 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

Request time extension for submission of Community Development 2020-2025 Consolidated Plan per direction from HUD.

Staff Recommendation

Authorize the Mayor to request an extension to January 4, 2021 to submit the Plan.

Background Information

Due to COVID-19 community planning and response HUD is allowing entitlement cities until August 2021 extensions to submit updated Consolidated Plans. Community Development has begun the plan update and will complete at the end of this calendar year.

Council Priorities Served

Responsible Budgeting

CDBG funding provides additional services through federal funding, which supplements the local funding provided for community service.

Improve Economic Development

Improving economic development opportunities is an element that CDBG funding serves.

Expand Infrastructure

Infrastructure development may be addressed through CDBG funding and implementation.

Operational Issues

The extension will allow Community Development staff the time to complete a 2020-2025 Consolidated Plan while implementing programming for the CDBG CV-19 funds.

Fiscal Impact

Prior 2019-2020 CDBG budget dollars roll over to this fiscal year.

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: EPDM internal gutter replacement

Department: Facilities Management

Presented by: Bo Jones

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Contract with Rice Construction for the replacement of the City Hall internal gutter system.

Staff Recommendation

Approve construction contract with Rice Construction for \$132,973 for repair and replacement work on City Hall.

Background Information

City Hall roofing system uses an EPDM (ethylene propylene diene terpolymer) membrane to seal the building and prevent water penetration. The membrane is currently 28 years old and is showing significant wear. The EPDM portion of the roof has multiple leaks that have compromised the underlying insulation, which requires replacement.

Replacing the roof system components is necessary to address acceleration of current issues. A new membrane will prevent further water intrusion and provide a 20-year warranty.

Council Priorities Served

Responsible budgeting

Maintaining the City's buildings properly assures that the City's facility investment is protected and can be utilized fully for the provision of services to the community.

Operational Issues

Fiscal Impact

Funding in the amount of \$132,973 is available in the FY21 Capital Improvement Fund Operating Budget.

Attachments

Rice Construction Contract

 **AIA**® Document A105™ – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the ___ day of _____ in the year 2020
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Murfreesboro, Tennessee, a Tennessee municipal corporation
111 West Vine Street
Murfreesboro, TN 37130

and the Contractor:
(Name, legal status, address and other information)

Rice Construction Co., LLC
2327 Gravett St
Murfreesboro, TN 37129

for the following Project:
(Name, location and detailed description)

City Hall – Internal Gutter Replacement
111 West Vine Street
Murfreesboro, TN

The Project Engineer:
(Name, legal status, address and other information)

Robert Warren
Robert Warren Associates
P.O. Box 10767
Murfreesboro, TN 37129

The Structural-Foundation Engineer:
(Name, legal status, address and other information)

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The Owner and Contractor agree as follows.

Init.

TABLE OF ARTICLES

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- 16 TERMINATION OF THE CONTRACT
- 17 OTHER TERMS AND CONDITIONS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Engineers, dated as set forth below, and enumerated as follows:

Drawings:
Number
See below

Title

Date

Specifications:
Section
Exhibit I

Title

ITB-30-2020 – City Hall
Internal Gutter Replacement

Pages

Section 2, page 9 of Exhibit I

- .3 addenda prepared by the Engineers as follows:

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Number	Date	Pages
None		
.4	written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and	
.5	other documents, if any, identified as follows:	
	1. Exhibit A – Supplemental Conditions	
	2. Exhibit B – Insurance Requirements	
	3. Exhibit C – Firestone Technical Information Sheet	
	4. Exhibit D – Contractor’s Bid Response	
	5. Exhibit E - Non-Collusion Affidavit	
	6. Exhibit F – Drug Free Workplace Affidavit	
	7. Exhibit G – Performance Bond	
	8. Exhibit H – Payment Bond	
	9. Exhibit I – Specifications set forth in ITB-30-2020 – City Hall Internal Gutter Replacement	

In the event of a conflict between the terms of this Agreement and those of either Exhibit A, the exhibit’s terms shall take precedence.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

The date of commencement shall be the date
(Paragraphs deleted)
on which the Owner issues the Notice to Proceed.

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:
(Check the appropriate box and complete the necessary information.)

Not later than one hundred twenty (120) calendar days from issuance of the Notice to Proceed

By the following date:

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

_____ \$132,973.00 , as reflected in greater detail in Exhibit D.

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:
(Itemize the Contract Sum among the major portions of the Work.)

Portion of the Work	Value
N/A	N/A

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:

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(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

N/A

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:
(Identify each allowance.)

Item	Price
N/A	N/A

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

Item	Units and Limitations	Price per Unit (\$0.00)
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§3.6 The Contractor shall pay all taxes, levies, duties, and assessments of any nature, that are applicable to any Work under this Contract. The Contract Sum and any agreed variations thereof shall include all taxes imposed by law. The Contractor shall make any and all payroll deductions required by law. The Contractor herein indemnifies and holds the Owner harmless from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor's Applications for Payment certified by the Owner, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

(Insert below timing for payments and provisions for withholding retainage, if any.)

any undisputed amount not later than thirty (30) days after the Owner receives the Contractor's Application, provided, however, the Owner may withhold five percent (5%) of any undisputed amount as retainage

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

(Insert rate of interest agreed upon, if any.)

3.0 % per annum

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1 and Exhibit B:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than One Million Dollars (\$ \$1,000,000.00) each occurrence, One Million Dollars (\$ \$1,000,000.00) general aggregate, and One Million Dollars (\$ \$1,000,000.00) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than One Million Dollars (\$ \$1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage

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than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than One Million Dollars (\$ 1,000,000.00) each accident, One Million Dollars (\$ 1,000,000) each employee, and One Million Dollars (\$ 1,000,000.00) policy limit.

§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
Umbrella/Excess	One Million Dollars (\$1,000,000.00)
Equipment Property Insurance	One Million Dollars (\$100,000,000.00)

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Engineer, Engineer's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

§ 5.6 Payment and Performance Bonds.

§ 5.6.1 Unless waived by the Owner in the event of a Contract Sum less than \$100,000, the Contractor shall secure performance and payment bonds for 100% of the Contract Sum on a form acceptable to the Owner covering the faithful performance and completion of the Agreement and the payment of all obligations arising there under. Bonds shall be issued by a surety licensed in the State of Tennessee and satisfactory to the Owner.

§ 5.6.2 The Contractor must provide evidence of Bonds prior to the beginning of work. If the Performance and Payment Bonds are not furnished within 30 days of Notice of Award, the Contractor Bid Bond may be forfeited, and the Contract may be awarded to an alternate contractor.

§ 5.6.3 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.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

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§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.2.1 Specifications may describe types and quantities of materials, equipment, and other items of the Work and methods of installation that cannot be easily shown on the Drawings. It is not intended that the Specifications will mention every item of Work that can be adequately shown on the Drawings nor is it intended that the Drawings will show all items of Work adequately described or required by the Specifications, even if it is the case that such Work could have been shown thereon. The Contract Documents are complimentary, and what is required by, or reasonably inferable, by one shall be as binding as if required by all. In the event of conflicts or discrepancies among the Contract Documents, this Agreement will take precedent over the Specifications and Drawings.

§ 6.2.2 Prior to the inspections for Substantial Completion and Final Completion, as applicable, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. In the event there are conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. Amendments or Change Orders, with those of later date having precedence over those of earlier date
2. The Agreement
3. Exhibits and Addenda, with those of later date having precedence over those of earlier date.
4. Drawings and Specifications
5. In the case of any conflicts or discrepancies between Drawings and Specifications or within or among the Contract Documents and not clarified by Addendum, the better quality or greater quantity of Work shall be provided in accordance with the Owner's interpretation.

§ 6.4 Ownership and Use of Engineers' Drawings, Specifications and Other Documents

Documents prepared by the Engineers are instruments of the Engineers' service for use solely with respect to this Project. The Engineers shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Engineers.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.

(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

To Owner: Craig Tindall, City Manager ctindall@murfreesborotn.gov	To Contractor: Tim Rice, Owner riceconstruction@gmail.com
with copies to: <ul style="list-style-type: none"> Bo Jones, Owner's Representative jjones@murfreesborotn.gov Gary Whitaker, Assistant City Manager gwhitaker@murfreesborotn.gov 	Rice Construction Co., LLC 2327 Gravett St. Murfreesboro, TN 37129

Any notice sent via email shall be sent requesting a delivery receipt for the message. If the party sending the notice does not receive a delivery receipt within 24 hours, the party shall send notice via Certified U.S. Mail, private courier, or hand delivery to the other party.

§ 6.5 Non-Discrimination. It is the policy of the Owner 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.

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges. If the Contractor's bid includes fees that the Owner has paid, or is required to pay directly, or that the Owner may waive, the Contractor shall, at the Owner's option, either pay these fees as a part of their bid or deduct fees from Contract Sum as a deductive change order.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents or is in default of its material obligations under the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made or default is cured, for which there will be no Change Order extending the Contract Time or the Contract Sum.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Owner may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Owner. In addition, if payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner immediately upon the Owner's written demand.

§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

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§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Owner. Reports of errors, inconsistencies, or omissions must be made in writing and copies provided directly to the Owner.

§ 8.1.3 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

- .1 That the Contractor is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
- .2 That the Contractor is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
- .3 That the Contractor is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental authorities having jurisdiction over it, the Work, or the site of the Project; and
- .4 That the execution of the Contract and its performance thereof are within the duly-authorized powers of the Contractor and the signatory on behalf of the Contractor.

§ 8.1.4 Contractor shall be responsible for ascertaining correct dimensions, and Contractor is not to ascertain dimensions simply by scaling drawings unless directed to do so by the Owner or Project Engineer. In case of any discrepancy between Drawings and Specifications, Contractor shall consult the Project Engineer promptly for an interpretation before proceeding with the Work.

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's information a Contractor's construction schedule for the Work. Contractor must maintain an updated project schedule and if milestones are negatively impacted, Contractor must, prior to submission of the next application for payment, provide Owner with a specific plan to return the project to the project schedule.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner have made a timely and reasonable objection.

§ 8.3.3 Layout new construction lines and verify slab slope and conditions. If discrepancies between actual lines and elevations and those indicated on plans exist, notify Project Engineer and Owner and obtain a decision before starting work.

§ 8.3.4 The Contractor shall establish and maintain reference points required for the work. Contractor shall lay out on the rough floor the exact locations of partitions, openings, etc. as a guide to all trades. Contractor shall verify elevations, lines, levels, and dimensions indicated on the drawings before commencing work.

§ 8.3.5 The Contractor shall be responsible to the Owner for the acts and omissions of all his employees and all Subcontractors, their agents and employees, and all other persons performing any of the Work under a contract with the Contractor.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.4.3 Contractor agrees to keep the Project free and clear from all mechanic's liens, materialmen liens, and other liens. The Contractor shall discharge any such lien immediately but in no event more than 30 days after filing of such a lien. In the event such lien is not released or discharged within such 30 days period, the Owner shall have the right to pay all sums necessary to discharge such liens and the Owner shall have the right to deduct such amounts from any amounts due hereunder or demand immediate payment from the Contractor. In the event of any such deduction, the Contract Sum due under the Contract Documents automatically shall be reduced by the amount of such payment without the need for any Change Order. In no instance shall this provision affect any limitation or restriction imposed by law or regulation on the placement or enforcement of liens.

§ 8.4.4 Substitutions:

.1 Where materials, equipment, apparatus, or other products are specified by manufacturer, brand name, type or catalog number, such designation shall establish standards of quality and style desired. Any reasonable request for substitution will be considered, if in the opinion of the Owner such materials are equal to the material specified and entirely satisfactory for use in the project. The Owner shall be the sole judge of acceptability of substitution.

.2 By making requests for substitutions, the Contractor:

- A. Represents that it has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;
- B. Represents that it will provide the same warranty for the substitution as it would for the product specified;
- C. Certifies that the cost data presented is complete and includes all related costs for the substituted product and for Work that must be changed as a result of the substitution, and waives all claims for additional costs related to the substitution that subsequently become apparent; and
- D. Shall coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

.3 When a material, equipment or system is specified by the name of one or more manufacturers, such material, equipment, or system shall form the basis of the Contract. If the Contractor desires to make a substitution, Contractor shall comply with Specification Sections 01 25 13 and 00 43 25.

.4 The Owner shall be entitled to reimbursement from the Contractor for amounts the Owner pays to an engineer or consultant for reviewing the Contractor proposed substitutions and making agreed-upon changes in the Drawings and Specifications resulting from such substitutions.

§ 8.4.5 The use of undocumented workers is not permitted.

§ 8.4.6 The Contractor shall have the Subcontractor who installs them, correct defects in bases, surfaces, or substrates on which finishing materials are to be applied, construction is to be added, or equipment is to be mounted.

§ 8.4.7 The Contractor shall disclose the existence and extent of any financial interest, whether direct or indirect, he has in subcontractors or material suppliers which he may propose for this project.

§ 8.5 Warranty

§ 8.5.1 The Contractor warrants to the Owner that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the contract documents. The warranty provided in this Section shall be in addition to and not in limitation of any other warranty, including, manufacturer or supplier warranties, or remedy required by law or by the Contract Documents, and notwithstanding anything to the contrary contained in the Contract Documents. This warranty commences upon Final Completion. The Contractor shall promptly repair and replace, at the Contractor's sole cost and expense, any materials, equipment, or Work covered by and violating the warranty. All warranty work shall be coordinated with the Owner in order to limit the disruption of operation and completed Project. All such warranty work shall be completed in compliance with the terms and conditions of the Contract Documents.

§ 8.5.2 Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse of Owner or Owner's invitees, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 8.5.3 Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferrable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

§ 8.7 Permits, Fees and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Owner shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials. If the Contractor fails to clean-up as provided in the

Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor and deducted from the remaining. No on-site burning of trash is allowed.

§ 8.12 Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Engineers, Engineers' consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. The provisions of this Section 8.12 shall survive the completion of the Work or termination of the Agreement.

ARTICLE 9 PROJECT MANAGEMENT

§ 9.1 The Owner will provide administration of the Contract as described in the Contract Documents. The Owner will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Owner will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work. Representatives of the Owner and Contractor shall meet periodically at mutually agreed-upon intervals for the purposes of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participation in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationship which may otherwise exist.

§ 9.3 The Owner will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Owner will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Owner's observations and evaluations of the Contractor's Applications for Payment, the Owner will review and certify the amounts due the Contractor.

§ 9.5 The Owner has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Owner will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Owner will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 Interpretations and decisions of the Owner will be consistent with the intent of, and reasonably inferable from the Contract Documents.

(Paragraph deleted)

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing.

§ 10.1.1 Changes in the Work may be accomplished by Change Order, Change Directive, or Field Order, all of which the Contractor shall diligently effectuate and carry out.

- .1 A Change Order is a written instrument prepared by the Owner and signed by the Owner and the Contractor, stating their agreement upon all of the following: (i) the change of the Work; (ii) the amount of the adjustment, if any, in the Contract Sum; and (iii) the extent of the adjustment, if any,

in the Contract Time. No change to the Contract Sum or Contract Time is effective without a written, signed Change Order. The Contractor's sole remedy for any changes is to secure a Change Order.

- .2 A Change Directive is a change required by the Owner that does not affect the Contract Time or Contract Sum and will be issued by the Owner in writing to the Contractor.
- .3 A Field Order is a minor change or deviation in the Specifications or Drawings and not inconsistent with the Contract that do not affect the Contract Time or Contract Sum and can be made verbally by the Owner and summarized within seven days in writing provided to the Contractor. The Contractor may request that the Owner convert a Field Order to a Change Directive.

§ 10.1.2 Should the Contractor believe a Change Directive requires a Change Order, the Contractor must make a Claim in accordance with the Agreement within 15 days of the Change Directive being issued.

§ 10.1.3 The Owner's representative shall have authority to authorize contract modifications less than \$10,000.00. Contract modifications of \$10,000.00 or greater require approval by Murfreesboro City Council.

§ 10.2 The Owner may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

§ 10.4 The combined overhead and profit included in the total cost to the Owner of a change in the Work shall be based upon the following schedule:

- .1 For the Contractor, for Work performed by the Contractor's own forces at the fee negotiated with the owner of the cost.
- .2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor.
- .3 For each Subcontractor or Sub-Subcontractor involved, for Work performed by that Subcontractor's or Sub-Subcontractor's own forces, ten percent (10%) of the cost.
- .4 For each Subcontractor, for Work performed by the Subcontractor's Sub- Subcontractors, five percent (5%) of the amount due the Sub-Subcontractor.
- .5 Cost to which overhead and profit is to be applied shall be determined in accordance with Section 10.1.1.
- .6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials and Subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are Subcontracts, they shall be itemized also. In no case will a change involving over \$500.00 be approved without such itemization.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract. Extensions of time will not be granted for delays caused by inadequate construction force, the failure of the Contractor to place orders for equipment or materials sufficiently in advance to ensure delivery when needed, or the failure of Contractor to protect properly the site from inclement weather.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment. If the Contractor is delayed at any time in progress of the work by an act or neglect of the Owner or its employee(s), or of a separate Contractor employed by the Owner, or by changes ordered in the work that affect the "critical path" of the work, or by labor disputes, fire, unavoidable

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casualties, or other causes beyond the Contractor's control, except as defined in Articles 3 and 15, or by other causes which the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as Owner may determine. Extended overhead, profit, and other indirect costs related to the extension of the contract time will not be allowed.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Owner an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing. The form of Application for Payment duly notarized shall be a current authorized edition of AIA Document G702-1992 Application and Certificate for Payment, supported by a current authorized edition of AIA Document G703-1992, Continuation Sheet.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.2.3 In Applications for Payment, the amount represented as total completed and stored to date shall reflect the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work, and materials and equipment suitably stored in accordance with Subparagraph 4.2 and not exceed the Contract Sum less the value of incomplete work and corrections required. This total completed and stored to date shall not be construed to define completion as determined for Substantial Completion or final completion of the Work according to 12.5 or 12.6.

§ 12.2.4 Applications for Payment shall indicate retainage withheld from the total completed and stored to date as follows: Five percent (5%) until acceptance of a Certificate of Substantial Completion, and thereafter two percent (2%) until final payment. The resulting amount shall be indicated as the total earned less retainage. Applications that reduce retainage shall be accompanied by Consent of Surety.

§ 12.2.5 Applications for Payment shall indicate the total earned less retainage, and the aggregate of previous payments made subtracted therefrom, and an amount requested.

§ 12.3 Certificates for Payment

§ 12.3.1 The Owner will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Owner determines is properly due, and notify the Contractor and Owner in writing of the Owner's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor of the Owner's reason for withholding certification in whole. If certification or notification is not made within such seven-day period, the Contractor may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

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§ 12.3.2 The Owner may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Contractor. If the Contractor and the Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount for which the Owner is able to make such representations. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions, because of, but not limited to:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 persistent failure to carry out the Work in accordance with the Contract Documents or unsatisfactory execution of the Work;
- .8 failure of the Contractor to comply with applicable Codes, Laws, or Regulations;
- .9 failure to update as-built drawings or provide construction photographs with the Application for Payment as required by the Contract Documents. (If these documents/items are not provided for actual work performed for a period of work covered by an Application for Payment and cannot be accurately provided due to passage of time, the Owner may deduct a reasonable amount from the Agreement sum to reflect work not performed that cannot be recovered due to progress of work.)
- .10 failure to update the CPM schedule concurrent with the request for payment; or
- .11 Any other reasonable basis to withhold certification.

§ 12.3.4 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld. The Owner shall have no liability whatsoever for interest or other charges resulting from withholding of payment for any reason stated in this Article.

§ 12.3.5 If any claim or lien is made or filed with or against the Owner, the Project or the Premises by any person claiming that the Contractor or any Subcontractor or other person under it has failed to make payment for any labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, or if at any time there shall be evidence of such nonpayment or of any claim or lien for which, if established, the Owner might become liable and which is chargeable to the Contractor, or if the Contractor or any Subcontractor or other person under it causes damage to the Work or to any other work on the Project, or if the Contractor fails to perform or is otherwise in default under any of the terms or provisions of the Contract Documents, the Owner shall withhold certification, and the Owner shall have the right to retain from any payment then due or thereafter to become due an amount which the Owner shall deem sufficient to:

- .1 satisfy, discharge and/or defend against any such claim or lien or any action which may be brought or judgement which may be recovered thereon,
- .2 make good any such nonpayment, damage, failure or default, and
- .3 compensate the Owner for and indemnify it against any and all losses, liability, damages, costs and expenses, including reasonable attorneys' fees and disbursements, which may be sustained or incurred by the Owner in connection therewith. The Owner shall have the right to apply and charge against the Contractor so much of the amount retained as may be required for the foregoing purposes. If such amount is insufficient therefore, the Contractor shall be liable for the difference and pay the same to the Owner.

§ 12.4 Progress Payments

§ 12.4.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

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§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 The Owner shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.4.5 The Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall reflect such payment on the next Certificate for Payment.

§ 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficient complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when all required occupancy permits have been issued such as, but not limited to, Local Building Occupancy Permits, and copies of same have been delivered to the Owner. In order to occupy or utilize the Work for its intended use, Owner must have received complete Project Data, Operating and Maintenance Data, orientation and training, as may be required by the specifications. The work will not be considered ready for Substantial Completion if any of the following conditions exist:

- .1 Excessive punch list work remains to be completed that would prevent or interfere with the occupancy and intended use of the facility in the Owner's reasonable judgment;
- .2 Incomplete or defective work remains which would prevent or interfere with the occupancy and intended use of the facility;
- .3 The building mechanical systems have not been tested, balanced, and accepted as being fully complete;
- .4 The building electrical and life safety systems have not been tested and accepted as being fully complete;
- .5 The building commissioning process is not complete;
- .6 Final clean-up is not complete to support the occupancy and intended use of the facility other than clean-up associated with punch list items;
- .7 Final Inspections, approvals, and temporary or final Certificates of Occupancy by regulatory officials are not received and complete;
- .8 Successful compliant testing of all data cabling (copper, fiber or other) and labeling of all data ports is incomplete; or
- .9 Any other basis for the Owner's reasonable determination that Substantial Completion has not been achieved.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Owner and the Owner will make an inspection to determine whether the Work is substantially complete. When the Owner determines that the Work is substantially complete, the Owner shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.5.3 Upon receipt of the Certificate of Substantial Completion, Contractor may submit a final Application for Payment that includes the retainage withheld from prior Applications pursuant to Section 4.1.

§ 12.5.4 Unless the project has phased Substantial Completion dates, the Owner will make only one such inspection to determine Substantial Completion. If this inspection determines that the work is not substantially complete, either because of major items not completed or an excessive number of punch list items, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of \$1,000.00 per person per day plus expenses. The costs of these re-inspections shall be added to the contract by change order.

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§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Owner will inspect the Work. When the Owner finds the Work acceptable and the Contract fully performed, the Owner will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Owner releases and waivers of liens, claims, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 12.6.4 Unless the project has phased Final Completion dates, The Owner will make only one such inspection to determine Final Completion. If this inspection determines that the work is not finally complete, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of \$1,000.00 per person per day plus expenses. The costs of these re-inspections shall be added to the contract by change order.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

§ 13.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

§ 13.2 The Contractor is responsible for compliance with any requirements included in the Contract Documents and all applicable laws, rules, and regulations regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing. The Contractor shall provide the Owner with notice of all hazardous substances as regulated by the Comprehensive Environmental and Liability Act as amended and/or regulated under any other applicable law which the Contractor brings on to the site.

§ 13.3 When the storage of explosives, or other hazardous materials, substances or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall give the Owner reasonable advance notice.

§ 13.4 Protect owners, persons, building components not to be demolished or modified, and building grounds from damage of any sort. Furnish necessary equipment to provide this protection during the life of the contract. Construct and maintain necessary temporary drainage to keep excavations free of water.

§ 13.5 Provide protection for the stored materials against wind, storms, cold or heat. At the end of each day's work, cover new work or stored items likely to be damaged.

§ 13.6 Provide shoring and bracing required for safety and for the proper execution of the work and have same removed when the work is completed.

§ 13.7 Protect, maintain and restore any bench marks, monuments, etc. affected by this work. If bench marks or monuments are displaced or destroyed, points shall be re-established and markers reset under the supervision of a licensed surveyor, who shall furnish certificates of his work.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Owner as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

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§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents. This provision does not relieve the Contractor from conforming to the requirements of the Contract Documents or correcting items not compliant with the Contract Documents per applicable laws, statutes, or any regulations, whether they are observable, concealed, or in any other condition or status, nor does this provision in any way limit any warranties, service contractors, or similar agreements with third party service, equipment, or materials providers.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other. In addition, the Contractor may not assign its responsibilities, duties, obligations, and rights under this Agreement, without the express written consent of the Owner. This does not prevent the Contractor from engaging subcontractors to perform various phases of the Project, but the Contractor shall be fully responsible to the Owner for the work, actions, and omissions of all such subcontractors. No person or entity shall be deemed to be a third-party beneficiary of any provisions of the Contract, nor shall any provisions thereof be interpreted to create a right of action or otherwise permit anyone not a signatory party to the Contract to maintain an action for personal injury or property damage.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Owner shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents, including specifically Section 15.2.4, or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Owner requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.2.4 In addition to any test, inspections, and approvals by applicable law or elsewhere in the Contract Documents, Owner shall arrange and bear the costs for the following tests:

1. Building pad and parking lot subgrade proof-roll test
2. Concrete testing
3. Structural Steel Visual Inspection of Bolts and Connections

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 15.4 Venue

Exclusive venue for any dispute arising from this Agreement or relating to this Project shall be in the Circuit or Chancery Courts of Rutherford County, Tennessee.

§ 15.5 Attorneys' Fees

If either party is required to bring an action to enforce the terms hereof or declare rights hereunder, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees from the non-prevailing party.

§ 15.6 No Mandatory Arbitration

Notwithstanding anything to the contrary in this Agreement, or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

§ 15.7 Subject to Applicable Law; Severability

This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidity of any portion of this Agreement under the laws of the State of Tennessee or of the United States shall not affect the validity of the remainder of this Agreement.

§ 15.8 No Waiver; Cumulative Duties and Remedies

No action or failure to act by the Owner or the Contractor shall constitute a waiver of any right or duty afforded under the Contract Documents, nor shall any such action or failure to act constitute any approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing. The duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law or equity.

§ 15.9 Theft-Deterrence Program

The Contractor shall institute a theft-deterrence program designed to restrict construction worker access to properties of the Owner that are currently in use, to maintain supervision of the Contractor's and the Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from the Contractor's forces or the Contractor's subcontractor's forces, as charged and determined by the local authorities having jurisdiction.

§ 15.10 No Construction Against Maker of Modifications

As a material consideration of the making of this Agreement, the modifications to this Agreement shall not be construed against the maker of said modifications.

§ 15.11 Independent Contractors

The parties agree that the contractual relationship of the Contractor to the Owner is one solely of an independent contractor in all respects and that the Contract Documents do not in any way create a partnership, joint venture, or any other relationship between the parties other than the contractual relationship as specified in the Contract.

§ 15.12 Binding on Successors and Assigns

This Agreement in its entirety shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators, or assigns.

§ 15.13 Execution

The Contract Documents may be executed in any number of counterparts, all of which taken together shall constitute one and the same Agreement. Any signature of or pursuant to the Contract Documents shall be considered for all purposes an original signature and of the same legal effect as an original, provided that at the request of a party any signature sent by facsimile shall subsequently be confirmed by an original re-execution.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and

.2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 Termination by the Owner for Convenience

§ 16.3.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. In such case, the Owner will provide the Contractor seven days written notice of intent to terminate. Upon receipt of such notice, the Contractor shall take immediate action to mitigate any damage or additional expense. The Contractor shall be entitled to receive payment for Work executed.

§ 16.3.2 The terms of this Contract are contingent upon sufficient appropriations and authorizations being made by the Owner for the performance of this Contract. If sufficient appropriations and authorizations are not made by the Owner, this Contract shall terminate, without penalty or expense to the Owner of any kind whatsoever, upon written notice being given by the Owner to the Contractor. Upon receipt of such notice, the Contractor shall take immediate action to mitigate any damage or additional expense. The Contractor shall be entitled to receive payment for Work executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

§ 17.1 Claims and Disputes

§ 17.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and the Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 17.1.2 Notice of Claims.

- .1 Claims by either the Owner or the Contractor must be initiated by written notice to the other party. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.
- .2 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a contractor default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 17.1.3 **Continuing Contract Performance.** Pending final resolution of a Claim, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 17.1.4 Claims

- .1 **For Additional Cost.** If the Contractor makes a Claim for an increase in the Contract Sum, written notice to the Owner shall be given before proceeding to execute the Work if practical or within 15 days of any Change Directive. Prior notice is not required for Claims relating to an emergency endangering life or property.
- .2 **For Additional Time.** If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice to the Owner shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions that were clearly

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abnormal for the period of time such that they could not have been reasonably anticipated and clearly had an adverse effect on the scheduled construction.

- A. Claims for increase in the Contract Time shall set forth, in detail the circumstances that form the basis for the Claim, the date upon which the cause of the delay began to affect the progress of the Work, the date upon which the cause of delay ceased to affect the progress of the Work, and the number of days increased in the Contract Time claimed as a consequence of each cause of delay.
- B. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all of the activities affected by the circumstances forming the basis of the claim. The Contractor shall not be entitled to a separate increase of the Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the work, or for concurrent delays due to the fault of the Contractor.

§ 17.1.5 Initial Decision on Claims Made by Contractor

- .1 The Owner will make an initial decision on all claims submitted by the Contractor. An initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Owner with no decision having been rendered.
- .2 The Owner will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (i) request additional supporting data from the claimant or a response with supporting data from the other party, (ii) reject the Claim in whole or in part, (iii) approve the Claim, (iv) suggest a compromise, or (v) advise the Contractor that the Owner is unable to resolve the Claim because the Owner lacks sufficient information to evaluate the merits of the Claim.
- .3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist Owner in rendering a decision.
- .4 The Owner will render an initial decision approving or rejecting the Claim or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (i) be in writing; (ii) state the reasons therefor; and (iii) notify the Contractor of any recommended Change Order.

§ 17.1.6 Mediation.

- .1 Claims, disputes, or other matters in controversy arising out of or related to the contract not resolved by the Initial Decision-Making process, nor waived under this Contract, shall be subject to mediation as a condition precedent to binding dispute resolution.
- .2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Contract. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation.
- .3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- .4 Exceptions:
 - A. Neither the Owner nor Contractor are not be required to mediate any third-party claim, cross-claim, counter claim, or other claim or defenses in any action that is commenced by a third-party who is not obligated by contract to arbitrate disputes with the Owner and Contractor.
 - B. The Owner or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice (but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Tennessee law), without the first requesting mediation.
 - C. This section 17.1.6 does not apply to, and may not be construed to require mediation of, any claims, actions or other process undertaken, filed, or issued by the City of

Init.

Murfreesboro Building and Codes Department, Planning Department, Police Department, Fire Department, or any other agency of the Owner (the City) acting in its governmental permitting, for the benefit of public health, safety, and welfare, or other regulatory capacity.

§ 17.1.7 Binding Dispute Resolution. For any Claim subject to, but not resolved by, mediation per this agreement, the method of binding dispute resolution shall be litigated only in a Rutherford County court of competent jurisdiction.

This Agreement entered into as of the day and year first written above.
(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

City of Murfreesboro

Rice Construction Co., LLC

OWNER *(Signature)*

Shane McFarland, Mayor

(Printed name and title)

CONTRACTOR *(Signature)*

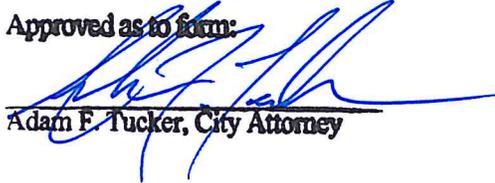
Tim Rice, Owner

(Printed name and title)

LICENSE NO.:

JURISDICTION:

Approved as to form:



Adam F. Tucker, City Attorney

Additions and Deletions Report for AIA[®] Document A105™ – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:55:21 ET on 07/14/2020.

PAGE 1

AGREEMENT made as of the ____ day of _____ in the year 2020

...

City of Murfreesboro, Tennessee, a Tennessee municipal corporation
111 West Vine Street
Murfreesboro, TN 37130

...

Rice Construction Co., LLC
2327 Gravett St
Murfreesboro, TN 37129

...

City Hall – Internal Gutter Replacement
111 West Vine Street
Murfreesboro, TN

~~The Architect:~~Project Engineer:
(Name, legal status, address and other information)

Robert Warren
Robert Warren Associates
P.O. Box 10767
Murfreesboro, TN 37129

...

The Structural-Foundation Engineer:
(Name, legal status, address and other information)

PAGE 2

9 ARCHITECT/OWNER

...

- .2 the drawings and specifications prepared by the ~~Architect, dated~~ Engineers, dated as set forth below, and enumerated as follows:

...

See below

...

Exhibit I

ITB-30-2020 – City Hall
Internal Gutter Replacement

Section 2, page 9 of Exhibit I

PAGE 3 .3 addenda prepared by the ~~Architect-Engineers~~ Architect-Engineers as follows:

None

...

- 1. Exhibit A – Supplemental Conditions
- 2. Exhibit B – Insurance Requirements
- 3. Exhibit C – Firestone Technical Information Sheet
- 4. Exhibit D – Contractor’s Bid Response
- 5. Exhibit E - Non-Collusion Affidavit
- 6. Exhibit F – Drug Free Workplace Affidavit
- 7. Exhibit G – Performance Bond
- 8. Exhibit H – Payment Bond
- 9. Exhibit I – Specifications set forth in ITB-30-2020 – City Hall Internal Gutter Replacement

In the event of a conflict between the terms of this Agreement and those of either Exhibit A, the exhibit’s terms shall take precedence.

...

~~Unless otherwise set forth below, the
The date of commencement shall be the date of this Agreement.
(Insert the date of commencement if other than the date of this Agreement.)~~

on which the Owner issues the Notice to Proceed.

...

Not later than one hundred twenty (120) calendar days from the date of commencement-issuance of the Notice to Proceed

...

~~(\$)~~ \$132,973.00 , as reflected in greater detail in Exhibit D.

...

N/A
PAGE 4

N/A

N/A

...

N/A

N/A

...

§3.6 The Contractor shall pay all taxes, levies, duties, and assessments of any nature, that are applicable to any Work under this Contract. The Contract Sum and any agreed variations thereof shall include all taxes imposed by law. The Contractor shall make any and all payroll deductions required by law. The Contractor herein indemnifies and holds the Owner harmless from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

§ 4.1 Based on Contractor’s Applications for Payment certified by the ~~Architect, Owner,~~ the Owner shall pay the Contractor, in accordance with Article 12, as follows:

...

any undisputed amount not later than thirty (30) days after the Owner receives the Contractor’s Application, provided, however, the Owner may withhold five percent (5%) of any undisputed amount as retainage

...

3.0 % per annum

...

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this ~~Section 5.1:~~Section 5.1 and Exhibit B:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than One Million Dollars (\$ \$1,000,000.00) each occurrence, One Million Dollars (\$ \$1,000,000.00) general aggregate, and One Million Dollars (\$ \$1,000,000.00) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than One Million Dollars (\$ \$1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

PAGE 5

§ 5.1.5 Employers’ Liability with policy limits not less than One Million Dollars (\$ \$1,000,000.00) each accident, One Million Dollars (\$ 1,000,000) each employee, and One Million Dollars (\$ 1,000,000.00) policy limit.

...

<u>Umbrella/Excess</u>	<u>One Million Dollars (\$1,000,000.00)</u>
<u>Equipment Property Insurance</u>	<u>One Million Dollars (\$100,000,000.00)</u>

...

§ 5.5 Unless specifically precluded by the Owner’s property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the ~~Architect, Architect’s Engineer, Engineer’s~~ consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

§ 5.6 Payment and Performance Bonds.

§ 5.6.1 Unless waived by the Owner in the event of a Contract Sum less than \$100,000, the Contractor shall secure performance and payment bonds for 100% of the Contract Sum on a form acceptable to the Owner covering the faithful performance and completion of the Agreement and the payment of all obligations arising there under. Bonds shall be issued by a surety licensed in the State of Tennessee and satisfactory to the Owner.

§ 5.6.2 The Contractor must provide evidence of Bonds prior to the beginning of work. If the Performance and Payment Bonds are not furnished within 30 days of Notice of Award, the Contractor Bid Bond may be forfeited, and the Contract may be awarded to an alternate contractor.

§ 5.6.3 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.

PAGE 6

§ 6.2.1 Specifications may describe types and quantities of materials, equipment, and other items of the Work and methods of installation that cannot be easily shown on the Drawings. It is not intended that the Specifications will mention every item of Work that can be adequately shown on the Drawings nor is it intended that the Drawings will show all items of Work adequately described or required by the Specifications, even if it is the case that such Work could have been shown thereon. The Contract Documents are complimentary, and what is required by, or reasonably inferable, by one shall be as binding as if required by all. In the event of conflicts or discrepancies among the Contract Documents, this Agreement will take precedent over the Specifications and Drawings.

§ 6.2.2 Prior to the inspections for Substantial Completion and Final Completion, as applicable, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all. In the event there are conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

1. Amendments or Change Orders, with those of later date having precedence over those of earlier date
2. The Agreement
3. Exhibits and Addenda, with those of later date having precedence over those of earlier date.
4. Drawings and Specifications
5. In the case of any conflicts or discrepancies between Drawings and Specifications or within or among the Contract Documents and not clarified by Addendum, the better quality or greater quantity of Work shall be provided in accordance with the Owner's interpretation.

§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

~~Documents prepared by the Architect-Engineers are instruments of the Architect's Engineers' service for use solely with respect to this Project. The Architect-Engineers shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect-Engineers.~~

...

<p>To Owner: <u>Craig Tindall, City Manager</u> <u>ctindall@murfreesborotn.gov</u></p> <p>with copies to:</p> <ul style="list-style-type: none"> • <u>Bo Jones, Owner's Representative</u> <u>jjones@murfreesborotn.gov</u> • <u>Gary Whitaker, Assistant City Manager</u> <u>gwhitaker@murfreesborotn.gov</u> 	<p>To Contractor: <u>Tim Rice, Owner</u> <u>riceconstruction@gmail.com</u></p> <p><u>Rice Construction Co., LLC</u> <u>2327 Gravett St.</u> <u>Murfreesboro, TN 37129</u></p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Any notice sent via email shall be sent requesting a delivery receipt for the message. If the party sending the notice does not receive a delivery receipt within 24 hours, the party shall send notice via Certified U.S. Mail, private courier, or hand delivery to the other party.

§ 6.5 Non-Discrimination. It is the policy of the Owner 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.

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§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges. If the Contractor's bid includes fees that the Owner has paid, or is required to pay directly, or that the Owner may waive, the Contractor shall, at the Owner's option, either pay these fees as a part of their bid or deduct fees from Contract Sum as a deductive change order.

...

If the Contractor fails to correct Work which is not in accordance with the Contract Documents or is in default of its material obligations under the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made-made or default is cured, for which there will be no Change Order extending the Contract Time or the Contract Sum.

...

If the 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 Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the ~~Architect~~ Owner may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by ~~the Architect~~ the Owner. In addition, if payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner immediately upon the Owner's written demand.

PAGE 8

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the ~~Architect~~ Owner. Reports of errors, inconsistencies, or omissions must be made in writing and copies provided directly to the Owner.

§ 8.1.3 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

- .1 That the Contractor is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
- .2 That the Contractor is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
- .3 That the Contractor is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental authorities having jurisdiction over it, the Work, or the site of the Project; and
- .4 That the execution of the Contract and its performance thereof are within the duly-authorized powers of the Contractor and the signatory on behalf of the Contractor.

§ 8.1.4 Contractor shall be responsible for ascertaining correct dimensions, and Contractor is not to ascertain dimensions simply by scaling drawings unless directed to do so by the Owner or Project Engineer. In case of any discrepancy between Drawings and Specifications, Contractor shall consult the Project Engineer promptly for an interpretation before proceeding with the Work.

...

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. Contractor must maintain an updated project schedule and if milestones are negatively impacted, Contractor must, prior to submission of the next application for payment, provide Owner with a specific plan to return the project to the project schedule.

...

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, Owner the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

§ 8.3.3 Layout new construction lines and verify slab slope and conditions. If discrepancies between actual lines and elevations and those indicated on plans exist, notify Project Engineer and Owner and obtain a decision before starting work.

§ 8.3.4 The Contractor shall establish and maintain reference points required for the work. Contractor shall lay out on the rough floor the exact locations of partitions, openings, etc. as a guide to all trades. Contractor shall verify elevations, lines, levels, and dimensions indicated on the drawings before commencing work.

§ 8.3.5 The Contractor shall be responsible to the Owner for the acts and omissions of all his employees and all Subcontractors, their agents and employees, and all other persons performing any of the Work under a contract with the Contractor.

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§ 8.4.3 Contractor agrees to keep the Project free and clear from all mechanic's liens, materialmen liens, and other liens. The Contractor shall discharge any such lien immediately but in no event more than 30 days after filing of such a lien. In the event such lien is not released or discharged within such 30 days period, the Owner shall have the right to pay all sums necessary to discharge such liens and the Owner shall have the right to deduct such amounts from any amounts due hereunder or demand immediate payment from the Contractor. In the event of any such deduction, the Contract Sum due under the Contract Documents automatically shall be reduced by the amount of such payment without the need for any Change Order. In no instance shall this provision affect any limitation or restriction imposed by law or regulation on the placement or enforcement of liens.

§ 8.4.4 Substitutions:

- .1 Where materials, equipment, apparatus, or other products are specified by manufacturer, brand name, type or catalog number, such designation shall establish standards of quality and style desired. Any reasonable

request for substitution will be considered, if in the opinion of the Owner such materials are equal to the material specified and entirely satisfactory for use in the project. The Owner shall be the sole judge of acceptability of substitution.

. 2 By making requests for substitutions, the Contractor:

A. Represents that it has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;

B. Represents that it will provide the same warranty for the substitution as it would for the product specified;

C. Certifies that the cost data presented is complete and includes all related costs for the substituted product and for Work that must be changed as a result of the substitution, and waives all claims for additional costs related to the substitution that subsequently become apparent; and

D. Shall coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

.3 When a material, equipment or system is specified by the name of one or more manufacturers, such material, equipment, or system shall form the basis of the Contract. If the Contractor desires to make a substitution, Contractor shall comply with Specification Sections 01 25 13 and 00 43 25.

.4 The Owner shall be entitled to reimbursement from the Contractor for amounts the Owner pays to an engineer or consultant for reviewing the Contractor proposed substitutions and making agreed-upon changes in the Drawings and Specifications resulting from such substitutions.

§ 8.4.5 The use of undocumented workers is not permitted.

§ 8.4.6 The Contractor shall have the Subcontractor who installs them, correct defects in bases, surfaces, or substrates on which finishing materials are to be applied, construction is to be added, or equipment is to be mounted.

§ 8.4.7 The Contractor shall disclose the existence and extent of any financial interest, whether direct or indirect, he has in subcontractors or material suppliers which he may propose for this project.

~~The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.~~

§ 8.5.1 The Contractor warrants to the Owner that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the contract documents. The warranty provided in this Section shall be in addition to and not in limitation of any other warranty, including, manufacturer or supplier warranties, or remedy required by law or by the Contract Documents, and notwithstanding anything to the contrary contained in the Contract Documents. This warranty commences upon Final Completion. The Contractor shall promptly repair and replace, at the Contractor's sole cost and expense, any materials, equipment, or Work covered by and violating the warranty. All warranty work shall be coordinated with the Owner in order to limit the disruption of operation and completed Project. All such warranty work shall be completed in compliance with the terms and conditions of the Contract Documents.

§ 8.5.2 Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse of Owner or Owner's invitees, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 8.5.3 Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferrable to the Owner, and shall commence in accordance with Section 12.5.

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§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and

regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the ~~Architect-Owner~~ in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

...

The Contractor shall promptly review, approve in writing, and submit to the ~~Architect-Owner~~ shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

...

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials. If the Contractor fails to clean-up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor and deducted from the remaining. No on-site burning of trash is allowed.

PAGE 11

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, ~~Architect, Architect's Engineers, Engineers'~~ consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. The provisions of this Section 8.12 shall survive the completion of the Work or termination of the Agreement.

ARTICLE 9 — ARCHITECT

ARTICLE 9 PROJECT MANAGEMENT

§ 9.1 The ~~Architect-Owner~~ will provide administration of the Contract as described in the Contract Documents. The ~~Architect-Owner~~ will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The ~~Architect-Owner~~ will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work. Representatives of the Owner and Contractor shall meet periodically at mutually agreed-upon intervals for the purposes of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participation in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationship which may otherwise exist.

§ 9.3 The ~~Architect-Owner~~ will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The ~~Architect-Owner~~ will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the ~~Architect's-Owner's~~ observations and evaluations of the Contractor's Applications for Payment, the ~~Architect-Owner~~ will review and certify the amounts due the Contractor.

§ 9.5 The ~~Architect-Owner~~ has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The ~~Architect-Owner~~ will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the ~~Architect-Owner~~ will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

~~§ 9.8 Interpretations and decisions of the Architect-Owner will be consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith. Documents.~~

~~§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.~~

~~§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.~~

~~§ 10.1.1 Changes in the Work may be accomplished by Change Order, Change Directive, or Field Order, all of which the Contractor shall diligently effectuate and carry out.~~

- ~~.1 A Change Order is a written instrument prepared by the Owner and signed by the Owner and the Contractor, stating their agreement upon all of the following: (i) the change of the Work; (ii) the amount of the adjustment, if any, in the Contract Sum; and (iii) the extent of the adjustment, if any, in the Contract Time. No change to the Contract Sum or Contract Time is effective without a written, signed Change Order. The Contractor's sole remedy for any changes is to secure a Change Order.~~
- ~~.2 A Change Directive is a change required by the Owner that does not affect the Contract Time or Contract Sum and will be issued by the Owner in writing to the Contractor.~~
- ~~.3 A Field Order is a minor change or deviation in the Specifications or Drawings and not inconsistent with the Contract that do not affect the Contract Time or Contract Sum and can be made verbally by the Owner and summarized within seven days in writing provided to the Contractor. The Contractor may request that the Owner convert a Field Order to a Change Directive.~~

~~§ 10.1.2 Should the Contractor believe a Change Directive requires a Change Order, the Contractor must make a Claim in accordance with the Agreement within 15 days of the Change Directive being issued.~~

~~§ 10.1.3 The Owner's representative shall have authority to authorize contract modifications less than \$10,000.00. Contract modifications of \$10,000.00 or greater require approval by Murfreesboro City Council.~~

~~§ 10.2 The Architect-Owner may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.~~

PAGE 12

~~§ 10.4 The combined overhead and profit included in the total cost to the Owner of a change in the Work shall be based upon the following schedule:~~

- ~~.1 For the Contractor, for Work performed by the Contractor's own forces at the fee negotiated with the owner of the cost.~~
- ~~.2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the amount due the Subcontractor.~~
- ~~.3 For each Subcontractor or Sub-Subcontractor involved, for Work performed by that Subcontractor's or Sub-Subcontractor's own forces, ten percent (10%) of the cost.~~
- ~~.4 For each Subcontractor, for Work performed by the Subcontractor's Sub- Subcontractors, five percent (5%) of the amount due the Sub-Subcontractor.~~

.5 Cost to which overhead and profit is to be applied shall be determined in accordance with Section 10.1.1.

.6 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials and Subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are Subcontracts, they shall be itemized also. In no case will a change involving over \$500.00 be approved without such itemization.

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract. Extensions of time will not be granted for delays caused by inadequate construction force, the failure of the Contractor to place orders for equipment or materials sufficiently in advance to ensure delivery when needed, or the failure of Contractor to protect properly the site from inclement weather.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment. If the Contractor is delayed at any time in progress of the work by an act or neglect of the Owner or its employee(s), or of a separate Contractor employed by the Owner, or by changes ordered in the work that affect the "critical path" of the work, or by labor disputes, fire, unavoidable casualties, or other causes beyond the Contractor's control, except as defined in Articles 3 and 15, or by other causes which the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as Owner may determine. Extended overhead, profit, and other indirect costs related to the extension of the contract time will not be allowed.

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§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the ~~Architect~~ Owner an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner ~~or Architect~~ may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing. The form of Application for Payment duly notarized shall be a current authorized edition of AIA Document G702-1992 Application and Certificate for Payment, supported by a current authorized edition of AIA Document G703-1992, Continuation Sheet.

...

§ 12.2.3 In Applications for Payment, the amount represented as total completed and stored to date shall reflect the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work, and materials and equipment suitably stored in accordance with Subparagraph 4.2 and not exceed the Contract Sum less the value of incomplete work and corrections required. This total completed and stored to date shall not be construed to define completion as determined for Substantial Completion or final completion of the Work according to 12.5 or 12.6.

§ 12.2.4 Applications for Payment shall indicate retainage withheld from the total completed and stored to date as follows: Five percent (5%) until acceptance of a Certificate of Substantial Completion, and thereafter two percent (2%) until final payment. The resulting amount shall be indicated as the total earned less retainage. Applications that reduce retainage shall be accompanied by Consent of Surety.

§ 12.2.5 Applications for Payment shall indicate the total earned less retainage, and the aggregate of previous payments made subtracted therefrom, and an amount requested.

The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for

~~withholding certification in whole. If certification or notification is not made within such seven-day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.~~ § 12.3.1 The Owner will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Owner determines is properly due, and notify the Contractor and Owner in writing of the Owner's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor of the Owner's reason for withholding certification in whole. If certification or notification is not made within such seven-day period, the Contractor may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.3.2 The Owner may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Contractor. If the Contractor and the Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount for which the Owner is able to make such representations. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions, because of, but not limited to:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 persistent failure to carry out the Work in accordance with the Contract Documents or unsatisfactory execution of the Work;
- .8 failure of the Contractor to comply with applicable Codes, Laws, or Regulations;
- .9 failure to update as-built drawings or provide construction photographs with the Application for Payment as required by the Contract Documents. (If these documents/items are not provided for actual work performed for a period of work covered by an Application for Payment and cannot be accurately provided due to passage of time, the Owner may deduct a reasonable amount from the Agreement sum to reflect work not performed that cannot be recovered due to progress of work.)
- .10 failure to update the CPM schedule concurrent with the request for payment; or
- .11 Any other reasonable basis to withhold certification.

§ 12.3.4 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld. The Owner shall have no liability whatsoever for interest or other charges resulting from withholding of payment for any reason stated in this Article.

§ 12.3.5 If any claim or lien is made or filed with or against the Owner, the Project or the Premises by any person claiming that the Contractor or any Subcontractor or other person under it has failed to make payment for any labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, or if at any time there shall be evidence of such nonpayment or of any claim or lien for which, if established, the Owner might become liable and which is chargeable to the Contractor, or if the Contractor or any Subcontractor or other person under it causes damage to the Work or to any other work on the Project, or if the Contractor fails to perform or is otherwise in default under any of the terms or provisions of the Contract Documents, the Owner shall withhold certification, and the Owner shall have the right to retain from any payment then due or thereafter to become due an amount which the Owner shall deem sufficient to:

- .1 satisfy, discharge and/or defend against any such claim or lien or any action which may be brought or judgement which may be recovered thereon,
- .2 make good any such nonpayment, damage, failure or default, and

.3 compensate the Owner for and indemnify it against any and all losses, liability, damages, costs and expenses, including reasonable attorneys' fees and disbursements, which may be sustained or incurred by the Owner in connection therewith. The Owner shall have the right to apply and charge against the Contractor so much of the amount retained as may be required for the foregoing purposes. If such amount is insufficient therefore, the Contractor shall be liable for the difference and pay the same to the Owner.

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§ 12.4.1 After the ~~Architect-Owner~~ has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

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§ 12.4.3 ~~Neither the Owner nor the Architect-~~The Owner shall have responsibility for payments to a subcontractor or supplier.

...

§ 12.4.5 The Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall reflect such payment on the next Certificate for Payment.

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is ~~sufficiently-sufficient~~ complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use and when all required occupancy permits have been issued such as, but not limited to, Local Building Occupancy Permits, and copies of same have been delivered to the Owner. In order to occupy or utilize the Work for its intended use, intended use, Owner must have received complete Project Data, Operating and Maintenance Data, orientation and training, as may be required by the specifications. The work will not be considered ready for Substantial Completion if any of the following conditions exist:

- .1 Excessive punch list work remains to be completed that would prevent or interfere with the occupancy and intended use of the facility in the Owner's reasonable judgment;
- .2 Incomplete or defective work remains which would prevent or interfere with the occupancy and intended use of the facility;
- .3 The building mechanical systems have not been tested, balanced, and accepted as being fully complete;
- .4 The building electrical and life safety systems have not been tested and accepted as being fully complete;
- .5 The building commissioning process is not complete;
- .6 Final clean-up is not complete to support the occupancy and intended use of the facility other than clean-up associated with punch list items;
- .7 Final Inspections, approvals, and temporary or final Certificates of Occupancy by regulatory officials are not received and complete;
- .8 Successful compliant testing of all data cabling (copper, fiber or other) and labeling of all data ports is incomplete; or
- .9 Any other basis for the Owner's reasonable determination that Substantial Completion has not been achieved.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the ~~Architect-Owner~~ and the ~~Architect-Owner~~ will make an inspection to determine whether the Work is substantially complete. When the ~~Architect-Owner~~ determines that the Work is substantially complete, the ~~Architect-Owner~~ shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.5.3 Upon receipt of the Certificate of Substantial Completion, Contractor may submit a final Application for Payment that includes the retainage withheld from prior Applications pursuant to Section 4.1.

§ 12.5.4 Unless the project has phased Substantial Completion dates, the Owner will make only one such inspection to determine Substantial Completion. If this inspection determines that the work is not substantially complete, either because of major items not completed or an excessive number of punch list items, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of \$1,000.00 per person per day plus expenses. The costs of these re-inspections shall be added to the contract by change order.

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§ 12.6.1 Upon receipt of a final Application for Payment, the Architect-Owner will inspect the Work. When the Architect-Owner finds the Work acceptable and the Contract fully performed, the Architect-Owner will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect-Owner releases and waivers of liens, claims, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

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§ 12.6.4 Unless the project has phased Final Completion dates, The Owner will make only one such inspection to determine Final Completion. If this inspection determines that the work is not finally complete, successive inspections requested by the Contractor shall be charged to the Contractor at a rate of \$1,000.00 per person per day plus expenses. The costs of these re-inspections shall be added to the contract by change order.

~~The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.~~
§ 13.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

§ 13.2 The Contractor is responsible for compliance with any requirements included in the Contract Documents and all applicable laws, rules, and regulations regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing. The Contractor shall provide the Owner with notice of all hazardous substances as regulated by the Comprehensive Environmental and Liability Act as amended and/or regulated under any other applicable law which the Contractor brings on to the site.

§ 13.3 When the storage of explosives, or other hazardous materials, substances or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall give the Owner reasonable advance notice.

§ 13.4 Protect owners, persons, building components not to be demolished or modified, and building grounds from damage of any sort. Furnish necessary equipment to provide this protection during the life of the contract. Construct and maintain necessary temporary drainage to keep excavations free of water.

§ 13.5 Provide protection for the stored materials against wind, storms, cold or heat. At the end of each day's work, cover new work or stored items likely to be damaged.

§ 13.6 Provide shoring and bracing required for safety and for the proper execution of the work and have same removed when the work is completed.

§ 13.7 Protect, maintain and restore any bench marks, monuments, etc. affected by this work. If bench marks or monuments are displaced or destroyed, points shall be re-established and markers reset under the supervision of a licensed surveyor, who shall furnish certificates of his work.

...

§ 14.1 The Contractor shall promptly correct Work rejected by the ~~Architect-Owner~~ as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents. This provision does not relieve the Contractor from conforming to the requirements of the Contract Documents or correcting items not compliant with the Contract Documents per applicable laws, statutes, or any regulations, whether they are observable, concealed, or in any other condition or status, nor does this provision in any way limit any warranties, service contractors, or similar agreements with third party service, equipment, or materials providers.

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Neither party to the Contract shall assign the Contract as a whole without written consent of the other. In addition, the Contractor may not assign its responsibilities, duties, obligations, and rights under this Agreement, without the express written consent of the Owner. This does not prevent the Contractor from engaging subcontractors to perform various phases of the Project, but the Contractor shall be fully responsible to the Owner for the work, actions, and omissions of all such subcontractors. No person or entity shall be deemed to be a third-party beneficiary of any provisions of the Contract, nor shall any provisions thereof be interpreted to create a right of action or otherwise permit anyone not a signatory party to the Contract to maintain an action for personal injury or property damage.

...

§ 15.2.1 At the appropriate times, the ~~Contractor-Owner~~ shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents-~~Documents~~, including specifically Section 15.2.4, or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the ~~Architect-Owner~~ requires additional testing, the Contractor shall perform those tests.

...

§ 15.2.4 In addition to any test, inspections, and approvals by applicable law or elsewhere in the Contract Documents, Owner shall arrange and bear the costs for the following tests:

1. Building pad and parking lot subgrade proof-roll test
2. Concrete testing
3. Structural Steel Visual Inspection of Bolts and Connections

...

§ 15.4 Venue

Exclusive venue for any dispute arising from this Agreement or relating to this Project shall be in the Circuit or Chancery Courts of Rutherford County, Tennessee.

§ 15.5 Attorneys' Fees

If either party is required to bring an action to enforce the terms hereof or declare rights hereunder, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees from the non-prevailing party.

§ 15.6 No Mandatory Arbitration

Notwithstanding anything to the contrary in this Agreement, or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

§ 15.7 Subject to Applicable Law; Severability

This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidation of any portion of this Agreement under the laws of the State of Tennessee or of the United States shall not affect the validity of the remainder of this Agreement.

§ 15.8 No Waiver; Cumulative Duties and Remedies

No action or failure to act by the Owner or the Contractor shall constitute a waiver of any right or duty afforded under the Contract Documents, nor shall any such action or failure to act constitute any approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing. The duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law or equity.

§ 15.9 Theft-Deterrence Program

The Contractor shall institute a theft-deterrence program designed to restrict construction worker access to properties of the Owner that are currently in use, to maintain supervision of the Contractor's and the Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from the Contractor's forces or the Contractor's subcontractor's forces, as charged and determined by the local authorities having jurisdiction.

§ 15.10 No Construction Against Maker of Modifications

As a material consideration of the making of this Agreement, the modifications to this Agreement shall not be construed against the maker of said modifications.

§ 15.11 Independent Contractors

The parties agree that the contractual relationship of the Contractor to the Owner is one solely of an independent contractor in all respects and that the Contract Documents do not in any way create a partnership, joint venture, or any other relationship between the parties other than the contractual relationship as specified in the Contract.

§ 15.12 Binding on Successors and Assigns

This Agreement in its entirety shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators, or assigns.

§ 15.13 Execution

The Contract Documents may be executed in any number of counterparts, all of which taken together shall constitute one and the same Agreement. Any signature of or pursuant to the Contract Documents shall be considered for all purposes an original signature and of the same legal effect as an original, provided that at the request of a party any signature sent by facsimile shall subsequently be confirmed by an original re-execution.

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If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the ~~Owner and Architect, Owner~~, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

...

~~§ 16.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may~~

PAGE 19

~~The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with~~

~~reasonable overhead and profit on the Work not executed.~~ § 16.3.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. In such case, the Owner will provide the Contractor seven days written notice of intent to terminate. Upon receipt of such notice, the Contractor shall take immediate action to mitigate any damage or additional expense. The Contractor shall be entitled to receive payment for Work executed.

§ 16.3.2 The terms of this Contract are contingent upon sufficient appropriations and authorizations being made by the Owner for the performance of this Contract. If sufficient appropriations and authorizations are not made by the Owner, this Contract shall terminate, without penalty or expense to the Owner of any kind whatsoever, upon written notice being given by the Owner to the Contractor. Upon receipt of such notice, the Contractor shall take immediate action to mitigate any damage or additional expense. The Contractor shall be entitled to receive payment for Work executed.

...

§ 17.1 Claims and Disputes

§ 17.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and the Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 17.1.2 Notice of Claims.

- .1 Claims by either the Owner or the Contractor must be initiated by written notice to the other party. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.
- .2 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a contractor default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 17.1.3 Continuing Contract Performance. Pending final resolution of a Claim, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 17.1.4 Claims

- .1 For Additional Cost. If the Contractor makes a Claim for an increase in the Contract Sum, written notice to the Owner shall be given before proceeding to execute the Work if practical or within 15 days of any Change Directive. Prior notice is not required for Claims relating to an emergency endangering life or property.
- .2 For Additional Time. If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice to the Owner shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions that were clearly abnormal for the period of time such that they could not have been reasonably anticipated and clearly had an adverse effect on the scheduled construction.
 - A. Claims for increase in the Contract Time shall set forth, in detail the circumstances that form the basis for the Claim, the date upon which the cause of the delay began to affect the progress of the Work, the date upon which the cause of delay ceased to affect the progress of the Work, and the number of days increased in the Contract Time claimed as a consequence of each cause of delay.
 - B. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all of the activities affected by the circumstances forming the basis of the claim. The Contractor shall not be entitled to a separate increase of the Contract Time for each one of the number of causes of

delay which may have concurrent or interrelated effects on the progress of the work, or for concurrent delays due to the fault of the Contractor.

§ 17.1.5 Initial Decision on Claims Made by Contractor

- .1 The Owner will make an initial decision on all claims submitted by the Contractor. An initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Owner with no decision having been rendered.
- .2 The Owner will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (i) request additional supporting data from the claimant or a response with supporting data from the other party, (ii) reject the Claim in whole or in part, (iii) approve the Claim, (iv) suggest a compromise, or (v) advise the Contractor that the Owner is unable to resolve the Claim because the Owner lacks sufficient information to evaluate the merits of the Claim.
- .3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist Owner in rendering a decision.
- .4 The Owner will render an initial decision approving or rejecting the Claim or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (i) be in writing; (ii) state the reasons therefor; and (iii) notify the Contractor of any recommended Change Order.

§ 17.1.6 Mediation.

- .1 Claims, disputes, or other matters in controversy arising out of or related to the contract not resolved by the Initial Decision-Making process, nor waived under this Contract, shall be subject to mediation as a condition precedent to binding dispute resolution.
- .2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Contract. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation.
- .3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.
- .4 Exceptions:
 - A. Neither the Owner nor Contractor are not be required to mediate any third-party claim, cross-claim, counter claim, or other claim or defenses in any action that is commenced by a third-party who is not obligated by contract to arbitrate disputes with the Owner and Contractor.
 - B. The Owner or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice (but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Tennessee law), without the first requesting mediation.
 - C. This section 17.1.6 does not apply to, and may not be construed to require mediation of, any claims, actions or other process undertaken, filed, or issued by the City of Murfreesboro Building and Codes Department, Planning Department, Police Department, Fire Department, or any other agency of the Owner (the City) acting in its governmental permitting, for the benefit of public health, safety, and welfare, or other regulatory capacity.

§ 17.1.7 Binding Dispute Resolution. For any Claim subject to, but not resolved by, mediation per this agreement, the method of binding dispute resolution shall be litigated only in a Rutherford County court of competent jurisdiction.

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City of Murfreesboro

Rice Construction Co., LLC

...

Shane McFarland, Mayor

Tim Rice, Owner

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:55:21 ET on 07/14/2020 under Order No. 3414833268 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A105™ – 2017, Standard Short Form of Agreement Between Owner and Contractor, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Professional Services Agreements with Tennis Instructors

Department: Parks and Recreation

Presented by: Nate Williams, Director

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Professional Services Agreements (PSAs) with Five Tennis Instructors.

Staff Recommendation

Approve PSAs with Tennis Instructors.

Background Information

Most tennis lessons at the Adams Tennis Complex are taught by independent tennis instructors who are paid a percentage of the fees charged for the lessons. Fees are charged to patrons by the Complex and split with the instructors. Instructors receive 70% of the fees, and the remaining fees are retained by the Complex.

Courtney Collins-Guentner, Scott Kathary, Bob Kresse, John Morris, and Jon Mark Rowden are very popular instructors whose individual lesson percentages are expected to surpass \$25,000 per annum.

Council Priorities Served

Establish strong City brand

Professional tennis instruction at Adams Tennis Complex is paramount for the engaging of all skill levels of the tennis community in Murfreesboro. Additionally, maintaining a robust instruction offering advances the brand of Adams Tennis Complex that, in turn, makes Murfreesboro a destination for skill development and competitive tournaments.

Fiscal Impact

Tennis instructor expenses are covered in the Parks and Recreation FY21 operating budget.

Attachments

Five Tennis Instructor PSAs

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MURFREESBORO
AND
COURTNEY COLLINS-GUENTNER**

This Professional Services Agreement is made by and between the City of Murfreesboro hereafter referred to as "City" through its Parks and Recreation Department and Courtney Collins-Guentner hereinafter referred to as "Tennis Pro", this 13th day of July, 20 20.

Whereas, the City is interested in utilizing all available facilities to provide quality recreational instruction at minimal cost; and,

Whereas, Tennis Pro is experienced in the instruction of tennis and is interested in offering programs using the facilities of the City;

Now, therefore, the City and User agree as follows:

1. **Term:** The term of this Professional Services Agreement ("Agreement") shall be between July 1, 2020 and June 30, 2021.
2. **Scope of Services – Tennis Pro:**
 - a. Tennis Pro shall teach tennis through private and semi-private lessons, camps and clinics for youth and adults.
 - b. Tennis Pro should help produce publicity, flyers, etc. for the Adams Tennis Complex (ATC). All informational items must have prior approval from the Director of the Murfreesboro Parks and Recreation Department or designee.
 - c. The Tennis Pro shall receive seventy percent (70%) of the gross revenues of all paid fees, for all private and semi-private lessons. The City shall retain the remaining thirty percent (30%). All payments shall be made on a monthly basis for funds received during the preceding month.
 - d. The Tennis Pro shall receive seventy percent (70%) of one-day tennis social events (e.g. mixers, round robins, or social play days) that the Tennis Pro runs. Social events must be approved by the Head Tennis Professional and will be contingent on availability of courts. Should the Tennis Pro desire to run a Tournament, or other sanctioned, or multi day event, they must adhere to current tournament policies and procedures. All payments shall be made on a monthly basis for funds received during the preceding month.
 - e. Tennis Pro shall receive 70% of the Tennis Pro's hourly private lesson rate for each hour Tennis Pro elects to teach in a Group Tennis class or Tennis Camp program organized by the Head Tennis Professional of the City of Murfreesboro. All payments shall be made on a monthly basis for funds received during the preceding month.
 - f. Tennis Pro shall indemnify 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 Tennis Pro, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the Agreement.

- ii. Any claims, damages, costs and attorney fees arising from any failure of Tennis Pro, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable law, including, but not limited to, labor laws and minimum wage laws.

Tennis Pro shall pay City any expenses incurred as a result of Tennis Pro's failure to fulfill any obligation in a professional and timely manner under the Agreement.

- g. Tennis Pro must maintain commercial general liability insurance for bodily injury and property damage (minimum \$1,000,000) and workers' compensation insurance as required by the State of Tennessee. Such insurance shall name the City of Murfreesboro (111 W. Vine St., Murfreesboro, TN 37130) as an additional insured for the duration of this Agreement. Proof of such insurance shall be provided to the City by a certificate of insurance and endorsement as necessary. Tennis Pro must notify City if the insurance policy is renewed, canceled, or altered in any manner and provide written documentation of such alteration.
- h. Tennis Pro shall provide the City a completed Volunteer Background Check form for himself/herself. It is the Murfreesboro Parks and Recreation Department's policy that all employees/volunteers working with children in their program are subject to background checks at a minimum to the extent set forth in MPRD's Youth Athletic League Background Check Policy (attached).
- i. Tennis Pro shall follow the rules and regulations of the City of Murfreesboro and the Murfreesboro Parks and Recreation Department.
- j. Tennis Pro has inspected the site and agrees to use the site "as is" with no changes or modifications required.
- k. Tennis Pro shall be responsible for leaving the facility clean and orderly.
- l. Any request for use of any MPRD facility outside this agreement must follow MPRD standard rental policy. This requirement shall include any extra classes or demonstrations.
- m. Tennis Pro shall report any unsafe conditions immediately to the appropriate staff at Murfreesboro Parks and Recreation Department and understand that use may be canceled or delayed until such condition is corrected.
- n. Tennis Pro may not schedule lessons, camps, or clinics when the City has reserved the courts for various tournaments and activities. The City will notify Tennis Pro through personal email and other media outlets. (e.g MPRD website, ATC Calendar, the ATC Facebook page,) of dates at least two weeks prior to said event.
- o. Tennis Pro cannot coach an Adams Tennis Complex member who the Tennis Pro coaches (or has coached at any time) at the Adams Tennis Complex at another location during the Tennis Pro's contract with the City.
- p. Tennis Pro must notify John Kreis Head Tennis Professional or the Adams Tennis Complex Facility Supervisor at least twenty-four (24) hours in advance prior to any cancellation and/or rescheduling of classes.
- q. Tennis Pro must adhere to City's Court Cancellation policy. Fee waivers must be requested in writing to the Head Tennis Professional. Waivers will be given on an individual basis.

- r. Tennis Pro may donate their services up to three times per year and court fees will be waived upon prior approval by the Head Tennis Professional. Approval will be contingent on court availability. Additional requests must be submitted in writing and will be considered by the Head Tennis Professional.
- s. Tennis Pros are prohibited from the selling of goods or services that are not specifically outlined in their contract.
- t. It is the responsibility of each teaching Tennis Pro to assist the Adams Tennis Complex in informing all their clients of the facility rules, regulations, and policies.
- u. Tennis Pro may request an exception to any of these requirements by submitting the request in writing to the ATC Head Tennis Pro. Approval or disapproval of any such requests shall be issued by the ATC Head Tennis Pro in writing.

3. Scope of Services - City:

- a. The City shall provide a site for Tennis Pro to conduct lessons, camps or clinics at the Adams Tennis Complex and Old Fort Park Tennis Facility.
- b. City shall provide a staff member to open and close the facility.
- c. City may enter into other agreements for provision of similar services at any time.
- d. City shall give Tennis Pro two (2) weeks' notice when facility maintenance/cleaning is required.
- e. City shall allow the Tennis Pro's the use of the facility (ATC) stringing machine for personal racquet stringing only. (Pro must provide own string). If a Teaching Pro strings a member or non-member racquet all facility fees apply and will be payable to the Adams Tennis Complex. The Tennis Pro will be compensated 70% of the charged stringing labor fee per racquet; the City shall retain the other 30%. All payments to Tennis pro shall be made on a monthly basis for funds received during the preceding month.
- f. City shall waive non-member fees for personal court time.

4. Fees:

- a. The City shall set fees for lessons, camps or clinics in agreement with Tennis Pro prior to the event. The City shall be responsible for collecting fees and payments shall be made monthly for funds received during the preceding month paid to Tennis Pro.
- b. Any change in the fee structure must have prior approval of the City.
- c. 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 Contract, Contractor certifies and warrants it will comply with this policy.

- 5. Allocation of fees.** Of all paid registrations, the Tennis Pro shall receive seventy percent (70%) of the gross revenues and the City shall retain the remaining thirty percent (30%). All

payments shall be made on a monthly basis payable to Tennis Pro for funds received during the preceding month. The City has the right to examine financial records relative to this class and its attendance for up to three years beyond the duration of this agreement.

6. E-Verify.

- a. Pursuant to T.C.A. §50-1-703(a)(1)(A), the Contractor shall provide an acceptable form of identification, such as a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, prior to the Contractor providing labor or services pursuant to this Contract. If the Contractor does not possess a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, any one of the other forms of identification set forth in T.C.A. §50-1-703(a)(1)(A) will be acceptable.
- b. Contractor shall complete and submit an IRS tax form W-9 with a copy of the acceptable form of identification set forth in clause 2- attached thereto prior to the Contractor providing labor or services pursuant to this contract.

7. General Terms and Conditions:

- a. Tennis Pro warrants that no part of the total Agreement amount provided herein shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant in connection with work contemplated or performed relative to this Agreement.
- b. Tennis Pro 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.
- c. This Agreement may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. In that event, Tennis Pro shall be entitled to receive just and equitable compensation from those who have engaged the services of Tennis Pro for themselves for any services or work completed as of the termination date.
- d. If Tennis Pro fails to fulfill in timely and proper manner its obligations under this Agreement, or if Tennis Pro shall violate any of the terms of this Agreement, the City shall have the right to immediately terminate the Agreement.
- e. Notwithstanding the above, Tennis Pro shall not be relieved of any liability to the City for damages sustained by virtue of any breach of this Agreement by Tennis Pro.
- f. Tennis Pro shall not assign this Agreement or enter into sub-contracts for any of the programs or training covered by this Agreement without obtaining the prior written approval of the City.
- g. Tennis Pro acknowledges that the City has hired a full-time Head Tennis Pro to oversee all lessons, camps and clinics taught at City of Murfreesboro Tennis facilities. Tennis Pro further acknowledges that this agreement is subject to the approval of the Head Tennis Professional.

8. **Cancellation of Agreement.** The City has the right to cancel this Agreement if there is a breach of rules or contract. It will be the duty of City to refund to students a prorated fee if needed.
9. **Amendment.** This Agreement constitutes the entire Agreement between the City and Tennis Pro. This Agreement may be modified by written amendment executed by all parties and their signatories hereto.

In witness whereof, the City and User have executed this use Agreement on the day and date first written above.

CITY OF MURFREESBORO

COURTNEY COLLINS-GUENTNER, TENNIS PRO

By: _____
Shane McFarland, Mayor

By: Courtney Collins - Guentner
Title: Tennis Professional

Date: _____

Date: 7/13/20

Address: 4664 Hwy 64 E

City, State Zip Code: Wartrace, TN 37183

Phone: 662 315 7032

Email: courtcollins25@gmail.com

APPROVED AS TO FORM:

Adam Tucker, City Attorney

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MURFREESBORO
AND
SCOTT KATHARY**

This Professional Services Agreement is made by and between the City of Murfreesboro hereafter referred to as "City" through its Parks and Recreation Department and Scott Kathary hereinafter referred to as "Tennis Pro", this 15 day of July, 2020.

Whereas, the City is interested in utilizing all available facilities to provide quality recreational instruction at minimal cost; and,

Whereas, Tennis Pro is experienced in the instruction of tennis and is interested in offering programs using the facilities of the City;

Now, therefore, the City and User agree as follows:

1. **Term:** The term of this Professional Services Agreement ("Agreement") shall be between July 1, 2020 and June 30, 2021.
2. **Scope of Services – Tennis Pro:**
 - a. Tennis Pro shall teach tennis through private and semi-private lessons, camps and clinics for youth and adults.
 - b. Tennis Pro should help produce publicity, flyers, etc. for the Adams Tennis Complex (ATC). All informational items must have prior approval from the Director of the Murfreesboro Parks and Recreation Department or designee.
 - c. The Tennis Pro shall receive seventy percent (70%) of the gross revenues of all paid fees, for all private and semi-private lessons. The City shall retain the remaining thirty percent (30%). All payments shall be made on a monthly basis for funds received during the preceding month.
 - d. The Tennis Pro shall receive seventy percent (70%) of one-day tennis social events (e.g. mixers, round robins, or social play days) that the Tennis Pro runs. Social events must be approved by the Head Tennis Professional and will be contingent on availability of courts. Should the Tennis Pro desire to run a Tournament, or other sanctioned, or multi day event, they must adhere to current tournament policies and procedures. All payments shall be made on a monthly basis for funds received during the preceding month.
 - e. Tennis Pro shall receive 70% of the Tennis Pro's hourly private lesson rate for each hour Tennis Pro elects to teach in a Group Tennis class or Tennis Camp program organized by the Head Tennis Professional of the City of Murfreesboro. All payments shall be made on a monthly basis for funds received during the preceding month.
 - f. Tennis Pro shall indemnify 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 Tennis

- Pro, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the Agreement.
- ii. Any claims, damages, costs and attorney fees arising from any failure of Tennis Pro, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable law, including, but not limited to, labor laws and minimum wage laws.

Tennis Pro shall pay City any expenses incurred as a result of Tennis Pro's failure to fulfill any obligation in a professional and timely manner under the Agreement.

- g. Tennis Pro must maintain commercial general liability insurance for bodily injury and property damage (minimum \$1,000,000) and workers' compensation insurance as required by the State of Tennessee. Such insurance shall name the City of Murfreesboro (111 W. Vine St., Murfreesboro, TN 37130) as an additional insured for the duration of this Agreement. Proof of such insurance shall be provided to the City by a certificate of insurance and endorsement as necessary. Tennis Pro must notify City if the insurance policy is renewed, canceled, or altered in any manner and provide written documentation of such alteration.
- h. Tennis Pro shall provide the City a completed Volunteer Background Check form for himself/herself. It is the Murfreesboro Parks and Recreation Department's policy that all employees/volunteers working with children in their program are subject to background checks at a minimum to the extent set forth in MPRD's Youth Athletic League Background Check Policy (attached).
- i. Tennis Pro shall follow the rules and regulations of the City of Murfreesboro and the Murfreesboro Parks and Recreation Department.
- j. Tennis Pro has inspected the site and agrees to use the site "as is" with no changes or modifications required.
- k. Tennis Pro shall be responsible for leaving the facility clean and orderly.
- l. Any request for use of any MPRD facility outside this agreement must follow MPRD standard rental policy. This requirement shall include any extra classes or demonstrations.
- m. Tennis Pro shall report any unsafe conditions immediately to the appropriate staff at Murfreesboro Parks and Recreation Department and understand that use may be canceled or delayed until such condition is corrected.
- n. Tennis Pro may not schedule lessons, camps, or clinics when the City has reserved the courts for various tournaments and activities. The City will notify Tennis Pro through personal email and other media outlets. (e.g MPRD website, ATC Calendar, the ATC Facebook page,) of dates at least two weeks prior to said event.
- o. Tennis Pro cannot coach an Adams Tennis Complex member who the Tennis Pro coaches (or has coached at any time) at the Adams Tennis Complex at another location during the Tennis Pro's contract with the City.
- p. Tennis Pro must notify John Kreis Head Tennis Professional or the Adams Tennis Complex Facility Supervisor at least twenty-four (24) hours in advance prior to any cancellation and/or rescheduling of classes.

- q. Tennis Pro must adhere to City's Court Cancellation policy. Fee waivers must be requested in writing to the Head Tennis Professional. Waivers will be given on an individual basis.
- r. Tennis Pro may donate their services up to three times per year and court fees will be waived upon prior approval by the Head Tennis Professional. Approval will be contingent on court availability. Additional requests must be submitted in writing and will be considered by the Head Tennis Professional.
- s. Tennis Pros are prohibited from the selling of goods or services that are not specifically outlined in their contract.
- t. It is the responsibility of each teaching Tennis Pro to assist the Adams Tennis Complex in informing all their clients of the facility rules, regulations, and policies.
- u. Tennis Pro may request an exception to any of these requirements by submitting the request in writing to the ATC Head Tennis Pro. Approval or disapproval of any such requests shall be issued by the ATC Head Tennis Pro in writing.

3. Scope of Services - City:

- a. The City shall provide a site for Tennis Pro to conduct lessons, camps or clinics at the Adams Tennis Complex and Old Fort Park Tennis Facility.
- b. City shall provide a staff member to open and close the facility.
- c. City may enter into other agreements for provision of similar services at any time.
- d. City shall give Tennis Pro two (2) weeks' notice when facility maintenance/cleaning is required.
- e. City shall allow the Tennis Pro's the use of the facility (ATC) stringing machine for personal racquet stringing only. (Pro must provide own string). If a Teaching Pro strings a member or non-member racquet all facility fees apply and will be payable to the Adams Tennis Complex. The Tennis Pro will be compensated 70% of the charged stringing labor fee per racquet; the City shall retain the other 30%. All payments to Tennis pro shall be made on a monthly basis for funds received during the preceding month.
- f. City shall waive non-member fees for personal court time.

4. Fees:

- a. The City shall set fees for lessons, camps or clinics in agreement with Tennis Pro prior to the event. The City shall be responsible for collecting fees and payments shall be made monthly for funds received during the preceding month paid to Tennis Pro.
- b. Any change in the fee structure must have prior approval of the City.

- c. 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 Contract, Contractor certifies and warrants it will comply with this policy.
5. **Allocation of fees.** Of all paid registrations, the Tennis Pro shall receive seventy percent (70%) of the gross revenues and the City shall retain the remaining thirty percent (30%). All payments shall be made on a monthly basis payable to Tennis Pro for funds received during the preceding month. The City has the right to examine financial records relative to this class and its attendance for up to three years beyond the duration of this agreement.
6. **E-Verify.**
- a. Pursuant to T.C.A. §50-1-703(a)(1)(A), the Contractor shall provide an acceptable form of identification, such as a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, prior to the Contractor providing labor or services pursuant to this Contract. If the Contractor does not possess a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, any one of the other forms of identification set forth in T.C.A. §50-1-703(a)(1)(A) will be acceptable.
 - b. Contractor shall complete and submit an IRS tax form W-9 with a copy of the acceptable form of identification set forth in clause 2- attached thereto prior to the Contractor providing labor or services pursuant to this contract.
7. **General Terms and Conditions:**
- a. Tennis Pro warrants that no part of the total Agreement amount provided herein shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant in connection with work contemplated or performed relative to this Agreement.
 - b. Tennis Pro 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.
 - c. This Agreement may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. In that event, Tennis Pro shall be entitled to receive just and equitable compensation from those who have engaged the services of Tennis Pro for themselves for any services or work completed as of the termination date.
 - d. If Tennis Pro fails to fulfill in timely and proper manner its obligations under this Agreement, or if Tennis Pro shall violate any of the terms of this Agreement, the City shall have the right to immediately terminate the Agreement.
 - e. Notwithstanding the above, Tennis Pro shall not be relieved of any liability to the City for damages sustained by virtue of any breach of this Agreement by Tennis Pro.

- f. Tennis Pro shall not assign this Agreement or enter into sub-contracts for any of the programs or training covered by this Agreement without obtaining the prior written approval of the City.
 - g. Tennis Pro acknowledges that the City has hired a full-time Head Tennis Pro to oversee all lessons, camps and clinics taught at City of Murfreesboro Tennis facilities. Tennis Pro further acknowledges that this agreement is subject to the approval of the Head Tennis Professional.
8. **Cancellation of Agreement.** The City has the right to cancel this Agreement if there is a breach of rules or contract. It will be the duty of City to refund to students a prorated fee if needed.
9. **Amendment.** This Agreement constitutes the entire Agreement between the City and Tennis Pro. This Agreement may be modified by written amendment executed by all parties and their signatories hereto.

In witness whereof, the City and User have executed this use Agreement on the day and date first written above.

CITY OF MURFREESBORO

SCOTT KATHARY, TENNIS PRO

By: _____
Shane McFarland, Mayor

By: Scott Kathary

Title: Tennis Pro

Date: _____

Date: 7/15/2020

Address: 3011 Fox Point Ct

City, State Zip Code: Murfreesboro TN 37129

Phone: 614-507-7306

Email: sfkathary@gmail.com

APPROVED AS TO FORM:

Adam Tucker, City Attorney

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MURFREESBORO
AND
BOB KRESSE**

This Professional Services Agreement is made by and between the City of Murfreesboro hereafter referred to as "City" through its Parks and Recreation Department and Bob Kresse hereinafter referred to as "Tennis Pro", this 8 day of July, 2020.

Whereas, the City is interested in utilizing all available facilities to provide quality recreational instruction at minimal cost; and,

Whereas, Tennis Pro is experienced in the instruction of tennis and is interested in offering programs using the facilities of the City;

Now, therefore, the City and User agree as follows:

1. **Term:** The term of this Professional Services Agreement ("Agreement") shall be between July 1, 2020 and June 30, 2021.
2. **Scope of Services – Tennis Pro:**
 - a. Tennis Pro shall teach tennis through private and semi-private lessons, camps and clinics for youth and adults.
 - b. Tennis Pro should help produce publicity, flyers, etc. for the Adams Tennis Complex (ATC). All informational items must have prior approval from the Director of the Murfreesboro Parks and Recreation Department or designee.
 - c. The Tennis Pro shall receive seventy percent (70%) of the gross revenues of all paid fees, for all private and semi-private lessons. The City shall retain the remaining thirty percent (30%). All payments shall be made on a monthly basis for funds received during the preceding month.
 - d. The Tennis Pro shall receive seventy percent (70%) of one-day tennis social events (e.g. mixers, round robins, or social play days) that the Tennis Pro runs. Social events must be approved by the Head Tennis Professional and will be contingent on availability of courts. Should the Tennis Pro desire to run a Tournament, or other sanctioned, or multi day event, they must adhere to current tournament policies and procedures. All payments shall be made on a monthly basis for funds received during the preceding month.
 - e. Tennis Pro shall receive 70% of the Tennis Pro's hourly private lesson rate for each hour Tennis Pro elects to teach in a Group Tennis class or Tennis Camp program organized by the Head Tennis Professional of the City of Murfreesboro. All payments shall be made on a monthly basis for funds received during the preceding month.
 - f. Tennis Pro shall indemnify 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 Tennis Pro, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the Agreement.

- ii. Any claims, damages, costs and attorney fees arising from any failure of Tennis Pro, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable law, including, but not limited to, labor laws and minimum wage laws.

Tennis Pro shall pay City any expenses incurred as a result of Tennis Pro's failure to fulfill any obligation in a professional and timely manner under the Agreement.

- g. Tennis Pro must maintain commercial general liability insurance for bodily injury and property damage (minimum \$1,000,000) and workers' compensation insurance as required by the State of Tennessee. Such insurance shall name the City of Murfreesboro (111 W. Vine St., Murfreesboro, TN 37130) as an additional insured for the duration of this Agreement. Proof of such insurance shall be provided to the City by a certificate of insurance and endorsement as necessary. Tennis Pro must notify City if the insurance policy is renewed, canceled, or altered in any manner and provide written documentation of such alteration.
- h. Tennis Pro shall provide the City a completed Volunteer Background Check form for himself/herself. It is the Murfreesboro Parks and Recreation Department's policy that all employees/volunteers working with children in their program are subject to background checks at a minimum to the extent set forth in MPRD's Youth Athletic League Background Check Policy (attached).
- i. Tennis Pro shall follow the rules and regulations of the City of Murfreesboro and the Murfreesboro Parks and Recreation Department.
- j. Tennis Pro has inspected the site and agrees to use the site "as is" with no changes or modifications required.
- k. Tennis Pro shall be responsible for leaving the facility clean and orderly.
- l. Any request for use of any MPRD facility outside this agreement must follow MPRD standard rental policy. This requirement shall include any extra classes or demonstrations.
- m. Tennis Pro shall report any unsafe conditions immediately to the appropriate staff at Murfreesboro Parks and Recreation Department and understand that use may be canceled or delayed until such condition is corrected.
- n. Tennis Pro may not schedule lessons, camps, or clinics when the City has reserved the courts for various tournaments and activities. The City will notify Tennis Pro through personal email and other media outlets. (e.g MPRD website, ATC Calendar, the ATC Facebook page,) of dates at least two weeks prior to said event.
- o. Tennis Pro cannot coach an Adams Tennis Complex member who the Tennis Pro coaches (or has coached at any time) at the Adams Tennis Complex at another location during the Tennis Pro's contract with the City.
- p. Tennis Pro must notify John Kreis Head Tennis Professional or the Adams Tennis Complex Facility Supervisor at least twenty-four (24) hours in advance prior to any cancellation and/or rescheduling of classes.
- q. Tennis Pro must adhere to City's Court Cancellation policy. Fee waivers must be requested in writing to the Head Tennis Professional. Waivers will be given on an individual basis.

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- u. Tennis Pro may request an exception to any of these requirements by submitting the request in writing to the ATC Head Tennis Pro. Approval or disapproval of any such requests shall be issued by the ATC Head Tennis Pro in writing.

3. Scope of Services - City:

- a. The City shall provide a site for Tennis Pro to conduct lessons, camps or clinics at the Adams Tennis Complex and Old Fort Park Tennis Facility.
- b. City shall provide a staff member to open and close the facility.
- c. City may enter into other agreements for provision of similar services at any time.
- d. City shall give Tennis Pro two (2) weeks' notice when facility maintenance/cleaning is required.
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- f. City shall waive non-member fees for personal court time.

4. Fees:

- a. The City shall set fees for lessons, camps or clinics in agreement with Tennis Pro prior to the event. The City shall be responsible for collecting fees and payments shall be made monthly for funds received during the preceding month paid to Tennis Pro.
- b. Any change in the fee structure must have prior approval of the City.
- c. 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 Contract, Contractor certifies and warrants it will comply with this policy.

- 5. Allocation of fees.** Of all paid registrations, the Tennis Pro shall receive seventy percent (70%) of the gross revenues and the City shall retain the remaining thirty percent (30%). All

payments shall be made on a monthly basis payable to Tennis Pro for funds received during the preceding month. The City has the right to examine financial records relative to this class and its attendance for up to three years beyond the duration of this agreement.

6. E-Verify.

- a. Pursuant to T.C.A. §50-1-703(a)(1)(A), the Contractor shall provide an acceptable form of identification, such as a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, prior to the Contractor providing labor or services pursuant to this Contract. If the Contractor does not possess a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, any one of the other forms of identification set forth in T.C.A. §50-1-703(a)(1)(A) will be acceptable.
- b. Contractor shall complete and submit an IRS tax form W-9 with a copy of the acceptable form of identification set forth in clause 2- attached thereto prior to the Contractor providing labor or services pursuant to this contract.

7. General Terms and Conditions:

- a. Tennis Pro warrants that no part of the total Agreement amount provided herein shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant in connection with work contemplated or performed relative to this Agreement.
- b. Tennis Pro 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.
- c. This Agreement may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. In that event, Tennis Pro shall be entitled to receive just and equitable compensation from those who have engaged the services of Tennis Pro for themselves for any services or work completed as of the termination date.
- d. If Tennis Pro fails to fulfill in timely and proper manner its obligations under this Agreement, or if Tennis Pro shall violate any of the terms of this Agreement, the City shall have the right to immediately terminate the Agreement.
- e. Notwithstanding the above, Tennis Pro shall not be relieved of any liability to the City for damages sustained by virtue of any breach of this Agreement by Tennis Pro.
- f. Tennis Pro shall not assign this Agreement or enter into sub-contracts for any of the programs or training covered by this Agreement without obtaining the prior written approval of the City.
- g. Tennis Pro acknowledges that the City has hired a full-time Head Tennis Pro to oversee all lessons, camps and clinics taught at City of Murfreesboro Tennis facilities. Tennis Pro further acknowledges that this agreement is subject to the approval of the Head Tennis Professional.

8. **Cancellation of Agreement.** The City has the right to cancel this Agreement if there is a breach of rules or contract. It will be the duty of City to refund to students a prorated fee if needed.
9. **Amendment.** This Agreement constitutes the entire Agreement between the City and Tennis Pro. This Agreement may be modified by written amendment executed by all parties and their signatories hereto.

In witness whereof, the City and User have executed this use Agreement on the day and date first written above.

CITY OF MURFREESBORO

BOB KRESSE, TENNIS PRO

By: _____
Shane McFarland, Mayor

Date: _____

By:  _____

Title: Tennis Pro

Date: 7/8/20

Address: 1038 Dunrobin Dr

City, State Zip Code: Franklin TN 37067

Phone: 256 810 3650

Email: Bob.Kresse@yashw.com

APPROVED AS TO FORM:

Adam Tucker, City Attorney

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MURFREESBORO
AND
JOHN MORRIS**

This Professional Services Agreement is made by and between the City of Murfreesboro hereafter referred to as "City" through its Parks and Recreation Department and John Morris hereinafter referred to as "Tennis Pro", this 15th day of July, 2020.

Whereas, the City is interested in utilizing all available facilities to provide quality recreational instruction at minimal cost; and,

Whereas, Tennis Pro is experienced in the instruction of tennis and is interested in offering programs using the facilities of the City;

Now, therefore, the City and User agree as follows:

1. **Term:** The term of this Professional Services Agreement ("Agreement") shall be between July 1, 2020 and June 30, 2021.
2. **Scope of Services – Tennis Pro:**
 - a. Tennis Pro shall teach tennis through private and semi-private lessons, camps and clinics for youth and adults.
 - b. Tennis Pro should help produce publicity, flyers, etc. for the Adams Tennis Complex (ATC). All informational items must have prior approval from the Director of the Murfreesboro Parks and Recreation Department or designee.
 - c. The Tennis Pro shall receive seventy percent (70%) of the gross revenues of all paid fees, for all private and semi-private lessons. The City shall retain the remaining thirty percent (30%). All payments shall be made on a monthly basis for funds received during the preceding month.
 - d. The Tennis Pro shall receive seventy percent (70%) of one-day tennis social events (e.g. mixers, round robins, or social play days) that the Tennis Pro runs. Social events must be approved by the Head Tennis Professional and will be contingent on availability of courts. Should the Tennis Pro desire to run a Tournament, or other sanctioned, or multi day event, they must adhere to current tournament policies and procedures. All payments shall be made on a monthly basis for funds received during the preceding month.
 - e. Tennis Pro shall receive 70% of the Tennis Pro's hourly private lesson rate for each hour Tennis Pro elects to teach in a Group Tennis class or Tennis Camp program organized by the Head Tennis Professional of the City of Murfreesboro. All payments shall be made on a monthly basis for funds received during the preceding month.
 - f. Tennis Pro shall indemnify 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 Tennis Pro, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the Agreement.

- ii. Any claims, damages, costs and attorney fees arising from any failure of Tennis Pro, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable law, including, but not limited to, labor laws and minimum wage laws.

Tennis Pro shall pay City any expenses incurred as a result of Tennis Pro's failure to fulfill any obligation in a professional and timely manner under the Agreement.

- g. Tennis Pro must maintain commercial general liability insurance for bodily injury and property damage (minimum \$1,000,000) and workers' compensation insurance as required by the State of Tennessee. Such insurance shall name the City of Murfreesboro (111 W. Vine St., Murfreesboro, TN 37130) as an additional insured for the duration of this Agreement. Proof of such insurance shall be provided to the City by a certificate of insurance and endorsement as necessary. Tennis Pro must notify City if the insurance policy is renewed, canceled, or altered in any manner and provide written documentation of such alteration.
- h. Tennis Pro shall provide the City a completed Volunteer Background Check form for himself/herself. It is the Murfreesboro Parks and Recreation Department's policy that all employees/volunteers working with children in their program are subject to background checks at a minimum to the extent set forth in MPRD's Youth Athletic League Background Check Policy (attached).
- i. Tennis Pro shall follow the rules and regulations of the City of Murfreesboro and the Murfreesboro Parks and Recreation Department.
- j. Tennis Pro has inspected the site and agrees to use the site "as is" with no changes or modifications required.
- k. Tennis Pro shall be responsible for leaving the facility clean and orderly.
- l. Any request for use of any MPRD facility outside this agreement must follow MPRD standard rental policy. This requirement shall include any extra classes or demonstrations.
- m. Tennis Pro shall report any unsafe conditions immediately to the appropriate staff at Murfreesboro Parks and Recreation Department and understand that use may be canceled or delayed until such condition is corrected.
- n. Tennis Pro may not schedule lessons, camps, or clinics when the City has reserved the courts for various tournaments and activities. The City will notify Tennis Pro through personal email and other media outlets. (e.g MPRD website, ATC Calendar, the ATC Facebook page,) of dates at least two weeks prior to said event.
- o. Tennis Pro cannot coach an Adams Tennis Complex member who the Tennis Pro coaches (or has coached at any time) at the Adams Tennis Complex at another location during the Tennis Pro's contract with the City.
- p. Tennis Pro must notify John Kreis Head Tennis Professional or the Adams Tennis Complex Facility Supervisor at least twenty-four (24) hours in advance prior to any cancellation and/or rescheduling of classes.
- q. Tennis Pro must adhere to City's Court Cancellation policy. Fee waivers must be requested in writing to the Head Tennis Professional. Waivers will be given on an individual basis.

- r. Tennis Pro may donate their services up to three times per year and court fees will be waived upon prior approval by the Head Tennis Professional. Approval will be contingent on court availability. Additional requests must be submitted in writing and will be considered by the Head Tennis Professional.
- s. Tennis Pros are prohibited from the selling of goods or services that are not specifically outlined in their contract.
- t. It is the responsibility of each teaching Tennis Pro to assist the Adams Tennis Complex in informing all their clients of the facility rules, regulations, and policies.
- u. Tennis Pro may request an exception to any of these requirements by submitting the request in writing to the ATC Head Tennis Pro. Approval or disapproval of any such requests shall be issued by the ATC Head Tennis Pro in writing.

3. Scope of Services - City:

- a. The City shall provide a site for Tennis Pro to conduct lessons, camps or clinics at the Adams Tennis Complex and Old Fort Park Tennis Facility.
- b. City shall provide a staff member to open and close the facility.
- c. City may enter into other agreements for provision of similar services at any time.
- d. City shall give Tennis Pro two (2) weeks' notice when facility maintenance/cleaning is required.
- e. City shall allow the Tennis Pro's the use of the facility (ATC) stringing machine for personal racquet stringing only. (Pro must provide own string). If a Teaching Pro strings a member or non-member racquet all facility fees apply and will be payable to the Adams Tennis Complex. The Tennis Pro will be compensated 70% of the charged stringing labor fee per racquet; the City shall retain the other 30%. All payments to Tennis pro shall be made on a monthly basis for funds received during the preceding month.
- f. City shall waive non-member fees for personal court time.

4. Fees:

- a. The City shall set fees for lessons, camps or clinics in agreement with Tennis Pro prior to the event. The City shall be responsible for collecting fees and payments shall be made monthly for funds received during the preceding month paid to Tennis Pro.
- b. Any change in the fee structure must have prior approval of the City.
- c. 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 Contract, Contractor certifies and warrants it will comply with this policy.

- 5. Allocation of fees.** Of all paid registrations, the Tennis Pro shall receive seventy percent (70%) of the gross revenues and the City shall retain the remaining thirty percent (30%). All

payments shall be made on a monthly basis payable to Tennis Pro for funds received during the preceding month. The City has the right to examine financial records relative to this class and its attendance for up to three years beyond the duration of this agreement.

6. E-Verify.

- a. Pursuant to T.C.A. §50-1-703(a)(1)(A), the Contractor shall provide an acceptable form of identification, such as a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, prior to the Contractor providing labor or services pursuant to this Contract. If the Contractor does not possess a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, any one of the other forms of identification set forth in T.C.A. §50-1-703(a)(1)(A) will be acceptable.
- b. Contractor shall complete and submit an IRS tax form W-9 with a copy of the acceptable form of identification set forth in clause 2- attached thereto prior to the Contractor providing labor or services pursuant to this contract.

7. General Terms and Conditions:

- a. Tennis Pro warrants that no part of the total Agreement amount provided herein shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant in connection with work contemplated or performed relative to this Agreement.
- b. Tennis Pro 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.
- c. This Agreement may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. In that event, Tennis Pro shall be entitled to receive just and equitable compensation from those who have engaged the services of Tennis Pro for themselves for any services or work completed as of the termination date.
- d. If Tennis Pro fails to fulfill in timely and proper manner its obligations under this Agreement, or if Tennis Pro shall violate any of the terms of this Agreement, the City shall have the right to immediately terminate the Agreement.
- e. Notwithstanding the above, Tennis Pro shall not be relieved of any liability to the City for damages sustained by virtue of any breach of this Agreement by Tennis Pro.
- f. Tennis Pro shall not assign this Agreement or enter into sub-contracts for any of the programs or training covered by this Agreement without obtaining the prior written approval of the City.
- g. Tennis Pro acknowledges that the City has hired a full-time Head Tennis Pro to oversee all lessons, camps and clinics taught at City of Murfreesboro Tennis facilities. Tennis Pro further acknowledges that this agreement is subject to the approval of the Head Tennis Professional.

- 8. **Cancellation of Agreement.** The City has the right to cancel this Agreement if there is a breach of rules or contract. It will be the duty of City to refund to students a prorated fee if needed.
- 9. **Amendment.** This Agreement constitutes the entire Agreement between the City and Tennis Pro. This Agreement may be modified by written amendment executed by all parties and their signatories hereto.

In witness whereof, the City and User have executed this use Agreement on the day and date first written above.

CITY OF MURFREESBORO

JOHN MORRIS, TENNIS PRO

By: _____
Shane McFarland, Mayor

By: John Morris

Title: Tennis Professional

Date: _____

Date: 7/15/2020

Address: 9430 Lillian Lane

City, State Zip Code: Brentwood TN 37027

Phone: (615) 207-9901

Email: johnniemo67@hotmail.com

APPROVED AS TO FORM:

Adam Tucker, City Attorney

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MURFREESBORO
AND
JON MARK ROWDEN**

This Professional Services Agreement is made by and between the City of Murfreesboro hereafter referred to as "City" through its Parks and Recreation Department and Jon Mark Rowden hereinafter referred to as "Tennis Pro", this 12th day of July, 2020.

Whereas, the City is interested in utilizing all available facilities to provide quality recreational instruction at minimal cost; and,

Whereas, Tennis Pro is experienced in the instruction of tennis and is interested in offering programs using the facilities of the City;

Now, therefore, the City and User agree as follows:

1. **Term:** The term of this Professional Services Agreement ("Agreement") shall be between July 1, 2020 and June 30, 2021.
2. **Scope of Services – Tennis Pro:**
 - a. Tennis Pro shall teach tennis through private and semi-private lessons, camps and clinics for youth and adults.
 - b. Tennis Pro should help produce publicity, flyers, etc. for the Adams Tennis Complex (ATC). All informational items must have prior approval from the Director of the Murfreesboro Parks and Recreation Department or designee.
 - c. The Tennis Pro shall receive seventy percent (70%) of the gross revenues of all paid fees, for all private and semi-private lessons. The City shall retain the remaining thirty percent (30%). All payments shall be made on a monthly basis for funds received during the preceding month.
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 - e. Tennis Pro shall receive 70% of the Tennis Pro's hourly private lesson rate for each hour Tennis Pro elects to teach in a Group Tennis class or Tennis Camp program organized by the Head Tennis Professional of the City of Murfreesboro. All payments shall be made on a monthly basis for funds received during the preceding month.
 - f. Tennis Pro shall indemnify 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 Tennis Pro, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the Agreement.

- ii. Any claims, damages, costs and attorney fees arising from any failure of Tennis Pro, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable law, including, but not limited to, labor laws and minimum wage laws.

Tennis Pro shall pay City any expenses incurred as a result of Tennis Pro's failure to fulfill any obligation in a professional and timely manner under the Agreement.

- g. Tennis Pro must maintain commercial general liability insurance for bodily injury and property damage (minimum \$1,000,000) and workers' compensation insurance as required by the State of Tennessee. Such insurance shall name the City of Murfreesboro (111 W. Vine St., Murfreesboro, TN 37130) as an additional insured for the duration of this Agreement. Proof of such insurance shall be provided to the City by a certificate of insurance and endorsement as necessary. Tennis Pro must notify City if the insurance policy is renewed, canceled, or altered in any manner and provide written documentation of such alteration.
- h. Tennis Pro shall provide the City a completed Volunteer Background Check form for himself/herself. It is the Murfreesboro Parks and Recreation Department's policy that all employees/volunteers working with children in their program are subject to background checks at a minimum to the extent set forth in MPRD's Youth Athletic League Background Check Policy (attached).
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- j. Tennis Pro has inspected the site and agrees to use the site "as is" with no changes or modifications required.
- k. Tennis Pro shall be responsible for leaving the facility clean and orderly.
- l. Any request for use of any MPRD facility outside this agreement must follow MPRD standard rental policy. This requirement shall include any extra classes or demonstrations.
- m. Tennis Pro shall report any unsafe conditions immediately to the appropriate staff at Murfreesboro Parks and Recreation Department and understand that use may be canceled or delayed until such condition is corrected.
- n. Tennis Pro may not schedule lessons, camps, or clinics when the City has reserved the courts for various tournaments and activities. The City will notify Tennis Pro through personal email and other media outlets. (e.g MPRD website, ATC Calendar, the ATC Facebook page,) of dates at least two weeks prior to said event.
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- c. 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 Contract, Contractor certifies and warrants it will comply with this policy.

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payments shall be made on a monthly basis payable to Tennis Pro for funds received during the preceding month. The City has the right to examine financial records relative to this class and its attendance for up to three years beyond the duration of this agreement.

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- a. Pursuant to T.C.A. §50-1-703(a)(1)(A), the Contractor shall provide an acceptable form of identification, such as a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, prior to the Contractor providing labor or services pursuant to this Contract. If the Contractor does not possess a valid Tennessee driver license or photo identification license issued by the Tennessee Department of Safety, any one of the other forms of identification set forth in T.C.A. §50-1-703(a)(1)(A) will be acceptable.
- b. Contractor shall complete and submit an IRS tax form W-9 with a copy of the acceptable form of identification set forth in clause 2- attached thereto prior to the Contractor providing labor or services pursuant to this contract.

7. General Terms and Conditions:

- a. Tennis Pro warrants that no part of the total Agreement amount provided herein shall be paid directly or indirectly to any officer or employee of the City as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant in connection with work contemplated or performed relative to this Agreement.
- b. Tennis Pro 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.
- c. This Agreement may be terminated by either party by giving written notice to the other, at least thirty (30) days before the effective date of termination. In that event, Tennis Pro shall be entitled to receive just and equitable compensation from those who have engaged the services of Tennis Pro for themselves for any services or work completed as of the termination date.
- d. If Tennis Pro fails to fulfill in timely and proper manner its obligations under this Agreement, or if Tennis Pro shall violate any of the terms of this Agreement, the City shall have the right to immediately terminate the Agreement.
- e. Notwithstanding the above, Tennis Pro shall not be relieved of any liability to the City for damages sustained by virtue of any breach of this Agreement by Tennis Pro.
- f. Tennis Pro shall not assign this Agreement or enter into sub-contracts for any of the programs or training covered by this Agreement without obtaining the prior written approval of the City.
- g. Tennis Pro acknowledges that the City has hired a full-time Head Tennis Pro to oversee all lessons, camps and clinics taught at City of Murfreesboro Tennis facilities. Tennis Pro further acknowledges that this agreement is subject to the approval of the Head Tennis Professional.

8. **Cancellation of Agreement.** The City has the right to cancel this Agreement if there is a breach of rules or contract. It will be the duty of City to refund to students a prorated fee if needed.
9. **Amendment.** This Agreement constitutes the entire Agreement between the City and Tennis Pro. This Agreement may be modified by written amendment executed by all parties and their signatories hereto.

In witness whereof, the City and User have executed this use Agreement on the day and date first written above.

CITY OF MURFREESBORO

JON MARK ROWDEN, TENNIS PRO

By: _____
Shane McFarland, Mayor

By: Jon M Rowden

Title: Tennis Professional

Date: _____

Date: 7/12/20

Address: 141 Piney Rd

City, State Zip Code: Dickson, TN 37055

Phone: (615) 618-6543

Email: joncrowden@gmail.com

APPROVED AS TO FORM:

Adam Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Contract for On-Call Plans Review Services by Griggs and Maloney

Department: Planning

Presented by: Greg McKnight, Planning Director

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Consider contract with Griggs and Maloney for on-call plans review services.

Staff Recommendation

Approve the proposed contract.

Background Information

The Planning Department has an open Project Engineer position critical to review of development plans. The Planning Department proposes to use on-call plans review services to maintain a responsive level of plans review. The proposed contract for these services is with local engineering firm Griggs and Maloney, who provided a similar service for several months during 2019 when there was a Project Engineer vacancy.

Council Priorities Served

Responsible Budgeting

Staff proposes to utilize on-call plans review services to allow evaluation of future workload while recruiting for the vacant Project Engineer position.

Improve Economic Development

Timely review of development plans helps to ensure that projects move forward.

Establish Strong City Brand

Outsourcing certain functions of the plans review process during this time will help the Planning Department to maintain its high standards of customer service.

Fiscal Impact

The contract budget is \$75,000 and will be offset by a reduction in labor expenses in the Planning Department FY 21 budget.

Attachment:

Contract with Griggs and Maloney



P.O. Box 2968
Murfreesboro, TN 37133-2968
(615) 895-8221
Fax: (615) 895-0632

June 30, 2020

Mr. Sam Huddleston P.E., Director of Development Services
City of Murfreesboro
111 West Vine Street
Murfreesboro, Tennessee 37133

RE: PROPOSAL FOR TECHNICAL PLANS REVIEW ASSISTANCE

Dear Mr. Huddleston:

Griggs & Maloney (G&M) is grateful for the opportunity to submit this proposal to assist the City of Murfreesboro with technical review of site plans and other planning-related submittals. Through several conversations between the City and G&M, we understand that the City seeks short-term, part-time technical plans review assistance to support the plans review process amounting to approximately 20-30 hours per week. Anticipated review tasks include, but are not necessarily limited to, stormwater management, impacts on the right-of-way, site access, parking requirements, and pre-application meeting attendance.

G&M proposes to provide the above-mentioned services on a time and expense basis in accordance with the attached terms and conditions and standard billing rates. G&M anticipates splitting time between City Hall and our office located less than 1 mile away. G&M will work with you and your planning staff to set a schedule that works with the City's plan review calendar. If our proposal meets your approval, please sign below and return a copy to our office. Thank you again for the opportunity to assist the City in this endeavor.

Sincerely,
GRIGGS & MALONEY, INC.

Ryan Maloney, P.E.

ACCEPTED BY CITY OF MURFREESBORO

MAYOR SHANE MCFARLAND

DATE

APPROVED AS TO FORM

DocuSigned by:

ADAM F. TUCKER, CITY ATTORNEY

7/21/2020

DATE

cc: Will Owen P.E., Griggs & Maloney, Inc.

GRIGGS & MALONEY, INC. STANDARD TERMS AND CONDITIONS

1. ACCESS TO THE SITE/JOB SITE SAFETY

Unless otherwise stated, Griggs & Maloney, Inc., hereinafter referred to as the CONSULTANT, will have access to the site for activities necessary for performance of the services. The CONSULTANT will take precautions to minimize damage resulting from these activities, but has not included in the project fee the cost of restoration of any resulting damage.

The CONSULTANT has not been retained or compensated to provide services relating to the CONTRACTOR's safety precautions or means, methods, techniques, sequences or procedures for the CONTRACTOR to perform his work. The CLIENT understands that the CONSULTANT is not responsible, in any way, for the means, methods, techniques, sequences, procedures, scheduling, or for job site safety, and will not be responsible for any losses or injuries that occur at the Project site.

2. INSURANCE

The CONSULTANT shall secure and endeavor to maintain such insurance including general liability and errors and omissions insurance in the amount of \$1,000,000 as will protect the CLIENT from claims of negligence, bodily injury, death, or property damage that may arise out of the performance of the CONSULTANT's services under this agreement.

3. TERMINATION OF SERVICES:

This Agreement may be terminated by the CLIENT or by the CONSULTANT upon not less than seven days written notice should the other party fail to substantially perform in accordance with the terms of this Agreement through no fault of the party initiating termination. If this Agreement is terminated by the CLIENT, the CONSULTANT shall be paid for services performed to the termination notice date, including reimbursable expenses.

4. REIMBURSABLE EXPENSES:

Reimbursable expenses include actual expenditures made by the CONSULTANT, his employees, or his SUB-CONSULTANTS on behalf of the Project. Reimbursable expenses include, but are not necessarily limited to, the following: (a) expenses of transportation and living when traveling in connection with the Project: long distance communications; overnight mail; and fees paid for testing and/or securing approval of authorities having jurisdiction over the Project: (b) expenses of printing, reproduction, postage and handling of drawings and specifications, including duplicate sets at the completion of each phase of the Project for the CLIENT's review and approval; and (c) expenses related to SUB-CONSULTANTS and specialists when authorized by the CLIENT. Reimbursable expenses shall be billed as cost plus 15% incurred by the CONSULTANT.

5. DISPUTES RESOLUTION:

All claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to this Agreement or breach thereof shall be presented to non-binding mediation, subject to the parties agreeing to a mediator.

6. OWNERSHIP OF DOCUMENTS:

It is understood by and between the parties to this agreement that all drawings, specifications, reports and other work products of the CONSULTANT for this Project shall remain the property of the CONSULTANT and are instruments of the service for this Project only and shall apply to this particular Project and any reuse of the instruments of service of the CONSULTANT by the CLIENT for any extensions of the PROJECT or for any other project without the written permission of the CONSULTANT shall be at the CLIENT's sole risk, and the CLIENT agrees to defend, indemnify and hold harmless the CONSULTANT from all claims, damages and expenses, including attorney's fees, arising out of any unauthorized reuse of the CONSULTANT's instruments of service by the CLIENT or by others acting through or on behalf of the CLIENT to the extent permitted by law. Any reuse or adoption of the CONSULTANT's instruments of service on other projects shall entitle the CONSULTANT to additional compensation in an amount to be agreed upon by the CLIENT and the CONSULTANT.

7. GOVERNING LAW:

Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the State of Tennessee. In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

8. PAYMENT TO THE CONSULTANT:

If the CLIENT fails to make payment due to the CONSULTANT, the CONSULTANT may, after giving seven days written notice to the CLIENT, suspend services under this Agreement and retain all work products deliverable to the CLIENT until full payment. The project completion date shall be automatically extended by the number of days services are suspended.

No deductions shall be made from the CONSULTANT's compensation on account of penalty, liquidated damages, or other sums withheld from payment(s) to CONTRACTORS.

9. CLIENT RESPONSIBILITIES:

The CLIENT shall designate a person to act with authority on his behalf in respect to all aspects of the Project, shall examine and respond promptly to CONSULTANTS submissions, and shall give prompt written notice to the CONSULTANT whenever he observes or otherwise becomes aware of any defect in or problem with the Project.

The CLIENT shall also provide to the CONSULTANT all criteria and full information as to his requirements for the Project, and shall:

- Provide the CONSULTANT with escorts and means of access to all areas of the Project; this being necessary for the orderly progress of the work, the CONSULTANT shall be entitled to rely upon the efficiency and completeness thereof.
- Compensate the CONSULTANT for services rendered under this Agreement and pay all costs incidental to CLIENT furnished items.
- The CONSULTANT may justifiably rely upon information supplied by the CLIENT without the need for additional verification by the CONSULTANT.
- Provide such legal, accounting, and insurance counseling services as may be required for the Project.
- Guarantee access to and make all independent cost estimating, and insurance counseling services as may be required for the Project.

10. EXTENT OF AGREEMENT:

This Agreement represents the entire and integrated Agreement between the CLIENT and the CONSULTANT and supersedes all prior negotiations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CLIENT and the CONSULTANT.

The CONSULTANT intends to render services under the terms of this Agreement in accordance with generally accepted professional practices consistent with the intended use of the Project and makes no warranty either expressed or implied.

Any *opinion of construction* cost prepared by the CONSULTANT represents his judgment as a design professional and is supplied for the general guidance of the CLIENT. Since the CONSULTANT has no control over the cost of labor and material, or over competitive bidding or market conditions, the CONSULTANT does not guarantee the accuracy of such opinions as compared to CONTRACTOR bids or actual cost to the CLIENT.

11. CHANGES IN THE SCOPE OF SERVICES:

The CLIENT may request changes in the *Scope of Services* of the Agreement to be performed hereunder. Such changes, including any increase or decrease in the amount of the CONSULTANT's compensation, which are mutually agreed upon by and between the CLIENT and the CONSULTANT shall be incorporated into this Agreement by written amendment.

Any changes made to construction documents by the CLIENT, or by the CLIENT's representative's, are strictly prohibited without the knowledge and written consent of the CONSULTANT. The CONSULTANT shall be released from any liability resulting from damages, injuries, and or death from the unauthorized alteration of construction documents.

12. EXISTING AND/OR HIDDEN CONDITIONS:

A condition is hidden if it is concealed by existing finishes or features or if it cannot be investigated by reasonable visual observation. If the CONSULTANT has reason to believe that such a condition may exist, the CONSULTANT will notify the CLIENT who then shall authorize and pay for all costs associated with the investigation of such a condition and, if necessary, all costs necessary to correct said condition. If (1) the CLIENT fails to authorize such investigation or correction after due notification, or (2) the CONSULTANT has no reason to believe that such a condition exists, the CLIENT is responsible for all risks associated with this condition, and the CONSULTANT shall not be responsible for the existing condition nor any resulting damages to persons or property. Further, the CONSULTANT will not be required to execute any document that would result in certifying, guaranteeing or warranting the existence of conditions whose existence the CONSULTANT cannot reasonably

ascertain.

13. STANDARD OF CARE

Services provided by the Design Professional under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any loss, claim or cost, including reasonable attorney's fees and costs of defense, arising or resulting from the performance of the same services set forth herein by third parties and from any and all claims arising from modifications, clarification, interpretations, adjustments or changes not approved by CONSULTANT that are made to the Contract Documents by Client or third party to reflect changed field or other conditions, except for claims arising from the negligence or willful misconduct of the CONSULTANT.

14. DESIGN WITHOUT CONSTRUCTION SERVICES

It is understood and agreed that the CONSULTANT's Basic Services under this Agreement do not include project observation or review of the CONTRACTOR's performance or any other construction phase services, and that such services will be provided by the CLIENT or by another party selected at the sole discretion of the CLIENT. Further, the CLIENT assumes all responsibility for interpretation of the Contract Documents and for construction observation and/or supervision and waives any claims against the CONSULTANT that may be in any way connected thereto.

In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any loss, claim or cost, including reasonable attorney's fees and costs of defense, arising or resulting from the performance of services under this contract by other persons or entities and from any and all claims arising from modifications, clarification, interpretations, adjustments or changes made to the Contract Documents to reflect changes field or other conditions, except for claims arising from the sole negligence or willful misconduct of the CONSULTANT.

If the CLIENT requests in writing that the CONSULTANT provide any specific construction phase service and if the CONSULTANT agrees in writing to provide such services, then the CONSULTANT shall be compensated for ADDITIONAL Services as provided in the Agreement.

END OF STANDARD TERMS AND CONDITIONS

**GRIGGS & MALONEY, INC.
STANDARD RATES**

January 2020

	<u>Per Hour Rate</u>
Principal	\$190.00 – \$195.00
Senior Project Manager	\$155.00 – \$185.00
Project Manager	\$110.00 – \$125.00
Senior Engineer	\$160.00 – \$185.00
Project Engineer	\$135.00
Engineer II	\$125.00
Engineer I	\$80.00 – \$90.00
Planner	\$120.00
Environmental, Health, and Safety Professional	\$120.00
Sr. Environmental Scientist/Biologist	\$105.00
Environmental Scientist/Biologist	\$100.00
Sr. Geologist	\$105.00
Environmental Specialist	\$50.00 – \$80.00
Drafting/CADD Operator	\$85.00
Technician	\$60.00
Clerical	\$55.00
Administrative	\$120.00
Resident Representative	\$40.00 – \$60.00

ADDITIONAL CHARGES

Mileage	\$0.68 per mile
Per Diem	
Meals	\$41.00 per day
Lodging	\$150.00 per day
Direct Costs/Subcontractor Costs	Cost plus 15%
Copies (8.5"x11")	\$0.10 per copy
Printing: 24"x36" – Black & White	\$0.90 each
Printing: 24"x36" – Color	\$18.00 each
Printing 24"x36" Aerial – Gray	\$12.00 each

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: School Patrol Service Contracts for Private Schools

Department: Police

Presented by: Chief Michael Bowen

Requested Council Action:

Ordinance

Resolution

Motion

Direction

Information

Summary

MPD contracts for patrol services to the following private schools: Middle Tennessee Christian School (MTCS), Providence Christian Academy (PCA) and St. Rose of Lima Catholic School

Staff Recommendation

Approve the contracts between MPD and the above listed private schools.

Background Information

MPD has provided school patrol services to MTCS, PCA and St. Rose for several years. As outlined in each contract, the school is responsible for payment of the City's costs for these services

Council Priorities Served

Safe and Livable Neighborhoods

The schools and the community benefit from having an officer control traffic and pedestrian activities during arrival and dismissal times at each of these schools

Fiscal Impact

None. Each school pays the agreed upon sum for the services provided

Attachments

School Patrol Service Contracts

**CONTRACT
BETWEEN
THE CITY OF MURFREESBORO
AND
MIDDLE TENNESSEE CHRISTIAN SCHOOL**

THIS CONTRACT, by and between the **City of Murfreesboro**, acting through its Police Department, hereinafter referred to as "City", and **Middle Tennessee Christian School**, hereinafter referred to as "School", is for the provision of a school traffic enforcement employee located at Memorial Boulevard and MTCS Drive for the benefit of the Middle Tennessee Christian School.

WITNESSETH

In consideration of the mutual promises herein contained, the parties have agreed and do hereby enter into this Contract according to the provisions set out herein.

The City agrees to provide a school traffic enforcement employee for the School located at Memorial and MTCS Drive at opening and dismissal times on school days as shown on the School calendar, Attachment A, subject to changes for snow days or make-up days. If such services are required for additional dates or times not reflected on Attachment A, the School shall notify the Murfreesboro Police Department contact person of such dates and times no later than seventy-two (72) hours prior to the additional date and/or time. The service of the school traffic enforcement employee shall not include special events.

The School agrees to compensate the City in the amount of Nine Thousand Four Hundred Ninety One Dollars and 92/100 (**\$9,491.92**) for the services of a

school traffic enforcement employee located at Memorial Boulevard and MTCS Road. Payment to the City shall be made within thirty (30) days of execution of this contract. In no event shall the liability of the School under this Contract exceed Nine Thousand Four Hundred Ninety One Dollars and 92/100 (**\$9,491.92**). The parties further agree that the following shall be essential terms and conditions of this Contract:

1. At all times pursuant to this Contract, the school traffic enforcement employee performing the services rendered in accordance with this Contract shall be an employee of the City of Murfreesboro and subject to the personnel policies, rules and regulations established by the City. The City shall establish the duties and responsibilities for such school traffic enforcement employee.

2. This Contract shall not be binding upon the parties until it has been signed first by the School and then approved by the City Council and signed by the Mayor. When it has been so signed, this Contract shall be effective as of the first day of school, August 6, 2020.

3. The term of this Contract shall be from August 6, 2020 to May 14, 2021.

4. This Contract may be terminated by either party by giving written notice to the other at least thirty (30) days before the effective date of termination. In that event, the School shall be entitled to a refund of the prorated cost for services not rendered by the City. The "prorated cost" shall not include a 10% administrative fee of \$862.90.

5. If the School fails to fulfill in timely and proper manner its obligations under this Contract, or if the School shall violate any of the terms of this Contract, the

City shall have the right to immediately terminate this Contract. Notwithstanding the above, the School shall not be relieved of liability to the City for damages sustained by virtue of any breach of this Contract by the School.

6. This Contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City Council may be required. Minor modifications to the Contract may be approved by the City Manager.

7. Any notice to the City from the School relative to any part of the Contract shall be sent to:

City of Murfreesboro
Craig Tindall, City Manager
111 West Vine Street
Murfreesboro, TN 37130
Phone: (615) 849-2629
Fax: (615) 849-2679

8. The School must notify the contact person for the City if the dates or times agreed upon based on Attachment A change in any manner. Such notice must be received seventy-two (72) hours prior to such alteration. The Murfreesboro Police Department contact person is:

Murfreesboro Police Department
Sgt. Scott Newberg
1004 N Highland Ave
Murfreesboro, TN 37130
Phone: (29)201-5579
Fax: (615) 849-2628

9. Notices to the School shall be sent to:

Middle Tennessee Christian School
Matt Tiller
100 MTCS Road
Murfreesboro, TN 37129
Phone: (615) 893-0601

CITY OF MURFREESBORO

MIDDLE TN CHRISTIAN SCHOOL

Shane McFarland, Mayor

Matt Tiller, President

Approved as to form:

Adam Tucker, City Attorney

**CONTRACT
BETWEEN
THE CITY OF MURFREESBORO
AND
PROVIDENCE CHRISTIAN ACADEMY**

THIS CONTRACT, by and between the **City of Murfreesboro**, acting through its Police Department, hereinafter referred to as "City", and **Providence Christian Academy**, hereinafter referred to as "School", is for the provision of a school traffic enforcement employee located at 410 DeJarnette Lane for the benefit of the Providence Christian Academy.

WITNESSETH

In consideration of the mutual promises herein contained, the parties have agreed and do hereby enter into this Contract according to the provisions set out herein.

The City agrees to provide 2 school traffic enforcement employees for the School located at 410 DeJarnette Lane at opening and dismissal times on school days as shown on the School calendar, Attachment A, subject to changes for snow days or make-up days. If such services are required for additional dates or times not reflected on Attachment A, the School shall notify the Murfreesboro Police Department contact person of such dates and times no later than seventy-two (72) hours prior to the additional date and/or time. The service of the school traffic enforcement employees shall not include special events.

The School agrees to compensate the City in the amount of Eighteen Thousand Nine Hundred Eighty Three Dollars and 84/100 (**\$18,983.84**) for the services of both school traffic enforcement employees located at 410 DeJarnette Lane. Payment to the City shall be made within thirty (30) days of execution of this contract. In no event shall the liability of the School under this Contract exceed Eighteen Thousand Nine Hundred Eighty Three Dollars and 84/100 (**\$18,983.84**)

The parties further agree that the following shall be essential terms and conditions of this Contract:

1. At all times pursuant to this Contract, the school traffic enforcement employees performing the services rendered in accordance with this Contract shall be an employee of the City of Murfreesboro and subject to the personnel policies, rules and regulations established by the City. The City shall establish the duties and responsibilities for such school traffic enforcement employee.

2. This Contract shall not be binding upon the parties until it has been signed first by the School and then approved by the City Council and signed by the Mayor. When it has been so signed, this Contract shall be effective as of the first day of school, July 27, 2020.

3. The term of this Contract shall be from July 27, 2020 to May 22, 2021.

4. This Contract may be terminated by either party by giving written notice to the other at least thirty (30) days before the effective date of termination. In that event, the School shall be entitled to a refund of the prorated cost for services not rendered by the City. The "prorated cost" shall not include a 10% administrative fee of \$1725.80.

5. If the School fails to fulfill in timely and proper manner its obligations under this Contract, or if the School shall violate any of the terms of this Contract, the City shall have the right to immediately terminate this Contract. Notwithstanding the above, the School shall not be relieved of liability to the City for damages sustained by virtue of any breach of this Contract by the School.

6. This Contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City Council may be required. Minor modifications to the Contract may be approved by the City Manager.

7. Any notice to the City from the School relative to any part of the Contract shall be sent to:

City of Murfreesboro
Craig Tindall, City Manager
111 West Vine Street
Murfreesboro, TN 37130
Phone: (615) 849-2629
Fax: (615) 849-2679

8. The School must notify the contact person for the City if the dates or times agreed upon based on Attachment A change in any manner. Such notice must be received seventy-two (72) hours prior to such alteration. The Murfreesboro Police Department contact person is:

Murfreesboro Police Department
Sgt. Scott Newberg
1004 N Highland Ave
Murfreesboro, TN 37130
Phone: (629)201-5579
Fax: (615) 849-2628

9. Notices to the School shall be sent to:

Providence Christian Academy
Dr. Bill Mott
410 DeJarnette Lane
Murfreesboro, TN 37130
Phone: (615) 904-0902

CITY OF MURFREESBORO

**PROVIDENCE
ACADEMY**

CHRISTIAN

Shane McFarland, Mayor

Dr. Bill Mott, Headmaster:

Approved as to form:

Adam Tucker, City Attorney

**CONTRACT
BETWEEN
THE CITY OF MURFREESBORO
AND
ST. ROSE OF LIMA SCHOOL**

THIS CONTRACT, by and between the **City of Murfreesboro**, acting through its Police Department, hereinafter referred to as "City", and **St. Rose of Lima School**, hereinafter referred to as "School", is for the provision of a school traffic enforcement employee located at 1601 N. Tennessee Blvd. for the benefit of the St. Rose of Lima School.

WITNESSETH

In consideration of the mutual promises herein contained, the parties have agreed and do hereby enter into this Contract according to the provisions set out herein.

The City agrees to provide a school traffic enforcement employee for the School located at 1601 N. Tennessee Blvd. at opening and dismissal times on school days as shown on the School calendar, Attachment A, subject to changes for snow days or make-up days. If such services are required for additional dates or times not reflected on Attachment A, the School shall notify the Murfreesboro Police Department contact person of such dates and times no later than seventy-two (72) hours prior to the additional date and/or time. The service of the school traffic enforcement employee shall not include special events.

The School agrees to compensate the City in the amount of Nine Thousand Four Hundred Ninety One Dollars and 92/100 (**\$9,491.92**) for the services of a school traffic enforcement employee located at 1601 N. Tennessee Blvd. Payment to the City shall be made within thirty (30) days of execution of this contract. In no event shall the liability of the School under this Contract exceed Nine Thousand Four Hundred Ninety One Dollars and 92/100 (**\$9,491.92**).

The parties further agree that the following shall be essential terms and conditions of this Contract:

1. At all times pursuant to this Contract, the school traffic enforcement employee performing the services rendered in accordance with this Contract shall be an employee of the City of Murfreesboro and subject to the personnel policies, rules and regulations established by the City. The City shall establish the duties and responsibilities for such school traffic enforcement employee.

2. This Contract shall not be binding upon the parties until it has been signed first by the School and then approved by the City Council and signed by the Mayor. When it has been so signed, this Contract shall be effective as of the first day of school, August 12, 2020.

3. The term of this Contract shall be from August 12, 2020 to May 26, 2021.

4. Either party may terminate this Contract by giving written notice to the other at least thirty (30) days before the effective date of termination. In that event, the School shall be entitled to a refund of the prorated cost for services not rendered by the City. The "prorated cost" shall not include a 10% administrative fee of \$862.90.

5. If the School fails to fulfill in timely and proper manner its obligations under this Contract, or if the School shall violate any of the terms of this Contract, the City shall have the right to immediately terminate this Contract. Notwithstanding the above, the School shall not be relieved of liability to the City for damages sustained by virtue of any breach of this Contract by the School.

6. This Contract may be modified only by written amendment executed by all parties and their signatories hereto. Depending upon the nature and amount of the amendment, the approval of the City Council may be required. Minor modifications to the Contract may be approved by the City Manager.

7. Any notice to the City from the School relative to any part of the Contract shall be sent to:

City of Murfreesboro
Craig Tindall, City Manager
111 West Vine Street
Murfreesboro, TN 37130
Phone: (615) 849-2629
Fax: (615) 849-2679

8. The School must notify the contact person for the City if the dates or times agreed upon based on Attachment A change in any manner. Such notice must be received seventy-two (72) hours prior to such alteration. The Murfreesboro Police Department contact person is:

Murfreesboro Police Department
Sgt. Scott Newberg
1004 N. Highland Ave
Murfreesboro, TN 37130
Phone: (629)201-5579
Fax: (615) 849-2628

9. Notices to the School shall be sent to:

St. Rose of Lima School.
Sister Catherine Marie
1601 N. Tennessee Blvd.
Murfreesboro, TN 37085
Phone: (615) 898-0555

CITY OF MURFREESBORO

ST. ROSE OF LIMA SCHOOL.

Shane McFarland, Mayor

Sister Catherine Marie, Principal:

Approved as to form:

Adam Tucker, City Attorney

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Transit Agency Safety Plan
Department: Transportation – Rover
Presented by: Russ Brashear, Assistant Transportation Director

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Federal Transit Administration requirement for transit systems receiving federal funds to develop a Transit Agency Safety Plan.

Staff Recommendation

Approve plan developed with TDOT.

Background Information

The FTA ensures that federally funded transit programs provide a safe environment for both the patrons and employees by reviewing agencies’ safety plan, including identifying risks, mitigation procedures, and reporting mechanisms. The City participates in a state-developed safety plan along with several other transit agencies across the State. Part of the requirement is stake holder agreement and approval of the plan which includes the City Council.

Council Priorities Served

Maintain Public Safety

Implementation of this plan enhances the safety of the public utilizing the City’s transit system through identification and mitigation of safety risks.

Fiscal Impact

No additional funding is anticipated for implementation the plan.

Attachments

1. City of Murfreesboro Agency Safety Plan

Tennessee Department of Transportation

**City of Murfreesboro
Transportation Department**

**Agency Safety Plan
(ASP)**

June 2020

Revision History

Date	Revision	Description of Revision
TBD	0	Initial draft issuance
20200608	1	Post agency assessments changes complete...2020 Performance Targets updates complete

Agency Safety Plan Approvals¹

Prepared by: Brian Sanderlin 06/08/2020
 NAME Date
 TDOT Multimodal Safety Manager

Approved by: [Signature] 06/08/2020
 NAME Date
 TDOT Multimodal Director

Approved by: _____
 NAME Date
 (Board of Directors/City Council/City Commissioner)

¹ This signature page provides State (TDOT) approval of the PTASP and all addenda. Refer the Participating Agency Addenda for each agency's approval of the PTASP and their agency-specific addenda.

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The mission of the Tennessee Department of Transportation (TDOT) is to provide a safe and reliable transportation system for people, goods and services that supports economic prosperity in Tennessee. TDOT's Office of Public Transportation carries out this mission by providing both financial and technical assistance to transit agencies and projects in the state. This joint Agency Safety Plan (ASP) is the result of a collaborative effort between TDOT and the participating Tennessee public transportation agencies that opted in for coverage under the joint plan instead of writing their own ASP.

The 11 small public transportation operators for which this ASP has been prepared are:

- Bristol Tennessee Transit
- Clarksville Transit System
- SETHRA - Cleveland Urban Area Transit System
- East Tennessee Human Resource Agency
- First Tennessee Human Resource Agency
- Jackson Transit Agency
- Johnson City Transit
- Kingsport Area Transit Service
- Knox County Community Action Committee Transit
- Knoxville Area Transit
- City of Murfreesboro Transportation Department

TDOT certifies that this ASP meets the requirements of 49 CFR Part 673 and that all agencies covered under this joint ASP will have completed any remaining documentation required in Addendums 1-11 not later than the July 20, 2020, the federal deadline for Public Transportation Agency Safety Plan certification. TDOT will continue to support the participating agencies as they work beyond the ASP deadline to continue maturing SMS throughout their organizations.

Suzanne Carlson

TDOT Multimodal Director

June 8, 2020

1. Safety Management System Overview

1.1. SMS Introduction

Safety Management Systems (SMS) is a formal, top-down, organization-wide approach to managing safety risk and assuring the effectiveness of safety risk mitigation. SMS includes systematic and proactive procedures, practices, and policies for managing risks and hazards. By bringing employees together from all levels of the agency to manage risk, SMS helps agencies detect and address safety problems earlier, share and analyze data more effectively, and measure safety performance more precisely.

Four main components make up SMS:

- **Safety Management Policy** (Section 2) is a transit agency's documented commitment to safety. The policy defines the transit agency's safety objectives and the safety accountabilities and responsibilities of its employees.
- **Safety Risk Management** (Section 3) is the process for identifying hazards and analyzing, assessing, and mitigating safety risk.
- **Safety Assurance** (Section 4) is the processes that ensures the implementation and effectiveness of safety risk mitigation and ensures that the agency meets or exceeds its safety objectives through the collection, analysis, and assessment of safety data.
- **Safety Promotion** (Section 5) is a combination of safety training and communication applied to the agency's transportation system to support SMS.

Refer to Appendix A for Definitions of terms used in this plan and refer to Appendix B for Acronyms and Abbreviations used in this plan. Refer to the Participating Agency Addenda for agency-specific information to supplement the joint Agency Safety Plan (ASP).

1.2. Goal, Objectives, and Purpose

1.2.1. Goal

The overarching goal of this ASP is to enhance all aspects of safety within the participating public transportation agencies by guiding effective and proactive management of safety risks in their systems and prioritizing capital investments using performance-based planning.

1.2.2. Objective

The objective of this ASP is to establish processes and procedures to support the implementation of SMS that meets Federal Transit Administration (FTA)-mandated requirements under the PTASP Final Rule (49 CFR Part 673).

1.2.3. Purpose

The Tennessee Department of Transportation (TDOT) ASP formalizes the SMS principles and strategies for demonstrating Safety Management Policy, Safety Risk Management, Safety Assurance and Safety Promotion through all operation and maintenance activities. The ASP defines the process for identifying, evaluating, and resolving hazards associated with operations of a bus system involved in revenue service. This process helps achieve the highest practical level of operational safety for the riding public, employees, and anyone encountering the System.

1.3. Applicability and Scope

Recipients and sub-recipients of FTA Urbanized Area Formula Grant Program funds under 49 U.S.C. § 5307 are required to comply with the PTASP Final Rule². TDOT sponsored this ASP for sub-recipient agencies to opt in for coverage under it or to opt out and develop their own ASP. The following Tennessee public transportation agencies (hereinafter collectively referred to "Participating Agencies") opted to meet their PTASP requirements under 49 CFR Part 673 through participation in the TDOT ASP:

- Bristol Tennessee Transit
- Clarksville Transit System
- Cleveland Urban Area Transit System
- East Tennessee Human Resource Agency
- First Tennessee Human Resource Agency
- Jackson Transit Agency
- Johnson City Transit
- Kingsport Area Transit Service
- Knox County Community Action Committee Transit
- Knoxville Area Transit
- City of Murfreesboro Transportation Department

This ASP meets all the requirements under 49 CFR part 673 and encompasses the equipment, facilities, plans, procedures, operation and maintenance as they relate to a bus system. The ASP is scaled to the size, scope, and complexity of the Participating Agencies.

1.4. ASP Review and Updates

The TDOT ASP will be reviewed at least annually and updated as necessary to ensure that it remains current and consistent with FTA guidance and industry best practice. TDOT will initiate and coordinate the ASP annual review, in coordination with the participating agencies. Additionally, when a significant change occurs within TDOT or the participating agencies, TDOT will coordinate with the Participating Agencies to consider if any updates to the ASP are needed. The ASP will also be updated as necessary following any ASP audit to ensure the SMS remains current and applicable. If revised, the ASP will be re-issued to all ASP recipients. TDOT is responsible for updating the ASP in partnership with the applicable transportation agencies.

² FTA deferred the applicability of the PTASP requirements for small operators who receive funds through FTA's Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program under 49 U.S.C. § 5310 and for Formula Grants for Rural Areas Program under 49 U.S.C. § 5311.

2. Safety Management Policy

2.1. TDOT ASP Safety Management Policy Statement

The participating Tennessee public transportation agencies covered by this Agency Safety Plan (ASP) recognize management of safety as a core agency function and are dedicated to planning, designing, constructing, operating and maintaining transportation systems that optimize the safety of passengers, employees, consultants, contractors, emergency responders, and the public.

Accountability for safety begins with the Accountable Executive and permeates all levels of employees. The following safety objectives reflect the agencies' overarching safety goals and demonstrate commitment to establishing, implementing, and continually improving Safety Management Systems (SMS):

- Integrate safety management into the primary responsibilities of all employees;
- Support safety management through the allocation of resources and promotion of a safety culture that facilitates safe practices and effective employee safety reporting and communication;
- Define roles and responsibilities for all employees that contribute to safety performance and SMS;
- Implement risk-based hazard management consistent with risk acceptance levels;
- Operate an employee safety reporting program that ensures no action will be taken against any employee who discloses a safety concern unless disclosure indicates beyond reasonable doubt an illegal act, gross negligence, or a deliberate disregard of regulations or procedures;
- Comply with or exceed legislative and regulatory requirements and industry standards;
- Ensure systems and services that support operations meet or exceed agency safety standards;
- Provide safety information and training to ensure all employees are competent in safety management for tasks allocated to them;
- Establish and measure safety performance against data-driven safety performance targets; and
- Continually improve safety performance and implementation of SMS.

By applying SMS as outlined above and detailed in this ASP, the participating Tennessee public transportation agencies are committed to making safety the top priority of all agency operations.

2.2. Safety Accountabilities and Responsibilities

Under SMS, identified positions have specific responsibilities under SMS. Refer to the Participating Agency Addenda for a matrix under each Participating Agency that names the specific agency position(s) and committee(s) responsible for each role described below.

2.2.1. Accountable Executive

The Accountable Executive is a single, identifiable person who has ultimate responsibility and accountability for implementing and maintaining the agency's SMS and ASP. This is the same person responsible for carrying out the agency's Transit Asset Management (TAM) Plan. The Accountable Executive has control or direction over the human and capital resources needed to develop and maintain both the agency's ASP and TAM Plan. The Accountable Executive is also responsible for ensuring action is taken, as necessary, to address substandard performance in the agency's SMS. This individual is the primary decision-maker who is ultimately responsible for both safety and TAM.

2.2.2. Chief Safety Officer (or SMS Executive)

The Chief Safety Officer, or SMS Executive, can also be Accountable Executive. This person will have adequate training to take responsibility for safety and act as the SMS Executive. The Chief Safety Officer has the authority and responsibility for day-to-day implementation and operation of the agency's SMS and must have a direct line of reporting to their Accountable Executive. Participating Agencies may designate a Chief Safety Officer who serves in other operational or maintenance capacities³.

2.2.3. All Employees

In addition to the Accountable Executive and/or Chief Safety Officer, each transit agency has identified those with authority and responsibility for day-to-day implementation and operation of the agency's SMS.

All agency employees are responsible for safety. Each employee is required to work safely, correct unsafe behavior, identify and report safety hazards, and abstain from performing any task that the person feels could injure themselves or others.

2.2.4. Safety Committee(s)

Some agencies have safety committees and others incorporate safety into other activities to ensure that the system is operated and maintained in a safe manner. The Safety Committee can support SMS by informing and assuring agency management of safety issues affecting the agency and addressing safety issues assigned to it by the agency's executive management.

2.3. Integration with Public Safety and Emergency Management

There are several internal and external programs that may affect safety management. Refer to Participating Agency Addenda for agency-specific integration of programs and a list of the plans and procedures that support the transit agency's public safety and emergency management activities.

2.4. Safety Performance Targets

The transit agencies have established targets that represent a quantifiable, measurable safety performance or condition. The transit agencies will regularly monitor the performance of their system to ensure they are meeting their targets and improving safety outcomes. At least annually, when reviewing and updating their ASP, the transit agencies will evaluate their safety performance to determine whether they should change their safety performance targets. Agency safety performance targets are categorized below by safety performance measures:

- **Performance Measure: Fatalities** – Total number of reportable⁴ fatalities and rate per total unlinked passenger trips, by mode.
- **Performance Measure: Injuries** – Total number of reportable injuries and rate per total unlinked passenger trips, by mode.
- **Performance Measure: Safety Events** – Total number of reportable events and rate per total vehicle miles, by mode.
- **Performance Measure: System Reliability** – Mean distance between failures, by mode.

³ A Chief Safety Officer may only serve in other operational or maintenance capacities if they are employed by a transit agency that is a small public transportation provider as defined CFR Part 673, or a public transportation provider that does not operate a rail fixed guideway public transportation system.

⁴ The thresholds for "reportable" fatalities, injuries, and events are defined in the National Transit Database Safety and Security Reporting Manual, available at <https://www.transit.dot.gov/ntd/2019-ntd-safety-and-security-policy-manual>.

Refer to Participating Agency Addenda for safety performance targets specific to each Participating Agency, as applicable.

TDOT will coordinate with the Participating Agencies to make the safety performance targets available to the state's Metropolitan Planning Organizations (MPOs), as applicable, to aid in the planning process. To the extent possible, TDOT will facilitate coordination with the MPOs for setting safety performance targets. MPOs that represent the participating agencies include:

Bristol MPO	Johnson City MPO
Clarksville MPO	Kingsport MTPO
Cleveland MPO	Knoxville TPO
Jackson MPO	Nashville MPO

2.5. SMS Documentation and Records

At all times, the transit agency will maintain documents that set forth in this ASP, including those related to the implementation of its SMS and result from SMS processes and activities. The transit agency will maintain documents that are included in whole, or by reference, that describe the programs, policies, and procedures that the agency uses to carry out its ASP. These documents will be made available upon request by the FTA or other federal entity. The transit agency will maintain these documents for a minimum of three years after they are created.

2.6. Employee Safety Reporting

Each transit agency will establish and implement an employee safety reporting program that allows employees and contractors to report safety conditions or hazards to senior management, which describes the protections for employees who report safety conditions or hazards, and which describes employee behaviors that may result in disciplinary action.

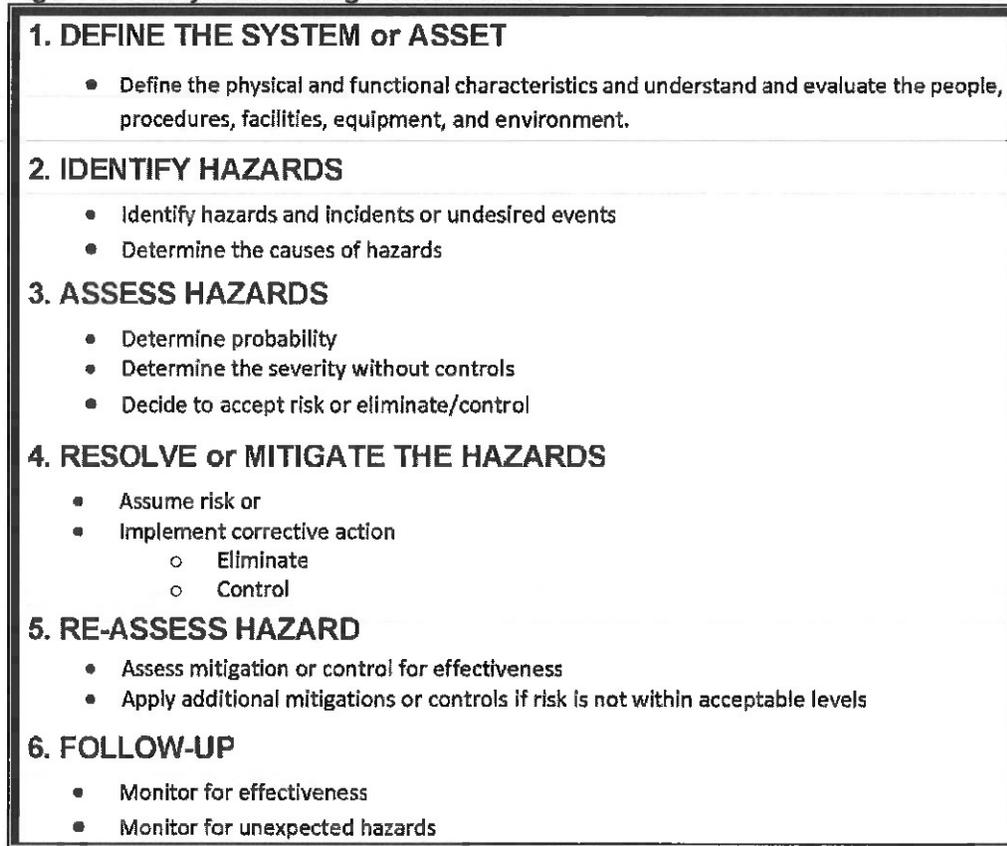
Refer to the Participating Agency Addenda for agency-specific employee safety reporting program descriptions.

3. Safety Risk Management

3.1. Introduction

This chapter provides detail on Safety Risk Management (SRM). SRM includes the activities that a public transportation agency undertakes to control the probability or severity of the potential consequence of hazards. Major SRM sub-components include Hazard Identification and Analysis and Safety Risk Evaluation and Mitigation. Figure 1 below summarizes the six basic steps of SRM.

Figure 1. Safety Risk Management Process



3.2. Hazard Identification and Analysis

The first step in a hazard analysis is defining the systems and sub-systems subject to hazards, followed by identifying specific physical and procedural hazards related to the identified systems and subsystems.

3.2.1. System Description

The TDOT ASP covers the public transportation systems listed in Table 1 and described further below. These Participating Agencies are a mix of fixed route and demand systems.

Table 1. Agency Descriptions

Agency	Number of Fixed Route Bus Vehicles	Number of Paratransit Vehicles	Number of routes	Annual Vehicle Revenue Miles	Annual Unlinked Trips
Bristol Tennessee Transit	6	4	6	183,071 (2017)	62,542 (2017)
Clarksville Transit System	16	10	11	1,529,584 (2018)	696387 (2018)
SETHRA - Cleveland Urban Area Transit System	7	11	5	361,330 (2017)	149,446 (2017)
East Tennessee Human Resource Agency	0	100 vans	N/A	4,475,998 (2017)	269,540 (2017)
First Tennessee Human Resource Agency	0	100+ vans	N/A	2,557,165 (2016)	163,433 (2016)
Jackson Transit Authority	13	7	11	774,480 (2017)	504,281 (2017)
Johnson City Transit	15	12	11	684,857 (2017)	668,161 (2017)
Kingsport Area Transit Service	7	6	6	323,618 (2017)	173,992 (2017)
Knox County Community Action Committee Transit		37	N/A	1,420,705 (2017)	163,593 (2017)
Knoxville Area Transit	72	25	27	3,236,168 (2019)	2,748,602 (2019)
City of Murfreesboro Transportation Department	9		7	249,111 (2017)	250,808 (2017)

Bristol Tennessee Transit

The Bristol Tennessee Transit operates six buses over six fixed routes of service from 6:15am until 6pm Monday through Friday (except city observed holidays). The Bristol Tennessee Transit also operates four vans that provide Americans with Disabilities Act (ADA) service and Job Access service.

Clarksville Transit System

The Clarksville Transit System operates eighteen buses over eleven fixed routes of service from Monday - Friday 4:40am-9pm and Saturday 6:40am to 9pm (except certain city observed holidays). The Clarksville Transit System also operates eleven vans that provide service. The mission of the Clarksville Transit System is to plan, implement, maintain and manage a public transportation system that allows for maximum mobility for the community with an emphasis on safety, quality and efficiency.

Cleveland Urban Area Transit System

Cleveland Urban Area Transit System (CUATS) is operated by the Southeast Tennessee Human Resource Agency (SETHRA). CUATS operates seven buses over five fixed routes with service from 6am - 7pm Monday through Friday (except city observed holidays). The CUATS also operates eleven vans that provide ADA service and Job Access service.

East Tennessee Human Resource Agency

East Tennessee Human Resource Agency (ETHRA) operates over 100 vans that provide ADA and Job Access services from 7am – 5:30pm Monday through Friday (except city observed holidays).

ETHRA Public Transit provides door to door transportation services with flexible schedules to meet the needs of its passengers. ETHRA's Public Transit's goal is to provide affordable, safe, dependable public transportation.

First Tennessee Human Resource Agency

First Tennessee Human Resource Agency (FTHRA) operates over six fixed routes of service from 6:15am until 6pm Monday through Friday (except city observed holidays). The Bristol Tennessee Transit also operates four vans at provide ADA service and Job Access service.

Jackson Transit Authority

The Jackson Transit Authority (JTA) operates 13 buses over 11 fixed routes of service from 6am until 10:30pm Monday through Saturday (except city observed holidays). Jackson Transit Authority also operates seven vans that provide ADA service and Job Access service.

Johnson City Transit

Johnson City Transit (JCT) operates 15 buses over 11 fixed routes of service from 6:15am until 6:15 pm Monday through Friday and 8:15am through 5:15pm Saturday (except city observed holidays). Jackson Transit Authority also operates seven vans that provide ADA service and Job Access service.

Kingsport Area Transit Services

The Kingsport Area Transit Services (KATS) operates seven buses over six fixed routes of service from 7:30am until 5:30pm Monday through Friday (except city observed holidays). Kingsport Area Transit Services also operates six vans that provide ADA service and Job Access service. The KATS bus and van service is a valuable asset to the community and the city is encouraged by its progress and growth. These services are provided to residents of the city of Kingsport with a population of over 53,000.

Knox County Community Action Committee Transit

Knox County CAC operates over 37 vans that provide ADA and Job Access services from 5am through 9pm Monday through Saturday (except city observed holidays). Limited employment transportation is provided twenty-four (24) hours a day, seven (7) days a week. Knox County CAC Transit provides accessible, demand response public transportation services to the residents of Knox County who live within Knox County outside of the City of Knoxville, to those individuals who live within the City of Knoxville outside the KAT service area, and to those city residents who are not served by the KAT fixed route system, including those who live too far from a bus stop or who's destination is not within the KAT service area.

Knoxville Area Transit

The Knoxville Area Transit (KAT) operates 72 buses over 27 fixed routes of service from 5:30am until 12:15am Monday – Friday, 7am – 12:15am on Saturdays, and 8:15am to 9:15pm on Sundays (except city observed holidays). Knoxville Area Transit (KAT) also operates 25 vans that provide paratransit service.

City of Murfreesboro Transportation Department

The City of Murfreesboro Transportation Department is responsible for the administration and operation of public transportation service (Rover) within the City of Murfreesboro. The Rover

system operates seven buses over seven fixed routes of service from 6am through 6pm Monday through Friday that serve designated bus stops. Transit service operations also include demand-response paratransit service as required by ADA and the FTA.

3.2.2. Identifying Hazards

A safety hazard is:

- Any real or potential condition that can cause personal injury or death or damage to or loss of equipment or property,
- A condition that may be a prerequisite to an accident, or
- Is a situation that has the potential to do harm.

Hazards are identified through a variety of sources, including those listed below. In addition, SMS enables every employee to identify hazards through Safety Promotion efforts and non-punitive hazard reporting, described further in Section 5.

- FTA's *Hazard Analysis Guideline for Transit Projects* (January 2000)
- Accident/incident data and experience
- Accident/incident data from other bus systems with similar characteristics
- Hazard scenarios
- Applicable industry standards
- Field assessments and surveys
- Project-specific design data and drawings, reviews, testing, and start-up activities

The following tools and techniques may be used for hazard identification and analysis:

- Preliminary Hazard Analysis (PHA)
- Operational Hazard Assessment (OHA)
- Accident/Incident Analysis
- Job Hazard Analysis (JHA)

3.3. Safety Risk Evaluation

After identifying system-specific hazards, SRM assesses safety risk by first identifying the potential to do harm in the system and then analyzing options to mitigate the hazard to an acceptable level. The process seeks to identify and define as many hazardous conditions as possible and initiate the safety risk mitigation process before those conditions or associated activities cause an accident.

3.3.1. Analyzing Risk

The methodology for analyzing safety risk has two elements: evaluating hazard severity and evaluating hazard probability. The US Department of Defense's *Standard Practice for System Safety, MIL-STD-882E*, establishes system safety criteria guidelines for determining hazard severity and probability. This ASP adapts the MIL-STD-882E Risk Assessment and Hazard Risk Index matrixes to the transit environment for use in the Participating Agencies' safety risk assessment process.

3.3.1.1. Determining Severity

Hazards are rated in terms of their effect on transit customers, employees, the public, and the operating system. Hazard severity is a subjective measure of the worst credible case consequence that results from design inadequacies, component failure or malfunction, human error, environmental conditions, or operating or maintenance practice, and procedure deficiencies. The ratings are illustrated in Figure 2. The categorization of hazards is consistent

with risk-based criteria for severity and reflects the principle that not all hazards pose an equal amount of risk.

Figure 2. Hazard Severity Definition

SEVERITY	CHARACTERISTICS			
	People	Equipment/Services	Financial	Reputational
Catastrophic 1	Several deaths and/or numerous severe injuries <i>(per event)</i>	Total loss of equipment or system interruption, requiring months to repair	Estimated loss from the incident in excess of \$500,000	Ongoing media coverage, irreparable reputational damage, government intervention <i>(weeks – months)</i>
Critical 2	Low number of deaths and/or serious injury* <i>(per event)</i>	Significant loss of equipment or system interruption, requiring weeks to repair	Estimated loss from the incident in excess of \$100,000-\$499,999	Prolonged media campaign, serious reputational damage, sustained government involvement <i>(days - weeks)</i>
Moderate 3	Minor injury and possible serious injury <i>(per event)</i>	Some loss of equipment or system interruption, requiring seven or less days to repair	Estimated loss from the incident in excess of \$10,000-\$99,999	Adverse media coverage, reputational damage, government involvement
Minor 4	Possible minor injury <i>(per event)</i>	Some loss of equipment, no system interruption, less than 24 hours to repair	Estimated loss from the incident in excess of \$1,000-\$9,999	Local media coverage and some reputational damage
Insignificant 5	No injury	Minor damage to equipment no system interruption, no immediate repair necessary	Estimated loss from the incident is likely less than \$1,000	No adverse media coverage or reputational damage

*Per 49 CFR 673, serious injury: 1) Requires hospitalization for more than 48 hours, commencing within 7 days from the date of the injury was received; 2) Results in a fracture of any bone (except simple fractures of fingers, toes, or noses); 3) Causes severe hemorrhages, nerve, muscle, or tendon damage; 4) Involves any internal organ; or 5) Involves second or third-degree burns, or any burns affecting more than 5 percent of the body surface.

3.3.1.2. Determining Probability

The probability that a hazard will occur during the planned life expectancy of the system element, sub-system or component is described qualitatively, in potential occurrences per unit of time, events, population, items, or activity. A qualitative hazard probability is derived from research, analysis, evaluation of safety data from the operating experience of the agency or historical safety data from similar bus systems, and from expert opinion. Figure 3 summarized the hazard probability categories.

Figure 3. Hazard Probability Categories

PROBABILITY LEVEL	SPECIFIC INDIVIDUAL ITEM	FLEET OR INVENTORY	FREQUENCY
Frequent A	Likely to occur frequently in the life of a system	Continuously experienced	> 1 event / month
Probable B	Will occur often in the life of a system	Will occur frequently in the system	> 1 event / year
Occasional C	Likely to occur sometime in the life of an item	Will occur several times	> 1 event / 10 years
Remote D	Unlikely, but possible to occur in the life of an item	Unlikely, but can be expected to occur	> 1 event / 20 years
Improbable E	So unlikely, it can be assumed occurrence may not be expected	Unlikely to occur, but possible	> 1 event / 30 years

3.3.2. Assessing Risk

Together, hazard severity and probability measure a hazard's magnitude and priority for applying the control measures. Hazards are then examined, qualified, addressed, and resolved based on the severity of a potential outcome and the likelihood that such an outcome will occur. The value derived by considering a hazard's severity and probability is the Hazard Risk Index. The resulting risk index is a measure of the acceptability or undesirability of the hazard and is applied to the Risk Assessment Index.

Assignment of a Hazard Risk Index enables agency management to properly understand the amount of risk involved by accepting the hazard relative to what it would cost (schedule, dollars, operations, etc.) to reduce the hazard to an acceptable level.

Figure 4 identifies the Hazard Risk Index based upon hazard severity and probability and outlines the criteria for further action and decision authority based upon each index category. The Hazard Risk Index is used to assist the decision-making process in determining whether a safety risk should be eliminated, controlled, or accepted. This helps prioritize hazardous conditions and focus available resources on the most serious hazards requiring resolution while effectively managing available resources.

For example, if the potential for an accident/incident reveals a Category 1 (catastrophic) occurrence with a Level A (frequent) probability, the assessed level of risk is Unacceptable and the system safety effort is directed toward eliminating the hazard or at the very least to implementing redundant hazard control measures. A Category 1 (catastrophic) or Category 2 (critical) safety risk may be tolerable if it can be demonstrated that its occurrence is highly improbable. This approach provides a basis for logical management decision-making that considers the hazard's severity and probability.

Figure 4. Hazard Risk Index

HAZARD RISK INDICES					
Frequency Or Probability	Severity Category				
	1 Catastrophic	2 Critical	3 Moderate	4 Minor	5 Insignificant
(A) Frequent	1A	2A	3A	4A	5A
(B) Probable	1B	2B	3B	4B	5B
(C) Occasional	1C	2C	3C	4C	5C
(D) Remote	1D	2D	3D	4D	5D
(E) Improbable	1E	2E	3E	4E	5E

LEGEND

-  **Unacceptable** - Cannot be accepted as is, must be mitigated
-  **Undesirable** - Acceptable with Executive-level signoff
-  **Acceptable w/ Review** - Acceptable Operational-level signoff
-  **Acceptable** - Can be accepted as is.

3.4. Safety Risk Mitigation

3.4.1. Treating Risk

As safety risks are identified, whether through a formal risk assessment or informally such as through employee reporting mechanisms, hazards can be resolved by deciding to either assume the risk associated with the hazard or to eliminate or control the risk. Mitigation to bring a hazard to an acceptable level of risk is applied in the following order of precedence, listed from most effective at the top of the list to least effective mitigations at the bottom:

- Avoidance
- Elimination
- Substitution
- Engineering Controls
- Warnings
- Administrative Controls such as Operations and Maintenance Procedures
- Personal Protective Equipment and Guards

3.4.2. Hazard Tracking

Once mitigations are agreed upon for identified hazards, mitigations are tracked through the agency’s safety certification process to ensure all concerns raised have been addressed and mitigated properly. This hazard tracking and certification process may be done through reports, logs, worksheets and/or similar methods that allow for updating if changes occur that impact the findings of the safety analysis. The Participating Agencies use a hazard tracking worksheet in Microsoft Excel to capture and track hazards from analysis through implementation. Refer to Appendix C for a blank copy of the hazard tracking worksheet.

4. Safety Assurance

4.1. Overview

Safety assurance includes safety reviews, evaluations, audits, and inspections, as well as data tracking and analysis and investigations. Safety Assurance encompasses the processes within the transit agency's SMS that ensures the implementation and effectiveness of SRM and ensures that the agency meets or exceeds its safety objectives through the collection, analysis, and assessment of information. Each transit agency will conduct an annual review of the effectiveness of its safety risk mitigations through its safety assurance efforts.

4.2. Safety Performance Monitoring and Measurement

SMS generates data and information that senior management need to evaluate whether implemented safety risk mitigations are appropriate and effective, and how well an agency's safety performance fits with their established safety objectives and safety performance targets. Safety performance monitoring will occur through routine monitoring of operations and maintenance activities. It also includes risk monitoring to track implementation and success of mitigations and controls put in place to manage risk.

Each Participating Agency will establish audit and evaluate safety in compliance with this ASP and SMS. The programs will:

- Monitor compliance and sufficiency of procedures for operations and maintenance
- Monitor operations to identify ineffective, inappropriate, or unimplemented safety risk mitigations
- Conduct investigations of safety events to identify causal factors
- Monitor information from safety reporting systems
- Document audit outcomes
- Collect and track safety data

4.3. Management of Change

Each Agency under this ASP will re-evaluate safety when significant change occurs within the agency. These changes may include:

- New contractor providing service
- New buses brought into fleet
- New or changed routes
- Other changes that might have a safety impact.

If the change has a safety impact, risk associated with the change will be evaluated, treated and documented. If the change does not have a safety impact, no further steps will be taken.

4.4. Continuous Improvement

Each agency will evaluate their SMS program annually to identify areas of improvement and any changes that require input for the agency to grow in safety management.

5. Safety Promotion

5.1. Introduction

Agencies under this plan will utilize Safety Promotion to communicate and disseminate safety information to strengthen the safety culture. Safety Promotion includes safety lessons learned, reporting systems, recommendations based on safety metrics, and safety training. The goal is to foster a positive safety culture where employees receive ongoing training and updates of safety progress; feel comfortable reporting safety issues or concerns; and understand why safety is important and how they impact safety.

5.2. Safety Communication and Culture

5.2.1. Safety Communication

Transit agencies will communicate safety and safety performance information throughout the agency's organization that, at a minimum, conveys the TDOT safety management policy statement in Section 2.1 above; each covered agency's employee safety reporting program procedures and policies; and information on hazards and safety risks relevant to employees' roles and responsibilities. The communication will be used to inform employees of safety actions taken in response to reports submitted through an employee safety reporting program.

5.2.2. Dissemination of Lessons Learned

Transit agencies will review lessons learned from incidents, accidents and reported hazards and provide feedback regarding findings. This communication is an important step in letting employees know that they are important to the agency.

5.3. Competencies and Training

Each transit agency will establish and implement a safety training program for all employees and contractors directly responsible for safety in the agency's public transportation system. The training program must include refresher training, as necessary. Safety training will also be part of new-hire training and specific job safety training. Training and competencies of all staff will be documented and tracked.

Refer to the Participating Agency Addenda for agency-specific safety training programs.

5.1. Contractor Safety (as applicable)

When contracting for services that have a safety component and/or may impact safety or assessed risk, procurement language and specification requirements will be included, as applicable. Contractors will demonstrate job-appropriate competencies and training that meet or exceed the requirements of the agency.

Appendix A – Definitions

Accident	An Event that involves any of the following: A loss of life; a report of a serious injury to a person; a collision of public transportation vehicles; a runaway train; an evacuation for life safety reasons; or any derailment of a rail transit vehicle, at any location, at any time, whatever the cause.
Accountable Executive	A single, identifiable person who has ultimate responsibility for carrying out the Agency Safety Plan of a public transportation agency; responsibility for carrying out the agency's Transit Asset Management Plan; and control or direction over the human and capital resources needed to develop and maintain both the agency's Agency Safety Plan, in accordance with 49 U.S.C. 5329(d), and the agency's Transit Asset Management Plan in accordance with 49 U.S.C. 5326.
Agency Safety Plan (ASP)	The documented comprehensive agency safety plan for a transit agency that is required by 49 U.S.C. 5329 and 49 CFR 673.
Assessment	An estimation of the size/scope of risk or quality of system or procedure.
Cause	Events that, result in a hazard or failure. Causes can occur by themselves or in combinations.
Change	To modify, alter, or make different.
Chief Safety Officer (CSO)	An adequately trained individual who has responsibility for safety and reports directly to a transit agency's chief executive officer, general manager, president, or equivalent officer. A Chief Safety Officer may not serve in other operational or maintenance capacities, unless the Chief Safety Officer is employed by a transit agency that is a small public transportation provider as defined in this part, or a public transportation provider that does not operate a rail fixed guideway public transportation system.
Configuration Management	A management process for establishing and maintaining consistency of a product's performance, functional and physical attributes with its requirements, design, and operational information throughout its life.
Control	Anything that mitigates the risk of a hazard's effects. A control is the same as a safety requirement. All controls are written in requirement language.
Effect	The effect is a description of the potential outcome or harm of the hazard if it occurs in the defined system state.
Equipment	A complete assembly, operating either independently or within a sub-system or system, that performs a specific function.
Equivalent Authority	An entity that carries out duties similar to that of a Board of Directors, for a recipient or subrecipient of FTA funds under 49 U.S.C. Chapter 53, including sufficient authority to review and approve a recipient or subrecipient's Public Transportation Agency Safety Plan.
Event	Any Accident, Incident, or Occurrence.
Hazard	Any real or potential condition that can cause injury, illness, or death to people; damage to or loss of a system, equipment, or property; or damage to the environment. A hazard is a condition that is a prerequisite to an accident or incident.

Hazard Tracking	A closed-loop means of ensuring that the requirements and mitigations associated with each hazard that has associated medium or high risk are implemented. Hazard tracking is the process of defining safety requirements, verifying implementation, and re- assessing the risk to make sure the hazard meets its risk level requirement before being accepted.
Human Factors	A multidisciplinary effort to generate and compile information about human capabilities and limitations and apply that information to equipment, systems, facilities, procedures, jobs, operations, environments, training, staffing, and personnel management for safe, comfortable, efficient and effective human performance.
Incident	An event that involves any of the following: A personal injury that is not a serious injury; one or more injuries requiring medical transport; or damage to facilities, equipment, rolling stock, or infrastructure that disrupts the operations of a transit agency.
Investigation	The process of determining the causal and contributing factors of an accident, incident, or hazard, for the purpose of preventing recurrence and mitigating risk.
Maintenance	Any repair, adaptation, upgrade, or modification of equipment or facilities. This includes preventive maintenance.
Mitigation	Actions taken to reduce the risk of a hazard's effects.
National Public Transportation Safety Plan	The plan to improve the safety of all public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53.
Occurrence	An Event without any personal injury in which any damage to facilities, equipment, rolling stock, or infrastructure does not disrupt the operations of a transit agency.
Oversight	To validate the development of a defined system and verify compliance to a pre-defined set of standards.
Performance Measure	An expression based on a quantifiable indicator of performance or condition that is used to establish targets and to assess progress toward meeting the established targets.
Performance Target	A quantifiable level of performance or condition, expressed as a value for the measure, to be achieved within a time period required by the FTA.
Probability	An expression of often an event is expected to occur.
Process	A set of interrelated or interacting activities which transforms inputs into outputs.
Public Transportation Agency Safety Plan (PTASP)	A safety plan based on the Safety Management System approach. The FTA's PTASP Final Rule (49 CFR Part 673) requires States and certain operators of public transportation systems that receive Federal financial assistance under 49 USC Chapter 53 to develop and implement ASPs.
Public Transportation Safety Certification Training Program	The certification training program established either for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems, and employees of public transportation agencies directly responsible for safety oversight, established through interim provisions in accordance with 49 U.S.C. 5329(c)(2), or the program authorized by 49 U.S.C. 5329(c)(1)
Qualitative Data	Subjective data that is expressed as a measure of quality; nominal data.

Quantitative Data	Objective data expressed as a quantity, number, or amount; allows for more rational analysis and substantiation of findings.
Requirement	An essential attribute or characteristic of a system. It is a condition or capability that must be met or passed by a system to satisfy a contract, standard, specification, or other formally imposed document or need.
Reportable Event	<p>A safety or security event occurring on transit right-of-way or infrastructure, at a transit revenue facility, at a transit maintenance facility, during a transit related maintenance activity or involving a transit revenue vehicle that results in one or more of the following conditions, as defined in the National Transit Database Safety and Security Reporting Manual (2019):</p> <ul style="list-style-type: none"> • A fatality confirmed within 30 days of the event • An injury requiring immediate medical attention away from the scene for one or more person(s) • Property damage equal to or exceeding \$25,000 • Collisions involving transit revenue vehicles that require towing away from the scene for a transit roadway vehicle or other non-transit roadway vehicle • An evacuation for life safety reasons
Risk	<p>The composite of predicted severity and likelihood of the potential effect of a hazard in the worst credible system state.</p> <p>(1) Initial. The composite of the severity and likelihood of a hazard considering only verified controls and documented assumptions for a given system state. It describes the risk at the preliminary or beginning stage of a proposed change, program or assessment.</p> <p>(2) Residual. The risk that remains after all control techniques have been implemented or exhausted and all controls have been verified. Only verified controls can be used to assess residual risk.</p>
Risk Acceptance	Agreement by the appropriate management official that he/she understands the safety risk associated with the change and he/she accepts that safety risk.
Safety	Freedom from unintentional harm.
Safety Assurance	Processes within a transit agency's Safety Management System that functions to ensure the implementation and effectiveness of safety risk mitigation, and to ensure that the transit agency meets or exceeds its safety objectives through the collection, analysis, and assessment of information.
Safety Culture	The product of individual and group values, attitudes, competencies, and patterns of behavior that determine commitment to, and the style and proficiency of, an organization's safety management. In addition, the four key components of a safety culture are reporting culture (encourage employees to divulge information about all hazards that they encounter), just culture (employees are held accountable for deliberate violations of the rules but are encouraged and rewarded for providing essential safety-related information), flexible culture to changing demands), and learning culture (willing to change based on safety indicators and hazards) uncovered through assessments, data, and incidents).
Safety Management Policy	A transit agency's documented commitment to safety, which defines the transit agency's safety objectives and the accountabilities and responsibilities of its employees in regard to safety.

Safety Management System (SMS)	The formal, top-down, organization-wide approach to managing safety risk and assuring the effectiveness of a transit agency’s safety risk mitigation. SMS includes systematic procedures, practices, and policies for managing safety risks to the lowest acceptable level practicable.
Safety Promotion	A combination of training and communication of safety information to support SMS as applied to the transit agency’s public transportation system.
Safety Requirement	A control written in requirements language.
Safety Risk Management (SRM)	A process within a transit agency’s ASP for identifying hazards and analyzing, assessing, and mitigating safety risk. SRM is a formalized, proactive approach to system safety and applied to all changes to ensure all risks are identified and mitigated prior to the change being made. It provides a framework to ensure that once a change is made, it continues to be tracked throughout its lifecycle.
Serious Injury	Any injury which: <ol style="list-style-type: none"> (1) Requires hospitalization for more than 48 hours, commencing within 7 days from the date of the injury was received; (2) Results in a fracture of any bone (except simple fractures of fingers, toes, or noses); (3) Causes severe hemorrhages, nerve, muscle, or tendon damage; (4) Involves any internal organ; or (5) Involves second- or third-degree burns, or any burns affecting more than 5 percent of the body surface.
Severity	The measure of how bad the results of an event are predicted to be. Severity is determined by the most probable outcome.
Source (of a hazard)	Any potential origin of system failure, including equipment, operating environment, human factors, human-machine interface, procedures, and external services.
State Safety Oversight Agency (SSOA)	An agency established by a State that meets the requirements and performs the functions specified by 49 U.S.C. 5329(e) and the regulations set forth in 49 CFR part 674.
System	An integrated set of constituent pieces that are combined in an operational or support environment to accomplish a defined objective. These pieces include people, equipment, information, procedures, facilities, services, and other support services.
Transit Asset Management Plan	The strategic and systematic practice of procuring, operating, inspecting, maintaining, rehabilitating, and replacing transit capital assets to manage their performance, risks, and costs over their life cycles, for the purpose of providing safe, cost-effective, and reliable public transportation, as required by 49 U.S.C. 5326 and 49 CFR part 625
Validation	The process of proving that the right system is being built, i.e., that the system requirements are unambiguous, correct, complete, and verifiable.
Verification	The process that ensures that the system requirements have been met by the design solution and the system is ready to be used in the operational environment for which it is intended.

Appendix B – Acronyms and Abbreviations

ADA	Americans with Disabilities Act
CAP	Corrective Action Plan
CFR	Code of Federal Regulations
CUATS	Cleveland Urban Area Transit System (operated by SETHRA)
ETHRA	East Tennessee Human Resource Agency
FHA	Fault Hazard Analysis
FTA	Federal Transit Administration
FTHRA	First Tennessee Human Resource Agency
JHA	Job Hazard Analysis
JTA	Jackson Transit Authority
JTA	Johnson City Transit
KAT	Knoxville Area Transit
KATS	Kingsport Area Transit Services
Knox County CAC	Knox County Community Action Committee Transit
MPO	Metropolitan Planning Organization
OHA	Operational Hazard Assessment
OSHA	Occupational Safety and Health Administration
Participating Agencies	The Tennessee public transportation agencies covered by the joint PTASP
PHA	Preliminary Hazard Analysis
PM	Preventative Maintenance
PTASP	Public Transportation Agency Safety Plan
SETHRA	Southeast Tennessee Human Resource Agency
SMS	Safety Management Systems
SRM	Safety Risk Management
TAM	Transit Asset Management
TDOT	Tennessee Department of Transportation

Appendix C – Hazard Tracking Worksheet

Preliminary Hazard Analysis													
General Description			Hazard Cause / Effect			Risk Index			Corrective / Mitigation Action		Risk Index		
Reference	Overall System	Hazard	Potential Causes	Operational Effects	Safety Effects	Severity	Probability	Risk	Design Mitigations	Operational Mitigations	Resolution Severity	Resolution Probability	Resolution Risk
Use a number to track hazard, ie Bus #1	BUS (or other system)	Trip and Fall on Bus	Wet floor Hand breaking Knee's enter standing on moving vehicle	Delay of service	Minor to sever injury	3	B	3B	Slip resistant Flooring Handholds placed regularly	Driver Training	3	C	3C

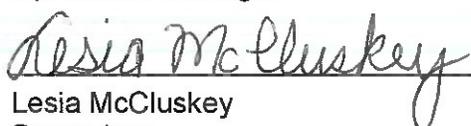
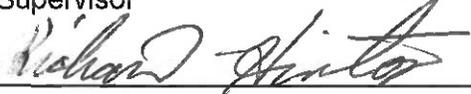
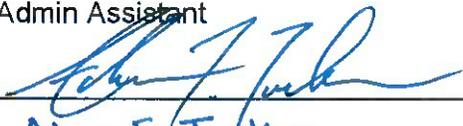
Participating Agency Addenda

These Participating Agency Addenda provide additional agency-specific information to supplement the joint ASP, including agency safety roles and responsibilities, safety training programs, safety reporting programs, and safety-related agency plans and procedures, as applicable. Each addendum applies only to the agency for which it is written and approved.

Addendum 1 – City of Murfreesboro Transportation Department

111 W Vine St, Murfreesboro, TN 37130

ASP and Addendum 1 Approvals

- Approved by: _____ Date _____
 Shane McFarland
 (Board of Directors/City Council/City Commissioner)
- Approved by:  6-18-2020
 Jim Kerr
 Transit Director (Accountable Executive) Date
- Approved by:  6-18-2020
 Lisa Lugos
 Safety Director, City of Murfreesboro Date
- Concurrence:  6.18.2020
 Russ Brashear
 Assistant Transit Director Date
- Concurrence:  6-25-2020
 Ed Etzkin
 Operations Manager Date
- Concurrence:  6-26-2020
 Lesia McCluskey
 Supervisor Date
- Concurrence:  6-25-2020
 Richard Hinton
 Supervisor Date
- Concurrence:  6-25-2020
 Ellen Bourg
 Admin Assistant Date
- Concurrence:  6/30/2020
 Adam F. Tucker
 City Attorney Date

Safety Roles and Responsibilities

The matrix below names the positions at the City of Murfreesboro responsible for the safety roles and responsibilities described in Section 2.2 of this ASP.

City of Murfreesboro Roles & Responsibility	Jim Kerr Transportation Director	Lisa Lugos Safety Officer	Russ Brashear Asst. Trans. Director	Ed Etzkin Operations Manager	Lesia McCluskey Supervisor	Richard Hinton Supervisor	Ellen Bourg Administrative Support
Accountable Executive (AE)	P	S	S	S	N	N	N
Chief Safety Officer (CSO) (SMS Implementation)	R	P	S	S	S	S	S
Safety Management Policy	R	R	A/O	P	S	S	S
Safety Risk Management (Hazard ID/Mitigation)	N	S	P	S	S	S	S
Safety Assurance (Audits/Inspections)	N	S	S	O	P	P	S
Safety Promotion (Communication/Training)	N	R	A	O	P	P	N
Hazard Identification & Safety Risk Assessment	N	R	A	O	P	P	S
Safety Reporting & Follow-up	N	R	S	O	P	P	S
Safety Performance Targets & Measurement	N	S	S	P	S	S	S
Accident Investigation	N	R	R	O	P	P	S

KEY

- A Approval
- O Oversight
- P Primary
- S Secondary/Support
- R Review/Comment
- N Not Applicable/No Significant Role

Integration with Public Safety and Emergency Management

The City of Murfreesboro has an Emergency Preparedness Plan and the Transportation Department is working with the various public safety and emergency management departments to be included planned exercises and drills.

Safety Performance Targets for 2020

2019 Annual Vehicle Revenue Miles: 245,092

Number of Fatalities	Rate of Fatalities Per 100K VRM	Number of Injuries	Rate of Injuries Per 100K VRM	Number of Safety Events	Rate of Safety Events Per 100 VRM	Total Major Mechanical Failures	Miles between Major Mechanical Failures (System Reliability)
0	0	2	0.82	2	0.82	5	49,018

Hazard Identification and Tracking

The City of Murfreesboro Transportation Department accepts the hazard identification and tracking method established in the joint plan.

Safety Training Program

The City of Murfreesboro requires training in the following safety-related areas:

- New driver training, along with safety videos and other supervised training
- Currently does not include SMS but will be added to new employee training

Employee Safety Reporting Program

- The City of Murfreesboro provides a process document to employees that encourages all employees to report safety concerns to anonymous call line, which will be in operation by June 2020.

Safety-Related Agency Documents

The City of Murfreesboro Transportation Department has several safety related documents including this ASP and processes and procedures described in conjunction with this document.

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Safety Partners Grant Program
Department: Human Resources
Presented by: Pam Russell, Human Resources 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

Staff is seeking approval to receive a matching grant from the City's Workers' Compensation provider, Public Entity Partners (PEP).

Staff Recommendation

Approval of PEP's matching grant.

Background Information

The Water Department purchased 86 First Aid Kits and 248 Personal Eyewash Bottles for vehicles as recommended by a PEP risk survey in 2019. The Water Department paid \$1,559 for these items. The PEP grant will award the City \$780 which is half the cost of the purchase.

Fiscal Impact

The City will receive \$780 from PEP.

Attachments

1. Resolution 20-R-20
2. 2020-2021 "Safety Partners" Grant Application

RESOLUTION 20-R-20 authorizing the City of Murfreesboro to participate in Public Entity Partners “Safety Partners” Matching Grant Program.

WHEREAS, the safety and well-being of the employees of the City of Murfreesboro is of the greatest importance; and

WHEREAS, all efforts shall be made to provide a safe and hazard-free workplace for the City of Murfreesboro employees; and

WHEREAS, Public Entity Partners seeks to encourage the establishment of a safe workplace by offering a “*Safety Partners*” *Matching Grant Program*; and

WHEREAS, the City of Murfreesboro now seeks to participate in this important program.

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

SECTION 1. That the City of Murfreesboro is hereby authorized to submit application for a “*Safety Partners*” *Matching Grant Program* through Public Entity Partners attached hereto as “Exhibit A”.

SECTION 2. That the City of Murfreesboro is further authorized to provide a matching sum to serve as a match for any monies provided by this grant.

SECTION 3. This Resolution shall be effective immediately, the public welfare and the welfare of the City requiring it.

Passed: _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Melissa B. Wright
City Recorder

Adam F. Tucker
City Attorney



2020 - 2021 "Safety Partners" Grant Program

Public Entity Partners GRANT APPLICATION

DATE SENSITIVE

THE PROGRAM DEADLINE IS AUGUST 7TH, 2020

Your application has been sent.

If you do not receive an **email confirmation within 15 minutes** please check your SPAM or JUNK email folder in the event the confirmation has been blocked by your organization; or you may contact via email or (615) 371-0049.

PRINT this Page for your Records

CLOSE this webpage - I am done

Click to download/print the RESOLUTION form

Click to download/print the MOTION form

1.	Application Date:	Monday 29 June 2020
2.	Participant city (or Agency) Name:	MURFREESBORO
3.	P.O. Box Address or Street:	111WEST VINE STREET
4.	City:	MURFREESBORO
4.	Zip Code:	37133
5.	Contact Person:	LISA LUGOS
6.	Contact Person - Title:	SAFETY OFFICER
7.	Contact Person - Telephone:	(615) 648-9983
8.	Contact Person - Fax:	(615) 217-3029
9.	Contact Person - Email:	llugos@murfreesborotn.gov
10.	No of Full Time Employees in City/Agency"	1,500
11.	No. Employees Affected by this Purchase:	80
12.	City/Agency Desires to Purchase the Following:	The City of Murfreesboro has purchased 86 First Aid kits and 248 Personal Eyewash Bottles for vehicles in the Water Department as recommended by the PEP Risk Survey in October 2019.
13.	Justification for the Needed Purchase:	The City of Murfreesboro will use First Aid kits and Personal Eyewash Bottles as needed in an emergency on the Water worksite or near a vehicle in the Water Department. Safety supplies in the Water Department main building are too far away to be quickly used by employees out in the field. Supplies designated for the Water Department vehicles allows safety supplies to be close at hand regardless of location. This purchase was recommended by the PEP Risk Survey in October 2019.
14.	Resolution	You have selected to submit your application at a later time. Your next meeting is schedule for 07/23/2020 . Once you have the completed form you may email the completed form to Tahtia Mitchell or you may fax a copy to Tahtia Mitchell at (615) 371-9212.
15.	Estimate #1 - Calculated Total	\$1,559
15.	Estimate #2 - Calculated Total	\$1,559
16.	Approving Supervisor - Name	Darren Gore
17.	Approving Supervisor - Email	dgore@murfreesborotn.gov

We HIGHLY recommend you Print a copy for your records.

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Amendment to City Code regarding Discharging Firearms

Department: Administration

Presented by: Craig Tindall, City Manager

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Amendment to City Code regulating discharging firearms to allow for industrial pest control.

Staff Recommendation

Approve the proposed amendment to permit use of pellet and air guns to control pests in industrial facilities.

Background Information

Last year, a large industrial manufacturer contacted the City to request permission to use certain firearms for pest control in the facility. The manufacturer desires to strictly comply with the City's firearm discharge ordinance, which currently prohibits a use long established in some facilities. Other methods of control have proven far less efficient and cost effective and have forced cessation of operations for extended periods of time.

The proposed amendment would permit the use of pellet or air guns within industrial premises with limitations. Typical corporate safety procedures relegate the use of firearms to a last-resort option; however, it should remain a viable option for businesses in large facilities.

Council Priorities Served

Maintain public safety

The amendment retains public safety limitations and permits restricted use under certain necessary conditions.

Fiscal Impact

None

Attachments

Ordinance 20-0-27

ORDINANCE 20-O-27 amending the Murfreesboro City Code, Chapter 21, Offenses and Miscellaneous Provisions, Section 21-44, Weapons – Discharging firearms, Etc.

WHEREAS, the City’s Charter, at Article III, Section 4 (62) provides to the City “the fullest general powers and authority necessary for the protection of life, health, and property, and to preserve the good government, general welfare, and order and security of the city;” and

WHEREAS, the Tennessee General Assembly, by and through the enacting of Tennessee Code Annotated Section 39-17-1314, has preempted “the whole field of regulation” of firearms and ammunition, subject to certain exceptions; and

WHEREAS, Tennessee Code Annotated Section 39-17-1314 (b)(2) grants to municipalities the authority to regulate by ordinance the discharge of firearms within the boundaries of the municipality, except when and where the discharge of a firearm is expressly authorized or permitted by state law; and

WHEREAS, the City Code, at Chapter 21, Article 1, Section 21-44, currently prohibits the discharge of firearms within the corporate limits of the City, subject to certain exceptions contained therein; and

WHEREAS, in order to balance the safety and welfare of the citizens of the City, and to align the City Code with current state law, City Code Section 21-44 should be amended.

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

SECTION 1. Chapter 21, Article 1, Section 21-44, Weapons - Discharging firearms, etc., is hereby amended by deleting the section in its entirety and replacing it with the following language:

“Section 21-44 Firearms; discharge within City limits prohibited; exceptions.

Except as expressly authorized or permitted by state law of general application or as enumerated herein, it shall be unlawful for any person to discharge, fire, or shoot a shotgun, rifle, handgun, air gun, pellet gun, or other firearm within the corporate limits of the City. This section shall not apply to the following:

- (A) the operation of a shooting gallery within the corporate limits of the City, where precautions have been taken to insure the protection of human life and property;
- (B) a hunter safety course or firearm safety course conducted by a licensed instructor at a site approved by the Chief of Police, provided the licensed instructor is present at all times that firearms are discharged; and
- (C) use or discharge of a pellet gun or air gun on any premises zoned heavy industrial (HI), general industrial (GI), or light industrial (LI), pursuant to

the City’s Zoning Ordinance, by the owner of such property, or the owner’s employee or agent, for the express purpose of exterminating or controlling certain animal species not deemed protected by any federal or state law and that are generally considered to constitute a pest or vermin or that otherwise threaten or endanger human life or health or the owner’s business interests, including any real or personal property located on the owner’s premises.”

SECTION 2. This Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST:

APPROVED AS TO FORM:

Melissa B. Wright
City Recorder

DocuSigned by:
Adam F. Tucker

Adam F. Tucker
City Attorney

SEAL

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Rezoning property along South Maney Avenue
[Public Hearing Required]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Rezone approximately 0.47 acres located along South Maney Avenue, south of East State Street and north of East Castle Street.

Staff Recommendation

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

Background Information

Mr. Rhett Kelton presented a zoning application [2020-408] for approximately 0.47 acres located along South Maney Avenue to be rezoned from CH (Highway Commercial District) and CCO (City Core Overlay District) to PUD (Planned Unit District) and CCO. During its regular meeting on June 3, 2020, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

Council Priorities Served

Improve Economic Development

This rezoning will enable reinvestment and redevelopment in the City's downtown, which will contribute to the continued growth of downtown both as a place to live and to do business.

Establish Strong City Brand

The development that this rezoning will enable will continue to strengthen the identity of the City's downtown as a destination for living, working, and playing.

Attachments:

1. Ordinance 20-OZ-20
2. Maps of the area
3. Planning Commission staff comments from 06/03/2020 meeting
4. Planning Commission minutes from 06/03/2020 meeting

5. Maney Station PUD pattern book
6. Other miscellaneous exhibits

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS, PAGE 1
JUNE 3, 2020
PROJECT PLANNER: AMELIA KERR**

4.a. Zoning application [2020-408] for approximately 0.54 acres located along South Maney Avenue north of East Castle Street to be rezoned from CH and CCO to PUD (Maney Station PUD) and CCO, Rhett Kelton applicant.

The subject property is located at 418 and 422 South Maney Avenue, north of East Castle Street. The property is approximately 0.54 acres and is identified as Tax Map 102D, Group A, Parcels 33.00 and 34.00. Parcel 33.00 is developed with a single-family residence to be removed and parcel 34.00 is undeveloped. The property is presently zoned CH (Commercial Highway District) and CCO (City Core Overlay District), as shown on the attached map. The applicant wishes to rezone the property to PUD (Planned Unit District). The proposed PUD (Maney Station PUD) would be constructed in one phase and would consist of a mixed-use development including single-family attached dwelling units and commercial uses. The zoning request will not remove the property from the CCO.

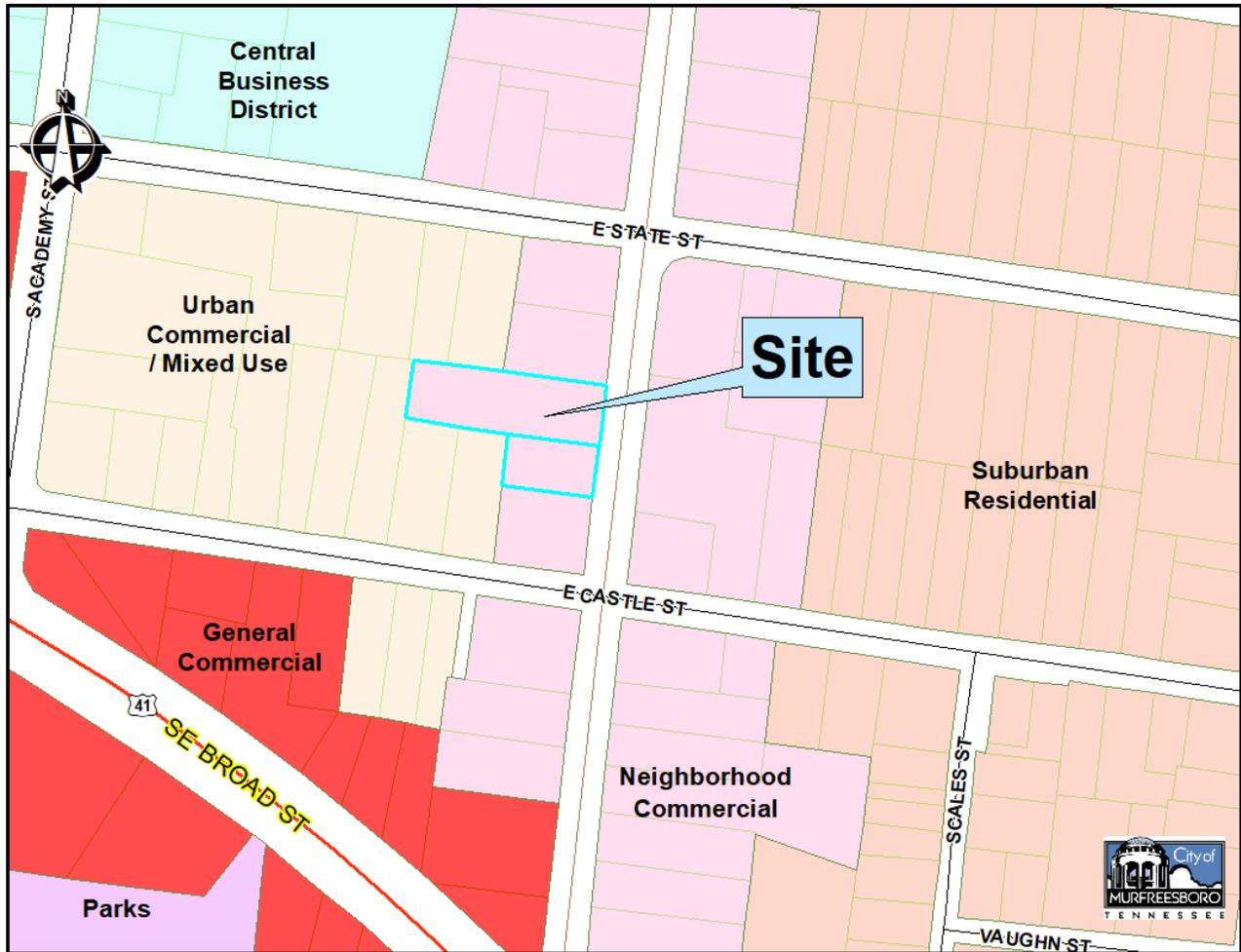
The proposed development would include one 3-story mixed-use building for primarily commercial uses on the street level and single-family attached dwelling units on the upper two floors. Required on-site parking spaces are proposed to be located to the rear of the building, and the parking calculations include the 25% reduction of required on-site parking spaces for commercial uses in the CCO with the availability of adjacent on-street parking spaces. There will be either 13 1-bedroom single-family attached dwelling units, with a density of approximately 24 dwelling units per acre. The primary amenity for the residential dwelling units will be a roof-top terrace with seating, planters for community gardening, and a fire pit.

Adjacent Zoning and Land Uses

The subject property is surrounded in all directions by CH zoning. There is a single-family dwelling directly to the north of the property as well as a small apartment building. Properties to the east across South Maney Avenue consist of a single-family residential use and a 2-story office/retail building. Directly to the south is a small commercial building. There are mostly residential uses immediately to the west, including single-family residences.

Future Land Use Map

The future land use map of the *Murfreesboro 2035 Comprehensive Plan*, which was adopted in July 2017, recommends that *Neighborhood Commercial* is the most appropriate land use character for the subject property, as shown on the map below.



The characteristics of “Neighborhood Commercial” include “Low-intensity (commercial) land uses, generally about the same scale and intensity level as residential development within the *Suburban Residential* area, and clustered at intersections of community collector thoroughfares.” Examples of uses in this land use character include “professional offices, convenience stores, dry cleaners, post offices, coffee shops, and drug stores.” Compatible existing zoning districts are CL, CF, CM-R, CM, and CM-RS-8. The proposed mixed-use development in the PUD is not consistent with the “Neighborhood Commercial” land use character. The proposed development is more consistent with the *Urban Commercial/Mixed-Use* land use character, which is shown on the future land use map directly adjacent to this property to the west. The “Urban Commercial /Mixed-Use” character includes “multi-family residential, entertainment, restaurants and other retail, general and professional offices where streets are framed by buildings with zero/minimal front setback, multi-story structures, conducive for pedestrian activity, and structured and on-street parking, where low-density residential uses should not be permitted.” The Planning Commission will need to determine whether or not this is an appropriate instance to deviate from the future land use map and whether or not the adjacent

“Urban Commercial/Mixed-Use” character is more appropriate for the subject property.

Action Needed

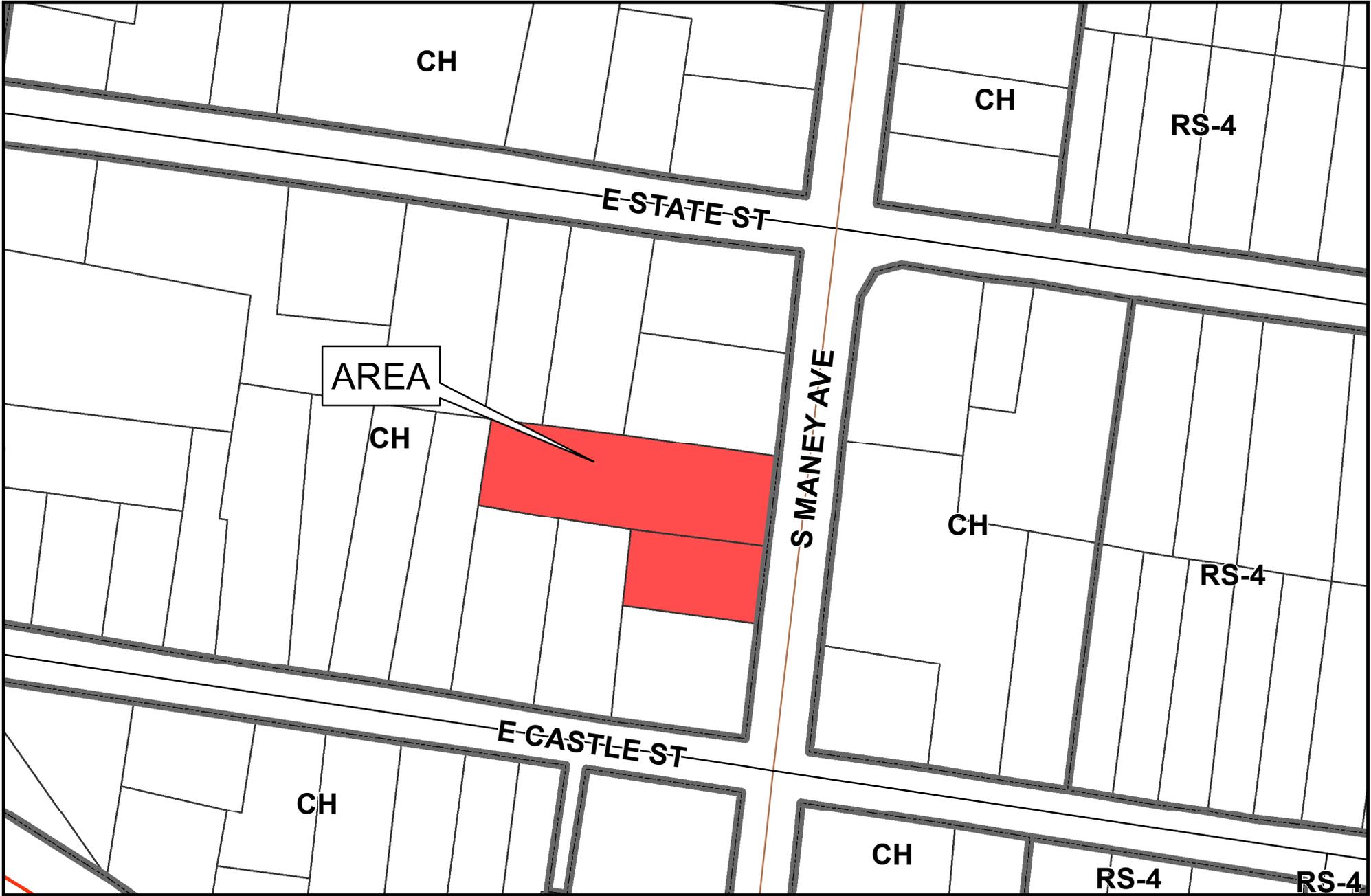
A copy of the pattern book has been included in the agenda materials. The applicant will be available at the Planning Commission meeting to make a presentation regarding the proposed rezoning and to answer questions. The Planning Commission will need to conduct a public hearing on this matter and then formulate a recommendation to City Council.



Rezoning Request for Property Along South Maney Avenue
CH and CCO to PUD (Maney Station PUD) and CCO



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



Rezoning Request for Property Along South Maney Avenue
CH and CCO to PUD (Maney Station PUD) and CCO



Planning Department
City of Murfreesboro
11 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: HUDDESTON- STEELE ENGINEERING, LLC

Address: 2115 N.W. BROAD STREET City/State/Zip: MURFREESBORO, TN. 37129

Phone: 615. 893. 4084 E-mail address: rountree.associates@yahoo.com

PROPERTY OWNER: KEITH KELTON (418) & MA & RUTH HOLLINGSWORTH

Street Address or property description: 418 & 422 SOUTH MANEY AVENUE

and/or Tax map #: 418-1020 Group: A Parcel (s): (418) - 03300
422-1020 Parcel (s): (422) - 03400

Existing zoning classification: CH

Proposed zoning classification: PUD Acreage: .54 ± AC.

Contact name & phone number for publication and notifications to the public (if different from the applicant): CLYDE ROUNTREE (HS ENGINEERING, LLC) 615. 893. 4084

E-mail: rountree.associates@yahoo.com

APPLICANT'S SIGNATURE (required): *Clyde Rountree*

DATE: 4.16.2020

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

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

Amount paid: _____ Receipt #: _____

4.16.2020

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

Re: Rezoning Request

Described as Tax Map 102D Group A and parcels 003300 and 003400 consisting of .54 +/- acres. .

Dear Mr. Blomeley:

On behalf of our client, Mr. Rhett Kelton, we hereby request the annexation and rezoning of a .54 +/- acre tract of land located at 418 and 422 South Maney Avenue current zoned CH in the City to the requested PUD zoning in the City. The property located at Tax Map 102D, Group A and parcel 003300 and 003400. We currently plan to use the land for mixed use development of townhomes and commercial space.

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

Sincerely,



Clyde Rountree, RLA

HUDDLESTON-STEEL ENGINEERING, INC.

Maney Station

PLANNED UNIT DEVELOPMENT

SHEET INDEX

1. DEVELOPMENT TEAM & PROJECT SUMMARY
2. ZONING MAP
3. UTILITY MAP
4. HYDROLOGY & TOPOGRAPHY MAP
5. AERIAL MAP
6. EXISTING CONDITIONS
7. EXISTING CONDITIONS
8. SITE PLAN
9. ARCHITECTURAL ELEVATIONS
10. ARCHITECTURAL ELEVATIONS
11. ARCHITECTURAL FLOOR PLAN
12. CONCEPTUAL LANDSCAPE PLAN
13. OPEN SPACE / AMENITIES / ROOF TOP GATHERING
14. DEVELOPMENT STANDARDS
15. COMMERCIAL CENTER PERMITTED USES / PROHIBITED USES
16. DIMENSIONED SITE PLAN
17. PLANNED DEVELOPMENT CRITERIA & 2035 PLAN

SUBMITTED APRIL 16 FOR THE MAY 20, 2020 PLANNING COMMISSION WORKSHOP
RESUBMITTED MAY 6, FOR THE MAY 20, 2020 PLANNING COMMISSION WORKSHOP
RESUBMITTED MAY 26, FOR THE JUNE 3, 2020 PLANNING COMMISSION PUBLIC HEARING
RESUBMITTED JULY 6, FOR THE JULY 23, 2020 CITY COUNCIL PUBLIC HEARING

Plans Prepared By:

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

Development Team & Project Summary

PROJECT SUMMARY

Maney Station is a new single-family attached home development and retail center located a few minute's walk from downtown Murfreesboro. The subject property is currently zoned CH and consists of .47 acres. This area of Murfreesboro is beginning to see new energy and revitalization which is creating development interest for new construction in this older neighborhood. The proposed Maney Station will be a 13 single-family attached dwelling unit development and will have one bedroom units with a minimum size of 550 square feet. The single-family attached dwelling units will be located on the first, second and third floor of the structure with a roof top patio. The ground floor will be designed for commercial use with small businesses serving the local community. In addition, we propose one single-family attached handicap accessible unit to fulfill the Fair Housing Act requirements on the ground floor. The building addresses the street with a downtown urban character with both on-street parking in front and on-site parking in the rear. The building will be a combination of brick, metal, cementitious siding, and EIFS. The building will have a slightly modern look using traditional materials to serve as timeless elements that are consistent with the downtown architectural character. Access will be provided on South Maney. The building has the required amount of parking taking in consideration the 25% reduction in parking allowable through the CCO parking allowances for on-street and commercial parking. Three on-street parking spaces will also be available.

HOME TYPE	SIZE	STORY	BEDROOMS	PARKING	SPACES REQ/ PROV
Single-Family Attached	550 S.F. (Min)	2 Story	13 - 1 Bedrooms	surface	13 Req./13 Pro.
Commercial	3,935 S.F.	1 Story	NA	surface	12 Req./ 14 Pro.
Total Building SF	13,455 S.F.	3 Story			25 Req. / 27 Pro.
Total Residential SF	9,520 S.F.				
Total Commercial	3,935 S.F.				

Owner/ Developer

Rhett Kelton
Rhettkelton@gmail.com
336-354-9690

Architecture

Brian Oliver
Oliver Architecture, P.C.
(615) 491-3365
brian@oliverarchitecture.com

Planning and Engineering

Huddleston-Steele Engineering, Inc.
Clyde Rountree, RLA
2115 N.W. Broad Street
Murfreesboro, TN 37129
Rountree.associates@yahoo.com
615.509.5930

Zoning Map

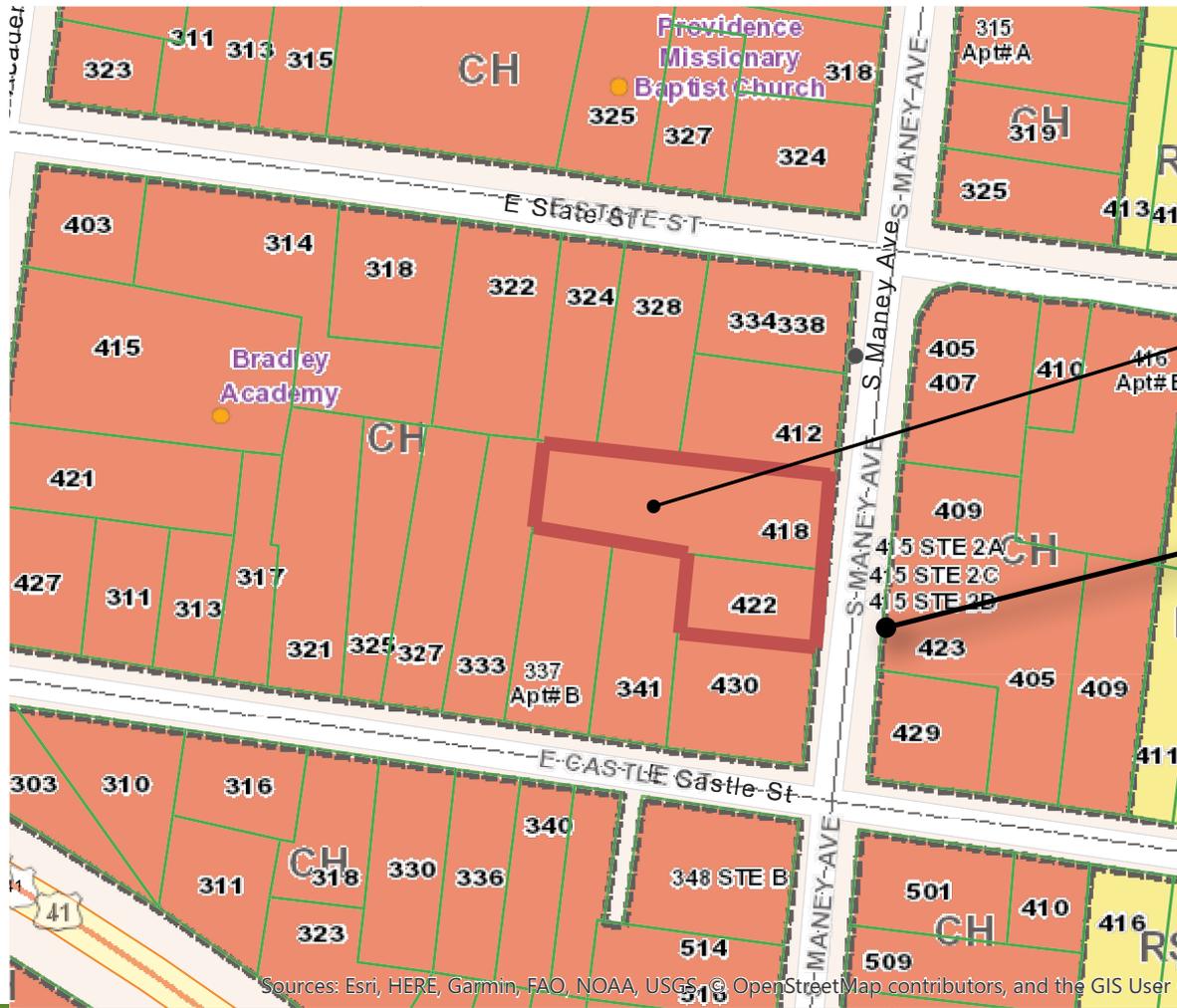
Maney Station

PLANNED UNIT DEVELOPMENT

The subject property is zoned CH & CCO
The property is surrounded by CH zoning.
The subject property is proposed to be rezoned PUD.

SITE

South Maney Avenue



Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User C

Maney Station

PLANNED UNIT DEVELOPMENT

Utility Map

SITE

The subject property utility providers:
 Water is provided by Murfreesboro Water Resources Department.
 Electric is provided by Murfreesboro Electric Department.
 Sewer is provided by Murfreesboro Water Resources Department.

LEGEND

Water 

Sewer 



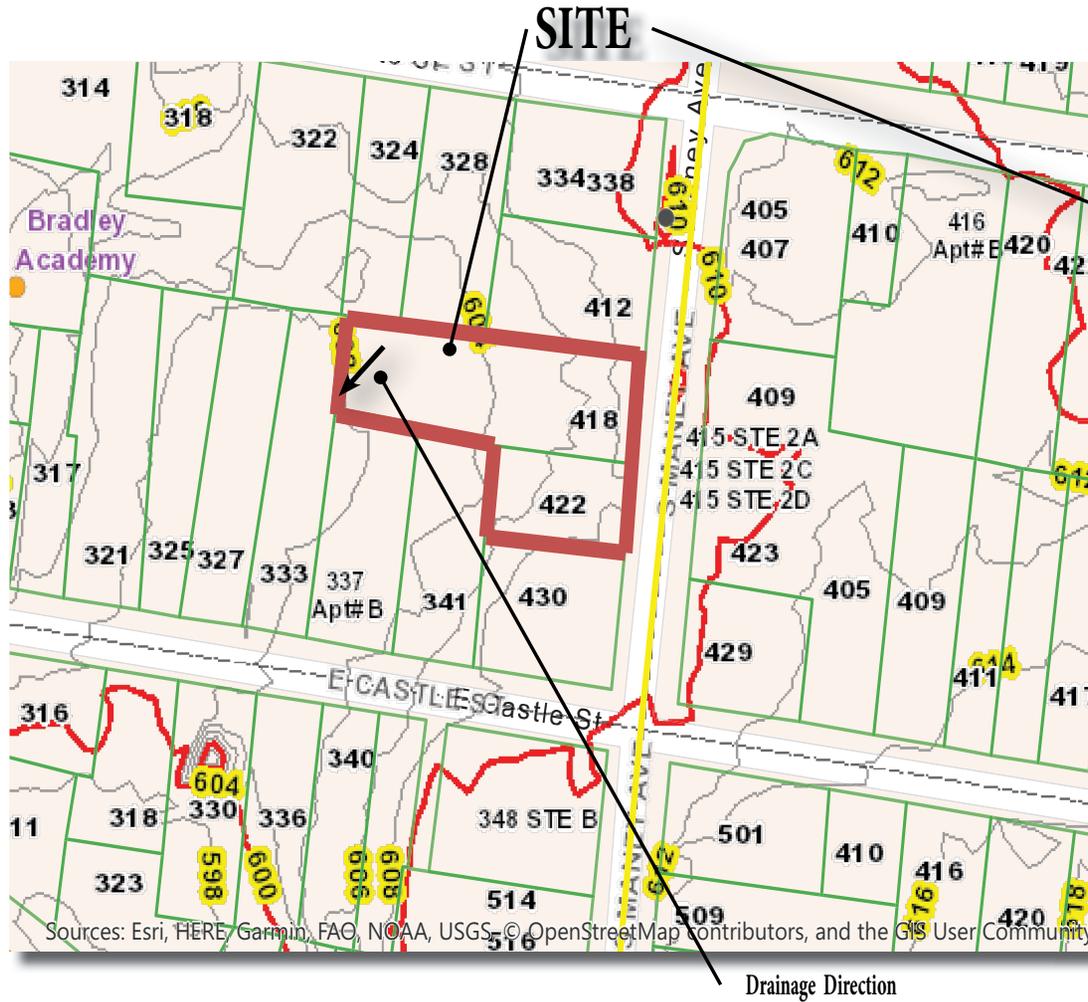
Water Line Location Map



Sewer Line Location Map

Hydrology & Topography Map

Maney Station PLANNED UNIT DEVELOPMENT

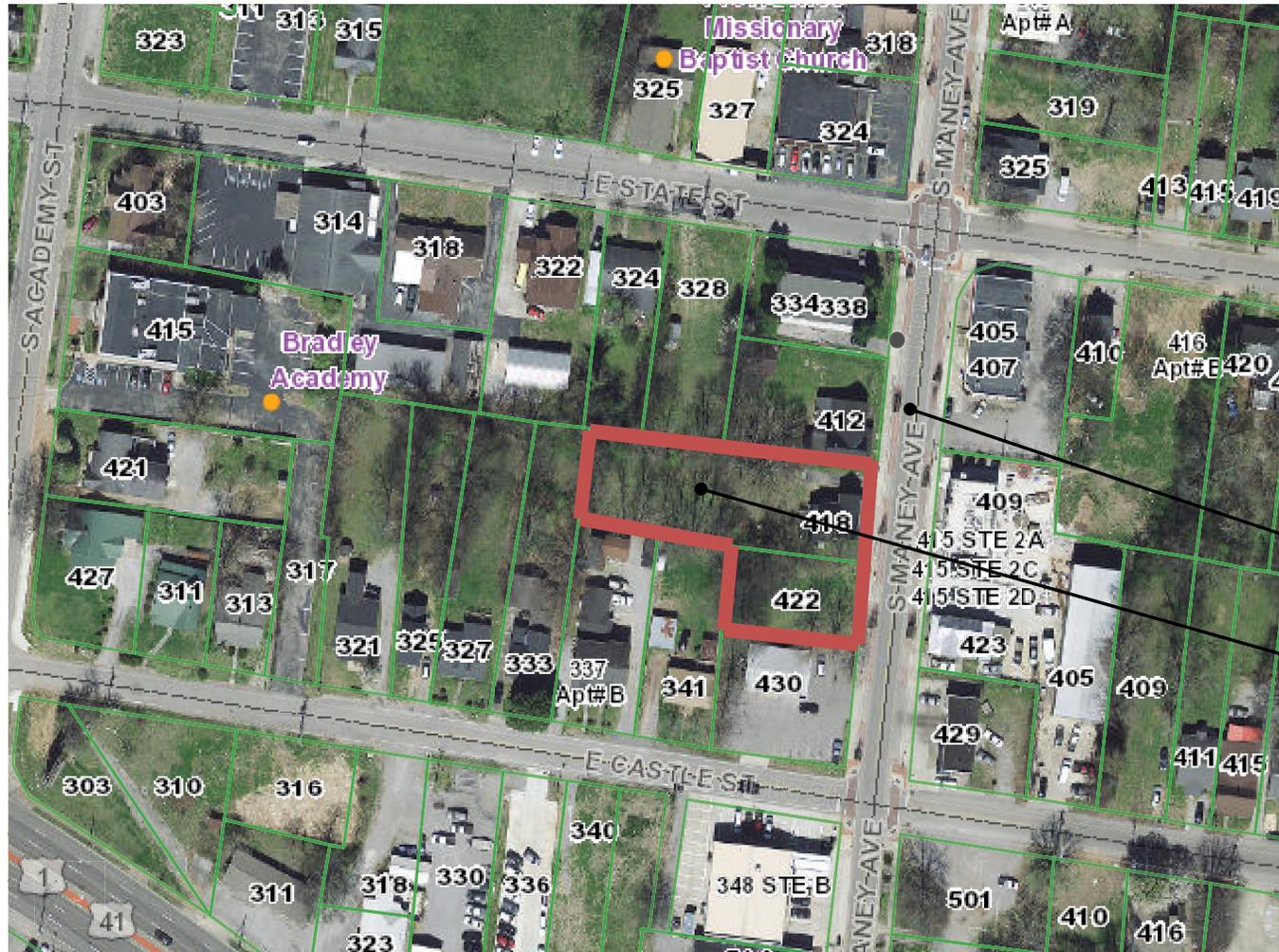


Sewer Line Location Map

The site drains from South Maney Avenue to the southwest corner of the subject property. The site has 8' of grade change from the front to the rear of the site.



Aerial Map



This aerial photograph shows the subject site within a transitional neighborhood. The subject property is a few blocks away from the Murfreesboro Public Square.

South Maney Avenue

Site



Aerial Location Map

Existing Conditions

Maney Station

PLANNED UNIT DEVELOPMENT



A

House to be removed



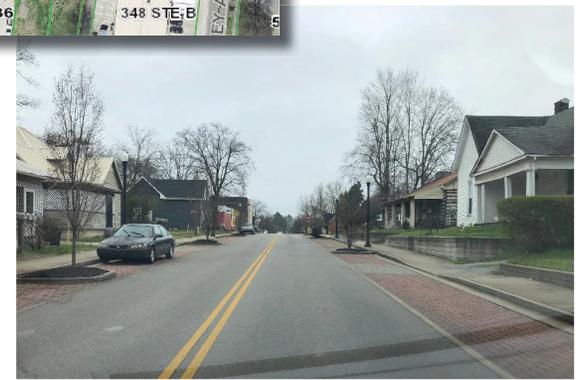
B

View of adjacent home



C

Commercial property around the corner



D

View looking down South Maney Avenue

Existing Conditions

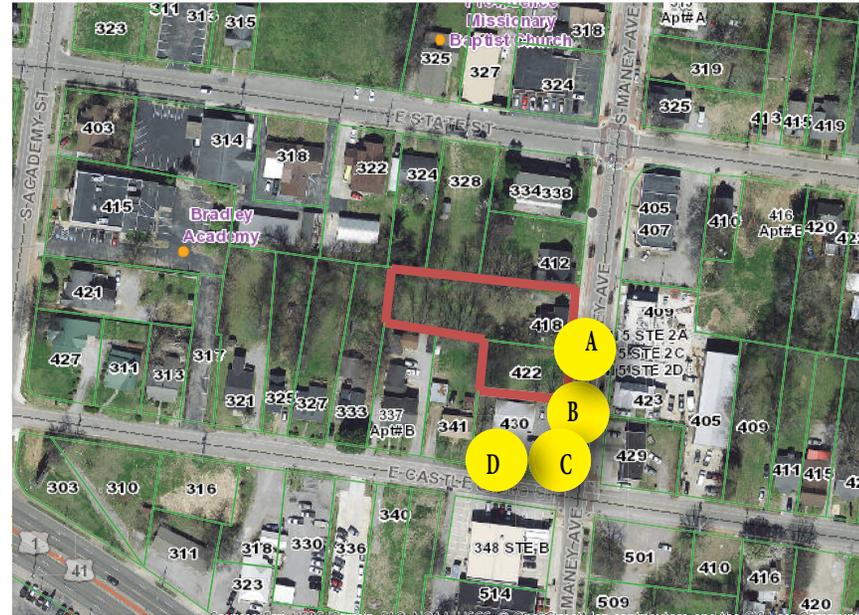
Maney Station

PLANNED UNIT DEVELOPMENT



A

View looking at commercial building across the street



A

B

D

C



B

Subject property vacant lot



C

Commercial business east of subject property on East Vine



D

Adjacent commercial business

Site Plan

Maney Station PLANNED UNIT DEVELOPMENT

Site Data:
 Acreage: .47 Acres
 Proposed Dwelling units: 13
 Density: 13/.47= 28 Dwelling units per acre

13 (1 Bedroom) Proposed dwelling units @
 1 spaces per unit = 13 Parking spaces re-
 quired, 13 Parking spaces provided
 (Additional 3 on-street parking spaces)

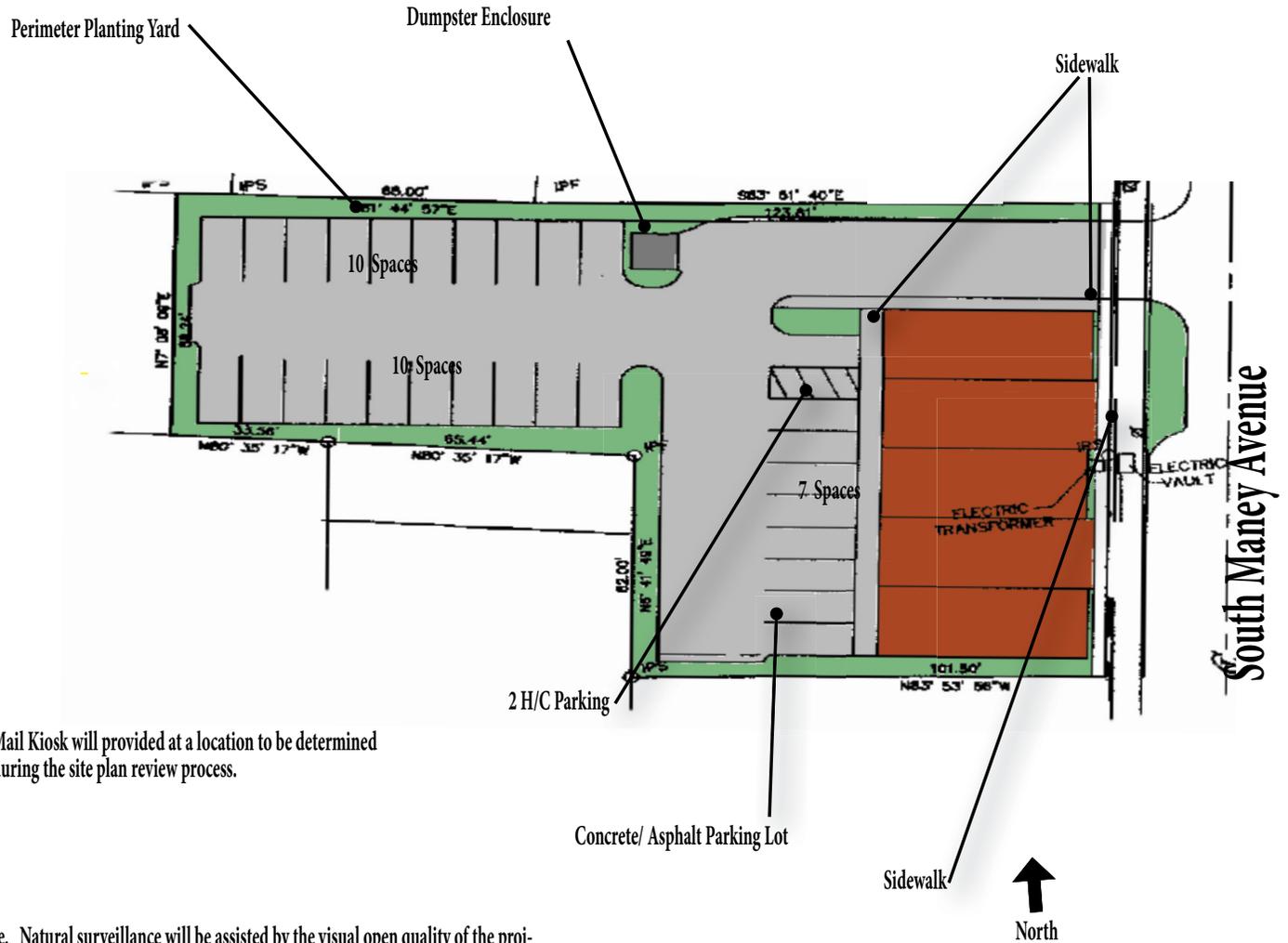
Commercial: 3935 +/- S.F.,
 3935/225 = 17.4 (.25) spaces = 13 Parking
 spaces required, 14 Parking spaces provid-
 ed. Parking counts reflect the 25% reduc-
 tion in required parking in the CCO.
 2 H/C Spaces provided

Total Parking Required = 25
 Total Parking Provided = 27

The building height is 45'

Single Family Attached Home : 550 min. sq.
 ft. of living area

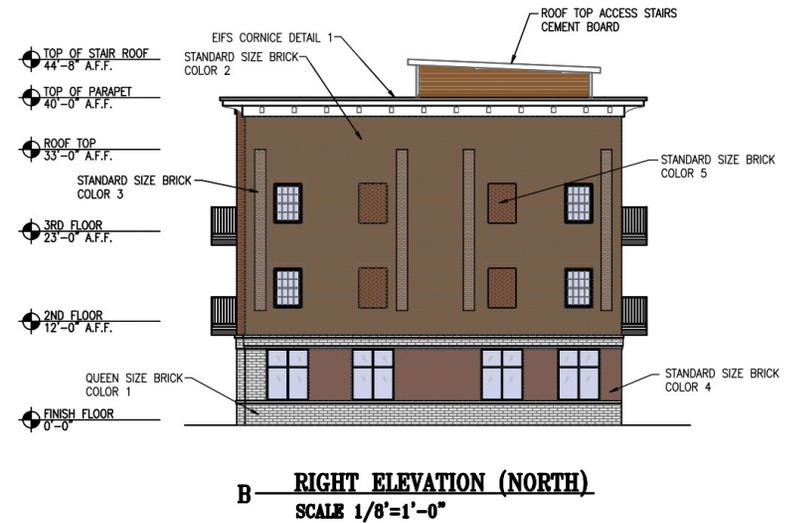
Horizontal Property Regime Ownership
 Private Hauler Trash Pick-up



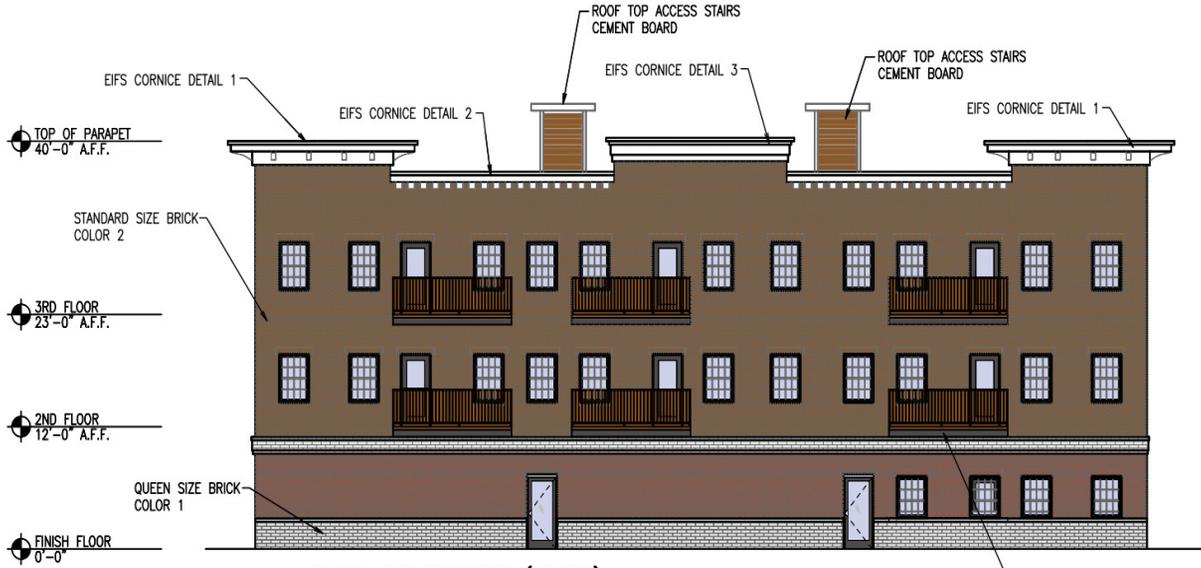
CPTED principles will be applied to the extent that developer is able. Natural surveillance will be assisted by the visual open quality of the project. The access points are well defined and easy to see. Territorial reinforcement will be established through the utilization of consistency in the landscaping and building materials. The site will be well-maintained to prevent the "Broken Window Theory."

Architectural Elevations

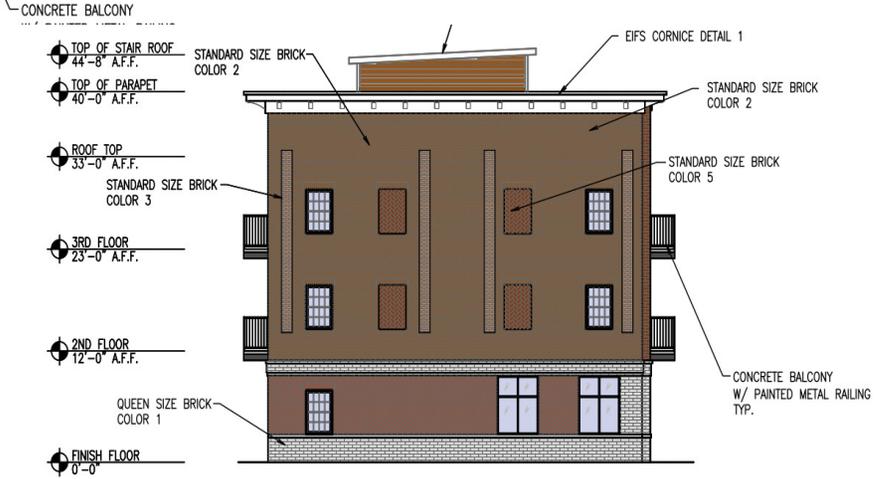
Maney Station PLANNED UNIT DEVELOPMENT



Architectural Elevations



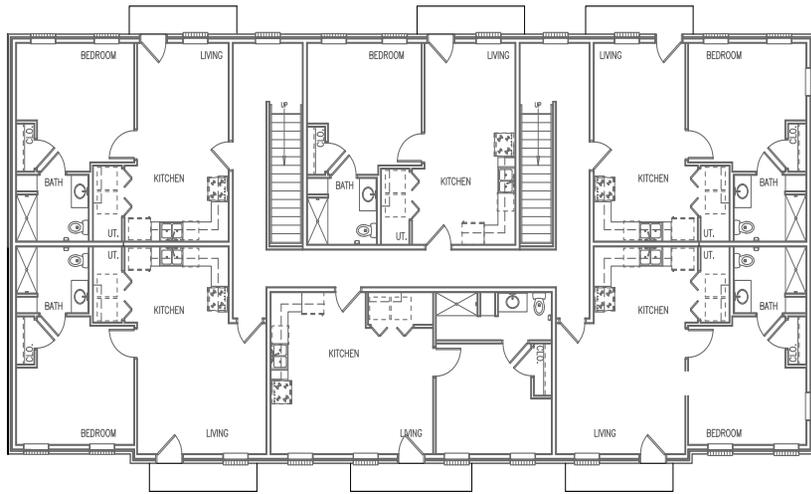
C REAR ELEVATION (WEST)
 SCALE 1/8"=1'-0"



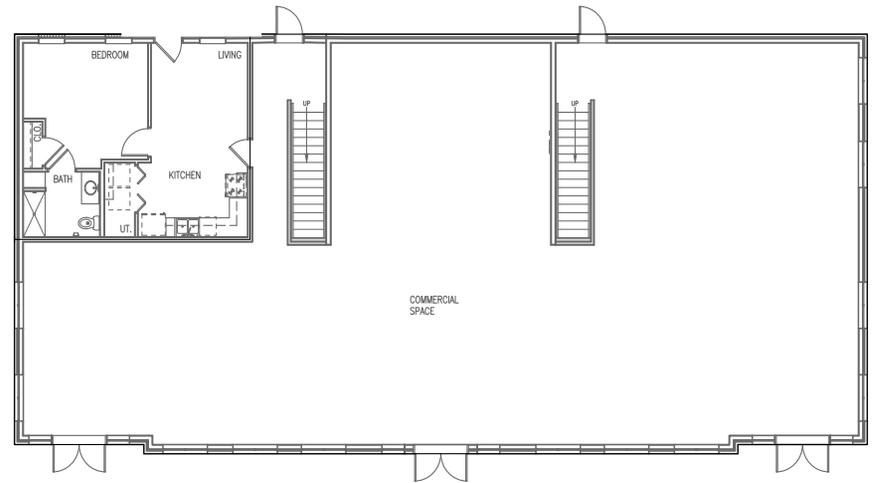
D LEFT ELEVATION (SOUTH)
 SCALE 1/8"=1'-0"

Architectural Floor Plan

Maney Station PLANNED UNIT DEVELOPMENT

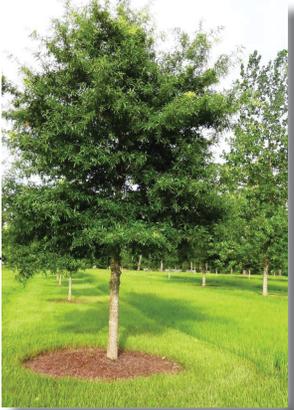


A SECOND AND THIRD FLOOR
SCALE 1/8"=1'-0"



A FIRST FLOOR PLAN
SCALE 1/8"=1'-0"

Conceptual Landscape Plan



Shade Tree



Screening Planting

Dumpster will be located in a masonry enclosure that will match the building materials

Foundation Planting

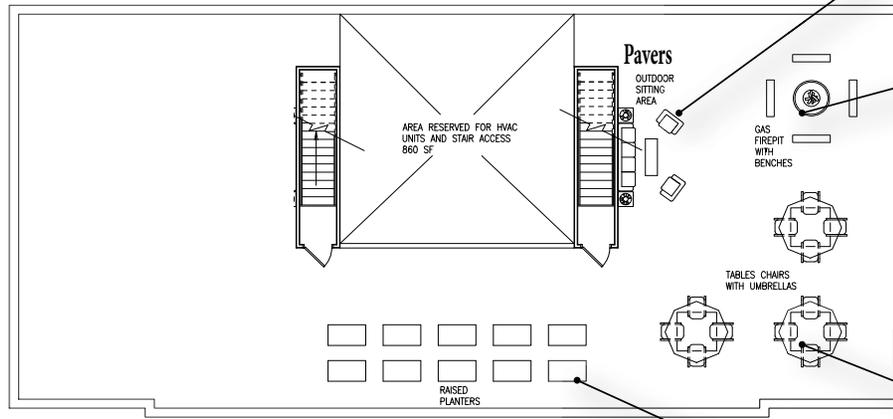


Open Space / Amenities/Roof Top Gathering

AC Units will be roof mounted and will not take up more than 25% of the available roof top area.

The rooftop will be accessed by internal stairwells and will provide a 460 SF roof top entertaining area.

The roof top will provide home owners with outside entertainment space providing both formal and informal seating options, raised planters for shared gardening, chaise lounges for sunning with freestanding umbrellas. A gas fire table will provide both atmosphere and warmth in the fall months.



C ROOF PLAN
SCALE 1/8"=1'-0"

Shared open space for the residents will be roof top patio to be shared by all the residents of Maney Station. The area will be maintained by the HOA and for the sole use of the residents and their guests.



Patio Seating



Gas Fire Table



Roof Top Table



Raised Planter potential vegetable gardens

Development Standards

Development Standards:

- Development will include (13) 1-bedroom attached single family dwelling units
- The maximum building height is 45'-0"
- All dwelling units will be 1 bedrooms
- There will 3935 SF of commercial space
- The site will have 27 standard parking spaces, with 2 H/C Spaces
- Solid waste removal will be provided by a private hauler
- Sidewalks will be provided on South Maney Avenue
- All site utilities will be underground
- Identification signage will be attached to building
- The development will be managed by an H.O.A.
- Street lights will be decorative Murfreesboro Electric Department poles and lights to match what exist on South Maney
- Mail delivery will be accommodated via a mail kiosk
- Common open space will be maintained by an H.O.A. (Roof top area)
- All dwelling unit owners will be required to be a member of the H.O.A.
- All parking will be screened from the public right-of-way by landscaping and the building
- Buildings elevations will have well- articulated front elevations with details responding to the pedestrian scale of the neighborhood
- All HVAC units will be roof mounted
- Parking will comply with the Murfreesboro zoning ordinance with CCO reduction of 25% for commercial parking

Building Elevation Materials:

- Brick (Primary Material)
- EIFS (Secondary Material at Cornice)
- Cementitious Siding (Secondary Material on Roof Top Stairwells)
- Metal (Secondary Material Balcony)
- Architectural materials board will be provided

BUILDING SETBACKS	RS-A (Type 3)	PUD	CCO	DIFF
FRONT SETBACK	20'	0'	0'	(-)20
SIDE SETBACK	5'	5'	5'	NA
REAR SETBACK	20'	20'	20'	NA
HEIGHT	42'	45'	(2) Stories	(+) 3

SITE DATA		
Total Land Area	20,555 SF	
Total Open Space	Required: 0 SF	Provided: 0 SF
Formal Open Space	Required: 2000 SF	Provided: 460 SF (Roof Top Patio)
Total Impervious	16648 SF	
Total Pervious	3907 SF	
F.A.R.		0.64
L.S.R.		0.28
O.S.R.	NA	

Commercial Center Permitted Uses /Prohibited Uses

Permitted Use List:

Adult Day Care Center
Animal Grooming Facility
Art and Photo Gallery
Bakery - Retail
Bank Branch Office
Bank Main Office
Barber Shop
Book Shop
Business and Communication Services
Carry-out restaurant
Convenience Store without gas sales
Catering Establishment
Clothing Store
Delicatessen
Dry Cleaning Pick-up
Financial Services (no cash advance)
Flower Shop
Garden and Lawn Supplies (no outdoor storage)
Glass-Stained and Leaded
Health Club
Interior Design
Karate Instruction
Medical Laboratories
Music and Dance Academy
Offices
Optical Dispensaries
Personal Services Establishment
Pet Shop
Photo Finishing
Pharmacy
Restaurant
Retail Shop
Reducing and Weight Control Service
Pet Funeral Home
Salvage and Surplus Merchandise
Specialty-Limited Restaurant
Specialty Shop

Taxidermy Studio
Video Rental
Veterinary Office

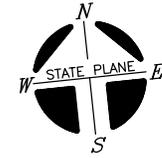
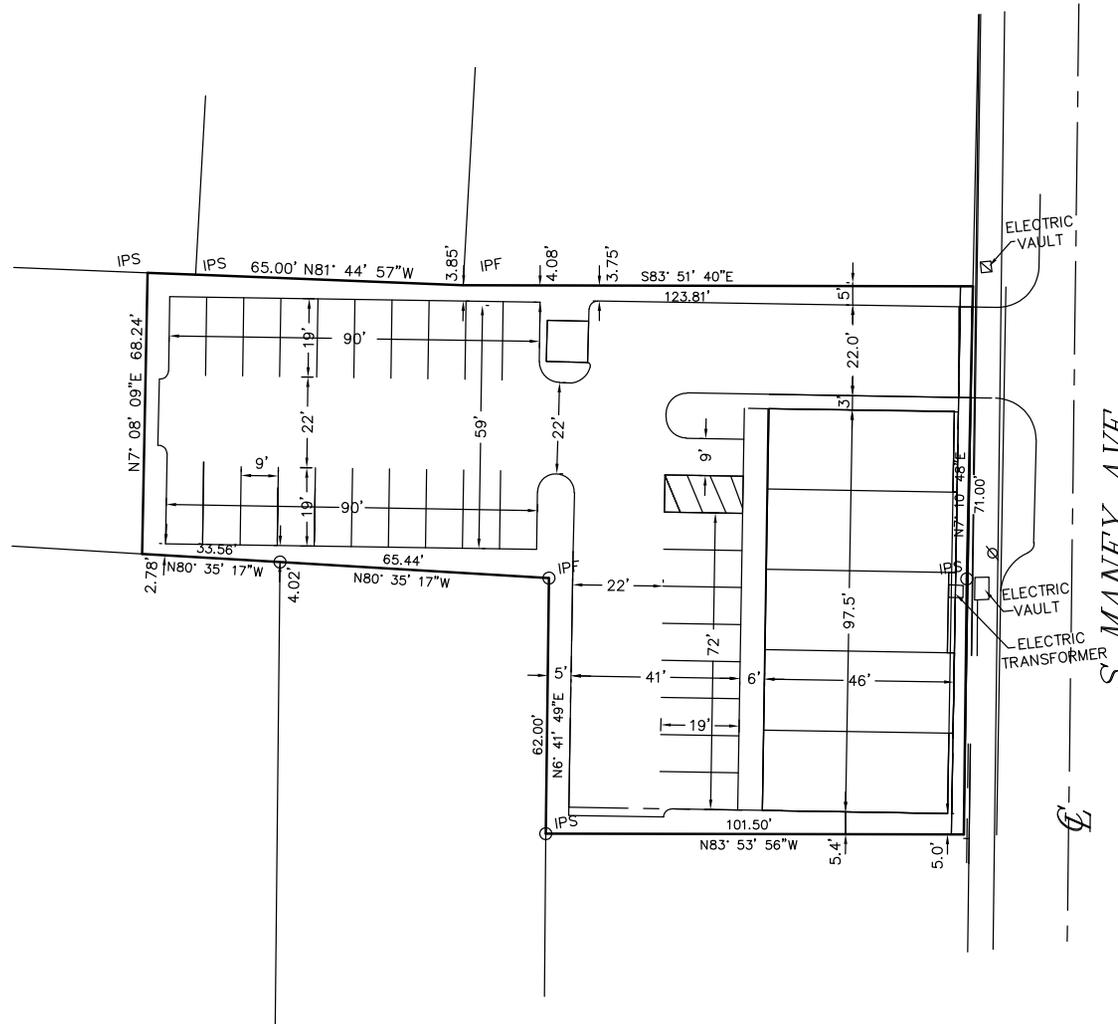
*Prohibited Use List:

Adult Day Care Home
Airport/Heliport
Amusements, Commercial Outdoor Motorized
Amusements, Commercial Outdoor Motorized Except Carnivals
Adult Cabaret
Adult Entertainment
Adult Motel
Adult-only Bookstore
Adult-only Motion Pictures Theater
Cash Advance Businesses
Cemetery
Drive-in Theater
Family Crisis Center
Family Violence Shelter
Fraternity/Sorority
Fireworks Retailer
Gas Station
Kennel
Laundry, Self-Service
Motor Vehicle Sales
Motor Vehicle Repair
Pain Clinic
Pet Cemetery
Plasma Donation Center
Rap Parlor
Sauna
Temporary Mobile Recycling Center
Tavern
Tattoo Parlor
Tobacco and E-Cigarettes or Vape Sales
Towing
Veterinary Clinic

*While any use not expressly permitted in the permitted uses list is prohibited, this list of prohibited uses has been added to make clear that these uses are not permitted in this development.

Dimensioned Site Plan

Maney Station PLANNED UNIT DEVELOPMENT



Planned Development Criteria & 2035 Plan

General Applicability Per Section 13 - Planned Development Regulations

1. **Ownership and division of land:** *The site is owned by the developer identified on Sheet 1. The lot is currently zoned in the City of Murfreesboro.*
2. **Waiver of BZA action:** *No BZA actions will be required.*
3. **Common open space:** *Roof top patio provided.*
4. **Accessibility to site:** *The property is accessible from South Maney Avenue.*
5. **Off street parking.** *See Sheet 8 for parking calculations.*
6. **Pedestrian circulation:** *Sidewalks will be constructed on subject property as a result of this project.*
7. **Privacy and screening:** *Perimeter planting yard is provided.*
8. **Zoning and subdivision modifications proposed:** *A PUD is being requested for the subject property.*
9. **Phasing:** *The project shall be completed in one phase.*
10. **Annexation:** *No annexation is required for this site.*
11. **Landscaping:** *The mixed use development will be designed to meet all minimum landscaping requirements outlined in the CCO.*
12. **Major Transportation Plan:** *The PRD is consistent with the Major thoroughfare plan utilizing South Maney Avenue as the primary access to the site.*
13. **Applicant contact information:** *Contact information is located on Sheet 1.*
14. **Proposed Signage:** *Signage will be attached to the building and will follow the Murfreesboro Sign Ordinance Regulations.*

Section 13 – Project Development Criteria Requirements

1. **Identification of existing utilities:** *Shown in pattern book on Sheet 3,*
- 2/3. **Graphics, renderings, maps and or aerial photography showing existing conditions and natural features of the site:** *Shown in pattern book Sheets, 3-7.*
- 4/5. **Drawing and/or diagrams identifying areas of development, proposed buildings, screening, proposed landscaping and pedestrian and vehicular circulation:** *Shown in pattern book Sheet 8-13.*
6. **Development schedule:** *Construction is projected to begin once all zoning and site planning is approved by the City.*
7. **Relationship of the planned development to current city polices and plans:** *The development is consistent with the growth in the area. The land use is consistent with the Neighborhood Commercial as recommended in the 2035 plan. The density increase is the result of the shape and size of the lot which allows for a deeper development. The 13 units being proposed fit well on the site and can be sufficiently parked.*

8. Proposed deviation from zoning and subdivision ordinance:

Exceptions Requested:

- 3' Planting yard as allow in the CCO on rear and side yards
- No foundation planting on western side of building
- Formal open space reduction 2000 SF required and 460 SF provided
- Dumpster access facing the public right-of-way
- Dumpster located in a required landscaping island
- Increased density resulting from all homes being designed as one bedroom floor plans
- No continuous foundation planting along front of building
- No foundation plantings on the north side of the building
- Height of building to be 45'
- Reduction in Perimeter Planting Yard of up to 3' where shown on concept plan
- Reduction in rear sidewalk along back of building to 6'

9. Site tabulation data for land area, See Site Data tablet Page 13.

10. The nature and extent of any overlay zones as described in Section 24 and 34: *The CCO overlays affects this development. The property is not in the floodplain.*



2035 Plan - Neighborhood Commercial - Nodes outside of the downtown area in which commercial and office buildings are automobile oriented but designed to a neighborhood scale and cater to pedestrians in Neighborhood Commercial configurations. The neighborhood shopping areas serves a localized trade areas within the community. The area serves a radius about a half mile and a population of 2,500 to 4,000 people.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION JUNE 3, 2020

6:00 P.M.

Council Chambers

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jennifer Garland
Ronnie Martin
Warren Russell
Chase Salas
Eddie Smotherman

STAFF PRESENT

Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney

Chair Kathy Jones called the meeting to order after determining there was a quorum.

Vice-Chairman Ken Halliburton made a motion to approve the minutes of the April 29, 2020 and May 6, 2020 Planning Commission meetings, seconded by Mr. Warren Russell. The motion carried by unanimous vote in favor.

Public Hearings

Zoning application [2020-408] for approximately 0.54 acres located along South Maney Avenue north of East Castle Street to be rezoned from CH and CCO to PUD (Maney Station PUD) and CCO, Rhett Kelton applicant.

Mr. Matthew Blomeley summarized the staff report which had been provided to the Planning Commission in the agenda packet.

Mr. Blomeley explained that the *Murfreesboro 2035 Comprehensive Plan* recommends the most appropriate land use character for this property to be “Neighborhood Commercial” which would be a low-intensity commercial use. However, the applicant is proposing a development that would be more consistent with the “Urban Commercial/Mixed-Use” land use character. The uses for this land use character include multi-family residential, entertainment, restaurants and other retail, general and professional offices. Mr. Blomeley stated the Planning Commission would need to determine whether or not this is an appropriate instance to deviate from the recommendations of the future land use map.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION JUNE 3, 2020

Mr. Clyde Rountree, Mr. Rhett Kelton, and Mr. Brian Oliver were in attendance to represent the application. Mr. Clyde Rountree gave a PowerPoint presentation with the following information:

- 13 residential dwelling units that would be approximately 9,500 square-feet total.
- The average size of the one-bedroom dwelling units would be a minimum of 550 square-feet.
- There would be one accessible dwelling unit on the first floor located at the back of the building. Also, the first floor would include commercial uses, the second floor would have six dwelling units, and the third floor would have six dwelling units.
- All units would be for sale via a Horizontal Property Regime.
- The building would be facing the street with parking at the rear of the building.
- There would be a rooftop patio area with raised gardens, patio seating, tables, etc.
- On the first floor there would be approximately 3,900 square-feet of commercial space.
- A list for the proposed permitted uses had been included in the applicant's pattern book.

Mr. Brian Oliver, the architect, explained the proposed architecture. The building materials would be five different colors of brick and commercial glass across the front and two sides. Each residential unit would have a balcony and have access to the rooftop patio area. In addition, there would be two interior stairs for tenants to have access with key cards at the security doors.

Mr. Eddie Smotherman addressed the list of permitted uses. He requested for Tobacco and Vape Sales to be removed and placed on prohibited use list. Mr. Clyde Rountree stated that he would remove Tobacco and Vape Sales and Laundries from the permitted use list.

Mr. Rhett Kelton came forward making known his vision for this development. This property is in a great location with a wonderful streetscape for young professionals that could enjoy an urban

MINUTES OF THE MURFREESBORO PLANNING COMMISSION JUNE 3, 2020

environment living in the downtown area. This development could become a precursor for more to come in the future.

Chair Kathy Jones opened the public hearing.

Mr. Allen McAdoo – came forward to make known he is in favor for this proposal. He hopes this project will help bring additional development to the area.

Chair Kathy Jones closed the public hearing.

Mr. Eddie Smotherman made a motion to approve subject to moving the following uses from the permitted use list to the prohibited use list: for Laundries and Tobacco/E-Cigarettes/Vape Sales, seconded by Mr. Chase Salas. The motion carried by unanimous vote in favor.

Zoning application [2020-406] for approximately 5.09 acres located along North Thompson Lane to amend the North Thompson Place PUD (also known as Gateway Village) to expand the uses permitted, Swanson Development, LP applicant. Ms. Margaret Ann Green summarized the staff report which had been provided to the Planning Commission in the agenda packet. Ms. Green stated the applicant would like to expand the permitted uses for their buildings. The permitted uses are currently allowed per the approved pattern book and are proposed to be redefined as follows:

Buildings A & B 1st Floor additional permitted uses to be added:

1. Church
2. College, University
3. Business School
4. Janitorial Service
5. Laboratories, Medical
6. Laboratories, Testing
7. Offices

ORDINANCE 20-OZ-20 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to rezone approximately 0.47 acres along South Maney Avenue north of East Castle Street from Highway Commercial (CH) District and City Core Overlay (CCO) to Planned Unit Development (PUD) District (Maney Station PUD) and City Core Overlay (CCO); Rhett Kelton, applicant [2020-408].

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 be zoned and approved as Planned Unit Development (PUD) District and City Core Overlay (CCO), as indicated thereon, and shall be subject to all the terms and provisions of said Ordinance applicable to such districts, the plans and specifications filed by the applicant, and any additional conditions and stipulations referenced in the minutes of the Planning Commission and City Council relating to this zoning request. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

Shane McFarland, Mayor

1st reading _____

2nd reading _____

ATTEST:

APPROVED AS TO FORM:

Melissa B. Wright
City Recorder

DocuSigned by:
Adam F. Tucker

Adam F. Tucker
City Attorney

SEAL

Ordinance 20-OZ-20



CH

RM-16

E SEVIER ST

E SEVIER ST

CH

CH

CH

RS-4

Area rezoned from CH and CCO to PUD and CCO

E STATE ST

S ACADEMY ST

CH

S MANEY AVE

CH

RS-4

E CASTLE ST

CH

RS-4

RS-4

41

1

SE BROAD ST

SCALES ST

RS-4

CH

CH



COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Amending the Gateway Village PUD along North Thompson Lane
[Public Hearing Required]

Department: Planning

Presented by: Matthew Blomeley, AICP, Assistant Planning Director

Requested Council Action:

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

Summary

Amend the Gateway Village PUD (formerly known as the North Thompson Place PUD) on approximately 5.09 acres located along North Thompson Lane north of Medical Center Parkway.

Staff Recommendation

Conduct a public hearing and enact the ordinance amending the zoning as requested.

The Planning Commission recommended approval of the rezoning.

Background Information

Swanson Development, LP presented a zoning application [2020-406] to amend the Gateway Village PUD (Planned Unit District) zoning on approximately 5.09 acres located along North Thompson Lane. During its regular meeting on June 3, 2020, the Planning Commission conducted a public hearing on this matter and then voted to recommend its approval.

Council Priorities Served

Improve Economic Development

This zoning amendment will create additional flexibility regarding the permitted uses in this PUD, as the owner attempts to sell and lease the commercial units, potentially creating jobs and generating increased property and sales tax revenues in this existing mixed-use development.

Attachments:

1. Ordinance 20-OZ-21
2. Maps of the area
3. Planning Commission staff comments and minutes from 06/03/2020 meeting
4. Letter from applicant detailing proposed PUD amendment
5. Other miscellaneous exhibits, including original North Thompson Place PUD pattern book from 2008

**MURFREESBORO PLANNING COMMISSION
STAFF COMMENTS
JUNE 3, 2020**

Principal Planner: Margaret Ann Green

4.b. Zoning application [2020-406] for approximately 5.09 acres located along North Thompson Lane to amend the North Thompson Place PUD (also known as Gateway Village) to expand the uses permitted, Swanson Development LP applicant.

The subject property is located along North Thompson Lane, just north of Medical Center Parkway and is the North Thompson Place PUD- also known as Gateway Village (original file 2008-402). The subject property is approximately 5.09 acres zoned PUD & GDO-1.

Adjacent Zoning and Land Uses

The subject area and surrounding parcels are located within the Gateway Design Overlay District (GDO). Saint Thomas Rutherford Hospital and medical office buildings are located to the east, separated by a segment of the City's greenway system. Candlewood Suites PCD is to the north and Salons by JC are to the south.

Request for PUD zoning amendment

In 2008, the City Council approved a mixed-use development at this location. The development consists of 3 separate buildings- Buildings A and B are two-story, office/commercial buildings and building C is a four-story office/retail/ residential condominium with parking on the first floor. It has come to the attention of staff that "office" is not a permitted use within Buildings A and B and the owner has received a request from an existing tenant to expand a real estate office. Staff recommended the applicant revise the PUD to add this as a permitted use and to explore the Zoning Ordinance and identify any other uses that may be reasonable.

Buildings A & B 1st Floor [proposed additional permitted uses]

Pages 24 and 25 of the North Thompson Place program book are proposed to be changed. Below are the lists of uses proposed to be added to the PUD. Attached is a spreadsheet with the entire listing of proposed uses.

- | | |
|------------------------|---------------------------------|
| 1. Church | 5. Laboratories, Medical |
| 2. College, University | 6. Laboratories, Testing |
| 3. Business School | 7. Offices |
| 4. Janitorial Service | 8. Radio TV or Recording Studio |

Buildings A & B 2nd Floor [proposed additional permitted uses to be added]

Area C-5 is 6.3 acres, is located along Shores Road and allows commercial, institutional uses and residential uses. Any development proposed within this area will meet the GDO design standards. The following uses are permitted:

1. Student Center
2. Amusements, Commercial Indoors
3. Animal Grooming Facility
4. Antique Mall
5. Antique Store
6. Apothecaries
7. Barber or Beauty Shop
8. Book, Card Shop
9. Catering Establishment
10. Clothing Store
11. Department or Discount Store
12. Flower or Plant Store
13. Glass-Stained and Leaded
14. Key, Locksmith
15. Reducing and Weight Control Services
16. Restaurant and Carryout Restaurant
(excludes drive up window)
17. Specialty Shop

Future Land Use Map

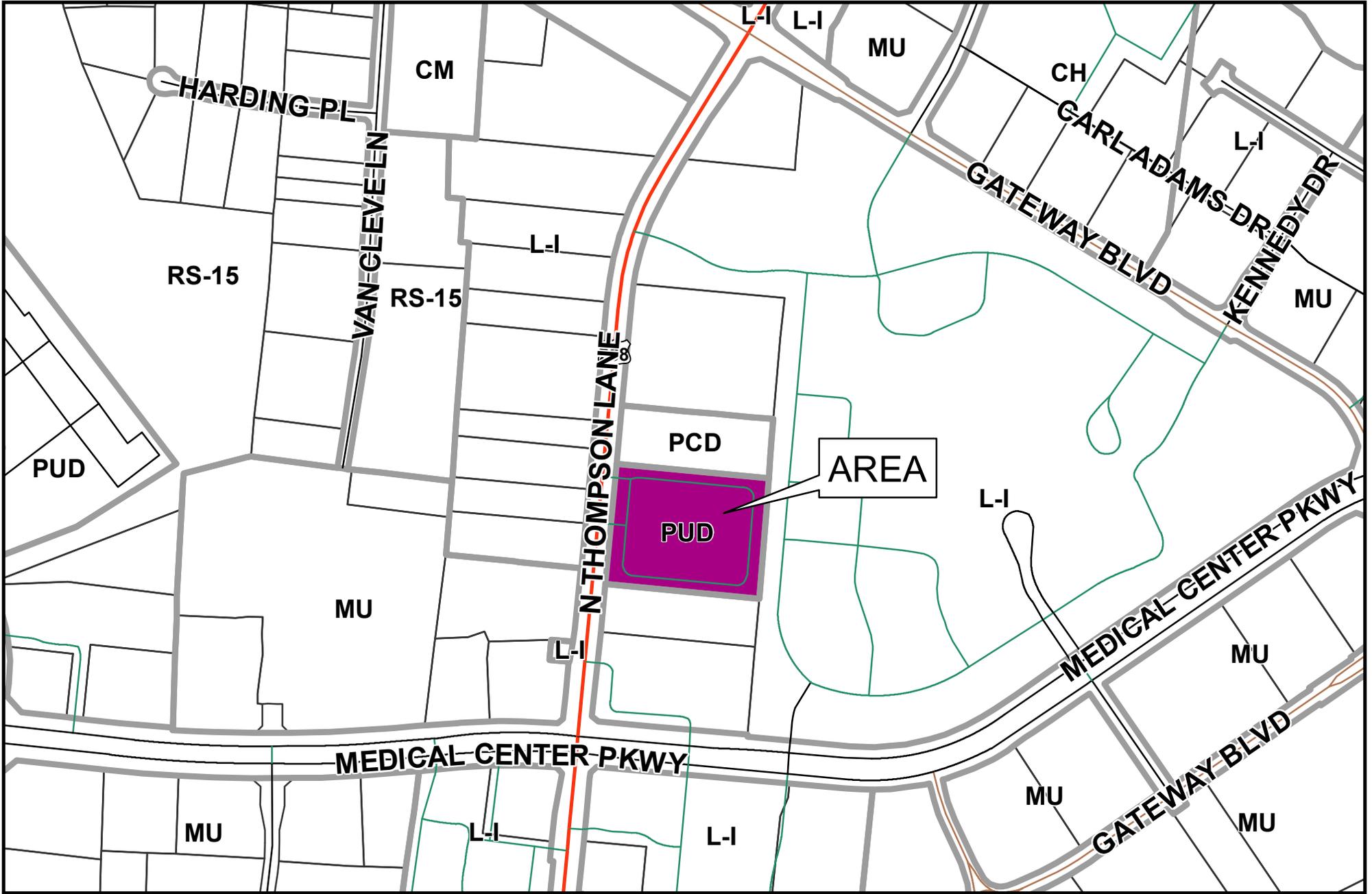
The *Murfreesboro 2035* Land Use Plan indicates that “Urban Commercial/Mixed Use” is the most appropriate land uses for the subject property. The uses are consistent with the Land Use Plans’ recommendations of: intensive, urban character with a multiplicity of uses, including multi-family residential, entertainment, restaurants, department stores and other retail, general and professional offices, hotels. The applicant should discuss how this rezoning request ultimately supports the goals of *Murfreesboro 2035*.

Murfreesboro 2035 – Future Land Use Map

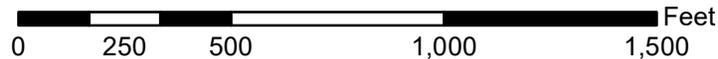


Public Hearing

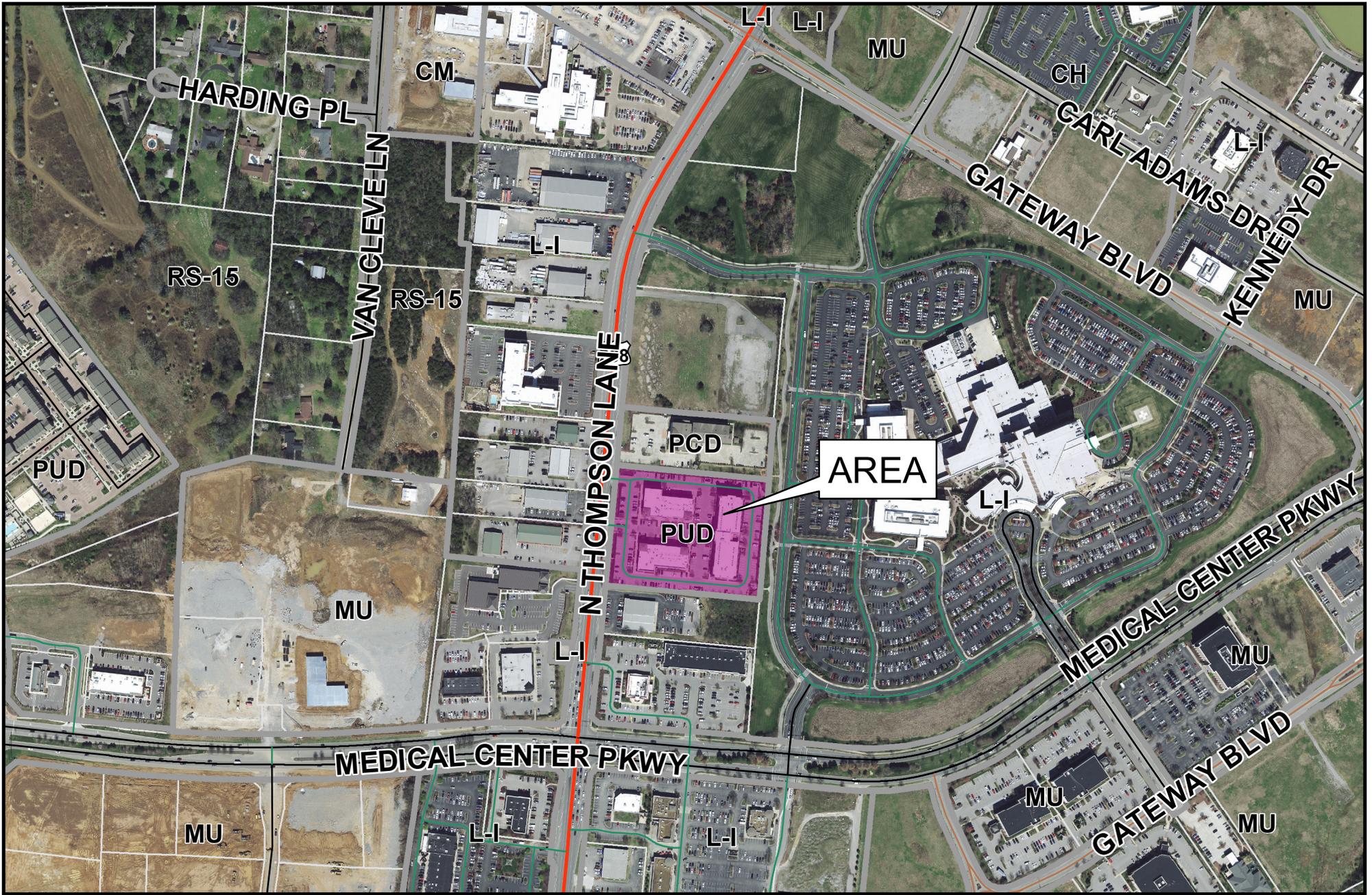
The applicant will be available at the Planning Commission meeting to discuss the proposed rezoning. The Planning Commission should conduct a public hearing, discuss the matter, and formulate a recommendation to the City Council



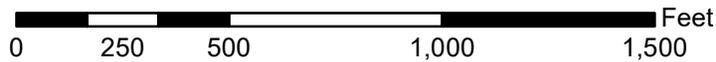
Zoning Request Along North Thompson Lane
PUD Amendment (Gateway Village PUD)



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



Zoning Request Along North Thompson Lane PUD Amendment (Gateway Village PUD)



Planning Department
City of Murfreesboro
11 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: Swanson Developments LP

Address: 1188 Park Ave City/State/Zip: Murfreesboro, TN 37129

Phone: (615) 848-2012 E-mail address: joejr@swansoncompanies.com

PROPERTY OWNER: Swanson Developments LP

Street Address or property description: 804, 820, 836 North Thompson Lane

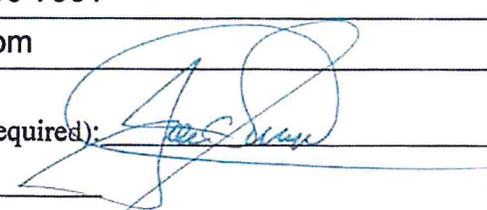
and/or Tax map #: 92 Group: _____ Parcel (s): 27.01

Existing zoning classification: PUD

Proposed zoning classification: PUD (amendment) Acreage: 5.09

Contact name & phone number for publication and notifications to the public (if different from the applicant): Matt Taylor 615-890-7901

E-mail: mtaylor@sec-civil.com

APPLICANT'S SIGNATURE (required): 

DATE: 4-14-2020

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

Date received: _____ MPC YR.: _____ MPC #: 2020-406

Amount paid: \$950.00 Receipt #: 293688

April 16, 2020

Mr. Greg McKnight
Murfreesboro Planning & Engineering Dept
111 W. Vine St
Murfreesboro, Tennessee 37130

RE: PUD Amendment Cover Letter
The Gateway Village
Murfreesboro, Tennessee

Dear Mr. McKnight:

Please accept this letter along with the attached exhibit and application as Swanson Development LP's official request to the City of Murfreesboro to amend the previously approved Gateway Village PUD (formerly known as North Thompson Place PUD). The original PUD included a list of allowable uses based on building and floor. Swanson Development, LP has had multiple requests for uses that are allowed in the overall development but not currently allowed on certain floors. Since these uses are allowed within the overall development, it appears the uses are appropriate to the location and project. After receiving these requests, we have examined the entire list of current allowed uses listed in the booklet and are proposing to change which uses are allowed on each floor of Building A and B, no changes are proposed in Building C. In addition, no new uses are proposed to be allowed.

Buildings A and B Allowed Uses		
Uses	1st Floor	2nd Floor
Multi-Family Residential		X
Church	PROP	X
College, University	PROP	X
Museum	X	X
Student Center	X	PROP
Amusements, Commercial Indoors	X	PROP
Animal Grooming Facility	X	PROP
Antique Mall	X	PROP
Antique Store	X	PROP
Apothecaries	X	PROP
Art, Photo Studio or Gallery	X	X
Bakery, Retail	X	
Bank, Branch Office	X	X
Bank, Main Office	X	X
Barber or Beauty Shop	X	PROP
Book, Card Shop	X	PROP
Business School	PROP	X
Business and Communication Service	X	X
Catering Establishment	X	PROP

Clothing Store	X	PROP
Convenience Sales and Service (excludes gasoline)	x	
Delicatessen	X	
Department or Discount Store	X	PROP
Doughnut Shop	X	
Dry Cleaning (excludes drive up window)	X	
Financial Service	X	x
Flower or Plant Store	X	PROP
General Service and Repair Shop	X	
Glass-Stained and Leaded	X	PROP
Group Assembly	X	X
Health Club	X	X
Ice Cream Shop	X	
Interior Decorator	X	X
Iron Work (retail)	X	
Janitorial Service	PROP	X
Karate Instruction	X	X
Key, Locksmith	X	PROP
Laboratories, Medical	PROP	X
Laboratories, Testing	PROP	X
Music or Dance Academy	X	X
Offices	PROP	X
Optical Dispensaries	X	X
Personal Service Establishment	X	X
Pet Shops	X	
Pharmacies	X	
Photo Finishing	X	
Radio TV or Recording Studio	PROP	x
Reducing and Weight Control Services	X	PROP
Restaurant and Carryout Restaurant (excludes drive up window)	X	PROP
Specialty Shop	X	PROP
Veterinarian Office	X	X
Veterinarian Clinic	X	X
Video Rental	X	

X = currently allowable use

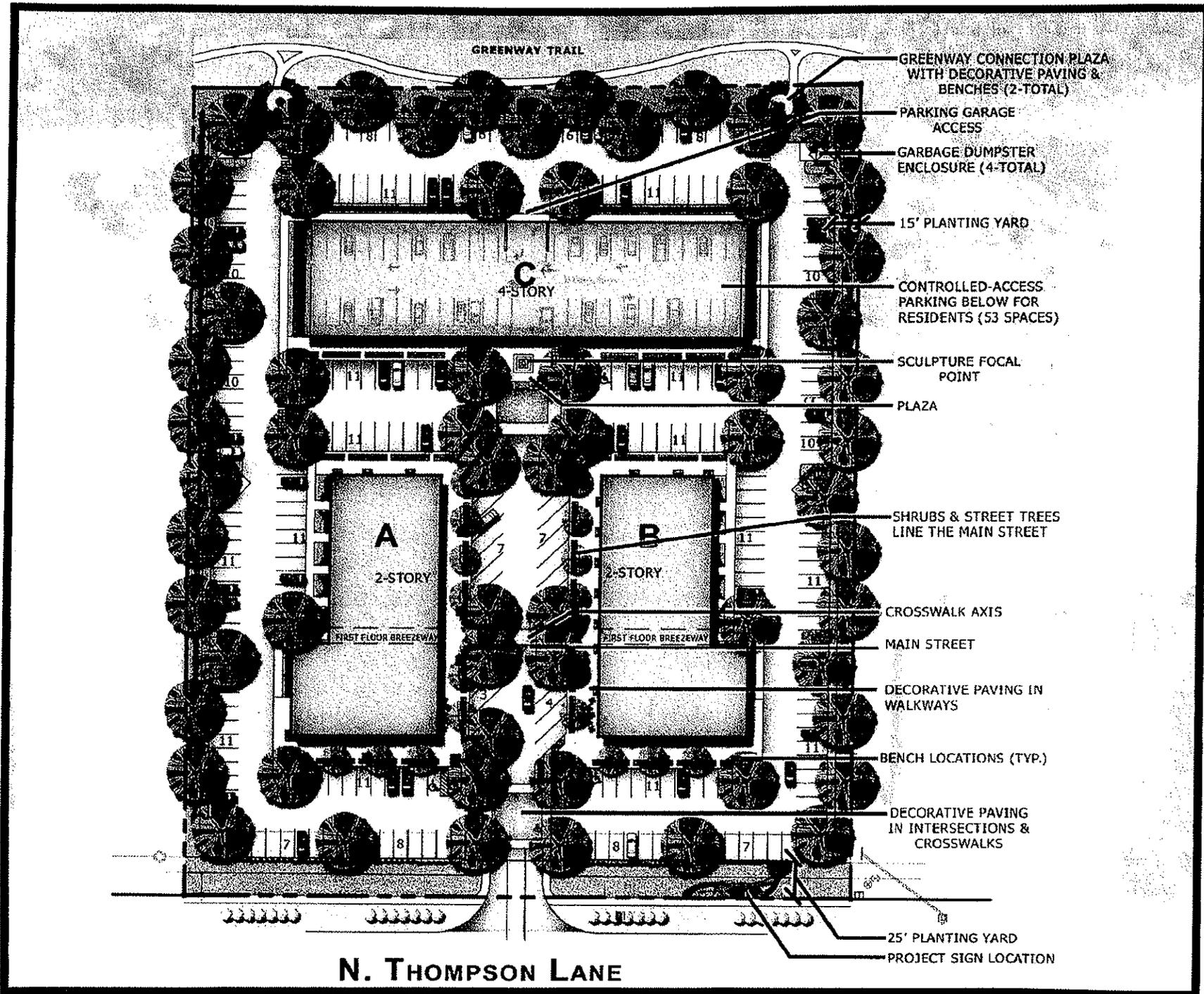
Prop = proposed to be allowed with this amendment

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

Sincerely,

Matt Taylor

Matt Taylor
Vice-President
SEC, Inc



GREENWAY CONNECTION PLAZA WITH DECORATIVE PAVING & BENCHES (2-TOTAL)

PARKING GARAGE ACCESS

GARBAGE DUMPSTER ENCLOSURE (4-TOTAL)

15' PLANTING YARD

CONTROLLED-ACCESS PARKING BELOW FOR RESIDENTS (53 SPACES)

SCULPTURE FOCAL POINT

PLAZA

SHRUBS & STREET TREES LINE THE MAIN STREET

CROSSWALK AXIS

MAIN STREET

DECORATIVE PAVING IN WALKWAYS

BENCH LOCATIONS (TYP.)

DECORATIVE PAVING IN INTERSECTIONS & CROSSWALKS

25' PLANTING YARD

PROJECT SIGN LOCATION

N. THOMPSON LANE

COPY of PUD book submitted in 2008

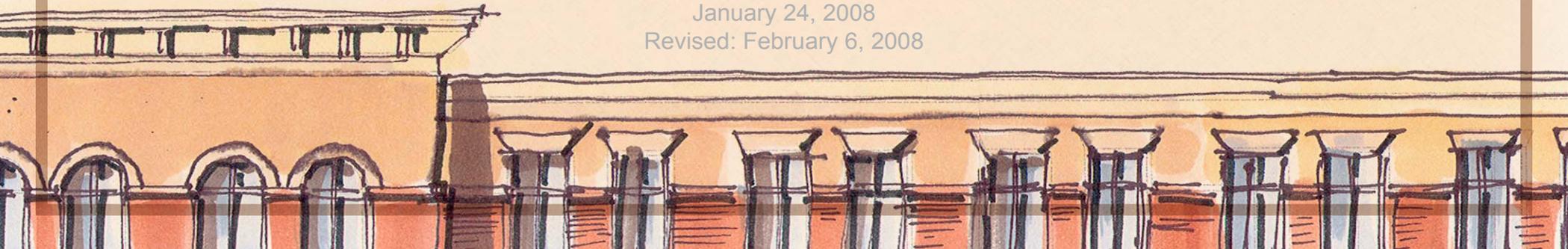
North Thompson Place

P a t t e r n B o o k
City of Murfreesboro, TN

pattern book submittal dates:

January 24, 2008

Revised: February 6, 2008



prepared for:



prepared by:



**LAND PLANNERS • CIVIL ENGINEERS
LANDSCAPE ARCHITECTS • SURVEYORS**

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NASHVILLE, TN 37206 PH (615) 244-8591
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H. Michael Hindman
Architects, P.C.

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i n t r o d u c t i o n

introduction:

On behalf of Swanson Development L.P., this PUD rezone request is being submitted by Ragan Smith Associates. The subject property is a 5.09 acre tract of land designated as Parcel 27.01, Map 92, on Rutherford County tax maps.

The North Thompson Place development consists of 5.09 acres of land located on Thompson Lane, just north of the intersection of Medical Center Parkway. Currently vacant, this site was previously used for mobile home sales and is zoned (LI) Light Industrial.

North Thompson Place will be a mixed use development containing retail, office, and residential uses. Three buildings, ranging in height from two-story to four-story, will emphasize architectural quality and complement the surrounding new developments within the Gateway District. Placing emphasis on building and site orientation, this development will provide a pedestrian friendly environment. With the creation of the Gateway District Overlay, in



s i t e i n v e n t o r y & a n a l y s i s

which this site exists, and with many surrounding sites boasting new high quality development, the current zoning of (LI) has become obsolete. We are requesting the rezoning of this property to PUD and approval of the preliminary master plan concept.



site inventory & analysis

zoning map:

The current zoning for this site as designated by the City of Murfreesboro is L-I (Light Industrial). The sites to the north and south, along Thompson Lane, are also zoned L-I. The land immediately to the east is still zoned L-I, but is being currently developed into a medical center and medical office. The project lies in both the Gateway Overlay District & the Battlefield Protections Overlay District.

Battlefield Protection Overlay



Gateway Design Overlay Districts



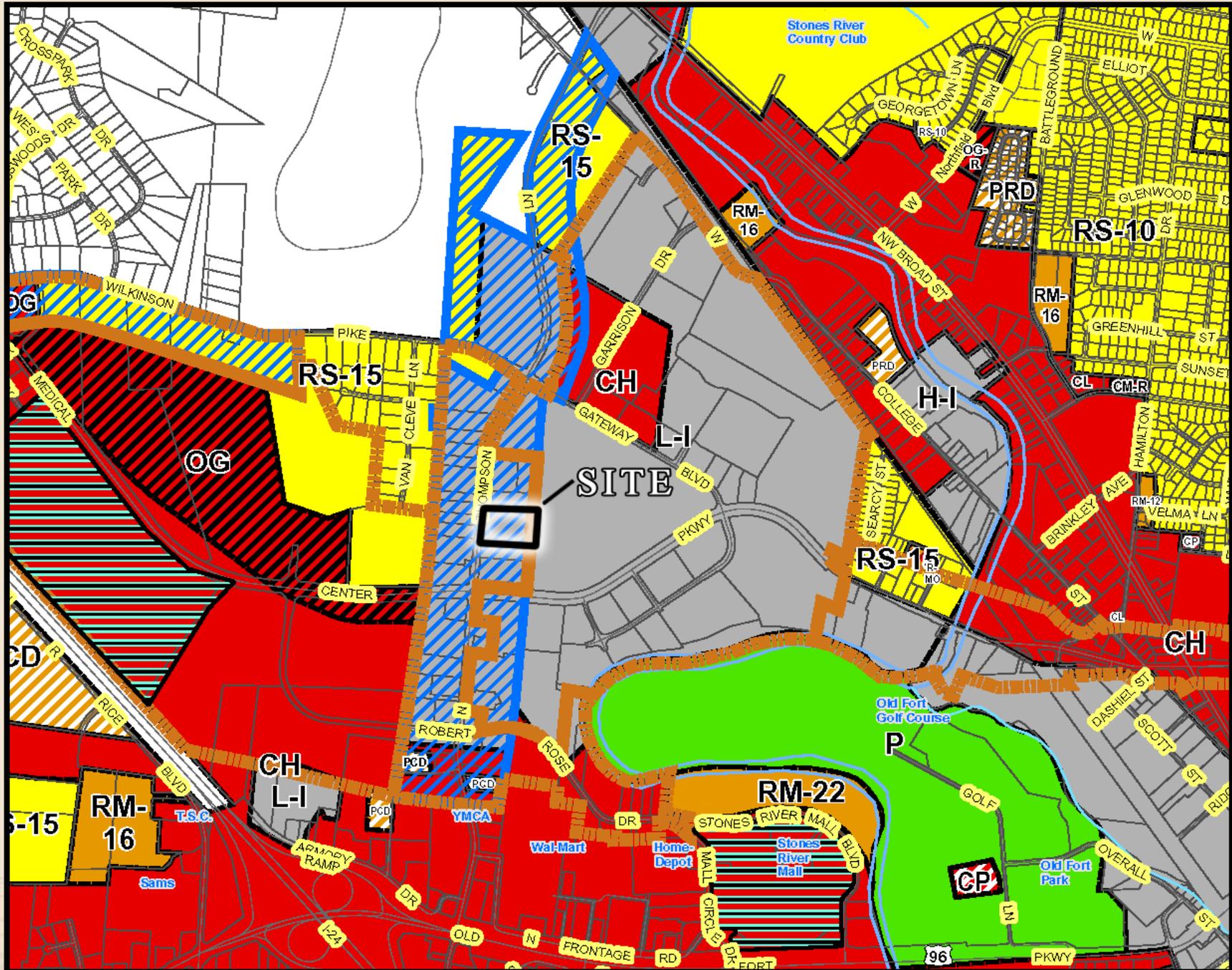
Planned Signage Overlay District



Districts Color and Abbreviations Key

	CBD	Central Business District		CM-R	Commercial Medical, Residential
	CF	Commercial Fringe		CM-RS-	Commercial Medical, Residential Single Family
	CH	Commercial Highway		CP	Commercial, Planned
	CL	Commercial, Local		CU	College and University
	CM	Commercial Medical		H-I	Heavy Industrial
	L-I	Light Industrial		PND	Planned Institutional Development
	OG	General Office		PRD	Planned Residential Development
	OG-R	Residential General Office		PUD	Planned Unit Development
	P	Park		R-MO	Residential Mobile Home
	PCD	Planned Commercial Development		RD	Residential Duplex
	RM-12	Residential Multi-Family		RS-15	Residential Single-Family
	RM-16	Residential Multi-Family		RS-4	Residential Single-Family
	RM-22	Residential Multi-Family		RS-8	Residential Single-Family
	RS-10	Residential Single-Family		RZ	Residential Zero Lot Line
	RS-12	Residential Single-Family			

site inventory & analysis



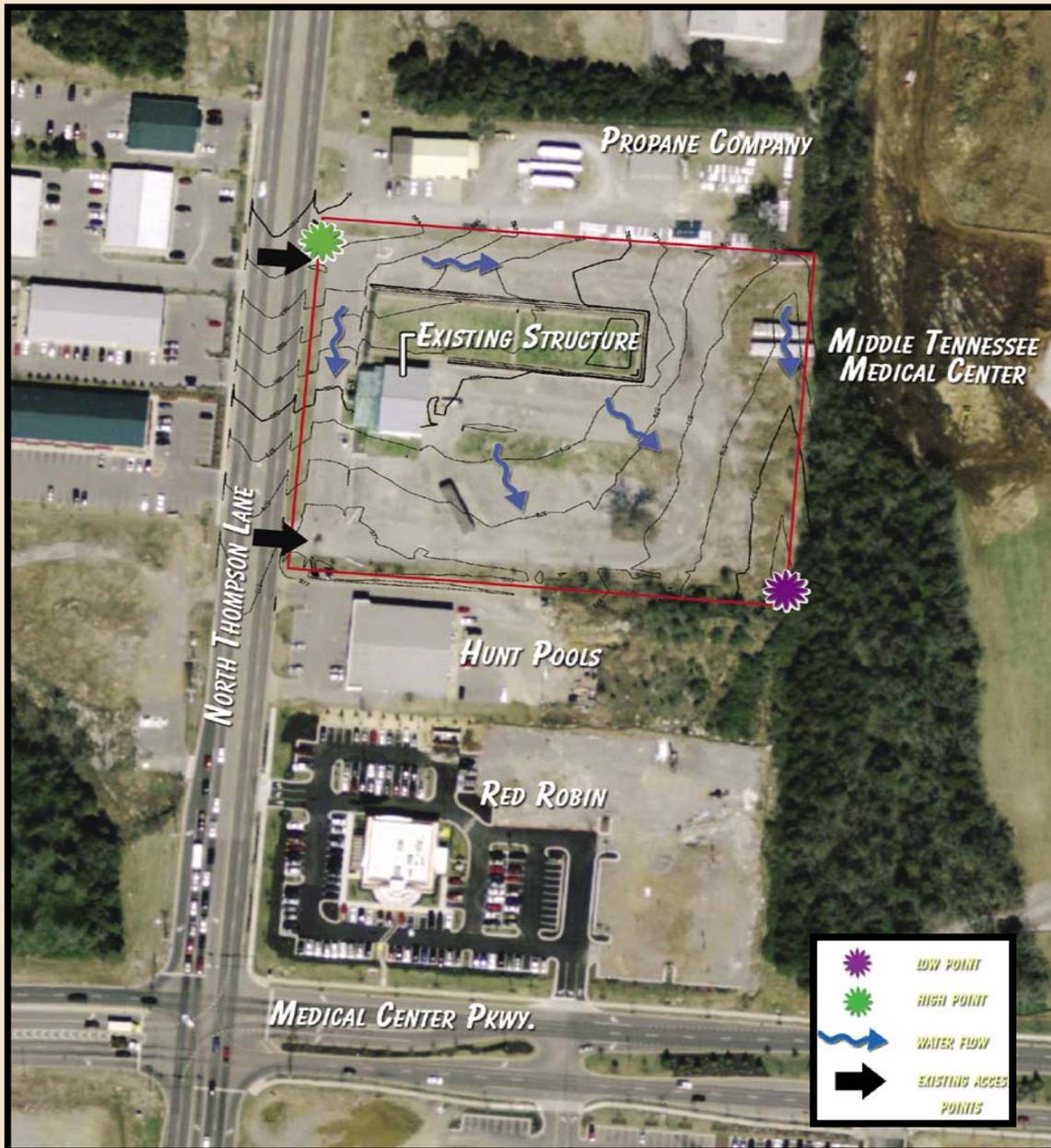
site inventory & analysis

existing site conditions:

With an average slope of 1.7%, this site is fairly flat. The natural low point is located in the southeast corner of the site, with the high point being located in the northeast corner along the street frontage. Previously used as a mobile home sales facility, the majority of the site is compacted gravel. An existing sales structure and its associated asphalt parking are located near the front of the site.

vehicular access:

There is approximately 420 linear feet of road frontage along North Thompson Lane, which is a five lane road designated as a major arterial. A continuous turn lane along the center of Thompson Lane should accommodate left turns into the site. Approximately 650 feet south of the site is Medical Center Parkway, which is also a major arterial providing direct access to Interstate 24.



site inventory
& analysis

site photos:





A VIEW TOWARDS HUNT POOLS TO THE SOUTH



B MIDDLE TENNESSEE MEDICAL CENTER TO THE EAST



C PROPANE COMPANY TO THE NORTH



D MIDDLE TENNESSEE MEDICAL CENTER FROM BACK OF PROPERTY



E VIEW TOWARDS MEDICAL CENTER PKWY. TO THE SOUTH



F VIEW TOWARDS MIDDLE TENNESSEE MEDICAL CENTER FROM NORTH SIDE OF PROPERTY



G VIEW UP THOMPSON LANE TO THE NORTH



H VIEW DOWN THOMPSON LANE TO THE SOUTH



I EXISTING STRUCTURE ON PROPERTY



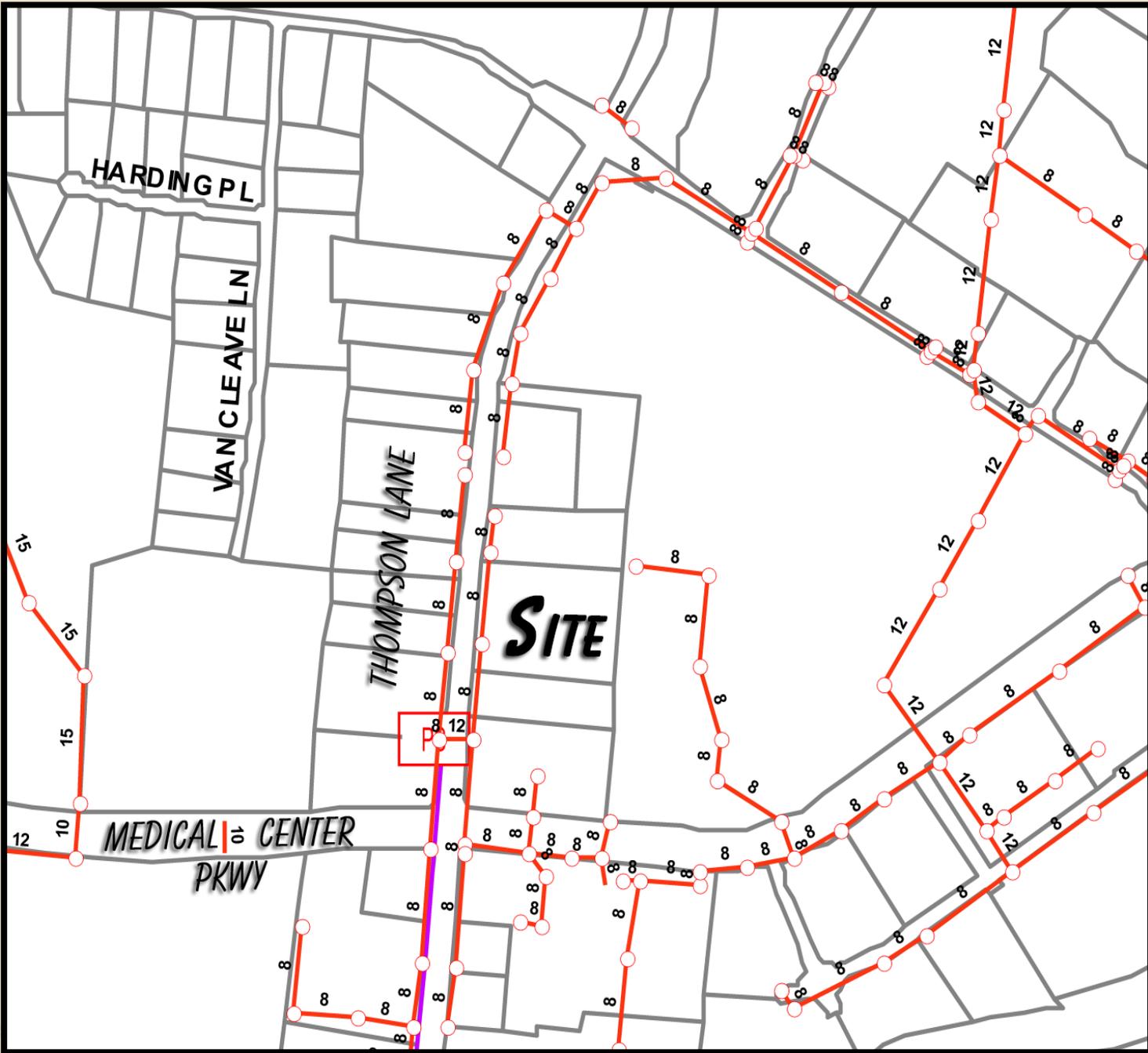
site inventory & analysis

existing utilities:

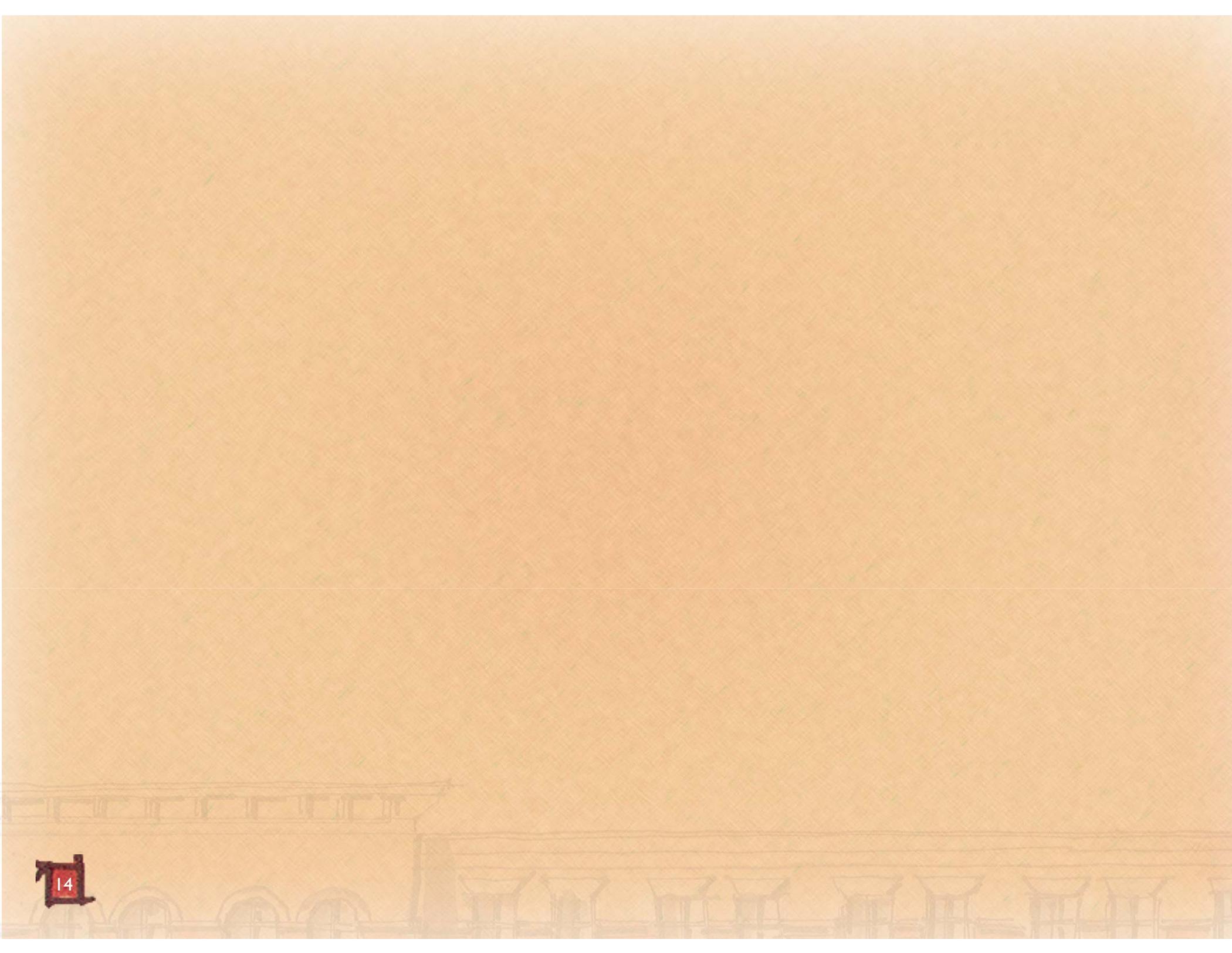
This site will be served by utilities that are located in the right of way of Thompson Lane as shown in the exhibits on these two pages.



Existing Water and Electric Utilities



Existing Sewer Utilities



design



overview:

North Thompson Place is a mixed use development containing commercial, office, and residential uses. Three buildings, ranging from two to four stories, are arranged to work with the surrounding properties, complement each other, and promote a pedestrian friendly development.

The largest building has been located at the rear of the site, abutting the medical center property. This is a logical location for this larger structure due to the four-story medical office building directly to the east. The smaller, two-story buildings have been placed near the front of the site, along Thompson Lane. These buildings complement the scale of existing buildings along the street and fit well contextually.

Buildings A and B are two-story structures containing retail and restaurant space on the ground floor. On-street angled parking lines the front of these retail shops, creating a Main Street feel for pedestrians. Wide 19' sidewalks lined with street trees, planting beds, and outdoor site furniture provide comfort and safety for pedestrians and provide space for sidewalk cafes. An open breezeway through the first floor of these buildings provides access to overflow parking located in the rear of each structure. These breezeways align with a pedestrian crosswalk in the main drive, creating an axis, and providing excellent pedestrian connectivity.

The second floor uses of buildings A and B may be either office or residential condominiums. The front portion of the second floor, closest to Thompson Lane, will contain office space. The rear portion of each of the two buildings may contain office suites, or up to 8 condominium units (16 total for both buildings A & B), which would be served by an interior access corridor. If utilized as residential condominiums, these units will provide live/work space for merchants who may own and operate one of the shops on the ground floor below. Due to the flexibility of this second floor space, and the effect that the utilized use will have on land use and parking demand, two separate scenarios have been calculated and illustrated in the site information section of this document (pages 19-23).

Building C, a four-story structure containing office and retail on the ground floor, provides a terminus to the axis of the main entry drive. A sculptural element provides a focal point for the plaza directly in front of the building.

The upper three floors of this building have controlled ingress and will contain up to 62 residential condominiums. Buyers will have the option of combining multiple one-bedroom sized units to create larger multiple bedroom units, thus reducing the total number of condominiums. Parking is provided for the most demanding scenario, which would consist of 63 one-bedroom units. An underground controlled-access parking garage will provide 53 vehicular parking spaces serving the residents of this building. The remainder of the required parking will be provided in the form of surface spaces.

Due to the close proximity to the Middle Tennessee Medical Center, we anticipate that many medical professionals will reside in the residential units. These condominiums will be available for sale or lease. A percentage of units may be fully furnished and leased for short-term periods. These units will provide a valuable service to people who are not full time residents of Murfreesboro. Possible tenants could include doctors, medical staff, long term patients' families, or vendors serving the hospital that may be in town for weeks or months at a time. If needed, a permanent management office will be set up on site.

Two pedestrian connections have been provided to the adjacent greenway. At these connection points, a circular pedestrian plaza has been provided. These plazas, containing decorative paving, benches, and landscape, provide a pedestrian gateway onto the site from the rear, as well as a place for people to sit and rest after a long walk or jog. They also provide a terminus and focal point for the parking aisles that line the north and south edges of the site.



site information:

City: Murfreesboro
State: Tennessee
County: Rutherford
Existing Zoning: LI
Proposed Zoning: PUD

Acreage: 5.09 AC

Floor Area Ratio Proposed:

Total floor area proposed: 135,600 SF
Total site area: 221,817 SF
Floor area ratio: 0.61 FAR

Open Space Ratio Proposed:

Total open space: 174,351 SF
Total floor area proposed: 135,600 SF
Open space ratio: 1.29 OSR

Livability Surface Area:

Total livability space: 70,567 SF
Total floor area proposed: 135,600 SF
Livability space ratio: 0.52 LSR

d e s i g n

explanation of site data:

Scenarios 1 and 2, as illustrated on pages 20-23, represent the two extremes created by changing the second floor uses of buildings A and B. In scenario 1, the entire second floors of buildings A and B contain office space, while scenario 2 has a combination of office and residential uses in this space. Any combination of these two scenarios may be used as long as the required parking is provided per the shared parking analysis.

The total square footages of all uses in each scenario were input into the shared parking formula to calculate the effect, since the parking demand changes with the uses. Due to the swing in parking demand generated by the uses utilized in buildings A and B, the allowed restaurant square footage, which is the most demanding use, will vary significantly between two scenarios.

SITE DATA-SCENARIO ONE

Site Data (Scenario A)				
Total Area	5.09 acres			
Building Data				
Building	Floor	Use	Square Footage	
<i>Building A</i>				
	1	Retail	12,700	
	2	Office	13,400	
Total			26,100	
<i>Building B</i>				
	1	Retail	12,700	
	2	Office	13,400	
Total			26,100	
<i>Building C</i>				
	1	Office/ Retail	18,750	
	1	Residential Lobby	2,100	
	2	Residential Condo ^(1,2)	20,850	
	3	Residential Condo ^(1,2)	20,850	
	4	Residential Condo ^(1,2)	20,850	
Total			83,400	
Total Building Area			135,600	
Parking Data				
Use	Square Footage/ Unit Count	Parking Ratio	Parking Required	Parking Provided (2)
Retail and Office	65,950	1 space per 300 SF	220	220
Restaurant	5,000	1 space per 100 SF	50	50
Residential	62 1 BR Units ⁽³⁾	1.5 spaces per 1 BR unit	95	53
Total Parking			365	326
Surface Parking				273
Notes:				
1. Residential Parking- 53 spaces are provided in controlled access garage below building C.				
2. Plan proposed shared parking between residential and commercial uses due to varying peak parking demand time- see chart on opposite page				
3. Parking is calculated for each residential condominium being a one-bedroom unit, which would require the largest parking allocation. These units may be combined to form larger units, therefore reducing the total number of units and required parking.				

PARKING ANALYSIS-SCENARIO ONE

SHARED PARKING ASSESSMENT					
Time Period	Use	Total Units	Required Parking ^(1,3)	Parking Occupancy Rates as a Percent ⁽²⁾	Basic Minimum Required Parking
Weekday Night (Midnight - 6 a.m.)	Residential	62 units	40	100%	40
	Office	45550 gsf	152	5%	8
	Retail	20400 gsf	68	5%	4
	Restaurant	5000 gsf	50	10%	5
Weekday Night Total					57
Weekday Daytime (8 a.m. - 5 p.m.)	Residential	62 units	40	60%	24
	Office	45550 gsf	152	100%	152
	Retail	20400 gsf	68	90%	62
	Restaurant	5000 gsf	50	70%	35
Weekday Daytime Total					273
Weekday Evening (6 p.m. - Midnight)	Residential	62 units	40	100%	40
	Office	45550 gsf	152	20%	31
	Retail	20400 gsf	68	80%	55
	Restaurant	5000 gsf	50	100%	50
Weekday Evening Total					176
Weekend Night (Midnight - 6 a.m.)	Residential	62 units	40	100%	40
	Office	45550 gsf	152	5%	8
	Retail	20400 gsf	68	5%	4
	Restaurant	5000 gsf	50	20%	10
Weekend Night Total					62
Weekend Daytime (8 a.m. - 5 p.m.)	Residential	62 units	40	80%	32
	Office	45550 gsf	152	5%	8
	Retail	20400 gsf	68	100%	68
	Restaurant	5000 gsf	50	70%	35
Weekend Daytime Total					143
Weekend Evening (6 p.m. - Midnight)	Residential	62 units	40	100%	40
	Office	45550 gsf	152	5%	8
	Retail	20400 gsf	68	70%	48
	Restaurant	5000 gsf	50	100%	50
Weekend Evening Total					146

⁽¹⁾ Required spaces based upon City of Murfreesboro Parking Requirement/Code

⁽²⁾ Shared Parking Planning Guidelines, An Informational Report of the Institute of Transportation Engineers, August 1995

⁽³⁾ Residential required parking is calculated @ 1.5 spaces per one bedroom unit minus the 53 garage spaces provided. All residential units are classified as one bedroom for this parking study, thus maximizing the total possible number and creating the highest possible parking required.

design

shared parking information:(scenario 1)

Developments with multiple uses, such as a mixed-use residential/office complex, can many times share parking spaces between different uses over the course of a day. This concept is widely known as shared parking. For this proposal, parking spaces that are provided can be used during the day by office workers and in the evening by residents or retail patrons.

As shown in the accompanying table, each land use in this development requires a certain minimum number of parking spaces. This required parking is determined by the City of Murfreesboro's development guidelines and code. Applying parking occupancy rates from the Institute of Transportation Engineers Shared Parking Planning Guidelines Information Report adjusts the required parking to account for time of day peaking characteristics and daily parking demand trends. The basic minimum required parking for each time period shown is the sum of the required parking by code with the parking occupancy rate applied. The critical time period for this development is during the weekday between the hours of 8 a.m. and 5 p.m.. During this period, our analysis indicates that a minimum of 273 surface parking spaces will be necessary in addition to the 53 garage spaces that will be provided under the residential units.

SITE DATA-SCENARIO TWO

Site Data (Scenario B)				
Total Area	5.09 acres			
Building Data				
Building	Floor	Use	Square Footage	
<i>Building A</i>				
	1	Retail	12,700	
	2	Office	5,640	
	2	Residential Condo	7,760	
Total			26,100	
<i>Building B</i>				
	1	Retail	12,700	
	2	Office	5,640	
	2	Residential Condo	7,760	
Total			26,100	
<i>Building C</i>				
	1	Office/ Retail	18,750	
	1	Residential Lobby	2,100	
	2	Residential Condo ^(1,2)	20,850	
	3	Residential Condo ^(1,2)	20,850	
	4	Residential Condo ^(1,2)	20,850	
Total			83,400	
Total Building Area			135,600	
Parking Data				
Use	Square Footage/ Unit Count	Parking Ratio	Parking Required	Parking Provided ⁽³⁾
Retail and Office	41,430	1 space per 300 SF	138	138
Restaurant	14,000	1 space per 100 SF	140	140
Residential	78 One Bedroom Units ⁽³⁾	1.5 spaces per 1 BR unit	117	53
Total Parking ⁽³⁾			395	326
Surface Parking				273
Notes:				
1. Residential Parking- 53 spaces are provided in controlled access garage below buildings.				
2. Plan proposed shared parking between residential and commercial uses due to varying peak parking demand time- see chart on opposite page				
3. Parking is calculated for each residential condominium being a one-bedroom unit, which would require the largest parking allocation. These units may be combined to form larger units, therefore reducing the total number of units and required parking.				

PARKING ANALYSIS-SCENARIO TWO

SHARED PARKING ASSESSMENT					
Time Period	Use	Total Units	Required Parking ^(1,3)	Parking Occupancy Rates as a Percent ⁽²⁾	Basic Minimum Required Parking
Weekday Night (Midnight - 6 a.m.)	Residential	78 units	64	100%	64
	Office	30030 gsf	101	5%	6
	Retail	11400 gsf	38	5%	2
	Restaurant	14000 gsf	140	10%	14
Weekday Night Total					86
Weekday Daytime (8 a.m. - 5 p.m.)	Residential	78 units	64	60%	39
	Office	30030 gsf	101	100%	101
	Retail	11400 gsf	38	90%	35
	Restaurant	14000 gsf	140	70%	98
Weekday Daytime Total					273
Weekday Evening (6 p.m. - Midnight)	Residential	78 units	64	100%	64
	Office	30030 gsf	101	20%	21
	Retail	11400 gsf	38	80%	31
	Restaurant	14000 gsf	140	100%	140
Weekday Evening Total					256
Weekend Night (Midnight - 6 a.m.)	Residential	78 units	64	100%	64
	Office	30030 gsf	101	5%	6
	Retail	11400 gsf	38	5%	2
	Restaurant	14000 gsf	140	20%	28
Weekend Night Total					100
Weekend Daytime (8 a.m. - 5 p.m.)	Residential	78 units	64	80%	52
	Office	30030 gsf	101	5%	6
	Retail	11400 gsf	38	100%	38
	Restaurant	14000 gsf	140	70%	98
Weekend Daytime Total					194
Weekend Evening (6 p.m. - Midnight)	Residential	78 units	64	100%	64
	Office	30030 gsf	101	5%	6
	Retail	11400 gsf	38	70%	27
	Restaurant	14000 gsf	140	100%	140
Weekend Evening Total					237

⁽¹⁾ Required spaces based upon City of Murfreesboro Parking Requirement/Code

⁽²⁾ Shared Parking Planning Guidelines, An Informational Report of the Institute of Transportation Engineers, August 1995

⁽³⁾ Residential required parking is calculated @ 1.5 spaces per one bedroom unit minus the 53 garage spaces provided. All residential units are classified as one bedroom for this parking study, thus maximizing the total number and creating the highest possible parking required.

d e s i g n

shared parking information:(scenario 2)

Developments with multiple uses, such as a mixed-use residential/office complex, can many times share parking spaces between different uses over the course of a day. This concept is widely known as shared parking. For this proposal, parking spaces that are provided can be used during the day by office workers and in the evening by residents or retail patrons.

As shown in the accompanying table, each land use in this development requires a certain minimum number of parking spaces. This required parking is determined by the City of Murfreesboro's development guidelines and code. Applying parking occupancy rates from the Institute of Transportation Engineers Shared Parking Planning Guidelines Information Report adjusts the required parking to account for time of day peaking characteristics and daily parking demand trends. The basic minimum required parking for each time period shown is the sum of the required parking by code with the parking occupancy rate applied. The critical time period for this development is during the weekday between the hours of 8 a.m. and 5 p.m.. During this period, our analysis indicates that a minimum of 273 surface parking spaces will be necessary in addition to the 53 garage spaces that will be provided under the residential units.

d e s i g n

uses permitted:

The following uses will be permitted in the North Thompson Lane PUD:

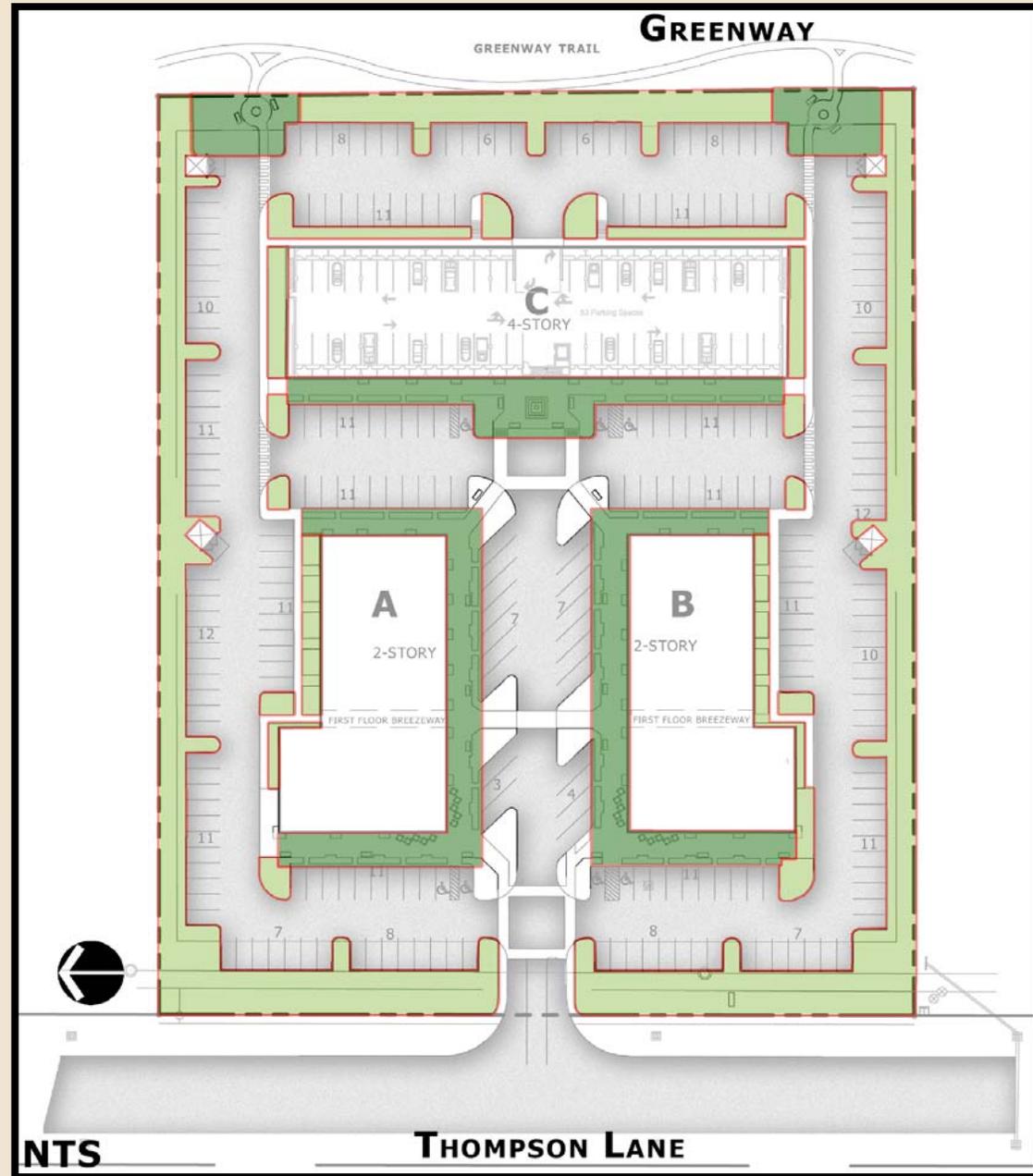
Buildings A and B Allowed Uses		
Use	1st Floor	2nd Floor
Multi-Family Residential		x
Church		x
College, University		x
Museum	x	x
Student Center	x	
Amusements, Commercial Indoors	x	
Animal Grooming Facility	x	
Antique Mall	x	
Antique Store	x	
Apothecaries	x	
Art, Photo Studio or Gallery	x	x
Bakery, Retail	x	
Bank, Branch Office	x	x
Bank, Main Office	x	x
Barber or Beauty Shop	x	
Book, Card Shop	x	
Business School		x
Business and Communication Service	x	x
Catering Establishment	x	
Clothing Store	x	
Convenience Sales and Service (excludes gasoline)	x	
Delicatessen	x	
Department or Discount Store	x	
Doughnut Shop	x	
Dry Cleaning (excludes drive up window)	x	
Financial Service	x	x
Flower or Plant Store	x	
General Service and Repair Shop	x	
Glass-Stained and Leaded	x	
Group Assembly	x	x
Health Club	x	x
Ice Cream Shop	x	
Interior Decorator	x	x
Iron Work (retail)	x	
Janitorial Service		x
Karate Instruction	x	x
Key, Locksmith	x	
Laboratories, Medical		x
Laboratories, Testing		x
Music or Dancing Academy	x	x
Offices		x
Optical Dispensaries	x	x
Personal Service Establishment	x	x
Pet Shops	x	
Pharmacies	x	
Photo Finishing	x	
Radio, TV or Recording Studio		x
Reducing and Weight Control Services	x	
Restaurant and Carryout Restaurant (excludes drive up window)	x	
Specialty Shop	x	
Veterinarian Office	x	x
Veterinarian Clinic	x	x
Video Rental	x	

Building C Allowed Uses					
Use	Basement	1st Floor	2nd Floor	3rd Floor	4th Floor
Garage, Parking	x				
Multi-Family Residential			x	x	x
Church		x			
College, University		x			
Museum		x			
Antique Mall		x			
Antique Store		x			
Art, Photo Studio or Gallery		x			
Bank, Branch Office		x			
Bank, Main Office		x			
Book, Card Shop		x			
Business School		x			
Business and Communication Service		x			
Clothing Store		x			
Department or Discount Store		x			
Financial Service		x			
Flower or Plant Store		x			
Glass-Stained and Leaded		x			
Group Assembly		x			
Health Club		x			
Interior Decorator		x			
Janitorial Service		x			
Karate Instruction		x			
Laboratories, Medical		x			
Laboratories, Testing		x			
Offices		x			
Optical Dispensaries		x			
Personal Service Establishment		x			
Pharmacies		x			
Reducing and Weight Control Services		x			
Specialty Shop		x			
Veterinarian Office		x			
Video Rental		x			

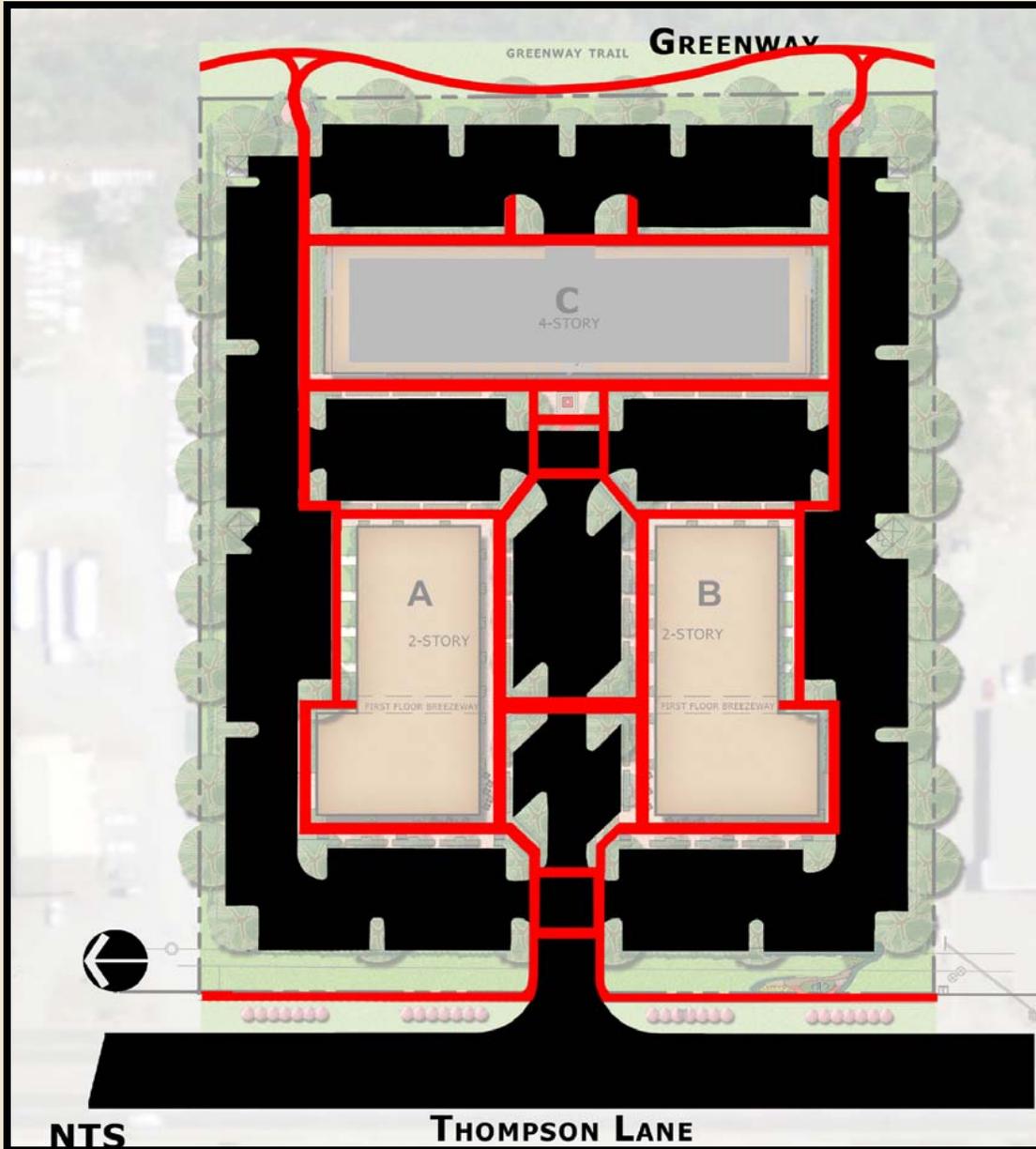
d e s i g n

green space network:

- 1.09 AC of total green space (21.4%)
- 0.54 AC of formal open space 10.6% (4% min per GDO)
- 5.09 Acres total site area
- see site data on pg 18 for LSR, OSR, and FAR as defined in the Murfreesboro Zoning Ordinance.



GREEN SPACE NETWORK



CIRCULATION NETWORK

circulation:

Pedestrian circulation is accommodated by paved walkways that link the various areas of the site via an accessible route. This connectivity limits the need for vehicle use on site. These walkways connect to the walks along Thompson Lane, providing an important pedestrian link to the neighboring developments along this corridor. A pedestrian connection is also made to the proposed greenway to the east of the site. This greenway access will be a valuable asset to residents of this development, providing a safe, non-vehicular route to the medical center, and promoting outdoor exercise and fitness.

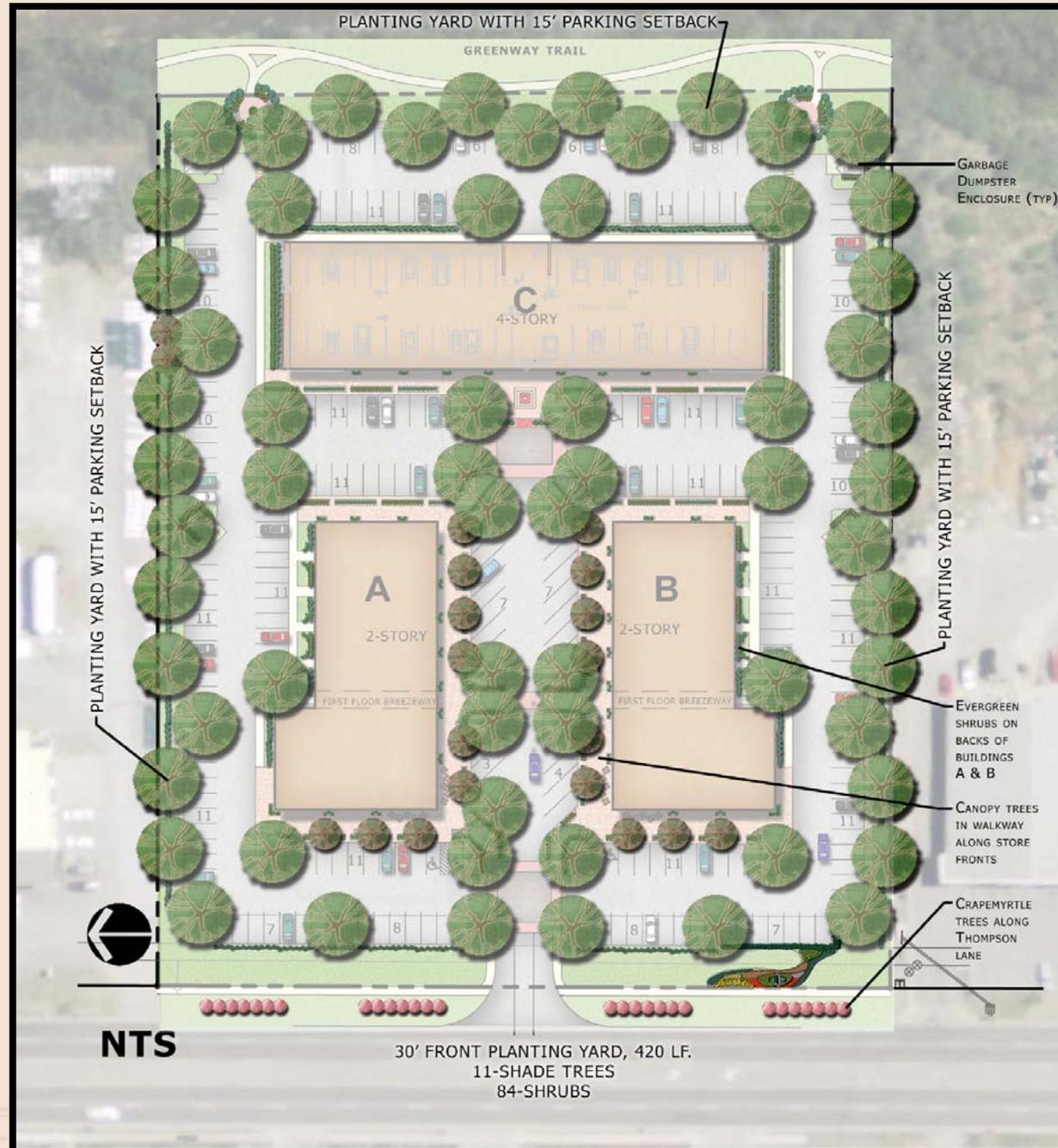


Conceptual landscape plan:

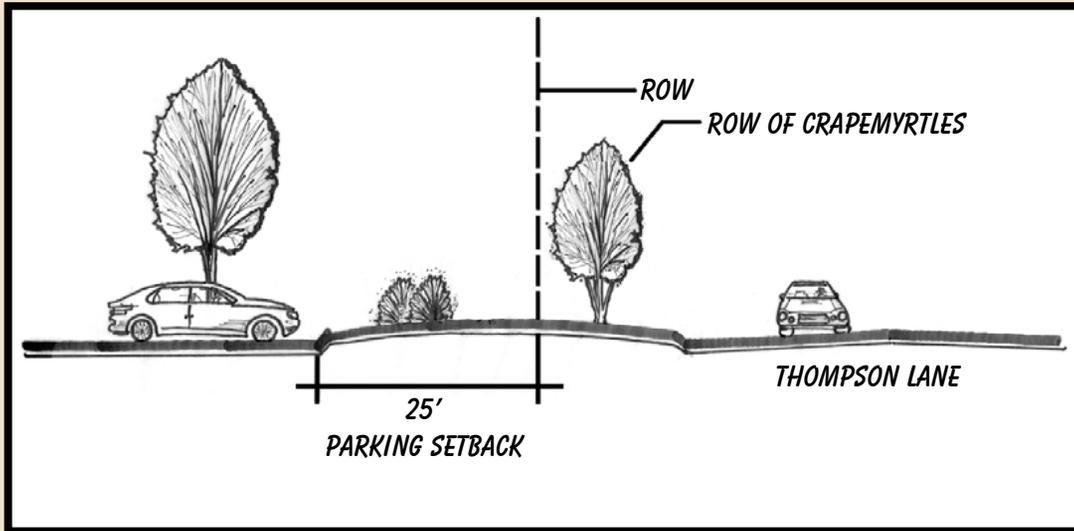
A generous landscape plan will be provided, consisting of canopy trees, understory trees, shrubs, and groundcover. Spreading canopy trees will occupy parking islands to provide shade for parked cars, while narrow canopy trees will line the main street, providing a more comfortable environment to shop and live.

Per the GDO, 15' wide planting yards will be placed at the rear and sides of the site. The Thompson Lane street frontage requires a 25' front planting yard. Per the recommendations of the Gateway Streetscape Master Plan, sweeps of Crapemyrtles have been provided inside the right of way of Thompson Lane.

	EVERGREEN TREE
	CANOPY TREE
	ORNAMENTAL TREE
	SHRUBS
	ANNUALS/GROUNDCOVER
	ORNAMENTAL GRASS



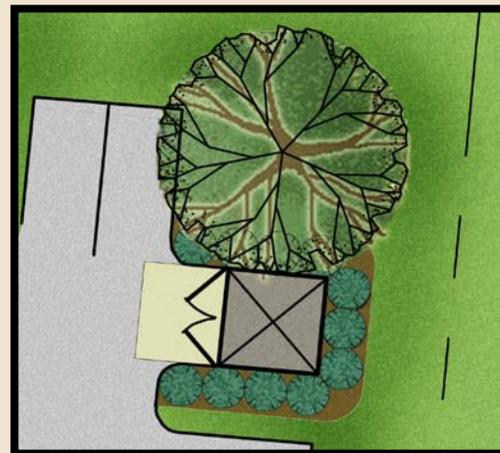
CONCEPTUAL LANDSCAPE PLAN



FRONT PLANTING YARD SECTION



DUMPSTER LOCATIONS



ENLARGEMENT OF DUMPSTER

- C Waste disposal for this development will be handled through four dumpsters located on site. These dumpsters will be fully enclosed with a masonry wall and evergreen shrubs to screen from public view. The wall materials will match those of the buildings

Creating a destination to live & work:

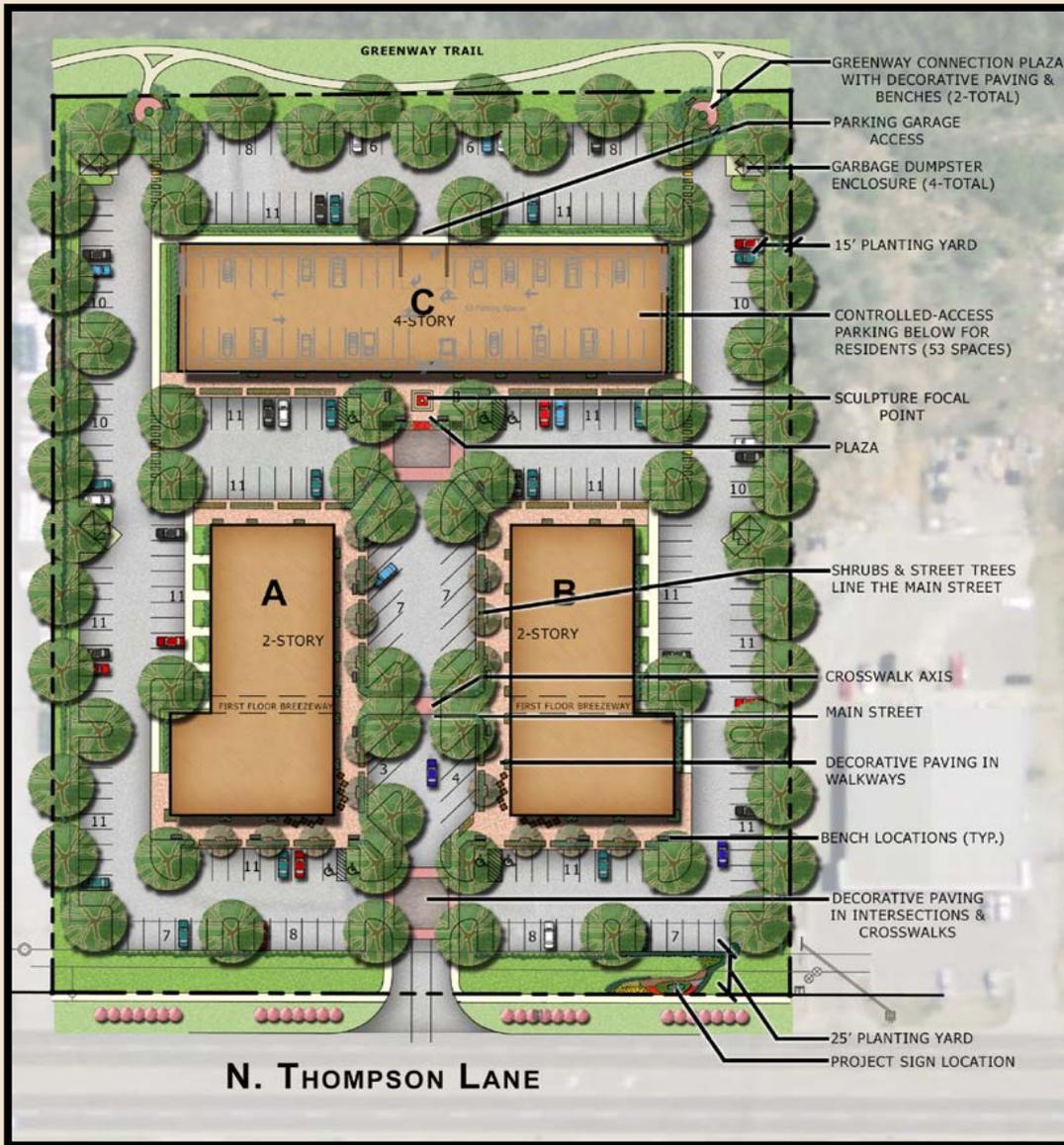
North Thompson Place was designed to create a destination for people to live, work, and shop. This mixed-use approach provides the most efficient use of this previously developed brownfield property. With retail, restaurants, office, and residential uses proposed, there will always be a human presence on site.

The development has been designed with a streetscape to promote pedestrian circulation and more specifically with outdoor shopping comforts in mind. The tree lined “main street” provides angled on-street parking and boasts wide 19’ walkways fronting retail shops and restaurants. These walkways will be surfaced with decorative paving and will allow for pedestrians to comfortably navigate up and down the active storefronts while window-shopping. Decorative benches and outdoor site furniture not only provide a great resting area, but also add texture to the storefront architecture and promote activity on the streetscape. These wide sidewalks also provide a great location for outdoor seating for cafes and restaurants.

All pedestrian crosswalks in this main corridor, along with both intersections, are surfaced with decorative paving. This adds texture to the hardscape design and serves as a cautionary visual cue for vehicular traffic to slow down.

A plaza at the terminus of the “main street” houses a statuary feature serving as a focal point. This plaza not only provides a place to sit and people watch, but also serves a textural foreground to the four-story building beyond. The main entrance into the residential lobby is directly beyond.

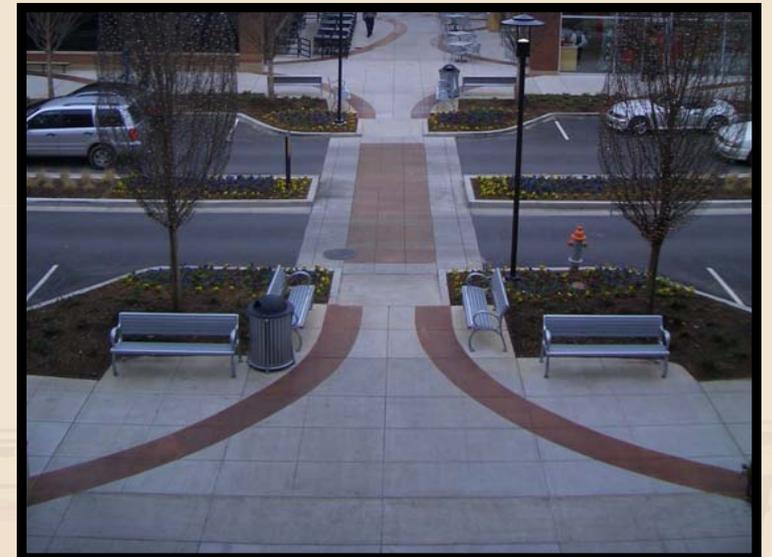
Because of its proximity to the proposed Middle Tennessee Medical Center, we anticipate that many medical center employees will reside in these residential condominiums. Being only a short walk away, and connected by a greenway, these residents will have the option to walk to work.



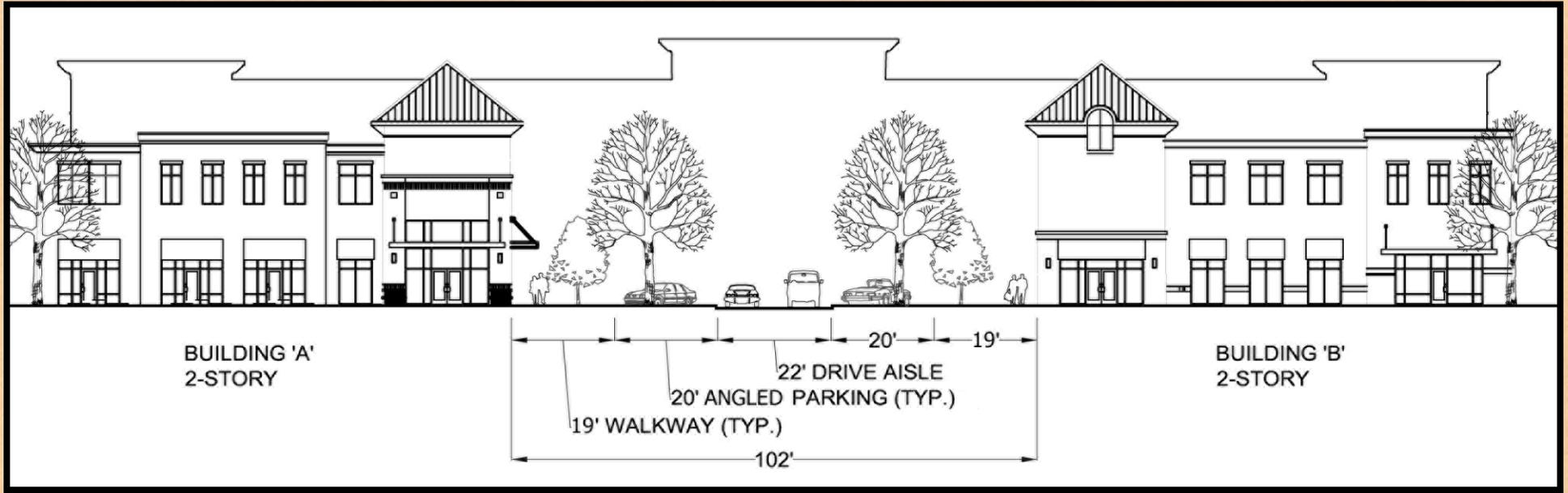
MASTER PLAN



EXAMPLE OF STREETScape DETAILING



EXAMPLE OF CROSSWALK AXIS



SECTION OF MAIN STREET



EXAMPLES OF MAIN STREET ELEMENTS (STORE FRONTS, STREET TREES, LIGHTING, SITE FURNISHINGS, ETC..)



3-D PERSPECTIVE - BIRDS EYE VIEW LOOKING EAST





3-D PERSPECTIVE - ENLARGED PLAZA AREA



3-D PERSPECTIVE - ENLARGED STREETScape AREA

*EXAMPLE OF
SITE FURNISHINGS*

d e s i g n

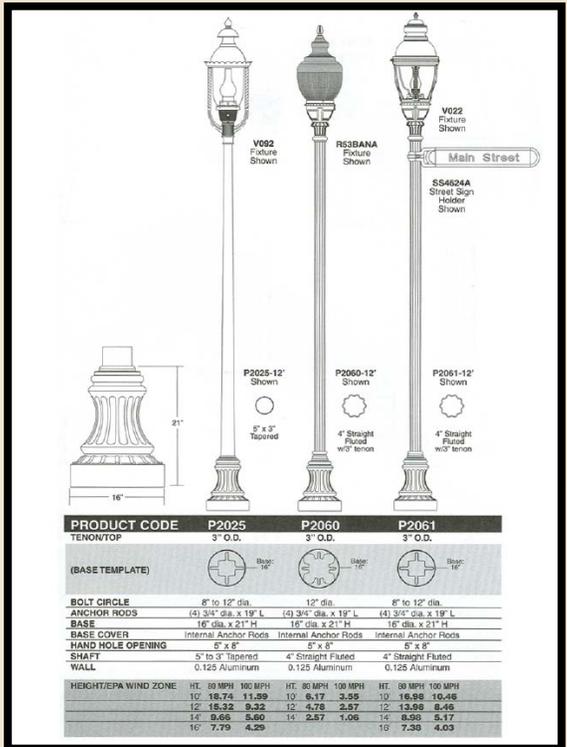
Signage and Ornamental Lighting:

The North Thompson Lane streetscape will combine many design elements to enhance the neighborhood feel throughout the development. In addition to the sidewalks and street-tree plantings, and ornamental lighting will be added to enhance the development's character.

Throughout the proposed North Thompson Lane development, street lighting will be incorporated to provide adequate lighting for evening shoppers, events and residents.



ORNAMENTAL LIGHTING



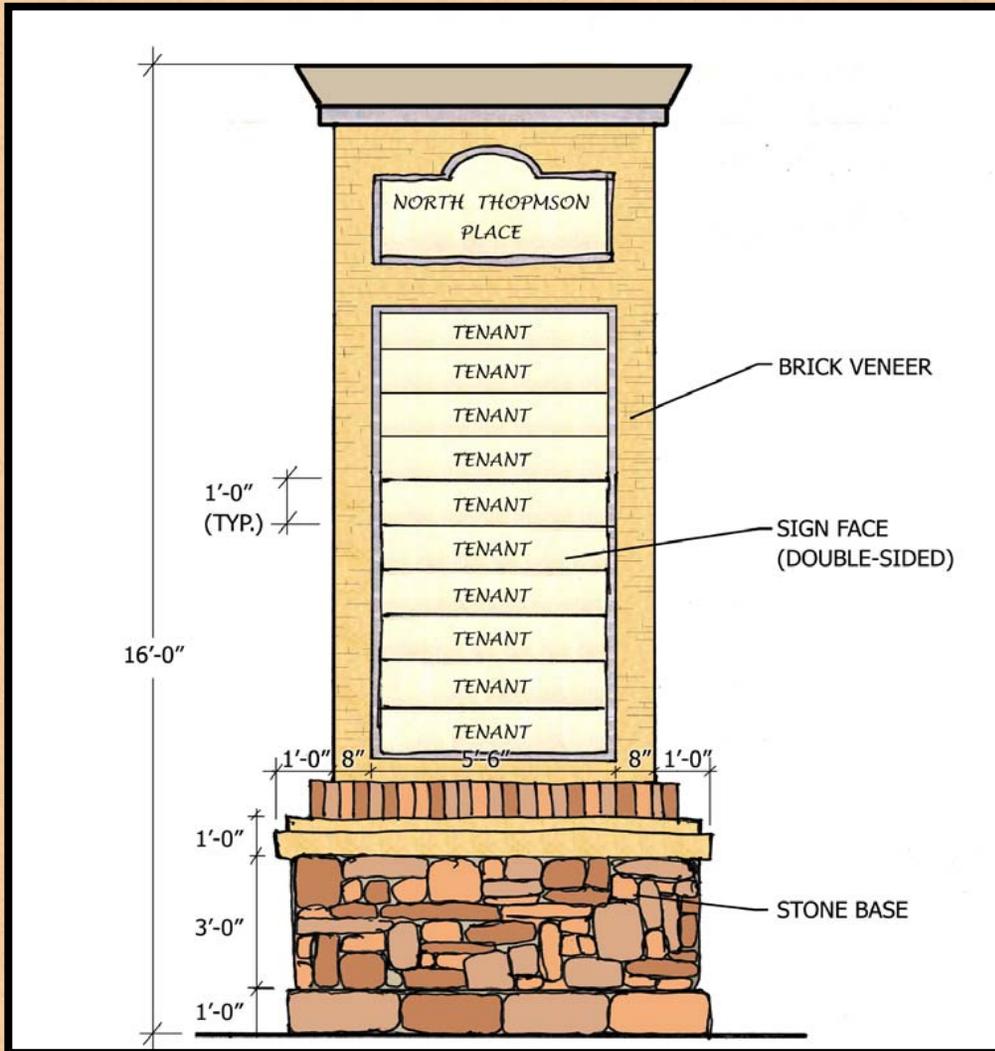
STREET POLE LIGHTING



STREET LIGHTING



STREET SIGNAGE

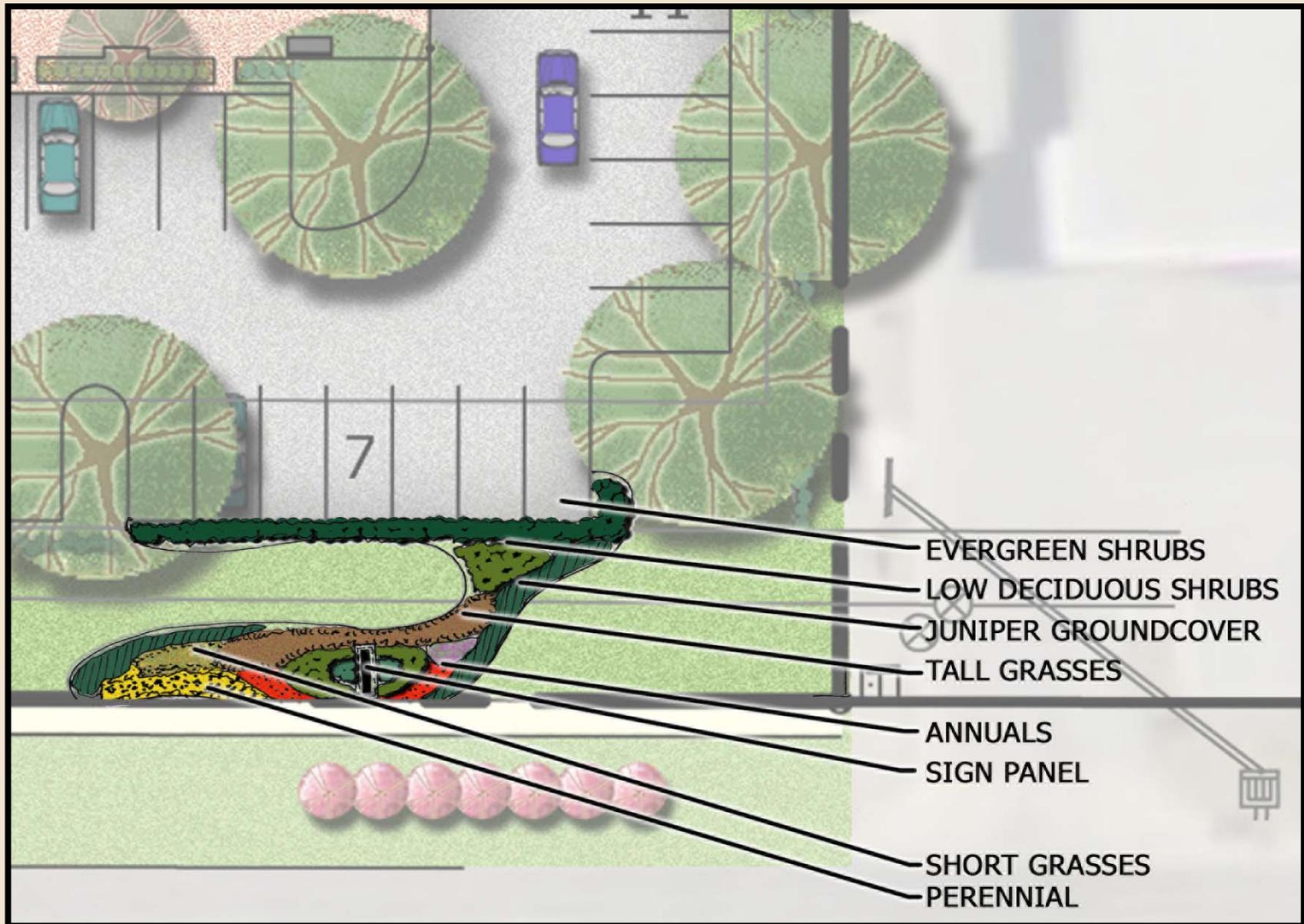


SIGN ELEVATION



LOCATION OF SIGN ON SITE

An entry monument will be located along the Thompson Lane street entrance. This monument will be in compliance with the Gateway Design Overlay Sign Ordinance and will complement the building architecture. Due to the fact that a utility easement encumbers the entire front green space, an agreement will need to be reached with Murfreesboro Water & Sewer Department, allowing the placement of this structure.



ENTRY MONUMENT SIGN TREATMENT

architectural character

Buildings A & B:

Buildings A & B are two-story structures containing retail and office uses. The ground floor contains retail shops and restaurants which will have storefronts on the main street. The second floor will have office uses that will be served by an internal corridor. Portions of the second floor will have the option of being used for residential condominiums as described in the overview and illustrated in scenarios 1 and 2.

Floor	Use
A1	RETAIL / RESTAURANT
A2	OFFICE / RESIDENTIAL CONDOMINIUM
B1	RETAIL / RESTAURANT
B2	OFFICE / RESIDENTIAL CONDOMINIUM

BUILDING B USE CHART



BUILDING A THOMPSON LANE ELEVATION



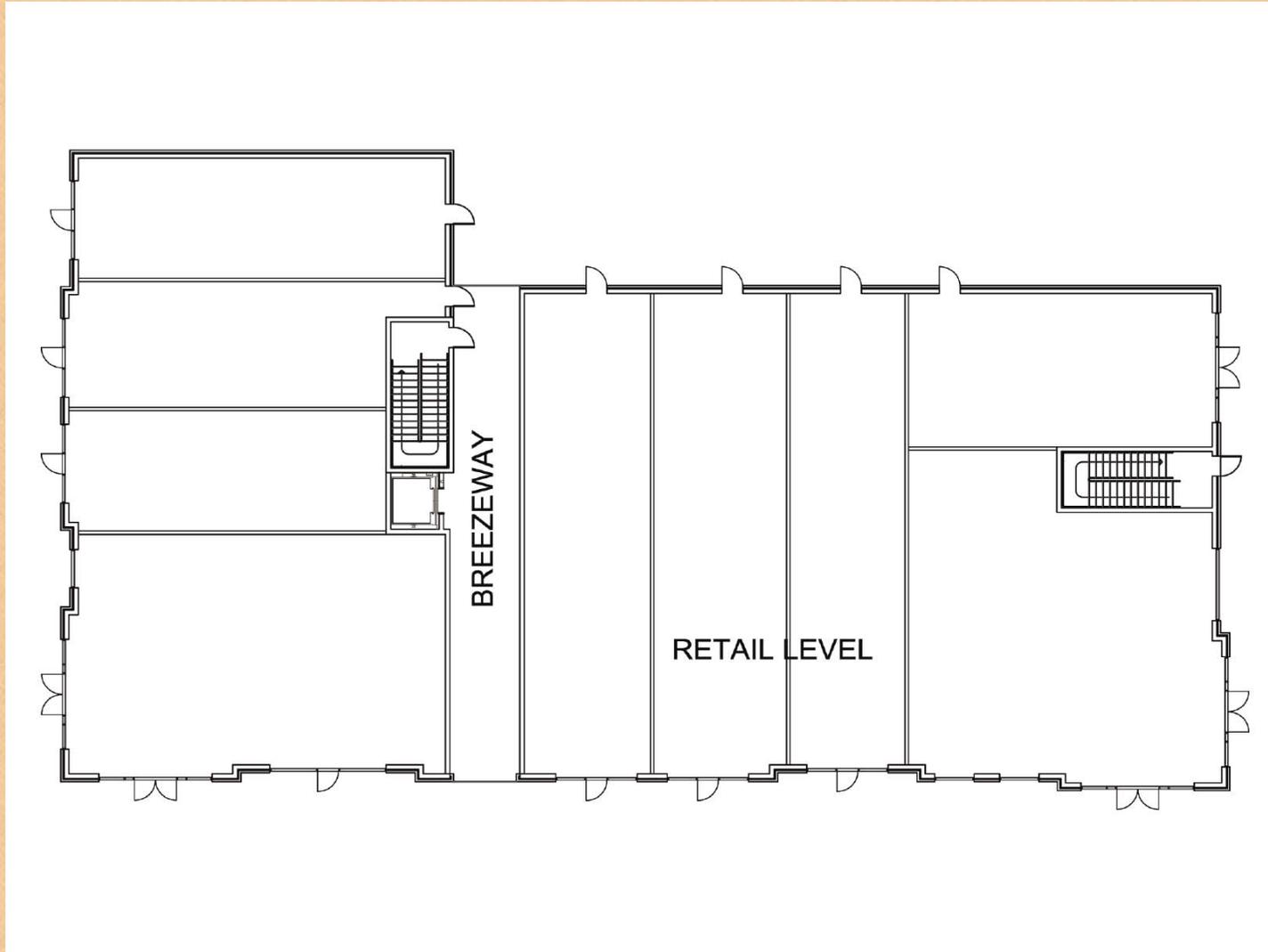
BUILDING B THOMPSON LANE ELEVATION



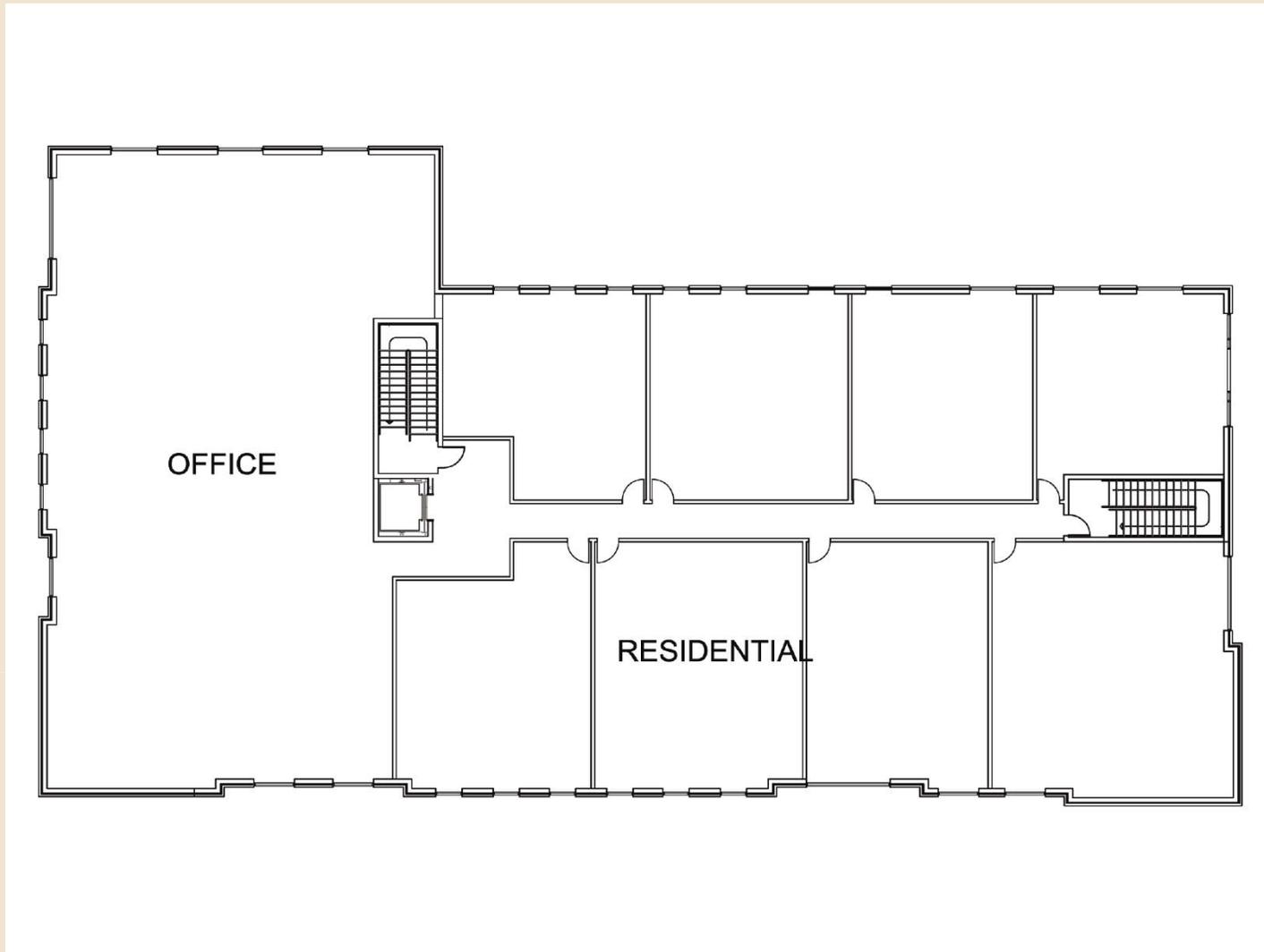
BUILDINGS A & B MAIN STREET ELEVATION



BUILDINGS A & B REAR ELEVATION



BUILDINGS A & B FIRST STORY FLOOR PLAN



BUILDINGS A & B SECOND STORY FLOOR PLAN

Building C:

Building C is a four-story structure containing commercial and residential uses. The ground floor will contain office or retail uses, while the upper three floors will consist of 62 one-bedroom residential condominiums, with the potential for larger units. 53 secure parking spaces are located in an underground parking structure. Each residential floor contains a public-use amenity area as outlined in the chart on this page.

Floor	Use
Basement	RESIDENT PARKING PROVIDED 53 SPACE
1	OFFICE / RETAIL
2	RESIDENTIAL CONDOMINIUM
3	RESIDENTIAL CONDOMINIUM
4	RESIDENTIAL CONDOMINIUM

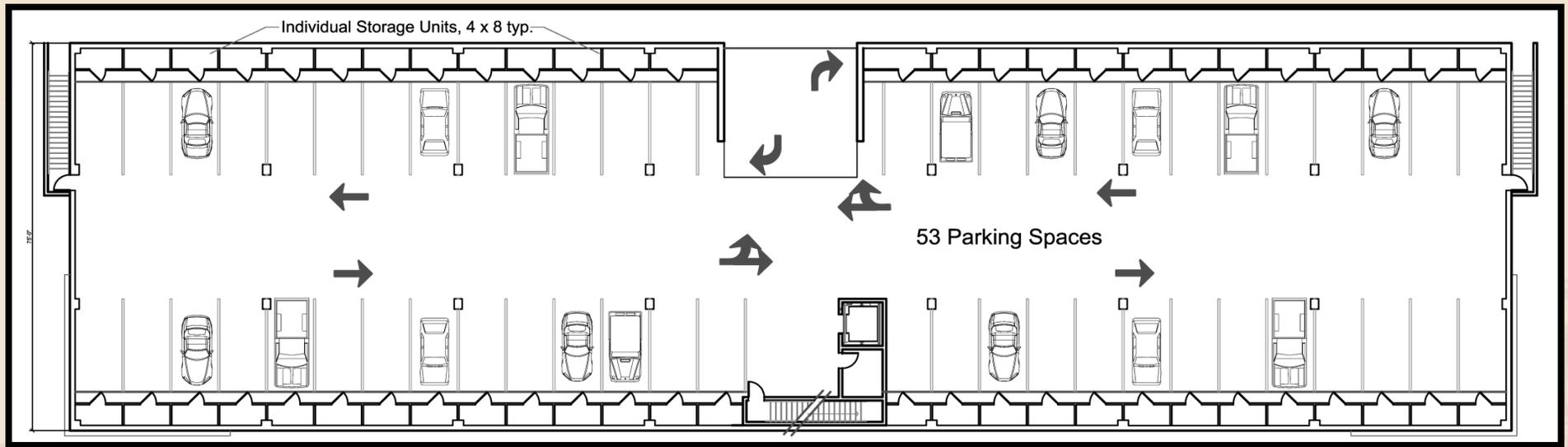
BUILDING C USE CHART

Floor	Amenity	Area
1	N/A (NOT RESIDENTIAL USE)	
2	MEETING ROOM / BUSINESS CENTER	1,175 SF
3	EXERCISE ROOM	1,175 SF
4	COMMUNITY ACTIVITY ROOM	1,175 SF
	OUTDOOR ROOF GARDEN	980 SF

BUILDING C RESIDENTIAL AMENITY CHART

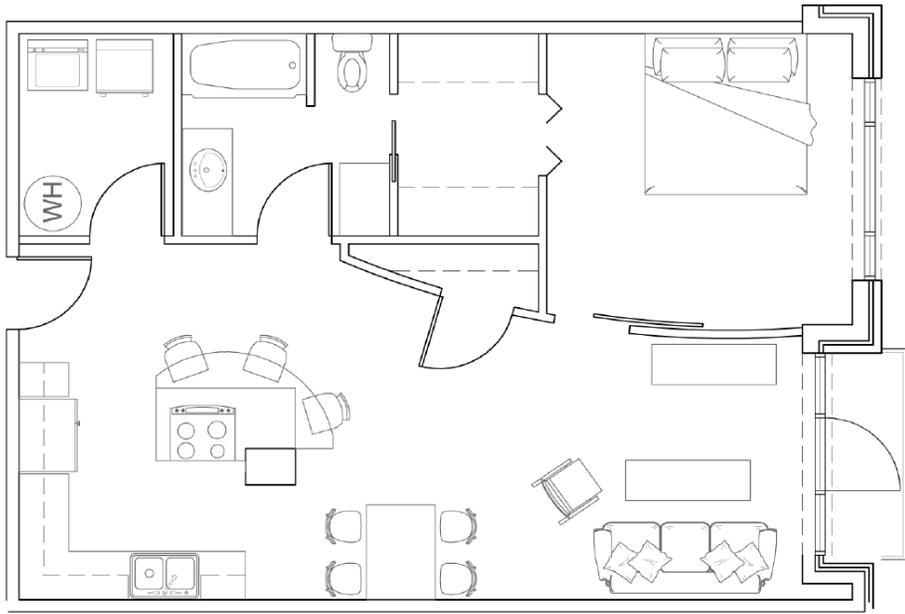


BUILDING C FRONT & REAR VIEW

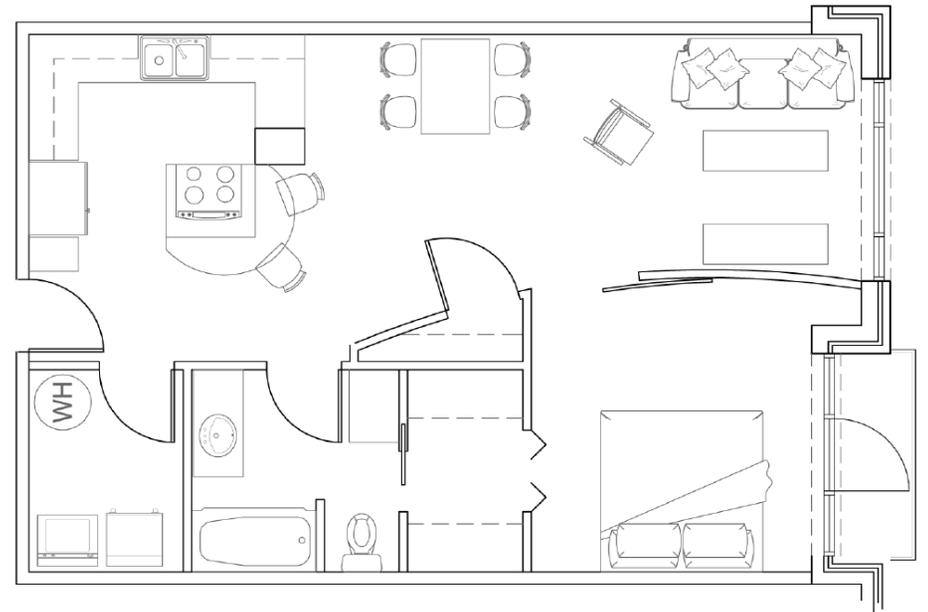


BUILDING C PARKING LEVEL PLAN VIEW

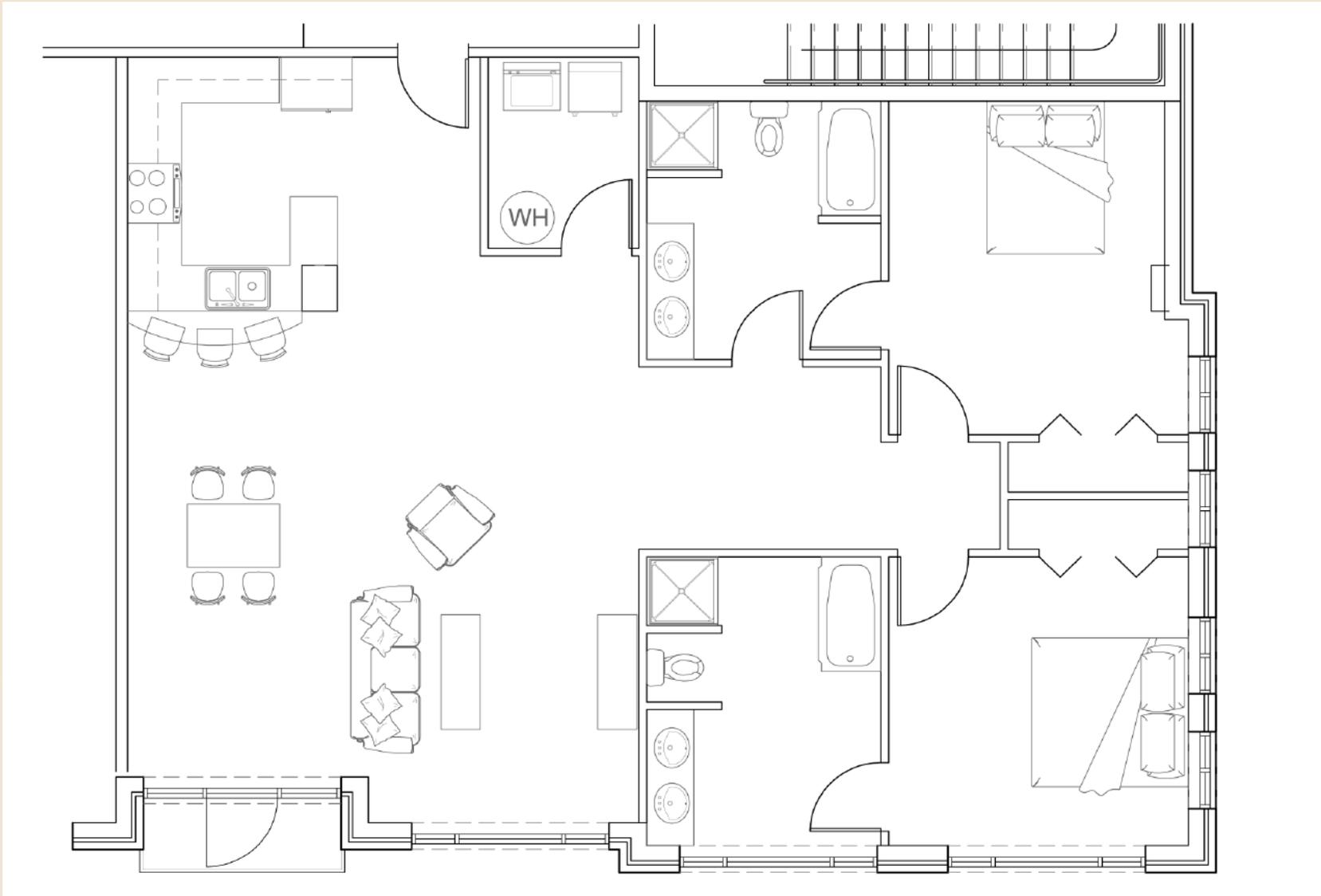
Building C: Condo Unit Types



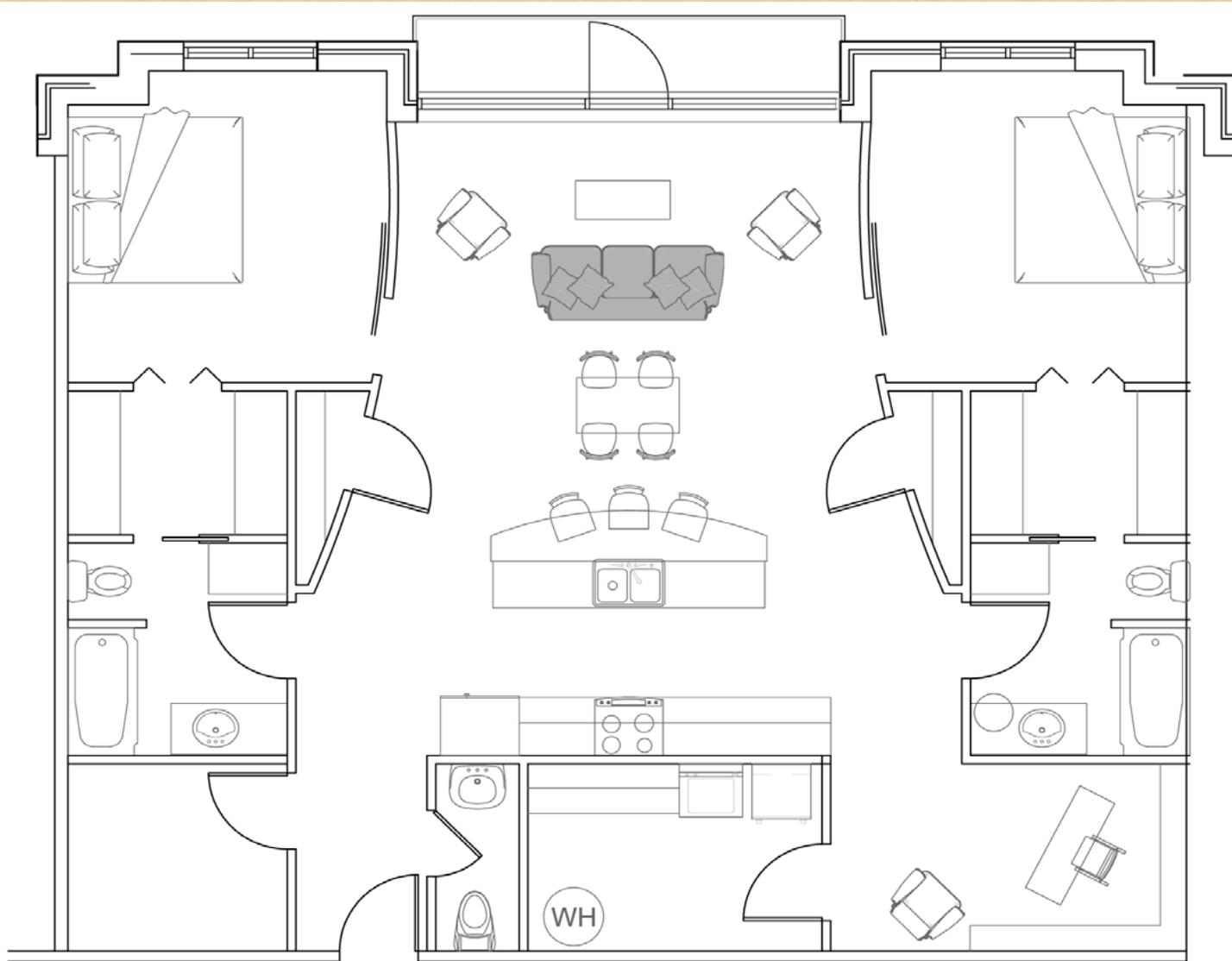
CONDO UNIT TYPE A
720 S.F.



CONDO UNIT TYPE A
720 S.F.

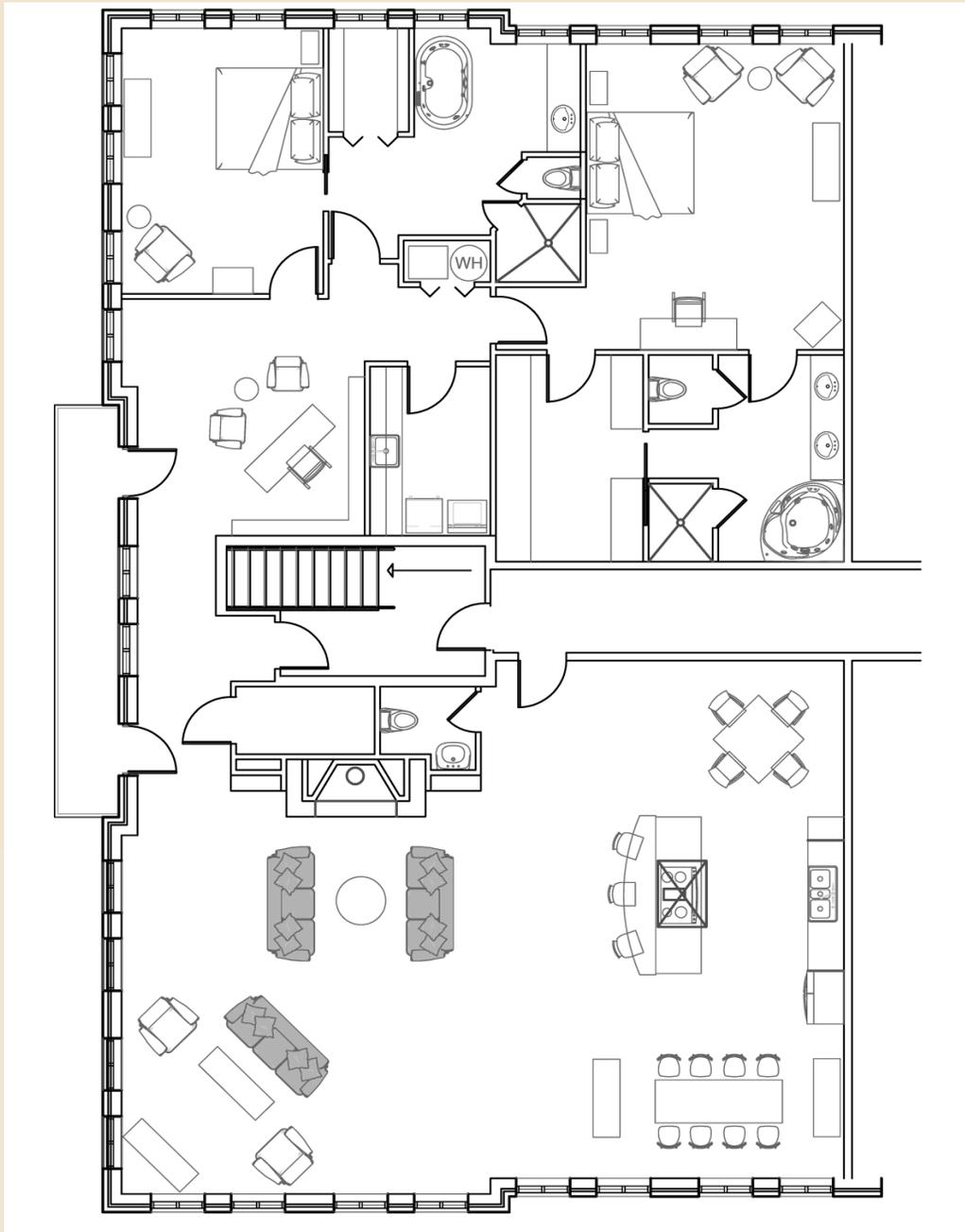


CONDO UNIT TYPE B
1445 S.F.

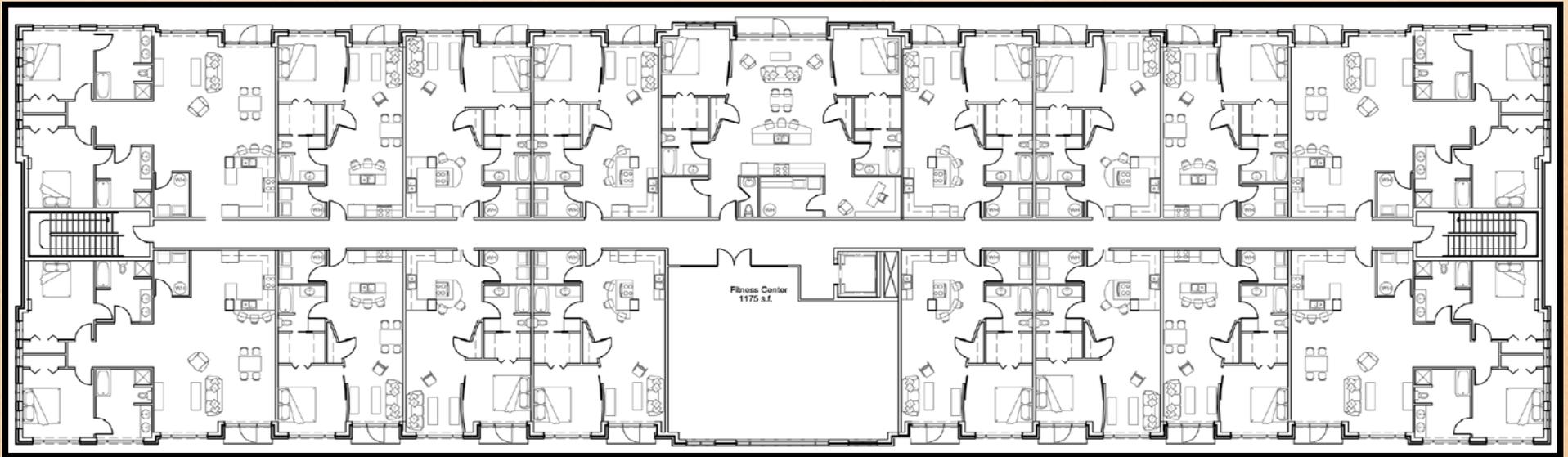


CONDO UNIT TYPE C

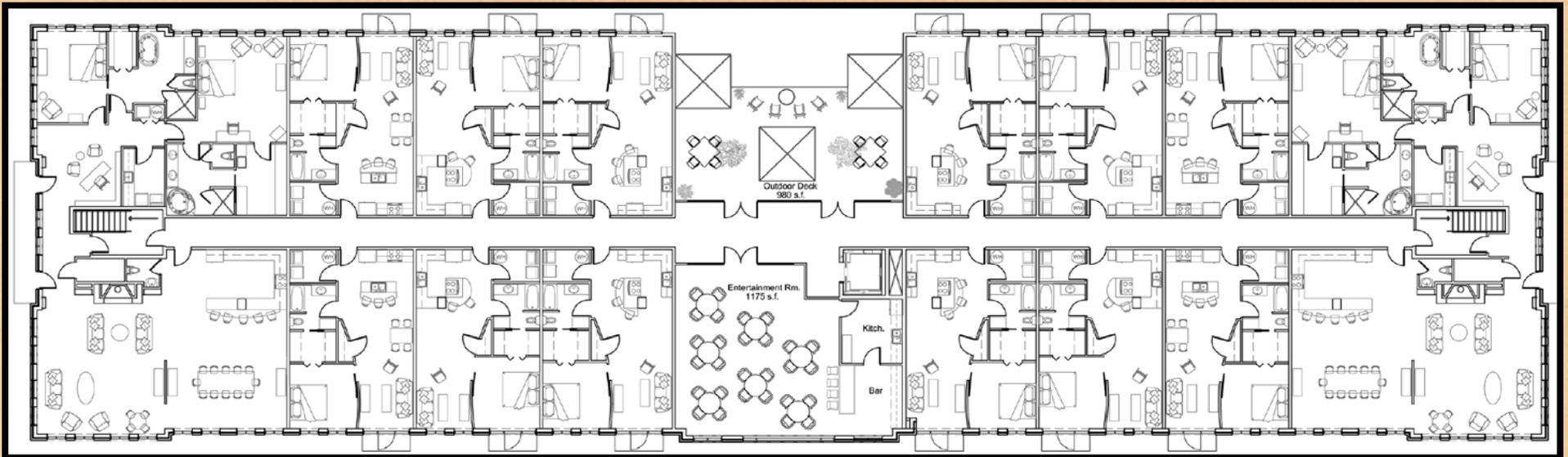
1430 S.F.



CONDO UNIT TYPE D
2980 S.F.



BUILDING C SECOND & THIRD FLOOR PRELIMINARY FLOOR PLAN



BUILDING C FOURTH FLOOR PRELIMINARY FLOOR PLAN

NOTE: 2nd floor will be identical to 3rd floor with the exception of the business center taking the place of the fitness center.

B P O & G D O H E I G H T V A R I A T I O N R E Q U E S T



BUILDING " C " HEIGHT VARIATION

As a part of this PUD, we are requesting a maximum building height variation. Per the Battlefield Protection Overlay (BPO) and the Gateway Design Ordinance (GDO). The maximum building height allowed is 35'. Per a precedent set with the medical center office park to the east, we are requesting a maximum building height for building C of 4-story (67' - 0").

RAGAN • SMITH



MINUTES OF THE MURFREESBORO PLANNING COMMISSION JUNE 3, 2020

6:00 P.M.

Council Chambers

MEMBERS PRESENT

Kathy Jones, Chair
Ken Halliburton, Vice-Chair
Jennifer Garland
Ronnie Martin
Warren Russell
Chase Salas
Eddie Smotherman

STAFF PRESENT

Greg McKnight, Planning Director
Matthew Blomeley, Assistant Planning Director
Margaret Ann Green, Principal Planner
Carolyn Jaco, Recording Assistant
David Ives, Deputy City Attorney

Chair Kathy Jones called the meeting to order after determining there was a quorum.

Vice-Chairman Ken Halliburton made a motion to approve the minutes of the April 29, 2020 and May 6, 2020 Planning Commission meetings, seconded by Mr. Warren Russell. The motion carried by unanimous vote in favor.

Public Hearings

Zoning application [2020-408] for approximately 0.54 acres located along South Maney Avenue north of East Castle Street to be rezoned from CH and CCO to PUD (Maney Station PUD) and CCO, Rhett Kelton applicant. Mr. Matthew Blomeley summarized the staff report which had been provided to the Planning Commission in the agenda packet.

Mr. Blomeley explained that the *Murfreesboro 2035 Comprehensive Plan* recommends the most appropriate land use character for this property to be “Neighborhood Commercial” which would be a low-intensity commercial use. However, the applicant is proposing a development that would be more consistent with the “Urban Commercial/Mixed-Use” land use character. The uses for this land use character include multi-family residential, entertainment, restaurants and other retail, general and professional offices. Mr. Blomeley stated the Planning Commission would need to determine whether or not this is an appropriate instance to deviate from the recommendations of the future land use map.

MINUTES OF THE MURFREESBORO PLANNING COMMISSION JUNE 3, 2020

environment living in the downtown area. This development could become a precursor for more to come in the future.

Chair Kathy Jones opened the public hearing.

Mr. Allen McAdoo – came forward to make known he is in favor for this proposal. He hopes this project will help bring additional development to the area.

Chair Kathy Jones closed the public hearing.

Mr. Eddie Smotherman made a motion to approve subject to moving the following uses from the permitted use list to the prohibited use list: for Laundries and Tobacco/E-Cigarettes/Vape Sales, seconded by Mr. Chase Salas. The motion carried by unanimous vote in favor.

Zoning application [2020-406] for approximately 5.09 acres located along North Thompson Lane to amend the North Thompson Place PUD (also known as Gateway Village) to expand the uses permitted, Swanson Development, LP applicant.

Ms. Margaret Ann Green summarized the staff report which had been provided to the Planning Commission in the agenda packet. Ms. Green stated the applicant would like to expand the permitted uses for their buildings. The permitted uses are currently allowed per the approved pattern book and are proposed to be redefined as follows:

Buildings A & B 1st Floor additional permitted uses to be added:

1. Church
2. College, University
3. Business School
4. Janitorial Service
5. Laboratories, Medical
6. Laboratories, Testing
7. Offices

MINUTES OF THE MURFREESBORO PLANNING COMMISSION JUNE 3, 2020

8. Radio TV or Recording Studio

Buildings A & B 2nd Floor proposed additional permitted uses to be added:

1. Student Center
2. Amusements, Commercial Indoors
3. Animal Grooming Facility
4. Antique Mall
5. Antique Store
6. Apothecaries
7. Barber or Beauty Shop
8. Book, Card Shop
9. Catering Establishment
10. Clothing Store
11. Department or Discount Store
12. Flower or Plant Store
13. Glass-Stained and Leaded
14. Key, Locksmith
15. Reducing and Weight Control Services
16. Restaurant and Carryout Restaurant (excludes drive-up window)
17. Specialty Shop

Ms. Green stated that these proposed permitted uses were consistent with the future land use map. In addition, a traffic analysis has been prepared and provided that makes known how this proposal would not create any negative traffic impacts for this development.

Mr. Matt Taylor and Mr. Joe Swanson, Jr. were present to represent the application.

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 JUNE 3, 2020

Vice-Chairman Ken Halliburton made a motion to approve subject to all staff comments, seconded by Mr. Eddie Smotherman. The motion carried by unanimous vote in favor.

Mandatory Referral

Mandatory Referral [2020-710] to consider the abandonment of an existing MWRD water easement located within the Northfield Village subdivision along West Northfield Boulevard, Mr. Matt Taylor (on behalf of A + Storage) applicant. Ms. Margaret Ann Green summarized the staff report which had been provided to the Planning Commission in the agenda packet. This item has been reviewed and recommended for approval by the Murfreesboro Water Resource Board. Ms. Green stated if this mandatory referral is approved it should be made subject to the applicant providing all the necessary documentation required to prepare and record the instrument to City Staff. This includes legal descriptions and an illustration of the property.

Ms. Jennifer Garland made a motion to approve subject to all staff comments, seconded by Mr. Ronnie Martin. The motion carried by unanimous vote in favor.

Staff Reports and Other Business

There being no further business the meeting adjourned at 6:35 p.m.

Chair

Secretary

GM: cj

ORDINANCE 20-OZ-21 amending the Zoning Ordinance and the Zoning Map of the City of Murfreesboro, Tennessee, as heretofore amended and as now in force and effect, to amend the conditions applicable to approximately 5.09 acres in the North Thomson Place Planned Unit Development (PUD) District (also known as Gateway Village) located along North Thompson Lane, as indicated on the attached map; Swanson Development, LP, applicant [2020-406].

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 modify the conditions of the Planned Unit Development (PUD) District, as indicated on the attached map, for the purpose of expanding the permitted uses.

SECTION 2. That, from and after the effective date hereof, the area depicted on the attached map shall be subject to all the terms and provisions of said Ordinance applicable to such districts, the plans and specifications filed by the applicant, and any additional conditions and stipulations set forth in the minutes of the Planning Commission and City Council relating to this zoning request. The City Planning Commission is hereby authorized and directed to make such changes in and additions to said Zoning Map as may be necessary to show thereon that said area of the City is zoned as indicated on the attached map. This zoning change shall not affect the applicability of any overlay zone to the area.

SECTION 3. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

1st reading _____

2nd reading _____

Shane McFarland, Mayor

ATTEST:

APPROVED AS TO FORM:

Melissa B. Wright
City Recorder

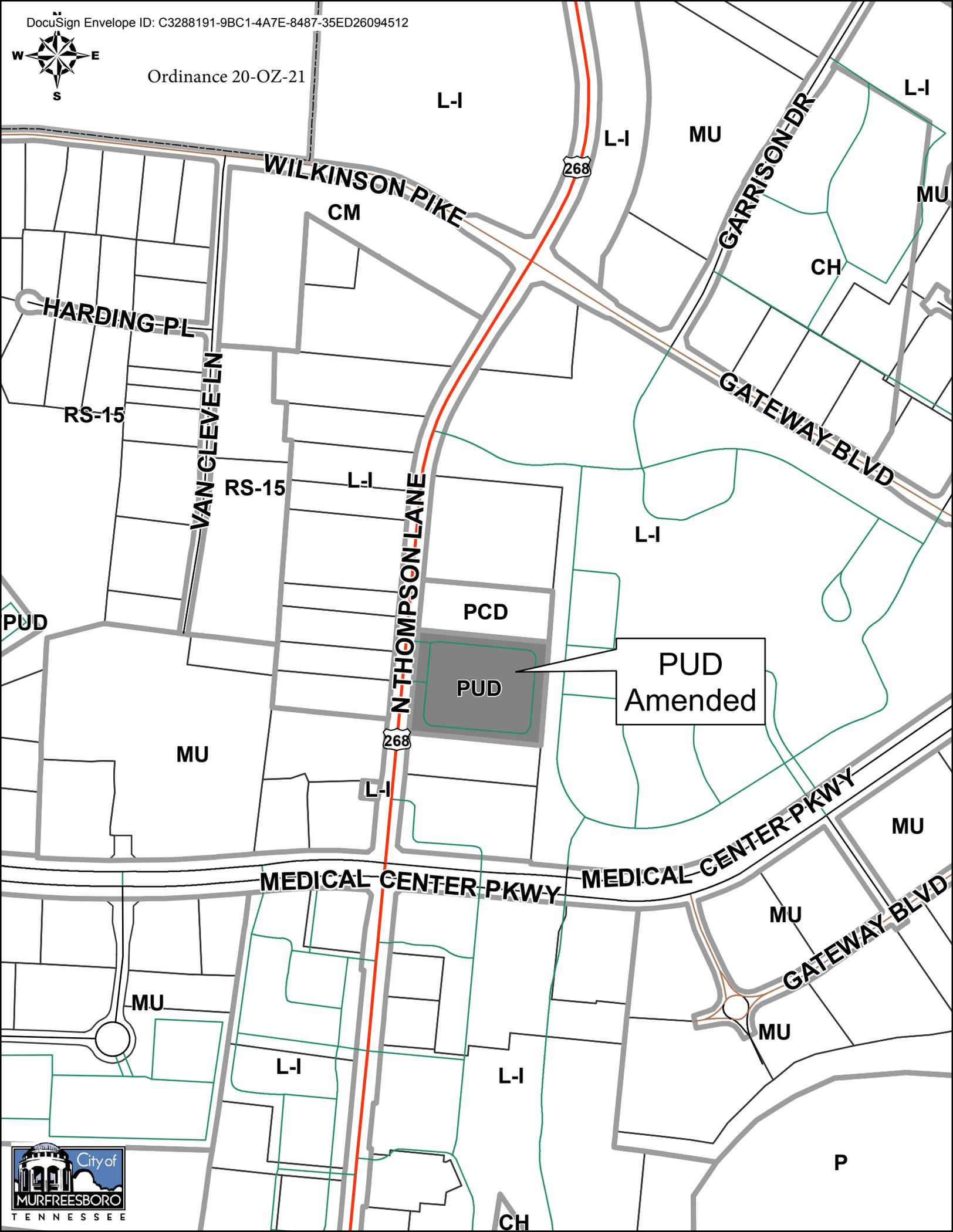
DocuSigned by:
Adam F. Tucker

43A2035E51F9401
Adam F. Tucker
City Attorney

SEAL



Ordinance 20-OZ-21



PUD Amended



COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Shelton Square Special Sanitary Sewer Assessment District
[Public Hearings Required]

Department: Water Resources

Presented By: Darren Gore

Requested Council Action:

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

Summary

Establish a Special Sanitary Sewer Assessment District (SSSAD) for properties adjoining and using the Shelton Square S/D sanitary sewer system.

Staff Recommendation

Conduct a public hearing and approve the Special Sanitary Sewer Assessment District at \$500 per single family unit or equivalent.

Background Information

At the Nov/Dec 2017 Board meeting, the Board approved of participating with Bob Parks, the developer of the Shelton Square Subdivision (770 lots), to upsize the sewer forcemain from 6" to 8" to allow for additional development in the area. The participation amount totaled \$249,590. Gravity sewer, a sewer pump station and forcemain was the only option for sewer service in the area, which is west of I-24 and north of I-840. The Shelton property pumps to the northeast, under I-24 and discharges into an 18-inch gravity sewer along Florence Rd.

The Council approved moving forward with an ordinance at their May 7, 2020 Council meeting and approved a public hearing at their June 25, 2020 meeting.

The attached ordinance and associated exhibit illustrates the properties surrounding Shelton Square that have been identified by Developers and Staff as potential properties for development, which would be required to pay the SSSAD fee.

Council Priorities Served

Responsible budgeting

Creating the SSSAD to recoup the Department's expenditure for the upsizing of the sewer force main.

Expand infrastructure

Upsizing the sewer forcemain will allow future and additional gravity sewer main extensions in the area for potential adjacent developments in addition to the Shelton Square Subdivision.

Fiscal Impact

Based on the participation cost, number of units, and time value of money, the estimated Shelton Square SSSAD would be \$500 per single family unit (sfu). **Financing Assumptions & Sanitary Sewer Special Assessment Fee Calculation:**

10-yr financing term @ 3.5% interest (w/ one pay period per year)

Assessment based on Estimated Single-Family Unit Count = 638 sfu's

Participation Costs = \$249,590

Finance Costs = \$50,520

Recommended Assessment at \$500 per sfu

The total cost for a sanitary sewer connection and capacity buy-in fee in this proposed SSSAD would therefore be:

Shelton Square Special Sewer Assessment = \$500 per sfu

Overall Creek Special Sewer Assessment = \$1,000 per sfu

Sanitary Sewer Capacity Buy-in Fee = \$2,550 per sfu

Total SFU cost = \$4,050

Attachments

1. Ordinance 20-O-22 Shelton Square Special Sanitary Sewer Assessment District
2. Resolution 20-R-PH-22 Shelton Square Special Sanitary Sewer Assessment District Public Hearing Resolution
3. Shelton Square Special Sanitary Sewer Assessment District Calculations

ORDINANCE 20-O-22 amending Chapter 33 of the Murfreesboro City Code by creating Section 33-215, establishing a sanitary sewer special assessment district to be known as the Shelton Square Sanitary Sewer Special Assessment District.

WHEREAS, the City of Murfreesboro proposes to expend approximately Two Hundred Forty-Nine Thousand, Five Hundred Ninety and NO/100 Dollars (\$249,590.00) for participating in the upsize of a sewerage system serving the properties surrounding Shelton Square Sanitary Sewer Special Assessment District, inclusive of the funding costs; and,

WHEREAS, it is appropriate for the City to recoup the investment from those property owners that benefit from same; and,

WHEREAS, the City has estimated the capacity of the proposed sewer to be Six Hundred thirty-eight (single family units); and,

WHEREAS, the City has determined a fair rate of recoupment is Five Hundred and NO/100 Dollars (\$500.00) per single family unit or its equivalent as defined in City Code §33-50(A)(2), in addition to all other applicable sewer connection, sewer service, and sanitary sewer district fees; and,

WHEREAS, the Water and Sewer Board of the City of Murfreesboro has recommended the creation of the Shelton Square Sanitary Sewer Special Assessment District; and,

WHEREAS, Section 4B of the Charter of Murfreesboro requires a Public Hearing before the City Council prior to approval of any special assessment improvement district and the City Council conducted a Public Hearing on July 23, 2020.

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

SECTION 1. Murfreesboro City Code, Chapter 33 is hereby amended by adding Section 33-215 as follows:

“SECTION 33-215 SHELTON SQUARE SANITARY SEWER SPECIAL ASSESSMENT DISTRICT

- (A) The City hereby creates a sanitary sewer special assessment district called the “Shelton Square Sanitary Sewer Special Assessment District” in order to recoup funds expended for construction and installation costs of the Shelton Square sewage additions, providing sanitary sewer service to the properties shown on Map No. 33-215, copies of which are on file with the City Recorder and Director of the Murfreesboro Water Resources Department.

In addition to the properties shown on Map No. 33-215, any residence, business, or other improvements constructed in the future that has sanitary sewer discharge into the sewer constructed in the Shelton Square Sanitary Sewer Special Assessment District shall pay Five Hundred and NO/100 Dollars (\$500.00) per single family unit or its equivalent as defined in City Code §33-50(A)(2), until the actual costs, including funding costs, are paid in full. .

EXCLUSION: Any customer of Murfreesboro Water and Sewer Department shall be excluded from the Shelton Square Sanitary Sewer Special Assessment District if it is determined by the Director of the Murfreesboro Water Resources Department, or a designee, that the sewage from the property served does not discharge into the Shelton Square sewerage system.

- (B) Each applicant for sanitary sewer service in the Shelton Square Sanitary Sewer Special Assessment District shall tender and pay to the City, prior to connection for such service: the sewer connection and tapping fee described in Code §33-50(A)(1) as amended; the outside house service charge described in Code §33-50(C); the additional special sewer area charge of Five Hundred and NO/100 Dollars (\$500.00) per single family unit or its equivalent (as defined in Code §33-50(A)(2), in addition to all other applicable sewer connection or sewer service fees. For the purposes of calculating this assessment, all land within a lot's property lines is included. Notwithstanding the foregoing, the City may impose additional charges associated with construction of sewer laterals to connect property to the sewer trunk line.
- (C) Additional charges for other uses fixed and established from time to time by the City Council, upon recommendation of the Water Resources Board, shall also be paid and collected before connection for sewer service.
- (D) Persons owning and/or occupying property which is accessible to the Shelton Square Sanitary Sewer Special Assessment District as defined in Code §18-28 shall be exempt from monthly sewer service charges until such time physical connection is made to a sanitary sewer or the Shelton Square Sanitary Sewer Special Assessment District ends as provided in (A) above.

SECTION 2. That this Ordinance shall take effect fifteen (15) days after its passage upon second and final reading, the public welfare and the welfare of the City requiring it.

Passed:

Shane McFarland, Mayor

1st reading _____

2nd reading _____

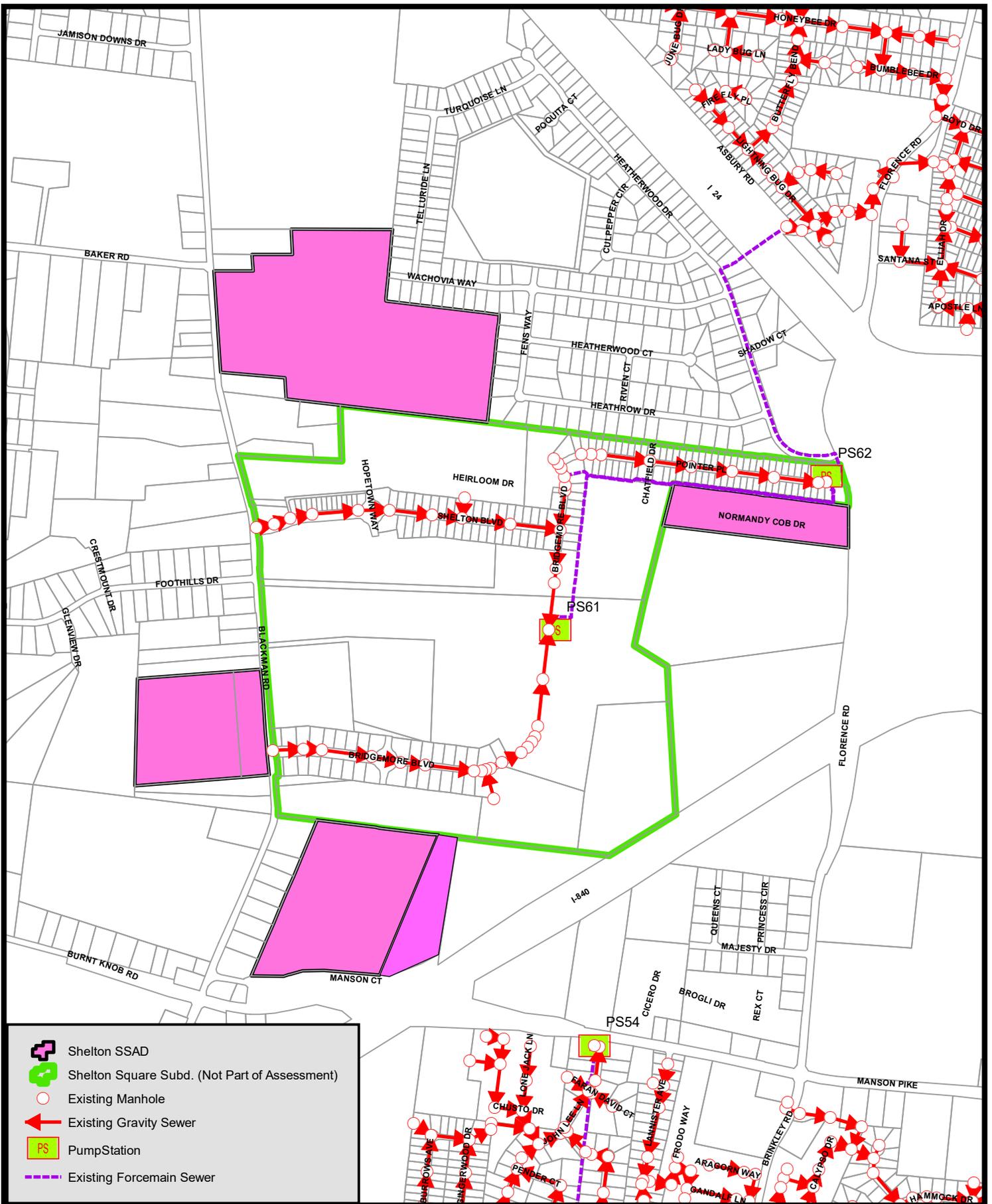
ATTEST:

APPROVED AS TO FORM:

Melissa B. Wright
City Recorder

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

SEAL



	Shelton SSAD
	Shelton Square Subd. (Not Part of Assessment)
	Existing Manhole
	Existing Gravity Sewer
	Pump Station
	Existing Forcemain Sewer


 SCALE : 1" = 1,000'

MURFREESBORO WATER AND SEWER DEPARTMENT
Map 33-215
Shelton Square Sanitary Sewer Special Assessment District

April 2020
 TAB

 MURFREESBORO
 TENNESSEE
 WATER RESOURCES

RESOLUTION 20-R-PH-22 calling for a Public Hearing on the formation of a sanitary sewer special assessment district, known as the Shelton Square Sanitary Sewer Special Assessment District.

WHEREAS, staff and local property owners have studied the formation of a special assessment district, known as the Shelton Square Sanitary Sewer Special Assessment District; and,

WHEREAS, the Water Resources Board of the City of Murfreesboro has recommended the creation of the Shelton Square Sanitary Sewer Special Assessment District and,

WHEREAS, the Shelton Square Sanitary Sewer Special Assessment District is outlined on Map No. 33-215, attached hereto and incorporated herein; and,

WHEREAS, the City of Murfreesboro proposes to expend approximately Two Hundred Forty-Nine Thousand, Five Hundred Ninety and NO/100 Dollars (\$249,590.00) for participating in the upsize of a sewerage system serving the Shelton Square Sanitary Sewer Special Assessment District, inclusive of costs of funding; and,

WHEREAS, it is appropriate for the City to recoup the investment from those property owners that benefit from same; and,

WHEREAS, the City has estimated the capacity of the proposed sewer to be Six hundred thirty-eight SFU's (single family units); and,

WHEREAS, the City has determined a fair rate of recoupment is Five Hundred and NO/100 Dollars (\$500.00) per single family unit or its equivalent as defined in Code §33-50(a)(2), for future sewer connections, in addition to all other applicable sewer connection, sewer service, and sanitary sewer district fees; and,

WHEREAS, Section 4B of the Charter of Murfreesboro requires a Public Hearing before the City Council prior to approval of any special assessment improvement district.

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

SECTION 1. That the City Recorder be and is hereby instructed and directed, in the time and manner required by law, to have published in The Murfreesboro Post, a newspaper of general circulation in the City, a notice of the Public Hearing before the City Council to be held in the Council Chambers at City Hall on Thursday, July 23, 2020, beginning at 6:00 o'clock p.m., to determine whether or not a special assessment district known as Shelton Square Sanitary Sewer Special Assessment District should be established.

SECTION 2. That the City Recorder be and is hereby authorized and directed to publish as required by law a notice of such Public Hearing in

substantially the following form:

NOTICE OF PUBLIC HEARING

Notice is hereby given that a Public Hearing before the City Council of the City of Murfreesboro, Tennessee, will be held in the Council Chambers of the Murfreesboro City Hall, 111 West Vine Street, in said City on Thursday, July 23, 2020, beginning at 6:00 o'clock p.m., to determine whether to establish a special improvement district known as the Shelton Square Sanitary Sewer Special Assessment District in the designated area in the map below:

(INSERT MAP HERE)

Copies of the proposed Ordinance 20-O-22 establishing the Shelton Square Sanitary Sewer Special Assessment District are available to the public in the office of the City Recorder, 111 West Vine Street, Murfreesboro, TN 37130 and in the Water Resources Department, 300 N.W. Broad Street, Murfreesboro, TN 37130. The public is invited to attend the public hearing.

/s/ Melissa B. Wright
City Recorder

TO BE RUN: July 7, 2020

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

Passed: _____

Shane McFarland, Mayor

ATTEST:

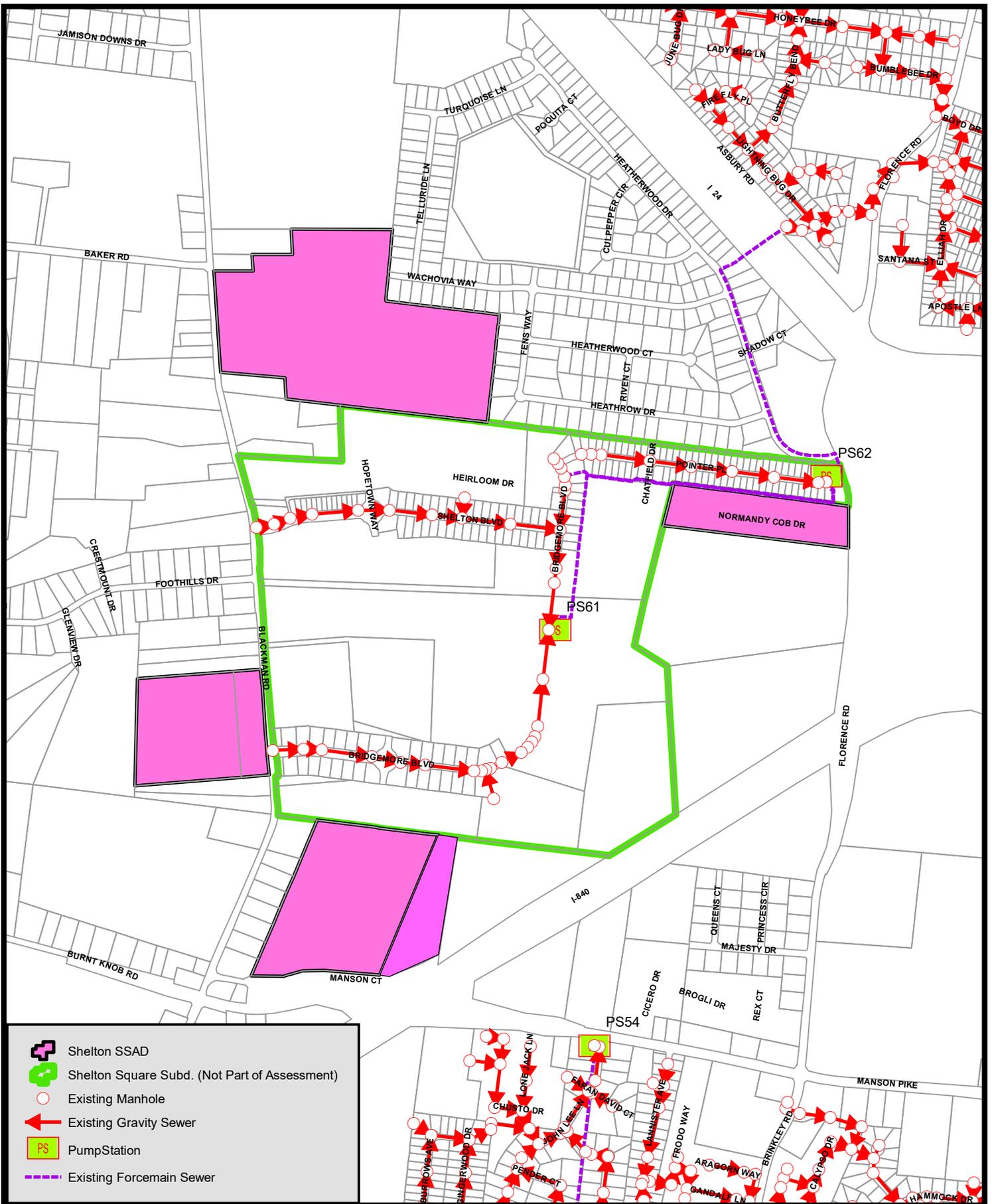
APPROVED AS TO FORM:

Melissa B. Wright
City Recorder

DocuSigned by:
Adam F. Tucker

43A2035E51F9401...
Adam F. Tucker
City Attorney

SEAL




 SCALE : 1" = 1,000'

MURFREESBORO WATER AND SEWER DEPARTMENT
Map 33-215
Shelton Square Sanitary Sewer Special Assessment District

**Shelton Square
Sanitary Sewer Assessment District
April 15,2020**

# of Single Family Units	Installation Expense **	P Principal	Y # of Years	i Interest Rate	n Pay Periods per Year	R Payment Rate	Total Payment (R*n*Y)	Rounded (\$ / Unit)
638	\$249,590.00	\$249,590.00	10	3.50	1	\$30,011.04	\$300,110.43	\$500.00

** Participation Amount to Upsize the sewer forcemain.

The pump station per latest email can handle 1457 single family units.

741 Units Currently for Shelton leaves 716 Units Available but not sure will get this many extra units because of the ordinance.

$$R=i/100*(P/n)/(1-(i/(100*n)+1)^-(n*Y))$$

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Shelton Square Special Sanitary Sewer Assessment District
[Public Hearings Required]

Department: Water Resources

Presented By: Darren Gore

Requested Council Action:

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

Summary

Establish a Special Sanitary Sewer Assessment District (SSSAD) for properties adjoining and using the Shelton Square S/D sanitary sewer system.

Staff Recommendation

Conduct a public hearing and approve the Special Sanitary Sewer Assessment District at \$500 per single family unit or equivalent.

Background Information

At the Nov/Dec 2017 Board meeting, the Board approved of participating with Bob Parks, the developer of the Shelton Square Subdivision (770 lots), to upsize the sewer forcemain from 6" to 8" to allow for additional development in the area. The participation amount totaled \$249,590. Gravity sewer, a sewer pump station and forcemain was the only option for sewer service in the area, which is west of I-24 and north of I-840. The Shelton property pumps to the northeast, under I-24 and discharges into an 18-inch gravity sewer along Florence Rd.

The Council approved moving forward with an ordinance at their May 7, 2020 Council meeting and approved a public hearing at their June 25, 2020 meeting.

The attached ordinance and associated exhibit illustrates the properties surrounding Shelton Square that have been identified by Developers and Staff as potential properties for development, which would be required to pay the SSSAD fee.

Council Priorities Served

Responsible budgeting

Creating the SSSAD to recoup the Department's expenditure for the upsizing of the sewer force main.

Expand infrastructure

Upsizing the sewer forcemain will allow future and additional gravity sewer main extensions in the area for potential adjacent developments in addition to the Shelton Square Subdivision.

Fiscal Impact

Based on the participation cost, number of units, and time value of money, the estimated Shelton Square SSSAD would be \$500 per single family unit (sfu). **Financing Assumptions & Sanitary Sewer Special Assessment Fee Calculation:**

10-yr financing term @ 3.5% interest (w/ one pay period per year)

Assessment based on Estimated Single-Family Unit Count = 638 sfu's

Participation Costs = \$249,590

Finance Costs = \$50,520

Recommended Assessment at \$500 per sfu

The total cost for a sanitary sewer connection and capacity buy-in fee in this proposed SSSAD would therefore be:

Shelton Square Special Sewer Assessment = \$500 per sfu

Overall Creek Special Sewer Assessment = \$1,000 per sfu

Sanitary Sewer Capacity Buy-in Fee = \$2,550 per sfu

Total SFU cost = \$4,050

Attachments

1. Ordinance 20-O-22 Shelton Square Special Sanitary Sewer Assessment District
2. Resolution 20-R-PH-22 Shelton Square Special Sanitary Sewer Assessment District Public Hearing Resolution
3. Shelton Square Special Sanitary Sewer Assessment District Calculations

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Amend the Community Development 2019-2020 Action Plan for CDBG CV-19 funds

Department: Community Development

Presented by Helen Glynn, Assistant Director Community Development

Requested Council Action:

- Ordinance
 - Resolution
 - Motion
 - Direction
 - Information
-

Summary

Amendment to the current 2019-2020 Action Plan to include programming for allow for additional CDBG COVID-19 funding from HUD.

Staff Recommendation

Approve the amendment to the 2019-2020 Action Plan to incorporate an additional \$521,501 in COVID-19 specific funding.

Background Information

Through the CARES Act, HUD has allocated to the City \$521,501 in CDBG-CV funds. These funds are for preparation, response, and prevention of the coronavirus. City staff coordinated with community partners and stakeholders to consider potential programming for this COVID specific funding.

A public hearing was held on July 14, 2020 and a 5-day public comment period was provided. Recommend programming and funding levels are attached.

Council Priorities Served

Responsible Budgeting

This funding will assist citizens with COVID-19 specific services through federal grants.

Maintain Public Safety

This funding will assist in preventing further transmission of and reducing potential impacts of COVID-19.

Fiscal Impact

An additional \$521,501 to assist community partners in responding to COVID-19 without an impact to the General Fund.

Attachments

Proposed Allocation of Funding.

Attachment: CDBG COVID-19 CARES Grant Programming and Funding

Murfreesboro Entitlement is **\$521,501** total to be expended by 12/31/2020 on efforts to allocate activities with a priority on prevention, mitigation, and or treatment of COVID-19.

We recommend **\$35,000** for administration (staff salaries and benefits, office operations, etc. which could be as high as 20% but for now this amount seems reasonable).

We recommend a supply reimbursement line of **\$50,000** for Public Service Grant recipients to utilize for costs of CV-19 supplies, cleaning, etc. (between 3/20-6/30/20).

We recommend **\$225,000** to assist with housing solutions to vulnerable populations which includes **\$107,000** to Murfreesboro Housing Authority (11 households-rentals), **\$103,000** for home acquisitions for Habitat for Humanity (3 different households -for a total of 4 adults, 7 children) and 1 night time shelter staff for Stepping Stones Shelter for **\$15,000**.

We recommend up to but no more than **\$150,000** in Child Care scholarships for high risk children at RC Boys and Girls Club which would be used in a formula for part time and fulltime care depending on school year schedule and cover through 6/30/21.

We recommend **\$35,000** for Murfreesboro City Schools to assist low to moderate income students with technology for education.

We recommend up to **\$15,000** to assist Hope Primary Clinic with costs providing Health Relay Call system for manage care of primary care patients vulnerable, exposed or diagnosed with COVID.

We recommend up to **\$10,000** to Kymari House for disinfecting and social distancing supplies and procedures for court mandated visitation program.

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Wireless Equipment Purchase
Department: City Schools
Presented by: Ralph Ringstaff, Interim Director of Schools
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 access points and switches for wireless access point upgrade.

Staff Recommendation

Approve purchase of access points and switches from CDW-G, LLC.

Background Information

Council approved a request for funding access point upgrade needs for City Schools on 07/09/2020.

These items are available for purchase for \$184,163 from CDW-G, LLC. using the Federal E-Rate program and approved state contracts.

Council Priorities Served

Responsible budgeting

The Federal E-Rate program and approved state contracts is a cost-effective and required means of purchasing access points and switches for the wireless access point upgrade.

Fiscal Impact

Funds of \$184,163 from Community Investment Program are available for this purchase.

Attachments

1. Murfreesboro City Schools E-Rate Mini-Bid Announcement
2. E-Rate Mini-Bid Assessment Worksheet, Category 2 Internal Connections for wireless
3. E-Rate Min-Bid Assessment Worksheet, Category 2 Internal Connections for switches

Becky Sally

From: Scott Campbell
Sent: Wednesday, February 19, 2020 2:40 PM
To: brian.thomas@a3communications.com; kyle@ancgroup.com; philobe@cdwg.com; doug@centralinc.com; mhauer@convergednetworks.com; Sean_Buschkotter@dell.com; msunderhaus@ena.com; rmosley@encoretg.com; Kyle.white@meridianitinc.com; info@merit-group.us; Bpatrick@mxncorp.com; david@pcsusa.net; grants@pcsknox.com; michael.matheny@getronics.com; sstewart@presidio.com; Cindy.jones@smartwave.us; shelia@techxpress.com; dledford@system-integrations.com
Cc: Travis Simmons
Subject: Murfreesboro City Schools E-Rate Mini-Bid Announcement
Attachments: C2_Switches_Mini_Bid_FY2020.xlsx; C2_Wireless_Mini_Bid_FY2020.xlsx
Importance: High

Dear Vendors:

The Murfreesboro City Schools will be applying for Category 2 E-rate funding for Funding Year 2020 using the Tennessee Education Broadband Consortium Statewide Master Contract(s). In accordance with E-rate rules that all equivalent product lines must be provided the opportunity to submit proposals, we are hereby conducting an E-rate Mini-Bid. Attached to this message is a list of the equipment and services (or their functional equivalent) for which we are seeking proposals. This mini-bid specifically seeks proposals for Switches and Wireless Access Points. Our preferred manufacturer product line is Cisco switches and Cisco Meraki wireless access points.

Proposals are required to be submitted via e-mail no later than 12:00 PM on March 6th to the following:

Scott Campbell scott.campbell@cityschools.net
Travis Simmons travis.simmons@cityschools.net

All equipment and technical questions must be submitted via e-mail to:

Travis Simmons travis.simmons@cityschools.net

All E-rate questions must be submitted via e-mail to:

Scott Campbell scott.campbell@cityschools.net

Proposals must be submitted in the attached Excel format, citing the proposer's information at the top of each page. By submitting a TEBC Mini-Bid proposal, vendors are agreeing to the following statements/conditions:

- The quantities shown on the attachment are estimates. The Customer reserves the right to increase or decrease quantities as is needed to meet District needs.
- The equipment is itemized by E-rate Category. We prefer to award to a single vendor for all of the equipment listed in a single Category.
- Vendors must have a valid E-rate SPIN number and must submit it with the proposal.
- Although a specific manufacturer's equipment may be listed on the attachment, the Customer will consider and evaluate proposals for equipment manufactured by other companies that is equivalent in quality and functionality. Such "equivalent" manufacturer proposals must add two new columns to the right of the specific equipment name, showing alternative equipment manufacturer, and model number. Equivalent manufacturers

also must include in their proposal manufacturer proof such as manufacturer's specifications or other similar documentation that the equipment is equivalent in quality and functionality.

- Vendors must agree to provide discounted billing to the District, whereby the vendor submits a Form 474 invoice to USAC to seek reimbursement for the discounted share of the eligible costs.
- Vendor shall maintain copies of all proposals, correspondence, receipts, purchase orders, delivery information, memoranda and other data relating to Vendor's equipment and services related to this procurement. All such records shall be retained for 10 years following completion of services and/or installation of equipment, and shall be subject to inspection and audit by the District.
- In addition to the foregoing, the winning vendor must maintain and enforce an internal E-rate audit process that ensures that vendor complies with all E-rate program rules and regulations. This process must include the following:
 - Where labor is involved, maintaining detailed, signed individual timesheets
 - Ensuring that ineligible charges are not submitted to USAC
 - Ensuring that services or products are not provided to the Customer without the Customer's express written permission or official purchase authorization
 - Ensuring that all substituted products are Customer-approved prior to ordering
 - Documenting that E-rate funded equipment/services were provided within the E-rate funding year
 - Charging USAC for proper FRN(s)
 - Ensuring that invoices are submitted to the Customer in a timely manner
 - Maintaining fixed asset list of E-rate-supported equipment provided to the Customer with detailed information for each item (model number, serial number, product description) and made available to the Customer in electronic format upon project completion.
- Purchase of equipment is completely dependent on ERate funding approval as well as approval and availability of the Murfreesboro City Schools' 2020-2021 budget.
- Installation and configuration is required of the wireless access points but not of the switches.

Thank you in advance for your proposal.

Scott Campbell | Director of Technology
Murfreesboro City Schools | Technology
To assure academic and personal success for each child.

tech·nol·o·gy

[tek 'nälejē]

NOUN

technologies (plural noun)

the application of scientific knowledge for practical purposes

E-Rate Mini-Bid Assessment Worksheet
Category 2 Internal Connections
Funding Year 2020

District Name Murfreesboro City Schools Mini-Bid Due Date 3/6/2020
 Bid # (if applicable) N/A Allowable Contract Date N/A
 Form 470# 160012458

Project or Service Description Wireless

Directions: Each factor is worth the same number of points as the weighting percentage. Vendors are rated on how well they meet each factor. The entries for all factors are then totaled for each vendor. The winning bidder is the one with the highest number of total points. The cost of E-Rate eligible goods and services must be weighted most heavily.

Vendor Name (click each cell for a drop-down menu of vendor names)

No.	Factor	CDW Government, LLC Cisco Meraki	Central Technologies, Inc. Aruba	Pomeroy IT Solutions Sales Company, Inc. Cisco Meraki	A3 Communications, Inc. Cisco Meraki			
		\$ 875,108.17	\$ 505,415.00	\$ 950,445.00	\$ 1,074,956.43			
		\$ 875,108.17	\$ 505,415.00	\$ 950,445.00	\$ 1,074,956.43			
	% of total price points	58%	100%	53%	47%	0%	0%	0%
1	Cost of eligible goods and services (Must have the most available points)	28.877	50.000	26.588	23.509	0.000	0.000	0.000
2	Preferred Manufacturer**	25	0	25	25			
3	Interoperability of proposed solution with existing infrastructure	15	10	15	15			
4	Completeness of response	5	5	5	5			
5	Vendor quote meets district's minimum specifications	5	5	5	5			
Total Points		78.88	70.00	76.59	73.51	0.00	0.00	0.00

Manufacturer Proposed
Cost of E-rate eligible product/service \$ 875,108.17
Cost of E-rate ineligible product/service \$ -
Total Cost of Service to District* \$ 875,108.17

*DO NOT USE the "total Cost to District" when evaluating "COST" unless all costs are E-Rate eligible. Only consider E-Rate Eligible Cost when scoring cost.
 ** Per USAC Schools and Libraries News Brief dated December 3, 2010: "Applicants can have a bid evaluation criterion for preferred make and model or for adherence to local IT standards in their bid evaluation matrix."

EVALUATION NOTES

Matrix is the matrix recommended by the Tennessee Education Broadband Consortium and was not modified in any manner. Vendor selected is the vendor with the most total points.

Vendor Selected:	CDW Government, LLC
Approved By:	Scott Campbell
Print Name:	Scott Campbell
Title:	Director of Technology
Date:	4/15/2020

Mini-Bid Review Committee:
 Name: Scott Campbell Agency: Murfreesboro City Schools
 Name: Travis Simmons Agency: Murfreesboro City Schools
 Name: Jesse Owen Agency: Murfreesboro City Schools

E-Rate Mini-Bid Assessment Worksheet
Category 2 Internal Connections
Funding Year 2020

District Name Murfreesboro City Schools Mini-Bid Due Date 3/16/2020
 Bid # (if applicable) N/A Allowable Contract Date N/A
 Form 470# 160012458

Project or Service Description Switches

Directions: Each factor is worth the same number of points as the weighting percentage. Vendors are rated on how well they meet each factor. The entries for all factors are then totaled for each vendor. The winning bidder is the one with the highest number of total points. The cost of E-Rate eligible goods and services must be weighted most heavily.

Vendor Name (click each cell for a drop-down menu of vendor names)
Manufacturer Proposed
Cost of E-rate eligible product/service \$ 45,706.78 \$ 32,410.00 \$ 56,362.00 \$ 53,338.92
Cost of E-rate ineligible product/service \$ - \$ - \$ - \$ -
Total Cost of Service to District* \$ 45,706.78 \$ 32,410.00 \$ 56,362.00 \$ 53,338.92

No.	Factor	CDW Government, LLC Cisco	Central Technologies, Inc. Aruba	Pomeroy IT Solutions Sales Company, Inc Cisco	A3 Communications, Inc Cisco			
1	Cost of eligible goods and services (Must have the most available points)	71%	100%	58%	61%	0%	0%	0%
2	Preferred Manufacturer**	35.454	50.000	28.752	30.381	0.000	0.000	0.000
3	Interoperability of proposed solution with existing infrastructure	25	0	25	25			
4	Completeness of response	15	10	15	15			
5	Vendor quote meets district's minimum specifications	5	5	5	5			
Total Points		85.45	70.00	78.75	80.38	0.00	0.00	0.00

*DO NOT USE the "Total Cost to District" when evaluating "COST" unless all costs are E-Rate eligible. Only consider E-Rate Eligible Cost when scoring cost.

** Per USAC Schools and Libraries News Brief dated December 3, 2010: "Applicants can have a bid evaluation criterion for preferred make and model or for adherence to local IT standards in their bid evaluation matrix."

EVALUATION NOTES

Matrix is the matrix recommended by the Tennessee Education Broadband Consortium and was not modified in any manner. Vendor selected is the vendor with the most total points.	
Vendor Selected:	CDW Government, LLC
Approved By:	Scott Campbell
Print Name:	Scott Campbell
Title:	Director of Technology
Date:	4/15/2020

Mini-Bid Review Committee:
 Name: Scott Campbell Agency: Murfreesboro City Schools
 Name: Travis Simmons Agency: Murfreesboro City Schools
 Name: Jesse Owen Agency: Murfreesboro City Schools

COUNCIL COMMUNICATION

Meeting Date: 07/23/2020

Item Title: Board of Electrical Examiners

Department: Administration

Presented by: Mayor McFarland

Requested Council Action:

Ordinance

Resolution

Motion

Direction

Information

Summary

Reappointment to the Board of Electrical Examiners.

Background Information

The Board of Electrical Examiners is responsible for reviewing electrical contractor's licenses and license applications to assure compliance with the Electrical Contractors Licensing Ordinance. There are 9 members who serve 4-year terms.

As established by M.C.C. §11-33-36, there are nine members who serve 4-year terms.

Council Priorities Served

Engaging Our Community

Residents volunteer for service on the City several boards and commissions and are instrumental in the operations of several City departments.

Attachments:

Memo from Mayor McFarland

Memo from Robert Holtz



. . . creating a better quality of life.

July 23, 2020

Members of City Council

RE: Recommended Appointment – Board of Electrical Examiners

As an item for the Council Agenda, I am recommending the following appointments to the Board of Electrical Examiners.

Reappointments:

- Richie Bolin term expires June 30, 2022
- Alton Fann term expires June 30, 2022
- Phillip Lim term expires June 30, 2022
- Carl Peas term expires June 30, 2023
- Michael McCann term expires June 30, 2023
- Eva Warden term expires June 30, 2024
- Tony Ogles term expires June 30, 2024

Sincerely,

A handwritten signature in blue ink that reads "Shane McFarland". The signature is written in a cursive style.

Shane McFarland
Mayor



... creating a better quality of life

To: Mayor Shane McFarland

From: Robert N. Holtz *RNH*
Director of Building and Codes

Re: Electrical Board Appointments

Date: June 25, 2020

Mayor,

Below are our recommendations for reappointments to the City of Murfreesboro Electrical Contractors Licensing Laws and Regulations Board. All current members are very helpful and cooperative to work with.

Richie Bolin (Electrical Contractor): Mr. Bolin has been on the board since June 2011 and is currently our Chairperson. He is very involved with the licensing program and very supportive of our staff.

Alton Fann (HVAC Contractor): Mr. Fann has been on the board since 2004 and consistently attends the meetings

Carl Peas (Fire Department): Carl Peas is our Fire Department representative and attends regularly.

Michael McCann (Home Contractor): Mr. McCann has been on the board since 2013 and is our residential contractor representative. He attends regularly and has been on the board since 2013.

Eva Warden (Electrical Supply): Eva has been on the board since 2013 and attends regularly.

Phillip Lim (Utility Supply Representative): Phillip was appointed to the board in 2017 and is very helpful to the staff.

Tony Ogles (Electrical Contractor): Tony has been on the board since 2004 and attends regularly.

If you have any questions, please let me know.

cc: Lisa Mangrum

RNH/kw, elec board reapp memo, 6.25.20

Building & Codes

111 West Vine Street, 2nd Floor * P.O. Box 1139 * Murfreesboro, TN 37133-1139 * Office: 615 893 3750 * Fax: 615 217 3016
TDD 615 849 2689 * www.murfreesborotn.gov