



**CLARKSVILLE CITY COUNCIL
REGULAR SESSION
MARCH 7, 2013, 7:00 P.M.**

**COUNCIL CHAMBERS
106 PUBLIC SQUARE
CLARKSVILLE, TENNESSEE**

AGENDA

- 1) CALL TO ORDER
- 2) PRAYER AND PLEDGE OF ALLEGIANCE
- 3) ATTENDANCE
- 4) SPECIAL RECOGNITIONS
- 5) ZONING: PUBLIC HEARING
 1. **ORDINANCE 73-2012-13** (First Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Jeff Burkhart for zone change on property at Trenton Road and Kennedy Road from AG Agricultural District to R-2 Single Family Residential District (*RPC: Approval/Approval*)
 2. **ORDINANCE 74-2012-13** (First Reading) Amending the Zoning Ordinance and the Official Code of the City of Clarksville relative to cluster option development (*RPC: Approval/Approval*)
- 6) CONSENT AGENDA

All items in this portion of the agenda are considered to be routine and non-controversial by the Council and may be approved by one motion; however, a member of the Council may request that an item be removed for separate consideration under the appropriate committee report:

1. **ORDINANCE 63-2012-13** (Second Reading) Authorizing extension of utilities to property on Highway 76; request of Ronnie Powers
2. **ORDINANCE 64-2012-13** (Second Reading) Authorizing extension of utilities to property on Rossvie Road; request of B & S Development
3. **ORDINANCE 65-2012-13** (Second Reading) Amending the FY13 Information Technology Operating Budget for email archiving system upgrade
4. **ORDINANCE 66-2012-13** (Second Reading) Authorizing purchase of property on Chestnut Street for Community Development
5. **ORDINANCE 68-2012-13** (Second Reading) Establishing the Occupational Safety and Health Program
6. **ORDINANCE 69-2012-13** (Second Reading) Accepting donation of property from In-Rel Development for the Clarksville Greenway
7. **ORDINANCE 70-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Herbert E. Baggett, Jr., for zone change on property at the terminus of Poplar Court from R-3 Three Family Residential District to R-2 Single Family Residential District
8. **ORDINANCE 71-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Richard E. Stone, Jr., Executor, Jason Daugherty-Agent, for zone change on property at Ringgold Road and Ringgold Court from R-1 Single Family Residential District to R-4 Multiple Family Residential District
9. **RESOLUTION 38-2012-13** Approving a Certificate of Compliance for Jack G. Miller (Sango Wine & Spirits, 1049 Highway 76)
10. Approval of Minutes: Special Session January 29, Regular Session February 7
11. Approval of Board Appointments:

Human Relations Commission: Mohsun Uddin Ghias, Johnny Jones, Mercedes Acuna – March 2013 through June 2013

Residential Development Commission: Valerie Guzman – March 2013 through December 2013

7) COMMUNITY DEVELOPMENT COMMITTEE

David Allen, Chair

8) FINANCE COMMITTEE

Joel Wallace, Chair

1. **RESOLUTION 36-2012-13** Authorizing members of the TCRS who have one year or more of current membership service in the retirement system to establish retirement credit for time during which such members were employed by a political subdivision (*Finance Committee: Approval*)

9) GAS & WATER COMMITTEE

Jeff Burkhart, Chair

10) PARKS, RECREATION, GENERAL SERVICES

Wallace Redd, Chair

11) PUBLIC SAFETY COMMITTEE

(Building & Codes, Fire, Police)

Geno Grubbs, Chair

12) STREET COMMITTEE

James Lewis, Chair

13) TRANSPORTATION COMMITTEE

Marc Harris, Chair

14) NEW BUSINESS

1. **ORDINANCE 67-2012-13** (First Reading; Postponed January 29th) Amending the Official Code relative to Code of Ethics (*Mayor McMillan*)
2. **RESOLUTION 32-2012-13** (Postponed January 3rd) Authorizing the Regional Planning Commission to initiate revisions to the City Zoning Ordinance and the City Code relative to signage and lighting provisions (*Councilman Summers*)
3. **ORDINANCE 72-2012-13** (First Reading) Amending the FY13 General Fund and Capital Projects Budget for the City Hall air conditioning system (*Councilman Wallace*)
4. **RESOLUTION 37-2012-13** Declaring intent to reimburse proceeds for expenses related to certain public works projects (City Hall air conditioning system) (*Councilman Wallace*)

5. **ORDINANCE 76-2012-13** (First Reading) Amending the FY13 Municipal Properties Budget for Council Chambers roof repair (*Councilman Redd*)

15) MAYOR AND STAFF REPORTS

16) ADJOURNMENT

ORDINANCE 73-2012-13

AMENDING THE ZONING ORDINANCE AND MAP OF THE CITY OF CLARKSVILLE, APPLICATION OF JEFF BURKHAT FOR ZONE CHANGE ON PROPERTY AT TRENTON ROAD AND KENNEDY ROAD

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Zoning Ordinance and Map of the City of Clarksville, Tennessee are hereby amended by designating the zone classification of the property described in Exhibit A, currently zoned AG Agricultural District, as R-2 Single Family Residential District.

PUBLIC HEARING:

FIRST READING:

SECOND READING:

EFFECTIVE DATE:

EXHIBIT A

Being part of Henry Hillman fifty acres tract and now known as the Home tract. Beginning at the southwest corner on the east side of the Trenton pike, thence north 86 3/4 degrees east, 978 feet, to corner with Hillman, thence north 3 1/2 degrees to corner with Hillman, thence north 3 1/2 degrees east 1053 feet to H.N. Meriwether line, thence south 86 3/4 degrees, west, with N.H. Meriwether, 978 feet, to east side of Trenton Pike, thence with Trenton Pike, south 3 1/2, degrees west, 1053 feet, to beginning containing 22 1/2 more or less, (Tax Map 017 Parcel 039.01) (AG to R-2)

ORDINANCE 74-2012-13

AN ORDINANCE AMENDING THE CITY ZONING ORDINANCE AND THE OFFICIAL CODE OF THE CITY OF CLARKSVILLE RELATIVE TO CLUSTER OPTION DEVELOPMENTS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE THAT THE FOLLOWING AMENDMENTS ARE HEREBY MADE TO THE CLARKSVILLE CITY ZONING ORDINANCE:

1. Under Chapter 2 “Rules and Interpretation and Definitions”, Section 2 “Definitions” is hereby amended by deleting the language for “*Perimeter Lots:*” definition in its entirety and by substituting instead the following:

Perimeter Lot: A lot abutting the exterior boundary of any plot, parcel, tract or subdivision of land. In the context of a Residential Cluster Development per Section 5.9, the exterior lots of a proposed residential cluster development that adjoin the perimeter boundary of the subject tract or are adjacent to any landscape buffer on the boundary of the subject tract.

2. Under Chapter 5 “Land use Development Standards and Procedures”, Section 9 “Standards and Procedures For Residential Cluster Developments”, is hereby amended by deleting the section in its entirety and by substituting instead the following:

The intent of this Section is (a) to facilitate the development of tracts with environmental constraints at densities comparable to tracts without environmental limitations, and/or (b) to permit greater flexibility for creative design and/or (c) to achieve superior scenic quality and recreational opportunities close to home, by providing for residential subdivisions which incorporate permanent local open space accessible to all residential lots within the subject tract. It is the intent of this Section to allow the use of cluster development techniques in the AG, E-1, E-1A, R-1, R-1A, R-2 and R-2A single family residential zoning classifications. These provisions allow individual lot and yard requirements to be reduced to permit closer grouping or "clustering" of homes on a portion of a tract while the balance of the tract is preserved as open space. This is in contrast to a conventional subdivision where homes are more or less evenly spaced throughout a site and there is no reserved open space. The minimum number of lots for the application of this Residential Cluster Development option shall be ten (10) lots for any preliminary or final plat.

1. Initial Sketch and Consultation. Before preparing a formal proposal for a residential cluster development, the applicant shall submit a sketch of the proposed development to the Regional Planning Commission staff as a basis for reaching general agreement on major aspects of the project. The sketch shall indicate, at a scale no smaller than one (1) inch = one hundred (100) feet, the following:

- A. Boundaries and acreage of the site;
- B. Number of proposed dwelling units;
- C. Acreage available for open space and prospective uses of open space;
- D. Arrangement of streets, structures, and lots;

- E. Access to existing streets;
- F. Show any proposed improvements to the open space;
- G. State intended minimum lot size.

2. **Plat Approval Procedure.** Proposals for cluster residential developments shall be subject to the Clarksville/Montgomery County Subdivision Regulations, and shall be prepared and reviewed under the plat approval requirements of the regulations, and shall be in accordance with the provisions of this Section.

- A. The preliminary plat shall indicate that the clustering is proposed and display the layout and area of all lots and common areas and all phasing boundaries. Within a preliminary plan of subdivision, large contiguous areas may be proposed for development of single-family lots that contain less land area than normally required by the base zone classification of the subject tract.
- B. A master plan for the entire tract shall be required for preliminary plat approval. If an approved cluster development is abandoned before completion, no new preliminary plat for the tract will be approved until the minimum required open space for the completed portion of the cluster subdivision is dedicated.
- C. The developer shall submit a written and/or graphic documentation that describes how the required open space will be dedicated and maintained; such statement will be adopted with the preliminary plat and shall be enforced by the Regional Planning Commission.
- D. Draft copies of restrictive covenants and a Homeowners Association agreement shall be submitted prior to preliminary plat approval.

3. **Development Requirements.**

- A. Only single-family residential detached structures and accessory structures (including, but not limited to, garages, clubhouses, pavilions, swimming pools, walkways, trails, bikeways, playgrounds, and other recreation facilities for the enjoyment of the residents) may be constructed in a cluster development.
- B. Minimum lot size requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
 - I. AG (Agricultural District): Thirty Thousand (30,000) square feet.
 - II. E-1 (Estates District): Twenty-Five Thousand (25,000) square feet.
 - III. E-1A (Single Family Estates District): Twenty Thousand (20,000) square feet.
 - IV. R-1 (Single Family Residential District): Five Thousand (5,000) square feet.

- V. R-1A (Single Family Residential District): Five Thousand (5,000) square feet.
 - VI. R-2 (Single Family Residential District): Five Thousand (5,000) square feet.
 - VII. R-2A (Single Family Residential District): Five Thousand (5,000) square feet.
- C. Minimum lot width requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
- I. AG (Agricultural District): Seventy-Five (75) feet at the front setback line.
 - II. E-1 (Estate District): Seventy-Five (75) feet at the front setback line.
 - III. E-1 A (Single Family Estates District): Sixty (60) feet at the front setback line.
 - IV. R-1 (Single Family Residential District): No Minimum.
 - V. R-1A (Single Family Residential District): No Minimum.
 - VI. R-2 (Single Family Residential District): No Minimum.
 - VII. R-2A (Single Family Residential District): No Minimum.
- D. With the exception of existing rights-of-way the minimum front yard setback may be twenty-five (25) feet from the nearest right-of-way, unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.
- E. The minimum side yard setback requirements, for principal uses and unattached buildings of accessory use, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:
- I. AG (Agricultural District): Same as respective districts.
 - II. E-1 (Estate District): Same as respective districts.
 - III. E-1A (Single Family Estate District): Same as respective districts.
 - IV. R-1 (Single Family Residential District): Five-foot minimum on both sides.*
 - V. R-1A (Single Family Residential District): Five-foot minimum on both sides.*
 - VI. R-2 (Single Family Residential District): Five-foot minimum on both sides.*
 - VII. R-2A (Single Family Residential District): Five-foot minimum on both sides.*

*unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.

- F. Unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement, the minimum rear yard setback requirements (excluding the landscape buffer of any perimeter lot) for principal uses, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:
 - I. AG (Agricultural District): Twenty (20) minimum.
 - II. E-1 (Estate District): Twenty (20) minimum.
 - III. E-1A (Single Family Estates District): Twenty (20) minimum.
 - IV. R-1 (Single Family Residential District): Twenty (20) minimum.
 - V. R-1A (Single Family Residential District): Twenty (20) minimum.
 - VI. R-2 (Single Family Residential District): Twenty (20) minimum.
 - VII. R-2A (Single Family Residential District): Twenty (20) minimum.
- G. Perimeter lots that adjoin an existing street that is maintained by the City Street Department, the County Highway Department, or the Tennessee Department of Transportation shall have driveway access from an internal street only.
- H. Perimeter lots may be reduced in size the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less, unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot size may be reduced to that of Subsection 5.9.3.B.
- I. The lot width for perimeter lots may be reduced the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot width may be reduced to that of Subsection 5.9.3.C.
- J. Perimeter Lots shall meet the perimeter lot requirements of Subsections 5.9.3.H and 5.9.3.I, unless the following buffering provisions have been provided, such that the minimum requirements may be reduced to that of Subsections 5.9.3.B, 5.9.3.C, 5.9.3.E and 5.9.3.F:
 - I. A landscape buffer, adjacent to the perimeter boundary of the subject tract, shall have a minimum width of twenty-five (25) feet and a maximum width of thirty-five (35) feet. The existing landscape buffer must consist of a minimum of sixteen (16) trees with a caliper of six (6) inches or greater every one hundred (100) linear feet, or;
 - II. If supplemental plantings are required to meet the minimum density, additional plantings shall consist of the following:
 - a. A minimum of two (2) inch caliper at the time of planting;

- b. Six (6) feet in height at the time of planting;
- c. Fifty (50) percent evergreen.

III. The landscape buffer shall be in reserved open space dedicated to the Homeowners' Association for preservation and maintenance, and shall not be included in whole or part as part of any perimeter or interior lot under private ownership on which a single-family structure may be built.

- K. The determination of lot yield shall be determined by deducting fifteen (15) percent from the gross land area and dividing the remaining eighty-five (85) percent of the gross land area by the minimum lot area of the base zone classification of the subject tract.
- L. Utilization of alternative lot sizes includes a requirement for the creation of common open space. Open space shall be provided at the rate of fifteen (15) percent for the entire master plan. Open space must be for the common use of all residents within a residential cluster development, and shall be for amenity or recreational purposes and may include sidewalks, and walking trails, but shall not include streets and parking areas as part of the fifteen (15) percent for open space.
- M. No more than fifty (50) percent of the required open space may include areas located within a 100 year floodplain and/or drainage easement created by the development, this excludes FEMA designated floodplains.
- N. Open space must be provided within each phase of the development, unless the subdivider provides sufficient open space in the first phase to cover all subsequent phases in the tract subject to preliminary subdivision approval. Such open space should be accessible to each phase of development.
- O. The minimum width of open space including all points of access to the public right-of-way shall not be less than twenty-five (25) feet. Where greater road frontage is required by the subject tract's base zone classification, the greater amount shall apply.
- P. For developments located in more than one (1) zoning district, the density shall be computed separately for that portion of the development lying within each district. No development density may be transferred across zoning district boundaries.
- Q. Flag lots are prohibited. A flag lot generally contains a narrow strip of property leading from a right-of-way to the building site which is generally located to the rear of other lot(s) fronting along the same right-of-way.
- R. All meters, HVAC units, and other structures and attachments are prohibited within the side yard drainage/utility easement.
- S. All driveways must be constructed of dustless materials.
- T. If determination cannot be made concerning setback compliance, the Building and Codes Department may require sufficient evidence from the builder that foundations are in compliance.

- U. The minimum public road frontage requirements shall be as stated in their respective districts.
- V. Sidewalks shall be required and shall meet all regulations of the City of Clarksville and Americans with Disabilities Act (ADA).
- W. Sidewalks shall be shown and labeled on the construction plans and final recorded plat.
- X. Underground utilities are mandatory.
- Y. Within cluster developments, fire hydrants shall be spaced a maximum of three hundred (300) to eight hundred (800) feet apart. Spacing of fire hydrants shall be determined by the City Fire Marshal, on a case by case basis.
- Z. The exceptions allowed by Paragraph 4.1.1.2 shall not apply to this section with the exception of Subparagraph (F). Overhanging roof, eaves, gutters, cornices, or other architectural features, shall not exceed eighteen (18) inches.
- AA. Exterior walls located eight (8) or less feet from the property line will have a water/fire resistant gypsum wall board of a minimum 5/8" Type X (or equivalent) on the outside of the exterior wall. This wall board will serve as an underlayment for the exterior siding material. Homes that have continuous exterior soffit will have the wall board run continuous to the roof deck (or fire blocked) and be sealed against the deck to prevent the movement of air into the attic space.
- AB. The following information shall be shown on the final recorded plat, but not limited to:
 - I. Responsible entity for the maintenance of the open space(s);
 - II. Prior to obtaining the signature of the Regional Planning Commission's Secretary, the volume and page number for the covenants and Homeowners Association agreement shall be added to the final recorded plat within the certificate of ownership and dedication block.

4. Legal Requirements for Operation and Maintenance

- A. Open space must be deeded to a Homeowners Association of the development and the developer shall provide the following recorded documentation before final plat approval. In the event final plat approval is not granted by the Regional Planning Commission, the following recorded documentation will become null and void:
 - I. That the Homeowners Association will be responsible for liability insurance, local taxes, and maintenance of recreational, drainage structures, or other facilities pertaining to the open space.
 - II. Restrictive covenants shall require mandatory membership in the Homeowners Association, and include as a minimum the following provisions:

- a. Responsibility for paying a pro-rated share of the cost of the Homeowners Association operation.
 - b. Agreement that the assessment levied by the Association can become a lien on the property if not paid.
 - c. Agreement that the association shall be able to adjust the assessment to meet the changing needs.
 - d. Guarantee of permanent unrestricted right to utilize lands and facilities owned by the Association.
- III. The Homeowners Association shall be incorporated.
- IV. In the event of dissolution of the Homeowners Association for any reason whether administrative or otherwise, responsibility for maintenance of all common areas shall become that of the individual lot owners within the subdivision on a pro-rata basis based on the number of lots within the subdivision, or if the restrictive covenants for the subdivision so provide any one or more lot owners within the subdivision, may re-form the Homeowners Association and assess each lot equally for the amount necessary to maintain said open space. In the event of failure of either of the above remedies the City may, upon giving proper notice to each property owner, bring such open space in compliance, and place a lien on all lot owners within the subdivision for their pro-rata share of the cost, plus any administrative fees. In the event of failure of the association to pay any taxes assessed to the common areas, such taxes shall attach to each lot within the subdivision on a pro-rata basis based on the number of lots within the subdivision.

5. Definitions

- A. *Amenity* means a natural or created feature that enhances the aesthetic quality, visual appeal, or makes more attractive or satisfying a particular property, place, or areas.
- B. *Environmental Constraints* mean geological, topographic, and built or natural environmental features that place significant constraints on the development of property. These features include, but are not limited to, steep slopes, rock outcroppings, shallow depth to bedrock, floodplains and bodies of water, wetlands and swamps, shallow water tables, sinkholes and other karst features (springs, caves and depressions), woodlands and forests, significant natural wildlife areas, historic buildings and structures, archeological artifacts and sites, noise from transportation facilities (such as airports, railroads and interstates) and similar significant environmental areas.
- C. *Open Space* means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for private use or enjoyment or for the use and enjoyment of owner's, occupants, and their guests of land adjoining or

neighboring such open space.

- D. *Perimeter Lot* means the exterior lots of a proposed residential cluster development that adjoin the perimeter boundary of the subject tract or are adjacent to any landscape buffer on the boundary of the subject tract.
- E. *Places Of Assembly*: The use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social, or religious functions, recreation, food or drink consumption, or awaiting transportation.
- F. *Recreation Facility, Private* means a recreational facility for use solely by the residents and guests of a particular residential development and operated by a nonprofit organization.

PUBLIC HEARING:

FIRST READING

SECOND READING:

EFFECTIVE DATE:

5 Land Use Development Standards and Procedures

5.9 Standards and Procedures For Residential Cluster Developments

The intent of this Section is (a) to facilitate the development of tracts with environmental constraints at densities comparable to tracts without environmental limitations, and/or (b) to permit greater flexibility for creative design and/or (c) to achieve superior scenic quality and recreational opportunity opportunities close to home, by providing for residential subdivisions, which incorporate permanent local open space accessible to all residential lots within the subject tract. It is the intent of this Section regulation to allow the use of cluster development techniques in the AG, E-1, E-1A, R-1, R-1A, R-2 and R-2A specified single family residential zoning classifications. (AG, E 1, E 1A, R 1, R 1A, R 2 and R 2A) Instead of the conventional subdivision procedure which results in homes more or less evenly spaced throughout a site, these These provisions allow individual lot and yard requirements to be reduced to permit closer grouping or "clustering" of homes on a portion of the site tract while the balance of the tract is preserved as open space. This is in contrast to a conventional subdivision where homes are more or less evenly spaced throughout a site and there is no reserved open space. The minimum tract size for the application of this residential cluster development option shall be ten (10) lots for any preliminary or final plat. The minimum number of lots for the application of this Residential Cluster Development option shall be ten (10) lots for any preliminary or final plat.

Comment [RD1]: Definition at end

Comment [RD2]: To remove confusion about neighbors to the cluster development having a right of access to open space and recreational facilities within the cluster development.

Comment [RD3]: Only 3 of 44 cluster developments have had a final plat less than 10 lots.

Comment [RPCS4]: RPC Staff suggested change 2/27

1. Initial Sketch and Consultation. Before preparing a formal proposal for a residential cluster development, the applicant shall submit a sketch of the proposed development to the Regional Planning Commission staff as a basis for reaching general agreement on major aspects of the project. The sketch shall indicate, at a scale no smaller than one (1) inch = one hundred (100) feet, the following:

- A. Boundaries and acreage of the site;
- B. Number of proposed dwelling units;
- C. Acreage available for open space and prospective uses of open space;
- D. Arrangement of streets, structures, and lots;
- E. Access to existing streets;
- F. Show any proposed improvements to the open space;
- G. State intended minimum lot size.

2. Plat Approval Procedure. Proposals for cluster residential developments shall be subject to the Clarksville/Montgomery County Subdivision Regulations, and shall be prepared and reviewed under the plat approval requirements of the regulations, and shall be in accordance with the provisions of this Section.

- A. The preliminary plat shall indicate that the clustering is proposed and display the layout and area of all lots and common areas and all phasing boundaries. Within a preliminary plan of subdivision, large contiguous areas may be proposed for development of single-family lots that contain less land area than normally required

by the base zone classification of the subject tract.

- B. A master plan for the entire tract shall be required for preliminary plat approval. If an approved cluster development is abandoned before completion, no new preliminary plat for the tract will be approved until the minimum required open space for the completed portion of the cluster subdivision is dedicated.
- C. The developer shall submit a written and/or graphic documentation that describes how the required open space will be ~~developed~~dedicated and maintained; such statement will be adopted with the preliminary plat and shall be enforced by the Regional Planning Commission.
- E. Draft copies of restrictive covenants and a Homeowners Association agreement shall be submitted prior to preliminary plat approval.

3. Development Requirements.

- A. Only single--family residential detached structures and accessory structures (including, but not limited to, garages, clubhouses, pavilions, swimming pools, walkways, trails, bikeways, playgrounds, and other recreation facilities for the enjoyment of the residents) may be constructed in a cluster development.
- ~~B.~~ Minimum lot size requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
 - I. AG (Agricultural District): Thirty Thousand (30,000) square feet.
 - II. E-1 (Estates District): Twenty-Five Thousand (25,000) square feet.
 - III. E-1A (Single Family Estates District): Twenty Thousand (20,000) square feet.
 - IV. R-1 (Single Family Residential District): Five Thousand (5,000) square feet.
 - V. R-1A (Single Family Residential District): Five Thousand (5,000) square feet.
 - VI. R-2 (Single Family Residential District): Five Thousand (5,000) square feet.
 - VII. R-2A (Single Family Residential District): Five Thousand (5,000) square feet.
- ~~C.~~ Minimum lot width requirements, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots in a cluster development under Subsection 5.9.3.H lacking a landscape buffer:
 - I. AG (Agricultural District): Seventy-Five (75) feet at the front setback line.

- II. E-1 (Estate District): Seventy-Five (75) feet at the front setback line.
- III. E-1 A (Single Family Estates District): Sixty (60) feet at the front setback line.
- IV. R-1 (Single Family Residential District): No Minimum.
- V. R-1A (Single Family Residential District): No Minimum.
- VI. R-2 (Single Family Residential District): No Minimum.
- VII. R-2A (Single Family Residential District): No Minimum.

~~MD~~. With the exceptions of existing rights-of-way the minimum front yard setback may be twenty-five (25) feet from the nearest right-of-way, unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.

~~NE~~. The minimum side yard setback requirements, for principal uses and unattached buildings of accessory use, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:

- I. AG (Agricultural District): Same as respective districts.
- II. E-1 (Estate District): Same as respective districts.
- III. E-1A (Single Family Estate District): Same as respective districts.
- IV. R-1 (Single Family Residential District): Five-foot minimum on both sides.*
- V. R-1A (Single Family Residential District): Five-foot minimum on both sides.*
- VI. R-2 (Single Family Residential District): Five-foot minimum on both sides.*
- VII. R-2A (Single Family Residential District): Five-foot minimum on both sides.*

*unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement.

~~OE~~. Unless a greater setback(s) is shown on the final recorded plat, due to the required drainage and/or utility easement, the minimum rear yard setback requirements (excluding the landscape buffer of any perimeter lot); for principal uses, including perimeter lots in a cluster development meeting the landscaping requirements of Subsection 5.9.3.J but excluding perimeter lots under Subsection 5.9.3.H lacking a landscape buffer:

- I. AG (Agricultural District): Twenty (20) minimum.
- II. E-1 (Estate District): Twenty (20) minimum.
- III. E-1A (Single Family Estates District): Twenty (20) minimum.

- IV. R-1 (Single Family Residential District): Twenty (20) minimum.
- V. R-1A (Single Family Residential District): Twenty (20) minimum.
- VI. R-2 (Single Family Residential District): Twenty (20) minimum.
- VII. VII. R-2A (Single Family Residential District): Twenty (20) minimum.

~~C.~~ G. Perimeter lots that adjoin an existing street that is maintained by the City Street Department, the County Highway Department, or the Tennessee Department of Transportation shall have driveway access from an internal street only.

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~~D.~~ H. Perimeter lots may be reduced in size the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less, unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot size may be reduced to that of Subsection 5.9.3.B.

~~E.~~ I. The lot width for perimeter lots may be reduced the equivalent of one (1) zoning classification of the subject tract or equal to the adjacent lots whichever is less unless a landscape buffer is provided in accordance with Subsection 5.9.3.J such that the minimum lot width may be reduced to that of Subsection 5.9.3.C.

~~B.J.~~ Perimeter Lots shall meet the perimeter lot requirements of Subsections 5.9.3.H and 5.9.3.I, unless the following buffering provisions have been provided, such that the minimum requirements may be reduced to that of Subsections 5.9.3.B, 5.9.3.C, 5.9.3.E and 5.9.3.F:

- I. A landscape buffer, adjacent to the perimeter boundary of the subject tract, shall have a minimum width of twenty-five (25) feet and a maximum width of thirty-five (35) feet. The existing landscape buffer must consist of a minimum of sixteen (16) trees with a caliper of six (6) inches or greater every one hundred (100) linear feet, or;
- II. If supplemental plantings are required to meet the minimum density, additional plantings shall consist of the following:
 - a. A minimum of two (2) inch caliper at the time of planting;
 - b. Six (6) feet in height at the time of planting;
 - c. Fifty (50) percent evergreen.

III. The landscape buffer shall be in reserved open space dedicated to the Homeowners' Association for preservation and maintenance, and shall not be included in whole or part as part of any perimeter or interior lot under private ownership on which a single-family structure may be built.

Comment [RD5]: This is to prevent the area or width of the landscape buffer from being included in an individual perimeter lot so as to count toward the minimum lot size or the rear yard setback. Otherwise, provisions should be added to prevent the landscape buffer area and width from being counted in the minimum lot size and rear yard of a perimeter lot.

~~F.~~ K. The determination of lot yield shall be determined by deducting fifteen (15) percent

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from the gross land area and dividing the remaining eighty-five (85) percent of the gross land area by the minimum lot area of the base zone classification of the subject tract.

G. L. Utilization of alternative lot sizes includes a requirement for the creation of common open space. Open space shall be provided at the rate of fifteen (15) percent for the entire master plan. Open space must be for the common use of all residents within a residential cluster development, and shall be for amenity or recreational purposes and may include sidewalks, and walking trails, but shall not include streets and parking areas as part of the fifteen (15) percent for open space.

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H. M. No more than fifty (50) percent of the required open space may include areas located within a 100 year floodplain and/or drainage easement created by the development, this excludes FEMA designated floodplains.

I. N. Open space must be provided within each phase of the development unless the subdivider provides sufficient open space in the first phase to cover all subsequent phases in the tract subject to preliminary subdivision approval. Such open space should be accessible to each phase of development.

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J. O. The minimum width of open space including all points of access to the public right-of-way shall not be less than twenty-five (25) feet. Where greater road frontage is required by the subject tract's base zone classification, the greater amount shall apply.

Comment [RD6]: To ensure each phase has accessible or connected open space. To avoid creating a phase which has no connection to open space even if adequate open space

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- P. For developments located in more than one (1) zoning district, the density shall be computed separately for that portion of the development lying within each district. No development density may be transferred across zoning district boundaries.
- Q. Flag lots are prohibited. A flag lot generally contains a narrow strip of property leading from a right-of-way to the building site which is generally located to the rear of other lot(s) fronting along the same right-of-way.
- R. All meters, HVAC units, and other structures and attachments are prohibited within the side yard drainage/utility easement.
- S. All driveways must be constructed of dustless materials.
- T. If determination cannot be made concerning setback compliance, the Building and Codes Department may require sufficient evidence from the builder that foundations are in compliance.
- U. The minimum public road frontage requirements shall be as stated in their respective districts.
- V. Sidewalks shall be required and shall meet all regulations of the City of Clarksville and Americans with Disabilities Act (ADA).
- W. Sidewalks shall be shown and labeled on the construction plans and final recorded plat.
- X. Underground utilities are mandatory.
- Y. Within cluster developments, fire hydrants shall be spaced a maximum of three

hundred (300) to eight hundred (800) feet apart. Spacing of fire hydrants shall be determined by the City Fire Marshal, on a case by case basis.

- Z. The exceptions allowed by Paragraph 4.1.1.2 shall not apply to this section with the exception of Subparagraph (F). Overhanging roof, eaves, gutters, cornices, or other architectural features, shall not exceed eighteen (18) inches.

- AA. Exterior walls located eight (8) or less than six and one half (6.5) feet from the property line will have a water/fire resistant gypsum wall board of a minimum 5/8" Type X (or equivalent) on the outside of the exterior wall. This wall board will serve as an underlayment for the exterior siding material. Homes that have continuous exterior soffit will have the wall board run continuous to the roof deck (or fire blocked) and be sealed against the deck to prevent the movement of air into the attic space.

Comment [RD7]: To match Section 4.3.

Comment [RPCS8]: RPC staff suggested change
2/27

- AB. The following information shall be shown on the final recorded plat, but not limited to:

- I. Responsible entity for the maintenance of the open space(s);
- II. Prior to obtaining the signature of the Regional Planning Commission's Secretary, the volume and page number for the covenants and Homeowners Association agreement shall be added to the final recorded plat within the certificate of ownership and dedication block.

4. Legal Requirements for Operation and Maintenance

- A. Open space must be deeded to a Homeowners Association of the development and the developer shall provide the following recorded documentation before final plat approval. In the event final plat approval is not granted by the Regional Planning Commission, the following recorded documentation will become null and void:
- I. That the Homeowners Association will be responsible for liability insurance, local taxes, and maintenance of recreational, drainage structures, or other facilities pertaining to the open space.
 - II. Restrictive covenants shall require mandatory membership in the Homeowners Association, and include as a minimum the following provisions:
 - a. Responsibility for paying a pro-rated share of the cost of the Homeowners Association operation.
 - b. Agreement that the assessment levied by the Association can become a lien on the property if not paid.
 - c. Agreement that the association shall be able to adjust the assessment to meet the changing needs.
 - d. Guarantee of permanent unrestricted right to utilize lands and facilities owned by the Association.
 - III. The Homeowners Association shall be incorporated.
 - IV. In the event of dissolution of the Homeowners Association for any reason whether administrative or otherwise, responsibility for maintenance of all

common areas shall become that of the individual lot owners within the subdivision on a pro-rata basis based on the number of lots within the subdivision, or if the restrictive covenants for the subdivision so provide any one or more lot owners within the subdivision, may re-form the Homeowners Association and assess each lot equally for the amount necessary to maintain said open space. In the event of failure of either of the above remedies the City may, upon giving proper notice to each property owner, bring such open space in compliance, and place a lien on all lot owners within the subdivision for their pro-rata share of the cost, plus any administrative fees. In the event of failure of the association to pay any taxes assessed to the common areas, such taxes shall attach to each lot within the subdivision on a pro-rata basis based on the number of lots within the subdivision.

5. Definitions

A. *Amenity* means a natural or created feature that enhances the aesthetic quality, visual appeal, or makes more attractive or satisfying a particular property, place, or areas.

A.B. *Environmental Constraints* mean geological, topographic, and built or natural environmental features that place significant constraints on the development of property. These features include, but are not limited to, steep slopes, rock outcroppings, shallow depth to bedrock, floodplains and bodies of water, wetlands and swamps, shallow water tables, sinkholes and other karst features (springs, caves and depressions), woodlands and forests, significant natural wildlife areas, historic buildings and structures, archeological artifacts and sites, noise from transportation facilities (such as airports, railroads and interstates) and similar significant environmental areas.

Comment [RPCS9]: Specifically relates to noise contours of Sabre Field.

B.C. *Open Space* means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for private use or enjoyment or for the use and enjoyment of owner's, occupants, and their guests of land adjoining or neighboring such open space.

C.D. *Perimeter Lot* means the exterior lots of ~~the~~ a proposed residential cluster development ~~which that~~ adjoin the perimeter boundary of the subject tract or are adjacent to ~~the any~~ landscape buffer on the boundary of the subject tract of the open space.

D. E. *Places Of Assembly:* The use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social, or religious functions, recreation, food or drink consumption, or awaiting transportation.

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E.F. *Recreation Facility, Private* means a recreational facility for use solely by the residents and guests of a particular residential development and operated by a nonprofit organization.

2 Rules of Interpretation and Definitions

- *Optical Goods Manufacture:* An industrial facility or business, usually on a large scale, that produces products associated with optics, including but not limited to, eye glass lenses, telescopes, etc.
- *Orphanage:* An institution for the housing and care of orphans.
- *Outpatient Clinic:* A facility for examining and treating patients with medical problems on an outpatient basis, including ambulatory care or similar medical services that generally require a stay of less than twenty-four (24) hours.
- *Owner:* Any individual, corporation, partnership or entity, which owns property that is subject to the provisions of this section and any individual, corporation, partnership or entity which succeeds to such ownership. The obligations of an owner under this section, including perpetual maintenance in accordance with an approved landscape plan, are binding on any successor owner.
- *Paper Products and Box Manufacture:* An industrial facility or business, that produces paper and or paperboard, from both raw and recycled materials, and their conversion into products including but not limited to paper bags, boxes, envelopes, wallpaper, etc.
- *Park:* Any public or private land available for recreational, educational, cultural, or aesthetic use.
- *Park and Ride Lot:* Parking lots of structures designed to encourage transfer from private automobile to mass-transit or to encourage car pooling for purposes of commuting.
- *Parking Lot:* An off-street facility including parking spaces along with adequate provisions for drives and aisles for maneuvering and providing access, and for entrance and exit, all laid out in a way to accommodate the parking of automobiles.
- *Parking Lot island:* An area of ground within the boundary of any parking lot, which has curbing adjacent to all paved areas. Parking lot islands are used for traffic control and as planting areas to screen and shade parking lots to minimize the detrimental environmental impacts of large paved areas.
- *Parking Space:* An off-street space available for the parking of one motor vehicle, exclusive of passageways and driveways, and having direct access to a street or alley.
- *Parsonage:* The permanent place of residence of the pastor or minister of a church.
- *Pawn Shop(s):* An establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.
- *Perimeter Lot:* A lot abutting the exterior boundary of any plot, parcel, tract or subdivision of land. In the context of a Residential Cluster Development per Section 5.9, the exterior lots of a the proposed residential cluster development which-that adjoin the perimeter boundary of the subject tract or are adjacent to any the landscape buffer on the boundary of the subject tract or the open space.
- *Personal Care Services:* Assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person who is incapable of maintaining a private, independent residence, or who is incapable of managing his person, whether or not a guardian has been appointed for such person.

CITY ZONING ACTIONS

The following case(s) will be considered for action at the formal session of the Clarksville City Council on: March 7, 2013. The public hearing will be held on: March 7, 2013.

CITY ORD. #: 73-2012-13 RPC CASE NUMBER: Z-3-2013

Applicant: JEFF BURKHART

Location: North of Kennedy Road, east of Trenton Road; at the intersection of Trenton Road and Kennedy Road

Ward #: 12

Request: AG Agricultural District
 to
 R-2 Single-Family Residential District

STAFF RECOMMENDATION: APPROVAL

PLANNING COMMISSION RECOMMENDATION: APPROVAL

CITY ORD. #: 74-2012-13 RPC CASE NUMBER: ZO-1-2013

Applicant: Regional Planning Commission

Request: Various Amendments to the Cluster Ordinance

STAFF RECOMMENDATION: APPROVAL

PLANNING COMMISSION RECOMMENDATION: APPROVAL

CLARKSVILLE-MONTGOMERY COUNTY REGIONAL PLANNING COMMISSION
STAFF REVIEW - ZONING

RECORD # 1860

RPC MEETING DATE: 2/27/2013

CASE NUMBER: Z - 3 - 2013

NAME OF APPLICANT: Jeff

Burkhart

AGENT:

GENERAL INFORMATION

PRESENT ZONING
CLASSIFICATION: AG

PROPOSED ZONING
CLASSIFICATION: R-2

GROWTH PLAN AREA CITY

APPLICANT'S STATEMENT
FOR PROPOSED USE:

CITY COUNCIL WARD: 12

TAX PLAT # 017

PARCEL # 039.01

COUNTY COMMISSION
DISTRICT: 1

CIVIL DISTRICT 2nd

PREVIOUS ZONING Z-7-2012
HISTORY:

GENERAL DESCRIPTION OF PROPERTY TO BE REZONED

PROPERTY North of Kennedy Road, east of Trenton Road; at the intersection of Trenton Road and
LOCATION: Kennedy Road

DESCRIPTION
OF PROPERTY: Farmland with rolling hills and fence / tree lines.

ACREAGE TO
BE REZONED: 22.9

EXISTING LAND USE: Old Home site and farmland

SURROUNDING USES: R-1 (Northeast School Complex) AG-East, West & South

EXTENSION OF ZONE
CLASSIFICATION: No

DRAINAGE: Varies

ACCESSIBILITY: Trenton Rd. / Kennedy Lane

CLARKSVILLE-MONTGOMERY COUNTY REGIONAL PLANNING COMMISSION
STAFF REVIEW - ZONING

DEPARTMENT COMMENTS

- ☒ CITY ENGINEER
☐ UTILITY DISTRICT
☒ JACK FRAZIER
☒ CITY STREET DEPT.
☒ TRAFFIC ENG. - ST. DEPT.
☐ COUNTY HIGHWAY DEPT.
☐ CEMC
☒ DEPT. OF ELECTRICITY (CDE)
☒ CHARTER COMM.

- ☒ BELL SOUTH
☒ FIRE DEPARTMENT
☐ EMERGENCY MANAGEMENT
☒ POLICE DEPARTMENT
☐ SHERIFF'S DEPARTMENT
☒ CITY BUILDING DEPT.
☐ COUNTY BUILDING DEPT.
☒ SCHOOL SYSTEM OPERATIONS
☐ FT. CAMPBELL

- ☐ DIV. OF GROUND WATER
☐ HOUSING AUTHORITY
☐ Other...

1. CITY ENGINEER/UTILITY DISTRICT:

1. No Gravity Sewer Available To This Property At This Time.

1a. COST TO ENGINEER/UTILITY DISTRICT:

**2. STREET DEPARTMENT/
COUNTY HIGHWAY DEPARTMENT:**

2. Access, Drainage Issues To Be Evaluated At Construction. No Traffic Assessment Required. Existing Traffic Problems Preexist On Trenton Rd.

2a. COST TO STREET/HIGHWAY DEPT.:

3. DRAINAGE COMMENTS:

3. Drainage Issues Will Be Evaluated During Construction.

3a. DRAINAGE COST:

4. CDE/CEMC:

4. No Comment(s) Received

4a. COST TO CDE/CEMC:

5. CHARTER COMM./BELL SOUTH:

5.

5a. COST TO CHARTER AND/OR BELL SOUTH:

6. FIRE DEPT/EMERGENCY MGT.:

6. Comments Received From Department And They Had No Concerns.

6a. COST FIRE DEPT/EMERGENCY MGT.:

7. POLICE DEPT/SHERIFF'S OFFICE:

7. Comments Received From Department And They Had No Concerns.

7a. COST TO POLICE DEPT./SHERIFF'S DEPT:

**8. CITY BUILDING DEPARTMENT/
COUNTY BUILDING DEPARTMENT:**

8. Comments Received From Department And They Had No Concerns.

8a. COST TO CITY/COUNTY BLDG. & CODES:

9. SCHOOL SYSTEM:

9.

ELEMENTARY: NORTHEAST

MIDDLE SCHOOL: NORTHEAST

HIGH SCHOOL: NORTHEAST

9a. COST TO SCHOOL SYSTEM:

10. FT. CAMPBELL:

10.

10a. COST TO FT. CAMPBELL:

11. OTHER COMMENTS:

11.

CLARKSVILLE-MONTGOMERY COUNTY REGIONAL PLANNING COMMISSION
STAFF REVIEW - ZONING
PLANNING STAFF'S STUDY AND RECOMMENDATION

1. IMPACT OF PROPOSED USE ON SURROUNDING DEVELOPMENT: 1. Minimal

2. INFRASTRUCTURE AVAILABLE TO THE SITE:

- | | | |
|--------------------|---|------------|
| a. WATER SOURCE: | a. <u>City</u> | PIPE SIZE: |
| b. SEWER SOURCE: | b. <u>City</u> | |
| c. SOIL TYPE: | c. <u>Pickwick Silt Loam, 12 - 20 %</u> | |
| d. ACCESSIBILITY: | d. <u>Trenton Rd. / Kennedy Lane</u> | |
| e. DRAINAGE: | e. <u>Varies</u> | |
| f. OTHER SERVICES: | f. | |

3. DEVELOPMENT ESTIMATES:

APPLICANT'S ESTIMATES

HISTORICAL ESTIMATES

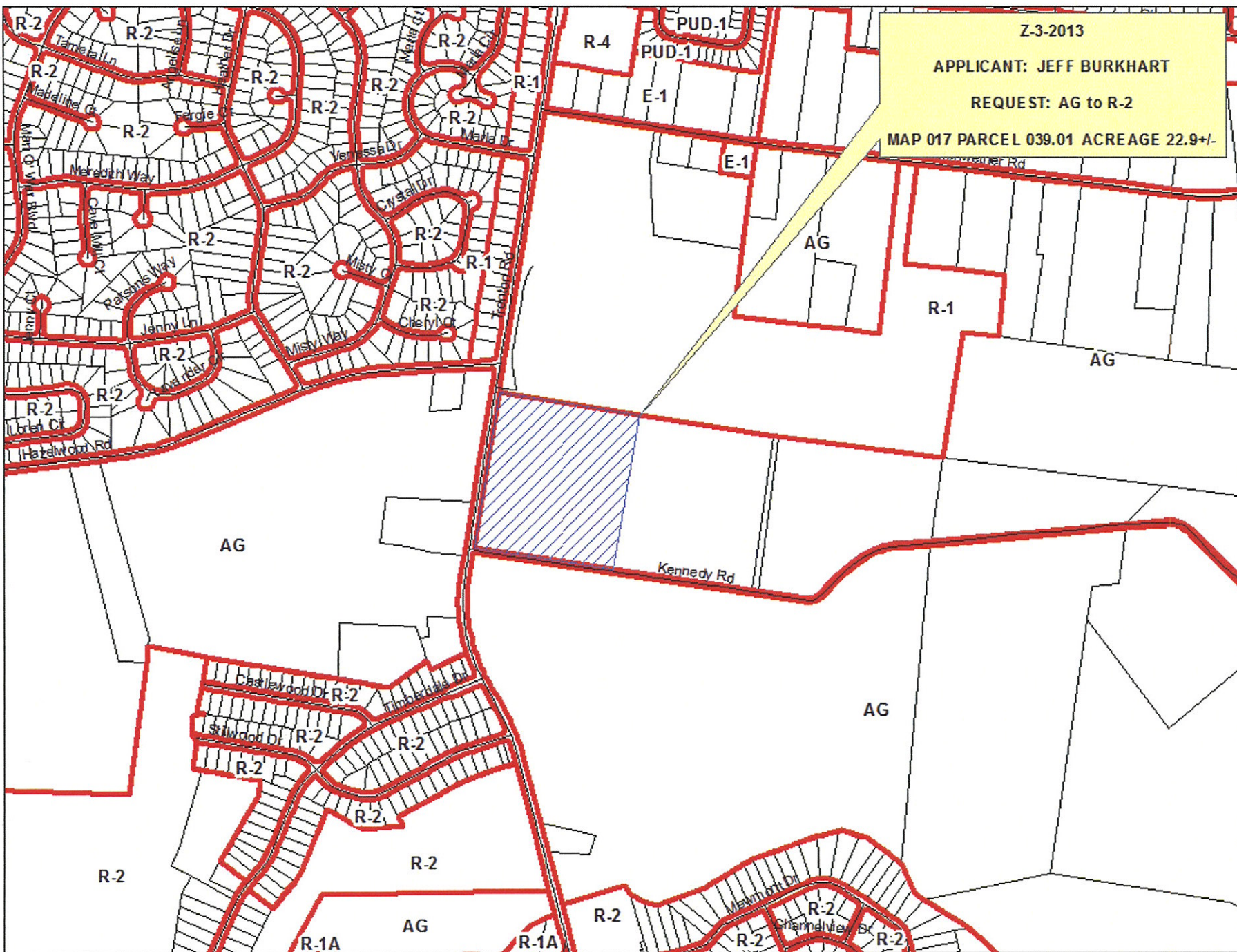
- | | |
|--|-----|
| a. ESTIMATED LOTS/UNITS: | 66 |
| b. ESTIMATED ROAD MILES: | |
| c. ESTIMATED POPULATION: | 178 |
| d. ESTIMATED ELEMENTARY SCHOOL STUDENTS: | 14 |
| e. ESTIMATED MIDDLE SCHOOL STUDENTS: | 7 |
| f. ESTIMATED HIGH SCHOOL STUDENTS: | 7 |

4. APPLICABLE COMPREHENSIVE PLAN ELEMENTS:

Trenton Road Planning Area: The dominant transportation corridor in the area is I-24, strongly supported by Wilma Rudolph Blvd. & 101st Airborne Parkway. Exit 1 I-24 interchange with Trenton Road has seen tremendous growth since 2000.

5. STAFF RECOMMENDATION: Approval

- a. The proposed zoning request is consistent with Growth Plan (as in the City) and adopted Land Use Plan.
- b. Single family residential is the predominant use in the area and R-2 zoning is in character with properties in the area that are also zoned R-2.
- c. The proposed development will not adversely impact traffic flow on Trenton Road, and other public infrastructure is adequate to support this development.
- d. No adverse environmental issues were identified relative to this request.
- e.



CASE NUMBER: Z 3 2013 MEETING DATE 2/27/2013

APPLICANT: Jeff Burkhart

PRESENT ZONING AG PROPOSED ZONING R-2

TAX PLAT # 017 PARCEL 039.01

GEN. LOCATION North of Kennedy Road, east of Trenton Road; at the intersection of Trenton Road
and Kennedy Road

PUBLIC COMMENTS

None received as of 12:00 noon on 2/27/2013 (jhb).

ORDINANCE 63-2012-13

AN ORDINANCE AUTHORIZING EXTENSION OF CITY OF CLARKSVILLE UTILITY SERVICES OUTSIDE THE CLARKSVILLE CITY LIMITS FOR PROPERTY LOCATED HIGHWAY 76; REQUEST OF RONNIE POWERS

WHEREAS, proper application has been made by Cal McKay on behalf of Ronnie Powers for extensions of City utility service to property located on Highway 76, C-Map 63, Parcel 67.00, outside the corporate boundary of the City, said property and the extension of service thereto, which is more particularly described in Exhibit A attached hereto and incorporated herein; and

WHEREAS, the City of Clarksville Gas and Water Department has recommended approval of said application; and

WHEREAS, the Gas, Water and Sewer Committee of the Clarksville City Council has recommended approval of said application; and

WHEREAS, the Clarksville City Council finds that all of the requirements of City Code Section 13-405 have been or are satisfied and the extension of water and sewer service to property as described in Exhibit A will be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the City of Clarksville Gas, Water and Sewer Department is hereby authorized to extend utility services to property located on Highway 76, C-Map 63, Parcel 67.00, outside the City corporate limits, as described in Exhibit A attached hereto and incorporated herein and subject to and in accordance with the provisions of the City Code and Ordinance 37-2009-10.

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE

EXHIBIT A



ORDINANCE 64-2012-13

AN ORDINANCE AUTHORIZING EXTENSION OF CITY OF CLARKSVILLE UTILITY SERVICES OUTSIDE THE CLARKSVILLE CITY LIMITS FOR PROPERTY LOCATED ON ROSSVIEW ROAD; REQUEST OF B&S DEVELOPMENT

WHEREAS, proper application has been made by Cal McKay on behalf of B&S Development for extensions of City utility services to property located on Rossview Road, C-Map 58, Parcel 1.00, outside the corporate boundary of the City, said property and the extension of service thereto, which is more particularly described in Exhibit A attached hereto and incorporated herein; and

WHEREAS, the City of Clarksville Gas and Water Department has recommended approval of said application; and

WHEREAS, the Gas, Water and Sewer Committee of the Clarksville City Council has recommended approval of said application; and

WHEREAS, the Clarksville City Council finds that all of the requirements of City Code Section 13-405 have been or are satisfied and the extension of water and sewer service to property as described in Exhibit A will be in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the City of Clarksville Gas, Water and Sewer Department is hereby authorized to extend utility services to property located on Rossview Road, C-Map 58, Parcel 1.00, outside the City corporate limits as described in Exhibit A attached hereto and incorporated herein and subject to and in accordance with the provisions of the City Code and Ordinance 37-2009-10.

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE

EXHIBIT A



ORDINANCE 65-2012-13

AN ORDINANCE AMENDING THE 2012-13 GENERAL FUND OPERATING BUDGET (ORDINANCE 100-2011-12) AUTHORIZING THE CITY OF CLARKSVILLE INFORMATION TECHNOLOGY DEPARTMENT TO INCREASE FUNDING IN THE AMOUNT OF \$39,622

WHEREAS, the City of Clarksville email retention is currently limited to what each individual user keeps in their mailbox; and

WHEREAS, an email archiving system that allows central control is needed in order to comply with the records retention policy.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the following Budget Amendments be made:

Information Technology Expenditures:

Technical	10419203-4340	Increase:	\$39,211
Operating Supplies	10419203-4610	Increase:	411

BE IT FURTHER ORDAINED that the source of funding for this \$39,622 shall be from the fund balance of the General Fund.

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE:

ORDINANCE 66-2012-13

AN ORDINANCE AUTHORIZING PURCHASE OF PROPERTY ON CHESTNUT DRIVE
FOR COMMUNITY DEVELOPMENT

WHEREAS, Community Development Block Grants help communities provide decent housing, a suitable living environment, expanded economic opportunities, principally for persons of low and moderate income; and

WHEREAS, Housing and Urban Development awards grants to entitlement community grantees to carry out a wide range of community development activities directed toward revitalizing neighborhoods, economic development and providing improved community facilities and services; and

WHEREAS, the Office of Housing and Community Development proposes to purchase property located at 41 Chestnut Dr. (Map, Group and Parcel 054D B 019.00) for the purpose of donating it to Habitat for Humanity; and

WHEREAS, providing housing for low-income families is consistent with the goals and objectives of the Community Development Block Grant program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Office of Housing & Community Development is hereby authorized to purchase the property known as 41 Chestnut Drive for the purpose of donating it to Habitat for Humanity.

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE:

EXHIBIT A

BEING LOT 124 ON THE PLAN OF ROLLING ACRES SUBDIVISION, as shown by plat of record in Plat Book 3, page 47, plat 56, in the Register's Office for Montgomery County, Tennessee, and being more particularly described as follows:

BEGINNING at an iron pin located in the north right of way line of Chestnut Drive, said iron pin being located 552.59 feet east of Maple Drive, as measured along the north right of way line of said Chestnut Drive; thence leaving said north right of way line of said Chestnut Drive north 6 degrees 11 minutes east 164.73 feet to an iron pin; thence south 76 degrees 30 minutes east 60.00 feet to an iron pin; thence south 6 degrees 00 minutes west 156.33 feet to an iron pin located in the north right of way line of said Chestnut Drive; thence with the north right of way line of same north 84 degrees 32 minutes west 60.00 feet to the point of beginning according to a survey of William N. Young dated January 11, 1983.

This being the same real estate conveyed to the Grantor herein by deed from Henry Cadena, et ux, of record in ORBV 331, page 132, ROMCT.

ORDINANCE 68-2012-13

ORDINANCE TO ESTABLISH AN UPDATED OCCUPATIONAL SAFETY AND HEALTH PROGRAM, DEVISE RULES AND REGULATIONS, AND TO PROVIDE FOR A DIRECTOR AND THE IMPLEMENTATION OF SUCH PROGRAM

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the City of Clarksville hereby updates the Occupational Safety and Health Program, attached hereto as Exhibit A, for its employees as follows:

TITLE:

This section shall provide authority for updating and administering the Occupational Safety and Health Program for the employees of the City of Clarksville, Tennessee.

PURPOSE:

The City of Clarksville, in electing to update and maintain an effective occupational safety and health program for its employees.

COVERAGE:

The provisions of the Occupational Safety and Health Program for the employees of the City of Clarksville shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent.

STANDARDS AUTHORIZED:

The occupational safety and health standards adopted by the City of Clarksville are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 3).

VARIANCES FROM STANDARDS AUTHORIZED:

The Mayor or City Attorney may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with ☐ Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by T.C.A., Title 50. Prior to requesting such temporary variance, the Mayor or City Attorney shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees.

ADMINISTRATION:

For the purposes of this Ordinance, the Risk Manager is designated as the Director of Occupational Safety and Health to perform duties and to exercise powers assigned to plan, develop, and administer this Plan. The Director shall develop a plan of operation for the program.

FUNDING THE PROGRAM:

Sufficient funds for administering and staffing the program pursuant to this Ordinance shall be made available as authorized by the City Council.

SEVERABILITY:

SECTION 2. *BE IT FURTHER ORDAINED* that if any section, sub-section, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

AMENDMENTS, ETC:

SECTION 3. *BE IT FURTHER ORDAINED* that this Ordinance shall take effect from and after the date it shall have been passed, properly signed, certified, and has met all other legal requirements, and as otherwise provided by law, the general welfare of the employees requiring it.

FIRST READING:

February 7, 2013

SECOND READING:

EFFECTIVE DATE:



OCCUPATIONAL SAFETY AND HEALTH PROGRAM CITY OF CLARKSVILLE, TENNESSEE

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the City of Clarksville.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Clarksville in electing to update and maintain an effective occupational safety and health program for its employees:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational and health program.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this program, the following definitions apply:

- a. COMMISSIONER OF LABOR and Workforce Development means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. EMPLOYER means the City of Clarksville and includes each administrative department, board, commission, division, or other agency of the City of Clarksville.
- c. DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH or DIRECTOR means the person designated by the establishing Ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of City of

Clarksville.

- d. INSPECTOR(S) means the individual(s) appointed or designated by the Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Director of Occupational Safety and Health.
- e. APPOINTING AUTHORITY means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- f. EMPLOYEE means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as □volunteers□ provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. PERSON means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. STANDARD means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. IMMINENT DANGER means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. ESTABLISHMENT or WORKSITE means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. SERIOUS INJURY or HARM means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. a part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 - 2. a part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.
- l. ACT or TOSHAct shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. GOVERNING BODY means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. CHIEF EXECUTIVE OFFICER means the chief administrative official, County Judge, County Chairman, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYERS RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program.

IV. EMPLOYEES RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the Act.
- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program.
 - 1. The Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.
 - 2. The Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Director.
 - 3. The Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
 - 4. The Director may request qualified technical personnel from any department or section of government to

- assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.
5. The Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. The Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The administrative or operational head shall follow the directions of the Director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this program are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees.

VII. VARIANCE PROCEDURE

The Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are

normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.

- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 - 1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has as effective program for coming into compliance with the standard as quickly as possible.
 - 2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet. You can get a copy of the Forms for Recordkeeping from the internet. Go to www.osha.gov ; click on Recordkeeping Forms located in the blue ribbon on the right side of the home page. Then, go to "What do I need to comply with the new recordkeeping requirements?" and click on "Open Forms Package for CY 2004 and beyond - PDF" then email it to yourself and print it.

Or now you can download the 300 log to your desktop in a spread sheet form that will do the math automatically. All you have to do is enter the information and it will total it up for you. Go to www.osha.gov ; type 300 log in the Search Block; click on OSHA's 300 Form (Excel File); save it to your desktop; when the screen says Download Complete - it is on your desk top. Open it (note: maximize the screen)and by moving the side and bottom bar, the page can be filled out. Also, if you click on the 300A or 301 tab located at the bottom left hand of the screen, those forms will open.

b. The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

- a. Director and/or Compliance Inspector(s):
 1. Arrangements will be made for the Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained from the internet. Go to www.state.tn.us; click on Government; click on List of Departments and Agencies (in center column); scroll down to The Department of Labor and Workforce Development-click; scroll down to Workplace Safety-TOSHA (located on the left side)-click; click on TOSHA Training Seminars.
 2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

 1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
 2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, person hygiene, etc., which may be required.
 3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in Subparts H and M and other applicable subparts of TOSHA standards (1910 and/or 1926).
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this program, the Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their

- authorized representative(s) will also be given notice of the inspection.
- h. The Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Director.
 - 2. Records are made of the inspections and of any discrepancies found and are forwarded to the Director.
 - i. The Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 - 1. The Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 - 2. If the alleged imminent danger situation is determined to have merit by the Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 - 3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 - 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 - 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 - 6. A written report shall be made by or to the Director describing in detail the imminent danger and its abatement. This report will be maintained by the Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
 - 1. Any refusal to abate an imminent danger situation shall be reported to the Director and Chief Executive Officer immediately.
 - 2. The Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Director shall:

1. Issue an abatement order to the head of the worksite.
 2. Post, or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
1. The standard, rule, or regulation which was found to violated.
 2. A description of the nature and location of the violation.
 3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Director pursuant to this plan of operation or the legislation (Ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, Ordinance, or executive order, as applicable, which regulates safety

and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, Ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, Ordinance, or executive order, as applicable, is specifically repealed.

Director, Occupational Safety and Health and Date

**OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN
APPENDIX I**

ORGANIZATIONAL CHART

DEPARTMENT	NUMBER OF EMPLOYEES	ADDRESS	TELEPHONE (AC- 931)
Mayor	12	1 Public Sq., Ste. 400	645-7444
Building & Codes	27	100 S. Spring St.	645-7426
Building Maint.	See Parks & Rec.	102 Public Square	645-7476
Cemetery	2	635 N. Spring St.	553-2441
Finance	18	1 Public Sq., Ste. 300	645-7443
Fire Rescue	200	801 Main St.	645-7454
Gas & Water Dpt.	253	2215 Madison St.	645-7400
City Garage	10	1070 Commerce St.	645-7473
Golf Courses	8	Dunbar Cave Rd.	648-0479
Human Resources	9	1 Public Sq., Ste. 200	645-7451
Information Systems	11	1 Public Sq., LL	645-4593
Parking Control	3	1 Pub. Sq., Main Lvl	553-2436
Parks & Recreation	54	102 Public Square	645-7476
Police Dpt.	340	135 Commerce St.	648-0656
Street Dpt.	81	199 10 th St.	645-7464
Transit	65	430 Boiling Ln.	553-2470
TOTAL:	1093	-----	-----

**OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN
APPENDIX II**

NOTICE TO ALL EMPLOYEES OF THE CITY OF CLARKSVILLE, TENNESSEE:

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the Director or the Mayor.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before the Director for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the Employees of the City of Clarksville available for inspection by any employee at the Human Resources Department during regular office hours.

MAYOR AND DATE

**OCCUPATIONAL SAFETY AND HEALTH PLAN
APPENDIX III**

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the City of Clarksville, Tennessee has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program and to comply with standards.

**OCUPATIONAL SAFETY AND HEALTH PROGRAM
ACCIDENT REPORTING PROCEDURES
APPENDIX IV**

- (1-15) Employees shall report all accidents, injuries, or illnesses directly to the Director as soon as possible, but not later than twenty-four (24) hours, of their occurrence. Such reports may be verbal or in writing. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The Director will insure completion of required reports and records in accordance with Section VIII of the basic plan.
- (16-50) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after their occurrence. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will investigate the accident or illness, complete an accident report, and forward the accident report to the Director and/or recordkeeper within twenty-four (24) hours of the time the accident or injury occurred or the time of the first report of the illness.
- (51-250) Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours, after their occurrence. The supervisor will provide the Director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of the illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.
- (51-Plus) Employees shall report all accidents, injuries, or illnesses to their supervisors as soon as possible, but not later than two (2) hours after their occurrence. The supervisor will provide the administrative head of the department with a verbal or telephone report of the accident as soon as possible, but not later than four (4) hours, after the accident. If the accident involves loss of consciousness, a fatality, broken bones, severed body member, or third degree burns, the Director will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. The supervisor or the administrative head of the accident within seventy-two (72) hours after the accident occurred (four (4) hours in the event of accidents involving a fatality or the hospitalization of three (3) or more employees).

Since Workers Compensation Form 6A or OSHA NO. 301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.

7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

NOTE: A procedure such as one of those listed above or similar information is necessary to satisfy Item Number 4 listed under PROGRAM PLAN in Chapter V, Part b of the Tennessee Occupational Safety and Health Plan. This information may be submitted in flow chart form instead of in narrative form if desired. These procedures may be modified in any way to fit local situations as they have been prepared as a guide only.

The four (4) procedures listed above are based upon the size of the work force and relative complexity of the organization. The approximate size of the organization for which each procedure is suggested is indicated in parenthesis in the left hand margin at the beginning, i.e., (1-15), (16-50), (51-250), and (251 Plus), and the figures relate to the total number of employees including the Chief Executive Officer but excluding the governing body (County Court, City Council, Board of Directors, etc.).

Generally, the more simple an accident reporting procedure is, the more effective it is. Please select the one procedure listed above, or prepare a similar procedure or flow chart, which most nearly fits what will be the most effective for your local situation. Note also that the specific information listed for written reports applies to all three of the procedures listed for those organizations with sixteen (16) or more employees.

ORDINANCE 69-2012-13

AN ORDINANCE ACCEPTING DONATION OF PROPERTY FROM IN-REL
DEVELOPMENT FOR THE CLARKSVILLE GREENWAY

WHEREAS, the Clarksville City Council has previously authorized the acquisition of real property for and the construction of a nature and fitness trail for public use, and said trail has been substantially completed and is known as the Clarksville Greenway;

WHEREAS, the Clarksville City Council finds that the recent dedication and opening of the Clarksville Greenway has been a great success, and makes a significant contribution to an enhanced quality of life for City residents; and

WHEREAS, the Clarksville City Council finds further that the acquisition by the City of additional real property appurtenant to or nearby the Clarksville Greenway trail for use as public facilities for patrons of the Clarksville Greenway is in the public interest, and said real property is more particularly described in Exhibit A attached hereto and incorporated herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the City may accept donation of the real property described in Exhibit A attached hereto and incorporated herein for use by patrons of the Clarksville Greenways.

FIRST READING: February 7, 2013
SECOND READING:
EFFECTIVE DATE:

EXHIBIT A

Being a tract of land situated in the 12TH Civil District in Clarksville, Montgomery County, Tennessee, said tract being a portion of the Two Rivers Center LLC property, (ORV.975, page 1558), said tract also being south of and adjacent to U.S. Highway 41-A, said tract also being east of and adjacent to Red River, said tract also being more fully described as follows;

Beginning at a ½" rebar found in the south right of way of U.S. Highway 41-A), said rebar being the northwest corner of the WH Capitol LLC property, (Waffle House), (ORV. 1023, Page 815), said ½" rebar also being the northeast corner of said herein tract described;

Thence leaving said U.S. Highway 41-A and with the west line of said WH Capitol LLC property, (Waffle House), property, **South 33°41'24" West, a distance of 175.00 feet** to a point, said point being the southwest corner of said WH Capitol LLC property, (Waffle House), property;

Thence leaving said WH Capitol LLC property, (Waffle House), property, and along a new severance line for the next (6) six calls;

Thence **South 33°30'03" West, a distance of 181.45 feet** to a point;

Thence **South 33°07'45" West, a distance of 230.22 feet** to a point;

Thence **South 38°45'39" West, a distance of 64.91 feet** to a point;

Thence **South 41°10'38" West, a distance of 230.04 feet** to a point;

Thence **South 41°58'26" West, a distance of 109.21 feet** to a point;

Thence **South 43°15'56" West, a distance of 136.12 feet** to a point, said point being in the north line of the City of Clarksville property, (ORV.1305, Page 2846), said point being the southeast corner of said herein tract described;

Thence with said north line of City of Clarksville property, **North 58°44'24" West, a distance of 110.69 feet** to a point, said point being at the low water mark of said Red River, said point also being the southwest corner of the Two Rivers Center LLC property, (ORV.975, page 1558), said point also being the northwest corner of said City of Clarksville property, said point also being the southwest corner of said herein tract described;

Thence with said low water mark of Red River for the next (7) seven calls;

Thence **North 52°38'36" East, a distance of 36.36 feet** to a point;

Thence **North 43°26'36" East, a distance of 196.06 feet** to a point;

Thence **North 43°49'36" East, a distance of 200.06 feet** to a point;

Thence **North 39°34'36" East, a distance of 27.82 feet** to a point;

Thence North **36°23'23"** East, a distance of **166.78 feet** to a point;

Thence North **31°21'36"** East, a distance of **305.22 feet** to a point;

Thence North **29°34'36"** East, a distance of **198.10 feet** to a point in said south right of way of U.S. Highway 41-A, said point also being the northwest corner of said herein tract described;

Thence leaving said low water mark and with said south right of way of U. S. Highway 41-A, South **58°44'24"** East, a distance of **117.61 feet** to the point of beginning;

Said tract containing **2.59 acres** more or less.

Said tract being subject to all easements, right of ways, restrictions and conveyances of record and not of record.

Being a portion of the same property conveyed to Two Rivers Center, LLC from the Estate of Emma B. Pressler, Deceased, and Pressler Trust by Quitclaim Deed dated June 14, 2004 and recorded on June 18, 2004 in Volume Book 975, Page 1558, Register's Office for Montgomery County, Tennessee.

***Part Affected Summary Appraisal Report
of Property Located at
668-670 Riverside Drive, Clarksville, TN 37042***

For

**Daniel Binkley
City of Clarksville
One Public Square
Montgomery County, Tennessee**

By

**Joseph Mark Young, CG-1117
Tennessee State Certified General Appraiser
Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043**

Effective Date of Appraisal:

February 19th 2013

Date of Report:

February 21st 2013

***Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117***

APPRAISAL REPORT
668-70 Riverside Drive North, Clarksville Montgomery County Tennessee

INTENDED USER OF APPRAISAL: City of Clarksville
Attn: Daniel Binkley, One Public Square Clarksville Tennessee 37040

INTENDED USE OF APPRAISAL: The intended use of this appraisal is for the acquisition of a whole or part of the property for Fee Simple Acquisition to expand for Red River Trail

1. Name, Address and Telephone Numbers:
- (A) Owner: Two Rivers Center LLC
% In-Rel Management Inc
2328 10th Avenue N Ste 401
Lake Worth FL, 33461-6612
- (B) Tenant: Multiple commercial retailers
- (C) Address and/or Location of subject: 668-70 Riverside Drive North, Clarksville Tennessee
2. Detail Description of Entire Tract: The subject is a irregular shaped tract located along the banks of the Red River along Riverside Drive. The property was once home to Two Rivers Mall and now is the Two Rivers Center. The property contains 18.5 acres of C-2 commercial zoned property with over 40,000 square foot of retail space which was constructed in 1965 with extensive remodeling haven taken place over the past few years. The property is level with access points along Providence Blvd to the east and Riverside Drive to the south along this northern right of way.
3. (A) Tax Map and Parcel No. Map 55-O Group B Parcel 1.00
- (B) Subject is in FEMA Flood Zone Yes
FEMA Map/Zone No. 47125C 0236 D Dated March 18, 2008
4. Interest Acquired: Fee ☒ Access Eas. Utility Eas. Constr. Eas.
5. Acquisition: Total: _____ Partial ☒
6. Type of Appraisal: Formal _____ Formal Part Affected ☒
- Detail Description of Land Acquired: The land acquired consists of 2.59 acres or 112,820 square feet of commercial land that abuts or joins the southern banks of the Red River. All of the site is located in the flood plain area. This area adjoins the parking to the rear of the subject.
7. Sales History of Subject:

Date of Sale	Grantor	Grantee	Book Page	Verified Consid.	How Sale Verified
06/14/2004	Pressler A J % First Union Real Estate	Two Rivers Center LLC	975/1552	\$7,000,000	Public Records
Existing Use	Zoning	Utilities Available	Off-Site Improvements		Area Lot or Acreage
Comm	C-2 Commer	Water, Electric, Sewer, Gas	Paved Asphalt		18.5 sf

8. Highest and Best Use: (Before Acquisition) (If different from existing make explanation supporting same)
- The subject’s highest and best use would be for the continued use as commercial retail property

SALES COMPARISON APPROACH – LAND VALUE ANALYSIS				
Analysis of Vacant Land Sales				
Analysis of Sales		Comparable #1	Comparable #2	Comparable #3
Address of Sale		Old Russellville Pike Clarksville TN 37043	2590 Peachers Mill Rd Clarksville TN 37042	Big Station Camp Blvd Gallatin Tennessee 37066
Sales Price		\$1,102,950	\$2,000,000	\$1,800,000
Unit Price/acre		\$95,082	\$136,986	\$91,463
Date of Sale Time Adj.		December 20 th 2012	November 17 th 2011	April 9 th 2011
Proximity to Subject		4.73 miles NE	6.09 miles N	48.51 miles E
Elements/Comparison	Subject	(+)(-) Dollar Adjustment	(+)(-) Dollar Adjustment	(+)(-) Dollar Adjustment
Location	Suburban/Average	Suburban/average	Suburban/superior -\$41,000 (30%)	Suburban/average
Size	18.5+/- acres	11.60 +/- acres	14.60+/- acres	19.68+/- acres
Shape	Irregular	Irregular	Irregular	Irregular
Site View	Commercial	Commercial	Commercial	Commercial
Topography	Fairly Level	Fairly Level	Fairly Level	Fairly Level
Access	Good/2 arteries	Good/2 arteries	Good/ 2 arteries	Good/2 arteries
Zoning	Commercial	Commercial	Commercial	Commercial
Utilities	Water/Elect/Sewer/Gas	Water/Elec/Sewer/gas	Water/Elec/Sewer/Gas	Water/Elec/Sewer/Gas
Easements/Encumb.	Typical	Typical	Typical	Typical
Off Site Improvements	Paved Asphalt	Paved Asphalt	Paved Asphalt	Paved Asphalt
On Site Improvements	Vacant	Vacant time of sale	Vacant time of sale	Vacant time of sale
Other – Utility	Average	Average	Average	Average
Flood Plain	100 year	None	None	None
Tax Mp/Parcel Vol/Page	Mp 55-O/B/1.00 V 975 pg 1558	Map 41 Parcel 23.02 V 1485 Page 1347	Map 18 Parcel 2.00 V 1413 Page 2847	Map 124 Parcel 46.03 V pg 1056
NET ADJUSTMENT			-\$41,000	
INDICATED UNIT VALUE RANGE		\$95,082/acre	\$95,986/acre	\$91,463/acre
INDICATED TOTAL VALUE OF SUBJECT: (Part Effected)				
No. Units: 18.50+/- acres X \$92,000/acre = \$1,702,000				
COMMENTS: <u>Part Affected Only</u>				
<p>The appraiser felt the above three sales were the best available in estimating the subject’s current market value. The subject being appraiser is the land portion of the Old Two Rivers Mall location. There are a limited number of sales of larger vacant sites in Clarksville Tennessee. Due to lack of sales I expanded my search parameters to nearby Gallatin Tennessee which I feel is fairly comparable for development properties similar to the subject. Sale #2 is located in a market area that is seeing rapid growth in the residential sector with roof tops accelerating at numbers never seen in Clarksville in the past. I feel that this property due to the anticipated growth achieved a higher price than sales #1 and #3. Sale #1 is located in the St. Bethlehem sub-market off the main traffic corridor. This sale is within a highly developing area of Clarksville and with being just off the main traffic corridor I do not feel a location adjustment is warranted. Sale #3 is located in southern area of Sumner County in an area that is in its earliest stages of development and no adjustment warranted for this location as well. Based on the above three sales I have estimated a market value for the subject property at \$92,000 per acre. The concluded value of the part affected below is shown as follows:</p>				
<p style="text-align: center;"><i>Mark Young Real Estate Appraisals 298 Clear Sky Court-Suite H Clarksville, TN 37043 Joseph Mark Young, CG-1117</i></p>				

ITEM 9. Explanation and/or Breakdown of Land Values

(A) VALUATION OF LAND

Land Type: Commercial	Area: 18.50	S.F./Acre X \$92,000	=	\$1,702,000
Land Type: _____	Area: _____	S.F./Acre X \$ _____	=	\$ _____
Land Type: _____	Area: _____	S.F./Acre X \$ _____	=	\$ _____
Land Type: _____	Area: _____	S.F./Acre X \$ _____	=	\$ _____
Land Type: _____	Area: _____	S.F./Acre X \$ _____	=	\$ _____

REMARKS: The appraiser has reconciled the value of the property on a price per acre. As stated this is a formal part affected and the value of the property is concluded to be \$1,702,000 of the total part affected which is 18.5 acres of commercial land.

10.APPROACHES TO VALUE CONSIDERED:

(A)	Indicated Value of Part Affected Tract from Sales Comparison Approach	\$1,702,000
(B)	Indicated Value of Part Affected Tract from Cost Approach	\$ N/A
(C)	Indicated Value of Part Affected Tract from Income Approach	\$ N/A

RECONCILIATION: (Which approaches were given most consideration?) The Sales Comparison Approach was the only method of valuation completed to arrive at the subjects estimated market value.

The only approach completed that the appraiser felt were reasonable was the Sales Comparison Approach. This would be the typical method of valuation for commercial vacant acreage located on heavily traveled traffic corridors and sub-markets similar to the subject. There are no improvements within the take or upon the site.

11. FAIR MARKET VALUE of () Entire Tract	(x) Part Affected from Sales Comparison Approach	\$1,702,000
(A) TOTAL AMOUNT DUE OWNER if () Entire Tract	(x) Part Affected Acquired	\$1,702,000
(B) AMOUNT ATTRIBUTABLE TO:	Land \$1,702,000	Improvements \$ -0-

REMARKS: There will be no site improvements affected that are to be valued within the scope of work obtained from Daniel Binkley with the City of Clarksville. The Cost Approach and the Income Approach method of valuation were not applicable for estimating the subject’s current market value. There are no improvements affected by or within the take.

PARTIAL ACQUISITION
CITY OF CLARKSVILLE, MONTGOMERY COUNTY, TENNESSEE

ITEM 12.

VALUE OF ENTIRE TRACT (Amount in Item 19 carried forward) \$1,702,000

AMOUNT DUE OWENR IF ONLY PART ACQUIRED (Detail breakdown)

- A. Land Acquired (Fee) 2.59 acres @ \$92,000/acre = \$238,200
- Land Acquired (Fee) _____ Sq. Ft. or _____ Ac. @ \$ _____ = \$ N/A
- Utility Easement _____ Sq. Ft or @ _____ = \$ N/A
- Slopes Acquired = \$ N/A
- Const. Easement =\$ N/A
- Access Easement =\$ N/A
- B. Improvements Acquired: (Identify) None
- C. Value of Part Acquired Land & Improvements (Sub-Total).....\$238,200
- D. Total Damages (See Explanation, Breakdown & Support: 2A-9).....\$ N/A
- E. Sum of A, B, and D.....\$238,200
- F. Benefits: (Amount must not exceed incidental damages).....\$ -0-
- G. TOTAL AMOUNT DUE OWNER; If only part is Acquired.....\$238,200

ITEM 13. VALUE OF REMAINDER (See 2A-9) for Documentation of Remainder Value)

A. LAND REMAINDER			Before Value	After Value	Damages	Remainder Value
Left Remainder	15.91	s.f./ac. @	\$92,000/acre	\$92,000/acre	\$ 0	\$1,463,720
		s.f./ac. @				
Right Remainder		s.f./ac. @				
		s.f./ac. @				
		s.f./ac. @				

REMAINDER VALUE OF LAND.....\$1,463,720

LESS AMOUNT PAID FOR EASEMENTS IN ITEM 20A.....\$

LESS COST-TO-CURE (LINE 20-D).....\$ N/A

TOTAL REMAINDER VALUE OF LAND.....\$1,463,720

B. IMPROVEMENTS REMAINING	BEFORE VALUE	DAMAGES	REMAINING VALUE
IMPROVEMENT NO.			
IMPROVEMENT NO.			
IMPROVEMENT NO.			
IMPROVEMENT NO.			
IMPROVEMENT NO.			

REMAINDER VALUE OF IMPROVEMENTS.....\$ N/A

LESS: Cost to Cure \$ N/A

TOTAL REMAINDER VAULE OF LAND AND IMPROVEMENTS... \$1,463,720

SUMMARY OF REMAINDER

APPRAISERS DESCRIPTION OF REMAINDER AND EXPLANATION OF DAMAGES AND BENEFITS:

(Supplement to Items 20 and 21, Pages 2A-8)

14. HIGHEST AND BEST USE AFTER TAKING: Continued use as retail commercial property

15. DESCRIBE REMAINDER (S): A full narrative description of the remainder(s) must be given on all partial takings.

The remainder will consist of 15.91 acres that will not be affected by the take. The subject will continue to have the same access and parking with no damages nor improvements after the take.

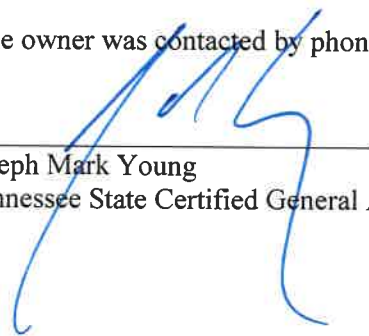
17. Amount of DAMAGE This Page to – 2A-8, Item 20-D.....\$ N/A

18. Amount of BENEFITS This Page to – 2A-8, Item 20-F.....\$ N/A

CERTIFICATION OF APPRAISAL

I hereby certify that to the best of my knowledge and belief:

- (1) That I have personally inspected the property herein appraised and that I have also made a personal field inspection of the comparable sales relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were represented by the photographs contained in said appraisal and/or market data brochure.
- (2) The statements of fact contained in this appraisal are true and correct.
- (3) The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and is my personal, unbiased professional analyses, opinions, and conclusions.
- (4) That I understand that said appraisal is to be used in connection with the acquisition of right-of-way for a highway to be constructed by the State of Tennessee with ☐ without ☒ the assistance of Federal-aid highway funds, or other Federal funds.
- (5) That such appraisal has been made in conformity with the appropriate State laws, regulations and policies and procedures applicable to appraisal of right-of-way for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consists of items which are non compensable under the established law of said State.
- (6) That any increase or decrease in the fair market value of real property prior to the date of valuation caused by the public improvement for which said property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property.
- (7) That neither my employment nor my compensation is contingent upon the reporting of a predetermined value or direction in value that favors that cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event.
- (8) I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
- (9) That I have not revealed the findings and results of such appraisal to anyone other than the proper officials of the City of Clarksville and/or that Administration and I will not do so until so authorized by City officials, or until I am released from this obligation by having publicly testified to such findings.
- (10) That no one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated.)
- (11) That my analyses, opinions and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
- (12) I have performed no services, as an appraiser, or in any other capacity, regarding the property that is the subject of this report, within the three-year period immediately preceding acceptance of this reporting assignment.
- (13) The owner was contacted by phone and declined to accompany me on the appraisal visit.



Joseph Mark Young
Tennessee State Certified General Appraiser, CG-1117

Date

SCOPE OF THE APPRAISAL

The City of Clarksville Tennessee has requested an appraisal to estimate fair market value for aide in obtaining the subject tract as described within this report. In accordance with the client's request, I have conducted the required inspections and investigations to familiarize myself with the subject of this report and the market in which it would compete if offered for sale. Applicable and customary approaches to value have been considered in the valuation of the subject property. The appraiser assumes that the legal descriptions, surveys, plans and specifications, etc. which have been provided are current and accurate unless otherwise stated in the report. The owner replied to a phone call and the appraiser inspected the property in February of 2013 without one of the owners which was agreed upon by the owners representative being Jonathan Davison (561-383-2404) In addition I met with Daniel Binkley who works for the City of Clarksville in Montgomery County to gain further in site into the difference in the project before and after the take and to obtain data such as site plans and legal descriptions where the report could be completed. I have relied on public records, personal files, Co-Star reporting and Courthouse Retrieval Services to aide in the completion of this report. The comparable properties were inspected on different dates, see attached photos.

GENERAL LIMITING CONDITIONS & ASSUMPTIONS

This appraisal report has been made with the following general limiting conditions and assumptions:

- (1) The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
- (2) Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purposes by any person other than the party to whom it is addressed without the written consent of the appraiser and in any event, only with proper written qualification and only in its entirety.
- (3) The appraiser herein by reason of this appraisal is not required to give further consultation, testimony, or be in attendance in court with reference to the property in question unless arrangements have been previously made.
- (4) Neither all nor any part of the contents of this report (*especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected*) shall be disseminated to the public through advertising, public relations, news, sales, or other media without the prior written consent and approval of the appraiser.
- (5) The value estimate is based on building sizes calculated by the appraiser from exterior dimensions taken during the inspection of the subject property. Land areas are based on the legal descriptions provided unless otherwise noted in this report.
- (6) No responsibility is assumed for the legal description or for matters including legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
- (7) The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
- (8) Responsible ownership and competent property managements are assumed.
- (9) The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
- (10) All engineering is assumed to be correct. The plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
- (11) It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
- (12) It is assumed that there is full compliance with all-applicable federal, state and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report.
- (13) It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless nonconformity has been stated, defined, and considered in the appraisal report.
- (14) It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117

- (15) It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.
- (16) Unless otherwise stated in this report, the appraiser did not observe the existence of hazardous material, which may or may not be present on the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, area-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there are no additional materials on the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them or the costs involved to remove them. The appraiser reserves the right to revise the final value estimate if such substances are found on or in the property.
- (17) The Americans with Disabilities Act ("ADA") became effective January 26, 1992. We have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property together with a detailed analysis of the requirements of the ADA could reveal that the property is not in compliance with one or more of the requirements of the ADA. If so, this fact could affect the value of the property. Since we have no direct evidence relating to this issue, we did not consider possible non-compliance with the requirements of the ADA in estimating the value of the subject property.

Subject Photographs

Photos taken February 19, 2013



Improvement



Improvement



Improvement

***Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117***

Subject Photographs
Photos taken February 19, 2013



Improvement



Improvement



Improvement

Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117

Subject Photographs
Photos taken February 19, 2013



Improvement



From improvement parking looking onto New Providence Boulevard



From improvement parking looking onto New Providence Boulevard

***Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117***

Subject Photographs
Photos taken February 19, 2013



From improvement parking looking onto Riverside Drive



From improvement parking looking onto Riverside Drive



View of Take

Subject Photographs

Photos taken February 19, 2013



View of Take



View of Take



View of Take

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298 Clear Sky Court-Suite H
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Joseph Mark Young, CG-1117***

Boundary Description - Page 1

BOUNDARY DESCRIPTION OF A PORTION OF THE TWO RIVERS CENTER LLC PROPERTY

Being a tract of land situated in the 12TH Civil District in Clarksville, Montgomery County, Tennessee, said tract being a portion of the Two Rivers Center LLC property, (ORV.975, page 1558), said tract also being south of and adjacent to U.S. Highway 41-A, said tract also being east of and adjacent to Red River, said tract also being more fully described as follows;

Beginning at a ½" rebar found in the south right of way of U.S. Highway 41-A), said rebar being the northwest corner of the WH Capitol LLC property, (Waffle House), (ORV. 1023, Page 815), said ½" rebar also being the northeast corner of said herein tract described;

Thence leaving said U.S. Highway 41-A and with the west line of said WH Capitol LLC property, (Waffle House), property, **South 33°41'24" West, a distance of 175.00 feet** to a point, said point being the southwest corner of said WH Capitol LLC property, (Waffle House), property;

Thence leaving said WH Capitol LLC property, (Waffle House), property, and along a new severance line for the next (6) six calls;

Thence **South 33°30'03" West, a distance of 181.45 feet** to a point;

Thence **South 33°07'45" West, a distance of 230.22 feet** to a point;

Thence **South 38°45'39" West, a distance of 64.91 feet** to a point;

Thence **South 41°10'38" West, a distance of 230.04 feet** to a point;

Thence **South 41°58'26" West, a distance of 109.21 feet** to a point;

Thence **South 43°15'56" West, a distance of 136.12 feet** to a point, said point being in the north line of the City of Clarksville property, (ORV.1305, Page 2846), said point being the southeast corner of said herein tract described;

Thence with said north line of City of Clarksville property, **North 58°44'24" West, a distance of 110.69 feet** to a point, said point being at the low water mark of said Red River, said point also being the southwest corner of the Two Rivers Center LLC property, (ORV.975, page 1558), said point also being the northwest corner of said City of Clarksville property, said point also being the southwest corner of said herein tract described;

Thence with said low water mark of Red River for the next (7) seven calls;

Thence **North 52°38'36" East, a distance of 36.36 feet** to a point;

Thence **North 43°26'36" East, a distance of 196.06 feet** to a point;

Thence **North 43°49'36" East, a distance of 200.06 feet** to a point;

Thence **North 39°34'36" East, a distance of 27.82 feet** to a point;

S:\45320 RC (RIVERWALK)\Survey Info\Documents\Boundary Description of a portion of the Two Rivers Center LLC Property_2.59 Acres.docx

Page 1 of 2

Boundary Description - Page 2

Thence North 36°23'23" East, a distance of 166.78 feet to a point;

Thence North 31°21'36" East, a distance of 305.22 feet to a point;

Thence North 29°34'36" East, a distance of 198.10 feet to a point in said south right of way of U.S. Highway 41-A, said point also being the northwest corner of said herein tract described;

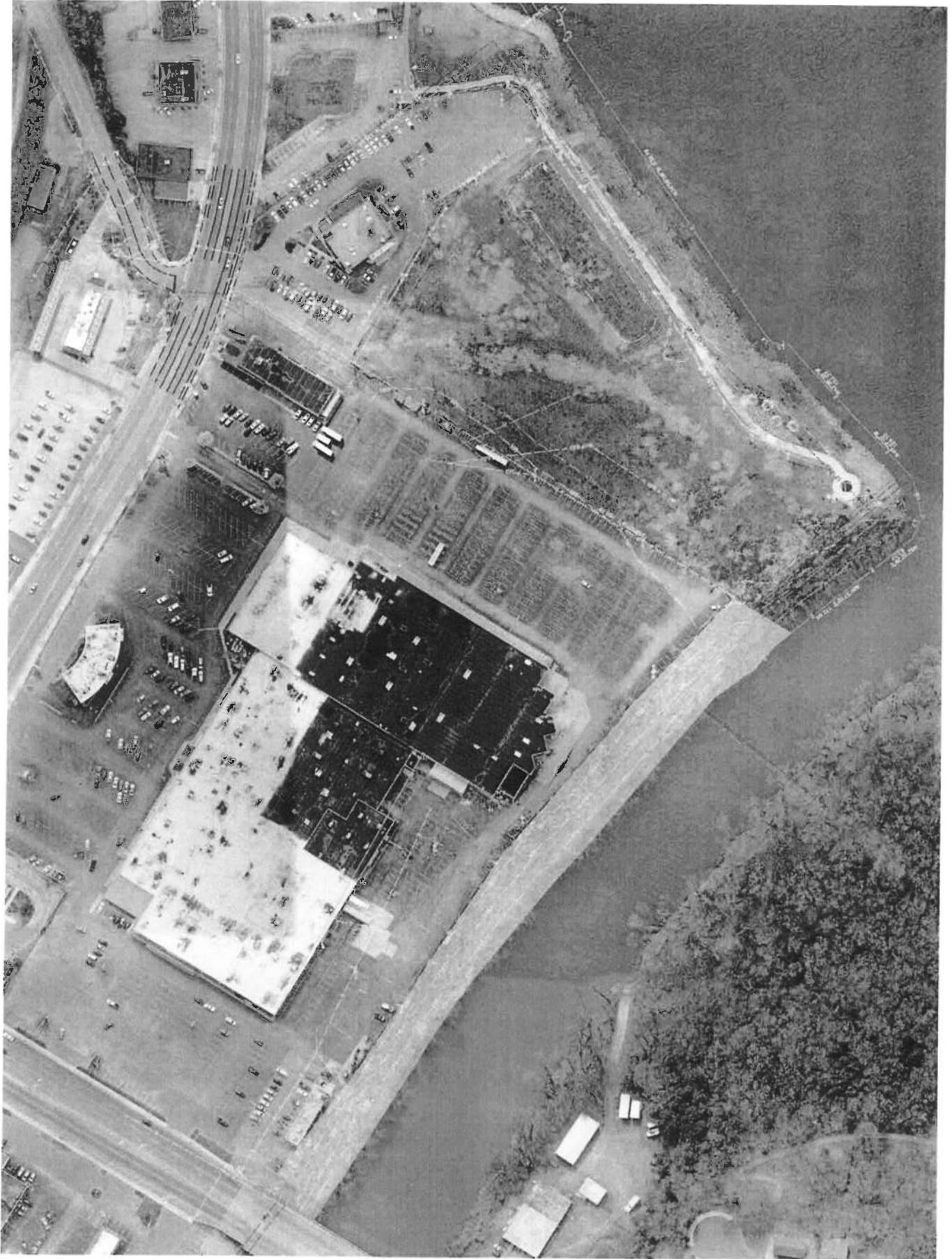
Thence leaving said low water mark and with said south right of way of U. S. Highway 41-A, South 58°44'24" East, a distance of 117.61 feet to the point of beginning;

Said tract containing 2.59 acres more or less.

Said tract being subject to all easements, right of ways, restrictions and conveyances of record and not of record.

S:\45320 RC (RIVERWALK)\Survey Info\Documents\Boundary Description of a portion of the Two Rivers
Center LLC Property_2.59 Acres.docx
Page 2 of 2


Boundary Depiction



*Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117*

Deed - Page 1

Joyce B. Sawyer, Registrar
Montgomery County Tennessee
Rec #: 81890 Instrument #: 620641
Rec'd: 25.00 Recorded
State: 0.00 6/18/2004 at 8:37 am
Clark: 0.00 in Volume
SDP: 2.00 975
Total: 27.00 Pgs 1558-1562

THIS INSTRUMENT WAS PREPARED BY: RICHARD H. BATSON, ESQ. BATSON, NOLAN, BRICE, WILLIAMSON & GISKY 121 SOUTH THIRD STREET CLARKSVILLE, TN 37040 (931) 647-1501 TELEPHONE (931) 553-0153 FACSIMILE	STATE OF TENNESSEE COUNTY OF MONTGOMERY THE ACTUAL CONSIDERATION OR VALUE, WHICHEVER IS GREATER, FOR THIS TRANSFER IS \$ <u>-0-</u> <u>McNley Martin</u> AFFIANT SUBSCRIBED AND SIGNED BEFORE ME, THIS <u>16th</u> DAY OF <u>June</u>  MY COMMISSION EXPIRES: <u>8-3-05</u>
---	--

ADDRESS NEW OWNER(S) AS FOLLOWS:	SEND TAX BILL TO:	MAP-PARCEL NUMBER
Two Rivers Center, LLC (Name) Concept 2 Towers 2328 Tenth Ave. North, Suite 401 (Street Address or Route Number) Lake Worth FL 33461 Attn: Charles Stein (City) (State) (Zip Code)	Two Rivers Center, LLC (Name) Concept 2 Towers 2328 Tenth Ave. North, Suite 401 (Street Address) Lake Worth FL 33461 Attn: Charles Stein (City) (State) (Zip Code)	550-B-1; 550-B-1.01; 550-B-13; 550-B-13.01; 550-B-14

Property Address: 668 North Riverside Drive, Clarksville, TN

QUITCLAIM DEED

FOR A GOOD AND VALUABLE CONSIDERATION, the undersigned, THE ESTATE OF EMMA B. PRESSLER, Deceased and PRESSLER TRUST, hereinafter called the GRANTOR, hereby quitclaims and conveys to TWO RIVERS CENTER, LLC a Delaware limited liability company, hereinafter called the GRANTEE, its successors, heirs and assigns, a certain tract or parcel of land in Montgomery County, State of Tennessee, described as follows, to wit:

See Exhibit A attached hereto and made a part hereof.

Volume 975 Page 1558

Deed - Page 2

Being part of the same property conveyed to A. J. Pressler and wife, Emma B. S. Pressler by Deeds of record in Deed Book 87, page 635, Deed Book 137, page 6, Deed Book 141, page 133, Deed Book 145, pages 345 and 365 respectively, and Deed Book 87, page 635, Register's Office of Montgomery, Tennessee. The said A. J. Pressler is deceased and by virtue of he and Emma B. S. Pressler owning said property as tenants by the entirety, the said Emma B. S. Pressler became the absolute owner as the surviving tenant by the entirety upon his death. The said Emma B. Pressler (one and the same person as Emma B. S. Pressler) died on January 5, 2000, and the property is currently vested in Thomas N. Sargent, Sr. Executor of the Estate of Emma B. Pressler and Trustee of the Pressler Trust.

This conveyance is expressly subject to that certain easement reserved by and for Grantor described in that certain Lease Modification Agreement dated 26 December 1973, which is Schedule B to Assignment Ground Lease dated 26 September 1975, of record in ORVB 192, page 328, R.O.M.C.T. (and as specifically set out in ORVB 192, page 336), which is a perpetual ingress egress easement more particularly described in said Lease Modification Agreement.

It is the express intent of the Grantor and Grantee that Grantee's leasehold interests and fee simple interest in the property conveyed hereunder or any other interest now or hereafter acquired by Grantee not merge (by operation of law or otherwise) notwithstanding that Grantee, in addition to the conveyance made hereunder, acquired (i) the leasehold estate of the lessor under that certain Lease Agreement by and between A.J. Pressler and wife, Emma B. Pressler and Erie Investments, Inc. of record in Volume 22, Page 438 as assigned by Assignment of Ground Lease of record in Volume 22, Page 442, as further assigned to First Union Real Estate Equity and Mortgage Investments by Assignment of record in Volume 192, Page 328 and by Ground Lease of record in Volume 192, Page 344 as further assigned to Two Rivers Venture, LLC by Assignment and Assumption of Ground Lease of record in Volume 773, Page 1969, all in the Register's Office of Montgomery County, Tennessee (the "Ground Lease") by that certain Assignment of Ground Lease executed by Grantor and Grantee, (ii) the leasehold estate of the lessee under the Ground Lease by that certain Assignment of Ground Lease executed by Grantee and Two Rivers Venture, LLC, and (iii) fee simple title to the property under that certain Special Warranty Deed executed by Grantor in favor of Grantee. No such merger will occur unless and until Grantee executes a written instrument specifically effecting such merger and records the same in said Register's Office.

WITNESS my hand this 14th day of June, 2004.

~~THE ESTATE OF EMMA B. PRESSLER and
PRESSLER TRUST~~

By: _____

~~Thomas N. Sargent, Sr.
Executor and Trustee~~

Deed - Page 3

WITNESS my hand this 14th day of June, 2004.

THE ESTATE OF EMMA B. PRESSLER and
PRESSLER TRUST

By: Thomas N. Sargent, Sr.

Thomas N. Sargent, Sr.
Executor and Trustee

STATE OF GEORGIA

SS

COUNTY OF GWINNETT

Before me, the undersigned, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Thomas N. Sargent, Sr. with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence) and who, upon oath, acknowledged himself to be the Executor of The Estate of Emma B. Pressler and Trustee of Pressler Trust, the within-named bargainor, and that he as such Executor and Trustee, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Estate and Trust by himself and as such Executor and Trustee.

Witness my hand and seal at office this 14th day of June, 2004.

Debra C. Smith

Notary Public

My Commission Expires: _____

Notary Public, Gwinnett County, Georgia
My Commission Expires September 25, 2008



Deed - Page 4

EXHIBIT A

LEGAL DESCRIPTION

TRACT 1: TWO RIVERS MALL

BEGINNING, at an iron pin (found) in the southerly right-of-way line of said U.S. Highway 41A said pin being the northwesterly corner of property conveyed to Taco Bell of America, Inc., by deed of record in Volume 685, Page 1481, R.O.M.C.;

THENCE, with the westerly line of said Taco Bell of America, Inc., and with the westerly line of property conveyed to Christine Chen Ho by deed of record in Volume 708, Page 1240, R.O.M.C., S 26° 10' 00" W, 210.00 feet to a punch mark and "X" (found) in top of pipe in the southwesterly corner of said Ho property;

THENCE, with the southerly line of said Ho property S 63° 45' 00" E, 210.00 feet to a P.K. nail (set) in the westerly right-of-way line of Riverside Drive;

THENCE, with said westerly right-of-way line the following calls:

S 26° 15' 00" W, 113.00 feet to a P.K. nail (set);
S 63° 45' 00" E, 10.00 feet to a P.K. nail (set);
S 26° 15' 00" W, 87.00 feet to an "x" in concrete (set) in the northeasterly corner of property conveyed to John Gilreath by deed of record in Volume 500, Page 2420, R.O.M.C.;

THENCE, with said Gilreath property the following calls:

N 63° 45' 00" W, 117.72 feet to a P.K. nail (set);
S 26° 15' 00" W, 133.72 feet to a P.K. nail (set);
S 11° 15' 00" E, 96.15 feet to a P.K. nail (set);
S 63° 45' 00" E, 59.18 feet to a P.K. nail (set) in the westerly right-of-way line of Riverside Drive;

THENCE, with said right-of-way line the following calls:

S 26° 15' 00" W, 103.00 feet to a P.K. nail (set);
N 18° 45' 00" W, 7.07 feet to a P.K. nail (set);
S 26° 15' 00" W, 34.50 feet to a P.K. nail (set);
With a curve to the left 135.64 feet to a P.K. nail (set) in the southerly corner of the herein described property said curve having a central angle of 14° 27' 32", a radius of 537.50 feet, a tangent of 68.18 feet and a chord of S 19° 01' 14" W, 135.28 feet;
S 78° 12' 32" E, 4.32 feet;
With a curve to the left 234.67 feet to an "X" in concrete (set) in the southerly corner of the herein described property said curve having a central angle of 11° 20' 13" a radius of 1186.00 feet, a tangent of 117.72 feet and a chord of S 17° 33' 01" W,

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Deed - Page 5

234.29 feet;
THENCE, leaving said right-of-way line and with the southerly line of this property, N 63° 50' 00" W, 1007.33 feet to the easterly side of the Red River;

THENCE, with the easterly side of said Red River, the following calls:
N47° 33' 00" E, 36.36 feet.
N 38° 21' 00" E, 196.06 feet;
N 38° 44' 00" E, 200.06 feet;
N 34° 29' 00" E, 27.82 feet;
N 31° 17' 47" E, 166.78 feet;
N 26° 16' 00" E, 305.22 feet;
N 24° 29' 00" E, 198.10 feet to the southerly right-of-way line of U.S. Highway 41 A;

THENCE, with a said right-of-way line, S 63° 50' 00" E, 625.20 feet to the point of beginning.

TOGETHER WITH all rights and easements set forth in the Agreement dated September 18, 1968, of record in Official Record Book Volume 85, page 776, of said Register's office.

TRACT 2: O'CHARLEY'S

Land in Clarksville, Montgomery County, Tennessee, located south of U.S. Highway 41A and west of Riverside Drive and being more particularly described as follows:

BEGINNING, at an "X" in concrete (set) in the westerly right-of-way line of Riverside Drive at its intersection with a southeasterly line of property conveyed to O'Charley's by deed of record in Volume 368, Page 910, R.O.M.C.;

THENCE, with the said southeasterly line of said O'Charley's property, S 48° 49' 59" W, 200.38 feet to an iron pin (set);

THENCE, N 63° 50' 00" W, 163.77 feet to an iron pin (set);

THENCE, N 26° 10' 00" E, 280.30 feet to a P.K. nail (set) in the southerly line of Two Rivers Mall, property conveyed to A.J. Pressler and wife, Emma B.S. Pressler;

THENCE, with said southerly line, S 63° 50' 00" E, 212.38 feet to an "X" in concrete (set) in the westerly right-of-way line of Riverside Drive;

THENCE, with said westerly right-of-way line with a curve to the left, 99.62 feet to the point of beginning, said curve having a central angle of 04° 48' 46", a radius of 1186.00 feet, a tangent of 49.84 feet and a chord of S 09° 28' 31" W, 99.59 feet to the point of beginning.

5059371.1
G:\BATSON\Pressler\TWO RIVERS BUSINESS CENTER\Two Rivers - Survey Description.wpd

5

Comparable Sale #1 - Old Russellville Pike, Clarksville, TN

Comparable Sale #1

Old Russellville Park

SOLD

Clarksville, TN 37040

Sale on 12/21/2012 for \$1,102,950 (\$95,081.90/AC) - Research Complete
Commercial Land of 11.60 AC (505,296 SF)

Buyer & Seller Contact Info

Recorded Buyer: **Johnson Properties Lp**
True Buyer: **Wyatt-Johnson Bulck, Pontiac, Gmc Truck, Inc.**
Sidney Johnson
2600 Wilma Rudolph Blvd
Clarksville, TN
(866) 370-9341

Buyer Type: **Corporate**
Buyer Broker: **NAI Clarksville**
John Hadley
(931) 648-4700

Recorded Seller: **Trane U.S. Inc**
True Seller: **Trane U.S. Inc**
Mary Gustafsson
1 Centennial Ave
Piscataway, NJ 08855
(732) 980-3000

Seller Type: **Corporate**

Transaction Details

ID: 2641648

Sale Date: **12/21/2012**
Escrow Length: **-**
Sale Price: **\$1,102,950-Confirmed**
Price/AC Land Gross: **\$95,081.90 (\$2.18/SF)**

Sale Type: **Owner/User**
Land Area: **11.60 AC (505,296 SF)**
Proposed Use: **Commercial**

Zoning: **C-5**

Percent Improved: **-**
Total Value Assessed: **\$184,720**
Improved Value Assessed: **-**
Land Value Assessed: **-**
Land Assessed/AC: **-**

Legal Desc: **4-69**
Parcel No: **041-023.02**
Document No: **000000955791**

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Comparable Sale #1 - Old Russellville Pike, Clarksville, TN

Comparable Sale #1

Old Russellville Park		SOLD
Commercial Land of 11.60 AC (505,296 SF) (con't)		
Transaction Notes		
On December 21, 2012, the lot on Old Russellville Park in Clarksville, TN, sold for \$1,102,950 or approximately \$95,082 per acre.		
This was an owner/user sale. The buyer purchased the 11.6 acre lot and as for now, just uses it as a storage lot for his current business.		
According to public record the transaction was not financed.		
The information for this transaction was confirmed by the buyer and public record.		
Current Land Information		ID: 8989851
Zoning:	C-5	Proposed Use: Commercial
Density Allowed:	-	Land Area: 11.60 AC (505,296 SF)
Number of Lots:	-	On-Site Improv: -
Max # of Units:	-	Lot Dimensions: -
Units per Acre:	-	Owner Type: -
Improvements:	-	
Location Information		
Metro Market:	Nashville	
Submarket:	Montgomery County/Montgomery County	
County:	Montgomery	
CBSA:	Clarksville, TN-KY	
DMA:	Nashville, TN-KY	

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Comparable Sale #1 - Old Russellville Pike, Clarksville, TN



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Clarksville, TN 37043
Joseph Mark Young, CG-1117***

Comparable Sale #2 - 2590 Peachers Mill Road, Clarksville, TN

Comparable Sale #2

2590 Peachers Mill Rd

SOLD

Clarksville, TN 37042

Sale on 11/17/2011 for \$2,000,000 (\$136,986.30/AC) - Research Complete

Commercial Land of 14.60 AC (635,976 SF)

An aerial map from Virtual Earth showing the location of 2590 Peachers Mill Rd in Clarksville, TN. The map includes Peachers Mill Rd, Ridge Runner Ct, Marymount, Blue Willow Ct, and a 500 yds scale bar. A red circle marks the property location.

Buyer & Seller Contact Info

Recorded Buyer: **SF of Barclay Clarksville LP**
True Buyer: **North American Development Group**
Jeff Preston
4650 Donald Ross Rd
Palm Beach Gardens, FL 33418
(561) 578-8700
Buyer Type: **Developer/Owner-NTL**

Recorded Seller: **Jack T & Reta A Irwin**
True Seller: **Jack T & Reta A Irwin**
Jack Irwin
2485 Settlers Ter
Clarksville, TN 37043
(931) 648-3505
Seller Type: **Individual**

Transaction Details

ID: 2485240

Sale Date: **11/17/2011**
Escrow Length: **-**
Sale Price: **\$2,000,000-Confirmed**
Price/AC Land Gross: **\$136,986.30 (\$3.14/SF)**

Sale Type: **Investment**
Land Area: **14.60 AC (635,976 SF)**
Proposed Use: **Retail**

Zoning: **C-5**

Document No: **1413-2847**

Transaction Notes

This report was confirmed by the buyer and seller, the seller did not want to reveal any details. The buyer's contact did not know if any brokers were involved.

It was confirmed that 14.6 Acres sold in Clarksville, TN for \$2,000,000 on November 17, 2011. The buyer, a developer, bought the land to build a shopping center. The seller did note that the anchor would be a Publix. The center is planned to begin construction this summer -- they are already pre-leasing space.

It was an arms length transaction, and as more information comes in it will get implemented into the report.

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Comparable Sale #2 - 2590 Peachers Mill Road, Clarksville, TN

Comparable Sale #2

2590 Peachers Mill Rd		SOLD	
Commercial Land of 14.60 AC (635,976 SF) (con't)			
		Current Land Information	ID: 8763674
Zoning:	C-5	Proposed Use:	Retail
Density Allowed:	-	Land Area:	14.60 AC (635,976 SF)
Number of Lots:	-	On-Site Improv:	-
Max # of Units:	-	Lot Dimensions:	-
Units per Acre:	-	Owner Type:	Developer/Owner-NTL
Improvements:	-		
Location Information			
Metro Market:	Nashville		
Submarket:	Montgomery County/Montgomery County		
County:	Montgomery		
CBSA:	Clarksville, TN-KY		
DMA:	Nashville, TN-KY		

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Comparable Sale #2 - 2590 Peachers Mill Road, Clarksville, TN



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Clarksville, TN 37043
Joseph Mark Young, CG-1117***

Comparable Sale #3 - Big Station Camp Road, Gallatin, TN

Comparable Sale #3

1


Big Station Camp Blvd @ Bison Trail

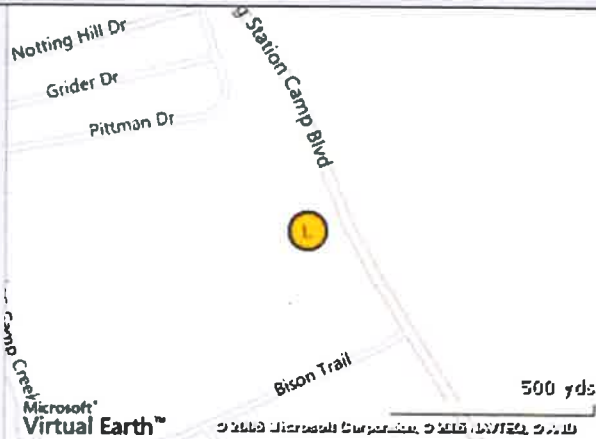
Gallatin, TN 37086

Sale on 4/29/2011 for \$1,800,000 (\$91,463.41/AC) - Research Complete

Commercial Land of 19.68 AC (857,261 SF)

SOLD





Buyer & Seller Contact Info

Recorded Buyer: Publix Tennessee LLC

True Buyer: Publix Supermarkets, Inc.

Ed Crenshaw

3300 Publix Corporate Pky

Lakeland, FL 33811

(863) 688-1188

Buyer Type: Corporate

Buyer Broker: Crossman & Company

John Crossman

(407) 423-5400

Recorded Seller: Barclay Bison Partners Llc

True Seller: Barclay's Real Estate Group

Mathieu Rochette

555 NE 15th St

Miami, FL 33132

(305) 377-3000

Seller Type: Individual

Transaction Details

ID: 2109340

Sale Date: 04/29/2011

Escrow Length: -

Sale Price: \$1,800,000-Full Value

Price/AC Land Gross: \$91,463.41 (\$2.10/SF)

Sale Type: Owner/User

Land Area: 19.68 AC (857,261 SF)

Proposed Use: -

Percent Improved: -

Total Value Assessed: \$1,107,000 in 2010

Improved Value Assessed: -

Land Value Assessed: -

Land Assessed/AC: -

Parcel No: 124-046.03

Document No: 000000979985

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2/25/2013
Page 1

Comparable Sale #3 - Big Station Camp Road, Gallatin, TN

Comparable Sale #3

Big Station Camp Blvd @ Bison Trail		SOLD
Commercial Land of 19.68 AC (857,261 SF) (con't)		
Transaction Notes		
<p>This transaction represents the sale of a 19.68-acre lot on Big Station Camp Blvd located in Gallatin, Tennessee for \$1,800,000, or \$91,463 per acre.</p> <p>The plat map was not available at the time of the publication of this report.</p> <p>Reportedly, at the time of the sale, there were no credits, conditions, 1031 exchanges, or deferred maintenance that affected the sale price.</p> <p>Attempts were made to contact the parties involved, but calls were not returned for questioning. Transaction information based on recorded county documents and county assessor records.</p>		
Current Land Information		ID: 7119939
Zoning: -	Proposed Use: -	
Density Allowed: -	Land Area: 19.68 AC (857,261 SF)	
Number of Lots: -	On-Site Improv: -	
Max # of Units: -	Lot Dimensions: -	
Units per Acre: -	Owner Type: Corporate	
Improvements: -		
Location Information		
Cross Street:	Bison Trail	
Located:	NW cnr Big Station Camp Blvd & Bison Trail	
Metro Market:	Nashville	
Submarket:	Rivergate/Hendersonville/Rivergate/Hendersonville	
County:	Sumner	
CBSA:	Nashville-Davidson--Murfreesboro--Franklin, TN	
CSA:	Nashville-Davidson--Murfreesboro--Columbia, TN	
DMA:	Nashville, TN-KY	

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Comparable Sale #3 - Big Station Camp Road, Gallatin, TN

Comparable Sale #3

2	Old Russellville Park	SOLD																																																	
	Clarksville, TN 37040 Sale on 12/21/2012 for \$1,102,950 (\$95,081.90/AC) - Research Complete Commercial Land of 11.60 AC (505,296 SF)																																																		
Buyer & Seller Contact Info																																																			
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Comparable Sale #3 - Big Station Camp Road, Gallatin, TN

Comparable Sale #3

Old Russellville Park		SOLD
Commercial Land of 11.60 AC (505,296 SF) (con't)		
Transaction Notes		
On December 21, 2012, the lot on Old Russellville Park in Clarksville, TN, sold for \$1,102,950 or approximately \$95,082 per acre.		
This was an owner/user sale. The buyer purchased the 11.6 acre lot and as for now, just uses it as a storage lot for his current business.		
According to public record the transaction was not financed.		
The information for this transaction was confirmed by the buyer and public record.		
Current Land Information		ID: 8989851
Zoning:	C-5	Proposed Use: Commercial
Density Allowed:	-	Land Area: 11.60 AC (505,296 SF)
Number of Lots:	-	On-Site Improv: -
Max # of Units:	-	Lot Dimensions: -
Units per Acre:	-	Owner Type: -
Improvements:	-	
Location Information		
Metro Market:	Nashville	
Submarket:	Montgomery County/Montgomery County	
County:	Montgomery	
CBSA:	Clarksville, TN-KY	
DMA:	Nashville, TN-KY	

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Appraisal Request

In-Rel Development Land Donation FPA Appraisal for Red River Trail

Page 1 of 2

From: Binkley, Daniel <Daniel.Binkley@cityofclarksville.com>
To: Mark Young (myoung3959@aol.com) <myoung3959@aol.com>
Cc: Tummons, Mark <Mark.Tummons@cityofclarksville.com>; Vaden, Tonya <tonya.vaden@cityofclarksville.com>; Davis, Diane <Diane.Davis@cityofclarksville.com>; Jonathan Davison (JDavison@in-rel.com) <JDavison@in-rel.com>; Bryant, Robert <Robert.Bryant@cityofclarksville.com>; Thomas, Camille <Camille.Thomas@cityofclarksville.com>
Subject: In-Rel Development Land Donation FPA Appraisal for Red River Trail
Date: Fri, Feb 1, 2013 1:41 pm
Attachments: Exhibit_A.In_Rel_Dev.greenway_Ord..pdf (130K), Red_River_Property-In_Rel.jpg (724K)

Mark,

I am requesting a Formal Part Affected(FPA) Appraisal for 2.59 acres± described in the highlighted Property description and highlighted in yellow in the attached .jpg.

Contact information for the land owner representative is (Jonathan is copied in on this email):

Jonathan Davison
In-Rel Properties | 2328 10th Avenue North | Suite 401
Lake Worth, FL 33461
561.383.2404 Direct | 561.718.7044 Cell | 561.533.0146 Fax

The agreed upon fee for this work is \$2,000.00

A requested date for completion is February 18, 2013 if possible. This will allow me to have the appraisal available at our Finance Committee Meeting on the 19th. Please let me know if this does not work for you.

Diane Davis, with Parks and Recreation will create the requisition for this work; she is copied in on this email.

Please let me know if you need anything else.

Best regards,

Daniel

Daniel Binkley, Assoc. AIA, LEED AP

Project Manager

City Hall | One Public Square

Clarksville, TN 37040

<http://mail.aol.com/37309-111/aol-6/en-us/mail/PrintMessage.aspx>

2/4/2013

*Mark Young Real Estate Appraisals
298 Clear Sky Court-Suite H
Clarksville, TN 37043
Joseph Mark Young, CG-1117*

ORDINANCE 70-2012-13

AMENDING THE ZONING ORDINANCE AND MAP OF THE CITY OF CLARKSVILLE, APPLICATION OF HERB E. BAGGETT, JR., FOR ZONE CHANGE ON PROPERTY AT THE TERMINUS OF POPLAR COURT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Zoning Ordinance and Map of the City of Clarksville, Tennessee are hereby amended by designating the zone classification of the property described in Exhibit A, currently zoned R-3 Three Family Residential District, as R-2 Single Family Residential District.

PUBLIC HEARING: February 7, 2013

FIRST READING: February 7, 2013

SECOND READING:

EFFECTIVE DATE:

EXHIBIT A

Beginning at a point in the northern margin of Poplar Court and being approximately 375 feet from the eastern margin of Reynolds Street; thence in a northerly direction 155 feet to an alley; thence in an easterly direction 175 feet, more or less, to a point; thence in a southerly direction to the north margin of Poplar Court; thence in a westerly direction 200 feet to the point of beginning, being known as a part of parcel 67 and lot 68 and 69 Carney and Savage Addition. Containing 0.68 +/- acre (Tax Map 066-E-M Parcel 8.00)

ORDINANCE 71-2012-13

AMENDING THE ZONING ORDINANCE AND MAP OF THE CITY OF CLARKSVILLE, APPLICATION OF RICHARD E. STONE, JR., EXECUTOR, JASON DAUGHTERY-AGENT, FOR ZONE CHANGE ON PROPERTY AT RINGGOLD ROAD AND RINGGOLD COURT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Zoning Ordinance and Map of the City of Clarksville, Tennessee are hereby amended by designating the zone classification of the property described in Exhibit A, currently zoned R-1 Single Family Residential District, as R-4 Multiple Family Residential District.

PUBLIC HEARING: February 7, 2013
FIRST READING: February 7, 2013
SECOND READING:
EFFECTIVE DATE:

EXHIBIT A

Beginning at a point, said point being in the northern ROW of Ringgold Road, said point being 330 +/- feet southwest of the Centerline of the Ringgold Road and Brentwood Circle intersection, said point also being the southwest corner of the E W Stewart Lumber Co. property, thence in a northerly direction 553 +/- feet with the E W Stewart Lumber Co. property, to a point, said point being the northeast corner of the subject tract and in the southern border of the Whitehall Subdivision, thence in a westerly direction 264 +/- feet with the southern border of the Whitehall Subdivision to a point, said point being the northeast corner of the First Korean Presbyterian Church of Clarksville Inc. thence a southerly direction 630 +/- feet with the First Korean Presbyterian Church of Clarksville Inc. property line to a point said point being in the northern ROW of Ringgold Rd. thence in a easterly direction 387 +/- feet with the northern ROW of Ringgold Rd. to the point of beginning, said tract containing 4.5 +/- acres. (Tax Map 030 Parcel 028.00)

RESOLUTION 38-2012-13

A RESOLUTION APPROVING A RETAIL LIQUOR STORE CERTIFICATE OF COMPLIANCE FOR JACK G. MILLER

WHEREAS, Jack G. Miller has applied for a Certificate of Compliance from the City of Clarksville according to regulations of the Tennessee Alcoholic Beverage Commission, for the operation of Sango Wine & Spirits to be located at 1049 Highway 76; and

WHEREAS, the applicant(s) who is/are to be in actual charge of said business has/have not been convicted of a felony within a ten year period immediately preceding the date of the application and, if a corporation, that the executive officers, or those in control, have not been convicted of a felony within a ten year period immediately preceding the date of the application; and further that it is the undersigned's opinion that the applicant will not violate any provisions of *Tennessee Code Annotated, Title 57, Chapter 3*;

WHEREAS, the applicant(s) has/have secured a location which complies with all restrictions of the laws, ordinances, or resolutions;

WHEREAS, the applicant(s)s has/have complied with the residency provision;

WHEREAS, the issuance of this license will not exceed the numerical limit established in City Code Sec. 2-205.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Clarksville City Council hereby approves a Certificate of Compliance for Jack G. Miller for operation of Sango Wine & Spirits located at 1049 Highway 76, Clarksville, Tennessee 37043.

ADOPTED:



CLARKSVILLE CITY COUNCIL SPECIAL SESSION JANUARY 29, 2013

MINUTES

CALL TO ORDER

A special session of the Clarksville City Council was called to order by Mayor Kim McMillan on Tuesday, January 29, 2013, at 4:33 p.m. in City Council Chambers, 106 Public Square, Clarksville, Tennessee.

A prayer was offered by Councilman Jeff Burkhardt; the Pledge of Allegiance was led by Councilman Marc Harris.

ATTENDANCE

PRESENT: Deanna McLaughlin (2), James Lewis, Mayor Pro Tem (3), Valerie Guzman (5; arrived 5:35 p.m.), Marc Harris (6), Geno Grubbs (7), David Allen (8), Joel Wallace (9), Bill Summers (10), Kaye Jones (11), Jeff Burkhardt (12)

ABSENT: Nick Steward (1), Wallace Redd (4)

HUMAN RESOURCES

ORDINANCE 59-2012-13 (Second Reading) Amending the Official Code relative to voluntary demotion

Councilman Wallace made a motion to adopt this ordinance on second reading. The motion was seconded by Councilwoman McLaughlin.

Councilman Burkhardt offered an amendment to add language to require department heads to approve a voluntary demotion. The motion was seconded by Councilman Harris. Councilman Burkhardt said this would allow the department head to confirm that a lower, appropriate position was available. The following vote was recorded:

AYE: Allen, Burkhardt, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

Councilman Burkhart's amendment unanimously passed. The following vote on the original motion was recorded:

AYE: Allen, Burkhart, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

The motion to adopt this ordinance on second reading as amended unanimously passed.

ORDINANCE 60-2012-13 (Second Reading) Amending the Official Code relative to human resources, employee due process, and probationary employees, and drug and alcohol disciplinary process

Councilman Wallace made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Lewis. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

The motion to adopt this ordinance on second reading unanimously passed.

FIRE & RESCUE

ORDINANCE 61-2012-13 (First Reading) Authorizing purchase property on Ashbury Road for Fire Station #6

Councilman Wallace made a motion to adopt this ordinance on first reading. The ordinance was seconded by Councilman Grubbs. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

The motion to adopt this ordinance on first reading unanimously passed.

ORDINANCE 62-2012-13 (First Reading) Authorizing a budget amendment and acquisition of property on Main Street for future expansion of Fire Station #1

Councilman Wallace made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Grubbs. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers, Wallace

NOTE: Councilwoman Guzman was not present for this vote.

The motion to adopt this ordinance on first reading unanimously passed.

CODE OF ETHICS

ORDINANCE 67-2012-13 (First Reading) Amending the Official Code relative to Code of Ethics

Councilman Wallace made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Grubbs.

Mayor McMillan expressed support for an ethics commission which was included in the proposed ordinance.

There was extended discussion regarding anonymous complaints. Councilwoman McLaughlin, Councilman Summers, and Councilwoman Jones felt anonymous complaints should be considered. Mayor McMillan felt allowing anonymous complaints would lead to abuse. Councilman Lewis called for the question. The motion was seconded by Councilman Wallace. The following vote was recorded:

AYE: Grubbs, Harris, Lewis, McMillan, Wallace

NAY: Allen, Jones, McLaughlin, Summers

NOTE: Councilwoman Guzman was not present for this vote; Councilman Burkhart left the meeting at 5:26 and was not present for this vote.

The motion to cease discussion failed due to lack of $\frac{3}{4}$ majority. During the discussion regarding the proposed ethics commission, Councilman Summers suggested each member of the city council recommend two individuals from each ward to serve on the commission as needed on a case-by-case basis. Councilman Grubbs said commissioners should receive training before review complaints.

Councilman Wallace made a motion to not allow city-funded legal representation for city officials. The motion was not seconded.

Councilwoman McLaughlin made a motion to postpone action on this ordinance to the February regular session. The motion was seconded by Councilman Summers. City Attorney Lance Baker said his staff would need more time to draft appropriate amendments recommended by council members. The motion and second were withdrawn. Councilwoman McLaughlin made a motion to

postpone action to the March regular session. The motion was seconded by Councilman Summers. The following vote was recorded:

AYE: Allen, Jones, McLaughlin, Summers

NAY: Grubbs, Guzman, Harris, Lewis, Wallace

The motion to postpone to the March regular session failed.

Following discussion, Councilman Lewis made a motion to reconsider the motion to postpone. The motion was seconded by Councilman Wallace. A voice vote was taken; with some objection, the motion passed.

Councilman Lewis made a motion to postpone action on this ordinance to the March regular session. The motion was seconded by Councilwoman Jones. The following vote was recorded:

AYE: Allen, Grubbs, Harris, Jones, Lewis, McLaughlin, Summers

NAY: Guzman, Wallace

The motion to postpone to the March regular session passed.

Mr. Baker asked members to meet with him individually regarding their proposed amendments.

ADJOURNMENT

The meeting was adjourned at 6:45 p.m.



**CLARKSVILLE CITY COUNCIL
REGULAR SESSION
FEBRUARY 7, 2013, 7:00 P.M.**

MINUTES

PUBLIC COMMENTS

Rachael Rutland encouraged support of RESOLUTION 35-2012-13 authorizing legal action relative to enforcement of zoning regulations in the Patrick Place Subdivision.

CALL TO ORDER

The regular session of the Clarksville City Council was called to order by Mayor Kim McMillan on Thursday, February 7, 2013, at 7:02 p.m. in City Council Chambers, 108 Public Square, Clarksville, Tennessee.

A prayer was offered by Councilman Wallace Redd; the Pledge of Allegiance was led by Councilman Joel Wallace.

ATTENDANCE

PRESENT: Nick Steward (1), Deanna McLaughlin (2), James Lewis, Mayor Pro Tem (3), Wallace Redd (4), Valerie Guzman (5), Marc Harris (6), Geno Grubbs (7), David Allen (8), Joel Wallace (9), Bill Summers (10), Kaye Jones (11), Jeff Burkhart (12)

PUBLIC HEARING

Councilman Grubbs made a motion to conduct a public hearing to receive comments regarding requests for zoning and abandonment of property. The motion was seconded by Councilman Redd. A voice vote was taken; the motion passed without objection.

ORDINANCE 70-2012-13 Amending the Zoning Ordinance and Map of the City of Clarksville, application of Herbert E. Baggett, Jr., for zone change on property at the terminus of Poplar Court from R-3 Three Family Residential District to R-2 Single Family Residential District

There were no comments for or against this request.

ORDINANCE 71-2012-13 Amending the Zoning Ordinance and Map of the City of Clarksville, application of Richard E. Stone, Jr., Executor, Jason Daugherty-Agent, for zone change on property at Ringgold Road and Ringgold Court from R-1 Single Family Residential District to R-4 Multiple Family Residential District

There were no comments for or against this request.

RESOLUTION 33-2012-13 Approving abandonment of a portion of Eagle Street; request of Huneycutt Properties

There were no comments for or against this request.

Councilman Grubbs made a motion to revert to regular session. The motion was seconded by Councilman Lewis. A voice vote was taken; the motion passed without objection.

ZONING

The recommendations of the Regional Planning Staff and Commission were for approval of **ORDINANCE 70-2012-13**. Councilman Grubbs made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Redd. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading unanimously passed.

The recommendations of the Regional Planning Staff and Commission were for approval of **ORDINANCE 71-2012-13**. Councilman Grubbs made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Redd. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, Redd, Steward, Summers, Wallace

NAY: McLaughlin

The motion to adopt this ordinance on first reading passed.

ABANDONMENT

The recommendations of the Regional Planning Staff and Commission were for approval of **RESOLUTION 33-2012-13**. Councilman Grubbs made a motion to adopt this reading. The motion was seconded by Councilman Redd. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this resolution unanimously passed.

SPECIAL RECOGNITIONS

Mayor McMillan presented a Certificate of Appreciation to Sgt. Johnny Ferguson for performing CPR and reviving an unresponsive male at his residence on Parker Drive on September 10, 2012. Sgt. Ferguson had previously been presented with the Clarksville Police Department Life Saver Award.

CONSENT AGENDA

All items in this portion of the agenda are considered to be routine and non-controversial by the Council and may be approved by one motion; however, a member of the Council may request that an item be removed for separate consideration under the appropriate committee report:

1. **ORDINANCE 54-2012-13** (Second Reading) Amending the FY13 Capital Projects Budget to accept grants for the Red River Trail project
2. **ORDINANCE 57-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Randy and Gloria Suggs, Syd Hedrick-Agent, for zone change on property at Gateway Lane and Hayes Street from R-1 Single Family Residential District to OP Office-Professional District
[Removed; see end of Consent Agenda]
3. **ORDINANCE 58-2012-13** (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Thomas W. Cork for zone change on property at Terminal Road and Wilma Rudolph Boulevard from M-2 General Industrial District to C-5 Highway & Arterial Commercial District
4. **ORDINANCE 61-2012-13** (Second Reading) Authorizing acquisition property on Ashbury Road for Fire Station #6
5. **RESOLUTION 34-2012-13** Approving a Certificate of Compliance for retail liquor store for Favorite Liquors, Inc., Ashok K. Bhagchand, for operation of Favorite Liquors, Inc.
6. Approval of Minutes: Special Session January 3, Regular Session January 3, Special Session January 14
7. Approval of Board Appointments:

Community Health Foundation: Suzanne Uffleman (replace L. M. Ellis-resigned) and Joey Smith (replace Harold Vann-resigned) - March 2013 through February 2016; Khandra Smalley (fill unexpired term of Andrea Fresco-resigned) - March 2013 through February 2015; Kaye Drew (reappointment) - March 2013 through February 2016.

Housing Authority: Martha Jones – February 2013 through September 2017

Regional Solid Waste Planning Board: Jay Albertia – November 2012 through October 2017

Storm Water Board of Appeals: Chris Goodman – February 2013 through October 2013

Councilwoman Jones requested separate consideration of **ORDINANCE 57-2012-13**. Councilman Redd made a motion to adopt the Consent Agenda with the exception of Item #2. The motion was seconded by Councilman Harris. Councilman Burkhardt abstained from voting on Item #5, **RESOLUTION 34-2012-13**. The following vote was recorded:

AYE: Allen, Burkhardt, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt the Consent Agenda as amended passed.

ORDINANCE 57-2012-13 (Second Reading) Amending the Zoning Ordinance and Map of the City of Clarksville, application of Randy and Gloria Suggs, Syd Hedrick-Agent, for zone change on property at Gateway Lane and Hayes Street from R-1 Single Family Residential District to OP Office-Professional District

This ordinance was removed from the original Consent Agenda. Councilwoman Jones made motion to adopt this ordinance on second reading. The motion was seconded by Councilman Steward. Councilwoman Jones requested denial of this request and recognized individuals in the audience who were residents of the Haynes Street area and noted their opposition to the proposed change. Councilman Summers said the recommendation in the 2030 Smart Growth Plan was for the Publix area to be a blended, walkable area. The following vote was recorded:

AYE: Burkhardt, Grubbs, Harris, Lewis, Redd, Steward, Wallace

NAY: Allen, Guzman, Jones, McLaughlin, Summers

The motion to adopt this ordinance on second reading passed.

COMMUNITY DEVELOPMENT COMMITTEE

David Allen, Chair

Councilman Allen said the Community Development Department would soon be taking bids for Pettus Park playground improvements.

FINANCE COMMITTEE

Joel Wallace, Chair

ORDINANCE 55-2012-13 (Second Reading) Amending the FY13 Capital Projects Budget to accept a donation for the Police Ballistic Scenario House

Councilman Wallace made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Redd. Councilman Redd offered an amendment to change the purpose for the appropriation as well as accounting information that was recommended by the Finance & Revenue Department. The motion was seconded by Councilman Harris. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The amendment unanimously passed. The following vote on the original motion was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on second reading as amended unanimously passed.

ORDINANCE 65-2012-13 (First Reading) Amending the FY13 Information Technology Operating Budget for email archiving system upgrade

Based on the recommendation of the Finance Committee, Councilman Wallace made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Lewis. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed.

ORDINANCE 66-2012-13 (First Reading) Authorizing purchase of property on Chestnut Street for Community Development

Based on the recommendation of the Finance Committee, Councilman Wallace made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Lewis. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed

GAS & WATER COMMITTEE

Jeff Burkhart, Chair

ORDINANCE 63-2012-13 (First Reading) Authorizing extension of utilities to property on Highway 76; request of Ronnie Powers

Based on the recommendation of the Gas & Water Committee, Councilman Burkhart made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Harris. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed

ORDINANCE 64-2012-13 (First Reading) Authorizing extension of utilities to property on Rossvie Road; request of B & S Development

Based on the recommendation of the Gas & Water Committee, Councilman Burkhart made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Harris. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed

PARKS, RECREATION, GENERAL SERVICES

Wallace Redd, Chair

Councilman Redd said the Parks & Recreation Committee had approved adding the Summer Buddy Group Pass to the Outdoor Season Pool Pass in addition to the existing family pricing plan. The Committee also approved a new schedule for the Downtown Market vendor fees.

PUBLIC SAFETY COMMITTEE

(Building & Codes, Fire, Police)
Geno Grubbs, Chair

ORDINANCE 62-2012-13 (Second Reading) Authorizing a budget amendment and acquisition of property on Main Street for future expansion of Fire Station #

Councilman Grubbs made a motion to adopt this ordinance on second reading. The motion was seconded by Councilman Redd. Councilman Redd offered an amendment to add language relative to an environmental study as recommended by the City Attorney. The motion was seconded by Councilwoman McLaughlin. The following vote was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The amendment unanimously passed. The following vote on the original motion was recorded:

AYE: Allen, Burkhart, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading as amended unanimously passed

Councilman Grubbs reported the following January department statistics: Building & Codes Enforcement Division – 315 cases; Building & Codes Construction – 920 permits

and 1,484 inspections; Clarksville Police Department – 5,563 calls and 7,420 self-initiated cases; Clarksville Fire & Rescue – 726 emergency responses.

STREET COMMITTEE

James Lewis, Chair

Councilman Lewis reported 200 work orders completed by the Street Department during January.

TRANSPORTATION COMMITTEE

Marc Harris, Chair

Councilman Harris reported the following January department statistics: Clarksville Transit System – 73,591 passengers; City Garage – 340 work orders with unleaded fuel at a cost of \$2.98 per gallon and diesel fuel at a cost of \$3.15 per gallon.

NEW BUSINESS

ORDINANCE 68-2012-13 (First Reading) Establishing the Occupational Safety and Health Program

Mayor McMillan made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Harris. The following vote was recorded:

AYE: Allen, Burkhardt, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading unanimously passed

ORDINANCE 69-2012-13 (First Reading) Accepting donation of property from In-Rel Development for the Clarksville Greenway

Based on the recommendation of the Finance Committee, Mayor McMillan made a motion to adopt this ordinance on first reading. The motion was seconded by Councilman Steward. The following vote was recorded:

AYE: Allen, Burkhardt, Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

The motion to adopt this ordinance on first reading unanimously passed

RESOLUTION 35-2012-13 Directing the City Attorney to take legal action relative to zoning enforcement in the Patrick Place Subdivision

Councilman Allen made a motion to adopt this resolution. The motion was seconded by Councilwoman McLaughlin. City Attorney Lance Baker re-stated his advice against pursuing legal action against the developers of the Patrick Place subdivision regarding perimeter lot requirements. Mr. Baker reminded the Council of problems and risks cited during previous closed sessions. He said the Regional Planning Commission had already granted approval of the site plan and also stated that under the rules of statutory construction, a contradiction involving

interpretation of a statute would be resolved against the governmental entity and in favor of the private party.

Councilman Allen said this proposed action was not an issue against Councilman Burkhart as the developer of this subdivision, but an issue against any developer who did not follow the zoning ordinance. He said adoption of this resolution would show support for the City as a whole.

Councilman Redd called for the question. The question was seconded by Councilman Lewis. The following vote was recorded:

AYE: Grubbs, Guzman, Harris, Jones, Lewis, McLaughlin, Redd, Steward, Summers, Wallace

NAY: Allen

ABSTAIN: Burkhart

The motion to cease discussion passed. The following vote on the original motion was recorded:

AYE: Allen, Guzman, Jones, McLaughlin, Summers

NAY: Grubbs, Harris, Lewis, Redd, Steward, Wallace

ABSTAIN: Burkhart

The motion to adopt this resolution failed.

MAYOR AND STAFF REPORTS

Mayor McMillan said the Council would begin receiving quarterly reports of actions from the Airport Authority.

ADJOURNMENT

The meeting was adjourned at 8:09 p.m.

RESOLUTION 36-2012-13

A RESOLUTION TO AUTHORIZE MEMBERS OF THE TENNESSEE CONSOLIDATED RETIREMENT SYSTEM WHO HAVE ONE (1) YEAR OR MORE OF CURRENT MEMBERSHIP SERVICE IN THE RETIREMENT SYSTEM TO ESTABLISH RETIREMENT CREDIT FOR TIME DURING WHICH SUCH MEMBERS WERE EMPLOYED BY A POLITICAL SUBDIVISION

WHEREAS, Tennessee Code Annotated, Section 8-35-236 authorizes a political subdivision participating in the Tennessee Consolidated Retirement System to permit any member who has one (1) year or more of current membership service in the Retirement System to establish retirement credit for time during which such member was employed by such political subdivision;

WHEREAS, four (4) conditions must be met prior to allowing such members to make the above election. Said conditions are as follows:

- (1) The political subdivision authorizes and pays for the cost of an actuarial study to determine the liability associated with the granting of such prior service;
- (2) The member files with the political subdivision, within sixty (60) calendar days of the passage of the resolution authorizing the study, a notice of the member's intention to establish such prior service. Any member who fails to file the notice of election within the sixty (60) day period shall not later be eligible to establish such prior service;
- (3) Following the review of the cost of granting such prior service, the chief legislative body of the political subdivision by a two-thirds (2/3) vote passes a resolution authorizing the service for such members, and accepting the liability therefore; provided, however, the political subdivision may only authorize credit for such periods of previous service as authorized for other employees of the political subdivision; and
- (4) Any such member making the above election pays to the Retirement System in a lump sum the employee contributions he would have made had the member been a member of the Retirement System during the period claimed, plus interest at the rate provided in Tennessee Code Annotated, Section 8-37-214;

WHEREAS, an actuarial study has been conducted to determine the liability associated with the granting of such prior service. The accrued liability for such service is \$106,900. The employer contribution rate produced by the July 1, 2012, actuarial valuation would increase by .03% of payroll.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That having reviewed the costs of granting such prior service, the City Council of The City of Clarksville, Tennessee hereby authorizes any member of the Retirement System meeting the requirements of Tennessee Code Annotated, Section 8-35-236 to establish prior service under the provisions of said section, and accepts the liability therefor.

ADOPTED:

ORDINANCE 67-2012-13

AN ORDINANCE AMENDING THE OFFICIAL CODE OF THE CITY OF CLARKSVILLE, TITLE 1 (ADMINISTRATION, OFFICERS AND PERSONNEL), CHAPTER 6 (CODE OF ETHICS), RELATIVE TO ESTABLISHMENT OF AN ETHICS COMMISSION AND ADOPTION OF PROCEDURES FOR RESOLVING ETHICS COMPLAINTS AGAINST CITY COUNCIL MEMBERS, TO INCLUDE THE MAYOR, THE CITY JUDGE, THE CITY ATTORNEY, THE CITY CLERK, THE DIRECTOR OF FINANCE, THE DIRECTOR OF INTERNAL AUDIT, AND VARIOUS DEPARTMENT HEADS

WHEREAS, the Clarksville City Council finds the current City Ethics Code is deficient and wholly lacking in setting forth a proper procedure for the resolution of ethics complaints against City Council members, to include the City Mayor, and the City Judge, the City Attorney, the City Clerk, and other various department heads; and

WHEREAS, the Clarksville City Council has determined that it is in the best interest of the City of Clarksville and its citizens to amend the City Ethics Code to remedy said deficiencies;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

1. That the Official Code of the City of Clarksville, Tennessee, Title 1 (Administration, Officers and Personnel), Chapter 6 (Code of Ethics), Section 1-608 (Ethics Complaints) and Section 1-609 (Violations), are hereby amended by deleting said sections in their entirety, and by substituting instead the following:

Section 1-608. Reserved.

Section 1-609. Reserved.

Section 1-610. Ethics Commission – Creation.

There is hereby established an “Ethics Commission” for the City of Clarksville, Tennessee.

Section 1-611. Ethics Commission; Organization, Membership Requirements, Terms.

a. Organization, Number. The Ethics Commission shall be composed of five (5) voting members, who shall be appointed by the Mayor, subject to City Council approval by majority vote of the members present and voting.

b. Membership Requirements. The members of the Ethics Commission shall have been residents of the City of Clarksville, Tennessee, for not less than two years prior to any

vote of the City Council on their appointment. Residency within the City shall be a requirement for continued membership on the Ethics Commission. No elected or appointed official or employee of the City, other than a member of any federal military reserve or state national guard force while not on active duty, or of any other governmental entity, to include national, state or local government, other than a member of any federal military reserve or state national guard force while not on active duty, nor any candidate for any public office, to include national, state or local government, nor any member of any other City board, commission, authority, or other city entity, may serve as a member of the Ethics Commission. For purposes of this section, legally separate, private non-profit organizations or entities that receive City funding shall not be construed as a City entity.

b. Term.

(1) Terms for each member shall be for a period of three (3) years, except for initially appointed members, whose initial terms shall be as provided below to allow for staggered terms. No member may serve more than two (2) consecutive terms.

(2) With regard to initial terms for members, two (2) such members shall serve an initial term of three (3) years each; two other such members shall serve an initial term of two (2) years each; and one other such member shall serve an initial term of one (1) year.

(3) If any member, ceases to be a resident of the City of Clarksville, or qualifies as a candidate for any public office, or is elected or appointed to any public office other than a member of any federal military reserve or state national guard force while not on active duty, or accepts employment with or for any governmental entity other than a member of any federal military reserve or state national guard force while not on active duty, or refuses to continue service on, resigns from, or otherwise ceases to be a member of the Ethics Commission for any reason before the expiration of his or her term, or fails to attend and participate in at least three consecutive meetings or fails to attend at least two-thirds of all properly called meetings of the Ethics Commission within any calendar year period, a new member shall be appointed by the Mayor, subject to City Council approval, to serve the remainder of the former member's unexpired term. Service during any unexpired term shall count as a term for the purpose of computing the limit on consecutive terms.

Section 1-612. Ethics Commission; Member Compensation.

Members of the Ethics Commission shall not receive any monetary compensation for their service on the Commission.

Section 1-613. Ethics Commission; Officers.

The members of the Ethics Commission shall elect officers for the Commission. One member shall be elected to serve as Chairman of the Commission; one member to serve as Vice-Chairman of the Commission; and one member to serve as Secretary for the Commission. Officers may not hold more than one office on the Commission at the same time. Officers shall hold office for one (1) year periods. The City Clerk shall serve as custodian of records for the Commission. The City Attorney shall provide legal advice to the Commission as may be required, and may select outside counsel to provide advice in cases where the City Attorney determines he has a conflict of interest or as he may otherwise determine is required.

Section 1-614. Ethics Commission; By-laws.

The Commission shall adopt and make public by-laws to govern the dates, times, and places for meetings, rules of procedure not otherwise inconsistent with the provisions herein, and any other matters appropriately addressed therein.

Section 1-615. Ethics Commission; Removal of Members.

Any member of the Ethics Commission may be removed as a member of the Commission prior to the expiration of their term in cases of permanent disability, or misfeasance, malfeasance, or nonfeasance in relation to their duties as a member of the Commission, or for other just cause, by resolution approved by a three-fourths (3/4) majority vote of the City Council. Prior to any such vote on removal of any member from the Commission, said member shall have an opportunity to be heard on the issue of their removal in person, through counsel, and / or by submission of relevant written or other evidentiary materials, and may cross examine any witnesses against them who shall be required to testify under oath, and may request the City Council to issue a subpoena compelling the attendance and testimony under oath of any witnesses with relevant knowledge as to any material issue, but the City Council may deny said request upon a majority vote. The date, time and place for said hearing, and the requirements for submission of the resolution for removal to the City Council, shall be the same as and in accordance with the requirements for consideration of other legislative matters as set forth in the City Code.

Section 1-617. Ethics Commission; Open Records and Open Meetings.

All records of the Ethics Commission shall be open and subject to public inspection in accordance with the Tennessee "Open Records" law, Tenn. Code Ann. Section 10-7-503, et seq., as same may be amended from time to time; and all meetings of the Commission shall comply with the Tennessee "Open Meetings" law, Tenn. Code Ann. Section 8-44-101, et seq., as same may be amended from time to time.

Section 1-618. Ethics Commission; No Authority to Contract or Obligate City.

The Ethics Commission shall have no authority to contract or be contracted with or to bind or obligate the City in any way and shall not have authority to appropriate City funds for any purpose.

Section 1-619. Ethics Commission; Jurisdiction.

The Ethics Commission shall have jurisdiction over all ethics complaints made against any member or members of the City Council, to include the Mayor, the City Judge, the City Attorney, the City Clerk, the Director of Finance, the Director of Internal Audit, and all other department heads of the City, **as well as all members of any City boards, commissions, authorities, or other like body established by the City, but excluding entities having a separate corporate or other legal existence.** The determination as to whether any individual is a department head shall be determined by the Director of the Department of Human Resources, in consultation with the City Attorney.

Section 1-619. Ethics Commission; Duties.

The Ethics Commission shall have the following duties:

- a. To receive ethics complaints within its jurisdiction, and to hold hearings and conduct investigations in connection therewith as may be required pursuant to the provisions herein; and
- b. To make recommendations regarding any alleged ethics complaints within the jurisdiction of the Ethics Commission as provided herein; and
- c. To maintain records of its investigations, inquiries and proceedings.

Section 1-620. Procedures for Filing and Evaluation of Ethics Complaints.

a. *Complaint procedures:*

- (1) Any individual real person may submit an ethics complaint alleging that any one or more City of Clarksville officials, whether elected or appointed, or an employee, have violated the Code of Ethics.
- (2) Any ethics complaint must be in writing, signed and sworn to by the complainant, under oath, as properly evidenced by a notary public, and shall contain the following:
 - (a) the complainant's legal name and current mailing address, and in addition may include an email address and / or phone number; and

- (b) the name of any person or persons who are alleged to have committed an ethics violation; and
- (c) a brief summary of the facts giving rise to the alleged ethics complaint; and,
- (d) an explanation of why those facts allegedly constitute a violation of the City Code of Ethics (which may include citation to specific sections and / subsections).

(3) Any ethics complaint that does not contain the above requirements shall not be considered, except that upon receipt of any deficient ethics complaint, the City Attorney may, but is not required to, contact the complainant to inform them of the deficiency, whereupon the complainant may have a reasonable time, not to exceed ten days, within which to submit an amended complaint meeting the requirements herein.

(4) All ethics complaints shall first be filed with the City Clerk. Upon receipt, the City Clerk shall annotate the date and time of receipt on the ethics complaint, and log the receipt of the complaint into a running journal kept for the purpose of keeping track of the receipt of ethics complaints and showing the name of the person making the complaint, the date and time of receipt of the ethics complaint, and the name(s) of the person or persons against whom the complaint is made, and any other information that will enable the City Clerk to keep accurate records pertaining to ethics complaints. The City Clerk will thereupon provide a copy of the ethics complaint to the person or persons against whom the ethics complaint is made, and to the City Attorney.

(5) The City Attorney shall determine if the ethics complaint is made against a person within the jurisdiction of the Ethics Commission, except for any ethics complaint alleged against the City Attorney, which shall always be provided by the City Clerk to the Ethics Commission for action. If the ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the City Clerk shall also provide a copy of the ethics complaint to the Ethics Commission for action as set forth herein. If the ethics complaint does not allege an ethics violation against any person within the jurisdiction of the Ethics Commission, but against one or more employees not within the jurisdiction of the Ethics Commission, then the City Attorney shall inquire into the matter, conduct such investigation as he deems appropriate, and make a determination as to the merits of the alleged ethics complaint, and make a recommendation to the department head of any department in which the employee works regarding his findings, and a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the City Attorney, and to make any recommendation

regarding any disciplinary action against the employee. The decision to impose disciplinary action, if any, shall be made by the department head, in accordance with the provisions of the City Code pertaining to personnel and disciplinary action.

(6) If an ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the Ethics Commission, upon receipt of the ethics complaint from the City Clerk, shall thereupon take action as provided herein.

(a) The chairman of the Ethics Commission shall call a meeting of the Commission, which meeting shall be open to and noticed to the public. The City Clerk shall also provide notice of the meeting to the complainant, and to the person(s) alleged to be in violation of the ethics code and named in the ethics complaint.

(b) At the Commission meeting, the Commission shall evaluate the allegations of the ethics complaint, and make a determination as to whether the allegations would constitute an ethics violation, if the facts alleged in the ethics complaint were true. If the Commission determines that the alleged facts, even if true, would not be a violation of the ethics code, the Commission may dismiss the complaint, or may request additional information from the complainant, or any other person the Commission deems to have material information, in its sole discretion, to determine whether a hearing should be held to determine the merits of the ethics complaint. If the Commission determines that the alleged facts, if true, could constitute a violation of the ethics code, then the Commission shall hold a hearing to determine whether the ethics complaint has merit.

b. Hearing procedures:

(1) If the Ethics Commission determines that a hearing should be held on an ethics complaint, the hearing shall be conducted as follows:

(a) The hearing shall be noticed to and open to the public; and

(b) Notice of the hearing shall be provided to the complainant and to the elected or appointed official(s) named in the complaint (together, the "parties"); and

(c) The parties may, but are not required to, submit evidentiary material to the Commission. If a party does wish to submit such evidentiary material to the Commission, the party must file the material with the City Clerk, with a copy to the City Attorney, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing, unless, for good cause shown, the

Commission amends the time requirement. The City Clerk shall provide a copy of all evidentiary materials to the Commission members.

(d) The parties shall have a full and fair opportunity, but are not required, to present their positions and facts to the Commission at the hearing. Each party shall be allotted a reasonable amount of time to make its presentation to the board.

(e) Each party shall have the right to represent themselves, and to have the assistance of legal counsel at their own expense, but may not be represented by non-attorneys.

(f) All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses shall be subject to cross-examination.

(g) Each party must file with the City Clerk, and provide a copy of same to the City Attorney, a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the Commission may permit such an unlisted witness to be called by a party, if in the Commission's discretion, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

(h) Commission members may ask questions of any party, counsel, or witness at any time during the hearing, but the Chairman shall conduct the hearing and determine the order in which Commission members may pose questions.

(i) The committee may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party, and upon majority vote of the members, may cause the City Clerk to issue subpoenas for documents and things or for testimony of persons within the jurisdiction of the City to the maximum extent permitted by law.

(j) The committee may continue any hearing to a later date.

(k) The City Attorney, or an attorney appointed by the City Attorney, shall be present during the hearing to advise the Commission as may be necessary on all legal issues.

c. *Decision to be in Writing.* Whether or not the Commission holds a hearing on the ethics complaint, or dismisses the complaint, it shall issue a decision in writing. If the Commission holds a hearing on the ethics complaint, it shall state in writing whether it finds the ethics complaint to have merit, and if so, which section and subsection as applicable of the ethics code has been violated and by whom.

d. *Vote Required to Find Violation; Burden of Proof.* Any decision of the Commission finding an ethics complaint to have merit shall require the affirmative vote of at least four (4) members of the Commission. The complainant shall bear the burden of proof to prove a violation by a preponderance of the evidence, and the person alleged to have violated the ethics code shall not be required to prove the absence of a violation.

e. *Prohibition on Outside Communications.* Once an ethics complaint has been received by the members of the Commission, and until a written decision has been issued by the Commission, no member of the Commission shall participate in any communication regarding the allegations or merits of the complaint, outside of the Commission's public meetings or hearings.

f. *Report of Decision.* The decision of the Commission shall be submitted to the Mayor, the Clarksville City Council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

Section 1-620. Commission Action Upon Finding of Violation.

a. *Report of Decision.* The decision of the Commission shall be submitted to the Mayor, the Clarksville City Council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

b. If the Ethics Commission decides that an official, whether elected or appointed, or an employee, within its jurisdiction has violated the Code of Ethics, then the Ethics Committee shall take one or more of the following actions, as decided by affirmative vote of at least four of its members:

(1) Report to the City Council that a determination has been made that the Code of Ethics has been violated, setting forth which section and subsection, as applicable, of the ethics code has been violated and by whom. The Ethics Commission may also make recommendations to the City Council regarding any appropriate remedial action, including censure, that the City Council should consider; and / or

- (2) Make a recommendation to the violator that he or she resign from their respective position; and / or
- (3) Make a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the City Attorney, and to make any recommendation regarding any disciplinary action against the employee.
- (4) Refer the matter to the City Attorney with a request that appropriate civil action be instituted by the City of Clarksville for restitution, and / or for such other relief as the Commission deems appropriate, and/or a request that the City Attorney refer the matter to the local District Attorney General, or other state or federal law enforcement authority, for appropriate action under general criminal law.

POSTPONED:

January 29, 2013, to March Regular Session

FIRST READING:

SECOND READING:

EFFECTIVE DATE:

McLaughlin

AN ORDINANCE AMENDING THE OFFICIAL CODE OF THE CITY OF CLARKSVILLE, TITLE 1 (ADMINISTRATION, OFFICERS AND PERSONNEL), CHAPTER 6 (CODE OF ETHICS), RELATIVE TO ESTABLISHMENT OF AN ETHICS COMMISSION AND ADOPTION OF PROCEDURES FOR RESOLVING ETHICS COMPLAINTS AGAINST CITY COUNCIL MEMBERS, TO INCLUDE THE MAYOR, THE CITY JUDGE, THE CITY ATTORNEY, THE CITY CLERK, THE DIRECTOR OF FINANCE, THE DIRECTOR OF INTERNAL AUDIT, AND VARIOUS DEPARTMENT HEADS

WHEREAS, the Clarksville City Council finds the current City Ethics Code is deficient and wholly lacking in setting forth a proper procedure for the resolution of ethics complaints against City Council members, to include the City Mayor, and the City Judge, the City Attorney, the City Clerk, and other various department heads; and

WHEREAS, the Clarksville City Council has determined that it is in the best interest of the City of Clarksville and its citizens to amend the City Ethics Code to remedy said deficiencies;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

1. That the Official Code of the City of Clarksville, Tennessee, Title 1 (Administration, Officers and Personnel), Chapter 6 (Code of Ethics), Section 1-608 (Ethics Complaints) and Section 1-609 (Violations), are hereby amended by deleting said sections in their entirety, and by substituting instead the following:

Section 1-608. Reserved.

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Section 1-613. Ethics Commission; Officers.

The members of the Ethics Commission shall elect officers for the Commission. One member shall be elected to serve as Chairman of the Commission; one member to serve as Vice-Chairman of the Commission; and one member to serve as Secretary for the Commission. Officers may not hold more than one office on the Commission at the same time. Officers shall hold office for one (1) year periods. The City Clerk shall serve as custodian of records for the Commission. The City Attorney shall provide legal advice to the Commission as may be required, and may select outside counsel to provide advice in cases where the City Attorney determines he has a conflict of interest or as he may otherwise determine is required.

Section 1-614. Ethics Commission; By-laws.

The Commission shall adopt and make public by-laws to govern the dates, times, and places for meetings, rules of procedure not otherwise inconsistent with the provisions herein, and any other matters appropriately addressed therein.

Section 1-615. Ethics Commission; Removal of Members.

Any member of the Ethics Commission may be removed as a member of the Commission prior to the expiration of their term in cases of permanent disability, or misfeasance, malfeasance, or nonfeasance in relation to their duties as a member of the Commission, or for other just cause, by resolution approved by a three-fourths (3/4) majority vote of the City Council. Prior to any such vote on removal of any member from the Commission, said member shall have an opportunity to be heard on the issue of their removal in person, through counsel, and / or by submission of relevant written or other evidentiary materials, and may cross examine any witnesses against them who shall be required to testify under oath, and may request the City Council to issue a subpoena compelling the attendance and testimony under oath of any witnesses with relevant knowledge as to any material issue, but the City Council may deny said request upon a majority vote. The date, time and place for said hearing, and the requirements for submission of the resolution for removal to the City Council, shall be the same as and in accordance with the requirements for consideration of other legislative matters as set forth in the City Code.

Section 1-617. Ethics Commission; Open Records and Open Meetings.

All records of the Ethics Commission shall be open and subject to public inspection in accordance with the Tennessee "Open Records" law, Tenn. Code Ann. Section 10-7-503, et seq., as same may be amended from time to time; and all meetings of the Commission shall comply with the Tennessee "Open Meetings" law, Tenn. Code Ann. Section 8-44-101, et seq., as same may be amended from time to time.

Section 1-618. Ethics Commission; No Authority to Contract or Obligate City.

The Ethics Commission shall have no authority to contract or be contracted with or to bind or obligate the City in any way and shall not have authority to appropriate City funds for any purpose.

Section 1-619. Ethics Commission; Jurisdiction.

The Ethics Commission shall have jurisdiction over all ethics complaints made against any member or members of the City Council, to include the Mayor, the City Judge, the City Attorney, the City Clerk, the Director of Finance, the Director of Internal Audit, and all other department heads of the City, ~~as well as all members of any City boards, commissions, authorities, or other like body established by the City, but excluding entities having a separate corporate or other legal existence.~~ The determination as to whether any individual is a department head shall be determined by the Director of the Department of Human Resources, in consultation with the City Attorney.

Section 1-619. Ethics Commission; Duties.

The Ethics Commission shall have the following duties:

- a. To receive ethics complaints within its jurisdiction, and to hold hearings and conduct investigations in connection therewith as may be required pursuant to the provisions herein; and
- b. To make recommendations regarding any alleged ethics complaints within the jurisdiction of the Ethics Commission as provided herein; and
- c. To maintain records of its investigations, inquiries and proceedings.

Section 1-620. Procedures for Filing and Evaluation of Ethics Complaints.

a. *Complaint procedures:*

(1) Any individual real person may submit an ethics complaint alleging that any one or more City of Clarksville officials, whether elected or appointed, or an employee, have violated the Code of Ethics.

(2) Any ethics complaint ~~must be in writing, signed and sworn to by the complainant, under oath, as properly evidenced by a notary public, and~~ shall contain the following:

- (a) ~~the complainant's legal name and current mailing address, and in addition may include an email address and / or phone number; and~~

(b) the name of any person or persons who are alleged to have committed an ethics violation; and

(c) a brief summary of the facts giving rise to the alleged ethics complaint; and,

(d) an explanation of why those facts allegedly constitute a violation of the City Code of Ethics (which may include citation to specific sections and / subsections).

(3) Any ethics complaint that does not contain the above requirements shall not be considered, except that upon receipt of any deficient ethics complaint, the City Attorney may, but is not required to, contact the complainant to inform them of the deficiency, whereupon the complainant may have a reasonable time, not to exceed ten days, within which to submit an amended complaint meeting the requirements herein.

(4) All ethics complaints shall first be filed with the City Clerk. Upon receipt, the City Clerk shall annotate the date and time of receipt on the ethics complaint, and log the receipt of the complaint into a running journal kept for the purpose of keeping track of the receipt of ethics complaints and showing the name of the person making the complaint, the date and time of receipt of the ethics complaint, and the name(s) of the person or persons against whom the complaint is made, and any other information that will enable the City Clerk to keep accurate records pertaining to ethics complaints. The City Clerk will thereupon provide a copy of the ethics complaint to the person or persons against whom the ethics complaint is made, and to the City Attorney.

(5) The City Attorney shall determine if the ethics complaint is made against a person within the jurisdiction of the Ethics Commission, except for any ethics complaint alleged against the City Attorney, which shall always be provided by the City Clerk to the Ethics Commission for action. If the ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the City Clerk shall also provide a copy of the ethics complaint to the Ethics Commission for action as set forth herein. If the ethics complaint does not allege an ethics violation against any person within the jurisdiction of the Ethics Commission, but against one or more employees not within the jurisdiction of the Ethics Commission, then the City Attorney shall inquire into the matter, conduct such investigation as he deems appropriate, and make a determination as to the merits of the alleged ethics complaint, and make a recommendation to the department head of any department in which the employee works regarding his findings, and a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the City Attorney, and to make any recommendation

regarding any disciplinary action against the employee. The decision to impose disciplinary action, if any, shall be made by the department head, in accordance with the provisions of the City Code pertaining to personnel and disciplinary action.

(6) If an ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the Ethics Commission, upon receipt of the ethics complaint from the City Clerk, shall thereupon take action as provided herein.

(a) The chairman of the Ethics Commission shall call a meeting of the Commission, which meeting shall be open to and noticed to the public. The City Clerk shall also provide notice of the meeting to the complainant, and to the person(s) alleged to be in violation of the ethics code and named in the ethics complaint.

(b) At the Commission meeting, the Commission shall evaluate the allegations of the ethics complaint, and make a determination as to whether the allegations would constitute an ethics violation, if the facts alleged in the ethics complaint were true. If the Commission determines that the alleged facts, even if true, would not be a violation of the ethics code, the Commission may dismiss the complaint, or may request additional information from the complainant, or any other person the Commission deems to have material information, in its sole discretion, to determine whether a hearing should be held to determine the merits of the ethics complaint. If the Commission determines that the alleged facts, if true, could constitute a violation of the ethics code, then the Commission shall hold a hearing to determine whether the ethics complaint has merit.

b. *Hearing procedures:*

(1) If the Ethics Commission determines that a hearing should be held on an ethics complaint, the hearing shall be conducted as follows:

(a) The hearing shall be noticed to and open to the public; and

(b) Notice of the hearing shall be provided to the complainant and to the elected or appointed official(s) named in the complaint (together, the "parties"); and

(c) The parties may, but are not required to, submit evidentiary material to the Commission. If a party does wish to submit such evidentiary material to the Commission, the party must file the material with the City Clerk, with a copy to the City Attorney, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing, unless, for good cause shown, the

Commission amends the time requirement. The City Clerk shall provide a copy of all evidentiary materials to the Commission members.

(d) The parties shall have a full and fair opportunity, but are not required, to present their positions and facts to the Commission at the hearing. Each party shall be allotted a reasonable amount of time to make its presentation to the board.

(e) Each party shall have the right to represent themselves, and to have the assistance of legal counsel at their own expense, but may not be represented by non-attorneys.

(f) All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses shall be subject to cross-examination.

(g) Each party must file with the City Clerk, and provide a copy of same to the City Attorney, a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the Commission may permit such an unlisted witness to be called by a party, if in the Commission's discretion, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

(h) Commission members may ask questions of any party, counsel, or witness at any time during the hearing, but the Chairman shall conduct the hearing and determine the order in which Commission members may pose questions.

(i) The committee may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party, and upon majority vote of the members, may cause the City Clerk to issue subpoenas for documents and things or for testimony of persons within the jurisdiction of the City to the maximum extent permitted by law.

(j) The committee may continue any hearing to a later date.

(k) The City Attorney, or an attorney appointed by the City Attorney, shall be present during the hearing to advise the Commission as may be necessary on all legal issues.

c. *Decision to be in Writing.* Whether or not the Commission holds a hearing on the ethics complaint, or dismisses the complaint, it shall issue a decision in writing. If the Commission holds a hearing on the ethics complaint, it shall state in writing whether it finds the ethics complaint to have merit, and if so, which section and subsection as applicable of the ethics code has been violated and by whom.

d. *Vote Required to Find Violation; Burden of Proof.* Any decision of the Commission finding an ethics complaint to have merit shall require the affirmative vote of at least four (4) members of the Commission. The complainant shall bear the burden of proof to prove a violation by a preponderance of the evidence, and the person alleged to have violated the ethics code shall not be required to prove the absence of a violation.

e. *Prohibition on Outside Communications.* Once an ethics complaint has been received by the members of the Commission, and until a written decision has been issued by the Commission, no member of the Commission shall participate in any communication regarding the allegations or merits of the complaint, outside of the Commission's public meetings or hearings.

f. *Report of Decision.* The decision of the Commission shall be submitted to the Mayor, the Clarksville City Council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

Section 1-620. Commission Action Upon Finding of Violation.

a. *Report of Decision.* The decision of the Commission shall be submitted to the Mayor, the Clarksville City Council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

b. If the Ethics Commission decides that an official, whether elected or appointed, or an employee, within its jurisdiction has violated the Code of Ethics, then the Ethics Committee shall take one or more of the following actions, as decided by affirmative vote of at least four of its members:

- (1) Report to the City Council that a determination has been made that the Code of Ethics has been violated, setting forth which section and subsection, as applicable, of the ethics code has been violated and by whom. The Ethics Commission may also make recommendations to the City Council regarding any appropriate remedial action, including censure, that the City Council should consider; and / or

- (2) Make a recommendation to the violator that he or she resign from their respective position; and / or
- (3) Make a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the City Attorney, and to make any recommendation regarding any disciplinary action against the employee.
- (4) Refer the matter to the City Attorney with a request that appropriate civil action be instituted by the City of Clarksville for restitution, and / or for such other relief as the Commission deems appropriate, and/or a request that the City Attorney refer the matter to the local District Attorney General, or other state or federal law enforcement authority, for appropriate action under general criminal law.



Section 1-611. Ethics Commission; Organization, Membership Requirements, Terms.

a. *Organization, Number.* The Ethics Commission shall be composed of **thirteen (13) total members, which will form a selection pool. Seven commission members will be randomly selected to review any ethics case presented (Section 1-620).**

b. *Appointment Method.*

1. **Each council member shall nominate one citizen from the ward they represent for appointment to the Ethics Commission. The mayor shall nominate one citizen from any ward within the city.**

2. **Each nominee will be required to complete and sign a nomination questionnaire (Appendix 1) to provide information pertaining to commission membership requirements listed in Section 1-611(c). This action will be conducted through the City Attorney Office.**

3. **Each council member will receive a copy of all recommended nominees completed questionnaires for review a minimum of one week before a consent vote.**

4. **The council shall approve the list of nominees in one consent vote. Prior to the consent vote be taken, the sponsoring resolution and the Ethics Commission nominee names will be read aloud for the record. After the reading, council members will be asked if they have any questions or wish to pull a nominee's name from the proposed consent list for a separate council discussion and vote. The nominees that remain on the consent list will require 2/3s approval of the full council.**

5. **Any nominees pulled from the consent list will be discussed and voted on, requiring and 2/3s majority approval. Any nominee not receiving the required approval margin shall be replaced by the nominating council member. The nominating council member may submit the replacement for full council consideration by the next regular or special voting session of the council, provided the one-week review period is met.**

c. *Membership Requirements.*

1. **The members of the Ethics Commission shall have been residents and registered voters of the City of Clarksville, Tennessee, and their assigned Council Ward (specific Ward residency is not required for mayoral nominee) for not less than two years prior to any vote of the City Council on their appointment.**

2. Residency within the City **and Ward** shall be a requirement for continued membership on the Ethics Commission.

3. Commission members and immediate family members (spouse and other family that resides at the member's residence), cannot be associated with or participate in the formation, membership, financial donation/fundraising, management, financial oversight, political planning or membership activities of any Political Action Committee, Labor Union or Lobby Organization that campaigned for or against any sitting member of the City Council. Such requirements will be maintained during the appointed term of the member.

4. Commission members and immediate family members (spouse and other family that resides at the member's residence) shall not be in a leadership or established decision-making position of a recognized/registered local or state political party. This would include positions of President/Chairman, Vice-president/co-chairman, any secretary position, any treasury/fundraising position, publicity or committee/at-large positions. Such requirements will be maintained during the appointed term of the member.

5. Commission members, their immediate family members (spouse and other family that resides at the member's residence) and the companies they may own, work for or have any financial or management interest in cannot be awarded professional (non-competitive bid) contracts by the City of Clarksville during their appointed term. Such a requirement will be maintained during the appointed term of the member.

6. Commission members, their immediate family members (spouse and other family that resides at the member's residence) and the companies they may own, work for or have any financial or management interest cannot have current or ongoing professional (non-competitive bid) contracts with the City of Clarksville. Such a requirement will be maintained during the appointed term of the member.

7. Commission members and their immediate family members (spouse and other family that resides at the member's residence) cannot have money/in-kind donations or given personal time to the campaigns of any current sitting council member. Such requirements will be maintained during the appointed term of the member.

8. No elected or appointed official or employee of the City, other than a member of any federal military reserve or state national guard force while not on active duty, or of any other governmental entity, to include national, state or local government, other than a member of any federal military reserve or state national guard force while not on active duty, nor any candidate for any public office, to include national, state or local government, nor any member of any other City board, commission, authority, or other city entity, may serve as a member of the Ethics Commission. For purposes of this section, legally separate, private non-profit organizations or entities that receive City funding shall **(deleted the word “not” from the original text version)** be construed as a City entity. **Such requirements will be maintained during the appointed term of the member.**

d. Term.

(1) Terms for each **Ethics Commission** member shall be **equal to the elected term of the nominating council member. If the nominating council member remains for another elected term, that council member may re-nominate the commissioner member for another term.** No member may serve more than two (2) consecutive terms.

(2) (With regard to initial terms for members....delete this original section entirely and replace with the following) Members will retain their commission appointment until they fail to attend three consecutive meetings of the Ethics Commission; fail to attend 2/3s of all properly called commission meetings within any calendar year; request removal; violate terms of their selection/appointment; served the maximum of two terms; or their nominating council representative is no longer in office.

(3) (If any member.... Deleted this original section entirely and replace with the following) When an Ethics Commission member is removed for reasons specified in this section (d(1) and d(2)) the council member(s) have 45 days to provide a replacement nomination for council approval.

Appendix 1. Ethics Commission Nomination Questionnaire Form

1. Nominee Name: _____

2. Home Address: _____

3. Occupation: _____

4. Employment Firm/Company and Address: _____

5. Have you live within the City of Clarksville and the Ward you are being appointed from for at least the past two years? Yes: _____ No: _____

6. Have you been a registered voter within the City of Clarksville and the Ward you are being appointed from for at least the past two years? Yes: _____ No: _____

7. Have you or any immediate family members (spouse and other family that reside at your home address) been associated with or participate in the formation, membership, financial donation/fundraising, management, financial oversight, political planning or membership activities of any Political Action Committee, Labor Union or Lobby Organization that campaigned for or against any sitting member of the City Council? Yes: _____ No: _____ If yes, please explain.

8. Are you or any immediate family members (spouse and other family that reside at your home address) currently involved in a leadership or established decision-making position of a recognized/registered local or state political party. This would include positions of President/Chairman, Vice-president/co-chairman, any secretary position, any treasury/fundraising position, publicity or committee/at-large positions? Yes : _____ No: _____ If yes, please explain.

9. Are you or any immediate family members (spouse and other family that resides at your home address) and the companies you may own, work for or have any financial or management interest in, currently working any professional (non-competitive bid) contracts for the City of Clarksville? Yes: ____ No: ____ If yes, please explain.

10. Have you or any immediate family members (spouse and other family that resides at home address) proved money/in-kind donations or given personal time to the campaigns of any current sitting council member? Yes: ____ No: ____

11. Are you currently an employee of the city or appointed as a representative of the city to any board, commission, company, authority or other activity? Yes: ____ No: ____ If yes, please explain.

12. Are you a board member, employee or volunteer worker for a non-profit that receives funding from the City of Clarksville? Yes: ____ No: ____ If yes, please explain.

13. Are you an elected official for any other local, state or federal function? Yes: ____ No: ____ If yes, please explain.

13. Have you ever been arrested and convicted or been found in violation of ethically standards with any activities you participated in? Yes: ____ No: ____ If yes, please explain.

14. Is there any other information or activities that you may be involved in that will assist the council in reviewing your nomination? _____

The undersigned certifies that all of the information that has been provided is true, correct and complete to the best of my knowledge.

Signature:

Date:

Summers #2

Section 1-613. Ethics Commission; **Selection and Officers.**

a. Selection process

Upon validation of an ethics complaint by the City Attorney, the person named in the complaint will be contacted by the City Attorney's office. The city attorney will request the person come to his office in order to draw the names of seven commission members from the selection pool using a "fishbowl" technique. If the person named in the complaint is a council member and during the drawing process a commission member selected was the nominee of that council member, that selection will be set aside and a replacement selection made. This methodology will ensure a random and unbiased commission makeup. The City Attorney will notify the selected Commission members as to their selection and ensure their availability and absence of any conflicts. If a chosen Commission member cites concern based on a real or the appearance of conflict based on a personal, business or some other relationship, then a replace member will be required using the methods prescribed.

b. Officers

After seven members of ~~The members of the~~ an Ethics Commission are selected for a case, the City Attorney shall arrange an organizational meeting for the members to elect a Chairman for the case they will review and receive any other information required. ~~One member shall be elected to serve as Chairman of the Commission and one member to serve as Vice Chairman of the Commission.~~ The city will provide and administrative person to serve as a Secretary for the Commission. ~~Officers may not hold more than one office on the Commission at the same time. Officers~~ The chairman shall hold office the elected position only for the duration of that review. ~~for one (1) year periods.~~ The City Clerk shall serve as custodian of records for the Commission. The City Attorney's Office shall provide legal advice to the Commission as may be required, and may select outside counsel to provide advice in cases where the City Attorney determines he has a conflict of interest or as he may otherwise determine is required.

Section 1-614. Ethics Commission; By-laws.

The **entire Ethics Commission membership, after it inception and as needed,** shall **develop**, adopt and make public any **additional** by-laws to govern by. **Individually selected commissions will select** the dates, times, and places for meetings, rules of procedure not otherwise inconsistent with the provisions herein, and any other matters appropriately addressed therein.

Section 1-619. Ethics Commission; Jurisdiction.

The Ethics Commission shall have jurisdiction over all ethics complaints made against any member or members of the City Council, to include the Mayor, the City Judge, the City Attorney, the City Clerk, the Director of Finance, the Director of Internal Audit, and all other department heads of the City, **as well as all members of any City boards, commissions, authorities, or other like body established by the City. but-excluding** **This jurisdiction will apply to those members appointed by the city to entities having a separate corporate or other legal existence.** The determination as to whether any individual is a department head shall be determined by the Director of the Department of Human Resources, in consultation with the City Attorney.

Section 1-620. Procedures for Filing and Evaluation of Ethics Complaints.

a. Complaint procedures:

(1) Any individual real person may submit an ethics complaint alleging that any one or more City of Clarksville officials, whether elected or appointed, or an employee, have violated the Code of Ethics.

(2) Any ethics complaint must be in writing, signed and sworn to by the complainant, under oath, as properly evidenced by a notary public, and shall contain the following:

- (a) the complainant's legal name and current mailing address, and in addition may include an email address and / or phone number; and
- (b) the name of any person or persons who are alleged to have committed an ethics violation; and
- (c) a brief summary of the facts giving rise to the alleged ethics complaint; and,

(d) an explanation of why those facts allegedly constitute a violation of the City Code of Ethics (which may include citation to specific sections and / subsections).

(3) Any ethics complaint that does not contain the above requirements shall not be considered, except that upon receipt of any deficient ethics complaint, the City Attorney may, but is not required to, contact the complainant to inform them of the deficiency, whereupon the complainant may have a reasonable time, not to exceed ten days, within which to submit an amended complaint meeting the requirements herein.

(4) All ethics complaints shall first be filed with the City Clerk. Upon receipt, the City Clerk shall annotate the date and time of receipt on the ethics complaint, and log the receipt of the complaint into a running journal kept for the purpose of keeping track of the receipt of ethics complaints and showing the name of the person making the complaint, the date and time of receipt of the ethics complaint, and the name(s) of the person or persons against whom the complaint is made, and any other information that will enable the City Clerk to keep accurate records pertaining to ethics complaints. The City Clerk will thereupon provide a copy of the ethics complaint to the person or persons against whom the ethics complaint is made, and to the City Attorney.

(5) The City Attorney shall determine if the ethics complaint is made against a person within the jurisdiction of the Ethics Commission, except for any ethics complaint alleged against the City Attorney, which shall always be provided by the City Clerk to the Ethics Commission for action. If the ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the City Clerk shall also provide a copy of the ethics complaint to the Ethics Commission for action as set forth herein. If the ethics complaint does not allege an ethics violation against any person within the jurisdiction of the Ethics Commission, but against one or more employees not within the jurisdiction of the Ethics Commission, then the City Attorney shall inquire into the matter, conduct such investigation as he deems appropriate, and make a determination as to the merits of the alleged ethics complaint, and make a recommendation to the department head of any department in which the employee works regarding his findings, and a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the City Attorney, and to make any recommendation regarding any disciplinary action against the employee. The decision to impose disciplinary action, if any, shall be

made by the department head, in accordance with the provisions of the City Code pertaining to personnel and disciplinary action.

(6) If an ethics complaint alleges an ethics violation against any person within the jurisdiction of the Ethics Commission, as determined by the City Attorney, then the Ethics Commission, upon receipt of the ethics complaint from the City Clerk, shall thereupon take action as provided herein.

(a) The chairman of the Ethics Commission shall call a meeting of the Commission, which meeting shall be open to and noticed to the public. The City Clerk shall also provide notice of the meeting to the complainant, and to the person(s) alleged to be in violation of the ethics code and named in the ethics complaint.

(b) At the Commission meeting, the Commission shall evaluate the allegations of the ethics complaint, and make a determination as to whether the allegations would constitute an ethics violation, if the facts alleged in the ethics complaint were true. If the Commission determines that the alleged facts, even if true, would not be a violation of the ethics code, the Commission may dismiss the complaint, or may request additional information from the complainant, or any other person the Commission deems to have material information, in its sole discretion, to determine whether a hearing should be held to determine the merits of the ethics complaint. If the Commission determines that the alleged facts, if true, could constitute a violation of the ethics code, then the Commission shall hold a hearing to determine whether the ethics complaint has merit.

b. Hearing procedures:

(1) If the Ethics Commission determines that a hearing should be held on an ethics complaint, the hearing shall be conducted as follows:

(a) The hearing shall be noticed to and open to the public; and

(b) Notice of the hearing shall be provided to the complainant and to the elected or appointed official(s) named in the complaint (together, the "parties"); and

(c) The parties may, but are not required to, submit evidentiary material to the Commission. If a party does wish to submit such evidentiary material to the Commission, the party must file the material with the City Clerk, with a copy to the City Attorney, and provide a copy of the same to the

other parties, at least seven calendar days prior to the hearing, unless, for good cause shown, the Commission amends the time requirement. The City Clerk shall provide a copy of all evidentiary materials to the Commission members.

(d) The parties shall have a full and fair opportunity, but are not required, to present their positions and facts to the Commission at the hearing. Each party shall be allotted a reasonable amount of time to make its presentation to the board.

(e) Each party shall have the right to represent themselves, and to have the assistance of legal counsel at their own expense, but may not be represented by non-attorneys.

(f) All parties may call witnesses to give testimony at the hearing, which testimony shall be given under oath, with the witnesses stating their legal names. All witnesses shall be subject to cross-examination.

(g) Each party must file with the City Clerk, and provide a copy of same to the City Attorney, a list of the witnesses that the party intends to call at the hearing, and provide a copy of the same to the other parties, at least seven calendar days prior to the hearing. At the hearing, no party shall be permitted to call upon any person to give testimony if that person's name was not included on such list; however, the Commission may permit such an unlisted witness to be called by a party, if in the Commission's discretion, there was good cause for not timely naming the witness and the other parties would not be unduly prejudiced.

(h) Commission members may ask questions of any party, counsel, or witness at any time during the hearing, but the Chairman shall conduct the hearing and determine the order in which Commission members may pose questions.

(i) The committee may, in the exercise of its discretion, permit interested persons present at the hearing to offer testimony under oath, even if those persons were not called as witnesses by any party, and upon majority vote of the members, may cause the City Clerk to issue subpoenas for documents and things or for testimony of persons within the jurisdiction of the City to the maximum extent permitted by law.

(j) The committee may continue any hearing to a later date.

(k) The City Attorney, or an attorney appointed by the City Attorney, shall be present during the hearing to advise the Commission as may be necessary on all legal issues.

c. *Decision to be in Writing.* Whether or not the Commission holds a hearing on the ethics complaint, or dismisses the complaint, it shall issue a decision in writing. If the Commission holds a hearing on the ethics complaint, it shall state in writing whether it finds the ethics complaint to have merit, and if so, which section and subsection as applicable of the ethics code has been violated and by whom.

d. *Vote Required to Find Violation; Burden of Proof.* Any decision of the Commission finding an ethics complaint to have merit shall require the affirmative vote of at least ~~four~~ six (6) members of the Commission. The complainant shall bear the burden of proof to prove a violation by a preponderance of the evidence, and the person alleged to have violated the ethics code shall not be required to prove the absence of a violation.

e. *Prohibition on Outside Communications.* Once an ethics complaint has been received by the members of the Commission, and until a written decision has been issued by the Commission, no member of the Commission shall participate in any communication regarding the allegations or merits of the complaint, outside of the Commission's public meetings or hearings.

f. *Report of Decision.* The decision of the Commission shall be submitted to the Mayor, the Clarksville City Council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

Section 1-621. Commission Action Upon Finding of Violation.

a. *Report of Decision.* The decision of the Commission shall be submitted to the Mayor, the Clarksville City Council, the complainant, and to the person(s) alleged to have violated the ethics code as named in the ethics complaint.

b. If the Ethics Commission decides that an official, whether elected or appointed, or an employee, within its jurisdiction has violated the Code of Ethics, then the Ethics Committee shall take one or more of the following actions, as decided by affirmative vote of at least ~~four~~ **six** of its members:

(1) Report to the City Council that a determination has been made that the Code of Ethics has been violated, setting forth which section and subsection, as applicable, of the ethics code has been violated and by whom. The Ethics Commission ~~may also~~ **shall** make recommendations to the City Council regarding any ~~appropriate remedial~~ action, **including censure, that the City Council it should consider enact per its charter authority;** and / or

(2) Make a recommendation to the violator that he or she resign from their respective position; and / or

(3) Make a recommendation as to any action to be taken to stop the conduct, if still occurring, or to prevent the conduct from occurring in the future, and to remedy any harm or recover any loss that may have occurred through any means deemed appropriate by the City Attorney, and to make any recommendation regarding any disciplinary action against the employee.

(4) Refer the matter to the City Attorney with a request that appropriate civil action be instituted by the City of Clarksville for restitution, and / or for such other relief as the Commission deems appropriate, and/or a request that the City Attorney refer the matter to the local District Attorney General, or other state or federal law enforcement authority, for appropriate action under general criminal law.

RESOLUTION 32-2012-13

A RESOLUTION AUTHORIZING THE REGIONAL PLANNING COMMISSION TO INITIATE REVISIONS TO THE CITY ZONING ORDINANCE AND THE CITY CODE RELATIVE TO SIGNAGE AND LIGHTING PROVISIONS

WHEREAS, the City of Clarksville has approved the developed and use of general guidelines that set standards of appearance and development for any function or operation that desires to locate and operate within the city limits; and

WHEREAS, the City of Clarksville has approved and uses more comprehensive and stringent guidelines for the improvement in appearance and the quality of development within certain designated areas of the city such as the Madison Street Corridor; and

WHEREAS, the success of these more comprehensive and stringent guidelines has drawn the attention and increased desire by citizens, business people, developers, elected representatives and city officials to update the general city-wide guidelines using these more comprehensive and stringent standards, such as the Madison Street Corridor Urban Design Overlay, as point-of-reference; and

WHEREAS, such an update would enable all the citizens and business operations of the City of Clarksville to share in improved standards and help develop more uniform guidelines that would be easier to plan for, operate and maintain by those affected by such standards and those who ensure the compliance of such standards.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Clarksville City Council hereby approves and directs the Clarksville-Montgomery County Regional Planning Commission to undertake action(s) that will:

- (1) Provide for review, development and approval of updated guidelines and standards that affect, but not limited to, signage and lighting provisions of the planning and zoning ordinance using approved and more stringent standards, such as the Madison Street Overlay, as reference point.
- (2) Provide for review, development and approval of updated guidelines and standards, where feasible, for other building and development planning ordinance issues such as awnings and canopies, flag poles, garbage container enclosures.
- (3) Ensure, where feasible, that a common set of updated guidelines and standards (in reviewed categories) are developed for use across the entire City of Clarksville.

- (4) Starting the month after council approval of this resolution, provide a monthly update of actions accomplished in regard to these updates at the regular session of the Clarksville City Council as part of the Planning Commission section of the agenda.
- (5) Provide a completed product(s) for council review and consideration on or about six months from approval of this resolution.

POSTPONED: January 3, 2012 to March Regular Session

RESOLUTION 32-2012-13 (Amended)

A RESOLUTION REQUESTING THE MAYOR DIRECT THE DESIGN REVIEW TASK FORCE TO ANALYZE AND RECOMMEND IMPROVEMENTS TO THE STRUCTURE AND PROCESSES INVOLVED IN PROVIDING THE DESIGN REVIEW APPROVALS REQUIRED BY VARIOUS CITY FUNCTIONS AND DESIGN COMMITTEES; AND TO REVIEW AND RECOMMEND WHICH STRUCTURAL/PHYSICAL DESIGN GUIDELINES OR ALTERATIONS TO SUCH GUIDELINES UTILIZED WITHIN APPROVED OVERLAYS AND DISTRICTS, WOULD BE OF BENEFIT FOR CITY-WIDE APPLICATION

WHEREAS, the City of Clarksville has developed guidelines and procedural processes that set standards of appearance, development and approval requirements that apply to any function or organization that desires to locate and do business within the city limits; and

WHEREAS, the City of Clarksville has approved and uses more comprehensive and stringent design review requirements and approvals for the improvement in appearance and the quality of development within designated areas or specific districts of the city; and

WHEREAS, the addition of these new design review districts have created the desired affect of improving the appearance of the city and the quality of life for specific section of the city, overlapping or singular requirements of these various overlays or districts appear to have created confusion, additional costs and occasional delays in the business development processes; and

WHEREAS, the creation of these defined overlay and business districts has caused concern and problems due to their varying application and approval procedures for businesses, their visible success in developing more comprehensive and stringent structural/physical design guidelines has drawn the attention and desire by Clarksville citizens, business people, and city officials to update general city-wide design guidelines using these more comprehensive and stringent overlay and district standards or variants of them; and

WHEREAS, a process review and re-engineering of design approval procedures and update of city-wide design guidelines would enable all citizens, business operations and districts within the City of Clarksville to share in improved standards and help develop more uniform guidelines that would be easier to plan for, operate and maintain by those affected by such standards and those who ensure compliance of such standards.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the Clarksville City Council hereby approves and directs the Mayor's Design Review Task Force to:

- (1) Review the City of Clarksville's design review committee structures and formulate recommendations to simplify and streamline the design approval process.
- (2) Review the various structural/physical design guidelines utilized within the currently approved overlay and district committee directives and recommend which guidelines, or variants of such guidelines, would be of benefit to apply to city-wide design requirements.
- (3) Provide an update of work goals and accomplishments of the Task Force to the city council at its regular monthly sessions.
- (4) Provide for the city council's review and approval a list of recommendations on improving the design review and approval processes and the structural/physical design guidelines utilized by the various overlay and district functions that could be incorporated for city-wide use by the August regular session of the city council.

ADOPTED:

ORDINANCE 72-2012-13

AN ORDINANCE AMENDING THE 2012-13 CAPITAL PROJECT FUND AND THE GENERAL FUND BUDGETS (ORDINANCE 100-2011-12) AUTHORIZING THE CITY OF CLARKSVILLE TO CREATE A CAPITAL PROJECT AND INCREASE THE PREVIOUSLY AUTHORIZED FUNDING OF \$190,000 BY \$775,541 TO PROVIDE AN ENERGY EFFICIENT AIR CONDITIONING SYSTEM AT CITY HALL AND ENERGY EFFICIENT LIGHTING UPGRADES AT EIGHT CITY OF CLARKSVILLE BUILDINGS

WHEREAS, the City of Clarksville has budgeted \$190,000 within the Municipal Properties budget to replace the chiller in the City Hall Building, and;

WHEREAS, by moving these funds to a newly created project within the Capital Projects budget and adding an additional \$775,541, the City of Clarksville can purchase a more energy efficient unit as well as energy efficient lighting upgrades that will generate energy savings of more than 20% therefore allowing us to secure funding for this project using Qualified Energy Conservation Bonds, and;

WHEREAS, these Qualified Energy Conservation Bonds (QECB's) are low interest bonds for qualified energy projects and the United States Treasury subsidizes up to 70% of the interest cost, and;

WHEREAS, the energy savings realized by this project can be used to fund projects to provide other energy savings in the future.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the following capital project be created within the Capital Projects Fund:

4041000 39340	Qualified Energy Conservation Bonds	Increase: \$ 965,541
---------------	-------------------------------------	----------------------

40410004 4740 13103	Chiller & Energy Conservation Project	Increase: \$ 965,541
---------------------	---------------------------------------	----------------------

BE IT FURTHER ORDAINED that the following General Fund budget be decreased:

10419704 4740	Machinery & Equipment	Decrease \$ 190,000
---------------	-----------------------	---------------------

FIRST READING:

SECOND READING:

EFFECTIVE DATE:

ORDINANCE 72 -2012-13

AN ORDINANCE AMENDING THE 2012-13 CAPITAL PROJECT FUND AND THE GENERAL FUND BUDGETS (ORDINANCE 100-2011-12) AUTHORIZING THE CITY OF CLARKSVILLE TO CREATE A CAPITAL PROJECT AND INCREASE THE PREVIOUSLY AUTHORIZED FUNDING OF \$190,000 BY \$817,585 TO PROVIDE AN ENERGY EFFICIENT AIR CONDITIONING SYSTEM AT CITY HALL AND ENERGY EFFICIENT LIGHTING UPGRADES AT EIGHT CITY OF CLARKSVILLE BUILDINGS.

WHEREAS, the City of Clarksville has budgeted \$190,000 within the Municipal Properties budget to replace the chiller in the City Hall Building, and;

WHEREAS, by moving these funds to a newly created project within the Capital Projects budget and adding an additional \$817,585, the City of Clarksville can purchase a more energy efficient unit as well as energy efficient lighting upgrades that will generate energy savings of more than 20% therefore allowing us to secure funding for this project using Qualified Energy Conservation Bonds, and;

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That the following capital project be created within the Capital Projects Fund:

4041000 39340	Qualified Energy Conservation Bonds	Increase: \$ 1,007,585
40410004 4740 13103	Chiller & Energy Conservation Project	Increase: \$ 1,007,585

BE IT FURTHER ORDAINED that the following General Fund budget be decreased:

10419704 4740	Machinery & Equipment	Decrease \$ 190,000
---------------	-----------------------	---------------------

FIRST READING:

SECOND READING:

EFFECTIVE DATE:



SIEMENS



The City of Clarksville, Tennessee *Energy Conservation Plan*



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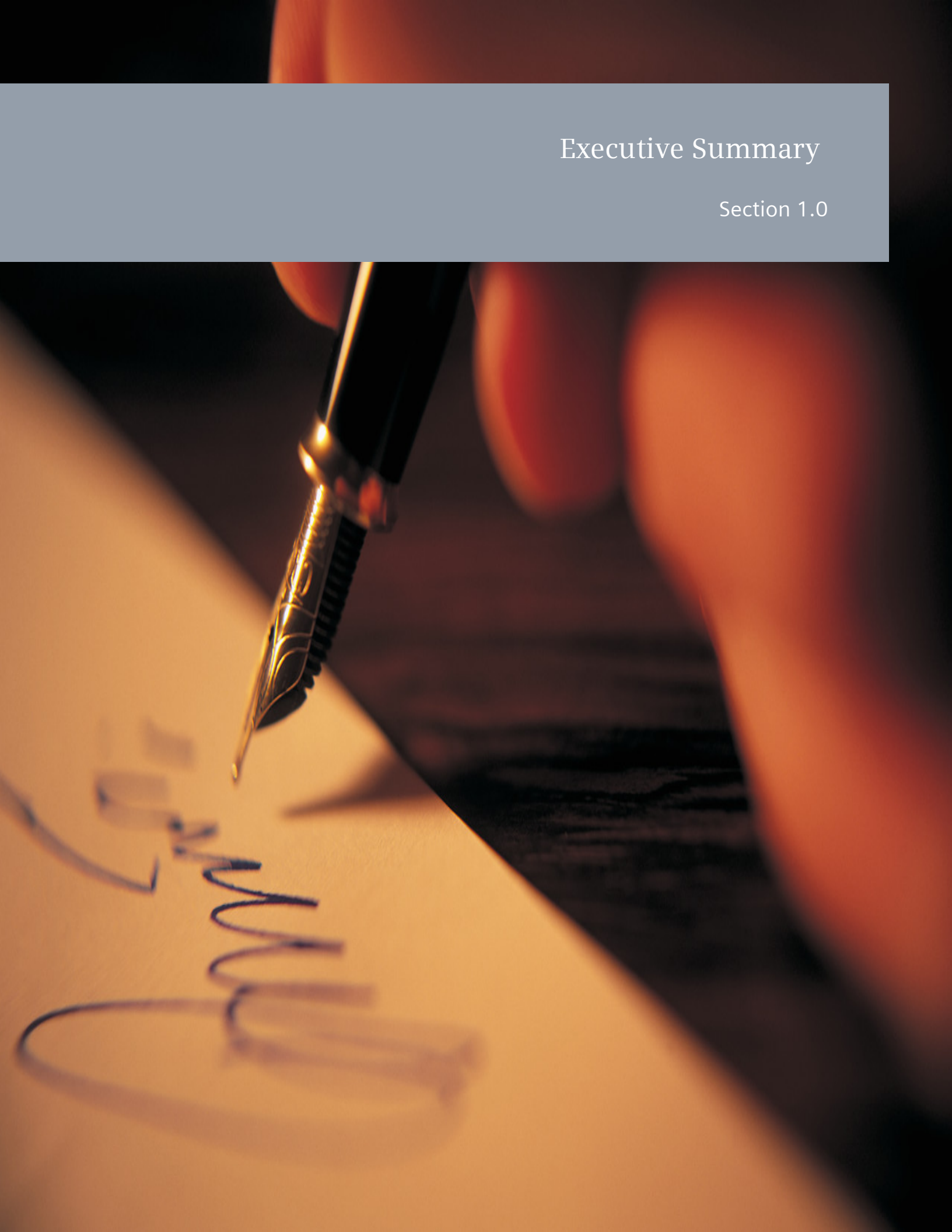
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Executive Summary

Section 1.0



Siemens Capabilities and Commitments to Our Customers

For 161 years, Siemens has been synonymous with technological innovation and global business reach. Our wide array of products and services help our customers to meet their challenges and stay competitive. Sustainable, profitable business is our priority because it enables us to create value for all our stakeholders: shareholders, customers, employees and the 190 countries in which we operate. Siemens is a leader in “green technologies,” with about a quarter of our revenue coming from products and services that make a major contribution to environmental protection.

Siemens Building Technologies provide our customers with a wide range of technological and cost competitive facility performance solutions. Some of these areas include: energy services, building automation, HVAC controls, mechanical systems, fire alarm and life safety, security, critical environments, systems integration, and facility management services.

Siemens Building Technologies entered the energy services industry and began creating energy-related, value based solutions for our customers. To date, we have implemented over \$1.5 billion in combined supply and demand-side energy-related projects. This list is comprised of more than 50,000 separate projects specifically designed and implemented to reduce and manage energy cost and consumption for our customers. In addition, Siemens Building Technologies has helped over 200 customers negotiate over \$3 billion in energy contracts with major energy providers across the US.

Siemens utilizes specialized analytical tools and expertise in identifying and mitigating risk and developing energy cost savings strategies. We are uniquely positioned with core business operations in Energy Supply Management, Energy Demand Management and Energy Planning and Construction Management, with U.S. headquarters in the Chicago area. As a leader in Energy Services, we have over 100 branch offices in the U.S., providing local experience nationally.

Siemens Building Technologies leverages our full capabilities and expertise in our consultative and engineering competence, and in our business and financial expertise to deliver business enhancing solutions across North America, Europe and around the globe.

Siemens installs energy efficient facility improvements, with **no** upfront costs, paid for out of **guaranteed** energy savings from your **existing** operating budget.

Executive Summary

Siemens Industry, Inc. is pleased to submit the following preliminary energy analysis study for The City of Clarksville in Tennessee.

At Siemens Industry, our mission is to help our customers manage their buildings' energy costs, improve reliability, and enhance performance while having a positive impact on the environment.

We recognize that high performance buildings make for high performance business. Energy is the lifeline of your facilities — Energy is vital to your operations.

The purpose of this study was to investigate options for the overall reduction in energy costs associated with The City of Clarksville.



Methodology

As part of the energy audit process, Siemens met with the facility operations personnel to discuss their concerns and operational issues. Siemens then toured the facilities in an effort to better understand the mechanical, lighting and water systems, as well as the operational characteristics of the buildings.

The following personnel were involved with this analysis:

Robert Clutsam, CEM – Energy Engineer, Building Automation Specialist

Andrew Murphy – Associate Energy Engineer

Kirk Whittington – Siemens Business Development – Energy Solutions

Jerry Miller – Siemens Account Executive - Solutions

Siemens would also like to thank the facility operations personnel of The City of Clarksville for their assistance and cooperation in the on-site inspection of the facilities.

Summary Finding

For the purpose of this study, Siemens toured the following buildings in an attempt to better understand the mechanical and lighting systems within each building:

- City Hall Building
- Parks and Recreation Building
- Clarksville Police Headquarters Building
- Professional Integrity Unit Building
- The Clarksville Department of Electricity
- The District 3 Police Precinct Building
- The Vista Road Police Department Building
- The Clarksville Gas and Water Building



The primary focus of this investigation was on the lighting systems. It is apparent through our inspections that the facility operations personnel of The City of Clarksville have done a good job in managing their utility costs. Although the buildings are efficient in the management of their utility costs, Siemens has found there are additional savings measures that can be implemented.

Siemens has created a list of recommended Facility Improvement Measures (FIMS). The purpose of these measures is to decrease the overall utility usage through the energy efficient upgrade of the mechanical and, lighting systems.

Financial Summary

Section 2.0

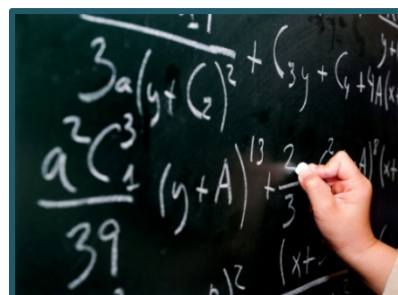
$$\lim_{x \rightarrow 1} \frac{(-1)(x+3)}{(x-1)(x+3)}$$

$$\lim_{x \rightarrow 1} \frac{-1}{4}$$

Estimated Energy Savings

Based on the data gathered from our initial assessment, your facilities cost savings will be:

- Approximate annual savings equal to: **\$51,670.00**
- Approximate costs equal to **\$965,541.00**
- Approximate TN/TVA electrical rebates equal to: **\$35,000.00**
- Simple Payback: **17** years



This energy savings stream will be used to fund the energy related facility improvement measures outlined in this proposal. As an added benefit, the school system will also realize operational cost savings as they relate to each of the facility improvement measures.

Energy Savings Table

Utility	Reduced Units of Energy	Estimated Savings
Lighting kWh Savings	467,903	\$42,112.00
Chiller kWh Savings	149,671	\$9,558.00
Total Electrical (kWh)	617,574	\$51,670.00

Note: Preliminary savings data is based on information from the maintenance personnel, utility analysis, general rule of thumb data and the utility rates at the time of the preliminary audit. These numbers are preliminary. Actual cost and savings will be determined in the investment grade audit phase.

Project Cash Flow

Year	Energy Savings	Operational Savings	Gross Savings	Principal & Interest	Ongoing Support	Program Costs	Annual Net Cashflow	Cumulative Net Cashflow																				
Construction Period	\$ 15,000																											
1	\$ 51,670	\$ 5,000	\$ 71,670	\$ 54,942	\$ 16,727	\$ 71,670	\$ -	\$ -																				
2	\$ 53,220	\$ 5,150	\$ 58,370	\$ 41,141	\$ 17,229	\$ 58,370	\$ -	\$ -																				
3	\$ 54,816	\$ 5,305	\$ 60,121	\$ 51,248	\$ 8,873	\$ 60,121	\$ -	\$ -																				
4	\$ 56,461	\$ 4,917	\$ 61,378	\$ 52,239	\$ 9,139	\$ 61,378	\$ -	\$ -																				
5	\$ 58,155	\$ 3,799	\$ 61,953	\$ 52,540	\$ 9,413	\$ 61,953	\$ -	\$ -																				
6	\$ 59,899	\$ 1,956	\$ 61,855	\$ 52,160	\$ 9,696	\$ 61,855	\$ -	\$ -																				
7	\$ 61,696	\$ 201	\$ 61,898	\$ 51,911	\$ 9,987	\$ 61,898	\$ -	\$ -																				
8	\$ 63,547	\$ -	\$ 63,547	\$ 53,261	\$ 10,286	\$ 63,547	\$ -	\$ -																				
9	\$ 65,453	\$ -	\$ 65,453	\$ 54,859	\$ 10,595	\$ 65,453	\$ -	\$ -																				
10	\$ 67,417	\$ -	\$ 67,417	\$ 59,233	\$ 8,184	\$ 67,417	\$ -	\$ -																				
11	\$ 69,440	\$ -	\$ 69,440	\$ 61,010	\$ 8,430	\$ 69,440	\$ -	\$ -																				
12	\$ 71,523	\$ -	\$ 71,523	\$ 62,840	\$ 8,683	\$ 71,523	\$ -	\$ -																				
13	\$ 73,668	\$ -	\$ 73,668	\$ 64,725	\$ 8,943	\$ 73,668	\$ -	\$ -																				
14	\$ 75,878	\$ -	\$ 75,878	\$ 66,667	\$ 9,212	\$ 75,878	\$ -	\$ -																				
15	\$ 78,155		\$ 78,155	\$ 71,039	\$ 7,116	\$ 78,155	\$ -	\$ -																				
16	\$ 80,499		\$ 80,499	\$ 73,170	\$ 7,330	\$ 80,499	\$ -	\$ -																				
17	\$ 82,914	\$ -	\$ 82,914	\$ 75,365	\$ 7,549	\$ 82,914	\$ -	\$ -																				
18	\$ 85,402	\$ -	\$ 85,402	\$ 39,184	\$ 7,776	\$ 46,960	\$ 38,442	\$ 38,442																				
<table><tr><td>Program Cost</td><td>\$ 965,541.00</td><td>Annual Savings</td><td>\$56,670.00</td></tr><tr><td>Rebates</td><td>\$ 35,000.00</td><td></td><td></td></tr><tr><td>Amount Financed</td><td>\$ 930,541.00</td><td>Finance Period</td><td>18 years</td></tr><tr><td>Annual Interest Rate</td><td>1%</td><td>Simple Payback</td><td>17 years</td></tr><tr><td>Interest Payments</td><td>\$106,990.00</td><td>Energy Escalation</td><td>3%</td></tr></table>									Program Cost	\$ 965,541.00	Annual Savings	\$56,670.00	Rebates	\$ 35,000.00			Amount Financed	\$ 930,541.00	Finance Period	18 years	Annual Interest Rate	1%	Simple Payback	17 years	Interest Payments	\$106,990.00	Energy Escalation	3%
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Interest Payments	\$106,990.00	Energy Escalation	3%																									

Project Summary Sheet

FIM	Description	Energy Savings				Operational Savings		Total Savings	Project Costs	On-going Support	Rebate / Grant
		Electric	Gas	Fuel	Other	L & M	Other				
Lighting	Lighting Efficiency Upgrades	\$ 42,112				\$ 5,000		\$ 47,112	\$ 568,859	\$ -	\$ 35,000
HVAC	Chiller Replacement	\$ 9,558						\$ 9,558	\$ 384,108	\$ -	\$ -
										\$ -	\$ -
M and V	Measurement and Verification								\$ 12,574	\$ 8,364	\$ -
										\$ -	\$ -
										\$ -	\$ -
										\$ -	\$ -
Total		\$ 51,670			\$ -	\$ 5,000	\$ -	\$ 56,670	\$ 965,541	\$ 8,364	\$ 35,000
Simple Payback		17									



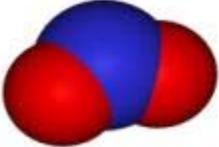
Environmental Statement

Section 3.0






Based on the preliminary numbers, the annual savings generated from this project will have the following impact on our environment.

Reduced Greenhouse Gas Emissions

		
Carbon Dioxide (CO2)	Sulfur Dioxide (SO2)	Nitrogen Oxide (NOx)
1,192,622 lbs	3,530 lbs	984 lbs

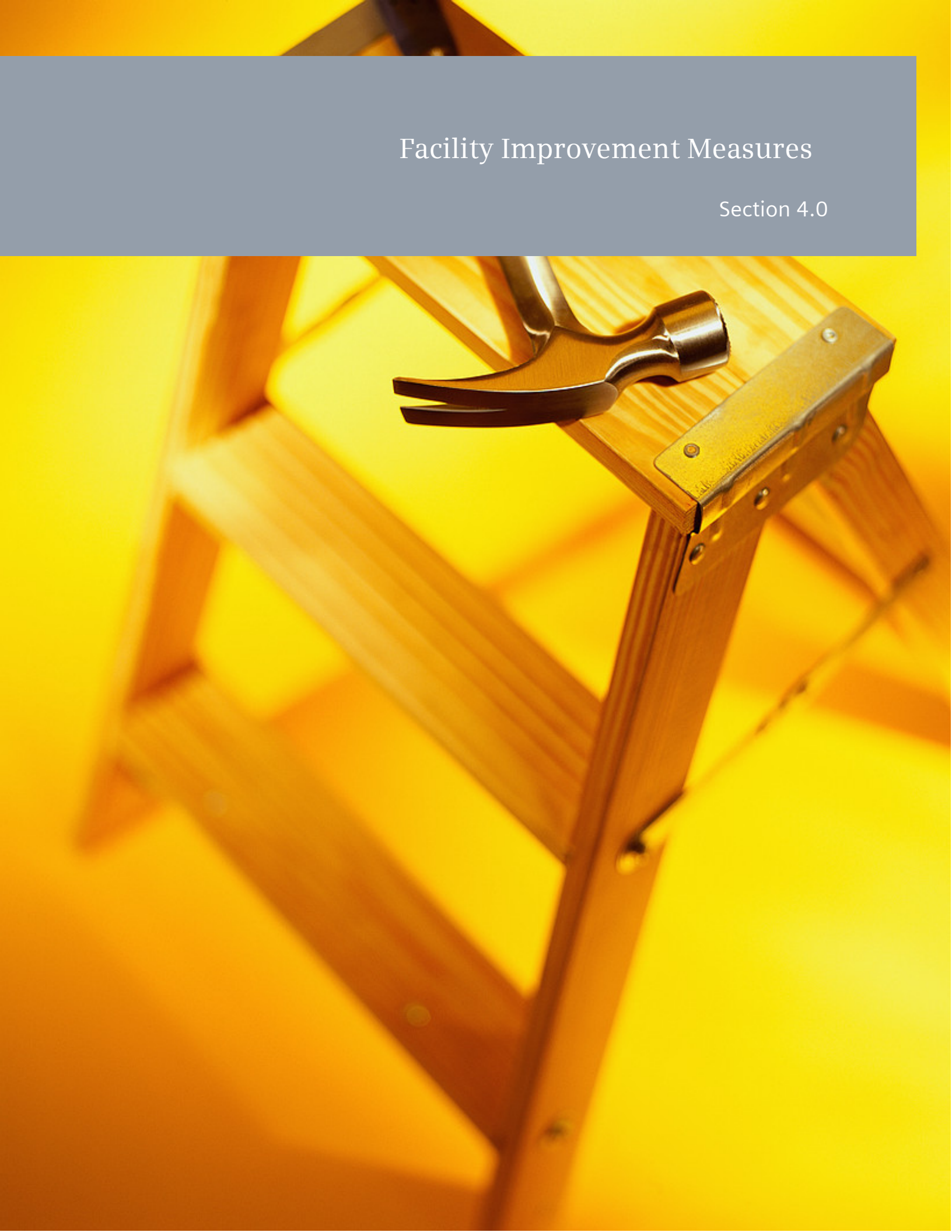
Equivalent Reductions

		
Acres of Forrest Preserved	Reduced Rail Cars of Coal	Cars Removed From the Road Annually
3.8	2.8	99.1



Facility Improvement Measures

Section 4.0



FIM 1 – Lighting Upgrades and Controls

The Work shall include the following:

- Retrofit 32w T8 wrap, strip, recessed parabolic fixtures with 25 watt T-8 lamps and GE instant start electronic ballast. *Approx 2,500 fixtures*
- Retrofit T12 wrap, strip, recessed parabolic fixtures w/ 25 watt T-8 lamps and GE instant start ballast. *Approx 200 fixtures*
- Retrofit existing recessed 2x4 troffers with 25 watt T8 Lamps, GE ballast and M4 reflector. *Approx 600 fixtures*
- Retrofit existing recessed 2x2 T8/T12 U lamp fixtures with two 17w T8 lamps, ballast, and M4 reflector. *Approx 40 fixtures*
- Replace existing incandescent exit signs with new LED exit w/ battery backup. *Approximately 120 fixtures*



In addition, the lighting retrofit scope shall include the following:

- Ballast Disposal Certification & Lamp Recycling Certification
- Lenses shall be wiped clean using a dry cloth or paper towel.
- Regulatory compliance including all applicable existing codes, building permits, inspections, and fees relative thereto.
- Coordination of shipment releases with the supplier, as well as receipt, inspection, and storage of merchandise, all material handling, freight damage assessment, etc.
- Assistance with managing manufacture ballast and lamp warranties.

Clarifications:

- Not responsible for any additional electrical wiring or circuit breakers on existing fixtures that are not part of new fixture installation scope of work.
- Work does not include any asbestos abatement.
- Please note that recessed parabolic fixtures will receive new lamps and ballast, but no reflector kit.
- Existing fluorescent highbays (T8/T5) are not included in the scope due to lack of energy savings. They will not be replaced or retrofitted.
- Exterior lighting fixtures are not included in the scope at this time. Estimated pricing has been provided.

FIM 2– City Hall Building - Chiller Replacement

Siemens Industry, Inc. is pleased to provide you with the following proposed scope of work, and associated pricing for this project. Our scope would include the required material, submittals, programming, system commissioning, and wiring required for a turn-key installation. We have included applicable freight, and a 1 year parts and labor warranty on all material and workmanship provided by Siemens as part of this project. Taxes are excluded.



Our proposed scope of work includes:

- One (1) Multi-stack Modular McQuay Chiller with the following features:
 - ✓ (2) Model MS080T Modules
 - ✓ Oil-Free Centrifugal Compressors
 - ✓ Integrated Refrigerant Cooled Variable Speed Drive with Soft Start
 - ✓ Micro Processor Controlled Magnetic Bearing System
 - ✓ Direct Drive Rotating Assembly
 - ✓ R-134A Refrigerant
 - ✓ 460 Volt/3 Phase Single Point Power Connection
 - ✓ Each Compressor Contains its own High Voltage Breaker, Line Reactor, and Line Reactor Cooling Fan
 - ✓ Evaporator and Condenser are Brazed Plate Constructed of 316 Stainless Steel
 - ✓ Heat Exchangers are Designed, Tested, and Stamped in Accordance with UL 1995
 - ✓ Water Side Connections Feature Groove Type Mechanical Connections
 - ✓ Evaporator Insulated with $\frac{3}{4}$ " Closed Cell Foam Insulation
 - ✓ Heat Exchanger maximum working pressure of 450psig Water and Refrigerant Side
 - ✓ Sporlan Electronic Expansion Valves
 - ✓ Independent Compressor High and Low pressure switches for Maximum safety and redundancy
 - ✓ Electronic Leaving Chilled Water Temperature Control
 - ✓ Lead Compressor Sequencing Every 24 Hours
 - ✓ Automatic Internal Rescheduling if Fault Occurs
 - ✓ Factory Provided Panel Package
 - ✓ Factory Start up and 5 year Compressor Warranty
- The demo and removal of the existing chiller and piping
- The installation of the furnished chiller, pump and accessories
- Expansion of capacity to the existing plate and frame heat exchanger
- Modification of existing chilled water piping and valves
- Modification of existing condenser water piping, valves and strainer
- Expansion of the existing concrete pad for the new chiller
- Steel frame for the new chiller
- Piping insulation as it relates to the installation of the new chiller

- Reclaiming the refrigerant out of the existing chiller
- Electrical labor and material needed to modify and reconnect existing power feed
- Electrical labor and materials needed to connect the new controls
- New Siemens PXC controller to replace the existing MBC controller
- Labor to update existing programs, data base, and commission the new controller

Exclusions

- Work is to be performed during normal business hours. No premium labor rates are included
- We are assuming the new chiller will fit through the existing door openings. Should the door frames need to be removed, we would request that work be performed by the City

Siemens, Your Energy Partner

Section 5.0



The Next Step

Siemens Industry, Inc. recommends that The City of Clarksville move forward with a comprehensive detailed energy project analysis as the basis for developing an energy saving performance contract.

In this process, Siemens will expand on the preliminary facility improvement measure (FIM) recommendations through the implementation of a complete engineering study as it relates to each FIM.

The following items are included in a detailed analysis report;

- Total project costs
- Total calculated project savings
- Detailed scope of work for each FIM
- Detailed Measurement and Verification plan.
- Detailed Cash-flow analysis
- Potential rebates associated with each FIM
- Project Financing
- All completed contract documents necessary for the implementation of a performance contract.



A Full-Service Energy Savings Company (ESCO)

Siemens is a full-service ESCO. Our customers benefit directly from Siemens' ability to leverage global resources in energy services, renewable energies, sustainability, mechanical system design and installation, technology, and performance solutions. Other ESCOs must procure all equipment from vendors and then mark up this equipment accordingly. Our 'one company' delivery alleviates construction and warranty issues as we provide a one number, one-call approach to problem solving.

At Siemens we can provide an array of equipment directly from other Siemens companies or from the worldwide network of Siemens partner companies, such as Carrier, Trane, and ABB, at a significantly decreased cost than you would pay through another ESCO.

Financial Stability and Security

Siemens continues to be a dominant global and local leader in financial growth, stability and security. In today's economic climate, it is important to research the financial stability of the ESCO you are choosing as a long-term energy management partner. We personally back our performance contracts with our \$6 billion in annual international revenues and 117 years of security.

We are confident that we will provide you with an exceptional energy contracting performance program. Siemens has the experience, personnel and processes in place to help our clients exceed their goals for a comprehensive energy savings program. We have the flexibility and the resources to align our team with your project immediately. Together, we can best meet your energy performance needs.



Public Financial Management *Presentation to* City of Clarksville, TN

Qualified Energy Conservation Bonds

March 7, 2013

presented by

Public Financial Management, Inc.

530 Oak Court Drive, Suite 160

Memphis, TN 38117-3722

(901) 682-8356 Ph.

(901) 682-8686 Fax

www.pfm.com



The PFM Group

Public Financial Management, Inc.
PFM Asset Management, LLC
PFM Advisors

Qualified Energy Conservation Bonds

Background



- In October 2008, as part of the Energy Improvement Extension Act of 2008 (EIEA), Congress enacted Section 54D of the IRS Code of 1986 permitting State and local governments to issue Qualified Energy Conservation Bonds (QECBs)
- In February 2009, as part of the American Recovery and Reinvestment Act of 2009 (ARRA), Congress:
 - ✓ Increased volume limitation for QECBs;
 - ✓ Liberalized certain provisions regarding green community programs;
 - ✓ Explicitly permitted regulated investment companies to pass through tax credits from QECBs to shareholders of regulated investment companies; and
 - ✓ Imposed certain wage requirements and labor standards on projects financed with proceeds of QECBs.
- In March 2010, the Hiring Incentives to Restore Employment Act (HIRE), permits issuers to elect treatment for direct payment subsidy option
 - ✓ Intended to facilitate prompt implementation of this borrowing option and to enable issuers to begin issues these bonds for qualified purposes
 - ✓ interest subsidy similar to Build America Bond Program – Lesser of:
 1. The amount of interest payable under such bond on such date, or
 2. 70% of the amount of interest which would have been payable under such bond if such interest were determined at the applicable tax credit rate
 - ✓ As of March 4, 2013:
 - Max Qualified Tax Credit Rate is 4.51% (Subsidized Rate = 1.353%)
 - Max Maturity is 25 years
 - Max Permitted Sinking Fund Yield is 2.90%

Qualified Energy Conservation Bonds

Program Overview



Borrowers Affected by Program

- Governmental entities
- 501(c)(3) borrowers
- Energy
- Corporations

Requirements

- Obligations must be issued by a State and local government entity pursuant to an allocation by the Secretary of Treasury of a national volume limitation
- 100% of available project proceeds must be used for one or more qualified conservation purposes
- The issuer must designate the obligations as QECBs

Allocation

- Based on State's population
 - ✓ A portion of each State's allocation will be allocated to large local governments in that State (defined as municipality or county with population over 100,000)
 - ✓ At least 70% of each State's allocation must be used for governmental purpose bonds
 - ✓ Up to 30% may be used for private activity bonds
 - ✓ Tennessee's allocation is \$64,676,000
 - ✓ City of Clarksville has received an allocation of \$1,241,344

Purposes

- ***Type 1 – Capital expenditures incurred for purpose of:***
 - ✓ Reducing energy consumption in publicly owned buildings by at least 20%;
 - ✓ Implementing green community programs;
 - ✓ Rural development involving the production of electricity from renewable resources; or
 - ✓ Any qualified facility (determined by Section 45(d)).
- ***Type 2 – Expenditures with respect to research facilities and research grants to support:***
 - ✓ Development of cellulosic ethanol or other non-fossil fuels;
 - ✓ Technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels;
 - ✓ Increasing the efficiency of existing technologies for producing non-fossil fuels;
 - ✓ Automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation; or
 - ✓ Technologies to reduce energy use in buildings.
- ***Type 3 – Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.***

Qualified Energy Conservation Bonds

Program Overview



- ***Type 4 – Demonstration projects designed to promote commercialization of:***
 - ✓ Green building technology;
 - ✓ Conversion of agricultural waste for use in the production of fuel or otherwise;
 - ✓ Advanced battery manufacturing technologies;
 - ✓ Technologies to reduce peak use of electricity; or
 - ✓ Technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels to produce electricity.

- ***Type 5 – Public education campaigns to promote energy efficiency.***

Structuring Assumptions

Dated & Delivery Date	6/3/2013
Par Amount	\$1,000,000

Structuring Results

	<u>12 Years</u>
Qualified Tax Credit Rate	4.51%
Bond Rate ¹	2.81%
Interest Subsidy (Lesser of Bond Rate or 70% of QTCR)	2.81%
Net Subsidy	100%
Total Debt Service	1,000,000
Avg. Annual Net DS	83,333
Siemens Net Projected Energy Savings ²	766,836
Avg. Annual Net Cash Flow	19,430

Footnotes:

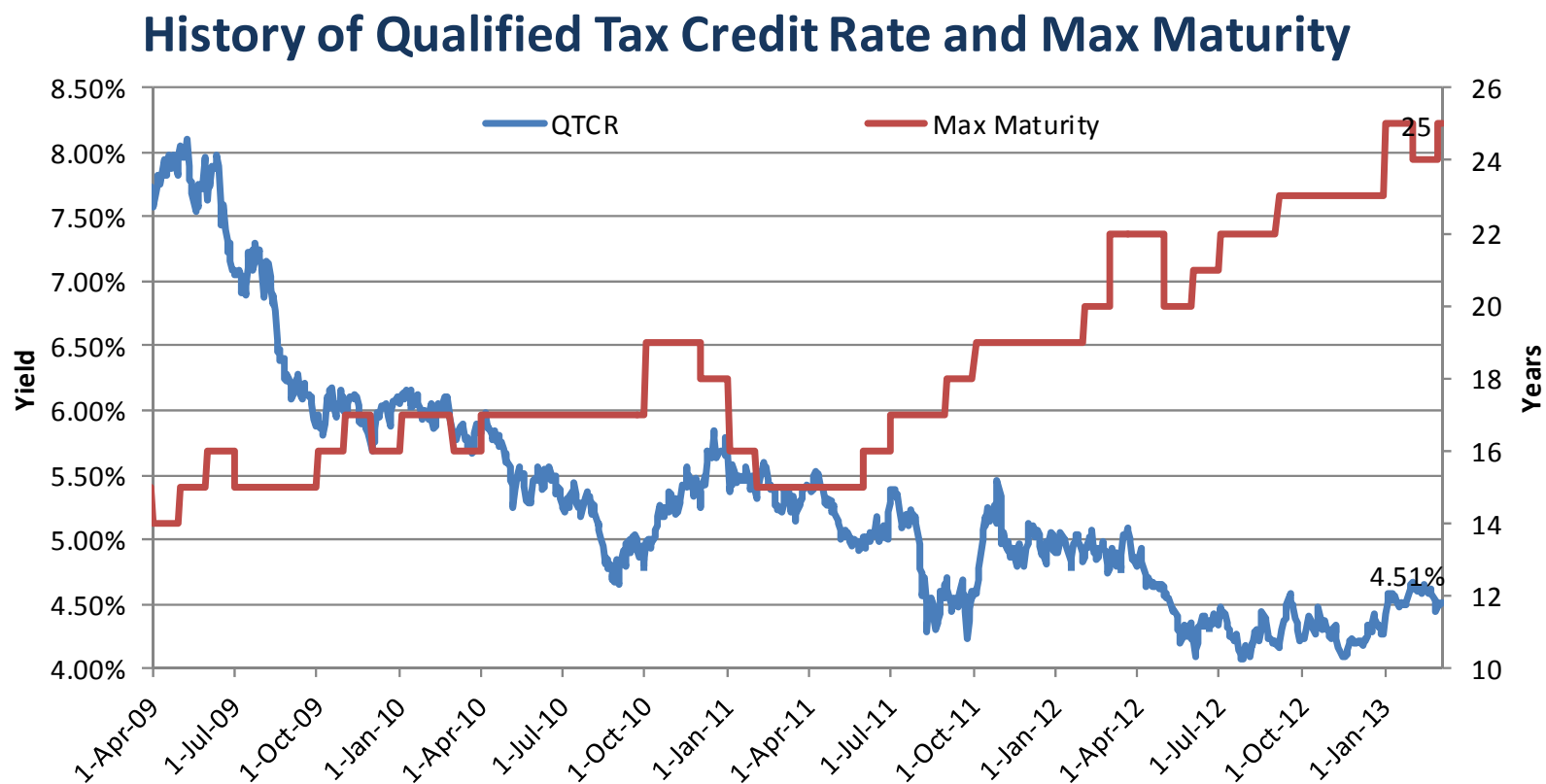
1) Assumes TM3 AA Taxable Rates as of 3/1/2013

2) Projected Savings includes projected ongoing costs and are based on the current rate of energy times the projected units of energy saved. Projected energy costs assumes an annual 3% escalation for increases in energy rates.

Projected 12-Year Cash Flow



Date	Principal	Interest	Subsidy	Net Interest	Debt Service (B + E)	Sinking Fund Payments	Interest (@ 0.00%)	Balance	Net Debt Service (E + G)	Siemens Projectd Energy Savings	Siemens Projected Ongoing Costs	Net Cashflow (J - K+L)
A	B	C	D	E	F	G	H	I	J	K	L	M
10/1/2013		14,050	(14,050)	-	-	-	-	-	-	-	-	-
4/1/2014		14,050	(14,050)	-	-	83,333	-	83,333	83,333	80,087	16,727	19,973
10/1/2014		14,050	(14,050)	-	-	-	-	83,333	-	-	-	-
4/1/2015		14,050	(14,050)	-	-	83,333	-	166,667	83,333	67,039	17,229	33,523
10/1/2015		14,050	(14,050)	-	-	-	-	166,667	-	-	-	-
4/1/2016		14,050	(14,050)	-	-	83,333	-	250,000	83,333	69,050	8,873	23,156
10/1/2016		14,050	(14,050)	-	-	-	-	250,000	-	-	-	-
4/1/2017		14,050	(14,050)	-	-	83,333	-	333,333	83,333	70,575	9,139	21,897
10/1/2017		14,050	(14,050)	-	-	-	-	333,333	-	-	-	-
4/1/2018		14,050	(14,050)	-	-	83,333	-	416,667	83,333	71,427	9,413	21,319
10/1/2018		14,050	(14,050)	-	-	-	-	416,667	-	-	-	-
4/1/2019		14,050	(14,050)	-	-	83,333	-	500,000	83,333	71,613	9,696	21,416
10/1/2019		14,050	(14,050)	-	-	-	-	500,000	-	-	-	-
4/1/2020		14,050	(14,050)	-	-	83,333	-	583,333	83,333	71,948	9,987	21,372
10/1/2020		14,050	(14,050)	-	-	-	-	583,333	-	-	-	-
4/1/2021		14,050	(14,050)	-	-	83,333	-	666,667	83,333	73,899	10,286	19,720
10/1/2021		14,050	(14,050)	-	-	-	-	666,667	-	-	-	-
4/1/2022		14,050	(14,050)	-	-	83,333	-	750,000	83,333	76,116	10,595	17,812
10/1/2022		14,050	(14,050)	-	-	-	-	750,000	-	-	-	-
4/1/2023		14,050	(14,050)	-	-	83,333	-	833,333	83,333	78,399	8,184	13,118
10/1/2023		14,050	(14,050)	-	-	-	-	833,333	-	-	-	-
4/1/2024		14,050	(14,050)	-	-	83,333	-	916,667	83,333	80,751	8,430	11,012
10/1/2024		14,050	(14,050)	-	-	-	-	916,667	-	-	-	-
4/1/2025	1,000,000	14,050	(14,050)	-	1,000,000	83,333	-	1,000,000	83,333	83,174	8,683	8,842
	1,000,000	337,200	(337,200)	-	1,000,000	1,000,000.00	-		1,000,000.00	894,078.00	127,242.00	233,164.00



Summary of Federal Sequestration



- Went in to effect March 1, 2013
- Resulted from the lack of a federal budget deficit reduction compromise between congressional leaders and the President
- Requires automatic cuts to both defense and non-defense spending canceling \$85 million in budgetary resources across the Federal Government for FY 2013
- These budget reductions will impact over 1,200 federal budgetary account line items, including subsidy payments related to ARRA bonds issued in 2009 and 2010, most notably Build America Bonds (“BABs”)
- The sequestration plan calls for 7.8% reductions in non-exempt defense discretionary funding and a 5.0% reduction in non-exempt nondefense discretionary funding
 - For QECBs – have \$32 million in sequestrable payments, of which 5.1% (\$2 million) will be sequestered.
- Future is uncertain: it is unclear how long the sequestration will last and what the total impact will be to municipal issuers of subsidy bonds or what the impact will be for new issues of QECBs

CASH FLOW CHART

[illegible]

Year	Energy Savings	Operational Savings	Gross Savings	Principal & Interest	Ongoing Support	Program Costs	Annual Net Cashflow	Cumulative Net Cashflow
Construction Period	\$ 15,000							
1	\$ 60,087	\$ 5,000	\$ 80,087	\$ 63,360	\$ 16,727	\$ 80,087	\$ -	\$ -
2	\$ 61,889	\$ 5,150	\$ 67,039	\$ 49,810	\$ 17,229	\$ 67,039	\$ -	\$ -
3	\$ 63,746	\$ 5,305	\$ 69,050	\$ 60,178	\$ 8,873	\$ 69,051	\$ -	\$ -
4	\$ 65,658	\$ 4,917	\$ 70,575	\$ 61,437	\$ 9,139	\$ 70,576	\$ -	\$ -
5	\$ 67,628	\$ 3,799	\$ 71,427	\$ 62,014	\$ 9,413	\$ 71,427	\$ -	\$ -
6	\$ 69,657	\$ 1,956	\$ 71,613	\$ 61,918	\$ 9,696	\$ 71,613	\$ -	\$ -
7	\$ 71,746	\$ 201	\$ 71,948	\$ 61,962	\$ 9,987	\$ 71,948	\$ -	\$ -
8	\$ 73,899	\$ -	\$ 73,899	\$ 63,613	\$ 10,286	\$ 73,899	\$ -	\$ -
9	\$ 76,116	\$ -	\$ 76,116	\$ 65,521	\$ 10,595	\$ 76,115	\$ -	\$ -
10	\$ 78,399	\$ -	\$ 78,399	\$ 70,215	\$ 8,184	\$ 78,399	\$ -	\$ -
11	\$ 80,751	\$ -	\$ 80,751	\$ 72,322	\$ 8,430	\$ 80,752	\$ -	\$ -
12	\$ 83,174	\$ -	\$ 83,174	\$ 74,491	\$ 8,683	\$ 83,174	\$ -	\$ -
13	\$ 85,669	\$ -	\$ 85,669	\$ 71,737	\$ 8,943	\$ 80,680	\$ 4,989	\$ 4,989
14	\$ 88,239	\$ -	\$ 88,239	\$ 64,506	\$ 9,212	\$ 73,717	\$ 14,522	\$ 19,511
15	\$ 90,886		\$ 90,886	\$ 64,506	\$ 7,116	\$ 71,622	\$ 19,265	\$ 38,775
Totals	\$ 1,132,545	\$ 26,328	\$ 1,158,873	\$ 967,585	\$ 152,514	\$ 1,120,099	\$ 38,775	
Program Cost \$ 1,007,585.00 Rebates \$ 40,000.00 Amount Financed \$ 967,585.00 Annual Interest Rate 0% Interest Payments \$0.00		Annual Savings \$ 65,087 Finance Period N/A Simple Payback 14.87 Energy Escalatic 3%						

Note: Simple Payback = Amount Financed divided by Annual Savings plus Operational Savings

City of Jackson, Mississippi Energy Performance Contract

usa.siemens.com

As the largest city in and capital of Mississippi, the City of Jackson is home to more than 170,000 residents and has been named by national publications one of "America's Most Livable Cities." In 2011, the City of Jackson partnered with Siemens Industry, Inc., for a city-wide Energy Performance Contract designed to generate utility savings and create local jobs.

Objectives

The City of Jackson wanted to make infrastructure improvements to city-owned buildings while protecting the capital budget. In addition, the City established the following objectives for the project with Siemens:

- Generate significant annual utility savings
- Create jobs for the local economy

Solution

For its second Energy Performance Contract project with the City of Jackson, Siemens is implementing the following solutions:

- Lighting retrofits in five City libraries, including more than 2,600 new energy-efficient light fixtures
- Installation of a new Energy Management System in seven City libraries
- Refurbishment of 434 VAV units in the Warren G. Hood Building
- Installation of ten-ton Server Room Unit
- LED traffic light upgrades throughout the City

Results

Over the course of the 15-year Performance Contract, Siemens estimates these solutions will combine to save the City of Jackson approximately \$345,000 in annual utility and operating expenditures. These savings are guaranteed by Siemens through the terms of the Performance Contract.

To help stimulate job growth for the local economy, Siemens is working with local resources to implement the energy-saving solutions.



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Siemens helps DeSoto County Board of Supervisors reduce energy, utility costs with critical infrastructure improvements

Background

Located just south of Memphis, DeSoto County, Mississippi is a fast-growing area currently home to approximately 160,000 residents and 37 county-operated buildings, including the county administration buildings, courthouse, and jail.

The DeSoto County Board of Supervisors engaged Siemens Industry, Inc., to provide critical infrastructure improvements, helping reduce the energy and utility costs associated with operating the facilities.

Objectives

The DeSoto County Board of Supervisors established the following goals for this project:

- Generate energy and utility cost savings
- Improve energy efficiency and water conservation efforts
- Reduce CO2 emissions
- Achieve green certification

Solution

Through a 15-year Guaranteed Energy Savings contract, Siemens is helping the DeSoto County Board of Supervisors address critical infrastructure improvements. The solutions include:

- Comprehensive lighting upgrades: Siemens will retrofit more than 6,000 T12 lamps and magnetic ballasts with T8 lamps and electronic ballasts. In addition, occupancy sensors and lighting controls will be installed.
- Building water fixture upgrades: High-flow devices will be replaced with low-flow devices at all county facilities.
- HVAC efficiency improvements: Siemens is installing a 600-ton chiller plant, and converting DX equipment to chilled water for the county administration building, courthouse, and jail.
- Energy management system: A building automation system will be installed in 27 county buildings.
- Green certification: Siemens is helping the county achieve Green Globes and Energy Star Certification for the administration building.

Siemens project scope includes turnkey design, engineering, and construction services through a Guaranteed Performance-based Solution.

Results

Siemens estimates the following results for the DeSoto County Board of Supervisors:

- \$143,000 in average annual operational savings, resulting from capital cost avoidance of mechanical upgrades
- Energy and utility savings of:
 - Electricity: 2.5 million KWh
 - Natural gas: 34,456 CCF
 - Water: 4,429 kgal
 - CO2 reduction: 3.5 million pounds

Building Technologies

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**SIEMENS**

Marshall County Schools Energy Conservation Program

Siemens Made 11 Facilities Energy Efficient in Only Six Months.

www.usa.siemens.com/buildingtechnologies

Sitting nearly 50 miles south of Nashville, Marshall County has a proud tradition of producing more state governors than any other county in Tennessee. It is comprised of four towns (Lewisburg, Chapel Hill, Cornersville and Petersburg), and has a population of 28,000. Like many areas of the U.S., the County has been affected by the weakened economy, with unemployment figures as high as 20% in 2010. Given its tradition of producing leaders, it made sense for Marshall County to maintain emphasis on its education system, even through rough times. The primary challenge for the County became cost effectively improving energy efficiency in ten schools and one administration building.

Client Objectives

In March 2009, after winning a free energy audit at a TASBO (Tennessee Association of School Business Officials) convention, Marshall County had the Building Technologies division of Siemens Infrastructure & Cities sector perform a preliminary analysis of each school building to understand the operational characteristics of the water, lighting and HVAC systems.

In November 2009, after reviewing the initial findings, Marshall County Schools contacted Siemens again to perform a detailed energy and cost analysis of the buildings. Siemens

met with Sheldon Davis, Maintenance Supervisor of Marshall County, to discuss appropriate improvement measures for the school system. Discovering the schools had spent over \$1.3 million on electricity, water and gas in 2008, Siemens recommended a variety of facility improvement measures to reduce utility usage. "We knew that energy was going to be the next thing we were going to have to look at," says Mr. Davis.

In May 2011, Siemens began the construction phase of the project, starting with lighting and water systems. Siemens completed construction that October. Within that time, Marshall County began accruing savings. Aside from reduced utility usage, the facilities cut CO₂ emissions, making the school system more environmentally friendly. With project costs just over \$3 million, the County will find a payback for the project within 13 years.

Siemens Solutions

Because there were no upfront costs, Siemens proved to be a viable partner for Marshall County. The cost of the facility improvements is offset by the guaranteed energy savings. "As a byproduct of the way this program works, [school districts] don't need capital dollars for this program. We utilize their existing operating budget and implementing the measures often helps them save 20% to 30% off of

"The need for energy-efficient equipment upgrades was present and the savings associated with those upgrades were well within the guidelines of the EESI financing model. In the end, the successful implementation of the project created a win for Siemens and the personnel, teachers and students of Marshall County Schools."

*Robert Clutsam, CEM,
Energy Engineer, Siemens
Industry, Inc., Buildings
Technologies Division*

Answers for infrastructure.

Marshall County Schools Reduce Utility Usage with Siemens Solutions.

their utility bills,” says Kirk Whittington, Business Development – Energy Solutions with Building Technologies.

Siemens utilizes the local workforce when applicable. By using Marshall County contractors, Siemens also contributed to stimulating the local economy. “And that helped put money back into the community,” says Mr. Davis.

Siemens implemented lighting improvements for all 11 school buildings so they use less energy. To reduce waste, occupancy sensors were installed to turn off lights automatically. Overall, the retrofitted fixtures have a lower wattage rating, resulting in lower energy costs. Robert Clutsam, Energy Engineer for Siemens Building Technologies Division stated, “The difference in what they had versus what they have now has just been a dramatic change for them. That in itself is a win. Plus, we know the energy savings are there.”

Water conservation measures were also made in all school buildings. The installation of flushometer toilets means that water flow is controlled in pint increments. For sinks, the installation of self-cleaning independent-flow control devices have led to the same level of performance but without residue accumulation. Additionally, at two schools, the existing domestic hot water boilers were replaced with new high efficiency boilers.

Siemens APOGEE® Building Automation System is used to control most of the district’s school buildings. With regard to HVAC systems, new high efficiency units have been implemented. In nine buildings, existing thermostats have been replaced with BACnet thermostats. These communicate with Siemens panels located in each building’s mechanical room.

The network now allows users to change set points and diagnose problems remotely. “There’s a huge amount of manpower savings,” says Mr. Whittington.

Other improvement measures included dishwasher replacements in three schools and window replacements in one school. Siemens also had sub-meters on the cooling tower makeup waterlines installed at two elementary schools. These improvements all contribute to a more efficient use of energy.

With the new improvements, Siemens provided appropriate technical training to Marshall County staff members.

Client Results

Although the construction phase has ended, Siemens will continue to measure and verify the savings for the school district. The projected annual savings are \$227,875. Savings include:

- Lighting reduction of 845,308 kWh annually
- Water conservation of 2,139,655 gallons per year and 2,812 therms of natural gas per year
- 418 therms of natural gas per boiler per school per year
- CO₂ emissions cut by 249,751 pounds per year

The schools are now operating more efficiently and with greater comfort for students, teachers and administrators. By working with Siemens, Marshall County has proven their standards for operational integrity are as high as their standards for education.



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Siemens awarded sole Energy Services & Solutions company for Metropolitan Nashville Public Schools

The Metropolitan Board of Public Education is a department within a consolidated government for the City of Nashville and Davidson County, Tennessee and includes a total of approximately 180 structures encompassing 13 million square feet. This large municipal school system includes general administrative offices, high schools, middle schools, elementary schools, and maintenance and support facilities, many of which are older and make them good candidates for an energy savings plan and maintenance improvements.

Beginning in March 2003, Metro was seeking proposals from qualified contractors to provide comprehensive energy and water management services, energy education services, and energy-related capital improvements for selected buildings and facilities owned/managed by the Metropolitan Board of Public Education (MBPE). With the help of an outside consulting firm, MBPE performed a lengthy,

multiple phase RFQ/RFP process. The first phase began with nine competing contractors who were evaluated based on their qualifications. In the second phase, the three remaining firms completed a Preliminary Comprehensive Energy Conservation and Cost Reduction Plan ("PCECCRP" or "Preliminary Plan") based on one large high school with extensive facilities and one small elementary school within the Metro Nashville Public School district. This phase also included an intensive interview process to meet key project managers and answer specific questions regarding the proposals. In April 2004, the master agreement was signed with Siemens Building Technologies as the sole vendor. According to Kirk Whittington, District Business Development Manager for the Nashville District of Siemens, "This project is unique because we are performing major improvements for the schools without any increased capital expenses for the district. This school district is one of the largest in the country, and Siemens is honored to be working with them."





Siemens awarded sole Energy Services & Solutions company for Metropolitan Nashville Public Schools

Joe Edgens is the Executive Director of Facilities and Operations for the Metropolitan Public School District. When asked about the reasons Siemens was awarded MBPE's projects, Mr. Edgens responded, "I liked Siemens approach during the audit. Siemens went through each recommendation with us from A to Z and created a laundry list of all the energy savings, and then brought it to us to narrow down based on our priorities. It made it easier for us to see all of the potential energy savings for each item on the list." Based on only the two schools used in the second part of the RFQ/RFP process, the potential net savings to MBPE from the recommendations made by Siemens was estimated to be approximately \$926,000 over a fifteen year period. When you factor in the remaining 180 facilities, MBPE is in the position to realize extremely significant on-going cost savings for the future.

Under the terms of the contract, Siemens is to provide a full range of energy management, education services and energy related capital improvements which can be provided and financed through a performance-based contract under which MBPE: (a) incurs no initial capital costs; (b) achieves significant long-term savings; (c) obtains consistent levels of occupant comfort and building functionality; (d) captures ancillary benefits that may accrue as a direct result of such energy-related services and capital improvements, such as environmental protection, hazardous materials disposal, etc., and (e) achieves a

guarantee for energy savings and water savings. Essential services and improvements sought are those that will reduce energy and water consumption in MBPE buildings, upgrade capital equipment, improve building operations and maintenance, save costs through fuel switching or improved demand management and aid in meeting environmental management responsibilities. Additionally, it is mandated in this contract for Siemens to utilize at least 10 percent Small Business Enterprise (SBE) contractors and another 10 percent Disadvantaged Business Enterprise (DBE) contractors over the five year term (April 7, 2004 to April 6, 2009) of the contract.

Generally, the improvements are starting in the high schools, moving to middle schools, and eventually transitioning to the elementary schools. The list of improvements include lighting, major mechanical, cooling tower optimization, building automation system installation and upgrades, closed circuit cooler sub-metering, gas meter consolidations, motion sensors, irrigation sub-metering, hydronic HW Loop optimization, and variable frequency drives. The guaranteed savings for phase 1 and phase 2 are combined at \$201,789 with an additional operational savings of \$40,345 for a total savings at the end of phase 2 at \$242,134. Phase 1 was completed on-time and on-budget, and Siemens far exceeded the ten percent requirement for SBE/DBE participation. Siemens fully anticipates that additional phases of the project will be awarded upon the next annual budget approval.

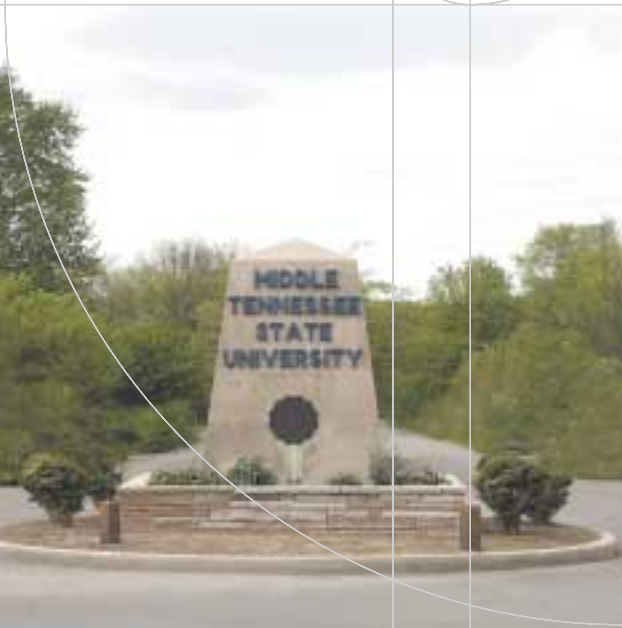
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SIEMENS

Siemens Building Technologies

Middle Tennessee State University promotes energy efficiency by partnering with Siemens



SIEMENS

Siemens Building Technologies

MIDDLE TENNESSEE STATE UNIVERSITY

Murfreesboro, TN —

Middle Tennessee State University (MTSU), like many other higher education institutions, has been challenged to be more efficient in facilities management. This challenge, along with a desire to meet the social responsibilities of environmental stewardship, led to the development of a comprehensive energy management program ...that also happens to be atuned with the institutional mission. Key components include energy efficient projects and initiatives that directly target deferred maintenance, while providing educational support on campus and consulting services throughout Tennessee.

MTSU makes energy conservation a top priority through it's Center for Energy Efficiency (CEE). By partnering with Siemens Building Technologies, MTSU is not only saving energy, but also implementing much-needed facility improvements. Siemens Building Technologies, Inc. is the leading single-source provider of facility solutions for comfort, life safety, security, indoor air quality, energy and operational efficiency. Siemens is very excited about the opportunity to work with a university that is as devoted to energy efficiency as they are.



Performance-based Solutions

MTSU was founded in 1911 and serves approximately 20,000 students. The university has grown to include 109 buildings (3.8 million square feet of space) over a vast 466-acre campus. Like many universities today, MTSU faces a significant amount of deferred maintenance, while having a very limited budget for infrastructure improvements to existing facilities. To continue to provide a high-quality educational environment, MTSU needed a solution before building comfort was compromised.

To address this situation, the Tennessee Board of Regents and MTSU developed a multi-phase project plan that will enable facility upgrades to be made in many of the older buildings without requiring university capital or additional operational dollars. The improvements will be funded by the resulting energy and operational savings through a multi-year, \$10 million performance-based contract awarded to Siemens.

The first phase of the project includes:

- Lighting retrofits.
- Mechanical system upgrades in seven campus buildings.
- Efficiency improvements to MTSU's on-site 5 Megawatt co-generation plant.
- Water conservation measures.
- Main chiller plant optimization.

MTSU, the Tennessee Board of Regents and Siemens have planned further improvements to be implemented over the next five years. These include lighting retrofits in approximately 30 additional buildings, numerous mechanical system upgrades and making further modifications to reduce electrical demand.

Leadership and Education

MTSU's Center for Energy Efficiency provides a leadership role to the community by promoting energy efficiency and offering educational opportunities in energy management. The Performance-based Solutions team from Siemens is working closely with the CEE to develop programs, which not only implement energy projects on campus but also bring energy efficiency curriculums to MTSU classrooms. The CEE offers certification seminars, educational and training opportunities and assistance to local communities, schools and other organizations in accomplishing their energy management and efficiency goals.

To increase student interest in the energy conservation industry, Siemens is working with the university to implement an Internship/Work Co-op Program. The program provides unique career development opportunities for students by offering advanced mentoring and supervision and includes summer job programs, work-study programs, workshop training and scholarships.



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Siemens helps Nashville housing agency become the largest generator of solar power in Tennessee

Background

Since 1939, the Metropolitan Development and Housing Agency (MDHA) has assisted the citizens of Nashville. MDHA operates more than 5,500 units of affordable public housing and administers rent supplement programs to assist Nashville families in their search for decent housing in the private market. The agency currently provides safe and affordable housing to more than 28,000 Nashvillians.

In recent years, the agency has strived to increase resident comfort and reduce utility expenses, all while promoting sustainability. To further its initiatives, MDHA entered into an energy performance contract with Siemens Industry, Inc., in May 2009.

Objectives

MDHA outlined several goals for the project. The agency wanted to:

- Modernize the HVAC system in the agency's high-rise residential towers
- Solidify an agency-wide energy conservation plan for use in grant applications for 2009 American Recovery and Reinvestment Act (ARRA) funding
- Foster growth in the local economy
- Use HUD incentives for energy conservation
- Become the Southeast's leader in renewable energy production
- Modernize units to be attractive, comfortable, and efficient with energy and water

Solutions

Siemens identified more than \$12 million in improvements that will help the agency with its ongoing mission to create affordable housing opportunities for Nashville citizens. The projects were leveraged in a successful application for ARRA grants and, with Siemens' assistance, the agency received more than \$5.5 million for additional renewable and infrastructure improvements. The following are among the most significant projects recently completed or currently underway:

- Implementation of a state-of-the-art water conservation program
- Upgrades to high-efficiency variant refrigerant volume (VRV) heat pumps, instantaneous domestic hot water heating systems and lighting systems
- Installation of 280 photovoltaic panels on two MDHA high-rise properties: 280 solar panels on Parthenon Towers and 300 more at the agency's Madison high-rise property

Results

The projects will pay for themselves through the more than \$1.65 million in annual energy savings that Siemens guarantees. Additional results from the projects in this performance contract include the following.

- More than 76,000 kWh of energy will be produced annually from the solar panels at Parthenon Towers
- The energy generated from solar arrays at Parthenon and Madison, as well as another smaller installation, make MDHA the largest producer of solar power in the state of Tennessee
- This was the first HUD-approved Energy Incentive Extension in the nation
- The solar panels used were manufactured at a Memphis plant, resulting in jobs for Tennesseans

Building Technologies

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Texas A&M University

A detailed account of how one university is improving its energy efficiency and campus environment through effective management and performance contracting



TEXAS A&M
UNIVERSITY

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SIEMENS

One of the largest universities in the United States, Texas A&M University is well-known as the home of the Aggies, the first public institution of higher education in Texas, and one of the top American research institutions. While energy management and water conservation on campus might not be top of mind when people think of Texas A&M, the proactive approach taken by professionals in the institution's Utilities & Energy Management Department, referred to as UEM, is certainly noteworthy.

The university's main campus, located in College Station, has grown significantly in recent years and now serves 50,000 students, including 9,000 graduate students. During this growth, utilities and energy management professionals at Texas A&M have provided leadership and expertise to more efficiently use energy and water resources at the campus' 750 buildings which are spread over 5,200 acres. "It's not that we woke up one day and decided to get in the energy conservation business; we've been working on it for quite some time," says Les Williams, Associate Director for UEM. In line with the university's utilities and energy management goals, Texas A&M has recently initiated a two-phase performance contract with the Building Technologies Division of Siemens Industry, Inc. This new contract, which provides funding for building improvements that increase energy efficiency, is the latest stage in a long-term partnership between the two organizations.

Proactive Utilities and Energy Management

On-Campus Power Generation

Since 1893, Texas A&M has been generating a significant portion of its own electricity. Outside markets are used to supply the balance of what isn't produced on campus. "We're not just a net consumer of electricity, we're also a producer," says Williams. A \$73.25 million combined heat and power (CHP) upgrade is currently underway and slated for completion by the end of 2011. The CHP project will:

- Replace older equipment with more efficient, reliable generation equipment
- Increase capacity to serve a growing campus
- Improve power generation efficiency an additional 20 percent
- Decrease greenhouse gas emissions associated with energy consumption by 30 percent

Building Automation

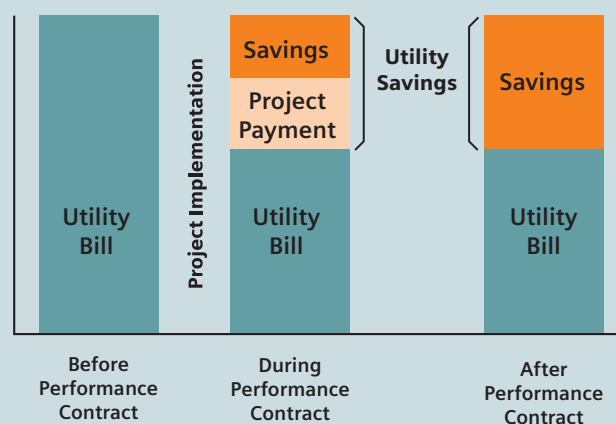
In order to manage such an expansive campus, UEM relies on an extensive building automation system (BAS) that includes energy management and controls capabilities. In fact, Texas A&M has one of the largest building automation systems in the world with nearly 200,000 monitoring and control points in over 200 buildings. The campus BAS monitors and controls close to 14 million gross square feet.

Performance Contracting Defined

Performance contracting is a means of financing a multi-faceted capital improvement project. An energy services company (ESCO) identifies facility improvement measures (FIMs) that will reduce water, sewage, electricity, steam, natural gas, etc. and guarantees the predicted savings. The ESCO provides single-source accountability, acting as project manager, executing the work and/or hiring local contractors.

The contractee gets a loan to pay for the improvements. The cost of the project is divided by the guaranteed annual savings to determine the length of the contract. Project payment is based on the guaranteed annual savings. Once the project is implemented, the savings resulting from increased efficiencies are used to make loan payments to the capital leasing company. If the actual savings are in excess of the guaranteed savings, the contractee keeps the amount above the guarantee. If they are lower, the ESCO must pay the contractee the difference. Beyond the term of the contract, the contractee receives the entire energy savings.

How Performance Contracting Works



Metering

The university started installing a new generation of revenue-quality meters in 2002 and by 2009 the goal of becoming a fully metered campus, for all buildings larger than 5,000 GSF, was realized. Today, Texas A&M operates 1,500 revenue-quality utility meters in over 500 buildings, allowing accurate billing and verification of energy efficiency improvements. The meters measure consumption of electricity, chilled water, heating hot water, domestic cold water, domestic hot water, and steam. "We have a large database of information allowing us to track the performance of buildings based upon a number of different baselines," says Williams. The meter data is used to:

- Troubleshoot problems in the buildings and measure energy efficiency
- Generate monthly customer statements to raise awareness among campus customers
- Demonstrate the results of conservation and efficiency improvement initiatives
- Produce accurate cost estimates for budgeting purposes
- Allow for accurate billing and cost recovery

Building Retro-commissioning

For more than a decade, UEM has managed an extensive building retro-commissioning program on campus in partnership with the Energy Systems Laboratory (ESL). The purpose of the program is to optimize mechanical and electrical system performance within campus buildings, especially the HVAC systems that control environment and consume significant energy. "At times we have up to four teams performing retro-commissioning with a goal of completing a million square feet annually," says Williams.

Engaging the Campus Community

By both raising awareness and reaching out to the campus community, the university takes its conservation efforts beyond ensuring efficient operation to also positively influence behavior. If students, faculty and staff want to know how much energy and water are consumed by campus facilities, they need look no further than the Texas A&M UEM website where there is a link to utility consumption profiles. If customers or stakeholders notice wasteful practices, a hotline is provided where issues can be reported.

In 2009, the university launched a grassroots energy stewardship initiative, called the Energy Stewardship Program (ESP), with a goal of reducing energy consumption in existing campus facilities by at least

15 percent. "We have individual energy stewards assigned to 40 buildings (or about 7 million square feet) who work with occupants to raise overall awareness and support for energy conservation and sustainability," explains Williams.

This overall strategy has paid off. Jim Riley is the director for UEM and since his arrival at Texas A&M in 2002, the UEM Team has led the effort to reduce total campus energy consumption by almost 25 percent. Over the same time the campus square footage increased by 18 percent. "Texas A&M has been very successful with our energy management program. While serving a growing campus, energy consumption has been reduced by 35 percent in eight years on a per square foot basis," explains Riley.

Since 2002, overall utility plant operating efficiency has improved by 40 percent and Texas A&M's energy efficiency initiatives have yielded \$106 million in avoided costs. The result of ongoing water conservation efforts is equally impressive, with total campus water consumption reduced by 33 percent since 2000. "Our UEM Team is proud to be able to report these kinds of results as we continue to identify and implement new ways to improve service levels and efficiency," says Riley.

Partnering with Siemens

As the university began launching various utilities and energy management initiatives over time, it became important to partner with vendors that could supply both expertise and superior building systems and equipment. Texas A&M has repeatedly turned to Siemens.

The university began installing Siemens BAS in its buildings in 1983. Just five years later, in 1988, the university began standardizing on the Siemens APOGEE® Building Automation System for all campus buildings. "Texas A&M has a longstanding relationship with Siemens for the BAS and has sole-sourced with Siemens for the automation systems in all new buildings and all retrofits performed to precise direct digital control standards," says Riley. Over the past 25 years, the APOGEE system has grown in size to monitor and control close to 200 campus facilities.

In addition to the BAS, Texas A&M has standardized on Siemens fire monitoring system for the last 10 years. They also use Siemens security system to monitor and control access to the utility plants on campus. Riley states, "We have a lot of confidence in Siemens, and they have done a good overall job at Texas A&M. The 'guaranteed pricing' package that Siemens has offered, together with quality service, has made it attractive for Texas A&M to continue an ongoing partnership with a sole-source arrangement."

The Performance Contract

After performing commissioning and energy audits with support from ESL in 30 high profile buildings, UEM identified opportunities for system retrofits and operational improvements in a number of the campus facilities. These initiatives were identified to improve services and energy efficiency, resulting in significant energy savings. The question was how to fund them.

Through the American Recovery and Reinvestment Act (ARRA) of 2009, stimulus dollars were designated to the state for disbursement to state agencies with qualifying energy conservation projects through a performance contract. "The university applied for and was successfully granted two low-interest loans from the Texas State Energy Conservation Office (SECO)," says Riley. The low-interest loans are at two percent – the first for \$10 million and the second loan for an additional \$5.1 million.

The timing couldn't have been better. "Through our partnership with ESL and our ongoing retro-commissioning program, UEM had identified a list of things that needed to be completed and were looking for the capital to fund them. So, when this opportunity presented itself, it was a perfect fit," says Williams. The ARRA funding with a performance contract will allow the university to get all of the projects underway promptly and benefit sooner from the efficiency improvements.

Texas A&M issued its request for qualifications (RFQ) in January 2010 and began its search for an energy services company (ESCO) to complete the work under the required performance contract. From the submittals, three companies were interviewed and after thorough review, Siemens was chosen as Texas A&M's ESCO partner.

While it was an open competition for the contract, the university's positive experience and long history with both the professionals and products at Siemens were considered when it came time to make a decision.

"We looked at a number of opportunities with different vendors and felt that Siemens best met our requirements. We called around and talked to other folks, and concluded that people really liked the work that Siemens did. People really appreciated the follow-through and attention to detail, and that really resonated with us," says Williams.

With Siemens chosen, the assessment phase began. The company's engineers performed energy audits of their own and calculated exact consumption reduction amounts. A list of projects to be performed under the 10-year contract was firmed up and the guaranteed savings were finalized. "The simple payback has to be less than the 10-year loan repayment period so the savings from the energy projects will cover repayment of the debt service," explains Riley.

The total contract amount is \$15.1 million, with \$10 million of the work being performed as Phase I and the remainder completed under Phase II. "There are 24 buildings slated for upgrades or retrofits in these two upcoming performance contracts; 17 in Phase I and another seven in Phase II," says Riley.

In September, the projects were presented to the Texas A&M Board of Regents for final approval. Design began the following month with both Phases I and II slated for completion by December 2011. "All construction has to be completed before the end of 2011, which is a commitment that the university and Siemens have made to SECO as a condition of getting the loan," explains Riley. The projects will be fast-tracked to meet an aggressive 12-month construction schedule.

Reducing energy consumption isn't the only goal for the projects. "The net result is that Texas A&M will have buildings that are better able to meet the requirements of the occupants," says Williams. Building occupants and the budget will both benefit, and so will the environment. "The project is one more step in a direction of improving customer service, reducing our carbon footprint, and being as sustainable a campus as possible," adds Riley.

The Projects

Siemens has guaranteed \$1.1 million annual energy and operational savings over the contract's 10-year term for Phase I projects, a description of which follows.

BAS Building Optimization

Optimization of the building automation system will impact 1.6 million square feet, improve energy efficiency and enable better control of the HVAC equipment in certain buildings. Occupancy sensors, either existing or to be installed, will be tied into the terminal equipment controllers (TECs) in specific buildings, minimizing or shutting down air flow during unoccupied periods. Building reset and setback schedules, including the following, will be implemented:

- When the occupancy sensors indicate that a non-lab area (e.g. an office, classroom or conference room) is unoccupied, the room temperature setpoint will be reset to 65°F. in heating mode and 80°F. in cooling mode during the daytime; the minimum airflow for VAV boxes will also be reset to zero percent.
- In lab areas served by 100-percent outside air units, the ventilation setpoint will be reset to four ACH (air changes per hour) when the system is in 'night' mode and the occupancy sensor indicates the room is unoccupied.
- In zones that were previously pneumatically controlled with a single setpoint, heating/cooling and day/night temperature setback will be implemented.

Projects such as these that prevent HVAC equipment from operating unnecessarily will result in significant savings at Texas A&M. Other improvements include connecting exhaust fans into the BAS to schedule them off at night and optimizing discharge air

temperature and static pressure reset programming in order to minimize unnecessary reheating and fan power.

Installing variable frequency drives (VFDs) will optimize space conditions and provide additional savings. On constant-speed air-handling unit fans, the VFDs will reduce fan motor energy use and improve dehumidification capability. Installing VFDs on constant-speed pumps and airflow equipment, together with programed differential pressure setpoint schedules, will also minimize energy consumption.

Control systems at air-handling unit and zone levels will be converted from pneumatic to DDC. Heat recovery systems that had previously been out of service will be re-commissioned.

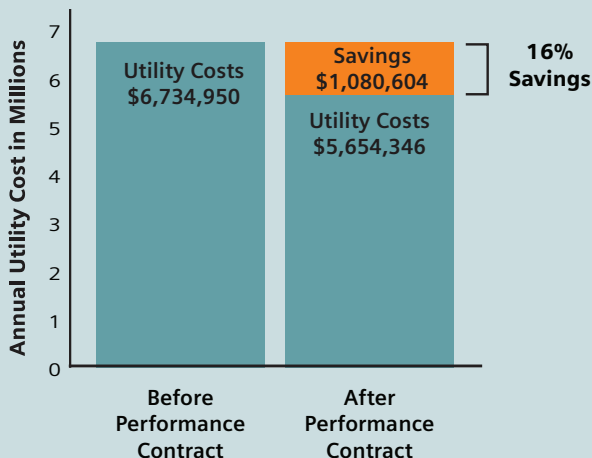
Occupancy Sensors

Occupancy sensors will be installed in offices, classrooms and common areas to reduce energy consumption and eliminate the wasteful practice of conditioning and lighting spaces when not occupied. "Texas A&M is going to get greater room control by tying lighting occupancy sensors into not just the lighting, but the variable air volume boxes in the buildings," explains Jacob Richardson, Account Executive, Siemens Industry, Inc., Building Technologies Division, Houston.

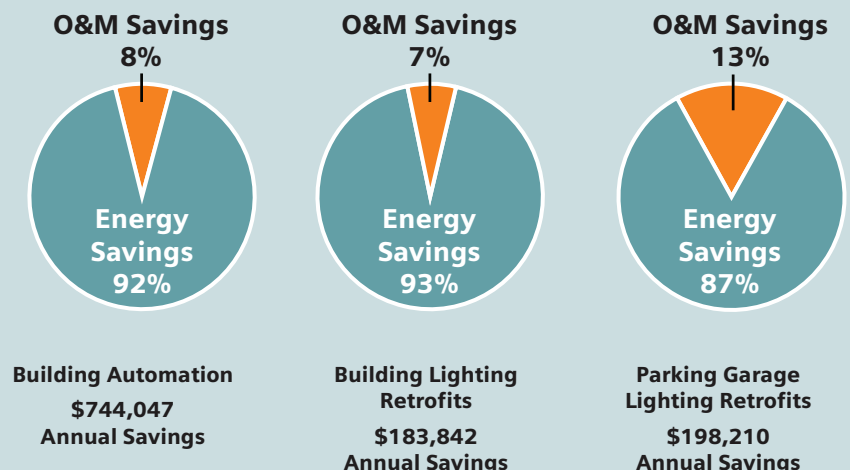
Lighting Retrofits

Replacing older inefficient lamps will reduce energy consumption dramatically. T-12 lamps with magnetic ballasts will be replaced by T-8 lamps and electronic ballasts, 28W lamps will be substituted for 4-foot 32W fluorescent lamps, and 400W metal halide fixtures will be retrofitted with 3-lamp T-5 fixtures. Texas A&M's 700,000 square foot library will directly benefit from updated lighting technologies.

Texas A&M Annual Utility Cost Savings



Annual Savings by Project Component



Lighting projects aren't relegated exclusively to building interiors. In campus parking garages, where lights remain on 24/7/365, new lamps and fixtures will provide energy efficient lighting without compromising safety. Highly efficient induction fixtures will replace slow start-up high pressure sodium (HPS) fixtures. Stairwell and area lighting will be retrofitted with LED shoeboxes and T-8 compact fluorescents. Lighting quality and color rendition will also be upgraded with the efficiency improvements.

Phase II of the performance contract will see additional BAS optimization and lighting upgrades completed on campus. These improvements will impact seven buildings, including a 700,000 square foot library, and deliver an additional \$575,000 in annual savings for Texas A&M.

Measurement & Verification

During construction, as a stipulation of the ARRA funding, quarterly reports must be submitted to the State Energy Conservation Office. For four years after construction is completed, every annual reconciliation report, which shows actual vs. guaranteed savings, submitted by Siemens to Texas A&M, will be reviewed by an independent third-party identified by the state. "There will be a measurement and verification phase after the project is completed," says Williams. "A vendor is going to be selected from SECO to make sure that the projects actually deliver what is expected." For extra assurance, Texas A&M will use its own resources to verify project results. "We will use our partnership with ESL to monitor these facilities and make sure that we get the performance that we expect," he adds.

Project Challenges

The performance contract and upgrades to be completed present some steep challenges, all of which validated why Siemens was the best ESCO partner for Texas A&M.

While \$15.1 million is a substantial amount of money, the list of projects Texas A&M identified, together with other opportunities Siemens identified, could have left

the project short of funding; however, Siemens was able to deliver much of the equipment at a discount allowing more work scope to be completed. Because the university has standardized on Siemens' control systems, Texas A&M can take advantage of preferred customer pricing for all BAS upgrades. And because Siemens owns Danvers, MA-based OSRAM SYLVANIA, high quality, cost-effective solutions can be delivered for the lighting retrofit projects. "It kept costs down so Texas A&M could get more bang for their buck," says Richardson.

As a condition of the ARRA funding, all materials have to comply with 'Buy American' provisions. A smaller ESCO with limited resources may have struggled with the work required to meet this requirement. Siemens, however, is happy to support American-based companies and meet the Buy American requirement. The company's procurement team made sure that both large and small equipment conformed to ARRA requirements.

The stimulus funding brought an extra level of complexity to the performance contract by adding requirements, including completion by December 2011, which shortened the construction cycle and accelerated the timeline. Siemens enlisted many internal resources, including energy engineers, controls technicians, and support from other Siemens operating companies. "We have the necessary resources to meet the required timeline," states Richardson. "We brought out a team of two engineers and had them dedicated full-time, along with a full-time project manager." The energy solutions team made this project a top priority and Siemens gave Texas A&M the promise that whatever resources were necessary to complete the projects on time would be applied.

"When you work with a company like Siemens on a performance contract, you get a certain level of guaranteed support that raises your level of confidence. You get a combination of things: a competent provider, a low-interest loan, and guaranteed payback," says Williams.



Jim Riley
Director,
Utilities and Energy Management,
Texas A&M University



Les Williams
Associate Director,
Utilities and Energy Management,
Texas A&M University

The Texas A&M Team

Jim Riley has been Director for Utilities & Energy Management at Texas A&M University since 2002. He earned a Marine Engineering degree from Texas A&M in 1979 and has worked since then in the field of utilities, energy, and industrial plant management, including over 16 years managing utilities and facilities in higher education and several years as owner/manager of a contracting company. Jim is a Certified Energy Manager (CEM) and has been acknowledged by the Association of Energy Engineers for outstanding accomplishment in the field of energy management.

Les Williams has more than 20 years experience in the utilities and facilities business and has held many management positions including Director for Project Management and Chief Operating Officer. Les earned a Bachelor's in Mechanical Engineering from Texas A&M University, an MBA from Baylor University and is a Certified Energy Manager.

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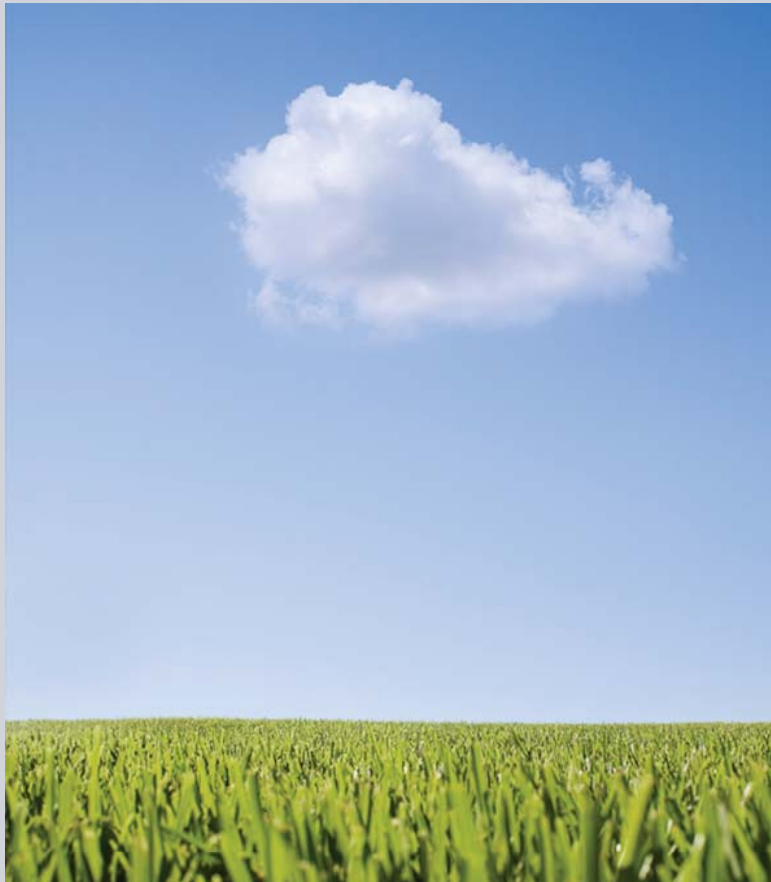


Energy Savings Performance Contract Overview



- Belknap Campus, Health Sciences Center, and Shelby Campus
- \$46.2 million of energy efficient facility improvements
- 88 buildings / 6.2 million square feet of space
- Will generate \$64 million of guaranteed savings over the 14+ year term
- Equivalent to \$4.4 million of annual savings, or \$12,086 per day
- If the guarantee is not met, Siemens will pay to cover the shortfall

Reduced Carbon Footprint



Annual Reduction in Greenhouse Gases

- 92,371,102 lbs. of carbon dioxide (CO₂)
- 152,175 lbs. of nitrogen oxides (NO_x)
- 463,175 lbs. of sulfur dioxide (SO₂)

Annual Equivalent Reduction

- 7,690 cars driven for a year, or
- 296 acres of forest preserved from deforestation, or
- 222 rail cars of coal



Phase I and II Project Comparison

	Phase I Project	Phase II Project	Combined
No. of Buildings	69	19	88
Total Square Footage	4,500,000	1,691,175	6,191,175
Contract Amount Including Allowance	\$21,713,289	\$24,516,469	\$46,229,758
Total Energy & Operational Savings Guaranteed	\$32,489,093	\$31,074,538	\$63,563,631
Contract Term	13.5 Years	15.5 Years	

Phase I and II Project Comparison

	Phase I Project	Phase II Project	Combined
Total Annual Energy and Operational Savings Guaranteed	\$2,406,599	\$2,004,809	\$4,411,408
Total Energy and Operational Savings Per Day	\$6,593	\$5,493	\$12,086

RESOLUTION 37-2012-13

A RESOLUTION DECLARING THE INTENT OF THE CITY OF CLARKSVILLE TO REIMBURSE ITSELF FOR CERTAIN EXPENDITURES RELATING TO PUBLIC WORKS PROJECTS WITH THE PROCEEDS OF BONDS OR OTHER DEBT OBLIGATIONS TO BE ISSUED BY THE CITY OF CLARKSVILLE IN A NOT TO EXCEED AMOUNT OF \$1,241,344

WHEREAS, it is the intention of the City Council of the City of Clarksville, Tennessee (the "Municipality") to provide funds for the (i) construction, renovation, modification, improvement, upgrade, rehabilitation and equipping of municipal buildings; (ii) installation, improvement, upgrade, modification and equipping of public street lights within the Municipality; (iii) acquisition of all property real and personal, appurtenant thereto, or connected with any of the foregoing; (iv) payment of legal, fiscal, administrative, architectural and engineering costs incident to any of the foregoing (collectively, the "Projects"); and (v) payment of costs incident to the issuance and sale of such obligations; and

WHEREAS, it is the intention of the City Council of the Municipality to pay all or a portion of the costs associated with said activities by the sale of bonds, in one or more emissions, or other debt obligations of the Municipality; and

WHEREAS, it is anticipated that it will be necessary to make expenditures in payment of said costs prior to the issuance of said bonds or debt obligations; and

WHEREAS, the City Council of the Municipality wishes to state its intentions with respect to reimbursements for said expenditures in accordance with the requirements of final regulations applicable thereto promulgated by the United States Department of the Treasury.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Clarksville, Tennessee, as follows:

Section 1. It is reasonably expected that the Municipality will reimburse itself for certain expenditures in a maximum amount of \$1,241,344 made by the Municipality in connection with the activities hereinabove described. The Municipality intends to reimburse all such expenditures by issuing its qualified energy conservation bonds (as such term is defined in Section 54D of the Internal Revenue Code of 1986, as amended) or, if impractical or impossible to be reimbursed by issuing qualified energy conservation bonds, by issuing tax-exempt bonds or other debt obligations of the Municipality. The expenditures made prior to the issuance of said bonds or other debt obligations are expected to be paid from the Municipality's General Fund and reimbursement shall be made to said fund. Debt service on the qualified energy conservation bonds (or, if applicable, tax-exempt bonds or other debt obligations) is expected to be paid from unlimited ad valorem taxes to be levied on all taxable property within the corporate limits of the Municipality.

Section 2. The maximum principal amount of bonds or other debt obligations expected to be issued to finance the activities hereinabove described is \$1,241,344.

Section 3. This resolution shall be placed in the minutes of the City Council and shall be made available for inspection by the general public at the office of the City Clerk.

Section 4. It is the Municipality's reasonable expectation that it will reimburse the original expenditures from the proceeds of bonds or other debt obligations.

Section 5. This resolution constitutes a declaration of official intent under Treas. Reg. §1.150-2.

Section 6. All resolutions or parts of resolutions in conflict herewith are hereby repealed, and this resolution shall be in immediate effect from and after its adoption.

ADOPTED:

ORDINANCE 76-2012-13

AN ORDINANCE AMENDING THE 2012-13 OPERATING BUDGET (ORDINANCE 100-2011-12) AUTHORIZING THE CITY OF CLARKSVILLE MUNICIPAL PROPERTIES DEPARTMENT TO INCREASE FUNDING IN THE AMOUNT OF \$35,000.

WHEREAS, the roof at 104 and 106 Public Square were damaged during a storm in October 2012

WHEREAS, the roof is now leaking and is causing damage inside the building

WHEREAS, the interior repairs and roof replacement cost are estimated at \$35,000

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:

That the following Budget Amendments be made:

Municipal Properties Department Expenditures:

Construction Services	10419703-4450	Increase:	\$35,000
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BE IT FURTHER ORDAINED that the source of funding for this \$35,000 shall be from the fund balance of the General Fund.

FIRST READING:

SECOND READING:

EFFECTIVE DATE: