



HISTORIC
FRANKLIN
TENNESSEE

ITEM #5
CIP
02-11-10

MEMORANDUM

February 4, 2010

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator *ESS*
Eric J. Gardner, P.E., Director of Engineering
David Parker, City Engineer

SUBJECT: Contract 2010-0013

Purpose

The purpose of this memo is to provide Board of Mayor and Aldermen (BOMA) with the information to consider the approval for the proposed agreement with Avalon Squared for access, maintenance and construction of a detention pond within Liberty Park.

Background

McEwen Drive Phase III is currently listed as #3 on BOMA's CIP Priority List and funded in the approved funding plan. The Phase III Project proposes to widen McEwen Drive between Carothers Parkway and Cool Springs Boulevard to a four-lane median divided roadway. Also included with the construction project would be a multi-use path on one side and sidewalk on the other.

A portion of this project is being funded by the State. In order to complete the design project and advertise for construction, there were a number of items to be accomplished with Tennessee Department of Transportation (TDOT). The remaining approvals from TDOT include ROW Certification and Final Plans approval. Rights-of-way and easements are currently being acquired. The two remaining properties have reached agreements with the City and we are awaiting their signatures to complete the acquisition process. Construction plans for the project are currently being finalized. Once ROW is certified and final plans are completed, they will then be submitted to TDOT for final approval.

In the original design plans for McEwen Phase III, a proposed detention pond was to be installed in a small portion of City property in Liberty Park. It has since been moved to a different location to account for the stormwater runoff of the roadway project. The developer at the eastern end of the project, Avalon Squared, LLC, has made a request to install a detention pond at this location that would provide detention for that development. Avalon Squared constructed the extension of Cool Springs Boulevard to the McEwen roundabout and has previously reached an agreement for road impact fee offsets.

Financial Impact

At the time Avalon Squared submits for offsets, staff is proposing to have the developer appraise the value of the property where the detention pond is located. This value would then be reduced in the Road Impact Fees Offsets due to Avalon Squared if this is approved.

Recommendation

Approval of the Contract 2010-0013; Agreement with Avalon Squared is recommended.

**ACCESS AND MAINTENANCE AGREEMENT OF DETENTION POND
LOCATED UPON CITY OF FRANKLIN PROPERTY BY AVALON
SQUARED, LLC**

COF Contract No. 2010-0013

This contract between the **City of Franklin, Tennessee** ("City"), and **Avalon Squared, LLC** ("**Developer**"), entered into on this the — **day** of _____ **2010**.

WHEREAS, the Developer has an approved Concept Plan for a mixed used development located on both sides of Cool Springs Boulevard and north of McEwen Drive known as Avalon Square ("**Development**"); and

WHEREAS, the Concept Plan for the Development was approved on September 14, 2004 as part of Ordinance 2004-61; and

WHEREAS, the City and Developer entered into an Agreement ("**Agreement**") on April 30, 2007 for the completion of McEwen Drive from Carothers Parkway to Cool Springs Boulevard ("**Project**"); and

WHEREAS, the developer has completed the necessary grading as part of the Agreement; and

WHEREAS, the City will fund and contract the construction of the Project; and

WHEREAS, the Developer wishes to construct a detention pond ("**Detention Pond**") on property owned by the City known as Tax Map 61, Parcel 2.04 ("**Property**") at no cost to the City; and

WHEREAS, the Property is located within Liberty Park; and

WHEREAS, there are no plans for park features in the location proposed for the Detention Pond; and

WHEREAS, the Developer is required to detain and treat stormwater runoff from the Development by the City's Stormwater Ordinance; and

WHEREAS, the Developer will install stormwater facilities within the Development to fulfill the requirements set forth in the City's Stormwater Ordinance; and

WHEREAS, the Developer wishes to use the Detention Pond to help fulfill the requirements set forth in the City's Stormwater Ordinance;

NOW, THEREFORE, the City, and the Developer, their successors and assigns, do hereby agree as follows:

1. The foregoing recitals are incorporated into this Agreement and made a part thereof.
2. The City will dedicate the permanent drainage easement (Exhibit A) necessary for the construction of the Detention Pond to the Developer. Permanent Drainage Easement located on Property known as Map 61 Parcel 2.04.
3. The Developer can use the Detention Pond at no cost to the City to detain the stormwater runoff from his development, subject to the City Municipal Code and Zoning Ordinance, as amended.

4. The Developer will submit construction plans and drainage calculations to the City Engineer for the construction of the Detention Pond, along with any other stormwater facilities proposed to be constructed as part of the Development. Prior to construction of the Detention Pond, the City Engineer will approve the construction plans.
5. The City will retain access to the Property and will inspect the construction and maintenance of the Detention Pond.
6. The Developer will be responsible for all maintenance of the Detention Pond, including all associated costs.
7. The value of the easement will be subtracted from the Developer's eligible Road Impact Fee Offset per the Agreement. At a time no later than the Developer first requests offsets, the Developer will have an appraisal performed by a third party contractor that is mutually acceptable to the City to determine the value of the easement.

As approved by the Franklin Board of Mayor and Aldermen on February 23, 2010.

WITNESS our hands on the dates as entered.

CITY OF FRANKLIN, TENNESSEE

By: _____	_____
JOHN C. SCHROER Mayor	ERIC S. STUCKEY City Administrator/Recorder
Date: _____	Date: _____

AVALON SQUARED, LLC

By: _____	_____
Gary W. Parkes Co-Chief Manager	David L. Schwab Co-Chief Manager
Date: _____	Date: _____

APPROVED AS TO FORM:

By: _____
Shauna R. Billingsley, Interim City Attorney

STATE OF TENNESSEE)
)ss:
COUNTY OF WILLIAMSON)

Before me, the undersigned Notary Public of said County and State, personally appeared **John C. Schroer** and **Eric S. Stuckey**, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the Mayor and City Administrator/Recorder, respectively, of the City of Franklin, Tennessee, the within named bargainor, a corporation, and that as such Mayor and City Administrator/Recorder executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as Mayor and City Administrator/Recorder.

WITNESS, my hand and seal on this the ____ day of February, 2010.

Notary Public
My Commission expires:

STATE OF TENNESSEE)
)ss:
COUNTY OF WILLIAMSON)

Before me, the undersigned Notary Public of said County and State, personally appeared _____ **and** _____ 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 _____ of Avalon Squared, LLC and that as such _____ being authorized so to do, executed the foregoing instrument for the purposes therein contained.

WITNESS, my hand and seal on this the ____ day of February, 2010.

Notary Public
My Commission expires

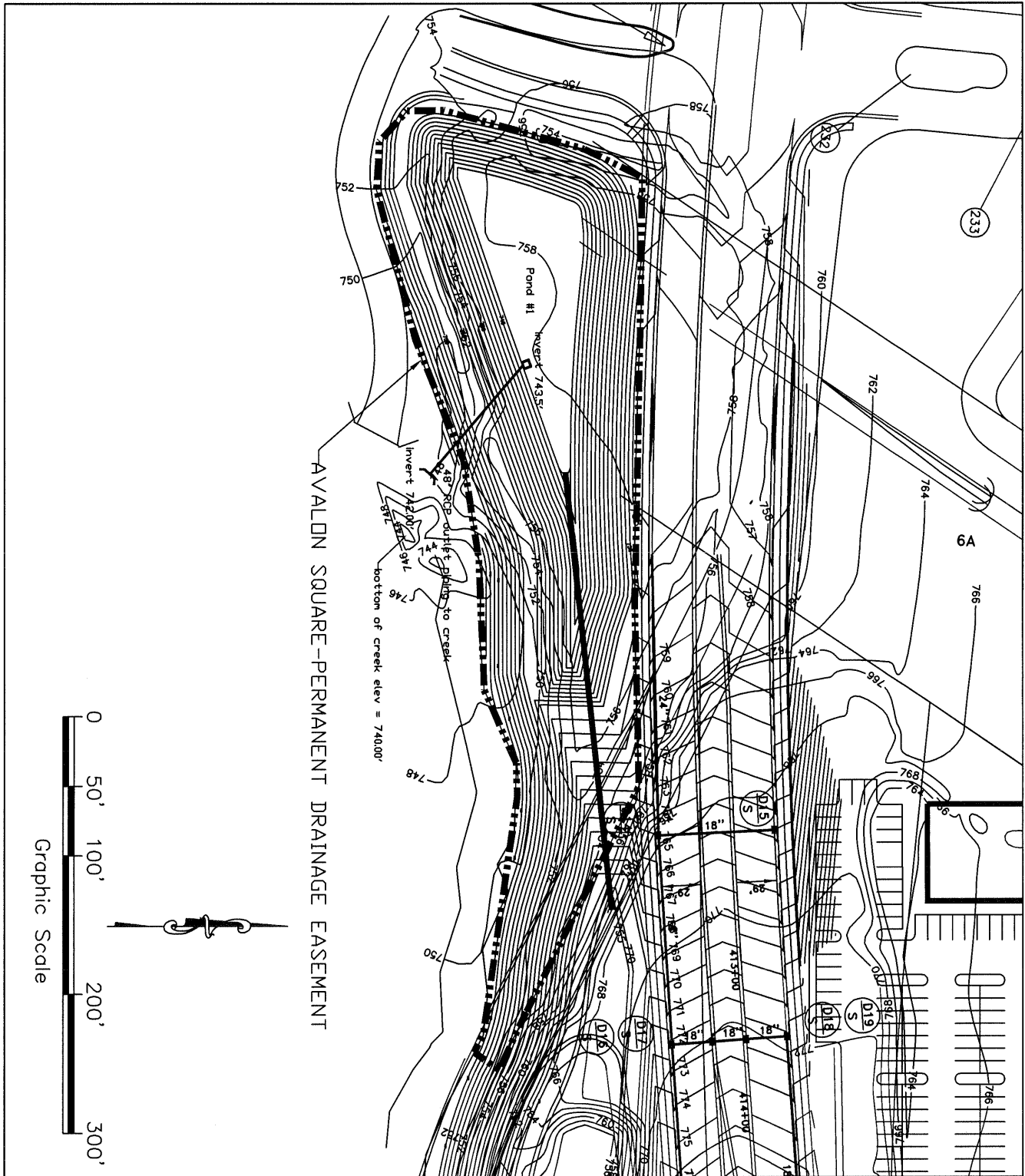


EXHIBIT A
AVALON SQUARE-PERMANENT DRAINAGE EASEMENT

8th CIVIL DISTRICT
 City of Franklin, Williamson County, Tennessee

Parques Development Group, LLC

A PARKES COMPANY

DATE: 12/08/2009

JOB NO.: 03-062

DRAWN BY: ALEX HAKALA

SCALE: 1"=100'