



HISTORIC  
FRANKLIN  
TENNESSEE

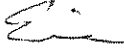
ITEM #6  
CIC  
5/28/14

## MEMORANDUM

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April 30, 2014

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator   
David Parker, City Engineer/CIP Executive  
Lisa Clayton, Parks Director  
Paul Holzen, Director of Engineering

SUBJECT: Consideration of Agreement (COF Contract 2014-0105) with Highwoods Realty LP to allow for the construction of Tribute Lane on City of Franklin Property.

### **Purpose**

The purpose of this memorandum is to bring forward to the Board of Mayor and Aldermen (BOMA) an agreement to allow for the Construction of Tribute Lane on City of Franklin Property.

### **Background**

On February 27, 2014, the Franklin Municipal Planning Commission approved the Ovation Subdivision, preliminary plat, 9 lots on 145.48 Acres, located at the southeast corner of Carothers Parkway and East McEwen Drive. As part of the Development, the developer is required to construct and provide connectivity from Turning Wheel Drive to Ovation Parkway. Prior to construction of this roadway and infrastructure, the City of Franklin needs to enter into an agreement with the property owner to allow for the construction of Tribute Lane on City of Franklin property.

### **Financial Impact**

No direct financial impact on the City of Franklin is expected.

### **Recommendation**

Approval of COF Contract 2014-0105 is recommended.

**AGREEMENT FOR THE CONSTRUCTION OF TRIBUTE LANE ON CITY OF  
FRANKLIN PROPERTY  
COF CONTRACT NO 2014-0105**

This Agreement is entered into between the **City of Franklin, Tennessee (City)** and **Highwoods Realty LP, (Developer)**, on this the 10<sup>th</sup> day of June, 2014.

**WHEREAS**, the Developer has previously submitted to the Franklin Municipal Planning Commission the Ovation Subdivision Preliminary Plat, 9 lots on 145.48 Acres, COF Project #2893 for approval (the Development Project); and

**WHEREAS**, the City has required the Developer to design and construct certain roadway improvements; and

**WHEREAS**, said roadway improvements involve the construction of approximately three hundred lineal feet (300 LF) of roadway and pedestrian facilities on property owned by the City known as Map 061, Parcel 2.04 (City Property), as shown on Exhibit A.

**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 Developer shall be required to design and construct Tribute Lane as shown on the approved Ovation Subdivision Site Plan (Infrastructure) Plans, COF Project #4545 from Turning Wheel Lane to Ovation Parkway in accordance with City standards.
3. The design and any modifications to the design of Tribute Lane shall be approved by the City's Engineering Department prior to construction.
4. The Developer shall be responsible for obtaining and complying with all Local, State and Federal Permits associated with the Construction of Tribute Lane.
5. The Developer agrees to indemnify and hold harmless the City as well as its officials, employees, officers and agents from and against any and all claims, liabilities, losses, and causes of action, including death, which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Developer, its employees, its contractors, or any person acting for or on its or their behalf in the performance of the work relating to this Agreement. The Developer further agrees it shall be liable for the reasonable cost of attorneys for the City in the event such services are necessitated to enforce the terms of this Agreement.
6. As part of the City development process, the Developer shall be required to post performance and maintenance bonds. Following the release of the maintenance bond the City shall formally accept all maintenance, operation and liability associated with that portion of the Infrastructure improvements located on City Property.
7. Time of the Essence. The parties agree that TIME IS OF THE ESSENCE with respect to the parties' performance of all provisions of the Agreement.

- 8. Notices. Any notice provided pursuant to the Agreement, if specified to be in writing, will be in writing and will be deemed given: (a) if by hand delivery, then upon receipt thereof; (b) if mailed, then three (3) days after deposit in the mail where sender is located, postage prepaid, certified mail return receipt requested; (c) if by next day delivery service, then upon such delivery; or (d) if by facsimile transmission or electronic mail, then upon confirmation of receipt. All notices will be addressed to the parties at the addresses set forth in the Agreement or such other address as either party may in the future specify in writing to the other.
- 9. Severability. If any term or provision of the Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Agreement will not be affected.
- 10. Precedence. In the event of conflict between this Agreement or any other contract, agreement or other document to which the Agreement may accompany, the provisions of this Agreement will to the extent of such conflict take precedence unless such document expressly states that it is amending this Agreement.
- 11. Applicable Law; Choice of Forum/Venue. The Agreement constitutes the entire agreement and is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice-of-law rules. The Choice of forum and venue shall be exclusively in the Courts of Williamson County, TN.

**Approved by the Franklin Board of Mayor and Alderman on June 10, 2014.**

WITNESS our hands on the dates as indicated.

**DEVELOPER**

Highwoods Realty LP.

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TENNESSEE                    )  
   )  
 COUNTY OF \_\_\_\_\_)

Before me, \_\_\_\_\_, a Notary Public of said County and State, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged \_\_\_\_\_self to be \_\_\_\_\_ (or other officer authorized to execute the instrument) of \_\_\_\_\_, the within named

bargainor, a \_\_\_\_\_, and that \_\_\_\_\_ as such \_\_\_\_\_ executed the foregoing instrument for the purposes therein contained.

Witness my hand and seal on this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

CITY

CITY OF FRANKLIN, TENNESSEE, a  
municipality

By: \_\_\_\_\_  
DR. KEN MOORE  
Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
ERIC S. STUCKEY  
City Administrator

Date: \_\_\_\_\_

STATE OF TENNESSEE )  
 )  
COUNTY OF WILLIAMSON )

Before me, the undersigned Notary Public of said County and State, personally appeared DR. KEN MOORE 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, respectively, of the City of Franklin, Tennessee, the within named bargainor, a municipality, and that as such Mayor and City Administrator executed the foregoing instrument for the purposes therein contained, by signing the name of the municipality by themselves as Mayor and City Administrator.

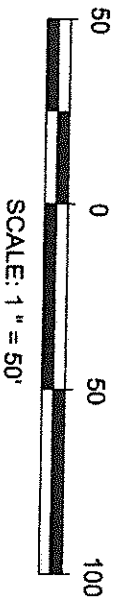
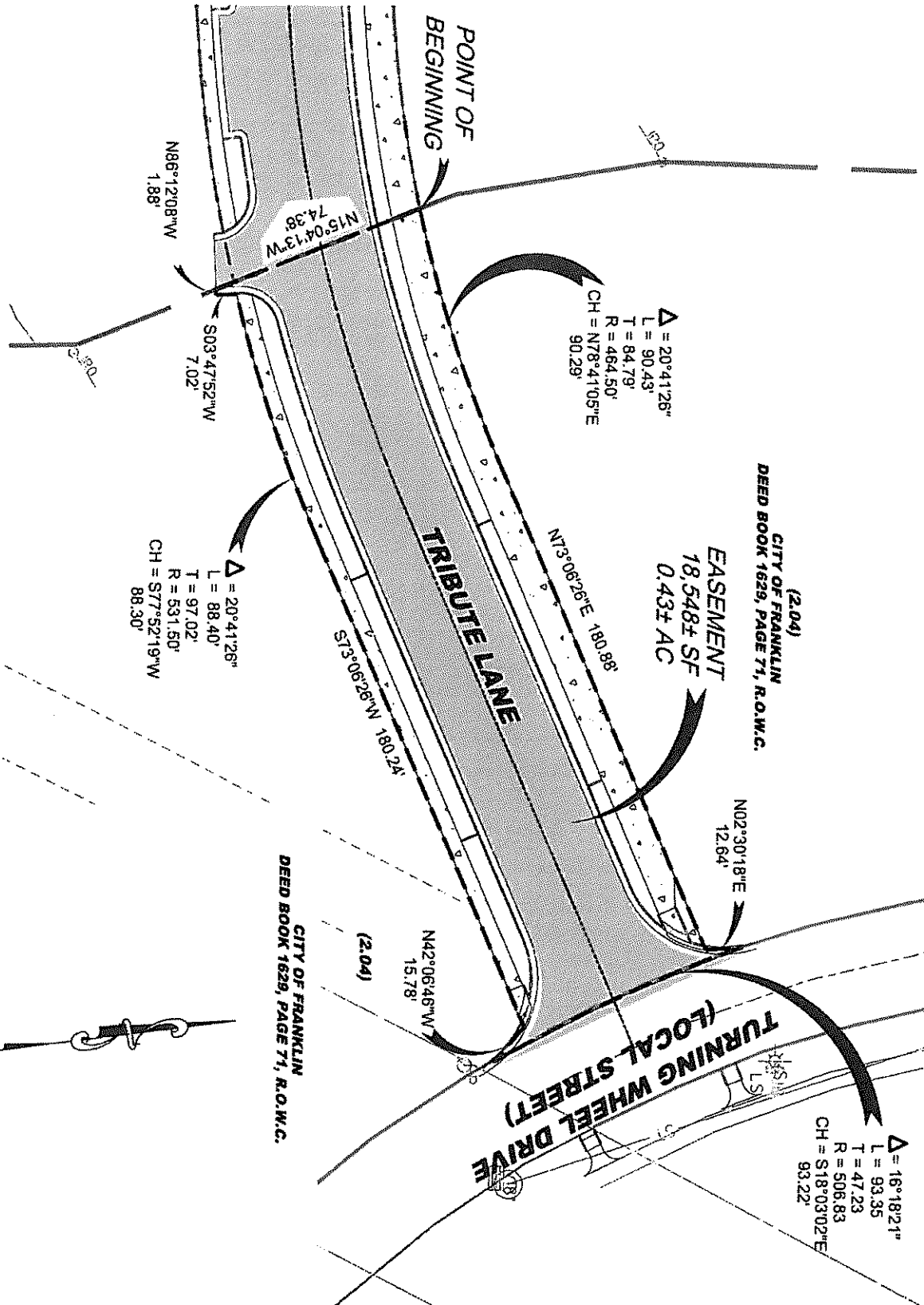
Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Approved as to form by:

\_\_\_\_\_  
Shauna R. Billingsley, City Attorney

DRAFT



Civil Engineers | Architects | Planners

**Barge Cauthen & ASSOCIATES**

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 NASHVILLE, TENNESSEE 37209  
 615.356.9911 PHONE  
 615.352.6737 F A X  
 BCA #2064-67-01

**OVATION**

**TRIBUTE LANE ACCESS EASEMENT**  
 MAP 62, PARCEL 18.04 & 18.05  
 2338 E. McEWEN DRIVE  
 FRANKLIN, TENNESSEE

**EX-1**