

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PURCHASE OF DEVELOPMENT RIGHTS FOR A CONSERVATION EASEMENT, IN THE AMOUNT OF SEVENTY-SIX THOUSAND FOUR HUNDRED DOLLARS (\$76,400.00) AND A TEMPORARY CONSTRUCTION EASEMENT, IN THE AMOUNT OF FIVE THOUSAND SIX HUNDRED TWENTY DOLLARS (\$5,620.00) FROM YERBEY CONCRETE CONSTRUCTION, INC., RELATED TO THE AGAWELA DRIVE STREAM RESTORATION PROJECT, AND CLOSING FEES, IN THE AMOUNT OF SIX HUNDRED SIXTY-NINE DOLLARS (\$669.00), FOR A TOTAL DISBURSEMENT OF EIGHTY-TWO THOUSAND SIX HUNDRED EIGHTY-NINE DOLLARS (\$82,689.00) TO JONES RAULSTON TITLE INSURANCE AGENCY, INC. AND WITH THE AUTHORIZATION FOR THE MAYOR TO EXECUTE ALL DOCUMENTS RELATED TO THE TRANSACTION.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the purchase of development rights for a Conservation Easement, in the amount of \$76,400.00 and a Temporary Construction Easement, in the amount of \$5,620.00 from Yerbey Concrete Construction, Inc., related to the Agawela Drive Stream Restoration Project, and closing fees, in the amount of \$669.00, for a total disbursement of \$82,689.00 to Jones Raulston Title Insurance Agency, Inc. and with the authorization for the Mayor to execute all documents related to the transaction.

ADOPTED: _____, 2016

/mem

City of Chattanooga



Resolution/Ordinance Request Form

Date Prepared: June 10, 2016

Preparer: Justin Holland

Department: Public Works

Brief Description of Purpose for Resolution/Ordinance: Res./Ord. # _____ Council District # 5

A RESOLUTION REQUEST AUTHORIZING THE PURCHASE OF DEVELOPMENT RIGHTS FOR A CONSERVATION EASEMENT IN THE AMOUNT OF \$76,400.00 (SEVENTY SIX THOUSAND FOUR HUNDRED DOLLARS) AND A TEMPORARY CONSTRUCTION EASEMENT FOR THE AMOUNT OF \$5,620.00 (FIVE THOUSAND SIX HUNDRED TWENTY DOLLARS) FROM YERBEY CONCRETE CONSTRUCTION, INC. AS RELATED TO THE AGAWELA DRIVE STREAM RESTORATION PROJECT, AND CLOSING FEES IN THE AMOUNT OF \$669.00 (SIX HUNDRED SIXTY NINE DOLLARS) FOR A TOTAL DISBURSEMENT OF \$82,689.00 (EIGHTY TWO THOUSAND SIX HUNDRED EIGHTY NINE DOLLARS) TO JONES RAULSTON TITLE INSURANCE AGENCY, INC. AND WITH THE AUTHORIZATION FOR THE MAYOR TO EXECUTE ALL DOCUMENTS RELATED TO THE TRANSACTION.

Name of Vendor/Contractor/Grant, etc.	<u>Jones Raulston Title Ins. Agency, Inc.</u>	New Contract/Project? (Yes or No)	<u>NO</u>
Total project cost \$	<u>\$82,689.00</u>	Funds Budgeted? (YES or NO)	<u>YES</u>
Total City of Chattanooga Portion \$	<u>\$82,689.00</u>	Provide Fund	<u>6012</u>
City Amount Funded \$	<u>\$82,689.00</u>	Provide Cost Center	<u>K37106</u>
New City Funding Required \$	<u>\$0.00</u>	Proposed Funding Source if not budgeted	<u>N/A</u>
City's Match Percentage %	<u>N/A</u>	Grant Period (if applicable)	<u>N/A</u>

List all other funding sources and amount for each contributor.

Amount(s)	Grantor(s)
\$ _____	_____
\$ _____	_____
\$ _____	_____

Agency Grant Number _____

CFDA Number if known _____

Other comments: (Include contingency amount, contractor, and other information useful in preparing resolution)

Disbursement of funds to Yerbey Concrete Construction, Inc. will be through Jones Raulston Title Insurance Agency, Inc.

Approved by: _____

Reviewed by: FINANCE OFFICE

DESIGNATED OFFICIAL/ADMINISTRATOR

Please submit completed form to @budget, City Attorney and City Finance Officer

Revised: 1/26/09

Master Settlement Statement

Jones Raulston Title Insurance Agency Inc
 518 Georgia Avenue, Suite 200
 Chattanooga, TN 37403
 Phone: (423)362-4333 Fax: (423)362-4329

Date: 06/10/16 **Time:** 3:18:55PM **Escrow no.:** NU15-0603ATN
Close of escrow: 06/13/16 **Escrow officer:**
Borrower: City of Chattanooga
Seller: Yerbey Concrete Construction, Inc.
Property location: 3886 Agawela Drive
 Chattanooga, TN 37406
 0000 Shallowford Road
 Chattanooga, TN 37421

Seller		Borrower	
Debit	Credit	Debit	Credit
Prorations/Adjustments			
	76,400.00	76,400.00	
	5,620.00	5,620.00	
Escrow Charges			
		200.00	
Title Charges			
		350.00	
Recording Charges			
		32.00	
		87.00	
	82,020.00	82,689.00	
		Subtotals	
		Balance Due FROM Borrower	
			82,689.00
82,020.00	Balance Due TO Seller		
82,020.00	82,020.00	TOTALS	
		82,689.00	82,689.00

Seller

 Yerbey Concrete Construction, Inc.

 BY: _____
 Name: _____
 Title: _____

Borrower

 City of Chattanooga

 BY: _____
 Name: _____
 Title: _____

 Jones Raulston Title Insurance Agency Inc
 Settlement Agent

This Instrument Prepared By:
Valerie L. Malueg
Office of the City Attorney
100 E. 11th Street, Suite 200
Chattanooga, TN 37402

<u>Name and Address of New Owner:</u>	<u>Send Tax Bills To:</u>	<u>Map and Parcel Nos.:</u>
City of Chattanooga c/o Chattanooga Department of Public Works Development Resource Center 1250 Market Street Chattanooga, TN 37402	SAME	147C-E-001 147C-E-004

DEED OF CONSERVATION EASEMENT

THIS CONSERVATION EASEMENT (“Easement”) is made this ___ day of _____, 2016 by YERBEY CONCRETE CONSTRUCTION, INC., a Tennessee corporation with an address of P.O. Box 3296, Chattanooga, Tennessee 37404 (“Grantor”), and the CITY OF CHATTANOOGA, a municipal corporation having an address of 101 E. 11th Street, City Hall, Chattanooga, Tennessee 37402 (“Grantee”). The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, lessees, agents, representatives, employees, contractors, and licenses, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of two parcels of real property situated, lying and being in the City of Chattanooga, Hamilton County, Tennessee, conveyed to Grantor by (i) instrument recorded in Deed Book 6296, Page 587, which is more particularly described on **Exhibit “A”** attached hereto and incorporated herein by reference, and (2) instrument recorded in Deed Book 6441, Page 498, which is more particularly described on **Exhibit “B,”** both of record in the Register’s Office of Hamilton County, Tennessee (collectively, the “Property”); and

WHEREAS, Grantee has determined the need for improvements to the unnamed tributary of South Chickamauga Creek (“Stream Restoration Project”) currently existing on or around a portion of the Property and needs access to that portion of the Property shown on Exhibit Drawing No. 13039A and designated thereon as Easement Areas “D and “E,” attached hereto as **Exhibit “C”** and incorporated herein by reference and as more particularly described in **Exhibit “C”** (collectively, the “Easement Area”) in order to proceed with the installation, construction, repair and maintenance of said improvements; and

WHEREAS, the Grantee is required to perform the Stream Restoration Project involving the unnamed tributary of South Chickamauga Creek pursuant to Appendix E of the consent decree entered into by and between the Grantee and the United States, the State of Tennessee, and others, in the case styled *United States of America et. al. v. City of Chattanooga*, No. 1:12-cv-00245 (“CD”); and

WHEREAS, the Grantee is required to obtain conservation easements associated with the improvements to the unnamed tributary of South Chickamauga Creek pursuant to the CD, including this Easement; and

WHEREAS, the Easement Area is already subject to certain riparian buffers restricting development under State law by virtue of its adjacency with the unnamed tributary of South Chickamauga Creek; and

WHEREAS, the Easement is intended to supplant and expand those restrictions currently found under State law and make them perpetual as set forth in this Easement; and

WHEREAS, the Easement Area possesses conservation, natural and scenic values in the open spaces, wetlands, ponds and streams located in the Easement Area (the “Conservation Values”), which values are worthy of protection, maintenance, preservation, and enhancement for the benefit of the people of Tennessee; and

WHEREAS, The Conservation Easement Act of 1981, Tennessee Code Annotated Section 66-9-301 *et seq.* (the “Conservation Easement Act”) permits the creation of conservation easements for the protection of the State’s land, water, geological, biological, historical, architectural, archaeological, cultural, and scenic resources, for the purposes of maintaining and preserving the State’s natural and cultural heritage, and for assuring the maintenance of the State’s natural and social diversity and health, and for encouraging the wise management of productive farm and forest land; and

WHEREAS, as owner of the Easement Area Grantor intends to convey to Grantee the right to preserve and protect the Conservation Values of the Easement Area in perpetuity, and the Grantee is willing to honor such intention and protect such values in perpetuity; and

WHEREAS, Grantor and Grantee recognize that the Easement Area will be disturbed during the construction and installation of the referenced improvements, but desire to see the Easement Area restored to a natural state and maintained in that condition at the completion of the Stream Restoration Project, and they further wish to limit activities or acts detrimental to the

land or water areas within the Easement Area and prevent the use or development of the Easement Area for any purpose or in any manner that would conflict with the maintenance of that property in its restored natural condition; and

WHEREAS, Grantor desires to sell to Grantee its development rights within the Easement Area, and Grantee desires to purchase such development rights for the conservation of the Easement Area, subject to the terms and conditions hereinafter provided.

NOW, THEREFORE, for and in consideration of the above and mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of the State of Tennessee and in particular the Conservation Easement Act, Grantor hereby sells and conveys to Grantee this Easement in perpetuity in the Easement Area as depicted on Exhibit "C" of the nature and character and to the extent hereinafter set forth:

1. Purpose. The purpose of this Easement is to give Grantee the right to enter the Easement Area to complete the Stream Restoration Project required by Appendix E of the CD, including without limitation the right to construct, install, improve, operate, inspect, repair and maintain storm drainage facilities within the Easement Area, including improvements to the banks and bed of the unnamed tributary to the South Chickamauga Creek, obtain samples of storm water from time to time for testing purposes, to remove from the Easement Area trees, structures or other obstructions to the proper maintenance and operation of said storm drainage facilities. Additionally, upon completion of the Stream Restoration Project, the purpose of this Easement is to give Grantee the perpetual right to restore, maintain and enhance the Easement Area to a natural, undeveloped condition that contributes to the protection and improvement of water quality, flood protection, wildlife and aquatic habitat, and prevent any use of the protected Easement Area that will significantly impair or interfere with these purposes.

2. Prohibited and Restricted Activities. Upon completion of the Stream Restoration Project within the Easement Area, any activity on, or use of, the property by the Grantor or anyone else within the Easement Area inconsistent with the purpose of this Easement is prohibited. The Easement Area shall be restored to its natural condition by Grantee and thereafter preserved by Grantor in its natural condition and restricted from any development that would impair or interfere with the Conservation Values of the Easement Area. Without limiting the generality of the foregoing, following the completion of the Stream Restoration Project, the following activities and uses are expressly prohibited, restricted or reserved as indicated hereunder:

- A. Disturbance of Natural Features. There shall be no change, disturbance, alteration or impairment of the natural features within the Easement Area. There shall be no change in topography of the land and no alteration of the restored, enhanced or created drainage patterns.
- B. Vegetation. Unauthorized cutting, removal, harming, or destruction of any trees, shrubs or other vegetation in the Easement Area is prohibited. Removal of dead, diseased or damaged trees and non-native species is allowed with approval of the Grantee. Mowing within the Easement Area is prohibited. There shall be no

unauthorized introduction of new plant or animal species. Livestock grazing is prohibited.

- C. Construction. There shall be no construction or placement of temporary or permanent structures or facilities, including, but not limited to fences, pavement, storage buildings and storage tanks on, under, or above the Easement Area.
- D. Signage. No signs shall be permitted on or over the Easement Area, except the posting of no trespassing signs, way finding signs, or signs for educational and interpretive purposes.
- E. Dumping or Storage. Dumping or storage of leaves, grass clippings, soil, trash, ashes, abandoned vehicles, appliances, machinery or hazardous substances, or toxic or hazardous waste or similar items is prohibited.
- F. Subdivision. The subdivision of the Easement Area is prohibited.

3. Grantee's Rights. In addition to the rights granted above, the Grantee or its authorized representatives, successors and assigns shall have the right to enter the Easement Area at all reasonable times for the purpose of inspecting said property to determine if the Grantor is complying with the terms, conditions, restrictions, and purposes of this Easement. The Grantee shall also have the right to enter and go upon the property within the Easement Area for purposes of making scientific or educational observations and studies, and taking samples. The easement rights granted herein do not include public access rights.

It is understood and agreed by and between the parties that the Grantee shall have the right to enter and have access to lands of the Grantor adjacent to or in the vicinity of the Easement Area as may be needed for the purposes described above, and no entry for such purposes shall be deemed a trespass. Any damage that may occur outside the Easement Area to landscaping, fences, buildings, or other structures resulting from the Grantee's exercise of the right of entry and access pursuant to this Easement shall be repaired by the Grantee.

4. Grantee's Remedies.

4.1 Notice of Violation; Corrective Action. If Grantee determines that a violation of the terms of this Easement has occurred or is threatened by reason of the acts, deliberate failure to act, or acquiescence of Grantor, Grantee may give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Easement Area resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Easement Area so injured to its prior condition in accordance with a plan approved by Grantee.

4.2 Injunctive Relief. If Grantor fails to cure the violation that is the subject of a notice pursuant to Section 4.1 above within fourteen (14) days after receipt of such notice from Grantee, or under circumstances where the violation cannot reasonably be cured within a fourteen (14) day period, fail to begin curing such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this

Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, and to require the restoration of the Easement Area to the condition that existed prior to any such injury.

4.3 Emergency Enforcement. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Easement Area, Grantee may pursue its remedies under this Section 4 without prior notice to Grantor or without waiting for the period provided for cure to expire.

4.4 Damages. Grantee shall be entitled to recover damages for violation of the terms of this Easement or injury to any Conservation Values protected by this Easement; provided however, that any such damages shall be limited to the cost of undertaking and completing any corrective action to the Easement Area occasioned by such violation or injury in order to restore the Easement Area to its condition prior to same. Neither party shall be liable for punitive damages, lost profits, loss of use, consequential, or indirect damages accruing by reason of any such violation.

4.5 Scope of Relief. Grantee's rights under this Section 4 apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in Section 4.2, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Section 4 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

4.6 Costs of Enforcement. Except for routine and standard costs of monitoring the Easement Area to ensure Grantor's, its successors' and assigns' compliance with the terms of this Easement, all reasonable costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor provided, however, that if Grantor ultimately prevails in any judicial enforcement action, all reasonable costs incurred by Grantor to defend itself shall be borne by Grantee.

4.7 Forbearance. Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

4.8 Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription.

5. Costs and Liabilities. Grantee assumes all responsibilities and shall bear all costs and liabilities of any kind related to the operation, upkeep, and maintenance of the Easement Area (with the exception of existing improvements, underground or overhead utility lines, and other items which continue to be operated by or for the benefit of Grantor). Grantor shall keep the Easement Area free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

6. Extinguishment and Condemnation.

6.1 Extinguishment. If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction or prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Easement Area subsequent to such termination or extinguishment, shall be the fair market value of the Easement Area, or proportionate part thereof, as set forth in the appraisals of the Property prepared by Lloyd (Chip) T. Murphy, III, MAI dated October 22, 2015.

6.2 Condemnation. If all or any part of the Easement Area is taken by exercise of the power of eminent domain or acquired by purchase in lieu of condemnation, whether by public, corporate, or other authority, so as to terminate this Easement, in whole or in part, Grantor and Grantee shall act jointly to recover the full value of the interests in the Easement Area subject to the taking or in lieu purchase and all direct or incidental damages resulting therefrom. All expenses reasonably incurred by Grantor and Grantee in connection with the taking or in lieu purchase shall be paid out of the amount recovered. Grantee's share of the balance of the amount recovered shall be determined in accordance with the calculation method set forth in the appraisals.

6.3 Application of Proceeds. Grantee shall use any such proceeds received under the circumstances described in this Section 6 in a manner consistent with its conservation purposes.

7. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to another organization which is an exempt organization as defined in Tennessee Code Annotated § 66-9-303(2); which has the power and authority to hold the Easement herein granted, which is approved in writing by Grantor and which accepts the assignment. As a condition of such transfer, Grantee shall require that the conservation purpose that is intended to advance under this Easement continue to be carried out. Grantee agrees to give written notice to Grantor of an assignment at least seven (7) days prior to the date of such assignment. The failure of Grantee to give such notice shall not affect the validity of such assignment nor shall it impair the validity of this Easement or limit its enforceability in any way.

8. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement by reference in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Easement Area, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least thirty (30) days

prior to the date of such transfer. The failure of Grantor to perform any act required by this section shall not impair the validity of this Easement or limit its enforceability in any way.

9. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Yerbey Concrete Construction, Inc.
P.O. Box 3296
Chattanooga, Tennessee 37404

To Grantee:

The City of Chattanooga
Attention: Water Quality Division
Development Resource Center
1250 Market Street
Chattanooga, TN 37402

10. Recordation. Grantee shall record this instrument in timely fashion in the Register's Office of Hamilton County, Tennessee and may re-record it at any time as may be required to preserve its rights in this Easement.

11. Hazardous Materials. Grantor agrees that it will comply with all applicable laws with respect to any hazardous or toxic substances, materials, wastes, or other substances regulated by law now located on its Easement Area. Grantee shall have no responsibility with respect to such substances, materials and wastes.

12. General Provisions.

12.1 Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Tennessee, without regard to the conflict of laws provisions of the State of Tennessee.

12.2 Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the sale of development rights to effect the purpose of this Easement and the policy and purpose of the Easement Act. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

12.3 Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

12.4 Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

12.5 No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

12.6 Joint Obligation. The obligations imposed by this Easement upon Grantor shall be joint and several.

12.7 Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Easement Area. The terms "Grantor" and "Grantee," as wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantor and its personal representatives, heirs, successors, and assigns, and the above-named Grantee and its successors and assigns.

12.8 Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Easement Area, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

12.9 Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

12.10 Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

13. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury or change in the Easement Area resulting from causes beyond the Grantor's control, including, without limitation, fire, flood, storm, war, acts of God or third parties, except Grantor's lessees or invitees; or from any prudent action taken in good faith by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the Easement Area resulting from such causes.

14. Subsequent Transfers. The Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument that transfers any interest in all or a portion of the Easement Area. The Grantor and Grantee agree that the terms of this Easement shall survive any merger of the fee and easement interests in the Property or any portion thereof and shall not be amended, modified or terminated without the prior written consent and approval of the parties.

[SIGNATURES TO APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

GRANTOR:

**YERBEY CONCRETE
CONSTRUCTION,
INC.**

By: _____
Printed Name: _____
Title: _____

Attest: _____
Its: _____

GRANTEE:

THE CITY OF CHATTANOOGA

By: _____
Name: _____
Title: _____

Date: _____

STATE OF TENNESSEE
COUNTY OF HAMILTON

Before me, a Notary Public in and for the state and county aforesaid, personally appeared _____, to me known (or proved to me on the basis of satisfactory evidence) to be the _____ of _____, a _____, the _____ within _____ named _____ bargainor, a _____, who acknowledged that (s)he executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by (her) himself as _____.

WITNESS my hand, at office, this ____ day of _____, 2016.

NOTARY PUBLIC

My Commission Expires: _____

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

Before me, a Notary Public in and for the state and county aforesaid, personally appeared _____, to me known (or proved to me on the basis of satisfactory evidence) to be the _____ of **THE CITY OF CHATTANOOGA**, the within named bargainor, a municipal corporation, who acknowledged that he/she executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by him/herself as _____.

WITNESS my hand, at office, this ____ day of _____, 2016.

NOTARY PUBLIC

My commission expires: _____

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

I, _____, hereby swear or affirm that, to the best of my knowledge, information and belief, the actual consideration for this, transfer or value of the property transferred, whichever is greater, is \$_____, which amount is equal to or greater than the amount which the property transferred would command at a fair and voluntary sale.

Affiant-Grantee

Subscribed and sworn to before
me this _____ day of _____, 2016.

Notary Public
My Commission Expires: _____

EXHIBIT "A"

BEGINNING in the northwest line of Shallowford Road, 150 feet northeastwardly from its intersection with the southeast line of North Moore Road extended; thence North 31 degrees 17 minutes West, 160 feet; thence North 58 degrees 47 minutes East, 147 feet; thence South 32 degrees southwestwardly along said line, 150 feet, to the POINT OF BEGINNING.

EXHIBIT "B"

Located in the City of Chattanooga, Hamilton County, Tennessee, and being more particularly described as follows:

Tract One (1):

BEGINNING at the most Western corner of the land conveyed to the City of Chattanooga, Tennessee for a sewer lift station site by deed of record in Book 1856, Page 515, in the Register's Office of Hamilton County, Tennessee, which POINT OF BEGINNING is located in the Northeast line of Agawela Drive; thence Northwestwardly, with and along the Northeast line of Agawela Drive as it curves to the right, said curve having a radius of 2,045.97 feet, a tangent of 165.45 feet, an arc length of 330.77 feet (said curve being subtended by chord bearing of North 31 degrees 19 minutes 56 seconds West 330.72 feet); thence North 29 degrees 27 minutes 16 seconds West, with and along the Northeast line of Agawela Drive, 203.66 feet; thence Northwestwardly with and along the Northeast line of Agawela Drive as it curves to the left, said curve having a radius of 141.89 feet, a tangent of 8.09 feet, an arc length of 16.16 feet (said curve being subtended by a chord bearing North 32 degrees 43 minutes 01 second West 16.15 feet; thence North 57 degrees 42 minutes 37 seconds East 11.24 feet to the Southwest corner of Lot One (1), Hicks & Moore Subdivision, as shown by plat of record in Plat Book 69, Page 147, in the Register's Office of Hamilton County, Tennessee; thence, with and along the Southern line of said Lot One (1), Hicks & Moore Subdivision, as follows: North 57 degrees 42 minutes 37 seconds East 28.96 feet, North 60 degrees 27 minutes 49 seconds East 175.57 feet and North 62 degrees 05 minutes 18 seconds East 249.18 feet to the Southeast corner of said Lot One (1), Hicks & Moore Subdivision, which is located in the top of the West bank of a ditch; thence, with and along the irregular East line of said Lot One (1), Hicks & Moore Subdivision, which is the meandering line of the top of the West bank of said ditch, the following chord bearings and distances: North 27 degrees 41 minutes 21 seconds West 37.26 feet, North 53 degrees 49 minutes 38 seconds East 31.57 feet, North 15 degrees 04 minutes 59 seconds East 51.95 feet, North 31 degrees 31 minutes 02 seconds West 138.30 feet, South 35 degrees 43 minutes 35 seconds West 87.41 feet and North 39 degrees 41 minutes 12 seconds West 78.57 feet to the Northeast corner of said Lot One (1), Hicks & Moore Subdivision, which is the point where the top of the West bank of said ditch intersects the top of the South bank of Chickamauga Creek; thence Westwardly, with and along the top of the South Bank of Chickamauga Creek as it meanders, a chord bearing and distance of South 61 degrees 58 minutes 31 seconds West 233.30 feet to the Northwest corner of said Lot One (1), Hicks & Moore Subdivision (hereinafter "Reference Point No. 1"); thence North 23 degrees 10 minutes 00 seconds East 236.35 feet, more or less, to a point in the center line of Chickamauga Creek; thence generally Eastwardly, with and along the meanderings of the centerline of Chickamauga Creek, 2120 feet more or less, to a point that is located the following calls and distances from "Reference Point No. 1": North 61 degrees 58 minutes 31 seconds East 233.30 feet, North 51 degrees 32 minutes 32 seconds East 362.03 feet, North 56 degrees 13 minutes 06 seconds East 867.68 feet, North 75 degrees 09 minutes 20 seconds East 400.28 feet, North 76 degrees 27 minutes 22 seconds East 301.67 feet and North 26 degrees 03 minutes 23 seconds East 80.98 feet, more or less; thence South 26 degrees 03 minutes 23 seconds West 575 feet, more or less, to the most Northern corner of Lot Two (2), division of the Davis Property, as shown by plat of record in Plat Book 35, Page 147, in the Register's Office of Hamilton County, Tennessee; thence South 45 degrees 40 minutes 23 seconds West 607.33 feet; thence South 40 degrees 56 minutes 22 seconds West 1,151.30 feet; thence South 42 degrees 05 minutes 22 seconds West 105.00 feet; thence South 44 degrees 33 minutes 22 seconds West 60.21 feet to the Southeast corner of the aforesaid sewer lift station site acquired by the City of Chattanooga, Tennessee, by Deed of record in Book 1856, Page 515, in the Register's Office of Hamilton County, Tennessee; thence North 36 degrees 39 minutes 37 seconds East 154.38 feet; thence South 42 degrees 20 minutes 03 seconds West 72.00 feet to the point of beginning.

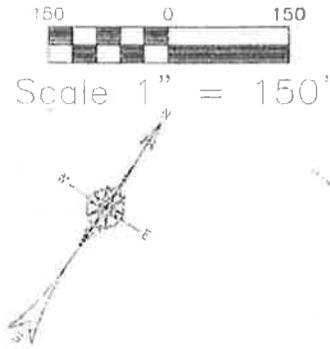
Tract Two (2):

BEGINNING at the most Southern corner of Lot Fifty-Six (56), Indian Hills, as shown by plat of record in Plat Book 20, Page 9, in the Register's Office of Hamilton County, Tennessee; thence North 23 degrees 10 minutes 00 seconds East 236.35 feet to a point in the West line of Agawela Drive; thence generally Southwardly, with and along the West line of Agawela Drive as it curves to the right, said curve having a radius of 99.89 feet, a tangent of 39.23 feet, an arc distance of 74.76 feet (said curve being subtended by a chord bearing South 50 degrees 53 minutes 42 seconds East 73.03 feet); thence South 29 degrees 27 minutes 16 seconds East, with and along the West line of Agawela Drive, 203.66 feet; thence Southwardly, with and along the West line of Agawela Drive as it curves to the left, said curve having a radius of 5,087.97, a tangent 191.73 feet, an arc length of 383.28 feet (said curve being subtended by a chord bearing South 31 degrees 36 minutes 45 seconds East 383.19 feet); thence South 33 degrees 46 minutes 14 seconds East, with and along the West line of Agawela Drive, 66.89 feet; thence South 75 degrees 05 minutes 25 seconds West 482.59 feet; thence North 02 degrees 24 minutes 14 seconds West 513.00 feet to the POINT OF BEGINNING.

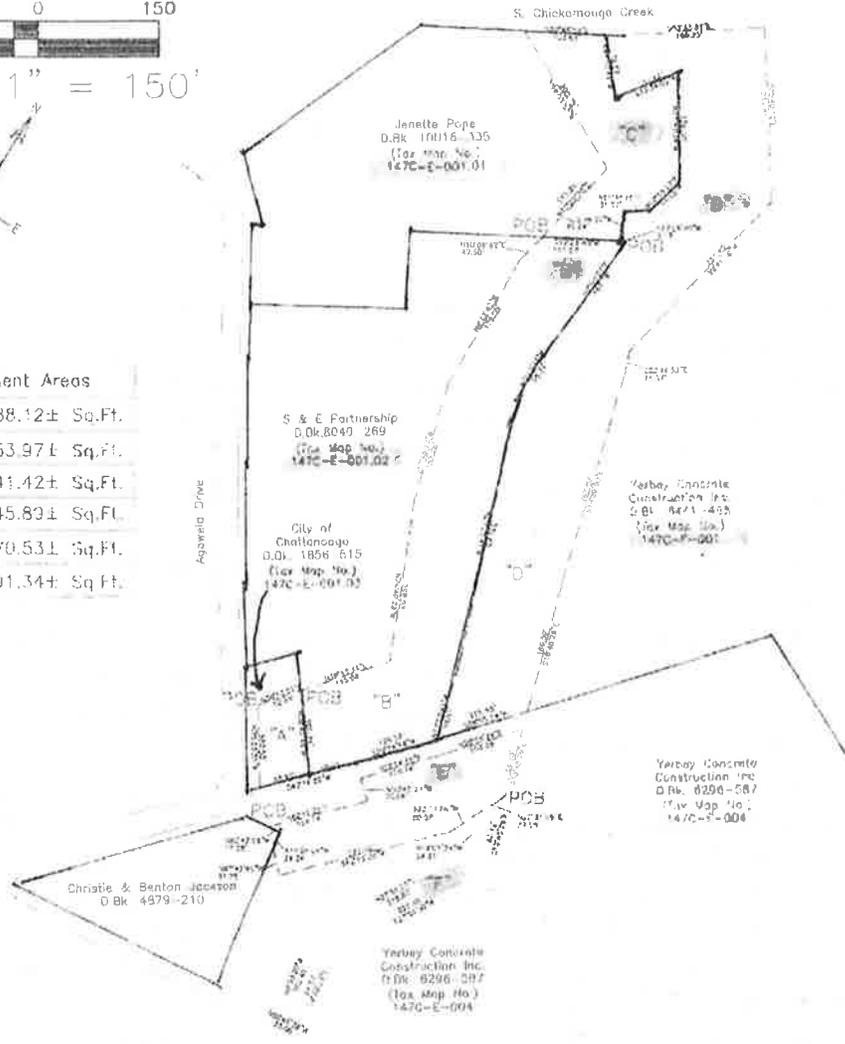
EXCEPTING THEREFROM Lot One (1), Hicks & Moore Subdivision, as shown by plat of record in Plat Book 72, Page 51 and recorded in deed of record in Book 6818, Page 358, in the Register's Office of Hamilton County, Tennessee.

EXCEPTING THEREFROM Lot (2), Hicks & Moore Subdivision, as shown by plat of record in Plat Book 83, Page 57 and recorded in deed of record in Book 8040, Page 269, in the Register's Office of Hamilton County, Tennessee.

EXHIBIT "C"



Easement Areas	
A	6,488.12± Sq.Ft.
B	70,953.97± Sq.Ft.
C	27,241.42± Sq.Ft.
D	103,845.89± Sq.Ft.
E	24,270.53± Sq.Ft.
F	9,791.34± Sq.Ft.



● Iron Rod (Found)

Exhibit Drawing
Conservation Easements
Agawela Drive

Chattanooga, Hamilton County
Tennessee

NOTES:

1. The survey was done under the authority of ICA 82-18-125.
2. The survey is not a general property survey as defined under Rule 0820-3-07.

This is to certify that this plat of survey meets the requirements set forth in the instrument executed in the name of the Chattanooga Land Use Association, dated February 2, 1981, and recorded in Book 2733, Page 804 in the Register's Office of Hamilton County, Tennessee. The undersigned hereby waives any defense afforded under any limitations of Article 10, Section 1 of the State of Tennessee, insofar as the same apply to any mortgage lender, making a loan on the property, and/or title insurance company which has relied upon this survey to insure any cause of the property of any such lender. This survey DOES NOT constitute a boundary line survey, it NOT made to be relied upon by the owner.

DWG No. 13029A
File Name Agawela Drive...
Date 12-19-2013
Rev. Date 01-27-2014
Scale 1" = 150'

THE R.L.S. GROUP

P.O. Box 10
Hixson, Tennessee 37343
Phone (423) 847-0155 — Fax (423) 847-0156
www.therlsigroup.com

Conservation Easement - D

A conservation easement lying in and across a portion of a tract of land known as the Yerbey Concrete Construction Inc. property as recorded in Deed Book 6441, Page 498, in the Register's Office of Hamilton County, Tennessee and being more particularly described as follows:

Commencing at a capped iron rod found on the eastern right-of-way line of Agawela Drive, having a right-of-way width that varies, the same point being the southwestern corner of the City of Chattanooga property as described in Deed Book 1856, Page 515 in the Register's Office of Hamilton County, Tennessee; thence, leaving said point North 40 degrees 18 minutes 36 seconds East, 71.99 feet to a capped iron rod, said point being the northeastern most corner of the aforementioned City of Chattanooga property; thence, leaving said point the following bearings and distances across the S & E Partnership property as recorded in Deed Book 8040, Page 269 in the Register's Office of Hamilton County, Tennessee, South 38 degrees 42 minutes 49 seconds East, 47.57 feet to a point; thence, continuing on the following courses and distances: North 38 degrees 13 minutes 29 seconds East, 115.04 feet to a point; thence, North 24 degrees 49 minutes 23 seconds West, 198.93 feet to a point; thence, North 17 degrees 46 minutes 13 seconds West, 152.28 feet to a point; thence, North 04 degrees 12 minutes 47 seconds West, 178.05 feet to a point; thence, North 10 degrees 01 minutes 32 seconds East, 42.50 feet to a point located on the southern property line of the Jenette Pope property as recorded in Deed book 10016, Page 335 in the Register's Office of Hamilton County, Tennessee; thence, North 59 degrees 28 minutes 40 seconds East, 101.07 feet to the POINT OF BEGINNING; thence, continuing along the following courses: North 28 degrees 46 minutes 57 seconds West, 35.29 feet to a point; thence, North 51 degrees 40 minutes 06 seconds East, 31.57 feet to a point; thence, North 12 degrees 55 minutes 27 seconds East, 51.95 feet to a point; thence, North 33 degrees 40 minutes 34 seconds West, 138.30 feet to a point; thence, South 33 degrees 34 minutes 03 seconds West, 87.41 feet to a point; thence, North 41 degrees 50 minutes 44 seconds West, 78.57 feet to an intersection point where the southern bank of the South Chickamauga Creek and the western creek bank of the creek for which this conservation easement benefits meet; thence, following the top of the southern creek bank on the South Chickamauga Creek a chord bearing and distance of North 53 degrees 33 minutes 37 seconds East, 196.23 feet to a point; thence, leaving said southern creek bank of the South Chickamauga Creek the following bearings and distances: South 35 degrees 40 minutes 12 second East, 217.61 feet to a point; thence, South 09 degrees 41 minutes 02 seconds West, 256.45 feet to a point; thence, South 20 degrees 46 minutes 53 seconds East, 31.07 feet to a point; thence, South 16 degrees 39 minutes 00 seconds East, 267.86 feet to a point; thence, South 18 degrees 48 minutes 26 seconds East, 166.59 feet to a point; thence, South 38 degrees 55 minutes 24 seconds West, 115.83 feet to a point; thence, North 17 degrees 53 minutes 41 seconds West, 98.67 feet to a point; thence, North 21 degrees 25 minutes 41 seconds West, 332.65 feet to a point; thence, North 03 degrees 13 minutes 23 seconds West, 76.22 feet to a point; thence, North 02 degrees 50 minutes 37 seconds East, 167.78 feet to a point; thence, South 59 degrees 28 minutes 40 seconds West, 5.19 feet to the POINT OF

BEGINNING.

Said conservation easement herein described contains 103,845.89± Sq.Ft. or 2.38± Acres.

Conservation Easement - E

A conservation easement lying in and across a portion of a tract of land known as the Yerbey Concrete Construction Inc. property as recorded in Deed Book 6296, Page 587, in the Register's Office of Hamilton County, Tennessee and being more particularly described as follows:

Commencing at a capped iron rod found on the eastern right-of-way line of Agawela Drive, having a right-of-way width that varies, the same point being the southwestern corner of the City of Chattanooga property as described in Deed Book 1856, Page 515 in the Register's Office of Hamilton County, Tennessee; thence, leaving said point with and along the aforementioned eastern right-of-way line of Agawela Drive, South 35 degrees 08 minutes 45 seconds East, 153.63 feet to a point; thence, South 76 degrees 40 minutes 57 seconds East, 25.00 feet to a point; thence, South 24 degrees 02 minutes 59 seconds West, 25.00 feet to a point; thence, North 80 degrees 43 minutes 56 seconds East, 32.65 feet to a point known as the POINT OF BEGINNING; thence, North 42 degrees 16 minutes 20 seconds East, 129.74 feet to a point; thence, North 50 degrees 45 minutes 21 seconds West, 30.06 feet to a point; thence, North 39 degrees 54 minutes 18 seconds East, 105.74 feet to a point; thence, North 38 degrees 55 minutes 24 seconds East, 103.38 feet to a point; thence, South 18 degrees 48 minutes 26 seconds East, 86.18 feet to a point; thence, South 22 degrees 31 minutes 06 seconds West, 80.07 feet to a point; thence, South 42 degrees 16 minutes 20 seconds West, 220.92 feet to a point; thence, North 47 degrees 43 minutes 40 seconds West, 31.75 feet to a point; thence, North 11 degrees 04 minutes 04 seconds West, 24.34 feet to a point; thence, South 80 degrees 43 minutes 56 seconds West, 17.35 feet to the POINT OF BEGINNING.

Said conservation easement herein described contains 24,270.53± Sq.Ft. or 0.56± Acres.

