

RESOLUTION NO. 2020-03

A RESOLUTION TO AMEND COF CONTRACT NO. 2019-0007 PARKLAND AGREEMENT IMPACT FEE AND GREENWAY TRAIL SYSTEM CONSTRUCTION, AS AMENDED, BETWEEN THE CITY OF FRANKLIN AND CLAYTON PROPERTIES GROUP, INC.

WHEREAS, on October 8, 2019, the Board of Mayor and Aldermen approved Resolution No. 2019-94 Amending COF Contract No. 2019-0007; and

WHEREAS, after the Law Department made the changes to the document approved through the Resolution, the agreement was sent to Clayton Properties Group, Inc. (hereinafter, "Clayton") for signature; and

WHEREAS, Clayton has requested to amend the contract to change the following language. Language to be added appears in **bold** and language to be removed appears with a ~~striketrough~~. Clayton requests to amend the language as follows:

"WHEREAS, Clayton has agreed to plat and dedicate land **to the City** and to construct the Greenway Trail System improvements as illustrated on Exhibits B and C and described in detail below for the future enjoyment of the public, subject to the terms and conditions set forth herein; and"

to paragraph five (5), page one (1), under the title WITNESSETH; and

"14. Barring force majeure or weather delays, **and prior to the release of the maintenance bond**, Clayton agrees, upon thirty (30) days written notice from the City, to remove, repair, or replace trees, landscaping, and trail damage as described herein that may require reasonable removal, repair or replacement. The City reserves its right to determine the health of the trees, landscaping, and condition of the Greenway Trail System and, whether trees, landscaping and Greenway Trail System are to be replaced and maintained. If no remedy is made within the specified time, the City reserves the right to remove all affected trees and landscaping and repair the trail with notice to Clayton and at the sole cost and expense of Clayton. Clayton shall submit payment for full cost and expense incurred by the City within forty-five (45) days of the date of the invoice."

to page four (4), paragraph fourteen (14), under section I. Agreement of Landscaping in the City Right-of-Way.

WHEREAS, the agreement has not been signed by either party, and the Law Department has approved the additional language.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS: COF Contract No. 2019-007, as amended, shall be further amended to include the following:

Paragraph five (5), page one (1), under the title WITNESSETH shall now read as follows:

"WHEREAS, Clayton has agreed to plat and dedicate land **to the City** and to construct the Greenway Trail System improvements as illustrated on Exhibits B and C and described in detail

below for the future enjoyment of the public, subject to the terms and conditions set forth herein; and”

Paragraph fourteen (14), under section I. Agreement of Landscaping in the City Right-of-Way shall now read as follows:

“14. Barring force majeure or weather delays, **and prior to the release of the maintenance bond**, Clayton agrees, upon thirty (30) days written notice from the City, to remove, repair, or replace trees, landscaping, and trail damage as described herein that may require reasonable removal, repair or replacement. The City reserves its right to determine the health of the trees, landscaping, and condition of the Greenway Trail System and, whether trees, landscaping and Greenway Trail System are to be replaced and maintained. If no remedy is made within the specified time, the City reserves the right to remove all affected trees and landscaping and repair the trail with notice to Clayton and at the sole cost and expense of Clayton. Clayton shall submit payment for full cost and expense incurred by the City within forty-five (45) days of the date of the invoice.”

IT IS SO RESOLVED AND DONE on this ____ day of _____ 2020.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

By: _____
ERIC S. STUCKEY
City Administrator

By: _____
DR. KEN MOORE
Mayor

Approved as to Form:

By: _____
Shauna R. Billingsley
City Attorney