

RESOLUTION NO. 30637

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO A FIRST AGREEMENT TO EXERCISE OPTION TO RENEW, IN SUBSTANTIALLY THE FORM ATTACHED, WITH HUNTER MUSEUM OF AMERICAN ART FOR AN ADDITIONAL TERM OF TEN (10) YEARS TO LEASE SEVEN (7) LOCATIONS, AS SPECIFICALLY IDENTIFIED IN THE LEASE AGREEMENT DATED OCTOBER 26, 2009, FOR THE DISPLAY OF ART WORK FOR PUBLIC BENEFIT AND ENJOYMENT.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, that it is hereby authorizing the Mayor or his designee to enter into a First Agreement to Exercise Option to Renew, in substantially the form attached, with Hunter Museum of American Art for an additional term of ten (10) years to lease seven (7) locations, as specifically identified in the Lease Agreement dated October 26, 2009, for the display of art work for public benefit and enjoyment.

ADOPTED: February 9, 2021

/mem

# **FIRST AGREEMENT TO EXERCISE OPTION TO RENEW**

Agreement Title: LEASE AGREEMENT

Effective Date: October 26, 2009

Initial Expiration Date: October 25, 2019

Number of Previously Exercised Options: None

Tax Map Number: Portions of parcels defined in Lease Agreement

Landlord: Hunter Museum of American Art

Tenant: City of Chattanooga

Initial Term: Ten years

Term Renewal Option: Ten years

Term Renewal Expiration: October 25, 2029

By written mutual agreement of the above named Landlord and Tenant, the option to extend the original term of the Agreement is exercised. With the option to extend the term being exercised, the original Agreement of October 26, 2009, is hereby extended for ten (10) years to the date of October 25, 2029. There remains one (1) option to extend the terms of the original Agreement of October 26, 2009. All terms and conditions of the original Agreement of October 26, 2009, and any subsequent Amendments shall remain in full force and effect.

Agreed upon this the \_\_\_\_ day of \_\_\_\_\_, 2021.

**TENANT:**  
**HUNTER MUSEUM**  
**OF AMERICAN ART**

**LANDLORD:**  
**CITY OF CHATTANOOGA**

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Virginia Anne Sharber  
*Executive Director*

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Donna C. Williams, *Administrator*  
*Economic & Community Development*

## LEASE AGREEMENT

This Lease Agreement (this "Lease") made as of the 26th day of October 2009, between the CITY OF CHATTANOOGA, TENNESSEE, a municipal corporation ("Landlord"), and the HUNTER MUSEUM OF AMERICAN ART, a Tennessee corporation, whose address is 10 Bluff View, Chattanooga, Tennessee 37403-1197 ("Tenant").

### RECITALS

WHEREAS, Landlord agrees to lease to Tenant a portion of the property located at 217 Spring Street in Chattanooga, Tennessee, whereupon a sculpture known as "Life" by Dan Jackson is currently located and as more particularly described in Exhibit A to this Agreement; and

WHEREAS, Landlord agrees to lease to Tenant a portion of the property located on the Riverwalk near Hunter Museum Sculpture Plaza in Chattanooga, Tennessee, whereupon a sculpture known as "Weather Watcher" by Jim Collins is currently located and as more particularly described in Exhibit B to this Agreement; and

WHEREAS, Landlord agrees to lease to Tenant a portion of the property located at the intersection of 2<sup>nd</sup> Street and Knoll Street off Riverfront Parkway in Chattanooga, Tennessee, whereupon a sculpture known as "Full Count" by John Dreyfuss is currently located and as more particularly described in Exhibit C to this Agreement; and

WHEREAS, Landlord agrees to lease to Tenant a portion of the property located on the Riverwalk near Hunter Museum Sculpture Plaza in Chattanooga, Tennessee, whereupon a sculpture known as "Adolescence" by William King is currently located and as more particularly described in Exhibit D to this Agreement; and

WHEREAS, Landlord agrees to lease to Tenant a portion of the property located on the Riverwalk near Hunter Museum Sculpture Plaza in Chattanooga, Tennessee, whereupon a sculpture known as "Garden Gate" by Albert Paley is currently located and as more particularly described in Exhibit E to this Agreement; and

WHEREAS, Landlord agrees to lease to Tenant a portion of the property located at the Chattanooga Zoo at Warner Park in Chattanooga, Tennessee, whereupon a sculpture known as "The Troupe" by Bart Walter will be located and as more particularly described in Exhibit F to this Agreement; and

WHEREAS, Landlord agrees to lease to Tenant a portion of the property located at Renaissance Park in Chattanooga, Tennessee, whereupon a sculpture known as "Dancing Woman"

by Dan Jackson currently is or will be located and as more particularly described in Exhibit G to this Agreement; and

WHEREAS, Tenant intends to use the Property (defined below) for the display of art work for public benefit and enjoyment.

NOW, THEREFORE, in consideration of the faithful performance of the terms, covenants, and conditions and the mutual obligations of the parties as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## I.

### DEFINITIONS

Capitalized terms not defined elsewhere in this Lease have the following meanings:

1. *Commencement Date* means October 26, 2009.
2. *Property* means, individually and collectively, those tracts or parcels of land that are owned by Landlord and are more particularly described on Exhibit A through Exhibit G, attached to and made a part of this Lease, and all improvements and easements located thereon together with all replacements, modifications, alterations and additions thereto.
3. *Sculptures* means the seven (7) outdoor sculptures described in the foregoing recitals.

## II.

### TERMS OF THIS LEASE

1. Landlord, for and in consideration of the covenants, agreements and stipulations herein contained and to be kept and performed by Tenant, has granted unto Tenant, on a rent-free basis, the right to occupy the Property, as set forth in Exhibits A through G, whereupon each Sculpture is located or is to be located. In the event that Tenant removes any Sculpture from Landlord's Property, Tenant shall give written notice to the Landlord at least ten (10) days before any such removal. Any relocation of a Sculpture from one location on the Property to another location on the Property will require the express written consent of the Landlord.

2. This Lease shall have a term of ten (10) years (the "Term") commencing at 12:01 a.m. on the Commencement Date and expiring at 12:01 a.m. on the day immediately preceding the tenth (10<sup>th</sup>) anniversary thereof, unless sooner terminated or extended as hereinafter provided. References herein to "Term" include any Renewal Term (defined below).

3. Tenant shall have two (2) options (each, a "Renewal Option") to renew this Lease for two (2) additional terms of ten (10) years each (each, a "Renewal Term"), on all the same terms and conditions set forth in this Lease. Tenant shall deliver written notice to Landlord of Tenant's election to exercise a Renewal Option ("Renewal Notice") not less than thirty (30) days prior to the expiration date of the original Term, or first Renewal Term, as applicable; and if Tenant fails to timely deliver a Renewal Notice to Landlord, then Tenant shall automatically be deemed to have irrevocably waived and relinquished the Renewal Option.

4. Landlord, at Landlord's expense, shall ensure that water and electricity are provided to all of the parcels of the Property at all times during the Term in sufficient amounts to allow Tenant to illuminate the Sculptures if Tenant elects to illuminate them and to irrigate the landscaping on the Property. All utility costs incurred during the Term for electricity and water consumed at the Property shall be paid by Landlord.

5. Landlord will pay all taxes, assessments, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which during and applicable to the Term, may have been, or may be assessed, levied, confirmed, imposed upon or become due and payable out of or in respect of, or become a lien on the Property.

6. Tenant shall provide all lighting equipment needed to illuminate those Sculptures that Tenant desires to illuminate, and said equipment shall be the property of the Landlord upon termination of this Lease.

7. Tenant, at Tenant's expense, shall provide ongoing maintenance, care and conservation of the Sculptures during the Term.

8. Tenant, at Tenant's costs, shall provide and maintain appropriate interpretive signage for each Sculpture during the Term.

9. Tenant shall maintain ownership of the Sculptures and will pay all costs associated with the design and installation of the Sculptures on the Property.

10. Tenant, at Tenant's cost, will provide such landscaping and such irrigation equipment on the Property as Tenant shall desire to provide from time to time during the Term.

11. Tenant takes and accepts the Property from Landlord "as is," that is in its condition as of the Commencement Date of this Lease, upon the terms and conditions herein contained.

12. Landlord covenants and warrants that:

- (a) it has full right and full authority to enter into this Lease for the Term and to convey to Tenant the leasehold interest in and to the Property described herein, free and clear of all liens, charges, security interests, leasehold rights or interests, reservations, restrictions, adverse claims, encumbrances and other defects in or limitations on title (collectively, "Encumbrances");
- (b) it has valid title to the Property, free and clear of all Encumbrances; and
- (c) there are no laws, ordinances, governmental requirements or regulations, title restrictions, or zoning or other matters which will restrict, limit or prevent Tenant's use of the Property for the purposes set forth in this Lease; and
- (d) upon the Commencement Date, it will have conveyed to Tenant a leasehold interest in and to the Property, free and clear of all Encumbrances.

### III.

#### TERMINATION

1. Anything contained herein to the contrary notwithstanding, in the event either party breaches or fails to comply with its obligations under this Lease and if such breach or failure to comply shall not be cured within thirty (30) days after receipt of notice thereof from the other party (provided, however, that if such breach or failure cannot reasonably be cured within such thirty (30) day period, the party shall not be in default if it commences a cure of such breach or failure promptly within such thirty (30) day period and diligently pursues such cure after commencement), the non-defaulting party may terminate this Lease upon giving ten (10) days' advance written notice of termination to the defaulting party.

2. Notwithstanding anything to the contrary herein, Tenant shall have the right to terminate this Lease as to any one or more parcels of the Property upon not less than thirty (30) days' notice to Landlord. In the event of such termination by Tenant, Tenant shall promptly remove from the affected parcel the Sculpture and any other personal property of Tenant on the affected parcel.

3. Notwithstanding anything to the contrary herein, if Landlord sells or develops one or more parcels of the Property, Landlord may terminate Tenant's use and possession of such parcel pursuant to this Lease upon not less than thirty (30) days' notice to Tenant. In the event of such termination, (i) Tenant shall promptly remove from the affected parcel of Property the Sculpture and any other personal property of Tenant situated on such parcel, and (ii) Landlord shall use its reasonable best efforts to provide Tenant with an alternate site on real estate of Landlord for relocation of the removed Sculpture. Further, in the event of such termination, Landlord shall

promptly reimburse Tenant for all costs and expenses incurred by Tenant in removing the affected Sculpture and other personal property of Tenant from such parcel and relocating them on another site, whether or not such site is on the real property of Landlord.

#### IV.

#### REPAIRS AND MAINTENANCE

1. Tenant shall be responsible, at Tenant's expense, for all maintenance and repairs of the Sculptures which are necessary to keep the same in good state of repair and maintenance; provided, however, that if any Sculpture shall become damaged to an extent that repair of the Sculpture is not practical in Tenant's judgment, Tenant may elect not to repair the Sculpture, and in that event, Tenant shall promptly remove the Sculpture from the Property.

2. Landlord shall be responsible, at Landlord's cost, for maintenance of all landscaping on the Property, for replacement of all burned out or broken lights, and for regular maintenance and minor repairs of all lighting equipment on the Property. Tenant shall be responsible, at Tenant's cost, for all major repairs to lighting equipment and for the replacement of any obsolete or irreparable lighting equipment.

3. Each party hereto agrees that all maintenance, repairs and other work performed by it pursuant to this Lease shall be performed in a workmanlike manner and within a reasonable time.

#### V.

#### USE OF PREMISES

1. Tenant agrees that it shall:
  - (a) use the Property, herein defined, for the public display of the Sculptures;
  - (b) provide for the staffing for the installation and ongoing care and conservation of the Sculptures on the Property; and
  - (c) comply with all applicable city, state and federal laws and/or regulations.

#### VI.

#### LIMITATION OF LANDLORD'S LIABILITY

1. Landlord shall not be liable for any theft or loss of property of Tenant.

#### VII.

#### SURRENDER

1. Subject to the provisions of Section III.3 hereof, Tenant shall, at or before the termination of this Lease, remove from the Property the Sculptures and any other personal property

of Tenant on the Property. Any personal property of Tenant which is not removed from the Property promptly after termination of this Lease shall be deemed abandoned and may be disposed of by Landlord in any manner without accounting or being liable to Tenant.

2. Subject to the provisions of Section III.3 hereof, upon the expiration or earlier termination of this Lease, Tenant agrees to restore any disturbed earth on the Property resulting from Tenant's installation of the Sculptures substantially to its condition prior to such disturbance.

### VIII.

#### INSURANCE AND INDEMNITY

1. At its sole expense, Tenant shall, throughout the Term maintain a commercial property insurance policy covering the Property in an amount equal to the full replacement value of the Property. Tenant shall also cause to be issued and shall maintain throughout the Term a policy or policies of public liability insurance insuring against claims for bodily injury or property damage occurring upon the Property, and such policy or policies shall be issued in the name of Tenant and shall name Landlord as an additional insured. The public liability insurance policy or policies shall have limits of not less than Two Million Dollars (\$2,000,000.00) for injury to and/or death of any single person in a single occurrence and not less than Two Million Dollars (\$2,000,000.00) for injury to and/or death of more than one person in a single occurrence, and not less than One Million Dollars (\$1,000,000.00) for damage to property in a single occurrence. In no event shall the insurance limits be less than the minimum amounts required for governmental entities under the provisions of the Tennessee Governmental Tort Liability Act (T.C.A. § 29-20-201, *et seq.*) as may be amended from time to time. Proof of said insurance shall be provided to the City of Chattanooga's Risk Manager. Tenant shall provide Landlord evidence of coverage by signed certificates of insurance that show the coverage to be in effect and require that Landlord be provided with at least thirty (30) days' prior written notice before cancellation of the policy. The certificates of insurance shall indicate that the insurance is placed with an insurer rated AX or better by A.M. Best's Rating Guide or as approved by the City of Chattanooga's Risk Manager. Any failure or non-coverage of such policy or any judgment that exceeds the policy limits shall not affect the indemnification or hold harmless provision of this paragraph.

2. Tenant agrees to protect, indemnify and save harmless Landlord from and against any claims, demands and causes of action asserted against or incurred by Landlord on account of any loss or injury to the property or person of all persons upon the Property while this Lease is in effect and where such loss or injury is proximately caused by Tenant's negligence or intentional misconduct.

3. Tenant agrees to hold Landlord harmless and to indemnify the Landlord against any claims or liability for compensation under the Tennessee Workers' Compensation Act arising out of injuries sustained by employees of Tenant or by any other person who is covered under any workers' compensation insurance policy maintained by Tenant.

4. Tenant agrees to hold Landlord harmless and to indemnify the Landlord against any claims, liability or property damages resulting from or associated with the design or installation of the Sculptures on the Property.

#### IX.

#### ALTERATIONS

1. Except for alterations and additions made in connection with the installation, repair and maintenance of the Sculptures, Tenant shall make no alterations or additions of any kind to the Property without first obtaining the Landlord's written consent. Landlord shall notify Tenant within thirty (30) days of its decision on any request of Tenant for any such alterations or additions.

2. Any and all changes, including additions, fixtures and improvements made or placed on the Property by Tenant, but not including the Sculptures, lighting equipment and other personal property of Tenant, shall become the property of Landlord at the end of this Lease without compensation.

3. Tenant shall obtain the written approval Landlord prior to erecting any signs and installing any technological equipment to the Property, which shall not become fixtures and may be removed at Tenant's sole expense upon the expiration or earlier termination of the Lease; provided, however, that any such removal will not cause any structural damage to the Property. In the event any damage to the Property results from Tenant's removal of any signs and equipment, the costs for repairs shall be borne by Tenant.

#### X.

#### ENTRY BY LANDLORD

Landlord shall have the right to enter and inspect the Property at any reasonable time without notice to Tenant.

#### XI.

#### SIGNS

1. Tenant shall obtain the written approval of Landlord prior to placing or causing or permitting to be placed the interpretive signs required by Section II.7 hereof.

2. All signs placed on the Property by Tenant shall conform to any city, state or federal regulations that may be applicable.

3. All interpretive signs shall be maintained at Tenant's expense.

## XII.

### ASSIGNMENT OR SUBLEASE

Tenant shall not assign or transfer this Lease or any interest herein nor sublease the Property or any part thereof to anyone without the express written approval of Landlord.

## XIII.

### DISCRIMINATION

Tenant covenants to comply with all federal, county, and city laws and ordinances in regard to discrimination due to handicap, age, race, color, religion, sex, national origin, or any other classification protected by said laws.

## XIV.

### ENVIRONMENTAL MATTERS

1. Tenant covenants that, during the Term, in connection with any construction on or operation and/or use of the Property, Tenant shall comply in all respects with all applicable requirements of Applicable Law (as defined below) and shall not use the Property for the treatment, storage or disposal of any Hazardous Materials (as defined below). Tenant shall notify Landlord promptly in the event Tenant acquires actual knowledge of any violation or suspected or alleged violation of Applicable Law concerning the Property, and shall promptly forward to Landlord copies of any and all orders, notices, permits, applications or other communications and reports in connection with any such violation or any other matters relating to a violation or alleged violation of Applicable Law. Tenant further covenants that it will not install on or under the Property any underground storage tank. Tenant shall indemnify and hold Landlord harmless from all losses, damages, claims, liabilities, and expenses, including reasonable attorneys' fees and other expenses, arising out of (i) the presence of any Hazardous Materials on the Property that were not present on the Property on the Commencement Date and are attributable to actions of Tenant occurring after the Commencement Date, (ii) any violation or alleged violation of Applicable Law attributable to actions of Tenant occurring after the Commencement Date, or (iii) any breach of any covenants of Tenant set forth in this Lease.

2. Tenant and Landlord understand and agree that the indemnity provided in this Section shall survive the termination of this Lease and shall continue in full force and effect until the expiration of any applicable periods of limitation with respect to any loss or liability covered by such indemnity.

3. As used in this Section, the term "Hazardous Materials" shall mean any "hazardous substance" as that term is defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601(14), and petroleum.

4. As used in this Lease, the term "Applicable Law" shall mean all local, state, and federal environmental laws, regulations, rules, guidelines, ordinance, and administrative and judicial orders and rulings applicable to Tenant.

## XV.

### DEFAULT AND REMEDIES

1. The occurrence of any of the following shall constitute a default:

- (a) The Property is deserted, vacated, or not used regularly or consistently for the purposes set forth in this Lease for a period of sixty (60) consecutive days;
- (b) any petition is filed by or against Tenant under any section or chapter of the Federal Bankruptcy Code, unless such petition is dismissed within sixty (60) days after the date of such filing;
- (c) Tenant becomes insolvent; or
- (d) A receiver is appointed for any of Tenant's assets.

2. In the event of such a default, Landlord may terminate this Lease. If Landlord terminates this Lease, Tenant shall immediately surrender the Property to Landlord. If Tenant fails to do so, Landlord may, without prejudice to any other remedy Landlord may have either by law or by this Lease, enter upon the Property and expel or remove Tenant and Tenant's personal property.

3. Tenant shall be responsible for Landlord's reasonable attorney's fees and costs for any legal action taken by Landlord due to Tenant's breach of any terms of this Lease.

4. No failure by Landlord or Tenant to insist upon the strict performance of any covenant, agreement, term or condition of this Lease, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term, or condition. No covenant, term, or condition of this Lease to be performed or complied with by a party hereto, and no breach thereof, shall be waived, altered or modified except by a written

instrument executed by the other party hereto. No waiver of any breach shall affect or alter this Lease, but each and every covenant, term, and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

5. Each right and remedy of the parties hereto provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by a party of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the party of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

6. Should either party fail to perform any of its obligations agreed to be performed under this Lease, then the other party may, upon fifteen (15) days' prior notice specifying the work to be done or obligation to be performed and the approximate amount to be expended, but shall not be required to, make such payment or perform such obligation, and all sums so expended by such party thereon shall upon notice of payment by it be immediately payable by the non-performing party to such party, and the non-performing party shall also reimburse such party for its reasonable expenses in enforcing or performing such covenants, including reasonable attorneys' fees.

#### XVI.

#### DESTRUCTION, DAMAGE OR CONDEMNATION OF PROPERTY

1. If because of fire, the elements, or an act of God, the Property is either destroyed, damaged or so rendered as to be wholly or partially unfit for occupancy, or if in the judgment of Landlord, the damage resulting cannot be repaired within sixty (60) days from such damage, then at the option of Landlord to be exercised by giving written notice to Tenant within sixty (60) days following the date of such damage, this Lease shall terminate on the date of such election. Upon receipt of notice, Tenant shall promptly surrender the Property to Landlord. If the Property is not rendered wholly or partially unfit for occupancy and Landlord can repair the Property within the time provided for above, Landlord shall repair such damage within a reasonable time after written notice to Landlord of such damage.

2. Under no circumstances shall Landlord be liable to Tenant, or its sublessees, its agents, employees, invitees, licensees, contractors, subtenants or assignees for inconvenience, annoyance, loss of profits, expenses, or any other type of injury or damage resulting from the repair of any such damage, or from any repair, modification, arranging, rearranging of any portion of the Property or any part of all of the Property or termination of this Lease as provided above. Tenant, its sublessees, vendors, agents, employees, invitees, licensees, contractors, subtenants or assignees shall assume the risk of any and all damage to its personal property in or on the Property and from any casualty whatsoever.

**XVII.**  
**NOTICES**

Any notices, requests, demands, or other communications required or committed under this Lease shall be in writing and shall be served personally; sent by first class mail, registered or certified, postage prepaid; or sent by a nationally recognized overnight delivery service by the sending party and addressed as follows:

**To Landlord:** City of Chattanooga, Tennessee  
Department of Parks and Recreation  
1102 Watkins Street  
Chattanooga, TN 37404

**With a copy to:** City Attorney  
801 Broad Street, Suite 400  
Chattanooga, TN 37402

**To Tenant:** Hunter Museum of American Art  
c/o The Director  
10 Bluff View  
Chattanooga, TN 37403

**With a copy to:** Philip B. Whitaker, Jr.  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
633 Chestnut Street, Suite 1800  
Chattanooga, TN 37450

Notices shall be effective upon receipt or refusal thereof. Notices, requests, demands, or other communications sent by a party's counsel shall for all purposes hereunder constitute notice from the party. Any party may change its address for notices under this Lease by giving written notice of such change to the other parties in accordance with the terms of this Section.

XVIII.

ADDITIONAL PROVISIONS

1. **Holding Over:** In no event shall there be any renewal of this Lease by operation of law. If Tenant remains in possession of the Property after the termination of this Lease and without the execution of a new agreement, Tenant shall be deemed to be occupying the Property as a tenant on a month-to-month basis.

2. **Entire Agreement:** This Lease contains the sole and entire agreement of the parties concerning the subject matter hereof, and no prior or contemporaneous oral or written representation or agreement between the parties shall have legal effect. No provision of this Lease shall be waived unless such waiver is expressly made in writing and signed by an authorized representative of such party.

3. **No Estate in Land:** No estate shall pass out of Landlord by reason of this Lease.

4. **Recording:** This Lease shall not be recorded, but Landlord agrees that upon the request of Tenant, Landlord will execute a Memorandum of Lease reflecting the general terms and conditions of this Lease, which may be filed of record in the Register's Office for Hamilton County, Tennessee.

5. **Severability:** If any clause or provision of this Lease is or becomes illegal, invalid or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, effective during its term, the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby.

6. **Captions:** The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

7. **Successors and Assigns:** The provisions of this Lease shall be to the benefit and be binding upon Landlord, Tenant, and their respective successors, heirs, legal representatives and assigns, subject to all other applicable provisions of this Lease.

8. **Counterparts:** This Lease may be executed in separate counterparts. A counterpart executed by a party to this Lease and transmitted to the other party to this Lease via facsimile will have the same affect as the delivery of the original counterpart. It shall be fully executed when Landlord and Tenant have signed at least one counterpart even though no one counterpart contains the signatures of both parties to this Lease.

9. **Tennessee Law:** The laws of the State of Tennessee shall govern the interpretation, validity, performance and enforcement of this Lease.

10. **Peaceful Possession:** So long as Tenant, its sublessees or vendors observe and perform the covenants and agreements contained herein, they shall at all times during the Term peacefully and quietly have and enjoy the Property without hindrance by or disturbance from Landlord or anyone claiming by or through Landlord, but always subject to the terms hereof.

11. **Grant of Access Easement:** Landlord hereby grants, bargains, sells, transfers and conveys unto Tenant, its successors and assigns, and for the Term of this Lease only, an easement across and upon all land of Landlord adjoining the Property for the purpose of allowing Tenant ingress to and egress from the Property for the installation, maintenance and repair of the Sculptures. Said easement shall be at such location on the land of Landlord that adjoins the Property as Landlord shall reasonably determine from time to time.

12. **Miscellaneous:** This Lease may be signed in more than one counterpart, in which case each counterpart shall constitute an original of this Lease. Section headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this agreement. Wherever used herein, the singular shall include the plural and vice versa, and pronouns shall be read as masculine, feminine or neuter as the context requires.

*[Signatures and acknowledgements appear on following page.]*

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed in duplicate under seal as of the day and year first written above.

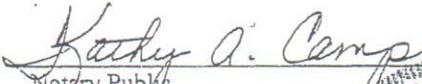
CITY OF CHATTANOOGA, TENNESSEE

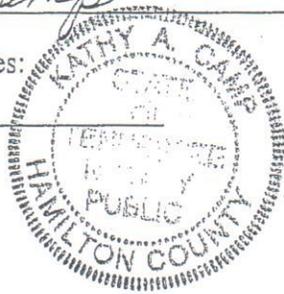
By:   
LAWRENCE A. ZEHNDER, Director, Department  
of Parks and Recreation

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, KATHY A. CAMP, a Notary Public in and for the State and County aforesaid, personally appeared LAWRENCE A. ZEHNDER, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be the PARKS & Rec Administrator of the CITY OF CHATTANOOGA, TENNESSEE, the within named bargainer, a municipality, and that he as such Chairman of the Board of Trustees, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the municipality by himself as such Chairman of the Board of Trustees.

WITNESS my hand and seal at office, on this the 11<sup>th</sup> day of November,  
2009

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 9-22-10



HUNTER MUSEUM OF AMERICAN ART

By: Samuel D. Turner  
SAMUEL TURNER, Chairman of the Board of  
Trustees

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, Mary E. Phlaum a Notary Public in and for the State and County aforesaid, personally appeared SAMUEL TURNER, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself (or herself) to be the Chairman of the Board of Trustees of HUNTER MUSEUM OF AMERICAN ART, the within named bargainer, a corporation, and that he as such Chairman of the Board of Trustees, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such Chairman of the Board of Trustees.

WITNESS my hand and seal at office, on this the 26 day of October,  
2009

Mary E. Phlaum

Notary Public

My Commission Expires:

February 27, 2011



EXHIBIT "A"

Description of Property

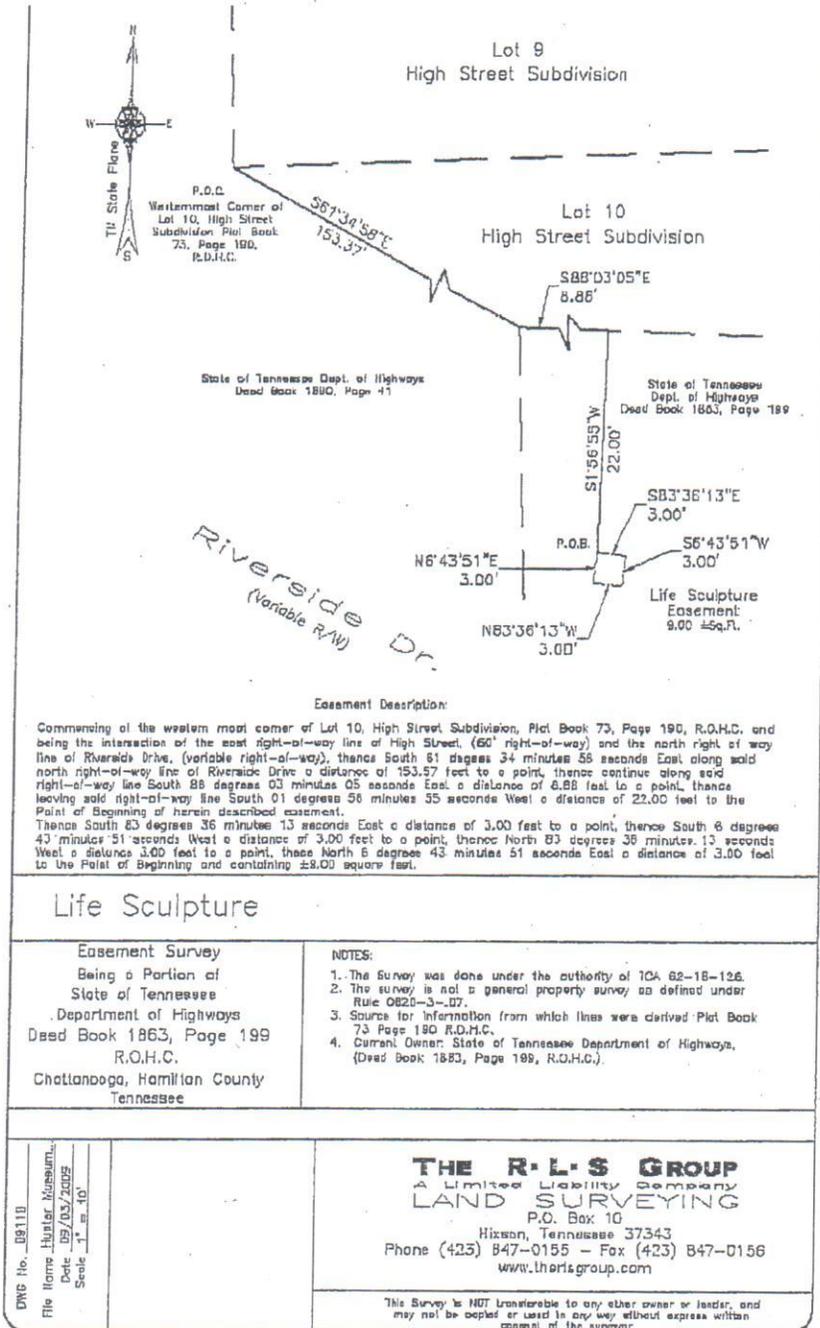
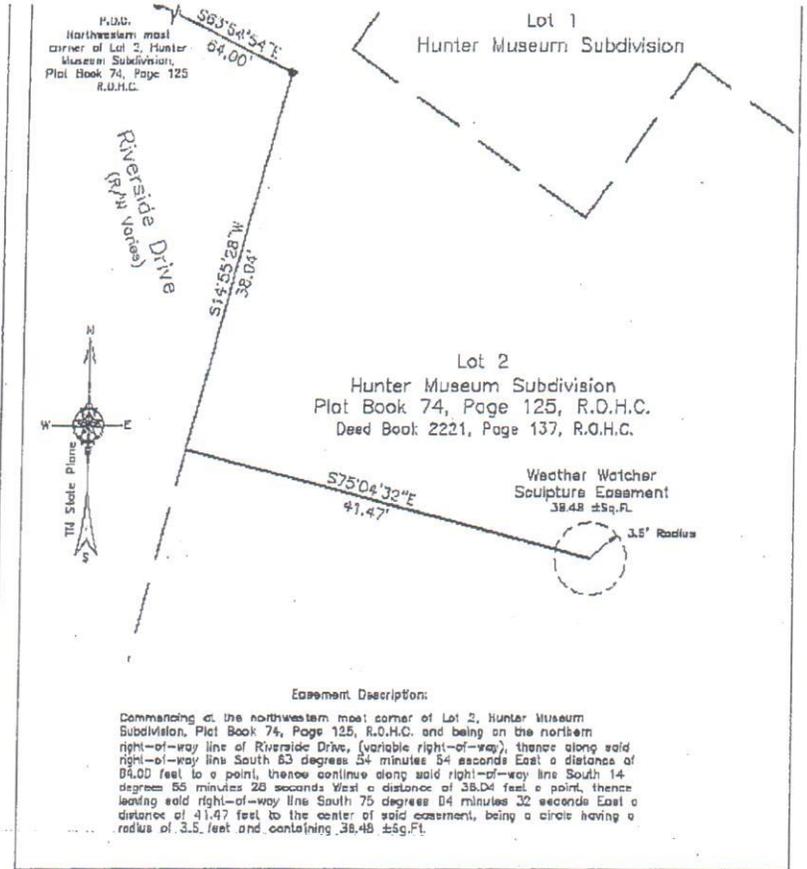


EXHIBIT "B"

Description of Property



Weather Watcher Sculpture

Property Address: 421 Bluff View  
Chattanooga, TN. 37403

Easement Survey  
Part of Lot 2  
Hunter Museum Subdivision  
Plat Book 74 Page 125, R.O.H.C.  
Deed Book 2221, Page 137, R.O.H.C.  
Tax Parcel 135L-D-003  
Chattanooga, Hamilton County  
Tennessee

NOTES:

1. The Survey was done under the authority of TCA 62-18-126.
2. The survey is not a general property survey as defined under Rule 0820-3-.07.
3. Source for information from which lines were derived Plat Book 74 Page 125 R.O.H.C.
4. Current Owner: City of Chattanooga.  
(Deed Book 2221, Page 137, R.O.H.C.)

DWG No. 08110  
File Name: Hunter Museum  
Date: 09/05/2009  
Scale: 1" = 10'

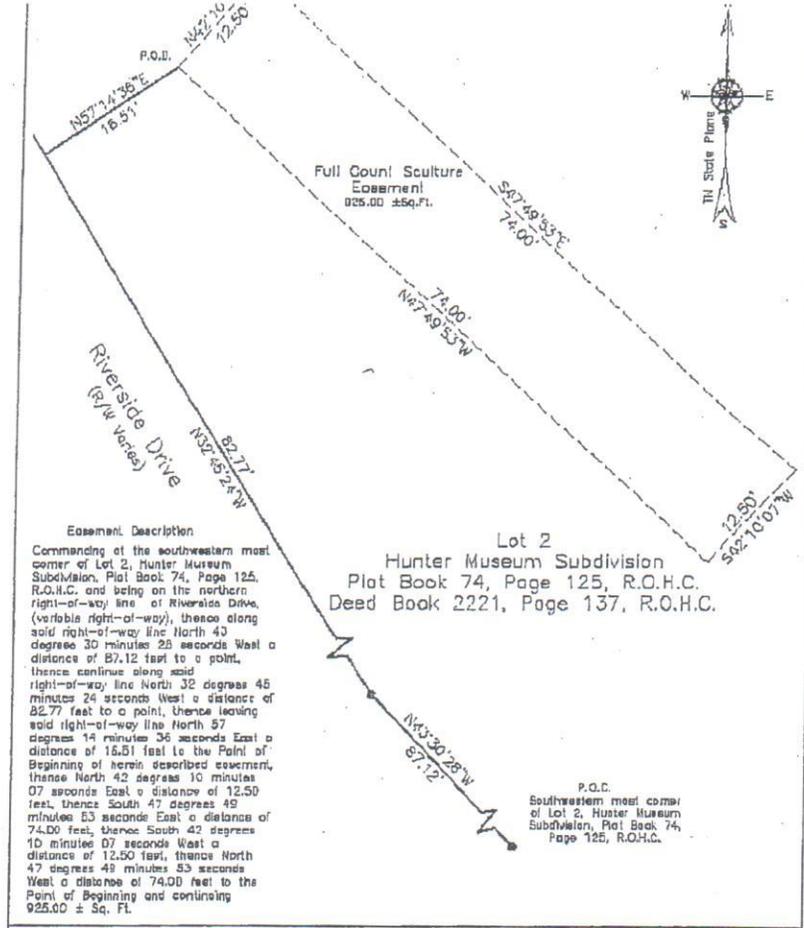
**THE R·L·S GROUP**  
A Limited Liability Company  
**LAND SURVEYING**

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

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EXHIBIT "C"

Description of Property



**Easement Description**  
 Commencing at the southwestern most corner of Lot 2, Hunter Museum Subdivision, Plat Book 74, Page 125, R.O.H.C. and being on the northern right-of-way line of Riverside Drive, (variable right-of-way), thence along said right-of-way line North 43 degrees 30 minutes 28 seconds West a distance of 87.12 feet to a point, thence continue along said right-of-way line North 32 degrees 45 minutes 24 seconds West a distance of 82.77 feet to a point, thence leaving said right-of-way line North 57 degrees 14 minutes 36 seconds East a distance of 16.51 feet to the Point of Beginning of herein described easement, thence North 42 degrees 10 minutes 07 seconds East a distance of 12.50 feet, thence South 47 degrees 49 minutes 53 seconds East a distance of 74.00 feet, thence South 42 degrees 10 minutes 07 seconds West a distance of 12.50 feet, thence North 47 degrees 49 minutes 53 seconds West a distance of 74.00 feet to the Point of Beginning and containing 025.00 ± Sq. Ft.

Lot 2  
 Hunter Museum Subdivision  
 Plat Book 74, Page 125, R.O.H.C.  
 Deed Book 2221, Page 137, R.O.H.C.

P.O.C.  
 Southwestern most corner  
 of Lot 2, Hunter Museum  
 Subdivision, Plat Book 74,  
 Page 125, R.O.H.C.

Full Count Sculpture

Property Address: 421 Bluff View  
 Chattanooga, TN, 37403

Easement Survey  
 Part of Lot 2  
 Hunter Museum Subdivision  
 Plat Book 74 Page 125, R.O.H.C.  
 Deed Book 2221, Page 137, R.O.H.C.  
 Tax Parcel 135L-D-003  
 Chattanooga, Hamilton County  
 Tennessee

- NOTES:
1. The Survey was done under the authority of TCA 62-18-126.
  2. The survey is not a general property survey as defined under Rule 0820-3-.07.
  3. Source for information from which lines were derived Plat Book 74 Page 125 R.O.H.C.
  4. Current Owner: City of Chattanooga, (Deed Book 2221, Page 137, R.O.H.C.)

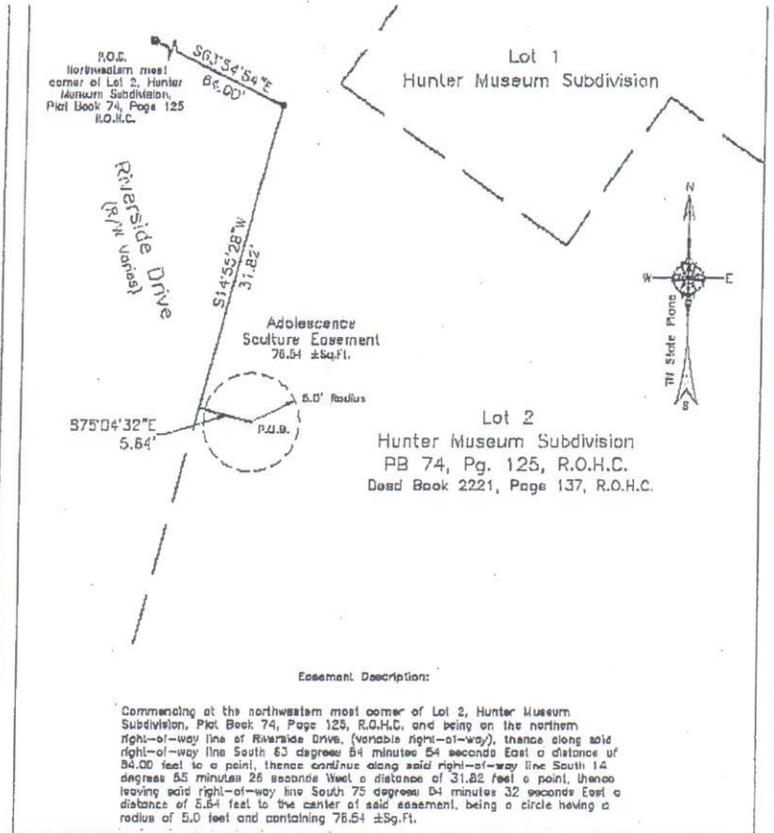
DWC No. 091110  
 File Name Hunter Museum  
 Date 09/05/2010  
 Scale 1" = 10'

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EXHIBIT "D"

Description of Property



Easement Description:

Commencing at the northwestern most corner of Lot 2, Hunter Museum Subdivision, Plat Book 74, Page 125, R.O.H.C. and being on the northern right-of-way line of Riverside Drive, (variable right-of-way), thence along said right-of-way line South 63 degrees 54 minutes 54 seconds East a distance of 86.00 feet to a point, thence continue along said right-of-way line South 14 degrees 55 minutes 28 seconds West a distance of 31.82 feet to a point, thence leaving said right-of-way line South 75 degrees 04 minutes 32 seconds East a distance of 5.64 feet to the center of said easement, being a circle having a radius of 5.0 feet and containing 78.54 ± Sq.Ft.

Adolescence Sculpture

Property Address: 421 Bluff View  
Chattanooga, TN. 37403

Easement Survey  
Part of Lot 2  
Hunter Museum Subdivision  
Plat Book 74, Page 125, R.O.H.C.  
Deed Book 2221, Page 137, R.O.H.C.  
Tax Parcel 136L-D-DDJ  
Chattanooga, Hamilton County  
Tennessee

NOTES:

1. The Survey was done under the authority of TCA 82-18-126.
2. The survey is not a general property survey, as defined under Rule CB2D-3-D7.
3. Sources for information from which lines were derived Plat Book 74, Page 125, R.O.H.C.
4. Current Owner: City of Chattanooga, (Deed Book 2221, Page 137, R.O.H.C.)

DWG No. 09110  
File Name Hunter Museum  
Date 09/03/2009  
Scale 1" = 10'

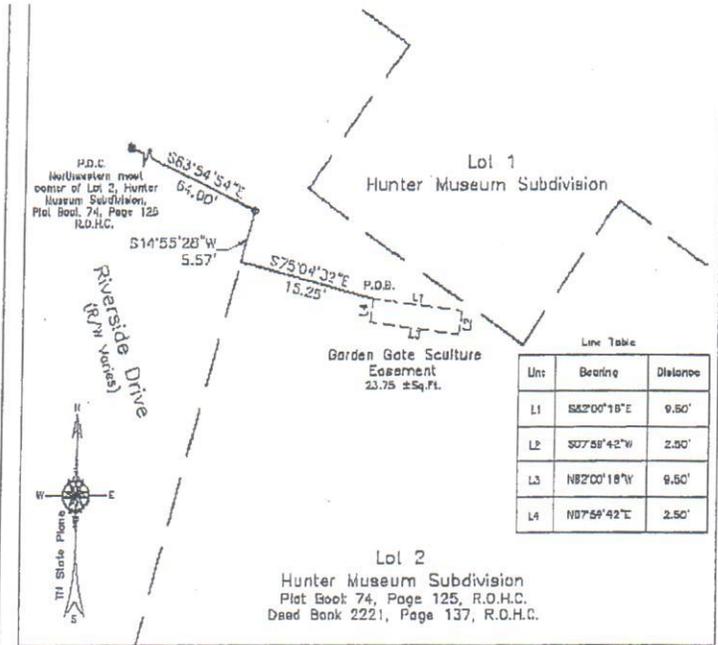
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EXHIBIT "E"

Description of Property



Easement Description

Commencing at the northeastern most corner of Lot 2, Hunter Museum Subdivision, Plat Book 74, Page 125, R.O.H.C. and being on the northern right-of-way line of Riverside Drive, (variable right-of-way), thence along said right-of-way line South 83 degrees 54 minutes 54 seconds East a distance of 84.00 feet, thence continue along said right-of-way line South 14 degrees 55 minutes 28 seconds West a distance of 5.57 feet to a point, thence leaving said right-of-way line South 76 degrees 04 minutes 33 seconds East a distance of 15.25 feet to the Point of Beginning of herein described easement, thence South 82 degrees 00 minutes 18 seconds East a distance of 9.50 feet, thence South 07 degrees 59 minutes 42 seconds West a distance of 2.50 feet, thence North 82 degrees 00 minutes 18 seconds West a distance of 9.50 feet, thence North 07 degrees 59 minutes 42 seconds East a distance of 2.50 feet to the Point of Beginning and containing 23.75 ± Sq. Ft.

**Garden Gate Sculpture** Property Address: 421 Bluff View, Chattanooga, TN, 37403

**Easement Survey**  
 Part of Lot 2  
 Hunter Museum Subdivision  
 Plat Book 74, Page 125, R.O.H.C.  
 Deed Book 2221, Page 137, R.O.H.C.  
 Tax Parcel 135L-D-003  
 Chattanooga, Hamilton County  
 Tennessee

**NOTES:**  
 1. This Survey was done under the authority of TCA 82-18-128.  
 2. This survey is not a general property survey as defined under Rule 0820-3-.07.  
 3. Inquire for information from which lines were derived Plat Book 74, Page 125, R.O.H.C.  
 4. Current Owner: City of Chattanooga, (Deed Book 2221, Page 137, R.O.H.C.)

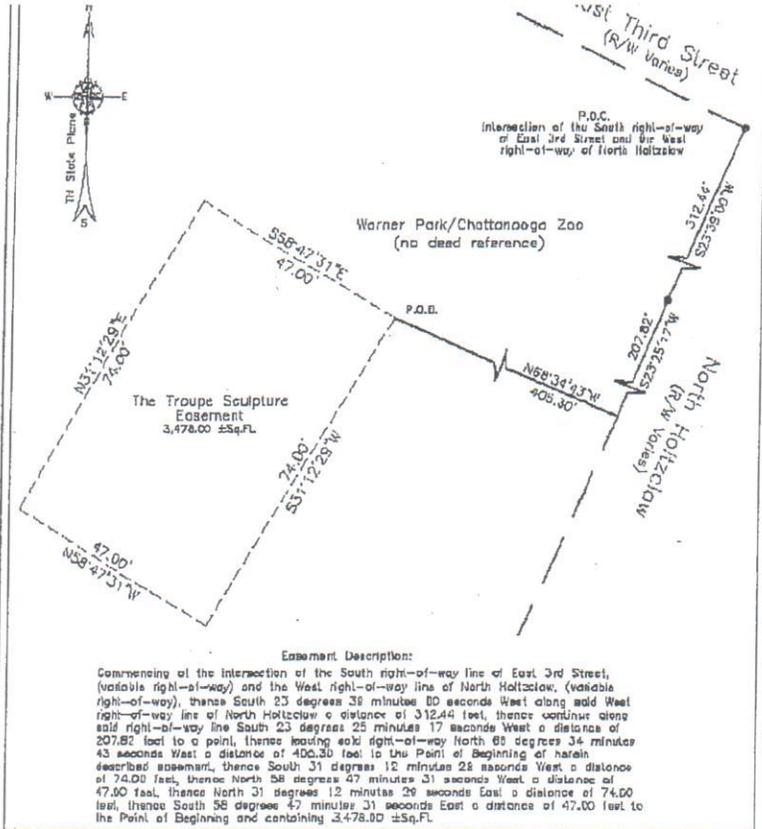
DWG No. 08110  
 File Name: Hunter\_Museum  
 Date: 09/03/2009  
 Scale: 1" = 10'

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 www.lhertsgroup.com

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EXHIBIT "F"

Description of Property



**Easement Description:**  
 Commencing at the intersection of the South right-of-way line of East 3rd Street, (variable right-of-way) and the West right-of-way line of North Holtzclaw, (variable right-of-way), thence South 23 degrees 38 minutes 00 seconds West along said West right-of-way line of North Holtzclaw a distance of 312.44 feet, thence continue along said right-of-way line South 23 degrees 25 minutes 17 seconds West a distance of 207.82 feet to a point, thence bearing said right-of-way North 68 degrees 34 minutes 43 seconds West a distance of 400.30 feet to the Point of Beginning of herein described easement, thence South 31 degrees 12 minutes 28 seconds West a distance of 74.00 feet, thence North 58 degrees 47 minutes 31 seconds West a distance of 47.00 feet, thence North 31 degrees 12 minutes 28 seconds East a distance of 74.00 feet, thence South 58 degrees 47 minutes 31 seconds East a distance of 47.00 feet to the Point of Beginning and containing 3,478.00 ± Sq. Ft.

The Troupe Sculpture

Property Address: 1254 E 3rd Street  
Chattanooga, TN 37402

Easement Survey  
 Being a Part of  
 1254 East 3rd Street  
 (No Deed Reference)  
 Tax Parcel 145C-A-DD1  
 Chattanooga, Hamilton County  
 Tennessee

- NOTES:**
1. The Survey was done under the authority of TCA 82-18-126.
  2. The survey is not a general property survey as defined under Rule 0820-3-.07.
  3. Source for Information from which lines were derived Plat Book 53 Page 22 R.O.H.C.
  4. Current Owner: City of Chattanooga, (No Deed Reference)

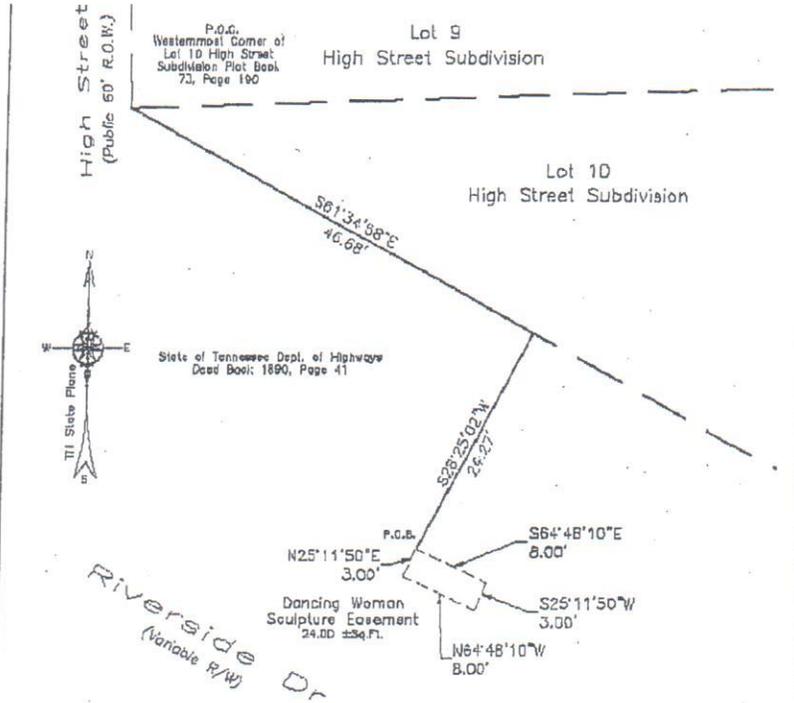
DWG No. 08110  
 File Name: Hixson\_Masland  
 Date: 05/03/2009  
 Scale: 1" = 20'

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 www.therisgroup.com

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EXHIBIT "G"

Description of Property



**Easement Description:**  
 Commencing at the western most corner of High Street Subdivision, Plat Book 73, Page 19D, R.O.H.C. and being the intersection of the east right-of-way line of High Street, (60' right-of-way) and the north right of way line Riverside Drive, (variable right-of-way), thence South 81 degrees 34 minutes 53 seconds East; along said north right-of-way of Riverside Drive a distance of 46.68 feet to a point, thence leaving said right-of-way line South 22 degrees 25 minutes 02 seconds West a distance of 24.27 feet to the Point of Beginning of herein described easement. Thence South 64 degrees 48 minutes 10 seconds East, a distance of 8.00 feet to a point, thence south 25 degrees 11 minutes 50 seconds West a distance of 3.00 feet, thence North 64 degrees 48 minutes 10 seconds West a distance of 8.00 feet to a point, thence North 25 degrees 11 minutes 50 seconds East a distance of 3.00 feet to the Point of Beginning and containing 24.00 ± square feet.

Dancing Woman Sculpture

Easement Survey  
 Being a Portion of  
 State of Tennessee  
 Department of Highways  
 Deed Book 189D, Page 41  
 R.O.H.C.  
 Chattanooga, Hamilton County  
 Tennessee

- NOTES:**
1. The Survey was done under the authority of TCA 62-18-106.
  2. The survey is not a general property survey as defined under Rule 0820-3-.07.
  3. Source for information from which lines were derived Plat Book 73 Page 19D R.O.H.C.
  4. Current Owner: State of TN Department of Highways, (Deed Book 189D, Page 41 R.O.H.C.)

DWG No. 08110  
 File Name Hunter.Mxd  
 Date 09/03/2009  
 Scale 1" = 10'

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