

RESOLUTION NO. 31009

A RESOLUTION AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION TO ACCEPT A DONATION FROM PUBLIX TENNESSEE, LLC FOR THE TENNESSEE RIVERWALK CONSTRUCTION AND PAVING OF W. 35TH STREET, AS DETAILED IN THE ATTACHED DONATION AGREEMENT, IN THE AMOUNT OF ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000.00).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That it is hereby authorizing the Department of Public Works and Transportation to accept a donation from Publix Tennessee, LLC for the Tennessee Riverwalk construction and paving of W. 35th Street, as detailed in the attached Donation Agreement, in the amount of \$125,000.00.

ADOPTED: January 4, 2022

/mem



**CITY OF CHATTANOOGA
DONATION AGREEMENT**

THIS DONATION AGREEMENT (“Agreement”) is entered into as of the stated Effective Date by the Donor and Donee (collectively, the “Parties”) referenced herein for the donation of goods and/or services more particularly described herein (the “Donation”).

WHEREAS, the Donor desires to donate a monetary sum for the use and enjoyment of the Donee;

WHEREAS, Donee accepts the donation for the use and enjoyment of the Donee.

NOW THEREFORE, in consideration of the mutual promises and terms set forth herein, the Parties agree as follows:

1. GENERAL TERMS.

Effective Date	November 5, 2021
Donor Name	Publix Tennessee, LLC
Donor Entity Type (e.g. Corporation, LLC, Non-profit, etc.), Address	Limited Liability Corporation 900 Circle 75 Parkway Atlanta, GA 30339
Donee Name	City of Chattanooga
Donee Entity, Address	City of Chattanooga Attn: Chattanooga Division of Transportation Department of Public Works 1250 Market Street, Ste. 3030 Chattanooga, TN 37402

Publix Donation Agreement

Donation	As set forth in <i>Exhibit A – Pledge of Contribution to Riverwalk Letter Dated September 28, 2020</i> , which is attached hereto and incorporated herein by reference, Donor agrees to donate a monetary sum of One Hundred Twenty Five Thousand and No/100 Dollars (\$125,000.00) for use by the Donee in the continued development of the Tennessee Riverwalk and the repaving of West 35 th Street.
Donation Value (in dollars)	\$125,000.00
Communication to Donor	Publix Super Markets, Inc. C/O ARS Ventures LLC Attn: John W. Wilcox III 900 Circle 75 Parkway Atlanta, GA 30339
Communication to Donee	City of Chattanooga Attn: Chattanooga Division of Transportation Department of Public Works 1250 Market Street, Ste. 3030 Chattanooga, TN 37402

2. **NONREFUNDABLE.** Donor understands this is a non-refundable donation.

3. **DELIVERY.** If required, Donor shall be responsible for ensuring the delivery of the Donation. Donee shall bear no cost for delivery related thereto.

4. **NO SPECIAL CONSIDERATION.** Donor understands that the Donation affords it no special consideration, privileges or rights and imposes no duty on the Donee to afford Donor any special consideration, privileges or rights in the future; however, as set forth in Exhibit A hereto, the Riverwalk adjacent to Donor’s site is to be completed prior to delivery of the donation.

5. **MISCELLANEOUS PROVISIONS.**

a. The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The

Publix Donation Agreement

parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this subsection shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

b. Donor and Donee each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party of this Agreement and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this Agreement.

c. This Agreement shall be governed by the laws of the State of Tennessee.

d. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Parties.

e. This Agreement represents the entire and integrated agreement between the Parties. All prior and contemporaneous communications, representations, and agreements by Donor, whether oral or written, relating to the subject matter of this Agreement are hereby incorporated into and shall become a part of this Agreement.

[SIGNATURE PAGE TO FOLLOW]

The Parties affirm they are authorized representatives of the Donor and Donee with the capacity to enter into a legally binding agreement of behalf of the Donor and Donee. The Parties agree to the terms as stated herein and enter into this Agreement as of the Effective Date.

Attest:	PUBLIX TENNESSEE, LLC
 Dinah Sumner	By: 
	Printed Name: Robert S. Balcerak, Jr
	Title: VP Real Estate Strategy
	Date: 11-19-21

Publix Donation Agreement

Attest:	CITY OF CHATTANOOGA, TENNESSEE
	By:
	Printed Name:
	Title:
	Date:

Donor Stamp