

RESOLUTION NO. 32614

A RESOLUTION AUTHORIZING THE ADMINISTRATOR FOR THE DEPARTMENT OF ECONOMIC DEVELOPMENT TO ENTER INTO AN INDEMNITY, HOLD HARMLESS, AND CONTRIBUTION AGREEMENT WITH DEW JAMES, LLC, IN SUBSTANTIALLY THE FORM ATTACHED, AND TO AUTHORIZE THE PAYMENT OF \$269,000.00 FOR REIMBURSEMENT TO DEW JAMES, LLC FOR THE PLACEMENT OF LIGHTWEIGHT FLOWABLE FILL INTO THE CITY'S RIGHTS-OF-WAYS AT BROAD AND EIGHTH STREETS AS NECESSARY TO MAINTAIN THE STRUCTURAL INTEGRITY OF THE CITY SIDEWALKS AND RIGHTS-OF-WAYS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, it is hereby authorizing the Administrator for the Department of Economic Development to enter into an Indemnity, Hold Harmless, and Contribution Agreement with Dew James, LLC, in substantially the form attached, and to authorize the payment of \$269,000.00 for reimbursement to Dew James, LLC for the placement of lightweight flowable fill into the City's rights-of-ways at Broad and Eighth Streets as necessary to maintain the structural integrity of the City sidewalks and rights-of-ways.

ADOPTED: August 19, 2025

/mem

Prepared by and return to:
Valerie L. Malueg
Office of the City Attorney
100 E. 11th Street, Suite 200
Chattanooga, TN 37402

INDEMNITY, HOLD HARMLESS, AND CONTRIBUTION AGREEMENT

This INDEMNITY, HOLD HARMLESS, AND CONTRIBUTION AGREEMENT (the “Agreement”) is entered into and effective the _____ day of _____, 2025, by and between **DEW JAMES, LLC**, a Tennessee limited liability company (the “Owner”), and the **CITY OF CHATTANOOGA** (the “City”)(collectively, the “Parties”).

WHEREAS, the Owner owns that certain tract of land in Hamilton County, Tennessee, containing a building known as the James Building, more particularly described on **Exhibit A**, attached hereto and made a part hereof (the “DEW Property”);

WHEREAS, the sidewalk located adjacent to the DEW Property is in the City Rights of Way (hereinafter defined) on the Broad Street and the 8th Street sides (the “Sidewalk Property”) of the DEW Property;

WHEREAS, the basement portion of the DEW Property extends underneath the Sidewalk Property, and due to the basement encroachment, the structural integrity of the Sidewalk Property has been called into question;

WHEREAS, the Owner has installed in one thousand six hundred ninety-four (1,694) square feet of the Owner’s encroachments into the Sidewalk Property, as shown by the hatched areas on Exhibit B, a lightweight flowable fill;

WHEREAS, the Owner has installed in one thousand one hundred fourteen (1,114) square feet of the Owner’s Property, as shown by the hatched areas on Exhibit B, a lightweight flowable fill;

WHEREAS; the Owner has three hundred thirty-three (333) square feet of encroachments

into the Sidewalk Property, without the lightweight flowable fill, as shown by the hatched areas on Exhibit B;

WHEREAS, the Parties have agreed that the City will contribute the sum of TWO HUNDRED SIXTY-NINE THOUSAND AND NO/100 DOLLARS (\$269,000) towards a portion of the cost of the Owner's placement of lightweight flowable fill for the purpose of remediating underground protrusions of the DEW Property basement into the City's rights-of-way of Broad Street and 8th Street and repairs necessary to maintain the structural integrity of the Sidewalk Property (the City Rights-of-Way") as shown in the hatched area on **Exhibit B**;

WHEREAS, the Owner agrees to indemnify and hold the City harmless for the remaining building system elements of the DEW Property that encroach into the City's Rights-of-Way as shown in the hatched areas on **Exhibit B** (the "Permitted Encroachments");

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable considerations, the Parties agree as follows:

1. The City hereby acknowledges, agrees and permits the Owner, or its assigns, to keep the Permitted Encroachments over and upon the City Rights-of-Way as depicted on **Exhibit B**, subject to the terms and conditions of this Agreement.
2. The City shall pay the Owner the sum of TWO HUNDRED SIXTY-NINE THOUSAND AND NO/100 DOLLARS (\$269,000) for a portion of the costs incurred by Owner for placement of lightweight flowable fill as depicted in the areas shown on **Exhibit B**.
3. Indemnity by the Owner. The Owner hereby agrees that it shall indemnify, defend and hold harmless the City, its successors and assigns, agents, officers, representatives, employees, contractors, and licensees, from any expense the City incurs as a result of the Permitted Encroachments being located within the City Rights-of-Way, including such costs or expenses related to such damage to the Permitted Encroachments existing within the City Rights-of-Way. The Owner further agrees that it shall indemnify, defend and hold harmless the City, its successors and assigns, agents, officers, representatives, employees, contractors, and licensees, from any and all liability, claims, damages, expenses, including reasonable attorney's fees and litigation costs, resulting from or arising out of the removal or alteration of the Permitted Encroachments within the City Rights-of-Way, as deemed necessary by the City.
4. The Owner understands and agrees that if the City or any agent, officer, employee or contractor removes, damages or alters the Permitted Encroachments, the Owner is fully responsible for all costs incurred for the repair and/or replacement of the

Permitted Encroachments. The Owner further understands and agrees that if Owner damages or causes damages to the City Rights-of-Way infrastructure within the City Rights-of-Way that the Owner is fully responsible for all costs incurred for the immediate repair and/or replacement of the City Rights-of-Way infrastructure as deemed necessary by and to the standards of the City.

4. Survival. The right of indemnification pursuant to this Agreement shall survive any applicable statute of limitation, if any. If the City seeks indemnification under this Agreement, it shall provide the Owner with written notice which reasonably sets forth, in light of the information then known to the City, a description of the estimate (if then reasonable to make) of the amount involved in such claim.

The above authorization to allow such encroachments over and upon the City Rights-of-Way and the rights granted herein shall constitute covenants running with the land.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, this Agreement has been executed by Owner and the duly authorized representative of Chattanooga as of the date first written above.

DEW JAMES, LLC

By: _____

Printed Name: JAMES K. WHITE, III

Title: President

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

Before me, a Notary Public of the aforementioned State and County, personally appeared James K. White, III, on behalf DEW JAMES, LLC who has authority to act on behalf of DEW JAMES, LLC, and who is personally known to me (or proved by sufficient evidence) to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed and for the purposes therein contained.

WITNESS my hand and seal this _____ day of _____, 2025.

Notary Public at Large

My commission expires: _____

CITY OF CHATTANOOGA, TENNESSEE

By:_____

Printed Name: RICHARD J. BEELAND

Title: Administrator of Economic Development

STATE OF TENNESSEE)
COUNTY OF HAMILTON)

Before me, a notary public of the state and county aforesaid, personally appeared RICHARD J. BEELAND of whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who upon oath acknowledged himself to be the Administrator of the Economic Development Department of the CITY OF CHATTANOOGA, the within named bargainor, and that he as such Administrator, executed the foregoing for purposed contained therein, by signing the name of RICHARD J. BEELAND as Administrator of Economic Development.

WITNESS my hand and seal this _____ day of _____, 2025.

Notary Public at Large

My commission expires:_____

EXHIBIT "A"

[New Survey Legal]

All that tract or parcel of land being in the City of Chattanooga, Hamilton County, Tennessee and being Lots 54 and 56, Chestnut Street, Original Plan of the Town of Chattanooga, not recorded and being more particularly described as follows:

Beginning at the Northwest corner of Broad Street (126' r/w) and West 8th Street (46' r/w); thence along the West line of Broad Street, North 00 degrees 01 minutes 43 seconds East 137 feet to the Southeast corner of Maclellan Partners, LLC, Deed Book 9011, Page 882, in the Register's Office of Hamilton County, Tennessee; thence North 89 degrees 58 minutes 20 seconds West 99.12 feet to a PK nail, found; thence South 00 degrees 30 minutes 15 seconds West 0.73 foot to a PK nail, found; thence South 88 degrees 48 minutes 00 seconds West 27.04 feet to a point in the alley; thence South 00 degrees 00 minutes 06 seconds West 136.27 feet to a mag nail, found in the North line of West 8th Street; thence South 89 degrees 59 minutes 54 seconds East, with and along the North line of West 8th Street, 126.23 feet to the point of beginning.




TOGETHER WITH the non-exclusive right to the use of the alley that is bounded on the West by the East line of Chestnut Street, on the North by that part of the South face of the Maclellan Building as now located on the property conveyed to Maclellan Building Limited Partnership by deed of record in Book 2798, Page 495, in the Register's Office of Hamilton County, Tennessee, that lies West of a Northward projection of the West line of the hereinabove described real estate, on the East by the West line of the hereinabove described real estate and its Northward projection to the South face of the aforesaid Maclellan Building, and on the South by the North line of the property conveyed to Blue Cross and Blue Shield of Tennessee by deed of record in Book 2364, Page 407, in the Register's Office of Hamilton County, Tennessee, said alley being shown by aforesaid plat of survey prepared by Hopkins Surveying Group, Inc. to be 11.97 feet in width, and in connection therewith, TOGETHER WITH such rights as are appurtenant thereto by virtue of the following language appearing in deed of record in Book V, Vol. 17, Page 689, in the Register's Office of Hamilton County, Tennessee: "The purchaser agrees for itself and its assigns to open and maintain as a private way a twelve (12) foot alley along the south side of the first mentioned piece."

TOGETHER WITH such rights as are appurtenant thereto by virtue of the following language contained in deed of record in Book V, Volume 17, Page 689, in the Register's Office of Hamilton County, Tennessee: "that all buildings erected on any of the above described property shall be fire-proof construction," as affected by Agreement of record in Book 2921, Page 304, in the Register's Office of Hamilton County, Tennessee, as affected by Abandonment of Conditions and Restrictions of record in Book 9011, Page 879, in the Register's Office of Hamilton County, Tennessee.

TOGETHER WITH such rights as are appurtenant thereto by virtue of the following language contained in deed of record in Book V, Volume 17, Page 691, in the Register's Office of Hamilton County, Tennessee: "As a part of the consideration for this deed, the Grantee herein, for itself, its successors and assigns, and all persons holding under or through them, agree to the building or buildings to be erected and maintained on the lands hereinbefore conveyed, shall be of ordinary fire-proof construction," as affected by Agreement of record in Book 2921, Page 304, in the Register's Office of Hamilton County, Tennessee.

TOGETHER WITH the right or privilege of using the concrete wall now standing on the West line of the strip of land 4-1/2 feet wide adjoining the West wall of the James Building Annex, as a rest or support for the floor or road-way of an open, private alley or way as per that certain Deed recorded in Book A, Vol. 18, Page 68, in the Register's Office of Hamilton County, Tennessee, and such rights as are appurtenant thereto by virtue of the following language: "Grantee for itself, successors and assigns, covenants and agrees to keep open and maintain the premises hereby conveyed as a private open alley or way for the use and benefit of the parties hereto."

REFERENCE is made for prior title to Deed recorded in Book 10352, Page 76, in the Register's Office of Hamilton County, Tennessee.

	LIGHTWEIGHT FLOWABLE FILL FOR OWNERS ENCROACHMENTS INTO CITY RIGHTS OF WAYS (1,694 sq. ft.)
	LIGHTWEIGHT FLOWABLE FILL ON OWNERS PROPERTY (1,114 sq. ft.)
	ENCROACHMENTS INTO CITY RIGHTS OF WAYS WITHOUT INFILL (333 sq. ft.)

PART LOTS 52 & 54
ORIGINAL PLAN OF THE TOWN OF CHATTANOOGA
NOT RECORDED
HEALTH EDUCATIONAL & HOUSING FACILITY BOARD
DEED BOOK 10719, PAGE 689

(DEED: N89°59'57"W-99.5')
N89°58'20"W-99.12'

REMOTE POINT
OF BEGINNING
PARCEL 1
PK Nail,FND

TRUE POINT
OF BEGINNING
PARCEL 1

(DEED: N89°59'57"W-27.14')
S88°48'00"W-27.04'

TOTAL BUILDING
14,021sq. ft.
12 FLOORS
MULTI-STORIES
MASONARY BUILDING
PART OF LOT 56
735 BROAD STREET
BLDG HT=167'

(DEED: N00°00'40"E)
N00°01'43"E-137.00'

BROAD ST
(126' R/W)

S00°00'06"W-136.27'
(DEED: S00°01'16"E)

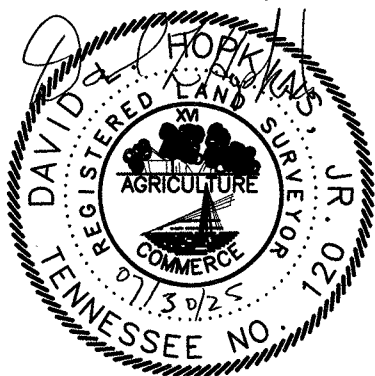
TRUE POINT
OF BEGINNING
PARCEL 3

N00°11'29"E-6.75'

S89°59'54"E-126.23'
(DEED: N89°59'57"E-126.56')

WEST 8TH ST.

(46' R/W)



(IN FEET)

1 inch = 20 ft.

PART OF LOTS 54 & 56, ORIGINAL PLAN OF THE TOWN OF
CHATTANOOGA, NOT RECORDED, AND AS DESCRIBED IN
DEED BOOK 10799, PAGE 902, R.O.H.C., CITY OF
CHATTANOOGA, HAMILTON COUNTY, TENNESSEE

PAGE 1 OF 2
DRAWN BY: ZA
SCALE: 1"=20'
TAX MAP No.: 145CB-A-006
DATE: 7/15/2025
DWG. NO.: 2025-178-1

HSG

HOPKINS SURVEYING GROUP

175 Hamm Road – P.O. Box 4366
Chattanooga, Tennessee 37405
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