

RESOLUTION NO. 26976

A RESOLUTION AUTHORIZING FIRST STREET ASSOCIATES, LLC C/O REBECCA BROWDER, VICE PRESIDENT, TO USE TEMPORARILY THE RIGHT-OF-WAY LOCATED AT 18 MARKET STREET NEAR THE CORNER OF MARKET AND FIRST STREET FOR THE INSTALLATION OF LANDSCAPE ALONG PORTIONS OF SAID RIGHT-OF-WAY, AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That FIRST STREET ASSOCIATES, LLC, c/o Rebecca Browder, Vice President, (hereinafter referred to as "Temporary User") be and is hereby permitted to use temporarily the right-of-way located at 18 Market Street near the corner of Market and First Street for the installation of landscape along portions of said right-of-way, as shown in the maps attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED, That said temporary usage shall be subject to the following conditions:

1. Temporary User shall execute the Indemnification Agreement attached hereto in favor of the City of Chattanooga, its officers, agents and employees for any and all claims for damages for injuries to persons or property related to or arising out of the temporary usage.
2. Temporary User agrees to vacate the property and temporary use upon reasonable notice from the City to do so.
3. Temporary User shall provide adequate access for maintenance of any utilities located within the easement.

4. Temporary User must agree to ongoing maintenance of the proposed landscape areas.

ADOPTED: February 7, 2012.

/meb

INDEMNIFICATION AGREEMENT

This Indemnification Agreement is entered into by and between THE CITY OF CHATTANOOGA, TENNESSEE (hereinafter the "City"), and FIRST STREET ASSOCIATES, LLC, c/o Rebecca Browder, Vice President (hereinafter "Temporary User"), this 7th day of February, 2012.

For and in consideration of the granting of the temporary usage of the right-of-way located at 18 Market Street near the corner of Market and First Street for the installation of landscape along portions of said right-of-way, as shown on the maps attached hereto and made a part hereof by reference, the receipt of which is hereby acknowledged, Temporary User agrees as follows:

1. Temporary User shall defend, and hold harmless the City of Chattanooga, Tennessee, its officers, agents and employees from any and all claims for damages for injuries to persons or property related to or arising out of the aforementioned temporary use.

2. Temporary User shall vacate the property and temporary use upon reasonable notice from the City to do so; the parties hereto agree that "reasonable notice" shall be deemed to be thirty (30) days. Temporary User shall restore the property to its original condition when it is returned to the City.

3. Temporary User shall provide adequate access for maintenance of any utilities located within the easement.

4. Temporary User must agree to ongoing maintenance of the proposed landscape areas.

FIRST STREET ASSOCIATES, LLC

_____, 2012
Date

BY: _____
Rebecca Browder

CITY OF CHATTANOOGA, TENNESSEE

2/10, 2012
Date

BY: _____
Ron Littlefield, Mayor

Memorandum

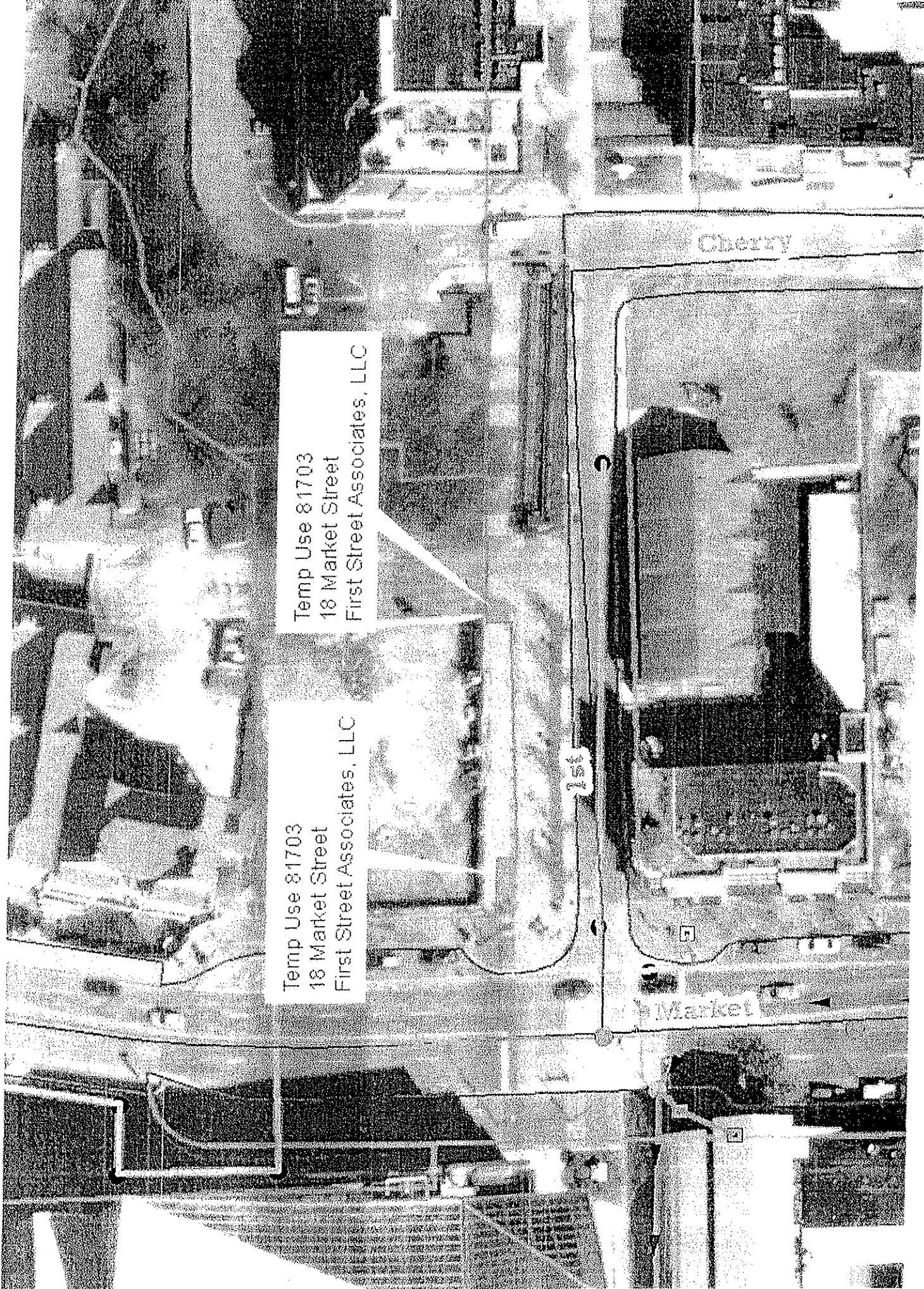
To: Bill Payne
From: Bill Cannon
cc: Dennis Malone
Date: January 12, 2012
Re: Temporary Usage Request #81703
First Street Associates, LLC
18 Market Street
Recommendations Regarding Temporary Usage Request

I have completed my review of First Street Associates request regarding the Temporary Usage of the right of way at 18 Market Street for the installation of landscape along portions of said right-of-way. Please refer to the attached map. My comments are as follows:

- As per submitted design drawings the proposed landscape areas are approximately 196 SF and 91 SF and will not be a line of sight issue provided it is installed as per design drawings.

After review, granting this Temporary Usage does not conflict with the Public's interest. Therefore, I recommend that the request for ***Temporary Usage be granted subject to the following condition.***

- ***The applicant must agree to ongoing maintenance of the proposed landscape areas.***



Temp Use 81703
18 Market Street
First Street Associates, LLC

Temp Use 81703
18 Market Street
First Street Associates, LLC

Cherry

Market

151

December 9, 2011 (Date)

William C. Payne, P. E.
City Engineer
Development Resource Center
1250 Market Street, Suite 2100
Chattanooga, Tennessee 37402

W/O# 81703

For Office Use Only

Technician Signature

Date

RECEIVED

JAN 10

WATER



RECEIVED
1-5-2012
C.E.P.

Re: Request for Temporary Usage

Dear Mr. Payne:

This is a request for a temporary usage of two corner ROW areas of East 1st Street ROW, at at 18 Market Street, being 110 sf near the corner of Market & First, and 33 sf at First & existing drive.

The reason for this request is as follows:
To provide extension of landscaping along right-of-way of First Street in order to compliment entrance of art district, and to provide continuity of landscape design.

CLOSED
Service Request
S.R.# 573304

In making this request: Temporary User agrees as follows:

1. Temporary User will defend, indemnify, and hold harmless the City of Chattanooga, Tennessee its officers, agents, and employees from any and all claims for damages for injuries to persons or property related to or arising out of the aforementioned temporary use.
2. Temporary User will vacate the property and temporary use upon reasonable notice from the City to do so; the parties have to agree that reasonable notice shall be deemed to be thirty (30) days to restore the property to substantially the same condition that existed prior to granting the temporary use, including complying with any environmental regulations upon the request of the city to vacate the property and temporary use.
3. Temporary User will provide full access for maintenance of any utilities located within the easement.
4. Temporary User will obtain any and all other permits, variances, or approvals necessary to accommodate the temporary use.
5. Temporary user agrees to maintain the property in the condition equal to or better than the condition at the time the temporary use is granted.
6. If this request is for maintaining wells the applicant will upon satisfactory completion of use as determined by the Tennessee Department of Environment and Conservation, the wells will be abandoned using standard and acceptable practices, which shall include grouting from the bottom to top with a mixture of Portland cement and powdered bentonite and restoring the surface to its original condition as reasonably as possible.

My address and phone number are as follows:
736 Georgia Avenue, Suite 505, Chattanooga, TN 37402 (423-756-1230)

(Non-Refundable Processing Fee \$110.00)

Passpointe Engineering/Jan Pass December 9, 2011

Print Applicant Name Date

First Street Associates, LLC December 9, 2011

Print Owner's Name Date

Richard Brundage
Owner's Signature (Required) *R. Brundage*

NOTE: This application will not be processed without the owner's signature and a site map/drawing of the location.