

RESOLUTION NO. 31978

A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO ENTER INTO A SUBLICENSE AGREEMENT WITH THE STADIUM CORPORATION, IN SUBSTANTIALLY THE FORM ATTACHED, FOR A TERM OF TEN (10) YEARS, AT NO COST TO USE AND MAINTAIN A PORTION OF THE PREMISES ADJACENT TO S.R. 58, FURTHER IDENTIFIED AS TAX MAP NUMBER 145K-B-001 AT 1931 REGGIE WHITE BOULEVARD, FOR FINLEY STADIUM VOLUNTEER AND EVENT STAFF PARKING WITH THE SUBLICENSE AGREEMENT TO BE SUBJECT TO ALL OF THE TERMS, CONDITIONS, AND OBLIGATIONS AS SET FORTH IN THE LICENSE AGREEMENT THE CITY HAS WITH THE STATE OF TENNESSEE FOR THE USE OF THE PARCEL.

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 Sublicense Agreement with the Stadium Corporation, in substantially the form attached, for a term of ten (10) years, at no cost to use and maintain a portion of the premises adjacent to S.R. 58, further identified as Tax Map Number 145K-B-001 at 1931 Reggie White Boulevard, for Finley Stadium volunteer and event staff parking with the Sublicense Agreement to be subject to all of the terms, conditions, and obligations as set forth in the License Agreement the City has with the State of Tennessee for the use of the parcel.

ADOPTED: February 20, 2024

/mem

SUBLICENSE AGREEMENT

THIS SUBLICENSE AGREEMENT (“Agreement”), dated as of this ____ day of _____, 2023, (the **“Effective Date”**), by and between the **CITY OF CHATTANOOGA, TENNESSEE**, a municipal corporation of the State of Tennessee, whose address is 100 E. 11th Street, Chattanooga, TN 37402 (the **“Sublicensor”**) and **THE STADIUM CORPORATION**, a Tennessee corporation whose address is 1826 Reggie White Boulevard, Chattanooga, TN 37408 (the **“Sublicensee”**). The Sublicensor and the Sublicensee are sometimes collectively referred to herein as the **“Parties”** and individually as a **“Party.”**

WHEREAS, the Sublicensor and the State of Tennessee, acting through its Commissioner of Transportation (the **“State”**), have entered into that certain License Agreement (the **“License Agreement”**), pursuant to which the State has granted unto the Sublicensor a License, for the purpose of allowing Sublicensor to use a portion of the area as described on **Exhibit A** attached hereto and incorporated herein by reference (the **“Licensed Premises”**) for volunteer and event staff parking adjacent to S.R. 58 (a/k/a 1931 Reggie White Boulevard) in Hamilton County, TN, and only for a public use purpose (the **“License”**), which License is effective from the date of the License Agreement and continues for a period of ten (10) years (collectively, the **“Term”**); and

WHEREAS, the Parties wish to enter into this Sublicense Agreement.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and subject to the terms, covenants, agreements, provisions, and limitations set forth in this Agreement, the Sublicensor and the Sublicensee agree as follows:

1. Capitalized terms used in this Agreement and not otherwise defined herein shall have the same meanings when used herein as in the License Agreement.

2. Subject to all of the terms, conditions and obligations set forth in the License Agreement, the Sublicensor does hereby grant unto the Sublicensee a nonexclusive sublicense of all of the Sublicensor’s rights and obligations under the License and under the License Agreement for the remainder of the Term for the purpose of using a portion of the Licensed Premises for volunteer and event staff parking adjacent to 1931 Reggie White Boulevard and free of charge to the public.

3. If the License Agreement is hereafter extended, renewed, or replaced upon the expiration of the Term, then, at the option of the Sublicensee exercised by written notice to the Sublicensor, the Parties agree that this Agreement shall be extended, renewed, or replaced on terms and conditions equivalent to those set forth in the extension, renewal, or replacement of the License Agreement.

4. The Sublicensee shall not have any right to otherwise assign, sublet, grant a further sublicense of the License or any part thereof unto a third party. If Sublicensee fails to use the Licensed Premises for a public use purpose, the State can cancel the Sublicensor's License Agreement. In the event Sublicensor's License Agreement is terminated, this Sublicense Agreement shall terminate as of the termination date set established by the State.

5. Beginning on the Effective Date, Sublicensee assumes full responsibility for all future payments due to the State under the License Agreement, if any, and, except as set forth below, for all responsibilities and indemnity obligations of Sublicensor under the License Agreement. Sublicensee agrees to indemnify, defend and hold harmless Sublicensor and Sublicensor's elected and appointed officials, officers, directors, employees, and affiliates (collectively the "**Sublicensor's Related Parties**") against any and all claims, including costs and expenses, of any kind or nature, including, without limitation, costs of investigation, attorneys' fees, paralegal fees, experts' fees, trial and review or appeal, including but not limited to claims for personal injury, death of persons and property damage, or other liability to the extent arising from Sublicensee's use of the Licensed Premises provided, however, that this indemnity shall not apply to the negligence or willful misconduct of the Sublicensor and/or the Sublicensor's Related Parties as determined by a court of competent jurisdiction. In no event shall the Sublicensor or the State be liable for any damages done or caused by the Sublicensee to the public, to the Sublicensor or any other person using the Licensed Premises under the License. The indemnity and hold harmless provisions provided for in this paragraph shall survive the expiration or termination of this Agreement.

6. Notwithstanding any other provisions in this Agreement to the contrary, neither Party nor any of its elected officials, directors, officers, employees, or lenders, shall be liable to the other Party for consequential, incidental, exemplary, punitive, anticipatory profits or indirect loss or damage of any nature, including, without limitation, loss of profit, loss of use, loss of operating time, loss of revenue, increased costs of producing revenues, cost of capital or loss of goodwill whether arising in tort, contract, warranty, strict liability, by operation of law or otherwise, even if by such Party's, its representatives', agents', contractors', subcontractors', invitees' or licensees' negligence or fault, in connection with this Agreement, except to the extent claimed by third parties. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability, sole remedy provisions and limitations on liability expressed in this Agreement shall survive termination or expiration of this Agreement and shall extend to the parent, affiliates, and subsidiaries of each Party and their respective, partners, directors, officers, and employees and elected officials.

7. **INSURANCE.** Sublicensee shall purchase and maintain during the life of this Agreement, insurance coverage which will satisfactorily insure Sublicensee against claims and liabilities which arise because of the execution of this Agreement, with the minimum insurance coverage as follows:

- a) **Commercial General Liability Insurance**, with a limit of \$1,000,000 for each occurrence and \$2,000,000 in the general aggregate.
- b) **Automobile Liability Insurance**, with a limit of \$1,000,000 for each accident, combined single limit for bodily injury and property damage.
- c) **Worker's Compensation Insurance and Employer's Liability Insurance**, in accordance with statutory requirements, with a limit of \$500,000 for each accident.

Sublicensee shall not commence work on the goods/non-professional services until a Certificate of Insurance has been submitted to the City showing proof that Contractor has obtained the necessary insurance coverage.

If any of the above cited policies expire during the life of this Agreement, it is the Sublicensee's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates must specifically cite the following provisions:

- i. City of Chattanooga and the State of Tennessee, their agents, representatives, officers, directors, officials, and employees must be named Additional Insureds under the following policies:
 - a) Commercial General Liability
 - b) Auto Liability
- ii. Sublicensee's insurance must be primary insurance as respects performance of subject contract.
- iii. All policies, except Professional Liability Insurance, if applicable, waives rights of recovery (subrogation) against City of Chattanooga, its agents, representatives, officers, directors, officials, and employees for any claims arising out of work or services performed by Sublicensee under this Agreement.

8. Sublicensee is responsible for obtaining and paying the costs of all permits, licenses, or other approvals by any regulatory body having jurisdiction over the uses authorized herein.

9. The Sublicensor may terminate this License at will with thirty (30) days' written notice to Sublicensee or as set forth in Section 4. above.

10. The Sublicensor and the Sublicensee shall be entitled to exercise any remedy available at law or in equity, including without limitation, a suit for specific performance of any obligations set forth in this Agreement or any appropriate injunctive or other equitable relief, or for damages resulting from a default or breach.

11. The Sublicensee assumes all risks of its use of the Licensed Premises under this Agreement, which use is at Sublicensee's sole risk. Any loss or damage to Licensed Premises or bodily injury or death of Sublicensee's personnel while on the Licensed Premises, regardless of the cause of the same, is not Sublicensor's responsibility and, as a condition of this Agreement, Sublicensee promises, covenants and agrees to release Sublicensor from any such Sublicensee claims and indemnify Sublicensor, to the extent provided and allowed by law, against any claims

by Sublicensee's employees against Sublicensor by reason of bodily injury, death or property damage suffered by such Sublicensee employees, including reasonable attorney's fees, fines and penalties. The Parties hereto further acknowledge and agree that this hold harmless, indemnification and release is further consideration for Sublicensee's use of the Licensed Premises under this Agreement and shall survive the expiration or termination of this Agreement.

12. Sublicensee agrees to deliver to the Sublicensor a fully executed counterpart of this Agreement within three (3) business days following the Effective Date.

13. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

14. No waiver by any Party of any provision of this Agreement shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by the other Party of the same or any other provision.

15. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

16. This Agreement shall bind the Parties, and their respective successors and permitted assigns.

17. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one instrument.

18. In the event the Sublicensee or the Sublicensor defaults in the performance of any of the terms, covenants, conditions, agreements, or provisions contained in this Agreement and the Sublicensor or the Sublicensee employs attorneys and brings suit in connection with the enforcement of this Agreement or any provision hereof or the exercise of any of its remedies hereunder, then the prevailing Party in any suit so instituted shall be promptly reimbursed by the other Party for all reasonable attorneys' fees so incurred.

19. Every notice, approval, consent or other communication required or permitted under this Agreement shall be in writing, shall be deemed to have been duly given on the date of receipt, and shall be deemed delivered if either served personally on the Party to whom notice is to be given, or mailed to the Party to whom notice is to be given, by overnight courier or by first class registered or certified mail (return receipt requested), postage prepaid, and addressed to the addressee at the address stated opposite its name below, or at the most recent address specified by written notice given to the other Party in the manner provided in this paragraph.

To the Sublicensor: City of Chattanooga
101 E. 11th Street, Suite G-18
Chattanooga, TN 37402
Attention: Real Property Manager

With a copy to: Office of the City Attorney
100 E. 11th Street, Suite 200
Chattanooga, TN 37402

To the Sublicensee: The Stadium Corporation
1826 Reggie White Boulevard
Chattanooga, TN 37408

With a copy to: Chambliss, Bahner & Stophel, P.C.
605 Chestnut Street, Suite 1700
Chattanooga, TN 37450
Attn: Kurt Faires, Esq.

20. This Agreement contains the entire agreement between the Parties hereto as to the subject matter hereof and supersedes all previous negotiations leading hereto, and it may be modified only by an agreement in writing executed and delivered by the Sublicensor and the Sublicensee. Any formally executed addendum to or modification of this Agreement shall be expressly deemed incorporated by reference herein unless a contrary intention is clearly stated therein.

21. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee (without giving effect to conflict of law principles) as to all matters, including but not limited to matters of validity, construction, effect, performance, and remedies. THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF THE SUBLICENSOR AND THE SUBLICENSEE, THE SUBLICENSEE'S USE OR OCCUPANCY OF THE LICENSED PREMISES, OR ANY CLAIM FOR INJURY OR DAMAGE, SHALL BE IN THE COURTS OF THE STATE OF TENNESSEE IN HAMILTON COUNTY, TENNESSEE, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT.

22. THE PARTIES HERETO SHALL, AND THEY HEREBY DO, IRREVOCABLY WAIVE TRIAL BY JURY IN ANY AND EVERY ACTION OR PROCEEDING BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTERS WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT, THE RELATIONSHIP OF THE SUBLICENSOR AND THE SUBLICENSEE, THE SUBLICENSEE'S USE OR OCCUPANCY OF THE LICENSED PREMISES, AND ANY CLAIM FOR INJURY OR DAMAGE.

23. In consideration of the grant to the Sublicensee of the rights under this Agreement, Sublicensee expressly waives and relinquishes the power of eminent domain or condemnation of the property as to which License applies for the use for which the License is granted. This clause shall survive termination or expiration of the License for so long as Sublicensee has the rights under this Agreement.

[signatures on following page]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the date first set forth above.

Sublicensor:

Sublicensee:

CITY OF CHATTANOOGA,
TENNESSEE

THE STADIUM CORPORATION

By: _____
RICHARD J. BEELAND
Administrator of Economic Development

By: _____
MICHAEL M. DAVIS
Chairman of the Board

EXHIBIT "A"
Description of Licensed Premises

AREA TO BE LICENSED
2.165 ACRES±

City of Chattanooga - License Agreement - I-124

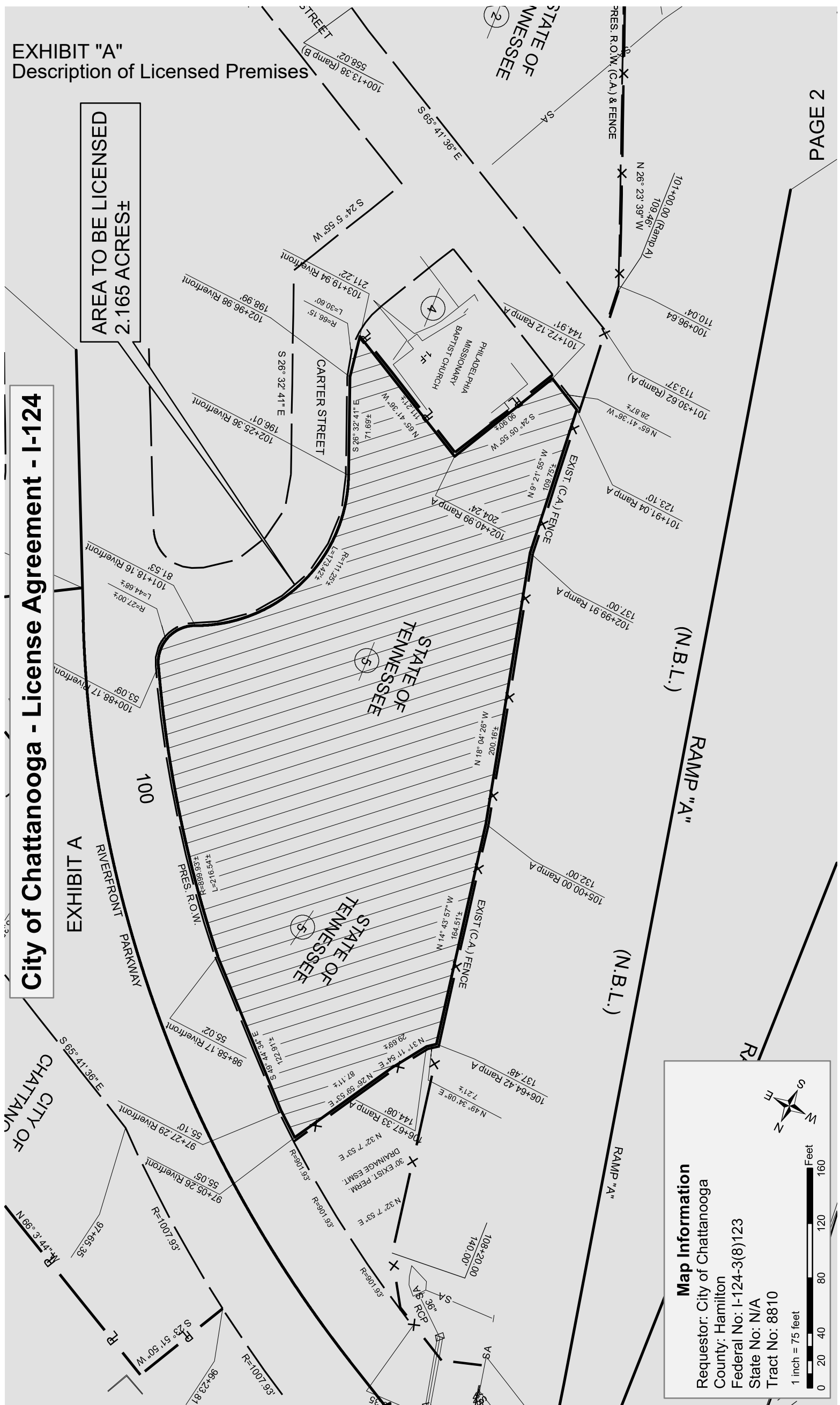


EXHIBIT A

100

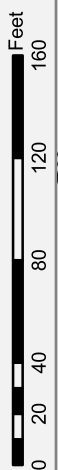
(N.B.L.)
RAMP "A"

(N.B.L.)
RAMP "A"

Map Information

Requestor: City of Chattanooga
County: Hamilton
Federal No: I-124-3(8)123
State No: N/A
Tract No: 8810

1 inch = 75 feet



City of Chattanooga License Agreement I-124

Map Information

Requestor: City of Chattanooga
 County: Hamilton
 Federal No: I-124-3(8)123
 State No: N/A
 Tract No: 8810

1 inch = 103 feet

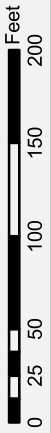
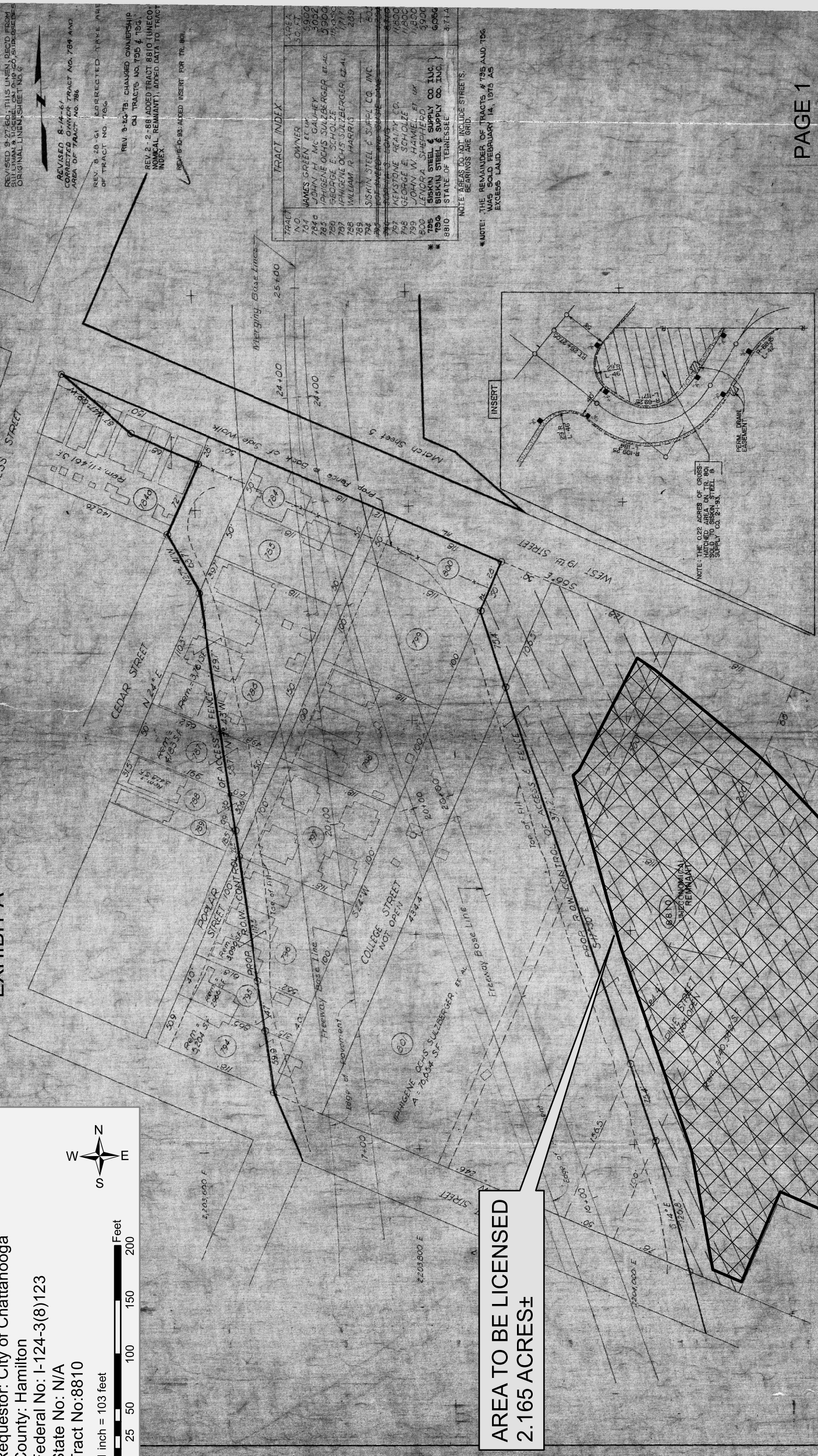


EXHIBIT A



**AREA TO BE LICENSED
 2.165 ACRES±**

FED. ROAD DIST. NO.	T	FISCAL YEAR	FISCAL SHEET NO.	TOTAL SHEETS
7-124-3(8)123	N	1922	6	6

REVISED 10-30-57
 REVISED 7-10-60
 REVISED 9-27-60: THIS LINEN, DEC'D FROM SULLIVAN & TIGHE L.C. 19-60, SUB-DIVISION ORIGINAL LINEN SHEET NO. 6

REVISED 8-14-67
 CORRECTED OWNER TRACT NO. 784 AND AREA OF TRACT NO. 786

REV. 8-26-51 CORRECTED TAKE AREA OF TRACT NO. 786

REV. 9-23-73, CHANGED OWNERSHIP ON TRACTS NO. 785 & 786.

REV. 2-2-88 ADDED TRACT 8810 (UNCONOMICAL REMAINT), ADDED DATA TO TRACT INDEX

REV. 6-10-88: ADDED INSERT FOR TR. 801.

TRACT NO.	OWNER
784	JAMES GRIFFIN, INC.
785	JOHN H. Mc CAULLEY
786	PHIGENE OCHS SULZBERGER ET AL.
787	GEOERGE E. SCHOLLE
788	PHIGENE OCHS SULZBERGER ET AL.
789	WILLIAM R. HARRIS
794	SISKIN STEEL & SUPPLY CO. INC.
795	SISKIN STEEL & SUPPLY CO. INC.
796	SISKIN STEEL & SUPPLY CO. INC.
797	KEystone HEALTH CO.
798	GEORGE E. SCHOLLE
799	JOHN W. HAMEL ET AL.
800	LENDRA SHEPHERD
806	SISKIN STEEL & SUPPLY CO. INC.
807	SISKIN STEEL & SUPPLY CO. INC.
810	STATE OF TENNESSEE

NOTE: THE REMAINDER OF TRACTS # 795 AND 796 WAS SOLD FEBRUARY 14, 1973 AS EXCESS LAND.

NOTE: AREAS TO NOT INCLUDE STREETS, BEARINGS ARE GRID.

NOTE: THE 0.27 ACRES OF ODDS AND ENDS SOLD TO SISKIN STEEL CO. PERM. DRAINAGE EMBANKMENT