

January 03, 2025

To: Ronald Colter Metro Department of Finance

Re: Habitat for Humanity – 3028 Gwynwood Drive

Planning Commission Mandatory Referral 2024M-054AG-001 Council District # 02 Kyonzté Toombs, Council Member

On behalf of the Metropolitan Planning Commission, the following item, referred to the Commission as required by the Metro Charter, has been recommended for *approval* to the Metropolitan Council:

An ordinance approving a greenway conservation easement between the Metropolitan Government of Nashville and Davidson County, through the Metropolitan Board of Parks and Recreation, and Habitat for Humanity of Greater Nashville, Inc. for greenway improvements at 3028 Gwynwood Drive (Parcel No. 059080A90700CO) (Proposal No. 2024M-054AG-001).

The relevant Metro agencies (Metro Parks, Nashville Department of Transportation, Metro Water Services, Metro Emergency Communications, the Nashville Electric Service, Metro Finance – Public Property and the Metro Historical Commission) have reviewed the proposal and concur in the recommendation for approval. This request must be approved by the Metro Council to become effective. A sketch showing the location of the request is attached to this letter.

Conditions that apply to this approval: none

This recommendation for approval is given as set forth in the Metropolitan Planning Commission Rules and Procedures. If you have any questions about this matter, please contact Delilah Rhodes at Delilah.Rhodes@nashville.gov or 615-862-7208

Sincerely,

Lisa Milligan

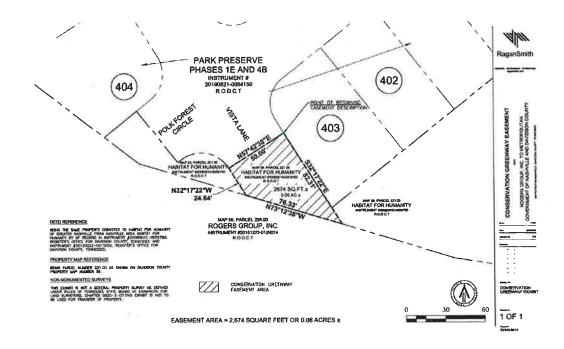
Assistant Director Land Development

Metro Planning Department

cc: Metro Clerk

Re: Habitat for Humanity – 3028 Gwynwood Drive Planning Commission Mandatory Referral 2024M-054AG-001 Council District # 02 Kyonzté Toombs, Council Member

An ordinance approving a greenway conservation easement between the Metropolitan Government of Nashville and Davidson County, through the Metropolitan Board of Parks and Recreation, and Habitat for Humanity of Greater Nashville, Inc. for greenway improvements at 3028 Gwynwood Drive (Parcel No. 059080A90700CO) (Proposal No. 2024M-054AG-001).



AGREEMENT FOR GRANT OF EASEMENT

for

CONSERVATION GREENWAY

THIS AGREEMENT, made and entered into this the day of July, 2023, by and between The Metropolitan Government of Nashville and Davidson County, acting by and through its Board of Parks and Recreation (herein referred to as "Metro"), and HABITAT FOR HUMANITY OF GREATER NASHVILLE, INC., a Tennessee not-for-profit corporation, the property owner (herein referred to as the "Grantor").

WHEREAS, Metro recognizes the increasing benefit of protecting open spaces within the Metropolitan Government area; and

WHEREAS, greenways provide the general public with recreational opportunities in natural areas, preserve, and protect native plant and animal species and their habitat, and provide low-impact transportation routes for pedestrian and bicycle traffic; and

WHEREAS, Metro, by Ordinance No. 091-13, created a Greenways Commission to assist Metro in the development of a system of open space greenways; and

WHEREAS, Grantor is the sole owner in fee simple of certain real property in Davidson County, Tennessee, of record in Instrument Number 20080610-0059763, in the Register's Office of Davidson County, Tennessee (herein referred to as the "Property"); and

WHEREAS, Grantor desires to grant and convey to Metro, its successors and assigns, a Conservation Greenway Easement, as defined below, over a portion of the Property, which shall be the Conservation Greenway Easement Area, as defined below, for the purposes of being preserved and made more accessible for public enjoyment; and

WHEREAS, the Conservation Greenway Easement Area, as defined below, possesses natural, open space, and recreational values (collectively, "conservation values") of great importance to Grantor and the people of Nashville and Davidson County; and

WHEREAS, Grantor further intends, as owner of said Conservation Greenway Easement Area, as defined below to convey to Metro the right to preserve and protect the conservation values of the Conservation Greenway Easement Area in perpetuity; and

WHEREAS, Metro has the authority to accept this grant pursuant to Tennessee Code Annotated, Section 66-9-305(d), and Section 11.1002 of the Metropolitan Charter; and

WHEREAS, Metro agrees by accepting this grant to honor the intentions of Grantor stated herein, and to preserve and protect, in perpetuity, the conservation values of the Conservation Greenway Easement Area, as defined below, for the benefit of the people of Tennessee and the public-at-large.

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, Grantor hereby voluntarily grants and conveys to Metro, its successors and assigns, an easement in perpetuity over a portion of the Property (herein referred to as the "Conservation Greenway Easement") for the purposes of being preserved and made more accessible for public enjoyment by the anticipated incorporation and maintenance of said Conservation Greenway Easement as part of the Metro greenways system, which shall be located as more particularly described and shown on **Exhibit A** and **Exhibit B** attached hereto and incorporated by this reference (the herein referred to as the "Conservation Greenway Easement Area").

1. <u>Purpose</u>. It is the purpose of this grant to allow Metro to utilize the Conservation Greenway Easement Area for one or more of the following: a pathway for pedestrian or bicycle travel, nature trail, and/or natural area. Metro, at its discretion, shall design, construct, and maintain any pathway or physical

structure in a manner that best preserves the open and natural condition of the Conservation Greenway Easement Area. Grantor intends that the use of the Conservation Greenway Easement Area will be confined to such activities as are consistent with the purpose of the Conservation Greenway Easement.

- 2. <u>Rights of Metro</u>. To accomplish the purpose of the Conservation Greenway Easement, the following rights are conveyed to Metro by this grant:
- a. To preserve and protect the conservation values of the Conservation Greenway Easement Area; and
- b. To construct and maintain a pathway to be located on the Conservation Greenway Easement, including, at the discretion of Metro, necessary trailheads, signage, benches, and other improvements consistent with the recreational and educational uses of the pathway and other conservation values; and
- c. To prevent any activity on or use of the Conservation Greenway Easement Area that is inconsistent with the purpose of the Conservation Greenway Easement and to require the restoration of such areas or features of the Conservation Greenway Easement Area that may be damaged by any inconsistent activity or use.
- 3. Metro Covenants. Metro, by accepting this grant, covenants and agrees, on behalf of itself, its successors and assigns, that the following shall constitute real covenants that shall attach to and run with the Conservation Greenway Easement hereby granted and shall be binding upon anyone who may hereafter come into ownership of such Conservation Greenway Easement, whether by purchase, devise, descent, or succession, or to be authorized to use said Conservation Greenway Easement Area:
 - a. It will make the Conservation Greenway Easement area available for use by all members of the general public without distinction or illegal discrimination on the grounds of race, color, national origin, handicap, or age.

- b. It will adopt rules and regulations governing the use of the Conservation Greenway Easement area so as not to permit or suffer any use of the Conservation Greenway Easement by Grantor or others in violation of such rules and regulations. At a minimum, the rules and regulations will provide as follows:
 - That the hours of public access of the Conservation Greenway Easement shall be from sunrise to sunset.
 - That all persons utilizing the Conservation Greenway Easement area must remain on the pathway.
 - iii. That all pets of persons utilizing the pathway must be on a leash at all times.
 - iv. That the following activities shall be strictly prohibited:
 - consumption or possession of alcoholic beverages;
 - 2. horseback riding;
 - unauthorized motor vehicles; ebikes are permitted as defined under applicable state law;
 - 4. collecting or distributing plants, animals or other natural features;
 - 5. littering or dumping;
 - 6. hunting;
 - playing of radios, musical instruments or other devices in a manner that might disturb others;
 - 8. vending or other concessions without proper permits;
 - 9. advertising or posting of bills;
 - trespassing on adjacent property of Grantor;
 - 11. any unlawful activities.
- 4. Other Prohibited Uses. Any activity on or use of the Conservation Greenway Easement Area inconsistent with the purpose of the Conservation

Greenway Easement is prohibited. The aforementioned express prohibitions shall not limit the generality of this paragraph.

- 5. Reserved Rights. Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of the Conservation Greenway Easement. Further, Grantor reserves the right to maintain the Conservation Greenway Easement Area consistent with the purposes herein set forth and will maintain it in accordance with all local laws until improvements are made by Metro.
- Metro's Remedies. If Metro determines that Grantor is in violation of 6. the terms of this Agreement or that a violation is threatened, Metro shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Conservation Greenway Easement Area resulting from any use or activity inconsistent with the purpose of the Conservation Greenway Easement, to restore the portion of the Conservation Greenway Easement Area so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Metro or, under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to continue diligently to cure such violation until finally cured, Metro may bring an action in a court of competent jurisdiction to enforce the terms of this Agreement to enjoin the violation by temporary or permanent injunction, and to recover any damages to which it may be entitled for violation of the terms of this Agreement or for injury to any conservation values protected by the Conservation Greenway Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Conservation Greenway Easement Area to the condition that existed prior to any such injury. If Metro, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation

values of the Conservation Greenway Easement Area, Metro may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the expiration of the period provided for cure. Metro's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Agreement. Metro's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

- 7. Metro's Discretion. Enforcement of the terms of this Agreement shall be at the discretion of Metro, and any forbearance by Metro to exercise its rights under this Agreement in the event of any breach of any terms of this Agreement by Grantor shall not be deemed or construed to be a waiver by Metro of such term, or of any subsequent breach of the same, or any other term of this Agreement, or of any of Metro's rights under this Agreement. No delay or omission by Metro in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.
- 8. <u>Waiver of Certain Defenses</u>. Grantor hereby waives any defense of laches, estoppel, or prescription.
- 9. Acts Beyond Grantor's Control. Nothing contained in this Agreement shall be construed to entitle Metro to bring any action against Grantor for any injury to or change in the Conservation Greenway Easement Area resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Conservation Greenway Easement Area resulting from such causes.
- 10. <u>Amendment</u>. If circumstances arise under which an amendment to or modification of this Agreement is appropriate, the Grantor, or the then current owner of the Conservation Greenway Easement Area, and Metro are free to jointly amend this Agreement without prior notice to any other party; provided that any amendment shall be in writing; shall be consistent with the purpose of the

Conservation Greenway Easement; shall not affect its perpetual duration; and shall have the unanimous consent of the Metro Greenways Commission.

- 11. <u>Extinguishment</u>. If circumstances arise in the future that render the purpose of the Conservation Greenway Easement impossible to accomplish, the Conservation Greenway Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction.
- 12. Assignment. The Conservation Greenway Easement is transferable, but Metro may assign its rights and obligations under this Agreement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1954, as amended, and the applicable regulations promulgated thereunder and authorized to acquire and hold conservation easements. As a condition of such transfer, Metro shall require that the conservation purposes which this grant is intended to advance continue to be carried out.
- 13. <u>Subsequent Transfers</u>. Grantor agrees to incorporate the terms of this Agreement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Conservation Greenway Easement Area, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Metro of the transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of the Conservation Greenway Easement or limit its enforceability in any way.

14. General Provisions.

- a. <u>Controlling Law</u>. The interpretation and performance of this Agreement shall be governed by the laws of the State of Tennessee.
- b. <u>Liberal Construction</u>. Any general rule of construction to the contrary notwithstanding, this Agreement shall be liberally construed in favor of the grant to effect the purpose of the Conservation Greenway Easement and the policy and purpose of Tenn. Code Ann. §§ 66-9-301 to 309. If any provision in this

instrument is found to be ambiguous, an interpretation consistent with the purpose of the Conservation Greenway Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

- c. <u>Severability</u>. If any provision of this Agreement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.
- d. <u>Entire Agreement</u>. This instrument sets forth the entire agreement of the parties with respect to the Conservation Greenway Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Greenway Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with paragraph ten (10).
- e. <u>Successors</u>. The covenants, terms, conditions, and restrictions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.

TO HAVE AND TO HOLD said Conservation Greenway Easement unto Metro, its successors, and assigns, forever.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, we have caused this instrument to be executed as of this day of July, 2023. **GRANTOR:** ACCEPTED: THE METROPOLITAN GOVERNMENT OF HABITAT FOR HUMANITY OF NASHVILLE AND DAVIDSON COUNTY **GREATER NASHVILLE, INC.,** DIRECTOR, RARKS AND RECREATION STATE OF TENNESSEE } COUNTY OF Davidson Before me, a Notary Public of said County and State, personally appeared Cristing Oakeley, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be a Board Chair of Habitat for Humanity of Greater Nashville, Inc., a Tennessee not-for-profit corporation (the "Company"), the within named bargainor, and that she, as a Board Chair of the Company executed the foregoing instrument for the purposes therein contained. Witness my hand, at Office, this and day of September, 2023. MY COMMISSION EXPIRES: 7-6-2026

[Notary Page to Follow]

	STATE OF TENNESSEE }
	COUNTY OF Daidson }
M	Before me, a Notary Public of said County and State, personally appeared with Holon Coom, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Director of Parks and Recreation for The Metropolitan Government of Nashville and Davidson County ("Metro"), the within named bargainor, and that he, as the Director of Parks and Recreation Metro executed the foregoing
	instrument for the purposes therein contained.
	Witness my hand, at Office, this day of Month 2022
	NOTARY PUBLIC Warris
	MY COMMISSION EXPIRES: 70000
	STATE OF TENNESSEE NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION OF CONSERVATION GREENWAY EASEMENT [SEE ATTACHED]



99149-8814

CONSERVATION GREENWAY EASEMENT: HABITAT FOR HUMANITY-VISTA LANE

BEING GENERALLY A PROPOSED 50 FOOT WIDE CONSERVATION GREENWAY EASEMENT RUNNING OVER AND ACROSS THE HABITAT FOR HUMANITY OF GREATER NASHVILLE, INC. PROPERTY OF RECORD IN INSTRUMENT #20080610-0059763 AND INSTRUMENT #20120222-0015552, REGISTER'S OFFICE FOR DAVIDSON COUNTY, TENNESSEE (R.O.D.C.T.), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERN TERMINUS OF VISTA LANE, SAID POINT ALSO LIES IN THE WESTERLY LINE OF LOT 403 AS SHOWN ON THE FINAL PLAT ENTITLED "PARK PRESERVE-PHASES 1E AND 4B" OF RECORD IN INSTRUMENT #20190821-0084150, R.O.D.C.T., AND THE NORTHEAST CORNER OF THE HEREIN DESCRIBED PROPOSED EASEMENT AND PROCEEDING AS FOLLOWS:

THENCE, WITH A LINE WITH THE WESTERLY LINE OF SAID LOT 403 AND CROSSING SAID HABITAT FOR HUMANITY OF GREATER NASHVILLE, INC. PROPERTY, SOUTH 32 DEGREES 17 MINUTES 22 SECONDS EAST, 82.31 FEET TO A POINT IN THE NORTHERLY LINE OF THE ROGERS GROUP, INC. PROPERTY OF RECORD IN INSTRUMENT #20151223-0129074, R.O.D.C.T.;

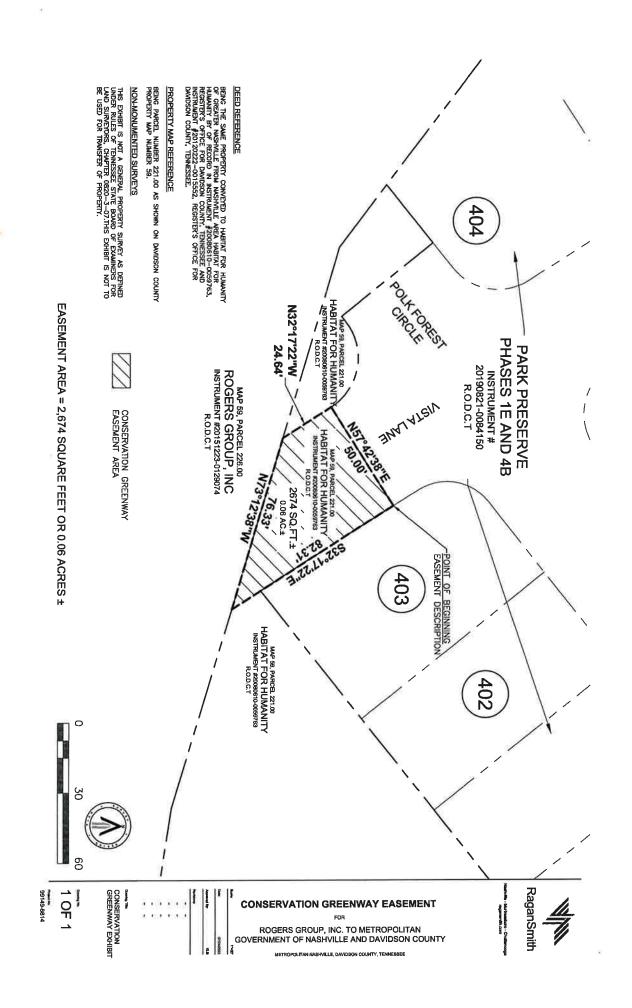
THENCE, WITH THE NORTHERLY LINE OF SAID ROGERS GROUP, INC. PROPERTY, NORTH 73 DEGREES 12 MINUTES 38 SECONDS WEST, 76.33 FEET TO A POINT;

THENCE, LEAVING SAID ROGERS GROUP, INC. PROPERTY AND AGAIN CROSSING SAID HABITAT FOR HUMANITY OF GREATER NASHVILLE, INC. PROPERTY, NORTH 32 DEGREES 17 MINUTES 22 SECONDS WEST, 24.64 FEET TO THE SAID SOUTHERN TERMINUS OF VISTA LANE;

THENCE, WITH VISTA LANE, NORTH 57 DEGRESS 42 MINUTES 38 SECONDS EAST, 50.00 FEET TO THE **POINT OF BEGINNING** AND HAVING AN AREA OF 2,674 SQUARE FEET OR 0.06 ACRES, MORE OR LESS.

EXHIBIT B

DEPICTION OF CONSERVATION GREENWAY EASEMENT AREA [SEE ATTACHED]



OCTOBER 2023 BOARD MINUTES Page 2 of 14

VII. OLD BUSINESS (cont'd)

09-23-10

BOARD APPROVES REQUEST OF THE CENTENNIAL PARK REVITALIZATION DESIGN TEAM FOR APPROVAL OF THE BRANDING FOR THE CROQUET CAFÉ IN CENTENNIAL PARK.

As per recommendation of the Naming Committee, upon motion of Mr. DeLay, seconded by Dr. Steele and discussion, the Centennial Park Revitalization design team, which includes Centennial Park Conservancy, Dryden Architecture + Design and the Metro Parks Special Projects division request for approval of the branding for the upcoming Croquet Café in Centennial Park, was approved.

09-23-11

REQUEST OF THE JOE C. DAVIS FOUNDATION AND THE FRIENDS OF MILL RIDGE PARK TO OFFICALLY NAME ONE PRIMITIVE TRAIL AT MILL RIDGE PARK, THE "GODDARD TRAIL". -WITHDRAWN

The request was withdrawn.

09-23-12

BOARD ACCEPTS DONATION OF A 0.06 ACRE CONSERVATION GREENWAY EASEMENT FROM THE HABITAT FOR HUMANITY OF GREATER NASHVILLE, INC.

Upon motion of Mr. DeLay, seconded by Dr. Steele and discussion, the donation of a 0.06-acre Conservation Greenway Easement located on Parcel 05900022100, at 3028 Gwynnwood Drive, form Habitat for Humanity of Greater Nashville, Inc., was accepted.

09-23-13

BOARD ACCEPTS DONATION OF TWO CONSERVATION GREENWAY EASEMENTS FROM THE ROGERS GROUP INC.

Upon motion of Ms. Scott-Barnes, seconded by Ms. Buggs and discussion, the donation of two Conservation Greenway Easements located on 0 Gwynnwood Drive, Parcel ID 05900022600, from Rogers Group Inc., was accepted. Totaling 1.58 acres.



Sent: 2/3/2025 9:12:20 AM

Sent: 2/4/2025 8:03:35 AM

Certificate Of Completion

Envelope Id: EEB2F5BE-C279-4D5C-8039-CC786DF26E62 Status: Completed

Subject: Complete with Docusign: Legislative Tracking Form - Habitat of Humanity Greenway Easement (N065...

Source Envelope:

Document Pages: 20 Signatures: 4 Envelope Originator:
Certificate Pages: 15 Initials: 0 Ronald Colter

AutoNav: Enabled 730 2nd Ave. South 1st Floor

Envelopeld Stamping: Enabled

Nashville, TN 37219

Time Zone: (UTC-06:00) Central Time (US & Canada)

Ronald.colter@nashville.gov

IP Address: 170.190.198.185

Record Tracking

Monique Odom

(None)

Status: Original Holder: Ronald Colter Location: DocuSign

2/3/2025 8:55:17 AM Ronald.colter@nashville.gov

Security Appliance Status: Connected Pool: StateLocal

Storage Appliance Status: Connected Pool: Metropolitan Government of Nashville and Location: DocuSign

Davidson County

Signer Events Signature Timestamp

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.185

Electronic Record and Signature Disclosure:

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Monique Horton Odom Signed: 2/4/2025 8:03:33 AM Security Level: Email, Account Authentication

(None) Signature Adoption: Pre-selected Style
Using IP Address: 170.190.198.68

Electronic Record and Signature Disclosure:

Accepted: 2/4/2025 8:03:19 AM

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Jenneen Reed/mjw

Security Level: Email, Account Authentication Signed: 2/4/2025 11:09:38 AM (None)

Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.100

Electronic Record and Signature Disclosure:

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 Macy Amos
 Sent: 2/4/2025 11:09:40 AM

 macy.amos@nashville.gov
 Macy lmbs
 Viewed: 2/4/2025 12:15:53 PM

Security Level: Email, Account Authentication Signed: 2/4/2025 12:16:58 PM

Signature Adoption: Pre-selected Style
Using IP Address: 170.190.198.68

Electronic Record and Signature Disclosure:

Electronic Record and Signature Disclosure				
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Envelope Summary Events	Status	Timestamps		
Notary Events	Signature	Timestamp		
Witness Events	Signature	Timestamp		
Carbon Copy Events	Status	Timestamp		
Certified Delivery Events	Status	Timestamp		
Intermediary Delivery Events	Status	Timestamp		
Agent Delivery Events	Status	Timestamp		
Editor Delivery Events	Status	Timestamp		
In Person Signer Events	Signature	Timestamp		
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Timestamp

Signature

Signer Events