

ORDINANCE NO. BL2020 - 156

An ordinance authorizing 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC to install, construct and maintain underground encroachments in the right-of-way located at 710 Demonbreun (Proposal No. 2020M-006EN-001).

WHEREAS, 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC plans to install, construct and maintain underground encroachments in the right-of-way of 710 Demonbreun, under proposal No. 2020M-006EN-001; and,

WHEREAS, said underground encroachments are comprised of a ventilation shaft and a landscape planter wall, encroaching the public right-of-way on property located on 710 Demonbreun; and,

WHEREAS, 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC has agreed to indemnify and hold The Metropolitan Government of Nashville and Davidson County harmless of any and all claims for damages of every nature and kind resulting from or arising from the installation of said encroachments under proposal No. 2020M-006EN-001.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That subject to the requirements, limitations and conditions contained herein and in the attached License Agreement, 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC is hereby granted the privilege to construct and maintain said encroachments under proposal No. 2020M-006EN-001, in accordance with the plans which are on file in the office of the Director of Public Works, and which are more particularly described by lines, words and figures on the attached sketches which are attached to and made a part of this Ordinance.

Section 2. That the authority granted hereby for the construction, installation, operation, and maintenance of said encroachments under proposal No. 2020M-006EN-001 shall not be construed as a surrender by the Metropolitan Government of its rights or power to pass resolutions or ordinances regulating the use of its streets, or the right of the Metropolitan Government through its legislative body, in the interest of public necessity and convenience to order the relocation of said facilities at the expense 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC.

Section 3. That plans and specifications for said encroachments under proposal No. 2020M-006EN-001 shall be submitted to the Director of Public Works of The Metropolitan Government of Nashville and Davidson County for approval before any work is begun; and all work, material, and other details of said installation shall be approved by the Director of Public Works prior to its use by 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC.

Section 4. That construction and maintenance of said encroachments under proposal No. 2020M-006EN-001 shall be under the direction and supervision and control of the Director of Public Works, and their installation, when complete, must be approved by said Director.

Section 5. That this Ordinance confers upon 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC a privilege and not a franchise, and the Mayor and the Metropolitan Council herein expressly reserve the right to repeal this ordinance, whenever, in their judgment, a repeal may be demanded by public welfare, and such repeal shall confer no liability on The Metropolitan Government of Nashville and Davidson County, its successors and assigns, by reason of said repeal. In the event of such repeal by Metropolitan Government, 7<sup>th</sup> Avenue Nashville Hotel Owner, its successors and assigns, shall remove said encroachments at their own expense.

Section 6. 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC, its successors and assigns, shall pay all costs incident to the construction, installation, operation and maintenance of said encroachments under proposal No. 2020M-006EN-001 and shall save and hold The Metropolitan Government of Nashville and Davidson County harmless from all suits, costs, claims, damages or judgments in any way connected with the construction, installation, operation and maintenance of said encroachments and shall not claim, set up or plead, as a defense, in the event of joint liability, with or without suit, that it and the Metropolitan Government were joint wrongdoers. 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC, its successors and assigns, shall be responsible for the expense, if any, of repairing and returning the right-of-way to the condition which it was in prior to the installation of said encroachments and for any street closure.

Section 7. That the authority granted to 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC as herein described, shall not in any way interfere with the rights of the Metropolitan Government, its agents, servants, and/or contractors and utility companies, operating under franchise from the Metropolitan Government to enter, construct, operate, maintain, repair, rebuild, enlarge, and patrol its now existing or future utilities, including drainage facilities, together with their appurtenances, and to do any and all things necessary and incidental thereto.

Section 8. 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC shall and is hereby required to furnish The Metropolitan Government of Nashville and Davidson County a certificate of public liability insurance, naming The Metropolitan Government as an insured party, of at least four million (\$4,000,000) dollars aggregate, for the payment of any judgment had on any claim, of whatever nature, made for actions or causes of action arising out of, or connected with, the construction or installation of said encroachments. Said certificate of insurance shall be filed with the Metropolitan Clerk and the Department of Public Works prior to the granting of a permit, and the insurance required herein shall not be canceled without the insurance company or companies first giving thirty (30) days written notice to The Metropolitan Government of Nashville and Davidson County.

Section 9. That said construction shall be carefully guarded and protected, and shall be completed promptly, so as to cause the least inconvenience to the public. The acceptance by 7<sup>th</sup> Avenue Nashville Hotel Owner, LLC of all provisions of this Ordinance shall be determined by the beginning of work.

Section 10. The authority granted pursuant to this Ordinance shall not become effective until the certificate of insurance, as required in Section 8, has been posted with the Department of Public Works.

Section 11. This Ordinance shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

*SK Wahlstrom*  
*for M. Sturtevant*  
\_\_\_\_\_  
Mark Sturtevant, Director  
Department of Public Works

INTRODUCED BY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPROVED AS TO FORM  
AND LEGALITY:

*C. J. Cadd*  
\_\_\_\_\_  
Assistant Metropolitan Attorney

**Electronic Signature Page**

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

A handwritten signature in cursive script, appearing to read "Freddie O'Connell".

Freddie O'Connell  
Councilman, District 19

**Electronic Signature Page**

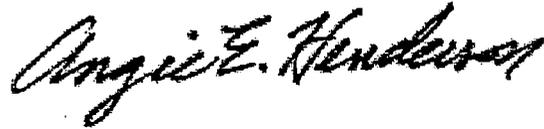
(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

*Kathleen D Murphy*

Kathleen Murphy  
Councilmember, District 24

**Electronic Signature Page**

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

A handwritten signature in black ink that reads "Angie E. Henderson". The signature is written in a cursive style with a large initial 'A' and 'H'.

Angie Henderson  
Councilmember, District 34

Proposal No. 2020M-006EN-001



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
 3/27/2022 9/26/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

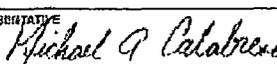
PRODUCER Lockton Companies 1185 Avenue of the Americas, Suite 2010 New York NY 10036 646-372-7300	CONTACT NAME: PHONE (Area No. Ext): FAX (Area No.): E-MAIL ADDRESS:
INSURED 1460933 7th Avenue Nashville Hotel Owner, LLC Starwood Capital Group and all enrolled contractors 591 West Putnam Avenue Greenwich CT 06830	INSURER'S AFFORDING COVERAGE INSURER A: <b>Evanston Insurance Company</b> INSURER B: *** <b>SEE ATTACHMENT</b> *** INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES      CERTIFICATE NUMBER: **16326140**      REVISION NUMBER: **XXXXXXXX**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

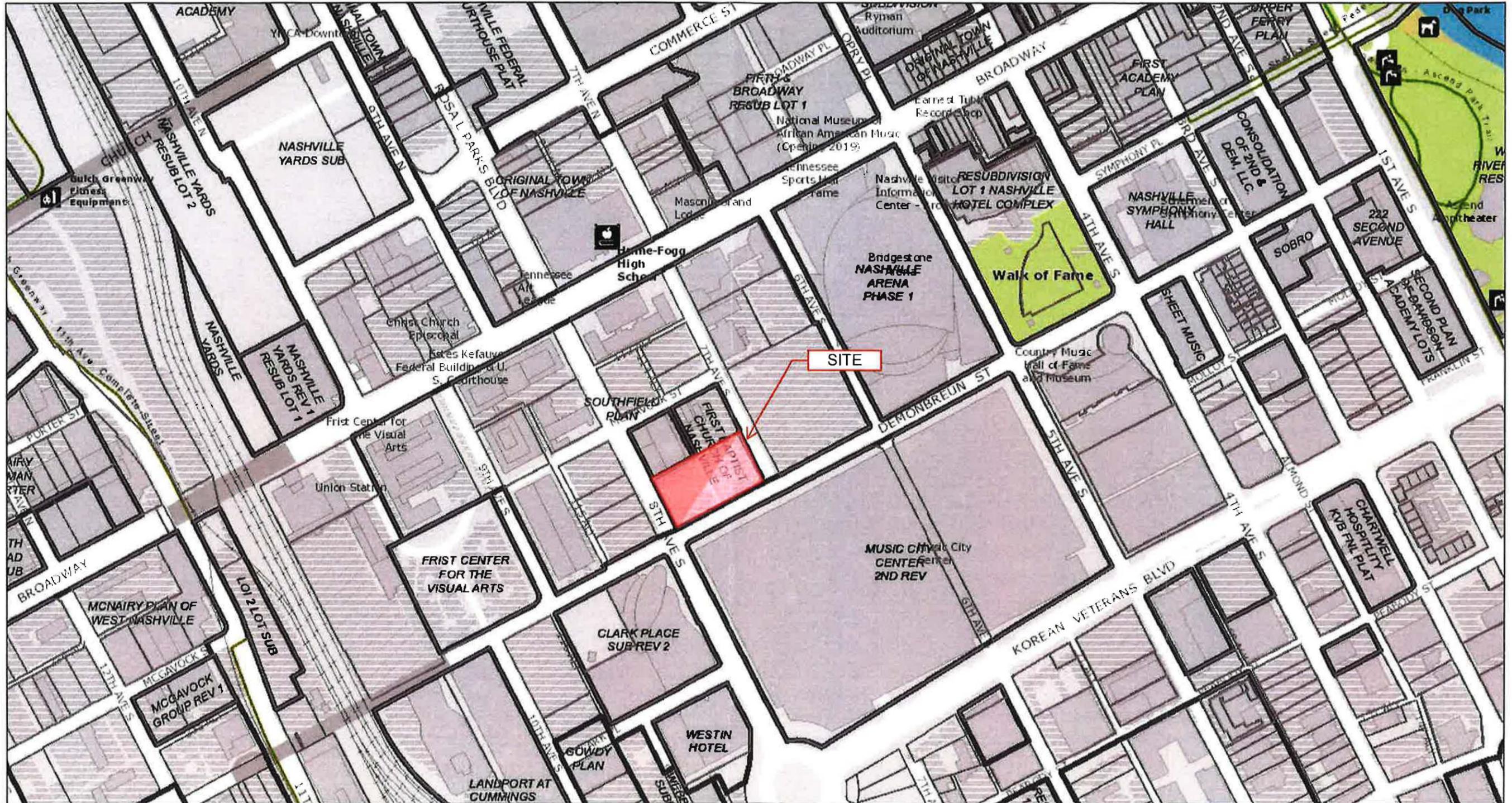
INSUR TR	TYPE OF INSURANCE	ADDITIONAL INSURED	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN. AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y N	MKLV2PHC000212	3/27/2019	3/27/2022	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY		NOT APPLICABLE			COMBINED SINGLE LIMIT (Per accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	N N	See Attached	3/27/2019	3/27/2022	EACH OCCURRENCE \$ 100,000,000 AGGREGATE \$ 100,000,000 \$ XXXXXXXX
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NJ) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	NOT APPLICABLE			PER STATUTE / EMP-ER EL EACH ACCIDENT \$ XXXXXXXX EL DISEASE - EA EMPLOYEE \$ XXXXXXXX EL DISEASE - POLICY LIMIT \$ XXXXXXXX

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Location - 1 Hotel Nashville, 710 Demme Street, Nashville, TN 37203. Crane Swing Agreement. 30 days notice of cancellation applies except for 10 days non-payment of premium. The Metropolitan Government of Nashville and Davidson County Metro Legal & Claims c/o Insurance and Safety Divisions are included as additional insured as required by written contract.

<b>CERTIFICATE HOLDER</b> 16326140 The Metropolitan Government of Nashville and Davidson County Metro Legal & Claims c/o Insurance and Safety Divisions 222 3rd Avenue North, Ste 501 Nashville TN 37201	<b>CANCELLATION</b> See Attachment SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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# Nashville / Davidson County Parcel Viewer



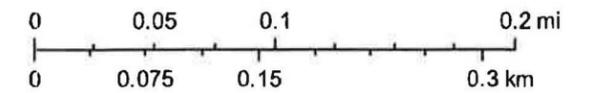
October 10, 2019

**polygonLayer**

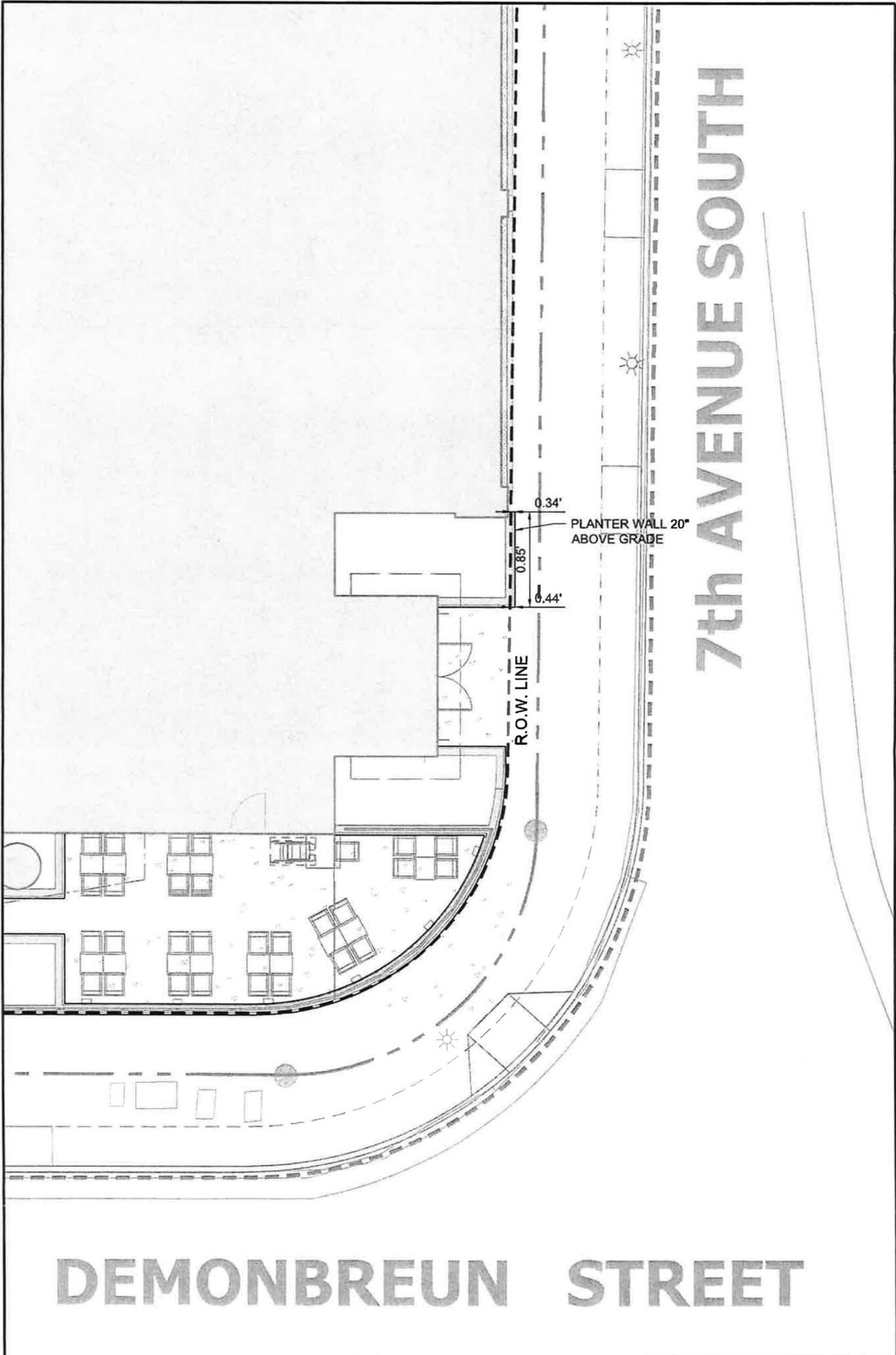
 Override 1

Ownership Parcels

1:4,514



Metro Public Works  
Metro GIS



MAP / PARCEL: 093-10 / 484 PROJECT #: 16181

DATE: 10/02/19 CSDG PROJECT #: 16-032-01



**EMBASSY SUITES AND 1 HOTEL  
 R.O.W. ENCROACHMENT EXHIBIT**

710 DEMONBREUN STREET NASHVILLE, TN 37203

8th AVENUE SOUTH

FLUSH WITH SIDEWALK GRADE

1.91'

26.17'

1.58'

R.O.W. LINE

DEMONBREUN STREET

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