

RESOLUTION 24-112

**A RESOLUTION TO AUTHORIZE MAYOR TO EXECUTE A MEMORANDUM
OF UNDERSTANDING BETWEEN THE CITY OF SPRING HILL AND 360
ACQUISITIONS**

WHEREAS, the City of Spring Hill desires to construct a large water supply reservoir as part of the Capital Improvement Program; and

WHEREAS, 360 Acquisitions is currently under contract to purchase a property that would be an ideal location for the reservoir; and

WHEREAS, both parties desire to enter in a memorandum of understanding to establish the framework for a public-private partnership to deliver a critical piece of city infrastructure; and

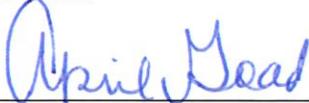
NOW, THEREFORE, BE IT RESOLVED, that the Board of Mayor and Aldermen of the City of Spring Hill authorizes the following action:

1. Approval of the attached non-binding Memorandum of Understanding.
2. To authorize the Mayor to execute the non-binding Memorandum of Understanding.

**Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill,
Tennessee on this 6th day of May, 2024.**

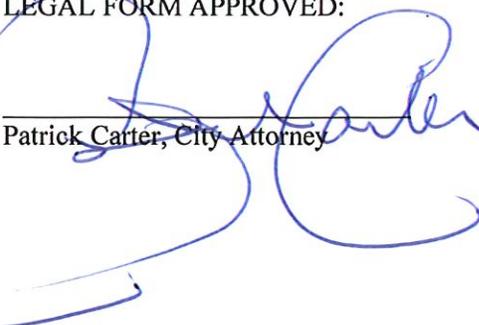

Jim Hagaman, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made and entered into this 6th day of May 2024 (the "Effective Date"), by and between 360 Acquisitions ("Owner"), on the one hand, and the City of Spring Hill, Tennessee (the City"), on the other hand. These persons are collectively referred to herein as the "Parties."

RECITALS

WHEREAS, in a collaborative effort to foster sustainable urban development and enhance community well-being, the Parties wish to enter into this MOU; and

WHEREAS, this collaboration seeks to optimize land use and align Owner's development goals with the City's vision to ensure a harmonious integration of residential and civic spaces for the betterment of our shared community; and

WHEREAS, the Parties intend this MOU to establish the framework for a cooperative venture that will be formalized through the City process;

NOW, THEREFORE, in consideration of the mutual promises set forth below, the Parties do hereby agree as follows:

1. **Recitals:** The Parties acknowledge, represent, and declare that the recitals set forth herein are true and correct.

2. **Capacity & Tap Reservation:** Notwithstanding any current or future moratorium by the City, and subject only to the State of Tennessee unilaterally imposing a moratorium on sewer connections, the City will guarantee Owner water and sewer capacity for up to 1,098 equivalent dwelling units (EDUs). (See Ord. § 18-149(B), attached as Exhibit A.) Owner will be responsible to pay the City for the capacity reservation and taps upon Owner requesting all or a portion of such capacity

reservation or taps pursuant to the City's then published fee. The City has already reserved such capacity in its study dated December 6, 2021. (See Exhibit E.) The City's provision of such water and sewer capacity is a condition of Owner's performance of its obligations set out herein. Each tap will be provided upon the Owner's request. Furthermore, upon Owner's request, and upon Owner's payment of the required fee, up to an additional 15 water and sewer taps may be included to serve amenities and/or commercial areas.

3. **Zoning & Final Entitlement:** The City anticipates approval of the proposed Planned Development rezoning and entitlement documents by all government entities. Such approval will include a minimum density of 985 total dwelling units and all other proposed land use mixes, development standards, bulk regulations, the reservoir land swap area (see paragraph 4 *infra*), road connections, open space and variances that are included in the Planned Development submittal documents and Development Agreement (see the general land Development Plan attached Exhibit A).

4. **Land Swap:** In the event that the approval set out in paragraph 3 occurs, the parties agree to negotiate in good faith concerning the following land swap. The landowner previously deeded to the City approximately 19.78 acres on the North of Rutherford Creek and 24.63 acres South of Rutherford Creek, for approximately 44.41 acres. The land dedication to the City was provided to the City with the intent that the land dedication meet or exceeds the City requirement for open space and institutional space required for the remaining acres. Included in the land swap contemplated herein, the Land Swap shall satisfy the open space,

commercial and institutional requirement for the development of Owner's property. If the proposed zoning expires after the approval, the zoning reverts to TND R-6 for the permitted uses, including residential and multifamily density not exceeding the permitted 1,098 units or lots based on each its land use type pursuant to the approval consistent with ordinance 15-27.

5. **Quitclaim Deed:** In the event that the parties agree to the proposed Land Swap, a quitclaim deed facilitating the land swap will be executed by the later of (a) forty-five (45) days following the City of Spring Hill's final approval of zoning, entitlement and State and Federal permits necessary for the respective property or (b) 45 days following the City having secure full capital funding to build the reservoir in its entirety and the City's commencement of construction.

6. **Grading:** The Parties have reviewed preliminary calculations of necessary excavations to be done to build the City reservoir. The Parties have discussed the City's need to have a cost-effective way to create a cut/fill balance and place the excess fill material on the Owners adjoining property. The City agrees to clear the Owners property and place its excess fill material from the reservoir construction to mass grade the Owner's property by uniformly raising and compacting the entire site.

7. **Land Compensation:** Recognizing the City's imperative need to increase its sewer capacity, Owner proposes to dedicate an additional 3.90 net acres to City. To achieve such dedication, Owner shall dedicate 9.70 acres to the City, which shall then deed 5.80 of such acres to Owner. This transfer will enable the City to

construct a 200,000,000-gallon reservoir, as generally described detailed in **Exhibit B**. In reciprocity for this land swap and the additional 3.90 net acres, the City will create a “credit bucket” in favor of the Owner for the value of 300 Sewer Capacity Reservation fees. *See the attached Table on Exhibit D.*

8. **Collector Road & Bridge:** The City's comprehensive thoroughfare plan mandates the presence of specific roads traversing the Owner's property. Nonetheless, the major thoroughfare plan deviated from its course and was not implemented in neighboring areas where the roads were intended to intersect with the Owner's property. Consequently, the City acknowledges that the project is no longer bound by an obligation to establish a major thoroughfare road within its scope. In alignment with this adjustment, the Parties agree that the bridge associated with the project will only be designed to accommodate two lanes of traffic and a 5' wide sidewalk on only one side of the bridge. Adjacent to the new reservoir, a greenway trail will be constructed allowing public pedestrian connectivity through a parklike setting for 1,000 linear feet on City owned property.

9. **Water Line Extension.** City staff recommends the extension of an 18” water main to be extended along the Northern Property line, which is currently owned by the City. This water line is for the exclusive use of property located on the east side of the interstate. The estimated length of this water line along Owner’s property after the land swap is approximately 750 feet. Owner shall install approximately 750 feet of the 18” water main line along its property line. Furthermore, the City shall reimburse Owner’s cost to engineer and develop the

infrastructure of the water main line in water capacity credits attached to its first phase of residential units.

10. **Proposed Development Agreement:** Time is of the essence of this MOU. : City and Owner will work to negotiate a development agreement for the construction of the City reservoir on the Owners property prior to the land swap occurring. The City and Owner shall work together to approve jointly a grading plan that defines the limits of earthwork as well as a phasing plan by August 1, 2024. Owner will excavate and properly place material on Owners site at the City's cost. The excavation of the reservoir will begin November 1, 2024. The land will be dedicated to the City with the reservoir dug to pre-agreed upon design elevations. This will allow the City adequate time to receive governmental approvals for final operation of reservoir while advancing the excavation of the reservoir and save the City the cost of exporting the material off-site.

11. **Reservoir as an Integral Part of the Development:** The location of the reservoir and the placement of the material excavated from the reservoir is an integral part of the development plan and therefore certain milestones if not met will result in a delay to the project timeline. In the event that the Parties can not come to terms on the Development Agreement prior to August 1, 2024 then the Owner will proceed with construction plans assuming the fill placement from the reservoir will not be placed on Owner's property and the City will find alternate locations to export the material.

12. **Warranty of Authority.** The Parties acknowledge, represent and warrant that they have the right and authority to execute this Agreement.

13. **Non-Agreement.** This Agreement is non-binding and all Parties have executed this Letter of Memorandum to express their intent to move forward in good faith and with all diligence toward consummating the subject transaction pursuant to the propositions described herein. Upon a signed receipt of this Memorandum of Understanding, the Parties shall prepare a definitive agreement, including this proposition along with other clauses usually found in a transaction of this nature, for execution of the Parties (the "Definitive Agreement"). The definitive agreement shall inure to the benefit of the Parties and their respective heirs, representatives, successors and/or assigns.

14. **Execution in Counterparts.** This Agreement may be executed in counterparts, with the same force and effect as if all signatures were set forth in a single instrument.

15. **Interpretation of Agreement.** The Parties agree that this Agreement shall be interpreted according to the plain and ordinary meaning of its terms. Additionally, the Parties agree that they participated equally in the negotiation and drafting of this Agreement and, consequently, no inference shall be drawn that this Agreement was prepared by any particular party and no ambiguity shall be construed against any particular party.

16. **Integrated Agreement.** This Agreement represents and contains the entire understanding between the Parties in connection with the subject matter of this Agreement. This Agreement may not be altered or varied except by a writing duly signed by all Parties.

17. **Severability.** If any part or provision of this Agreement is held to be unenforceable or to conflict with the applicable laws or regulations of any jurisdiction, the invalid or unenforceable part or provision shall be replaced with a provision that accomplishes, to the extent possible, the original purpose of such part or provision in a valid and enforceable manner, and the remainder of this Agreement shall remain binding upon the Parties.

18. **Paragraph Headings.** The paragraph headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this MOU and have hereunto subscribed their names.

360 ACQUISITIONS

By:
Its:

CITY OF SPRING HILL, TENNESSEE



By: Jim Hagaman
Its: Mayor May 6, 2024