

RESOLUTION 09-97

A RESOLUTION OF THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF  
SPRING HILL, TN TO RENEW THE EXISTING PERFORMANCE BOND  
SPRING HILL KROGER SUBDIVISION

WHEREAS, an existing "performance" bond is currently in place for this development and is functioning as the "maintenance" bond; and

WHEREAS, the existing bond is guaranteeing that certain public improvements are free of defect for a twelve month period after construction; and

WHEREAS, the following public improvements are completed:

*Water, Sewer, Storm Water Drainage and Detention Ponds, Streets and Curbs and Parking Areas; and Improvements to Port Royal Road; and*

WHEREAS, a final walk through inspection indicated that certain storm water drainage facilities have not been maintained properly; and

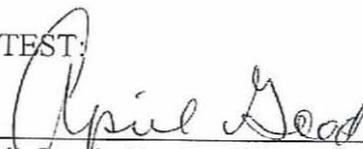
WHEREAS, it is the recommendation of the Planning Commission that the existing bond be renewed in the original amount of \$121,800.00 for twelve (12) months; and

**NOW, THEREFORE BE IT RESOLVED**, by the Board of Mayor and Aldermen of the City of Spring Hill that the existing Performance Bond for the Spring Hill Kroger Subdivision in the amount of \$121,800.00 is hereby renewed.

Passed and adopted this 16<sup>th</sup> day of November, 2009.

  
Michael Dinwiddie, Mayor

ATTEST:

  
April Goan, City Recorder

LEGAL FORM APPROVED:

  
Timothy P. Underwood, City Attorney

Bond Information Sheet

Site Name: Spring Hill Kroger Subdivision

Type of Bond:	Performance Bond	Original Bond Amount:	\$121,800	Type of Action Requested:
Bond #:	8938826	Current Bond Amount:		Bond Renewal <input type="checkbox"/>
Bond Issued:	12/5/2008	25% of Original Amount:	\$30,450	Bond Reduction <input type="checkbox"/>
Expiration Date:	Automatic Renewal	(Per Section 3-102.202 of Sub. Regs)		Bond Release <input checked="" type="checkbox"/>

Past Actions

Date:	Type of Action:	Amount:	Reason:

Required Installation

<b>Streets</b>		
Binder Installed:	Yes	
Road Base:	Stone	
Compaction Test Submitted:	Yes	
Curb Installed:	Yes	
Street Lights Installed:	Yes	
Street Signs Installed:	Yes	
Side Walks Installed:	Yes	
Final Topping installed:	Yes	Private

<b>Sewer</b>		
Sewer Line Installed:	Yes	
Sewer Line Tested:	8/20/2008	
Pump Station Required:	Yes	No
"As Built" Drawings Submitted:		No
Meets City Specifications:	Yes	

<b>Storm Water Drainage System</b>		
System Installed:	Yes	
"As Built" Drawings Submitted:		No
Meets City Specifications:	Yes	

<b>Water</b>		
Water Line Installed:	Yes	
Water Line Tested:	9/19/2008	
"As Built" Drawings Submitted:		No
Meets City Specifications:	Yes	

Bond Information Sheet

Site Name: Spring Hill Kroger Subdivision

<b>Miscellaneous Site Information</b>			
Total Number of Lots:	7	Developer:	Kroger Limited Partnership I
Current Number of Available Building Lots:	4	In Bankruptcy:	No
Amenities:	Complete:		
1			
2			
3			

**Staff Comments:**

1. Issue with the upper detention basin not draining properly
2. The sod needs to be replaced in bottom of the upper and lower basins
3. This is a commercial development - all sewer, water and roads on site are private.
4. A Performance was issued in place of the required Maintenance Bond
5. Final walk through inspection scheduled for 10/21/09

**Staff Recommendation:**

To deny the release of the bond until all issues are corrected and renew the bond for 12 months  
Director of Codes will update the Planning Commission at the voting meeting  
regarding the status of the final walk through inspection

Beau Herring  
Director of Codes  
City of Spring Hill

RESOLUTION 09-48 OF THE  
PLANNING COMMISSION  
OF THE CITY OF SPRING HILL, TENNESSEE

A RESOLUTION TO RENEW THE EXISTING PERFORMANCE BOND  
SPRING HILL KROGER SUBDIVISION

WHEREAS, an existing "performance" bond is currently in place for this development and is functioning as the "maintenance" bond; and

WHEREAS, the existing bond is guaranteeing that certain public improvements are free of defect for a twelve month period after construction; and

WHEREAS, the following public improvements are completed:

*Water, Sewer, Storm Water Drainage and Detention Ponds, Streets and Curbs and Parking Areas; and Improvements to Port Royal Road; and*

WHEREAS, a final walk through inspection indicated that certain storm water drainage facilities have not been maintained properly; and

WHEREAS, it is the recommendation of the Codes Department that the existing bond be renewed in the original amount of \$121,800.00 for twelve (12) months; and

NOW, THEREFORE BE IT RESOLVED, by the Spring Hill Planning Commission that the existing Performance Bond for the Spring Hill Kroger Subdivision in the amount of \$121,800.00 is hereby recommended for renewal to the Board of Mayor and Aldermen.

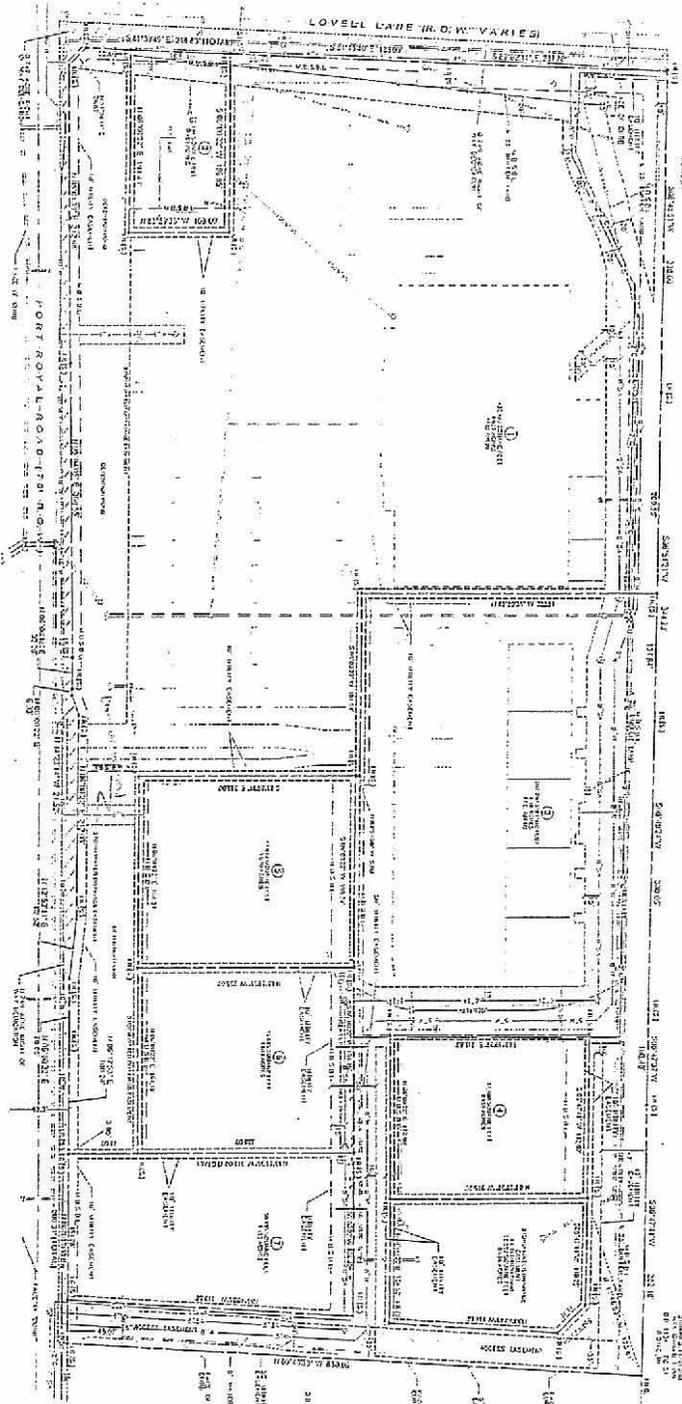
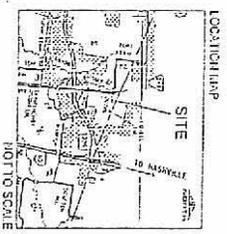
Passed and adopted this 9<sup>th</sup> day of November, 2009.

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Michael Glass, Chairman

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Michael Dinwiddie, Secretary



**REPORT OF THE ENGINEER OF THE CITY OF DAYTON**  
 I, the undersigned, being duly sworn, depose and say that I am a duly licensed Professional Engineer in the State of Ohio, and that I am the Engineer of the City of Dayton, Ohio, and that I have examined the above and certify that the same are true and correct to the best of my knowledge and belief, and that I am not aware of any facts or circumstances which would render the same false or misleading.

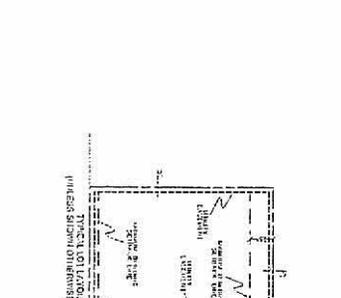
\_\_\_\_\_  
 Date: 12-15-08

**REPORT OF THE ENGINEER OF THE CITY OF DAYTON**  
 I, the undersigned, being duly sworn, depose and say that I am a duly licensed Professional Engineer in the State of Ohio, and that I am the Engineer of the City of Dayton, Ohio, and that I have examined the above and certify that the same are true and correct to the best of my knowledge and belief, and that I am not aware of any facts or circumstances which would render the same false or misleading.

\_\_\_\_\_  
 Date: 12-15-08

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\_\_\_\_\_  
 Date: 12-15-08



**STREETS AND PLATNOTICES**

1. Existing streets shown on this plat are as shown on the attached plat.
2. This plat is subject to the provisions of the Ohio Revised Code, Chapter 307, relating to the recording of plats.
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10. The plat is subject to the provisions of the Ohio Revised Code, Chapter 307, relating to the recording of plats.

DATE	12-15-08
BY	[Signature]
TITLE	Professional Engineer

*Final Plat of the Spring Hill Kroger Subdivision*  
 PORT HILL, 20411 LOVELL LANE, WYOMING COUNTY, 45395 NAL, TRIPASSER

OWNER / SUBDIVIDER: KROGER LIMITED PARTNERSHIP I  
 1014 Vine Street, Cincinnati, Ohio 45202

NO.	1	2	3	4	5	6	7	8	9	10
DATE	12-15-08	12-15-08	12-15-08	12-15-08	12-15-08	12-15-08	12-15-08	12-15-08	12-15-08	12-15-08
BY	[Signature]									
TITLE	Professional Engineer									



**Koonce Surveying, LLC**  
 119A McGrew Street  
 Shelbyville, TN 37160  
 Phone: 931.690.1188  
 Fax: 931.690.1189

PERFORMANCE BOND

Bond 08938826

KNOW ALL BY THESE PRESENTS, That we, Kroger Limited Partnership I

2620 Elm Hill Pike, Nashville, TN 37214

(hereinafter called the Principal), as Principal, and Fidelity and Deposit Company of Maryland, a corporation duly organized under the laws of the State of Maryland (hereinafter called the Surety), as Surety, are held and firmly bound unto City of Springs Hill

199 Town Center Parkway, Spring Hill, TN 37174, (hereinafter called the Obligee),

in the sum of One Hundred Twenty One Thousand Eight Hundred and 00/100 ----- Dollars, for the payment of which sum well and truly to be made, we, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Signed and sealed this 5 day of December, 2008.

WHEREAS, said Principal has entered into a written Contract with said Obligee, dated 12/05/2008,

for Kroger Store #L-594 located on Port Royal Road for roadway (asphalt, storm, C & G), sanitary, water, landscape buffer.

in accordance with the terms and conditions of said Contract, which is hereby referred to and made a part hereof as if fully set forth herein:

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, That if the above bounden Principal shall well and truly keep, do and perform each and every, all and singular, the matters and things in said contract set forth and specified to be by said Principal kept, done and performed, at the times and in the manner in said contract specified, or shall pay over, make good and reimburse to the above named Obligee, all loss and damage which said Obligee may sustain by reason of failure or default on the part of said Principal so to do, then this obligation shall be null and void; otherwise shall remain in full force and effect.

NO SUIT, ACTION OR PROCEEDING by the Obligee to recover on this bond shall be sustained unless the same be commenced within two (2) years following the date on which Principal ceased work on said Contract.

Kroger Limited Partnership I  
2620 Elm Hill Pike, Nashville, TN 37214

Principal  
By Ron Lambach  
V.P. Operations

Fidelity and Deposit Company of Maryland

By Debra R. Keebler  
Debra R. Keebler, Attorney-in-Fact

Power of Attorney  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by M. P. HAMMOND, Vice President, and GERALD F. HALEY, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint Ralph E. NOSAL, C. R. HERNANDEZ, Theodore C. SEVIER, JR., Katherine J. FOREIT, Sandra NOWAKOWSKI, Debra R. KEEBLER, Linh B. BUCHOLTZ and David J. ROTH, all of Chicago, Illinois, EACH its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney is made that issued on behalf of Ralph E. NOSAL, C. R. HERNANDEZ, Theodore C. SEVIER, JR., Katherine J. FOREIT, Sandra NOWAKOWSKI, Debra R. KEEBLER, Barbara R. MALTESE, Linh B. BUCHOLTZ, David J. ROTH, dated February 22, 2005.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 30th day of August, A.D. 2007.

ATTEST:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND



*Gerald F. Haley*

Gerald F. Haley Assistant Secretary

*M. P. Hammond*

By:

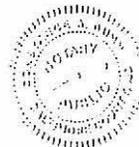
M. P. Hammond

Vice President

State of Maryland }  
City of Baltimore } ss:

On this 30th day of August, A.D. 2007, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came M. P. HAMMOND, Vice President, and GERALD F. HALEY, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



*Constance A. Dunn*

Constance A. Dunn

Notary Public

My Commission Expires: July 14, 2011

EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND

"Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages,....and to affix the seal of the Company thereto."

CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company,

this 5 day of December, 2008.



Assistant Secretary

STATE OF ILLINOIS  
COUNTY OF COOK

I, Beatriz Polito, a Notary Public in and for said County, do hereby  
certify that Debra R. Keebler as Attorney-in-Fact, of the

FIDELITY AND DEPOSIT COMPANY OF MARYLAND	A Maryland Corporation
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who is personally known to me to be the same person whose name is subscribed to the  
foregoing instrument, appeared before me this day in person, and acknowledged that they  
signed, sealed, and delivered said instrument for and on behalf of

FIDELITY AND DEPOSIT COMPANY OF MARYLAND	A Maryland Corporation
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for the uses and purposed therein set forth.

Given under my hand and notarial seal at my office in the City of Chicago in said County,  
this 5 day of December A.D. 2008

Beatriz Polito  
Notary Public

\*\*\*\*\*  
"OFFICIAL SEAL"  
BEATRIZ POLITO  
Notary Public, State of Illinois  
My Commission Expires 05/22/11  
\*\*\*\*\*



ENGINEERS ■ SURVEYORS ■ PLANNERS  
LANDSCAPE ARCHITECTS ■ ENVIRONMENTAL SCIENTISTS

3317 S.W. 1<sup>st</sup> Street  
Bentonville, AR 72712  
479.273.9472 Fax 479.273.0844

October 15, 2009

Beau Herring  
Codes Director  
City of Spring Hill  
199 Town Center Parkway  
Spring Hill, TN 37174

RE: Kroger Development  
Port Royal Road  
Bond Release

Dear Mr. Herring:

In reference to the above mentioned project and on behalf of Kroger, CEI respectfully requests the City to consider releasing the full amount of the bond associated with this project.

Please do not hesitate to contact me at 479-273-9472 if you have any questions.

Sincerely,

Paul Lo  
Professional Engineer

*Providing Consolidated Land Development Services*

CALIFORNIA ■ ARIZONA ■ TEXAS ■ ILLINOIS ■ MINNESOTA ■ GEORGIA ■ PENNSYLVANIA

September 1, 2009

Kroger Limited Partnership I  
2620 Elm Hill Pike  
Nashville, TN. 37214

Re: Bond #08938826

To Whom It May Concern:

After conducting a review of current bonds held by this office, the bond for The Kroger Store located on Port Royal Road in Spring Hill, Tn. in the amount of \$121,800.00 will be coming up for renewal 12-5-09.

It is now city policy that all bonds are brought before the Planning Commission and the Board of Mayor and Aldermen for approval. Your intentions must be provided to this office prior to October 15, 2009 in order to be placed on the agenda for November.

It is the responsibility of the developer to ensure that all bonds pertaining to this project are renewed in a timely fashion.

Sincerely,

Beau Herring  
Director of Codes and Planning

Final Walk –Through Inspection

(Commercial)

Date: 21 October 2009

Site: Kroger at Port Royal

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Required Personnel: Beau Herring (Director of Codes and Planning)

Chris Brooks (Deputy Director of Codes)      Jamie Pierce (Director of Public Works)

Jeff Foster (Water Department)                  Jim Vrdoljak (Sewer Department)

Steven Warf (MS4 / Codes Enforcement)      Chad Carson (Fire Marshall)

Jackie Glenn (Utility Inspector)                Bruce Dalager (Development Representative)

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Parking Lot

Final Topping Installed: Yes

Marked / Striped: Yes

Fire Lane in place: N / A

Signage installed: Yes

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Landscaping

Installed as per Submitted Plans (# of Plantings / Types): All Landscaping is in place as required

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Sewer

Meets City Standards: Yes, Verified by City Sewer Department Supervisor

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Water

Meets City Standards: Yes, Verified by City Water Department Supervisor

Fire Hydrants (Factory White): yes (See Comments)

10. Pavement needs to be repaired along Port Royal Road.
11. A letter is required from the site engineer verifying all storm drainage components are installed as per submitted plan and are functioning properly.
12. A "Notice of Termination" for this site is required from TDEC.

A re-inspection will be required for all items listed above. This re-inspection must be scheduled through the Codes Department.

Beau Herring

Director of Codes and Planning