

RESOLUTION 11-140

**A RESOLUTION OF THE BOARD OF MAYOR AND
ALDERMEN OF THE CITY OF SPRING HILL, TENNESSEE
TO ACCEPT AN OFFER FOR THE PURCHASE
OF A PRIVATE ROAD WITHIN THE CROSSINGS**

WHEREAS, an offer has been made by Spring Hill Development Partners, G.P., Gallatin Management Associates, LLC and Dickson Management Associates, LLC to the City of Spring Hill for the purchase of "Front Drive B" (beginning at the connection of Crossings Blvd and terminating at the property line of Don Adams, et al); and

WHEREAS, there has been litigation concerning the status of this road, and despite it's current status of a private road the Spring Hill Major Thoroughfare Plan calls for it to be open for public travel; and

WHEREAS, the road's designation as a public road is a crucial component for providing adequate roadway connectivity throughout the City of Spring Hill; and

WHEREAS, the Board of Mayor and Aldermen have determined that it is in the City of Spring Hill's best interest to acquire the private road and pay the sum of \$430,000.00 for that acquisition; and

WHEREAS, the Mayor is authorized to accept the offer made (attached hereto) and complete the purchase of the private road for the City of Spring Hill, Tennessee; and

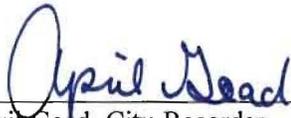
NOW, THEREFORE BE IT RESOLVED, by the Board of Mayor and Aldermen of the City of Spring Hill that the Mayor be authorized to accept the offer to buy the private road for the sum of \$430,000.00 and execute the necessary documents to complete the conveyance to the City of Spring Hill, Tennessee.

Passed and adopted by the Board of Mayor and Aldermen on the 29th day of December, 2011.

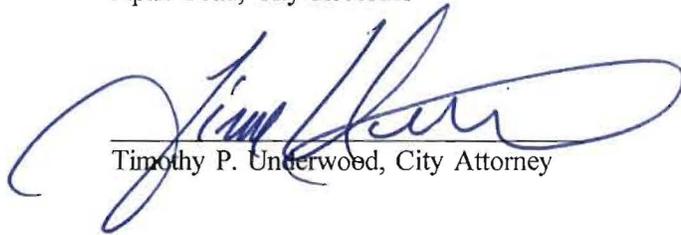
A handwritten signature in black ink, appearing to read "Michael Dinwiddie", written over a horizontal line.

Michael Dinwiddie, Mayor

ATTEST:



April Goad, City Recorder



Timothy P. Underwood, City Attorney

CONTRACT OF SALE

I

OFFER TO BUY PROPERTY

Offer made on the ___ day of _____, 2011 by Spring Hill Development Partners, G.P., Gallatin Management Associates, LLC and Dickson Management Associates, LLC, hereinafter referred to as "Seller", to the City of Spring Hill, Tennessee, hereinafter referred to as "Purchaser".

Buyer notified Seller of its intention to condemn the property hereinafter described, and based upon that threat of condemnation, both Seller and Buyer desire to enter into this Contract to avoid the uncertainty of condemnation, and have reached agreement which all parties believe to be fair and equitable for the transfer of such property by the Seller to the Purchaser.

Seller offers to sale to Purchaser real property more commonly known as "Front Drive B" an improved private drive within the Crossings development located in Spring Hill, Tennessee. The road more particularly described below is identified on the Final Plat, dated February 27th, 2007, Register of Deeds Office Maury County, Tennessee, Plat Book 17, page 113 as the fifty (50) foot easement in Deed Book R1965, pages 325- 337. The road to be conveyed from Seller to Purchaser shall begin at the connection of Crossings Boulevard (a public road) and terminate at the property line of Don Adams, et al, Co-Trustee of Larry Adams. The Seller and Purchaser agree that the road is not completed to the Adams property line and the conveyance will include the undeveloped portion of the road to the eastern property line of real property.

Meets and Bounds Description of a 50 foot Access Easement Area containing 1.468 Acres. Being a tract of land lying in the City of Spring Hill, Maury County, Tennessee, of record in Book R1965, Page 325-337 R.O.M.C, TN as shown on Exhibit C-1, Exhibit C-2 and described by metes and bounds on Exhibit D. Said easement is referenced on the Recorded Final Plat of CROSSINGS AT SPRING HILL U.S. HIGHWAY 31 in Plat Book P17, Pages 113-114 R.O.M.C., Tennessee and described as follow;

Iron rod described as point of Commencing at State Plane Coordinates Northing: 513,449.62 and Easting: 1,688,440.48, located in the easterly right of way of U.S. 31, was destroyed by constructing a monument sign. Other iron rods located on the same coordinate system and shown on the plat of record in Plat Book P17, Pages 113-114 were found in good conditions were utilized to establish the boundary of said Access Easement as described below.

Thence, with the northerly line of Don Adams, Et Al, Co-Trustees c/o Larry Adams, South 43/35'08" East, a distance of 268.47 to the true point of beginning at an iron rod at the most southwesterly right of way of said Access easement in the northerly property line of Adams;

Thence with a line through the property of Spring Hill Development Partners, GP c/o GBT Realty Corporation, as of record in Deed Book 1902, Page 971, at the Register's Office for Maury County, Tennessee and Gallatin Management Associate, LLC; Dickson Management Associates, LLC & Spring Hill Development Partners, GP c/o GBT Realty Corporation, as of record in Deed Book 1923, Page 35, at the Register's Office for Maury County, Tennessee, for the following eight calls;

Thence, North 45/27'13" East, a distance of 1022.57 feet along the westerly right of way of said 50-foot easement also along the boundary of Lots 4 through 8 as shown on the recorded final plat of Crossings of Spring Hill of record in Plat Book P17, Page 113-114, ROMC, TN to an iron pin set

Thence, continue being adjacent to boundary of Lots 4 and 3 North 47/54'32" East, a distance of 207.26 feet to a iron pin set at the beginning of a curve to the left

Thence, along said curve to the left, having a radius of 130.00 feet, a length of 84.06 feet, a central angle of 37/03'01", chord bearing North 29/23'01" East for a length of 82.61 feet punch mark in concrete sidewalk

Thence, with a curve to the left at the southerly boundary of a Traffic Circle having a radius of 107.50 feet, a length of 124.37 feet, a central angle of 66/17'13", a chord bearing South 19/28'15" East for a distance of 117.55 feet to a iron pin set

Thence with a curve to the left having a length of 54.76 feet, a radius of 39.50 feet, a central angle of 79/25'58", chord bearing South 87/37'34" West for a distance of 50.48 feet to a iron pin set

Thence, continuing with the easterly boundary of the 50 foot easement South 47/54'32" West a distance of 200.48 feet to a punch mark in concrete sidewalk

Thence, continue South 45/27'13" West, a distance of 1022.33 feet to an iron rod existing in the northerly property line of Don Adams, Et Al, Co-Trustees c/o Larry Adams

Thence, North 43/35'13" West, a distance of 50.01 feet to the point of beginning

Being part of the same property conveyed to Spring Hill Development Partners, GP c/o GBT Realty Corporation, as of record in Deed Book 1902, Page 971, at the Register's Office for Maury County, TN, and Gallatin Management Associates, LLC; Dickson Management Associates, LLD and Spring Hill Development Partners, GP c/o GPT Realty Corporation as of record in Deed Book 1923, Page 35, at the Register's Office for Maury County, Tennessee

Existing Asphalt Pavement ends 42 feet and existing concrete post curb ends 36 feet northerly of southerly end of above described easement.

1. PURCHASE PRICE & TERMS OF SALE: The total purchase price is Four Hundred Thousand Dollars (\$430,000.00). The entire balance to be paid at closing.

2. TITLE WARRANTIES: The property is to be conveyed free from all encumbrances, except for the Memorandum of Leases of record for the tenants of the Seller, rights of ingress, egress and access for such tenants of the Seller. The Seller is responsible for taxes until the date the property is conveyed to the Purchaser. The property to be conveyed under this Contract does not include any improvements, such as Utility Lines or Signs [as defined by the Operation & Easement Agreement, as amended and of record in the instrument of record in Book R1969, pages 1326-1469 ROMCT ("OEA")] of any party to the OEA or of any tenant of the Seller

This Contract of Sale has been duly executed and delivered by the Seller, who has all requisite power and legal capacity to execute and deliver this Contract of Sale and the deed and any related documents to be executed and delivered or to be executed and delivered in connection with the transactions provided for hereby, to consummate the transactions contemplated hereby, and to perform its obligations hereunder. This Contract of Sale to which Seller is a party constitutes, or upon execution and delivery will constitute, the legal, valid and binding obligation of such party, enforceable in accordance with its terms, except as such enforcement may be limited by general equitable principles or by applicable bankruptcy, insolvency, moratorium, or similar laws which affect creditors' rights generally.

Neither the execution and delivery of this Contract of Sale nor the consummation of the transaction contemplated hereby will violate or conflict with any of the terms, conditions or provisions, violate, conflict with, result in a breach of, constitute a default under (whether with or without notice or the lapse of time or both) under the Operating and Easement Agreement of record in Book R1969, Page 1366 ROMCT, any Memorandum of Lease or Declaration of Access Easement (whether recorded or unrecorded) or any other agreement relating to the Crossings of Spring Hill given to a tenant, lessee, occupant or party to the OEA of the Seller, or give any tenant, lessee, occupant or party to the OEA the right to part of the consideration paid hereunder or for damages against the Buyer, nor is any waiver, consent, action, approval or authorization of any tenant, occupant, lessee or party to the OEA required on the sale set forth under this Contract of Sale. This warranty and representation shall survive closing and the deed to be executed under this Contract of Sale.

The Seller shall indemnify and defend and hold harmless the Buyer and its employees, agents, representatives, and their respective successors and assigns (the "Seller Indemnified Parties") against and with respect to any and all damages, claims, losses, penalties, liabilities, actions, fines, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) (all of the foregoing hereinafter collectively referred to as a "Loss"), arising from, in connection with or with respect to the any material misrepresentation of a surviving representation or breach of a surviving warranty by the Seller, or any and all actions, suits, proceedings, judgments, settlements, costs, penalties and legal and other expenses incident to any of the foregoing. Without limiting the foregoing, Loss shall include any demand or suit filed on behalf of any tenant, lessee, occupant or

party to the OEA as a result of the Sellers transfer of this property under this Contract of Sale.

3. WARRANTY DEED: Seller shall furnish to Purchaser a special warranty deed covering the herein conveyed property subject to the exceptions or exclusions set out above.

4. TITLE EXPENSES: Purchaser agrees to the cost of preparing the deed on this transaction and the Purchaser agrees to pay for examination of title, title certificate or insurance, conveyance and notary fees, financing cost and to pay all cost for recording the deed and contracts which shall be due to the County or the State of Tennessee.

5. RISK OF LOSS: Purchaser shall be entitled to possession of the property and shall assume all risk of loss or destruction from the time of closing as caused by his possession of the property; Seller shall assume all risk of loss or destruction until the time of closing hereunder, which shall be on or before the 31st day of January 2012, for all actions which are not as a result of default or negligence of the Purchaser, his agents, assigns, employees or other parties acting at the Purchaser's interest.

6. TIME OF ACCEPTANCE: The Seller is aware that such agreement shall not become binding against the Purchaser until such time it has been accepted and ratified by the Board of Mayor and Aldermen for the City of Spring Hill, Tennessee. This Contract and Seller's obligation to sell the Property is specifically contingent upon a revised plat of the Property's being obtain and approved by the Spring Hill Planning Commission. Such revised plat must be performed by a state certified surveyor or engineer selected by Purchaser and Seller's mutual agreement, and Seller and Purchaser shall each pay one-half (1/2) of the cost thereof. A copy of the plat is to be provided to all parties to this Contract and shall be recorded by the Purchaser, at its expense. The revised plat shall show the property subject to this contract as a public road.

7. BINDING EFFECT: This contract shall be binding upon the respective parties' heirs, executors, administrators and assigns.

8. DEFAULT: If Seller defaults under this Contract Purchaser may pursue specific performance. Seller agrees to waive the right to assert the defense of lack of mutuality in any action for specific performance by Purchaser. Failure of either party to comply with the terms of this Contract will obligate the party to pay all expenses, including a reasonable attorney's fee incurred by the other party because of that failure.

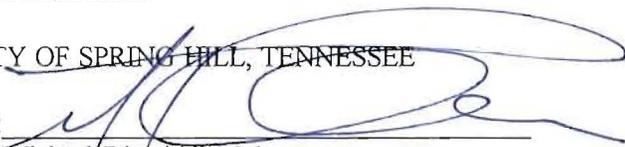
9. ENTIRE AGREEMENT: This contract contains the final and entire agreement between the parties. No party is bound by any terms, conditions, statements or representations, oral or written, not herein contained. Each party shall retain a counterpart original, fully executed, of this agreement.

10. CLOSING OF SALE: Closing of sale shall occur on or before the date thirty (30) days from the effective date hereof or the satisfaction on the contingencies set forth in paragraph 6, unless

otherwise extended as herein provided. Neither Seller nor Purchaser shall be required to close except upon satisfaction prior to closing of the conditions precedent specified in paragraph 6 above unless waived by the other party. At closing, all documents necessary for conveyance of the Property shall be executed and delivered, all adjustments shall be made, and the purchase price shall be paid. Seller at closing shall execute and deliver all instruments reasonably deemed necessary by Purchaser to accomplish this transaction.

PURCHASER:

CITY OF SPRING HILL, TENNESSEE

By: 
Michael Dinwiddie, Mayor

Dated: 12-29-11

II
ACCEPTANCE BY SELLER

The Seller agrees to carry out the terms thereof on the part of the Seller. I agree to discharge forthwith any unpaid balance on any fixtures, apparatus, or similar items enumerated in the offer as constituting a part of the premises and that this discharge shall be on or before the date of closing. I agree to discharge the encumbrances against the real estate on or before the date of closing.

SELLER:

SPRING HILL DEVELOPMENT PARTNERS, G.P.

By: _____

Print Name: George B. Tonlin

Title: Manager / Sole Member of Managing General Partner

GALLATIN MANAGEMENT ASSOCIATES, LLC

By: _____

Print Name: George B. Tonlin

Title: Manager / Sole Member

DICKSON MANAGEMENT ASSOCIATES, LLC

By: _____

Print Name: George B. Tonlin

Title: Manager / Sole Member