

**RESOLUTION 12-02**

**A RESOLUTION TO RELEASE THE EXISTING PERFORMANCE BOND FOR  
KROGER**

**WHEREAS**, a Performance Bond is currently in place for this development; and

**WHEREAS**, the existing surety is guaranteeing the construction of certain improvements; and

**WHEREAS**, the following improvements are required pursuant to the Performance Bond:  
*Water, Sewer, Storm Water Drainage and Basins, Landscape Buffer and final  
topping; and*

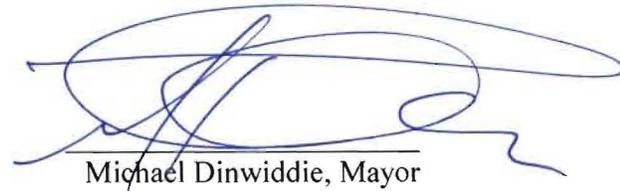
**WHEREAS**, to date, the improvements have been constructed and completed according to  
Construction Plans; and

**WHEREAS**, the developer is requesting the release of the Performance Bond; and

**WHEREAS**, it is the recommendation of the Planning Commission that the existing Performance  
Bond be released in the amount of \$121,800.00; and

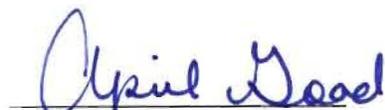
**NOW, THEREFORE BE IT RESOLVED**, by the City of Spring Hill Board of Mayor and  
Aldermen that the existing Performance Bond for Kroger Area in the amount of \$121,800.00 is  
hereby approved.

Passed and adopted this 17th day of January, 2012.



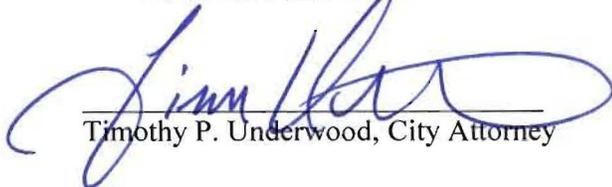
Michael Dinwiddie, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Timothy P. Underwood, City Attorney

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**RESOLUTION 11-39 OF THE  
PLANNING COMMISSION  
OF THE CITY OF SPRING HILL, TENNESSEE**

**A RESOLUTION TO RELEASE THE EXISTING PERFORMANCE BOND FOR  
KROGER**

**WHEREAS**, a Performance Bond is currently in place for this development; and

**WHEREAS**, the existing surety is guaranteeing the construction of certain improvements; and

**WHEREAS**, the following improvements are required pursuant to the Performance Bond:  
*Water, Sewer, Storm Water Drainage and Basins, Landscape Buffer and final  
topping; and*

**WHEREAS**, to date, the improvements have been constructed and completed according to Construction Plans; and

**WHEREAS**, the developer is requesting the release of the Performance Bond; and

**WHEREAS**, it is the recommendation of the Codes Department that the existing Performance Bond be released in the amount of \$121,800.00; and

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

Passed and adopted this 9th day of January, 2012.

  
\_\_\_\_\_  
Jonathon Schwartz, Chairman

  
\_\_\_\_\_  
Michael Dinwiddie, Secretary

City of Spring Hill  
199 Town Center Parkway  
P.O. Box 789  
Spring Hill, TN 37174  
Phone: 931.486.2252 ext. 214  
Fax: 931.486.3596



For additional information, send inquiries to:  
Chris Brooks (cbrooks@springhilltn.org)

APPLICATION FOR SURETY

PROJECT NAME: KROGER L-594 (PORT ROYAL RD) PHASE: N/A SECTION: N/A  
# OF LOTS APPROVED: N/A # OF LOTS REMAINING: N/A  
SURETY TYPE:  MAINTENANCE  PERFORMANCE  RESTORATION  
POSTED WITH:  LETTER OF CREDIT  PERFORMANCE BOND  CASH  
SURETY AMOUNT: \$ 121,800 EXPIRATION DATE: N/A  
AUTOMATIC RENEWAL CLAUSE INCLUDED WITH SURETY:  Y  N  
PURPOSE OF SURETY: ASPHALT, STORM, CURB & GUTTER, SANITARY, WATER AND LANDSCAPE BUFFER

NAME OF FINANCIAL INSTITUTION: FIDELITY AND DEPOSIT COMPANY OF <sup>MARYLAND</sup> SURETY #: 08938826  
CONTACT PERSON: BRENDAN D. KEATING EMAIL: brendan.keating@zurichna.com  
ADDRESS: 1400 AMERICAN LANE - T1 - 13TH FLOOR CITY, STATE, ZIP: SCHAUMBURG, IL 60196  
PHONE NUMBER: 847-240-8107 FAX NUMBER: 866-787-1046

NAME OF OWNER/DEVELOPER OR REPRESENTATIVE: KROGER LIMITED PARTNERSHIP I  
ADDRESS: 2620 ELM HILL PIKE CITY, STATE, ZIP: NASHVILLE, TN 37214  
PHONE NUMBER: 615-871-2405 FAX NUMBER: 615-871-2409  
EMAIL: 6664.capers@kroger.com

ACTION REQUEST

I (WE) REQUEST THAT THE FOLLOWING ACTION BE TAKEN:

- ESTABLISH NEW SURETY
- REQUEST FINAL INSPECTION AND RELEASE OF SURETY
- REQUEST REDUCTION OF SURETY AMOUNT
- REQUEST EXTENSION OF SURETY FOR (1) YEAR  
(PLEASE PROVIDE PROOF OF DIFFICULTY BELOW)

EXPLANATION FOR PROOF OF DIFFICULTY: \_\_\_\_\_

[Signature] 12/23/11  
Applicant Signature / Date

**Bond Information Sheet**

**Site Name:** Spring Hill Kroger Subdivision

Type of Bond:	Performance Bond	Original Bond Amount:	\$121,800	<u>Type of Action Requested:</u>
Bond #:	8938826			Bond Renewal <input type="checkbox"/>
		Current Bond Amount:		
Bond Issued:	12/5/2008			Bond Reduction <input type="checkbox"/>
Expiration Date:	Automatic Renewal	25% of Original Amount:	\$30,450	
		(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
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**Staff Recommendation:**

To release of the Preformance bond, All work has been completed and corrcetions made.

Chris Brooks  
Director of Codes  
City of Spring Hill

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 *Ren Spunk*

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, sign 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 replaces 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 deposed 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

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

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