

RESOLUTION 17-52 B

A RESOLUTION TO AUTHORIZE THE MAYOR TO EXECUTE A DECLARATION OF RESTRICTIONS, COVENANTS, CONDITIONS AND EASEMENTS RELATIVE TO A 10.75-ACRE TRACT PREVIOUSLY DONATED TO THE CITY OF SPRING HILL BY REVERE AT SPRING HILL, LLC

WHEREAS, the City of Spring Hill, Tennessee ("City") accepted a donation of the real property designated as Lot 2 on the Final Plat/Lot Split by Allen B. O'Leary with WES Engineers & Surveyors dated April 3, 2017, from Revere at Spring Hill, LLC ("Revere") an Ohio limited liability company, consisting of 10.75 acres pursuant to Resolution 17-52; and

WHEREAS, the City and Revere desire to set forth certain provisions as to the use of said real property and to grant Revere easement rights and encumber the adjacent Lot 1, 30.02-acre tract, also shown on the above-referenced Final Plat/Lot Split, upon which Revere intends to promote and install certain improvements and to insure the use of Lot 1 does not interfere with Lot 2; and

WHEREAS, the public good demands the City and Revere enter into a Declaration of Restrictions, Covenants, Conditions and Easements relative to the above-described real property.

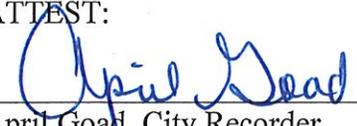
NOW, THEREFORE, BE IT RESOLVED, that the City of Spring Hill authorizes the Mayor to execute the Declaration of Restrictions, Covenants, Conditions and Easements.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 15th day of May, 2017.



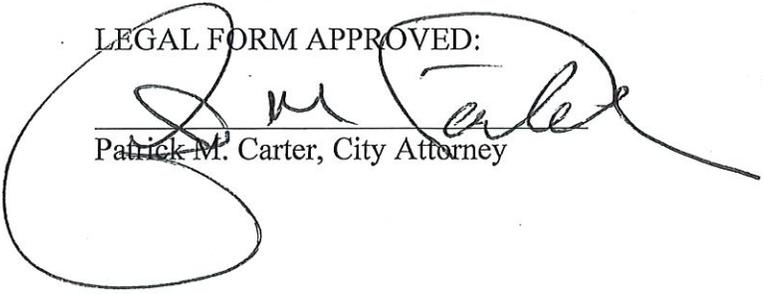
Rick Graham, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick M. Carter, City Attorney

Plu City Spring Hill

THIS INSTRUMENT PREPARED BY:

John A. Gupton III
Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.
Baker Donelson Center
211 Commerce Street, Suite 800
Nashville, TN 37201

BK/PG: R2453/1279-1290

17013695

12 PGS:AL-RESTRICTIONS	
JANE BATCH: 190863	09/11/2017 - 11:36 AM
VALUE	0.00
MORTGAGE TAX	0.00
TRANSFER TAX	0.00
RECORDING FEE	60.00
ARCHIVE FEE	0.00
DP FEE	2.00
REGISTER'S FEE	0.00
TOTAL AMOUNT	62.00

STATE OF TENNESSEE, MAURY COUNTY
JOHN FLEMING
REGISTER OF DEEDS

**DECLARATION OF RESTRICTIONS,
COVENANTS, CONDITIONS AND EASEMENTS**

THIS DECLARATION OF RESTRICTIONS, COVENANTS, CONDITIONS AND EASEMENTS (this "**Agreement**") is made this 15th day of May, 2017, by and between Revere at Spring Hill, an Ohio limited liability company (hereinafter "**Revere**") and the CITY OF SPRING HILL, Tennessee (the "**City**").

RECITALS

WHEREAS, Revere is the owner of certain real estate located at Rice Road and Derryberry Lane, Spring Hill, Maury County, Tennessee, and more particularly described in Exhibit A which is attached hereto and by reference made a part hereof (hereinafter "**Lot 1**"); and

WHEREAS, Revere has conveyed that certain real estate located adjacent to Lot 1 at Rice Road and Derryberry Lane, Spring Hill, Maury County, Tennessee, and more particularly described in Exhibit B which is attached hereto and by reference made a part hereof (hereinafter the "**Lot 2**") to the City as of the date hereof; and

WHEREAS, Revere intends to improve Lot 1 (the "**Development**"); and

WHEREAS, there is a public benefit in restricting the use of Lot 2 as a green space which provides scenic enjoyment and recreational values to the general public (the "**Purpose**"); and

WHEREAS, the City agrees to enter into this Agreement, grant Revere the easement rights granted hereunder and encumber Lot 2 with the restrictions, covenants, and conditions set forth herein to promote the Purpose for the benefit of Lot 1 and Lot 2; and

WHEREAS, Revere desires to enter into this Agreement to promote and install certain improvements on Lot 2 in connection with the Purpose as more specifically described herein, and to insure that the use of Lot 2 does not interfere with Lot 1.

NOW THEREFORE, in consideration of the premises, the parties hereby agree as follows:

- **Definitions.** In addition to any terms whose definitions are fixed and defined elsewhere in this Agreement, each of the following terms, when used herein with an initial capital letter, shall have the following meaning:

- Exercise Areas. "Exercise Areas" shall mean the areas identified as Exercise Areas on the Plans and Specifications.
- Exercise Equipment. "Exercise Equipment" shall mean the Exercise Equipment located within the Exercise Areas and described in the Plans and Specifications.
- Greenway. "Greenway" shall mean the area identified as Greenway on the Plans and Specifications as an extension of the City of Spring Hill Parks and Greenway Plan.
- Improvements. "Improvements" shall mean collectively the Exercise Areas, Exercise Equipment, Greenway and any and all other improvements located or constructed from time to time on Lot 2.
- Land. "Land" shall mean Lot 1 and Lot 2 collectively.
- Occupant. "Occupant" or "Occupants" shall mean any Person from time to time lawfully entitled to the use and occupancy of any portion of Lot 1 or Lot 2.
- Owner. "Owner" means the record owner of fee simple title to all or any part of Lot 1 or Lot 2.
- Permittees. "Permittees" shall mean Revere, City, their officers, directors, employees, agents, partners, contractors, customers, visitors, invitees, licensees, lessees, tenants, subtenants, and concessionaires, their successors and assigns and any other Persons authorized hereunder or otherwise by Revere or City, their successors and assigns, to be on Lot 1 or Lot 2.
- Person. "Person" or "Persons" shall mean individuals, partnerships, associations, trusts, corporations and any other form of business entity, or one or more of them, as the context may require.
- Plans and Specifications. "Plans and Specifications" shall mean the plans and specifications dated May 15, 2017, prepared by John A. Gupton, III, Job Number _____.
- Site Development Plan. "Site Development Plan" shall mean that certain plan showing the easements, and improvements to be made to lot 2.
- **Easements**
 - Access. Revere, and its respective Permittees shall have a perpetual and non-exclusive easement, license, right and privilege of pedestrian passage and use for the purpose of ingress and egress to and from Lot 1 and Lot 2 on, over and across the common property line of Lot 1 and Lot 2.
 - Storm Water Discharge. City grants Revere an easement and right to storm water runoff from Lot 1 to through and over Lot 2 as required for the development of Lot 1.

- **Sanitary Sewer.** City grants Revere the right to connect and tie into the sanitary sewer located on Lot 2 and grants Revere a permanent easement across Lot 2 as a sanitary sewer connection and a temporary easement to make such connection and tie into the sanitary sewer.

- **Temporary Construction Easement.** The City hereby grants to Revere a temporary construction easement over and across Lot 2 for the purpose of constructing the Exercise Equipment, Exercise Areas and Greenway in accordance with the Plan and Specifications, the Site Development Plan, installation of storm water drainage, sanitary sewer, modification of utilities and storm water discharge to comply with approved modifications of the Plan and Specifications, Site Development Plan, and ordinance and regulation requirements.

- **Construction.** Revere shall construct the Greenway, Exercise Areas, and Exercise Equipment, at its sole cost and expense, in accordance with the Plans and Specifications, the Site Development Plan and the City's ordinances and regulations. The Site Development Plan shall mean that certain plan showing the easements, and improvements to be made to Lot 2.

- **Maintenance and Repair.** The Improvements located on Lot 2 shall be maintained by the City, at City's sole cost and expense, in a safe, clean, sightly, good and functional condition and state of repair, and in compliance with all applicable laws.

- **Use of Lot 2.** Lot 2 shall only be used for the Purpose and the City agrees that Lot 2 shall remain an open green space and that no improvements shall be placed on Lot 2 except for the Improvements placed or constructed on Lot 2 by Revere. The City shall not permit any conduct, activity or condition which may endanger, disturb or otherwise interfere with Lot 1, including, without limitation, light sources, except those necessary to illuminate the Greenway or any other condition which may constitute a nuisance for the public or the Owner of Lot 1.

- **Indemnification.** The Owner of Lot 2 agrees to indemnify, defend and hold harmless Revere from and against any and all losses, liabilities, damages, costs and expenses (including attorneys' fees) resulting from claims by third parties for injuries to any person and damage to property occurring in or about Lot 2 arising from the use or occupancy of Lot 2.

- **Miscellaneous.**

- **Easements, Restrictions, Covenants and Conditions Running With the Land.** Except as expressly set forth herein to the contrary, the easements, restrictions, covenants and conditions imposed on Lot 2 pursuant to the terms and provisions hereof shall be binding upon all present and future Owners, users and Occupants of Lot 2 and shall inure to the benefit of Revere, Occupants, and Owners of Lot 1 and their grantees, successors and assigns. Such restrictions and covenants shall run with and bind Lot 2 and remain in effect perpetually.

- **Remedies.** In addition to any and all other rights and remedies to which it may be entitled hereunder, at law or in equity, in the event of a breach or attempted breach of any of the restrictions or covenants set forth in this Agreement on the part of any owner, user or Occupant of all or any part of Lot 2 or any improvements from time to time located thereon,

Revere shall be entitled to the remedy of specific performance and injunctive relief in connection therewith. Any breach hereunder on the part of any owner, user or Occupant of Lot 2 would cause immediate and irreparable harm and damage to Revere and Lot 1 for which the remedy of monetary damages would be insufficient, inadequate and incomplete and impossible to quantify accurately.

- Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

- Severability. Invalidation of any one of the provisions of this Agreement by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

- Amendments. This Agreement may not be amended in whole or in part except by the written consent of Revere and the Owner of Lot 2, which written agreement shall be deemed effective only when recorded in the Register's Office of Maury County, Tennessee.

- Captions and Capitalized Terms. The captions preceding the text of each section are included only for convenience of reference. Captions shall be disregarded in the construction and interpretation of the Agreement. Capitalized terms are also selected only for convenience of reference and do not necessarily have any connection to the meaning that might otherwise be attached to such term in a context outside of this Agreement.

- Non-Waiver. The failure of any-party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

- Attorney's Fee. If any legal action, suit or proceeding is commenced between the parties regarding their respective rights and obligations under this Agreement, the prevailing party shall be entitled to recover, in addition to damages or other relief, costs and expenses, attorneys' fees and court costs (including, without limitation, expert witness fees). As used herein, the term "prevailing party" shall mean the party which obtains the principal relief it has sought, whether by compromise, settlement or judgment. If the party which commenced or instituted the action, suit or proceeding shall dismiss or discontinue it without the concurrence of the other party, such other party shall be deemed the prevailing party.

- Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which when taken together shall constitute one and the same instrument.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute this Agreement as of the date first set forth above.

CITY OF SPRING HILL, TENNESSEE:

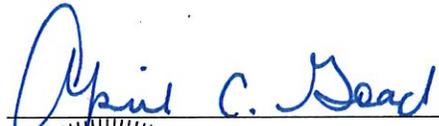
By:	
Name:	Rick Graham
Title:	Mayor

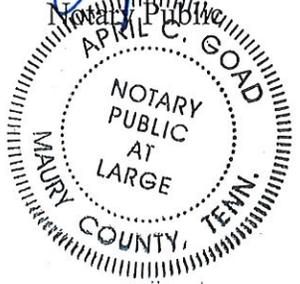
STATE OF TENNESSEE

COUNTY OF Maury

Before me, April C. Goad, a Notary Public in and for the State and County aforesaid, personally appeared Rick Graham, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Mayor of the City of Spring Hill the within named bargainer, a _____, and that he as such _____, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Mayor by himself as such Rick Graham.

WITNESS my hand and seal at office, on this the 15th day of May, 2017.

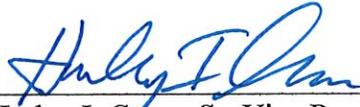




My Commission Expires:
June 28, 2020

[SIGNATURES CONTINUES ON NEXT PAGE]

Revere at Spring Hill, LLC,
an Ohio limited liability company

By: 
Harley I. Gross, Sr. Vice President

STATE OF OHIO

COUNTY OF CUYAHOGA

Before me, Debra M. Baran, a Notary Public in and for the State and County aforesaid, personally appeared Harley I. Gross, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Sr. Vice President of Revere at Spring Hill, LLC, the within named bargainer, an Ohio limited liability company, and that he as such Sr. Vice President, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as such Sr. Vice President.

WITNESS my hand and seal at office, on this the 17th day of July, 2017.



Notary Public

My Commission Expires:



DEBRA M. BARAN
Notary Public, State of Ohio
My Commission Expires
July 20, 2022

EXHIBIT B

LOT 2

Lot 2 containing approximately 10.75 acres as shown on the Final Plat Revere at Spring Hill of record in Plat Book P21, Page 214, Register's Office for Maury County, Tennessee.

A copy of said plat is attached hereto as Schedule 1.

EXHIBIT C

ACCESS EASEMENT

Lot 2 containing approximately 10.75 acres as shown on the Final Plat Revere at Spring Hill of record in Plat Book P21, Page 214, Register's Office for Maury County, Tennessee.

EXHIBIT A

LOT 1

Lot 1 containing approximately 30.02 acres as shown on the Final Plat Revere at Spring Hill of record in Plat Book P21, Page 214, Register's Office for Maury County, Tennessee.
A copy of said plat is attached hereto as Schedule 1.

JOHN FLEMING

Register of Deeds
Maury County, TN

Payment Receipt
Batch# 190863

09/11/2017

RCVD OF: CITY OF SPRING HILL

When Revenue Is Paid By Check,
Receipt Is Not Valid Until Check Is
Paid By Bank

Check(s) 62.00

Inst # 17013695 11:36 AM

RESTRICTIONS

Book: R2453 Page: 1279

Recording Fee 60.00

DP Fee 2.00

Document Total: \$62.00

Batch Total: 62.00