



HISTORIC  
FRANKLIN  
TENNESSEE

ITEM #9  
WRKS  
06/10/14

## MEMORANDUM

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May 13, 2014

**TO:** Board of Mayor and Aldermen

**FROM:** Eric Stuckey, City Administrator  
David Parker, City Engineer/CIP Executive  
Paul Holzen, Director of Engineering

**SUBJECT:** **Consideration of Agreement (COF 2014-0104) with CoolSprings Mall, LLC, Dillard Tennessee Operating Limited Partnership for the Partial Release of a Sanitary Sewer Easement**

### **Purpose**

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider an agreement with CoolSprings Mall, LLC and Dillard Tennessee Operating Limited Partnership

### **Background**

CoolSprings Mall, LLC has requested approval to construct a building on top of a City of Franklin existing sanitary sewer main and easement. The City's Sanitary Sewer Specifications require permanent exclusive easements on all public sanitary sewer mains. To allow for the proposed development the Mall and Dillard's have requested the City to abandon a portion of the Easement and public sanitary sewer main allowing it to function as a private sanitary sewer service. This requires approval of an agreement between the City and all impacted property owners

### **Financial Impact**

No Financial Impact

### **Recommendation**

Staff recommends approval of COF 2014-0104

Prepared by and Return to:  
Ragan-Smith Associates, Inc.  
315 Woodland Street  
Nashville, Tennessee 37206

Map 53, Parcel 139.00  
Map 53, Parcel 117.00

**PARTIAL RELEASE OF EASEMENT  
CITY OF FRANKLIN, TENNESSEE  
COF Contract No 2014-0104**

This instrument made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_ 2014, by and between the **City of Franklin**, Williamson County, Tennessee, ("City"), **CoolSprings Mall, LLC**, a Tennessee limited liability company ("Mall"), and **Dillard Tennessee Operating Limited Partnership**, a Tennessee limited partnership ("Dillard's")

**WITNESSETH:**

**WHEREAS**, Dillard's owns a certain parcel of real property located in Williamson County, Tennessee, being Map 53, Parcel No. 139.00, the Deed for which is of record in Deed Book 1366, Page 244, Register's Office for Williamson County, Tennessee, and the Mall owns a certain parcel of real property located in Williamson County, Tennessee being Map 53, Parcel No. 117.00, the Deed for which is of record in Deed Book 5412, Page 186, Register's Office for Williamson County, Tennessee (collectively, the "Properties"); and

**WHEREAS**, a twenty-foot (20') wide Sanitary Sewer Easement runs across the Properties, as shown on the plat of record in Plat Book 14, Page 134, Register's Office for Williamson County, Tennessee and Plat Book 17, Page 36, Register's Office for Williamson County, Tennessee (the "Easement"); and

**WHEREAS**, the Mall desires to construct buildings on top of the existing sanitary sewer main and Easement; and

**WHEREAS**, the City's Sanitary Sewer Specifications require permanent exclusive easements on all public sanitary sewer mains; and

**WHEREAS**, the Mall and Dillard's have requested the City to abandon a portion of the Easement and public sanitary sewer main allowing it to function as a private sanitary sewer service, which is more particularly shown by words, figures, signs and symbols on **Exhibits A and B** hereto, which are made a part hereof; and

**WHEREAS**, the Mall and Dillard's have entered into a private sanitary sewer service and easement agreement.

**NOW, THEREFORE**, in consideration of these premises and the mutual promises contained herein, the City, the Mall and Dillard's, their successors and assigns, do hereby agree as follows:

1. The foregoing recitals are incorporated into this Agreement and made a part thereof.
2. The Mall agrees to accept the sanitary sewer main in its existing condition and agrees to perform the necessary maintenance and operation of the line as shown in Exhibit A.

3. The City hereby abandons and vacates the Easement as shown in Exhibit A and disclaims and waves all rights and interests the City has in the Easement.

4. The CBL and Dillard's agree that a private sanitary sewer easement has been established for the sanitary sewer main as shown in Exhibit A pursuant to existing agreements between the Mall and Dillard's, and that the Mall shall have the right to construct buildings on top of the sanitary sewer main on the Mall Property. The Mall shall provide the City with a copy of said private sanitary sewer easement as recorded in the Register's Office for Williamson County, Tennessee.

5. In the event the Mall and/or Dillard's sell its Property, all terms within this Agreement shall be transferred to the new owners of the Property.

6. The Mall hereby agrees to indemnify the City and hold the City harmless from any and all losses, damages and expenses, including court cost and reasonable attorney fees, by reason of any loss, whatsoever, arising out of or in consequence of the necessary maintenance and operation of the sanitary sewer main as shown in Exhibit A.

7. Applicable Law; Choice of Forum/Venue. This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice-of-law rules. The choice of forum and venue shall be exclusively in the Courts of Williamson County, Tennessee.

8. Entire Agreement. This Agreement together with its exhibit(s) supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of the entire Agreement. The terms and conditions of this Agreement may not be changed except by an amendment expressly referencing this Agreement by section number and signed by an authorized representative of each party.

[Signature pages follow.]

WITNESS our hands, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**COOLSPRINGS MALL, LLC,**  
By CBL SubReit, LLC, Chief Manager

\_\_\_\_\_  
By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF TENNESSEE     )  
COUNTY OF HAMILTON    )

Before me, \_\_\_\_\_, of the state and county aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath acknowledged himself to be \_\_\_\_\_ of CBL SubReit, Inc., a corporation, which is the Chief Manager of **COOLSPRINGS MALL, LLC**, a Tennessee limited liability company, the within named bargainer, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained by personally signing the name of the Chief Manager by himself as such officer on behalf of the within named bargainer.

**WITNESS** my hand and seal at office in Chattanooga, Tennessee this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

My commission expires:

[Affix Notary Seal]

\_\_\_\_\_

**DILLARD TENNESSEE OPERATING LIMITED PARTNERSHIP,**

By TNLP InvestCo, LLC, General Partner

By

Teri Murdock,  
Vice President

STATE OF ARKANSAS        )  
COUNTY OF PULASKI     )

Before me, \_\_\_\_\_, of the state and county aforesaid, personally appeared Teri Murdock, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged herself to be Vice President of TNLP InvestCo, LLC, a limited liability company, which is the General Partner of **DILLARD TENNESSEE OPERATING LIMITED PARTNERSHIP**, a Tennessee limited partnership, the within named bargainor, and that she as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained by personally signing the name of the General Partner by herself as such officer on behalf of the within named bargainor.

**WITNESS** my hand and seal at office in Little Rock, Arkansas this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

My commission expires:

[Affix Notary Seal]

\_\_\_\_\_

**ATTEST:**

**CITY OF FRANKLIN:**

BY: \_\_\_\_\_

ERIC S. STUCKEY  
CITY ADMINISTRATOR

\_\_\_\_\_

DR. KEN MOORE  
MAYOR

STATE OF TENNESSEE  
COUNTY OF WILLIAMSON

Personally appeared before me, the undersigned, a Notary Public of said State and County, **ERIC S. STUCKEY AND DR. KEN MOORE**, with whom I am personally acquainted and who acknowledge that they executed the within instrument for the purposes therein contained, and who further acknowledge that they are the Mayor and City Administrator of the maker or a constituent being authorized by the maker, to execute this instrument on behalf of the maker.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Notary Public

[Affix Notary Seal]

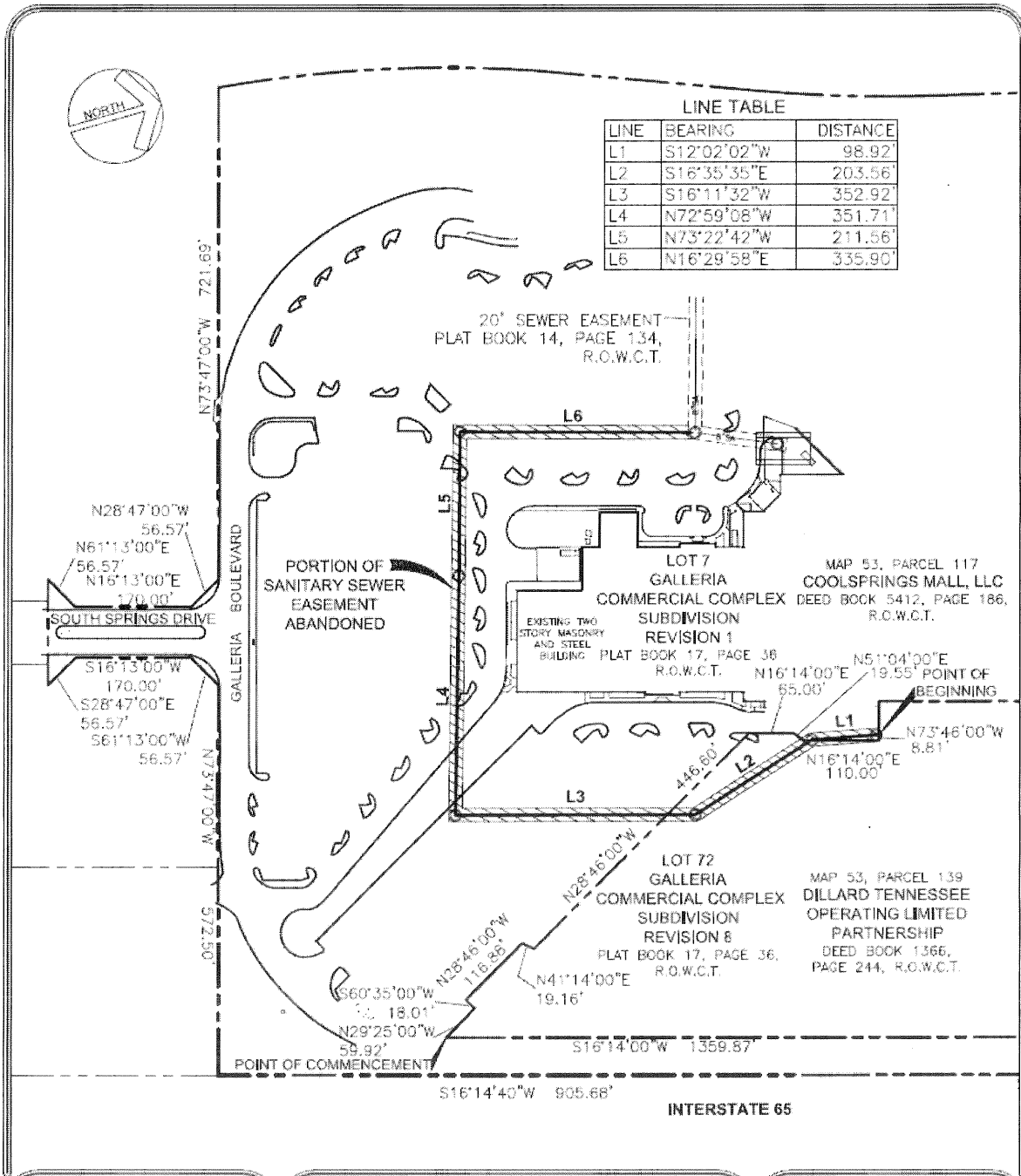
My Commission Expires: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_

Shauna R. Billingsley, City Attorney

# EXHIBIT A



LINE	BEARING	DISTANCE
L1	S12°02'02"W	98.92'
L2	S16°35'35"E	203.56'
L3	S16°11'32"W	352.92'
L4	N72°59'08"W	351.71'
L5	N73°22'42"W	211.56'
L6	N16°29'58"E	335.90'

G:\08033-97114-Survey\Exhibits\Sewer Abandonment\8711 SEWER EXHIBIT.dwg

DATE	APRIL 24, 2014
DESIGNED:	TJS
DRAWN:	TJS
SCALE:	1" = 200'
JOB NO.	WK. ORDER
08033	8711

**COOL SPRINGS GALLERIA**  
**ABANDONMENT OF EASEMENT**  
 GALLERIA BLVD, FRANKLIN, WILLIAMSON COUNTY, TENNESSEE

**EXHIBIT A**

**RAGAN-SMITH**

LAND PLANNERS • CIVIL ENGINEERS  
 LANDSCAPE ARCHITECTS • SURVEYORS

NASHVILLE  
 215 HUNTERS LANE, SUITE 200  
 NASHVILLE, TN 37203  
 615.244.0557

CHATTANOOGA  
 1111 MARKET STREET, SUITE 100  
 CHATTANOOGA, TN 37402  
 423.422.5400

## EXHIBIT B

Being a 20' SEWER EASEMENT located on Lot 72 as shown on the plat of Galleria Commercial Complex Subdivision, Revision One recorded in Plat Book 14, Page 134, at the Register's Office for Williamson County, TN and Lot 7 on the plat of Galleria Commercial Complex Subdivision, Revision Eight recorded in Plat Book 17, Page 36, at the Register's Office for Williamson County, TN and being more particularly described as follows:

**Commencing** at the southern-most corner of said lot 72 and following along the common line of Lots 7 and 72 the following nine bearings and distances:

- 1) north 29 degrees 25 minutes 00 seconds west a distance of 59.92 feet to a point,
- 2) south 60 degrees 35 minutes 00 seconds west a distance of 18.01 feet to a point,
- 3) north 28 degrees 46 minutes 00 seconds west a distance of 116.88 feet to a point,
- 4) north 41 degrees 14 minutes 00 seconds east a distance of 19.16 feet to a point;
- 5) north 28 degrees 46 minutes 00 seconds west a distance of 446.60 feet to a point;
- 6) north 16 degrees 14 minutes 00 seconds east a distance of 65.00 feet to a point;
- 7) north 51 degrees 04 minutes 00 seconds east a distance of 19.55 feet to a point;
- 8) north 16 degrees 14 minutes 00 seconds east a distance of 110.00 feet to a point;
- 9) north 73 degrees 46 minutes 00 seconds west a distance of 8.81 feet to the **point of beginning** of the herein described easement,

Thence with the centerline of an existing 20 foot wide Sanitary Sewer Easement of record in Plat Book 14, Page 134 and Plat Book 17, Page 36, R.O.W.C., Tennessee the following six bearings and distances as shown in the line table on the attached Exhibit A:

- L1) south 12 degrees 02 minutes 02 seconds west a distance of 98.92 feet;
- L2) south 16 degrees 35 minutes 35 seconds east a distance of 203.56 feet;
- L3) south 16 degrees 11 minutes 32 seconds west a distance of 352.92 feet;
- L4) north 72 degrees 59 minutes 08 seconds west a distance of 351.71 feet;
- L5) north 73 degrees 22 minutes 42 seconds west a distance of 211.56 feet;
- L6) north 16 degrees 29 minutes 58 seconds east a distance of 335.90 feet to the northwesterly terminus of the herein described easement abandonment.



