

PURCHASE AND SALES CONTRACT

This Agreement made and entered into this 3rd day of April, 2007, by and between J. Hicks Excavating, Inc., a Tennessee corporation, hereinafter described as "Seller") and The City of Crossville, Tennessee, a Tennessee municipal corporation, (hereinafter described as "Purchaser").

WITNESSETH:

The Seller agrees to sell and convey and the Purchaser agrees to purchase the following described property along with certain improvements and excavation work on and to the same (hereinafter sometimes referred to as the "Property") under the following terms and conditions to-wit:

All that tract or parcel of land lying and being in Cumberland County, Tennessee, as more specifically described on Exhibit "A" attached hereto and incorporated herein by reference.

1. The Purchase price that Purchaser agrees to pay and that Seller agrees to accept is One Million Five Hundred Twenty-Seven Two Hundred Sixty and 00/100 (\$ 1,527,260.00) Dollars, payable as follows: Four Hundred Thousand and 00/100 (\$ 400,000.00) on the signing of this contract, the receipt of which is hereby acknowledged ("Down Payment"); Nine Hundred Two Thousand, Two Hundred Sixty and 00/100 (\$ 902,260.00) Dollars across six consecutive payments on the first day of each month following Closing with a final payment of Two Hundred Twenty-five Thousand and 00/100 (\$225,000) according to the Payment Schedule attached hereto and incorporated by reference as Exhibit "B." Seller shall deliver to Purchaser, simultaneously upon tender of the Down Payment, a general warranty deed for the Property, which shall warrant against the claims of all persons whomsoever but for current year ad valorem real property taxes. The Down Payment will not be deposited until acceptance of this contract by all parties. The Purchase Price includes the improvements and excavation work hereinafter described.

2. All ad valorem real estate taxes on the Property shall be prorated between the Purchaser and Seller as of the date of closing. Seller will pay for its share of the current year's property taxes at closing. If the actual tax bills for the calendar year of the Closing are not available, said taxes shall be prorated based on tax bills for the previous calendar year and the parties hereby agree to cause a re-proration of said taxes upon the receipt of tax bills for the calendar year of Closing. Seller shall be responsible or any "roll-back" taxes caused by a change in the use of the Property from its current use as returned by Seller.

3. Purchaser shall obtain, at Purchaser's expense, a title commitment and, after closing, a policy subject to current year ad valorem property taxes. For the purposes of Closing, marketable title in fee simple shall be governed by Tennessee law as may be supplemented by any applicable Title Standards of the State Bar of Tennessee. It is agreed that Seller may cure any title

objections by furnishing to Purchaser a title insurance commitment providing affirmative coverage issued by a title insurance company authorized to do business in the State of Tennessee agreeing to issue at standard rates an owner's title insurance policy Form B-1970, insuring title to the Property over said title objection(s). Seller shall be responsible for payment of the title insurance premium for the title policy to be issued the Purchaser in such event.

4. The Purchaser, its agents and employees, shall have the right to come upon the Property during reasonable hours to examine and inspect the same and to inspect the nature, status and progress of the improvements and excavation work being performed thereon.

5. All notices required or permitted under this Contract shall be in writing and shall be effective at the earlier of the time when actually received, regardless of the method of delivery, or at the time said notice is deposited in the United States Mail or Federal Express, in an envelope properly addressed to the Seller and Purchaser as follows:

Purchaser:

**City of Crossville
Attn: Dr. Jack Miller
99 Municipal Avenue
Crossville, Tennessee 38555
Telephone (931) 484-5113
Telecopier (931) 484-7713**

With copy to:

**Looney, Looney & Chadwell, PLLC
Attn: Kenneth M. Chadwell
156 Rector Avenue
Crossville, Tennessee 38555
Telephone (931) 484-7569
Telecopier (931) 484-4488**

Seller:

**J. Hicks Excavating, Inc.
Attn: Mr. Jim Mitchell
48 Porcelain Tile Drive
Crossville, Tennessee 38555
Telephone (931) 707-0022
Telecopier (931) 707-0044**

With copy to:

**Thomas E. Hale, Esq.
14 East Street
Crossville, Tennessee 38555

Telephone (931) 456-1070
Telecopier (931) 456-1071**

In the event that the last day for giving notice hereunder falls upon a Saturday, Sunday, or legal holiday, the last day shall be deemed to be the next day which is neither a Saturday, Sunday, or legal holiday.

6. Seller will provide road access to the Property, underground utilities, and access to city water. Further, and in partial consideration for the Purchase Price above, Seller shall provide the improvements and excavation work as described on Exhibit "C" incorporated herein by reference thereto (the "Scope of Work") according to the Schedule attached hereto and

incorporated herein by reference as Exhibit "D," Purchaser's obligation to make the monthly payments set forth on Exhibit "B" being made specifically contingent upon Seller's completion of the work and improvements according to the milestone dates on the Schedule at Exhibit "D." The terms of this Paragraph 6 shall survive Closing.

7. The Purchaser shall pay any transfer tax and/or documentary stamp tax on the conveyance or applicable tax in connection with the recording of the general warranty deed and any cost or fees in connection with the recording of the general warranty deed, and the Purchaser shall pay any taxes or recording charges in connection with the recording of any Mortgage or Security Deed or Deed of Trust on the Property. Looney, Looney & Chadwell, PLLC, represents exclusively Purchaser in this transaction and under this Agreement and all fees, including closing fees, charged by Looney, Looney & Chadwell, PLLC, shall be paid by Purchaser. Seller shall pay its own attorney fees.

8. Time is of the essence of this Contract.

9. The sale shall close on or before April 3, 2007. The work and improvements described on the Exhibits attached hereto and described herein shall be completed by Seller on or before November 1, 2007. Seller shall indemnify and hold harmless Purchaser from and against all claims and demands, if any, arising out of the work described herein and out of the presence of Seller, and any of its agents, contractors, subcontractors, employees and others, upon the Property, including, without limitation, claims or demands for personal injury, death and worker's compensation, environmental matters, and further including claims at law or in equity, and administrative and regulatory, Seller hereby agreeing to abide by all applicable federal, state, and local rules, laws, statutes and regulations, including, further, without limitation, Purchaser's reasonable attorney fees and costs and expenses associated with any such claim, demand or proceeding. Seller further agrees to acquire and hold in force a general liability insurance policy with policy limits of at least \$1,000,000.00 for a single occurrence and \$3,000,000.00 in the aggregate and to name the City of Crossville as a named insured on the same.

Purchaser shall indemnify and hold harmless Seller from and against all claims and demands, if any, arising out of any injury caused by the presence of Purchaser, and any of its officers, agents, contractors, subcontractors, employees and others, upon the Property, including, without limitation, claims or demands for personal injury, property damage, death and worker's compensation, environmental matters, and further including claims at law or in equity, and administrative and regulatory, Purchaser hereby agreeing to abide by all applicable federal, state, and local rules, laws, statutes and regulations, including, further, without limitation, Seller's reasonable attorney fees and costs and expenses associated with any such claim, demand proceeding or enforcement of any provision of this Contract. The terms and conditions of this Paragraph 9 shall survive closing.

10. The Contract constitutes the sole and entire agreement between the parties hereto and no modification of this Contract shall be binding unless reduced to writing,

attached hereto and signed by all parties. No representation, promise or inducement not included in this Contract shall be binding upon any party hereto.

11. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

12. Each party shall at the time of Closing execute all such documents as may be necessary or appropriate in order to consummate the transaction contemplated by this agreement including special warranty deed, a standard owner's affidavit if required for title insurance purposes, Affidavit that Seller is not a foreign entity as the same is defined under the Internal Revenue Code or other laws of the United States, and any assignments or other documents necessary to carry out the terms of this agreement.

13. This Contract shall be governed by, and construed in accordance with the laws of the State of Tennessee.

IN WITNESS WHEREOF, the parties have hereunto set their hands and affixed their seals, this day and year first above written.

SELLER:

J. Hicks Excavating, Inc.

By: *Perry Hicks*

4/2/07 3:15 p.m.
Date and Time

Its: *Pour*

PURCHASER:

The City of Crossville

By: *X Graham m*

4/3/07 10:10 a.m.
Date and Time

It: *MAYOR*

EXHIBIT "A"

MICHAEL V. STUMP LAND SURVEYOR
45 Guinevere Lane
Crossville, Tennessee 38555
931-484-8107

March 29, 2007

TRACT DESCRIPTION: 40.41 ACRES situated in the First Civil District of Cumberland County, Tennessee. Being part of Parcels 31.00, 31.03, 31.05 and all of Parcel 31.01, Shown on Tax Map 73.

Beginning on an iron pin set on the north right-of-way of Crossroads Boulevard (60 foot width), said iron pin located Westward, a distance of about 3,150 feet from the intersection of U.S. Highway 127, near Interstate Forty, this iron pin is referenced by datum adjusted 1983 State Plane Coordinates of North = 607,173.503 feet and East = 2,247,967.579 feet; thence severing the lands of J. Hicks Excavating, Inc. (Deed Book 1037, Page 627-tract 2), South 7 deg. 48 min. 10 sec. West, a distance of 456.41 feet to an iron pin found on the north boundary of Donathon R. Ivey (Deed Book 461, Page 427); thence North 84 deg. 23 min. 24 sec. West, crossing Black Drowning Creek at 308 feet, in all a total distance of 595.95 feet to an iron pin set on the east bank of Meadow Creek, said iron pin on the boundary of J. Baisley (formerly), Deed Book 144, Page 60; thence North 2 deg. 43 min. 33 sec. East, crossing Meadow Creek at 38 feet, in all a total distance of 99.00 feet to a 24 inch Black Gum; thence North 83 deg. 06 min. 07 sec. West, intersecting an iron pin set at a stone (395.43 feet), in all a total distance of 386.05 feet to the east right-of-way of CSX Railway, now abandoned; thence along the chord of a curve to the right having a radius of 1,587.02 feet and length of 241.46 feet, North 32 deg. 22 min. 33 sec. West, a distance of 241.23 feet; thence continuing along said right-of-way, North 26 deg. 21 min. 14 sec. West, intersecting Black Drowning Creek at about 420 feet, in all a total distance of 1,530.03 feet to the boundary of James Howe (Deed Book 421, Page 73); thence along Howe, South 84 deg. 43 min. 58 sec. East, intersecting an iron pin set on the east bank of Black Drowning Creek (17.92 feet), in all a total distance of 333.95 feet to an iron pin; thence North 6 deg. 08 min. 18 sec. East, a distance of 183.54 feet to an iron pin; thence leaving the boundary of Howe and severing tract 1 of J. Hicks Excavating, Inc. (Deed Book 1037, Page 627), North

66 deg. 40 min. 39 sec. East, a distance of 403.44 feet to an iron pin; thence South 25 deg. 30 min. 01 sec. East, a distance of 407.05 feet to an iron pin set at the beginning of a curve to the left having a radius of 396.00 feet and length of 157.51 feet; thence along the chord of said curve, South 36 deg. 53 min. 43 sec. East, a distance of 156.47 feet to an iron pin; thence South 48 deg. 17 min. 23 sec. East, a distance of 59.21 feet to an iron pin at the beginning of a curve to the right having a radius of 1,168.00 feet and length of 464.58 feet; thence along the chord of said curve, South 36 deg. 53 min. 41 sec. East, a distance of 461.52 feet to an iron pin; thence South 25 deg. 30 min. 01 sec. East, a distance of 252.74 feet to an iron pin; thence South 7 deg. 34 min. 37 sec. East, a distance of 218.42 feet to an iron pin at the beginning of a curve to the left having a radius of 334.46 feet and length of 511.06 feet; thence along the chord of said curve, South 51 deg. 21 min. 03 sec. East, a distance of 462.78 feet to the point of beginning, containing 40.41 acres according to a surveys made February 18, 2000 and March 29, 2007 by Michael V. Stump, RLS No. 784. Coordinates recited in this description are datum adjusted by a factor of 1.000127446.

EXHIBIT "B"

PAYMENT SCHEDULE

| | |
|-------------------|-----------|
| Closing | \$400,000 |
| May 1, 2007 | \$150,377 |
| June 1, 2007 | \$150,377 |
| July 1, 2007 | \$150,377 |
| August 1, 2007 | \$150,377 |
| September 1, 2007 | \$150,376 |
| October 1, 2007 | \$150,376 |
| November 1, 2007 | \$225,000 |

EXHIBIT "C"

CITY OF CROSSVILLE
SOCCER COMPLEX

Design-Build Site Package
Scope of Work

J. Hicks Excavating, Inc.

P.O. Box 3849
Crossville, TN 38557-3849

48 Porcelain Tile Drive
Crossville, TN 38555

Phone: 931-707-0022
Fax: 931-707-0044

Email: jhicksinc@volfirst.net

Dewey Hicks
President

Naomi Hicks
Secretary-Treasurer

Jacque Hicks Mitchell
Executive Vice President

Fred Houston C.P.A.
Corporate Controller

Jim Mitchell
Project Manager

| | |
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| Civil engineering | \$ 45,000 |
| (Includes site layout, Grading and drainage, Erosion control, TDEC permits, Coordination with city staff and consultants) | |
| Erosion control measures | \$ 40,000 |
| Clear and grub graded areas | \$ 80,000 |
| Mass excavation | \$ 537,620 |
| (Includes grading for 6ea. Soccer fields, 400 Parking spaces, Access rd., Field house, and pavilion areas) | |
| Topsoil spread | \$ 132,000 |
| Fine grading of all areas | \$ 132,980 |
| (Soccer fields, building pads, and parking lots to be plus or minus 1/10 of one ft. tolerance) | |
| Temp. Water quality ponds 2 ea..... | \$ 12,000 |
| 6 in. ductile iron water line to field house with 2ea. Fire hydrants | \$ 61,800 |
| 3 in. sanitary sewer force main from field house to nearest manhole | \$ 49,600 |
| (Includes road bore) | |

DESIGN BUILD SITE PACKAGE : \$1,091,000

PROPERTY PURCHASE (\$11,000 per survey acre) : \$ 436,260

TOTAL : \$ 1,527,260

EXCLUSIONS

Grading for future fields ,grading for future parking, irrigation system, storm drainage, all seeding, sprigging ,sodding, or strawing, landscaping, field lighting, buildings, fencing, permits and fees, Base stone, Asphalt paving

Thank you,
Jim Mitchell
Project Manager,
J. Hicks Excavating, Inc.



EXHIBIT "D"

CITY OF CROSSVILLE
SOCCER COMPLEX

March 27, 2007

Schedule

| <u>Item</u> | <u>Milestone Date</u> |
|---|-----------------------|
| Approval to proceed | March 30, 2007 |
| Permits | April 23, 2007 |
| Clear and grub site | May 21, 2007 |
| Begin mass excavation | May 28, 2007 |
| Access road and parking subgrade complete | August 20, 2007 |
| Soccer fields ready for cultivating and sprigging | Sept. 17, 2007 |
| Complete water line | Sept. 21, 2007 |
| Complete sanitary sewer | Sept. 21, 2007 |
| J. Hicks scope complete | Oct. 22, 2007 |