

RESOLUTION 24-76

A RESOLUTION TO AUTHORIZE MAYOR TO EXECUTE A SANITARY SEWER MAINTENANCE AGREEMENT WITH PULTE HOMES TENNESSEE LIMITED PARTNERSHIP

WHEREAS, Pulte is the developer of that certain residential subdivision located off Kedron Road and commonly known as Southern Springs which is located within the City; and

WHEREAS, certain aspects of the Sewer Facilities, as installed by Pulte, are not in strict compliance with the specifications therefor as approved by the City; and

WHEREAS, Pulte has proposed, and the City staff have agreed, that Pulte pay to the City a cash amount that will be available to the City to address estimated maintenance relating to the Sewer Facilities, as provided herein; and

WHEREAS, the City has determined that a reasonable estimate of the cost of long-term maintenance of the Sewer Facilities is \$225,000.00 (the "Maintenance Contribution Amount"), and the City is willing to accept the Sewer Facilities subject on the condition that Pulte deliver to the City the Maintenance Contribution Amount as provided herein; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Mayor and Aldermen of the City of Spring Hill authorizes the Mayor as follows:

1. To approve the Sanitary Sewer Maintenance Agreement with Pulte attached hereto for a lump sum fee of \$225,000.00.
2. To authorize the Mayor to execute the agreement with Pulte.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on this 1st day of April 2024.


Jim Hagaman, Mayor

ATTEST:


April Goad, City Recorder

LEGAL FORM APPROVED:


Patrick Carter, City Attorney

SANITARY SEWER MAINTENANCE CONTRIBUTION AGREEMENT

THIS SANITARY SEWER MAINTENANCE CONTRIBUTION AGREEMENT (the "Agreement") is entered into as of the ___ day of _____, 2024 (the "Effective Date"), by and between Pulte Homes Tennessee Limited Partnership, a Nevada limited partnership ("Pulte") and The City of Spring Hill, Tennessee (the "City").

WITNESSETH:

WHEREAS, Pulte is the developer of that certain residential subdivision located off of Kedron Road and commonly known as Southern Springs (the "Development") which is located within the City; and

WHEREAS, in connection with installation of infrastructure supporting the Development, Pulte constructed (or caused to be constructed) certain sanitary sewer facilities (the "Sewer Facilities") for the benefit of the Development; and

WHEREAS, Pulte's installation of the Sewer Facilities, along with certain other infrastructure components of the Development to be constructed or installed in accordance with plans approved by the City, is secured by a certain Performance Bond issued by National Casualty Company, Bond No. SNO4003320 (the "Bond"); and

WHEREAS, the Bond was required by the Planning Commission of the City pursuant to the City Planning Commission's Resolution No. 16-58 dated June 13, 2016; and

WHEREAS, Pulte has completed construction and installation of the Sewer Facilities and desires to dedicate the Sewer Facilities to the City for operation and maintenance thereof as a public utility service for the benefit of the residents of the Development; and

WHEREAS, certain aspects of the Sewer Facilities, as installed by Pulte, are not in strict compliance with the specifications therefor as approved by the City; however, rather than require that the non-compliant components of the Sewer Facilities be replaced or re-installed, Pulte has proposed, and the City has approved, that Pulte pay to the City a cash amount that will be available to the City to address estimated repairs relating to the Sewer Facilities, as provided herein; and

WHEREAS, the City has determined that a reasonable estimate of the cost of long-term maintenance of the Sewer Facilities is \$225,000.00 (the "Maintenance Contribution Amount"), and the City is willing to accept the Sewer Facilities subject on the condition that Pulte deliver to the City the Maintenance Contribution Amount as provided herein;

WHEREAS, it is the intention of Pulte and the City that the Maintenance Contribution Amount will be utilized by the City to provide for the long-term maintenance of the Sewer Facilities as set forth herein, and upon Pulte's delivery to the City of the Maintenance Contribution Amount, the City will accept the Sewer Facilities and undertake the operation and maintenance thereof as a public utility service for the benefit of the Development; and

WHEREAS, the City has agreed that, in connection with the delivery of the Maintenance Contribution Amount by Pulte, any and all obligations of Pulte with respect to the Sewer Facilities that are secured by the Bond shall be released and of no further force and effect, and that Pulte shall be relieved of any and all maintenance, repair, replacement or other curative or corrective obligations with respect to the

Sewer Facilities in consideration for Pulte's payment to the City of the Maintenance Contribution Amount; and

WHEREAS, Pulte and the City wish to enter into this Agreement to address Pulte's payment of the Maintenance Contribution Amount and the City's agreement to accept the Sewer Facilities and release Pulte from any further responsibilities or obligations in connection therewith.

NOW THEREFORE, for and in consideration of Pulte's delivery to the City of the Maintenance Contribution Amount, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Maintenance Contribution Amount. Within ten (10) days from and after the execution of this Agreement, Pulte shall deliver to the City the Maintenance Contribution Amount.

2. Acceptance of Sewer Facilities and Release of Obligations. In consideration of Pulte's payment of the Maintenance Contribution pursuant to which the City has a fund for the long-term maintenance of the Sewer Facilities, the City hereby confirms the acceptance of the dedication of the Sewer Facilities as a public sanitary sewer system, and the City hereby undertakes all responsibility for the future operation and maintenance of the Sewer Facilities. The City hereby releases and forever discharges Pulte from any and all liabilities, obligations and responsibilities with respect to the Sewer Facilities. Without limiting the foregoing, the City hereby agrees and acknowledges that with respect to the Bond and any other surety instruments that Pulte has furnished to the City to secure the completion of improvements relating to the Development, including without limitation, the Sewer Facilities, the Bond shall no longer secure any performance, construction, delivery, maintenance or other obligations relative to the Sewer Facilities, it being expressly agreed and acknowledged that all of Pulte's obligations with respect to the Sewer Facilities have been fully satisfied by delivery of the Maintenance Contribution Amount to the City.

3. 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 agreement.

4. Successors and Assigns. The terms of this Agreement shall be binding on and inure to the benefit of Pulte and the City and their respective successors-in-interest, and any references to Pulte or the City shall be deemed to mean and include their respective successors-in-interest as though they had been original parties to this Agreement.

5. No Waiver. No waiver by Pulte or the City of any provision of this Agreement shall be deemed to have been made unless expressed in writing and signed by such party. No delay or omission in the exercise of any right or remedy accruing to any party upon a breach of this Agreement shall impair such right or remedy or be construed as a waiver of such breach, and the waiver by a party of any breach of this Agreement shall not be deemed a waiver of any other breach of the same or any other provision of this Agreement.

6. Attorneys' Fees. In the event any arbitration or legal proceedings related to this Agreement is commenced, the prevailing party in the proceeding shall be entitled to recover the reasonable attorneys' fees, litigation expenses and court costs it incurred in connection with such proceeding.

7. Governing Law. This Agreement shall be governed by the laws of the State of Tennessee. THE OBLIGATIONS OF THE PARTIES ARE PERFORMABLE, AND VENUE FOR ANY LEGAL ACTION ARISING OUT OF THIS AGREEMENT SHALL LIE, IN THE CIRCUIT COURT FOR MAURY COUNTY, TENNESSEE.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

PULTE:

Pulte Homes Tennessee Limited Partnership, a Nevada limited partnership

By: Pulte Homes Tennessee, Inc., a Michigan corporation, its General Partner

By: _____

Name: _____

Title: _____

City:

The City of Spring Hill, Tennessee

By:  _____

Name: Jim Hagaman 4-1-2024

Title: Mayor _____



REQUEST: *Approval of Resolution 24-76*
SUBMITTED BY: Jessica Weaver, Utility Director
DATE: April 1, 2024
RE: To approve Southern Springs Sewer Maintenance Agreement

ATTACHMENTS:

PURPOSE:

To approve Resolution 24-76 to approve the Southern Springs Sewer Maintenance Agreement.

BACKGROUND:

Pulte homes Tennessee Limited Partnership has submitted the Sanitary Sewer Maintenance Contribution Agreement for the sanitary sewer infrastructure that is not in compliance with the City specifications. This agreement will provide the funding for staff time to incorporate a more frequently scheduled maintenance program for this line.

FINANCIAL IMPACT:

This will be a check received in the amount of \$225,000.00 within 10 business days of the signing of the agreement.

STAFF RECOMMENDATION:

Staff recommends approval of Resolution 24-76 to approve the sanitary sewer maintenance agreement.