

RESOLUTION 18-84

A RESOLUTION TO AUTHORIZE THE MAYOR TO SIGN AN INDEMNITY AGREEMENT FOR AUTUMN RIDGE PHASE 5

WHEREAS, Donnie Cameron III dba “Autumn Ridge Development Company” (“Developer”) has an active maintenance bond secured with a Letter of Credit with the City of Spring Hill for the purpose of installation of public improvements (sewer, water, stormwater drainage, streets and curbs); and

WHEREAS, all improvements have been installed, thus allowing the bond to be eligible for consideration to release in full and for the city to accept these public improvements as part of its infrastructure; and

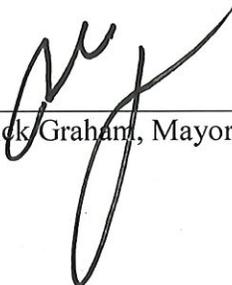
WHEREAS, the developer is currently in litigation with homeowners in this phase related to the referenced drainage improvements; and

WHEREAS, Planning Commission’s approval of release of bonds and recommendation to accept these public improvements as part of the city’s infrastructure was approved contingent upon the Board of Mayor and Alderman approving the hold harmless and indemnity agreement by and between the City and the developer; and

WHEREAS, the developer has agreed to sign a hold harmless and Indemnity Agreement whereby, in consideration of the release of the maintenance bond and letter of credit by the City, the developer agrees to release and hold harmless the city from any and all claims arising from any party in the said litigation.

NOW, THEREFORE, BE IT RESOLVED, that the City of Spring Hill, Board of Mayor and Aldermen authorizes the Mayor to sign an indemnity agreement for Autumn Ridge Phase 5.

Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on this 21st day of June, 2018.



Rick Graham, Mayor

ATTEST:

April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney

SUBJECT: Acceptance of Road ROW & Public Improvements for Autumn Ridge Phase 5 & authorize the Mayor to sign an indemnity/hold harmless agreement

DATE: November 27, 2017

ATTENTION: Board of Mayor and Aldermen

STAFF: Missy Stahl, Senior Project Manager



STAFF MEMORANDUM

The purpose of this memo is to provide information regarding a resolution to accept and the dedication of road rights-of-way and public improvements for Autumn Ridge Phase 4 Section 2, as recommended by the Planning Commission. Additionally staff is presenting a resolution to authorize the Mayor to sign an indemnity/hold harmless agreement on behalf of the city with the developer, Donnie Cameron.

Background:

The Planning Commission recommends accepting the road rights-of-way and public improvements for Autumn Ridge Phase 5, per PC Resolution 18-38 passed by the Planning Commission, and approval to release the bonds, per PC Resolutions 18-39 and 18-40 passed by the Planning Commission. City staff has issued certificates of satisfaction for this phase.

The developer, Donnie Cameron, is currently in litigation with residents of Autumn Ridge Phase 5. However, he has agreed to enter into an indemnity/hold harmless agreement with the City whereas, upon release of the bonds and acceptance of the roads ROW & public improvements, the City will not be liable for any and all claims arising from any part in the said litigation.

Staff Recommendation:

Staff recommends approval of the two requests. Staff further recommends the Hold Harmless Agreement be revised to correctly depict the date of approval by BOMA.

AGREEMENT

This Agreement is between DONNIE CAMERON III dba "Autumn Ridge Development Company" ("Owner") and the CITY OF SPRING HILL, TENNESSEE ("City").

WHEREAS, on September 8, 2014, the City Planning Commission established a maintenance bond for sewer, water, stormwater drainage, streets and curbs for Autumn Ridge Phase 5 ("the bond"); and

WHEREAS, the Owner has secured the bond with a letter of credit issued by Bancorp South ("letter of credit"), in the amount of \$102,119.00, which is still in force and effect;

WHEREAS, the referenced public improvements secured by the bond have been installed and maintained per the City's rules and specifications and the City is prepared to release the bond and letter of credit; and

WHEREAS, there is presently a lawsuit pending in the Chancery Court of Williamson County, styled *Jasinkis et al v. Autumn Ridge Development Company, et al*, against the Owner and others related to the installation and maintenance of the referenced drainage improvements ("the litigation"); and

WHEREAS, in consideration of the release of the bond and letter of credit by the Planning Commission of the City, the Owner agrees to release and hold harmless the City from any and all claims arising from any party in the said litigation;

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained herein:

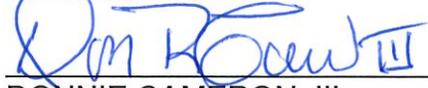
1. The City agrees to release the bond and letter of credit.

2. The undersigned Owner, his heirs, successors, and assigns, hereby agrees to release and hold harmless the City, its employees, agents, officers, and servants of and from any and all liability, claims, demands, actions, and causes of action, whatsoever, arising out of or related to the litigation.

3. The undersigned Owner will also be solely responsible for any necessary modification or corrective measure to the public utility and drainage easement within Phase 5 of Autumn Ridge.

Agreed to this 18th day of June 2018.

SIGNED:



DONNIE CAMERON, III,

DBA

AUTUMN

RIDGE

DEVELOPMENT

COMPANY

OWNER

CITY OF SPRING HILL



MAYOR

CITY RECORDER