

**RESOLUTION 18-157**

**A RESOLUTION TO AUTHORIZE THE PAYMENT FOR REPLACEMENT TREES FOR RUTHERFORD CREEK SEWER LINE EXTENSION**

**WHEREAS**, the City of Spring Hill removed trees from private property to install the Rutherford Creek sewer line extension; and

**WHEREAS**, the City agreed to replace said trees and install an access gate in an existing fence; and

**WHEREAS**, the current owner has agreed to accept monetary compensation for all items in lieu of the City purchasing and installing the trees [a cost of \$300.00 per tree (51 trees removed)] and installing the gate (a cost of \$250.00); and

**WHEREAS**, the current owner agrees to release the City from liability for any trees that fail to thrive and from any future claims regarding this.

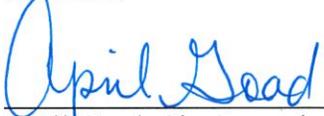
**NOW, THEREFORE, BE IT RESOLVED**, that the City of Spring Hill Board of Mayor and Aldermen authorizes the payment of replacement trees for Rutherford Creek sewer line extension and further release of any liability pertaining to this issue as outlined in the Settlement Agreement for a total amount of \$15,550.00, payable to Paul Varney Construction, as recommended by the Budget Finance Advisory Committee on September 4, 2018.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, that the City of Spring Hill Board of Mayor and Aldermen authorizes the Mayor to sign the Settlement Agreement to release the City from any future liability pertaining to this issue.

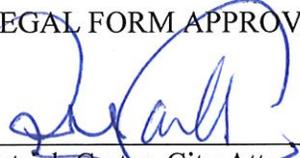
**Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee, on the 17<sup>th</sup> day of September, 2018.**

  
\_\_\_\_\_  
Rick Graham, Mayor

ATTEST:

  
\_\_\_\_\_  
April Goad, City Recorder

LEGAL FORM APPROVED:

  
\_\_\_\_\_  
Patrick Carter, City Attorney

**SUBJECT:** Payment for replacement trees for Rutherford Creek sewer line extension installation

**DATE:** August 21, 2018

**ATTENTION:** Board of Mayor and Aldermen

**STAFF:** Missy Stahl, Sr. Project Manager



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**STAFF REPORT:**

In late 2015, the City Staff needed to acquire land from Dr. Ben Hayes to install the Rutherford Creek sewer line extension. A verbal agreement was made at that time with Dr. Hayes that the city would replace the existing trees (total of 51 trees) that were removed for this project and install a gate in the existing fence row. City staff worked with Dr. Hayes in early 2016 to obtain pricing to purchase the trees, install them and install the gate. No action was taken at that time on Dr. Hayes' part.

Subsequently, the property has been sold to Paul Varney Construction. Mr. Varney has offered to accept monetary compensation for both the trees and the gate in lieu of the city purchasing and installing the trees and for installation of the gate. He has also agreed to sign a document that the city will not be responsible for the replacement of any trees that fail to thrive and this one-time payment will release the city from any further claims regarding this. The proposed cost is \$300.00 per tree and \$250.00 for the gate, with a total cost of \$15,550.00.

This is not a budgeted line item. It will be paid from Sewer Collections department (410-52211-790).

Staff recommends a one-time payment in the amount of \$15,550.00. A resolution is attached for BOMA's consideration along with the release agreement.

**AGREEMENT**

This Agreement is between PAUL VARNEY CONSTRUCTION ("Owner") and THE CITY OF SPRING HILL, TENNESSEE ("City").

WHEREAS, the City removed trees in 2015 from private property to install the Rutherford Creek sewer line extension and agreed to replace said trees and to install an access gate in an existing fence; and

WHEREAS, the current Owner has agreed to accept monetary compensation for all items in lieu of the City purchasing and installing the trees [a cost of \$300.00 per tree (51 trees removed)] and installing the gate (a cost of \$250.00); and

WHEREAS, in consideration for a one-time payment in the amount of \$15,550.00, the Owner agrees to release the City from liability for any trees that fail to thrive and from any future claims regarding this matter, whatsoever.

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

1. The City will make a one-time payment in the amount of \$15,550.00 to the Owner for replacement of 51 trees and the installation of an access gate on existing fencing.
2. The undersigned Owner, his heirs, successors, and assigns, hereby agree to release and hold harmless the City, its employees, agents, officers and servants of and from any and all future liability, claims, demands, actions, and causes of actions, whatsoever, regarding this transaction or any related matter.

Agreed to this 17<sup>th</sup> day of September, 2018.

SIGNED:

\_\_\_\_\_  
Paul Varney  
Owner, Paul Varney Construction

\_\_\_\_\_  
Rick Graham  
Mayor, City of Spring Hill, TN

April Goad  
\_\_\_\_\_  
April Goad  
City Recorder, City of Spring Hill, TN

**RIGHT OF ENTRY  
RUTHERFORD CREEK SEWER PROJECT**

This agreement, entered into this 31 day of December, 2014 by and between the CITY OF SPRING HILL, TENNESSEE, hereinafter called the "City", and, Benjamin Hayes, hereinafter called the "owner", whether one or more.

The Owner hereby grants unto the City the right to enter upon the following described property located in Spring Hill, Williamson/Mary County, Tennessee:

**Property Owner: Benjamin B Hayes  
Parcel ID: 060043 01400**

said right to enter the property for the purpose of construction related to the Rutherford Creek Sewer project.

1. The Owner agrees to permit the City and its Contractor(s) to go upon the described premises as necessary in order to access the area of construction for the sewer project.
2. The right of entry herein granted shall be in force and effect from and after the beginning of construction on the project until the completion of the portion of the project work performed on King's Creek Golf Course.
3. It is further understood that no claim for damages for wrongful entry or for trespass shall be made by the Owner against the City or its Contractor(s).
4. Any damages caused to the property will be the responsibility of the Cities Contractor(s) to repair, repairs shall be made in a manner that is as near to original condition as reasonably possible.
5. The Owner shall be granted credit for all fees and costs associated with one sewer tap and one water tap for the property.
6. The City shall track trees removed and replace for in-kind value at a location and type to be coordinated with the Owner.
7. The construction entrance to the property shall be placed from Tom Lunn Road to the end of the fence line of the neighbors property. Location to be coordinated with Owner prior to installation. The City shall install a steel gate with lock across the driveway entrance at the beginning of the project. Gate type shall be coordinated with Owner. Additionally, crusher run stone shall be placed on the entrance drive after the project is complete.

WITNESS my hand this 31 day of December, 2014

Benjamin B. Hayes  
BENJAMIN B HAYES

Ben Hayes  
615-419-1526

**RIGHT OF ENTRY  
RUTHERFORD CREEK SEWER PROJECT**

STATE OF TENNESSEE

COUNTY OF WILLIAMSON/MAURY

Personally appeared before me, the undersigned, a Notary Public of said State and County, The ~~within named BENJAMIN B HAYES, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledge himself to be the within named bargainor, and that he executed the foregoing instrument for the purposes therein contained.~~

WITNESS my hand and seal this 31st day of December, 2014.

  
NOTARY PUBLIC  
My Commission Expires: 9-26-2016





**Interactive GIS**

**LAYER: Parcels**  
 Owner Name: **VARNEY PAUL ETUX BRANDY**

**Mailing Address:**  
 P O BOX 395  
 SPRING HILL, TN 37174

**Location Address:**  
 TOM LUNN RD

**Parcel ID:**  
 060043 01400

**Lot Information:**  
 Deed Book & Page:   
 Subdivision:

**Acres:**  
 44.12

**Assessment Information**

Improvement Value:	\$0
Land Value:	\$249,700
Appraisal Value:	\$44,200