

RESOLUTION 22-R__

A RESOLUTION OF THE CITY OF PORT ST. LUCIE, FLORIDA, APPROVING BECKER ROAD CONSTRUCTION AGREEMENTS, PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port St. Lucie (“City”), ACR Acquisition, LLC (“ACR”), Mattamy Palm Beach, LLC (“Mattamy”), and Riverland/Kennedy II, LLC (“GL Homes”), are parties to that certain Annexation Agreement dated July 19, 2004, as amended by the: (1) First Amendment to Annexation Agreement dated May 16, 2005; (2) Second Amendment to Annexation Agreement dated July 11, 2005; (3) Third Amendment to Annexation Agreement dated November 16, 2009; (4) Fourth Amendment to Annexation Agreement dated November 16, 2009; (5) Fifth Amendment to Annexation Agreement dated December 28, 2009; and (6) Sixth Amendment to Annexation Agreement dated April 2, 2010 (collectively, the “Annexation Agreement”); and

WHEREAS, pursuant to Sections 5(e)(iii) and 5(e)(iv) of the Annexation Agreement, different developers were required to pay to the City the estimated cost of construction of certain two-lane roadway sections of Becker Road, or, at the City’s election, contract for the construction and/or design of such roadway section upon mutually agreeable terms; and

WHEREAS, ACR filed a lawsuit against the City, and other parties, and among other things, alleged that the City failed timely to demand payment for Becker Road, construct Becker Road, and withhold building permits for developers’ failure to pay for or construct Becker Road (the “Becker Road dispute”); and

WHEREAS, the City has defended the lawsuit on many grounds; and

WHEREAS, on November 10, 2021, the City sent GL Homes and ACR demanding payment for the cost estimates associated with their portions of Becker Road within thirty days of receipt of the demand, but did not send Mattamy a demand for payment as Mattamy was already in the process of designing and building its portion of Becker Road; and

WHEREAS, GL Homes and ACR had concerns as to who would be responsible for construction of the Community and Becker Road intersection; and

WHEREAS, Mattamy has agreed to construct such intersection and commence negotiations of a roadway agreement with the City to build that intersection; and

WHEREAS, subsequent to sending the November 10, 2021, letters, City staff had discussions with all three developers, and all three developers expressed a desire to utilize the

RESOLUTION 22-R__

process set forth in the Annexation Agreement that provided that, at the City's election, the developers could contract for construction and/or design of portions of Becker Road upon mutually agreeable terms and conditions; and

WHEREAS, the City has extended the deadlines set forth in the November 10, 2021 letters until February 15, 2022; and

WHEREAS, City staff has negotiated extensively with GL Homes, ACR and Mattamy; and

WHEREAS, City Council approves of the terms and conditions contained in the foregoing Becker Road Construction Agreements, attached hereto and incorporated herein as **Exhibit "A"**, **Exhibit "B"**, and **Exhibit "C"**.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF PORT ST. LUCIE, FLORIDA:

Section 1. Ratification of Recitals. The foregoing recitals are hereby ratified and confirmed as true and correct and are hereby made a part of this Resolution.

Section 2. The City Council authorizes the Mayor, or her designee, or the City Manager, or his designee, to enter into, execute and deliver the Becker Road Construction Agreements, in substantially the same form as attached hereto and incorporated herein as **Exhibit "A"**, **Exhibit "B"**, and **Exhibit "C"**, and such other documents necessary to implement the terms and conditions of said agreements.

Section 3. The Mayor, or her designee, or the City Manager, or his designee, are hereby authorized to take any and all actions necessary to implement the terms and conditions of the Becker Road Construction Agreements and accomplish the purposes set forth therein.

Section 4. Conflict. If any resolutions, or parts of resolutions, are in conflict herewith, this Resolution shall control to the extent of the conflicting provisions.

Section 5. Severability. The provisions of this Resolution are intended to be severable. If any part of this Resolution is determined to be void or is declared illegal, invalid, or unconstitutional by a Court of competent jurisdiction, the remainder of this Resolution shall remain in full force and effect.

Section 6. Effective Date. This Resolution shall become effective immediately upon adoption.

RESOLUTION 22-R__

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Shannon M. Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

James D. Stokes, City Attorney