

RESOLUTION 23-R\_\_

A RESOLUTION OF THE CITY OF PORT ST. LUCIE, FLORIDA, AUTHORIZING THE IMPOSITION OF A DRIVEWAY PERMIT CONDITION IN ACCORDANCE WITH CHAPTER 54 OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

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**WHEREAS**, over the next several years the Florida Department of Transportation (“FDOT”) will be implementing and constructing the expansion of Port St. Lucie Boulevard between Gatlin Boulevard and the C-23 Canal (“Project”); and

**WHEREAS**, the Project will be phased into separate segments/phases along the Project’s path; and

**WHEREAS**, Project Development and Environment Study for the design, right-of-way acquisition, and construction of the Project (FIN: 431752.1) was conducted from June 2013 to September 2014 and run along Port St. Lucie Boulevard from Becker Road to Darwin Boulevard (“PSL Boulevard South”); and

**WHEREAS**, design, right-of-way acquisition, and construction of the Project (FIN: 431752.2) is expected to occur from May 2014 to December 2031 and run along Port St. Lucie Boulevard from Paar Drive to Darwin Boulevard (“PSL Boulevard South Segment 2”); and

**WHEREAS**, design, right-of-way acquisition, and construction of the Project (FIN: 431752.3) is expected to occur from October 2019 to December 2031 and run along Port St. Lucie Boulevard from Becker Road to Paar Drive (“PSL Boulevard South Segment 1”); and

**WHEREAS**, design, right-of-way acquisition, and construction of the Project (FIN: 431752.4) is expected to occur from June 2020 to December 2031 and run along Port St. Lucie Boulevard from Darwin Boulevard to Gatlin Boulevard (“PSL Boulevard South Segment 3”); and

**WHEREAS**, design, right-of-way acquisition, and construction of the Project (FIN: 431752.5) is expected to occur from July 2017 to December 2031 and run along Port St. Lucie Boulevard from South of Paar Drive to South of Alcantarra Boulevard (“PSL Boulevard South Segment 2.2”); and

**WHEREAS**, design, right-of-way acquisition, and construction of the Project (FIN: 431752.6) is expected to occur from July 2017 to December 2031 and run along Port St. Lucie Boulevard from South of Alcantarra Boulevard to South of Darwin Boulevard (“PSL Boulevard South Segment 2.1”); and

**WHEREAS**, FDOT will secure permissions from the property owners of properties with existing driveways adjacent to Port. St. Lucie Boulevard along the Project corridor for the purpose

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of temporarily entering upon those properties to safely connect and harmonize the driveways to the newly expanded right-of-way/road at no cost to the property owners; and

**WHEREAS**, there are a number of undeveloped parcels/lots adjacent to the Project corridor, which may be developed and require driveway permits after development of roadway improvement construction plans are complete and at the same time the Project is being constructed (“New Driveway Permit Applicants”); and

**WHEREAS**, in those instances, FDOT will still need permissions from these New Driveway Permit Applicants to perform and complete the driveway harmonization work in order to safely tie in the subject driveway(s) to the newly-expanded roadway and sidewalk; and

**WHEREAS**, as set forth in Chapter 54, Article I, Section 54.01 of the Code of Ordinances (“Code”) of the City of Port St. Lucie, Florida (“City”), “the [C]ity owns and regulates the use of its public rights-of-way in the interest of public health, safety, and welfare[.]”; and

**WHEREAS**, consistent with that ownership and regulatory authority, Chapter 54, Article III of the Code imposes and sets forth the permitting requirements for the construction of new driveways and the modification of existing driveways (*i.e.*, driveway access to those public rights-of-way from privately owned property); and

**WHEREAS**, Chapter 54, Article III, Section 54.31(b)(4) provides that the City “reserves the right to require additional requirements” for driveway permits; and

**WHEREAS**, Chapter 54, Article III, Section 54.31(c)(6) provides that the work performed for the driveway permit “shall not adversely affect the public’s health, safety, or general welfare, and shall be conducted and maintained in a safe and sanitary condition at the sole cost, risk and responsibility of the permittee[.]”; and

**WHEREAS**, FDOT has requested that the City of Port St. Lucie, Florida (“City”) impose a driveway permit condition, for the duration of each PSL Boulevard South Segment, which requires New Driveway Permit Applicants to allow FDOT to temporarily enter upon their property to perform the driveway harmonization work; and

**WHEREAS**, the City, consistent with its authority set forth in Chapter 54 of the Code, hereby agrees to impose the following condition(s), after the date of this resolution, in substantially the same form, on driveway permits for New Driveway Permit Applicants for the duration of PSL Boulevard South Segments 1, 2, 2.1, 2.2, and 3:

- a. As a condition of this permit, the property owner consents to allowing the Florida Department of Transportation, its contractors, authorized agents, successors, and

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assigns to conduct driveway harmonization, should it be required to safely connect the driveway to the new roadway construction proposed of Port St Lucie Boulevard. The work shall not extend beyond 20 feet past the right-of-way line. The work shall consist of tying in and harmonizing said property and/or driveway, together with the right of access, ingress and egress, along with any other incidences necessary or convenient in connection with the construction to be undertaken by the Department, in Port St. Lucie Boulevard adjacent thereto. All grading or sloping shall conform to all existing structural improvements within the limits designated, and all work will be performed in such manner that the existing structural improvements will not be damaged.

- b. In the event the property owner does not consent to the above condition, then the property owner shall: (i) safely connect their driveway to the public right-of-way and perform all driveway harmonization work to the reasonable satisfaction of the Department of Public Works and FDOT in accordance with applicable law, rules, regulations and/or safety standards; and (ii) obtain all required permits for the performance of such work.
- c. This condition shall expire upon FDOT issuing a written notice of acceptance to the contractor for the PSL Boulevard South Segment applicable to the property owner's parcel, or upon the applicant's completion of the driveway harmonization work as required above.

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

Section 3. 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 4. Effective Date. This Resolution shall become effective immediately upon adoption.

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**PASSED AND ADOPTED** by the City Council of the City of Port St. Lucie, Florida, this  
\_\_\_\_ day of \_\_\_\_\_, 2023.

CITY COUNCIL  
CITY OF PORT ST. LUCIE

By: \_\_\_\_\_  
Shannon M. Martin, Mayor

ATTEST:

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Sally Walsh, City Clerk

APPROVED AS TO FORM:

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Richard Berrios, Interim City Attorney