

RESOLUTION 24-R__

A RESOLUTION OF THE CITY OF PORT ST. LUCIE, FLORIDA AUTHORIZING THE SETTLEMENT OF LITIGATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, in August of 2023 Moxie Pest Control Florida, LLC (“Plaintiff”) filed a complaint against the City of Port St. Lucie, Florida (“City”) in the U.S. District Court for the Southern District of Florida alleging, *inter alia*, that aspects of Chapter 112 of the City’s Code of Ordinances covering door-to-door solicitation is unconstitutional; and

WHEREAS, the above-referenced dispute is styled *Moxie Pest Control Florida, LLC v. City of Port St. Lucie, Florida*, Case No. 23-14250-Civ-DMM; and

WHEREAS, Plaintiff seeks remedies including statutory attorneys’ fees, temporary and permanent injunctive relief, and declaratory relief; and

WHEREAS, court-mandated settlement conferences were held on December 12 and 20 of 2023 where the Federal Magistrate Judge assigned to the matter served as mediator during those conferences; and

WHEREAS, following the discussions held at those settlement conferences, the Federal Magistrate, as mediator proposed a settlement to fully and finally resolve the dispute between the parties, which Plaintiff has accepted; and

WHEREAS, Plaintiff has agreed to withdraw all pending claims with prejudice upon the following terms: (1) the City amends Chapter 112 of the Code of Ordinances to prohibit door-to-door solicitation after 8 p.m.; (2) Plaintiff agrees to the retention of the fingerprinting requirement in Chapter 112 of the Code of Ordinances; (3) the City agrees to not enforce private restrictions set forth by homeowner associations on door-to-door solicitation; and (4) both parties agree to pay their own fees and costs; and

WHEREAS, this Resolution authorizes the settlement of the dispute in accordance with the above-referenced terms and conditions; and

WHEREAS, the City Council finds that the settlement of this dispute serves a valid public purpose.

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.

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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.

PASSED AND ADOPTED by the City Council of the City of Port St. Lucie, Florida, this ____ day of _____, 2024.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Shannon M. Martin, Mayor

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM:

Richard Berrios, Interim City Attorney