

**MATTAMY BECKER ROAD INTERSECTION
CONSTRUCTION AGREEMENT**

THIS CONSTRUCTION AGREEMENT (this “**Agreement**”) is made and entered into as of the date that the last party executes this Agreement (“**Effective Date**”), by and between the **CITY OF PORT ST. LUCIE**, a Florida municipal corporation (“**City**”), and **MATTAMY PALM BEACH LLC**, a Delaware limited liability company (“**Mattamy**”). The City and Mattamy shall each be referred to herein as a “**Party**,” and collectively as the “**Parties**”.

R E C I T A L S :

WHEREAS, the City owns, operates, and maintains roadways within the City of Port St. Lucie (“**Roadway System**”); and

WHEREAS, Mattamy is developing property within the City on property Mattamy owns; and

WHEREAS, the Parties desire to enter into this Agreement for Mattamy to make improvements to the City’s Roadway System for the benefit of the City and in order for Mattamy to facilitate fulfillment of its obligations under Sections 5(e)(ii) and 5(e)(iv) of the Annexation Agreement; and

WHEREAS, the Parties agree to allow Mattamy to undertake, and contract for, as applicable, the design, permitting and construction of the intersection located at Becker Road and Community Boulevard, as permitted and contemplated in Section 5(e)(iv) of the Annexation Agreement (the “**Roadway Project**”); and

WHEREAS, the Parties desire to enter into this Agreement setting forth the mutual understandings and undertakings regarding City’s and Mattamy’s responsibilities for the Roadway Project.

NOW, THEREFORE, in consideration of the mutual covenants and provisions herein contained, and other good and valuable consideration, receipt, and sufficiency of which are hereby acknowledged, the Parties intending to be legally bound hereby agree as follows:

1. Recitals; Exhibits. The foregoing recitals and all exhibits attached hereto are incorporated herein by reference and made a part of this Agreement.

Construction of Roadway Project. Mattamy shall facilitate and cause, at Mattamy’s sole cost and expense, the design, permitting and construction of the Roadway Project. Mattamy shall be responsible to prepare and obtain approval of construction plans for the Roadway Project, including full signalization design. The Roadway Project must be designed according to the proposed cross-section, which is

attached as **Exhibit "A"** hereto (the "**Becker Road West Cross-Section**"). However, underground infrastructure for the full signalization, such as conduit, shall be installed as part of the initial phase of the intersection construction. Notwithstanding the foregoing, construction of the mast arms, traffic controller, signal cabling, etc., is not required until such time as it is requested by the City in writing based upon the City's reasonable traffic engineering judgment. Mattamy shall install the remaining components of the signalization infrastructure within three hundred and sixty (360) days of the City's written request. Mattamy shall have the right to assign this obligation to a purchaser of Mattamy's land located in the Southern Grove DRI, provided that such purchaser acknowledges and agrees to assume such obligation and post a bond in favor of the City for completion of the signalization infrastructure at closing, and Mattamy shall provide a copy of such documents to the City within fifteen (15) days of such closing.

(a) Construction Plans and Permit Applications. Within one hundred twenty (120) days following the Effective Date, Mattamy shall furnish to the City and South Florida Water Management District (the "**District**") a 60% complete set of design and construction drawings, plans and specifications (the "**60% Construction Plans**") for the Roadway Project. The City shall review and provide comments on the 60% Construction Plans within twenty-one (21) days of receipt. Within thirty (30) days of receipt of City comments on the 60% Construction Plans, Mattamy shall furnish to the City a 100% complete set of design and construction drawings, plans, and specifications (100% Construction plans). The City shall review and provide approval or comments on the 100% Construction Plans within twenty-one (21) days of receipt. Within fifteen (15) days of receipt of City comments on the 100% Construction Plans, Mattamy shall furnish to the City a corrected set of 100% Plans for permit issuance, a copy of the District permit, and a final subdivision plat for the road right of way for processing of approval by the City Council. The City shall issue its engineering and utilities permits for the corrected 100% Construction Plans within seven (7) days of receipt, subject to delay by Force Majeure Events (as hereinafter defined). Such drawings, plans, and specifications, and the construction of the Roadway Project, shall be in accordance with all applicable laws, rules, and regulations, and shall be in compliance with all FHWA/FDOT design criteria. The 100% Construction Plans shall provide for the Roadway Project's drainage, treatment and ultimate positive discharge of stormwater as required by the City and the District.

(b) Permits for Construction. Mattamy shall diligently seek and obtain from City, and any other applicable governmental authorities, all required permits and approvals as may be required for construction of the Roadway Project. City agrees to cooperate in a timely manner with Mattamy's efforts to obtain all such permits and approvals necessary to construct the Roadway Project in accordance with this Agreement and any other applicable state or local laws, rules, or regulations, which cooperation shall not be unreasonably withheld, conditioned, or delayed. City shall cooperate with Mattamy to obtain the necessary street lighting agreement(s) between the City and FPL for any streetlights to be installed. City shall execute said FPL street lighting agreement(s) when they are available to the City and return copies of the executed agreements to Mattamy in a timely manner.

(c) Completion of Construction. Mattamy shall achieve Completion of Construction (as defined below) of the Roadway Project no later than twelve (12) months following Mattamy and all parties receipt of all required permits and approvals for construction of Becker Road, subject to delay by Force Majeure Events or Weather Delays (as hereinafter defined). For purposes of this Agreement, "Completion of Construction" requires (i) a written Certificate of Completion issued by the Engineer of Record to the City, (ii) a final walk-through and acceptance by the City of the Roadway Project in accordance with Section 156.150 of the City Code, which acceptance shall not be unreasonable withheld, conditioned or delayed, and (iii) Mattamy's posting of a one-year maintenance bond in a principal amount equal to 15% of the actual cost of construction of the Roadway Project pursuant to Section 156.146 of the City Code.

Any delays beyond the direct and immediate control of Mattamy for the installation of FPL street lighting shall not be the basis of any default by Mattamy, shall not result in the Certificate of Completion being withheld by the Engineer of Record based on any such delays, shall not delay the issuance of the Completion of Construction on the basis of any such delays, and shall not delay the opening of the road for traffic based on any such delays.

2. Force Majeure: Weather Days. The deadlines set forth herein, are subject to extensions by either Party for a Force Majeure Event (as herein defined). As used herein, a "**Force Majeure Event**" shall include governmental moratorium or unavailability of essential supplies or utilities (e.g., power or water) through no fault of the requesting Party, fire (including wildfires), explosion or similar casualty, sabotage, theft, vandalism, riot or civil commotion, pandemic, hurricane, tropical storm, tornado, flooding, or supply chain issues, where the item subject to the supply chain issue cannot be replaced by an approved equivalent, causing delays not the result of the requesting Party. Any extension of any deadline set forth in this Agreement due to a Force Majeure Event shall be only for delay in performance that actually results from such Force Majeure Event. In the event that either Party claims a delay for a Force Majeure Event, the requesting Party shall make a claim for an extension in writing to the other Party within fifteen (15) business days after the occurrence of a Force Majeure Event for which such claim is being made. The claim shall clearly state the reason, provide a detailed explanation given as to why the event is considered to be a Force Majeure Event and provide sufficient documentation to support such claim. If no written objection to such claim for extension is received from the other Party within fifteen (15) business days from the date of the written extension request, such extension shall be deemed given. If a written objection is made, the Parties shall meet and confer within fifteen (15) business days to address their differences and may not take legal action prior to such conferral taking place.

Additionally, any date or deadline set forth in this Agreement may be delayed for inclement weather conditions, as set forth in the following sentence, based on the commercially reasonable concurrence of the City ("**Weather Days**"). City will grant time extensions, on a day-to-day basis, for delays caused by the effects of rain or inclement weather conditions, related adverse soil conditions or suspensions of operations that

prevent Mattamy from constructing the Roadway Project. If Mattamy believes a Weather Day has occurred, Mattamy shall submit a request for time extension within ninety (90) days after the occurrence of the Weather Days, which, in the opinion of Mattamy, warrants such an extension with reasons clearly stated and a detailed explanation given with sufficient documentation as to why the event is considered to be a Weather Day. If no written objection to such request for extension is received from the City within fifteen (15) business days from the date of the delivery by Mattamy of the request, such extension shall be deemed given. If a written objection is made by the City, the Parties shall meet and confer within fifteen (15) business days to address their differences and may not take legal action prior to such conferral taking place.

3. Default.

a) Defaults Relating to Subsection 2(a), 2(b) & 2(c) of Agreement:

- i. Default by Mattamy: If Mattamy fails to timely perform any of its obligations pursuant to Subsection 2(a), 2(b) or 2(c) this Agreement, the City shall send written notice (a "Default Notice") to Mattamy specifying the nature of the default and the action required to cure the default. If Mattamy fails to cure such default within thirty (30) days following Mattamy's receipt of the Default Notice or if such default cannot be cured within said thirty (30) day period and fails to timely commence to cure the default within such thirty (30) days and thereafter diligently pursue completion thereof, the City may withhold all permits for all construction by Mattamy, or those who took property through Mattamy subsequent to the Effective Date within the Southern Grove Development of Regional Impact, notwithstanding any other agreement to the contrary, including the Annexation Agreement, until the default is cured. However, in no event shall the foregoing apply to the Mattamy's currently pending contracts with GRBK GHO Belterra, LLC (executed January 23, 2019), Eden Acquisitions, LLC (executed January 3, 2022), Farrell Building Company Inc. (executed October 20, 2021) and JDR Development, LLC (executed April 27, 2021), and their successors and assigns. The City shall have no other rights or remedies against Mattamy in the event of a default relating to Subsection 2(a), 2(b) or 2(c) of this Agreement.
- ii. Default by City: If City fails to timely perform any of its obligations pursuant to Subsection 2(a), 2(b) or 2(c) this Agreement, Mattamy may send a Default Notice to City specifying the nature of the default and the action required to cure the default. If City fails to cure such default within thirty (30) days following City's receipt of the Default Notice or if such default cannot be cured within said thirty (30) day period and fails to timely commence to cure the default within such thirty (30) days and thereafter diligently pursue completion thereof, Mattamy may, as its sole and exclusive remedy, seek specific performance of such obligation. Mattamy shall have no other rights or remedies against the City in the event of a default relating to Subsection 2(a), 2(b) or 2(c) of this Agreement.

b) Other Defaults. For defaults other than those described in Subsection 4(a), if either Party fails to timely perform any of its obligations pursuant to this Agreement, the non-defaulting party may send a Default Notice to the defaulting party specifying the nature of the default and the action required to cure the default. If the defaulting party fails to cure such default within thirty (30) days following receipt of the Default Notice or if such default cannot be cured within said thirty (30) day period and fails to timely commence to cure the default within such thirty (30) days and thereafter diligently pursue completion thereof, the non-defaulting party may, as its sole and exclusive remedy, seek specific performance of such obligation. Mattamy and the City shall have no other rights or remedies against the defaulting party in the event of a default pursuant to this Subparagraph 4(b).

4. Notices. All notices, requests, consents, and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the Party giving such notice) hand delivered by messenger or courier service, by overnight courier service, or by certified mail, return receipt requested, and shall be deemed to have been given and received: (a) if given by certified mail, three (3) days after the letter, properly addressed, with postage prepaid, is deposited in the United States mail; or (b) if given by overnight delivery service or hand delivery, when received by the party to whom it is addressed or such party's agent or representative. Notices shall be directed to the following persons and places designated by the Parties:

The City:

PORT ST. LUCIE
121 S.W. Port St. Lucie Boulevard
Port St. Lucie, FL 34984
Attn: Russ Blackburn, City Manager

Mattamy:

Mattamy Palm Beach LLC
4901 Vineland Road, Suite 450
Orlando, FL 32811
Attn: Leslie C. Candes, Esq.

5. Miscellaneous.

(a) Amendment. Any amendments to this Agreement must be in writing and executed by both Parties with the same formalities as this Agreement.

(b) Invalid Provisions. In case any term or provision of this Agreement is held illegal, unenforceable, or inoperative as a matter of law, the remaining terms and provisions will not be affected thereby but will be valid and remain in full force and effect so far as possible. If any provision of this Agreement may be construed in two or more ways, one of which would render the provision invalid or otherwise voidable or unenforceable and another of which would render the provision valid and enforceable, such provision shall have the meaning which renders it valid and enforceable.

(c) Headings. The headings contained in this Agreement are for convenience only and shall not limit or otherwise affect in any way the meaning or interpretation of this Agreement.

(d) Time Computation: In computing any period of time under this Agreement, the days are calculated as calendar days unless expressly indicated as business days. Additionally, the calculation begins with the day following the act and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the City, in which case the period of time includes the next business day.

(e) Waivers. Any waiver issued by a Party of any provision of this Agreement shall only be effective if issued in writing by such Party, and shall be specific, only to the particular matter concerned, and shall not apply to any other matters. Any Party's failure to enforce strict performance of any covenant, term, condition, promise, agreement or undertaking set forth in this Agreement shall not be construed as a future waiver or relinquishment of any other covenant, term, condition, promise, agreement or undertaking set forth in this Agreement, or waiver or relinquishment of any other covenant, term, condition, promise, agreement or undertaking at any time in the future.

(f) Governing Law. This Agreement shall be construed and interpreted, and the rights of the parties hereto determined, in accordance with Florida law without regard to conflicts of law provisions. The Parties agree that proper venue for any suit concerning this Agreement shall be St. Lucie County, Florida. The Parties agree to waive all defenses to any suit filed in Florida based upon improper venue or forum non-convenience. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT. This clause shall survive the expiration or termination of this Agreement.

(g) Non-waiver of Sovereign Immunity. Nothing in this Agreement shall be deemed to affect the rights, privileges and sovereign immunities of the City as set forth in Section 768.28, Florida Statutes, or any other provision of law.

(h) Entire Agreement. This Agreement contains the entire agreement between the Parties hereto as it pertains to the subject matter contained herein and shall supersede and take precedence over any and all prior and contemporaneous agreements and understandings between the Parties hereto, unless otherwise stated. No additions, alterations, or variation of the terms of this Agreement shall be valid, except as provided in Subparagraph 6(a) above. Notwithstanding anything to the contrary herein, this Agreement only relates to Section 5 of the Annexation Agreement with respect to Becker Road and does not relate to any other issues between the parties hereto, whether arising under the Annexation Agreement or otherwise.

(i) Authority to Sign. Each individual signing this Agreement directly and expressly warrants that he/she has been given and received and accepted authority to sign and execute the documents on behalf of the Party for whom it is indicated he/she has signed, and further has been expressly given and received and accepted authority to enter into a binding agreement on behalf of such Party with respect to the matters concerned herein and stated herein.

(j) No Third-Party Beneficiary. None of the provisions of this Agreement shall be for the benefit of or enforceable by any third party. This Agreement has been entered into for the sole benefit and protection of the City and Mattamy and is not intended to confer upon any other person or entity any rights or remedies hereunder. This Agreement shall not provide any third-party with any right, remedy, claim, liability, reimbursement, or other cause of action.

[Signature page immediately follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on behalf of themselves and/or their respective entities, their successors and assigns, on the Effective Date.

AGREED TO BY MATTAMY this 11th day of February, 2022:

Mattamy Palm Beach LLC,
a Delaware limited liability company

By: [Signature]
Name: ANTHONY PALUMBO
Title: VICE PRESIDENT

Witnesses: (Two Required)

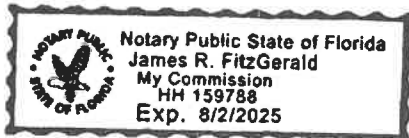
Print Name: ANISSA CRUZ
Signature: [Signature]

Print Name: JASON CORP
Signature: [Signature]

STATE OF FLORIDA)
) ss
COUNTY OF PALM BEACH)

The foregoing Agreement was acknowledged before me by means of physical presence or online notarization on FEBRUARY 11TH, 2022, by ANTHONY PALUMBO, as VICE PRESIDENT of Mattamy Palm Beach LLC, a Delaware limited liability company, on behalf of said company, who is personally known to me or has produced _____ as identification, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that the foregoing instrument was executed by him/her for the purposes therein contained.

WITNESS my hand and notarial seal.



[Signature]
Notary Public
Print Name: JAMES FITZGERALD
My Commission Expires: 8/2/25

[SIGNATURES CONTINUE ON NEXT PAGE]

AGREED TO BY CITY this _____ day of _____, 2022:

By: _____

Print Name: Russ Blackburn

Title: City Manager

ATTEST:

Sally Walsh, City Clerk

APPROVED AS TO FORM AND
CORRECTNESS:

James Stokes, City Attorney

STATE OF FLORIDA)
) ss
COUNTY OF ST. LUCIE)

The foregoing Agreement was acknowledged before me by means of physical presence or online notarization on _____, 2022, by Russ Blackburn, as City Manager, for the City of Port St. Lucie, who is personal known to me or has produced _____ as identification, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that the foregoing instrument was executed by Russ Blackburn for the purposes therein contained.

WITNESS my hand and notarial seal.

Notary Public
Print Name: _____
My Commission Expires: _____

EXHIBIT "A"

Cross-Section

