

BLUMENFELD DEVELOPMENT GROUP, LTD.

November 24, 2025

Via UPS Overnight

Office of the City Attorney
City of Port St. Lucie
121 SW Port St. Lucie Blvd.,
Port St. Lucie, Florida 34984
Attn: Elizabeth Hertz

Re: Gatlin Plaza PUD -P23-159
Roadway Improvement Agreement

Dear Ms. Hertz:

Enclosed herewith please find the original Developer executed copy of the above-referenced agreement.

If you have any questions with respect to this matter, please contact me at 516-624-1932 or email ajohn@bdg.net.

Sincerely,

Blumenfeld Development Group, Ltd.


Anju John
Associate General Counsel

AJ:lmc
encls.



ROADWAY IMPROVEMENT AGREEMENT

(Gatlin Plaza PUD – P23-159)

Attachments:

THIS ROADWAY IMPROVEMENT AGREEMENT (“Agreement”) is made and entered into on this ____ day of _____, 2025, between BDG Port St. Lucie, LLC, a New York limited liability company (“Developer”) and the City of Port St. Lucie, a Florida Municipal Corporation (“City”), each are sometimes referred to as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, the Developer submitted an application for the Fourth Amendment of the Planned Unit Development Document for Gatlin Plaza (P23-159) to the City of Port St. Lucie (the “Amended PUD Document”); and

WHEREAS, the Amended PUD Document was approved by the City Council on July 28, 2025, through City Ordinance 25-38; and

WHEREAS, Section 4(D)(1) of the Amended PUD Document contains a requirement that prior to issuance of any building or site development permits, the Developer executes an approved development agreement or equivalent order relating to specific transportation network improvements; and

WHEREAS, specifically the Amended PUD Document requires Developer to provide prior to the issuance of any building or site development permits (excluding mass grade permits), collectively authorizing more than 400,000 square feet of commercial space (collectively referred to as “Roadway Improvements”) Agreement for the following transportation network improvements:¹

Intersection of Gatlin Boulevard & Brescia Street:

- a. Convert the northbound approach to this intersection (Brescia Street) to two (2) left-turn lanes and one (1) shared through/right-turn lane.
- b. Extend eastbound Gatlin Boulevard, right turn lane approximately 300 feet from its current position to provide for an approximate doubling of the length of the existing lane.
- c. Extend the shared northbound ‘through/right-turn lane’ approximately 160 feet from current position to approximate access drive at Home Depot site.
- d. Provide for necessary Signal Head and Signal Adjustments to support this

¹ Notably, this Agreement does not extinguish or modify the Developer’s obligation to comply with Section 4(D)(2) of the PUD or 4(D)(3) of the PUD.

intersection improvement and lane adjustment.

Intersection of Fondura Street and Gatlin Boulevard:

- a. Add northbound right turn lane.
- b. Provide for necessary Signal Head and Signal Adjustments to support this lane addition.

East side Driveway 2 & Hayworth Avenue:

- a. Convert the intersection of the Gatlin Plaza Internal Access Drive with Hayworth Avenue to an 'All-Way' stop controlled intersection.
- b. Improve sight-triangle visibility at intersection.

Intersection of Hayworth Avenue & Edgarce Street:

- a. Restripe the Hayworth Avenue & Edgarce Street intersection to provide enhanced traffic operation visibility.
- b. Remove stop signs for Hayworth Avenue, allowing for free flow movement along Hayworth Avenue.

WHEREAS, Developer and City enter into this Agreement to facilitate Developer's compliance with this provision of the Amended PUD Document.

NOW THEREFORE, in consideration of ten dollars (\$10.00), the foregoing premises, the undertakings and mutual agreements herein contained and assumed, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby covenant and agree as follows:

1. Recitals. The foregoing recitations are true and correct and are incorporated herein by this reference.
2. Roadway Improvement Project. Developer shall design, permit and construct all necessary infrastructure required for installation of the Roadway Improvements. A general depiction of the location of the Roadway Improvements intended to be installed is attached hereto as **Exhibit A**.
3. Conditions to Commencement of Construction. Prior to commencement of construction of the Roadway Improvements, Developer shall provide the City with: (a) a bond in a form and content reasonably acceptable to the City, in an amount equal to 120% of the total estimated cost of the Roadway Improvements, as reflected in one or more cost estimate or budgets, issued by the contractor performing the construction of the Roadway Improvements based on the approved plans ("Roadway Improvement Bond"); (b) evidence all necessary permits have been obtained; (c) a copy of the construction contracts; (d) evidence of a certificate of insurance reasonably satisfactory to City evidencing liability insurance as set forth below; and (e) execution of a temporary construction easement to the City over all property needed to accommodate construction of the Roadway Improvements in the event the City desires to complete the Roadway Improvements pursuant to Paragraph 6, in a form and content mutually acceptable to the City and to Developer (the "Temporary Construction Easement").
4. Construction and Design Plans: To the extent they are not already submitted, Developer shall furnish to City a complete set of design and construction drawings, plans, specifications, and other necessary engineering data for construction of the Roadway Improvements ("Plans") within

ninety (90) days of the Effective Date. After commencement of construction, if there is an expiration of or change to the associated permit(s) City reserves the right, to require the resubmittal of the Plans and further payment of applicable review fees upon Developer's resubmission of said documents for approval. Approval by the City of the Plans for the construction of the Roadway Improvements shall not act as a waiver of Developer's responsibility to perform the design and construction of the Roadway Improvements in accordance with all applicable state, county, federal or municipal laws, rules and regulations and such approval by the City shall not relieve Developer of such obligations or impact the City's right to be indemnified for Developer's or Developer's contractor's negligence in performing those duties as set forth in this Agreement.

5. Completion of Roadway Improvements: Final Completion of the Roadway Improvements shall be completed by August 1, 2026 for the installation of the Roadway Improvements ("Outside Completion Date"). Developer shall provide written notice to the City of its completion of construction of the Roadway Improvements and within ten (10) business days after delivery of such notice, the City shall make a final inspection to confirm that the Roadway Improvements have been completed in substantial compliance with the Plans and any applicable law, regulation or code. Upon receipt of notice from the City that the Roadway Improvements have passed the forgoing inspection, and at a mutually agreeable time thereafter, Developer shall deliver to the City, for the portions of the Roadway Improvements intended to be owned by the City, (a) a signed Bill of Sale, in a form mutually acceptable to the Parties (the "Bill of Sale") conveying those components of the Roadway Improvements to the City; (b) a signed assignment of warranties, in a form mutually acceptable to the City and Developer, assigning to the City Developer's rights and interest in and to all third party warranties pertaining to those components of the Roadway Improvements, to the extent assignable (the "Assignment of Warranties"); (c) Developer shall have prepared by a Florida registered surveyor and mapper and furnish to the City, in both PDF and CAD formats, an as-built survey of those components of the Roadway Improvements as constructed in accordance with the standards and specifications of City ("As-Builts"); and (d) turnover notice to the City pursuant to section 156.148 of the City Code. Upon receipt and acceptance of the Bill of Sale, Assignment of Warranties, As-Builts and all permits issued in connection with those components of the Roadway Improvements having been properly closed, the City shall deliver to Developer a written acceptance of those components of the Roadway Improvements within the timeframe prescribed in section 156.148 of the City Code ("Certificate of Completion"). Upon issuance of the Certificate of Completion, the City shall be solely responsible for all ongoing maintenance, repair, operation and replacement of those components of the Roadway Improvements owned by the City, and Developer shall have no responsibility or obligation related to same, but shall remain responsible for improvements within privately owned property.

For purposes of this Agreement, the "Final Completion" of construction of the Roadway Improvements shall not be deemed to have occurred until such time as: (a) the City has issued the Certificate of Completion (as defined above) for the portions of the Roadway Improvements intended to be owned by the City; and (b) final inspection approval for the portions of the Roadway Improvements within privately owned property.

6. Roadway Improvement Bond. The Roadway Improvement Bond shall stay in effect until Final Completion and at which time the Roadway Improvement Bond shall be terminated and/or

released by City. The Roadway Improvement Bond may be drawn upon by City to pay the costs related to completing the construction of the Roadway Improvements if such construction is not completed as provided in this Agreement, it being understood that the right to draw upon the Roadway Improvement Bond shall survive any termination of this Agreement resulting from a Developer default. Notwithstanding the foregoing, City shall not draw upon the Roadway Improvement Bond unless and until it has complied with the default procedures set forth in Paragraph 11 of this Agreement and an Event of Default has occurred under this Agreement. Furthermore, subject to City review and approval, the Developer shall have the right, but not the obligation, during the course of construction of the Roadway Improvements, to reduce the Roadway Improvement Bond from time to time, so long as the Developer submits to the City, an engineer's certificate signed by the EOR certifying the percentage completion, the Roadway Improvement Bond may be reduced by an amount equal to one half of such percentage.

7. No Certificate of Occupancy Prior to Final Completion. The Developer shall not apply for any certificates of occupancy prior to Final Completion of the Roadway Improvements.

8. Compliance with Applicable Laws, Codes and Regulations: Developer shall abide by and follow any and all rules and requirements of the regulatory agencies that have jurisdiction over the subject matter of this Agreement as well as all applicable federal and state laws, regulations, and City ordinances, as amended from time to time.

9. Insurance Requirements.

A. Prior to the commencement of any work contemplated by this Agreement taking place upon City property or right of way, Developer must provide the CITY a certificate of insurance evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida.

i. Workers' Compensation Insurance & Employer's Liability: Developer shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes, and as may be amended from time to time. Employers' Liability must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, and \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement must be provided. Coverage shall apply on a primary basis.

ii. Commercial General Liability Insurance: Developer shall agree to maintain Commercial General Liability insurance, issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

iii. Additional Insured: Developer shall provide an Additional Insured endorsement attached to the certificate of insurance (should be CG2026) under the General Liability policy. Developer's coverage shall apply as primary and non-contributory. Defense costs are to be in addition to the limit of liability. A waiver of subrogation is to be provided in favor of the City. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

iv. Except as to Workers' Compensation and Employers' Liability insurance, Developer's Certificates of Insurance and policies shall clearly state that coverage required by the Agreement has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured for Commercial General Liability policy. The name for the Additional Insured endorsement issued by the insurer shall read "**City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents shall be listed as additional insured for the Agreement for Construction of Roadway Improvements for P23-159.**" Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. The policies shall be specifically endorsed to provide thirty (30) days written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Formal written notice shall be sent to City of Port St. Lucie, 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984. In the event that the statutory liability of the City is amended during the term of this Agreement to exceed the above limits, Developer shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsement shall be attached to the Certificate of Insurance.

v. Business Automobile Liability Insurance: Developer shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, Developer does not own any automobiles, the Business Auto Liability requirement shall be amended allowing Developer to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. A waiver of subrogation must be provided. Coverage shall apply on a primary and non-contributory basis.

vi. Waiver of Subrogation: By entering into this Agreement, Developer agrees to a Waiver of Subrogation for each required policy. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then Developer shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

B. It shall be the responsibility of Developer to ensure that all Contractors, independent contractors and/or sub-contractors (CONTRACTOR) comply with the **below insurance requirements**. It shall be the responsibility of Developer to obtain Certificates of Insurance from all CONTRACTORS listing the City as an Additional Insured without the language "when required by written contract".

i. Workers' Compensation Insurance & Employer's Liability: CONTRACTOR shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes, and as may be amended from time to time. Employers' Liability must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, \$500,000.00 each disease/maximum.

ii. Commercial General Liability Insurance: CONTRACTOR shall agree to maintain Commercial General Liability insurance issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

iii. Additional Insured: An Additional Insured endorsement must be attached to the certificate of insurance and must include coverage for on-going and Completed Operations (should be ISO CG2037 & CG2010) under the General Liability policy. Products & Completed Operations coverage to be provided for a minimum of five (5) years from the date of completion of the Agreement. Coverage is to be written on an occurrence form basis. Coverage shall apply on a primary and non-contributory basis. A per project aggregate limit endorsement should be attached. Defense costs are to be in addition to the limit of liability. A waiver of subrogation shall be provided in favor of the City. Coverage for the hazards of explosion, collapse and underground property damage (XCU) must also be included when applicable to the work performed. No exclusion for mold, silica or respirable dust or bodily injury/property damage arising out of heat, smoke, fumes, or hostile fire shall apply. Coverage shall extend to independent contractors and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

iv. Except as to Workers' Compensation and Employers' Liability, said Certificate(s) and policies shall clearly state that coverage required by the Agreement has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured added to its Commercial General Liability, Business Automobile Liability, and Pollution Liability policies. The name for the Additional Insured endorsement issued by the insurer shall read **"City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents shall be listed as additional insured for the Agreement for Construction of Roadway Improvements for P23-159."** The Policies shall be specifically endorsed to provide thirty (30) days written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Formal written notice shall be sent to City of Port St. Lucie, 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984, Attn: Procurement. In the event that the statutory liability of the City is amended during the term of this Agreement to exceed the above limits, the CONTRACTOR shall be required, upon

thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsements including Completed Operations coverage shall be attached to the Certificate of Insurance.

v. Business Automobile Liability Insurance: CONTRACTOR shall agree to maintain Business Automobile Liability at a limit of liability not less than \$1,000,000.00 each accident covering any auto, owned, non-owned and hired automobiles. In the event, the CONTRACTOR does not own any automobiles, the Business Auto Liability requirement shall be amended allowing the CONTRACTOR to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form. Certificate holder must be listed as additional insured. A waiver of subrogation shall be provided. Coverage shall apply on a primary non-contributory basis.

vi. Pollution Liability Insurance: CONTRACTOR shall agree to maintain in full force during the term of this Agreement, Pollution Liability Insurance in limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, for any operations relating to the handling, storage, and transportation of hazardous materials and/or waste. The City of Port St. Lucie shall be listed as an additional insured. A waiver of subrogation shall be provided in favor of the City. Coverage shall apply on a primary and non-contributory basis.

vii. Waiver of Subrogation: The CONTRACTOR agrees to a Waiver of Subrogation for each required policy. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss Contract to waive subrogation without an endorsement then the CONTRACTOR shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy where a condition to the policy specifically prohibits such an endorsement, or voids coverage should CONTRACTOR enter into such a Contract on a pre-loss basis.

viii. Deductibles: All deductible amounts shall be paid for and be the responsibility of Developer for any and all claims under this Agreement.

C. Developer, and the CONTRACTOR may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, or Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form, the City shall be endorsed as an "Additional Insured."

D. The City, by and through its Risk Management Department, reserves the right, but is not obligated to review, modify, reject, or accept any required policies of insurance including limits, coverages or endorsements, herein from time to time throughout the term of this Agreement. All insurance carriers must have an AM Best rating of at least A:VII or better.

E. A failure on the part of the part of Developer to execute the Agreement and/or punctually deliver the required insurance, and other documentation may be cause for cancellation of this Agreement.

10. Indemnification:

A. Developer shall require that any design or construction contract entered into between Developer and a third party contain indemnification language whereby the third party holds harmless and indemnifies City, its officers, agents, servants, and employees from and against any and all demands, claims, causes of action, suits, liabilities, losses, damages, costs, expenses, penalties, fines and attorneys' fees of any nature arising out of, in connection with, caused or alleged to be caused by, or resulting directly or indirectly, in whole or in part, from (a) the work or services provided or alleged to be provided by the third party; and (b) from third parties acts, omissions or operations which occur on or with respect to the work on the Roadway Improvements, including but not limited to, losses, damages and claims relating to or resulting in bodily injury, death, physical damage or loss. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement. Nothing in this paragraph shall be deemed to affect the rights, privileges and sovereign immunities of City as set forth in Section 768.28, Florida Statutes, or any other provision of law.

B. Developer shall indemnify and hold harmless City, and its directors, officers, employees and agents, and their respective heirs, successors and assigns, from and against any and all liability to any person or entity for or on account of any death or injury to persons or any damage to property, as well as any loss, damage, lien, claim, injury or expense (including reasonable out-of-pocket attorneys' fees and actual out-of-pocket costs) which is a direct cause of Developer's negligence or willful act or omission or, resulting from, arising out of or occurring in connection with this Agreement by Developer or its agents, employees or contractors during the construction of the Roadway Improvements, including, without limitation, a violation of any federal, state or local environmental, health or safety rules or regulations by Developer or its agents, employees or contractors in the use of property upon which the Roadway Improvements are to be located, which indemnification and hold harmless shall survive any termination of this Agreement

11. Default:

A. With respect to any event of default and/or breach under this Agreement ("Event of Default"), neither Party shall be deemed in default and/or breach unless:

- i. the Party alleging such default and/or breach shall have provided written notice of the alleged default and/or breach to the other Party; and
- ii. the alleged defaulting and/or breaching Party shall have failed within a period of thirty (30) days after receipt of such notice to commence such action as is reasonably necessary to cure said default and/or breach and thereafter diligently pursue to cure such default within a reasonable time; and

iii. the alleging Party is in compliance with the provisions of this Agreement.

B. Subject to the right to cure set forth above, and in addition to the rights set forth in Section 10(A) herein, in the event of a default and/or breach the other party shall be entitled to all remedies available at law or in equity, including the remedies of specific performance and all forms of injunctive relief.

12. Notices: All notices or other communications hereunder shall be in writing and shall be deemed duly given if delivered in person (including by any over-night delivery service) or sent by certified mail, return receipt requested, and addressed as follows or to such other Party or address as may be designated by one Party to the other.

If to City:

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, Florida 34984
Attention: City Manager

With copy to:

City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, Florida 34984
Attention: City Attorney

If to Developer:

BDG Port St. Lucie, LLC
300 Robbins Lane
Syosset, New York 11791
Attn: Jonathan Cohen

With copy to:

BDG Port St. Lucie, LLC
300 Robbins Lane
Syosset, New York 11791
Attn: David Kaplan, Esq.

13. Indulgence Not Waiver: The indulgence of any Party with regard to any breach or failure to perform any provision of this Agreement shall not be deemed to constitute a waiver of the provision or any portion of this Agreement, either at the time of the breach or failure occurs, or at any time throughout the term of this Agreement.

14. Interpretation; Venue: This Agreement shall be interpreted as a whole unit, and section headings are for convenience only. All interpretations shall be governed by the laws of the State of Florida. In the event it is necessary for any Party to initiate legal action regarding this Agreement, venue shall be in the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida, for claims under state law, and in the Southern District of Florida for claims justiciable in federal court. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, ALL PARTIES HEREBY WAIVE THEIR RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT. This clause shall survive the expiration or termination of this Agreement.

15. Time of the Essence and Time Computation: Time is of the essence with regard to this

Agreement. 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.

16. Counterparts: This Agreement may be executed in multiple counterparts, each of which individually shall be deemed an original, but when taken together shall be deemed to be one and the same Agreement.

17. Sovereign Immunity: Nothing in this Agreement shall be considered to increase or waive any limits of liability or waive any immunity afforded to the City by Florida Statutes, case law, or any other source of law.

18. Assignability: Except as otherwise permitted elsewhere in this Agreement, the rights and obligations of Developer under this Agreement may not be assigned in whole or in part without the prior written consent of City, which consent shall not be unreasonably withheld, delayed or conditioned.

19. Invalid Provisions: In the event 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 to fullest extent 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.

20. 713 Notice: Under section 713.10, Florida Statutes, the interest of City in the property or the improvements therein, shall not be subject to liens for any improvements made by or on behalf of Developer and it is specifically provided that neither Developer nor any one claiming by, through or under Developer, including, without limitation, contractors, subcontractors, materialmen, mechanics and/or laborers, shall have any right to file or place any mechanics' or materialmen's liens of any kind whatsoever upon the property or the improvements thereon; and any such liens are hereby specifically prohibited. All parties with whom Developer may deal are put on notice that Developer has no power to subject City's interest to any mechanics' or materialmen's liens of any kind or character, and all such persons so dealing with Developer must look solely to Developer and not to City's said interest or assets. Developer shall provide written notice to each contractor, subcontractor, materialman, mechanic, and laborer performing work on the property of the foregoing.

21. Authority to Sign: Each individual signing this Agreement directly and expressly warrants that such individual has been given and received and accepted authority to sign and execute the documents on behalf of the Party for whom it is indicated such individual 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.

22. Further Assurances: In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by all Parties, all Parties agree to execute and deliver, but without any obligation to incur any additional liability, responsibility, charge or expense, such additional documentation as may be reasonably necessary to consummate the transactions contemplated hereby.

23. Waiver of Consequential Damages: Notwithstanding anything contained in this Agreement to the contrary, each Party hereby waives the right to pursue any other Party, and such other Party shall not be liable, for any special, indirect, consequential, incidental, or punitive damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement.

24. Effective Date. This Agreement is effective for purposes of satisfying Section 4(D)(1) of the Amended PUD only after all of the following events occur: (1) the last Party signs this Agreement; (2) a Memorandum of Agreement is recorded in the Public Records in substantially the same form as attached as **Exhibit B** ("Memorandum of Agreement"); (3) approval and acceptance of the Roadway Improvement Bond by the City; **and** (4) approval, recording and acceptance of the Temporary Construction Easement by the City.

25. Public Records: The City of Port St. Lucie is a public agency subject to Chapter 119, Florida Statutes. Developer shall comply with Florida's Public Records Law. Pursuant to section 119.0701, Florida Statutes:

Developer agrees to comply with all public records laws, specifically to:

Keep and maintain public records required by the City in order to perform under this Agreement:

- A. The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies.
- B. During the term of the Agreement, Developer maintains all books, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement. The form of all records and reports relating to matters arising from and relating to this Agreement shall be subject to the review of the City, and upon City's reasonable written request such forms shall be modified as necessary to comply with applicable law.
- C. Records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Developer's records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, emails, and all other documentation generated during this Agreement. Notwithstanding the foregoing, no document or communication protected by attorney-client privilege shall be produced.

D. Developer agrees to make available to the City, during normal business hours, all books of account, reports and records relating to this Agreement.

E. A contractor who fails to provide the public records to the City within a reasonable time may also be subject to penalties under section 119.10, Florida Statutes.

Upon request from the City's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Developer does not transfer the records to the City.

Upon completion of the Agreement, transfer, at no cost to the City, all public records in possession of Developer, or keep and maintain public records required by the City to perform the service. If Developer transfers all public records to the City upon completion of the Agreement, Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Developer keeps and maintains public records upon completion of the Agreement, Developer shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records in a format that is compatible with the information technology systems of the City.

IF DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**CITY CLERK
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984
(772) 871 5157
pr@cityofpsl.com**

26. E-Verify. In accordance with section 448.095, Florida Statutes, Developer agrees to comply with the following:

A. Developer or its contractors (as applicable) must register with and use the E-Verify system to verify the work authorization status of all new employees of Developer or its contractors. Developer provides the City with sufficient proof of compliance with this provision before beginning work under this Agreement.

- B. If Developer enters into a contract with a subcontractor for work provided under this Agreement, any such Developer contract must require each and every subcontractor to provide them with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Developer shall maintain a copy of each and every such affidavit(s) for the duration of the Agreement and any renewals thereafter.
- C. The City shall terminate this Agreement if it has a good faith belief that a person or an entity with which it is contracting has knowingly violated section 448.09(1), Florida Statutes.
- D. Developer shall immediately terminate any contract with any subcontractor performing work under this Agreement if they have, or develop, a good faith belief that the subcontractor has violated section 448.09(1), Florida Statutes. If City has or develops a good faith belief that any subcontractor of Developer providing work under this Agreement knowingly violated section 448.09(1), Florida Statutes, or any provision of section 448.095, Florida Statutes, the City shall promptly notify Developer and order Developer to immediately terminate the contract with the subcontractor.
- E. The City shall terminate this Agreement for violation of any provision in this section. If the Agreement is terminated under this section, it is not a breach of contract and may not be considered as such. If the City terminates this Agreement under this section, the violating party may not be awarded a public contract for at least one (1) year after the date on which the Agreement was terminated. A contractor is liable for any additional costs incurred by the City as a result of the termination of a contract via this section.
- F. Developer, City or any subcontractor may file a cause of action with a circuit or county court to challenge a termination under section 448.095(5)(c), Florida Statutes, no later than twenty (20) calendar days after the date on which the Contract was terminated. The Parties agree that such a cause of action must be filed in accordance with the Venue provision, as otherwise provided herein.

[Signatures and acknowledgments appear on the following page(s)]

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of the day and year first above written.

CITY:

CITY OF PORT ST. LUCIE, FLORIDA, a Florida
municipal corporation

Attest:

_____,
Sally Walsh, City Clerk
(Seal)

By: _____
Shannon M. Martin, Mayor

DATE:

DEVELOPER:

Witnesses:

Print Name:

Laurie McCaffrey

Print Name:

DAVID J. KAPLAN

By:

Print Name:

Jonathan Cohen

Its: Authorized Signatory

STATE OF ~~FLORIDA~~ New York

COUNTY OF Nassau

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 24th day of November, 2025, by Jonathan Cohen, as Authorized Signatory of BDP Port St. Lucie, NY LLC on behalf of the company, who ☒ is personally known to me or ☐ has produced _____ as identification.

[Notary Seal]

ANJU JOHN
NOTARY PUBLIC-STATE OF NEW YORK
No. 02JO0041142
Qualified in Nassau County
My Commission Expires 08-29-2029

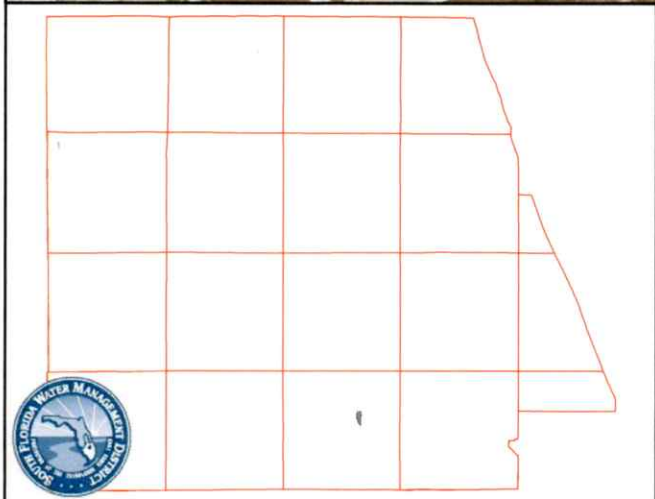
Notary Public-State of Florida New York

Print Name:

Anju John

My commission expires: 8/29/2029

* * *



Application

ST LUCIE COUNTY, FLORIDA

Application No: 241206-48300

Permit No: 56-112317-P

Project Name: Gattlin Plaza Expansion

Map Date: 2025-03-03

0

0.15

0.3

Miles

Exhibit No: 1.0

EXHIBIT 1b - LEGAL DESCRIPTION

Legal Description For
GATLIN PLAZA PUD
Modification #~~3~~ 4

Being all of Gatlin Plaza, As Recorded in Plat Book 54, Page 18, Public Records of St. Lucie County, Florida, lying in Sections 14 and 15, Township 37 South, Range 39 East.

Containing 91.067 acres, more or less.

[go to next page]

Recorded return to:

City Attorney's Office
City of Port St. Lucie
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984

Memorandum of Agreement
Gatlin Commons PUD Roadway Improvement Agreement P23-159

THIS ROADWAY IMPROVEMENT AGREEMENT ("Memo") is being filed of record by the City of Port St. Lucie, a Florida municipal corporation ("City), with the consent of BDG Port St. Lucie, LLC, a New York limited liability company ("Developer").

KNOWN ALL MEN BY THESE PRESENTS:

WHEREAS, Developer entered into an agreement (the "Agreement") with the City on _____, 2025, which outlines obligations relating to the Developer's requirement to design and construct roadway improvements to support the Fourth Amendment of the Planned Unit Development Document for Gatlin Plaza (P23-159) to the City of Port St. Lucie (the "Amended PUD Document"); and

WHEREAS, the Amended PUD Document was approved by the City Council on July 28, 2025, through City Ordinance 25-38; and

WHEREAS, the intent of this Memo is to provide notice of the Agreement to interested parties; and

WHEREAS, the Agreement is on file with the Clerk of the City of Port St. Lucie and available for inspection upon request.

NOW THEREFORE, for and in consideration of the sum of \$10.00, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the City of Port St. Lucie hereby covenants and agrees as follows:

1. The recitals set forth above are incorporated herein by reference and made a part hereof as if set forth herein verbatim.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of the day and year first above written.

CITY:

CITY OF PORT ST. LUCIE, FLORIDA, a Florida
municipal corporation

Attest:

By: _____
Shannon M. Martin, Mayor

| _____
Sally Walsh, City Clerk
(Seal)

DATE:

DEVELOPER:

Witnesses:

Laurel McCaffrey
Print Name: Laurel McCaffrey
Address: 300 Robbins Lane
Syosset NY 11791
David J. Kaplan
Print Name: David J. Kaplan
Address: 300 Robbins Lane
Syosset NY 11791

By:

Jonathan Cohen
Print Name: Jonathan Cohen
Its: Authorized Signatory

New York
STATE OF ~~FLORIDA~~
COUNTY OF Nassau

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 24th day of November, 2025, by Jonathan Cohen, as Authorized Signatory of BDB Port St. Lucie LLC on behalf of the company, who ☒ is personally known to me or ☐ has produced _____ as identification.

[Notary Seal]

ANJU JOHN
NOTARY PUBLIC-STATE OF NEW YORK
No. 02JO0041142
Qualified in Nassau County
My Commission Expires 08-29-2029

Anju John
Notary Public-State of Florida New York
Print Name: Anju John
My commission expires: 8/29/2029

* * *