

RESOLUTION NO. 2020-169

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE SETTLEMENT AGREEMENT WITH FC LAND INVESTMENT A, LLC, RESOLVING THE PENDING APPEAL STYLED *FC LAND INVESTMENT A, LLC V. CITY OF COCONUT CREEK*, FILED IN THE SEVENTEENTH JUDICIAL CIRCUIT COURT UNDER CASE NUMBER CACE19-026247, WHICH IS AN APPEAL CHALLENGING AN ORDER OF THE SPECIAL MAGISTRATE OF THE CITY OF COCONUT CREEK IN A CODE ENFORCEMENT MATTER; PROVIDING FOR IMPLEMENTING ACTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on July 30, 2019, the City issued a summons to appear for a code enforcement action to FC Land Investment A, LLC, as the property owner of a rental apartment complex commonly known as "Monarch Station," located at 4901 W. Sample Road, Coconut Creek, Florida (FC Land Investment A, LLC is hereinafter referred to "Monarch Station"), pursuant to the City's Case Number C19-070218; and

WHEREAS, the summons, as amended, alleged that Monarch Station committed violations of Section 20-35, "Type and maintenance," Code of Ordinances of the City of Coconut Creek, and gave notice of its alleged misuse and non-maintenance of its privately-owned pipes, apparatus, or equipment, particularly by inserting unlawful debris and rags into the wastewater stream resulting in damage to City's wastewater infrastructure located at Lift Station 45; and

WHEREAS, the City owns and maintains Lift Station 45 and, at the present time, it exclusively serves Monarch Station, with no other active points of entry for the debris that is collecting in the Lift Station pumps; and

WHEREAS, on November 20, 2019, the Special Magistrate for the City of Coconut Creek held a contested evidentiary hearing regarding the ten (10) separate occasions in which the City unclogged rags and other unlawful inserted debris from its two (2) pumps at Lift Station 45, and issued an order on December 3, 2019, finding such violations

existed; and

WHEREAS, on December 23, 2019, the Monarch Station timely lodged an appeal of the Special Magistrate's Final Order with the Broward County Circuit Court, Appellate Division, now docketed as *FC Land Investment A, LLC v. City of Coconut Creek*, Case Number CACE19-026247 (the "Appeal"), and the Appeal is currently pending; and

WHEREAS, following the issuance of the Special Magistrate's Final Order and the filing of the Appeal, and as of August 19, 2020, nineteen (19) additional instances of clogging have occurred at Lift Station 45 (the "Post-Order Violations") and same are currently accruing instances of violation under the City's Code Enforcement Case Docket Number C20-080012 ("Repeat Violation Case"), which has not yet been presented to the Special Magistrate; and

WHEREAS, in lieu of any further litigation in the Appeal, and Monarch Station otherwise formally disputing the controversy described herein, including the Repeat Violation Case, Monarch Station and the City desire to enter into the Joint Stipulation, attached hereto and made a part hereof as "Exhibit 1;" and

WHEREAS, pursuant to the Joint Stipulation, the parties will voluntarily dismiss (or withdraw) the Appeal, with finality, and Monarch Station will take specific steps toward compliance in exchange for the City holding in abeyance its prosecution of the Repeat Violation Case in connection with both the Post-Order Violations and future potential violations for a period of 365 days in order to allow Monarch Station the time to bring its property into compliance with the City's Code of Ordinances ("Rehabilitation Period"); and

WHEREAS, among the negotiated terms of the Joint Stipulation, Monarch Station has agreed to pay for all the costs incurred by the City as restitution for each clean-out conducted at Lift Station 45 during the Rehabilitation Period, so long as Monarch Station is the sole user of Lift Station 45; and

WHEREAS, the City Commission finds and determines that further litigation of the

Appeal in the Circuit Court expends unnecessary staff time and City resources, and is not in the best interest of the residents when the Joint Stipulation provides a feasible avenue to achieve compliance with the City's Code of Ordinances.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution. "Exhibit 1," the Joint Stipulation between the City of Coconut Creek and FC Land Investment A, LLC, attached hereto is incorporated herein and made a specific part of this resolution.

Section 2: That the City Commission hereby approves the Joint Stipulation, attached hereto as Exhibit "1," in order to settle the pending Appeal, in which it is a named Defendant.

Section 3: That the City Manager, or designee, is hereby authorized to execute the Joint Stipulation, attached hereto as Exhibit "1."

Section 4: That the City Manager and the City Attorney, or their designees, are hereby authorized to take any actions necessary to implement the aims of this resolution.

Section 5: That if any clause, section, other part or application of this resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or in application, it shall not affect the validity of the remaining portion or applications of this resolution.

Section 6: That this resolution shall be in full force and effect immediately upon its adoption.

Adopted this 10th day of September, 2020.

Louis Sarbone, Mayor

Attest:

Leslie Wallace May, City Clerk

Sarbone	<u>Aye</u> __
Rydell	<u>Aye</u> __
Tooley	<u>Aye</u> __
Belvedere	<u>Aye</u> __
Welch	<u>Aye</u> __

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Date: 8.20.2020