



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 1547, **Version:** 1

Subject:

Request Approval of Addendum 1 -Extension 1 of Paragraph 5 of Settlement Agreement - Brevard County v. K G Owens, et al Case #: 05-2018-CA-019771 (aka Miller Cove Road)

Fiscal Impact:

None

Dept/Office:

County Attorney's Office

Requested Action:

Request approval of the attached Addendum 1 to Settlement Agreement granting an extension of time to fulfill requirements of paragraph 5, and authorize the Chair to sign all documentation required. Request approval for Chair to approve any future extensions to paragraph five of the settlement agreement.

Summary Explanation and Background:

In March 2018, LTM of Florida Holdings, LLC appeared before the Board of County Commissioners claiming a strip of land (aka Miller Cove Road) was a public road. Brevard County staff indicated that based on county records, the strip of land was not a public road. To resolve the issue, on March 23, 2018, the Board directed the County Attorney's Office to file a declaratory judgment action to allow a judge to resolve the dispute. Brevard County filed suit against 29 Defendants (including LTM of Florida Holdings, LLC) asking the Circuit Court to determine that Central Boulevard, a/k/a Miller Cove Road, is not a public road (but a private road that has never been accepted by the County or the Town). In addition, the court was asked to determine that the strip of land is in the jurisdiction of the Town of Palm Shores.

On February 26, 2019, Brevard County entered into a settlement agreement with the Town of Palm Shores, LTM, several utility companies, and a few of the other defendants that conditionally resolved the situation going forward in Brevard County's favor. The lawsuit was temporarily abated to allow LTM of Florida Holdings, LLC time to meet the conditions set out in the Settlement Agreement. The abatement was contained in Paragraph 5 of the Settlement Agreement and provided a delay (abatement) of six months. LTM of Florida Holdings, LLC appears to be attempting to meet the conditions set out in the Settlement Agreement and has requested additional time to do so. The extension, or abatement, is until November 7, 2020, pursuant to the terms of the attached Addendum.

The Addendum also specifically addresses the counter claims and cross claims filed by LTM of Florida Holdings, LLC against Brevard County. Pursuant to this Addendum, the County will not be required to respond

to any of those claims until 30 days after the abatement expires; the new due date for a response is December 7, 2020. LTM of Florida Holdings, LLC is not prohibited from pursuing its cross claims and counterclaims against other parties during the abatement.

Clerk to the Board Instructions:

Return signed original and Memorandum to County Attorney's Office