

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 5 G

Council Meeting Date: June 11, 2019

ITEM TITLE: RESOLUTION

INTRODUCED BY: Mayor Andrew "FoFo" Gilich

CONTACT PERSON: E. Michael Leonard, CAO *em*

Christy LeBatard, Director of the Engineering Department

SUMMARY EXPLANATION:

Resolution authorizing execution of Second Extension Agreement regarding commencement of construction date for Increment 1 of the trunk infrastructure and roadways with Pitcher Point Investments, LLC and WM MS Investments, LLC

Resolution Ordinance _____ Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract Minutes _____ Plans/Maps _____ Deed _____ Lease _____

Other (Specify): Exhibit A: Second Extension Agreement

Submittal Authorization: Council President _____ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

Vote:	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>
	Lawrence	___	___	___	Tisdale	___	___	___
	Gines	___	___	___	Glavan	___	___	___
	Newman	___	___	___	Barrett	___	___	___
	Deming	___	___	___				

ACTION TAKEN:

Resolution No.

RESOLUTION AUTHORIZING EXECUTION OF SECOND EXTENSION AGREEMENT REGARDING COMMENCEMENT OF CONSTRUCTION DATE FOR INCREMENT 1 OF THE TRUNK INFRASTRUCTURE AND ROADWAYS WITH PITCHER POINT INVESTMENTS, LLC AND WM MS INVESTMENTS, LLC

WHEREAS, by Resolution No. 607-17, the governing authorities of the City of Biloxi (the "City") approved entry into an Agreement Regarding Trunk Infrastructure and Roadways (the "Agreement") with Pitcher Point Investments, LLC ("PPI") and WMMS Investments, LLC ("WMMS");

WHEREAS, under the provisions of Section 4 (1)(a) of the Agreement the City was to have commenced construction of the Trunk Infrastructure for Increment 1 no later than December 10, 2018;

WHEREAS, pursuant to the authority granted under Resolution No. 29-19, the City's, PPI and WMMS entered Extension Agreement (the "Extension"), which extended the construction commencement date to June 15, 2019;

WHEREAS, the City has completed some, but not all, of the requirements necessary to commence construction, and will need an additional extension of time;

WHEREAS, PPI and WMMS agree that the City has made good faith efforts to complete its requirements under the Agreement in a timely manner and have agreed to grant a further extension of time to the City, giving it until August 29, 2019 to commence construction of the trunk infrastructure for Increment 1;

WHEREAS, it is the recommendation of Christy LeBatard, Director of Engineering, that the City enter into a the Second Extension Agreement, the form of which is attached hereto as Exhibit "A,"

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY

OF BILOXI, MISSISSIPPI, AS FOLLOWS:

Section 1: The findings, conclusions, and statements of fact contained in the preamble of this resolution are hereby ratified, approved, and adopted.

Section 2: The Mayor is hereby authorized to execute, on behalf of the City of Biloxi, the Second Extension Agreement, attached hereto as Exhibit "A," with Pitcher Point Investments, LLC and WMMS Investments, LLC.

Section 3: This resolution shall take effect and be in force from and after adoption.

STATE OF MISSISSIPPI
COUNTY OF HARRISON



SECOND EXTENSION AGREEMENT

THIS SECOND EXTENSION AGREEMENT is made by and among the CITY OF BILOXI, MISSISSIPPI, a Mississippi municipal corporation (the "City"); Pitcher Point Investments, LLC ("PPI") and WM MS Investments, LLC ("WMMS") (collectively, the "Parties"), and is effective as of the _____ day of June 2019.

WITNESSETH:

WHEREAS, the Parties entered that certain Agreement Regarding Trunk Infrastructure and Roadways, dated December 11, 2017, to establish the responsibilities of the respective Parties in connection with the development of a master planned community known as Belle la Vie Master Planned Community;

WHEREAS, under the provisions of Section 4(1)(a) of the Agreement the City was to have commenced construction of the Trunk Infrastructure for Increment 1 no later than December 10, 2018;

WHEREAS, by entering the Extension Agreement, the Parties mutually agreed to extend the construction commencement date to June 15, 2019;

WHEREAS, the City has completed some, but not all, of the requirements necessary to commence construction, and will need an additional extension of time;

WHEREAS, PPI and WMMS agree that the City has made good faith efforts to complete its requirements under the Agreement in a timely manner and have agreed to grant a further extension of time to the City, giving it until August 29, 2019 to commence construction of the trunk infrastructure for Increment 1;

WHEREAS, the City has completed some, but not all, of the requirements of the Commencement of Construction Date for Increment 1 but is continuing in good faith its efforts to complete all of the requirements to meet the Commencement of Construction Date for Increment 1 as defined under the Agreement, but will need an extension of time from the current date set forth in Section 4(1)(a); and,

NOW, THEREFORE, it is agreed by and among the City, PPI and WM MS that the Commencement of Construction Date for Increment 1 set forth in Section 4(1)(a) of the Agreement is extended to August 29, 2019. All other terms and provisions of the Agreement not affected by this extension shall remain in full force and effect.

Signatures on following page

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY:

ATTESTED TO BY:

CITY OF BILOXI, MISSISSIPPI, a Mississippi municipal corporation

Stacy L. Thacker, Municipal Clerk

By: _____
Name: A.M. Gilich, Jr.
Title: Mayor

PPI:

PITCHER POINT INVESTMENTS, LLC, a Mississippi limited liability company

By: NORTHSLOPE, LLC, a Mississippi limited liability company, its Managing Member

By: _____
Name: James C. Frisby
Title: Managing Member

WMMS:

WM MS INVESTMENTS, LLC, a Mississippi limited liability company

By: _____
Name: Andre F. Hickman
Title: Manager