

Legislative #

130635

SECOND AMENDMENT TO TOLLING AGREEMENT

This Second Amendment to Tolling Agreement (this “Amendment”) is made and entered into as of _____, 2014, and is by and between Beazer East, Inc., a Delaware corporation, with a contact c/o Three Rivers Management, Inc., Manor Oak One, Suite 200, 1910 Cochran Road, Pittsburgh, PA 15220 (“Beazer”) and the City of Gainesville, Florida, a municipal corporation, organized and existing under the laws of the State of Florida, acting for itself for and on behalf of all of its departments, divisions, directors and officers, including without limitation the Gainesville Regional Utilities, (collectively referred to herein as the “City”) whose principal place of business is 201 East University Avenue, Gainesville, Florida, 32601. Beazer and the City are collectively referred to herein as the “Parties,” and each individually as a “Party.”

RECITALS

WHEREAS, the Parties entered into a Tolling Agreement dated January 16, 2014 (the “Agreement”), in which the Parties agreed that, in exchange for the preservation and tolling of all claims within the scope of the Agreement, the Parties would not take or file any civil, administrative or regulatory action, claim or complaint against any other Party to the Agreement during the term of the Agreement; and

WHEREAS, the Tolling Period established in the Agreement expired on May 2, 2014; and

WHEREAS, the City and Beazer entered into a First Amendment to Tolling Agreement dated May 1, 2014, which extended the Tolling Period to July 16, 2014; and

WHEREAS, the Parties wish to avoid the expense, delay and uncertainty of litigating the claims, and have been accordingly working in good faith toward resolution of the claims through settlement negotiations; and

WHEREAS, the Parties have made progress in establishing potential terms of a settlement; and

WHEREAS, the Parties wish to further extend the term of the Tolling Period.

AGREEMENT

NOW, THEREFORE, the Parties do hereby agree as follows:

1. All capitalized terms used in this Amendment that are not otherwise defined herein shall have the meaning ascribed to such terms by the Agreement.
2. Paragraph 2(b) of the Agreement, as amended by the First Amendment, is further amended as follows: The reference to "July 16, 2014" shall be deleted and replaced with "September 18, 2014".
3. Except to the extent amended or modified by the First Amendment and this Second Amendment, all the terms, conditions and provisions of the Agreement shall remain in full force and effect.

AGREED AND EXECUTED:

CITY OF GAINESVILLE

BEAZER EAST, INC.

By: _____
Name: _____
Title: City Manager
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: Interim General Manager for Utilities
Date: _____