

FIRST ADDENDUM TO IMPROVEMENTS AGREEMENT

THIS FIRST ADDENDUM TO THE IMPROVEMENTS AGREEMENT (“FIRST ADDENDUM”) IS MADE AND EXECUTED THIS _____ DAY OF _____, 2024, BY AND BETWEEN THE **LAKES AT COCOA GROVE COMMUNITY DEVELOPMENT DISTRICT**, a local unit of special purpose government established and existing pursuant to Chapter 190, Florida Statutes, being situated within the City of Cocoa, Florida, with a mailing address c/o Wrathell, Hunt and Associates, LLC, 2300 Glades Road, Suite 410W, Boca Raton, Florida 33431 (“District”);

MOUNTAIN COVE HOMES AT LAKES AT COCOA GROVE, LLC, a Florida limited liability company, with a mailing address of 4878 SW 74th Court, Miami, Florida 33155 (“Developer”); and

CITY OF COCOA, a Florida municipal corporation, located in Brevard County, Florida, with a mailing address of 65 Stone Street, Cocoa, Florida 32922 (“City”), for purposes of acknowledgement.

WITNESSETH:

WHEREAS, on June 6, 2024, the District, Developer, and City entered into that certain Improvements Agreement, in which the District agreed that it would both (1) publicly bid the construction contract for Improvements, as defined in the Improvements Agreement, to be constructed in conjunction with the Lakes at Cocoa Grove subdivision in the City of Cocoa, Florida, and (2) include within its District Public Bid a bond rider naming the City as a dual-obligee in substantially the same form attached as Exhibit C in the Improvements Agreement for those “City Improvements”, which were to be owned and operated by the City of Cocoa or Brevard County upon completion; and

WHEREAS, the City, by way of the Improvements Agreement, authorized the Developer to proceed with application for a final plat without having submitted a performance security bond, guaranteeing to the satisfaction of the City that the City Improvements would be duly constructed, completed, and approved, in reliance upon the District’s agreement to name the City as a dual-obligee under its construction performance bond with its selected contractor; and

WHEREAS, Section 4 of the Improvements Agreement provides that should either the District or Developer fail to tender to the City a Surety Bond in accordance with the Improvements Agreement by December 1, 2024, the Developer or District would be required to submit a performance bond to the City to secure the completion of the City Improvements in accordance with Section 18-31 of the City Code; and

WHEREAS, the City recognizes that the Developer and District have incurred pre-construction delays and that the public bidding process for the construction of the Improvements has not yet commenced; and

WHEREAS, the City is amenable to granting an extension of the December 1, 2024 deadline to submit a Surety Bond, subject to the conditions as outlined below; and

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged by the parties, the parties mutually agree as follows:

1. The above recitals are true and correct and are incorporated herein.
2. Section 4 of the Improvements Agreement is hereby amended to provide that the Developer and District agree that should the Developer or District fail to tender to the City a Surety Bond in accordance with the requirements of Section 3 of the Improvements Agreement by **December 1, 2025**, the Developer or District shall submit a performance bond to the City of Cocoa to secure the completion of the City Improvements in accordance with Section 18-31 of the City Code.
3. The modification to Section 4 of the Improvements Agreement is conditioned upon the following:

(A) Developer shall be temporarily prohibited from selling any individual lots, as shown in the Lakes at Cocoa Grove final plat, recorded in the Plat Book of Brevard County, Florida, at Book 76, Page 1, until the City has received the Surety Bond as provided in the Improvements Agreement. Nothing in this subsection shall be construed as prohibiting the sale of multiple lots to a different Developer or builder for purposes of residential construction.

(B) Should the Developer or District fail to abide by the terms of Subsection (A), Developer and District agree that either, jointly and severally, shall be required to immediately submit a performance security bond in accordance with the City's Subdivision regulations to secure completion of the City Improvements and no further extensions shall be permitted. The District and Developer agree that, should the Developer or District fail or refuse to immediately submit a performance security bond in accordance with the City's subdivision as required by this Section, the City shall have the right to resort to any and all legal and equitable remedies against the Developer and/or District, including specific performance.

4. All terms and conditions of the Improvements Agreement which are not expressly modified by this First Addendum shall continue to remain in full force and effect.

[SIGNATURE PAGE FOR THE DEVELOPER]

SIGNED AND SEALED this _____ day of _____, 2024

WITNESSES:

Witness

DEVELOPER

Mountain Cove Homes, LLC

Type or Print Name

BY: _____
Signature

Witness

Type or Print Name

Type or Print Name

Title (If attorney-in-fact Attach Power of Attorney)

DEVELOPER ADDRESS

NOTARY ACKNOWLEDGMENT

STATE OF: _____

COUNTY OF: _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024 (year), by _____ (name of person) as Manager (type of authority, . . . e.g. officer, trustee, attorney in fact) for Mountain Cove Homes, LLC, a limited liability company (name of party on behalf of whom instrument was executed) authorized to do business in Florida herein identified as the Developer and who is ☐ Personally Known or ☐ Produced Identification Type of Identification Produced _____

NOTARY SEAL:

Signature of Notary Public – State of Florida)

Print Name of Notary

SIGNED AND SEALED this _____ day of _____, 20____

WITNESSES:

Witness

Lakes at Cocoa Grove Community Development
District

Type or Print Name

BY: _____
Signature

Witness

Type or Print Name

Type or Print Name

Title (If attorney-in-fact Attach Power of Attorney)

DISTRICT ADDRESS

c/o Wrathell, Hunt and Associates, LLC
2300 Glades Road, Suite 410W
Boca Raton, Florida 33431

NOTARY ACKNOWLEDGMENT

STATE OF: _____

COUNTY OF: _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024 (year), by Ana Laura Robayna (name of person) as Chairperson (type of authority, . . . e.g. officer, trustee, attorney in fact) for Lakes at Cocoa Grove Community Development District (name of party on behalf of whom instrument was executed) herein identified as the District and who is ☐ Personally Known or ☐ Produced Identification Type of Identification Produced _____

NOTARY SEAL:

Signature of Notary Public – State of Florida)

Print Name of Notary

Approved and accepted for and on behalf of City of Cocoa, Florida, this _____ day of _____, 2024

CITY OF COCOA, FLORIDA

BY: _____
MAYOR MICHAEL C. BLAKE

ATTEST: _____
MONICA ARSENAULT, CITY CLERK