

IMPROVEMENTS AGREEMENT

(Required with the Form of Surety Bond (Exhibit “C”) as security guaranteeing
Completion of Improvements)

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.

WHEREAS, the Lakes at Cocoa Grove Community Development District (“District”), on behalf of Mountain Cove Homes, LLC (“Developer”), has undertaken certain obligations of the Developer to deliver, or cause to be delivered, the improvements contained in the Engineer’s Report dated February 20, 2024, a component of which includes improvements to be owned and operated by the City of Cocoa or Brevard County (“City Improvements”), which are attached as Exhibit “A” hereto; and

WHEREAS, the District will publicly bid the City Improvements, as required by Florida law and the District’s adopted Rules of Procedure and will contract for construction and completion of the same (“District Public Bid”); and

WHEREAS, in conjunction with such District Public Bid, the District will require its construction contractor to post a payment and performance bond as required by Florida law; and

WHEREAS, the Developer has made application to the City for approval of a final plat identified as Lakes at Cocoa Grove (“Subdivision”), the legal description for which is more particularly described in Exhibit “B”, attached hereto and incorporated herein; and

WHEREAS, the City of Cocoa Land Development Code requires that a final subdivision plat not be approved for recording until certain improvements required by the Land Development Code or required as a condition of approval of the plat or site plan (“Improvements”) have been duly constructed, completed, and approved, unless the Developer has provided performance security guaranteeing to the satisfaction of the City that such Improvements will be duly constructed, completed, and approved; and

WHEREAS, in connection with the Subdivision, the Developer has submitted construction drawings for the Improvements, with the exception of the improvements to be owned by the County, which are on file with and have been approved by the City; and

WHEREAS, the Developer desires to obtain approval of the Subdivision prior to installation of the Improvements; and

WHEREAS, the District's Engineer of Record has submitted an estimated cost set forth in the Engineer's Report of the cost to complete the Improvements, including the City Improvements; and

WHEREAS, the District agrees that it will include within its District Public Bid, the bond rider naming the City as a dual-obligee in substantially the form as attached hereto as Exhibit "C", which shall be posted prior to commencement of the Improvements ("Surety Bond").

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

1. The above recitals are true and correct and are incorporated herein.
2. The Developer and the District, in consideration of the City's approval of the proposed Subdivision, and for other valuable consideration, hereby agree to duly construct and complete the Improvements, including the City Improvements, and to otherwise comply fully with the Land Development Code, any conditions of the Subdivision's approval, and all other applicable regulations, requirements and agreements.
3. The Developer, through the District and its contractor selected through the District Public Bid, agree to tender to the City a Surety Bond in the amount of one hundred and ten percent (110%) of the cost of the Improvements, which shall be based on the District Public Bid response and contract associated therewith, for the City Improvements. The District shall notify the City upon contract award and shall provide the City with the Surety Bond naming the City as a dual-obligee in substantially the form attached hereto as Exhibit "C". Such Surety Bond shall be posted prior to commencement of construction of the Improvements. Said Surety Bond shall expire upon acceptance of the City Improvements by the City and acceptance of all other Improvements by the District as guaranteed by the Surety Bond, which acceptance shall not be unreasonably withheld. Nothing herein shall excuse or waive the requirement for the Developer, through the District, to submit a maintenance bond in the amount of ten percent (10%) of the construction cost of the City Improvements prior to acceptance by the City.
4. Notwithstanding the foregoing in Section 3, 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 by December 1, 2024, 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.
5. Should the Developer or District fail or refuse to complete the Improvements, as required, nothing herein shall be construed as affecting the City's right to resort to any and all legal and equitable remedies against the Developer, including specific performance, to which the Developer hereby agrees. Further, nothing shall prevent the Developer from posting the form of Bond otherwise required under the City Code in lieu of posting the Surety Bond set forth in this Agreement.
6. The Developer understands and agrees that in the event that the Improvements are not

constructed or installed in the manner consistent with this Agreement, the City shall withhold further permits or approvals, including certificates of occupancy, for the Subdivision until the Improvements have been completed or adequate progress, as determined by the City Council, toward completion of the Improvements has been demonstrated.

7. The Developer hereby agrees that the duties, obligations and responsibilities set forth in this Agreement shall be binding upon any successors in interest and assigns (“Assignee”) to the Subdivision (“Assignment”) and such Assignment is permissible so long as such Assignee assumes all rights, obligations and responsibilities set forth herein.
8. Upon the completion of the Improvements, such improvement shall be transferred to that entity set up in the deed restrictions to be responsible for ongoing maintenance of the improvements. In no event shall public funds be used for the maintenance of private improvements, unless they are dedicated to and accepted by the City or the District.

[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

[SIGNATURE PAGE FOR THE DISTRICT]

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 _____

CITY OF COCOA, FLORIDA

BY: _____
MAYOR MICHAEL C. BLAKE

ATTEST: _____
MONICA ARSENAULT, CITY CLERK

EXHIBIT A
CITY AND COUNTY IMPROVEMENTS LIST

- Utilities and Sanitary Sewer System for Lakes at Cocoa Grove
- Water Distribution System (Potable Water)
- Connector Road: Osage/Angelica
- Roadway Drainage Improvements: Osage/Angelica
- Intersection improvement @ Grissom

EXHIBIT B
LEGAL DESCRIPTION

Description:

A parcel of land as described in O.R. Book 8563 Page 760 of the public Records of Brevard County, Florida and lying in Section 10, Township 24 South, Range 35 East and being more particularly described as follows;

Begin at the northeast corner of said Section 10; thence S. 00°31'49" E., along the east line of the northeast corner of said Section 10, a distance of 2602.21 feet to a point lying 44.08 feet N. 00°31'49" E. of the east quarter corner of said Section 10, said point also being on the northerly right-of-way line of State Road No. 528 as shown on Section Map 70007-2508; thence N. 74°59'21" W., along said north right-of-way line, a distance of 693.63 feet to the Point-of-Curvature of a 5879.58 foot radius circular curve concave southerly; thence easterly, along the arc of said curve, through a central angle of 16°24'08" a distance of 1683.16 ft. said curve having a chord bearing of N. 83°11'25" W. and a chord distance of 1677.42 ft.; thence S. 88°36'31" W., along said northerly right-of-way line, a distance of 858.67 feet; thence N. 87°23'29" W., along said northerly right-of-way line, a distance of 638.50 feet to the Point-of-Curvature of a 900.00 foot radius circular curve concave northeasterly, said curve also being the northeasterly right-of-way line of the State Road No. 528 and I-95 interchange; thence northwest along the arc of said curve, through a central angle of 31°18'50" a distance of 491.88 feet said curve having a chord bearing of N. 71°44'04" W. and a chord distance of 485.78 feet; thence N. 56°04'39" W., along said State Road 528/I-95 right-of-way line, a distance of 398.70 feet to a non-tangent point on a 969.79 foot radius circular curve concave northeasterly; thence northwesterly, along the arc of said curve, through a central angle of 37°46'38" a distance of 639.42 feet said curve having a chord bearing of N. 37°11'20" W. and a chord distance of 627.90 feet to a point on the easterly right-of-way line of I-95 per FDOT Map Section 70220; thence N. 00°11'53" W., along said easterly right-of-way line, a distance of 566.36 feet; thence N. 01°55'04" W., along said easterly right-of-way line, a distance of 300.93 feet; thence N. 01°21'38" W., along said easterly right-of-way line, a distance of 376.15 feet to a point on the south line of a borrow pit No. 19 Haul Road; thence N. 89°58'02" E., along said south line, a distance of 318.30 feet to a point on the west line of borrow pit No. 19 per FDOT Project No. 70220-2402; thence along the west, south, east and north lines of said borrow pit, the following four courses; S. 00°01'58" W. a distance of 500.00 feet; thence S. 89°58'02" E. a distance of 600.00 feet; thence N. 00°01'58" E. a distance of 550.00 feet; thence N. 89°58'02" W. a distance of 919.51 feet to a point on the aforesaid easterly right-of-way line of I-95; thence N. 01°20'38" W., along said easterly right-of-way line, a distance of 50.01 feet to a point on the north line of the northwest ¼ of said Section 10; thence S. 89°58'02" E., along said north line, a distance of 2337.02 feet to the north quarter corner of said Section 10; thence S. 89°58'06" E., along the north line of the northeast ¼ of said Section 10, a distance of 2665.57 feet to the Point-of-Beginning.

Containing 246.43 acres more or less and being subject to any easements and/or rights-of-ways of record.

EXHIBIT C

DUAL OBLIGEE RIDER

Bond Number _____
Rider Number _____

WHEREAS, _____ [CONTRACTOR], _____ address _____, hereafter also called “Principal/Contractor”, has entered into a written agreement with Lakes at Cocoa Grove Community Development District, c/o Wrathell Hunt & Associates, LLC, 2300 Glades Road, Suite 410W, Boca Raton, FL 33431, hereafter also called “Obligee”, for delivery, in pertinent part of the “City Improvements” made part of the development known as Lakes at Cocoa Grove located in the City of Cocoa, Brevard County, Florida, hereafter also called “Agreement”, copy attached and incorporated herein as **Exhibit A**; and

WHEREAS, the Obligee, on behalf of Mountain Cove Homes, LLC (“Mountain Cove”), and its successors and assigns, has undertaken certain obligations pursuant to that certain Improvements Agreement, and the Obligee agreed to require a payment and performance bond as more specifically described in the Improvements Agreement and Principal/Contractor provided said bond; and

WHEREAS, the Principal/Contractor by execution of this document, agrees to assume obligation for and agrees to perform all work and construct all improvements as provided in the Agreement and satisfy the payment and performance bond obligations according to all terms, requirements and conditions contained in the Agreement and this document; and

WHEREAS, Mountain Cove has applied to the City for approval of a final plat of a certain area of land within the City of Cocoa called Lakes at Cocoa Grove (hereinafter, “Subdivision”) and has agreed, as a condition to the approval of the said final plat by the City of Cocoa, to complete the construction of all required, approved and/or dedicated improvements set forth therein, which consist of roads, drainage, sewer and water lines and all other improvements delineated per the Agreement in connection with the above said plat, hereinafter the “Improvements” (hereinafter, said required performance guarantee for the Improvements on the Lakes at Cocoa Grove plat, the “Subdivision Performance Guarantee”); and

WHEREAS, the approval of said final plat by the City is further conditioned upon the furnishing of an adequate surety to the City pursuant to the City of Cocoa Land Development Code; and

WHEREAS, the Lakes at Cocoa Grove plat contains two types of Improvements one set is defined as private improvements and the second is defined as the basic required improvements for the Subdivision as set forth in the Improvement Agreement (“Improvements”), of which the Improvements to be owned and maintained by the City and Brevard County (the “City Improvements”) are a subset; and

WHEREAS, those Improvements which are necessary for the Subdivision to function are the responsibility of Mountain Cove and are part of the cost of development; accordingly, the City is not responsible for payment in the event of a default; and

WHEREAS, Principal/Contractor, has, in conjunction with the Agreement and this document, and on behalf of Mountain Cove, agreed to fulfill the Subdivision Performance Guarantee as set forth herein and up to the limits provided herein; and

WHEREAS, Principal/Contractor and Surety have previously made, executed and delivered to the Obligee their joint and several Performance and Payment Bond(s) No(s). _____, Penal Sum(s) \$ _____, hereafter also called “Bond”, copy(s) attached and incorporated herein as **Exhibit B**; and

WHEREAS, the Obligee has requested that the City, hereafter also called “Co-Obligee”, having a material interest in performance under said Agreement, be named as a Co-Obligee on the Bond and the Obligee has also requested the Principal/Contractor and the Surety to join with the Obligee in the execution

and delivery of this Rider and the Principal/Contractor and Surety have agreed to do so upon the conditions herein stated.

NOW, THEREFORE, in consideration of One Dollar and other good and valuable consideration, the mutual exchange and receipt of which is hereby acknowledged, the undersigned agree to the following and hereby amend the aforesaid Bond as follows:

1. The undersigned agree that all of the statements contained in the above "Whereas" paragraphs are true and correct.
2. The name of City of Cocoa shall be added to the Bond as a named Co-Obligee.
3. The Principal/Contractor shall in all respects comply with the City of Cocoa Land Development Code and all other applicable Federal and State laws and City ordinances, codes, regulations, terms and conditions pertaining to the approval of the said plat, these conditions being more specifically the completion of the construction of all required, approved, and/or dedicated roads, drainage, sewer and water improvements and all other items contemplated as Improvements as set forth in the Agreement; and
4. The Principal/Contractor shall submit a written request for an inspection of all Improvements consistent with the terms of the Agreement.
5. The Principal/Contractor shall complete the construction of all Improvements pursuant to the requirements set forth in the Agreement.
6. The aggregate liability of the Surety and Principal Contractor under the Bond to the Principal/Contractor, Obligee and Co-Obligee, as their interests may appear, is limited to the penal sum of the Bond and the total liability of the Surety hereunder shall in no event exceed the amount recoverable from the Principal by the Obligee under the Agreement. Further the Surety and Principal Contractor shall not be liable under the Bond in the event the Obligee is in breach in accordance with the terms of the Agreement. In the event of a breach by the Obligee, the Obligee and Mountain Cove shall jointly and severally be liable to the Co-Obligee for the amounts set forth under the Bond and shall ensure completion of all Improvements.
7. At the Surety's election, any payment due under the Bond may be made by its check issued to the Obligee and Co-Obligee jointly.
8. Upon issuance by the City Manager or his/her designee of the Certificate of Completion for the City Improvements, and the City Council release the Bond which shall be released upon satisfaction of the conditions herein, this dual obligation shall be void. Otherwise, it remains in full force and effect.

The said Surety, for value received, hereby stipulates and agrees that no change involving an extension of time, alterations or additions to the terms of the Improvements to be made hereunder or in the plans, specifications, and schedules covering the same shall in any way affect the obligation of the said Surety on this Bond and the Surety does hereby waive notice of any such changes. It is further understood that should the City be required to institute legal proceedings in order to collect any funds under this Bond, the venue shall be exclusively City of Cocoa, Florida and Principal/Contractor shall indemnify the City for any and all attorney's fees and court costs incurred by the City. Except, as herein modified, the Bond shall continue to be and remain in full force and effect according to the terms thereof.

Signed, sealed and dated this _____ day of _____, 2024.

Principal/Contractor
By: _____
Signature _____
Print Name _____
Title: _____
Date: _____

(SEAL)

Lakes at Cocoa Grove CDD

Obligee/Permittee
By: _____
Signature _____
Print Name _____
Title: _____
Date: _____

(SEAL)

Surety Name (Print)
By: _____
Signature Attorney-in Fact _____
Print Name _____
Title: _____
Date _____

*** Power Of Attorney Attached**

(SURETY SEAL)

Florida Licensed Agent Name (Print) *
Signature _____
Date _____
Florida License No. _____
Telephone No. _____

*** Power Of Attorney Attached**

*Above Signatory is also a Florida Licensed Agent (check if applicable and complete name, address and telephone number in block at right, if not, have such an agent countersign and complete block.)