

PREPARED BY AND RETURN TO:

Robert H. Berntsson, Esq.
3195 S. Access Road
Englewood, FL 34224

ADDENDUM TO

SECOND AMENDED AND RESTATED OFF-SITE UTILITIES AGREEMENT

THIS ADDENDUM TO SECOND AMENDED AND RESTATED OFF-SITE UTILITIES AGREEMENT (this "**Addendum**") is made as of this ____ day of _____, 2025, by and between CHARLOTTE COUNTY, a political subdivision of the State of Florida ("**County**"), and TUCKERS POINTE COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established and existing pursuant to Chapter 190 *Florida Statutes* ("**District**"), together with their successors and assigns, are sometimes referred to herein individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, County entered into that certain Off-Site Utilities Agreement ("**Original Off-Site Utilities Agreement**") with Tuckers Point I Limited Partnership ("**Tuckers Point**"), which Original Off-Site Agreement is recorded at Official Records Book 4358, Page 1047 of the Public Records of Charlotte County, Florida; and

WHEREAS, County and Tuckers Point entered into that certain Agreement Between Charlotte County and Tuckers Point I, Limited Partnership for Reimbursement of the Costs for Wastewater (also sometimes referred to as "Sewer") Lines, Reclaimed Water Lines and Potable Water Lines, which agreement is recorded at Official Records Book 4892, Page 866 of the Public Records of Charlotte County, Florida; and

WHEREAS, County and Tuckers Point entered into that certain Amended and Restated Off-Site Utilities Agreement ("**First Amended Agreement**"), which First Amended Agreement is recorded at Official Records Book 4504, Page 449 of the Public Records of Charlotte County, Florida, for the purpose of amending and restating the Original Off-Site Utilities Agreement; and

WHEREAS, County and Tuckers Point entered into that certain Second Amended and Restated Off-Site Utilities Agreement ("**Second Amended Agreement**"), which Second Amended Agreement is recorded at Official Records Book 4892, Page 910, of the Public Records of Charlotte County, Florida, for the purpose of amending and restating the First Amended Agreement; and

WHEREAS, Tuckers and District entered into that certain Assignment of Second Amended and Restated Off-Site Utilities Agreement and Reimbursement Agreement ("**Assignment**"), which Assignment is recorded at Official Records Book 4908, Page 1272 of the Public Records of

Charlotte County, Florida, pursuant to which Tuckers Point assigned its rights and obligations under the Second Amended Agreement to District; and

WHEREAS, the Developer Improvements (as defined in the Second Amended Agreement) contemplated to be constructed and installed under the Second Amended Agreement have been constructed and installed by District, and have been conveyed to County for operation and maintenance; and

WHEREAS, Section 11 of the Second Amended Agreement provided that after all construction of the Developer Improvements, the total dollar amount of the Credits (as defined in the Second Amended Agreement) shall be memorialized in an Addendum to the Second Amended Agreement; and

WHEREAS, the Parties have agreed the total amount of Credits provided pursuant to the Second Amended Agreement in relation to the construction of the Developer Improvements shall not exceed Ten Million Five Hundred Three Thousand Four Hundred Thirty-Seven and 93/100 Dollars (\$10,503,437.93), which consists of Five Million Seven Hundred Forty-Four Thousand Nine Hundred Sixty-One and 51/100 Dollars (\$5,744,961.51) in Water Connection Fee credits and Four Million Seven Hundred Fifty-Eight Thousand Four Hundred Seventy-Six and 42/100 Dollars (\$4,758,476.42) in Sewer Connection Fee credits; and

WHEREAS, various water and sewer TAP fees for the Project have already been paid to County pursuant to various Utility Service Agreements for purposes of development within the District boundaries; and

WHEREAS, the Parties now wish to enter into this Addendum to memorialize the Credits available to District.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Addendum and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The foregoing Recitals are correct and are incorporated herein.
2. **Capitalization.** Capitalized terms not otherwise defined herein shall have the meaning set forth in the Second Amended Agreement.
3. **Reimbursement.** Within thirty (30) days after recording this Addendum in the Public Records of Charlotte County, Florida, County shall reimburse District for all TAP fees paid to date for the Project, amounting to \$4,131,646.00, which consists of \$2,135,009.00 of Water TAP Fees and \$1,996,637.00 of Sewer TAP Fees.
4. **Use of Credits.** From time to time, District shall be entitled to utilize the remaining Credits upon providing written notice to Charlotte County Utilities that Credits (and the specific amount thereof) are to be assigned to certain portions of development within the Project.

Credits may be applied by District to both the residential and commercial development TAP fees within the Project. Only District may request Credits and Charlotte County Utilities is required under this Addendum to provide Credits solely to District subject to the limits described herein. The parties understand and agree that upon exhaustion of the Credits described herein, Charlotte County Utilities shall not provide any further Credits under this Addendum. Credits may be claimed no later than 5:00 p.m. on September 11, 2033, which date is fifteen years after the date of the Original Off-Site Utilities Agreement.

5. **Ledger.** Charlotte County Utilities shall establish and maintain a ledger of District's Credits utilized and remaining pursuant to this Addendum.
6. **Notices.** All notices provided or permitted to be given under this Addendum must be in writing and may be served by (i) depositing same in the United States mail, addressed to the Party to be notified, postage prepaid and registered or certified with return receipt requested; (ii) delivering the same in person to such Party; (iii) transmitting by FedEx or a similar generally recognized overnight carrier providing proof of delivery, or (iv) email. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

If to **District:** Tuckers Pointe
Community Development District
c/o Office of the District Manager
Wrathell, Hunt, & Associates, LLC
2300 Glades Road, Suite 410W
Boca Raton, FL 33431
Attn: District Manager
Email: adamsc@whhassociates.com

With a copy to: Coleman, Yovanovich, & Koester, P.A.
4001 Tamiami Trail North, Suite 300
Naples, FL 34103
Attn: District Counsel
Email: gurbancic@cyklawfirm.com

And: Tuckers Developers, LLC
10481 Six Mile Cypress Parkway
Fort Myers, FL 33966
Email: Terry.Kirschner@Lennar.com

If to **County:** Charlotte County
18500 Murdock Circle
Port Charlotte, FL 33948
Attn: County Administrator
Email: BCC.Administration@CharlotteCountyFL.gov

With a copy to: Charlotte County Attorney's Office
18500 Murdock Circle, Suite 573
Port Charlotte, FL 33948
Attn: County Attorney
Email: County.Attorney@CharlotteCountyFL.gov

Any Party may change its address for notice by giving three (3) days' prior written notice thereof to the other Parties. Notices to a successor of a Party should be sent to the address for such successor that appears in County property appraiser records for the portion of the Property, as applicable, owned by such owner.

7. **Covenants Running with the Land.** The terms, provisions, covenants, conditions and restrictions set forth in this Addendum, and the rights, privileges and benefits and duties, obligations and burdens assigned, granted, imposed and created pursuant to this Addendum, shall and are hereby declared to be covenants running with the land and title to the Property.
8. **Captions and Headings.** Captions and Section headings contained in this Addendum are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Addendum nor the intent of any provision hereof.
9. **No Waiver.** No waiver of any provision of this Addendum shall be effective unless it is in writing signed by the Party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
10. **Binding Effect.** This Addendum shall inure to the benefit of and shall be binding upon the Parties hereto and, except as set forth herein, their respective heirs, personal representatives, successors and assigns. Notwithstanding any provision in this Addendum to the contrary, the obligations set forth in this Addendum shall not be binding on the purchasers of any residential units located within the Property. While the provisions of this Addendum run with the land, no purchaser of a residential unit within the Property shall have the right to approve or enter into any amendment of this Addendum.
11. **Governing Law.** This Addendum shall be construed and interpreted according to the laws of the State of Florida.
12. **Effect of This Addendum.** This Addendum contains the entire agreement between the Parties with respect to the subject matter of this Addendum. Except as modified by this Addendum, all other terms and conditions of the Second Amended Agreement shall remain in full force and effect. In the event of a conflict between the terms and provisions of this Addendum and the Second Amended Agreement, the terms and provisions of this Addendum shall control and be given effect.

13. **Amendment.** This Addendum may not be changed, altered or modified except by an instrument in writing signed by the Parties and recorded in the Public Records of the County.
14. **Time Periods.** Time shall be of the essence with respect to this Addendum. Any time period provided for herein which shall end on a Saturday, Sunday or legal holiday in the State of Florida shall extend to the next full business day. The term "business day" shall not include Saturday, Sunday and legal holidays in the State of Florida.
15. **Counterparts; Signatures.** This Addendum may be executed in more than one counterpart, each of which, when taken together, shall constitute one and the same instruments. Signatures hereon transmitted by facsimile or electronic means shall be deemed original for all purposes.
16. **Venue.** Venue for any matters arising out of or in connection with this Addendum shall be in the applicable state or federal court jurisdiction for the County.
17. **Attorneys' Fees.** In connection with any litigation, including appellate proceedings, arising out of this Addendum, the prevailing Party shall be entitled to recover from the losing Party its reasonable attorneys' fees and costs incurred in enforcing its rights and remedies hereunder, including reasonable attorneys' fees and costs relating to the collection prior to instigating litigation or in determining the amount of reasonable attorneys' fees due from the losing Party. This Paragraph shall survive any termination of this Addendum.
18. **Severability.** If any term or provision of this Addendum is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Addendum shall be construed to be in full force and effect.
19. **Construction of Agreement.** In construing this Addendum, the singular shall be held to include the plural, the plural shall include the singular, and captions and paragraph headings shall be disregarded.
20. **Recordation of Addendum.** Upon execution by the Parties, this Addendum shall be recorded in the Public Records of the County by County.
21. **Authority; Further Assurances.** Each Party warrants that the person executing this Addendum on its behalf has full power and authority to bind such Party. Without additional consideration, the Parties will sign, acknowledge, and deliver any other documents and take any other action necessary or appropriate, and reasonably requested by the other, to carry out the intent and purpose of this Addendum.
22. **WAIVER OF JURY TRIAL. THE PARTIES WAIVE THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS ADDENDUM. THIS WAIVER IS**

KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY THE PARTIES AND EACH PARTY EXPRESSLY ACKNOWLEDGES THAT NEITHER THE PARTIES NOR ANY PERSON ACTING ON BEHALF OF THE PARTIES HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. THE PARTIES ACKNOWLEDGE THAT EACH ONE HAS READ AND UNDERSTANDS THE MEANING AND EFFECT OF THIS WAIVER PROVISION.

[signatures on following page]

IN WITNESS WHEREOF, the Parties have executed this Addendum as of the date above.

Linda Boos
1st Witness Signature

Linda Boos
1st Witness Printed Name

1301 Sarasota Center Blvd
1st Witness Address

Sarasota, FL 34240
1st Witness Address (cont.)

Betty Myers
2nd Witness Signature

Betty Myers
2nd Witness Printed Name

1301 SARASOTA CENTER BLVD.
2nd Witness Address

SARASOTA, FL 34240
2nd Witness Address (cont.)

State of Florida

County of Sarasota

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization on October 16th, 2025, by Michelle Tucker, as _____ of TUCKERS POINTE COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established and existing pursuant to Chapter 190 *Florida Statutes*. He/She ☒ is personally known or ☐ has produced _____ as identification.

[Notary Seal]

Lorin Myteberi
Notary Public
Printed Name: Lorin Myteberi
My Commission Expires: 5.9.2027



[signatures continued on following page]

Approved and accepted for and on behalf of Charlotte County, Florida, this ____ day of _____, 2025.

**BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA**

(SEAL)

By: _____
Joseph M. Tiseo, Chairman

ATTEST:
Roger D. Eaton, Clerk of the
Circuit Court and Ex-officio
Clerk of the Board of County
Commissioners

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: _____
Janette S. Knowlton, County Attorney
LR25-0791 