



Interoffice Memorandum

May 4, 2020

TO: Mayor Jerry L. Demings
and Board of County Commissioners

FROM: Raymond E. Hanson, P. E., Director
Utilities Department

for Andres Salcedo

**SUBJECT: BCC AGENDA ITEM – Consent Agenda
May 19, 2020 BCC Meeting
Third Amendment to Force Main Utility Line Construction
Agreement and Assignment of Force Main Utility Line
Construction Agreement
Contact Person: Andres Salcedo, P. E., Deputy Director
Utilities Department
407-254-9719**

I Drive Investors, LLC (the "Seller") and Orange County (the "County") entered into the Force Main Utility Line Construction Agreement (the "Original Agreement") on May 21, 2009 to construct a force main for the delivery of wastewater services to the Seller's property.

The First Amendment to the Original Agreement was entered into on March 6, 2012 and extended the force main construction deadline until May 21, 2015.

The Second Amendment to the Original Agreement was entered into on May 5, 2015 and extended the force main construction deadline until May 21, 2020.

As the Seller has sold a portion of the Seller's property to Lennar Homes, LLC (the "Developer"), this Third Amendment to Force Main Utility Line Construction Agreement and Assignment of Force Main Utility Line Construction Agreement assigns the rights, obligations, and responsibilities of the Seller to the Developer, and extends the force main construction deadline until May 21, 2025.

Orange County Attorney's Office and Risk Management staff have reviewed the document and find it acceptable as to form. Orange County Utilities staff recommends approval.

Action Requested: Approval and execution of Third Amendment to Force Main Utility Line Construction Agreement and Assignment of Force Main Utility Line Construction Agreement by and among I Drive Investors, LLC, Lennar Homes, LLC, and Orange County, Florida.

District 6.

BCC Mtg. Date: May 19, 2020

**THIRD AMENDMENT TO FORCE MAIN UTILITY LINE CONSTRUCTION
AGREEMENT AND ASSIGNMENT OF FORCE MAIN UTILITY LINE CONSTRUCTION
AGREEMENT**

THIS THIRD AMENDMENT TO FORCE MAIN UTILITY LINE CONSTRUCTION AGREEMENT AND ASSIGNMENT OF FORCE MAIN UTILITY LINE CONSTRUCTION AGREEMENT (the "Third Amendment") is made and entered into as of the date of last execution below ("Effective Date"), by and among **I DRIVE INVESTORS, LLC**, a Florida limited liability company (the "SELLER"), whose address is 500 S. Dixie Highway, Suite 202, Coral Gables, FL 33146, **LENNAR HOMES, LLC**, a Florida limited liability company (the "DEVELOPER"), whose address is 700 N.W. 107th Avenue, Suite 400, Miami, FL 33172, and **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, whose address is 201 South Rosalind Avenue, Orlando, Florida, 32801 (the "COUNTY"). Hereinafter, SELLER, DEVELOPER, and COUNTY may also be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the SELLER and the COUNTY entered into the Force Main Utility Line Construction Agreement (the "Original Agreement") on May 21, 2009 to facilitate the delivery of wastewater services to the property more particularly described in **Exhibit "A"** attached to this Third Amendment (the "Property");

WHEREAS, the SELLER and the COUNTY entered into the Amendment to Force Main Utility Line Construction Agreement (the "First Amendment") on March 6, 2012;

WHEREAS, the SELLER and the COUNTY entered into the Second Amendment to Force Main Utility Line Construction Agreement (the "Second Amendment," and together with the Original Agreement, the First Amendment and the Third Amendment, the "Agreement") on May 5, 2015;

WHEREAS, the SELLER has sold to the DEVELOPER that certain portion of the Property more particularly described in **Exhibit "B"** attached to this Third Amendment (the "DEVELOPER's Property");

WHEREAS, the SELLER desires to assign its rights, obligations, and responsibilities as the DEVELOPER (as such term defined in the Agreement) under the Agreement to the DEVELOPER;

WHEREAS, the DEVELOPER, in order to facilitate the delivery of wastewater services to the Property, desires to assume the rights, obligations, and responsibilities of the DEVELOPER under the Agreement; and

WHEREAS, the Parties also desire to extend the term of the Agreement as more particularly set forth in this Third Amendment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the Parties hereby agree as follows:

SECTION 1. RECITALS INCORPORATED. All the recitals contained herein are true and correct, and are incorporated herein and made a part of this Third Amendment by this reference.

SECTION 2. DEFINITIONS. Defined (capitalized) terms used in this Third Amendment, but not defined in this Third Amendment, have the meanings given to such terms by the Original Agreement.

SECTION 3. ASSIGNMENT OF DEVELOPER'S RIGHTS, OBLIGATIONS, AND RESPONSIBILITIES. The SELLER hereby assigns to DEVELOPER, all of SELLER'S right, title, and interest in and to and its obligations, covenants, and agreements under and in the Agreement. The DEVELOPER hereby accepts an assignment of all of SELLER'S right, title, and interest in and to the Agreement and assumes and agrees to perform all of the obligations, covenants, and agreements of and agrees to be bound by and to comply with all terms, provisions, and conditions contained in the Agreement. Upon execution of this Third Amendment, the SELLER shall be fully released from any and all obligation and responsibilities arising under or attributable to the Agreement; provided, however, SELLER shall not be released from, and DEVELOPER does not assume, any liabilities of SELLER arising prior to the date of this Third Amendment.

SECTION 4. MODIFICATIONS TO SECTION 9 OF THE AGREEMENT. Section 9 of the Agreement is hereby amended and restated in its entirety to read as follows:

SECTION 9. EFFECTIVE DATE AND TERM AND NATURE OF AGREEMENT.

The DEVELOPER will take such actions as are necessary to complete the Utility Work no later than May 21, 2025, at which time this Agreement shall terminate unless otherwise extended. If the DEVELOPER is unable to obtain all necessary approvals for the construction of the Utility Work from the COUNTY or any other governmental agency or is unable to negotiate construction contracts for the Utility Work acceptable to DEVELOPER in its sole discretion, the sole remedy to either Party shall be the termination of the Agreement and neither Party shall be liable for or be entitled to bring any action against the other for damages.

SECTION 5. MODIFICATIONS TO SECTION 11 OF THE AGREEMENT. The addresses set forth in Section 11 of the Agreement are hereby amended and restated in their entirety to read as follows:

If to the COUNTY: Orange County Utilities Department
9150 Curry Ford Road
Orlando, Florida 32825-7600
Attn: Director

With copy to: Orange County Administrator's Office
Orange County Administration Building
201 South Rosalind Avenue, 5th Floor
Orlando, Florida 32801-3527

If to DEVELOPER: Lennar Homes, LLC
6750 Forum Drive, Suite 310
Orlando, Florida 32821-8088

With copy to: Lennar Corporation
700 NW 107th Avenue, 4th Floor
Miami, Florida 33172-3161
Attn: General Counsel

SECTION 6. EXHIBITS. The exhibits attached to this Third Amendment are an inherent part of it.

SECTION 7. RATIFICATION; CONFLICT. Except as specifically modified and amended by this Third Amendment, the Original Agreement, First Amendment, and Second Amendment remain in full force and effect and are ratified and confirmed by the Parties. In the event of a conflict between the express terms of the Original Agreement, First Amendment, and Second Amendment and this Third Amendment, the terms and provisions of this Third Amendment shall control and be given effect.

SECTION 8. COUNTERPARTS. This Third Amendment may be executed in multiple counterparts, each of which shall be deemed an original but all of which, together, shall constitute one instrument.

IN WITNESS WHEREOF, the Parties have below caused this Third Amendment to be executed in manner and form and by persons and/or officers thereunto duly authorized.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

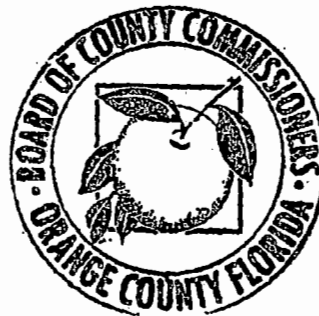
By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

Date: MAY 19 2020

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Katie Smith*
Deputy Clerk

Print: Katie Smith



I DRIVE INVESTORS, LLC,
a Florida limited liability company

By: [Signature]

Print Name: Victor Esteban Estrada

Title: Manager

Date: 4/29/20

Signed, sealed, and delivered in our
presence as witnesses:

Signature: [Signature]

Print Name: Russell Hill

Signature: [Signature]

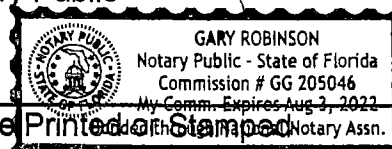
Print Name: Shane Hill

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29th day of APRIL, 2020, by VICTOR ESTEBAN ESTRADA as MANAGER of I DRIVE INVESTORS, LLC, a Florida limited liability company, on behalf of the company. He/She ☒ is personally known to me, or ☒ has produced as identification.

(Notary Seal)

Notary Public [Signature]



Name Printed or Stamped

My Commission Expires: 8/3/22

LENNAR HOMES, LLC,
a Florida limited liability company

By: [Signature]

Print Name: MARK McDONALD

Title: AUTHORIZED AGENT

Date: 4/28/20

Signed, sealed, and delivered in our
presence as witnesses:

Signature: [Signature]

Print Name: BENJAMIN E. KRAJCEK

Signature: [Signature]

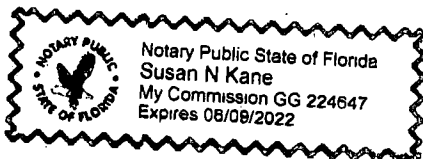
Print Name: DUSTIN MCGLINCHAY

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 28th day of April, 2020, by Mark McDonald as Authorized Agent of LENNAR HOMES, LLC, a Florida limited liability company, on behalf of the company. He/She ☒ is personally known to me or ☐ has produced as identification.

(Notary Seal)

[Signature]
Notary Public



SUSAN N. KANE
Name Printed or Stamped

My Commission Expires: June 9, 2022

Exhibit "A"

Property Legal Description

THE NORTH HALF OF THE NORTHEAST ¼ LESS THE SOUTH 30 FEET OF THE WEST 2519.04 FEET OF SECTION 30, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA, LESS AND EXCEPT THEREFROM, THAT PORTION OF INTERNATIONAL DRIVE EXTENSION AS DESCRIBED IN THAT CERTAIN WARRANTY DEED DATED AUGUST 30, 1983, RECORDED MARCH 12, 1985, IN OFFICIAL RECORDS BOOK 3616, PAGE 1420, OF THE OFFICIAL RECORDS OF ORANGE COUNTY, FLORIDA:

SAID PARCEL IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 30, TOWNSHIP 23 SOUTH, RANGE 29 EAST, ORANGE COUNTY, FLORIDA; THENCE S0°13'18"E, ALONG THE EAST LINE OF SAID NORTHEAST ¼, A DISTANCE OF 1308.14 FEET TO A POINT AT THE NORTHEAST CORNER OF BLOCK 6, TANGELO PARK SECTION FIVE AS RECORDED IN PLAT BOOK Y, PAGE 61, OF THE OFFICIAL RECORDS OF ORANGE COUNTY, FLORIDA; THENCE LEAVING THE EAST LINE OF SAID NORTHEAST ¼, N89°42'06"W, ALONG THE NORTHERLY LINE OF SAID BLOCK 6, A DISTANCE OF 135.03 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 6, SAID POINT ALSO BEING ON THE EASTERLY RIGHT-OF-WAY LINE OF POMELO DRIVE AS RECORDED ON THE PLAT OF SAID TANGELO PARK SECTION FIVE; THENCE LEAVING THE NORTHERLY LINE OF SAID BLOCK 6, N0°07'50"W, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID POMELO DRIVE, A DISTANCE OF 30.00 FEET TO ITS INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF VANGUARD STREET AS RECORDED ON THE PLAT OF SAID TANGELO PARK SECTION FIVE; THENCE LEAVING THE EASTERLY RIGHT-OF-WAY LINE OF SAID POMELO DRIVE, S89°52'10"W, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID VANGUARD STREET, A DISTANCE OF 1344.60 FEET TO A POINT; THENCE CONTINUING ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID VANGUARD STREET, S89°55'18"W, A DISTANCE OF 1174.60 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST ¼ OF SAID SECTION 30, SAID POINT ALSO BEING THE NORTHWEST CORNER OF SAID TANGELO PARK SECTION FIVE; THENCE LEAVING THE NORTHERLY LINE OF SAID VANGUARD STREET, N0°09'49"W, ALONG THE WEST LINE OF SAID NORTHEAST ¼, A DISTANCE OF 791.55 FEET TO ITS INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF INTERNATIONAL DRIVE AS DESCRIBED IN OFFICIAL RECORD BOOK 3616, PAGE 1420, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE LEAVING THE WEST LINE OF SAID NORTHEAST ¼, ALONG A NON-TANGENT CURVE TO THE LEFT, ALSO BEING ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID INTERNATIONAL DRIVE, AN ARC DISTANCE OF 279.31 FEET (SAID CURVE HAVING A RADIUS OF 662.53 FEET, A DELTA OF 24°09'16" AND A CHORD BEARING AND DISTANCE OF N11°54'49"E, 277.24 FEET) TO A POINT; THENCE CONTINUING ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID INTERNATIONAL DRIVE, N0°05'18"W, A DISTANCE OF 160.84 FEET TO A POINT ON THE NORTH LINE OF SAID NORTHEAST ¼; THENCE LEAVING THE EASTERLY RIGHT-OF-WAY LINE OF SAID INTERNATIONAL DRIVE, S89°55'22"E, ALONG THE NORTHERLY LINE OF SAID NORTHEAST ¼, A DISTANCE OF 2594.93 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 77.6319 ACRES OF LAND MORE OR LESS.

Exhibit "B"

THE DEVELOPER'S PROPERTY

A Parcel of land in the North Half of Section 30, Township 23 South, Range 29 East lying in Orange County, Florida,

Being more particularly described as:

BEGINNING at the Northeast corner of Section 30, Township 23 South, Range 29 East; thence run South $00^{\circ}13'22''$ East along the East line of the Northeast Quarter of said Section 30 for a distance of 1306.93 feet to the Northeast corner of Block 6, Tangelo Park Section Five as recorded in Plat Book Y, Page 61 of the Public Records of Orange County, Florida; thence run South $89^{\circ}50'55''$ West along the North line of said Block 6 for a distance of 136.58 feet to the Northwest corner of said Block 6 and a point on the East right of way line of Pomelo Drive as recorded in the aforesaid Plat of Tangelo Park Section Five; thence run North $00^{\circ}10'19''$ West along said East right of way line for a distance of 30.00 feet to the intersection with the North right of way line of Vanguard Street as recorded in the aforesaid Plat of Tangelo Park Section Five; thence departing the East right of way line of said Pomelo Drive run South $89^{\circ}50'55''$ West along the North right of way line of said Vanguard Street for a distance of 2519.04 feet to the Northwest corner of aforesaid Plat of Tangelo Park Section Five and a point on the West line of the Northeast Quarter of aforesaid Section 30; thence run North $00^{\circ}10'19''$ West along the West line of the Northeast Quarter of said Section 30 for a distance of 735.81 feet to a point on the Easterly right of way line of International Drive as recorded in Official Records Book 10665, Page 606 of the Public Records of Orange County, Florida, said point being on a non tangent curve, concave Northwesterly having a radius of 687.53 feet and a central angle of $07^{\circ}59'43''$ with a chord bearing of North $24^{\circ}17'28''$ East, and a chord distance of 95.86 feet; thence run Northeasterly along the arc of said curve and along said Easterly right of way line for a distance of 95.94 feet to a point on a non tangent line; thence departing said Easterly right of way line run South $65^{\circ}01'32''$ East for a distance of 50.81 feet to the point of curvature of a curve, concave Northeasterly having a radius of 1451.00 feet and a central angle of $25^{\circ}03'23''$ with a chord bearing of South $77^{\circ}33'45''$ East, and a chord distance of 629.50 feet; thence run Southeasterly along the arc of said curve for a distance of 634.55 feet to the point of tangency; thence run North $89^{\circ}54'33''$ East for a distance of 90.91 feet; thence run North $00^{\circ}12'35''$ West for a distance of 619.60 feet to a point on the North line of the Northeast Quarter of aforesaid Section 30; thence run South $89^{\circ}56'24''$ East along said North line for a distance of 1863.96 feet to the POINT OF BEGINNING.