

## FIRST ADDENDUM TO DEVELOPER'S AGREEMENT

THIS FIRST ADDENDUM TO DEVELOPER'S AGREEMENT ("Addendum") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2019, by and among **Indian River County, Florida** ("County") and **Grace Baptist Church of Vero Beach, Inc.** ("Grace Baptist").

### RECITALS

This Addendum is based upon the following recitals:

- A. County and Grace Baptist entered into a Developer's Agreement on January 6, 2004 ("Agreement"), recorded in Official Record Book 1691, Page 897, Public Records of Indian River County.
- B. Pursuant to the Agreement, the County was to direct stormwater runoff from 43rd Avenue to a stormwater retention pond on Grace Baptist's property, located at 1285 43<sup>rd</sup> Avenue, Vero Beach, FL 32960, (the "Grace Baptist Property").
- C. As consideration for acceptance of the stormwater runoff, and for maintenance of the retention pond, the County agreed to pay, and did pay, to Grace Baptist \$35,000.00.
- D. Grace Baptist spent \$5,000.00 for engineering services in reliance upon the Agreement.
- E. The roadway improvement plans for 43rd Avenue have been changed, and stormwater retention is no longer required on the Grace Baptist property.
- F. Accordingly, the parties wish to amend the Agreement to provide for a structured repayment of the consideration paid by the County.

NOW THEREFORE, in consideration of mutual covenants and agreements stated in the Agreement and for other sufficient consideration received and acknowledged by each party, County and Grace Baptist agree to amend the Agreement as follows:

1. RECITALS. All recitals are true and correct and are incorporated herein.
2. DEFINED TERMS. Except for those terms expressly defined in this Addendum, all initially capitalized terms will have the meanings ascribed to them in the Agreement.
3. COMMENCEMENT DATE. Beginning April 1, 2019, and continuing on the same date each year for five consecutive years, Grace Baptist shall pay to the County \$6,000.00 until the full amount of \$30,000.00 is repaid in full, as full and fair repayment to the County for the funds paid by the County pursuant to the terms of the Agreement.

4. RELEASE OF EASEMENTS. Within 30 days after the County has received the full amount of \$30,000.00, County shall execute and record in the public records a release of the drainage easement and of the temporary construction easement potentially granted in the Agreement.
5. DEFAULT.
  - A. If Grace Baptist fails to perform its obligations under the terms of this Agreement after 60 days written notice, County shall have the right to record a lien upon the Grace Baptist Property for the unpaid balance.
  - B. If the County fails to perform its obligations under the terms of this Agreement after 60 days written notice, Grace Baptist shall be entitled to specific performance.
  - C. In any litigation or appeal arising from or out of this Agreement, the prevailing party shall be entitled to recover attorney's fees and costs from the non-prevailing party.
6. FORBEARANCE. As long as Grace Baptist is in compliance with its obligations under the terms of this Agreement:
  1. The County, its departments, and its staff shall not withhold or delay issuance of any building, development, or permit approval due to the existence of the Agreement or the easements created therein; and
  2. The County shall not seek to enforce its rights to utilize the easements potentially created in the Agreement, or to prevent Grace Baptist from constructing improvements on the Grace Baptist Property which might otherwise conflict with the easements potentially granted in the Agreement (the parties recognizing that the "drainage easement": mentioned in the Agreement is not specifically described as to location, size, or capacity).
7. RELEASE. Except as provided herein, the County and Grace Baptist are hereby released, and do hereby release each other, from all further obligations under the Agreement.
8. CONFLICTING PROVISIONS. If any provisions of this Addendum conflict with the Agreement, the provisions of this Addendum shall govern.
9. BINDING EFFECT. This Addendum shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors and assigns. Should any part, term, sentence, clause or provision of this Addendum be declared invalid, illegal or unenforceable, such invalidity shall not affect the remainder of this Addendum.

10. COUNTERPARTS; ELECTRONIC SIGNATURES. This Addendum may be executed in counterparts, each of which (subject to the following sentence), when fully executed, shall be deemed an original, and all of which shall be but one Agreement. If the signature of County and/or Grace Baptist on this Addendum or any counterpart of this Addendum is not an original, but is a digital, mechanical, or electronic reproduction (such as, but not limited to, a photocopy, fax, email, PDF, Adobe image, jpeg, telegram, telex, or telecopy), then, such digital, mechanical, or electronic reproduction shall be as enforceable, valid, and binding as, and the legal equivalent to, an authentic and traditional ink-on-paper original wet signature penned manually by its signatory. In the event of any conflict between any of such counterparts, the original or copy hereof held by County, including all exhibits thereto, shall control.
11. RECORDING. This document shall be recorded in the public records of Indian River County.

[Signatures on following page]

IN WITNESS WHEREOF, County and Grace Baptist have executed this instrument this day and year first above written.

GRACE BAPTIST CHURCH  
OF VERO BEACH, INC.

BOARD OF COUNTY COMMISSIONERS  
INDIAN RIVER COUNTY, FLORIDA

BY: Chris Drinnon  
Name: Chris Drinnon  
Title: Pastor

BY: \_\_\_\_\_  
Bob Solari, Chairman

WITNESS: Bruce Barrett  
Printed Name: Bruce Barrett

BCC Approved: \_\_\_\_\_

WITNESS: May Lee  
Printed Name: May Lee

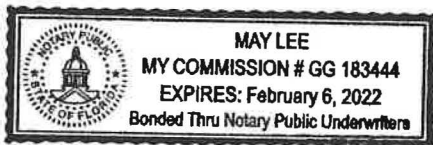
Attest: Jeffrey R. Smith, Clerk of Court  
and Comptroller

(Corporate seal is acceptable in  
place of witnesses)

By: \_\_\_\_\_  
Deputy Clerk

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of February, 2019 by Chris Drinnon, the President of Grace Baptist Church of Vero Beach, Inc., a Florida corporation, on behalf of and with full authority of said corporation. He/she is personally known to me or has produced his/her driver's license as identification.



NOTARY PUBLIC:

May Lee  
Printed Name: May Lee  
Commission No.: 183444  
Commission Expiration: 2-6-2022

Approved as to form and legal sufficiency

\_\_\_\_\_  
William K. DeBaal  
Deputy County Attorney