

**MODIFICATION TO  
CONTRACT FOR CONSTRUCTION FOR FINAL LIFT OF ASPHALT**

CONTRACT NO. PD-16-12-07-FLA (2004010124-83766)

**THIS MODIFICATION**, made and entered into this \_\_\_\_ day of October, 2021, by and between **DIVOSTA HOMES, L.P., a Delaware limited partnership**, hereinafter referred to as “Developer”, and **INDIAN RIVER COUNTY, a political subdivision of the State of Florida, by and through its Board of County Commissioners**, hereinafter referred to as “County”.

**WITNESSETH:**

**WHEREAS**, Developer entered into a Contract for Construction for Final Lift of Asphalt, Contract No. PD-16-12-07-FLA (2004010124-83766) guaranteeing the installation of the final lift of asphalt the earlier of 2 years from the project's Certificate of Completion (November 27, 2019) or 60 days prior to turnover to homeowner association or prior to certificate of occupancy for the last residence in this phase of the subdivision; and the Developer posted letter of credit in the amount of \$41,165.00 as security to guarantee completion; and

**WHEREAS**, the developer has

1. requested an additional 2-year extension to November 27, 2023 to install the final lift of asphalt, as allowed by code;
2. provided an updated certified cost estimate attached as Exhibit “A” which amount has been approved by County engineering and did change from the initial cost estimate;
3. increased the initial cost estimate of \$41,165.00 to \$59,848.95; and
4. paid the required \$660.00 extension fee request to County.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES HEREIN CONTAINED**, the parties agree as follows:

1. The date for completion of the final lift of asphalt as outlined in the Contract for Construction for Final Lift of Asphalt, Contract No PD-16-12-07-FLA (2004010124-83766) is extended to November 27, 2023.
2. The developer's engineer's updated certified cost estimate as approved by County engineering, attached as Exhibit “A” represents 125% of the updated cost of the final lift of asphalt to be completed.

3. Prior to November 27, 2021, the \$41,165.00 Wells Fargo Bank N.A. Irrevocable Standby Letter of Credit No. IS000108534U is required to be amended (1) to increase the amount to \$59,848.95, (2) to extend its final expiration to February 27, 2023, and (3) to reference the Contract for Construction for Final Lift of Asphalt as being modified, otherwise this Modification is null and void.
4. The extension fee in the amount of \$660.00 established by Resolution No. 2005-041 and pursuant to Section 913.10(1)(G) of the Indian River County Code has been paid.
5. All other terms set out in the Contract for Construction for Final Lift of Asphalt, Contract No. PD-16-12-07-FLA (2004010124-83766) remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and seals on the day and year first above written.

**DIVOSTA HOMES, L.P., a Delaware limited partnership**

By **DIVOSTA HOMES HOLDINGS, LLC, a Delaware limited liability company, its General Partner**

**Developer**

By: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

**INDIAN RIVER COUNTY, FLORIDA  
 by and through its Board of County Commissioners**


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

By: \_\_\_\_\_  
 Joseph E. Flescher, Chairman

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

BCC approved: \_\_\_\_\_

Approved as to form  
 and legal sufficiency:

By:   
 William K. DeBraal  
 Deputy County Attorney

**Lakes at Waterway Village Plat Pod U**

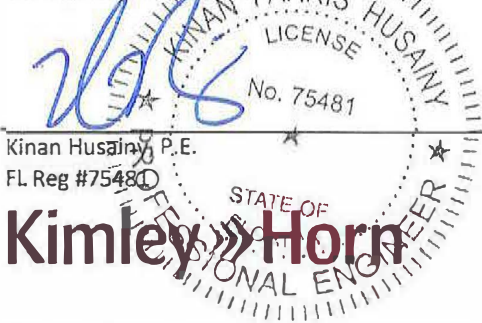
**FINAL LIFT BOND - OPC**

9/15/2021

| PAVING   |          |      |             |                     |
|--|----------|------|-------------|---------------------|
| DESCRIPTION  | QUANTITY | UNIT | UNIT COST   | TOTAL               |
| 1" ASPHALT (FINAL COURSE) - Pods <del>5 &amp; 6</del> <b>U</b> | 3,822    | SY   | \$ 9.78     | \$ 37,379.16        |
| SIGNING AND STRIPING   | 1        | LS   | \$ 2,500.00 | \$ 2,500.00         |
| SET PRM'S, PCP'S, LOT CORNERS                                  | 1        | LS   | \$ 8,000.00 | \$ 8,000.00         |
| <b>TOTAL</b>   |          |      |             | <b>\$ 47,879.16</b> |

|                                    |                     |
|------------------------------------|---------------------|
| <b>TOTALS</b>                      | <b>\$ 47,879.16</b> |
| <b>PROPOSED BOND AMOUNT (125%)</b> | <b>\$ 59,848.95</b> |

Kimley Horn and Associates, Inc.



*9/15/21*

**IRC ENGINEERING DIVISION**  
 Accepted 9/19/21  
 Insufficient \_\_\_\_\_

Kinan Husainy, P.E.  
 FL Reg #75481

**Kimley » Horn**

The Engineer has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Engineer at this time and represent only the Engineer's judgment as a design professional familiar with the construction industry. The Engineer cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.