

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

CONTRACT NO. PD-17-09-06-FLA (2004010124-84522)

THIS MODIFICATION, made and entered into this ____ day of _____, 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-17-09-06-FLA (2004010124-84522) guaranteeing the installation of the final lift of asphalt the earlier of 2 years from the project’s Certificate of Completion (June 18, 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 a letter of credit in the amount of \$156,752.50 as security to guarantee completion; and

WHEREAS, the developer has

1. requested an additional 2-year extension to June 18, 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 of \$156,752.50 to \$262,385.00; and
3. 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-17-09-06-FLA (2004010124-84522) is extended to June 18, 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 June 18, 2021, the \$156,752.50 Wells Fargo Bank, N.A. Irrevocable Standby Letter of Credit No. IS0000867477U is required to be amended (1) to increase the amount to \$262,385.00, (2) to extend its final expiration to September 18, 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-17-09-06-FLA (2004010124-84522) 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**

By: _____

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

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

By: _____
Deputy Clerk

By: _____
Joseph E. Flescher, Chairman

BCC approved: _____

Approved as to form and legal sufficiency:

By: _____
Dylan Reingold
County Attorney