

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF VENICE
AND
THE RUSTIC OAKS COMMUNITY DEVELOPMENT DISTRICT**

This Interlocal Agreement (the “**Agreement**”) is entered into as of the ____ day of _____, 2023, by and between the City of Venice, a Florida municipal corporation (the “**City**”) and the Rustic Oaks Community Development District, a local unit of special purpose government created pursuant to Chapter 190, Florida Statutes, and City of Venice Ordinance 2021-20 (the “**CDD**”);

Background Information:

This Agreement pertains to a Utility Upsizing and Reimbursement Agreement (the “**Reimbursement Agreement**”), dated February 14, 2023, between the City and Meritage Homes of Florida, Inc., a Florida corporation (the “**Developer**”). The Reimbursement Agreement was subsequently amended on July 17, 2023. A copy of the Reimbursement Agreement and the First Amendment to the Reimbursement Agreement are attached hereto as composite **Exhibit “A”** and are hereby incorporated by reference and made a part of this Agreement for all purposes.

The Developer has requested that the CDD perform certain obligations of the Developer under the Reimbursement Agreement. Specifically, as provided below, the CDD has agreed to construct the 16” Sewer Force Main in the public right-of-way for Knights Trail Road as described in Section 2.B. of the Reimbursement Agreement (the “**Project**”). Further, the City has no objection to the CDD fulfilling the Developer’s obligation to construct the Project in accordance with the terms of this Agreement.

Operative Provisions:

1. **Incorporation of Background Information.** The foregoing background is true and correct and by this reference the background information is incorporated by reference as a material part of this Agreement.
2. **Authority for Agreement.** This Agreement is entered into pursuant to the Florida Interlocal Cooperation Act of 1969, Section 163.01, Florida Statutes and pursuant to the constitutional statutory powers of the City and the CDD. The CDD has specific authority to construct the Project pursuant to Section 190.012 (1) (g), Florida Statutes.
3. **16” Sewer Force Main Project Plans.** The City shall deliver to the CDD final construction plans for the Project, together with all permits required, approvals and easements required to construct the Project, all of which shall be incorporated herein by reference.
4. **Solicitation of Bids; Award of Construction Contract.** As provided below and in accordance with Section 190.033, Florida Statutes, the CDD shall (a) solicit competitive bids to construct the Project by issuing a notice of bids or other competitive solicitation, including requests for proposals or qualifications, by advertising at least once in a newspaper in general circulation in Sarasota County, Florida, and via online solicitation through a bid posting network, and (b) award the construction contract to the lowest responsive and responsible bidder. Prior to advertising the solicitation for competitive bids, the CDD shall provide a copy of the proposed bid documents to

the City for its review and approval, which approval shall not be unreasonably delayed or withheld. In addition, prior to awarding a construction contract for the Project, the CDD shall provide copies of all submittals to the solicitation for competitive bids along with a recommendation for award to the City for its review and consent, which consent shall not be unreasonably delayed or withheld. The form of the construction contract between the CDD and the successful bidder (the “**District Contractor Agreement**”) is attached hereto as **Exhibit “B”** and made a part of this Agreement for all purposes. Any material changes or amendments to the form of the District Contractor Agreement shall require the prior written consent of the City, which consent shall not be unreasonably delayed or withheld.

5. **Payment and Performance Bond; Insurance.** The payment and performance bond to be furnished by the contractor pursuant to Section 7.5 of the General Conditions of the District Contractor Agreement shall include the City and the CDD as co-obligees (or beneficiaries) thereunder. Likewise, all insurance coverages provided by the contractor pursuant to Article 11 of the General Conditions of the District Contractor Agreement shall include the City and the CDD as additional insureds thereunder.
6. **Progress Payments.** The CDD shall, within three business days from receipt thereof, deliver to the City copies of all Applications for Payment and supporting documentation submitted by the contractor pursuant to Section 9.3 of the General Conditions of the District Contractor Agreement. When an Application for Payment has been approved by the CDD’s Engineer, the CDD shall, within three business days from receipt thereof, deliver the executed Certificate for Payment to the City for payment on behalf of the CDD in accordance with Article 9 of the General Conditions of the District Contractor Agreement.
7. **Change Orders.** If any change orders become necessary which would increase the Contract Sum set forth in the District Contractor Agreement, then the CDD shall provide the City with a copy of the proposed change order within three business days from the CDD’s receipt thereof. Within five business days from receipt of such notice, the City shall provide written notice to the CDD of either: (a) its approval; (b) its request for additional information; or, (c) its denial with specific reasons stated in support thereof. Failure of the City to respond within five business days shall be deemed an approval by the City of such change order. The City shall not unreasonably withhold or delay its approval of any necessary change orders.
8. **Notices.** Notices by one party to the other shall be given by certified United States mail, with return receipt requested at the following addresses:

To City of Venice: Edward F. Lavalley
City Manager
City of Venice
401 West Venice Avenue,
Venice, FL 34285

and

With a copy to:
(which shall not
constitute notice)

Kelly Fernandez
City Attorney
217 Nassau Street South
Venice, FL 34285

To Rustic Oaks CDD:

District Manager
Craig Wrathell
Wrathell, Hunt and Associates, LLC
2300 Glades Road, Suite 410W
Boca Raton, FL 33431
561-571-0010

and

District Counsel
John M. Vericker
Straley Robin Vericker
1510 W Cleveland Street
Tampa, FL 33606

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

9. **Assignment**. No assignment, delegation, transfer or novation of this Agreement or any part hereof shall be made unless approved in writing and signed by both parties to this Agreement.
10. **Recording**. This Agreement shall not be recorded in the public records of Sarasota County, Florida.
11. **Limitations on Governmental Liability**. Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the City or the CDD beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature in Section 768.28, Florida Statutes or other statute, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.
12. **Third Party Beneficiaries**. This Agreement is solely for the benefit of the parties hereto and no right or cause of action shall accrue upon or by reason of, to or for the benefit of any third party not a formal party to this Agreement.
13. **Enforcement**. In the event that either party is required to enforce this Agreement by court proceedings or otherwise, then the prevailing party shall be entitled to recover all fees and costs incurred, including reasonable attorney's fees and costs for trial, alternative dispute resolution, or appellate proceedings.

14. **Governing Law.** This Agreement and the provisions contained in this Agreement shall be construed, interpreted, and controlled according to the laws of the State of Florida, with the sole and exclusive forum, venue, and jurisdiction for any action arising from this Agreement being in the 12th Judicial Circuit in and for Sarasota County, Florida.
15. **Severability.** If any part of this Agreement is held by a court of competent jurisdiction to be valid, illegal or unenforceable, such invalid, illegal or unenforceable part shall be deemed severable and the remaining parts of this Agreement shall continue in full force and effect, provided that the rights and obligations of the parties are not materially prejudiced and the intentions of the parties can continue to be effected.
16. **Authorization.** The execution of this Agreement has been duly authorized by the appropriate body or official of the parties and the parties have full power and authority to comply with the terms and provisions of this instrument.
17. **Counterparts.** This Agreement may be executed in one of more counterparts, each of which shall be deemed an original.
18. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes all previous discussions, understandings and agreements between the parties relating to the subject matter of this Agreement. This Agreement may only be amended by an instrument in writing which is executed by both parties.
19. **Effective Date.** This Agreement shall be effective upon execution by both parties and may be executed in counterparts.

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IN WITNESS WHEREOF the parties have caused these presents to be executed by their duly authorized officials on the dates set forth below.

Attest:

**Rustic Oaks Community Development
District**

Name: _____
Assistant Secretary

Garth Noble
Chair of the Board of Supervisors

Attest:

City of Venice, Florida

Kelly Michaels
City Clerk

Nick Pachota
Mayor

Approved as to Form and Legality

Kelly Fernandez
City Attorney