

This Instrument was prepared by:

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Linda Doggett Lee County Clerk of the Circuit Court
Rec Fees: \$44.00

Deputy Clerk TKING
#1

Strap No.: 18-45-26-00-00001.106B

FIRST AMENDMENT
TO THE
LANDSCAPE, SIGN, DRAINAGE, UTILITIES AND
STREET LIGHTING MAINTENANCE
and
HOLD HARMLESS INTERLOCAL AGREEMENT

THIS First Amendment to the Landscape, Sign, Drainage, Utilities and Street Lighting Maintenance and Hold Harmless Interlocal Agreement ("*First Amendment*") is entered into this 4th day February, of 2020, by and between **Lee County**, a Charter County and a political subdivision of the State of Florida, whose address is Post Office Box 398, Fort Myers, Florida 33902-0398 ("*County*"); and the **Gateway Services Community Development District**, an independent single-purpose specialized unit of local government created under Florida Statutes Chapter 190, whose address is c/o District Offices, 13240 Griffin Drive, Fort Myers, Florida 33913; ("*District*"). Collectively the foregoing may be referred to as the "*Parties*".

WHEREAS, the County owns and maintains certain portions of Gateway Boulevard, West Commerce Lakes Drive and Griffin Drive, all located within Lee County, Florida, and having been acquired as a result of the conveyances recorded in the Public Records of Lee County, Florida, in Instruments Numbered 2017000195008 and 2017000197797 ("*County's Roads*"); and

WHEREAS, the District is the owner of a portion of Commerce Lakes Drive, a roadway lying in Section 18, Township 45 South, Range 26 East, extending easterly from its intersection with Gateway Boulevard, and being more particularly described in Exhibit "A-1" in the Special Warranty Deed of WCI Communities, LLC, to the District, dated March 5, 2018, and recorded in the Public Records of Lee County, Florida, on April 18, 2018, in Instrument Number 2018000092487, which description in the aforesaid Special Warranty Deed is incorporated herein by reference (the "*District's Roadway*"); and

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WHEREAS, the Parties have previously entered into an agreement setting forth the ability of the District to own, repair, replace and maintain roadside and median landscaping, irrigation, signs, street lighting, and other appurtenant improvements within the County Roads ("*Existing Road Improvements*"), as set forth in that agreement entitled "*Landscape, Sign, Drainage, Utilities and Street Lighting Maintenance and Hold Harmless Interlocal Agreement*", dated February 21, 2017, and recorded in the Public Records of Lee County, Florida, on December 19, 2017, in Instrument Number 2017000263968 (the "*Agreement*"), the terms and conditions of which are incorporated fully herein by reference; and

WHEREAS, the County is desirous of acquiring ownership of the District's Roadway for inclusion in the County's roadway transportation network; and

WHEREAS, the District is willing to donate a portion of the District's Roadway to the County for use in the construction of the Project, provided the County will accept the balance of the District's Roadway for both ownership and maintenance as a County-owned and maintained roadway; and

WHEREAS, such conveyance by the District to the County is further subject to the District retaining ownership of certain improvements located within the District's Roadway, consisting of, but not limited to, street lighting facilities, landscaping and signage, and constructed facilities for surface water management, irrigation, potable water and wastewater (the "*District's Existing Road Improvements and Utilities*"); and

WHEREAS, it is the intent of the Parties that the obligations contained in this First Amendment will not become effective nor otherwise commence until the District's Roadway has been formally accepted for ownership and maintenance by the County, at that point the terms and conditions of this Amendment will become fully effective.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The above recitals are true and correct and incorporated herein as though fully set forth below.

2. The District agrees to convey, and the County agrees to accept, the District's conveyance of the District's Roadway for both ownership and maintenance, subject to the terms and conditions of both the above-referenced Agreement and as further recited herein. Upon the County's acceptance of the District's conveyance of the District's Roadway for both ownership and maintenance, the District's Roadway will be subject to the terms and conditions of the above-referenced Agreement, as amended hereby.

3. The Agreement is further amended to provide that if a permit pursuant to Lee County Administrative Code (AC) AC-11-12 is required for work in the roadways owned by Lee County that are subject to the Agreement, the County will waive the permit fee and bond requirements for the District as a governmental entity where the District is both the project applicant and contractor.

4. The terms of this First Amendment are binding upon and will inure to the benefit of the Parties' successors and assigns, and will not be invalidated, impacted or altered by any subsequent incorporation or annexation.

5. If any part of this First Amendment is declared invalid by a court of competent jurisdiction, such part or parts shall be severable, and the remaining part or parts shall continue to be in full force and effect.

6. This first Amendment is intended to be construed in accordance with the laws of the State of Florida.

[End of provisions – Signature pages follow.]

IN WITNESS WHEREOF, the Parties hereto have signed this Agreement intending to be bound as of the date first above written.

Signed, sealed and delivered
in the presence of:

(Two separate witnesses required)

CHRIS SUENAKER

[1st Witness' Signature]

CHRIS SUENAKER

[Type or Print Name]

Frank Coffey

[2nd Witness' Signature]

FRANK COFFEY

[Type or Print Name]

**Gateway Services Community
Development District**

BY:

Margaret Fineberg

[Signature]

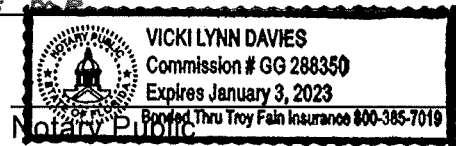
MARGARET FINEBERG

[Type or print name]

Chair, Board of Supervisors

State of Florida
County of Lee

The foregoing instrument was acknowledged before me this 7th day of January, 2020, by Margaret Fineberg as the Chair of the Board of Supervisors of the Gateway Services Community Development District, on behalf of the District. He/she is personally known to me or has provided the following as identification: personally known to me



(Stamp/seal required)

Approved as to form for reliance
of the Gateway Services Community
Development District only:

By:

[Signature]

District Counsel

Approved and accepted for and on behalf of Lee County, Florida, intending to be bound as of the date first written above.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: Meresa King
Deputy Clerk

BY: Brian Hamman
Brian Hamman, Chairman



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY:

By: John H. [Signature]
Office of the Lee County Attorney

(121319/0830)