

**THIRD AMENDMENT TO CITY OF NORTH PORT, FLORIDA
AND NORTH PORT HEALTH INVESTORS, LLC
WATER AND WASTEWATER SYSTEM DEVELOPER'S AGREEMENT**

This *Third Amendment to City of North Port, Florida and North Port Health Investors, LLC Water and Wastewater System Developer's Agreement* ("Third Amendment") is made by and between the City of North Port, Florida, a municipal corporation of the State of Florida ("City"), and North Port Health Investors, LLC, a Delaware Limited Liability Company ("Developer").

Recitals

WHEREAS, on October 28, 2019, the parties entered into *City of North Port, Florida and North Port Health Investors, LLC Water and Wastewater System Developer's Agreement*, recorded as Instrument No. 2019149255 in the Official Records of Sarasota County, Florida ("Original Agreement"); and

WHEREAS, effective January 12, 2021, the parties entered into the *First Amendment to the City of North Port, Florida, and North Port Health Investors, LLC, Water and Wastewater System Developer's Agreement*, recorded as Instrument No. 2021050870 in the Official Records of Sarasota County, Florida ("First Amendment"); and

WHEREAS, effective November 23, 2021, the parties entered into the *Second Amendment to the City of North Port, Florida, and North Port Health Investors, LLC, Water and Wastewater System Developer's Agreement*, recorded as Instrument No. 2021212627 in the Official Records of Sarasota County, Florida ("Second Amendment")(collectively, the Original Agreement, First Amendment and Second Amendment may be referred to as the "Agreement"); and

WHEREAS, Section 20.3 of the Original Agreement granted Developer a total of 109 Equivalent Residential Connections ("ERCs"), and required payment to be made on or before November 1, 2019; and

WHEREAS, pursuant to Section 4 of the Second Amendment, Developer is required to pay for the reservation of all 109 of its ERCs on or before March 1, 2022; and

WHEREAS, due to unforeseen circumstances relating to the development of the property as well as financial market lending uncertainty, Developer desires to revise the payment schedule provided in Section 20.3 to require payment to be made on or before December 1, 2022, and to revise the date for issuing bills provided in Section 20.1; and

WHEREAS, the City acknowledges that Developer paid the developer agreement fee per the Code of the City of North Port, Florida, and the recording fees for the Original Agreement and both Amendments; and

WHEREAS, pursuant to the authority provided in Section 13.2 of the Original Agreement, the parties desire to amend the Agreement as provided herein.

NOW THEREFORE, for and in consideration of the mutual covenants specified herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree the Original Agreement is amended as follows, with all other terms in the Agreement remaining unchanged and in full force and effect:

1. INCORPORATION OF RECITALS

The above recitals are ratified and confirmed as being true and correct, and incorporated into this contract by reference.

2. EFFECTIVE DATE

This Third Amendment will become effective on _____, 2022 (“Effective Date”).

3. EFFECT OF THIRD AMENDMENT

The parties ratify the terms and conditions of the Agreement not inconsistent with this Third Amendment, all of which are incorporated by reference as if set forth fully herein. The effect of this Third Amendment is to amend only the sections of the Agreement as identified herein. Where a section of the Agreement is not identified, the terms as they appear in the Agreement remain and apply.

4. AGREEMENT SUBSECTION 20.1 – SPECIAL CONDITIONS

Subsection 20.1 of the Agreement is amended in its entirety to read as follows:

If Developer wishes to reserve ERCs, Developer shall pay to the City the adopted Guaranteed Revenue Charge for each unconnected or unused potable water and wastewater ERC. Charges will be billed as of November 30 annually and prorated based upon the period of time during the preceding year between reservation (payment of Capacity Fees) and for as long as such ERCs were unconnected or unused. Developer will be billed for the per day charge (a prorated basis) for the number of days each ERC remained unconnected or unused during the preceding year. Upon connection of an ERC within the Property, any obligation to pay City the Guaranteed Revenue Charge for such ERC shall terminate, as the City (upon connection) begins to bill and collect monthly for water and wastewater pursuant to the City-adopted rate schedule under Section 78-24, *Code of the City of North Port, Florida*.

5. AGREEMENT SUBSECTION 20.3 – SPECIAL CONDITIONS

Subsection 20.3 of the Agreement is amended in its entirety to read as follows:

Developer, or its individual lot transferees, shall pay the adopted Water Capacity Fee and Wastewater Capacity Fee for the sole purpose of reserving capacity as follows:

- i. Developer shall pay the adopted Water Capacity Fee and Wastewater Capacity Fee for a block of 109 ERCs on or before December 1, 2022.

6. RECORDATION

The City will record an executed copy of this Third Amendment in the public records of Sarasota County, Florida at the Developer’s expense.

7. AUTHORITY TO EXECUTE

The signature by any person to this Third Amendment shall be deemed a personal warranty that the person has the full power and authority to bind any corporation, partnership, or any other business or governmental entity for which the person purports to act hereunder.

[This space intentionally left blank; signature pages to follow]

IN WITNESS WHEREOF, the parties have executed this Third Amendment as follows.

CITY OF NORTH PORT, FLORIDA

A. JEROME FLETCHER II, ICMA-CM, MPA
CITY MANAGER

ATTEST

HEATHER TAYLOR, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY

NORTH PORT HEALTH INVESTORS, LLC,
a Delaware Limited Liability Company

Daniel Castleberry, Member

ACKNOWLEDGEMENT

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ___ day of _____ 2022, by Daniel Castleberry in his capacity as Member of North Port Health Investors, LLC.

Notary Public

___ Personally Known OR ___ Produced Identification
Type of Identification Produced _____