

ORDINANCE NO. 01-2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, ESTABLISHING THE WINDWARD PRESERVE COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; GRANTING SPECIAL POWERS; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Taylor Morrison of Florida, Inc., ("Petitioner") has petitioned the City Council of the City of Cocoa, Florida (the "City") to adopt an ordinance establishing the boundaries of the Windward Preserve Community Development District (the "District") pursuant to Chapter 190, Florida Statutes, and granting certain special powers; and

WHEREAS, the subject property legally described herein is subject to that certain Preceding Development Agreement by and between the City of Cocoa and Barrera Shores, LLC, dated November 7, 2006, which was recorded on November 21, 2006 in Official Record Book 5721, Page 8205 of Brevard County, Florida ("Preceding Development Agreement"); and

WHEREAS, the subject property is also subject to that certain Stipulated Settlement Agreement in Brevard County v. City of Cocoa, Case N. 05-2005-018141, which was recorded on January 9, 2008 in Official Record Book 5837, Page 2226 of Brevard County, Florida and that certain Settlement Implementation Agreement between the City of Cocoa and Beachline Partners, LLC., dated July 26, 2022 and recorded at Official Record Book 9571, Page 2808 of Brevard County, Florida; and

WHEREAS, pursuant to Section 4.7 of the Preceding Development Agreement, the City of Cocoa and the predecessor owner of the subject property agreed that the creation of a Community Development District may be considered by the City of Cocoa upon the owner's request and may be beneficial for the future development of the property; and

WHEREAS, Petitioner is a Florida corporation and is authorized to conduct business in the State of Florida; and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition at a duly noticed public hearing conducted by the City, pursuant to Section 190.005(2)(b) and 190.046(1)(h), *Florida Statutes*; and

WHEREAS, upon consideration of the record established at that hearing, the City Council of the City of Cocoa, Florida, has considered the record of the public hearing and the statutory factors set forth in Section 190.005(2)(c) and 190.046(1)(h), *Florida Statutes*, in making its determination to grant or deny the Petition; and

WHEREAS, the City, in determining whether to establish the District boundaries, has determined pursuant to the information contained within the Petition and based on an investigation conducted by the City Staff and otherwise being fully advised as to the facts and circumstances contained within the request of the District has considered and finds that all statements contained in the Petition to Establish the Windward Preserve Community Development District (the "Petition") are true and correct; and

WHEREAS, the City has considered and finds that the establishment of the District is not inconsistent with any applicable element or portion of the applicable Comprehensive Plan; and

WHEREAS, the City has considered and finds that the area of land within the District is a sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as a functional interrelated community; and

WHEREAS, the City has considered and finds that the District is the best alternative for delivering the community development services and facilities to the area that will be served by the District; and

WHEREAS, the City has considered and finds that the community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and

WHEREAS, the City has considered and finds that the area that will be served by the District is amenable to separate special-district government; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cocoa, Florida, as follows:

SECTION 1: RECITALS. The above recitals are adopted as findings of fact in support of this Ordinance.

SECTION 2: AUTHORITY. This ordinance is adopted in compliance with and pursuant to the Uniform Community Development Act of 1980, Chapter 190, Florida Statutes (2023).

SECTION 3: DISTRICT NAME. There is hereby created a community development district situated entirely within incorporated City of Cocoa, Florida, which District shall be known as the “Windward Preserve Community Development District.”

SECTION 4: EXTERNAL BOUNDARIES OF THE DISTRICT. The external boundaries of the District are described in **Exhibit A** attached hereto, the overall parcel containing 212.10 acres of land, more or less.

SECTION 5: FUNCTIONS AND POWERS; CONSENT TO SPECIAL POWERS. The powers and functions of the District are described in Chapter 190, Florida Statutes (2023), as may be amended from time to time. The Charter of the District shall be as set forth in Chapter 190, Florida Statutes, as created by general law. Pursuant to Section 190.012(2)(a) and (2)(d), Florida Statutes (2023), and without intending to limit the same, the District’s Board of Supervisors may further exercise certain additional powers to finance, fund, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate and maintain systems and facilities for (a) parks and facilities for indoor and outdoor recreational, cultural, and educational uses; and (b) security, including but not limited to, guardhouses, fences and gates, electronic intrusion-detection systems, and patrol cars, when authorized by applicable governmental agencies.

SECTION 6: BOARD OF SUPERVISORS. The five persons designated to serve as initial members of the District’s Board of Supervisors are Chrissie Kirk, Nora Schuster, Heather Isaacs, Susan Kane, and Andrew Smith. All of the listed persons are residents of the State of Florida and citizens of the United States of America.

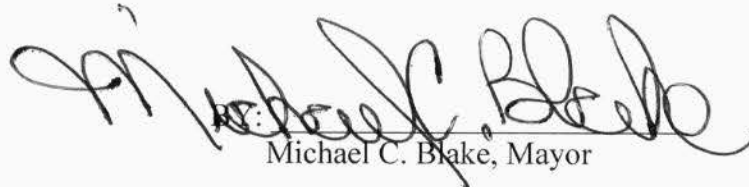
SECTION 7. ADMINISTRATIVE CORRECTION OF SCRIVENER’S ERRORS. The administrative correction of typographical and/or scrivener’s errors in this Ordinance which do not affect the intent may be authorized by the City Manager or designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

SECTION 8: SEVERABILITY. If any provision of this Ordinance, or the application thereof, is finally determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be deemed to be severable and the remaining provisions shall continue in full force and effect provided that the invalid, illegal or unenforceable provision is not material to the logical and intended interpretation of this Ordinance.

SECTION 9: EFFECTIVE DATE. This Ordinance shall take effect upon its passage and adoption pursuant to general law.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Cocoa, Florida, held on the 23 day of January, 2024.

CITY OF COCOA, FLORIDA


Michael C. Blake, Mayor



Attest:

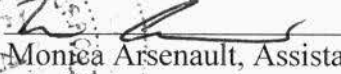

Monica Arsenault, Assistant City Clerk

EXHIBIT A

LEGAL DESCRIPTION FROM TITLE COMMITMENT AS FURNISHED:

A PORTION OF SECTION 10, LYING SOUTH OF THE SOUTH RIGHT-OF-WAY FOR STATE ROAD

#528 COMMONLY KNOWN AS BEELINE HIGHWAY, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, EXCEPT EAST 1/2 OF SOUTHEAST 1/4 OF SOUTHEAST 1/4, AND EXCEPT RIGHT-OF-WAY OF INTERSTATE HIGHWAY #95 AND EXCEPT RIGHT-OF-WAY FOR STATE ROAD #528, COMMONLY KNOWN AS BEELINE HIGHWAY, AND EXCEPT ALL OF THE LANDS LYING WESTERLY OF THE EXISTING RIGHT-OF-WAY FOR STATE ROAD (I-95) IN THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 10, TOWNSHIP 24 SOUTH, RANGE 35

EAST, LYING AND BEING IN BREVARD COUNTY, FLORIDA, BEING A PORTION OF THE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 1316, PAGE 224, EXCEPT THE LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 3369, PAGE 3657, ALL IN THE PUBLIC RECORDS OF THE BREVARD COUNTY, FLORIDA.

LESS AND EXCEPT DESCRIBED AS FOLLOWS: PART A

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, AS SHOWN ON THE RIGHT-OF-WAY MAP FOR PROJECT SECTION 70007-2508, RUN THENCE SOUTH 89°44'07" EAST, 561.54 FEET ALONG THE SOUTH LINE OF SAID SECTION 10 TO A POINT ON THE EXISTING EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 9 (INTERSTATE 95, SECTION 70220-2402), THENCE ALONG SAID EXISTING RIGHT-OF-WAY LINE NORTH 18°18'53" WEST, 52.75 FEET TO THE POINT OF BEGINNING,

THENCE CONTINUE NORTH 18°18'53" WEST, 290.22 FEET ALONG SAID EXISTING RIGHT-OF-WAY LINE TO THE BEGINNING OF A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 3124.05 FEET, A CENTRAL ANGLE OF 18°07'00", AND A CHORD OF 983.70 FEET THAT BEARS NORTH 09°15'23" WEST, THENCE NORTHERLY ALONG THE ARC OF SAID CURVE 987.81 FEET FOR THE END OF SAID CURVE, THENCE CONTINUE ALONG SAID EXISTING RIGHT-OF-WAY LINE NORTH 00°11'53" WEST, A DISTANCE OF 1390.76 FEET TO THE SOUTHERLY EXISTING RIGHT-OF-WAY LINE OF STATE ROAD 528 (SECTION 70007-2501), THENCE NORTH 88°36'31" EAST, 1540.46 FEET ALONG SAID SOUTHERLY EXISTING RIGHT-OF-WAY LINE TO A POINT OF CURVATURE, OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 600.49 FEET, A CENTRAL ANGLE OF 32°11'38", AND A CHORD OF 332.99 FEET THAT BEARS SOUTH 72°30'43" WEST, THENCE DEPARTING SAID EXISTING RIGHT-OF-WAY LINE, RUN WESTERLY ALONG THE ARC OF SAID CURVE 337.41 FEET FOR THE END OF SAID CURVE, THENCE SOUTH 56°24'54" WEST, 1093.61 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 600.49 FEET, A CENTRAL ANGLE OF 56°36'47", AND A CHORD OF 569.50 FEET THAT BEARS SOUTH 28°06'30" WEST, THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 593.34 FEET TO THE END OF SAID CURVE, THENCE SOUTH 00°11'53" EAST, 205.36 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 3725.27 FEET, A CENTRAL ANGLE OF 18°07'00" AND A CHORD OF 1173.15 FEET THAT BEARS SOUTH 09°15'23" EAST, THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE 1178.06 FEET TO THE END OF SAID CURVE, THENCE SOUTH 18°18'53" EAST, 109.59 FEET TO THE NORTH RIGHT-OF-WAY LINE OF JAMES ROAD, A 50 FOOT DEDICATED STREET, THENCE NORTH 89°44'07" WEST ALONG SAID

RIGHT-OF-WAY LINE 12.66 FEET TO THE POINT OF BEGINNING.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING IN SECTION 10, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTH 1/4 CORNER OF SECTION 10, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, RUN THENCE NORTH 00°15'06" WEST, A DISTANCE OF 50.00 FEET, TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF JAMES ROAD, A 50 FOOT DEDICATED STREET, THENCE NORTH 89°44'07" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE OF JAMES ROAD, A DISTANCE OF 2113.38 FEET, TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 9 (INTERSTATE 95), THENCE NORTH 18°18'53" WEST ALONG THE SAID EAST RIGHT-OF-WAY LINE OF STATE ROAD 9 (INTERSTATE 95), A DISTANCE OF 109.59 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 3725.72 FEET, A CENTRAL ANGLE OF 18°07'00", THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 1178.06 FEET, THENCE NORTH 00°11'53" WEST, A DISTANCE OF 205.36 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 528 (ALSO KNOWN AS THE "BEELINE EXPRESSWAY" FORMERLY KNOWN AS STATE ROAD NO. 524) AND A POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 600.49 FEET A CENTRAL ANGLE OF 56°36'47", THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 593.34 FEET, THENCE NORTH 56°24'54" EAST, A DISTANCE OF 1093.61 FEET, TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 600.49 FEET, A CENTRAL ANGLE OF 32°11'38", THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 337.41 FEET, THENCE NORTH 88°36'31" EAST, A DISTANCE OF 1179.23 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 5579.58 FEET, A CENTRAL ANGLE OF 16°24'08", THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 1597.28 FEET, THENCE SOUTH 74°59'21" EAST A DISTANCE OF 774.87 FEET, TO A POINT ON THE EAST LINE OF SAID SECTION 10, THENCE SOUTH 00°04'36" EAST ALONG THE EAST LINE OF SAID SECTION 10, A DISTANCE OF 1056.66 FEET, THENCE NORTH 89°52'22" WEST, A DISTANCE OF 668.67 FEET, THENCE SOUTH 00°07'14" EAST, A DISTANCE OF 1273.27 FEET, TO A POINT ON THE AFOREMENTIONED JAMES ROAD, A 50 FEET DEDICATED STREET, THENCE NORTH 89°51'39" WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 2003.09 FEET, TO THE POINT OF BEGINNING.

LESS AND EXCEPT THAT PARCEL CONVEYED BY ORDER OF TAKING IN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RECORDED FEBRUARY 8, 2008 IN OFFICIAL RECORDS BOOK 5843, PAGE 351, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

AND ALSO LESS AND EXCEPT LANDS DESCRIBED IN DEEDS TO BREVARD COUNTY PROPERTY HOLDINGS, LLC AS RECORDED IN OFFICIAL RECORDS BOOK 7000, PAGE 2377 AND OFFICIAL RECORDS BOOK 7434, PAGE 1216 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

FOR A TOTAL OF 212.10 ACRES, MORE OR LESS.