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CHARLOTTE COUNTY CLERK OF CIRCUIT COURT
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This instrument prepared by:
Grimes Hawkins Gladfelter & Galvano, PL
1023 Manatee Avenue West
Bradenton, Florida 34205

DEVELOPER'S AGREEMENT

THIS DEVELOPER'S AGREEMENT is made this 24th day of May, 2022, by and between CHARLOTTE COUNTY, a political subdivision of the State of Florida, herein called "County," and FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, with an address of 4042 Park Oaks Boulevard, Suite 200, Tampa FL 33910, herein called "Developer".

WITNESSETH

WHEREAS, Developer owns certain real property located in Charlotte County, Florida, (the "Property"), which Property is legally described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Developer intends to subdivide the Property and develop a project under the name of Cove at West Port Phase 2 and 3 and cause a plat of the same name to be recorded in the Public Records of Charlotte County, Florida (the "Plat"); and

WHEREAS, the Plat is identified in Charlotte County Community Development Department Files as #FP-21-01-04; and

WHEREAS, Developer is required to construct certain improvements within the Property in accordance with County Standards, and construction plans, and specifications approved by the County; and

WHEREAS, Developer submitted plans prepared by Waldrop Engineering, LLC, Project Number 994-200, dated June 16, 2021 for final construction plan approval (hereinafter, "Plans"). The Plans were approved by the County on February 22, 2022 under DRC-21-00089. The Plans depict certain subdivision improvements which must be required to be constructed prior to receiving certificates of occupancy for structures to be constructed on the Property; and

WHEREAS, Developer and County desire to enter into this Agreement to set forth certain obligations by Developer and County in connection with the construction of the improvements; and

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WHEREAS, the intent of this Agreement is to provide the required financial assurances for the construction of the improvements pursuant to the provisions of Section 3-7-122 of the Charlotte County Code of Laws and Ordinances, and is not intended to be construed as a development agreement under Chapter 163.3221, Florida Statutes; and

NOW, THEREFORE, in consideration of the mutual premises contained herein, County and Developer hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by this reference.

2. Developer is required to construct certain improvements as shown on the approved constructions plans for the plat of Cove at West Port Phase 2 and 3 (the "Improvements").

3. Developer is required to construct, and agrees to complete, the Improvements as set forth in the Engineer's Probable Cost Estimate dated July 14, 2021 according to the sound engineering standards and County Subdivision Regulations, and according to the engineering plans and specifications submitted by the Developer to the County, as approved by the County.

4. In order to guarantee Developer's adherence to the obligations under this Agreement, Developer shall furnish a bond or other acceptable form of security to County in an amount of \$1,844,620.83 to cover the cost of construction (the "Security"). Said Security shall remain in effect until final approval of the Improvements by the County. Any reduction of the Security shall follow Charlotte County policy and Developer will be required to provide the applicable fee along with the record drawings and documentation signed and sealed by the engineer of record. The reduction of the Security must be approved by the County prior to Developer reducing the Security amount.

5. All Improvements as shown on the approved construction plans shall be completed per the approved construction plans to the reasonable satisfaction of the County engineer within two (2) years of the date the plat of Cove at West Port Phase 2 and 3 is recorded in the Public Records of Charlotte County, Florida, subject to force majeure. If the work is not completed within two (2) years, the County Engineer shall have right to review the Surety amount, and if deemed insufficient, Developer may be required to provide additional surety and execute an amendment to this Agreement to reflect the increased amount and to extend the completion date.

6. In the event that the Improvements are not satisfactorily completed within the specified time period in Section 5, or in the event that the County receives notification from the institution issuing the Security to the effect that the Security will expire prior to the specified time period, then upon thirty (30) days' prior written notice to Developer and a reasonable opportunity to cure, the County may draw up to the fullest extent of the Security to be applied towards the cost of construction, completing, or correcting the required Improvements.

7. In the event of litigation, no party, including, but not limited to, Developer, future lot owners, and successors and assigns, is entitled to an offset of damages in an amount equal to the posted Security funds.

8. There are no intended third-party beneficiaries to this Agreement, and therefore, no third parties can or should rely on this Agreement and/or Security, including, but not limited to, future lot owners, and successors and assigns.

9. The terms of the Development Agreement have been jointly drafted by the Parties; therefore, in construing this Development Agreement no legal presumptions shall arise against either Party as the drafter of the Development Agreement.

10. Nothing herein shall be construed to create an obligation upon the County under Section 177.081, Florida Statutes, to voluntarily assume an obligation to perform any act of construction or maintenance under this Agreement and/or the Security.

11. The invalidity or unenforceability of any one or more provisions of the Development Agreement shall not affect the validity or enforceability of the remaining portions of this Development Agreement, or any part of the Development Agreement not held to be invalid or unenforceable.

12. Miscellaneous:

- a. Venue. Venue of any action to enforce the terms of this Agreement shall be in Charlotte County, Florida.
- b. Florida Law. This Agreement shall be governed and construed in accordance with Florida Law.
- c. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. It shall not be necessary for every party to sign each counterpart but only that each party shall sign at least on such counterpart.
- d. Entire Agreement. This Agreement incorporates and includes all prior negotiations, correspondence, agreements or understandings between the parties, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of the Agreement that are not contained in this Agreement.
- e. Modifications. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, County and Developer have executed this Development Agreement on the date first above written.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

ATTEST:

Roger D. Eaton, Clerk of the Circuit Court
and Ex-officio Clerk of the Board of County
Commissioners

By: *R. D. Eaton*
Deputy Clerk

AGR 2002-048

By: *William G. Truex*
William G. Truex, Chairman



Approved as to Form and Legal
Sufficiency:

By: *Janette S. Knowlton*
Janette S. Knowlton, County Attorney
LR21-0606 *JB*

DEVELOPER:

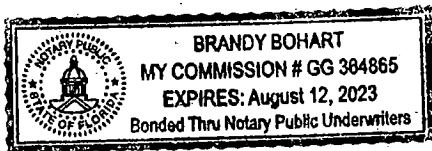
FORESTAR (USA) REAL ESTATE
GROUP INC., a Delaware corporation

By: Nicolas Aparicio
As its: Sr. Vice President

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 24th day of January, 2022 by Nicolas Aparicio, Sr. Vice President, of Forestar (USA) Real Estate Group Inc., a Delaware corporation, on behalf of the Corporation, who is ☒ personally known to me or ☐ has produced _____ as identification. If no type of identification is indicated, the above named person is personally known to me.

[Notary Seal]



Brandy Bohart
Notary Public
Printed Name: Brandy Bohart
My Commission Expires: 8-12-2023

EXHIBIT "A"

Legal Description:

**BEING TRACTS C, G, L, R, AND T OF COVE AT WEST PORT PHASE 1B, AS RECORDED
IN PLAT BOOK 25, PAGES 10A-10K OF THE PUBLIC RECORDS OF CHARLOTTE
COUNTY, FLORIDA. CONTAINS A TOTAL OF 34.49 ACRES, MORE OR LESS**