

This instrument Prepared by:

Fred N. Roberts, Jr., Esq.
Klein & Klein, LLC
40 SE 11th Avenue
Ocala, Florida 34471

and Return To:

City of Ocala
Growth Management Department
201 SE 3rd Street, 2nd Floor
Ocala, Florida 34471
Attn: Karen Cupp, Development Coordinator

DEVELOPER'S AGREEMENT

THIS DEVELOPER'S AGREEMENT is made and entered into on the dates set forth below by and between the **CITY OF OCALA**, a Florida municipal corporation ("City"), and **FORESTAR (USA) REAL ESTATE GROUP, INC.**, a Delaware corporation (hereinafter the "Developer").

WITNESSETH:

WHEREAS, as evidenced by that certain "Notice of Adoption of a Development Order for the Health (*sic*) Brook Development of Regional Impact" recorded in O.R. Book 2705, page 265 of the Public Records of Marion County, Florida, and a "Notice of Adoption of Amendments to the Development order for the Heath Brook Development of Regional Impact", City has adopted and amended a Development Order (as amended, the "**Development Order**") for the Heath Brook Development of Regional Impact (the "**DRI**") referred to herein; and

WHEREAS, Developer is the owner of the real property described on attached **Exhibit "A"** (the "**Property**"), which is located within the jurisdictional boundaries of the City; and

WHEREAS, Developer has previously filed an application for the approval of "**Ridge at Heath Brook**", a single-family subdivision (the "**Community**"), which is located approximately in the PD phase of the Master Development Plan of Heath Brook. Developer intends to develop the Community within the DRI in multiple phases, for an anticipated total of 391 single-family residential lots (each, a "**Lot**") (generally as depicted on the concept plan ("**Concept Plan**") attached hereto as **Exhibit "B"**).

WHEREAS, Developer currently owns and has developed the first phase of the Community ("**Ridge at Heath Brook Phase 1**"). Developer has acquired the second phase of the Community, which phase is more particularly depicted on the Concept Plan ("**Ridge at Heath Brook Phase 2**"). Developer is currently under contract to acquire the third phase of the Community, which phase is more particularly depicted on the Concept Plan ("**Ridge at Heath Brook Phase 3**"), and which acquisition is currently anticipated to occur prior to June 30, 2024; and

WHEREAS, Developer and City did previously enter into a Developers Agreement relating to the Ridge at Heath Brook Phase 1 recorded in Official Records Book 7549, Page 831, Public Records of Marion County, Florida (the "**Prior Developers Agreement**"); and

WHEREAS, the Ridge at Heath Brook Phase 2 actually consists of those areas identified as - “Phase 2” and “Phase 4” on the Concept Plan; and

WHEREAS, the Property described on Exhibit “A” constitutes all of the real property in the Subdivision; and

WHEREAS, Developer has previously submitted to the City a conceptual plan and construction plans for the Subdivision, which depict the construction of the Improvements (as defined below) relating to the Subdivision. Copies of the construction plans shall be kept on record at the office of the City Engineer of the City and are, by reference, made a part of this Agreement; and

WHEREAS, The City’s Planning and Zoning Commission has recommended approval of the conceptual plans for the Subdivision subject to the parties entering into a Developer’s Agreement in accordance with the applicable provisions of the City’s Code of Ordinances.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows, which terms shall be binding upon the parties and their respective successors and assigns, as may be applicable:

1. **INCORPORATION OF RECITALS.** The parties agree and confirm that the above recitals are true and correct and incorporate their terms and provisions herein for all purposes.
2. **DEFINITIONS.** The following definitions shall have the following meanings for the purpose of this Agreement:
 - 2.1 **“Agreement”** – shall refer to this Developer’s Agreement, as the same may be subsequently amended, modified, or supplemented pursuant to its terms and provisions.
 - 2.2 **“Builder”** – shall refer to D.R. HORTON, INC., a Delaware corporation.
 - 2.3 **“City”** – shall refer to the City of Ocala, a municipal corporation existing under the laws of the State of Florida.
 - 2.4 **“Code”** – shall refer to the City’s Code of Ordinances, as the same may be subsequently amended, modified, or supplemented.
 - 2.5 **“Common Elements”** – shall refer to those portions of the Subdivision that will be either owned by or maintained by a Homeowner’s Association or a Community Development District established for the Property pursuant to Florida Statutes Chapter 190 (“**CDD**”).
 - 2.6 **“Developer”** – shall refer to FORESTAR (USA) REAL ESTATE GROUP, INC., a Delaware corporation.
 - 2.7 **“Development Regulations”** – shall refer to the Land Development Regulations of the City. This definition will include any promulgated construction or design specifications of the City.

2.8 “**District**” – shall refer to the Southwest Florida Water Management District, a public entity created under the laws of the State of Florida.

2.9 “**Improvements**” – shall refer to those improvements depicted upon the Plans for the Subdivision which have been filed by the Developer with the City, including both the Public Improvements and Private Improvements.

2.10 “**Lot**” – shall refer to an individual lot shown on the Plat of the Subdivision.

2.11 “**Plans**” – shall refer to the conceptual plan and construction plans for the Subdivision, which depict the construction of the Improvements. Copies of the Plans shall be kept on record at the offices of the City Engineer, and by reference are made a part of this Agreement.

2.12 “**Plat**” – shall refer to the Plat of the Subdivision, after it has been recorded in the Public Records of Marion County, Florida

2.13 “**Property**” – shall refer to the real property located in Marion County, Florida described on attached Exhibit “A”, and may also be referred to as “*Ridge at Heath Brook Phase 2*”.

2.14 “**Public Improvements**” – shall refer to the Triplex Lift Station (defined in Section 5.1 below), the Force Main (defined in Section 5.2 below), the Utility Upgrades (defined in Section 5.3 below), sanitary sewer mains, sanitary sewer lines, water mains, water lines, water meters, fire hydrants, and appurtenances related thereto lying within the Subdivision as shown on the Plans. Water system improvements will be Public Improvements only to the point of metering. Sanitary sewer system improvements will be Public Improvements with respect to the sanitary sewer mains and manholes, and sanitary sewer lines and services within the dedicated right of way.

2.15 “**Private Improvements**” – shall refer to landscaping (including but not limited to common areas including berms and respective irrigation systems); stormwater management facilities (including but not limited to stormwater conveyance systems, stormwater retention areas, drainage swales, spill ways and affiliated structures); hardscape (including but not limited to entry monuments, signage and gates); roadways (including but not limited to pavement, striping and curbing); traffic control devices, services other than mains (including but not limited to water & sewer); streetlights (to the extent required by Code and in accordance with the Plans); common area sidewalks, and sidewalks within the right-of-way which will be turned over to the property owner’s association or CDD for ownership and maintenance.

2.16 “**Subdivision**” – shall refer to the proposed one hundred seventy (170) Lot single-family residential Subdivision located on the Property, which will be named “*Ridge at Heath Brook Phase 2*”..

2.17 “**Tract**” – shall refer to any individual parcel of property designated as a “**Tract**” on the Plat of the Subdivision.

3. **APPROVAL.** The City hereby approves the Plans for the Subdivision.

4. **COVENANTS OF DEVELOPER.** In addition to the other covenants and agreements of Developer set forth specifically elsewhere in this Agreement, Developer covenants and agrees:

- 4.1 To construct at its own expense all Improvements for the Subdivision (only the Ridge at Heath Brook Phase 2) according to the Plans and according to the City's Development Regulations, within a period of two (2) years from the date of this Agreement, unless otherwise provided for herein, provided that additional time may be mutually agreed upon in the event of delays caused or due to Acts of God, strikes, or other circumstances not controlled by the Developer.
- 4.2 To amend or modify the Plans as required to comply with future City standards and specification for those Improvements which are not constructed within two (2) years of the date of this Agreement, should those standards and specifications change prior to the construction of such Improvements.
- 4.3 To provide to the City a current title opinion acceptable to the City which attests to the Developer's ownership of the Property and its right to enter into this Agreement. The Developer further agrees not to enter into any Agreement which would affect the validity of such title opinion until such time as this Agreement has been executed and recorded in the Public Records of Marion County, Florida.
- 4.4 To retain a professional engineer registered in the State of Florida to (i) supervise the construction of the Improvements; (ii) provide the required certification of completion in "*As-Built*" drawings; and (iii) act on behalf of and represent the Developer in technical matters in all dealings with the City; and (iv) to complete transfer of the stormwater system ownership and maintenance per the water management district requirements prior to city acceptance of the system.
- 4.5 To provide a full set of reproducible "*As-Built*" plans for the Improvements, certified to the City by the Developer's engineer in detail to the extent required by the City Engineer, together with actual itemized construction and engineering cost summaries for the Improvements, such itemization to be certified by the Developer's engineer and submitted on a form approved by the City Engineer.
- 4.6 To obtain and abide by all terms of any and all permits which may be required by the State of Florida, Marion County, the District or the City with respect to the Subdivision and the construction of the Improvements, all at no cost to the City.
- 4.7 To provide the City with complete and legally effective releases or waivers satisfactory to the City of all liens arising out of this Agreement and the labor and services performed and the materials and equipment furnished thereunder.
- 4.8 To pay the City, at the time of the recording of the Plat of the Subdivision, a solid waste system impact fee in the amount of \$45,050.00, representing a fee in the \$265.00 per residential unit for the impact upon City's solid waste system, calculated at \$265.00 times (x) 170 lots.
- 4.9 To pay all applicable fees in accordance with the City Code.

- 4.10 To furnish or cause to be furnished to the City by the Developer's contractor a proof of insurance, submitted to the City Engineer, confirming the existence of a liability insurance company insurance coverage to protect the City within any dedicated rights-of-way or easements during the construction and maintenance period of this Agreement, which insurance shall satisfy all applicable City insurance standards.
- 4.11 To execute and deliver to the City, at the request of the City, a dedication, assignment or deed conveying to the City ownership of all Public Improvements, and to maintain and repair all Public Improvements for a period of one (1) year after the completion of construction thereof and acceptance by the City.
- 4.12 To provide to the City adequate assurance, in a form acceptable to the City, in an amount equal to twenty percent (20%) of the actual costs of the Public Improvements, that the Developer will comply with the maintenance obligations regarding the Public Improvements as required under the terms of this Agreement. Said assurance shall remain in effect for the duration of the one (1) year maintenance period described elsewhere in this Agreement. An eleven (11) month inspection will be conducted, prior to the release of the adequate assurance, of the Public Improvements and should all required corrections not be made prior to the expiration of the one (1) year maintenance period the City shall have the right to utilize the adequate assurance to make the necessary corrections to the Public Improvements.

5. **CONSTRUCTION OF UTILITY IMPROVEMENTS.** Pursuant to Sections 4.13 and 4.14 of the Prior Developers Agreement, Developer and City did agree to certain utility improvements to be completed by Developer and allowed for the City to request certain upgrades to those utility improvements with the agreed for reimbursements in connection therewith. In connection with those utility improvements, the City has requested further modification and upgrades to thereto to which it has agreed to reimburse Developer. Accordingly, and relating thereto, City and Developer agree as follows:

- 5.1 **Lift Station.** Developer shall construct a triplex sewer lift station ("**Triplex Lift Station**"), as set forth in, and on the location shown on, the Lift Station Plans ("**Lift Station Plans**") attached hereto as **Exhibit "C"**, to provide sewer capacity for both the 391 residential structures in the Subdivision, which are the anticipated number of Lots to be developed through all phases of construction as well as the additional capacity requested by the City.
 - 5.1.1 City and Developer acknowledge and agree that a duplex lift station was sufficient for the capacity required for all phases of development of the Community and that the enhancement to the system to the Triplex Lift Station was requested by the City pursuant to Section 4.13 of the Prior Development Agreement. Pursuant to the Prior Development Agreement, and as further confirmed hereby, the City is responsible to reimburse for any additional costs incurred by Developer in excess of the cost to construct the Duplex Lift Station (as was defined in the Prior Development Agreement).
 - 5.1.2 The parties further acknowledge that the Lift Station Plans incorporate an increased sizing of the wet well from eight (8) feet to twelve (12) feet to account for necessary upsizing to the Triplex Lift Station. Accordingly,

reimbursement by City shall include the additional cost of the upsizing of the wet well.

- 5.1.3 Reimbursement payment shall be remitted by City to Developer within thirty (30) days of issuance of a certificate of completion for the Triplex Lift Station.
- 5.1.4 The parties acknowledge and agree that the provisions hereof relating to the Triplex Lift Station and Lift Station Plans shall supersede those set forth in the Prior Development Agreement.

5.2 **Force Main.** As set forth in the Prior Development Agreement, Developer has or shall construct an eighteen (18") inch sewer force main ("Force Main"), along the right of way Southwest 54th Street Road in accordance with the force main plans ("Force Main Plans") attached hereto as Exhibit "D", provided that the City shall, subject to the limitations set forth in Section 5.5 below, reimburse Developer for the cost of the construction and installation of the Force Main in accordance with the Force Main Plans.

- 5.2.1 As shown on the Force Main Plans, a portion of the Force Main has or shall be constructed in connection with Improvements for Ridge at Heath Brook Phase 1 (the "Phase 1 Segment") and a portion has or shall be constructed with the Improvements for Ridge at Heath Brook Phase 2 (the "Phase 2 Segment"). The Phase 1 Segment shall be approximately 1,208 linear feet and the Phase 2 Segment shall be approximately 1,730 linear feet.
- 5.2.2 The Phase 1 Segment has been completed, a certificate of completion has been issued, and reimbursement by the City has been made prior to the Effective Date hereof. Reimbursement for construction and installation of the Phase 2 Segment shall be reimbursed by City to Developer within thirty (30) days following issuance of a certificate of completion for the Phase 2 Segment.
- 5.2.3 The parties acknowledge and agree that the provisions hereof relating to the Force Main and Force Main Plans shall supersede those set forth in the Prior Development Agreement.

5.3 **Requested Upgrades.**

- 5.3.1 In addition to as set forth above, the City has further requested certain modifications, upgrades or enhancements to either the Lift Station Plans or the Force Main Plans (collectively, the "Utility Plans") to be constructed by the Developer.
- 5.3.2 Developer has agreed to modify the Utility Plans and to construct the following upgrades to the Public Improvements (the "Utility Upgrades"):
 - (a) Increase length of 8-inch gravity sewer by 33LF between Manhole #49 and #50
 - (b) Increase the depth of Manhole #50 from 4.19 ft to 21.33 ft

- (c) Increase the length of 12 inch gravity sewer by 33 LF between Manhole #50 and #54. The depth was also increased from 0'-6" to 20'-22".
- (d) Increased depth of manhole #54 from 6.15 ft to 19.03 f
- (e) Increase depth of 18 inch gravity sewer between Manhole #50 and 54 from 6'-8" to 20'-22".
- (f) Added Manhole #55 next to the wet well.
- (g) Increased depth of wet well by 10 ft.
- (h) Pump changed from a 25 HP pump to a 70 HP
- (i) Upgraded the control panel for the new pumps
- (j) Upgraded lift station plumbing to accommodate new pumps.
- (k) Upgraded the electrical components to accommodate new pumps.
- (l) Added odor control

- 5.3.3 City hereby acknowledges that the Utility Upgrades are incorporated into the Utility Plans, which Utility Plans are hereby deemed approved.
- 5.3.4 Reimbursement for construction and installation of the Utility Upgrades shall be reimbursed by City to Developer within thirty (30) days following issuance of a certificate of completion for the Utility Upgrades. It is anticipated that since the Utility Upgrades are to be constructed in connection with the Lift Station and Force Main, that such certificate of completion shall be issued simultaneously or jointly with that to be issued in connection with the completion of the Force Main and Lift Station.

- 5.4 **Estimates of Utility Upgrade Costs.** The parties acknowledge and agree that the estimate of cost of the Utility Upgrades, the upgrade of the Lift Station as set forth in Section 5.1 and the construction of the Fore Main as set forth in Section 5.2, is **\$1,116,313.60** which estimates of cost for the Lift Station, Force Main and Utility Upgrades are set forth on **Exhibit "E"** attached hereto (the "**Cost Estimate**").

6. **COVENANTS OF CITY.** The City covenants and agrees:

- 6.1 To accept and perpetually maintain the Public Improvements within the boundaries of the Subdivision upon the acceptance of the Improvements and after the completion of the one (1) year maintenance period.
- 6.2 That, if the provisions of Sections 6.1, 6.2 and 6.3 below are not applicable, upon completion of the Improvements, and upon approval of the Subdivision by the City Council, all of which must be in accordance with the provisions of this Agreement, it will permit connections to the City's water and sewer systems with respect to the Lots in the Ridge at Heath Brook Phase 1 with capacity reserved for 99 residential Lots and

the Ridge at Heath Brook Phase 2 with capacity reserved for 170 residential Lots in the Subdivision, with it being the express understanding of the parties that future phases to be constructed within the Community shall include up to 391 total residential Lots for which capacity shall be reserved by virtue of construction of all improvements and recording of plat(s) relating to such future phases.

- 6.3 That, if the provisions of Sections 6.1, 6.2 and 6.3 below are applicable, it will issue building permits for the construction of residences on Lots located in the Subdivision, and will make all customary building inspections during the construction thereof, but the City will be authorized to withhold the issuance of certificates of occupancy for building structures constructed on Lots until (i) all supporting improvements for the Lots have been constructed and approved by the City; and (ii) the final Plat has been recorded.
- 6.4 That the City shall provide the permits and consents for the construction and installation of any segment of the Force Main outside the boundaries of the Subdivision.
- 6.5 Notwithstanding any other provision hereof, City's maximum liability for reimbursements pursuant to Section 5 above shall not exceed **\$1,261,279.54**, in the aggregate.
- 6.6 The City confirms that upon completion of the Subdivision in accordance with the Plans, traffic capacity and concurrency shall be reserved sufficient for the Plat and issuance of building permits and certificates of occupancy for 170 single family homes in that portion of the Subdivision being Ridge at Heath Brook Phase 2, which is in addition to the reservation previously issued for 99 single family homes in that portion of the Community being Ridge at Heath Brook Phase 1 as set forth in the Prior Development Agreement. The foregoing notwithstanding, it is expressly understood that it is the intent of the parties that all phases of the Community shall consist of up to 391 Lots but that building permits and certificates of occupancy for the Subdivision, being 170 Lots, shall not be available for issuance unless and until completion of all improvements and recording of plat(s) required in connection with applicable future phases.

7. **RECORDING PLAT.**

- 7.1 The City will allow the immediate recording of the Plat of the Subdivision, and the conveyance of Lots in the Subdivision (or portions thereof). If the Developer complies with the following provisions of this Section. If the Developer elects not to provide a Letter of Credit or other acceptable surety to the City to guarantee the construction of the Improvements for the Subdivision, the Plat will be recorded upon the completion of the construction of the Improvements in accordance with the Plans, and the acceptance there of by the City. If the Developer elects to provide to the City a Letter of Credit, or some other acceptable surety, the following provisions will apply:
- 7.2 **Cost Estimate.** Developer will submit to the City, and the City will review and approve, a "**Cost Estimate**" prepared by the Developer's Engineer. The Cost Estimate must be certified to the City.

7.3 **Letter of Credit or Bond.** Upon the Developer providing to the City a Letter of Credit or Bond (or other “Adequate Assurance for Improvements” issued by a financial institution authorized to do business in the State of Florida in the amount of one hundred twenty percent (120%) of the approved Cost Estimate which guarantees to the City the performance of the Developer’s obligations under this Agreement (which Letter of Credit, Bond (or other “Adequate Assurance for Improvements”) in accordance with City of Ocala City Code Section 114-41) must be in form and content acceptable to the City and the City’s attorney) the City will complete the execution of the Plat of the Subdivision and allow the Plat to be recorded in the Public Records of Marion County, Florida.

7.4 **Sale of Lots or Tracts.** Upon the recording of the Plat the Developer will be entitled to convey individual Lots or Tracts in the Subdivision to third party purchasers. The purchasers of any Lots will be entitled to submit building plans and site plans, procure site plan approvals, procure building plan approvals, procure construction permits, and subject to paragraph 5.3 of this Agreement procure Certificates of Occupancy for improvements constructed on Lots in accordance with the normal approval procedures of the City as established under the City Code. No purchaser of a Lot or Tract in the Subdivision will be obligated to complete the obligations of Developer to the City under the terms of this Agreement in order to procure the issuance of a final Certificate of Occupancy by the City for the purchaser’s improvements constructed on a Lot or Tract in the Subdivision but City shall not be required to issue such Certificate of Occupancy until the conditions in paragraph 6.3 of the Agreement have occurred.

8. **STORMWATER DRAINAGE FACILITIES.** Installation and maintenance of the stormwater drainage facilities (including, without limitation, the improvements previously referred to as the stormwater conveyance system improvements and stormwater retention areas) located in the Subdivision shall be in accordance with the following provisions.

8.1 **Construction Standards.** All stormwater drainage facilities, whether or not such facilities are to be dedicated to the public, will be constructed to the construction standards and Development Regulations of the City, and the regulations of the District.

8.2 **Disclaimer of Responsibility.** The City does not assume responsibility for the surface stormwater runoff from individual Lots to adjacent Lots or adjacent properties, the responsibility of which shall be solely that of the Developer.

9. **TRAFFIC CONTROL DEVICES.** All traffic control devices to be constructed by the Developer shall be constructed in accordance with the construction standards of the City.

10. **ELECTRICAL INFRASTRUCTURE AND SERVICES.** Electric utility infrastructure and service provisions shall follow the policies and procedures in accordance with the City’s Code of Ordinances, Sec. 70-541 thru Sec. 70-720.

11. **REPAIR OF DEFECTIVE IMPROVEMENTS:** With respect to any of the improvements which are subject to a one (1) year period of maintenance by the Developer, as set forth elsewhere in this Agreement, if during the maintenance period the City provides

notice to the Developer that the improvement needs repair or replacement, the Developer will at its sole expense immediately initiate the repair and replacement of the defective improvements, and pursue the completion of the repair and replacement with due diligence. Such repair or replacement must be completed prior to the City assuming responsibility for permanent maintenance (as to any portion of the improvements for which repair or replacement is underway at the expiration of the one (1) year maintenance period).

12. **DRAINAGE RETENTION AREA FENCES.** Developer will not be required to fence drainage retention areas located within the Subdivision provided that the applicable drainage retention area complies with the following requirements: the slope ratio for the sides of the drainage retention area must be 4:1, or flatter than 4:1.
13. **BUILDING PERMITS – MODEL UNITS.** Subject to the terms of this Section the City agrees to issue to the Developer or Builder, upon submission by the Developer or Builder to the City of the required applications, supporting documentation and any applicable fees, building permits necessary for the construction, and as allowed by state law, of single family residential homes, to be located upon parcels which will be individual Lots when the final plat of the Subdivision is recorded. With respect to the issuance of these permits the Developer agrees as follows:
 - 13.1 The Developer acknowledges that the City will not issue Certificates of Occupancy with respect to any residence constructed until the conditions in paragraph 5.3 of this Agreement has occurred.
 - 13.2 The actions of the City under this Agreement allowing the issuance of building permits to the Developer or Builder for the construction of a model unit or model units does not in any fashion constitute the acceptance of the improvements in the Subdivision by the City as completed in accordance with the Plans, or the final Plat of the Subdivision. The Developer must comply with the applicable City regulations and normal procedures in procuring final City acceptance and approval of the final City approval of the Plat for recording.
 - 13.3 The Developer agrees that neither the Developer or Builder will sell or convey any interest in that portion of the Property upon which any model unit is constructed pursuant to the terms of this Agreement prior to the final acceptance of the improvements by the City (or provisions of a surety to the City as set forth above) and the recording of the Plat of the Subdivision.
 - 13.4 When the Developer or Builder makes application to the City for a building permit for this Agreement, the Developer or Builder must submit a sketch showing that lot upon which the residential unit will be constructed and the legal description of said lot. The parcel for which the building permit is issued must correspond to what will be a single lot when the Plat of the Subdivision is recorded.
 - 13.5 The Developer hereby agrees to indemnify and hold City harmless from any and all losses, claims, damages, expenses, judgments, litigation expenses, attorneys' fees or other liabilities of any nature incurred by the City as a result of this Agreement by the City to issue building or development permits to the Developer or Builder as described

in this Section. This grant of indemnity will expressly survive the termination of this Agreement and the acceptance and recording of the final Plat of the Subdivision.

14. **GENERAL PROVISIONS.** The following General Provisions shall apply to this Agreement:

14.1 **Notices.** Any notices required or permitted hereunder, and all demands and requests given or required to be given by any party hereto to another party, shall be in writing unless otherwise provided herein and shall be deemed given when received, if personally delivered or sent by telex, telegram, or if sent by Federal Express (which term shall be deemed to include within it any other nationally recognized reputable firm or overnight couriers) or if mailed, if such notice has been delivered to the United States Postal Service with postage prepaid and properly marked for certified or registered mail with a request for return receipt.

14.2 **Developer's Address.** If given to Developer any notice hereunder shall be addressed and given as follows:

Forestar (USE) Real Estate Group, Inc.
Attn: Anthony J. Squitieri
4042 Park Oaks Boulevard
Suite 200
Tampa, Florida 33610
Phone: (813) 524-5938
Email: nraparicio@forestargroup.com

With Copy to:

Brian M. Jones, Esq.
Shutts & Bowen, LLP
300 South Orange Ave.
Suite #1600
Orlando, FL 32801
Phone: (407) 835-6937
Email: bjones@shutts.com

14.3 **City's Address.** If given to City:

City of Ocala
Attn: City Manager
110 SE Watula Avenue
Ocala, Florida 34471

With copy to

City Engineer
1805 NE 30th Avenue, Building 600
Ocala, FL 34470

Any party hereto may change the address or addresses to which notice is to be sent by giving written notice of such change to all other parties executing this Agreement, in the manner provided herein.

- 14.4 **Headings.** The heading contained within this Agreement are for identification purposes only, and shall not be construed to amend, modify, or alter the terms of the Agreement.
- 14.5 **Litigation.** With respect to any litigation arising out of this Agreement, or to resolve any claims or controversies arising out of or in connection with this agreement, then the non-prevailing party pay all reasonable costs incurred by the prevailing party, including reasonable attorneys' fees, suit costs and expenses, which attorneys' fees, suit costs and expenses shall include all such fees, costs and expenses incurred with respect to any trial level activities, bankruptcy proceedings, appellate proceedings, or post-judgement proceeding related thereto.
- 14.6 **Binding Effect.** The parties to this Agreement represent to each other that each party fully understands the facts surrounding this Agreement and each is signing this Agreement fully and voluntarily, intending to be bound by it. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective spouses, heirs, executors, administrators and assigns. There are no representations or warranties other than those set forth herein.
- 14.7 **Severability.** In the event any provision or Section of this Agreement is determined to be invalid or unenforceable, such determination shall not affect the enforceability or the validity of the remaining provisions of this Agreement.
- 14.8 **Survival of Representations and Warranties.** All representations and warranties contained herein are made in writing by the parties in connection herewith shall survive the execution and delivery of this Agreement.
- 14.9 **Successors and Assigns.** All covenants and agreements in this Agreement made by or on behalf of any parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto, whether so expressed or not.
- 14.10 **Applicable Law.** This Agreement is being delivered in the State of Florida, and shall be construed and enforced in accordance with the laws of the State of Florida. The venue for any legal proceeding arising out of this Agreement shall be Marion County, Florida.
- 14.11 **Counterparts.** This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.
- 14.12 **Gender.** As used in this Agreement, the masculine shall include the feminine and neuter, the singular shall include the plural, and the plural shall include the singular as the context may require.

14.13 **Facsimile Copy.** Any party may rely upon receipt of a signed facsimile or copy of this Amendment, signed by that party as though the same were an original.

14.14 **City Code.** No provision of this Agreement shall supercede or take precedent over any existing ordinances, regulations or codes of the City.

14.15 **Exercise of Rights.** All rights, power and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any law, and are intended to be limited to the extent necessary so that they will not render this Agreement invalid, illegal, or unenforceable under any applicable law.

14.16 **Entire Agreement.** This Agreement shall constitute the entire agreement of the parties hereto; all prior agreements between the parties, whether written or oral, are merged herein and shall be of no force or effect. This Agreement cannot be changed, modified or released orally, but only by an agreement in writing signed by the parties against whom enforcement of said change, modification or discharge is sought.

15. **DEFAULT.** In the event that Developer defaults under this Agreement by, without limitation, failing to construct improvements or pay amounts as and when required hereunder:

- 15.1 City may pursue all remedies available at law and equity;
- 15.2 City may withhold issuance of building permits, certificates of occupancy or other City permits, approvals or development orders; and
- 15.3 If the default consists the failure to pay money:
 - 15.3.1 City may declare any remaining payments due under this Agreement immediately due and payable by providing written notice of such acceleration to Developer, and Developer will then immediately pay the full amount owed; and
 - 15.3.2 Any unpaid amount shall accrue interest at the maximum rate allowed by law.

INTENTIONAL PAGE BREAK – SIGNATURES FOLLOW

IN WITNESS WHEREOF the parties hereto have executed this DEVELOPER'S AGREEMENT on the dates below.

AS TO CITY:

APPROVED AS TO FORM AND
LEGALITY:

William E. Sexton
City Attorney

**CITY OF OCALA, A FLORIDA MUNICIPAL
CORPORATION**

_____, President
Ocala City Council

Date: _____

ATTEST:

Angel B. Jacobs, City Clerk

STATE OF FLORIDA

COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, _____ day of _____, 20____, by _____, as President of Ocala City Council, on behalf of the City of Ocala, a Florida municipal corporation. He/she is personally known to me or has produced _____ as identification.

Notary Public, State of Florida

Name: _____
(Please print or type)

Commission Expires: _____

Signed and delivered in our presence as witnesses:

Print Name: _____

Print Name: _____

AS TO DEVELOPER:

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

By: _____

Name: _____

Title: _____

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, _____ day of _____, 20____, by _____, as _____, of FORESTAR (USA) REAL ESTATE GROUP, INC, a Delaware corporation, on behalf of said corporation. He is personally known to me or has produced _____ as identification.

Notary Public, State of Florida

Name: _____
(Please print or type)

Commission Expires:

EXHIBIT "A"

LEGAL DESCRIPTION

Two parcels of land lying in Section 34, Township 15 South, Range 21 East, and Section 3, Township 16 South, Range 21 East, Marion County, Florida, and being more particularly described as follows:

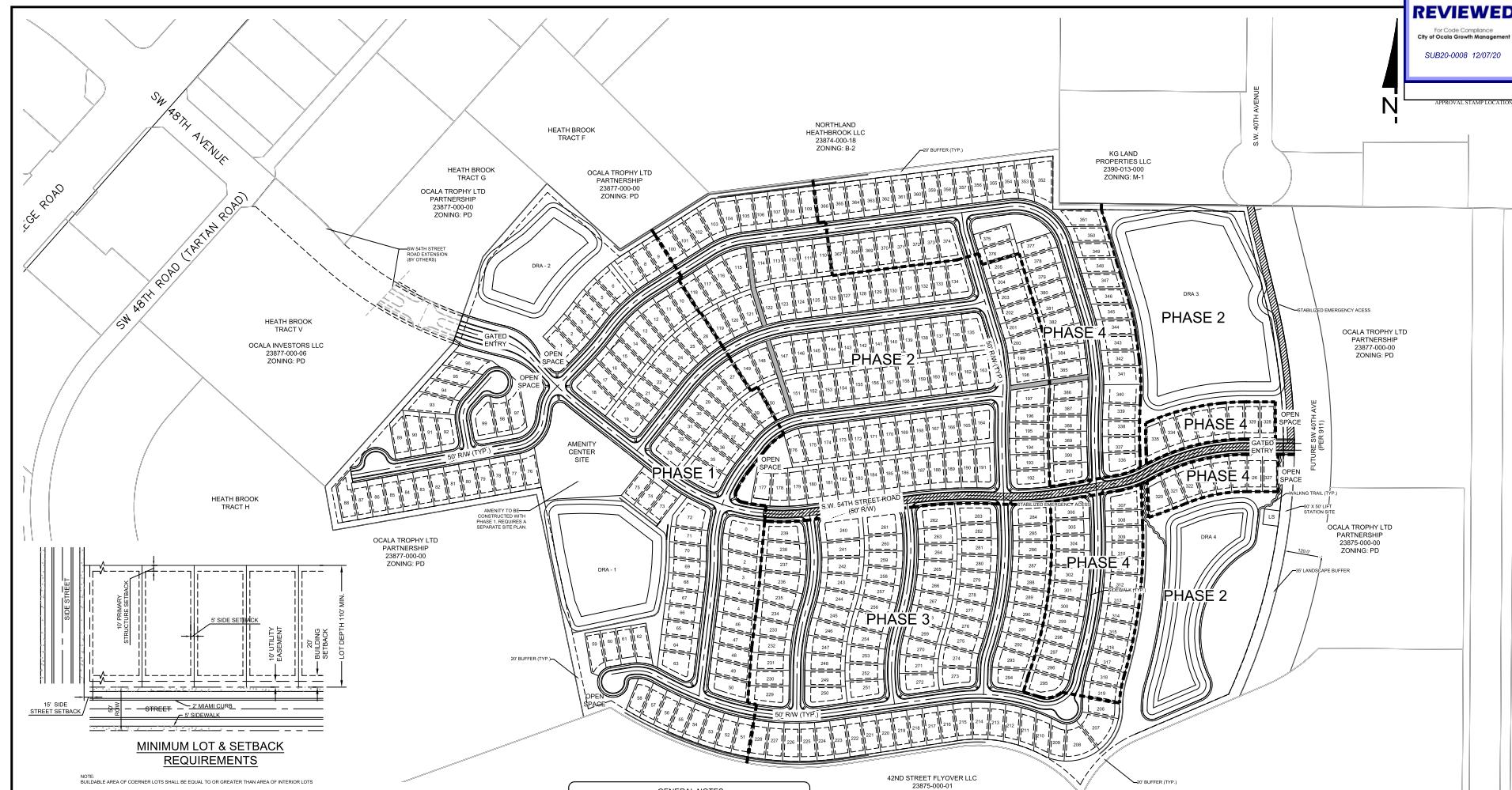
COMMENCE at the Northeast corner of said Section 3, run thence N89°20'20"W, along the North line of Section 3, a distance of 115.68 feet to the Southeast corner of EXECUTIVE PARK, as recorded in Plat Book T, Pages 11 through 13, of the public records of Marion County, Florida; thence continue N89°20'20"W, along the South line of EXECUTIVE PARK and the North line of Section 3, a distance of 728.08 feet to the **POINT OF BEGINNING**; thence leaving said South line of aforementioned EXECUTIVE PARK and said North line of Section 3, Southerly, 91.06 feet along the arc of a non-tangent curve to the left having a radius of 2387.00 feet and a central angle of 02°11'09" (chord bearing S. 12°35'43" E., 91.06 feet); thence S. 13°41'17" E., a distance of 245.77 feet; thence Southerly, 482.98 feet along the arc of a tangent curve to the right having a radius of 1905.00 feet and a central angle of 14°31'35" (chord bearing S. 06°25'30" E., 481.68 feet) to a point known as "Reference Point A"; thence N.89°54'50" W., a distance of 120.51 feet; thence Westerly, 323.09 feet along the arc of a tangent curve to the left having a radius of 630.00 feet and a central angle of 29°23'00" (chord bearing S. 75°23'41" W., 319.56 feet); thence Westerly, 110.62 feet along the arc of a reverse curve to the right having a radius of 325.00 feet and a central angle of 19°30'05" (chord bearing S. 70°27'13" W., 110.09 feet); thence S. 80°11'59" W., a distance of 170.20 feet; thence Westerly, 230.05 feet along the arc of a non-tangent curve to the right having a radius of 1025.00 feet and a central angle of 12°51'34" (chord bearing S. 86°37'33" W., 229.57 feet); thence Westerly, 262.24 feet along the arc of a reverse curve to the left having a radius of 1475.00 feet and a central angle of 10°11'12" (chord bearing S. 87°57'44" W., 261.90 feet); thence S. 82°52'08" W., a distance of 289.49 feet; thence Southwesterly, 39.27 feet along the arc of a tangent curve to the left having a radius of 25.00 feet and a central angle of 90°00'00" (chord bearing S. 37°52'08" W., 35.36 feet); thence S. 83°58'57" W., a distance of 50.01 feet; thence Northwesterly, 37.90 feet along the arc of a non-tangent curve to the left having a radius of 25.00 feet and a central angle of 86°51'58" (chord bearing N.50°33'51" W., 34.38 feet); thence Westerly, 99.49 feet along the arc of a reverse curve to the right having a radius of 625.00 feet and a central angle of 09°07'15" (chord bearing N.89°26'13" W., 99.39 feet) to the Northeast corner of Lot 40, according to the plat of RIDGE AT HEATH BROOK PHASE 1, as recorded in plat book 14, page 115, of the Public Records of Marion County, Florida; thence along the Easterly boundary of said RIDGE AT HEATH BROOK PHASE 1, the following sixteen (16) courses; 1) N.38°23'41" W., a distance of 71.89 feet; 2) Westerly, 30.27 feet along the arc of a non-tangent curve to the right having a radius of 575.00 feet and a central angle of 03°00'59" (chord bearing N.78°25'45" W., 30.27 feet); 3) Northwesterly, 45.39 feet along the arc of a compound curve to the right having a radius of 25.00 feet and a central angle of 104°01'39" (chord bearing N.24°54'26" W., 39.41 feet); 4) Northeasterly, 82.92 feet along the arc of a compound curve to the right having a radius of 425.00 feet and a central angle of 11°10'43" (chord bearing N.32°41'45" E., 82.79 feet); 5) N.38°17'06" E., a distance of 79.69 feet; 6) Northeasterly, 70.68 feet along the arc of a tangent curve to the right having a radius of 200.00 feet and a central angle of 20°14'57" (chord bearing N.48°24'35" E., 70.32 feet); 7) N.20°17'27" W., a distance of 50.77 feet; 8) N.29°12'36" W., a distance of 125.00 feet; 9) Southwesterly, 24.88 feet along the arc of a non-tangent curve to the left having a radius of 375.00 feet and a central angle of 03°48'06" (chord bearing S. 58°53'20" W., 24.88 feet); 10) N.33°00'43" W., a distance of 125.17 feet; 11) N.31°20'27" W., a distance of 50.02 feet; 12) N.32°49'22" W., a distance of 125.00 feet; 13) Southwesterly, 3.76 feet along the arc of a non-tangent curve to the left having a radius of 675.00 feet and a central angle of 00°19'08" (chord bearing S. 57°01'04" W., 3.76 feet); 14) N.32°22'04" W., a distance of 123.50 feet; 15) N.17°07'57" W., a distance of 51.82 feet; 16) N.32°22'04" W., a distance of 140.07 feet; thence N.57°38'25" E., a distance of 220.74 feet to the Southernmost corner of PARCEL 18 of HEATH BROOK NORTH B-2, as recorded in Plat Book 9, Page 149, of the Public Records of Marion County, Florida; thence along the South line thereof, N.82°51'32" E., a distance of 1139.92 feet to the Southeast corner of said HEATH BROOK NORTH B-2, same being the West line of aforementioned EXECUTIVE PARK; thence along said West line, S. 00°08'38" W., a distance of 175.14 feet to the Southwest corner of thereof; thence along the North line of Section 3, S. 89°20'20" E., a distance of 593.35 feet to the **POINT OF BEGINNING**.

TOGETHER WITH:

COMMENCE at aforesaid "Reference Point A", run thence Southerly, 182.57 feet along the arc of a non-tangent curve to the right having a radius of 1905.00 feet and a central angle of 05°29'27" (chord bearing S.03°35'01"W., 182.50 feet) to the **POINT OF BEGINNING**; thence Southerly, 50.00 feet along the arc of a non-tangent curve to the right having a radius of 1905.00 feet and a central angle of 01°30'14" (chord bearing S.07°04'29"W., 50.00 feet); thence N.82°55'31"W., a distance of 50.00 feet; thence N.07°04'29"E., a distance of 50.00 feet; thence S.82°55'31"E., a distance of 50.00 feet to the **POINT OF BEGINNING**.

Containing 41.329 acres, more or less.

EXHIBIT B CONCEPT PLAN



	LOTS SOUTH OF SW 54TH STREET RD	LOTS NORTH OF SW 54TH STREET RD	LOTS IN PHASE	ACRES	MILES OF ROAD
PHASE 1	60	39	99	31.62	0.88
PHASE 2	0	106	106	29.44	0.90
PHASE 3	89	0	89	25.78	0.56
PHASE 4	33	64	97	18.10	0.46
TOTAL	182	209	391	104.93	2.80

GENERAL NOTES:

1. PROPERTY IS ZONED PO, WITH MAX DENSITY OF 396 UNITS PER HEATH BROOK.
DU PROPOSED DENSITY = $391 \times 0.93 = 37.3$ UNITS/ACRE
2. PHASED APPROVAL FOR PROPOSED AS FOLLOWS:
 - PHASE 1 = 40 LOTS
 - PHASE 2 = 10 LOTS
 - PHASE 3 = 10 LOTS
 - PHASE 4 = 40 LOTS
3. EASEMENTS WILL BE REQUIRED FOR A MINIMUM OF 4,000 SQUARE FEET IN AREA.
4. THE SPECIFIC USE TO BE PERMITTED ON THE PROPERTY IS SINGLE FAMILY RESIDENCES.
5. THE HEIGHT SHALL NOT EXCEED TWO (2) STORIES.
6. TYPICAL LOT WIDTHS ARE 50' MINIMUM. TYPICAL DEPTHS ARE 120' TO 150' FEET.
7. EXTERIOR WALLS ARE TO BE 6 INCHES THICK.
8. FIRE HYDRANTS ARE LOCATED NO LESS THAN 50 FEET OF THE EXTERIOR REMOTE PORTION OF PROPOSED BUILDING. CLEARANCES SHALL BE MAINTAINED OF GROUND SURFACE TO EXTERIOR WALLS AND EXTERIOR FOUNDATIONS OF THE FIRE HYDRANT, WITH FOUR (4') FEET CLEARANCE TO THE REAR OF THE HYDRANT.
9. NO FENCE WITH FOUNDATIONS WILL BE ALLOWED TO BE INSTALLED WITHIN THE PROPOSED PROPERTY.
10. EASEMENTS WILL BE REQUIRED WITH FINAL PLAT.
11. THE PROPERTY IS LOCATED IN THE 100-YEAR FLOOD PLAIN, 1,800 S.F.
12. RAISED CROSSWALKS OR OTHER TRAFFIC CALMING DEVICES APPROVED BY CITY OF OAKLA SHAULD BE USED AT MID-BLOCK CROSSINGS, PROVIDED THE DESIGN OF MID-BLOCK CROSSINGS IS APPROVED BY THE CITY OF OAKLA.

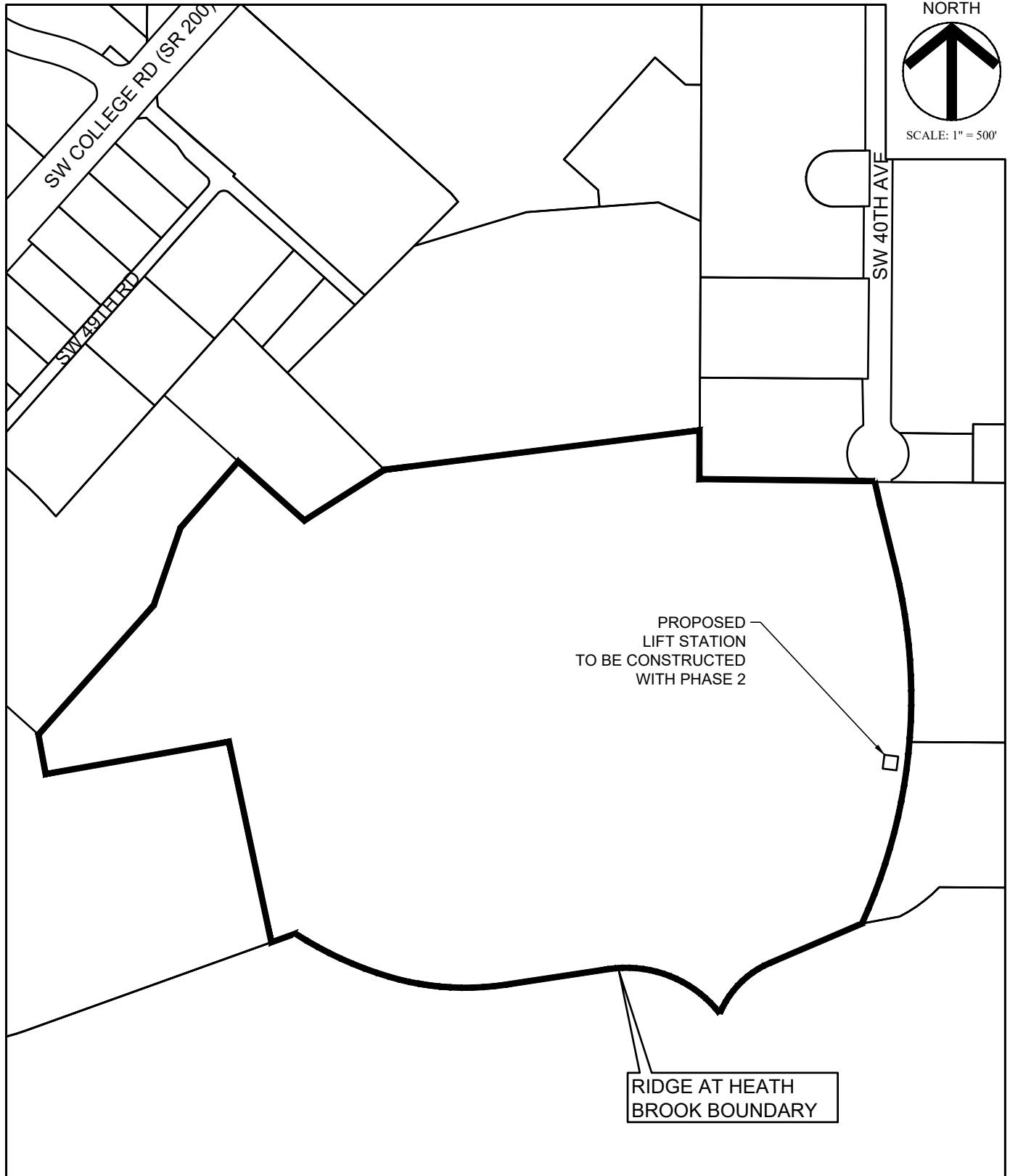
LOTS AND AMENITIES ARE PRELIMINARY AND SUBJECT TO CHANGE AT FINAL DESIGN. EASEMENTS TO BE PROVIDED ADJACENT TO RIGHT-OF-WAY AT TIME OF IMPROVEMENT PLAN & FINAL PLAT.

SITE CONSTRUCTION PLANS FOR
RIDGE AT HEATH BROOK
PHASE 1

WALDROP
ENGINEERING

Call 877-221-2222 or visit [construction.com](http://www.construction.com)

EXHIBIT C LIFT STATION



RIDGE AT HEATH BROOK PROPOSED LIFT STATION

PREPARED FOR:

FORESTAR GROUP, INC.
4042 PARK OAKS BOULEVARD
TAMPA, FLORIDA 33610
PHONE: (813) 392-3385

SECTION: TOWNSHIP: RANGE:

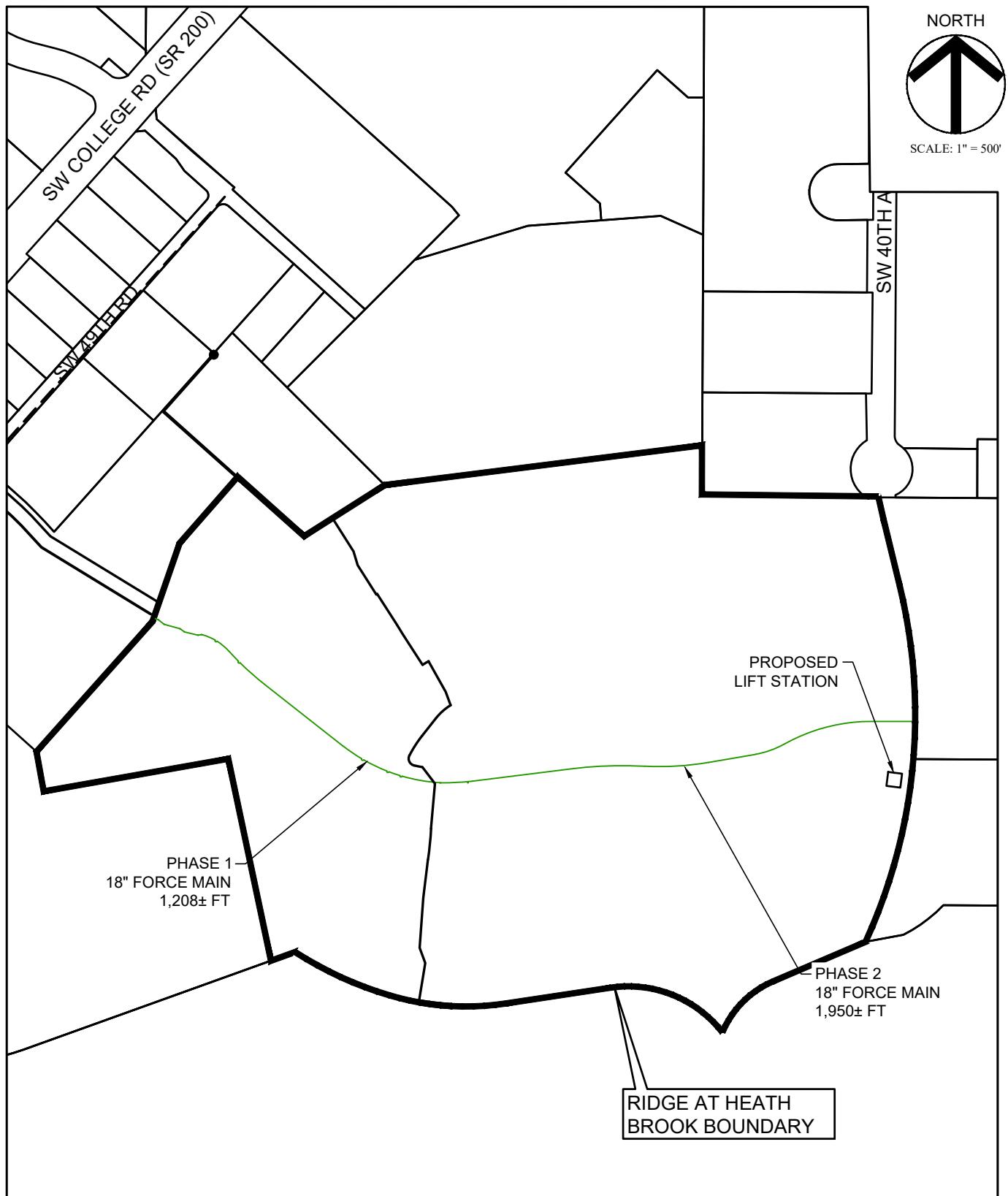
34&3 15S&16S 21E
CITY OF OCALA, FLORIDA

FLORIDA CERTIFICATE OF AUTHORIZATION #8636

FILE NAME: 1111200E021.dwg
SHEET: 2 OF 2

DAMON M. PARRISH, P.E.
FL LICENSE NO. 73145

 **ATWELL**
866.850.4200 www.atwell-group.com
111 N. MAGNOLIA AVE, SUITE 1350
ORLANDO, FL 32801
407.743.3524



RIDGE AT HEATH BROOK PROPOSED 18-INCH FORCE MAIN

PREPARED FOR:

FORESTAR GROUP, INC.
4042 PARK OAKS BOULEVARD
TAMPA, FLORIDA 33610
PHONE: (813) 392-3385

SECTION: TOWNSHIP: RANGE:

34&3 15S&16S 21E
CITY OF OCALA, FLORIDA

FILE NAME: 1111200E021.dwg
SHEET: 1 OF 2

FLORIDA CERTIFICATE OF AUTHORIZATION #8636

DAMON M. PARRISH, P.E.
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EXHIBIT E UTILITY IMPROVEMENT COST ESTIMATE



CONSULTING. ENGINEERING. CONSTRUCTION.

WASTEWATER

Description	Quantity	Unit	Unit Price	Total	Notes
Phase 1					
Connect to Existing 18" Force Main	1	EA	\$ 1,840.00	\$ 1,840.00	
18" Force Main	1,208	LF	\$ 71.55	\$ 86,432.40	
18" Plug Valve	1	EA	\$ 10,688.00	\$ 10,688.00	
Fittings	.1	LS	\$ 49,162.00	\$ 49,162.00	
Testing	1,208	LF	\$ 1.45	\$ 1,751.60	

PHASE 1 WASTEWATER TOTAL = \$ 149,874.00

Phase 2

Connect to Existing 18" Force Main	1	EA	\$ 2,190.00	\$ 2,190.00	
Increase Manhole Depth (increased from 0'-6" to 18'-20") ¹ (MH-54)	1	EA	\$ 10,020.00	\$ 10,020.00	Increased depth of manholes
Increase Manhole Depth (increased from 0'-6" to 20'-22") ¹ (MH-50)	1	EA	\$ 11,410.00	\$ 11,410.00	Increased depth of manholes
New Lined Manhole (22'-24") (MH-55)	1	EA	\$ 32,665.00	\$ 32,665.00	Added new manhole with liner
8" PVC Gravity Sewer (0-6") (between MH-49 and MH-50)	33	LF	\$ 38.70	\$ 1,277.10	Increased length of gravity sewer
12" PVC Gravity Sewer (18'-20") ² (between MH-50 and MH-54)	230	LF	\$ 92.40	\$ 21,252.00	Increased length and depth of gravity sewer
18" PVC Gravity Sewer (18'-20") ³ (between MH-54, MH-55, and Wet Well)	110	LF	\$ 216.55	\$ 23,820.50	Increased length and depth of gravity sewer
18" Force Main	1,950	LF	\$ 178.45	\$ 347,977.50	
18" Plug Valve	1	EA	\$ 10,160.00	\$ 10,160.00	
Fittings	1	LS	\$ 36,430.00	\$ 36,430.00	
Testing	1,950	LF	\$ 1.95	\$ 3,802.50	
12 ft Diameter Wet Well ⁴	1	EA	\$ 58,000.00	\$ 58,000.00	Increased diameter and depth of wet well
LS Pump & Panel ⁴	1	LS	\$ 150,370.00	\$ 150,370.00	Upsized pumps and control panel
Odor Control	1	LS	\$ 106,375.00	\$ 106,375.00	Added odor control
LS Plumbing	1	LS	\$ 132,070.00	\$ 132,070.00	Upsized internal plumbing
Electrical	1	LS	\$ 18,620.00	\$ 18,620.00	Upgraded electrical for larger pumps

PHASE 2 WASTEWATER TOTAL = \$ 966,439.60

PHASE 2 15% CONTINGENCY = \$ 144,965.94

PHASE 2 + 15% CONTINGENCY = \$ 1,111,405.54

TOTAL WASTEWATER MAIN = \$ 1,116,313.60

TOTAL WASTEWATER WITH 15% PHASE 2 CONTINGENCY = \$ 1,261,279.54

The current estimated cost is \$1,116,313.60 but in no event shall it exceed \$1,261,279.54



David P. Staley
Atwell, LLC
License No. 77637

Notes:

1. Unit price is cost difference between a 0-6' manhole and 20'-22' manhole.
2. Unit price is cost difference between 8" PVC and 12" PVC.
3. Unit price is cost difference between 8" PVC and 18" PVC.
4. Unit cost is difference in price between 8 ft wet well and 12 ft wet well and increased depth of wet well.
5. Cost to upgrade panel for future generator and pumps.
6. Unit cost for Phase 1 are based upon contract with Hughes Brothers Construction, Inc. for Ridge at Heath Brook Phase 1.
7. Cost does not include generator.