

DEVELOPMENT AGREEMENT RELATING TO
RIVER ROAD IMPROVEMENTS

THIS DEVELOPMENT AGREEMENT RELATING TO RIVER ROAD IMPROVEMENTS (this "Agreement") is made and entered into by and between Sarasota County, a political subdivision of the State of Florida ("County"), the City of North Port, a municipal corporation of the State of Florida ("City"), West Villages Improvement District, an independent special district of the State of Florida ("District"), Thomas Ranch Land Partners Village I, LLLP, a Florida limited liability limited partnership ("Land Partners"), West Villages Parkway West Associates, LLLP, a Florida limited liability limited partnership ("West Associates"), and West Villages Parkway East Associates, LLLP, a Florida limited liability limited partnership ("East Associates") (Land Partners, West Associates, and East Associates may collectively be referred to herein as "the Developers") (County, City, District, and the Developers may collectively be referred to herein as "the Parties").

RECITALS:

A. The Developers collectively own approximately 431.85 acres within the corporate limits of the City of North Port located west of and immediately adjacent to N. River Road and bisected by West Villages Parkway ("the Property").

B. The Property is designated and zoned "Village" under the City's *Comprehensive Plan* and *Unified Land Development Code*.

C. That portion of the Property north of West Villages Parkway is: (1) approximately 71.56 acres owned by Land Partners and West Associates; (2) approved for an up to 107-unit residential subdivision having structures that are a maximum of 50' in height and internal infrastructure and amenities, including a stormwater management system; (3) entitled by the City as "Village A, Neighborhood 8;" and (4) to be developed as "The Preserve at West Villages" ("Village A"). Village A is more particularly described in Exhibit "A" and graphically depicted on the master conceptual development plan in Exhibit "B," both of which are attached hereto and made a part hereof by this reference.

D. That portion of the Property south of West Villages Parkway is: (1) approximately 360.24 acres owned by Land Partners and East Associates; (2) approved as a 1,200 unit residential subdivision having structures that are a maximum of 50' in height and internal infrastructure and amenities, including a stormwater management system; (3) entitled by the City as "Village B;" and (4) to be developed in two neighborhoods known as "The Renaissance at West Villages" and "The Oasis at West Villages" (collectively, "Village B"). Village B is more particularly described in Exhibit "C" and graphically depicted on the master conceptual development plan in Exhibit "D," both of which are attached hereto and made a part hereof by this reference.

E. N. River Road is presently a 2-lane rural County road of significant importance to the public as a major arterial roadway that serves as the hurricane evacuation route for much of the City and the southern portion of the County, including the Englewood community.

F. The County is designing, permitting, and constructing improvements to that segment of N. River Road between U.S. 41 and I-75 (CIP Project #95760; "River Road Regional Interstate Connector," formerly, "Englewood Interstate Connector") to improve the hurricane evacuation capacity of the regional transportation network and provide roadway capacity for planned growth in the area, including both the City and unincorporated portions of the County ("the Road Project").

G. Specifically, the Road Project will involve reconstructing N. River Road to 4-lanes, and designing it to eventually be widened to 6-lanes.

H. In order to construct the Road Project, the County will be constructing, as ancillary facilities or components, lakes within its right-of-way adjacent to Village A and Village B which will accommodate stormwater flowing from the Road Project.

I. The ancillary lakes described in Recital H are, however, not sufficient to accommodate stormwater capacity necessary to serve the Road Project; thus, the County has requested additional stormwater capacity.

J. Land Partners will be constructing stormwater management systems within Village A and Village B, including lakes along their N. River Road frontage, adjacent to N. River Road right-of-way within which the County will be constructing the Road Project.

K. Land Partners is willing to design, permit and construct such lakes to provide excess capacity to serve the Road Project and convey same to the County.

L. District is a limited, single and specialized-purpose governmental entity created to provide certain infrastructure within the Village-designated lands in which Village A and Village B are situated, including community development systems, facilities, services, and projects.

M. Consistent with Recital L, District will be constructing a Public Park within Village B, as described within this Agreement.

N. Consistent with the City's Comprehensive Plan, the City has adopted Concurrency Management Regulations, codified as Chapter 5, *Unified Land Development Code of the City of North Port, Florida* ("the Concurrency Management Regulations") to ensure that public transportation facilities needed to support development shall be available concurrent with the impacts of such development.

O. The Concurrency Management Regulations require public facilities to meet or exceed the level of service standards established by the City Comprehensive Plan and prohibit the City from issuing development permits which result in a reduction in the levels of service for the affected public facilities below the adopted levels of service established by the Comprehensive Plan.

P. The development within Village A and Village B are required to comply with the Concurrency Management Regulations with regard to all applicable facilities, including roadways and recreation and open space.

Q. Further, pursuant to the Florida Local Government Development Agreement Act, Sections 163.3220 through 163.3243, *Florida Statutes*, the City has adopted Development Agreement Regulations, codified as Chapter 54, *Unified Land Development Code of the City of North Port, Florida* (“City Development Agreement Regulations”), which authorizes the City to enter into development agreements to ensure that adequate public facilities are in place to serve development as required by the Concurrency Management Regulations.

R. Likewise, the County has adopted Development Agreement Regulations, codified as Chapter 94, Article VIII, *Sarasota County Code* (“County Development Agreement Regulations”), which authorize the County to enter into development agreements.

S. The Parties are entering this Agreement to address: (1) the Developers providing and conveying to County stormwater volume to serve the Road Project that will create capacity on the public roadway system; (2) the Developers providing a public park that will provide the public with additional recreation and open space; and (3) the vesting of transportation concurrency and park concurrency for Village A and Village B for the term of this Agreement.

T. The Developers have filed and processed with City and County a Development Agreement Application. City and County have reviewed and considered such Development Agreement Application, additional reports and data prepared in support of the Application, this Agreement, the recommendations of their professional staff and public testimony received at duly noticed public hearings.

U. Having taken the actions described in Recital T, City and County find this Agreement to be consistent with their respective Comprehensive Plans and applicable land development regulations and have, accordingly, approved this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the Parties hereby agree as follows:

1. **Recitals True and Correct.** The Recitals set forth above are true and correct and are incorporated herein by this reference.

2. **County's Obligations.**

A. **Road Project Improvements.** The County shall permit, design and construct the Road Project, with the exception of the Lakes to be constructed by Land Partners, as provided in Section 4.B, below. Further, the County shall cooperate with Developers' efforts in permitting and constructing the Lakes pursuant to Section 4.B, below, and the Easement Agreements which cooperation shall include joining in or consenting to permit applications filed with jurisdictional agencies pertaining to the Lakes.

B. **Public/Private Stormwater and Recreation Area Easement Agreements.** No later than 30 days from the Effective Date of this Agreement, County shall enter the Public/Private Easement Agreements, attached hereto as Exhibit "E" (the "Easement Agreements") which instruments contain the description of any lands reserved or dedicated for public purposes pursuant to this Agreement.

3. **City's Obligations.**

A. **Concurrency Vesting for Roadways and Recreation and Open Space.** Village A and Village B shall be vested and deemed concurrent under the City's concurrency requirements with regard to Roadways and Recreation and Open Space, as contained within the Concurrency Management Regulations and the City's Comprehensive Plan, for a period of seven (7) years from the Effective Date of this Agreement.

B. **Changes to Development.** The development vested for Village A and Village B, as described in this Agreement and as depicted on the master conceptual development plans attached as Exhibits "B" and "D," is not binding. The land uses, development totals, and project layout of Village A and Village B may be modified or changed by the Developers so long as such modifications or changes do not increase the impact on Roadway facilities and Recreation and Open Space facilities beyond the concurrency vesting period provided under Section 3.A, above.

(1) **Roadway Facilities.** For the purpose of this Section 3.B, a modification or change does not result in an increased impact on Roadway facilities so long as it is demonstrated that: (a) such changes or modifications do not result in an increase in the number of the PM Peak Hour Trips for which Village A and Village B are, cumulatively, vested (743 PM Peak Hour Trips); or (b) such changes do result in the generation of more PM Peak Hour Trips than Village A and Village B are vested for under this Agreement, but there is otherwise adequate capacity on the impacted roadway network for the such development, with the changes, to comply with the Concurrency Management Regulations.

(2) **Parks and Open Space Facilities.** For the purpose of this Section 3.B, a modification or change does not result in an increased impact on Park and Open Space facilities so long as it is demonstrated that such changes will not result in more than 1,307 dwelling units being constructed on the Property.

Any changes to the development within Village A and Village B shall be consistent with the City *Unified Land Development Code*.

4. **Developers' Obligations.**

A. Public/Private Stormwater Easement Agreements. No later than 30 days from the Effective Date of this Agreement, Developers shall enter the Easement Agreements.

B. Construction of Joint Use Stormwater Facility to Serve Road Project. Land Partners shall design, permit, and construct stormwater ponds on those portions of Village A as generally depicted on the Master Development Concept Plan for Village A (Exhibit "B") and on those portions of Village B as generally depicted on the Master Development Concept Plan for Village B (Exhibit "D") (the "Lakes"). The Lakes shall be a component of the stormwater management system to serve Village A and Village B development, in addition to providing excess stormwater storage capacity to serve the Road Project constructed by County. Further, Developers shall cooperate with County's efforts in permitting and constructing the Road Project's connection to the Lakes consistent with Section 2.A, above, and the Easement Agreements which cooperation shall include joining in or consenting to the County's permit applications filed with jurisdictional agencies to allow such connection.

(1) The Village A Lakes described within Exhibit "G" shall be certified complete no later than July 1, 2017.

(2) The Village B Lakes described in Exhibit "F" shall be certified complete no later than July 1, 2018.

(3) The excess stormwater capacity within the Lakes shall be conveyed to the County for treatment and attenuation in such volumes as described in the Easement Agreements.

(4) The District shall maintain the Lakes consistent with all applicable governmental regulations and permits.

5. **District's Obligations.**

A. Construction of Public Park. The District shall construct an approximately 32-acre public park within Village B on its east boundary, along its N. River Road frontage ("Public Park") located in substantial accordance with Exhibit "D." The Public Park shall provide passive recreational facilities to include a pedestrian trail, environmental features, and lakes and be completed by July 1, 2019. Access to the Public Park shall be provided directly from N. River Road and shall include public vehicular and bicycle parking. The Public Park shall be dedicated to the District by the first subdivision plat for Village B, if not conveyed to the District sooner. As reflected in Exhibit "E," the District shall have the right, but not the obligation, to incorporate the County owned lakes adjacent to Village B into the improved Public Park, which may include constructing a pedestrian trail and ancillary park improvements on such land. All of the lands embraced within the

Public Park shall be maintained by the District. The City agrees and acknowledges that the provision of the Public Park as described in this provision shall constitute "Town Center Park #1" under Section III, subsection 3, of the General Principles of Agreement, dated June 26, 2006, between City, the District and Developers' predecessor in interest, as amended ("General Principles of Agreement"). To the extent the terms of this Agreement conflict with the terms of the General Principles of Agreement relating to "Parks and Recreation," the City, the District and the Developers agree that the terms of this Agreement shall prevail and control.

B. Public/Private Stormwater Easement Agreement. No later than 30 days from the Effective Date of this Agreement, District shall enter the Easement Agreements.

6. Road Impact Fee Credit. The Parties agree that Land Partners is entitled to Road Impact Fee Credit for the cost of the lands it dedicates for the Road Project, in addition to the costs associated with designing, permitting, and constructing the ancillary Lakes providing stormwater capacity to serve the Road Project ("Road Project Contribution").

A. County Road Impact Fee Credit. The Road Project is a "Road Facility Project" for which Impact Fee Credit may be approved by the County pursuant to Section 70-103, *Sarasota County Code*. Upon the Lakes being certified complete to serve the Road Project and accepted for maintenance by the District, the Land Partners shall file an impact fee credit petition with the County reflecting its total Road Project Contribution made in connection with the Road Project and including a "credit agreement" for approval and entry by County. The County credit shall take the form of a reimbursement payment by the County to Land Partners of paid impact fees in accordance with a reimbursement request or other process established in the credit agreement. The entry of this Agreement by Parties shall constitute Land Partners' submission of a petition and the County Impact Fee Administrator's determination of credit eligibility as contained within Section 70-103(a), *Sarasota County Code*. The amount of the credit to be shall not exceed the amount of the Land Partners' contribution (the cost of the construction and dedication) for the Road Project and shall be based upon certified cost estimates submitted by Land Partners.

B. City Transportation Impact Fee Credit. The Road Project constitutes "impact-fee eligible system improvements" for which reimbursements or transportation credits may be approved by the City pursuant to Section 58-109, *Unified Land Development Code of the City of North Port, Florida*. Upon the Lakes being certified complete to serve the Road Project and accepted for maintenance by the District, Land Partners shall file an impact fee credit petition with the City reflecting its total Contribution incurred in connection with the Road Project and including a "developer agreement" for approval and entry by City. The District's accepting the Lakes for maintenance shall constitute acceptance by the City for the purpose of Section 58-109(b). The City credit shall take the form of a reduction in the otherwise applicable road impact fee assessed for development within Village A and Village B until the amount of credit is exhausted, or, if development within Village A and Village B has proceeded to building permit issuance and transportation impact fees have been paid prior to approval of a developer agreement, the credit shall be provided as a reimbursement payment by the City to Land Partners in accordance with a payment schedule established in such developer agreement.

C. Impact Fee Credit Provided Proportionately. The amount of County and City Road impact fee credit shall be limited to the total amount of Land Partners' Road Project Contribution. The cumulative amount of the County and City impact fee credit shall be reflected proportionately in each of the separate agreements Land Partners enters with the County and the City.

D. Amendments to Road/Transportation Impact Fee Regulations. If the City and/or County should amend their respective regulations with regard to the imposition and administration of Road Impact Fees or Transportation Impact Fees, including the changing the types of fees collected to address development's impact on the public roadway network (including, but not limited to, replacing such fees with mobility fees), then the provisions of this Section shall refer and apply to such fees.

E. City Park Impact Fees. The Public Park constitutes "impact-fee eligible system improvements" for which reimbursements or transportation credits may be approved by the City pursuant to Section 58-109, *Unified Land Development Code of the City of North Port, Florida*. Upon the Public Park being certified complete by the engineer of record and such original written certification being provided to the City Engineer, Land Partners shall file an impact fee credit petition with the City reflecting the total Contribution incurred in connection with the Public Park and including a "developer agreement" for approval and entry by City. The District's completion of the Public Park as memorialized in the written certification provided to the City Engineer, shall constitute acceptance by the City for the purpose of Section 58-109(b). The City credit shall take the form of a reduction in the otherwise applicable park impact fee assessed for development within Village A and Village B until the amount of credit is exhausted, or, if development within Village A and Village B has proceeded to building permit issuance and park impact fees have been paid prior to approval of a developer agreement, the credit shall be provided as a reimbursement payment by the City to Land Partners in accordance with a payment schedule established in such developer agreement. Consistent with Section 5.A, the City, to the extent of a conflict, the District and the Developers agree that the terms of this Section 6.E prevails over the terms of the General Principles of Agreement.

7. Duration and Term. The term of this Agreement shall be seven (7) years from the date Effective Date. This term may be extended or modified as provided for under the City's and County's Development Agreement Regulations.

8. Annual Monitoring Report. During the timeframe set forth in Section 7, above, or until build-out of Village A and Village B, whichever occurs first, Developers shall file with the County's Planning and Development Services Business Center and the City's Neighborhood Development Services Department an Annual Monitoring Report for such development consistent with the requirements of their respective Development Agreement Regulations. The first such report shall be filed no later than one (1) year from the Effective Date of this Agreement. All subsequent reports shall be filed by the same date thereafter. The Developers and their successors and assigns may, at their option, file separate monitoring reports with the City and the County for Village A and Village B.

9. **Amendment or Cancellation.** This Agreement may be amended or cancelled according to the procedures contained within the County's and City's Development Agreement Regulations. Any amendment, modification, cancellation or revocation of this Agreement must also comply with the Florida Local Government Development Agreement Act.

10. **Notices.** All notices required or permitted to be given hereunder by the Parties shall be in writing and shall be deemed given when:

A. hand-delivered,

B. delivered via Federal Express, UPS or other nationally recognized overnight courier service, receipt required, or

C. transmitted via facsimile or electronically, provided a hardcopy is sent the next business day by method A or B, above.

All notices shall be addressed as follows:

To the County:

County Administrator
1660 Ringling Boulevard
Second Floor
Sarasota, Florida 34236

Copy to:

County Attorney
1660 Ringling Boulevard
Second Floor
Sarasota, Florida 34236

To the City:

City Manager
4970 City Hall Boulevard
Third Floor
North Port, FL 34286

Copy to:

City Attorney
4970 City Hall Boulevard
Third Floor
North Port, FL 34286

To Developers:

Jim Leiferman
1900 Summit Tower Boulevard, Suite 500
Orlando, Florida 32810

Copies to:

Charles D. Bailey, III, Esquire
Williams, Parker, Harrison, Dietz & Getzen
200 South Orange Avenue
Sarasota, Florida 34236

and

Leslie C. Candes, Esquire
1900 Summit Tower Boulevard
Suite 500
Orlando, FL 32810

11. **Legal Fees and Costs.** The Parties agree to bear the expense of their respective legal fees and costs associated with the negotiation and preparation of this Agreement.

12. **Partial Invalidity.** If any part of this Agreement shall be determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect, provided that the part of this Agreement thus invalidated or declared unenforceable is not material to the intended operation of this Agreement.

13. **Approvals Not Referenced in Development Agreement.** The failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve the Parties or any of their affiliates, successors or assigns of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.

14. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors, assigns, grantees and legal representatives. This Agreement shall be recorded in the Public Records of Sarasota County, Florida pursuant to Section 19, below, and the provisions hereof shall constitute a covenant running with the land described in Exhibit "A" (the Property). The assignment of any rights and obligations of the Developers under this Agreement shall be memorialized in a written instrument executed by the Developer or Developers, as applicable, in the same manner as this Agreement and recorded in the official records of Sarasota County, Florida. A copy of such assignment instrument shall be delivered to the City and County no later than the next required Annual Monitoring Report.

15. **Enforcement.** The Parties, any "aggrieved or adversely affected person," as defined in Section 163.3215(2), Florida Statutes, or the state land planning agency may file an action for injunctive relief in the circuit court to enforce the terms of this Agreement or to challenge compliance of this Agreement with Sections 163.3220 through 163.3243, *Florida Statutes*.

16. **Choice of Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Florida. Venue for any dispute or action shall be Sarasota County, Florida.

17. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes any and all prior understandings, if any. There are no other oral or written promises, conditions, representations, understandings, or terms of any kind as conditions or inducements to the execution hereof, and none have been relied upon by the Parties. Any subsequent conditions, representations, warranties, or agreements shall not be valid and binding upon the Parties unless they are in writing, signed by the Parties, and executed in the same manner as this Agreement. This Agreement addresses the issue of transportation concurrency and recreation and open space concurrency for Village A and Village B for the time period set forth in Sections 3.A and 7. No new City regulations or amendments to current City regulations and its Comprehensive Plan which may be adopted following the Parties' execution of this Agreement shall affect the concurrency rights provided Village A and Village B under the terms of this Agreement.

18. **Parties Drafted Equally.** The Parties agree that they have played an equal and reciprocal part in drafting this Agreement. Therefore, no provisions of this Agreement shall be

construed by any court or other judicial authority against any of the Parties because such party is deemed to have drafted or structured such provisions.

19. **Recording and Transmittal by Clerk.** The Clerk of the Circuit Court of Sarasota County, as Clerk to the Board of County Commissioners, shall record this Agreement within fourteen (14) days of its being executed by the Parties. The County shall then transmit a recorded copy of this Agreement, by certified mail, return receipt requested, to the state land planning agency and City within fourteen (14) days of recording.

20. **Effective Date.** This Agreement shall become effective thirty (30) days after a recorded copy of same has been received by the state land planning agency (“Effective Date”).

21. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one instrument.

22. **List of Exhibits.** A list of the Exhibits attached to this Agreement, as referenced in the foregoing provisions, is as follows:

- A. Exhibit “A:” Legal Description of Village A;
- B. Exhibit “B:” Master Conceptual Development Plan for Village A;
- C. Exhibit “C:” Legal Description of Village B;
- D. Exhibit “D:” Master Conceptual Development Plan for Village B; and
- E. Exhibit “E:” Public/Private Stormwater and Recreation Area Easement Agreement.

[Signatures Pages Follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates indicated below.

Dated this ____ day _____, 2015, as to County.

“The County”

ATTEST:
KAREN E. RUSHING, Clerk of the Circuit
Court and Ex-Officio Clerk of the Board of

SARASOTA COUNTY, a political
subdivision of the State of Florida

County Commissioners, Sarasota County,
Florida

By the:
BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

By: _____
Deputy Clerk

Approved as to form and correctness:

By: _____
Carolyn Mason, Chair

By: _____
County Attorney

Dated this ____ day _____, 2015, as to City.

CITY OF NORTH PORT, FLORIDA

RHONDA Y. DIFRANCO,
MAYOR

ATTEST:

HELEN M. RAIMBEAU, MMC
CITY CLERK

Approved as to form and correctness:

MARK MORIARTY
CITY ATTORNEY

Dated this ____ day _____, 2015, by the District.

West Villages Improvement District, an independent special district of the State of Florida

ATTEST:

By: _____
Print: _____
Title: _____

By: _____
Martin P. Black
Chairman

Dated this ____ day _____, 2015, as to Land Partners.

Witnesses:

**THOMAS RANCH LAND PARTNERS
VILLAGE I, LLLP,**
a Florida limited liability limited partnership

By: Thomas Ranch Villages GP, LLC,
a Delaware limited liability company
As its: General Partner

By: Thomas Ranch Manager, LLC,
a Delaware limited liability
company
As its: Manager

Print Name: _____

By: _____
Jim Leiferman, Manager

Print Name: _____

Dated this ____ day _____, 2015, as to the West Associates.

Witnesses:

**WEST VILLAGES PARKWAY WEST
ASSOCIATES, LLLP,**
a Florida limited liability limited partnership

By: Thomas Ranch Villages GP, LLC,
a Delaware limited liability company
As its: General Partner

By: Thomas Ranch Manager, LLC,
a Delaware limited liability company
As its: Manager

Print Name: _____

By: _____
Jim Leiferman, Manager

Print Name: _____

Dated this ____ day _____, 2015, as to the East Associates.

Witnesses:

**WEST VILLAGES PARKWAY EAST
ASSOCIATES, LLLP,**
a Florida limited liability limited partnership

By: Thomas Ranch Villages GP, LLC,
a Delaware limited liability company
As its: General Partner

By: Thomas Ranch Manager, LLC,
a Delaware limited liability company
As its: Manager

Print Name: _____

By: _____
Jim Leiferman, Manager

Print Name: _____