

City of Palm Coast, Florida Agenda Item

Agenda Date: February 6, 2024

Department	CONSTRUCTION MANAGEMENT & ENGINEERING	Amount	
Division		Account #	
Subject:	RESOLUTION 2024-XX APPROVAL OF A FLORIDA DEPARTMENT OF TRANSPORTATION STATE-FUNDED GRANT AGREEMENT FOR MATANZAS WOODS PARKWAY EXTENSION WEST PHASE TWO PROJECT		
Presenter:	Carl Cote, Director of Stormwater & Engineering		
Attachments:	<ol style="list-style-type: none"> 1. Presentation 2. Resolution 3. State-Funded Grant Agreement (#453214-1-54-01) 		
Background:	<p>Council Priority: B. Safe and Reliable Services</p> <p>City Staff is requesting approval of a Florida Department of Transportation (FDOT) (#453214-1-54-01) State-Funded Grant Agreement for the Matanzas Woods Parkway Extension West Phase Two Project. The estimated project cost for design and construction is \$31,500,000.00 the department agrees to participate in the project cost up to a maximum amount of \$25,000,000.00. The estimated city-funded portion for this project is \$6.5 million. Funds for this project are budgeted out of the five-year Capital Improvement Transportation Impact fund.</p> <p><u>ORIGINAL BACKGROUND FROM THE JUNE 20, 2023, BUSINESS MEETING</u></p> <p>The Florida East Coast Railway (FEC) runs north/south just west of US 1, bisecting Palm Coast. There are approximately 12,000 acres of land within the City limits and west of the railroad tracks, with limited access. Currently, there are only two, at grade, railroad crossings within the city limits.</p> <p>The City believes that one or more western roadway extensions are needed to provide additional access to this western portion of the City to promote economic opportunities. Judicious transportation investments lower the costs of moving people and goods increasing economic productivity. Because productivity is a central component of economic growth, it should be a strong consideration when assessing the value of transportation expenditures. Opening these corridors will promote economic opportunities in Palm Coast and Flagler County. Transportation access to the west is part of the Northeast Florida Regional Council's 2022 Legislative Priorities as adopted by City Council.</p> <p>On March 15, 2022, City Council approved a Work Order with England-Thim & Miller, Inc. to perform a feasibility study to investigate the feasibility of the permitting and construction of westward extensions of Matanzas Woods Parkway, Palm Coast Parkway, Royal Palms</p>		

Parkway, and Whiteview Parkway. Services included a review of possible roadway alignments, impacts to existing properties/uses, rights-of-way needs, design/permitting requirements, wetland and floodplain impacts, and construction costs.

Due to several factors, the City proceeded with the western extension of Matanzas Woods Parkway as its first priority.

- Its close proximity to US 1, connection to I-95, and fewer environmental constraints than other areas, Matanzas Woods is a viable solution for access to the west.
- Current site development was occurring between the railroad and the current termination point of Matanzas Woods Parkway which expedited the need to coordinate with the developer and determine a roadway alignment and identify right-of-way needs.
- The City Master Plan for a new Public Works Facility that will connect to and abut the West Matanzas Woods Parkway and will require coordination for access points and traffic circulation as well as potential for a shared stormwater facility.

On March 15, 2022, City Council approved a Work Order with DRMP, Inc., to begin design of a set of roadway plans for the extension of the West Matanzas Woods Parkway to the west including a flyover the FEC railroad and terminating when roadway gets back down to grade. During this process and coordination with FEC, FPL, FDOT and the state there were requests to provide a long-range plan showing at least the initial roadway configuration and access points as well as a more detailed cost estimate for this entire roadway for use in seeking additional state funding.

Staff advertised a request for qualifications (RFSQ-23-39) for engineering services to complete 100% construction plans and permitting for the western extension of the West Matanzas Woods Parkway Phase 1 project where the flyover the railroad terminates at grade on the western side of the railroad tracks and to provide 30% plans for the continuation heading south to Palm Coast Parkway with a new proposed flyover heading back east over the railroad tracks back to US 1 in alignment with the existing US1 / Palm Coast Parkway intersection. This 30% set will be utilized to meet the coordination requirements of FDOT and FEC as well as to provide a detailed construction estimate.

On June 20, 2023, City Council approved a contract with England-Thim & Miller, Inc., for an amount not to exceed \$5,742,070.00 for engineering services for the extension of the West Matanzas Woods Parkway to Palm Coast Parkway connector Roadway.

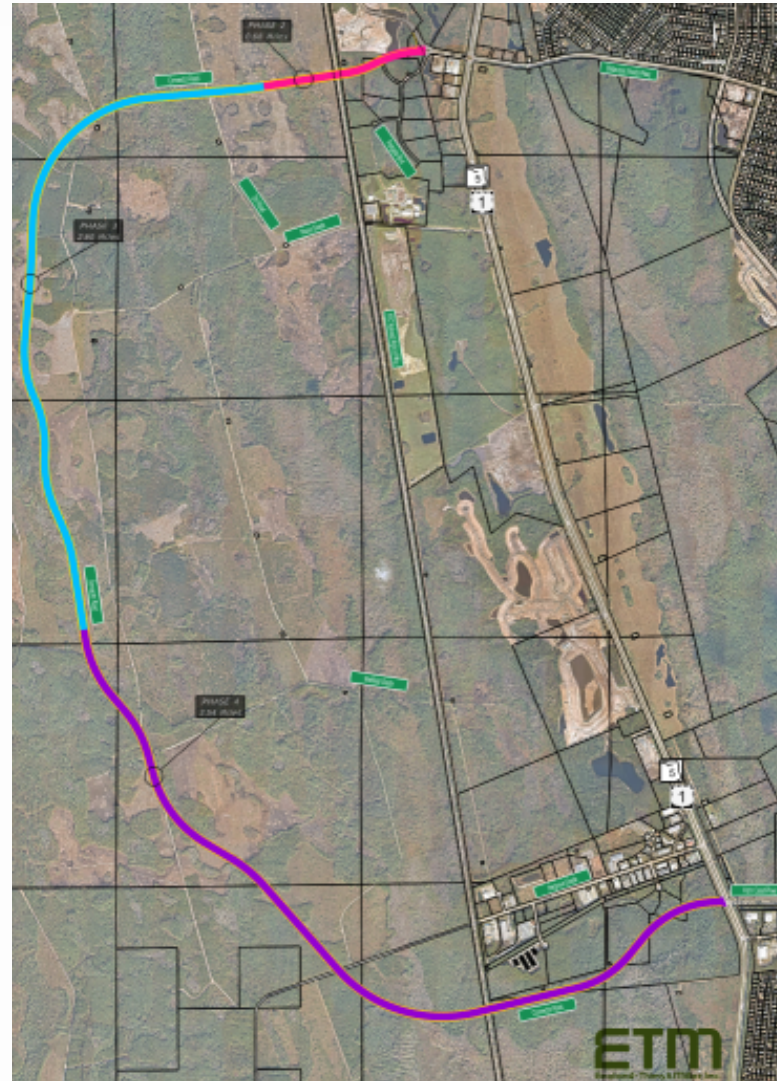
Recommended Action:

ADOPT RESOLUTION 2024-XX APPROVAL OF A FLORIDA DEPARTMENT OF TRANSPORTATION STATE-FUNDED GRANT AGREEMENT FOR MATANZAS WOODS PARKWAY EXTENSION WEST PHASE TWO PROJECT



Matanzas Woods Pkwy to Palm Coast Pkwy Connector Roadway

Project Update



Appropriations and Funding Requests

INFRASTRUCTURE

Transportation Access to the West



Background: The FEC Railroad bisects Palm Coast running north/south just west of US1. There are approximately 12,000 acres of land within the Palm Coast municipal boundaries west of the railroad tracks with limited access. Currently, there are only two, at grade, railroad crossings within the city limits. The City is actively evaluating options for three additional westbound corridors at Matanzas Woods Parkway, Palm Coast Parkway, and Whiteview Parkway. Judicious transportation investments lower the costs of moving people and goods increasing economic productivity. Because productivity is a central component of economic growth, it should be a strong consideration when assessing the value of transportation expenditures. Opening these corridors will promote economic opportunities in Palm Coast and Flagler County.

Request Action: Provide funding or legislative support for transportation projects that will improve access to large land tracts on the west side of Palm Coast.

Effect: Improved access to the west will provide opportunities for regional economic advancement.



Background

- The first phase of this project was identified by the City of Palm Coast as a Legislative Priority for 2022.
- June 20, 2023, the City of Pam Cost Presented a Resolution to the City Council to adopt the Design Service Contract with England Thims and Miller (ETM).



Design

- 90% complete

Right-of-Way

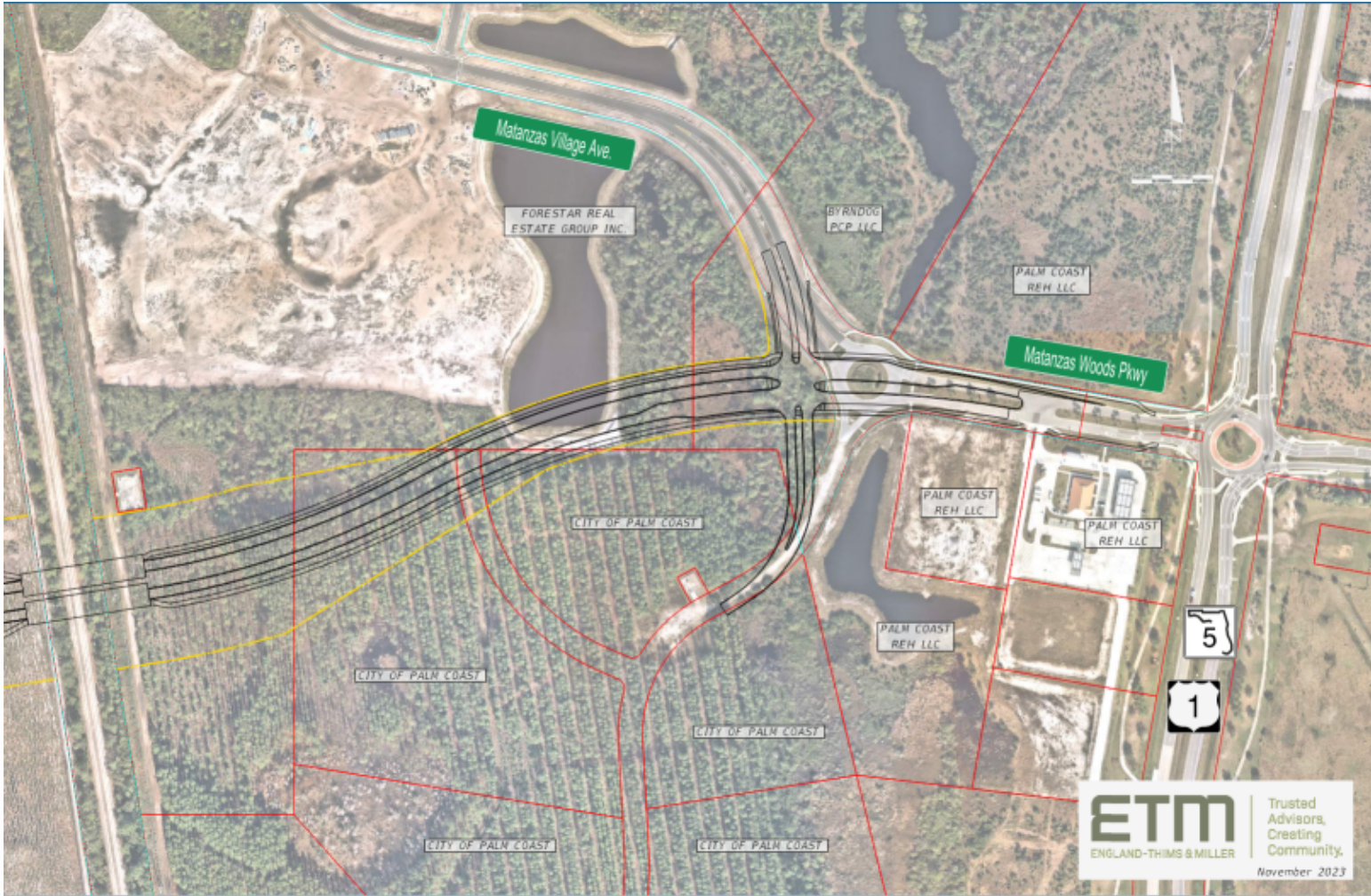
- Partially Obtained

Conservation Easement Release

- Underway

FEC Railway

- Underway



FDOT – State Funded Grant Agreement

- City is coordinating with FDOT to finalize the State Funded Grant Agreement for the Legislative Appropriation Funds.

Florida Power & Light

- City and ETM are coordinating with FPL.
- FPL has prepared a cost proposal for the City to approve so that FPL can begin the design for the temporary box-out and permanent pole height replacement of the FPL overhead distribution lines.
- After completion of FPL design an Agreement with FPL will be brought to City Council for FPL to complete the construction work.

Florida East Coast Railway

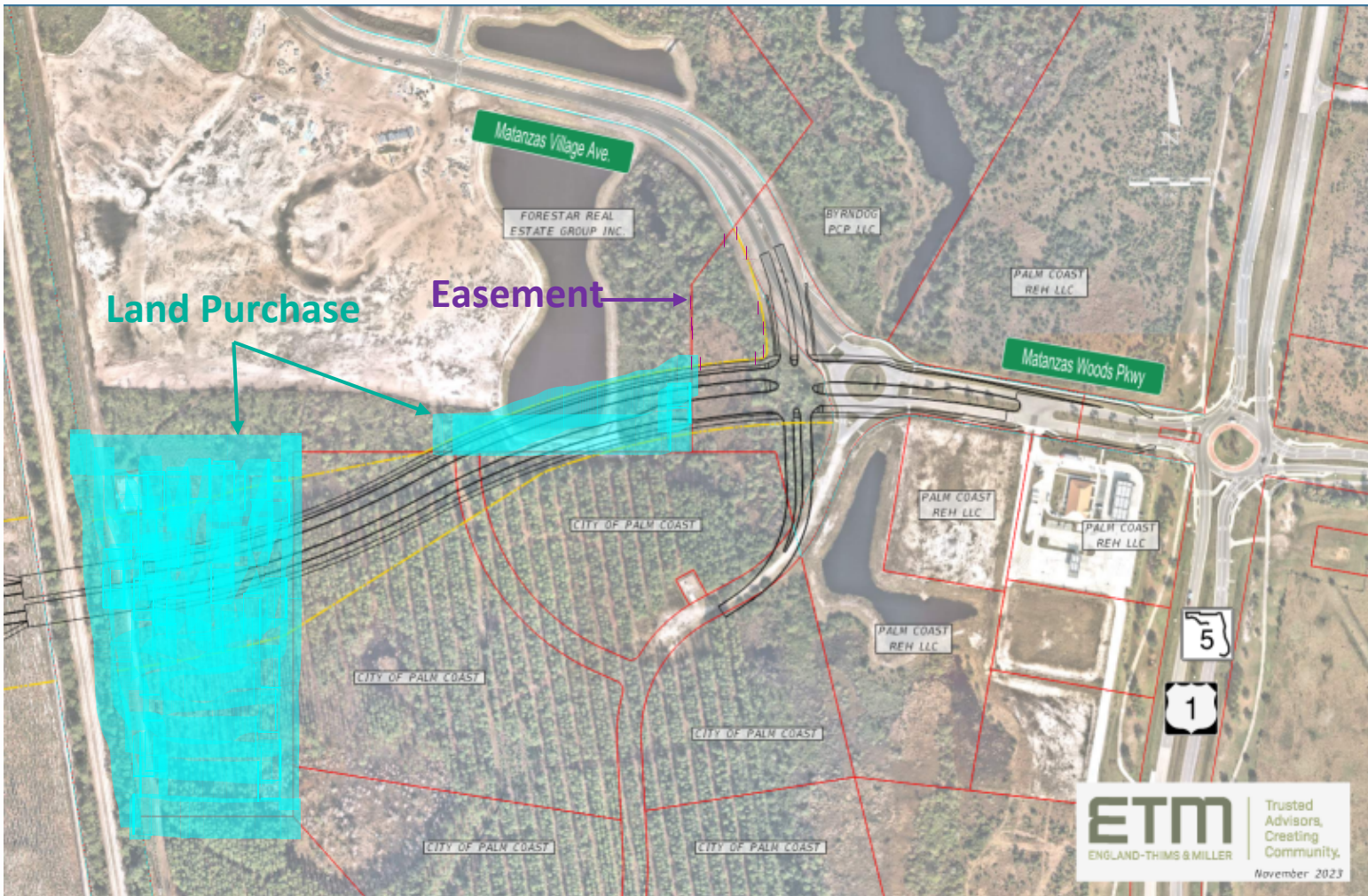
- The City of Palm Coast (COPC) and the City of Bunnell are collaborating to close one crossing in Bunnell in place of opening an overhead crossing.
- The City of Bunnell is in the process of completing an FDOT application for Closing a Railroad Grade Crossing.
- FDOT will establish the Stipulation of Parties agreement between FDOT, the Railroad, the City of Bunnell, and the City of Palm Coast.

Conservation Easement Release

- The City of Palm Coast (COPC) and Consultants for Matanzas Roadway project and Maintenance Operations Center are in the final steps in obtaining the Release of Conservation Easements for these two projects from St. Johns River Water Management District.
- On December 19th, 2023 City Council approved the approval of agreement and cost for mitigation credits.

Right-of-Way

- Remaining Lands shown in Green
- Easement to be Grant by City shown in Purple



Council Action

- Approval for City to final negotiations and execute an FDOT state funded grant agreement.
- Approval of expenses/deposit in the amount of \$450,000 to FPL for the initiation of the FPL distribution line modification design.

RESOLUTION 2024-____
STATE- FUNDED GRANT AGREEMENT
MATANZAS WOODS PARKWAY EXTENSION WEST PHASE TWO

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, APPROVING A STATE-FUNDED GRANT AGREEMENT WITH FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR MATANZAS WOODS PARKWAY EXTENSION WEST PHASE TWO PROEJCT; AUTHORIZING THE CITY MANAGER, OR DESIGNEE TO EXECUTE THE AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the State of Florida Department of Transportation and City of Palm Coast desire to facilitate the Matanzas Woods Parkway Extension West Phase Two Project and,

WHEREAS, The State of Florida Department of Transportation has requested the City of Palm Coast to execute and deliver to the State of Florida Department of Transportation the State Funded Grant Agreement for the aforementioned project, financial Project Number (#453214-1-54-01).

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the findings of the City Council of the City of Palm Coast.

SECTION 2. APPROVAL OF GRANT AGREEMENT. The City Council of the City of Palm Coast hereby approves the terms and conditions of the State of Florida Department of Transportation State-Funded Grant agreement for the aforementioned project, financial project number (#453214-1-54-01).

SECTION 3. AUTHORIZATION TO NEGOTIATE, FINALIZE, AND EXECUTE. The City Manager, or designee has the authorization to negotiate, finalize, and execute the necessary documents.

SECTION 4. FUTURE AMENDMENTS. The City Manager, or designee is hereby authorized to approve any future amendments.

SECTION 5. CONFLICTS. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

SECTION 6. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 7. EFFECTIVE DATE. This Resolution shall become effective immediately upon adoption.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on the 6th day of February 2024.

ATTEST:

CITY OF PALM COAST

KALEY COOK, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY

ANTHONY A. GARGANESE, CITY ATTORNEY

Attachments: Exhibit "A" – (DRAFT) State-Funded Grant Agreement (#453214-1-54-01)

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

525-010-60
PROGRAM MANAGEMENT
05/23

FPN: <u>453214-1-54-01</u>	Fund: <u>GR24</u> Org Code: <u>55054010508</u>	FLAIR Category: <u>088862</u> FLAIR Obj: <u>751000</u>
FPN: <u>453214-1-54-01</u>	Fund: <u>LF</u> Org Code: <u>N/A</u>	FLAIR Category: <u>N/A</u> FLAIR Obj: <u>N/A</u>
FPN: _____	Fund: _____ Org Code: _____	FLAIR Category: _____ FLAIR Obj: _____
County No: <u>73</u>	Contract No: _____	Vendor No: <u>F596000605015</u>

THIS STATE-FUNDED GRANT AGREEMENT ("Agreement") is entered into on _____, (This date to be entered by DOT only)
by and between the State of Florida Department of Transportation, ("Department"), and the City of Palm Coast, ("Recipient").
The

Department and the Recipient are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties".

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

- 1. Authority:** The Department is authorized to enter into this Agreement pursuant to Sections 334.044, 334.044(7), and (*select the applicable statutory authority for the program(s) below*):
 - Section 339.2817 Florida Statutes, County Incentive Grant Program (CIGP), (CSFA 55.008)
 - Section 339.2818 Florida Statutes, Small County Outreach Program (SCOP), (CSFA 55.009)
 - Section 339.2816 Florida Statutes, Small County Road Assistance Program (SCRAP), (CSFA 55.016)
 - Section 339.2819 Florida Statutes, Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
 - Specific Appropriation 2042A of Chapter 2023-239, Laws of Florida , Local Transportation Projects , (CSFA 55.039)

The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D"**, **Recipient Resolution**, and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.

- 2. Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in the Matanzas Woods Parkway Extension West Phase 2 project, as further described in **Exhibit "A"**, **Project Description and Responsibilities**, attached to and incorporated into this Agreement ("Project"); to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.
- 3. Term of the Agreement, Commencement and Completion of the Project:** This Agreement shall commence upon full execution by both Parties and the Recipient shall complete the Project on or before October 31, 2026. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The Recipient acknowledges that no funding for the Project will be provided by the State under this Agreement for work on the Project that is not timely completed and invoiced in accordance with the terms of this Agreement, or for work performed prior to full execution of the Agreement. Notwithstanding the expiration of the required completion date provided in this Agreement and the consequent potential unavailability of any unexpended portion of State funding to be provided under this Agreement, the

Recipient shall remain obligated to complete all aspects of the Project identified in **Exhibit "A"** in accordance with the remaining terms of this Agreement, unless otherwise agreed by the Parties, in writing.

Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Recipient for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Recipient shall not begin the construction phase of the Project until the Department issues a written Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Recipient shall request a Notice to Proceed from the Department.

- 4. Amendments, Extensions and Assignment:** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be assigned, transferred or otherwise encumbered by the Recipient under any circumstances without the prior written consent of the Department.
- 5. Termination or Suspension of Project:** The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable laws or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected. The Department may also terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.
 - a. If the Department terminates the Agreement, the Department shall notify the Recipient of such termination in writing within thirty (30) days of the Department's determination to terminate the Agreement, with instructions as to the effective date of termination or to specify the stage of work at which the Agreement is to be terminated.
 - b. The Parties to this Agreement may also terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions through mutual written agreement.
 - c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
 - d. Upon termination of this Agreement, the Recipient shall, within thirty (30) days, refund to the Department any funds determined by the Department to have been expended in violation of this Agreement.
- 6. Project Cost:**
 - a. The estimated cost of the Project is \$31,500,000.00 (Thirty-One Million Five Hundred Thousand Dollars and No/100). This amount is based upon the Schedule of Financial Assistance in **Exhibit "B", Schedule of Financial Assistance**, attached and incorporated in this Agreement. The Schedule of Financial Assistance may be modified by execution of an amendment of the Agreement by the Parties.
 - b. The Department agrees to participate in the Project cost up to the maximum amount of \$25,000,000.00 (Twenty-Five Million Dollars and No/100) and, additionally the Department's participation in the Project shall not exceed N/A% of the total cost of the Project, and as more fully described in **Exhibit "B"**. The Department's participation may be increased or reduced upon a determination of the actual bid amounts of the Project by the execution of an amendment. The Recipient agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits incurred in connection with completion of the Project.
 - c. The Department's participation in eligible Project costs is subject to, but not limited to:
 - i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;

- ii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- iii. Department approval of the Project scope and budget at the time appropriation authority becomes available.

7. Compensation and Payment:

- a. The Department shall reimburse the Recipient for costs incurred to perform services described in the Project Description and Responsibilities in **Exhibit "A"**, and as set forth in the Schedule of Financial Assistance in **Exhibit "B"**.
- b. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**, Project Description and Responsibilities. Any changes to the deliverables shall require an amendment executed by both parties.
- c. Invoices shall be submitted no more often than monthly and no less than quarterly by the Recipient in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable and verifiable deliverables as established in **Exhibit "A"**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursements. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
- d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F"**, **Contract Payment Requirements**.
- e. Travel expenses are not compensable under this Agreement.
- f. Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.

If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

Recipients receiving financial assistance from the Department should be aware of the following time frames. Inspection and approval of deliverables and costs incurred shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables and costs incurred are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to a Recipient because of Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Recipient who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- g.** The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- h. Progress Reports.** Upon request, the Recipient agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.
- i.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- j.** The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- k.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's financial assistance for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Recipient. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.
- l.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years, and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

- m. Any Project funds made available by the Department pursuant to this Agreement which are determined by the Department to have been expended by the Recipient in violation of this Agreement or any other applicable law or regulation, shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Recipient files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- n. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the execution of this Agreement, costs incurred prior to issuance of a Notice to Proceed, costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved Schedule of Financial Assistance in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

8. General Requirements:

The Recipient shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. The Recipient must obtain written approval from the Department prior to performing itself (through the efforts of its own employees) any aspect of the Project that will be funded under this Agreement.
 - If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce**. In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- b. The Recipient shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.
- c. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- d. The Recipient shall have the sole responsibility for resolving claims and requests for additional work for the Project by the Recipient's contractors and consultants. No funds will be provided for payment of claims or additional work on the Project under this Agreement without the prior written approval of the claim or request for additional work by Department.

9. Contracts of the Recipient

- a. The Department has the right to review and approve any and all third party contracts with respect to the Project before the Recipient executes any contract or obligates itself in any manner requiring the disbursement of Department funds under this Agreement, including consultant or construction contracts or amendments thereto. If the Department exercises this right and the Recipient fails to obtain such approval, the Department may deny payment to the Recipient. The Department may review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties hereto that participation by the Department in a project that involves the purchase of commodities or contractual services or the purchasing of capital equipment or the equipping of facilities, where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Chapter 287.017 Florida Statutes, is contingent on the Recipient complying in full with the provisions of Chapter 287.057 Florida Statutes. The Recipient shall certify to the Department that the purchase of commodities or contractual services has been accomplished in compliance with Chapter 287.057 Florida Statutes. It shall be the sole responsibility of the Recipient to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders,

construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B"**, or that are not consistent with the Project description and scope of services contained in **Exhibit "A"** must be approved by the Department prior to Recipient execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department.

- c. Participation by the Department in a project that involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

10. Design and Construction Standards and Required Approvals: In the event the Project includes construction the following provisions are incorporated into this Agreement:

- a. The Recipient is responsible for obtaining all permits necessary for the Project.
- b. In the event the Project involves construction on the Department's right-of-way, the Recipient shall provide the Department with written notification of either its intent to:
 - i. Award the construction of the Project to a Department prequalified contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations. The Recipient shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or
 - ii. Construct the Project utilizing existing Recipient employees, if the Recipient can complete said Project within the time frame set forth in this Agreement. The Recipient's use of this option is subject to approval by the Department.
- c. The Recipient shall hire a qualified contractor using the Recipient's normal bid procedures to perform the construction work for the Project. For projects that are not located on the Department's right-of-way, the Recipient is not required to hire a contractor prequalified by the Department unless the Department notifies the Recipient prior to letting that they are required to hire a contractor prequalified by the Department.
- d. The Recipient is responsible for provision of Construction Engineering Inspection (CEI) services. The Department reserves the right to require the Recipient to hire a Department pre-qualified consultant firm that includes one individual that has completed the Advanced Maintenance of Traffic Level Training. Notwithstanding any provision of law to the contrary, design services and CEI services may not be performed by the same entity. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall have the right to approve the CEI firm. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Subject to the approval of the Department, the Recipient may choose to satisfy the requirements set forth in this paragraph by either hiring a Department prequalified consultant firm or utilizing Recipient staff that meet the requirements of this paragraph, or a combination thereof.
- e. The Recipient is responsible for the preparation of all design plans for the Project. The Department reserves the right to require the Recipient to hire a Department pre-qualified consultant for the design phase of the Project using the Recipient's normal procurement procedures to perform the design services for the Project. Notwithstanding any provision of law to the contrary, design services and CEI services may not be performed by the same entity. All design work on the Project shall be performed in accordance with the requirements of all applicable laws and governmental rules and regulations and federal and state accepted design standards for the type of construction contemplated by the Project, including, as applicable, but not

limited to, the applicable provisions of the Manual of Uniform Traffic Control Devices (MUTCD) and the AASHTO Policy on Geometric Design of Streets and Highways. If any portion of the Project will be located on, under, or over any Department-owned right-of-way, the Department shall review the Project's design plans for compliance with all applicable standards of the Department, as provided in **Exhibit "O", Terms and Conditions of Construction**, which is attached to and incorporated into this Agreement.

- f. The Recipient shall adhere to the Department's Conflict of Interest Procedure (FDOT Topic No. 375-030-006).
- g. The Recipient will provide copies of the final design plans and specifications and final bid documents to the Department's Construction Project Manager prior to commencing construction of the Project. The Department will specify the number of copies required and the required format.
- h. The Recipient shall require the Recipient's contractor to post a payment and performance bond in accordance with applicable law.
- i. The Recipient shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Recipient and Department standards.
- j. Upon completion of the work authorized by this Agreement, the Recipient shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as **Exhibit "C", Engineers Certification of Completion**. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.
- k. The Recipient shall provide the Department with as-built plans of any portions of the Project funded through the Agreement prior to final inspection.

11. Maintenance Obligations: In the event the Project includes construction then the following provisions are incorporated into this Agreement:

- a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient

shall

shall not

maintain the improvements located on the Department right-of-way made for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the State funding provided under this Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

12. State Single Audit: The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Recipient's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures including, reviewing any required performance and

financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS) or the Auditor General.

- b. The Recipient, a nonstate entity as defined by Section 215.97(2)(n), Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement is subject to the following requirements:
- i. In the event the Recipient meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit “J”, State Financial Assistance (Florida Single Audit Act)** to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Recipient to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
 - ii. In connection with the audit requirements, the Recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
 - iii. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Recipient is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Recipient’s audit period for each applicable audit year. In the event the Recipient does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Recipient’s resources (i.e., the cost of such an audit must be paid from the Recipient’s resources obtained from other than State entities).
 - iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

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Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, FL 32399-0405
Email: FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

- v. Any copies of financial reporting packages, reports or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
 - vi. The Recipient, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Recipient in correspondence accompanying the reporting package.
 - vii. Upon receipt, and within six months, the Department will review the Recipient's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Recipient fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
 - viii. As a condition of receiving state financial assistance, the Recipient shall permit the Department, or its designee, DFS or the Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers and project records as necessary. Records related to unresolved audit findings, appeals or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department, or its designee, DFS or the Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department, or its designee, DFS or the Auditor General upon request for a period of five years from the date the audit report is issued unless extended in writing by the Department.

13. Restrictions, Prohibitions, Controls and Labor Provisions:

- a. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public

entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

- c. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- d. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. The Recipient shall:
 - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Recipient during the term of the contract; and
 - ii. Expressly require any contractor and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor and subcontractor during the contract term.
- g. The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

14. Indemnification and Insurance:

- a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.
- b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of the Department's or the Recipient's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.
- c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or

employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [ENTITY].

The foregoing indemnification shall not constitute a waiver of the Department's or [RECIPIENT]'s sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement."

- d. The Recipient shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.
- e. If the Recipient elects to self-perform the Project, and such self-performance is approved by the Department in accordance with the terms of this Agreement, the Recipient may self-insure and proof of self-insurance shall be provided to the Department. If the Recipient elects to hire a contractor or consultant to perform the Project, then the Recipient shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. Recipient shall, or cause its contractor to cause the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Recipient is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.
- f. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Recipient shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein

shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

- g. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

15. Miscellaneous:

- a. In no event shall any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- b. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- c. The Recipient and the Department agree that the Recipient, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- d. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- e. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- f. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- g. The Department reserves the right to unilaterally terminate this Agreement for failure by the Recipient to comply with the provisions of Chapter 119, Florida Statutes.
- h. The Recipient agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes
- i. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Recipient agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.
- j. This Agreement does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, Florida Statutes.

16. Exhibits.

- a. **Exhibits A, B, D, F, and J** are attached to and incorporated into this Agreement.
- b. The Project will involve construction, therefore, **Exhibit "C"**, Engineer's Certification of Compliance is attached and incorporated into this Agreement.

- c. Alternative Advance Payment Financial Provisions are used on this Project. If an Alternative Pay Method is used on this Project, then **Exhibit "H"**, Alternative Advance Payment Financial Provisions, is attached and incorporated into this Agreement.
- d. This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then **Exhibit "K"**, Advance Project Reimbursement is attached and incorporated into this Agreement.
- e. A portion or all of the Project will utilize the Department's right-of-way and, therefore, **Exhibit O, Terms and Conditions of Construction in Department Right-of-Way**, is attached and incorporated into this Agreement.
- f. The following Exhibit(s), in addition to those listed in 16.a. through 16.f., are attached and incorporated into this Agreement: N/A.

g. Exhibit and Attachment List

Exhibit A: Project Description and Responsibilities

Exhibit B: Schedule of Financial Assistance

*Exhibit C: Engineer's Certification of Compliance

Exhibit D: Recipient Resolution

Exhibit F: Contract Payment Requirements

*Exhibit H: Alternative Advance Payment Financial Provisions

Exhibit J: State Financial Assistance (Florida Single Audit Act)

*Exhibit K: Advance Project Reimbursement

*Exhibit O: Terms and Conditions of Construction in Department Right-of-Way

*Additional Exhibit(s): N/A

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

525-010-60
PROGRAM MANAGEMENT
05/23

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

RECIPIENT CITY OF PALM COAST

STATE OF FLORIDA,
DEPARTMENT OF TRANSPORTATION

By: _____

By: _____

Name: _____

Name: C. Jack Adkins

Title: _____

Title: Director of Transportation Development

Legal Review:

By: _____

Name: _____

EXHIBIT A**PROJECT DESCRIPTION AND RESPONSIBILITIES**FPN: 453214-1-54-01

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and the City of Palm Coast (the Recipient)

PROJECT LOCATION:

- The project is on the National Highway System.
- The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: See Project Description Below

PROJECT DESCRIPTION:

The Matanzas Woods Extension Phase 2 project is with the City of Palm Coast (Recipient). This project will include the design and construction of the extension of Matanzas Woods as a multilane roadway from west of US 1 to west of the existing Florida East Coast (FEC) railroad including a bridge spanning the railroad. The project is approximately one mile in length.

Design improvements will include a new full-depth roadway, sidewalks, stormwater collection, conveyance, management facilities, landscaping, lighting, traffic signalization, Intelligent Transportation System (ITS), city water, city reclaimed water, and city sanitary sewer force mains, and an overpass spanning the existing FEC railroad. Coordination with the FEC railroad will be required. The design services shall include survey, subsurface utility exploration, geotechnical work, and Pre-Construction Construction Management Services. Pre-Construction Management Services include constructability reviews, cost estimating, and general consulting services to ensure the project is completed within the defined budget, program, and schedule. Permitting coordination is anticipated. Utility coordination and modification with Florida Power & Light (FPL) for the overhead electric transmission lines will be required. Additional right-of-way acquisition is not anticipated. The City of Palm Coast (Recipient) shall design the project within the limits of the right-of-way or easements.

Construction improvements will include full-depth roadway construction for a multilane roadway, sidewalk construction, landscaping, signing and pavement markings, and city owned utility mains installation. Drainage improvements will include grading, drainage structures, pipes, and construction of pond(s). Lighting will be constructed along the roadway and proposed bridge. Lighting poles will be installed by FPL. Traffic signal work will include the construction of one signalized intersection with mast arms at the intersection of Matanzas Village Avenue and Matanzas Woods Parkway and ITS connectivity. Major structural work will include the construction of an overpass spanning the existing FEC railroad. The overhead electric transmission lines owned by FPL and within an FPL easement will need to be relocated as part of this project.

Other construction elements include mobilization, maintenance of traffic, erosion control, clearing and grubbing, regular and subsoil excavation, embankment, and sod.

The design and construction of all pedestrian facilities shall adhere to current Americans with Disabilities Act (ADA) standards. Utility coordination will be required during construction. Roadway lighting will be included with this project and will be completed by the roadway contractor. Permitting coordination is anticipated. Right-of-way acquisition is underway and is to be completed by the City (Recipient) prior to construction. The City of Palm Coast shall (Recipient) construct the

project within the limits of the existing right-of-way or easements.

SPECIAL CONSIDERATIONS BY RECIPIENT:

Exhibit O – Terms and Conditions of Construction in Department Right-of-Way is included in all agreements. This exhibit is only applicable if the Project involves construction on, under, or over the Department's right-of-way.

In accordance with the SFGA terms and conditions the Department reserves the right to perform inspections, reviews, investigations, or audits as deemed necessary by the Department. When construction is substantially complete and no less than 2 weeks prior to the scheduled final completion, the Recipient shall schedule a joint on site review/final walk-thru with FDOT. The Recipient shall contact the FDOT D5-Construction Special Projects Office via email at D5-ConstructionSpecialProjects@dot.state.fl.us to schedule the joint on site review/final walk-thru. The joint on site review/final walk-thru should not be considered an approval of the work by the Department nor a substitution for the Recipient's obligation to ensure that all work and deliverables comply with the SFGA terms and conditions.

The initial invoice, progress report and other supporting documentation will be submitted within 180 days of the Department's Notice to Proceed and no more than monthly and no less than quarterly thereafter. Required documents should be submitted via email to D5-LocalPrograms@dot.state.fl.us.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

- a) Construction contract to be let (Bid Opening) by December 07, 2023.
- b) Construction Duration of 730 days.
- c) Construction to be completed (Final Acceptance) by June 16, 2026.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:

Per the approved appropriation application, the City (Recipient) has committed a 35% Local match or a maximum of \$6,500,000.00 (Six Million Five Hundred Thousand Dollars and No/100). The City of Palm Coast (Recipient) is seeking an amendment to the appropriation that may impact the Local share commitment and the scope of the project.

Invoice payments will be made on a pro-rata basis as a percentage of the state funding amount compared to the actual award amount. In the event the Project costs exceed the cost included in Exhibit "B", Schedule of Financial Assistance, the Recipient will be solely responsible for providing the additional funds that are necessary to complete the Project.

The project funding may be reduced to an amount equal to the award amount and/or the actual contract costs.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

PHASE OF WORK by Fiscal Year:		MAXIMUM PARTICIPATION			
		(1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	Indicate source of Local funds
RECIPIENT NAME & BILLING ADDRESS: City of Palm Coast 160 Lake Avenue Palm Coast, Florida 32164		FINANCIAL PROJECT NUMBER: 453214-1-54-01			
Design- Phase 34	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
FY:	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Design Cost		\$ 0.00 %	\$ 0.00 %	\$ 0.00 %	
Right-of-Way- Phase 44	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
FY:	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Right-of-Way Cost		\$ 0.00 %	\$ 0.00 %	\$ 0.00 %	
Construction- Phase 54	Maximum Department Participation (Local Transportation Projects)	\$31,500,000.00	\$6,500,000.00	\$25,000,000.00	<input type="checkbox"/> In-Kind <input checked="" type="checkbox"/> Cash
FY: 2023-2024	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Construction Cost		\$31,500,000.00 %	\$6,500,000.00 %	\$25,000,000.00 %	
Construction Engineering and Inspection - Phase 64	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
FY:	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Construction Engineering and Inspection Cost		\$ 0.00 %	\$ 0.00 %	\$ 0.00 %	
(Phase :)	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
FY:	Maximum Department Participation (Insert Program Name)	\$	\$	\$	<input type="checkbox"/> In-Kind <input type="checkbox"/> Cash
Total Cost		\$ 0.00 %	\$ 0.00 %	\$ 0.00 %	
TOTAL COST OF THE PROJECT		\$31,500,000.00	\$6,500,000.00	\$25,000,000.00	

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Precious L. Lewis
 District Grant Manager Name

 Signature Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

EXHIBIT C

ENGINEER'S CERTIFICATION OF COMPLIANCE

Engineer's Certification of Compliance. The Recipient shall complete and submit the following Notice of Completion and, if applicable, Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

NOTICE OF COMPLETION

STATE-FUNDED GRANT AGREEMENT
Between
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and the City of Palm Coast

PROJECT DESCRIPTION: Matanzas Woods Parkway Extension West Phase 2

FPID#: 453214-1-54-01

In accordance with the Terms and Conditions of the State-Funded Grant Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of _____, 20__.

By: _____
Name: _____
Title: _____

ENGINEER'S CERTIFICATION OF COMPLIANCE

In accordance with the Terms and Conditions of the State-Funded Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification the Recipient shall furnish the Department a set of "as-built" plans certified by the Engineer of Record/CEI.

By: _____, _____ P.E.

SEAL: Name: _____

Date: _____

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

EXHIBIT D

RECIPIENT RESOLUTION

The Recipient's Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

EXHIBIT F**CONTRACT PAYMENT REQUIREMENTS**
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
STATE-FUNDED GRANT AGREEMENT

EXHIBIT J

STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Awarding Agency: Florida Department of Transportation

- State Project Title and CSFA Number:**
- County Incentive Grant Program (CIGP), (CSFA 55.008)
 - Small County Outreach Program (SCOP), (CSFA 55.009)
 - Small County Road Assistance Program (SCRAP), (CSFA 55.016)
 - Transportation Regional Incentive Program (TRIP), (CSFA 55.026)
 - Local Transportation Projects, (CSFA 55.039)

***Award Amount:** \$25,000,000.00

*The state award amount may change with supplemental agreements

Specific project information for CSFA Number is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number are provided at: <https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

EXHIBIT O**TERMS AND CONDITIONS OF CONSTRUCTION IN DEPARTMENT RIGHT OF WAY****Section 10.e. of the Agreement is amended as follows for Construction on the Department's Right of Way.**

1. If the Project involves construction on, under, or over the Department's right-of-way, the design work for all portions of the Project to be constructed on, under, or over the Department's right-of-way shall be submitted to the Department for review prior to any work being commenced, and the following provisions shall apply:

- a. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Florida Department of Transportation Design Manual ("FDM") and the Department Traffic Engineering Manual.

Designs that do not meet Department standards may be rejected by the Department at its sole discretion. The Department may allocate Department-managed resources to facilitate compliance with applicable design standards. If changes to the Department approved plans are required, the Recipient shall notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project, at all times, and coordinate any work needs of the Department during construction of the Project.

- b. The Recipient shall notify the Department a minimum of 48 hours before beginning construction within, under, or over Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is D5-ConstructionSpecialProjects@dot.state.fl.us.
- c. The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- d. The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- e. The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- f. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on, under, or over the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right-of-way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right-of-way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right-of-way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, Florida Statutes.

- g. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- h. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be entered into the department's Materials Testing and Certification database application and the department must provide the final Materials Certification for the Project. The Department shall have the right to perform its own independent testing during the course of the Project.
- i. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Recipient, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- j. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from on, under, or over its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.
- k. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- l. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- m. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- n. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.
- o. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

- p. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- q. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- r. Restricted hours of operation will be from TO BE DETERMINED PRIOR TO CONSTRUCTION, (DAYS OF THE WEEK FOR RESTRICTED OPERATION TO BE DETERMINED), unless otherwise approved by the Operations Engineer, or designee.
- s. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

D5-PIO@dot.state.fl.us

Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)

City of Palm Coast, Florida Agenda Item

Agenda Date: February 6, 2024

Department	CONSTRUCTION MANAGEMENT & ENGINEERING	Amount	\$450,000																								
Division	ENGINEERING	Account #	21097011-063000-54620																								
Subject: RESOLUTION 2024-XX APPROVAL OF A DEPOSIT WITH FLORIDA POWER AND LIGHT FOR A DESIGN AND COST ESTIMATE FOR THE RELOCATION OF TRANSMISSION FACILITIES FOR THE MATANZAS WOODS PARKWAY EXTENSION WEST PHASE TWO PROJECT																											
Presenter: Carl Cote, Director of Stormwater & Engineering																											
Attachments:																											
<ol style="list-style-type: none"> 1. Resolution 2. Florida Power & Light Estimate 																											
Background:																											
Council Priority:																											
B. Safe and Reliable Services																											
<p>City Staff has identified the need to relocate transmission facilities as part of the Matanzas Woods Parkway Extension West Phase Two Project. The proposed scope of work includes the temporary relocation of transmission lines that will provide a working area for the bridge construction over railroad tracks and the installation of taller permanent poles due to the elevated road crossing. Florida Power and Light (FPL) requires a deposit to provide a more detailed design and estimate of cost for the above-mentioned scope.</p> <p>This item is to approve a deposit in the amount of \$450,000 for the design and cost estimate. Funds for this deposit are budgeted out of the five-year capital project Transportation Impact Fee.</p>																											
<table style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="4">Source of Funds Worksheet FY 24</td> </tr> <tr> <td style="width: 50%;">Trans.Impact 21097011-063000-54620</td> <td style="width: 10%;"></td> <td style="width: 20%;"></td> <td style="width: 20%; text-align: right;">\$8,731,070.00</td> </tr> <tr> <td>Total Expended/Encumbered to Date</td> <td></td> <td></td> <td style="text-align: right;">\$6,094,861.32</td> </tr> <tr> <td>Pending Work Orders/Contracts</td> <td></td> <td></td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Current(WO/Contracts)</td> <td></td> <td></td> <td style="text-align: right;">\$450,000.00</td> </tr> <tr> <td>Balance</td> <td></td> <td style="border-top: 1px solid black;"></td> <td style="text-align: right;">\$2,186,208.68</td> </tr> </table>				Source of Funds Worksheet FY 24				Trans.Impact 21097011-063000-54620			\$8,731,070.00	Total Expended/Encumbered to Date			\$6,094,861.32	Pending Work Orders/Contracts			\$0.00	Current(WO/Contracts)			\$450,000.00	Balance			\$2,186,208.68
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Current(WO/Contracts)			\$450,000.00																								
Balance			\$2,186,208.68																								
<u>ORIGINAL BACKGROUND FROM THE JUNE 20, 2023, BUISNESS MEETING</u>																											

The Florida East Coast Railway (FEC) runs north/south just west of US 1, bisecting Palm Coast. There are approximately 12,000 acres of land within the City limits and west of the railroad tracks, with limited access. Currently, there are only two, at grade, railroad crossings within the city limits.

The City believes that one or more western roadway extensions are needed to provide additional access to this western portion of the City to promote economic opportunities. Judicious transportation investments lower the costs of moving people and goods increasing economic productivity. Because productivity is a central component of economic growth, it should be a strong consideration when assessing the value of transportation expenditures. Opening these corridors will promote economic opportunities in Palm Coast and Flagler County. Transportation access to the west is part of the Northeast Florida Regional Council's 2022 Legislative Priorities as adopted by City Council.

On March 15, 2022, City Council approved a Work Order with England-Thim & Miller, Inc. to perform a feasibility study to investigate the feasibility of the permitting and construction of westward extensions of Matanzas Woods Parkway, Palm Coast Parkway, Royal Palms Parkway, and Whiteview Parkway. Services included a review of possible roadway alignments, impacts to existing properties/uses, rights-of-way needs, design/permitting requirements, wetland and floodplain impacts, and construction costs.

Due to several factors the City proceeded with the western extension of Matanzas Woods Parkway as its first priority.

- Its close proximity to US 1, connection to I-95, and fewer environmental constraints than other areas, Matanzas Woods is a viable solution for access to the west.
- Current site development was occurring between the railroad and the current termination point of Matanzas Woods Parkway which expedited the need to coordinate with developer and determine a roadway alignment and identify right-of-way needs.
- The City Master Plan for a new Public Works Facility that will connect to and abut the West Matanzas Woods Parkway and will require coordination for access points and traffic circulation as well as potentials for a shared stormwater facility.

On March 15, 2022, City Council approved a Work Order with DRMP, Inc., to begin design of a set of roadway plans for the extension of the West Matanzas Woods Parkway to the west including a flyover the FEC railroad and terminating when roadway gets back down to grade. During this process and coordination with FEC, FPL, FDOT and the state there were requests to provide a long-range plan showing at least the initial roadway configuration and access points as well as a more detailed cost estimate for this entire roadway for use in seeking additional state funding.

Staff advertised a request for qualifications (RFSQ-23-39) for engineering services to complete 100% construction plans and permitting for the western extension of the West Matanzas Woods Parkway Phase 1 project where the flyover the railroad terminates at grade on the western side of the railroad tracks and to provide 30% plans for the continuation heading south to Palm Coast Parkway with a new proposed flyover heading back east over the railroad tracks back to US1 in alignment with the existing US 1 / Palm Coast Parkway intersection. This 30% set will be utilized to meet the coordination requirements of FDOT and FEC as well as to provide a detailed construction estimate.

On June 20, 2023, City Council approved a contract with England-Thim & Miller, Inc., for an amount not-to-exceed of \$5,742,070.00 for engineering services for the extension of the West Matanzas Woods Parkway to Palm Coast Parkway connector Roadway.

Recommended Action:

ADOPT RESOLUTION 2024-XX APPROVAL OF A DEPOSIT WITH FLORIDA POWER AND LIGHT FOR A DESIGN AND COST ESTIMATE FOR THE RELOCATION OF TRANSMISSION FACILITIES FOR THE MATANZAS WOODS PARKWAY EXTENSION WEST PHASE TWO PROJECT

RESOLUTION 2024 - _____
MATANZAS WOODS PARKWAY EXTENSION WEST PHASE TWO

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, APPROVAL OF A DEPOSIT WITH FLORIDA POWER AND LIGHT FOR A DESIGN AND COST ESTIMATE FOR THE RELOCATION OF TRANSMISSION FACILITIES FOR THE MATANZAS WOODS PARKWAY EXTENSION WEST PHASE TWO PROJECT: PROVIDING AUTHORIZATION TO EXECUTE; PROVIDING FOR FUTURE AMENDMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Power and Light desires to provide a design and cost estimate for the relocation of transmission facilities for the Matanzas Woods Parkway Extension West Phase Two Project; and

WHEREAS, the City Council of the City of Palm Coast desires to approve the above-mentioned expenses for the above-mentioned scope of work for the City of Palm Coast.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AS FOLLOWS:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

SECTION 2. APPROVAL OF EXPENSES. The City Council of the City of Palm Coast hereby approves the release of a deposit for a design and cost estimate for the relocation of transmission facilities for the Matanzas Woods Parkway Extension West Phase Two Project as attached hereto and incorporated herein by references as Exhibit "A."

SECTION 3. AUTHORIZATION TO EXECUTE. The City Manager, or designee, is hereby authorized to execute the necessary documents.

SECTION 4. FUTURE AMENDMENTS. The City Manager, or designee is hereby authorized to approve any future amendments to the Master Services Agreement in

accordance with the limits as set forth in Chapter 2, Division 3 Purchases and Contractual Services relating to the purchase approved by this Resolution.

SECTION 5. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 6. CONFLICTS. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 8. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption by the City Council.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 6th day of February 2024.

ATTEST:

CITY OF PALM COAST

KALEY COOK, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY

ANTHONY A. GARGANESE, CITY ATTORNEY

Attachments: Exhibit "A" - Florida Power & Light Estimate



September 13, 2023

Vineesh Crawford
Project Coordinator
City of Palm Coast
160 Lake Ave
Palm Coast, FL 32164

RE: Proposed Relocation of Transmission Facilities for City of Palm Coast – Mantanzas Woods Parkway

Transmission Line: Bunnell-Pellicer (Pringle-Pellicer) 230kv Poles 213J2, 213J1, 212J10

Dear Mr. Crawford,

We have evaluated your request to relocate the referenced FPL transmission structure(s). The non-binding Preliminary Estimate to accommodate this potential overhead relocation is **\$3,315,200.00**. The scope of the work to accomplish this relocation is a “Box Out” Configuration which requires the addition of six (6) dead-end poles and two (2) tangent poles to that will provide working area for the bridge construction over rail road tracks (“Scope of Work”). This estimate is not an offer from FPL to perform the requested work and should not be construed or used as such for detailed planning purposes. It is provided only to assist your decision-making, and will remain valid for 90 days from the date of this letter.

This non-binding Preliminary Estimate is based on our previous experience with similar relocations. However, due to the complex nature and variables associated with this type of work, the Preliminary Estimate may not accurately represent the actual costs the applicant would be obligated to pay FPL to relocate these facilities. By way of example, this Preliminary Estimate does not include the cost to relocate any distribution facilities, facilities belonging to another utility or potential third-party costs associated with the relocation, such as survey work; acquisition and recording of easements; clearing easements of trees and obstructions which are calculated on a case by case basis as part of the overall cost of the relocation. Additionally, this Preliminary Estimate is based upon favorable field conditions, which include your cooperation and the cooperation of any impacted third parties to eliminate conflicts.

If you decide to request detailed estimate on the above ‘ballpark’ estimate, the deposit amount required is **\$450,000.00** enabling us to commence the detailed design and estimating process. If, based on this non-binding Preliminary Estimate, you would like to obtain a more comprehensive and detailed estimate (“Detailed Estimate”) of the potential costs we will require that you execute the acknowledgement below and return an executed copy of this letter either as a PDF by e-mail to my attention at thomas.colucci@fpl.com or at: Florida Power & Light Company, Transmission Projects Department, 700 Universe Blvd., TS4/JW Juno Beach, Florida 33408. We will provide you an invoice for the required deposit amount with payment instructions (payable either by check or by wire transfer). Payment should not be sent to the address listed above, instead payment must
Florida Power & Light Company

be sent to the address listed in the invoice I will provide you upon receipt of the executed Preliminary Estimate acknowledgement. FPL will not begin work on the Detailed Estimate until both executed acknowledgement and the non-refundable deposit are received.

The non-refundable Deposit Amount is required due to the complexity and time required to create a Detailed Estimate for such a project, and will be applied towards the estimated amount owed to FPL for the project, should you decide to proceed with the work, and enter into a Relocation Agreement for that work with FPL, within 90 days of the date the detailed estimate is provided. After 90 days the Detailed Estimate will no longer be valid and would be subject to change in the event of a work scope change.

Payment in full and execution of a Relocation Agreement will be required prior to commencement of construction. Time of construction can vary depending upon easement execution, permitting, resource availability, material delivery and line clearances. Such projects are scheduled after full payment is made and a Relocation Agreement is executed.

Please feel free to contact me at (315) 219-7458, should you have any questions or need additional information.

Sincerely,

Thomas Colucci

Thomas Colucci
Relocation Coordinator

ACKNOWLEDGEMENT

On this ___ day of ____, 20__, we acknowledge and agree to the conditions set forth above, and by our inclusion of a check for the non-refundable Deposit Amount request that FPL prepare a Detailed Estimate for the above referenced Scope of Work.

By: _____

Title: _____

City of Palm Coast, Florida Agenda Item

Agenda Date: February 6, 2024

Department	COMMUNITY DEVELOPMENT	Amount	\$415,540.00
Division	PLANNING	Account #	21097011-061000-54620
Subject: RESOLUTION 2024-XX APPROVING A PURCHASE AND SALE AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP, INC., FOR THE CITY OF PALM COAST TO PURCHASE LAND			
Presenter: Virginia Smith, Land Management Administrator			
Attachments:			
<ol style="list-style-type: none"> 1. Resolution 2. Purchase and Sale Agreement - City Purchase 			
Background:			
Council Priority:			
B. Safe and Reliable Services:			
<ol style="list-style-type: none"> 1. Ensure that the Maintenance & Operations Complex is a top priority facility project and commence with initial improvements based on Capital Improvement Plan timeline. 			
<u>UPDATED BACKGROUND FROM THE NOVEMBER 14, 2023, WORKSHOP MEETING:</u>			
City Council received a presentation on this item at the November 14, 2023, Workshop Meeting. No changes have been made to the item.			
<u>ORIGINAL BACKGROUND FROM THE NOVEMBER 14, 2023, WORKSHOP MEETING:</u>			
The City of Palm Coast has collaborated with Forestar (USA) Real Estate Group, Inc., to acquire land for a road connection on the west side, serving the Maintenance & Operations Complex and supporting the alignment of the Matanzas Woods Parkway extension. The City will need to secure land and a temporary construction easement from Forestar.			
SOURCE OF FUNDS			
Matanzas PKWY Extension West 21097011-061000-54620		\$420,000.00	
Pending Work Orders		\$0.00	
Current Contract		\$415,540.00	
Balance		\$4,460.00	
Staff is recommending City Council approve the purchase and sale agreement with Forestar for the City to purchase land from Forestar.			

Recommended Action:

ADOPT RESOLUTION 2024-XX APPROVING A PURCHASE AND SALE AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP, INC., FOR THE CITY OF PALM COAST TO PURCHASE LAND

RESOLUTION 2024-____
FORESTAR (USA) REAL ESTATE GROUP, INC.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALM COAST, FLORIDA, APPROVING THE PURCHASE
AND SALE AGREEMENT WITH FORESTAR (USA) REAL
ESTATE GROUP INC.; PROVIDING FOR SEVERABILITY,
PROVIDING FOR CONFLICTS, PROVIDING FOR
IMPLEMENTING ACTIONS, AND PROVIDING AN
EFFECTIVE DATE**

WHEREAS, Forestar (USA) Real Estate Group, Inc., owns certain lands, identified as Parcel ID's of 28-10-30-5415-00000-0A40 and a portion of 28-10-30-5415-00000-00A0, and located west of US 1, and desires to sell portions of their property to the City and to provide a temporary construction easement to the City; and

WHEREAS, the City of Palm Coast desires to purchase the lands identified above from Forestar (USA) Real Estate Group, Inc.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the findings of the City Council of the City of Palm Coast.

SECTION 2. APPROVAL OF AGREEMENT. The City Council hereby approves the purchase and sale contract with Forestar for the City to purchase Forestar property, as attached hereto and incorporated herein as Exhibit "A."

SECTION 3. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impart the validity, force or effect of any other section or part of the Resolution.

SECTION 4. CONFLICTS. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

SECTION 5. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 6. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption by the City Council.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on the 6th day of February 2024.

ATTEST:

CITY OF PALM COAST

KALEY COOK, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY

ANTHONY A. GARGANESE, CITY ATTORNEY

Attachments: Exhibit "A" - Forestar Parcel Contract for Purchase and Sale

CONTRACT FOR PURCHASE AND SALE

THIS CONTRACT FOR PURCHASE AND SALE ("**Contract**") is made by and between **FORESTAR (USA) REAL ESTATE GROUP INC.**, a Delaware corporation (hereinafter referred to as "**Seller**"), with a principal address of 14785 Old St. Augustine Road, Suite 300, Jacksonville, FL 32258 and the **CITY OF PALM COAST, FLORIDA**, a Florida municipal corporation, ("**Buyer**") with a principal address of 160 Lake Avenue, Palm Coast, FL 32164. For and in consideration of a valuable sum in dollars, the premises and the mutual covenants and obligations created hereby, as well as other good and valuable considerations, Buyer agrees to buy and Seller agrees to sell the following described real property subject to and upon the terms and conditions set forth below. The effective date of this Contract (the "**Effective Date**") shall be the date upon which the last of Seller and Buyer shall have signed this Contract, including Seller's Corporate Approval, as defined below.

ARTICLE I - PROPERTY

The real property (the "**Property**") which is the subject matter of this Contract consists of two parcels of vacant land being more particularly described in **Exhibit "A"** attached hereto and made a part hereof.

ARTICLE II - PURCHASE PRICE

2.1 **Purchase Price.** The purchase price (the "**Purchase Price**") for the Property shall be \$39,500 per gross acre as shown on the Survey, as defined below.

ARTICLE III - CLOSING AND CLOSING DATE

The transaction contemplated by this Contract shall be closed (the "**Closing**") on or before forty-five (45) days following the end of the Inspection Period. The Purchase Price shall be applied to Seller's closing costs. The special warranty deed, and the exclusive possession of the Property, free of all occupants, shall be delivered to Buyer at Closing.

ARTICLE IV - TERMS AND CONDITIONS

The additional terms and conditions of this Contract are as follows:

4.1. **Evidence of Title.** Buyer, at Buyer's expense and within thirty (30) days from the Effective Date, shall obtain a title insurance commitment (the "**Title Commitment**") to issue an ALTA Owner's Title Insurance Policy from a title insurance company acceptable to Buyer (the "**Title Insurance Company**") in the amount equal to the Purchase Price for the property, naming Buyer as the proposed insured. The Title Commitment shall show good, marketable and insurable fee simple title to the Property to be vested in Buyer, liens, encumbrances, exceptions and qualifications which will not interfere with or impair the Property's use for public purposes; exceptions permitted by the provisions of this Contract; and those exceptions which are capable of and are actually to be discharged by Seller at or before Closing (all other exceptions to title being deemed title defects for purposes of this contract). Legible and complete copies of all instruments listed as exceptions to title (commonly identified as Schedule B-II exceptions in the Title Commitment) shall be delivered with

the Title Commitment. If title is found to be defective, Buyer shall, within ten (10) days from the date it receives the Title Commitment, notify Seller in writing to that effect specifying the defects. Seller shall have twenty (20) days from the receipt of Buyer's notice specifying the title defects to cure the defects and, if after said period Seller shall not have cured the defects, or if Seller shall not have progressed to a point where the defects are certain to be remedied prior to Closing, or where the removal of such defects is not otherwise assured to Buyer's satisfaction, Buyer shall have the option of (i) accepting the title "as is" or (ii) terminating the Contract after which Buyer and Seller shall each be released from all further obligations to each other respecting matters arising from this Contract.

4.2. **Survey.** Buyer shall, at Buyer's expense, obtain a survey of the Property (the "**Survey**") prepared by a licensed Florida land surveyor dated no earlier than thirty (30) days before Closing, or in the alternative, an update of an earlier survey re-dated to a point in time no earlier than the last thirty (30) days. Upon completion and approval of the Survey, the description of the Property when approved by both parties and set forth therein shall be inserted as **Exhibit "A"** hereto and shall be used on the Deed and other closing documents, as well as the Title Commitment. If the Survey shows any encroachments (except for landscaping and irrigation) onto the Property and/or improvements located outside its boundaries or encroachments by improvements principally located on the Property over required setback lines or over onto the property of others or onto any public right-of-way adjacent to the Property, or if it is apparent that the Property violates existing title covenants and/or applicable zoning laws or ordinances, Buyer shall notify Seller in writing to that effect specifying the defects. Seller shall have until thirty (30) days from receipt of Buyer's notice specifying the Survey defects in which to cure such defects. If after said period Seller shall not have cured the defects, or if Seller shall not have progressed to a point where the defects are certain to be remedied at or prior to Closing, Buyer shall have the option of (i) accepting the condition of the Property as disclosed in the Survey in an "as is" condition, or (ii) terminating the Contract, thereupon Buyer and Seller shall each be released from all further liabilities and obligations to each other with respect to all matters arising from this Contract.

4.3. **Conveyance.** Seller shall convey title to the Property to Buyer by Special Warranty Deed, in the form attached hereto as **Exhibit "B"** (the "**Deed**"), subject only to: (i) taxes for the year of Closing; and (ii) matters disclosed in the title evidence provided to and accepted or deemed accepted by Buyer.

4.4. **Closing Affidavit.** At the Closing, Seller shall furnish Buyer with an affidavit (i) testifying to the best of Seller's knowledge, the absence of any claims, encumbrances, taxes, assessments, liens or potential lienors known to Seller not disclosed in the Title Commitment and Deed, (ii) further attesting that there have been no improvements to the Property by or through Seller for the ninety (90) day period immediately preceding the date of Closing, the cost of which remains unpaid, (iii) agreeing to take no action prior to recording the Deed which would adversely affect the title to the Property, (iv) testifying that possession of the Property is subject only to those matters accepted by Buyer pursuant to the terms hereof, if any, and that Seller is otherwise in exclusive, peaceable and undisputed possession of the Property, and (v) testifying that there are no actions or proceedings now pending in any state or federal court to which Seller is a party including, but not limited to, proceedings in bankruptcy, receivership or insolvency, which would affect the Property, the title to the Property or Seller's ability to close on the sale of the Property to Buyer except as disclosed

in the Title Commitment. Seller shall also furnish such other evidence, affidavits or information required by the Title Insurance Company so that the Title Insurance Company will be able to eliminate all standard exceptions from the Title Commitment at Closing, except for taxes for the year of Closing which are not yet due or payable.

4.5. **Place of Closing.** Closing shall be held by express courier or at the offices of the title agent or at Garganese, Weiss, D'Agresta & Salzman, P.A. or such other location as is mutually agreed upon by Buyer and Seller.

4.6. **Documents for Closing.** Buyer's attorney or title agent shall prepare the Deed, Seller's affidavit, closing statement, and any corrective instruments that may be required in connection with perfecting title.

4.7. **Expenses.** The cost of recording all corrective documents needed to complete the transaction shall be borne by Seller. Buyer shall pay for the title insurance premium, state documentary tax for the Deed, recording the Deed and all fees and expenses arising from or associated with the simultaneous issuance of a lender's title insurance commitment and policy, if any, and any and all endorsements to such policy required by its lender.

4.8. **Proration of Taxes; Real and Personal.** Taxes shall be prorated based upon the current year's tax based on the highest discount available at Closing. If the Closing occurs on a date when the current year's taxes are not fixed and the current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated based on the prior year's tax; provided, however, if there are completed improvements on the Property by January 1st of the year of Closing, which improvements were not in existence on January 1st of the prior year, then the taxes shall be prorated to the date of Closing based upon the prior year's millage and an equitable assessment to be agreed upon between the parties, failing which request will be made to the county tax assessor for an informal assessment. If the Property is assessed as part of a larger tract of land and a "cut out" is not available from the tax assessor at the time of Closing, the taxes for the Property shall be estimated and prorated based upon the ratio of the size of the Property in relation to the overall tract of which the Property forms a part, taking into consideration matters of zoning as described in the tax assessor's records. Any tax proration based on an estimate may, at the request of either party, be subsequently readjusted upon receipt of the actual tax bill. Title Agent shall ensure compliance with Fla. Stat. 196.295 at settlement, and Buyer shall be responsible for any real and personal property taxes billed with respect to the Property after Closing. This provision for re-proration shall survive the Closing.

4.9. **Special Assessment Liens.** Special assessment liens which are certified, confirmed and ratified as of the date of Closing are to be paid by Seller. Special assessment liens which are certified, confirmed and ratified but payable in installments post Closing shall be paid in full by Seller at Closing. Special assessment liens pending as of the date of Closing shall be assumed by Buyer; provided, however, that if the improvements which form the basis for such special assessment are substantially completed as of the date of Closing they shall be deemed to have been certified, confirmed or ratified and Buyer shall, at Closing, be credited with an amount equal to the last estimate of the assessment for the improvement made by the appropriate public body.

4.10. **Default.** If Buyer fails to perform any of Buyer's covenants set forth in this Contract, the Deposit, if any, shall be paid to and retained by and for the account of Seller as agreed upon liquidated damages and in full settlement of any claims whatsoever. If Seller fails to perform any of Seller's covenants set forth in this Contract or fails to convey the Property when Seller is obligated to do so in accordance with the terms hereof, Buyer shall have, as its sole and exclusive remedy, the right to either: (i) pursue specific performance against Seller; or (ii) cancel this Contract by providing written notice to Seller, in which event the Deposit shall be returned to the Buyer.

4.11. **Severability.** If any one or more of the provisions of this Contract is held invalid, illegal or unenforceable, the remaining provisions of this Contract shall be unimpaired, and the remaining provisions of this Contract shall be construed to best carry out the original intent of the parties hereto.

4.12. **Complete Agreement.** This Contract evidences the complete understanding of the parties hereto as respects the matters addressed herein. No agreement or representation, unless set forth in this Contract, shall bind either of the parties hereto. This Contract may be executed in separate counterparts, each of which shall be deemed an original, and all which shall constitute one and the same instrument. Electronic signatures will be acceptable and binding.

4.13. **Notices.** All notices will be in writing and delivered to the parties by mail, personal delivery, or electronic means. Buyer's failure to timely delivery written notice to Seller, when such notice is required by this Contract, regarding any contingency will render that contingency null and void, and this Contract will be construed as if the contingency did not exist. Any notice, document, or item delivered to or received by an attorney or licensee (including a transactions broker) representing a party will be as effective as if delivered to or received by that party. Notice shall be given to the following addresses:

To Seller: Forestar (USA) Real Estate Group Inc.
Attn: Sarah Wicker
14785 Old St. Augustine Road, Suite 300
Jacksonville, FL 32258
Tel: (904) 421-4699
Email: SarahWicker@Forestar.com

With Copy To: Forestar (USA) Real Estate Group Inc.
Attn: Robert J. Metz
4042 Park Oaks Boulevard, Suite 200
Tampa, FL 33610
Tel: (813)517-0168
Email: RobertMetz@Forestar.com

With copy to: Shuffield Lowman & Wilson, P.A.
Attn: Scott Cookson and John Junod
1000 Legion Place, Suite 1700

Orlando, FL 32801
Phone: (407)581-9800
Email: scookson@shuffieldlowman.com and
jjunod@shuffieldlowman.com

To Buyer: City of Palm Coast
Attention: City Manager
160 Lake Avenue
Palm Coast, FL 32164
Tel: 386-986-2458
dbevan@palmcoastgov.com
vsmith@palmcoastgov.com

Copy to: Catherine D. Reischmann
Assistant City Attorney
Garganese, Weiss, D'Agresta & Salzman, P.A.
111 N. Orange Ave., Suite 2000
Orlando, FL 32801
Tel: 407-425-9566
creischmann@orlandolaw.net
nham@orlandolaw.net

4.14. **FIRPTA - Right to Withhold.** If Seller is a “foreign person” as defined by FIRPTA, Section 1445 of the Internal Revenue Code, Buyer is required to withhold up to 15% of the amount realized by the Seller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the Seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding. Due to the complexity and potential risks of FIRPTA, Buyer and Seller should seek legal and tax advice regarding compliance, particularly if an “exemption” is claimed on the sale of residential property for \$300,000 or less. Seller agrees that Buyer may deduct and withhold from the Purchase Price provided in Article II hereof, a tax in the amount of up to fifteen percent (15%) of the amount realized (as that term is used in Section 1445(a) of the Internal Revenue Code) by Seller pursuant to this Contract, except upon the occurrence of either (A) or (B) below:

(A) At or prior to Closing, Seller provides to Buyer a Certificate of Non-Foreign Status or a Non-USRPHC Statement described in and complying with Section 1445(b)(2) or (3) of the Internal Revenue Code of 1986, as amended (the "**Code**") (all references to Section or the Code include any successor provisions thereto and any Treasury Regulations promulgated in connection thereto) and Buyer has no knowledge or notice that such Certificate or Statement is false; or

(B) At or prior to Closing, Buyer received a withholding certificate described in Temp. Treas. Reg. Section 1.1445-3T or Rev. Proc. 85-41.

Buyer agrees that any amount deducted and withheld pursuant to this Section shall be remitted to the Internal Revenue Service in accordance with Section 1445 of the Code and the Regulations

thereunder.

4.15. **Environmental Status.** Seller warrants and represents to Buyer that, to the best of Seller's knowledge, (i) the Property is free of all hazardous waste or substances except as may be permitted by applicable law; (ii) that the Property has been operated and maintained in compliance with all applicable environmental laws, statutes, ordinances, rules and regulations; (iii) no other release of any hazardous waste or substances has taken place on the Property, (iv) no migration of hazardous waste or substances has taken place from the Property which would cause the release of any hazardous waste or substance on any adjoining lands or any other lands in the vicinity of the Property; and (v) there are no bulk or underground tanks on or in the Property, and, no bulk or underground storage tanks have ever been located on or in the Property.

The term hazardous waste or substances shall include those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in CERCLA, RCRA, and the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, *et seq.*, and in the regulations promulgated pursuant to said laws or any replacement thereof; such other substances, materials and wastes which are or become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state, or local laws or regulations.

Seller has no notice or knowledge of the on-site existence of any "Endangered and Threatened Species," flora and fauna as identified by the U.S. Fish and Wildlife Service's "List of Endangered and Threatened Wildlife and Plants" as may be amended from time to time. Seller further warrants no knowledge of the on-site existence of any upland conservation areas which are preserved, or may be preserved, for the purposes of providing of wildlife habitat. The provisions of this Section 4.15 shall survive the Closing or earlier termination of this Contract for a period of six (6) months.

4.16. **Right of Inspection.** During the term of this Contract, Buyer, its agents, employees and representatives, may have access to the Property and the records of the Property (including those on file with any governmental agency) at all reasonable times subsequent to the Effective Date of this Contract with the right, at Buyer's expense, to inspect the Property and to conduct all tests and borings thereon as Buyer, its licensed engineers, surveyors and the like shall deem reasonably necessary or desirable to fulfill the tests and investigations contemplated by the Contract. Any entry on or to the Property by Buyer or its authorized representatives pursuant to the provisions hereof shall be at the risk of Buyer, and to the extent of the monetary limitations in Fla. Stat. 768.28, Buyer hereby indemnifies, protects, and holds Seller harmless and agrees to defend Seller from and against any and all claims, demands, losses, damages, and liabilities (including but not limited to personal injury and property damage claims and mechanics' or other liens), together with related costs and expenses, including reasonable attorney fees and litigation costs, caused by Buyer or Buyers' agents on or to the Property. This does not waive Buyer's right to sovereign immunity. In addition, Buyer shall keep the Property free from any liens which could arise as a result of the exercise by Buyer of any of its rights hereunder.

The Property is being sold "AS IS." Seller does not make any claims or promises about the condition or value of the Property included in this sale except as set forth in this Contract. The City

has inspected the Property, or may inspect the Property during the Inspection Period, and relies on this inspection and any rights which may be, and statements of Seller as provided for, elsewhere in this Contract. This paragraph will survive Closing for a period of six (6) months

4.17. **WAIVER OF TRIAL BY JURY.** SELLER AND BUYER HEREBY MUTUALLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY REGARDING ANY LITIGATION BASED OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS CONTRACT OR ANY AGREEMENT CONTEMPLATED TO BE DELIVERED IN CONJUNCTION THEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH OF SELLER AND BUYER ENTERING INTO THIS CONTRACT.

4.18 **Community Development District.** The Property is subject to the jurisdiction of the Palm Coast Park CDD (the "**CDD**"), established in accordance with Chapter 190, Florida Statutes to finance and facilitate the construction and installation of certain infrastructure servicing certain communities, including but not limited to Sawmill Branch.

THE PALM COAST PARK COMMUNITY DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THE PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT, THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

ARTICLE V - SPECIAL CONDITIONS

Seller has made a limited number of representations and warranties to Buyer in this Contract. In consideration of Buyer waiving additional conditions, representations or warranties from Seller, Seller and Buyer hereby agree as follows:

5.1. **Condition Precedent.** Buyer's obligation to close under this Contract shall be subject to the satisfaction of the following conditions precedent enumerated below. In the event any one of these conditions is not satisfied for any reason whatsoever, then this Contract shall terminate, and Buyer and Seller shall be fully relieved from all further rights and responsibilities under this contract, except for those rights and responsibilities that survive termination.

(A) The complete execution of this Contract by Seller and Buyer and the approval of this Contract by Buyer's City Council at a public meeting, pursuant to §166.045, Fla. Stat.

(B) No action, suit, proceeding, or official investigation shall have been threatened, announced, or commenced by any person or federal, state or local government authority or

agency that seeks to enjoin, assess civil or criminal penalties against, or obtain any judgment, order, or consent decree, with respect to either party hereto, in connection with their respective representations and obligations under this Contract.

(C) Seller shall fully comply with the provisions of Section 286.23, Florida Statutes by executing and delivering an Affidavit in the form of the Affidavit of Interest in Real Property - Florida Statute 286.23, a copy of which is attached hereto as **Exhibit "C."**

(D) Termination of Plat Dedications.

(i) Seller dedicated portions of the Property to the Palm Coast Park Community Development District ("CDD") by plat for Sawmill Branch at Palm Coast Park Phase 2A, recorded in Plat Book 40, Page 73, Public Records of Flagler County, Florida. At or prior to Closing, the CDD has terminated or released by way of quit-claim deed or other means, as reasonably required by the Title Company, any interest the CDD has in any portion of the Property.

(ii) Seller dedicated portions of the Property to the Sawmill Branch at Palm Coast Park Homeowners Association, Inc., ("HOA") by plat for Sawmill Branch at Palm Coast Park Phase 2A, recorded in Plat Book 40, Page 73, Public Records of Flagler County, Florida. At or prior to Closing, the HOA has terminated or released by way of quit-claim deed or other means, as reasonably required by the Title Company, any interest the HOA has in any portion of the Property.

5.2. **Inspection Period.** Buyer shall have thirty (30) days from the Effective Date (herein the "**Inspection Period**") in which to conduct an investigation of the Property, including, by way of illustration and not in limitation and subject to Section 4.16: inspections as to the physical condition of the Property, investigate the availability of utilities, status of zoning or ability to rezone, zoning codes, building codes, physical condition and any other condition or characteristic of the Property which Buyer may deem necessary or relevant to Buyer in purchasing the Property. Should Buyer for any reason become dissatisfied or concerned with the result of any such investigation, search, inquiry or report as contemplated hereby, then Buyer may, prior to the expiration of the Inspection Period, terminate this Contract by written notice thereof to Seller. Notwithstanding anything to the contrary contained herein, if Buyer has not terminated this Contract by written notice delivered to Seller prior to the end of the Inspection Period, then the Deposit (if any) shall be applicable to the Purchase Price but non-refundable, other than pursuant to Section 5.1 hereof, except in the event of a default by Seller hereunder.

5.3. **Delivery of Materials.** Within five (5) days after the Effective Date of this Contract, Seller shall deliver to Buyer copies of all existing studies, tests, results, surveys, site plans, reports, title policies, plans, permits, petitions, warranties, applications, certificates, reservations, agreements, development orders, approvals, maps, aerials and related materials in its possession relating to the Property. Notwithstanding the foregoing, Seller shall not be obligated to deliver to Buyer any environmental studies, audits, reports, or soil borings related to the Property.

5.4. **Brokerage.** Buyer and Seller represent to each other that neither party has dealt with or engaged a broker with respect to the transaction contemplated herein. Each party hereby agrees to indemnify the other from and against any claim for brokerage commission or finder's fee asserted by any other person, firm or corporation claiming by, through or under said party.

5.5. **Seller Warranties.** During the period that this Contract is in effect, Seller shall maintain the Property in its current condition, reasonable wear and tear excepted.

5.6. **Seller Not to Convey.** Seller shall not convey any interest in the Property after the signing of this Contract without the prior joinder and written consent of the Buyer.

5.7. **Extensions of Closing Date.** Buyer shall have the unilateral and absolute right to exercise one thirty (30) day extension of the Closing Date. Buyer shall exercise the extension by providing at least three (3) days written notice to Seller. Any other extension shall be by mutual agreement of the parties.

5.8. **Waiver/Time.** The waiver of any breach of any provision hereunder by Buyer or Seller shall not be deemed to be a waiver of any preceding or subsequent breach hereunder. No failure to delay of any party in the exercise of any right given hereunder shall constitute a waiver thereof nor shall any partial exercise of any right preclude further exercise thereof. Time is of the essence in this Agreement as to all dates and time periods set forth herein. To the extent that the last day of any time period stipulated in this Contract falls on a Saturday, Sunday or legal holiday (State or Federal), the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. Any time period of ten (10) days or less specified herein shall not include Saturdays, Sundays or legal holidays. Where used herein, the term "business days" shall be those days other than Saturdays, Sundays or legal holidays.

5.9. **Headings; Governing Law.** The headings contained in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract. This Contract shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Florida.

5.10. **Temporary Easement and Construction of Right of Way.** Prior to expiration of the Inspection Period, Buyer and Seller shall agree on the temporary easement location related to the Temporary Construction Easement (the "**Temporary Easement**"), the form of which is attached hereto as **Exhibit "D"** and shall be recorded at Closing. The Temporary Easement shall grant Buyer certain easement rights over a portion of Seller's property for the sole purpose of Buyer's construction of and/or modifying certain infrastructure related to the proposed road improvements. The Temporary Easement shall include language obligating Buyer, at Buyer's expense, to replace all improvements including, but not limited to, landscaping and irrigation, that Buyer, or Buyer's agents, representatives, contractors, and/or subcontractors damage or destroy in connection with Buyer's construction of the proposed right-of-way, as provided in the Temporary Construction Easement. Furthermore, the Temporary Easement shall include language granting continued access to Seller's development known as Sawmill Branch and prohibiting Buyer from unreasonably blocking or impeding access to Sawmill Branch. During Buyer's construction of the proposed right-of-way, Buyer shall not unreasonably

interfere with and shall maintain continuous access to Seller's community known as Sawmill Branch. The provisions of this Section shall survive Closing.

5.11. **Interstate Land Sales Full Disclosure Act.** As required by Section 1702(b)(5)(F) of the Interstate Land Sales Full Disclosure Act (15 U.S.C. §1701 et seq.) (the "ILSFDA"), Buyer hereby represents and warrants to Seller that it has made on on-the-ground inspection of the Property and that Seller has not induced Buyer to visit or purchase any Property by any manner prohibited under the ILSFDA and/or any rules or regulations promulgated pursuant thereto (including without limitation 24 C.F.R. 1710 et seq.). Simultaneously with the execution of this Contract, Buyer shall reaffirm the representation, warranty and covenant set forth herein by executing and delivering to Seller an Affirmation of Buyer Regarding Interstate Land Sales Full Disclosure Act, in the form attached hereto as **Exhibit "E"**.

5.12 **Corporate Ratification.** NOTWITHSTANDING ANY OTHER PROVISION HEREIN, NEITHER THIS CONTRACT NOR ANY AMENDMENT HERETO SHALL BE A VAILD, BINDING OR ENFORCEABLE OBLIGATION OF SELLER UNLESS AND UNTIL SUCH DOCUMENT IS RATIFIED IN WRITING BY ONE OF THE FOLLOW EXECUTIVE OFFICERS OF SELLER: DONALD J. TOMNITZ, DANIEL C. BARTOK, MARK WALKER, OR JAMES D. ALLEN; PROVIDED THAT (I) IF RATIFICATION OF THIS CONTRACT DOES NOT OCCUR WITHIN FIFTEEN (15) DAYS OF THE DATE OF EXECUTION BY SELLER AT ITS DIVISION LEVEL (THE "**LOCAL EXECUTION DATE**"), AND SUCH FAILURE CONTINUES FOR THREE (3) BUSINESS DAYS AFTER WRITTEN NOTICE FROM BUYER, THEN THIS CONTRACT SHALL AUTOMATICALLY TERMINATE AND BE OF NO FURTHER FORCE OR EFFECT; AND (II) IF RATIFICATION OF THIS CONTRACT OR AN AMENDMENT DOES NOT OCCUR WITHIN FIFTEEN (15) DAYS OF THE LOCAL EXECUTION DATE, AND SUCH FAILURE CONTINUES FOR THREE (3) BUSINESS DAYS AFTER WRITTEN NOTICE FROM BUYER, THEN THIS CONTRACT OR SUCH AMENDMENT SHALL BE OF NO FURTHER FORCE OR EFFECT. THE EXECUTION AND APPROVAL BY AN AUTHORIZED OFFICER OF THIS CONTRACT OR AN AMENDMENT IS REFERRED TO AS "CORPORATE APPROVAL".

5.13. Buyer understands that Seller was granted Environmental Resource Permit No. 102595-26 (ERP) by the St. Johns River Water Management District (SJRWMD) which required on-site wetland creation, on-site wetland preservation and on-site upland preservation. Buyer, at Buyer's sole cost and expense, and with Seller's authorization and cooperation, shall be responsible for any amendment or modification to any permit, including but not limited to, any conservation or wetland permit, related to the Property. In addition, Buyer, at Buyer's sole cost and expense, shall be responsible for any mitigation required in connection with any amendment or modification to such permit. Seller shall reasonably cooperate with Buyer in Buyer's pursuit of any amendment or modification to the permit(s). Seller shall remain responsible for compliance with all conditions of the ERP (and any other permits and authorizations applicable to the Property subsequent to closing). Notwithstanding the foregoing, any amendment or modification to such permit shall not adversely affect Seller's development of or construction of homes in the adjacent community known as Sawmill Branch. The provisions of this Section 5.13 shall survive Closing.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year indicated below.

WITNESSES:

(print)

(print)

SELLER:

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

By: _____

Print name: _____

Title: _____

Date: _____

Pursuant to Section 5.12 above, the undersigned hereby ratifies this Contract on behalf of Forestar (USA) Real Estate Group Inc.

Print Name: _____

Title: _____

Date: _____

THE PALM COAST PARK COMMUNITY DEVELOPMENT DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC FACILITIES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENT TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW.

WITNESSES:

(print)

(print)

BUYER:

CITY OF PALM COAST, FLORIDA

By: _____

Denise Bevan, City Manager

ATTEST:

By: _____

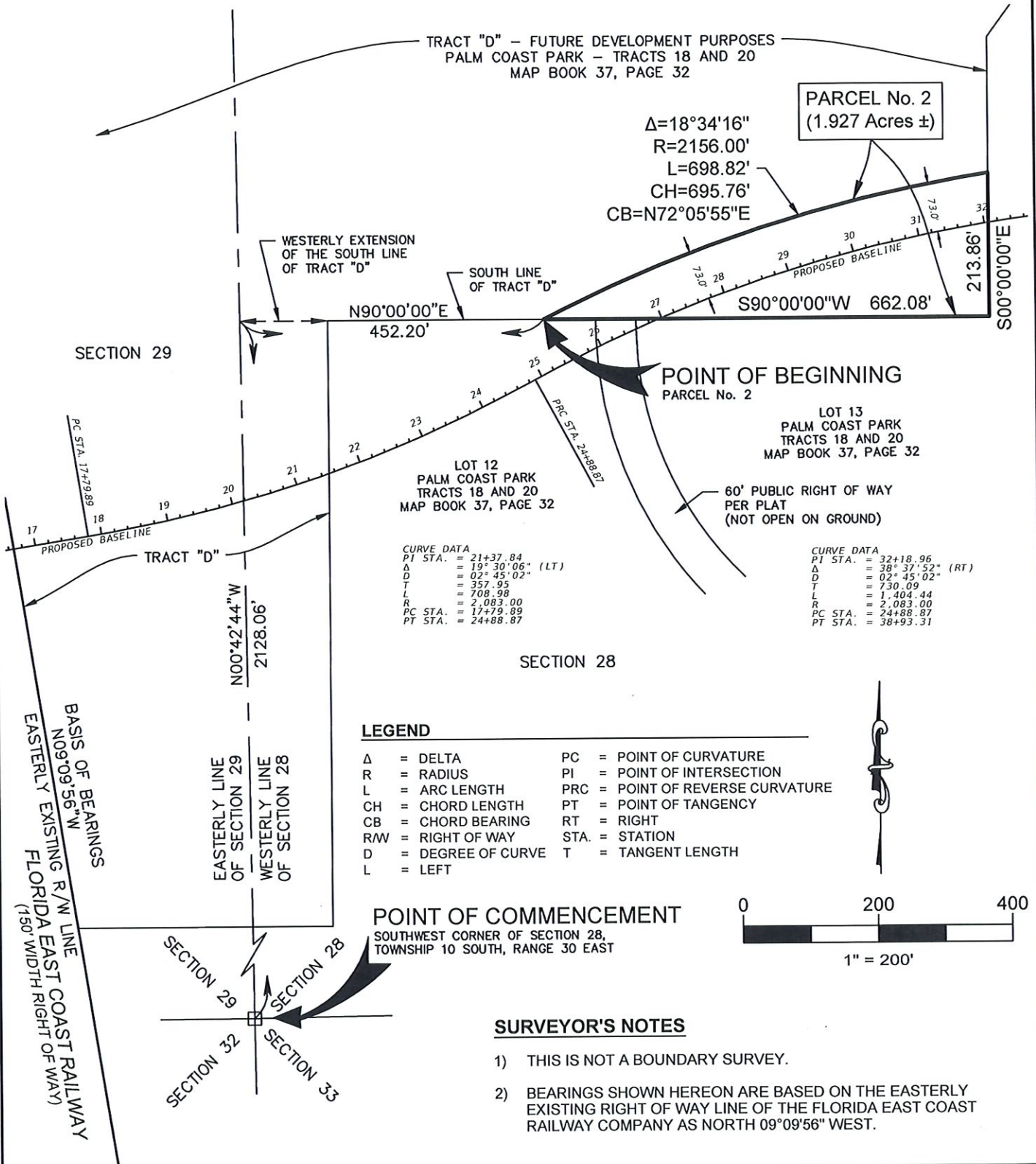
Kaley Cook, City Clerk

Date: _____

[CITY SEAL]

SKETCH OF DESCRIPTION

A PORTION OF TRACT "D", PALM COAST PARK, TRACTS 18 AND 20, AS RECORDED IN MAP BOOK 37, PAGES 32 - 35, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



WARNING
IF THIS BAR DOES NOT MEASURE 1" OF THIS COPY OF THIS DOCUMENT IS NOT TO SCALE

CADD	NAME	DATE
DESIGNED BY		
DRAWN BY	M.BRDNT	9/19/23
CHECKED BY	T.TRACZ	9/19/23
APPROVED BY	T.TRACZ	9/19/23
FILE:	Parcel 2 Revised.dwg	

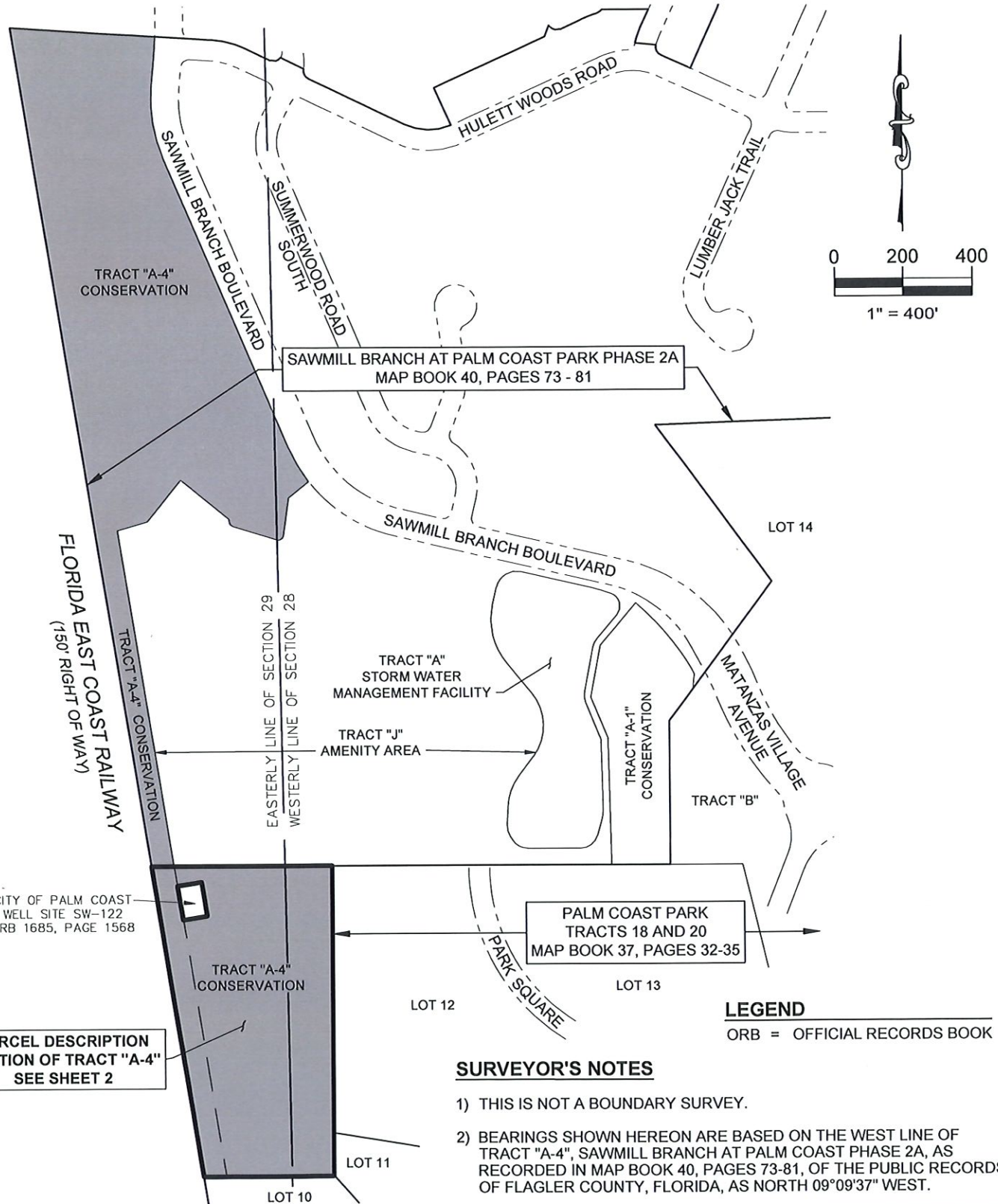
DRMP
ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS
Certificate of Authorization No. 2648
1505 East Colonial Drive - Orlando, Florida 32803

SKETCH OF DESCRIPTION
PARCEL No. 2
MATANZAS WOOD PARKWAY EXTENSION
FLAGLER COUNTY, FLORIDA

PROJECT NO.	21-0895.000
DATE	SEPTEMBER 19, 2023
SCALE	1" = 200'
SHEET	1 OF 2

SKETCH OF DESCRIPTION

A PORTION OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PARK PHASE 2A, AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



LEGEND
ORB = OFFICIAL RECORDS BOOK

SURVEYOR'S NOTES

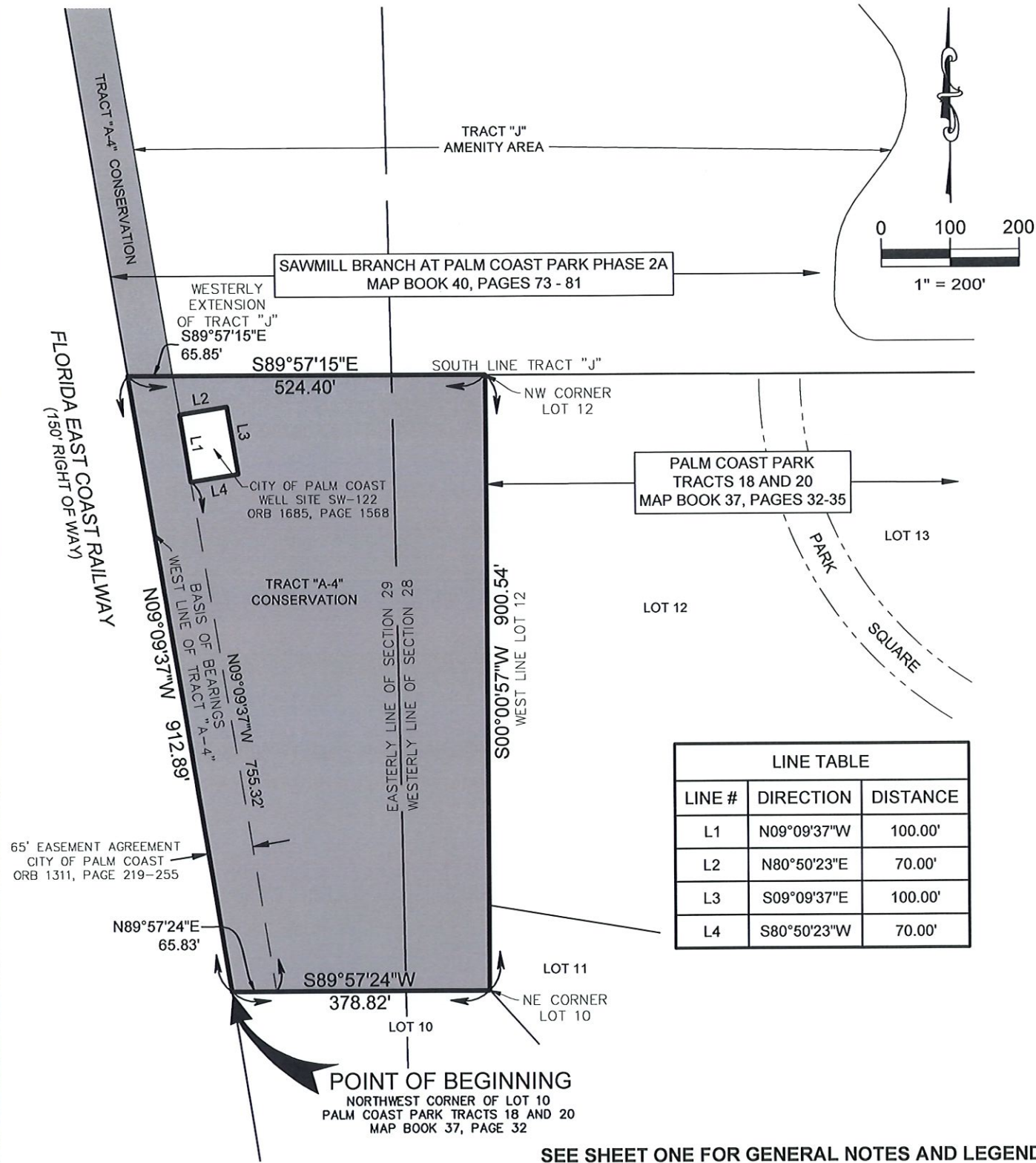
- 1) THIS IS NOT A BOUNDARY SURVEY.
- 2) BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PHASE 2A, AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, AS NORTH 09°09'37" WEST.

<p>WARNING</p> <p>IF THIS BAR DOES NOT MEASURE 40', THIS COPY OF THIS DOCUMENT IS NOT TO SCALE.</p>	<p>CADD NAME DATE</p>	<p>1505 East Colonial Drive - Orlando, Florida 32803</p>	<p>PROJECT NO. 21-0895.000</p>
	<p>DESIGNED BY</p>		<p>DATE OCTOBER 11, 2023</p>
	<p>DRAWN BY M.BRENT</p>		<p>SCALE 1" = 400'</p>
	<p>CHECKED BY T.TRACZ</p>		<p>1 of 3</p>
	<p>APPROVED BY T.TRACZ</p>		<p>FILE: Parcel A-4.dwg</p>

366

SKETCH OF DESCRIPTION

A PORTION OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PARK PHASE 2A,
AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA,
LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



SEE SHEET ONE FOR GENERAL NOTES AND LEGEND

WARNING 	CADD NAME DATE DESIGNED BY _____ DRAWN BY M.BRENT 10/11/23 CHECKED BY T.TRACZ 10/11/23 APPROVED BY T.TRACZ 10/11/23 FILE: Parcel A-4.dwg	 1505 East Colonial Drive - Orlando, Florida 32803	SKETCH OF DESCRIPTION A PORTION OF PARCEL "A-4" SAWMILL BRANCH AT PALM COAST PARK PHASE 2A	PROJECT NO. 21-0895.000
	DATE OCTOBER 11, 2023			
	SCALE 1" = 200'			
	FLAGLER COUNTY, FLORIDA 367			
	OF 3			

SKETCH OF DESCRIPTION

A PORTION OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PARK PHASE 2A,
AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA,
LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,

DESCRIPTION

A PORTION OF TRACT "A-4"

A Portion Of Tract "A-4", Sawmill Branch At Palm Coast Park Phase 2A, As Recorded In Map Book 40, Pages 73 - 81, Of The Public Records Of Flagler County, Florida, Located In Sections 28 And 29, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

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Less And Except The City Of Palm Coast Well Site, SW-122, As Described And Recorded In Official Records Book 1685, Page 1568 Of The Public Records Of Flagler County, Florida.

Containing 9.179 Acres, More, Or Less.



Thomas P. Tracz Date
Florida Professional Surveyor And Mapper No. 6039
8001 Belfort Parkway, Suite 200
Jacksonville, Florida, 32256
(904) 641-0123



This Description And Copies Thereof Are Not Valid Without The Surveyor's Signature And Original Seal.

<p>WARNING</p>  <p>IF THIS BAR DOES NOT MEASURE 1/4" THIS COPY OF THIS DOCUMENT IS NOT TO SCALE</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>CADD</th> <th>NAME</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>DESIGNED BY</td> <td></td> <td></td> </tr> <tr> <td>DRAWN BY</td> <td>M.BRENT</td> <td>10/11/23</td> </tr> <tr> <td>CHECKED BY</td> <td>T.TRACZ</td> <td>10/11/23</td> </tr> <tr> <td>APPROVED BY</td> <td>T.TRACZ</td> <td>10/11/23</td> </tr> <tr> <td>FILE:</td> <td colspan="2">Parcel A-4.dwg</td> </tr> </tbody> </table>	CADD	NAME	DATE	DESIGNED BY			DRAWN BY	M.BRENT	10/11/23	CHECKED BY	T.TRACZ	10/11/23	APPROVED BY	T.TRACZ	10/11/23	FILE:	Parcel A-4.dwg		 <p>DRMP ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS Certificate of Authorization No. 2648 1505 East Colonial Drive - Orlando, Florida 32803</p>	<p>SKETCH OF DESCRIPTION A PORTION OF PARCEL "A-4" SAWMILL BRANCH AT PALM COAST PARK PHASE 2A FLAGLER COUNTY, FLORIDA</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>PROJECT NO.</td> <td>21-0895.000</td> </tr> <tr> <td>DATE</td> <td>OCTOBER 11, 2023</td> </tr> <tr> <td>SCALE</td> <td>N/A</td> </tr> <tr> <td>SHEET</td> <td>3 OF 3</td> </tr> </table>	PROJECT NO.	21-0895.000	DATE	OCTOBER 11, 2023	SCALE	N/A	SHEET	3 OF 3
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DATE	OCTOBER 11, 2023																													
SCALE	N/A																													
SHEET	3 OF 3																													

EXHIBIT "B"

Form of Deed

**THIS INSTRUMENT PREPARED BY AND
AFTER RECORDING SHOULD BE
RETURNED TO:**
Kaley Cook, City Clerk

Folio No.:

SPECIAL WARRANTY DEED

THIS INDENTURE, made this ___ day of _____, 2024, by **FORESTAR (USA) REAL ESTATE GROUP INC.**, a Delaware corporation, ("**Grantor**"), whose address is 14785 Old St. Augustine Road, Suite 300, Jacksonville, Florida 32258 to **CITY OF PALM COAST, FLORIDA**, a Florida municipal corporation, ("**Grantee**") whose address is 160 Lake Avenue, Palm Coast, Florida 32164, whose address is.

WITNESSETH:

That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, to it in hand paid by Grantee, the receipt and adequacy whereof is hereby acknowledged, has granted, bargained, remised, released, conveyed, confirmed and sold to Grantee, its successors and assigns, all right, title and interest in and to, the land situate and being in Flagler County, Florida, and more particularly described on Exhibit "A" attached hereto and made a part hereof (the "**Property**").

Together with all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining.

This conveyance is subject only to (a) taxes and assessments for the current year and subsequent years, governmental charges or levies not yet due and payable; (b) any state or facts which an accurate survey would show; and (c) zoning and building laws, ordinances or regulations and easements and other restrictions of record, but this reference shall not operate to reimpose same.

Grantor hereby covenants with the Grantee that it is lawfully seized of the Property in fee simple; that it has good right and lawful authority to sell and convey the Property; and that it hereby fully warrants the title to the Property, and will defend the same against the lawful claims of all persons whomsoever claiming by or through Grantor.

TO HAVE AND TO HOLD unto Grantee and to the successors and assigns of Grantee in fee simple forever.

IN WITNESS WHEREOF, the Grantor has executed this instrument on the day and year first above written.

Signed, sealed, and delivered
in the presence of:

GRANTOR:

By:

Print Name: _____

Print _____ Name: _____

Address:

Its: _____

Date: _____

Print Name: _____

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ___ day of _____, 2024 by _____ as _____ of _____, on behalf of the Grantor, who is personally known to me.

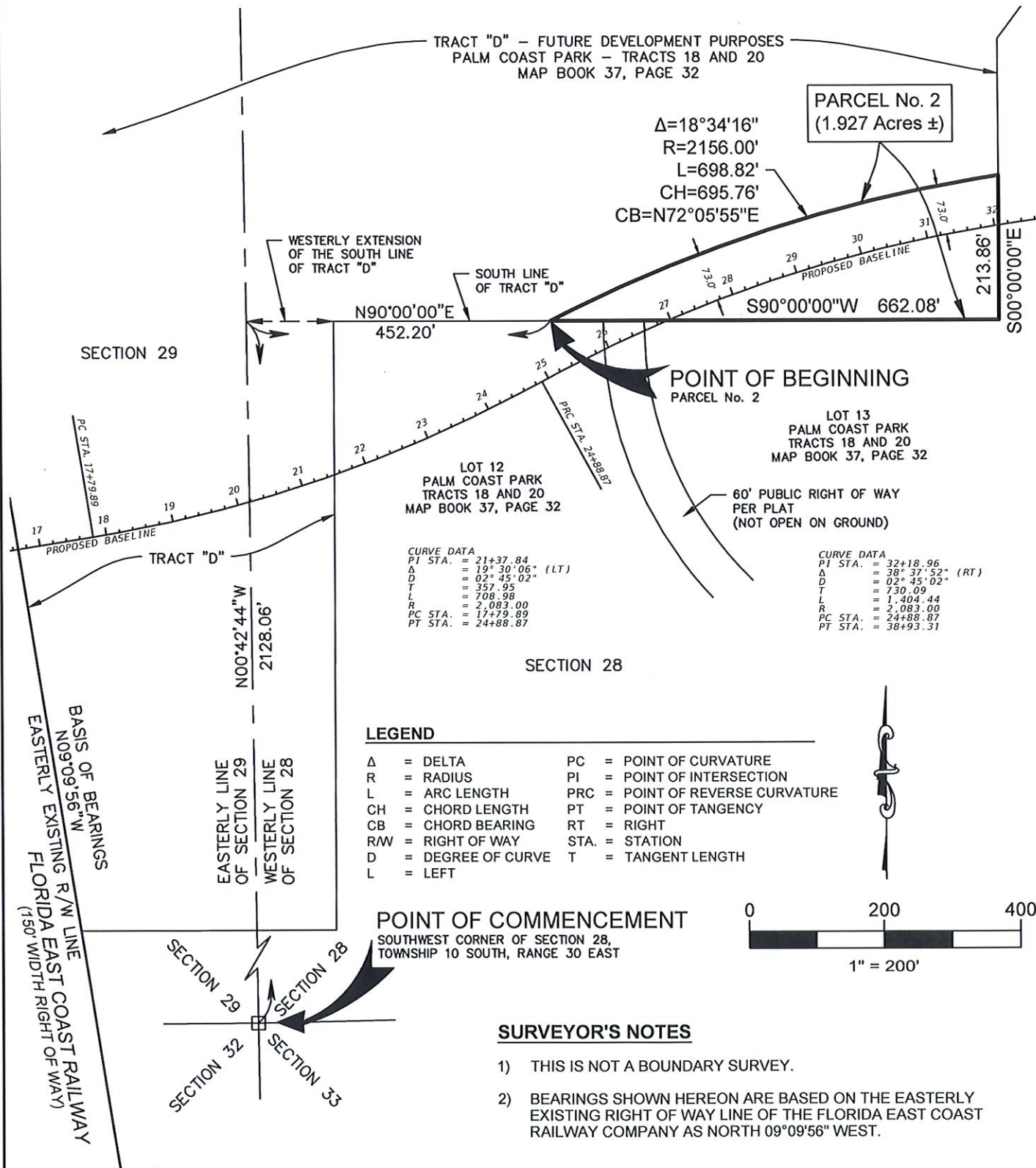
Notary Public

My Commission expires: _____

EXHIBIT "A"
to Deed

SKETCH OF DESCRIPTION

A PORTION OF TRACT "D", PALM COAST PARK, TRACTS 18 AND 20, AS RECORDED IN MAP BOOK 37, PAGES 32 - 35, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



<p>WARNING IF THIS BAR DOES NOT MEASURE 1" THIS COPY OF THIS DOCUMENT IS NOT TO SCALE</p>	<table border="1"> <tr> <th>CADD</th> <th>NAME</th> <th>DATE</th> </tr> <tr> <td>DESIGNED BY</td> <td>M.BRDIT</td> <td>9/19/23</td> </tr> <tr> <td>DRAWN BY</td> <td>T.TRACZ</td> <td>9/19/23</td> </tr> <tr> <td>CHECKED BY</td> <td>T.TRACZ</td> <td>9/19/23</td> </tr> <tr> <td>APPROVED BY</td> <td>T.TRACZ</td> <td>9/19/23</td> </tr> </table>	CADD	NAME	DATE	DESIGNED BY	M.BRDIT	9/19/23	DRAWN BY	T.TRACZ	9/19/23	CHECKED BY	T.TRACZ	9/19/23	APPROVED BY	T.TRACZ	9/19/23	<p>DRMP ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS Certificate of Authorization No. 2648 1505 East Colonial Drive - Orlando, Florida 32803</p>	<p>PROJECT NO. 21-0895.000</p> <p>DATE SEPTEMBER 19, 2023</p> <p>SCALE 1" = 200'</p> <p>SHEET 1 OF 2</p>
	CADD	NAME	DATE															
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FILE: Parcel 2 Revised.dwg	<p>SKETCH OF DESCRIPTION</p> <p>PARCEL No. 2</p> <p>MATANZAS WOOD PARKWAY EXTENSION</p> <p>FLAGLER COUNTY, FLORIDA</p>																	

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DESCRIPTION

PARCEL No. 2

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The Westerly Extension Of The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 Through 35, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said Westerly Extension, And Along Said South Line Of Tract "D", A Distance Of 452.20 Feet To The **Point Of Beginning**; Thence Northeasterly, Along The Arc Of A Curve, Concave Southeasterly, Having A Radius Of 2156.00 Feet, Through A Central Angle Of 18°34'16", An Arc Distance Of 698.82 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 72°05'55" East, 695.76 Feet To The East Line Of Said Tract "D"; Thence South 00°00'00" East, Along Said East Line, A Distance Of 213.86 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 662.08 Feet To The **Point Of Beginning**.

Containing 1.927 Acres, More, Or Less.



Thomas P. Tracz Date
 Florida Professional Surveyor And Mapper No. 6039
 8001 Belfort Parkway, Suite 200
 Jacksonville, Florida, 32256
 (904) 641-0123

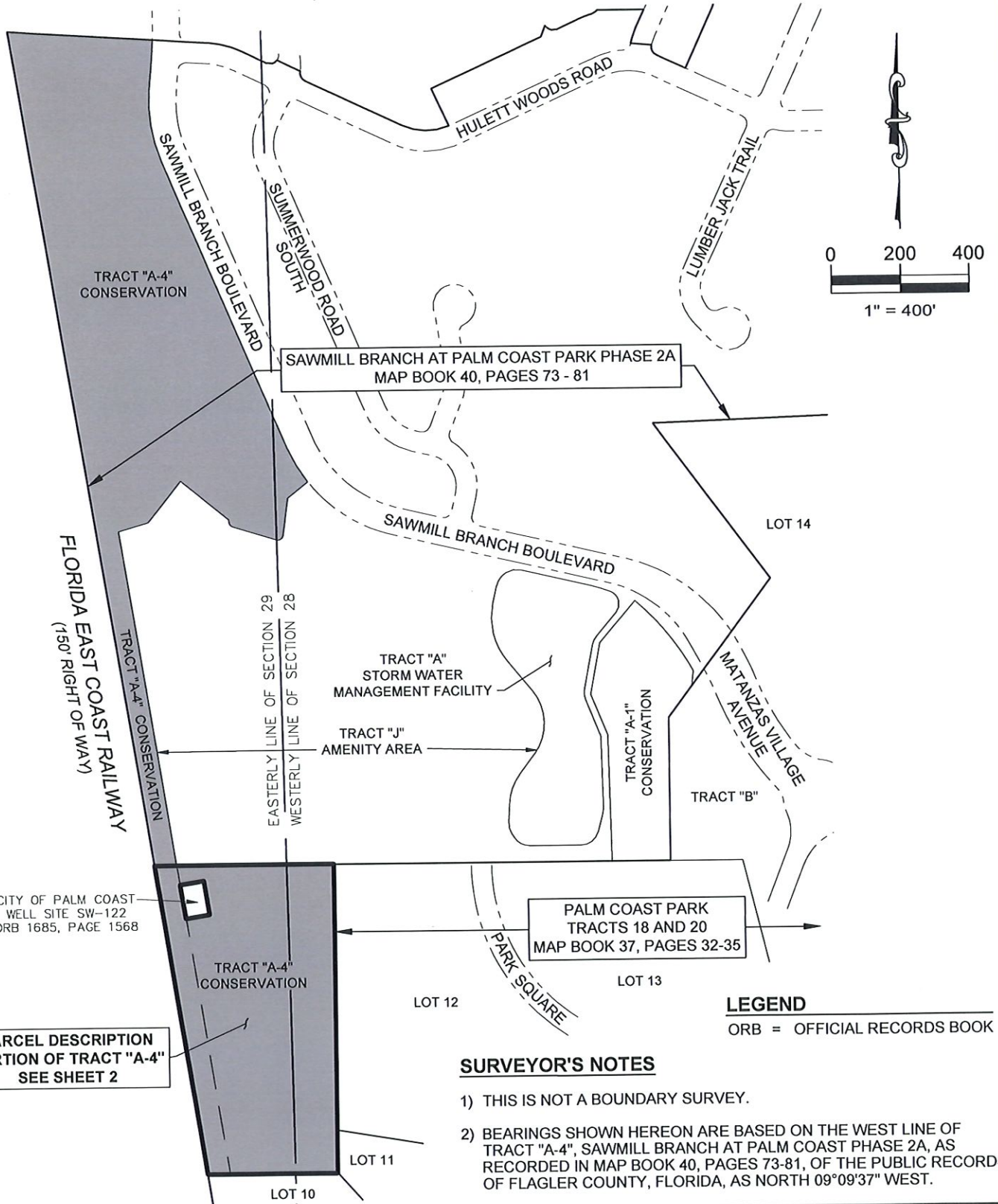


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SKETCH OF DESCRIPTION

A PORTION OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PARK PHASE 2A, AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



SAWMILL BRANCH AT PALM COAST PARK PHASE 2A
MAP BOOK 40, PAGES 73 - 81

PALM COAST PARK
TRACTS 18 AND 20
MAP BOOK 37, PAGES 32-35

PARCEL DESCRIPTION
PORTION OF TRACT "A-4"
SEE SHEET 2

LEGEND
ORB = OFFICIAL RECORDS BOOK

- SURVEYOR'S NOTES**
- 1) THIS IS NOT A BOUNDARY SURVEY.
 - 2) BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PHASE 2A, AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, AS NORTH 09°09'37" WEST.

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	DRAWN BY	M.BRENT	10/11/23
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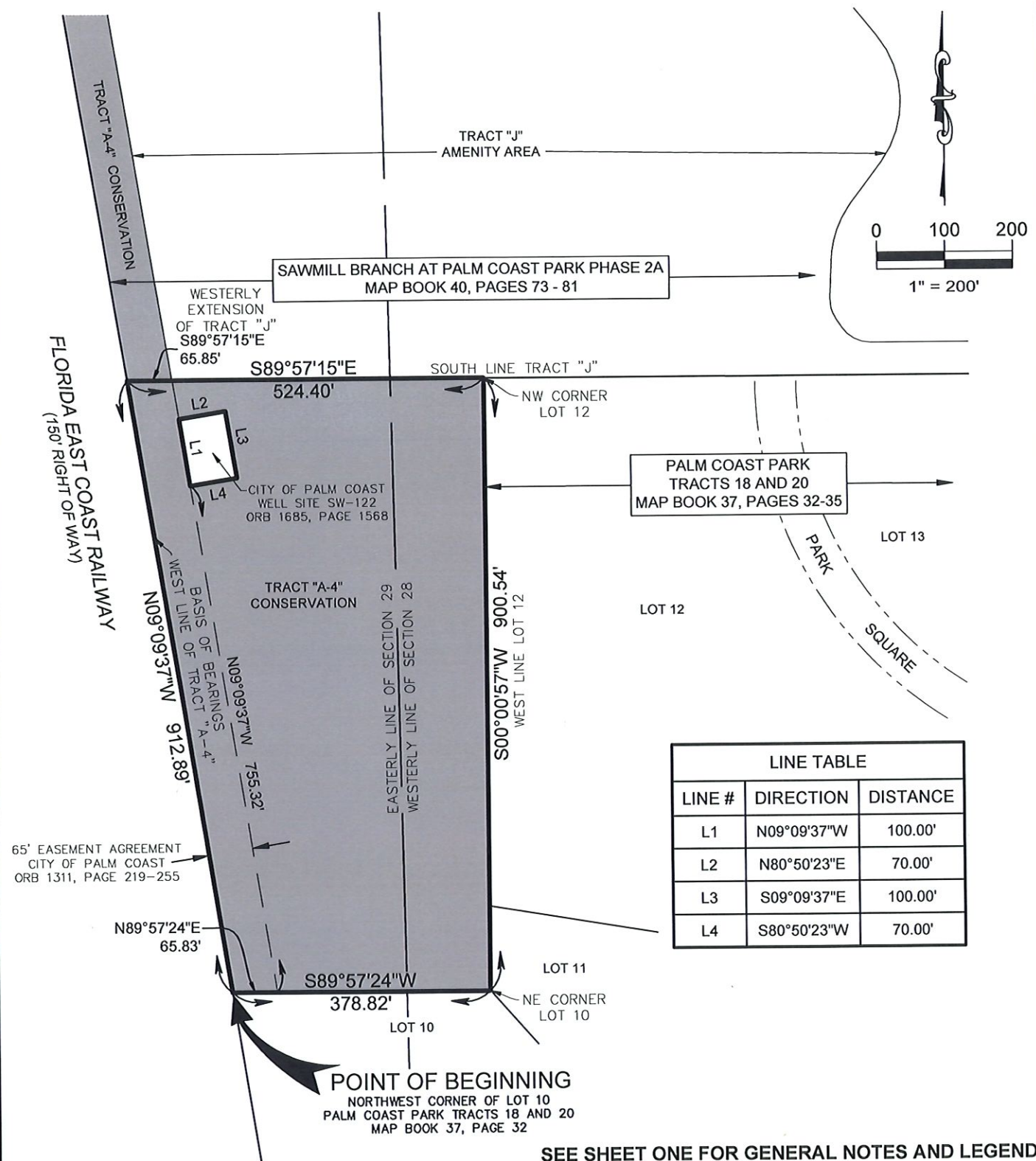
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SKETCH OF DESCRIPTION
A PORTION OF PARCEL "A-4"
SAWMILL BRANCH AT PALM COAST PARK
PHASE 2A
FLAGLER COUNTY, FLORIDA

PROJECT NO.	21-0895.000
DATE	OCTOBER 11, 2023
SCALE	1" = 400'
PAGE	1 OF 3

SKETCH OF DESCRIPTION

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LINE TABLE		
LINE #	DIRECTION	DISTANCE
L1	N09°09'37"W	100.00'
L2	N80°50'23"E	70.00'
L3	S09°09'37"E	100.00'
L4	S80°50'23"W	70.00'

SEE SHEET ONE FOR GENERAL NOTES AND LEGEND

<p>WARNING</p> <p>IF THIS BAR DOES NOT MEASURE 1/4" THIS COPY OF THIS DOCUMENT IS NOT TO SCALE</p>	<p>CADD NAME DATE</p> <p>DESIGNED BY</p> <p>DRAWN BY M.BRDNT 10/11/23</p> <p>CHECKED BY T.TRACZ 10/11/23</p> <p>APPROVED BY T.TRACZ 10/11/23</p> <p>FILE: Parcel A-4.dwg</p>	<p>DRMP</p> <p>ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS</p> <p>Certificate of Authorization No. 2648</p> <p>1505 East Colonial Drive - Orlando, Florida 32803</p>	<p>SKETCH OF DESCRIPTION</p> <p>A PORTION OF PARCEL "A-4"</p> <p>SAWMILL BRANCH AT PALM COAST PARK PHASE 2A</p> <p>FLAGLER COUNTY, FLORIDA</p>	<p>PROJECT NO. 21-0895.000</p> <p>DATE OCTOBER 11, 2023</p> <p>SCALE 1" = 200'</p> <p>375 OF 3</p>
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SKETCH OF DESCRIPTION

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Containing 9.179 Acres, More, Or Less.



Thomas P. Tracz Date
 Florida Professional Surveyor And Mapper No. 6039
 8001 Belfort Parkway, Suite 200
 Jacksonville, Florida, 32256
 (904) 641-0123



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	DESIGNED BY					DATE	OCTOBER 11, 2023	SCALE	N/A
	DRAWN BY	M.BRENT	10/11/23			CHECKED BY	T.TRACZ	10/11/23	
	APPROVED BY	T.TRACZ	10/11/23			FILE:	Parcel A-4.dwg		SHEET
				FLAGLER COUNTY,		FLORIDA			

Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 559.69 Feet To **Point Of Beginning.**

EXHIBIT “C”

AFFIDAVIT OF INTEREST IN REAL PROPERTY – F.S. 286.23

THIS AFFIDAVIT OF INTEREST IN REAL PROPERTY is made and entered into this _____ day of _____, 2024, for the sole purpose of compliance with Section 286.23 of the Florida Statutes.

The undersigned hereby swears and affirms that the following is true:

1. The Affiant is the _____ of FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, the legal title holder of the real property described on the attached Exhibit “C-1” (“Property”); and *(select appropriate option below)*:

(check if applicable) – The name(s) and address(es) of every person having a beneficial interest in the Property however small or minimal is/are:

	Name	Address
a)		
b)		
c)		

(check if applicable) – All beneficial interests in the Property are exempt from disclosure because the entity identified above as the owner of the Property is an entity registered with the Federal Securities Exchange Commission or the Florida Department of Financial Services pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

2. Affiant acknowledges that this Affidavit is given to comply with Florida Statutes 286.23, and will be relied upon by the City of Palm Coast in the conveyance of the Property.

3. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the United States and the State of Florida for falsely swearing to statements under oath.

4. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct and complete.

WITNESSES:

(print)

(print)
By: _____
Print name: _____
Title: _____

STATE OF _____

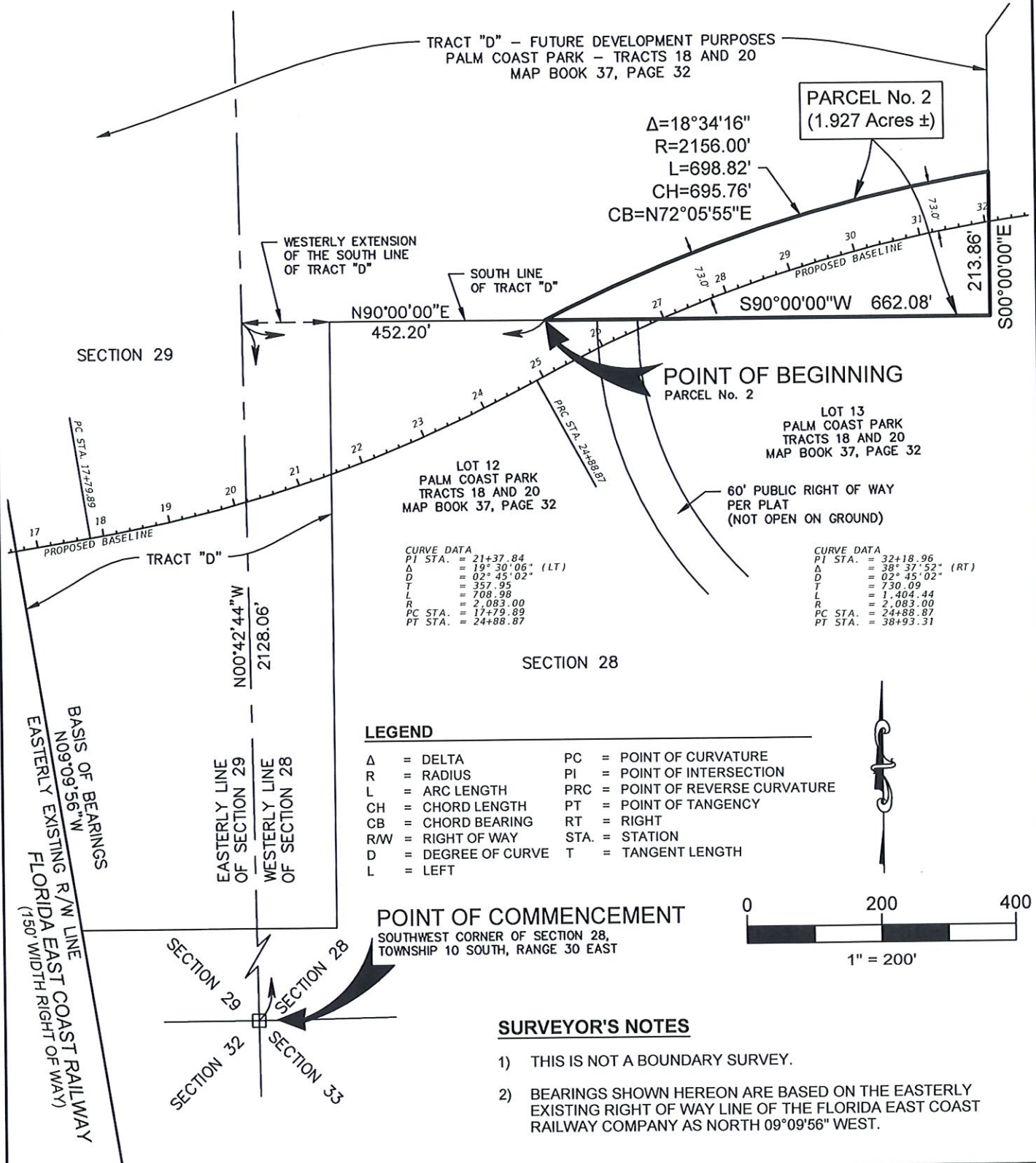
COUNTY OF _____

SWORN TO and subscribed before me by means of physical presence or online notarization, this ____ day of _____, 2024, by _____, the _____ of FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, (check one) who is personally known to me or who provided _____ as identification.

Notary Public
Print Name: _____
My commission expires:

SKETCH OF DESCRIPTION

A PORTION OF TRACT "D", PALM COAST PARK, TRACTS 18 AND 20, AS RECORDED IN MAP BOOK 37, PAGES 32 - 35, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



<p>WARNING</p> <p>IF THIS BAR DOES NOT MEASURE UP THIS COPY OF THIS DOCUMENT IS NOT TO SCALE</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>CADD</th> <th>NAME</th> <th>DATE</th> </tr> <tr> <td>DESIGNED BY</td> <td></td> <td></td> </tr> <tr> <td>DRAWN BY</td> <td>M.BRENT</td> <td>9/19/23</td> </tr> <tr> <td>CHECKED BY</td> <td>T.TRACZ</td> <td>9/19/23</td> </tr> <tr> <td>APPROVED BY</td> <td>T.TRACZ</td> <td>9/19/23</td> </tr> <tr> <td>FILE:</td> <td colspan="2">Parcel 2 Revised.dwg</td> </tr> </table>	CADD	NAME	DATE	DESIGNED BY			DRAWN BY	M.BRENT	9/19/23	CHECKED BY	T.TRACZ	9/19/23	APPROVED BY	T.TRACZ	9/19/23	FILE:	Parcel 2 Revised.dwg		<p>DRMP ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS Certificate of Authorization No. 2648 1505 East Colonial Drive - Orlando, Florida 32803</p>	<p>SKETCH OF DESCRIPTION</p> <p>PARCEL No. 2 MATANZAS WOOD PARKWAY EXTENSION</p> <p>FLAGLER COUNTY, FLORIDA</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>PROJECT NO.</td> <td>21-0895.000</td> </tr> <tr> <td>DATE</td> <td>SEPTEMBER 19, 2023</td> </tr> <tr> <td>SCALE</td> <td>1" = 200'</td> </tr> <tr> <td>SHEET</td> <td>1 of 2</td> </tr> </table>	PROJECT NO.	21-0895.000	DATE	SEPTEMBER 19, 2023	SCALE	1" = 200'	SHEET	1 of 2
	CADD	NAME	DATE																											
	DESIGNED BY																													
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PROJECT NO.	21-0895.000																													
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SHEET	1 of 2																													

SKETCH OF DESCRIPTION

A PORTION OF TRACT "D", PALM COAST PARK, TRACTS 18 AND 20, AS RECORDED IN MAP BOOK 37, PAGES 32 - 35, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,

DESCRIPTION

PARCEL No. 2

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The Westerly Extension Of The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 Through 35, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said Westerly Extension, And Along Said South Line Of Tract "D", A Distance Of 452.20 Feet To The **Point Of Beginning**; Thence Northeasterly, Along The Arc Of A Curve, Concave Southeasterly, Having A Radius Of 2156.00 Feet, Through A Central Angle Of 18°34'16", An Arc Distance Of 698.82 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 72°05'55" East, 695.76 Feet To The East Line Of Said Tract "D"; Thence South 00°00'00" East, Along Said East Line, A Distance Of 213.86 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 662.08 Feet To The **Point Of Beginning**.

Containing 1.927 Acres, More, Or Less.



Thomas P. Tracz Date
Florida Professional Surveyor And Mapper No. 6039
8001 Belfort Parkway, Suite 200
Jacksonville, Florida, 32256
(904) 641-0123

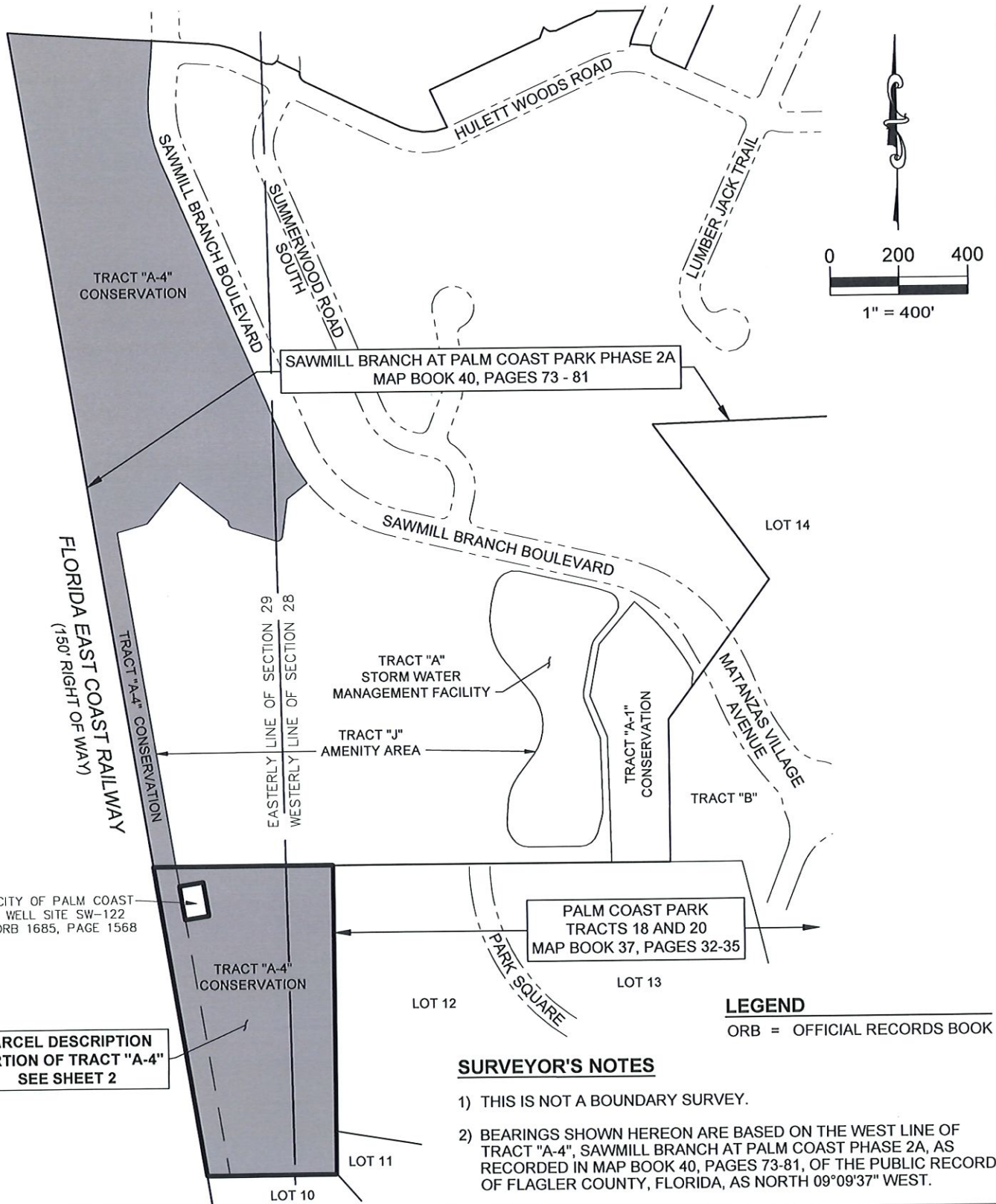


This Description And Copies Thereof Are Not Valid Without The Surveyor's Signature And Original Seal.

	CADD	NAME	DATE		SKETCH OF DESCRIPTION	PROJECT NO.
	DESIGNED BY					21-0895.000
	DRAWN BY	M.BRENT	9/19/23			DATE
	CHECKED BY	T.TRACZ	9/19/23			SEPTEMBER 19, 2023
	APPROVED BY	T.TRACZ	9/19/23			SCALE
FILE:	Parcel 2 Revised.dwg				PARCEL No. 2	N/A
					MATANZAS WOOD PARKWAY EXTENSION	SHEET 2 OF 2
					FLAGLER COUNTY, FLORIDA	381

SKETCH OF DESCRIPTION

A PORTION OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PARK PHASE 2A, AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



LEGEND
ORB = OFFICIAL RECORDS BOOK

SURVEYOR'S NOTES

- 1) THIS IS NOT A BOUNDARY SURVEY.
- 2) BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PHASE 2A, AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, AS NORTH 09°09'37" WEST.

PARCEL DESCRIPTION
PORTION OF TRACT "A-4"
SEE SHEET 2

<p>WARNING</p> <p>IF THIS BAR DOES NOT MEASURE 1/2" THIS COPY OF THIS DOCUMENT IS NOT TO SCALE</p>	CADD	NAME	DATE
	DESIGNED BY		
	DRAWN BY	M.BRENT	10/11/23
	CHECKED BY	T.TRACZ	10/11/23
	APPROVED BY	T.TRACZ	10/11/23
FILE: Parcel A-4.dwg			

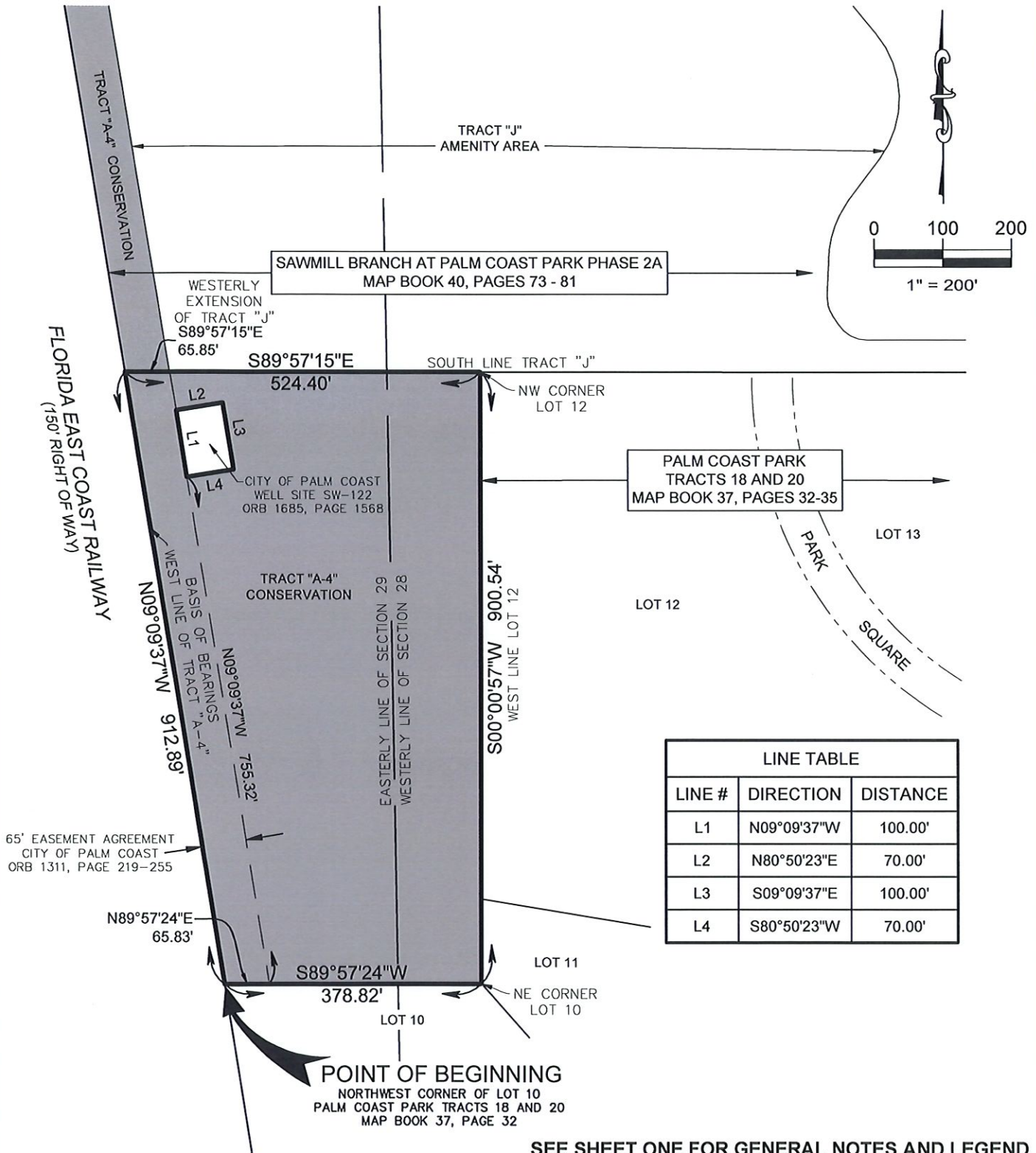
DRMP
ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS
Certificate of Authorization No. 2648
1505 East Colonial Drive - Orlando, Florida 32803

SKETCH OF DESCRIPTION
A PORTION OF PARCEL "A-4"
SAWMILL BRANCH AT PALM COAST PARK
PHASE 2A
FLAGLER COUNTY, FLORIDA

PROJECT NO.	21-0895.000
DATE	OCTOBER 11, 2023
SCALE	1" = 400'
	1 OF 3

SKETCH OF DESCRIPTION

A PORTION OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PARK PHASE 2A,
AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA,
LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



LINE TABLE		
LINE #	DIRECTION	DISTANCE
L1	N09°09'37\"W	100.00'
L2	N80°50'23\"E	70.00'
L3	S09°09'37\"E	100.00'
L4	S80°50'23\"W	70.00'

SEE SHEET ONE FOR GENERAL NOTES AND LEGEND

<p>WARNING</p> <p>IF THIS BAR DOES NOT MEASURE 1/2 THIS COPY OF THIS DOCUMENT IS NOT TO SCALE</p>	CADD	NAME	DATE
	DESIGNED BY		
	DRAWN BY	M.BRDY	10/11/23
	CHECKED BY	T.TRACZ	10/11/23
	APPROVED BY	T.TRACZ	10/11/23
FILE:	Parcel A-4.dwg		

DRMP
ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS
Certificate of Authorization No. 2648
1505 East Colonial Drive - Orlando, Florida 32803

SKETCH OF DESCRIPTION
A PORTION OF PARCEL "A-4"
SAWMILL BRANCH AT PALM COAST PARK
PHASE 2A
FLAGLER COUNTY, FLORIDA

PROJECT NO.	21-0895.000
DATE	OCTOBER 11, 2023
SCALE	1" = 200'
SHEET	2 OF 3

SKETCH OF DESCRIPTION

A PORTION OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PARK PHASE 2A,
AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA,
LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,

DESCRIPTION

A PORTION OF TRACT "A-4"

A Portion Of Tract "A-4", Sawmill Branch At Palm Coast Park Phase 2A, As Recorded In Map Book 40, Pages 73 - 81, Of The Public Records Of Flagler County, Florida, Located In Sections 28 And 29, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

Begin At The Northwest Corner Of Lot 10, Palm Coast Park Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Also Being The Southwest Corner Of Said Tract "A-4", Sawmill Branch At Palm Coast Park Phase 2A; Thence North $09^{\circ}09'37''$ West, Along The West Line Of Said Tract "A-4", A Distance Of 912.89 Feet To An Intersection With The Westerly Extension Of The South Line Of Tract "J" Of Said Sawmill Branch At Palm Coast Park Phase 2A; Thence South $89^{\circ}57'15''$ East, Along Said Westerly Extension, And Said South Line Of Tract "J", A Distance Of 524.40 Feet To The Northwest Corner Of Lot 12 Of Said Palm Coast Park Tracts 18 And 20; Thence South $00^{\circ}00'57''$ West, Along The West Lines Of Lot 12 And Lot 11 Of Said Palm Coast Park Tracts 18 And 20, A Distance Of 900.54 Feet To The Northeast Corner Of Said Lot 10, Also Being The Southeast Corner Of Said Tract "A-4"; Thence South $89^{\circ}57'24''$ West, Along The North Line Of Said Lot 10, And The South Line Of Said Tract "A-4", A Distance Of 378.82 Feet To The **Point Of Beginning**.

Less And Except The City Of Palm Coast Well Site, SW-122, As Described And Recorded In Official Records Book 1685, Page 1568 Of The Public Records Of Flagler County, Florida.

Containing 9.179 Acres, More, Or Less.



 Thomas P. Tracz Date
 Florida Professional Surveyor And Mapper No. 6039
 8001 Belfort Parkway, Suite 200
 Jacksonville, Florida, 32256
 (904) 641-0123



This Description And Copies Thereof Are Not Valid Without The Surveyor's Signature And Original Seal.

<p>WARNING</p> <p>0 1/4 1/2 3/4 1</p> <p>IF THIS BAR DOES NOT MEASURE 1" THIS COPY OF THIS DOCUMENT IS NOT TO SCALE</p>	CADD	NAME	DATE	DRMP ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS Certificate of Authorization No. 2648 1505 East Colonial Drive - Orlando, Florida 32803	SKETCH OF DESCRIPTION A PORTION OF PARCEL "A-4" SAWMILL BRANCH AT PALM COAST PARK PHASE 2A FLAGLER COUNTY, FLORIDA	PROJECT NO.	21-0895.000
	DESIGNED BY					DATE	OCTOBER 11, 2023
	DRAWN BY	M.BRENT	10/11/23			SCALE	N/A
	CHECKED BY	T.TRACZ	10/11/23			FLORIDA 3 OF 3	
	APPROVED BY	T.TRACZ	10/11/23				
FILE:	Parcel A-4.dwg						

EXHIBIT "D"
FORM TEMPORARY CONSTRUCTION EASEMENT

Prepared by:
Catherine D. Reischmann
Asst. City Attorney
Garganese, Weiss, D'Agresta & Salzman, P.A.
P.O. Box 2873
Orlando, FL 32802-2873

Return to:
Kaley Cook, City Clerk City of Palm Coast
160 Lake Avenue
Palm Coast, Florida 32164-3126

TEMPORARY CONSTRUCTION EASEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (the "Easement Agreement") is entered into this _____ day of _____, 2024, between **FORESTAR (USA) REAL ESTATE GROUP INC.**, a Delaware corporation, whose address is 14785 Old St. Augustine Road, Suite 300, Jacksonville, FL 32258, hereinafter referred to as the GRANTOR, and the **CITY OF PALM COAST**, whose address is 160 Lake Avenue, Palm Coast, Florida 32164, hereinafter referred to as the GRANTEE.

WITNESSETH:

FOR AND IN CONSIDERATION of ONE AND NO/100 DOLLAR (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, GRANTOR, does hereby give, grant, bargain and release to the GRANTEE, a temporary easement to enter upon the following lands of the GRANTOR, said real property being located in Flagler County, Florida and more specifically described as follows (the "Easement Area"):

SEE EXHIBIT "A" ATTACHED HERETO.

FOR THE PURPOSE OF allowing the GRANTEE to construct certain road improvements pertaining to Matanzas Woods Parkway together with necessary appurtenant facilities on the said real property, and to access the said real property abutting real property thereto and to conduct any and all acts and works as aforesaid.

GRANTEE shall bear the entire cost and expense of any construction, repair, alteration, replacement or removal activities performed within the Easement Area. The GRANTEE shall also, at GRANTEE's cost and expense, restore the Easement Area to the condition which existed prior to any

such construction, repair, alteration, replacement or removal activities, including but not limited to, sidewalks, irrigation, landscaping, and signage caused by or resulting from such activities.

GRANTOR will have continued and uninterrupted reasonable access to GRANTOR's development known as Sawmill Branch. GRANTEE will use its best efforts to not unreasonably block or impede access to the main entrance of Sawmill Branch at Matanzas Village Ave. GRANTEE will provide GRANTOR 30 days' notice with an alternative access plan if the City has to block or impede access to the main entrance.

THE GRANTOR hereby warrants that it has good and marketable title and authority to grant the rights to the GRANTEE as set forth herein.

THIS EASEMENT shall expire and be of no further force or effect upon the earlier of: (i) three (3) years from the date of recording of this Easement Agreement at which time this Easement Agreement shall automatically terminate without the need to record any termination in the public records; or (ii) upon completion of the construction of the City's road improvement project as evidenced by an affidavit executed by the GRANTEE's City Engineer, said affidavit being delivered to the GRANTOR. Upon completion, and if requested by Grantor, Grantee shall record a termination of this Easement Agreement in the public records of Flagler County.

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal the day and year first above written.

WITNESSES:

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

(signature)

By: _____

(print name)

Print Name: _____

Title: _____

Address:

(signature)

(print name)

Address:

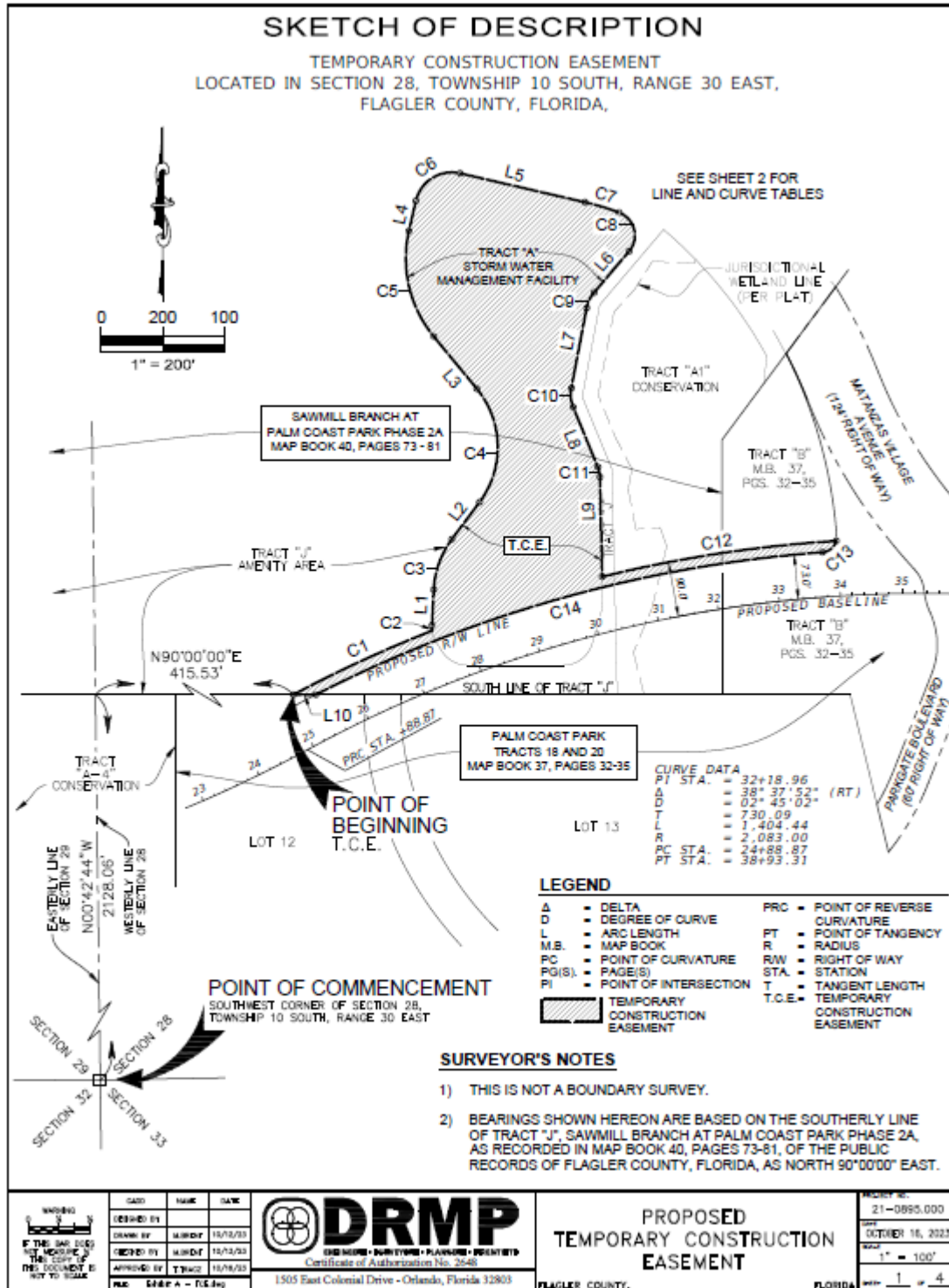
STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before by means of physical presence or online notarization this _____ day of _____, 2024, by _____ the _____ of FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, (check one) who is personally known to me or who produced _____ as identification.

Notary Public
Print Name: _____
My Commission expires:

EXHIBIT "A"
Legal to EASEMENT AREA



SKETCH OF DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT
 LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST,
 FLAGLER COUNTY, FLORIDA,

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N02°47'28"E	57.87'
L2	N36°44'52"E	75.17'
L3	N39°27'28"W	110.40'
L4	N13°02'06"E	50.17'
L5	S76°57'54"E	209.03'
L6	S40°18'51"W	88.17'
L7	S10°47'46"W	132.97'
L8	S22°17'54"E	105.43'
L9	S01°20'04"E	162.66'
L10	N90°00'00"W	36.67'

CURVE TABLE					
CURVE #	DELTA	RADIUS	LENGTH	CHORD BEARING	CHORD DISTANCE
C1	006°34'36"	2173.00'	249.42'	N65°14'28"E	249.28'
C2	010°16'15"	50.00'	8.96'	N02°20'40"W	8.95'
C3	033°57'24"	150.00'	88.90'	N19°46'10"E	87.60'
C4	076°12'21"	150.00'	199.51'	N01°21'18"W	185.12'
C5	052°29'35"	200.00'	183.23'	N13°12'41"W	176.89'
C6	090°00'00"	60.00'	94.25'	N58°02'06"E	84.85'
C7	007°31'41"	440.00'	57.81'	S73°12'03"E	57.77'
C8	109°45'03"	40.00'	76.62'	S14°33'41"E	65.43'
C9	029°31'06"	55.00'	28.34'	S25°33'18"W	28.02'
C10	033°06'40"	55.00'	31.77'	S05°45'04"E	31.33'
C11	020°57'50"	45.00'	16.46'	S11°48'59"E	16.37'
C12	010°10'54"	2173.00'	386.15'	N81°17'27"E	385.64'
C13	071°01'32"	25.00'	30.99'	S50°14'44"W	29.04'
C14	022°56'43"	2156.00'	863.42'	S74°17'08"W	857.66'

SEE SHEET ONE FOR GENERAL NOTES & LEGEND

	DATE: _____ SCALE: AS SHOWN PROJECT: _____ SHEET: _____ OF _____ DRAWN BY: _____ CHECKED BY: _____	 <p>DRMP DRMP, INC. 1501 East Colonial Drive - Orlando, Florida 32803</p>	PROPOSED TEMPORARY CONSTRUCTION EASEMENT	PROJECT NO.: 21-0895.000 DATE: OCT 16, 2023 SHEET: 6/4 TOTAL SHEETS: 4 SHEET NO.: 2
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SKETCH OF DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT
LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST,
FLAGLER COUNTY, FLORIDA.

DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT

A Portion Of Tract "J", Tract "A" And Tract "A1", Sawmill Branch At Palm Coast Park Phase 2A, As Recorded In Map Book 40, Pages 73 - 81, Of The Public Records Of Flagler County, Florida, And A Portion Of Tract "B", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The South Line Of Said Tract "J", Sawmill Branch At Palm Coast Park Phase 2A, As Recorded In Map Book 40, Pages 73 - 81, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said South Line Of Tract "J", A Distance Of 415.53 Feet To A Point On A Non-Tangent Curve, And The Point Of Beginning; Thence Northeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 2173.00 Feet, Through A Central Angle Of 06°34'35", An Arc Distance Of 249.42 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 65°14'28" East, 249.28 Feet To The Westerly Line Of Said Tract "A", Sawmill Branch At Palm Coast Park Phase 2A, As Recorded In Map Book 40, Pages 73 - 81, Of The Public Records Of Flagler County, Florida, And To A Point On A Non-Tangent Curve; Thence Along The Westerly, Northerly And Easterly Lines Of Said Tract "A", The Following Nineteen (19) Courses: Course 1: Thence Northerly, Along The Arc Of A Curve To The Right, Having A Radius Of 50.00 Feet, Through A Central Angle Of 10°16'15", An Arc Distance Of 8.96 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 02°20'40" West, 8.95 Feet To A Point Of Tangency; Course 2: Thence North 02°47'28" East, A Distance Of 57.87 Feet To A Point Of Curvature; Course 3: Thence Northeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 150.00 Feet, Through A Central Angle Of 33°57'24", An Arc Distance Of 88.90 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 19°46'10" East, 87.60 Feet To A Point Of Tangency; Course 4: Thence North 36°44'52" East, A Distance Of 75.17 Feet To A Point Of Curvature; Course 5: Thence Northerly, Along The Arc Of A Curve To The Left, Having A Radius Of 150.00 Feet, Through A Central Angle Of 76°12'21", An Arc Distance Of 199.51 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 01°21'18" West, 185.12 Feet To A Point Of Tangency; Course 6: Thence North 39°27'28" West, A Distance Of 110.40 Feet To A Point Of Curvature; Course 7: Thence Northerly, Along The Arc Of A Curve To The Right, Having A Radius Of 200.00 Feet, Through A Central Angle Of 52°29'35", An Arc Distance Of 183.23 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 13°12'41" West, 176.89 Feet To A Point Of Tangency; Course 8: Thence North 13°02'06" East, A Distance Of 50.17 Feet To A Point Of Curvature; Course 9: Thence Northeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 60.00 Feet, Through A Central Angle Of 90°00'00", An Arc Distance Of 94.25 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 58°02'06" East, 84.85 Feet To A Point Of Tangency; Course 10: Thence South 76°57'54" East, A Distance Of 209.03 Feet To A Point Of Curvature; Course 11: Thence Southeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 440.00 Feet, Through A Central Angle Of 07°31'41", An Arc Distance Of 57.81 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 73°12'03" East, 57.77 Feet To A Point Of Compound Curvature;

	<table border="1" style="font-size: 8px;"> <tr><th>DATE</th><th>NAME</th><th>TYPE</th></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </table>	DATE	NAME	TYPE																												 <p>DRMP <small>DESIGN REVIEW MANAGEMENT PROGRAM A SERVICE OF THE FLORIDA DEPARTMENT OF TRANSPORTATION 1305 East Colonial Drive - Orlando, Florida 32809</small></p>	<p>PROPOSED TEMPORARY CONSTRUCTION EASEMENT</p>	<table border="1" style="font-size: 8px;"> <tr><td>PROJECT NO.</td><td>21-0895-003</td></tr> <tr><td>DATE</td><td>07/15/2023</td></tr> <tr><td>SCALE</td><td>N/A</td></tr> <tr><td>DATE</td><td> </td></tr> <tr><td>SCALE</td><td> </td></tr> </table>	PROJECT NO.	21-0895-003	DATE	07/15/2023	SCALE	N/A	DATE		SCALE	
DATE	NAME	TYPE																																										
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SKETCH OF DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT
 LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST,
 FLAGLER COUNTY, FLORIDA,

DESCRIPTION (Continued)

TEMPORARY CONSTRUCTION EASEMENT

Course 12: Thence Southeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 40.00 Feet, Through A Central Angle Of 109°45'03", An Arc Distance Of 76.62 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 14°33'41" East, 65.43 Feet To A Point Of Tangency; Course 13: Thence South 40°18'51" West, A Distance Of 88.17 Feet To A Point Of Curvature; Course 14: Thence Southwesterly, Along The Arc Of A Curve To The Left, Having A Radius Of 55.00 Feet, Through A Central Angle Of 29°31'05", An Arc Distance Of 28.34 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 25°33'18" West, 28.02 Feet To A Point Of Tangency; Course 15: Thence South 10°47'46" West, A Distance Of 132.97 Feet To A Point Of Curvature; Course 16: Thence Southerly, Along The Arc Of A Curve To The Left, Having A Radius Of 55.00 Feet, Through A Central Angle Of 33°05'40", An Arc Distance Of 31.77 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 05°45'04" East, 31.33 Feet To A Point Of Tangency; Course 17: Thence South 22°17'54" East, A Distance Of 105.43 Feet To A Point Of Curvature; Course 18: Thence Southeasterly, Along The Arc Of A Curve To The Right, Having A Radius Of 45.00 Feet, Through A Central Angle Of 20°57'50", An Arc Distance Of 16.46 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 11°48'59" East, 16.37 Feet To A Point Of Tangency; Course 19: Thence South 01°20'04" East, A Distance Of 162.66 Feet To A Point On A Non-Tangent Curve; Thence Northeasterly, Departing Said Easterly Line Of Tract "A", Along The Arc Of A Curve To The Right, Having A Radius Of 2173.00 Feet, Through A Central Angle Of 10°10'54", An Arc Distance Of 386.15 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 81°17'27" East, 385.64 Feet To A Point On A Non-Tangent Curve; Thence Southwesterly, Along The Arc Of A Curve To The Right, Having A Radius Of 25.00 Feet, Through A Central Angle Of 71°01'32", An Arc Distance Of 30.99 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 50°14'44" West, 29.04 Feet To A Point Of Reverse Curvature; Thence Southwesterly, Along The Arc Of A Curve To The Left, Having A Radius Of 2156.00 Feet, Through A Central Angle Of 22°56'43", An Arc Distance Of 863.42 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 74°17'08" West, 857.66 Feet To Said South Line Of Tract "J"; Thence North 90°00'00" West, Along Said South Line Of Tract "J", A Distance Of 36.67 Feet To The Point Of Beginning.

Containing 4.106 Acres, More, Or Less.



Thomas P. Tracz Date
 Florida Professional Surveyor And Mapper No. 6039
 8001 Belfort Parkway, Suite 200
 Jacksonville, Florida, 32256
 (904) 641-0123



This Description And Copies Thereof Are Not Valid Without The Surveyor's Signature And Original Seal.

	DRMP	PROPOSED TEMPORARY CONSTRUCTION EASEMENT	21-2895.000 DATE: OCT 16, 2023 SCALE: N/A
	1593 East Colonial Drive - Orlando, Florida 32803 407-443-0040		

EXHIBIT “E”

AFFIRMATION OF BUYER REGARDING INTERSTATE LAND SALES FULL DISCLOURE
ACT

BEFORE ME, the undersigned authority, on this day personally appeared _____ of City of Palm Coast (“Buyer”), who after being first duly sworn, hereby deposes and says:

Buyer intends to execute that certain Contract for Purchase and Sale (“Contract”) pursuant to which Forestar (USA) Real Estate Group Inc., a Delaware corporation (as “Seller”), will agree to sell and Buyer will agree to purchase that certain tract or lot of land located in Flagler County, Florida, more particularly described on **Exhibit “A”** attached hereto (the “Property”)

Prior to execution of the Contract and this Affidavit, Buyer made a personal, on-the-ground inspection of the Property, and certifies to Seller that Buyer made such personal inspection as evidenced by the initials below:

		<u>Yes</u>	<u>No</u>
Initials:	Buyer personally inspected the Property		

Based on such personal inspection, Buyer is satisfied with the location, condition, and all other aspects of the Property.

Seller has made no offer to Buyer, by direct mail, telephone solicitation or by any other means or methods, of any gift, trip, dinner or any other similar promotional techniques to induce Buyer to visit the subdivision where the Property is located or to purchase the Property.

THE UNDERSIGNED further states that Buyer is familiar with the nature of the oath, and with the penalties as provided by law for falsely swearing to statements made in an instrument of this nature, and declares under the penalties of perjury that the above statements are true and correct.

Executed this _____ day of _____, 2024.

NOTE: THIS IS AN EXHIBIT. DO NOT EXECUTE

BUYER:
CITY OF PALM COAST, FLORIDA

By: _____
Denise Bevan, City Manager

ATTEST:

By: _____

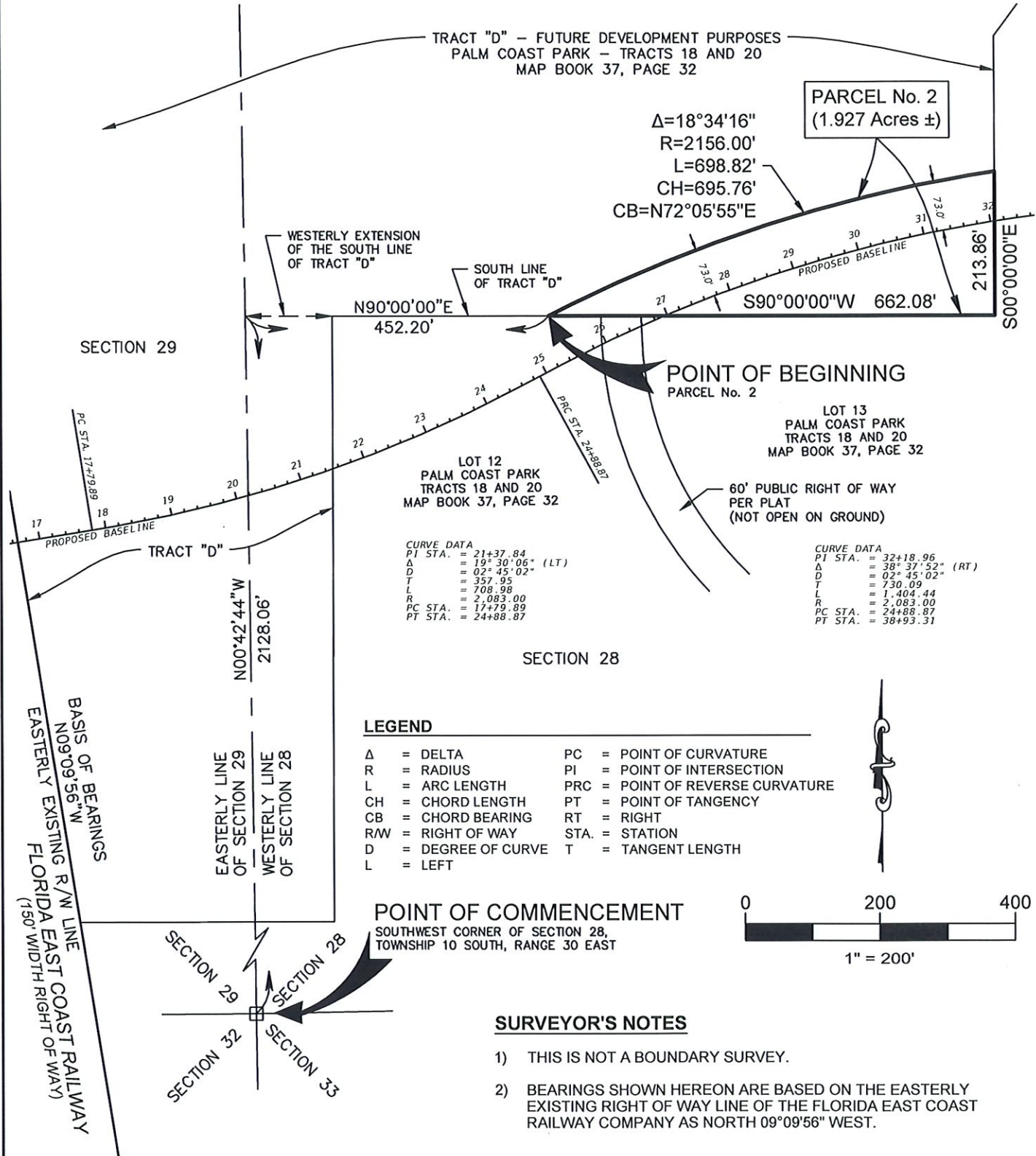
Kaley Cook, City Clerk

Date: _____

[CITY SEAL]

SKETCH OF DESCRIPTION

A PORTION OF TRACT "D", PALM COAST PARK, TRACTS 18 AND 20, AS RECORDED IN MAP BOOK 37, PAGES 32 - 35, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



	CADD	NAME	DATE
	DESIGNED BY		
	DRAWN BY	M.BRENT	9/19/23
	CHECKED BY	T.TRACZ	9/19/23
	APPROVED BY	T.TRACZ	9/19/23
FILE:	Parcel 2 Revised.dwg		

DRMP
ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS
Certificate of Authorization No. 2648
1505 East Colonial Drive - Orlando, Florida 32803

SKETCH OF DESCRIPTION
PARCEL No. 2
MATANZAS WOOD PARKWAY EXTENSION
FLAGLER COUNTY, FLORIDA

PROJECT NO.	21-0895.000
DATE	SEPTEMBER 19, 2023
SCALE	1" = 200'
SHEET	1 OF 2

SKETCH OF DESCRIPTION

A PORTION OF TRACT "D", PALM COAST PARK, TRACTS 18 AND 20, AS RECORDED IN MAP BOOK 37, PAGES 32 - 35, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,

DESCRIPTION

PARCEL No. 2

A Portion Of Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The Westerly Extension Of The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 Through 35, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said Westerly Extension, And Along Said South Line Of Tract "D", A Distance Of 452.20 Feet To The **Point Of Beginning**; Thence Northeasterly, Along The Arc Of A Curve, Concave Southeasterly, Having A Radius Of 2156.00 Feet, Through A Central Angle Of 18°34'16", An Arc Distance Of 698.82 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of North 72°05'55" East, 695.76 Feet To The East Line Of Said Tract "D"; Thence South 00°00'00" East, Along Said East Line, A Distance Of 213.86 Feet To Said South Line Of Tract "D"; Thence South 90°00'00" West, Along Said South Line, A Distance Of 662.08 Feet To The **Point Of Beginning**.

Containing 1.927 Acres, More, Or Less.



 Thomas P. Tracz Date
 Florida Professional Surveyor And Mapper No. 6039
 8001 Belfort Parkway, Suite 200
 Jacksonville, Florida, 32256
 (904) 641-0123

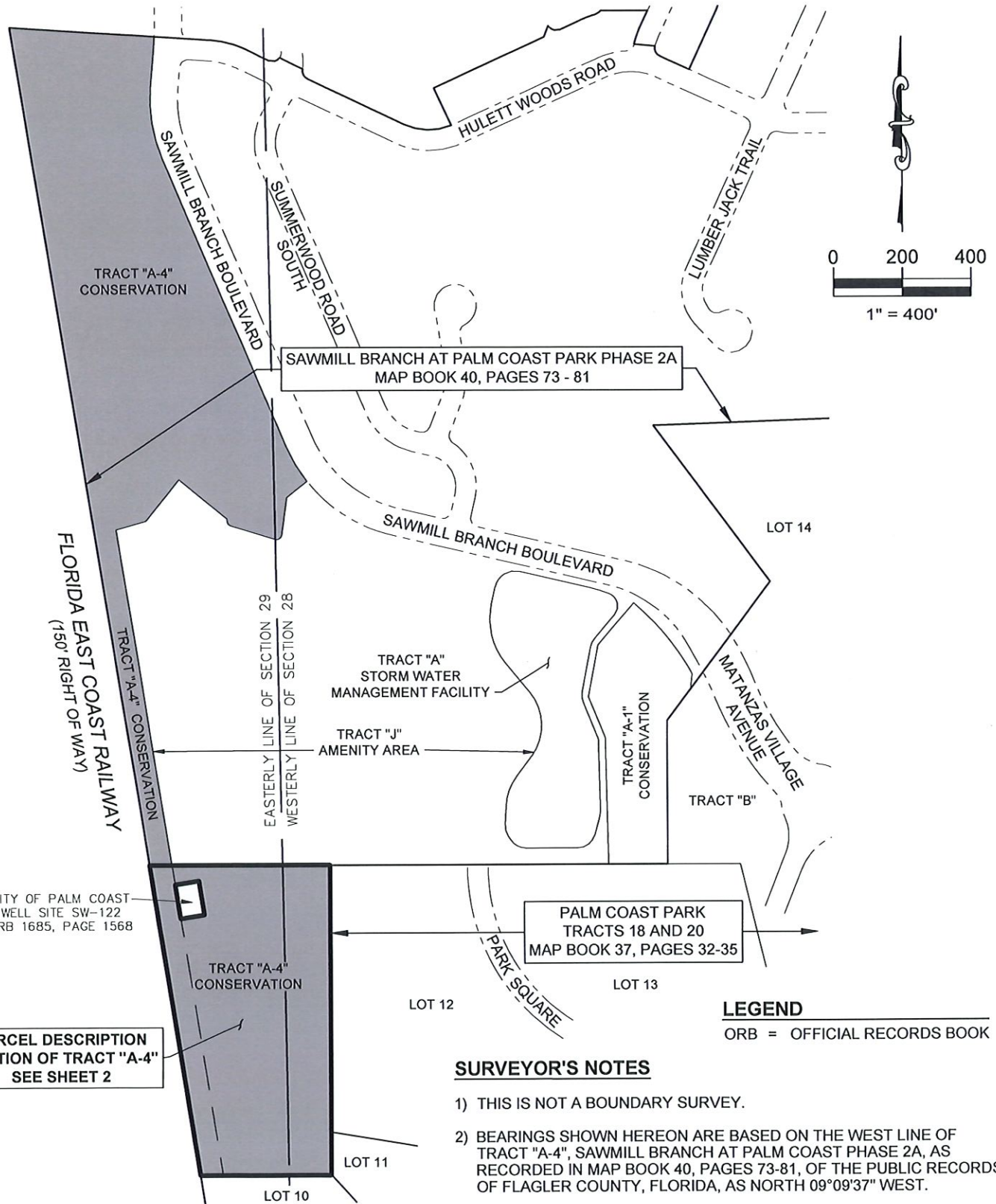


This Description And Copies Thereof Are Not Valid Without The Surveyor's Signature And Original Seal.

	CADD	NAME	DATE	 <p style="font-size: small;">Certificate of Authorization No. 2648 1505 East Colonial Drive - Orlando, Florida 32803</p>	SKETCH OF DESCRIPTION PARCEL No. 2 MATANZAS WOOD PARKWAY EXTENSION FLAGLER COUNTY, FLORIDA	PROJECT NO. 21-0895.000
	DESIGNED BY				DATE SEPTEMBER 19, 2023	
	DRAWN BY	M.BRENT	9/19/23		SCALE N/A	
	CHECKED BY	T.TRACZ	9/19/23		SHEET 2 OF 2	
	APPROVED BY	T.TRACZ	9/19/23			
FILE:	Parcel 2 Revised.dwg					FLORIDA

SKETCH OF DESCRIPTION

A PORTION OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PARK PHASE 2A, AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



LEGEND
ORB = OFFICIAL RECORDS BOOK

SURVEYOR'S NOTES

- 1) THIS IS NOT A BOUNDARY SURVEY.
- 2) BEARINGS SHOWN HEREON ARE BASED ON THE WEST LINE OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PHASE 2A, AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, AS NORTH 09°09'37" WEST.

PARCEL DESCRIPTION
PORTION OF TRACT "A-4"
SEE SHEET 2

CADD	NAME	DATE
DESIGNED BY		
DRAWN BY	MLBRDT	10/11/23
CHECKED BY	T.TRACZ	10/11/23
APPROVED BY	T.TRACZ	10/11/23
FILE:	Parcel A-4.dwg	

DRMP
ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS
Certificate of Authorization No. 2648
1505 East Colonial Drive - Orlando, Florida 32803

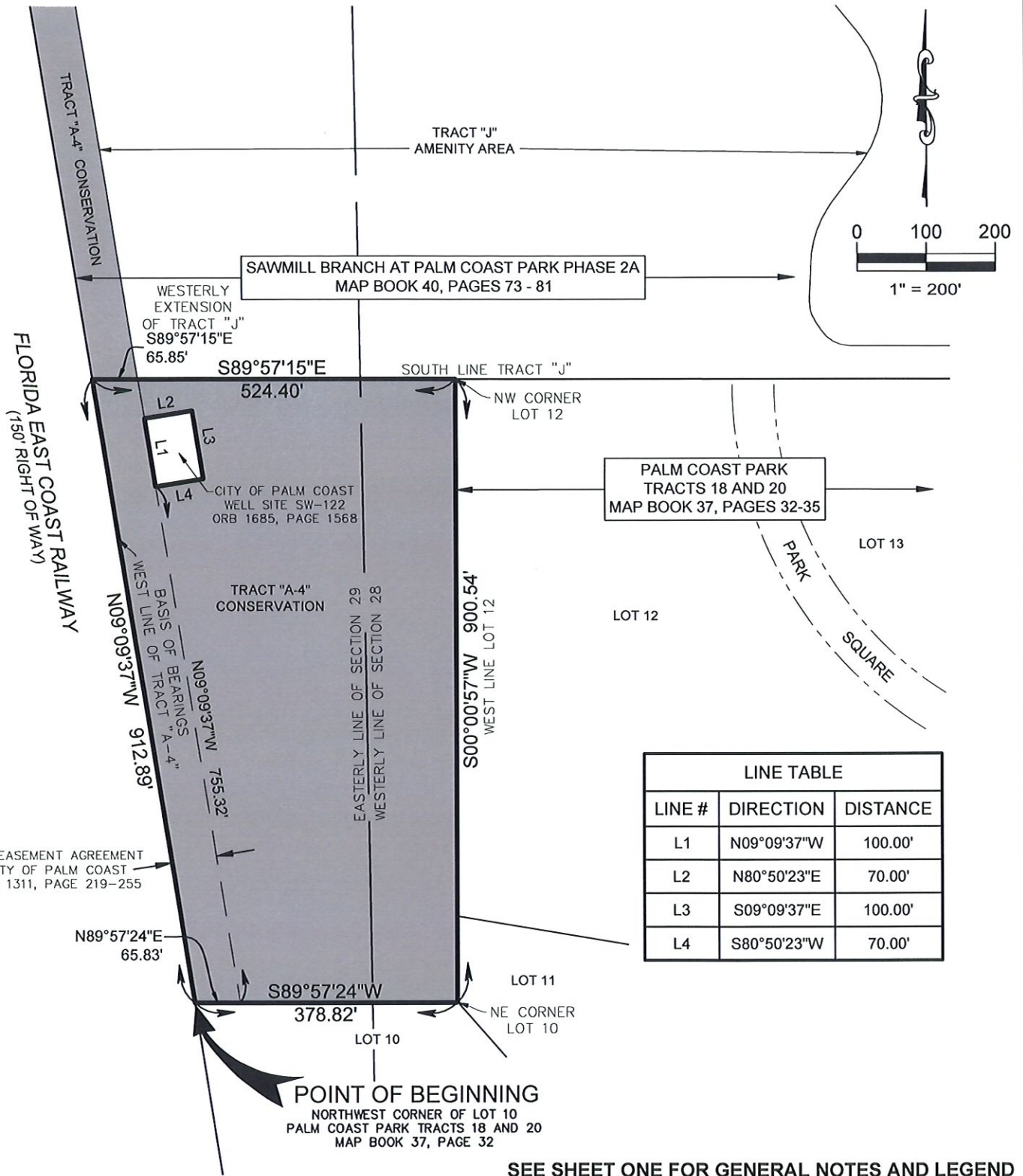
SKETCH OF DESCRIPTION
A PORTION OF PARCEL "A-4"
SAWMILL BRANCH AT PALM COAST PARK
PHASE 2A
FLAGLER COUNTY, FLORIDA

PROJECT NO.	21-0895.000
DATE	OCTOBER 11, 2023
SCALE	1" = 400'
	396 1 of 3

WARNING
IF THIS BAR DOES NOT MEASURE 1/4" THIS COPY OF THIS DOCUMENT IS NOT TO SCALE

SKETCH OF DESCRIPTION

A PORTION OF TRACT "A-4", SAWMILL BRANCH AT PALM COAST PARK PHASE 2A,
AS RECORDED IN MAP BOOK 40, PAGES 73-81, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA,
LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA,



LINE TABLE		
LINE #	DIRECTION	DISTANCE
L1	N09°09'37\"W	100.00'
L2	N80°50'23\"E	70.00'
L3	S09°09'37\"E	100.00'
L4	S80°50'23\"W	70.00'

SEE SHEET ONE FOR GENERAL NOTES AND LEGEND

WARNING
IF THIS BAR DOES NOT MEASURE 1\" THIS COPY OF THIS DOCUMENT IS NOT TO SCALE

CADD	NAME	DATE
DESIGNED BY		
DRAWN BY	M.BRENT	10/11/23
CHECKED BY	T.TRACZ	10/11/23
APPROVED BY	T.TRACZ	10/11/23
FILE:	Parcel A-4.dwg	

DRMP

ENGINEERS • SURVEYORS • PLANNERS • SCIENTISTS
Certificate of Authorization No. 2648

1505 East Colonial Drive - Orlando, Florida 32803

SKETCH OF DESCRIPTION
A PORTION OF PARCEL "A-4"
SAWMILL BRANCH AT PALM COAST PARK
PHASE 2A

PROJECT NO.	21-0895.000
DATE	OCTOBER 11, 2023
SCALE	1" = 200'
SHEET	2 of 3

FLAGLER COUNTY,

FLORIDA

City of Palm Coast, Florida Agenda Item

Agenda Date: February 6, 2024

Department	COMMUNITY DEVELOPMENT	Amount
Division	PLANNING	Account #
Subject: RESOLUTION 2024-XX APPROVING AN EASEMENT AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP, INC.		
Presenter: Virginia Smith, Land Management Administrator and Carl Cote, Director of Stormwater & Engineering		
Attachments: <ol style="list-style-type: none">1. Resolution2. Easement Agreement		
Background: <p>This is a companion item to the Forestar (USA) Real Estate Group, Inc. Sale and Purchase agenda item.</p> <p>In order to facilitate the correct positioning of the Matanzas Woods Parkway extension roadway in Palm Coast, the City has agreed to purchase land for the roadway connection to the west side of U.S. 1 for the Maintenance & Operations Complex and future development from Forestar (USA) Real Estate Group, Inc.</p> <p>In furtherance of a public purpose, the City will in return provide an easement to Forestar (USA) Real Estate Group, Inc., for gateway signage on City vacant land in the Maintenance & Operations Complex area as shown in the Easement Agreement.</p>		
Recommended Action: ADOPT RESOLUTION 2024-XX APPROVING AN EASEMENT AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP, INC.		

**RESOLUTION 2024-_____
FORESTAR EASEMENT AGREEMENT**

A RESOLUTION OF THE CITY OF PALM COAST, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF THE EASEMENT AGREEMENT WITH FORESTAR (USA) REAL ESTATE GROUP, INC.; AUTHORIZING THE CITY MANAGER OR DESIGNEE, TO EXECUTE SAID AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS AND PROVIDING AN EFFECTIVE DATE

WHEREAS, in order to facilitate the correct positioning of the roadway, the City has agreed to purchase land for the roadway connection to the west side of U.S. 1 for the Maintenance & Operations Complex, and for future development of the Matanzas Woods Development Extension in Palm Coast from Forestar (USA) Real Estate Group, Inc.; and

WHEREAS, in furtherance of the public purpose of the roadway realignment, which will eliminate current gateway signage, the City has agreed to provide an easement to Forestar (USA) Real Estate Group, Inc., for replacement of gateway signage on City vacant land in the Maintenance & Operations Complex area, as shown in the Easement Agreement attached to this Resolution.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the findings of the City Council of the City of Palm Coast.

SECTION 2. APPROVAL OF THE EASEMENT AGREEMENT. The City Council hereby approves the terms and conditions of the Easement Agreement with Forestar (USA) Real Estate Group, Inc., as attached hereto and incorporated herein by reference as Exhibit "A."

SECTION 3. AUTHORIZATION TO EXECUTE. The City Manager, or designee, is hereby authorized to execute the agreement as depicted in Exhibit "A."

SECTION 4. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Resolution are severable, and if any phrase, clause, sentence, paragraph or section of this Resolution shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Resolution.

SECTION 5. CONFLICTS. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

SECTION 6. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 7. EFFECTIVE DATE. This Resolution shall become effective immediately upon its passage and adoption.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 6th day, of February 2024.

ATTEST:

CITY OF PALM COAST

KALEY COOK, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY

ANTHONY A. GARGANESE, CITY ATTORNEY

Attachments: Exhibit A – Forestar Easement Agreement

Prepared by:
Catherine D. Reischmann, Esq.
111 N. Orange Ave., Ste. 2000
Orlando, FL 32801

Return to:
City of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164

Parcel Id: 28-10-30-4290-00000-00B0

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (hereinafter “Easement”) is made and entered into this _____ day of _____, 2024, by and between the **CITY OF PALM COAST, FLORIDA**, a Florida municipal corporation, whose address is 160 Lake Avenue, Palm Coast, FL 32164 (hereinafter “GRANTOR”) and **FORESTAR (USA) REAL ESTATE GROUP, INC.**, a Delaware corporation, whose address of 14785 Old St. Augustine Road, Suite 300, Jacksonville, FL 32258 , (hereinafter “GRANTEE”) and

W I T N E S S E T H:

WHEREAS, GRANTOR is the owner of certain property legally described in **Exhibit “A”** attached hereto and incorporated herein (hereinafter “GRANTOR Property”); and

WHEREAS, GRANTOR desires to grant to GRANTEE a perpetual, nonexclusive easement over, upon and across GRANTOR’s Property for purposes to include construction, installation, maintenance and repair by GRANTEE or its agents, of one or more signs, monuments, and/or decorative improvements, to include but not be limited to utilities; communications equipment; lighting; landscaping; irrigation; stormwater infrastructure, including drainage; conservation areas; and for pedestrian and vehicle access (collectively, the Grantee Improvements”).

NOW, THEREFORE, in consideration of the foregoing premises set forth herein and the mutual benefit to be delivered therefrom, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Recitals. The above referenced recitals are incorporated herein by this reference as true and correct.
2. Grantor’s Grant. GRANTOR hereby grants and conveys to GRANTEE and their respective successors and assigns, a perpetual, nonexclusive Easement over, upon, and across the following described property for all of the above-described purposes (“Easement Parcel”).

SEE ATTACHED EXHIBIT “B”

GRANTEE acknowledges that all signage shall conform with the City of Palm Coast Land Development Code and with any Master Plan Development Agreement that encumbers the Grantor Property.

3. Incidental Rights. The GRANTEE and its assigns shall have the right to construct improvements needed for the use and enjoyment of the Easement Parcel and to clear and remove from said Easement Parcel all trees, undergrowth, and other obstructions that may interfere with the use of, operation of, and/or maintenance of the Easement by GRANTEE. The GRANTOR agrees not to build, construct, erect, create, or permit any improvement, barrier, fencing, or other condition within the said Easement Parcel that may impair or detract from the visibility or integrity of the Grantee Improvements or otherwise interfere with the GRANTEE's use of the Easement. GRANTOR shall not have the right to add to, remove, or modify any part of the Grantee Improvements without the prior written consent of GRANTEE.

4. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

5. Assignment. GRANTEE shall have the right to assign all or a portion of its rights under this Easement Agreement to a property owner's association, governmental authority or a community development district by a written assignment recorded in the Public Records of Flagler County, Florida.

6. Termination and Amendments. This Agreement may be cancelled, changed, modified or amended, in whole or in part, in writing signed by the parties hereto or their respective successors and assigns.

7. Covenants Running with the Land. All the provisions, agreements, rights, powers, covenants, conditions and obligation contained in this Easement shall be binding upon the parties hereto, their successors and assigns, lessees and all other persons acquiring any interest in the GRANTOR's Property or any portion thereof, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the owners and the respective parcels and their heirs, successors and assigns. All of the provisions in this Easement shall constitute covenants running with the land pursuant to Florida law.

8. Entire Agreement. Notwithstanding any verbal representation, this Easement constitutes the entire agreement between the parties. This Easement supersedes any and all prior representations, written or oral heretofore made by the parties concerning the subject matter of the Easement, and any such representations are null and void and of no force or effect whatsoever.

9. Warranty of Title. The GRANTOR does hereby covenant with the GRANTEE that it is lawfully seized and possessed of GRANTOR's Property, that it has good and lawful right to convey the said Easement, and that it is free from all encumbrances.

10. Litigation and Attorneys' Fees. In the event it shall be necessary for Grantor or Grantee to bring suit for specific performance or damages or to enforce any provision hereof, the

prevailing party in any such litigation and any appeals therefrom shall be entitled to recover from the other party, in addition to any damages or other relief granted as a result of such litigation, all costs or expenses of such litigation and its reasonable attorneys' fees and paralegals' fees as fixed by the Court.

11. Indemnity. GRANTEE covenants and agrees that it will indemnify and hold harmless the GRANTOR and all of their officers, agents, and employees from any claim, loss, damage, cost, charge or expense arising out of any act, action, neglect or omission relating to the performance of this Easement, whether direct or indirect, and whether to any person or property to which the GRANTOR or said parties may be subject, except that GRANTEE will not be liable under this paragraph for damages arising out of any injury or damage to persons or person resulting from the negligence or intentional wrongful acts or omissions of the GRANTOR or any of their respective officers, agents or employees.

[signature pages to follow]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

GRANTOR
CITY OF PALM COAST, FLORIDA

WITNESSES:

By: _____
Denise Bevan, City Manager

(signature)

ATTEST:

(print)

Kaley Cook, City Clerk

Address: _____

(SEAL)

(signature)

Address: 160 Lake Avenue, Palm Coast, FL
32164

(print)

Address: _____

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this _____ day of _____, 2024, by Denise Bevan, City Manager of the City of Palm Coast, Florida, who is personally known to me.

Notary Public – State of Florida
Print Name: _____
My Commission expires: _____

WITNESSES:

GRANTEE

FORESTAR (USA) REAL ESTATE GROUP,
INC.

(signature)

By: _____

(print)

Print name: _____

Address: _____

Title: _____

(signature)

(print)

Address: _____

STATE OF FLORIDA
COUNTY OF _____

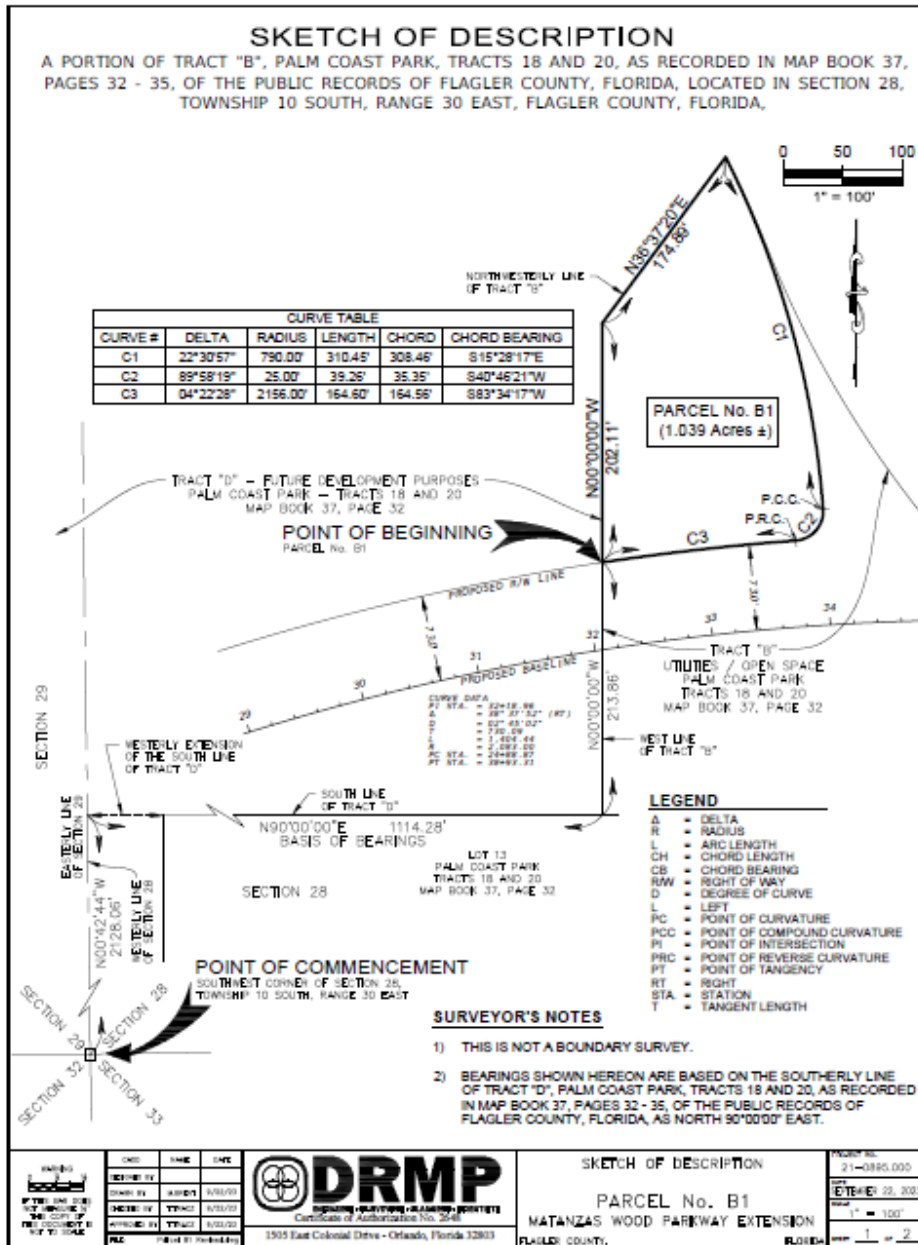
The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2024, by _____ the _____ of _____
(check one) who is personally known to me or who produced _____ as identification.

Notary Public – State of Florida
Print Name: _____
My Commission expires:

EXHIBIT "A"
GRANTOR PROPERTY

Tract B, Palm Coast Park, Tracts 18 and 20, according to the map or plat thereof as recorded in Plat Book 37, Page 32, Public Records of Flagler County, Florida.

EXHIBIT "B" EASEMENT PARCEL



SKETCH OF DESCRIPTION

A PORTION OF TRACT "B", PALM COAST PARK, TRACTS 18 AND 20, AS RECORDED IN MAP BOOK 37, PAGES 32 - 35, OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA, LOCATED IN SECTION 28, TOWNSHIP 10 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA.


DESCRIPTION

PARCEL No. B1

A Portion Of Tract "B", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 - 35, Of The Public Records Of Flagler County, Florida, Located In Section 28, Township 10 South, Range 30 East, Said Flagler County, Florida, Being More Particularly Described As Follows:

Commence At The Southwest Corner Of Said Section 28; Thence North 00°42'44" West, Along The Westerly Line Of Said Section 28, A Distance Of 2,128.06 Feet To The Westerly Extension Of The South Line Of Said Tract "D", Palm Coast Park, Tracts 18 And 20, As Recorded In Map Book 37, Pages 32 Through 35, Of The Public Records Of Flagler County, Florida; Thence North 90°00'00" East, Along Said Westerly Extension, And Along Said South Line Of Tract "D", A Distance Of 1114.28 Feet To The Westerly Line Of Tract "B" Of Said Palm Coast Park; Thence North 00°00'00" West, Along Said Westerly Line Of Tract "B", A Distance Of 213.86 Feet To The Point Of Beginning; Thence Continue North 00°00'00" West, Along Said Westerly Line Of Tract "B", A Distance Of 202.11 Feet To The Northwestern Line Of Said Tract "B"; Thence North 36°37'20" East, Along Said Northwestern Line, A Distance Of 174.89 Feet To A Point On A Non Tangent Curve; Thence Southeasterly Along The Arc Of Said Curve, Concave Southwesterly, Having A Radius Of 790.00 Feet, Through A Central Angle Of 22°30'57", An Arc Length Of 310.45 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 15°28'17" East, 308.46 Feet To A Point Of Compound Curvature; Thence Southwesterly Along The Arc Of A Curve, Concave Northwesterly, Having A Radius Of 25.00 Feet, Through A Central Angle Of 89°58'19", An Arc Distance Of 39.26 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 40°46'21" West, 35.35 Feet To A Point Of Reverse Curvature; Thence Southwesterly Along The Arc Of A Curve, Concave Southeasterly, Having A Radius Of 2156.00 Feet, Through A Central Angle Of 04°22'28", An Arc Distance Of 164.60 Feet, Said Arc Being Subtended By A Chord Bearing And Distance Of South 83°34'17" West, 164.56 Feet To The Point Of Beginning.

Containing 1.039 Acres, More, Or Less.



Thomas P. Tracz _____ Date _____
 Florida Professional Surveyor And Mapper No. 6039
 8001 Belfort Parkway, Suite 200
 Jacksonville, Florida, 32256
 (904) 641-0123



This Description And Copies Thereof Are Not Valid Without The Surveyor's Signature And Original Seal.

PLANNED DEVELOPMENT THE CITY OF PALM BEACH PROJECT NO. 1014	DATE DRAWN BY CHECKED BY APPROVED BY FILE	DATE DATE DATE DATE	 DRMP DRAFTING & SURVEYING CERTIFICATE OF AUTHORIZATION NO. 2242 1305 East Colonial Drive - Orlando, Florida 32803	SKETCH OF DESCRIPTION PARCEL No. B1 MATANZAS WOOD PARKWAY EXTENSION FLAGLER COUNTY, FLORIDA	SHEET NO. 21-0885.000 DATE ETEXTED 10, 2022 SCALE N/A APPR 2 of 2
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