

THIS INSTRUMENT PREPARED BY
AND SHOULD BE RETURNED TO:

City of North Port
City Clerk
4970 City Hall Boulevard
North Port, FL 34286

Parcel Identification Number(s):

1119240416, 1119241517, 1119241913, and 1120155312

IMAGINE SCHOOL DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") for the construction and maintenance of central water and wastewater facilities, the construction and maintenance of one roadway and one pedestrian bridge, and the maintenance of Retention Ditch R-588 is entered into by and between Forest Plaza, LLC, a Florida Limited Liability Company ("Seller"), having a mailing address 1943 Maravilla Avenue, Fort Myers, Florida 33901, Imagine School at North Port, Inc., a Florida Not For Profit Corporation ("Developer"), having a mailing address of 1900 Gallows Rd, SUITE 250, Vienna, VA 22182 and the City of North Port, Florida ("City"), having a mailing address of 4970 City Hall Boulevard, North Port, Florida 34286 (collectively, the "Parties").

RECITALS

- A. The City is authorized pursuant to the Florida Local Government Development Agreement Act, sections 163.3220–163.3243, Florida Statutes ("Act"), to enter into a development agreement with any person or entity having a legal or equitable interest in real property located within its jurisdiction; and
- B. The North Port Comprehensive Plan Future Land Use Element ("Comprehensive Plan FLUE") and the City of North Port Unified Land Development Code ("ULDC") Section 2.2.8. Development Agreements implement the Act and provide additional standards and requirements relevant to the City's policies and procedures regarding development agreements which are consistent with the Act; and
- C. The Developer and Seller have consented to this Agreement for title purposes and for recording as provided in this Agreement; and
- D. The Seller is the owner of certain real property situated in the City of North Port, Sarasota County, Florida, consisting of ±23.935 acres and described in the attached Exhibit A ("Property Description"); and
- E. The Seller and Developer have entered into an agreement in which the Developer has agreed to purchase title to the Property from the Seller pursuant to the terms set forth in said agreement ("Purchase Agreement"); and

- F. The Developer will be responsible for the maintenance of all the Property; and
- G. The Property is zoned Corridor (COR) and has a Future Land Use of High-Intensity Corridor; and
- H. The Developer desires to construct the Imagine School development on the Property as shown on the Imagine School at North Port Concept Plan as attached in Exhibit B (“Concept Plan”), an educational facility serving students from kindergarten through high school. It includes two gymnasiums, two cafeterias, a full-sized athletic field, a playground designated for the primary school, necessary infrastructure, water and wastewater facilities, and stormwater management system permitted in the Corridor zoning district at a maximum floor area ratio of 0.50; and building heights not exceeding 100-feet; This development agreement does not authorize any residential uses; therefore, population density is not applicable; and
- I. The City Commission finds this Agreement is consistent with the City’s Comprehensive Plan FLUE and Unified Land Development Code; and
- J. The City is willing to provide, in accordance with the provisions and stipulations hereinafter set out, and in accordance with all applicable laws, central water and wastewater facilities, and to have extended such facilities by way of water and wastewater mains, and to thereafter operate such facilities so the occupants of each commercial improvement constructed on the Property will receive adequate water and wastewater services from the City. The City is also willing to provide reclaimed water service, if applicable and economically feasible and subject to City regulation; and
- K. The City Commission of the City of North Port held duly noticed public hearings at first and second reading of Ordinance No. 2025-13 (the “Ordinance”) and to receive public comment on the subject matter of this Ordinance.

NOW, THEREFORE, in consideration of the conditions, mutual undertakings and agreements contained herein and accepted, and other good and valuable consideration the sufficiency and receipt of which are acknowledged, the Parties agree as follows:

ARTICLE 1: RECITALS

- 1.1** The above recitals are true and correct and form a material part and are incorporated in this Agreement by reference. All exhibits to this Agreement are deemed to be part of this Agreement.

ARTICLE 2: DEFINITIONS

- 2.1** **“Service”** means the readiness and ability on the part of the City to furnish water and wastewater services to each lot.
- 2.2** **“Point of Delivery or Collection”** means the point where the pipes of the utility are connected with the pipes of the customer. Unless otherwise indicated, the point of delivery shall be the point on the customer’s lot line.

- 2.3 “Contribution-in-Aid-of-Construction”** means the sum of money, and/or property, represented by the value of the water distribution and wastewater collection systems constructed by Developer, which Developer covenants and agrees to pay and/or transfer to the City as a contribution-in-aid-of-construction, to induce the City to continuously provide water and wastewater services to the Property.

ARTICLE 3: TERM

3.1 Term; Relationship of the Parties.

- (a) This Agreement will become effective on the date that this fully executed Agreement, together with all exhibits, is recorded in the Clerk of Court Official Records for Sarasota County, Florida (“Effective Date”); and
- (b) The term of this Agreement is 10 years after the Effective Date, with two automatic ten-year renewals taking effect immediately upon the conclusion of the previous ten-year term which cumulatively shall not to exceed a maximum of 30 years, unless extended by mutual agreement of the Parties, subject to public hearings in accordance with Florida Statutes Section 163.3225.
- (c) Notwithstanding any other provision of this Agreement to the contrary, the obligations of Developer and Seller under this Agreement shall be subject to, and contingent upon, the closing of the transactions contemplated by the Purchase Agreement. In the event that the Purchase Agreement shall terminate prior to the conveyance of the Property to Developer (or its designee) as contemplated thereby, or if for any reason the conveyance of the Property to Developer (or its designee) provided for in the Purchase Agreement is not consummated, Developer shall so notify the City, in writing (which notice is hereby consented to by Seller), and this Agreement shall terminate concurrently with the termination of the Purchase Agreement. Upon such a termination, the Parties shall cooperate with each other to execute any instrument(s) required to evidence such termination of this Agreement in the public records of Sarasota County, Florida.
- (d) Developer is unrelated to the City. Seller is unrelated to the City. The City is a municipal corporation organized under Florida law. The relationship between Developer, Seller, and the City with respect to the subject-matter of this Agreement is contractual and is set forth completely in this Agreement. The City and Developer acknowledge that Seller has joined in the execution of this Agreement solely in order to consent to its terms and to consent to Developer’s execution and delivery of this Agreement prior to the closing of the transaction described in the Purchase Agreement. The Parties acknowledge and agree that the terms of the Purchase Agreement shall govern the rights and obligations of Seller and Developer with respect to the transaction described therein, notwithstanding any provision of this Agreement

to the contrary; this Agreement does not modify or amend the Purchase Agreement in any way.

ARTICLE 4: POTABLE WATER, RECLAIMED WATER, AND SANITARY SEWER

4.1 Easement and right of access. Developer hereby grants at no cost to the City the exclusive right or privilege to construct, own, maintain, and operate the water and wastewater facilities in, under, over and across the present and future streets, roads, easements, reserved utility sites and public places as provided and dedicated to public use in the record plats, or as provided for in agreements, dedications or grants made otherwise and independent of said record plats. Developer acknowledges that the City will possess the right of ingress and egress to carry out these utility functions through the recording of the final plat, if applicable. The foregoing grants shall be for such period of time, as the City requires such rights, privileges or easements in the ownership, maintenance, operation or expansion of the water and wastewater facilities. The City covenants that it will use due diligence in ascertaining all easement locations; however, should the City install any of its facilities outside a dedicated easement area, Developer, the successors and assigns of Developer, covenant and agree that the City will not be required to move or relocate any facilities lying outside a dedicated easement area so long as the facilities do not interfere with the then proposed use of the area in which the facilities have been installed. The City hereby agrees that all easement grants will be utilized in accordance with the established and generally accepted practices of the water and wastewater industry with respect to the installation of all its water and wastewater facilities in any of the easement areas; and Developer in granting easements herein, or pursuant to the terms of this instrument, shall have the rights to grant exclusive or non-exclusive rights, privileges and easements to other entities to provide the Property any utility services other than water and wastewater services. Developer shall obtain, at its own expense, upon direction by the City, any and all easements necessary which easements shall be in favor of the City. Developer agrees to dedicate to the City, an easement, as to be determined by the City, so as to allow the City to enter the Property and make such alterations, repairs, or other work, as the City shall deem necessary to achieve efficient service in the water and sewer systems. Any easement shall be dedicated to the City and recorded in the Public Records of Sarasota County, Florida within ten days prior to acceptance of the asset by the City.

4.2 Provision of service, payment of rates

- (a) Upon the continued accomplishment of all the prerequisites contained in this Agreement to be performed by Developer, the City covenants and agrees that it will allow the connection of the water distribution and wastewater collection facilities installed by Developer to the central water and wastewater facilities of the City in accordance with the terms and intent of this Agreement. Such connections shall be in accordance with the rules and regulations of the Department of Health and the

Florida Department of Environmental Protection. The City agrees that once it provides water and wastewater services to the Property and Developer or others have connected customer installations to its system, that thereafter, the City will continuously provide in return for payment of all applicable rates, fees, and charges and in accordance with the other provisions of this Agreement, and of applicable laws, including rules and regulations and rate schedules, water and wastewater services to the Property in a manner to conform with all requirements of all governmental agencies having jurisdiction over the water distribution and wastewater collection operations of the City. Developer, its successors and assigns agree to timely and fully pay to the City all applicable monthly rates, fees and charges including but not limited to, Utility Inspection Fees and Developer Agreement Fees as defined in the City Fee Structure and to fully comply with all City codes, rules, regulations, and ordinances applicable to the provision of water, wastewater and reclaimed water service.

4.3 Design, review, construction, inspection, and conveyance of facilities.

- (a) So that the City may provide water and wastewater facilities, and to continuously provide customers located on the Property with water and wastewater services, Developer hereby covenants and agrees to pay for the construction and to transfer ownership and control to the City as a contribution-in-aid-of-construction, the on-site and off-site water distribution and wastewater collection systems referred to herein.
- (b) Developer shall provide the City with engineering plans and specifications of the type and in the form as prescribed by the City, showing the on-site and off-site water distribution, irrigation distribution (if applicable) and wastewater collection systems proposed to be installed to provide service to the subject Property. The City's Utility Engineer will advise Developer's engineer of any sizing requirements as mandated by the City's system policies and utility standards for the preparation of plans and specifications of facilities within the Property. If applicable, such detailed plans may be limited to a phase of the Property, and subsequent phases may be furnished from time to time. However, each such phase, if applicable, shall conform to a master plan for the development of the Property and such master plan shall be submitted to the City concurrent with or prior to submission of plans for the first phase. All such plans and specifications shall be submitted to the City and no construction shall commence until the City has approved such plans and specifications in writing. The complete plans and specifications, as to be approved by the City's Utilities Director or designee, for connection to the City's system shall be prepared by Developer's Professional Engineer, who shall be registered in the State of Florida. All construction shall be in strict conformity with the final plans and specifications as approved by the City. The City, its Utilities Director, or other representative, shall have the right to inspect any and all construction, whether in public rights-of-way or on private property. Upon notification of any deviation from the approved plans and specifications, Developer shall immediately make modifications as directed by the City. No construction shall

be commenced without final approval of the plans and specifications by the City's Utilities Director. After approval, Developer shall cause to be constructed, at Developer's expense, the water distribution, irrigation and wastewater collection systems as shown on all plans and specifications.

- (c) Developer agrees to the following working hours for any work done by the City in connection with implementation of this Agreement. Normal working hours are defined as Monday through Friday, 7:00 a.m. to 3:30 p.m. Work outside of the normal working hours will constitute an "Overtime" rate, which will be reimbursed to the City. The Overtime rate will be calculated by the City on a time and a half basis plus all overhead fees. Should work be conducted on scheduled holidays, Developer will be responsible to reimburse on a double time and a half rate plus all overhead fees. The City will invoice for such fees and payment must be made by Developer within 30 days.
- (d) To connect Developer's water transmission and distribution system to the City's existing water transmission system, Developer's wastewater collection system to the City's existing wastewater system and Developer's reclaimed water system to the City's existing reclaimed water system, Developer shall design to the City's specifications, apply for and be issued all required permits, and construct to the City's most current specifications all infrastructure, approved by Staff Development Review (SDR). Developer agrees to upgrade and pay for any and all supporting infrastructure, which is required to support the flows for the said project to include but not be limited to a DATAFLOW SCADA system on any existing or newly constructed lift stations that will serve the project.
- (e) Developer understands the need to support the City's water conservation efforts and, to the extent it is possible shall utilize Florida friendly yards, xeriscape landscaping and agrees to permit, construct and design all irrigation systems to meet the City's reclaimed water standards approved by Staff Development Review (SDR) and to include FDEP Rule 62-610.460 and agrees to utilize reclaimed water, if available as the primary source for irrigation purposes. The quality of the reclaimed water shall meet the requirements of FDEP Rule 62-610.460. The City shall be held harmless and indemnified by Developer for the resulting water quality after mixing in Developer's storage pond, unless reclaimed waters of quality not meeting the requirements of FDEP Rule 62-610.460 is provided by the City. Developer agrees to connect any existing irrigation distribution systems to the City's reclaimed water system and agrees to utilize reclaimed water as the primary source for irrigation purposes at such time as reclaimed water is made available to the development.
- (f) All costs relating to the construction of the systems by Developer including but not limited to labor, overhead, permits, taxes, licenses, application fees, easement acquisitions, lift stations, backflows, SCADA systems, pumps, pipes, materials, and any other direct or indirect costs related to the construction shall be borne by

Developer and shall be fully paid by Developer. All the City's costs in connection with the construction including but not limited to charges for inspections, maintenance, administrative expenses, and any other costs incurred by the City in connection with this matter shall be paid by Developer.

- (g) Prior to undertaking construction of the central water and wastewater facilities, the Developer will provide security guaranteeing the Developer's performance of this Agreement. The security must be in the form of a commercially reasonable and standard third-party performance or surety bond (the "Surety Bond") naming the City as an insured, which shall be posted with the City, made payable to the City on the city-approved form in an amount equal to one hundred ten percent (110%) of the estimated cost of the of the central water and wastewater facilities at the time of site and infrastructure approval including any bond application.
- (h) During the construction of the water distribution and wastewater collection systems by Developer, the City shall have the right to inspect such installation to determine compliance with plans and specifications, adequacy of the quality of the installation, and further, shall be entitled to perform standard tests for pressure, infiltration/vacuum, line and grade, and all other normal engineering tests required by specifications and/or good engineering practices. Complete as-built plans shall be submitted to the City upon completion of construction. City inspections of the off-site and on-site facilities will not delay the construction schedule. Developer shall have obtained all required permits for construction of the facilities described herein and shall have prepared all documents necessary to solicit bids from qualified contractors. Developer acknowledges that the City may request the facilities be oversized and Developer agrees if directed by the City to design such oversized facilities to prepare either separate bid proposals or one bid proposal for the oversizing as the base proposal and Developer required line size as an alternative proposal. Before publication of distribution by Developer, Developer agrees to submit either separate bid proposals or a singular bid proposal to the City for its review and comment which may include, but not limited to, requiring incorporating for provisions for compliance with public project bid requirements. Provided that the City does not reject the bid proposal which Developer intends to accept, the City agrees to pay Developer the difference of the bid construction cost for the oversizing of the pipeline not later than thirty (30) days following approval by the City of Developer's delivery of its contractually required incremental payment to its construction contractor if the City elects to request Developer to construct any oversized facilities. Developer understands and agrees that the City's share of construction cost shall not include such items as design, insurance, contingency, construction management and administrative fees.
- (i) Developer shall transfer to the City title to all water distribution and wastewater collection systems installed by Developer's contractor, pursuant to the provisions of this Agreement. Such conveyance is to take effect without further action upon the

acceptance by the City of said installation. As further evidence of said transfer to title, and upon the completion of the installation and prior to the rendering of service by the City, Developer shall convey to the City, by bill of sale, or other appropriate documents, in a form satisfactory to the City's counsel, the complete on-site and off-site water distribution and wastewater collection systems as constructed by Developer and approved by the City. Developer shall further cause to be conveyed to the City, all easements and/or rights-of-way covering areas in which water distribution and wastewater collection lines are installed by recordable document in a form satisfactory to the City's counsel. All conveyance of easements and/or rights-of-way shall be accompanied by a title policy or other evidence of title, satisfactory to the City, establishing Developer's rights to convey such continuous enjoyment of such easements or rights-of-way for those purposes set forth in this Agreement to the exclusion of any other person in interest. The use of easements granted by Developer shall include the use by other utilities so long as such uses by electric, telephone, gas utilities, or cable television do not unreasonably and materially interfere with use by the City. The City agrees that the acceptance of the water distribution and wastewater collection systems, installed by Developer, for service, or by acceptance of the bill of sale, shall constitute that assumption of responsibility by the City for the continuous operation and maintenance of such systems from that date forward.

- (j) All installations by Developer or its contractor shall have at least a one-year warranty from the date of acceptance by the City. Mortgagee(s), if any, holding prior liens on such properties shall be required to release such liens, subordinate their position and join in the grant or dedication of the easements or rights-of-way. Any such liens shall remain subordinate to this Agreement. All water distribution and wastewater collection facilities shall be covered by easements if not located within platted or dedicated rights-of-way.
- (k) Whenever the development of the subject Property involves one customer or a unity of several customers, and in the opinion of the City ownership by the City of the internal water distribution and wastewater collection systems is not necessary, then at the sole option of the City, Developer, or its successor or assigns, shall retain ownership and the obligation for maintenance of such on-site facilities.
- (l) Payment of the contribution-in-aid-of-construction does not and will not result in the City waiving any of its rates, rate schedules or rules and regulations, and their enforcement shall not be affected in any manner whatsoever by Developer making the contribution. The City shall not be obligated for any reason whatsoever nor shall the City pay any interest or rate of interest upon the contribution. Neither Developer nor any person or other entity holding any of the Property by, through or under Developer, or otherwise, shall have any present or future right, title, claim or interest in and to the contributions or to any of the water and wastewater facilities and properties of the City, and all prohibitions applicable to Developer with respect to no refund of contributions, no interest payment on said contributions and otherwise, are applicable to all persons or entities. Any user or customer of water and wastewater

services shall not be entitled to offset any bill or bills rendered by the City for such service or services against the contributions. Developer shall not be entitled to offset the contributions against any claim or claims of the City unless specified in the Special Conditions of this Agreement.

- (m) If any use involving commercial kitchen facilities is located on the Property, the wastewater facilities shall include such grease interceptors or grease traps (a "Grease Trap") as may be required by City Standards or by applicable law, codes, rules, regulations and standards pertaining thereto, as the same may from time to time be amended. All wastewater from any grease producing equipment, including floor drains in food preparation areas, must first enter the grease trap for pretreatment before the wastewater is delivered to the City's wastewater system. Provisions for a Grease Trap shall be included in the plans and specifications and shall call for such size, capacity and other specifications as are required by the City's Standards and the applicable governmental agencies. The City shall have the right, but not the obligation, to inspect and test any Grease Trap in order to ensure compliance with the terms hereof. Developer shall indemnify and hold harmless the City from and against any and all liability, cost, expenses and fees, including attorneys' fees and costs, arising or resulting from Developer's failure to install and adequately maintain a Grease Trap including, without limitation, any costs or expenses resulting or arising from damage to the City's wastewater system lines, lift stations and plant facilities caused by grease, oil, fats, prohibited solvents or any other materials entering into or coming in contact with such lines, lift stations and plant facilities because of Developer's failure to adhere to the provisions.

4.4 Certificate of insurance.

- (a) Developer shall furnish the City with a certificate(s) of insurance before the date upon which FDEP permits for construction of any On-Site Facilities, Off-Site Facilities or Treatment Facilities are signed by the Utility Director which shall comply with the insurance requirements set forth below. Said certificate shall provide that insurance coverage shall not be canceled or reduced by the insurance carrier without at least thirty (30) days prior written notice to the City. If the insurance coverage expires prior to completion of the project, renewal certificates shall be issued 30 days prior to said expiration date. The City of North Port reserves the right to alter or amend these requirements, to decrease or increase the requirements as they see fit, without prior notice, depending on the scope of the contract and the risk factors involved.
- (b) Insurance policies must be written by companies licensed to do business in the State of Florida and reasonably acceptable to the City. The City must be named an additional insured on all policies except worker's compensation. The (contractor / vendor) shall furnish the City with Certificates of Insurance. The City of North Port is to specifically be listed / named as an ADDITIONAL INSURED on both the COMPREHENSIVE GENERAL LIABILITY and BUSINESS AUTO POLICIES. All Certificates of Insurance must be on file with and approved by the City before commencement of any work activities.

- (c) An INDEMNIFICATION & HOLD HARMLESS AGREEMENT must be signed by an authorized representative of the firm and included with the Certificate of Insurance for all contracts for service.
- (d) Approval and acceptance of insurance by the City shall not relieve or decrease the liability of Developer. Commercial general liability insurance coverage must be written on an occurrence form and shall include bodily injury and property damage liability for premises, operations, independent contractors, products and completed operations, contractual liability, broad form property damages, and property damage resulting from explosion, collapse or underground exposures, personal injury and advertising injury. Fire damage liability shall be included at \$100,000.

City Insurance Requirements	
WORKERS COMP all state and federal statutory limits apply	\$3,000,000 each accident \$1,000,000 each employee \$1,000,000 policy limit for disease
COMMERCIAL GENERAL LIABILITY occurrence form; required aggregate separate to this job	\$3,000,000 each occurrence \$6,000,000 general aggregate \$1,000,000 products and completed ops \$100,000 fire damage
COMMERCIAL AUTO LIABILITY all owned, non-owned, hired vehicles	\$3,000,000 each accident for property damage and bodily injury with contractual liability coverage

- 4.5 Evidence of title.** Within a period of thirty (30) days after the execution of this Agreement, at the expense of Developer, Developer agrees to either deliver to the City an Abstract of Title, brought up to date, which abstract shall be retained by the City and remain the property of the City, or to furnish the City an opinion of title from a qualified attorney at law or a qualified title insurance company with respect to the Property, which opinions shall include a current report on the status of the title, setting out the name of the legal title holders, the outstanding mortgages, taxes, liens, and covenants. The provisions of the Section are for the exclusive rights of service contained in this Agreement. Any mortgage or lien holder having an interest in the Property shall be required to join in the grant of exclusive service rights set forth in this Agreement. Any and all such grants of exclusive service rights set forth in any Prior Agreement shall survive through the adoption of this Agreement. Title standards shall be the same as those applicable to real estate generally adopted by the Florida Bar and in accordance with Florida law.
- 4.6 Ownership of facilities.** Developer agrees with the City that all water and wastewater facilities conveyed to the City for use in connection with providing water and wastewater services to the Property, shall at all times remain in the

complete and exclusive ownership of the City, and any entity owning any part of the Property or any residence or building constructed or located thereon, shall not have the right, title, claim or interest in and to such facilities, or any part of them, for any purpose, including the furnishing of water and wastewater services to other persons or entities located within or beyond the limits of the Property.

- 4.7 Covenant not to engage in utility business.** Developer, as a further consideration for this Agreement, agrees that it shall not (the words “shall not” being used in a mandatory definition) engage in the business of providing water and wastewater services to the Property during the period of time the City, its successors and assigns, provide water and wastewater services to the Property, it being the intention of the parties hereto that the foregoing provision shall be a covenant running with the land and under said provision and also under other provisions of this Agreement the City shall have sole and exclusive right and privilege to provide water and wastewater services to the Property and to the occupants of each residence, building or unit constructed thereof.
- 4.8 Application of rules, regulations, and rates.** Notwithstanding any provision in this Agreement, the City may establish, revise, modify, and enforce rules, regulations, and rates covering the provision of water and wastewater services to the Property. Such rules, regulations, and rates are subject to the approval of the City of North Port, Florida. Such rules and regulations shall at all times be reasonable and subject to regulations as may be provided by law or under contract. Rates charged to the Developer or customers located upon the Property shall be identical to rates charged for the same classification of service. All rules, regulations, and rates in effect, or placed into effect in accordance with the preceding, shall be binding upon Developer, upon any other entity holding by, through, or under Developer, and upon any customer of the water and wastewater services provided to the Property by the City.
- 4.9 Permission to connect required.** Developer, or any owner of any parcel of the Property, or any occupant of any residences or buildings located thereon, shall not have the right to and shall not connect any customer installation to the water and wastewater facilities of the City until the City has granted approval for such connection and shall be subject to illegal connection fee in effect at the time of discovery.

ARTICLE 5: TRANSPORTATION - MAINTENANCE OF DITCH AND BRIDGES

5.1 Ditch.

- (a) Developer, or any succeeding property owner(s), shall be responsible for maintenance of Retention Ditch R-588, including mowing of the ditch banks and bottom as required to maintain proper function of the ditch.
- (b) Developer shall rehabilitate Retention Ditch R-588 during the construction of

the site, to include dredging the ditch and any other actions necessary to restore the ditch to the pre-development conditions as reflected on a topographic survey submitted with associated site development and infrastructure plans. Rehabilitation work will be limited to impacts to the ditch caused by site construction. This rehabilitation will not be a reoccurring task for the Developer and will only be performed one time as part of the initial preparations of the site.

5.2 Bridges.

- (a) Developer shall be responsible for constructing the roadway and pedestrian bridges crossing Retention Ditch R-588 (bridges). This responsibility includes the design, permitting, and obtaining of any necessary bonds required at the time of the submission of the master site and infrastructure plan.
- (b) Developer, or any succeeding property owner(s), shall be the owner and maintenance entity for the roadway and pedestrian bridges crossing Retention Ditch R-588 (bridges). The maintenance duties include but are not limited to the inspection of the bridges, resurfacing and repainting of the bridges, the making of any structural or cosmetic repairs, repairs related to erosion around or under the structure, or any other work resulting from the use of the bridges. The City retains the right to close or restrict access to the bridges if a hazard is identified, until such repairs or remedies be made to eliminate the hazard(s).

5.3 Waiver of Liability. The City shall not be liable for any damages or injuries resulting from accessing, utilizing, or performing maintenance on the bridges or within the ditch right of way.

ARTICLE 6: DEVELOPMENT PERMITS

6.1 Required Permits.

The Developer or Seller, as applicable, must obtain the City's approval of the following development permits:

- (a) Master Concept Plan (if applicable)
- (b) Site Development Plan and Infrastructure Plan
- (c) Preliminary Subdivision Plat (if applicable)
- (d) Final Plat (if applicable)
- (e) Public Art Review for each individual site within the development (only if applicable).
- (f) Building Permits as per the Florida Building Code

6.2 Regulatory Compliance.

- (a) Failure of this Agreement to address a particular permit, condition, term, or restriction

will not relieve the developer of the necessity of complying with the appropriate law governing said permitting requirements, conditions, terms, or restrictions.

- (b) The City's laws and policies governing the development of the land at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement or as otherwise determined by the City pursuant to the procedures of Florida Statutes Section 163.3233.

ARTICLE 7: ANNUAL REPORT AND REVIEW

7.1 City Annual Review.

The City of North Port will conduct an annual compliance review to determine if the Developer has demonstrated good faith compliance with the terms of the Agreement. If the City finds, based on competent, substantial evidence, that there has been a failure to comply with the terms of the Agreement, the Agreement may be terminated or modified by the local government. If Developer refuses the City's modification pursuant to this section, the City may terminate the Agreement.

7.2 Annual Report.

(a) The City shall prepare an Annual Report, which shall include:

- (1) Any changes in the plan of development, or in the representations contained in the development agreement, or in the phasing for the reporting year and for the next year;
- (2) A summary comparison of development activity proposed and actually developed; and
- (3) The identification of undeveloped tracts of land, other than individual single-family lots, that have been sold to a separate entity or developer.

ARTICLE 8: CHANGES TO AGREEMENT

8.1 Amendment or Cancellation. The Agreement may be amended or canceled by mutual written consent of the Parties or by their respective successors in interest. Following Developer's acquisition of the Property, no consent of Seller will be required as to any amendment of this Agreement. A party or its designated successor in interest to this Agreement and the City may amend or cancel this Agreement without securing the consent of other parcel owners whose property was originally subject to this Agreement. Any amendment or cancellation of this Agreement shall be recorded in the Official Records of Sarasota County, Florida.

8.2 Modification or revocation. If state or federal laws are enacted after the execution of the Agreement which are applicable to and preclude the Parties' compliance with the terms of the Agreement, the Agreement shall be modified or revoked as is necessary to comply with local or state law.

- 8.3 Public Hearings.** Before the amendment or cancelation of this Agreement, public hearings are required in accordance with Florida Statutes Section 163.3225 and the ULDC.

ARTICLE 9: REMEDIES AND ENFORCEMENT

9.1 Remedies.

- (a) In the event of a default or breach of the terms of this Agreement, the City may avail itself of every remedy specifically given to it now existing at law or in equity, and every remedy must be in addition to every other remedy so specifically given or otherwise so existing and may be exercised from time to time and as often and in the order as may be deemed expedient by the City. The exercise, or the beginning of the exercise, of one remedy must not be deemed to be a waiver of the right to exercise, at the same time or thereafter, any other remedy. The City's rights and remedies as set forth in this Contract are not exclusive and are in addition to any other rights and remedies available to it in law or in equity.
- (b) Developer shall have a five (5) day grace period before a failure to make payment as required under this Agreement shall constitute an event of default. Developer shall be assessed a five percent (5%) late fee to be calculated on any delinquent payment if made after the expiration of the five (5) day grace period. In the event of Developer's failure to make timely payment as set forth herein and upon the expiration of the five (5) day grace period, the City shall, prior to declaring an event of default, provide Developer with written notice of the City's intent to declare an event of default. Upon such notice, should Developer be in default of any provision of this Agreement, and fail to cure the default upon proper notice, the City has the right to deny issuance of any building permits, certificate of occupancies or approval of any FDEP permits for utility construction associated with the project. Developer shall have an additional twenty (20) days from the date Developer receives the City's written notice within which to make the specified payment.
- (c) Should Developer fail to cure a default upon its receipt of proper notices, the City may undertake the appropriate legal actions it deems necessary to enforce its right and remedies as provided under this Agreement and Florida law.
- (d) The City and Developer agree that in the event of an uncured default by Developer resulting in termination of this Agreement, the City may suffer damages in the amount of Developer's proportionate share of the capital investment, if any, the City has made in constructing the City's water and wastewater system made available to serve Developer, including but not limited to the debt service on bonds or other financing instruments issued for that purpose. For purposes of calculating damages related to the City's capital investment in the water and wastewater system, if the City has made any such capital investment, the City and Developer agree that such damages shall be valued at \$132.73 per year per reserved but unconnected water ERC and at \$111.82 per year per reserved but unconnected wastewater ERC, and that Developer

shall be liable to the City, as liquidated damages, and not as a penalty, for three (3) years of such damages. This liquidated damages amount shall pertain only to the City's damages related to its capital investment in its water and wastewater system, and shall be in addition to the City's damages related to unpaid capacity fees, unpaid guaranteed revenues and associated late fees.

- (e) In addition to its other remedies, should Developer be in default of any provision of this Agreement, and fail to cure the default upon proper notice, the City has the right to deny issuance of certificate of occupancies or approval of any FDEP permits for utility construction associated with the project.

ARTICLE 10: DISCLAIMERS, LIMITATIONS ON LIABILITY; AVAILABLE REMEDIES

10.1 The parties deem each other to be independent contractors and not agents of the other.

10.2 Developer shall indemnify the City, its respective agents, commissioners and employees, from and against any and all claims, liability, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and fees, including reasonable attorney's fees, for injury (including death) to persons or damage to property or property rights that may arise from or be related to acts, errors, or omissions of Developer, its agents, employees, servants, licensees, invitees, or contractors or by any person under the control or direction of Developer, or by Developer's connection to and use of the City's system, and Developer shall indemnify and hold harmless the City as aforesaid from all liability, claims and all other items above mentioned, arising or growing out of or connected with any default, breach, violation or nonperformance by Developer of any covenant, condition, agreement or provision contained in this Agreement concerning all or any part of the City's system. Should Developer fail for any reason to indemnify and hold harmless the City, the City shall have the right to enforce the terms of this Agreement by placing a lien against the Property, but excluding lots subsequently sold to third party end users, upon which this Agreement runs, and the City shall be entitled to recover interest at the highest lawful rate on the lien and shall be entitled to foreclose and enforce the lien and recover costs and fees in connection with the foreclosure of the lien or enforce this Agreement in any other manner allowed by law, including termination of service. Such indemnification shall include costs for physical repair of the City's system. This indemnification provision includes claims made by any employees of Developer against the City, and Developer hereby waives its entitlement, if any, to immunity under section 440.11, Florida Statutes. Nothing contained in this contract, and specifically this provision requiring Developer to indemnify the City, is intended to nor shall it be construed as an additional waiver of sovereign immunity by City beyond the City's expressed written contractual obligations contained within this contract, nor shall it be construed as a waiver of any defenses or limitations to any claims, including those based on the doctrine of sovereign immunity or section 768.28, Florida Statutes. The obligations contained in this paragraph shall survive the termination of this Agreement, however terminated and shall not be limited by the amount of any insurance required to be

obtained or maintained under this Agreement.

10.3 In no event shall the City have any liability for any indirect, incidental, special, consequential or punitive damages, however caused and on whatever theory of liability, arising out of this agreement, including, but not limited to, loss of anticipated profits or business interruption, even if the City has been advised of the possibility of such damages; and

10.4 Developer's remedies against the City for the City's failure to perform its obligations under this agreement, if not excused on the basis of a force majeure event or as otherwise provided in this agreement, shall be limited to specific performance, injunction or other equitable relief.

ARTICLE 11: DISCLAIMER OF THIRD PARTY BENEFICIARIES

11.1 This Agreement is solely for the benefit of and shall be binding upon the formal parties hereto and their respective authorized successors and assigns, and no right or cause of action shall accrue upon or by reason hereof, to or for the benefit of any third party not a party to this Agreement, including, but not limited to, members of the general public residing in the City, or an authorized successor or assignee thereof.

ARTICLE 12: SURVIVAL OF COVENANTS

12.1 The rights, privileges, obligations, and covenants of Developer and the City shall survive the completion of work of Developer with respect to completing the water and wastewater facilities and services to any phase area and to the Property as a whole.

ARTICLE 13: FORCE MAJEURE

13.1 Force Majeure Provisions.

(a) Should performance of any obligation (other than payment obligations) created under this Agreement become illegal or impossible by reason of:

- (1) A strike or work stoppage, unless caused by a negligent act or omission of any party;
- (2) An act of God, tornado, hurricane, flood, sinkhole, fire, explosion, landslide, earthquake, epidemic, pandemic, quarantine, pestilence, or extremely abnormal and excessively inclement weather;
- (3) An act of a public enemy, act of war, terrorism, effect of nuclear radiation, blockage, insurrection, riot, civil disturbance, state of martial law, or national or international calamity;

(4) A declared emergency of the federal, state, or local government; or

(5) Any other cause not enumerated that is beyond the reasonable control of the non-performing party;

then the performance of any such obligation is suspended during the period of, and only to the extent of, such prevention or hindrance, provided the affected party provides notice of the event of *force majeure* as provided by Section 13.1(b) below, and exercises all reasonable diligence to remedy its inability to perform and eliminate the cause of the *force majeure*.

(b) The non-performing party shall provide written notice within five (5) calendar days of the event of *force majeure*, describing the event in sufficient detail, including but not limited to: the nature of the occurrence, a good faith estimate of the duration of the delay, proof of how the event has precluded the non-performing party from performing, and the means and methods for correcting the delay; and continues to furnish timely reports of all actions required for it to commence or resume performance of its obligations under this Agreement.

(c) Failure or delay of performance by either party due to a force majeure event shall not be deemed a breach of this Agreement, and neither party shall have the right to terminate this Agreement on account of non-performance of the other party based on a force majeure event

(d) Furthermore, any temporary cessation or interruption of water and/or sewer services to the Property by the City resulting from necessary maintenance work, breakdown of, or damages to, machinery, pumps or pipelines shall not constitute a breach of this Agreement by the City nor shall it impose liability upon the City by Developer, its successors or assigns.

(e) The excuse of performance shall be no greater in scope or duration than required by the event of *force majeure*.

(f) No obligations of either party that arose before the *force majeure* are excused as a result of the event of *force majeure*.

(g) Economic hardship of a party does not constitute an event of *force majeure*. A party must not be excused from performance due to forces that it could have reasonably prevented, removed, or remediated prior to, during, or immediately after their occurrence.

(h) The non-performing party's affected obligations under this Contract will be temporarily suspended during, but not longer than, the continuance of the event of *force majeure* and a reasonable time thereafter as may be required to commence or resume performance of its obligations. Notwithstanding the above,

performance will not be excused under this Section for a period exceeding two (2) consecutive months, provided that in extenuating circumstances, the City may excuse performance for a longer term.

- (i) The term of this Contract will be extended by a period equal to that during which the non-performing party's performance is suspended under this Section.

ARTICLE 14: DISCLAIMER OF SECURITY

Notwithstanding any other provision of this Agreement, Developer expressly acknowledges (1) that it has no pledge of or lien upon any real property (including, specifically, the City's system), any personal property, or any existing or future revenue source of the City (including, specifically, any revenue or rates, fees, or charges collected by the City in connection with the City system) as security for any amounts of money payable by the City under this Agreement; and (2) that its rights to any payments or credits under this Agreement are subordinate to the rights of all holders of any stocks, bonds, or notes of the City, whether currently outstanding or hereafter issued.

ARTICLE 15: NOTICES

Any notice, demand, communication, or request required or permitted by this Contract must be sent by certified mail, return receipt requested, or by delivery through any nationally recognized courier service (Federal Express, UPS, USPS, and others) that provides evidence of delivery, at the address provided for receipt of notices in this Contract and e-mailed to:

As to the City: City Manager
 City of North Port
 4970 City Hall Boulevard
 North Port, Florida 34286

With copies of claims
and demands sent to: City of North Port, Florida
 City Attorney's Office
 4970 City Hall Boulevard
 North Port, Florida 34286
 northportcityattorney@northportfl.gov

As to Developer: Imagine School at North Port, Inc.
 1900 Gallows Rd, SUITE 250
 Vienna, VA 22182

As to Seller: Forest Plaza, LLC, a Florida Limited Liability Company
 1943 Maravilla Avenue
 Fort Myers, Florida 33901

Notices are effective when received at the addresses specified above. Changes to the respective addresses may be made from time to time by either party by written notice. This Section must not be construed to restrict the transmission of routine communications between representatives of the Developer and the City.

Any notices required or permitted hereunder will be considered properly made if in writing and mailed by United States Mail, postage prepaid, to the addresses set forth herein. Developer agrees to notify the City upon conveyance of the Property and provide all contact information regarding the new owner and developer.

ARTICLE 16: SUCCESSORS IN TITLE

Developer agrees that this Agreement will be a covenant binding upon and running with title to the Property, and any successor owner of the Property or other interest holder will be obligated to adhere to the terms and conditions of this Agreement. The City agrees that any successor in title to the Property will enjoy all the rights, obligations, and privileges provided in this Agreement.

ARTICLE 17: ATTORNEY'S FEES

In any enforcement proceeding (administrative or court) between the parties arising out of or related to the enforcement of this Agreement, the prevailing party shall be entitled to recovery all reasonable attorneys' fees and court costs, whether such fees and costs are incurred in negotiations, at the trial level or on appeal, or in the collection of attorneys' fees, arising out of any acts, actions, breaches, neglect or omissions of the party or the parties' officers, employees, agents, subcontractors, sub-consultants, and other persons employed or utilized by the party in the performance of, or the failure to perform, this Agreement.

ARTICLE 18: MISCELLANEOUS

18.1 Miscellaneous Provisions.

- (a) Authority to Execute Agreement. The signature by any person to this Agreement shall be deemed a personal warranty that the person has the full power and authority to bind any corporation, partnership, or any other business or governmental entity for which the person purports to act hereunder.
- (b) Binding Effect/Counterparts. By the signatures affixed hereto, the Parties intend to be bound by the terms and conditions hereof. This Agreement is binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, successors and assigns. It may be signed in counterparts.
- (c) Governing Law and Venue. The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this Agreement. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida, and the United States District Court for the Middle

District of Florida.

- (d) No Agency. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the Parties, it being understood and agreed that no provision contained herein, or any acts of the Parties shall be deemed to create any relationship between them other than that as detailed herein.
- (e) Severability. In the event any court shall hold any provision of this Agreement to be illegal, invalid, or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition or covenant shall not be construed as a waiver of a subsequent breach by the other party.
- (f) Headings. The descriptive titles appearing in each respective paragraph are for convenience only and are not a part of this Agreement and do not affect its construction.
- (g) Complete Agreement; Construction. This Agreement incorporates and includes all prior negotiations, correspondence, agreements, or understandings between the parties, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. This Agreement supersedes all other agreements between the parties, whether oral or written, with respect to the subject matter. The titles, captions and section numbers in this Agreement are inserted for convenient reference only and do not define or limit the scope or intent and should not be used in the interpretation of any section, subsection or provision of this Agreement. Whenever the context requires or permits, the singular shall include the plural, and plural shall include the singular. This Agreement has been reviewed and revised by legal counsel for both the Developer and the City, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.
- (h) Amendment. No amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement. Any amendments changing City's financial obligations under this Agreement shall require approval by the City Commission. The City Commission hereby authorizes the City Manager or City Manager's authorized designee to approve and execute all Agreement amendments on behalf of City that do not change City's financial obligations under this Agreement.
- (i) Assignment. The Developer shall not assign this Agreement or any right or responsibility herein unless with the written consent of the City.
- (j) Non-Discrimination. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. The Contractor shall not

administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

- (k) Recording. This Agreement shall be recorded, by the City, at the Developer's cost, in the public records of Sarasota County, Florida, in accordance with the requirements of the Act. Upon the completion of performance of this Agreement or its revocation or termination, the Developer or its successors in interest shall record a statement in the official records of Sarasota County, Florida, signed by the Parties, evidencing such completion, revocation or termination, and shall deliver a copy of such statement to the City Manager or designee. The provisions of this Agreement shall constitute covenants which shall run with the land comprising the Property; the burdens and benefits hereof shall bind and inure to the benefit of the Parties hereto and their personal representatives, heirs, successors, grantees (subject, in the case of Seller, to the limitations on its obligations hereunder which are imposed by this Agreement), and a copy of this Agreement shall be recorded among the Public Records of Sarasota County, Florida, upon execution of this Agreement by the Parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the date provided below.

WITNESSES:

Forest Plaza, LLC
A Florida Limited Liability Company

Witness Signature

Print Name of Witness

Address: _____

By: _____

Name: _____

Title: _____

Address: _____

Witness Signature

Print Name of Witness

Address: _____

ACKNOWLEDGEMENT

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____ 20__, by _____ (name), as _____ (title) for _____ (entity).

Notary Public

___ Personally Known OR ___ Produced Identification
Type of Identification Produced _____

WITNESSES:

**Imagine School at North Port , Inc.
A Florida Not For Profit Corporation**

Witness Signature

Print Name of Witness

Address: _____

By: _____

Name: _____

Title: _____

Address: _____

Witness Signature

Print Name of Witness

Address: _____

ACKNOWLEDGEMENT

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____ 20__, by _____ (name), as _____ (title) for _____ (entity).

Notary Public

___ Personally Known OR ___ Produced Identification

Type of Identification Produced _____

Approved by the City Commission of the City of North Port, Florida in public session on _____, 2025.

CITY OF NORTH PORT, FLORIDA

A. JEROME FLETCHER II, ICMA-CM, MPA
CITY MANAGER

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

MICHAEL GOLEN, CPM
INTERIM CITY ATTORNEY

EXHIBIT A
PROPERTY DESCRIPTION

Legal Description

Tract A, THIRTY-SECOND ADDITION TO PORT CHARLOTTE SUBDIVISION, according to the plat thereof, recorded in Plat Book 15, Page 16, of the Public Records of Sarasota County, Florida.

AND

Tract C, LESS the Northerly 95 feet, FORTY-NINTH ADDITION TO PORT CHARLOTTE SUBDIVISION, according to the plat thereof, recorded in Plat Book 21, Page 1, of the Public Records of Sarasota County, Florida.

AND

Tracts D and I, FORTY-NINTH ADDITION TO PORT CHARLOTTE SUBDIVISION, according to the plat thereof, recorded in Plat Book 21, Page 1, of the Public Records of Sarasota County, Florida.

[illegible]

EXHIBIT B

Concept Plan

