

This instrument prepared by and after recording return to:

Heather M. Himes, Esquire
Akerman LLP
420 S. Orange Ave., Suite 1200
Orlando, FL 32801-4904
(407) 423-4000

DOC# 20150102868 B: 10881 P: 6693
02/27/2015 11:58:19 AM Page 1 of 12
Rec Fee: \$103.50
Deed Doc Tax: \$0.00
DOR Admin Fee: \$0.00
Intangible Tax: \$0.00
Mortgage Stamp: \$0.00
Martha O. Haynie, Comptroller
Orange County, FL
SA - Ret To: JOHN L THOMAS II



Parcel ID No. 17-24-27-0000-00-003 and
A portion of Parcel ID No. 18-24-27-0000-00006

-----[SPACE ABOVE THIS LINE FOR RECORDING DATA]-----

DEVELOPMENT AGREEMENT

This **DEVELOPMENT AGREEMENT** ("**Agreement**") is made and entered into this 18 day of February 2015 ("**Effective Date**"), by and between **SPRING GROVE, LLC**, a Delaware limited liability company ("**Spring Grove**"), whose address is 5956 Sherry Lane, Suite 1000, Dallas, Texas 75225, and **SPRING GROVE PROPERTIES, LLC**, a Florida limited liability company ("**SGP**"), whose address is 1411 Edgewater Drive, Suite 101, Orlando, Florida 32804.

RECITALS

WHEREAS, Spring Grove is the owner of the lands described on **Exhibit "A"** attached hereto and incorporated herein ("**Spring Grove Property**").

WHEREAS, SGP is the owner of the lands described on **Exhibit "B"** attached hereto and incorporated herein ("**SGP Property**").

WHEREAS, the Spring Grove Property and the SGP Property are sometimes hereinafter referred to individually as a "**Property**" and collectively as the "**Properties**". Spring Grove and SGP are sometimes hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

WHEREAS, the Spring Grove Property and the SGP Property are located directly across from each other on either side of the right of way of County Road 535 (Avalon Road), which runs along the west side of the SGP Property and the east side of the Spring Grove Property as shown on **Exhibit "C"** attached hereto and incorporated herein.

WHEREAS, the Parties have determined that in order to provide for the orderly and effective development and use of the Spring Grove Property and the SGP Property in accordance with the Plans and Approvals (as defined below) and for the uses described therein, and in order to protect the relative rights and interests of both parties to this Agreement in and to the Spring Grove Property and the SGP Property, respectively, it is necessary to establish certain rights and obligations between Spring Grove and SGP regarding the development and use of the Properties, including, but not limited to development rights and the pursuit of plans and approvals.

DEFINITIONS

"Plans and Approvals" shall refer to the permits and approvals and approved plans for the use and development of the Properties and the construction of infrastructure and other horizontal improvements either thereon or "off-site", if necessary or required in connection with development of the Properties, all as approved previously and in the future by Orange County and all other applicable governmental authorities; the existing Plans and Approvals including specifically: (1) the Horizons West Village I Specific Area Plan dated June 10, 2008 ("SAP") and (2) the Land Use Plan for Village I in Horizons West, Orange County, as shown on the attached **Exhibit "C"**. The Plans and Approvals may be changed and supplemented by the parties with more detailed final subdivision and construction plans, provided that no change or supplement shall have a material and adverse effect on, or increase the costs of development of, the Spring Grove Property or any of the easements or rights established under this Agreement, or impose any conditions on development of the Spring Grove Property that were not in existence as of the date of this Agreement.

"SFWMD" shall refer to the South Florida Water Management District.

"UMAM" shall mean and refer to Uniform Mitigation Assessment Method.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged by the parties hereto, and in consideration of the mutual covenants and agreements contained herein, the parties hereby declare and agree as follows:

1. **Recitals.** The foregoing Definitions and Recitals are true and correct and are hereby incorporated herein by this reference.

2. **Development Plans.**

Except as specifically described in this Agreement, each Party hereto acknowledges and agrees that beyond the SAP they each shall be responsible for continuing with plans, permits and approvals which may be required for the development of their respective Properties.

SGP agrees that no such additional plans, permits and approvals shall include or provide for development of the SGP Property in any manner that will: (i) change the allocation between the Spring Grove Property and the SGP Property of any obligations or rights under any of the Plans and Approvals (as defined herein) in a manner which adversely impacts the Spring Grove Property or (ii) have a material and adverse effect on any of the easements or rights established under this Agreement. SGP shall keep Spring Grove informed on a timely basis of the nature and status of all submissions, applications, written communications and requests from SGP or its agents to the applicable governmental authorities related to the SGP Property, and Spring Grove shall be entitled, but not required, to have a representative present at any and all such meetings. Unless expressly agreed upon with Spring Grove in writing in advance, SGP expressly covenants and agrees that SGP shall not (i) rezone all or any portion of the SGP Property; (ii) materially and adversely change the use or contemplated use of all or any portion of the SGP Property from the intended use; or (iii) materially and adversely change the density of all or any portion of the SGP Property; any such consent of Spring Grove shall be based upon Spring Grove's

determination in its reasonable discretion that any such action by SGP does not materially and adversely affect the development of Spring Grove Property. For all purposes under this Agreement, "reasonable discretion" shall mean discretion exercised in a commercially reasonable manner.

Each Party hereto acknowledges and agrees that it shall develop its respective property in compliance with all applicable rules and regulations of any applicable governmental authority, and in compliance with the Plans and Approvals (and conditions of approval thereof), including, but not limited to, granting all dedications or easements to governmental authorities, e.g., the dedication of Adequate Public Facilities. Notwithstanding the foregoing, SGP acknowledges and hereby agrees that it will consent to any future application by Spring Grove to amend the Plans and Approvals to reduce the density on Parcel 45 of the Spring Grove Property, as described in more detail in Paragraph 3(b) below, to allow Parcel 45 to be developed for townhouse use, which Spring Grove may or may not elect to pursue, in its sole discretion. SGP shall cooperate with Spring Grove (at no material cost to SGP) in connection with any future efforts by Spring Grove to develop said Spring Grove Property, including but not limited to, cooperating with Spring Grove's efforts to obtain any entitlements, permits or approvals necessary, in the reasonable discretion of Spring Grove, for the development of the Spring Grove Property; granting such easements over the SGP Property that are necessary, in the reasonable discretion of Spring Grove, for development of the Spring Grove Property but that are consistent in all material respects with the Plans and Approvals; and signing such instruments and joining into such applications, as are reasonably necessary in connection therewith. As to any of the SGP Property, Spring Grove shall cooperate with SGP (at no material cost to Spring Grove) in connection with any future efforts by SGP to develop said SGP Property, including but not limited to, cooperating with SGP's efforts to obtain any entitlements, permits or approvals necessary, in the reasonable discretion of SGP, for the development of the SGP Property, granting such easements over the Spring Grove Property that are necessary, in the reasonable discretion of SGP, for development of the SGP Property but that are consistent in all material respects with the Plans and Approvals, and signing such instruments, and joining into such applications, as are reasonably necessary in connection therewith.

3. **Density.** The Parties hereby covenant and agree that each will respectively develop its property per the Springhill Planned Development Land Use Plan, Sheet No. 4, as approved by the Orange County Board of County Commissioners on March 14, 2012, as may be amended from time to time and that neither Party will object to the other Party developing its respective property at the minimum density allowed under the Plans and Approvals, with the use of Transferable Development Rights ("TDRs"). Notwithstanding the foregoing, SGP acknowledges that Spring Grove may, in its sole discretion, elect to amend the Plans and Approvals to reduce the density on Parcel A as described on **Exhibit "A"**, also known as Parcel 45, to allow Parcel 45 to be developed for townhouse use.

4. **Wetlands Mitigation and UMAM Credits.** In the event SGP utilizes or establishes any portion of the SGP Property as a wetland mitigation bank, SGP hereby agrees to assign, transfer and convey to Spring Grove one (1) UMAM credit. Said transfer shall occur within five (5) business days of SGP's receipt of (i) the UMAM credit, and (2) a written request from Spring Grove for the assignment of such credit.

5. **Transferable Development Rights.** SGP hereby assigns to Spring Grove ten (10) Horizon West Village H Transferable Development Rights (“TDRs”) which SGP owns now or will obtain in the future and which relate to and are generated by the SGP Property. SGP hereby agrees simultaneously herewith to execute such assignment and further to execute any additional documentation requested by Orange County in conjunction with the transfer of the TDRs and with the processing of an application for or amendment to the Planned Development zoning for the Spring Grove Property, unless required earlier by Orange County.

6. **Cooperation.** SGP shall reasonably cooperate with Spring Grove, which cooperation shall include, but shall not be limited to executing any and all documents needed to effect the commitments made in this Agreement, including, but not limited to, the assignment and transfer of the TDRs and UMAM credit, the granting of easements and the application for and processing of an application for and/or amendment to the Planned Development zoning for the Spring Grove Property.

7. **Release Upon Platting.** SGP and Spring Grove covenant and agree, each to the other, that upon the recording of a plat of all or any portion of the SGP Property or the Spring Grove Property, the other Party, upon request of the platting Party, shall execute a Partial Release from this Agreement in a form and substance sufficient for recording in the Public Records for Orange County, Florida, such that only portions of the SGP Property and the Spring Grove Property which are unplatted shall remain subject to the terms and conditions of this Agreement. Notwithstanding the obligation to provide partial releases as provided herein, each Party shall retain enforcement rights against the other Party hereto for performance of actions required by this Agreement, but such enforcement rights and corresponding obligations shall not run with the land after the applicable land is platted and released as provided above.

8. **General Provisions.** The following general provisions shall apply to all of the terms and provisions set forth this Agreement.

a. **Covenants with the Land.** All rights, privileges, benefits and burdens created under this Agreement are covenants running with the land, binding upon and inuring to the benefit of the parties hereto and their respective successors in fee title as owners of the Properties until released hereunder as provided in Section 7 above.

b. **Enforcement and Remedies.** SGP and Spring Grove agree to indemnify and hold each other harmless from any and all costs, loss, damage, demands, liability, and expense resulting from that Party’s breach of any of its obligations hereunder. If either Party hereto, or their respective successors and assigns, fails to perform any of its obligations under this Agreement or violates or attempts to violate any of the terms and provisions of this Agreement, then the other Party shall have the right to: (i) prosecute proceedings for the recovery of damages against the Party in violation of the provisions of this Agreement, and (ii) obtain injunctive relief against the Party in violation of the provisions of this Agreement to require all appropriate action for compliance with all of the terms and provisions of this Agreement. The prevailing Party in any suit, proceeding or action between the parties arising in connection with the subject matter of this Agreement shall be entitled to recover its reasonable attorneys’ fees and costs, including those incurred on appeal, at any rehearing or at any bankruptcy proceeding, from the non-prevailing Party.

c. Further Documentation and Cooperation. The parties agree that at any time following a request therefor by the other Party, each shall execute and deliver to the other Party such further documents, information, data and instruments in form and substance reasonably necessary, to confirm and/or carry out the effect and intent of the parties hereunder and the matters described herein.

d. Certification of Compliance. Each Party hereto, upon written request made by the other Party, hereby agrees to certify in writing to the other Party and to any mortgagee having a collateral interest in any lands that are the subject of this Agreement, that this Agreement remains in full force and effect, that the other Party is presently in compliance with all current obligations under the Agreement, and that no default exists hereunder. Provided that in the event there exists any non-compliance or events of default, such written certification shall set forth the facts identifying any such matters. Any such written certification shall be delivered within ten (10) business days after the date of receipt of the request from the other Party.

e. Captions. The captions or paragraph headings are for the convenience and ease of reference only and shall not be construed to limit or alter the terms of this Agreement.

f. Governing Law, Venue. This Agreement shall be interpreted in accordance with the internal laws of the State of Florida, both substantive and remedial. Venue for any action between the parties with respect to the matters addressed by this Agreement shall be in the county in which the Property is located.

h. Entire Agreement; Amendment. This Agreement supersedes any other agreement, oral or written, and contains the entire agreement between the Parties as to the subject matter hereof. The terms and provisions of this Agreement may be modified, supplemented or terminated only by a written instrument signed by the parties hereto or the successors and assigns of the parties hereto.

i. Severability. In the event that any paragraph or portion of this Agreement is determined to be unenforceable or invalid, such paragraph or portion of this Agreement shall be stricken from and construed for all purposes not to constitute a part of this Agreement, and the remaining portions of this Agreement shall remain in full force and effect and shall, for all purposes, constitute this Agreement.

j. Ratification. Spring Grove, as owner of the Spring Grove Property, and SGP, as owner of the SGP Property, by execution of this Agreement each respectively hereby certifies and confirms as follows: (i) each of the Spring Grove Property and the SGP Property are approved for use and development thereof in accordance with the Plans and Approvals and this Agreement; and (ii) each of Spring Grove and SGP presently is in compliance with all current obligations under this Agreement and no default exists thereunder.

k. Counterparts; Fax/Electronic Signatures. This Agreement may be executed in one or more counterparts that, taken together, shall constitute one and the same amendment, notwithstanding that no single counterpart has been signed by all parties. Fax or

electronically exchanged signatures to this Agreement shall be as valid and binding as an original.

1. Time. Time is of the essence with respect to the performance of all obligations of the parties under this Agreement.

m. Representations and Warranties. Each Party hereto does hereby represent and warrant to the other parties hereto, as follows: a) that each Party has the full power and authority to enter into this Agreement and perform the duties and obligations agreed to hereunder, and no other person has any right, title or interest whatsoever in connection with the rights of said Party hereunder, and no consent or approval whatsoever is required of any third Party in connection with actions by each Party hereunder; b) that the individual executing this Agreement has the authority to act for and bind the applicable Party in executing, delivering, and performing its duties and obligations hereunder and that his acts are binding upon said Party; and c) that each Party is executing and delivering this Agreement voluntarily and in order resolve all issues relating to the Lawsuit and after consultation with counsel.

[Remainder of Page Intentionally Blank – Signatures Begin on the Following Page]

IN WITNESS WHEREOF, Spring Grove and SGP have duly executed this Agreement effective as of the day and year first hereinabove set forth.

Signed, sealed and delivered
in the presence of:

SPRING GROVE

Spring Grove, LLC, a Delaware limited liability company

By: CH II Spring Grove, LLC, a Delaware limited liability company, as its Manager

Signature: *Suzan James*
Print Name: SUZAN JAMES

By: *[Signature]*
Daniel A. Traylor, Manager

Signature: *[Signature]*
Print Name: Charlitt Hawthorn

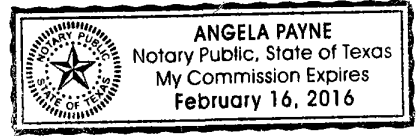
STATE OF Texas
COUNTY OF Dallas

The foregoing instrument was acknowledged before me this 9 day of January, 2014, by Daniel A. Traylor, as Manager of CH II Spring Grove, LLC, a Delaware limited liability company, as Manager of **Spring Grove, LLC**, a Delaware limited liability company. He

- is personally known to me or
- has produced _____ as identification.

IMPRINT NOTARY PUBLIC
RUBBER STAMP SEAL BELOW

Angela Payne
Signature of Person Taking Acknowledgment
Notary Public



SGP

**SPRING GROVE PROPERTIES, LLC, a
Florida limited liability company**

Signature: [Handwritten Signature]
Print Name: John L. Thomas II

By: [Handwritten Signature]
Robert C. Hewitt, Manager

Signature: [Handwritten Signature]
Print Name: Valerie T. Ziebarth

Signature: [Handwritten Signature]
Print Name: John L. Thomas II

By: [Handwritten Signature]
Thomas W. Hewitt, Manager

Signature: [Handwritten Signature]
Print Name: Valerie T. Ziebarth

Signature: [Handwritten Signature]
Print Name: John L. Thomas II

By: [Handwritten Signature]
Caren J. Hewitt, Trustee of the
Caren J. Hewitt Living Trust, Manager

Signature: [Handwritten Signature]
Print Name: Valerie T. Ziebarth

STATE OF FLORIDA

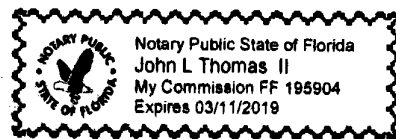
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 18 day of February, 2015, by Robert C. Hewitt, as Manager of **Spring Grove Properties, LLC**, a Florida limited liability company. He

- is personally known to me or
- has produced _____ as identification.

**IMPRINT NOTARY PUBLIC
RUBBER STAMP SEAL BELOW**

[Handwritten Signature]
Signature of Person Taking Acknowledgment
Notary Public



STATE OF FLORIDA

COUNTY OF ORANGE

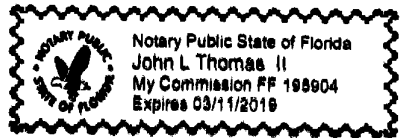
The foregoing instrument was acknowledged before me this 18 day of February, 2015, by Thomas W. Hewitt, as Manager of **Spring Grove Properties, LLC**, a Florida limited liability company. He

- is personally known to me or
- has produced _____ as identification.

IMPRINT NOTARY PUBLIC
RUBBER STAMP SEAL BELOW

[Signature]

 Signature of Person Taking Acknowledgment
 Notary Public



STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 18 day of February, 2015, by Caren J. Hewitt, Trustee of the Caren J. Hewitt Living Trust, as Manager of **Spring Grove Properties, LLC**, a Florida limited liability company. She

- is personally known to me or
- has produced _____ as identification.

IMPRINT NOTARY PUBLIC
RUBBER STAMP SEAL BELOW

[Signature]

 Signature of Person Taking Acknowledgment
 Notary Public

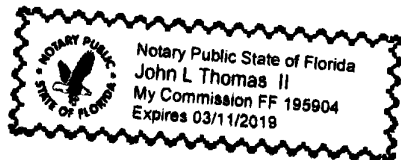


Exhibit A

Spring Grove Property

PARCEL A: THE SOUTHWESTERLY 1/4 OF THE NORTHWEST 1/4 LYING EAST OF STATE ROAD 545, AND THE WEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4, ALL IN SECTION 17, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

AND:

PARCEL D: NO. 2: THAT PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST 1/4 OF THE NORTHWEST 1/4, EAST OF STATE ROAD NO. 545 IN SECTION 20, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

AND

PARCEL D. NO. 3A: THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 LYING EAST OF STATE ROAD 545, AND THE WEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4, AND THE WEST 1/2 OF THE SOUTHWEST 1/4 LYING EAST OF STATE ROAD NO. 545, ALL IN SECTION 17, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA.

LESS AND EXCEPT:

THAT PORTION OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 20, TOWNSHIP 24 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 20; THENCE RUN SOUTH 00°32'15" WEST, ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 20, A DISTANCE OF 722.64 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°32'15" WEST, ALONG SAID EAST LINE, A DISTANCE OF 611.52 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20; THENCE DEPARTING SAID EAST LINE, RUN NORTH 89°58'44" WEST, ALONG THE SOUTH LINE OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 20, A DISTANCE OF 2068.83 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF AVALON ROAD (STATE ROAD 545, A 66.00 FOOT WIDE RIGHT-OF-WAY PER ORANGE COUNTY PUBLIC WORKS RIGHT-OF-WAY MAP, CONTRACT NO. YA-903A BY PROFESSIONAL ENGINEERING CONSULTANTS, INC. UNDER PROJECT NO. 70109); THENCE RUN NORTH 43°33'32" EAST, ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 843.54 FEET; THENCE RUN SOUTH 89°58'44" EAST, DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 1493.28 FEET TO THE POINT OF BEGINNING.

Exhibit B

SGP Property

Parcel D No. 3 (West)

The West 1/2 of the Southwest 1/4 lying West of State Road 545 (Avalon Road) Less: beginning at the Southeast Corner of the Southwest 1/4 of the Southwest 1/4 run 250 feet North, thence Southwesterly to a point 457 feet West of the Southeast corner of said Southwest 1/4 of the Southwest 1/4, thence East 457 feet to the point of beginning, in Section 17, Township 24 South, Range 27 East, Orange County, Florida.

Subject to all rights of way, easements, and restrictions of record.

Together with the following described real property:

Parcel B

The Southeast 1/4 of Section 18, Township 24 South, Range 27 East, Orange County, Florida, LESS any part thereof in road right of way.

Also less and except:

The South 150 feet of the West 350 feet of the Southeast 1/4 of Section 18, Township 24 South, Range 27 East, Orange County, Florida, described as follows:

Begin at the Southwest corner of the Southeast 1/4 of said Section 18; thence run N01°02'31"E, along the West line of the Southeast 1/4 of said Section 18, a distance of 150.00 feet; thence run N88°51'51"E, a distance of 350.00 feet; thence run S01°02'31"W, a distance of 150.00 feet to a point on the South line of the Southeast 1/4 of said Section 18; thence S88°51'51"W, along said South line, a distance of 350.00 feet to the Point of Beginning

Exhibit C

Land Use Plan

