

**APPLEBY TRACT
DEVELOPMENT AGREEMENT
BY AND BETWEEN**

**LENNAR CAROLINAS, LLC
AND
TOWN OF RIDGEVILLE, SOUTH CAROLINA**

_____, 2023

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**DEVELOPMENT AGREEMENT
BY AND BETWEEN
LENNAR CAROLINAS, LLC
AND
TOWN OF RIDGEVILLE, SOUTH CAROLINA**

THIS DEVELOPMENT AGREEMENT (together with the Exhibits attached hereto, the "Agreement") is entered into effective as of the ___ day of _____, 2023 (the "Effective Date"), by and between **LENNAR CAROLINAS, LLC**, a Delaware limited liability company (the "Developer") and the **TOWN OF RIDGEVILLE**, a political subdivision of the State of South Carolina (the "Town"). The Developer and Town are sometimes separately referred to in this Agreement as a "party" or jointly referred to as the "parties."

RECITALS

WHEREAS, the Code of Laws of South Carolina (the "S.C. Code") Sections 6-31-10 through 6-31-160, as it exists on the Effective Date of this Agreement (the "Act"), enables political subdivisions of the State of South Carolina to enter into binding development agreements with entities intending to develop real property under certain conditions set forth in the Act; and

WHEREAS, Developer is in the process of acquiring title to approximately four hundred and eighty-nine (489) acres of Real Property (hereinafter defined) located in Dorchester County, South Carolina, identified as TMS Numbers 109-00-00-050 and 109-00-00-052; and

WHEREAS, the Town, acting by and through its Town Council, annexed the Real Property into the corporate limits of the Town of Ridgeville, South Carolina pursuant to Ordinance Number [_____] adopted on [_____] , 2023, attached hereto and incorporated herein by reference as **Exhibit H**, and designated the Real Property as Planned Development District upon approval of the Appleby Planned Unit Development (the "PUD"), which was approved by Town Council on [_____] , 2023, pursuant to Ordinance Number [_____] , a copy of which is attached hereto as **Exhibit G** and incorporated herein by reference;

WHEREAS, this Agreement is being made and entered into between the Developer and the Town, under the terms of the Act, for the purpose of providing assurances to the Developer that it may proceed with the development of the Real Property pursuant to the terms hereof, without encountering subsequent changes in the law which would affect the ability to develop the Real Property in accordance with the Current Regulations (hereinafter defined);

WHEREAS, pursuant to the Act, the Town conducted public hearings regarding its consideration of this Agreement on [_____] , 2023 and [_____] , 2023, after publishing and announcing notice, in accordance with the Act; and

WHEREAS, Town Council adopted Ordinance Number [_____] on [_____] , 2023, (a) determining that this Agreement is consistent with the Act, the

Current Regulations, and the Town's Comprehensive Plan (hereinafter defined), and (b) approving this Agreement. A copy of the Ordinance is attached hereto as **Exhibit E**.

NOW THEREFORE, in consideration of the premises of this Agreement and the mutual benefits to the parties, the parties agree as follows:

1. **The Real Property**. The Real Property subject to this Agreement currently consists of approximately four hundred eighty-nine and thirty-five hundredth (489.35) acres, of which approximately four hundred twenty-eight and nine hundredths (428.09) are highland acres. A legal description of the Real Property is set forth in **Exhibit A**, and the boundary lines of the Real Property are shown on the surveys contained in **Exhibit A-1**.

2. **Definitions**. In this Agreement, unless the word or phrase is non-capitalized:

(a) **"Agreement"** means this Development Agreement, including the recitals and exhibits attached hereto.

(b) **"Building Development Standards"** mean minimum standards for the area, width, building coverage, building setback, and yard requirements for Lots or Development Parcels.

(c) **"Comprehensive Plan"** means the Town of Ridgeville Comprehensive Plan, Ordinance No. [____], adopted pursuant to S.C. Code Section 6-29-510, et seq., and the official zoning map adopted pursuant to S.C. Code Section 6-7-1210, et seq., all as amended through the Effective Date hereof.

(d) **"Current Regulations"** mean (i) the PUD development plan applicable to the Real Property, and all attachments thereto, including, but not limited to, the Conceptual Land Use Master Plan, all narratives, applications, and Building Development Standards therein (a copy of which is attached hereto as **Exhibit F** and incorporated herein by reference); (ii) the Comprehensive Plan; (iii) Town of Ridgeville Zoning Ordinance, Ordinance Number [____], adopted [____], as amended through the Effective Date hereof; the Ridgeville Land Development Regulations Ordinance as set forth in Ordinance Number [____], adopted [____], as amended through the Effective Date hereof.

(e) **"Density"** means the number of Dwelling Units per acre. Parcel Density equals the number of Dwelling Units divided by gross acreage.

(f) **"Developer"** means Lennar Carolinas, LLC a Delaware limited liability company, together with all subsidiaries thereof and other entities, which have a legal and/or equitable interest on the date of execution hereof in any of the Real Property as described in Section 4, Lennar Carolinas, LLC has an equitable interest in the Real Property by way of that certain Purchase and Sale Agreement by and between Lennar Carolinas, LLC and the Florence B. Appleby Family LTD Partnership, which is the current legal owner of the Real Property. "Developer" shall also include Lennar Carolinas, LLC's successors in interest or successors in title and/or assignees by virtue of assignment or other instrument pursuant to Section 27 of this Agreement.

(g) **“Development”** means the planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels, and is intended by the Parties to include all uses of, activities upon or changes to the Real Property as are authorized by the Agreement.

“Development,” as designated in a land or development permit, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, “Development” refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(h) **“Development Parcel”** means any tract of land on which Development may occur, including platted Lots and unplatted parcels, but excluding street rights-of-way.

(i) **“Development Permit”** includes a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, certificate of occupancy and any other official action of Local Government having the effect of permitting the Development or use of property.

(j) **“Development Plan”** means the PUD development plan, Ordinance Number [____], adopted [____], 20[___] and attached hereto as **Exhibit F** and incorporated herein by reference.

(k) **“Dwelling Unit”** means one or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit. Dwelling Unit shall not include, however, hotel rooms or other facilities for transient short term stays, assisted living facilities, or other commercial properties.

(l) **“Facilities”** means major capital or community improvements including, but not limited to, transportation, sanitary sewer, solid waste, drainage, and potable water. The definition of Facilities shall not include and the Developer is specifically exempted from any Town requirement for the provision of facilities relating to public education, public health systems and facilities, libraries, parks and recreational facilities, public housing, jails and other detention sites, courts, police and trash or garbage disposal sites. Such exemptions shall not, however, exempt Developer from payment of applicable user fees for any such facilities. Said user fees shall be no greater than those charged to other property owners in the Town.

(m) **“Fresh Water Wetlands”** mean those wetlands which in their natural state are certified as jurisdictional by the U.S. Army Corps of Engineers (“Corps”) or any other State or Federal law.

(n) **“Land Development Regulations”** mean ordinances and regulations enacted by the Town or the State of South Carolina for the regulation of any aspect of Development and includes the Town’s zoning, subdivision, building construction, occupancy or sign regulations or any other regulations controlling the Development or use of property.

(o) “**Law**” means all ordinances, resolutions, regulations, comprehensive plans, Land Development Regulations, policies and rules, custom and usage (formal and informal) adopted by a Local Government affecting the Development of property and includes laws governing permitted uses of the property, governing density, and governing design, improvement, and construction standards and specifications.

(p) “**Local Government**” means any Town, municipality, special district, or governmental entity of the State, Town, municipality, or region established pursuant to law which exercises regulatory authority over, and grants Development Permits for land Development or which provides public Facilities.

(q) “**Lot**” means Development Parcel identified in a Subdivision Plat recorded in the Dorchester County Register of Deeds Office.

(r) “**Master Property Owner’s Association**” or “**MPOA**” means the Master Property Owner’s Association that shall be established prior to the sale of any Real Property, pursuant to Section 12B hereof.

(s) “**Open Space**” means areas dedicated to Fresh Water Wetlands, parks, buffers, and storm water management facilities.

(t) “**Parties**” means the Developer and Town.

(u) “**Parcel**” means any of those tracts of Real Property that are identified on the Boundary Plat, attached hereto as **Exhibit A-1**, as same may be specifically identified by the filing of a subdivision application.

(v) “**Project**” is the Development that will occur within and upon the Real Property described in **Exhibit A** and **Exhibit A-1**.

(w) “**Real Property**” is the real property referred to in Section 5 and includes any improvements or structures customarily regarded as part of real property.

(x) “**Subdivision Plat**” means a recorded graphic description of property prepared and approved in compliance with the Current Regulations, as modified in this Agreement.

(y) “**Term**” shall have the meaning set forth in Section 16 of this Agreement.

(z) “**Town**” means the Town of Ridgeville, South Carolina.

(aa) “**Undeveloped Lands**” in existence on the date of execution of this Agreement is the Real Property indicated on **Exhibit A** and **Exhibit A-1**. Undeveloped Lands shall, during the Term of this Agreement, include Real Property that (i) has not received final plat approval or (ii) has received preliminary, conditional or final plat approval but consists of five (5) or more contiguous acres of Real Property, depicted as Lots or parcels thereon, and has not been sold. Properties designated by the Developer as “Undeveloped Lands” shall be taxed as

“agricultural” by the County, pursuant to S.C. Code Section 12-43-220 and may only be used for agriculture purposes, including forestry, while taxed as agricultural.

(bb) “**Vested Units**” means the new Dwelling Units and hotel rooms, along with restaurants, general office, and shopping center/retail square footage, respectively, which are approved for the Undeveloped Lands.

3. Parties. Parties to this Agreement are the Developer and the Town. In the event Lennar Carolinas, LLC, its successors in interest or assigns do not acquire the Real Property by [REDACTED], 2023], this Agreement shall automatically terminate and be of no force or effect.

4. Relationship of the Parties. This Agreement creates a contractual relationship between the Parties. This Agreement is not intended to create, and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship where one party may be held responsible for acts of the other party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of the Developer constitutes “state action” for any purposes.

5. Legal Description of the Real Property. The Real Property which is the subject of this Agreement is described as follows:

- (a) A legal description of the Real Property is set forth in Exhibit A.
- (b) A boundary plat of the Real Property is set forth in Exhibit A-1.

The Real Property currently consists of approximately four hundred twenty-eight and nine hundredth (428.09) acres of highland, and approximately sixty-one and twenty-six hundredth (61.26) acres of wetlands, for a total gross acreage of approximately four hundred eighty-nine and thirty-five hundredth (489.35) acres, as more fully depicted on Exhibit A-1.

The Developer may notify the Town from time to time of property proposed to be added to the legal description of Real Property by the filing of a legal description of such properties owned by Developer with the Town Clerk and the Zoning Administrator; provided, however, that no other property shall be added to the Agreement unless: (1) the Development Plan is duly amended; and (2) this Agreement is duly amended to add the legal description of the properties desired to be added to the legal description of the Real Property, pursuant to S.C. Code Section 6-31-10, et seq.

6. Intent of the Parties. The Town and the Developer agree that the burdens of this Agreement bind, and the benefits of this Agreement shall inure, to each of them and to their successors in interest and, in the case of the Developer, its successors in title and/or assigns. The Town and the Developer are entering into this Agreement in order to secure benefits and burdens referenced in S. C. Code Sections 6-31-10 et seq. To that end, the Parties agree to cooperate fully with each other to accomplish the purpose of this Agreement during the Term of this Agreement.

7. Consistency with the Town's Comprehensive Plan and Land Development Regulations. This Agreement is consistent with the Town's Comprehensive Plan and Current Regulations. Whenever expressed or implied substantive provisions of this Agreement are inconsistent with the applicable standards set forth in the Current Regulations, the standards set forth in the Current Regulations and the standards set forth in this Agreement shall, to the extent possible, be considered in *pari material* to give effect to both the Current Regulations and this Agreement; provided, however, that in the event of a conflict, and subject to the provisions of S.C. Code Section 6-31-80, the standards set forth in this Agreement shall govern. In the event of a dispute between the parties to this Agreement as to whether a provision of the Comprehensive Plan or Current Regulations is inconsistent with any expressed or implied substantive provisions of this Agreement, the parties must first submit such disputed interpretation to Town Council and must wait fourteen (14) days after such submittal before invoking the remedies afforded them under this Agreement.

8. Legislative Act. Any change in the standards established by this Agreement or to Laws pertaining to the same shall require the approval of Town Council, subject to compliance with applicable statutory procedures and consistent with Section 9(a). This Agreement constitutes a legislative act of Town Council. Town Council adopted this Agreement only after following procedures required by S.C. Code Section 6-31-10, et seq. This Agreement shall not be construed to create a debt of the Town as referenced in S.C. Code Section 6-31-145.

9. Applicable Land Use Regulations.

(a) Applicable Laws and Land Development Regulations. Except as otherwise provided by this Agreement or by S.C. Code Section 6-31-10, et seq., the Laws applicable to Development of the Real Property, subject to this Agreement, are those in force at the time of execution of this Agreement, defined as the Current Regulations, attached hereto as **Exhibit D**. The Town shall not apply subsequently adopted Laws and Land Development Regulations to the Real Property or the Project for the Term of the Agreement, pursuant to S.C. Code Section 6-31-80 unless the Town has held a public hearing and has determined: (1) the proposed, subsequent Laws or Land Development Regulations are not in conflict with the Laws or Land Development Regulations governing the Agreement and do not prevent the Development set forth in this Agreement; (2) the proposed, subsequent Laws or Land Development Regulations are essential to the public health, safety, or welfare and the proposed, subsequent Laws or Land Development Regulations expressly state that they apply to a development that is subject to a development agreement; (3) the proposed, subsequent Laws or Land Development Regulations are specifically anticipated and provided for in this Agreement; (4) the Town demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement, which changes, if not addressed by the Town, would pose a serious threat to the public health, safety, or welfare; or (5) this Agreement is based on substantially and materially inaccurate information supplied by the Developer. Nothing herein shall preclude Developer from agreeing to abide by such new Laws, regulations, or ordinances subsequently passed by the Town which it, in its sole discretion, deems appropriate; and in such case the Laws, regulations, or ordinances, so agreed to by Developer shall become part of the Current Regulations.

(b) Vested Rights. Subject to the provisions of subparagraph (a) above, all rights and prerogatives accorded the Developer by this Agreement shall immediately constitute vested rights for the Development of the Real Property.

Subparagraph 9(a) of this Agreement does not abrogate any rights either preserved by S.C. Code Section 6-31-140 or that may have been vested pursuant to common law and otherwise in the absence of a development agreement.

10. Building Codes and Laws Other Than Land Use Regulations. The Developer, notwithstanding any provision which may be construed to the contrary in this Agreement, must comply with any building, housing, electrical, mechanical, plumbing, and gas and energy codes subsequently adopted by the Town or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing, and gas and energy codes subsequently adopted by the Town or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. The provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the Town to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes; provided, however, that Laws applicable to the Development of the Real Property shall be subject to Section 9(a).

11. Local Development Permits and Other Permits Needed. The Parties anticipate that the following local Development Permits and other regulatory permits will be needed to complete the Development of the Project:

Zoning permits, plat approvals (preliminary, conditional and/or final), roads and drainage construction plan approvals, building permits, certificates of occupancy, and utility construction and operating permits.

The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Developer of the necessity of complying with the laws governing permit requirements, conditions, terms, or restrictions.

12. Vested Rights Governing the Development of the Real Property.

A. LAND USES AND INTENSITIES

(i) Permitted Land Uses and Density. All permitted uses and their respective intensities are set forth in are set forth in **Exhibit F**, Section II.

(ii) Building Development Standards. The criteria as set forth in **Exhibit F**, Section IV shall apply with respect to Lot size, frontage, setbacks impervious surface and height requirements, respectively.

(iii) Security Gates. The Developer may establish one or more residential communities within the Project as a limited access community, with ingress/egress controlled by manned or unmanned security checkpoints. Responsibility for operation and maintenance of

such security checkpoints may be transferred by the Developer to a Property Owner's Association. While roads behind security gates will remain private, Developer acknowledges jurisdiction of the sheriff, the local fire department, and the need by the public utilities that serve the property and shall not interfere or in any way hinder either public utility activities on the Real Property regardless of whether such may be a restricted community.

B. PROPERTY OWNER'S ASSOCIATION

The provisions as set forth in **Exhibit F**, Section XV shall apply with respect to the establishment of a MPOA and individual Property Owner's Associations. Furthermore, the Town agrees to maintain the Facilities, if any, that are accepted by the Town, pursuant to the applicable provisions of the Current Regulations, upon tender by the Developer, provided said Facilities are designed for construction in accordance with the specifications approved by the Town, and provided further that the Facilities, as built, are in good condition and not subject to any monetary lien.

C. DESIGN REVIEW PROCESS

The provisions set forth in **Exhibit F**, Section XVI shall apply with respect to the design review process for Development of the Real Property. Notwithstanding anything contained herein to the contrary, the Town's normal review process will be followed until the Appleby PUD Commercial Design Review Guidelines are approved by Town Staff, as further described in **Exhibit F**.

D. OPEN SPACE

The provisions set forth in **Exhibit F**, Section V shall apply with respect to the Open Space requirements of the Real Property. Specifically, Developer and Town acknowledge and agree that the twenty percent (20%) requirement, as therein defined, will apply to the PUD as a whole, not to each Development Parcel, as is further described in **Exhibit F**.

Notwithstanding anything contained herein, the Developer may convey portions of the Open Space to: (1) the Town; or (2) one or more qualified organizations under 26 U.S.C. Section 501(c)(3) in a form required by state or federal law and may subsequently transfer all or portions of such Open Space to a POA. The Developer will at all times reserve to itself, its successors and assigns easements for access and infrastructure purposes (e.g.: roads, walkways, paths, utility easements, drainage and stormwater retention ponds, and rights of way) necessary or desirable for the Development.

The Town agrees that the Open Space specified in this Agreement shall satisfy all current and future obligations of the Property Owner to the Town relating to the same for monetary exactions and/or the provision or dedication of parks, parklands, community recreational facilities, Open Spaces, and recreational areas within the Project.

E. FLEXIBILITY OF USES AND TRACTS

The provisions as set forth in **Exhibit F**, Sections II.A and II.B shall apply with respect to the flexibility of uses and tracts.

F. SUBDIVISION PLAN REVIEW AND APPROVAL

Preliminary Plans and Final Plats for each phase of the Development shall be submitted for review and approved at staff level by the appropriate Town Administrative Officer pursuant to the applicable provisions of the Current Regulations. However, in instances where submitted plans can show where certain physical constraints impose a hardship, per the criteria set forth in S.C. Code Section 6-29-800, or show where implementation of alternative method(s) will meet or exceed the intentions of the applicable Town Ordinance, the appropriate Administrative Officer may grant such administrative adjustments at staff level (i.e., reductions or additions of up to ten (10%) percent of any zoning requirement).

13. Facilities and Services. Although the nature of this long-term project prevents the Developer from providing exact completion dates, the general phases of construction and Development are set forth in Section 15 and described in **Exhibit C** attached hereto and incorporated herein by reference. The Developer certifies that the services and Facilities will be in place (or if not fully in place, the cost of construction fully bonded or letter of credit posted pursuant to the Current Regulations) at the times provided herein, and as to roads, drainage, sewer, and water infrastructure, prior to the date that Certificates of Occupancy are issued by the Town for Dwelling Units, commercial and/or industrial buildings in subdivided real property. Subject to compliance with applicable Laws, all provisions of this Agreement and prior approval of construction plans by the Town or other applicable governmental entity, the Town hereby authorizes the Developer, on its own or through its affiliated companies, to install the Facilities. Notwithstanding any provision herein to the contrary, the Property Owner hereby assures the Town that adequate Facilities shall be available concurrent with the impacts of Development.

(a) Rights-of-Way/Easement. The Developer, or a third party, shall at its expense develop and provide roads and other related infrastructure within the Project and pursuant to and at such time required by the development plans for the Project and the Current Regulations. Developer, in Developer's sole discretion, may transfer such Facilities to the Town, in fee or by easement, subject to proper dedication and acceptance by Town, South Carolina Department of Transportation ("SCDOT"), Dorchester County or a POA, as governed by recorded Covenants.

(b) Water and Sewer. Subject to approval by the South Carolina Department of Health and Environmental Control ("DHEC"), the service and Facilities for water and sewer, shall be provided by the Dorchester County Water and Sewer, as is evidenced by coordination letters attached hereto as **Exhibit I** and incorporated herein by reference.

(c) Impact Fees. The parties acknowledge that the Town has not authorized the imposition of any development impact fees pursuant to the South Carolina Development Impact Fee Act. The parties agree that, during the term of this Agreement, any Development occurring pursuant to this Agreement or the Varn Tract PUD shall be exempt from any development impact fees later adopted by the Town. Notwithstanding the above, the Property Owner shall

pay development impact fees required by any other governmental agency under applicable law; provided, however, that nothing in this Agreement shall prohibit the Property Owner from seeking or obtaining impact fee credits or from entering into agreements providing for the construction or installation of Facilities in lieu of payment of impact fees. Notwithstanding the above, the Property Owner agrees to pay to the Town a one-time contribution of Fifteen Thousand and 00/100 Dollars (\$15,000.00) to assist with the preparation of a downtown master plan and the attorneys' fees incurred by the Town in the drafting and review of this Agreement, with such contribution due to the drafting and review of this Agreement, with such contribution due to the Town within sixty (60) days of the Effective Date.

14. Traffic Considerations.

(a) Planning. Long-term planning is essential to assuring safe and convenient ingress and egress for the Project. It is equally essential that this planning be done in a manner that considers existing and future traffic impacts — both within and outside of the Project site. The Property Owner agrees to work with all appropriate planning agencies to assure said planning occurs.

(b) Future Road Improvements. The Town agrees that to safely and more effectively accommodate the pedestrian and vehicular traffic associated with the known development plans for the Town, including the Project, road improvements are a top priority. The Property Owner shall be responsible for site-specific improvements as identified in the traffic impact assessment for the Project. The Property Owner shall cooperate with the Town, Dorchester County, and the South Carolina Department of Transportation to plan for and implement off-site improvements, including the preservation of rights-of-way on major roads.

(c) Multi-Use Path Extension. The Property Owner shall install sidewalks on both sides of the neighborhood local streets and collector streets in accordance with the Varn Tract PUD. Such sidewalks may be transferred by the Property Owner to the Town or a POA, subject to proper dedication and acceptance by Town, or a POA, as required by recorded covenants. In addition, the Property Owner agrees to contribute to the Town for the extension of sidewalks or creation of multi-use trails/paths from the entrance to the Project on Carter Road to the downtown area of the Town (the "Multi-Use Path Extension"). The Property Owner's contribution for the Extension shall consist of a fee of \$75 per Residential Lot (the "Multi-Use Path Fee"). The Property Owner shall pay the Multi-Use Path Fee to the Town at the time it applies for a building permit for each Residential Lot. In consideration of the Multi-Use Path Fee, the Town agrees to cooperate with any state or local governmental entity responsible for constructing the Multi-Use Path Extension and to contribute the Multi-Use Path Fees collected under this Section 16(c) to defray the costs associated with such construction. If construction of the Multi-Use Path Extension has not commenced prior to the expiration of the term of this Agreement, the Town shall return all Multi-Use Path Fees to the Property Owner who paid such fees within thirty (30) days of the expiration of the term of this Agreement. For the purposes of this Section 16(c), commencement of construction shall occur upon clearing, grading, or excavating activities and shall not include acquisition, design, or engineering activities.

(d) Acceptance of Facilities. The road improvements, described in paragraph (b) above shall be accepted by the Town, pursuant to the applicable provisions of the Current

Regulations, upon proper dedication by the Property Owner provided said roadways, and multi-use trail/path are built in accordance with specifications approved by the Town and provided further that the roadways and multi-use trail/path are in good condition and not subject to any monetary lien.

15. Schedule for Project Development.

(a) Commencement Date. The Project will be deemed to commence Development upon the Effective Date of this Agreement.

(b) Interim Completion Date. The Developer projects that during the years after the execution and adoption of this Agreement, the following percentages of the Undeveloped Lands within the Real Property will be developed.

<u>YEAR</u>	<u>% COMPLETE</u>
5	50%
10	100%

(c) Completion Date. The Developer projects that by the year 2033 the Project should be substantially completed (i.e., essentially all structures erected and/or all necessary infrastructure in place to serve the intended uses).

16. Term of the Agreement. The term of this Agreement shall be ten (10) years, commencing on the Effective Date (the “Term”); provided, however, that the Term of this Agreement may also be renewed upon approval of Council.

17. Amending or Canceling the Agreement. Subject to the provisions of S.C. Code Section 6-31-80, this Agreement may be amended or canceled in whole or in part only by written mutual consent of the Parties or by their successors in interest.

Any amendment to this Agreement shall comply with the provisions of S.C. Code Section 6-31-10, et seq. Any requirement of this Agreement requiring consent or approval of one of the Parties shall not require amendment of this Agreement unless the text expressly requires amendment. Wherever said consent or approval is required, the same shall not be unreasonably withheld. A major modification of this Agreement shall occur only after public notice and a public hearing by the Town.

18. Modifying or Suspending the Agreement. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

19. Periodic Review. The appropriate Town Administrator or their designee of the Town shall review the Project and this Agreement at least once every twelve (12) months, at which time the Developer shall demonstrate good-faith compliance with the terms of this Agreement.

If, as a result of its periodic review or at any other time, the Town finds and determines that the Developer has committed a material breach of the terms or conditions of this Agreement,

the Town shall serve notice in writing upon the Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Developer a reasonable time in which to cure the material breach.

If the Developer fails to cure any material breach within the time given, then the Town unilaterally may terminate or modify this Agreement; provided that the Town has first given the Developer the opportunity: (1) to rebut the Town's finding and determination; or (2) to consent to amend this Agreement to meet the concerns of the Town with respect to the findings and determinations.

20. Severability. Subject to the provisions of S.C. Code Section 6-31-150, if any word, phrase, sentence, paragraph or provision of this Agreement shall be finally adjudicated to be invalid, void, or illegal, it shall be deleted and in no way affect, impair, or invalidate any other provision hereof.

21. Merger. This Agreement, coupled with its Exhibits, which are incorporated herein by reference, shall state the final and complete expression of the Parties' intentions. In return for the respective rights, benefits, and burdens undertaken by the Parties, the Developer shall be, and is hereby, relieved of obligations imposed by future land development laws, ordinances and regulations, except those which may be specifically provided for herein.

The parties hereto agree to cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all performances required under the Agreement.

In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action.

22. Conflicts of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

23. Remedies. Each Party recognizes that the other Party would suffer irreparable harm from a material breach of this Agreement and that no adequate remedy at law exists to enforce this Agreement. Consequently, the Parties agree that any nonbreaching Party who seeks enforcement of the Agreement is entitled to the remedies of injunction and specific performance but not to any other legal or equitable remedies including, but not limited to, damages; provided, however, the Developer shall not forfeit its right to just compensation for any violation by the Town of Developer's Fifth Amendment rights. The Town will look solely to the Developer as to any rights it may have against the Developer under this Agreement, and hereby waives any right to assert claims against limited partners or members of the Developer, and further agrees that no limited partner, member or agent of the Developer has any personal liability under this Agreement. Likewise, Developer agrees to look solely to the Town's assets as to any rights it may have against the Town under this Agreement, and hereby waives any right to assert claims for personal liability against individuals acting on behalf of the Town, its Town Council members, agencies, boards, or commissions.

24. Recording. Within fourteen (14) days after execution of this Agreement, the Developer shall record the agreement with Dorchester County Register of Deeds. The burdens

of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the Parties to this Agreement.

25. Third Parties. Notwithstanding any provision herein to the contrary, this Agreement shall not be binding and shall have no force or effect as to persons or entities who are not Parties or successors and assigns to this Agreement.

26. Town Approval of Agreement. The Town Council has approved the Project under the process set forth in S.C. Code Section 6-31-50 of the Act on the terms and conditions set forth in this Agreement.

27. Successors and Assigns.

(a) Binding Effect. This Agreement shall be binding on the successors and assigns of the Developer in the ownership or Development of any portion of the Real Property or the Project. A purchaser, lessee or other successor in interest of any portion of the Real Property shall be solely responsible for performance of Developer's obligations hereunder as to the portion or portions of the Real Property so transferred. Assignees of development tracts shall be required to execute a written acknowledgment accepting and agreeing to the Developer's obligations in this Agreement, said document to be in recordable form and provided to the Town at the time of the recording of any deed transferring a development tract. Following delivery of such documents Developer shall be released of any further liability or obligation with respect to said tract.

This paragraph shall not be construed to prevent Developer from obtaining indemnification of liability to the Town from third parties. Further, Developer shall not be required to notify the Town or obtain the Town's consent with regard to the sale of Lots in residential subdivisions or Lots in commercial areas which have been platted and approved in accordance with the terms of this Agreement.

This Agreement shall also be binding on the Town and all future Town Councils for the duration of this Agreement, even if the Town Council members change.

(b) Transfer of Project. Developer shall be entitled to transfer any portion or all of the Real Property to a purchaser(s), subject to the following exceptions:

(i) Notice of Property Transfer. If the Developer transfers all or a portion of the Real Property to a purchaser who, by virtue of assignment or other instrument, becomes the "Developer" under and within the meaning of this Agreement, Developer shall notify the Town by thirty (30) days of said transfer by written notice and provide it a copy of the assignment of such status as the "Developer."

(ii) Transfer of Facility and Service Obligations. If the Developer transfers any portion of the Real Property on which the Developer is required to provide and/or construct certain Facilities or provide certain services, distinct from those provided throughout the Project and which are site-specific to the portion of the Real Property conveyed, then the Developer shall be required to obtain a written agreement from purchaser expressly assuming all such separate

responsibilities and obligations with regard to the parcel conveyed and the Developer shall provide a copy of such agreement to the Town.

(iii) Assignment of Development Rights. Any and all conveyances of any portion of the Real Property subject to the density unit totals and the size limitations set forth in **Exhibit F** to third party developers shall, by contract and covenant running with the land, assign a precise number of Dwelling Units, commercial square footage, and/or civic square footage (in reduction of the minimum Dwelling Units, vested commercial square footage, and/or vested industrial square footage provided for herein.)

(iv) Mortgage Lenders. Notwithstanding anything to the contrary contained herein, the exceptions to transfer contained in this Section shall not apply: (i) to any mortgage lender either as the result of foreclosure of any mortgage secured by any portion of the Real Property or any other transfer in lieu of foreclosure; (ii) to any third party purchaser at such a foreclosure; or (iii) to any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the Real Property as set forth above. Furthermore, nothing contained herein shall prevent, hinder or delay any transfer or any portion of the Real Property to any such mortgage lender or subsequent purchaser. Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by and shall receive the benefits from this Agreement as the successor in title to the Developer.

(c) Release of Developer. In the event of conveyance of all or a portion of the Real Property and compliance with the conditions set forth therein, the Developer shall be released from any further obligations with respect to this Agreement as to the portion of Real Property so transferred, and the transferee shall be substituted as the Developer under the Agreement as to the portion of the Real Property so transferred.

(d) Estoppel Certificate. Upon request in writing from an assignee or the Developer to the Town sent by certified or registered mail or publicly licensed message carrier, return receipt requested, the Town will provide a certificate (the "Certificate") in recordable form that solely with regard to the portion of the Real Property described in the request, there are no violations or breaches of this Agreement, except as otherwise described in the Certificate. The Town will respond to such a request within thirty (30) days of the receipt of the request, and may employ such professional consultants, municipal, county and state agencies and staff as may be necessary to assure the truth and completeness of the statements in the Certificate. The reasonable costs and disbursements of private consultants will be paid by the person making the request.

The Certificate issued by the Town will be binding on the Town in accordance with the facts and statements contained therein as of its date and may be relied upon by all persons having notice thereof. No claim or action to enforce compliance with this Agreement may be brought against the Developer or its assignees properly holding rights hereunder, alleging any violation of the terms and covenants affecting such portion of the Real Property except as otherwise described in the Certificate.

If the Town does not respond to such request within thirty (30) days of its receipt, the portion of the Real Property described in the request will be deemed in compliance

with all of the covenants and terms of this Agreement. A certificate of such conclusion may be recorded by the Developer, including a copy of the request and the notice of receipt and it shall be binding on the Town as of its date. Such notice shall have the same effect as a Certificate issued by the Town under this Section.

28. General Terms and Conditions.

(a) Agreements to Run with the Land. This Agreement shall be recorded against the Real Property as described in Exhibit A hereto and shown on Exhibits A-1 attached hereto. The agreements contained herein shall be deemed to run with the land. The burdens of this Agreement are binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to the Agreement.

(b) Construction of Agreement. This Agreement should be construed so as to effectuate the public purpose of settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of Facilities and compatibility between Developed and Undeveloped Lands.

(c) Mutual Releases. At the time of, and subject to (i) the expiration of any applicable appeal period with respect to the approval of this Agreement without any appeal having been filed or (ii) the final determination of any court upholding this Agreement, whichever occurs later, and excepting the parties' respective rights and obligations under this Agreement, Developer, on behalf of itself and Developer's members, officers, directors, employees, agents, attorneys, and consultants, hereby releases the Town and the Town's council members, officials, employees, agents, attorneys and consultants, and the Town, on behalf of itself and the Town's council members, officials, employees, agents, attorneys and consultants, hereby releases Developer and Developer's members, officers, directors, employees, agents, attorneys and consultants, from and against any and all claims, demands, liabilities, costs, expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Agreement in connection with the Real Property or the application, processing or approval of the Project; provided, however, that each party shall not be released from its continuing obligation to comply with the law, including the Current Regulations.

(d) State and Federal Law. The Parties agree, intend, and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of the development agreement, the provisions of this Agreement shall be modified or suspended as may be necessary to comply with state or federal laws or regulations. The Parties further agree that if any provision of this Agreement is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect.

(e) No Waiver. Failure of a Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the Town Council taken with the same formality as the vote approving this

Agreement, no officer, official or agent of the Town has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind the Town by making any promise or representation contained herein. Any amendments are subject to Section 17 herein.

(f) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both Parties to this Agreement.

(g) Attorney's Fees. Should any Party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeal or rehearings, the prevailing Party shall be entitled to receive from the other party thereto reimbursement for all attorneys' fees and all costs and expenses. Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified therein.

(h) Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

To the Town: Mayor of the Town of Ridgeville
Clarence Hughes
105 School St.
Ridgeville, SC 29472

With copy to: _____

To the Developer: Lennar Carolinas, LLC
1941 Savage Road, Suite 100C
Charleston, SC 29407
Attn: Jason Byham, Division President

With copy to: Nexsen Pruet, LLC
205 King Street, Suite 400
Charleston, SC 29401
Attn: George Bullwinkel, III, Esq.

(i) Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

[SEPARATE SIGNATURE PAGES ATTACHED]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties on the day and year first above written.

Witness:

TOWN OF RIDGEVILLE

By: _____
Clarence Hughes, Mayor

Attest: _____
_____, Clerk of Council

STATE OF SOUTH CAROLINA)
TOWN OF DORCHESTER)

ACKNOWLEDGMENT

I, _____, Notary of the Public of the State of South Carolina, do hereby certify that the Town of Ridgeville, by Clarence Hughes, its Mayor and _____ its Clerk of Council personally appeared this ____ day of _____, 2023, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

Print Name: _____

My Commission Expires: _____

IN WITNESS WHEREOF, this Agreement has been executed by the Parties on the day and year first above written.

Witness:

LENNAR CAROLINAS, LLC, a Delaware limited liability company

By: _____
Name: Jason Byham
Title: Division President

STATE OF SOUTH CAROLINA)
TOWN OF _____)

ACKNOWLEDGMENT

I, the undersigned Notary Public for the state of South Carolina, do hereby certify that Lennar Carolinas, LLC, a Delaware limited liability company, by Jason Byham, Division President, who is personally known to me, or was proved to me on the basis of satisfactory evidence to be the person who executed the foregoing instrument appeared before this day, and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this _____ day of _____, 2023.

Notary Public for South Carolina

Print Name: _____

My Commission Expires: _____

EXHIBITS

- Exhibit A: Legal Description
- Exhibit A-1: Boundary Plat
- Exhibit B: Reserved
- Exhibit C: Development Schedule
- Exhibit D: Town of Ridgeville Zoning Ordinance (Current Regulations)
- Exhibit E: Development Agreement Ordinance
- Exhibit F: Planned Unit Development Plan (PUD)
- Exhibit G: Planned Unit Development Ordinance
- Exhibit H: Town of Ridgeville Annexation Ordinances
- Exhibit I: Dorchester County Water and Sewer Coordination Letter

EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT A-1
BOUNDARY PLAT

EXHIBIT B
RESERVED

EXHIBIT C
DEVELOPMENT SCHEDULE

Phases of Construction and Development. The Appleby Tract will have a build-out program which should last 10 years. The timing of development within the Planned Unit Development and adjoining lands will be very much affected by the health of the national and local economies, as well as the demand for various housing types and commercial uses for the region. It is extremely difficult, if not impossible, to accurately project timing of future phases of development. The Developer has provided the following estimates which are based on information believed to be reasonable at this time. The estimates are subject to change substantially, from time to time, based on market conditions, the development of competing commercial uses within the area, and other factors, not under the control of the Developer.

Initial Construction 2023. During this initial phase of development, the actual construction of infrastructure will begin on the property. Pending various approvals, the construction of various infrastructure improvements is scheduled to begin in the first or second quarter of 2023. Various mixed uses of land parcels should be available for sale by the end of 2023.

2024-2027. The development should continue during this period. Major infrastructure improvements will be under construction and completed during this time period. As infrastructure is completed, development should begin. A continuation of certain land uses such as, civic resources, retail and commercial uses may become more favorable as the market demand for such uses becomes greater.

2028-2030. A large percentage of the various land uses should come under development during this period. The market demand will determine actual land use needs as well as the quantity of these different uses.

2031-2033. This period should be the close-out period where a majority of uses will be available and major infrastructure complete.

EXHIBIT D

TOWN OF RIDGEVILLE ZONING ORDINANCE (CURRENT REGULATIONS)

EXHIBIT E
DEVELOPMENT AGREEMENT ORDINANCE

EXHIBIT F
PLANNED UNIT DEVELOPMENT PLAN (PUD)

EXHIBIT G
PLANNED UNIT DEVELOPMENT ORDINANCE

EXHIBIT H
TOWN OF RIDGEVILLE ANNEXATION ORDINANCE

EXHIBIT I

DORCHESTER COUNTY WATER AND SEWER COORDINATION LETTER