

Developer Agreement

This Agreement is made and entered into as of the _____ of _____, 2019, by and between **WALTON COUNTY, FLORIDA**, a political subdivision of the State of Florida, 76 North Sixth Street, DeFuniak Springs, Florida, 32435, (hereinafter referred to as “County”), and **LTD, LLC**, a Florida limited liability company, whose address is Post Office Box 292037, Davie, Florida 33329, (hereinafter referred to as “Developer”).

WITNESSETH

Whereas, the local government by and through adopted laws and policies govern the development of the land at the time of the execution of this agreement, which shall govern the development of the land for the duration of the development agreement; and

Whereas, the proposed future land use amendment constitutes “development” in Florida Statute 163.3221(4)(a)(2), which development requires a subsequently issued development permit¹ to proceed with said development; and

Whereas, the proposed amendment was heard before two public hearings, the first on day of ____, 2019, and the second being held on ____ day of _____, 2019; and

Whereas, pursuant to F.S. 163.3227(1)(a), the subject property for this agreement is described in Exhibit A. It consists of approximately 290 acres and bears the following parcel identification numbers:

26-2S-20-33200-000-0350 ²
26-2S-20-33200-000-0380 ³
26-2S-20-33200-000-0320 ⁴
26-2S-20-33200-000-0220 ⁵
26-2S-20-33200-000-0240 ⁶
26-2S-20-33200-000-0040 ⁷

¹ Florida Statute 163.3221(5)

² 30 Acres in ten-acre tracts under one parcel number. Amendment includes all 30 acres.

³ 10 Acres under one parcel number. Amendment includes all 10 acres.

⁴ 20 Acres in ten-acre tracts under one parcel number. Amendment includes all 20 acres.

⁵ 50 Acres in ten-acre tracts under one parcel number. Amendment includes **ONLY** the northern 20 acres.

⁶ 40 Acres in ten-acre tracts under one parcel number. Amendment includes all 40 acres.

⁷ 10 Acres under one parcel number. Amendment includes all 10 acres.

26-2S-20-33200-000-0030 ⁸
26-2S-20-33200-000-0020 ⁹
26-2S-20-33200-000-0010 ¹⁰
26-2S-20-33200-000-0050 ¹¹
25-2S-20-33190-000-0640 ¹²
25-2S-20-33190-000-0260 ¹³
25-2S-20-33190-000-0600 ¹⁴
25-2S-20-33190-000-0280 ¹⁵
25-2S-20-33190-000-0390 ¹⁶

Whereas, the duration¹⁷ of this agreement is Ten (10) Years. Commencing upon the date of approval of this document.

Whereas, the County recognizes that 260 acres of the Subject Property has a Future Land Use designation of Conservation Residential; and

Whereas, the County recognizes that 30 acres of the Subject Property has a Future Land Use designation of Conservation; and

Whereas, the owners of the Subject Property swapped 20.3 acres of Conservation Residential 1:2.5, 10 acres of Neighborhood Infill, and 10 acres of Village Mixed Use properties totaling 40.3 acres of potential 208 residential units and 1.089 million square feet of non-residential development to the State of Florida for 30 acres of Conservation with zero (0) potential for development; and

Whereas, the County recognizes that the properties swapped with the State is favorable to the State of Florida and that, with the adoption of the future land use amendment from 30 acres of Conservation to 20 acres of Low Density Residential and 10 acres of Neighborhood Infill, the overall region experiences a reduction in density by 25% and a reduction in non-

⁸ 10 Acres under one parcel number. Amendment includes all 10 acres.

⁹ 10 Acres under one parcel number. Amendment includes all 10 acres.

¹⁰ 10 Acres under one parcel number. Amendment includes all 10 acres.

¹¹ 20 Acres in ten-acre tracts under one parcel number. Amendment includes all 20 acres.

¹² 10 Acres under one parcel number. Amendment includes all 10 acres.

¹³ 70 Acres in ten-acre tracts under one parcel number. Amendment includes all 70 acres.

¹⁴ 10 Acres under one parcel number. Amendment includes all 10 acres

¹⁵ 10 Acres under one parcel number. Amendment includes all 10 acres

¹⁶ 10 Acres under one parcel number. Amendment includes all 10 acres

¹⁷ F.S. 163.3227(1)(b)

residential development by 90%; and

Whereas, the Developer desires to develop the Subject Property with a mixture of uses (primarily residential) through the employment of a planned unit development overlay. Notwithstanding the above allowable densities, this agreement ensures that the development permitted on the land, including densities, intensities, and height shall not exceed:

- (a) A maximum density of two units per acre for parcels designated as Low Density Residential; and
- (b) A maximum density of eight units per acre for parcels designated as Neighborhood Infill; and
- (c) The total number of dwellings units shall be 640.
- (d) A maximum height of 50 feet measured from the average elevation of the existing natural ground beneath the footprint of the building or structure to the highest point at the top of the building or structure or the highest point of the coping of a flat roof, the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, domed, curved, and gambrel roofs. Building or structure features such as chimney height as required by the Florida Building Code shall not be included in the methodology for measurement for building or structure height.
- (e) A maximum non-residential intensity¹⁸ of 75,000 square feet of commercial building space.

Whereas, the county's comprehensive plan specifies that land use amendments within a special hazard flood zone requires a developer agreement to ensure that the overall densities are not be increased with said land use amendment; and

Whereas, the County and the Developer agree that, pursuant to the Florida Statutes 163.3227(1)(d), the developer must ensure that that the development will have access to all public facilities available within the service area.

1. The public water and sanitary service in this subject service area will be provided by Regional Utilities. The schedule of installation shall be submitted and approved at the development permit application stage for the subject property including the date any new facilities, if needed, shall be constructed and a schedule to assure public facilities are available concurrent with the impacts of the

¹⁸ FLUE Policy L-1.4.1(D) Neighborhood Infill (NI) Zoning District.

development. The Developer shall be responsible for installing and establishing (at its cost) any and all service lines, collection lines, distribution lines, pumping stations and easements necessary to serve the development. Said responsibility shall include the design, permitting and construction phases of development.

2. This development is within the Regional Utilities franchise area and as such all utility plans will have to be submitted to and approved by Regional Utilities.
3. A Developers Agreement with Regional Utilities will have to be entered into by the developer. This agreement is a standard Regional Utilities agreement that outlines both parties' commitments and responsibilities.
4. Our communication in no way has reserved capacity for this development. Capacity is reserved when Developer Agreements are executed along with impact fees paid.
5. All water/sewer utility construction will meet the current Regional Utilities Design and Construction specifications at the time of permitting/review.
6. Telephone services available in the subject service area will be provided by Century Link
7. Cable / Television services available in the subject service area will be provided by Mediacom. The applicant will provide the necessary easements for utilities ingress/egress for installation and maintenance during the development permit review process. Such easements will be shown in the public records of Walton County, Florida.
8. Electricity in the subject service area will be provided by Chelco.

Whereas, the County believes that safe, aesthetic improvements on the property consistent with the density and intensity of uses of neighboring properties is in the best interest of the health, safety, and welfare of its citizens;

Now, therefore, in consideration of the above premises and the mutual benefits from the covenants herein set forth, the parties do hereby agree to the following:

1. **Limitation on Density.** Development on the subject parcels is herewith limited in residential density in the following manner:
 1. A maximum density of two units per acre for parcels designated as Low Density Residential; and
 2. A maximum density of eight units per acre for parcels designated as Neighborhood Infill; and
 3. The maximum number of dwelling units shall be 640.
 4. The developer intends to enhance, restore and/or create wetlands and native vegetative communities. Policy C-1.7.4 allows density increases as an incentive to a developer. However, the developer will not exceed the above number of maximum densities.
 5. A maximum height of 50 feet measured from the average elevation of the existing natural ground beneath the footprint of the building or structure to the highest point at the top of the building or

structure or the highest point of the coping of a flat roof, the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, domed, curved, and gambrel roofs. Building or structure features such as chimney height as required by the Florida Building Code shall not be included in the methodology for measurement for building or structure height.

6. A maximum non-residential intensity of 75,000 square feet of commercial building space.
7. The limits on density shall in no way prohibit the developer from applying for a Planned Unit Development approval for the purpose of transferring density or intensity from the Neighborhood Infill parcels to a site designated as Low Density Residential, pursuant to the regulations adopted in the Walton County Land Development Code.

2. **Working Family Housing**

The purpose of working family housing is to provide reasonably priced homes and apartments south of the Choctawhatchee Bay to help families where the spouses work and to capture trips and reduce congestion on US 331 and US 98. When public transportation becomes available in Walton County a conveniently located transit stop will be connected to public transit system to Sandestin and the southern communities on 30-A. Additional trips should be captured by the inclusion of 10 acres of neighborhood commercial acreage to be sited in the PUD process.

Developer will provide a minimum of twenty per cent of the housing units at a price equal to or less than \$250,000. It is anticipated these will be town houses or apartments. The apartments will rent for \$1,500 per month or less. The developer will determine the ratio of apartments to townhouses.

The price and rent caps will be adjusted quarterly to keep up with local construction costs. The adjustment will be based on the Marshall Valuation Service for average class “D” townhomes, adjusted for HVAC and location.

3. **Dedication of Public Lands.** As required by F.S. 163.3227(e) a description of a dedication of public land if proposed may be included in this development agreement. The Developer shall construct and dedicate to the public a recreational pedestrian trail system around the enhanced wetlands and adjacent to the public connector road from US Highway 98 to Chat Holly Road throughout the development, according to an approved Greenway Plan with Walton County. The trail system may not connect through the development except for the portion that aligns with a public connector road. The developer acknowledges that this dedication may

exceed 5% of the development.

4. **Lakes.** The Developer shall apply for and use reasonable efforts to obtain the necessary state and federal permits, as applicable, to enhance the wetlands and create lakes within the development. One (or more) lake(s) may be dedicated to the public. The Developer shall attempt to develop the lakes in a linear manner, arranged in an east- west fashion and connected to state trails where practical. If approved, the lakes shall have significant littoral shelves and the shelves shall be replanted with indigenous wetland species. If approved, the uplands around the lakes shall be replanted with indigenous upland species. The Developer shall attempt to mitigate any necessary dredge and fill of wetlands through the use of onsite mitigation. The Developer shall attempt to create excess capacity in the lakes for stormwater treatment and flood control in order to handle excess water discharge from connecting area public roadways. The County shall be given an easement for maintenance if necessary. The County shall restore the number of developable units in exchange for the creation and enhancement of wetlands, not to exceed the number of units provided for by this agreement.
 - a. **Design.** The Developer shall coordinate the design of the overall plan for public access to the trail system with the County's Planning, Parks and Recreation, and Public Works Departments.

4. **Development Permits, Description.** The subject property will be required to obtain the necessary permits from the local agencies. These permits include:
 - a. Major Development Order
 - b. Planned Unit Development Overlay
 - c. Planned Unit Development Order
 - d. Building Permits
 - e. Right of Way Agreements
 - f. NFWFMD Environmental Permits (Wetlands Enhancements)

5. **Transportation.** The Developer shall construct improvements to reduce traffic impacts and improve vehicular and pedestrian movement within the development area. The development shall include the following:
 - A. **Transit.** The Developer shall include a public transit stop on the extension of Nellie Drive in the design, engineering, and implementation phases of the development.
 - B. **Road Extension.** The Developer shall construct the extension of Nellie Drive from Chat Holly Road south to US Highway 98.
 - a) The Developer shall construct the road and improvements

in compliance with the County's requirements.

- b) The improvements shall be within the existing public right of way.
- c) All costs and expenses, including the fair market value of dedications associated with the construction of public roadways, public trailways, and public improvements shall be credited toward the development to offset any required traffic concurrency mitigation under proportionate fair share, impact fees, future mobility fees, or any similar fee structure not yet proposed or approved by the County.
- d) All construction drawings for the road will be subject to review and approval by the Walton County Public Works Department prior to issuance of a development order or permit.
- e) The Developer shall install the necessary utility lines as part of the road construction.
- f) The roadways and utilities may be constructed in phases as approved by the Walton County Public Works Department. Start dates for the phases of roadway and utility construction shall be determined by the Developer after consultation with the Walton County Public Works Department.
- g) Additional land not located within the existing road easement owned by the developer and that is necessary for water treatment or mass transit stops shall be dedicated to the County. These dedications shall be credited toward the Developer's dedication requirements.
- h) The County shall join with the Developer in applying for and processing the necessary governmental applications and permits to construct the primary road(s), Nellie Drive, and, if constructed, Veteran's Road.

7. **Environmental Enhancement.** Developer shall apply for a development order/permit with Walton County Planning Department for permission pursuant to Policy C.1.7.4 of the Comprehensive Plan to enhance the existing wetlands onsite by creating lakes.

- a. The plans prepared by the engineer shall be submitted to the Northwest Florida Water Management District or Florida

Department of Environmental Protection for approval, per applicable law.

8. **Development in the Special Hazard Flood Plain.** The Developer agrees to use reasonable efforts to transfer density out of the floodplain portions of the property, as much as practical, and to record permanent development restrictions on the flood plain portions of the site. The Developer will design and construct stormwater maintenance facilities based on water management district standards that will ensure the protection of the flood storage capacity of the property in the immediate region so that the safety, health and welfare of the community is preserved.
9. **Addition of acreage to the development.** Nothing in this agreement shall prohibit additional acreage being added to the property, provided that such additional acreage shall meet applicable Plan and Code requirements.
10. **Compliance with Plan and Code.** Development proposed is consistent with the local government's comprehensive plan and land development regulations.
11. **Entire Agreement and Amendments.** This Agreement constitutes the entire understanding between the parties and supersedes all previous agreements or negotiations on the subject matter herein, whether written or oral, and shall not be modified or amended except by written agreement duly executed by the Parties.
12. **Failure.** The failure of the Agreement to address a permit, condition, term, or restriction shall not relieve the Developer of complying with the law governing said permitting requirements, conditions, terms, or restrictions.
13. **Modification of Agreement.** Modifications of the provisions of this Agreement shall only be valid when they have been reduced to writing and duly signed by the parties.
14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
15. **Venue.** Venue for all matters arising from this contract shall lie in Walton County, Florida.
16. **Waiver.** Failure or delay on the part of either party to exercise any right, power, privilege, or remedy under this Agreement shall not constitute a waiver thereof. No modifications or waiver by either party of any provision shall be deemed to have been made unless in writing.
17. **Severability.** The provisions of this Agreement shall be severable and the

invalidity of any provision, or portion thereof, shall not affect the enforceability of the remaining provisions.

- 18. **Assignment.** Neither party shall assign or transfer any interest in this Agreement without the approval of the County, whose approval shall not be unreasonable withheld.

In Witness Whereof, the parties hereto have, through their proper and duly authorized officials, executed this Agreement, the day and year first above set forth.

WALTON COUNTY BOARD OF COUNTY COMMISSIONERS

ATTEST:

Alex Alford, Clerk of Court
and County Comptroller

By: _____
Tony Anderson, Chairman

Witnesses:

DEVELOPER

Printed Name _____

By: _____

Printed Name: Charles Forman

Printed Name _____