

This Instrument Prepared by:  
Robert W. Batsel, Jr.  
~~Gilligan, Gooding, & Batsel & Anderson, P.A., PLLC~~  
1531 SE 36th Avenue  
Ocala, FL 34471

Record and Return To:  
Marion County Office of the County Engineer  
412 SE 25th Avenue  
Ocala, FL 34471

### **DEVELOPMENT AGREEMENT**

This Development Agreement (“Agreement”) is entered into on this 19<sup>th</sup> day of March, 2024, (“Effective Date”), by and between Jarry Cauthen and Karen Cauthen, husband and wife, together with their successors in ownership of the Property described herein (“Developer”) and Marion County, a political subdivision of the State of Florida (“County”), (collectively the “Parties”) for the purpose of establishing development rights and conditions concerning certain real property located within the unincorporated area of Marion County, Florida, as more particularly described herein; providing assurances that the Developer shall proceed with the Project in accordance with existing laws, policies, and the conditions of this Agreement; and, insuring that this Agreement is in compliance with applicable provisions of Sections 163.3220-163.3243, Florida Statutes, and the Marion County Comprehensive Plan.

#### WHEREAS:

- A. Developer owns and proposes to develop a portion of the 11.06-acre property (the “Property”) located at the southwest corner of the intersection of County Road 329 and US Highway 301/441 within the unincorporated area of Marion County, as more particularly described by the legal description set forth in **Exhibit A** attached hereto.
- B. Developer filed an application with the County to change the zoning district of the Property from Agriculture (A-1) to Rural Commercial (RC-1) (the “Application” or “Zoning Change”).
- C. The Application was heard by the Marion County Planning Commission and will be heard by the Marion County Board of County Commissioners, each at duly advertised public hearings in accordance with statutory requirements.
- D. Developer intends to develop the Property as a gas station and convenience store (the “Project”) in a manner consistent with the terms and conditions of this Agreement, which Developer has voluntarily submitted for the County’s consideration.
- E. This Agreement may be considered supporting analysis for the requested Zoning Change and is intended to limit the permitted uses and intensity that would otherwise be allowed by the Rural Commercial zoning district.
- F. If the Application is approved by the County, Developer proposes to develop the Property in accordance with the County Land Development Code (“LDC”), Comprehensive Plan, and the additional terms and conditions set forth in this Agreement.
- G. This Agreement recognizes the Rural Land future land use classification applicable to the Property, which allows agricultural-related commercial uses, and is intended to ensure development of the Property is limited accordingly.

- H. MacKenzie Engineering & Planning, Inc. (“MacKenzie”) has prepared a Traffic Study on behalf of Developer concerning the effect, on Transportation Facilities, of the development of the Property pursuant to the Rezoning Approval, which was digitally signed by Shaun Mackenzie, P.E. Number 61751, and dated July 21, 2023 (“Traffic Study”).
- I. This Agreement complies with the requirements of the Florida Local Government Agreement Act as set forth in ss. 163.3220 through ss. 163.3243, Florida Statutes.
- J. County and Developer are authorized to enter into this Development Agreement in accordance with the requirements of the Florida Local Government Development Agreement Act.
- K. County has provided its Notice of Intent to consider entering in this Agreement by advertisements published in the Ocala Star-Banner, a newspaper of general circulation and readership in Marion County, Florida, on \_\_\_\_\_, and \_\_\_\_\_, February 19, 2024, by posting notices on the Property on January 9, 2024, and by mailing a copy of the Notice of Intent to owners, and to the persons and entities shown on the most recent Marion County tax Roll to be the owners of property lying within three hundred feet (300’) of the boundaries of the Property which is the subject-matter of this Agreement, and by announcing the date, time, and place of the second hearing during the first hearing.
- L. The Marion County Planning and Zoning Commission held a public hearing on \_\_\_\_\_, February 26, 2024, and the County Commission held a public hearing on \_\_\_\_\_, March 19, 2024, to consider this Agreement, has found and determined that its execution of this Agreement will further the objectives of the Community Planning Act, and that the development contemplated and permitted by this Agreement is consistent with the Marion County Comprehensive Plan and County LDC.
- M. The terms and conditions of this Agreement are necessary and appropriate to protect the public health, safety and welfare.
- N. Developer and County are entering into this Agreement pursuant to the foregoing.

**NOW, THEREFORE,** in consideration of the mutual covenants contained herein (which are incorporated herein by reference), and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows, which terms shall be binding upon the parties and their respective successors and assigns, as may be applicable:

1. **Incorporation of Recitals.** The Recitals set forth above are true and correct and are hereby incorporated as though fully set forth herein.
2. **Initial Acknowledgements.** The parties acknowledge and agree as follows:
  - 2.1. County has no obligations hereunder. Any approval of the Application, whether prior to, simultaneous with, or following approval of this Agreement, is subject to all provisions of applicable law, including those requiring public hearings and adoption of ordinances by County.
  - 2.2. Developer has proffered this Agreement without insistence by County, and enters into this Agreement freely and voluntarily.
  - 2.3. If the Application is approved, then the conditions set forth herein shall be included in the County’s Zoning Map through inclusion of a footnote stating as follows: “The permitted uses, floor area ratio, and design criteria allowed by the Rural Commercial zoning district are modified as

applied to this parcel pursuant to that certain Development Agreement executed by and between Marion County and Developer on \_\_\_\_\_, March 19, 2024.”

2.4. The conditions set forth herein are reasonable and nondiscriminatory, and do not unduly benefit or burden a particular person.

2.5. There may be third-party beneficiaries of this Agreement, such as surrounding property owners, who benefit from the conditions set forth herein.

3. **Representations and Warranties.** As a material inducement to the other Parties to enter into this Agreement, each Party makes the following representations and warranties to the other Parties to this Agreement:

3.1. Developer’s Representations and Warranties. Developer represents and warrants to County that:

3.1.1. Developer is the owner of the Property.

3.1.2. Developer has the authority to enter into this Agreement.

3.1.3. Developer has taken all actions prerequisite necessary for the execution and delivery of this Agreement, and upon the execution and delivery of this Agreement by Developer the obligations of Developer hereunder shall be valid and binding obligations of Developer.

3.1.4. The individual executing this Agreement on behalf of Developer or its duly authorized representative for Developer, is authorized to execute this Agreement.

3.1.5. Upon the execution and delivery of this Agreement by Developer, the obligations of Developer shall be valid and binding obligations of Developer.

3.1.6. The execution and delivery of this Agreement is not in contravention with, or prohibited by, the terms and provisions of any agreement, covenant, court order, judgment, or the governing documents of Developer.

3.2. County Representations and Warranties. County represents and warrants to Developer that:

3.2.1. The actions by County hereunder are consistent with the terms and provisions of the County’s Comprehensive Plan, County Code and County LDC.

3.2.2. County has taken all necessary actions prerequisite to the execution and delivery of this Agreement, including but not limited to the necessary public hearings, providing proper notice of the public hearings, and the conducting of public hearings related thereto.

3.2.3. Upon the execution and delivery of this Agreement by County, the obligations of County shall be valid and binding obligations of County.

3.2.4. Execution and delivery of this Agreement is not in contravention with, or prohibited by, the terms and provisions of the County LDR of any agreement, covenant, court order or judgment to which County is a party.

4. **Permitted Uses.** The Property shall be developed in a manner ~~that substantially complies~~ consistent with the Concept Plan attached hereto as Exhibit B (“Concept Plan”), constituting a gas station and convenience store that shall not include truck parking, showers or bathing facilities, sleeping quarters, or

automobile/truck service uses (“Proposed Development”), subject to all terms, conditions and requirements of this Agreement.

5. **Developer Commitments to Ensure Compatibility.** Developer shall abide by the terms of this Section and incorporate the following design concepts in the site plan for the Project. Specifically,:

5.1. The convenience store shall not exceed Six Thousand Eight (6,008) square feet or a Floor Area Ratio of .012.

5.2. The convenience store shall not exceed one story in height.

5.3. Parking and driveway aisles shall be designed in accordance with the Concept Plan and the County LDC, which shall not include parking spaces for commercial vehicles exceeding 16,000 pounds.

5.4. Fueling stations shall be designed in accordance with the Concept Plan and County LDC, which shall include no more than eight (8) automobile fuel pumps with sixteen (16) automobile fueling stations and ~~sixteen (16) pumps and~~ no more than five (5) truck fueling stations or pumps.

5.5. Open space depicted on the western portion of the Property on the Concept Plan shall not include vertical improvements. Such open space may include natural vegetation, stormwater facilities, landscaping, buffers, three-board fences, and utility system improvements (including septic system or well pursuant to approval by the County or Department of Health).

5.5.1. Specifically, Developer shall construct and maintain a three-board fence between the parking areas and drive aisles west of the convenience store and the open space to provide a barrier preventing any use the open space for the parking of automobiles or trucks.

5.6. All buffers shall meet the description of an A-Type buffer pursuant to Section 6.8.6 of the LDC, consisting of at least a 30-foot-wide landscape strip and at least three shade trees and five accent/ornamental trees for every 100 lineal feet or fractional part thereof, together with shrubs and ground cover. When feasible, the foregoing shall be accomplished through preservation of existing trees and vegetation.

5.7. Architectural design of the Project shall substantially comply with the renderings attached hereto as Exhibit C. Further, a three-board fence shall be constructed along the perimeter of the Property.

5.8. All lighting shall be comply with Article VI, Division 19 of the LDC, entitled “Outdoor Lighting,” which is intended “to provide for effective and efficient nighttime lighting while minimizing light pollution, glare, and light trespass to conserve energy and resources while maintaining nighttime safety, utility, security and productivity.”

6. **Traffic Study; Transportation Improvements.** The Traffic Study has been: (a) prepared in accordance with a methodology agreed to by County, and (b) is currently under review and pending approval by County. The Traffic Study evaluates long-term transportation needs within the agreed study area described therein. The Traffic Study projected impact on off-site public Transportation Facilities resulting from the development of the Project through full build-out of the Project, with a projected final build-out date of 2026. Upon approval, Developer shall comply with all obligations arising under Section 163.3180, Florida Statutes and the County’s Land Development Code to mitigate transportation impacts or perform proportionate share mitigation. Prior to site plan approval, the Developer shall demonstrate that the Project complies with County transportation concurrency requirements. Based on the Traffic Study presented with the Application, the

Project is not expected to trigger LOS deficiencies on roadways subject to transportation concurrency. However, if a LOS deficiency occurs as a result of site plan approval, Developer shall make a proportionate share payment in accordance with State law and the County's concurrency program.

6.1. **Developer Improvements.** Specifically, Developer shall be obligated to construct the following transportation improvements:

6.1.1. An ingress 235-foot left-turn shall be constructed within westbound County Road 329 at its intersection with the westernmost Project driveway, described as "Driveway 1" in the Traffic Study.

6.1.2. An ingress 405-foot right-turn lane shall be constructed within southbound US Highway 441/301 serving both Project driveways, described as "Driveway 3" and "Driveway 4" in the Traffic Study.

6.1.3. The existing southbound right-turn on US Highway 441/301 at its intersection with Highway 329 shall be extended by eighty (80) feet, as described in the Traffic Study.

6.1.4. The existing northbound left-turn lane on US Highway 441/301 at its intersection with Highway 329 shall be extended by two hundred (200) feet, as described in the Traffic Study.

6.2. **Additional Right of Way.** Concerning the transportation improvements described above, in the event such improvements require widening that cannot be accomplished within existing right of way, Developer shall, to the extent possible, convey additional right of way to County as may be required in connection with such improvements.

6.3. **Design and Permitting.**

6.3.1. Developer shall, at its sole cost and expense, design and permit the Developer Improvements.

6.3.2. Developer shall prepare and submit to County, and any Governmental Authority, including the Water Management District, the Plans for approval by County or such Governmental Authority, prior to commencing construction of the Developer Improvements.

6.3.3. Developer shall obtain all Permits necessary for the construction of the Developer Improvements. County consents to such Permits being in the name of County and/or Developer, and County shall cooperate with Developer in connection with the permitting process.

7. **Required Stormwater Facilities.** Developer shall provide on-site stormwater management facilities designed and constructed in compliance with County drainage LOS standards, including water quantity and water quality treatment standards. Developer shall locate such facilities in ~~substantial~~ compliance with the Concept Plan and construct drainage retention areas on the western portion of the Project to provide ~~for additional buffering for westerly property owners~~ additional buffering for westerly property owners. Developer shall be responsible for all costs associated with analysis, design and construction of the foregoing stormwater facilities, including any on-site or off-site facility accommodating stormwater flows from Transportation Improvements constructed by Developer pursuant to Section 6.

8. **Development Permits Required.**

- 8.1. Local Development Permits. The local development permits approved or needed to be approved for the development of the Project in accordance with the provisions of this Agreement, and the status of each such permit or approval, are as follows:

<u>Permit</u>	<u>Permitting Authority</u>
Site Plan Approval	Marion County
Building Permits	Marion County
Right of Way Utilization Permit	Marion County / FDOT
Certificates of Concurrency	Marion County
Water & Wastewater Permitting	FDEP / DOH
Environmental Resource Permit	SJRWMD
Gopher Tortoise Relocation Permit	FWC
Certificate of Occupancy	Marion County

- 8.2. Additional Permits. The failure of this Agreement to address any particular permit, condition, term, or restriction on development shall not relieve the Owner or County of the necessity of complying with any law governing said permitting requirement, conditions, terms and restrictions with respect to the contemplated development of the Project, as applicable.
- 8.3. Additional Conditions. County reserves the right to impose additional conditions, terms, restrictions or other requirements determined to be necessary for the public health, safety, and welfare of their citizens with respect to the development contemplated by the Developer and described in this Agreement, provided that such conditions, terms or restrictions shall not be in contravention with the terms of this Agreement.

9. **Consistency with the Comprehensive Plan and County LDC.** This Agreement is consistent with the County's Comprehensive Plan and ~~COUNTY~~ Land Development Regulations in effect on the date that the Parties entered into this Agreement Code.

10. **Omissions.** If this Agreement does not address a particular permit, condition, term or restriction, such omission shall not relieve Developer or the County of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions effective on the date the Application was filed.

11. **Recording, Effective Date and Duration.**

- 11.1. This Agreement shall be recorded with the Clerk of Circuit Court in Marion County within fourteen (14) days of the date of execution. Upon recording, this Agreement shall be deemed a covenant and restriction running with the land and binding on Developer and its successors and assigns.
- 11.2. The Effective Date of this Agreement shall be the date of recording with the Clerk of Circuit Court, unless the approved Zoning Change is appealed, in which case, the Effective Date of this Agreement shall be the effective date of the Zoning Change.
- 11.3. The duration of this Agreement shall be thirty (30) years from the Effective Date, which may be extended by the parties pursuant to Section 163.3229, Florida Statutes.

12. **Applicability of County Laws.** The Comprehensive Plan and County Land Development Regulations in effect on the ~~date of the filing of the Application~~ Effective Date shall govern the development of the Property for the duration of this Agreement and following the 30-year duration period until such time as the Zoning is lawfully amended or the Property is developed in accordance with this Agreement, whichever occurs first. The County may apply subsequently adopted laws and policies to the development of the

Property only if the County has held a public hearing and determined:

- 12.1. They are not in conflict with the laws and policies governing this Agreement and do not prevent development of the land uses, intensities, or densities set forth in this Agreement;
- 12.2. They are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to this Agreement;
- 12.3. They are specifically anticipated and provided for in this Agreement;~~or~~
- 12.4. Substantial changes have occurred in pertinent conditions existing at the time of execution of the Agreement;~~;~~ or
- 12.5. This Agreement is based on substantially inaccurate information supplied by the Developer.

This section does not abrogate any rights that may vest pursuant to common law.

13. **Public Facilities.** The public facilities (“Public Facilities”) that will service the Project, the person or entity who shall provide such Public Facilities, and the date of any new Public Facilities which must be constructed, are as follows:

- 13.1. Transportation Facilities. The Transportation Facilities that will serve the Project ~~are as shall~~ comply with those set forth in the Traffic Study. ~~Developer shall comply with Section 6~~ ~~Reference source not found.~~ ~~above,~~ and otherwise provide Proportionate Share Mitigation pursuant to this Agreement and applicable County LDC requirements.
- 13.2. Potable Water. Potable water services for the Project are not currently available from the County. Developer shall obtain all necessary approvals from FDEP/DOH prior to development of the Project and shall connect to central potable water when available pursuant to the County LDC.
- 13.3. Wastewater. Wastewater services for the Project are not currently available from the County. Developer shall obtain all necessary approvals from FDEP/DOH prior to development of the Project and shall connect to central wastewater services when available pursuant to the County LDC.
- 13.4. Solid Waste Collection. Solid waste collection for the Property will be provided pursuant to the County Code by the County or a private contractor with a franchise from County. County or its franchise contractors currently have sufficient capacity, unreserved, to provide solid waste collection services for the Project.

14. **Additional Provisions.**

- 14.1. Adopted Pursuant to Florida Local Government Development Agreement Act. This Agreement has been adopted pursuant to the “Florida Local Government Development Agreement Act” (codified at Sections 163.3220 through 163.3243, Florida Statutes).
- 14.2. Performance On Behalf Of Developer. County agrees that any obligation of Developer to construct any Developer Improvements hereunder may be performed by or on behalf of Developer by third parties under contract with Developer, and such improvement shall be deemed performed by Developer hereunder.

15. **General Provisions.**

- 15.1. Notices.

15.1.1. All notices, requests, consents and other communications (each a “Communication”) required or permitted under this Agreement shall be in writing (including emailed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, emailed or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed as follows or to such other addresses as any party may designate by Communication complying with the terms of this paragraph 15.1:

15.1.1.1. If to County: County Engineer, 412 SE 25th Avenue, Ocala, FL 34471; email: \_\_\_\_\_.

a. With a copy to: Assistant County Administrator Tracy Straub, P.E., 601 SE 25th Avenue, Ocala, FL 34471; email: [tracy.straub@marionfl.org](mailto:tracy.straub@marionfl.org).

b. With a copy to: County Attorney Matthew Guy Minter, 601 SE 25th Avenue, Ocala, FL 34471; email: [matthew.minter@marionfl.org](mailto:matthew.minter@marionfl.org).

15.1.1.2. If to Developer: Del Lago Ventures, Inc., 200 Galleria Parkway, Suite 900, Atlanta, GA 30339; email: \_\_\_\_\_.

a. With a copy to: Paolo Mastroserio, Mastroserio Engineering, Inc., 170 SE 32<sup>nd</sup> Place, Ocala, FL 34471; email: [Paolo@Mastroserioeng.com](mailto:Paolo@Mastroserioeng.com).

b. With a copy to: Robert W. Batsel, Jr., Gooding & Batsel, PLLC, 1531 SE 36th Avenue, Ocala, FL 34471; email: [rbatsel@lawyersocala.com](mailto:rbatsel@lawyersocala.com).

15.1.2. Each such Communication shall be deemed delivered:

15.1.2.1. On the date of delivery if by personal delivery with signed receipt thereof;

15.1.2.2. On the date of email transmission if by email (subject to paragraph 15.1.5); and

15.1.2.3. If the Communication is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; or (b) the date upon which delivery is refused.

15.1.2.4. Notwithstanding the foregoing, service by personal delivery delivered, or by email sent, after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday or legal holiday.

15.1.3. If a Communication is delivered by multiple means, the Communication shall be deemed delivered upon the earliest date determined in accordance with the preceding subparagraph.

15.1.4. If the above provisions require Communication to be delivered to more than one person (including a copy), the Communication shall be deemed delivered to all such persons on the earliest date it is delivered to any of such persons.

15.1.5. Concerning Communications sent by email:

15.1.5.1. The Communication shall not be deemed to have been delivered if the sender receives a message from the sender’s or the recipient’s internet service provider or otherwise that the email was not delivered or received;

15.1.5.2. If the sender receives an automatic reply message indicating that the recipient is not present to receive the email (commonly referred to as an “out of the office message”), the email shall not be deemed delivered until the recipient returns;

15.1.5.3. Any email that the recipient replies to, or forwards to any person, shall be deemed delivered to the recipient.

15.1.5.4. The sender must print the email to establish that it was sent (though it need not do so at the time the email was sent); and

15.1.5.5. The sender shall maintain the digital copy of the email in its email system for a period of no less than one year after it was sent.

15.2. Negation of Partnership. None of the terms or provisions of this Agreement shall be deemed to create a partnership by or among Developer, County in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprises. Each Party shall be considered a separate Party, no Party shall have the right to act as an agent for another Party unless expressly authorized to do so in this Agreement.

15.3. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property to the general public, or for any public use or purpose whatsoever. Any portion of the Property which may under the terms of this Agreement later may be designated for public use or purposes shall be conveyed by Developer to County, as applicable. Except as herein specifically provided no right, privileges or immunities of any Party hereto shall inure to the benefit of any third party, nor shall any third party be deemed to be a beneficiary of any of the provisions contained in this Agreement.

15.4. Default Provisions.

15.4.1. The terms of this Agreement shall not entitle any Party to cancel, rescind, or otherwise terminate this Agreement. However, such limitations shall not affect in any manner any other rights or remedies which a Party may have hereunder or under applicable law by reason of any such breach.

15.4.2. All easements, rights and covenants contained herein shall be enforceable by suit for specific performance and mandatory injunctive relief, in addition to any other remedy provided by law or equity.

15.4.3. No Party shall be entitled to pursue any action for specific performance, injunctive relief, or any other available remedy (including, without limitation, an action under Section 163.3243, Florida Statutes) arising out of a default under this Agreement until the non-defaulting Party has provided to the Party alleged to be in default a written Default Notice (with, if applicable, a copy to any other Party to this Agreement) specifying the specific nature of the default, and the alleged defaulting Party has failed to cure the default within thirty (30) days of the effective date of the Default Notice. In the event the cure of a default reasonably requires greater than the thirty (30) day time period specified, the grace period granted herein shall, if the defaulting Party has initiated cure of the default within the thirty (30) day time period and is continuing to pursue completion of the cure with due diligence, extend the reasonable time period required for the cure of the default.

15.4.4. In the event of a material default (as defined under Florida law) by Developer with respect to their obligations to County under this Agreement, and failure of Developer to cure

the default within the grace period set forth above, in addition to any other remedies available to County under the terms of this Agreement, County shall be entitled to withhold issuance of additional development permits or authorizations until the default has been cured.

15.4.4.1. If Developer has, prior to the occurrence of the default, conveyed some or all of the Property to unrelated third parties (such parcel or parcels then becoming a "Third-Party Parcel"), the default of Developer is not with respect to, or does not impact Developer's obligations regarding, a Third-Party Parcel, and, prior to the conveyance, Developer obtained an Estoppel Statement from County under paragraph 15.4.4.2 acknowledging that there are no defaults by Developer under this Agreement, the right of County to withhold permits upon a default by Developer shall not extend to County permits pending or to be issued with respect to a successor owner of the Third-Party Parcel.

15.4.4.2. The Parties agree that failure of Developer to timely pay any Proportionate Share Mitigation owed under the provisions of this Agreement does not constitute a default with respect to, or impacting Developer's obligations regarding, a Third-Party Parcel, if, prior to the date that Developer conveyed the Third-Party Parcel, Developer obtained an Estoppel Statement pursuant to paragraph 15.4.4.2 acknowledging that Developer is not in default under its obligation to pay any Proportionate Share Mitigation. Therefore, County may not withhold permits for such Third-Party Parcel based on such non-payment.

15.5. Estoppel Statements.

15.5.1. Each Party agrees that upon written request from time to time of any other Party it will timely issue to a current or prospective lender to such Party, or to a current or prospective purchaser or successor party to such other Party, or to another governmental entity requesting or requiring the same, an estoppel statement ("Estoppel Statement") stating:

15.5.1.1. Whether the Party to whom the request has been directed knows of any default by any Party under this Agreement, and if there are known defaults, specifying the nature thereof.

15.5.1.2. Whether this Agreement has been assigned, modified or amended in any way by such Party (and if it has, stating the nature thereof).

15.5.1.3. That to the best of the requested Party's knowledge this Agreement, as of the Estoppel Statement date, is in full force and effect.

15.5.1.4. That (if known by the requested Party, if not known by the requested Party that Party shall reply only with respect to any monies owed to it) to the best of the requested Party's knowledge there are not any monies currently owed by any Party to another Party under the terms of this Agreement, or if there are monies owed, the amount and details of all monies owed.

15.5.1.5. That, as to the Project or as to a specific parcel therein (as applicable, based upon the request) there are no moratoriums or suspensions of the right to procure Development Orders, Building Permits, or Certificate of Occupancy or other development approvals in effect as of the date of the Estoppel Statement.

15.5.2. Such Estoppel Statement shall act as a waiver of any claim by the Party furnishing it

to the extent such claim is based on facts contrary to those asserted against a bona fide mortgagee or purchaser for value without knowledge of facts to the contrary of those contained in the Estoppel Certificate who has acted in reasonable reliance upon the statement; however, such statement shall in no event subject the Party furnishing it to any liability whatsoever, notwithstanding the negligent or other inadvertent failure of such Party to disclose correct and/or relevant information.

15.5.3. The Estoppel Statement shall be provided at no charge to the requesting party except that County may charge a reasonable fee (currently established at \$300.00) if Developer or a Subsequent Owner requests an Estoppel Statement.

15.6. Litigation. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred with respect to such litigation, including reasonable attorneys' fees, and including reimbursement for such reasonable attorneys' fees and costs incurred with respect to any appellate or post-judgment proceeding related thereto.

15.7. Binding Effect. The parties to this Agreement represent to each other that each party fully understands the facts surrounding this Agreement and each is signing this Agreement fully and voluntarily, intending to be bound by it. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective spouses, heirs, executors, administrators and assigns. There are no representations or warranties other than those set forth herein.

15.8. Headings. The headings contained within this Agreement are for identification purposes only, and shall not be construed to amend, modify, or alter the terms of the Agreement.

15.9. Severability. Except as otherwise set forth herein, in the event any provision or section of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, such determination shall not affect the enforceability or the validity of the remaining provisions of this Agreement.

15.10. Survival of Representations and Warranties. All representations and warranties contained herein are made in writing by the Parties in connection herewith shall survive the execution and delivery of this Agreement.

15.11. Successors and Assigns.

15.11.1. All covenants and agreements in this Agreement made by or on behalf of any parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto, whether so expressed or not.

15.11.2. Upon a sale or other transfer of a Parcel or a portion thereof, the terms and provisions of this Agreement, as applicable, shall remain in full force and effect as to the Parcel or a portion of the Parcel.

15.12. Applicable Law. This Agreement is being delivered in the State of Florida, and shall be construed and enforced in accordance with the laws of the State of Florida. The venue for any legal proceeding arising out of this Agreement shall be Marion County, Florida.

15.13. Counterparts. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

15.14. Term. The term of this Agreement shall be for a period of thirty (30) years, commencing on the Effective Date.

15.15. Rules of Construction. For the purposes of the interpretation, construction, administration, and implementation of this Agreement, unless otherwise stated in this Agreement or the context clearly indicates to the contrary, the following rules of construction shall apply:

15.15.1. Any pronoun used herein shall include the corresponding masculine, feminine and neuter forms.

15.15.2. All definitions in this Agreement shall apply equally to both the singular and plural forms of the nouns defined, to the present, future and past tenses of verbs defined, and to all derivatives of defined terms.

15.15.3. The words “include,” “includes,” and “including” shall be deemed to be followed by the phrase “without limitation.”

15.15.4. The words “herein,” “hereof,” “hereunder,” and similar terms shall refer to this Agreement.

15.15.5. A reference to an Article, paragraph, subparagraph, or other subpart of this Agreement, shall include all paragraphs, subparagraphs, and subparts under the referenced part.

15.15.6. Where a provision involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or” or “either or,” the conjunction shall be interpreted as follows: “and” indicates that all the connected terms shall apply; “or” indicates that the connected terms may apply singly or in any combination; and “either or,” indicates that only one of the connected terms may apply.

15.16. Time.

15.16.1. Time is of the essence of all of the provisions and terms of this Agreement.

15.16.2. If a time period is five (5) days or less, intervening Saturdays, Sundays or legal holidays will be excluded from the calculation.

15.16.3. When any time period specified herein falls or ends upon a Saturday, Sunday or legal holiday, the time period shall automatically extend to 5:00 p.m. on the next ensuing business day.

15.16.4. For purposes of this Agreement, “legal holiday” means: (a) the day set aside by paragraph 110.117, Florida Statutes, for observing New Year’s Day, Martin Luther King, Jr.’s Birthday, Memorial Day, Independence Day, Labor Day, Veterans’ Day, Thanksgiving Day or Christmas Day; (b) the Friday after Thanksgiving; (c) Christmas Eve; (d) if Christmas is on weekend, the Monday after Christmas Day; and (e) any other day upon which the Clerk of the Court of Marion County, Florida, is closed for ordinary business.

15.17. Exhibits. The Exhibits attached to this Agreement are as follows:

15.17.1. **Exhibit A** – Property.

15.17.2. **Exhibit B** – Concept Plan

15.17.3. **Exhibit C** – Architectural Renderings

15.18. **Entire Understanding.** This Agreement represents the entire understanding and Agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations (if any) made by and between the parties. The provisions of this Agreement may not be amended, supplemented, waived, or changed orally but only by a writing making specific reference to this Agreement signed by the party as to whom enforcement of any such amendment, supplement, waiver or modification is sought.

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SIGNATURES START ON NEXT PAGE**

**THEREFORE**, the Parties have executed this Agreement as of the Effective Date.

**COUNTY**

MARION COUNTY, FLORIDA, a political subdivision of the State of Florida, by its Board of County Commissioners

By: \_\_\_\_\_  
Michelle Stone as Chair

ATTEST:

\_\_\_\_\_  
Gregory C. Harrell, Clerk of Court and Comptroller

For use and reliance of Marion County only,  
approved as to form and legal sufficiency:

\_\_\_\_\_  
Matthew Guy Minter, County Attorney

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2024, by Michelle Stone, as Chair of the Board of County Commissioners of Marion County, Florida, a political subdivision of the State of Florida, on behalf of County.

\_\_\_\_\_  
Notary Public, State of Florida  
Name: \_\_\_\_\_  
(Please print or type)

Commission Number:  
Commission Expires:

Notary: Check one of the following:

- \_\_\_\_\_ Personally known OR
- \_\_\_\_\_ Produced Identification (if this box is checked, fill in blank below).
- \_\_\_\_\_ Type of Identification Produced: \_\_\_\_\_

**Jerry Cauthen and Karen Cauthen, husband and wife**

Jerry Cauthen

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Jerry Cauthen

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2024, by Jerry Cauthen.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Name: \_\_\_\_\_  
(Please print or type)

Commission Number:  
Commission Expires:

Notary: Check one of the following:

- \_\_\_\_\_ Personally known OR
- \_\_\_\_\_ Produced Identification (if this box is checked, fill in blank below).  
Type of Identification Produced: \_\_\_\_\_

Karen Cauthen

By: \_\_\_\_\_  
Karen Cauthen

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Print Witness Name

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2024, by Karen Cauthen.

\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
Name: \_\_\_\_\_  
(Please print or type)

Commission Number:  
Commission Expires:

Notary: Check one of the following:

- \_\_\_\_ Personally known OR
- \_\_\_\_ Produced Identification (if this box is checked, fill in blank below).
- \_\_\_\_ Type of Identification Produced: \_\_\_\_\_

**EXHIBIT A  
PROPERTY**

PARCEL A:

A PORTION OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7302, PAGES 1337 AND 1338 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA AND LYING IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 30, TOWNSHIP 13 SOUTH, RANGE 21 EAST, MARION COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A CONCRETE MONUMENT AT THE SOUTHEAST CORNER OF SAID LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7302, PAGES 1337 AND 1338 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE NORTH 00°21'01" EAST ALONG THE EASTERLY LINE OF SAID LANDS AND ALONG THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 441/301 (STATE ROAD NO. 25-A), BEING A 200 FOOT WIDE RIGHT OF WAY ACCORDING TO STATE ROAD RIGHT OF WAY MAP SECTION 36001-2501, 795.65 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°15'51" WEST, DEPARTING SAID RIGHT OF WAY LINE, 899.85 FEET; THENCE NORTH 00°21'01" EAST, 427.42 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF WEST HIGHWAY 329, BEING A 50-FOOT-WIDE COUNTY ROAD RIGHT OF WAY PER MARION COUNTY ENGINEERING DEPARTMENT RESURFACING MAP, PROJECT NO. 77,764, DATED 6/13/19, SAID POINT ALSO BEING ON THE ARC OF A CURVE CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID SOUTHERLY RIGHT OF WAY LINE, HAVING A RADIUS OF 675.00 FEET AND A CENTRAL ANGLE OF 21°55'42", 258.34 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF NORTH 75°02'57" EAST, 256.76 FEET TO A POINT; THENCE NORTH 89°15'44" EAST, CONTINUING ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 652.15 FEET TO A POINT OF INTERSECTION WITH THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 441/301; THENCE SOUTH 00°21'01" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE, 490.50 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 10.00 ACRES, MORE OR LESS.

AND

PARCEL B:

COMMENCE AT A CONCRETE MONUMENT AT THE SOUTHEAST CORNER OF LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 7302, PAGES 1337 AND 1338 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE NORTH 00°21'01" EAST ALONG THE EASTERLY LINE OF SAID LANDS AND ALONG THE WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 441/301 (STATE ROAD NO. 25-A), BEING A 200 FOOT WIDE RIGHT OF WAY ACCORDING TO STATE ROAD RIGHT OF WAY MAP SECTION 36001-2501, 396.54 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°15'51" WEST, DEPARTING SAID RIGHT OF WAY LINE, 115.25 FEET; THENCE NORTH 00°21'01" EAST, 399.11 FEET; THENCE NORTH 89°15'51" EAST, 115.25 FEET TO A POINT ON THE AFOREMENTIONED WESTERLY RIGHT OF WAY LINE OF U.S. HIGHWAY NO. 441/301; THENCE SOUTH 00°21'01" WEST ALONG SAID WESTERLY RIGHT OF WAY LINE, 399.11 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 1.06 ACRES, MORE OR LESS.