

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of _____, 2024 (the “Effective Date”) by and between [TBD], a Georgia limited liability company (the “Developer”), and the **Effingham County Board of Commissioners**, the lawfully elected governing Authority of Effingham County, a political subdivision of the State of Georgia (the “County”)

WITNESSETH:

WHEREAS, [TBD] (the “Project Entity”), an affiliate of Developer, intends to purchase and develop those certain tracts or parcels of land totaling approximately 297.5 acres, more or less, located generally along Earl Lain Road in Effingham County, Georgia and more particularly depicted on Exhibit A attached hereto and made a part hereof (the “Project Site”), on which it intends to develop, construct and market one or more residential subdivisions(s) (the “Project”);

WHEREAS, the Project Entity has engaged Developer to provide certain construction and development services for the development of the Project as more fully set forth in a construction agreement between the Project Entity and Developer;

WHEREAS, the County has determined that it is in the best interest of the citizens of the County to support the development of the Project by engaging Developer to construct, install, upgrade and/or expand certain public water, sewer, drainage and roadway improvements and

infrastructure in Effingham County along Earl Lain Road which shall serve the public and the Project as more fully set forth herein; and

WHEREAS, the County and Developer desire to enter into this Agreement to articulate and memorialize their obligations to one another with respect to said improvements and infrastructure.

NOW THEREFORE, in consideration of the agreements set forth herein below, and other good and valuable considerations the receipt and sufficiency of which are hereby acknowledged, the County and Developer (collectively, the “Parties”; separately, a “Party”) agree as follows:

1. Incorporation of the Recitals. The foregoing recitals of this Agreement are incorporated herein as if fully set out below.

2. Earl Lain Road Improvements.

A. Developer has constructed or will construct certain roadway improvements, including but not limited to the widening, grading and paving of a portion of Earl Lain Road, pursuant to those certain [Engineering Drawings] prepared by _____ (“Project Engineer”)] (“Roadway Improvements”), which Engineering Drawings meet County specifications and standards and are hereby approved by the County in all respects.

B. Developer and the County agree that the Project Engineer will design the Roadway Improvements in a manner satisfactory to the County, and Developer will construct

said Roadway Improvements with the Project Engineer's oversight during construction. The cost of the Roadway Improvements shall be shared pro rata between Developer and the County as follows:

(a) Subject to Section 5 of this Agreement, Developer shall bear the cost of (i) the Roadway Improvements on Earl Lain Road fronting those certain tracts or parcels of land identified by the Effingham County Tax Assessor's office as Parcel Identification Numbers 04350019, 04350021, 04350021A00, 04350021B00, 04350022 and 04360003, which tracts or parcels of land are more particularly depicted on Exhibit B hereto, and (ii) any improvements to be made to the roadway intersection of Hodgeville Road and Earl Lain Road ("Developer Infrastructure Segment").

(b) The County shall bear the cost of (i) all remaining Roadway Improvements depicted on Exhibit B hereto ("County Infrastructure Segment"), and (ii) any improvements to be made to the roadway intersection of Kolic Helmey Road and Earl Lain Road.

For the avoidance of doubt, the cost of the Roadway Improvements to be borne by Developer may be calculated by multiplying the total cost of the Roadway Improvements by a fraction, the numerator of which is the aggregate linear footage of the Developer Infrastructure Segment and the denominator of which is the total linear footage of the Roadway Improvements, and the cost of the Roadway Improvements to be borne by the County may be calculated by multiplying the total cost of the Roadway Improvements by a fraction, the numerator of which is the aggregate linear footage of the County Infrastructure Segment and the denominator of which is the total linear footage of the Roadway Improvements.

C. In order to construct the Roadway Improvements and Force Main (as hereinafter defined), the Parties contemplate the condemnation by the County of portions of those certain tracts or parcels of land more particularly depicted on Exhibit B attached hereto and incorporated herein by reference (“Earl Lain Owner Conveyances”). Developer hereby agrees to grant to the County, in fee simple via Quitclaim Deed, those portions of the Project owned by Developer and included in the right-of-way to be established by the County for the Roadway Improvements, as the same are depicted on Exhibit B (“Developer Conveyance”) (the Developer Conveyance, together with the Earl Lain Owner Conveyances, the “ROW Acquisitions”). The County shall be solely responsible for any additional right-of-way acquisitions needed to complete the Project.

3. Water Sewer Improvements and Capacity.

A. Developer has constructed or will construct certain water and sanitary sewer distribution system improvements having sufficient capacity to provide potable water and sanitary sewer to the Project and such other improvements as are necessary to (i) extend the County water distribution systems from the current water distribution terminus on Hodgeville Road to the on-site connection point for the Project in order to distribute water to and within the Project (“Developer Water Improvements”); (ii) extend the County water distribution systems from the current water distribution terminus on Kolic Helmey Road to the on-site connection point for the Project in order to distribute water to and within the Project (“County Water Improvements”); and (iii) extend the County sewer collection systems from the current sewer collection terminus to the on-site connection point for the Project in order to distribute sewer to and within the Project (“Developer Sewer Improvements”), all as shown on the [Preliminary

Water and Sewer Plan attached hereto as Exhibit C and incorporated herein by reference] (the Developer Water Improvements, County Water Improvements and Developer Sewer Improvements are hereinafter collectively referred to as the “Water Sewer Improvements”).

B. Developer, at its sole cost and expense, has retained the Project Engineer to design the Water Sewer Improvements.

C. In addition to any obligations set forth in Section 6 hereof or any other provisions of this Agreement, the County shall reserve and provide sufficient capacity of a water and sanitary sewer distribution system to service the Project's intended use.

D. The Water Sewer Improvements shall be constructed by Developer pursuant to plans reasonably approved by the County and appropriate regulatory authorities.

E. Notwithstanding the foregoing, Developer and the County acknowledge and agree that Developer shall construct a force main (the “Force Main”) in a location to be prescribed by the County. The County shall, immediately upon the completion of the ROW Acquisitions, specify in writing the proposed location of the Force Main, which location shall be in accordance with (or otherwise deemed in accordance with) County standards, and use its best efforts to facilitate the construction of the Force Main by Developer. In the event that the ROW Acquisitions have not occurred for any reason which can be attributed to an action or omission by the County on or before the date which is twelve (12) calendar months following Developer’s commencement of construction activities on the Project Site, Developer shall be entitled to construct the Force Main in a location determined by Developer, in Developer’s sole and absolute discretion; provided, however, that such location shall comply with County standards. Any and all costs associated with the construction of the Force Main shall be borne exclusively by Developer, its successors and assigns, at their sole expense.

4. Stormwater Improvements.

A. Developer has constructed or will construct certain storm drainage improvements along Earl Lain Road to provide for the proper drainage of stormwater from the Project, as shown on the [Preliminary Stormwater Plan attached hereto as Exhibit D and incorporated herein by reference] (“Stormwater Improvements”).

(a) Developer shall bear the cost of the Stormwater Improvements on Earl Lain Road fronting those certain tracts or parcels of land identified by the Effingham County Tax Assessor’s office as Parcel Identification Numbers 04350019, 04350021, 04350021A00, 04350021B00, 04350022 and 04360003, which tracts or parcels of land are more particularly depicted on Exhibit B hereto (“Developer Drainage Improvements”).

(b) The County shall bear the cost of all remaining Stormwater Improvements depicted on Exhibit B hereto (“County Drainage Improvements”).

B. Developer, at its sole cost and expense, has retained the Project Engineer to design the Stormwater Improvements

C. The Stormwater Improvements shall be constructed pursuant to plans reasonably approved by the County and appropriate regulatory authorities.

5. Funding of Improvements. The County shall reimburse Developer for any and all costs incurred by Developer in the construction, development and dedication of the County Infrastructure Segment, County Water Improvements and County Drainage Improvements (collectively, the “County Project Improvements”). Developer shall bear the cost of the

Developer Infrastructure Segment, Developer Water Improvements, Developer Sewer Improvements and Developer Drainage Improvements. Developer shall also bear the reasonable cost of the design of the County Project Improvements. Developer shall apply for disbursement of sums owed by the County pursuant to this Agreement from time to time in order to complete the County Project Improvements. Upon compliance with the terms of this Agreement, the County shall disburse in accordance with each request for disbursement submitted by Developer from time to time (each, a "Disbursement Request"). Developer shall, on a periodic basis no less than monthly, submit verification of the actual costs incurred to date for the design and construction of the County Project Improvements in such format and with such procedures as are satisfactory to County in its reasonable discretion, to include without limitation invoices for all such costs, lien waivers for all sums disbursed by the general contractor for the Roadway Improvements, Water Sewer Improvements and Stormwater Improvements to its subcontractors, and such other statements, waivers, affidavits, supporting waivers, invoices, evidence of bonding, schedules of values and releases for the purposes of issuing interim mechanic's lien coverage. To initiate each Disbursement Request, Developer shall prepare an Owner's Affidavit and Requisition for Funds in the forms attached as Exhibit E, which shall be accompanied by invoices for all such costs submitted for payment with a Disbursement Request. With each Disbursement Request, Developer shall certify that the proceeds of the requested disbursement shall be used only for the reimbursement of the items described in the Disbursement Request and represented by the invoices or other appropriate documentation submitted in connection with such Disbursement Request, which costs, expenses and fees have been actually incurred by Developer. The County agrees to pay each Disbursement Request within thirty (30) days of receipt thereof. In the event the County does not pay the invoice within thirty (30) days,

Developer may charge the County interest at a rate of [five percent (5%)] as to the outstanding amount of the cost of the County Project Improvements until the past due amount is paid to Developer in full.

6. Dedication of Roadway Improvements, Water Sewer Improvements & Stormwater Improvements.

Developer shall provide for inspection of each of the Roadway Improvements, Water Sewer Improvements and Stormwater Improvements by the Project Engineer during construction and shall ensure compliance with all County design and construction requirements. Developer shall provide to the County a statement from the Project Engineer certifying, based on the best of his/her information, knowledge, and belief, that the Roadway Improvements, Water Sewer Improvements and Stormwater Improvements and all related materials and workmanship meet the County's specifications and standards. Developer shall provide two (2) copies, and an electronic file, of "record" drawings of the Roadway Improvements, Water Sewer Improvements and Stormwater Improvements signed by the Project Engineer and/or an independent inspector. Upon request of the County, the certification shall be substantiated by material affidavits from suppliers and by applicable test results for deflection, pressure, leaks, bacteria, compaction and flow tests required by the County. Developer shall hold the County harmless for and indemnify the County against any and all claims for damages or personal injuries caused by or arising from the faulty or negligent construction of the Roadway Improvements, Water Sewer Improvements and Stormwater Improvements prior to the date of dedication thereof. Upon completion of the construction of the Roadway Improvements, Water Sewer Improvements and Stormwater Improvements, certification by the Project Engineer, provision of the "record" drawings, and

compliance with all applicable laws, the County shall, upon dedication by Developer and subject to approval of the County, which approval shall not be unreasonably withheld, conditioned or delayed, accept title to and assume responsibility for maintenance and operation of the roads and traffic infrastructure that comprise the Roadway Improvements, Water Sewer Improvements, Stormwater Improvements and Force Main facilities, as are located within public easements or rights-of-way, up to but not including individual metering points. This dedication shall include all rights, title, and interest that Developer has in the Roadway Improvements, Water Sewer Improvements and Stormwater Improvements and also all easements and/or rights-of-way required for the purpose of maintenance thereof.

7. Connection Fees; Recurring Water and Sewer Service Fees. The County will charge, and Developer will pay (or cause to be paid), water tap-in fees, sewer tap-in fees, water connection fees, sewer connection fees, water meter installation fees, water meter application fees, and any other applicable connection charges as are in effect at the time of each such connection, for each connection to the water and sewer system within and serving the Project (collectively, the "Connection Fees"). Such fees shall be levied on a nondiscriminatory, per ERU basis, as applicable, unless metered to account for actual use (e.g., water meters). Such fees shall be paid prior to occupancy. For purposes of this Agreement, the term "ERU" shall mean the number of residential units to which the water demand of a customer is equivalent, where a single-family detached residential unit is assumed to have an average demand of 300 gallons per day. The number of ERUs assigned to a building or structure shall be determined in accordance with the water use load factors established by ordinance of the County; provided, however, that

the determination of the number of ERUs for the individual users on the Project Site shall be made on the same basis as all other users within the County.

8. Wetland Impact. Developer and the County agree that Developer shall be responsible for preparing and composing all necessary applications for wetland permits required for the Project and the Roadway Improvements, Water Sewer Improvements and Stormwater Improvements (the “Wetland Permit Applications”), and the County shall serve as the official applicant on all Wetland Permit Applications. The County shall promptly sign off on the Wetland Permit Applications prepared by the Developer and submit the same to the appropriate regulatory agencies. The County and Developer shall work diligently and in good faith to address any questions or requests for additional information from said regulatory agencies during the permit review process. Developer and the County shall work together diligently and in good faith at all time to pursue the issuance of the necessary permits for the Project, the Roadway Improvements, the Water Sewer Improvements and the Stormwater Improvements .

9. Notices. Any notice provided for or concerning this Agreement shall be in writing and shall be deemed sufficiently given upon receipt by certified or registered mail or hand delivery as follows:

If to the County: Effingham County Board of Commissioners
 804 S. Laurel Street
 Springfield GA 31329

If to Developer: _____

With a copy to: _____

10. Force Majeure. The Parties shall use reasonable diligence to perform the work described herein but shall not be liable to each other, or their successors or assigns, for damages, costs, attorneys' fees, reasonably and actually incurred (including costs or attorney's fees on appeal) for breach of contract, or otherwise, for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the Parties. Such causes may include but shall not be limited to, Acts of God, acts of other governmental entities, strikes, lockouts or unavailability of materials.

11. Agency. Developer, the County, and their agents, contractors, or subcontractors, shall perform all activities that are outlined in this Agreement as independent entities and not as agents of each other.

12. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Georgia. Any action arising from this Agreement shall be filed in the Superior Court of Effingham County.

13. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matters hereof. This Agreement may be modified or amended only by a writing executed by the Parties hereto.

14. Amendments. The approval of this Agreement by the County shall authorize the County Manager to execute amendments to this Agreement that are in furtherance of the terms and conditions contained herein.

15. Assignment. This Agreement may be assigned in whole or in part by Developer with the prior written approval of the County, which approval shall not be unreasonably withheld, conditioned, or delayed. This Agreement shall bind and inure to the benefit of the parties hereto and their permitted successors and assigns.

16. Strict Performance. No failure by a Party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise a right or remedy shall constitute a waiver. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, condition, agreement and term of this Agreement shall continue in full force and effect with respect to any other existing or subsequent breach.

17. Counterparts. This Agreement may be signed in any number of counterparts, each of which shall, for all purposes constitute one and the same agreement.

IN WITNESS WHEREOF, the undersigned have executed and delivered this Agreement under seal as of the date first above written.

[DEVELOPER],
a _____

By: _____
[Printed Name], [Title]

**EFFINGHAM COUNTY
BOARD OF COMMISSIONERS**

By: _____
Name: _____
Its: _____

EXHIBIT A

Legal Description of Project Site

EXHIBIT B

Depiction of Roadway Improvements

EXHIBIT C

Preliminary Water and Sewer Plan

EXHIBIT D

Preliminary Stormwater Plan

EXHIBIT E

Owner's Affidavit & Requisition for Funds