

## AYRSHIRE DEVELOPMENT AGREEMENT

THIS AYRSHIRE DEVELOPMENT AGREEMENT (the “**Agreement**”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between **D.R. HORTON, INC. – JACKSONVILLE**, a Delaware corporation (the “**Applicant**”), and the **CITY OF GREEN COVE SPRINGS**, a municipal corporation organized and existing under the laws of the State of Florida (the “**City**”). City, and Applicant may sometimes be referred to herein, collectively, as the “**Parties**.”

A. The Applicant attests and warrants that it is the contract purchaser of the property described in **Exhibit “A”** attached hereto and incorporated herein by this reference, which is located within unincorporated Clay County, Florida (the “**Property**”), and that Philip A. Fremento, as the Division President of Applicant, is authorized to execute all binding documents on behalf of Applicant.

B. The Applicant has applied to voluntarily annex the Property into the City pursuant to Section 171.044, Florida Statutes, and Ordinance No. 0-02-2021.

C. The Property is proposed to be given a Future Land Use Map (“**FLUM**”) designation of Residential Low Density. The Property is proposed to be zoned to Planned Unit Development (the “**PUD**”) and will be developed in accordance with these applicable future land use and zoning designations.

D. The Applicant desires to develop a residential project to be called Ayrshire on the Property, with a maximum of 2,100 single-family and townhome residential units (the “**Development**”).

E. The Applicant will construct certain public roadway, utility and other improvements, both on the Property and off-site, to mitigate for impacts of the Development, as set forth herein.

F. The Applicant and the City desire to enter into this Agreement to provide for the provision of certain site improvements that will benefit the Development and the public.

G. This Agreement is consistent with the City Charter, the City 2025 Comprehensive Plan and the City Land Development Code, as well as, with provisions of Chapter 163, Florida Statutes, Chapter 166, Florida Statutes, Chapter 187, Florida Statutes, Article VIII, Section 2(b), Constitution of the State of Florida and other applicable law and serves a public purpose.

H. The City has determined that the requirements of Section 163.3231, Florida Statutes, have been met in that:

- i. The City has adopted a local Comprehensive Plan that is in compliance.
  - ii. The proposed development of the Property is consistent with the City of Green Cove Springs 2025 Comprehensive Plan, including the Future Land Use Map.
  - iii. This Agreement constitutes a binding commitment on the part of the Applicant, its successors and assigns, to develop the Property consistent with the Comprehensive Plan and applicable provisions of the City of Green Cove Springs Land Development Code (the “City Code”).
- I. The following is the Public Facility Schedule applicable to the development of the Property through the thirty (30) years of this Development Agreement, to 2051:
- i. Transportation. Transportation capacities will be provided by the City or other agency as set forth in its regulations and Capital Improvement Program, as amended from time to time, and in compliance with the provisions of this Agreement and the respective responsibilities of the parties.
  - ii. Potable Water and Sanitary Sewer. The Clay County Utility Authority (the “CCUA”) will provide adequate water and wastewater service to the Property in accordance with local government development orders and interlocal agreements that have been and will be issued for development of the Property from time to time. The Applicant will construct water and sewer line extensions necessary to serve the Property, as well as other improvements in compliance with the provisions of this Agreement and the respective responsibilities of the parties.
  - iii. Solid Waste. The City will provide solid waste disposal to the Property through its solid waste collection franchisee.
  - iv. Drainage. Concurrently with development of the Property or portions thereof, the Applicant will provide drainage in accordance with St. Johns River Water Management District rules and in accordance with local government development orders that have been and will be issued for development of the Property from time to time, as well as other improvements in compliance with the provisions of this Agreement and the respective responsibilities of the parties.
  - v. Parks/Open Space. Concurrently with development of the Property or portions thereof, the Applicant will provide parks and open space as required in applicable provisions of the City Comprehensive Plan and PUD ordinance for the Property.
- J. The population density and maximum height possible for the Development under its FLUM, the PUD and current City Code include all uses in the Residential Low Density zoning district, up to a maximum of four (4) units per developable acre.
- K. This Agreement strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital

facilities for the development, encourages private participation and comprehensive planning and reduces the costs of development.

**NOW, THEREFORE**, in consideration of the mutual terms, covenants, and conditions in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. **Findings of Fact**. The Recitals set forth above are true and correct and are incorporated herein by reference as Findings of Fact.

2. **Purpose and Intent**. The Applicant and the City desire to enter into this Agreement to address their respective responsibilities for both on-site and off-site improvements related to the Development. The Parties intend to utilize this Agreement to identify the methodology to be used for allocating costs for the potable water system, the sanitary sewer system, the stormwater system and the transportation system. In addition, the Agreement identifies the available credits to the Applicant, the potential for future credits, and the City's share of financial responsibility for improvements that may benefit the City's overall utility, stormwater and transportation systems beyond that needed for this Development. The Parties do not intend to vest the Development to current land development regulations, and Applicant or its successors and assigns will be required to meet all applicable codes at the time individual development orders or permits are sought.

3. **Public Facility Improvements**. CCUA will provide water and sanitary sewer services to the Property pursuant to separate utility agreements between CCUA and the Applicant. CCUA is the applicant for temporary City water and sewer service for the site. The Applicant agrees that Applicant or the developer of each parcel, as it is developed, within the Property, shall pay the water/sewer connection/tap costs/fees for lots, units or structures within the project at the time of issuance of a building permit for the particular improvement. The Applicant agrees that Applicant or the developer of each property, as they are developed, within the Property, shall abide by all applicable federal, state and local codes, design, permitting and construction standards, requirements, policies, rules and regulations for civil site plan, utilities, stormwater and buildings. In addition, the Parties agree to the following utility and infrastructure improvements:

A. **Potable Water System**.

- i. Applicant shall comply with all codes, laws and regulations necessary for the development of the Property applicable at the time each development permit is issued and will pay all usual and customary costs associated with providing potable water on-site to the Property for its intended uses.
- ii. Applicant agrees to provide to CCUA any necessary easements on, under and across the Property for the construction, operation and maintenance of the potable water system.
- iii. Applicant shall be permitted to temporarily connect to the City water system for the first phase of the Development. If temporary capacity is

needed, the Applicant will provide such capacity in coordination with the City's Public Works Department.

B. Sanitary Sewer System.

- i. Applicant shall comply with all codes, laws and regulations necessary for the development of the Property applicable at the time each development permit is issued and will pay all usual and customary costs associated with providing sanitary sewer onsite to the Property for its intended uses.
- ii. Applicant agrees to provide to CCUA any necessary easements on, under and across the Property for the construction, operation and maintenance of the sanitary sewer system.
- iii. Applicant shall be permitted to temporarily connect to the City sewer system for the first phase of the Development. If temporary capacity is needed, the Applicant will provide such capacity in coordination with the City's Public Works Department.

C. Stormwater System.

- i. Applicant shall comply with all codes, laws and regulations necessary for the development of the Property applicable at the time each development permit is issued and will pay all usual and customary costs associated with providing stormwater capture, retention and treatment on-site to the Property for its intended uses.
- ii. Applicant agrees to provide to the City any necessary easements on, under and across the Property for the construction, operation and maintenance of the stormwater system.

D. Police Substation.

- i. The Applicant will provide a police substation office in the amenity center for the Development; which substation will be a minimum of 150 square feet. Parking for the substation will be provided in the amenity center parking lot. The Applicant will also work with the City on a police substation, as detailed in Section 5.A hereof.

4. **Transportation/Mobility Improvements.** In addition to the public facility improvements provided for in Section 3 hereof, the Applicant and the City will cooperate in providing the following transportation and mobility improvements related to the Development:

A. The Applicant shall construct, at the Applicant's expense, a collector road (the "**Connector Road**") that will run west from U.S. Highway 17, through the City's regional park site, into the Property and connect to County Road 15A. The four (4)-lane Connector Road section shall begin at U.S. Highway 17 and end at the roundabout, and a three (3)-lane Connector Road section, with center turn lane(s), shall be constructed from the roundabout to County Road

15A, as depicted on the conceptual plan attached hereto as **Exhibit “B”** and incorporated herein by this reference (the “**Conceptual Plan**”). A typical section for the Connector Road is attached hereto as **Exhibit “C”** and incorporated herein by this reference (the “**Connector Road Typical Section**”). The Applicant, its successors and assigns, shall pay for the cost of designing, permitting and constructing the Connector Road and shall receive road impact fee credits (or proportionate share or mobility fee credits, if applicable) equal to the actual cost of designing, permitting and constructing the Connector Road. Design of the Connector Road will conform to applicable requirements of the Florida Department of Transportation and the City. Once constructed, the Connector Road will be maintained by the City. The City will not issue certificates of occupancy for more than 231 residential units within the Development until either the Applicant completes construction of the Connector Road to U.S. 17 or provides a new traffic study if such connection to U.S. 17 cannot be achieved due to the location of the railroad tracks west of U.S. 17.

B. The Applicant shall construct the Connector Road through the City regional park site, at the Applicant’s expense. The Applicant will also stub out water and sewer lines it installs within the Property to the southern boundary of the City regional park site, if so requested by the City.

C. The Applicant and the City agree that based on the Applicant’s traffic study submitted with the companion Comprehensive Plan Amendment application for the Property, no proportionate fair share, mobility or other similar mitigation payment shall be due related to the Development’s projected impacts to the regional roadway network. An interim traffic study addressing traffic distribution shall be required by the Applicant every five (5) years. The interim traffic study shall examine the Development’s traffic distribution and its impact on segment and intersection analysis to determine if additional traffic mitigation requirements are required.

5. **Land Contributions.**

A. **Police Substation.** The Applicant shall dedicate to the City a parcel of approximately one-half (1/2) acre (the “**Substation Site**”) and provide funding to the City for the construction of a 2,000-square-foot police substation (the “**Substation**”). The Applicant will work with the City on the location of the Substation Site.

B. **Schools.** The Applicant, its successors and assigns, will comply with applicable provisions of Section 163.3180(6), Florida Statutes, in providing any required school proportionate share mitigation and will pay any applicable school impact fees for the Development in the timing and manner required by law.

C. **Land Swap.** In order for the Applicant to construct the Connector Road, it will be necessary for the Applicant and the City to exchange certain real property. The Applicant will exchange an approximately eight (8)-acre parcel within the Property, in the location labeled “Land Swap” on the Conceptual Plan, with the City for the 100-foot-wide (minimum) right-of-way for the Connector Road within the City’s regional park site, which is approximately 5.18 acres and is depicted on the Conceptual Plan. The Applicant’s parcel has a value greater than the City parcel, as required in Rule 62-818.016, Florida Administrative Code,

which regulates such land exchanges. The Applicant will prepare all deeds, legal descriptions and sketches of description for the parcel exchange, at its expense.

6. **Parks.** The Applicant shall pay a per-unit park fee to the City for construction of improvements to Public Parks within the City of Green Cove Springs. The per-unit fee shall be \$400, which shall be paid by the Applicant to the City upon the filing of a building permit application for each home. The Applicant will also provide an approximately ten (10)-acre passive park adjacent to the large pond located in the central portion of the Property that contains bird rookeries (the “**Passive Park**”). The Passive Park will be owned by a community development district and will be available for use by Ayrshire residents and other residents of Green Cove Springs. The Passive Park will contain walking trails and an observation tower overlooking the rookeries.

7. **Development Timing.** The Property is intended to be developed with the phasing set forth in the PUD, which provides the Development will be constructed in one (1), 20-year phase. Construction will be commenced by December 31, 2024 and shall be completed by December 31, 2044. For purposes of the PUD, “commencement” means securing approved construction drawings for the first portion of the Development and “completion” is defined as the installation of horizontal infrastructure and City approval of as-builts. After Development commencement has occurred, there shall be development activity, which is defined as active building permits for residential development, for a five (5)-year period. If the Applicant fails to obtain a building permit from the City for the first home within the Property within five (5) years from the Applicant commencing the Development, the Applicant will lose its transportation concurrency/reserved roadway capacity for the Property and shall have to reapply for said transportation concurrency/reserved roadway capacity before commencing development. Once the Applicant obtains its first building permit for residential development within the Property, it shall be vested for transportation concurrency/reserved roadway capacity. The City shall review the Development at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with this Agreement, pursuant to Section 163.3235, Florida Statutes.

8. **Authority and Duration.** This Agreement is made and granted pursuant to Sections 163.3220-163.3243, Florida Statutes, and is effective through the thirtieth (30th) anniversary of the Effective Date of this Agreement, and any extension of this Agreement.

9. **Amendment, Extension of Agreement.** If state or federal laws are enacted after the execution of this Agreement that are applicable to and preclude the Parties’ compliance with the terms of this Agreement, this Agreement shall be modified or revoked as necessary to comply with the relevant State or federal laws, pursuant to Section 163.3241, Florida Statutes, as may be amended from time to time. The duration of this Agreement may be extended by the City pursuant to law and after conducting a public hearing in the manner specified in Section 163.3225, Florida Statutes, as may be amended from time to time.

10. **Necessity to Obtain Permits.** The Applicant acknowledges its obligation to obtain all necessary federal, state and other local development permits (not mentioned herein) for development of the Property. The failure of this Agreement to address any particular permit, condition, term or restriction applicable to development of the Property shall not relieve the

Applicant or any successors or assigns of the necessity of complying with federal, state, and other local permitting requirements, conditions, terms or restrictions as may be applicable.

11. **Agreement Consistent with Comprehensive Plan and Section 163.3180, Florida Statutes (2020).** The City hereby acknowledges and agrees that (i) the Development is consistent with Florida Statutes and with the City's Comprehensive Plan and Land Development Regulations, and (ii) that the City's Comprehensive Plan is in compliance with the State of Florida Comprehensive Plan.

12. **Remedies.** Each party to this Agreement shall be entitled to seek enforcement of this Agreement against the other party consistent with Section 163.3243, Florida Statutes, as may be amended from time to time.

13. **Binding Effect.** The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement. When Applicant is used in this Agreement, it includes Applicant and any successors and assigns owning any rights to the Property, jointly and severally, assuming all their obligations set out in the Agreement, unless the obligations have been fully discharged.

14. **Applicable Law: Jurisdiction and Venue.** This Agreement and the rights and obligations of the City and Applicant under this Agreement shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida (2020). This Agreement may be enforced as provided in Section 163.3243, Florida Statutes, as may be amended from time to time. Venue for any litigation pertaining to the subject matter of this Agreement shall be exclusively in Clay County, Florida. If any provision of this Agreement, or the application of this Agreement to any person or circumstances, shall to any extent be held invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

The fact that this Agreement does not detail all laws, rules, regulations, permits, conditions, terms and restrictions that must be satisfied to complete the Development contemplated by this Agreement shall not relieve Applicant or its successors in interest of the obligation to comply with the law governing such permit requirements, conditions, terms and restrictions.

15. **Joint Preparation.** Preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

16. **Exhibits.** All exhibits attached to this Agreement contain additional terms of this Agreement and are incorporated into this Agreement by reference.

17. **Captions or Paragraph Headings.** Captions and paragraph headings contained in this Development Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope of intent of this Agreement, nor the intent of any provision of this Agreement.

18. **Counterparts.** This Agreement may be executed in counterparts, each constituting a duplicate original; such counterparts shall constitute one and the same Agreement.

19. **Effective Date and Recordation.** This Agreement shall become effective fifteen (15) days after it has been recorded in the Public Records of Clay County (the “**Effective Date**”).

20. **Amendment.** This Agreement may be amended, cancelled or revoked consistent with the notice and hearing procedures of Section 163.3225, Florida Statutes, and the terms of Section 163.3237, Florida Statutes, as may be amended from time to time.

21. **Further Assurances.** Each party to this Agreement agrees to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances in a manner and to the degree allowed by law, as shall be reasonably requested by the other party in order to carry out the intent of and give effect to this Agreement. Without in any manner limiting the specific rights and obligations set forth in this Agreement or illegally limiting or infringing upon the governmental authority of the City, the Parties declare their intention to cooperate with each other in effecting the purposes of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

22. **Notices.** Any notices or reports required by this Development Agreement shall be sent to the following:

To the City:                      City Manager  
    City of Green Cove Springs  
    321 Walnut Street  
    Green Cove Springs, Florida 32043

With copies to:                 Jim Arnold, Attorney  
    City of Green Cove Springs  
    321 Walnut Street  
    Green Cove Springs, Florida 32043  
    cityattorney@greencovesprings.com

To the Applicant:               D.R. Horton, Inc. – Jacksonville  
    Attn: John R. Gislason  
    4220 Race Track Road  
    St. Johns, Florida 32259

With copies to:                 Ellen Avery-Smith, Esq.  
    Rogers Towers, P.A.  
    100 Whetstone Place, Suite 200  
    St. Augustine, Florida 32086



Passed and Duly Adopted by the City Commission of the City of St. Augustine, Florida  
this \_\_\_\_ day of \_\_\_\_\_, 2021.

Attest:

CITY OF GREEN COVE SPRINGS,  
FLORIDA, a municipal corporation

By: \_\_\_\_\_  
Steve Kennedy, City Manager

Approved as to form, legal sufficiency and  
execution:

By: \_\_\_\_\_  
L.J. Arnold, III, City Attorney

DRAFT

Signed, sealed and delivered in the presence of:

D.R. HORTON INC. -JACKSONVILLE,  
a Delaware corporation

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

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

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

STATE OF FLORIDA

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

The foregoing instrument was acknowledged before me by means of \_\_\_ physical presence or \_\_\_ online notarization on this day \_\_\_ of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ of D.R. Horton, Inc. - Jacksonville., a Delaware corporation, on behalf of the corporation, who is (check one)  personally known to me or  has produced a valid driver’s license as identification.

\_\_\_\_\_  
Notary Public  
Name: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

## EXHIBIT "A"

### The Property

A portion of Section 38 of the George I.F. Clarke Grant, Township 6 South, Range 26 East, Clay County, Florida, being a portion of those lands described and recorded in Official Records Book 1545, page 513 of the Public Records of said county and being more particularly described as follows:

For a Point of Reference, commence at the intersection of the Easterly right of way line of County Road 15A, (South Oakridge Avenue), a 100 foot right of way as presently established with the Southerly right of way line of Green Cove Avenue, a variable width right of way as presently established; thence Southerly along said Easterly right of way line and along the arc of a curve concave Westerly having a radius of 1959.86 feet, through a central angle of 14°47'09", an arc length of 505.76 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 05°15'37" East, 504.36 feet; thence South 02°07'57" West, continuing along last said Easterly right of way line, 1331.79 feet to the Southwest corner of those lands described and recorded in Official Records Book 3863, page 203 of said Public Records and the Point of Beginning.

From said Point of Beginning, thence Easterly and Northeasterly along the Southerly and Southeasterly boundary of last said lands, the following 12 courses: Course 1, thence South 88°31'42" East, departing last said Easterly right of way line, 282.59 feet; Course 2, thence North 21°17'17" East, 161.55 feet; Course 3, thence South 68°42'43" East, 287.10 feet; Course 4, thence South 58°52'43" East, 32.90 feet; Course 5, thence South 37°48'54" East, 22.40 feet; Course 6, thence North 70°53'31" East, 15.20 feet; Course 7, thence North 34°14'49" East, 52.23 feet; Course 8, thence South 88°17'22" East, 94.17 feet; Course 9, thence North 31°43'31" East, 427.82 feet; Course 10, thence North 73°46'32" West, 158.11 feet; Course 11, thence North 13°06'51" East, 477.10 feet; Course 12, thence North 10°55'57" East, 142.00 feet to a point lying on the Southwesterly line of those lands described and recorded as Parcel "A" in Official Records Book 3316, page 1098 of said Public Records; thence South 77°06'26" East, along last said line, 2932.48 feet to the Northwest corner of those lands described and recorded in Official Records Book 3855, page 1391 of said Public Records; thence Southerly along the westerly line thereof, the following 3 courses: Course 1, thence South 21°54'49" East, 3242.16 feet; Course 2, thence South 68°05'09" West, 1307.43 feet; Course 3, thence South 21°54'51" East, 1003.87 feet to a point lying on the Northerly line of an Access and Maintenance Easement as described and recorded in Official Records Book 3855, page 1394 of said Public Records; thence Westerly along said Northerly line, the following 26 courses: Course 1, thence South 37°01'31" West, 149.07 feet to the point of curvature of a curve concave Northwesterly having a radius of 955.00 feet; Course 2, thence Southwesterly along the arc of said curve, through a central angle of 16°37'06", an arc length of 276.99 feet to a point on said curve, said arc being subtended by a chord bearing and distance of South 45°20'05" West, 276.02 feet; Course 3, thence South 67°24'13" West, along a non-tangent line, 105.10 feet; Course 4, thence South 53°45'05" West, 12.16 feet; Course 5, thence South 13°14'26" West, 24.72 feet; Course 6, thence South 63°07'28" West, 859.11 feet; Course 7, thence North 26°52'32" West, 5.00 feet; Course 8, thence South 63°07'28" West, 382.73 feet; Course 9, thence North 26°52'32" West,

31.65 feet; Course 10, thence South 63°07'28" West, 74.60 feet; Course 11, thence South 26°52'32" East, 36.65 feet; Course 12, thence South 63°07'28" West, 102.14 feet to the point of curvature of a curve concave Northerly having a radius of 955.00 feet; Course 13, thence Westerly along the arc of said curve, through a central angle of 22°47'15", an arc length of 379.82 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 74°31'05" West, 377.32 feet; Course 14, thence South 85°54'43" West, 731.91 feet; Course 15, thence North 04°05'17" West, 5.00 feet to a point on a non-tangent curve concave Northerly having a radius of 250.00 feet; Course 16, thence Westerly along the arc of said curve, through a central angle of 05°44'03", an arc length of 25.02 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 88°46'45" West, 25.01 feet; Course 17, thence North 88°21'14" West, 61.78 feet; Course 18, thence North 19°49'14" West, 8.30 feet; Course 19, thence North 55°44'57" West, 30.16 feet; Course 20, thence South 67°18'10" West, 29.23 feet; Course 21, thence South 07°09'24" West, 17.00 feet; Course 22, thence North 88°21'14" West, 362.37 feet; Course 23, thence South 01°38'46" West, 5.00 feet; Course 24 thence North 88°21'14" West, 800.00 feet; Course 25, thence North 01°38'46" East, 10.00 feet; Course 26, thence North 88°21'14" West, 355.52 feet to a point lying on the aforementioned Easterly right of way line of County Road 15A; thence North 02°07'57" East, along last said Easterly right of way line, 5150.65 feet to the Point of Beginning.

Containing 560.52 acres, more or less.

**EXHIBIT “B”**

**Conceptual Plan**

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