

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

This Second Amendment to Development Agreement (this "Agreement") is made and entered into on and as of this ___, day of February, 2025 (the "Effective Date"), by and between THE CITY OF MADISON, Alabama, a municipal corporation organized under the laws of the State of Alabama (the "City"), and DILTINA DEVELOPMENT CORPORATION, an Alabama Corporation, and its respective successors and assigns ("Developer", "Owner", and "Builder" and collectively the "Company"). The City, the Company are herein referred to collectively from time to time as the "Parties" and individually, from time to time, as a "Party."

WITNESSETH

WHEREAS, the Parties have entered into a Development Agreement dated February 18, 2020, as amended by that certain Amendment to Development Agreement dated December 18, 2020 to provide for the phasing of and provision of green space within the Bellawoods Subdivision (the "Development"); and

WHEREAS, the Company has an agreement to purchase an additional approximately 37 acres to add to the Development, and the Planning Commission of the City of Madison, in accordance with the West Side Master Plan, and after proper and timely notice and public hearing at its December 19, 2024 meeting, recommended approval of the Company and Owner's request to rezone the 37 acres more or less, of additional Property from the current Agricultural (AG) zoning designation to the Residential Cluster Zoning District No. 2 (RC-2); and

WHEREAS, the Developer has proposed to incorporate an additional 37 acres into the phasing schedule in the Development Agreement so that the total Development will contain no more than 296 residential lots, with a minimum of twenty six percent (26%) of the Subdivision set aside for park land, walking trails, and/or green space accessible to the public; and

WHEREAS, the Developer will dedicate approximately two acres for right-of-way for the extensions of Henderson Road and widening of Huntsville-Browns Ferry Road; and

NOW THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Section 1.1(a) is hereby amended as follows:

The Development shall consist of approximately 156 acres of real property, more or less, said Property being more particularly described in Exhibit A, Exhibit A2, Exhibit A3, and Exhibit A4 attached hereto, which will be subdivided and developed into a residential subdivision for single-family detached homes. The Development is expected to contain no more than 296 residential lots (each a "Lot," collectively, the "Lots").

2. Section 1.1(c) is hereby amended as follows:

- (1) Company shall provide statutory warranty deeds in form and content reasonably acceptable to the City and the Company to dedicate: (a) public right-of-way along the north margin of the existing public right-of-way of Huntsville-Browns Ferry Road as depicted in Exhibits C and A3 such that up to sixty (60) feet of right-of-way is provided from centerline, as determined by the City of Madison Engineering Department, and (b) public right-of-way along the east side

of the project for the future extension of Henderson Drive as depicted in Exhibit A3 such that up to thirty (30) feet of right-of-way is provided.

- (2) In the event that the Company acquires and dedicates sufficient land for the right-of-way (up to 60 feet) for the future extension of Henderson Lane along the east side of the project from the owner of the adjacent property, as of the date hereof being a portion of certain real property described as Parcel ID 44-09-07-36-0-000-007.001 owned by First Bible Church of Decatur Inc. (the "First Bible Church Parcel"), the Company shall not be required to dedicate the full thirty (30) feet of public right-of-way described in the preceding subsection (c)(1). However, Company acknowledges that the proper alignment of the future extension of Henderson Road may require a portion of the dedication described in subsection (c)(1), and the City agrees that any required dedication would be kept to the minimum necessary to meet Engineering road design standards.
- (3) The City will use its best efforts to acquire the necessary public right-of-way on a portion of the adjacent property, as of the date hereof being certain real property described as Parcel ID 44-09-07-35-0-000-001.005, owned by Reality 9, LLC and/or BAPS Huntsville, Inc (the "Reality 9 Parcel") and/or Parcel ID 44-09-07-36-0-000-006.001 owned by BAPS Huntsville, LLC (the "BAPS Parcel"), to connect Henderson Drive to the Company's provided public right-of-way (whether on the Property or successfully acquired from the First Bible Church Parcel) for the purposes of implementing a capital improvement project to construct Henderson Road as identified in the City's master plans.

3. Section 1.2 is hereby amended as follows:

Plans and Specifications for Development Site. The Company shall cause to be prepared, at its sole cost and expense, plans, bid quantities and specifications for the development and construction of the Development Site (the "Preliminary Plans and Specifications") to be in general accordance with Exhibit A3 attached hereto and incorporated herein. The Company shall submit the Preliminary Plans and Specifications to the Planning Commission for approval, which approval process of fully acceptable construction plans shall be conducted and occur in general accordance with the Planning Commission's standard and typical approval process. If the Preliminary Plans and Specifications are not acceptable to the City, the City shall notify the Company in writing of those matters or items that are not acceptable, and the Company shall revise and modify the same, at its sole cost and expense, until definitive plans and specifications can be agreed upon between the Parties and delivered to the City (the definitive plans and specifications being herein called the "Final Improvement Plans and Specifications").

4. Exhibits.

(a) Exhibit A3 of the Agreement is hereby deleted in its entirety and replaced with Exhibit A3 attached hereto.

(b) Exhibit A4 attached hereto is hereby added and amended as depicted on Exhibit A4 attached hereto, and is incorporated into the Agreement as if set forth therein.

5. Contingencies. This Amendment is contingent upon (1) the successful closing of the purchase of the Property by Company, (2) Planning Commission approval the layout plat of the Property necessary to accommodate the development contemplated herein, (3) Approval and publication of an ordinance authorizing re- zoning of the Property, and (4) City Council approval of this Agreement.

6. Limited Effect. Except as expressly provided hereby, all of the terms and provisions of the Agreement are and shall remain in full force and effect and are hereby ratified and confirmed by the parties hereto. The amendments contained herein shall not be construed as a waiver or amendment of any other provision of the Agreement for any purpose except as expressly set forth herein or a consent to any further or future action on the part of the parties hereto that would require the waiver or consent of the parties hereto.

7. Representations and Warranties. The parties hereby represents and warrant to each other (before and after giving effect to this Amendment) that:

(a) Each party has the corporate power and authority, and the legal right, to execute, deliver, and perform its obligations under this Amendment and the Agreement.

(b) Each party has taken all necessary corporate action to authorize the execution, delivery and performance of this Amendment.

(c) No consent or authorization of, filing with, notice to or other act by, or in respect of, any governmental authority or any other person is required in connection with this Amendment, the execution, delivery, performance, validity or enforceability of this Amendment, or the performance, validity or enforceability of the Agreement, except consents, authorizations, filings and notices which have been obtained or made and are in full force and effect.

(d) This Amendment has been duly executed and delivered on behalf of each party. This Amendment and the Agreement constitute the legal, valid and binding obligations of each party and are enforceable against in accordance with their terms except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

(e) No event of default has occurred and is continuing under the Agreement as of the date of this Amendment.

(f) Each party has performed in all material respects all agreements and satisfied all conditions of the Agreement.

8. Successors and Assigns. This Amendment shall inure to the benefit of and be binding upon the parties hereto and each of their respective successors and assigns.

9. Governing Law. This Amendment shall be governed by, and construed in accordance with, the laws of the State of Alabama.

10. Counterparts. This Amendment may be executed in any number of counterparts, all of which shall constitute one and the same agreement, and any party hereto may execute this Amendment by signing and delivering one or more counterparts.

11. Severability. If any one or more of the provisions contained in this Amendment shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision was not contained herein.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be executed and delivered on its behalf by its duly authorized officer, on and as of the Effective Date.

THE CITY OF MADISON

By: _____
Paul Finley, Mayor

Attest:

By: _____
Lisa D. Thomas
City Clerk-Treasurer

STATE OF ALABAMA §

COUNTY OF MADISON §

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Paul Finley and Lisa D. Thomas, whose names as Mayor and the City Clerk-Treasurer, respectively, of the City of Madison, Alabama, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation.

Given under my hand and official seal this ___ day of February, 2025.

Notary Public

COMPANY:

DILTINA DEVELOPMENT CORPORATION

By: _____
Alex Maxwell, Vice President

STATE OF ALABAMA §

COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for the said County in said State, hereby certify that Alex Maxwell, whose name as Vice President of Diltina Development Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand and official seal this ___ day of February, 2025.

Notary Public

OWNER:

By: _____

Name:

Its: Member

STATE OF ALABAMA §
 §
COUNTY OF MADISON §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that, whose name as Member of, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand and official seal this __ day of February, 2025.

Notary Public

EXHIBIT A4

The Land referred to herein below is situated in the County of Limestone, State of Alabama and is described as follows:

Forty acres evenly off of the East Side of that certain 120 acre tract particularly described as the East one-half of the Southeast Quarter and the East one-half of the West one-half of the Southeast Quarter, all in Section 35, Township 3 South, Range 3 West, except one acre owned by the Oakland Church, and also LESS AND EXCEPT THEREFROM the following two tracts:

EXCEPTED TRACT ONE: A tract or parcel of land lying in the Southeast Quarter of the Southeast Quarter of Section 35, Township 3 South, Range 3 West, Limestone County, State of Alabama, and more particularly described as follows: Begin at the Southeast corner of Section 35, Township 3 South, Range 3 West, Limestone County, Alabama, and run thence North 89 degrees 35 minutes 08 second West along the South boundary of said Section 35 a distance of 382.02 feet to a point; thence North 00 degrees 07 minutes 11 seconds West a distance of 30.00 feet to an iron pin on the North right of way margin of the Huntsville Brownsferry Road and the true point of beginning of the tract herein described; thence from the true point of beginning continue North 00 degrees 07 minutes 11 seconds West a distance of 419.07 feet to an iron pin; thence North 89 degrees 35 minutes 08 seconds West a distance of 63.79 feet to an iron pin; thence North 04 degrees 27 minutes 55 seconds West a distance of 439.47 feet to an iron pin; thence South 89 degrees 35 minutes 08 seconds East a distance of 254.35 feet to an iron pin; thence South 00 degrees 24 minutes 52 seconds West a distance of 856.94 feet to an iron pin; thence North 89 degrees 35 minutes 08 seconds West along the North right of way margin of Huntsville Brownsferry Road to the true point of beginning, lying and being within the Southeast Quarter of the Southeast Quarter of Section 35, Township 3 South, Range 3 West, Limestone County, Alabama, and containing 3.8237 acres, more or less.

EXCEPTED TRACT TWO: A tract or parcel lying and being within the Southeast Quarter of the Southeast Quarter of Section 35, Township 3 South, Range 3 West, Limestone County, Alabama, and being more particularly described as beginning at the Southeast corner of Section 35, Township 3 South, Range 3 West, Limestone County, Alabama, and run thence North 89 degrees 35 minutes 08 seconds West along the South boundary of said Section 35 a distance of 382.02 feet to a point; thence North 00 degrees 24 minutes 52 seconds East a distance of 30.00 feet to an iron pin on the North right of way margin of the Huntsville-Browns Ferry Road and the true point of beginning of the tract herein described; thence from the true point of beginning North 89 degrees 35 minutes 08 seconds West along the North right of way margin of the Huntsville-Browns Ferry Road a distance of 198.64 feet to an iron pin; thence North 07 degrees 57 minutes 52 seconds West a distance of 168.87 feet to an iron pin; thence South 88 degrees 51 minutes 50 seconds West a distance of 65.02 feet to an iron pin; thence North 00 degrees 07 minutes 11 seconds West a distance of 691.66 feet to an iron pin; thence South 89 degrees 35 minutes 08 seconds East a distance of 189.62 feet to an iron pin; thence South 04 degrees 27 minutes 55 seconds East a distance of 439.47 feet to an iron pin; thence South 89 degrees 35 minutes 08 seconds East a distance of 63.79 feet to an iron pin; thence South 00 degrees 07 minutes 11 seconds West a distance of 419.07 feet to the true point of beginning, lying and being within the Southeast Quarter of the Southeast Quarter of Section 35, Township 3 South, Range 3 West, Limestone County, Alabama, and containing 4.5394 acres, more or less.

EXHIBIT A3

