

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This First Amendment to Development Agreement (this “Amendment”) is made and entered into on and as of the 23rd day of October, 2023 (the “Effective Date”), by and between the City of Madison, Alabama, a municipal corporation organized and existing under the laws of the State of Alabama (the “City”), and Lennar Homes of Alabama, LLC, a Delaware limited liability company, its successors, and assigns (“Developer”). The City and the Developer are herein referred to collectively from time to time as the “Parties” and individually, from time to time, as a “Party.”

WITNESSETH

WHEREAS, the City and Breland Homes, LLC, a Delaware limited liability company (“Breland”), entered into that certain Development Agreement dated June 24, 2019 (the “Agreement”) regarding approximately one hundred six (106) acres, more or less, lying within the City of Madison, Madison County, Alabama (the “Development Property”), upon which Breland planned to design, develop, and construct a multi-phase single-family residential townhouse subdivision to be developed and constructed as further set forth in the Agreement (the “Development”); and

WHEREAS, Breland assigned all of its rights and interest under the Agreement to Developer, and Developer assumed all of the duties and responsibilities of Breland thereunder, effective December 27, 2021; and

WHEREAS, collectively, Breland and Developer have developed or caused to be developed the first two (2) phases of the Development, which are named Bradford Station Phase 1 and Bradford Station Phase 2; and

WHEREAS, the Parties desire to amend the Agreement to alter the timelines for certain components of Developer’s work thereunder to be completed; and

WHEREAS, the City has approved the construction plans for Bradford Station Phase 3 and will release them to Developer to begin development of that phase upon the execution of this Amendment and completion of any outstanding contingencies.

NOW, THEREFORE, in consideration of the mutual agreements and conditions set forth herein, including the foregoing recitals (which are incorporated herein by reference) and for other good and valuable consideration, the adequacy, receipt and sufficiency of which are all hereby acknowledged, the Parties agree as follows:

1. The foregoing Recital clauses are true and correct in all respects and form a material part of this Amendment, the same as if such Recital clauses were set forth in the numbered paragraphs hereof.
2. Unless otherwise defined herein, all capitalized terms used in this Amendment shall have the meanings ascribed to them in the Agreement.

3. Section 1.1(f)(i)b. of the Agreement is hereby deleted in its entirety and the following is inserted in lieu thereof:

b. Prior to the start of Phase 3, the Developer shall complete construction drawings for the Greenway except the portion identified in Section 1.1(f)(i)a(1), and shall obtain approval of said plans from the City, such approval not to be unreasonably withheld, conditioned or delayed. Prior to the start of Phase 4, the Developer shall complete construction drawings for the Greenway for the portion identified in Section 1.1(f)(i)a(1), and shall obtain approval of said plans from the City, such approval not to be unreasonably withheld, conditioned or delayed. Prior to the start of Phase 5, Developer shall construct that portion of the Greenway to be constructed under the Norfolk Southern Railroad Company railway tracks, subject to the railway's approval. City will assist with obtaining the railway's approval. The railway's refusal to grant approval to the Developer on grounds of technical infeasibility shall excuse the Developer from performance as to that portion subject to the railway's approval.

4. Section 1.1(f)(iii)b. of the Agreement is hereby modified to delete the phrase "within four (4) years after the Effective Date" in its entirety and to replace it with the phrase, "prior to the start of Phase 5."

5. Section 1.1(g)(ii)b. of the Agreement is hereby deleted in its entirety and the following is inserted in lieu thereof:

b. During the infrastructure construction of Phase 3, the Developer shall construct the Westchester Drive extension and install the necessary street lights in accordance with City-approved plans and specifications. City shall repair the currently existing portion of Westchester Drive from Madison Boulevard to the northerly terminus of the Westchester Extension prior to Phase 4. For doubt avoidance, in no event shall the City's failure to timely repair the currently existing portion of Westchester Drive serve to delay, impair or restrict any other right of Developer under the Agreement, including without limitation the right to proceed with the development and construction of Phase 4 and any later phase in accordance with the terms, conditions and timelines set forth in the Agreement.

6. Section 5.5(a) of the Agreement is hereby modified to update the Developer's notice and carbon copy addresses as follows:

If to Developer: Lennar Homes of Alabama, LLC
Attn: Matt Figlesthaller
2101 Clinton Avenue W., Suite 202
Huntsville, AL 35805

With a copy to:

Lennar Homes of Alabama, LLC
Attn: Debra Huser
2101 Clinton Avenue W., Suite 202
Huntsville, AL 35805

7. **Miscellaneous.** Except as hereby amended, the Agreement shall remain in full force and effect and binding on the Parties in accordance with its terms. If any conflict exists between the terms and provisions of the Agreement and the terms and provisions of this Amendment, the terms and provisions of this Amendment shall govern and control. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which, collectively, shall be one and the same instrument. Electronic signatures delivered in Portable Document Format (PDF) shall be deemed to be originals thereof for all purposes hereunder. This Amendment is binding upon, and shall inure to the benefit of, the Parties hereto and their respective successors and assigns.

8. **No Modification or Waiver.** Except as otherwise expressly set forth herein, nothing in this Amendment shall be deemed to waive or modify any of the provisions of the Agreement, and all such provisions remain in full force and effect.

9. **Authority.** The Parties each represent and warrant that no further corporate or other action is necessary to execute and deliver this Amendment, and that this Amendment constitutes the legally binding obligation of the City and Developer enforceable in accordance with its terms.

[SIGNATURES APPEAR ON NEXT PAGE]

City of Madison, Alabama
An Alabama municipal corporation

Attest:

By: _____
Name: Paul Finley
Title: Mayor

By: _____
Name: Lisa D. Thomas
Title: 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 officials and with full authority, executed the same voluntarily for and as the act of the City of Madison, Alabama, an Alabama municipal corporation.

Sworn to and subscribed before me this the _____ day of _____,
2023.

Notary Public
[NOTARIAL SEAL]

My Commission Expires: _____

LENNAR HOMES OF ALABAMA, LLC

A Delaware limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)

)

COUNTY OF _____)

I, the undersigned Notary Public, in and for said County in said State, hereby certify that _____ whose name as _____ of LENNAR HOMES OF ALABAMA, LLC, a Delaware limited liability company, 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, (s)he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Sworn to and subscribed before me this the _____ day of _____, 2023.

Notary Public
[NOTARIAL SEAL]

My Commission Expires: _____