

PLANNED DEVELOPMENT AGREEMENT FOR TARA VILLAGE PD-R PROJECT

THIS PLANNED DEVELOPMENT AGREEMENT ("PD Agreement") is made as of February 13, 2017, by and between the **CITY OF ALACHUA, FLORIDA** ("City"), a political subdivision of the State of Florida, and **TARA VILLAGE, INC.**, a Florida corporation, its successors or assigns ("Owner/Developer.") The City and the Owner/Developer may jointly be referred to as the "Parties."

RECITALS

WHEREAS, the Owner/Developer desires to obtain approval for a **Planned Development ("PD")** in the City known as **Tara Village Planned Development – Residential ("PD-R" or "Project")**, which is proposed to consist of ±21.64 acres;

WHEREAS, the Owner/Developer wishes to improve the land comprising the PD-R, the legal description for which is attached hereto as Exhibit "A," which is incorporated herein by reference ("Property");

WHEREAS, as part of the approval process for the PD-R, an application to rezone the Property from Agriculture ("A") to Planned Development – Residential ("PD-R") has been filed with the City;

WHEREAS, the Planning & Zoning Board, serving as the Local Planning Agency ("LPA"), recommended approval of the proposed rezoning from Agriculture ("A") to Planned Development – Residential ("PD-R") at a quasi-judicial public hearing held on September 13, 2016;

WHEREAS, the City Commission held the first of two required quasi-judicial public hearings on November 28, 2016, to consider the proposed rezoning of the Property pursuant to Ordinance Number 17-03;

WHEREAS, the City and the Owner/Developer desire to proceed to the second and final reading on the proposed rezoning of the Property pursuant to Ordinance Number 17-03;

WHEREAS, concurrent with the second and final reading of the proposed rezoning for the Property, a PD Agreement and a PD Master Plan are required to be approved;

NOW, THEREFORE, in consideration of the foregoing premises, the Parties hereby agree as follows:

1. The above RECITALS are true and correct and incorporated into this PD Agreement by reference.
2. The Owner/Developer shall plan and construct, at the Owner/Developer's sole expense, the Project according to the specifications set forth in the City's LDRs; Ordinance Number 17-03, which is attached hereto as Exhibit "B" and agreed to by the Owner/Developer; and the PD Master Plan documents, which are attached hereto as Exhibit "C."
3. A **Final PD Plan** for the Project (known as a **Preliminary Plat** for single-family detached residential development) must be submitted to the City within one (1) year from the City Commission's approval of this PD Agreement, Ordinance Number 17-03, and the PD Master Plan, for any part or section of the plan for development shown in the PD Master Plan. If the **Final PD Plan** for the Project is not submitted within the required one (1) year period, it shall result in the expiration of the PD-R zone district classification of the Project. If the PD-R zoning expires, the City shall have the right, but not the obligation, in the City's sole discretion, to conduct any hearings necessary to rezone the lands included within the Project to a zoning district of Agriculture ("A").
4. The Owner/Developer shall construct the Project in accordance with its approved PD Master Plan. Deviations from the PD Master Plan that constitute substantial changes as described in Section 2.4.3 of the City's LDRs must be approved in advance by the City Commission.
5. The approval and execution of this PD Agreement does not guarantee the approval of any development permits, including but not limited to a Preliminary Plat, Construction Plans, or a Final Plat for the Project, or for any part or section thereof, for the Owner/Developer or its successors or assigns.
6. Nothing contained in this PD Agreement shall relieve the Owner/Developer, or its successors, assigns, or anyone acting on the Owner/Developer's behalf, from obtaining all local, regional, state, or federal permits or complying with any applicable ordinance, law, rule, or regulation necessary for the development of the Project. In the event that the Owner/Developer, and its contractors, subcontractors, or anyone for whose acts the Owner/Developer or its contractors or subcontractors may be liable or responsible, fails to comply with any applicable ordinance, law, rule, or regulation and such failure tends to or does pose an imminent threat or danger to life or of great bodily injury to any person, the City, through its City Manager or designee, shall have

the right to stop work until appropriate corrective measures are taken, in addition to any other remedies available to the City.

7. The Owner/Developer shall indemnify and hold harmless the City, and its officers, agents, employees, or anyone acting directly or indirectly on behalf of the City, from and against all claims, damages, losses, and expenses, including reasonable attorney's fees, arising out of or resulting from a loss in the performance of work, down time of equipment, or any claim that may arise from bodily injury, sickness, disease or death, or the injury to or destruction of tangible property, including the loss of use resulting therefrom, caused in whole or in part by a negligent or wrongful act or omission on the part of the Owner/Developer, and its contractor, subcontractors, or anyone directly or indirectly employed or working on behalf of the Owner/Developer for whose acts the Owner/Developer, or its contractors or subcontractors, may be liable or responsible. The Owner/Developer further agrees that the Owner/Developer shall not insulate itself from liability or responsibility to the City for a default in or failure to perform any of the terms of this PD Agreement, or from responsibility under the indemnification clause contained herein by employment of independent contractors or subcontractors or other entities. The Owner/Developer shall remain liable to the City notwithstanding any attempt by the Owner/Developer to pass any responsibility stated herein to its contractor, subcontractor, or other agent or employee at all times during the existence of this PD Agreement.
8. The Owner/Developer shall pay all costs for the recording of this PD Agreement, the PD Master Plan, and Ordinance Number 17-03.
9. The City may, in its sole discretion, withhold any and all inspections, permits, certificates, or approvals for the Project if such action is deemed necessary by the City to secure the Owner/Developer's compliance with the terms of this PD Agreement, including all documents attached hereto or referenced herein.
10. Except as otherwise provided in this PD Agreement, any notice, request, or approval from either party to the other party must be in writing and sent by certified mail, return receipt requested; overnight delivery with proof of delivery; or by personal delivery. Such notice shall be deemed to have been received when either deposited in the United States Postal Service mailbox, delivered by the United States Postal Service, delivered to the courier, or personally delivered with a signed proof of delivery. For purposes of notice, the Parties and their respective representatives and addresses are:

City:

City of Alachua
ATTN: Department of Planning & Community Development
P.O. Box 9
Alachua, Florida 32616

Owner/Developer:

Tara Village, Inc.
7717 NW 20th Lane
Gainesville, FL 32605

11. The Parties each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this PD Agreement.
12. If any section, sentence, clause, phrase, or provision of this PD Agreement is for any reason held or declared to be unconstitutional, void, or inoperative by any court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this PD Agreement, and the remainder of the PD Agreement after the exclusions of such part or parts shall be deemed to be valid.
13. The failure of any of the Parties to exercise any right in this PD Agreement shall not constitute a waiver of such right in the event of any future default or noncompliance with it.
14. This PD Agreement is governed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this PD Agreement shall be in Alachua County, Florida.
15. In the event of any question or dispute arising out of or related to this PD Agreement or action to interpret this PD Agreement, the Owner/Developer shall exhaust any and all administrative remedies and thereafter shall be limited only to action for declaratory judgment. In no event shall Owner/Developer have any cause of action for monetary damages against the City for any question or dispute arising out of or related to this PD Agreement or any action to interpret this PD Agreement, and nothing herein, expressed or implied, waives or should be construed as a waiver or attempted waiver by the City of its sovereign immunity under the Florida Constitution and the laws of the State of Florida.
16. This PD Agreement is entered into by the City pursuant to the City's home rule powers, including police powers, as set forth in the Florida Constitution and the laws of the State of Florida to regulate the development of land. The City

and the Owner/Developer expressly acknowledge and agree that this PD Agreement constitutes a regulatory document, and nothing herein, expressed or implied, is intended or shall be construed as establishing a contract upon which a cause of action for breach, monetary damages, or otherwise may be based. Further, no term or condition of this PD Agreement shall be construed as to proscribe, limit, or affect the ability of the City to enforce its Comprehensive Plan, its Land Development Regulations, or any other authority granted by law with respect to The Project, and nothing herein, expressed or implied, contracts away any of the City's police powers, regulatory authority, and/or immunities.

17. The Parties may amend this PD Agreement only by mutual written agreement of the Parties and including the City Commission.
18. This PD Agreement shall not be construed more strictly against one party than against the other party merely by virtue of the fact that it may have been prepared by one of the Parties. It is recognized that all Parties have contributed to the preparation of this PD Agreement and have had the opportunity to consult with legal counsel before signing it.
19. The Owner/Developer agrees that the terms and requirements of this PD Agreement, PD Master Plan, and Ordinance Number 17-03 do not inordinately burden the Property described in Exhibit "A."
20. This PD Agreement constitutes the entire agreement of the Parties and supersedes all prior written or oral agreements, understandings, or representations.

SIGNATURES CONTINUE ON NEXT PAGE

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals the day and year first above written.

Witnesses:

OWNER/DEVELOPER:

Tara Village, Inc.

By:

Silvia Nemer

SILVIA MOUNKHARA NEMER

(NAME)

PRESIDENT

(TITLE)

of Tara Village, Inc.

Lisa E. Davis

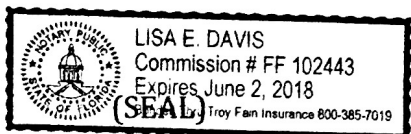
(NAME)

Lisa E. Davis

State of Florida

County of Alachua

The foregoing instrument was acknowledged before me this 4 day of February 2017, by Silvia Nemer, who is personally known to me or who has produced known me as identification, and who took an oath.



Lisa E. Davis

Notary Public, State of Florida at large

Commission No.:

Commission Expiration:

SIGNATURES CONTINUE ON NEXT PAGE

Attest:

CITY OF ALACHUA

Traci L. Gresham
City Manager

By: _____
Gib Coerper, Mayor

Approved as to Form:

Marian B. Rush, City Attorney

State of Florida
County of Alachua

The foregoing instrument was acknowledged before me this ____ day of _____
20__, by _____, who is personally known to me or who has produced
_____ as identification, and who took an oath.

(SEAL)

Notary Public, State of Florida at large
Commission No.:
Commission Expiration:

EXHIBIT "A"

A tract of land situated in the NW $\frac{1}{4}$ of Section 27, Township 8 South, Range 18 East, Alachua County Florida, said tract of land being more particularly described as follows:

Commence at the Southwest corner of the aforementioned NW $\frac{1}{4}$ of Section 27, Township 8 South, Range 18 East for a point of reference and run North 01 deg. 12 min. 59 sec. East, along the West line of said Section 27, a distance of 1076.07 feet to an iron pipe and the True Point of Beginning; thence continue North 01 deg. 12 min. 59 sec. East along said West line a distance of 343.08 feet to an iron pipe, said iron pipe being 1229.42 feet South of the NW corner of said Section 27; thence run South 89 deg. 17 min. 43 sec. East parallel with the South line of said NW $\frac{1}{4}$, a distance of 1238.91 feet to a concrete monument on the Westerly right of way line of Interstate Highway No. 75 (300 foot right of way); thence run South 21 deg. 27 min. 14 sec. East along said Westerly right of way line, a distance of 748.32 feet to a concrete monument; thence run North 89 deg. 17 min. 43 sec. West, parallel with said South line, a distance of 904.67 feet to a concrete monument; thence run North 01 deg. 12 min. 59 sec. East, parallel with said West line of Section 27, a distance of 350.00 feet to a concrete monument; thence run North 89 deg. 17 min. 43 sec. West, parallel with said South line, a distance of 622.68 feet to the True Point of Beginning.

TOGETHER WITH:

A tract of land situated in Section 27, Township 8 South, Range 18 East, Alachua County, Florida, said tract of land being more particularly described as follows:

Commence at the Southwest corner of the Northwest $\frac{1}{4}$ of the aforementioned Section 27, Township 8 South, Range 18 East for the point of reference, and run North 01 deg. 12 min. 59 sec. East along the west line of said Section 27, a distance of 726.07 feet to an iron pipe and the true Point of Beginning; thence continue North 01 deg. 12 min. 59 sec. East, along said West line, a distance of 350.00 feet to an iron pipe, thence run South 89 deg. 17 min. 43 sec. East, parallel with the South line of said Northwest $\frac{1}{4}$ a distance of 622.68 feet to a concrete monument; thence run south 01 deg. 12 min. 59 sec. west, parallel with said west line, a distance of 350.00 feet to a concrete monument; thence run South 89 deg. 17 min. 43 sec. East, parallel with said South line, a distance of 277.80 feet to a concrete monument; thence run South 01 deg. 12 min. 59 sec. West, parallel with said west line, a distance of 726.07 feet to a concrete monument; said concrete monument lying on said South line; thence run North 89 deg. 17 min. 43 sec. West, along said South line, a distance of 600.32 feet to an iron pipe; thence run North 01 deg. 12 in. 59 sec. East, parallel with said West line, a distance of 726.07 feet; thence run North 89 deg. 17 min. 43 sec. West, parallel with said South line, a distance of 300.16 feet to the True Point of Beginning, containing 15.009 acres more or less.

Less that tract of land containing 5.003 acres more or less conveyed by warranty

deed dated December 15, 1981 and recorded in official records Book 1182, page 440, public records of Alachua County, Florida, and Less that tract of land containing 5.003 acres more or less conveyed by Warranty deed dated October 16, 1981, recorded in Official Record Book 1386, page 379, public records of Alachua County, Florida.

EXHIBIT “B”

[EXECUTED/SIGNED ORDINANCE 17-03]

EXHIBIT “C”

[PD MASTER PLAN]