

**PLANNED DEVELOPMENT AGREEMENT
FOR SAVANNAH STATION PHASE II (2018) PD-R PROJECT**

THIS PLANNED DEVELOPMENT AGREEMENT ("PD Agreement") is made as of September 10, 2018, by and between the **CITY OF ALACHUA, FLORIDA** ("City"), a political subdivision of the State of Florida, and **WACO OF ALABAMA, 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 **Savannah Station Phase II Planned Development – Residential ("PD-R" or "Project")**, which is proposed to consist of ±45.14 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 Planned Unit Development ("PUD") 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 Planned Unit Development ("PUD") to Planned Development – Residential ("PD-R") at a quasi-judicial public hearing held on July 10, 2018;

WHEREAS, the City Commission held the first of two required quasi-judicial public hearings on August 13, 2018, to consider the proposed rezoning of the Property pursuant to Ordinance Number 18-19;

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 18-19;

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 18-19, 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 or a **Site Plan** for non-residential development) must be submitted to the City within one (1) year from the City Commission's approval of this PD Agreement, Ordinance Number 18-19, and the PD Master Plan, for any part or section of the plan for development shown in the PD Master Plan. If a **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 RSF-3.
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, Final Plat, or a Site Plan 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 18-19.
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:

Waco of Alabama, Inc.
569 S. Edgewood Avenue
Jacksonville, FL 32205

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 18-19 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.

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

Witnesses:

OWNER/DEVELOPER:
Waco of Alabama, Inc.

By: _____

(NAME)

(NAME) _____
(TITLE)
of Waco of Alabama, Inc.

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:

SIGNATURES CONTINUE ON NEXT PAGE

Attest:

CITY OF ALACHUA

Adam Boukari
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 portion of Sections 21 and 28, Township 8 South, Range 18 East, Alachua County, Florida; being more particularly described as follows:

Begin at a concrete monument at the northeast corner of Section 28, Township 8 South, Range 18 East, Alachua County, Florida, and run thence North $00^{\circ}36'37''$ East, along the east boundary of Section 21, Township 8 South, Range 18 East, Alachua County, Florida, a distance of 1209.25 feet to a point on the southeasterly right-of-way line of County Road No. 235 (100 foot right-of-way); thence South $41^{\circ}53'43''$ West, along said southeasterly right-of-way line, 3,672.79 feet to a nail and cap at the northerly most corner of Pilot Forest, a subdivision as per Plat Book "J", page 92 of the Public Records of Alachua County, Florida; thence run South $48^{\circ}06'17''$ East, along a boundary line of said Pilot Forest, a distance of 15.00 feet to a nail and cap at the beginning of curve concave to the southwest, said curve having a radius of 99.65 feet; thence run southeasterly, along said boundary line of Pilot Forest and with said curve, through an arc angle of $49^{\circ}08'06''$, an arc distance of 85.46 feet (chord bearing and distance of South $23^{\circ}32'14''$ East, 82.86 feet respectively) to a steel rod and cap at the northwest corner of Lot 54 of said Pilot Forest; thence run South $89^{\circ}34'18''$ East, along the north boundary line of said lot 54 and along the north line of Pilot Forest Unit 2, a subdivision as per plat thereof recorded in Plat Book "R", page 44 of the Public Records of Alachua County, Florida, a distance of 2381.83 feet to a steel rod and cap at the northeast corner of said Pilot Forest Unit 2; thence run North $00^{\circ}28'52''$ East, along the east boundary of said Section 28, a distance of 514.28 feet to an iron pipe; thence run North $89^{\circ}30'42''$ West, a distance of 210.00 feet to an iron pipe; thence run North $00^{\circ}28'52''$ East, a distance of 210.00 feet to an iron pipe; thence run South $89^{\circ}30'42''$ East, a distance of 210.00 feet to an iron pipe on said east boundary of Section 28; thence run North $00^{\circ}28'52''$ East, along said east boundary, a distance of 904.29 feet to the Point of Beginning.

Containing 80.31 acres, more or less.

Subject to the maintained right of way for County Road N.W. 157th Street (Formerly known as County Road N.W. 19)

LESS AND EXCEPT:

A PORTION OF SECTION 28, TOWNSHIP 8 SOUTH, RANGE 18 EAST, ALACHUA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT A STEEL ROD AND CAP AT THE NORTHEAST CORNER OF PILOT FOREST UNIT 2, A SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK "R", PAGE 44 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA AND RUN THENCE NORTH 00°28'52" EAST, ALONG THE EAST BOUNDARY OF SECTION 28, TOWNSHIP 8 SOUTH, RANGE 18 EAST, 513.96 FEET TO AN IRON PIPE; THENCE NORTH 89°31'33" WEST, 209.92 FEET TO AN IRON PIPE; THENCE NORTH 00°29'23" EAST, 121.25 FEET; THENCE NORTH 89°31'08" WEST, 205.10 FEET; THENCE SOUTH 00°28'52" WEST, 45.05 FEET; THENCE NORTH 89°34'37" WEST, 726.58 FEET; THENCE NORTH 00°25'23" EAST, 140.00 FEET; THENCE NORTH 89°34'37" WEST, 59.81 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 53°58'30" AN ARC DISTANCE OF 23.55 FEET TO THE END OF SAID CURVE, SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF NORTH 62°35'22" WEST, 22.69 FEET; SAID END OF CURVE BEING THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 150.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°30'10" AN ARC DISTANCE OF 32.73 FEET TO THE END OF SAID CURVE, SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF NORTH 41°51'12" WEST, 32.67 FEET; THENCE NORTH 48°06'17" WEST, 104.15 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 58°14'35" AN ARC DISTANCE OF 25.41 FEET TO THE END OF SAID CURVE, SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF NORTH 18°58'59" WEST, 24.33 FEET; SAID END OF CURVE BEING THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 70.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 105°04'11" AN ARC DISTANCE OF 128.37 FEET TO THE END OF SAID CURVE, SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF NORTH 42°23'47" WEST, 111.12 FEET; SAID END OF CURVE BEING THE BEGINNING OF A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 46°49'35" AN ARC DISTANCE OF 20.43 FEET TO THE END OF SAID CURVE, SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF NORTH 71°31'05" WEST, 19.87 FEET; THENCE NORTH 48°06'17" WEST, 183.12 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD NO. 235 (100 FOOT RIGHT OF WAY); THENCE SOUTH 41°53'43" WEST, ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, 1307.62 FEET TO A NAIL AND CAP AT THE MOST NORTHERLY CORNER OF PILOT FOREST, A SUBDIVISION AS PER PLAT THEREOF RECORDED IN PLAT BOOK "J", PAGE 92 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE SOUTH 48°06'17" EAST, ALONG A BOUNDARY LINE OF SAID PILOT FOREST, A DISTANCE OF 15.00 FEET TO A NAIL AND CAP AT THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 99.65 FEET; THENCE SOUTHEASTERLY, ALONG SAID BOUNDARY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 49°05'51" AN ARC DISTANCE OF 85.39 FEET TO A STEEL ROD AND CAP AT THE NORTHWEST CORNER OF LOT 54 OF SAID PILOT FOREST, SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING AND DISTANCE OF SOUTH 23°33'22" EAST, 82.80 FEET; THENCE SOUTH 89°34'37" EAST, ALONG THE NORTH BOUNDARY LINE OF SAID LOT 54 AND ALONG THE NORTH BOUNDARY LINE OF SAID PILOT FOREST UNIT 2, A DISTANCE OF 1111.63 FEET TO A 4"X 4" CONCRETE MONUMENT (SAPP, LS 4948) AT THE NORTHEAST CORNER OF LOT 13 OF SAID PILOT FOREST UNIT 2 AND THE NORTHWEST CORNER OF LOT 12 OF SAID PILOT FOREST UNIT 2; THENCE SOUTH 89°33'11" EAST, ALONG THE NORTH BOUNDARY LINE OF SAID PILOT FOREST UNIT 2, A DISTANCE OF 1270.19 FEET TO THE POINT OF BEGINNING.

CONTAINING 35.17 ACRES, MORE OR LESS

EXHIBIT “B”

[EXECUTED/SIGNED ORDINANCE 18-19]

EXHIBIT “C”

[PD MASTER PLAN]