

**VARN TRACT
DEVELOPMENT AGREEMENT**

BY AND BETWEEN

**EUGENE M. VARN AND DAVID L. JOHNS,
AS TRUSTEES OF THE W. H. VARN, JR. TRUST AGREEMENT,**

DATED JANUARY 23, 2007,

AND

TOWN OF RIDGEVILLE, SOUTH CAROLINA

DEVELOPMENT AGREEMENT
BY AND BETWEEN
EUGENE M. VARN AND DAVID L. JOHNS,
AS TRUSTEES OF THE W. H. VARN, JR. TRUST AGREEMENT,
DATED JANUARY 23, 2007,
AND
TOWN OF RIDGEVILLE, SOUTH CAROLINA,

TABLE OF CONTENTS

RECITALS	1
1. The Property.....	2
2. Definitions	2
3. Relationship of the Parties	5
4. Intent of the Parties	6
5. Consistency with the Town’s Comprehensive Plan and Land Development Regulations	6
6. Legislative Act	6
7. Applicable Land Use Regulations.....	6
8. Building Codes and Laws Other Than Land Use Regulations	8
9. Permitted Uses; Density; Building Development Standards; Buffers; etc.....	8
10. Property Owners’ Associations.....	9
11. Open Space	10
12. Flexibility of Uses and Tracts.....	10
13. Subdivision Plan Review and Approval.....	10
14. Development Schedule.....	11

15.	Facilities and Infrastructure.....	11
16.	Traffic Considerations.....	12
17.	Funding Sources for Infrastructure.....	13
18.	Terms of Agreement	13
19.	Amending or Canceling the Agreement.....	13
20.	Modifying or Suspending the Agreement.....	13
21.	Periodic Review	14
22.	Severability.....	14
23.	Merger	14
24.	Conflicts of Law	15
25.	Remedies	15
26.	Recording	15
27.	Third Parties	15
28.	Town Approval of Agreement	15
29.	Successors and Assigns	16
30.	Estoppel Certificate	17
31.	General Terms and Conditions	17

EXHIBITS

- Exhibit A: Legal Description
- Exhibit B: Boundary Plat
- Exhibit C: Conceptual Land Use Master Plan
- Exhibit D: Development Schedule
- Exhibit E: Code of Ordinances Town of Ridgeville
- Exhibit F: Varn Tract PUD
- Exhibit G: Development Agreement Ordinance

DEVELOPMENT AGREEMENT

BY AND BETWEEN

[INSERT NAME]

AND

TOWN OF RIDGEVILLE, SOUTH CAROLINA

This DEVELOPMENT AGREEMENT (together with the Exhibits attached hereto, the “Agreement”) is entered into effective as of the ___ day of _____ 2022 (the “Effective Date”), by and between Eugene M. Varn and David L. Johns, as trustees of the W. H. Varn, Jr. Trust Agreement, dated January 23, 2007 (the “Property Owner”), and the Town of Ridgeville, a political subdivision of the State of South Carolina (the “Town”).

RECITALS

WHEREAS, the South Carolina Local Government Development Agreement Act (S.C. Code Ann. §§ 6-31-10 through 6-31-160), as it exists on the Effective Date of this Agreement (the “Act”), enables local governments of the State of South Carolina to enter into binding development agreements with entities intending to develop real property under certain conditions set forth in the Act.

WHEREAS, on _____, 2022, the Town annexed the Property (as defined below) and zoned it as Planned Development (PUD) District.

WHEREAS, in accordance with S.C. Code Ann. § 6-31-150, the Town conducted public hearings regarding its consideration of this Agreement on _____, 2022, and _____, 2022, after providing notice.

WHEREAS, The Town Council adopted Ordinance Number ___ on _____, 2022, (a) determining that this Agreement is consistent with the Town Comprehensive Plan, the

Act, and the Current Regulations of the Town, and (b) approving this Agreement. A copy of the Ordinance is attached hereto as Exhibit G.

NOW THEREFORE, in consideration of the promises of this Agreement and the mutual benefits to the parties, the parties agree as follows:

1. The Property. The Property subject to this Agreement currently consists of approximately six hundred thirty-two (632) acres, of which approximately four hundred ninety-three (493) acres is highland. A legal description of the Property is set forth in Exhibit A, and the boundary lines of the property are shown on the plat attached as Exhibit B.

2. Definitions. In this Agreement, unless the word or phrase is non-capitalized:

(a) “Agreement” means this Development Agreement, including its recitals and exhibits.

(b) “Building Development Standards” mean standards for Lot size, frontage, height, impervious surface, landscaping, parking, and setback requirements for Lots or Development Parcels.

(c) “Comprehensive Plan” means The Town of Ridgeville Comprehensive Plan, adopted pursuant to S.C. Code Ann. §§ 6-29-510, *et seq.*, as amended through the Effective Date.

(d) “Current Regulations” means the Comprehensive Plan, the Code of Ordinances for the Town of Ridgeville, the Varn Tract PUD, and the Town’s Vested Rights Ordinance in force as of the Effective Date.

(e) “Development” means the planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels, and is intended by the Parties to include all uses of, activities upon or changes to the Real Property as are authorized by the Agreement. “Development,” as designated in a land or development permit, includes the planning for and all other activity

customarily associated with it unless otherwise specified. When appropriate to the context, “Development” refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not Development. Reference to particular operations is not intended to limit the generality of this item.

(f) “Development Parcel” means any tract or Parcel of land on which Development may occur, including platted Lots and unplatted parcels, but excluding street rights-of-way.

(g) “Development Permit” includes a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, certificate of occupancy and any other official action of the Town having the effect of permitting the Development or use of property.

(h) “Facilities” means major capital or community improvements including, but not limited to, transportation, sanitary sewer, solid waste, drainage, and potable water. Except as may be specifically provided for in this Agreement, the Property Owner is specifically exempted from any Town requirement for the provision of facilities relating to public education, public health systems and facilities, libraries, public housing, jails and other detention sites, courts, police and trash or garbage disposal sites. Such exemptions shall not, however, exempt the Property Owner from payment of applicable user fees for any such facilities.

(i) “Land Development Regulations” means ordinances and regulations enacted by the Town or the State of South Carolina for the regulation of any aspect of Development and includes Town of Ridgeville zoning, subdivision, building construction, occupancy or sign regulations or any other regulations controlling the Development or use of property.

(j) “Law” means all ordinances, resolutions, regulations, comprehensive plans, Land Development Regulations, policies and rules, custom and usage (formal and informal) adopted by the Town affecting the Development of property and includes laws governing permitted uses of

the property, governing density, and governing design, improvement, and construction standards and specifications.

(k) “Lot” means a Development Parcel identified in a Subdivision Plat recorded in the Dorchester County Register of Deeds Office.

(l) “Minor Amendment” means any amendment, modification, or change to the Varn Tract PUD that is not considered a Major Amendment.

(m) “Major Amendment” means any amendment, modification, or change to the Varn Tract PUD that results in (i) increases in density; (ii) changes in exterior boundary lines of the Property; (iii) changes in the location or amount of land devoted to specific land uses; (iv) changes in the intensity of land use.

(n) “Open Space” means areas dedicated to open space as designated in the Varn Tract PUD.

(o) “Parties” means the Property Owner and the Town.

(p) “Parcel” means any of those tracts of Real Property that are identified on the Boundary Plat, attached as Exhibit B, as same may be specifically identified by the filing of a subdivision application.

(q) “Project” is the Development that will occur within and upon the Property described in Exhibit A and Exhibit B.

(r) “Property Owner” means _____, together with all subsidiaries, parents, or affiliates thereof, which have a legal and/or equitable interest, on the date of execution hereof in any of the Real Property as described in Section 1, and includes _____ as successors in interest or successors in title and/or assigns by virtue of assignment or other instrument pursuant to Section 29 of this Agreement. _____ has an equitable interest in the Real Property by way of that certain Purchase and Sale Agreement by and between _____ and _____, who has a legal interest in

the Real Property. The Property Owner warrants that there are no other entities with an equitable or legal interest in the Real Property.

(s) “Real Property” is the real property referred to in Section 1 and includes any improvements or structures customarily regarded as part of real property.

(t) “Residential Lot” means any Lot intended and approved by the Town for single-family residential use.

(u) “Subdivision Plat” means a recorded graphic description of property prepared and approved in compliance with the Current Regulations, as modified in this Agreement.

(v) “Town” means Town of Ridgeville, South Carolina.

(w) “Undeveloped Lands” in existence on the date of execution of this Agreement is the Real Property indicated on Exhibit A. Undeveloped Lands shall, during the term of this Agreement, include Real Property that either (i) has not received final plat approval or (ii) has received preliminary, conditional or final plat approval but consists of five (5) or more contiguous acres of Real Property, depicted as Lots or parcels thereon, and has not been sold. Properties designated by the Property Owner as “Undeveloped Lands” shall be taxed as “agricultural” by Dorchester County and may only be used for agricultural purposes, including forestry, while taxed as agricultural.

(w) “Varn Tract PUD” means the planned development district documents governing the zoning and Land Development Regulations for the Real Property as adopted by the Town in Ordinance Number _____.

3. Relationship of the Parties. This Agreement creates a contractual relationship between the Parties. This Agreement is not intended to create, and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship where one party may be held responsible for acts of the

other party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of the Property Owner constitutes “state action” for any purposes.

4. Intent of the Parties. The Parties agree that the burdens of this Agreement bind, and the benefits of this Agreement shall inure, to each of them and to their successors in interest and, in the case of the Property Owner, its successors in title and/or assigns. The Town and the Property Owner are entering into this Agreement to secure benefits and burdens referenced in the S.C. Code Ann. §§ 6-31-10, *et seq.*

5. Consistency with the Town’s Comprehensive Plan and Land Development Regulations. This Agreement is consistent with the Town’s Comprehensive Plan and Current Regulations. Whenever express or implied substantive provisions of this Agreement are inconsistent with the applicable standards set forth in the Current Regulations, the standards set forth in the Current Regulations and the standards set forth in this Agreement shall, to the extent possible, be considered in *pari material* to give effect to both the Current Regulations and this Agreement; provided, however, that in the event of a conflict, and subject to the provisions of S.C. Code Ann. § 6-31-80, the hierarchy of documents or regulations that control shall be this Agreement, the Varn Tract PUD, and the Current Regulations.

6. Legislative Act. Any change in the standards established by this Agreement or to Laws pertaining to the same shall require the approval of Town Council, subject to compliance with applicable statutory procedures and consistent with Section 9(a). This Agreement constitutes a legislative act of Town Council. Town Council adopted this Agreement only after following procedures required by S.C. Code Ann. §§ 6-31-10, *et seq.* This Agreement shall not be construed to create a debt of the Town as referenced in S.C. Code Ann. § 6-31-145.

7. Applicable Land Use Regulations.

(a) Applicable Laws and Land Development Regulations. Except as otherwise provided by this Agreement or by S.C. Code Ann. §§ 6-31-10, *et seq.*, the Laws applicable to Development of the Real Property, subject to this Agreement, are those in force at the time of execution of this Agreement, defined as the Current Regulations, attached hereto as Exhibit E. The Town shall not apply subsequently adopted Laws and Land Development Regulations to the Real Property or the Project for the Term of the Agreement, pursuant to South Carolina Code Ann. § 6-31-80, unless the Town has held a public hearing and has determined: (1) the proposed, subsequent Laws or Land Development Regulations are not in conflict with the Laws or Land Development Regulations governing the Agreement and do not prevent the Development set forth in this Agreement; (2) the proposed, subsequent Laws or Land Development Regulations are essential to the public health, safety, or welfare and the proposed, subsequent Laws or Land Development Regulations expressly state that they apply to a development that is subject to a development agreement; (3) the proposed, subsequent Laws or Land Development Regulations are specifically anticipated and provided for in this Agreement; (4) the Town demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement, which changes, if not addressed by the Town, would pose a serious threat to the public health, safety, or welfare; or (5) this Agreement is based on substantially and materially inaccurate information supplied by the Property Owner. Nothing herein shall preclude Property Owner from agreeing to abide by such new Laws, regulations, or ordinances subsequently passed by the Town that it, in its sole discretion, deems appropriate; and in such case the Laws, regulations, or ordinances, so agreed to by Property Owner shall become part of the Current Regulations.

(b) Amendments to Varn Tract PUD. Upon receipt of an application from the Property Owner, the Town's zoning administrator may approve a Minor Amendment to the Varn Tract PUD. The zoning administrator shall not deny an application for a Minor Amendment to the

Varn Tract PUD except upon written findings that such amendment would be a substantial detriment to adjacent property or to the public good. All Major Amendments to the Varn Tract PUD shall be approved by Town Council in a manner provided by law for the amendment to the Town's zoning ordinances.

(c) Vested Rights. Subject to the provisions of subparagraph (a) above, all rights and prerogatives accorded the Property Owner by this Agreement shall immediately constitute vested rights for the Development of the Real Property. Section 9(a) of this Agreement does not abrogate any rights either preserved by S.C. Code Ann. § 6-31-140 or that may have been vested pursuant to common law and otherwise in the absence of a development agreement.

8. Building Codes and Laws Other Than Land Use Regulations. The Property Owner, notwithstanding any provision which may be construed to the contrary in this Agreement, must comply with any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the Town or other governmental entity. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing, and gas codes subsequently adopted by the Town or other governmental entity. The provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the Town to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes; provided, however, that Laws applicable to the Development of the Real Property shall be subject to Section 7(a).

9. Permitted Uses; Density; Building Development Standards; Buffers; etc.

(a) Permitted Uses. All permitted uses as set forth in the Varn Tract PUD, attached hereto as Exhibit F, are allowed on the Real Property.

(b) Density. As set forth in the Varn Tract PUD, attached hereto as Exhibit F.

(c) Building Development Standards. The criteria as set forth in the Varn Tract PUD, attached hereto as Exhibit F, shall apply with respect to Lot size, frontage, height, impervious surface, landscaping, parking and setback requirements, respectively.

(d) Buffers, Fencing, Parking and Signage. The criteria as set forth in the Varn Tract PUD, attached hereto as Exhibit F, shall apply with respect to buffers, fencing, parking and signage.

10. Property Owners' Associations

Prior to the issuance of any certificate of occupancy for a building developed on the Real Property, a Master Property Owners' Association (MPOA) shall be established. When the MPOA is established pursuant to this paragraph, membership in the MPOA will be mandatory for any property owner. The MPOA will be funded by dues to be established in its recorded restricted covenants. The MPOA's responsibility will be to manage the affairs of the MPOA including the enforcement of recorded documents and the maintenance of common areas. There may be individual property owners' associations (POA) established for each development tract which will incorporate its own common areas and be managed by each POA and governed by the MPOA. A POA may contract with the MPOA for maintenance and/or management services. The MPOA's governing documents may also establish an Architectural Review Board (ARB) to review and approve all structures and any additions or improvements such as fences, ponds, garages, barns, etc. The Town will maintain the Facilities that are accepted by the Town, pursuant to the applicable provisions of the Current Regulations, upon tender by the Property Owner, provided said Facilities are designed for construction in accordance with the specifications approved by the Town, and provided further that the Facilities, as built, are in good condition and not subject to any monetary lien.

11. Open Space

The Property Owner will establish open space in accordance with Varn Tract PUD. The Property Owner may convey portions of the Open Space to: (1) the Town; (2) one or more qualified non-profit organizations; (3) the MPOA; or (4) a POA. The Property Owner will at all times reserve to itself, its successors and assigns easements for access and infrastructure purposes (e.g.: roads, walkways, paths, utility easements and rights of way) necessary or desirable for the Development.

The Town agrees that the Open Space specified in Varn Tract PUD shall satisfy all current and future obligations of the Property Owner to the Town relating to the same for monetary exactions and/or the provision or dedication of parks, parklands, community recreational facilities, Open Spaces, and recreational areas within the Project.

12. Flexibility of Uses and Tracts

The Conceptual Land Use Plan of the Varn Tract must maintain flexibility to accommodate specific soil conditions, environmental concerns, physical constraints, and market conditions and design parameters. Accordingly, the exact location of boundary lines between tracts, the location and size of land uses indicated within the planned areas, the preliminary design concepts for the tracts and uses, and densities described in the Conceptual Land Use Master Plan shall be subject to change as phases of the Development are submitted for final plan review over the life of the Project; provided, however, that the maximum densities and allowed land uses set forth in the Varn Tract PUD shall be strictly adhered to.

13. Subdivision Plan Review and Approval

Sketch Plans, Preliminary Plats, and Final Plats for each phase of the Development shall be submitted for review and approved at staff level by the Town zoning administrator. In instances where submitted plans can show where certain physical constraints impose a hardship, per the criteria set forth in S.C. Code Ann. § 6-29-800, or show where implementation of alternative

method(s) will meet or exceed the intentions of the Varn Tract PUD or other applicable Town ordinance, the Town zoning administrator may, but it is not required to, grant such minor variance at staff level. The Property Owner may appeal a decision of the zoning administrator to the Planning Commission, which must act on the appeal within sixty (60) days. The Property Owner may appeal the decision of the Planning Commission within thirty (30) days after actual notice of the Planning Commission's decision pursuant to S.C. Code Ann. § 6-29-1150.

14. Development Schedule. Although the nature of this long-term project prevents the Property Owner from providing exact completion dates, the general phases of Construction and Development are set forth in Exhibit I of the Varn Tract PUD.

15. Facilities and Infrastructure.

(a) Rights-of-Way/Easement. The Property Owner shall at its expense develop and provide roads and other related infrastructure within the Project and pursuant to and at such time required by the development plans for the Project and the Current Regulations. Such Facilities may be transferred by the Property Owner to the Town, subject to proper dedication and acceptance by Town, or a POA, as required by recorded covenants.

(b) Water and Sewer. Subject to approval by the South Carolina Department of Health and Environmental Control ("DHEC"), Facilities for water and sewer shall be provided by Dorchester County Water and Sewer Department at its standard rates and tap fees for residential and commercial users in the Town.

(c) Impact Fees. The parties acknowledge that the Town has not authorized the imposition of any development impact fees pursuant to the South Carolina Development Impact Fee Act. The parties agree that, during the term of this Agreement, any Development occurring pursuant to this Agreement or the Varn Tract PUD shall be exempt from any development impact fees later adopted by the Town. Notwithstanding the above, the Property Owner shall pay development impact fees required by any other

governmental agency under applicable law; provided, however, that nothing in this Agreement shall prohibit the Property Owner from seeking or obtaining impact fee credits or from entering into agreements providing for the construction or installation of Facilities in lieu of payment of impact fees. Notwithstanding the above, the Property Owner agrees to pay to the Town a one-time contribution of Fifteen Thousand and 00/100 Dollars (\$15,000.00) to assist with the preparation of a downtown master plan and the attorneys' fees incurred by the Town in the drafting and review of this Agreement, with such contribution due to the Town within sixty (60) days of the Effective Date.

16. Traffic Considerations.

(a) Planning. Long-term planning is essential to assuring safe and convenient ingress and egress for the Project. It is equally essential that this planning be done in a manner that considers existing and future traffic impacts — both within and outside of the Project site. The Property Owner agrees to work with all appropriate planning agencies to assure said planning occurs.

(b) Future Road Improvements. The Town agrees that to safely and more effectively accommodate the pedestrian and vehicular traffic associated with the known development plans for the Town, including the Project, road improvements are a top priority. The Property Owner shall be responsible for site-specific improvements as identified in the traffic impact assessment for the Project. The Property Owner shall cooperate with the Town, Dorchester County, and the South Carolina Department of Transportation to plan for and implement off-site improvements, including the preservation and donation of rights-of-way on major roads.

(c) Sidewalks. The Property Owner shall install sidewalks on both sides of the neighborhood local streets and collector streets in accordance with the Varn Tract PUD. Such sidewalks may be transferred by the Property Owner to the Town or a POA, subject to proper dedication and acceptance by Town, or a POA, as required by recorded covenants. In addition, the

Property Owner agrees to contribute to the Town for the extension of sidewalks or creation of multi-use trails/paths from the entrance to the Project on Carter Road to the downtown area of the Town (the “Multi-Use Path Extension”). The Property Owner’s contribution for the Extension shall consist of a fee of \$75 per Residential Lot (the “Multi-Use Path Fee”). The Property Owner shall pay the Multi-Use Path Fee to the Town at the time it applies for a building permit for each Residential Lot. In consideration of the Multi-Use Path Fee, the Town agrees to cooperate with any state or local governmental entity responsible for constructing the Multi-Use Path Extension and to contribute the Multi-Use Path Fees collected under this Section 16(c) to defray the costs associated with such construction. If construction of the Multi-Use Path Extension has not commenced prior to the expiration of the term of this Agreement, the Town shall return all Multi-Use Path Fees to the Property Owner who paid such fees within thirty (30) days of the expiration of the term of this Agreement. For the purposes of this Section 16(c), commencement of construction shall occur upon clearing, grading, or excavating activities and shall not include acquisition, design, or engineering activities.

(d) Acceptance of Facilities. The road improvements, described in paragraph (b) above shall be accepted by the Town, pursuant to the applicable provisions of the Current Regulations, upon proper dedication by the Property Owner provided said roadways, and multi-use trail/path are built in accordance with specifications approved by the Town and provided further that the roadways and multi-use trail/path are in good condition and not subject to any monetary lien.

17. Funding Sources for Infrastructure. The Property Owner and the Town recognize that the Real Property is located in an area that has a need for economic growth, expansion of tax base, and creation of jobs. To this end, the Town agrees to work with the Property Owner and other applicable governmental entities to foster and encourage infrastructure and development to

support these goals; including but not limited to, the possible establishment of a municipal improvement district, a tax increment financing district, and/or other special tax districts on financing vehicles authorized by applicable provisions of the South Carolina Code of Laws.

18. Term of the Agreement. This Agreement shall expire on the tenth anniversary of the Effective Date (the “Termination Date”); provided, however, that the terms of this Agreement shall automatically renew for two (2) successive five (5) year periods unless terminated sooner pursuant to the terms of this Agreement.

19. Amending or Canceling the Agreement. Subject to the provisions of S.C. Code Ann. § 6-31-80, this Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties in writing or by their successors in interest. Any amendment to this Agreement shall comply with the provisions of S.C. Code Ann. §§ 6-31-10, *et seq.* Any requirement of this Agreement requiring consent or approval of one of the Parties shall not require amendment of this Agreement unless the text expressly requires amendment. Wherever said consent or approval is required, the same shall not be unreasonably withheld. A major modification of this Agreement shall occur only after public notice and a public hearing by the Town.

20. Modifying or Suspending the Agreement. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

21. Periodic Review. The Town’s zoning administrator or his/her designee shall review the Project and this Agreement at least once every twelve (12) months, at which time the Property Owner shall demonstrate good-faith compliance with the terms of this Agreement. If, as a result of its periodic review or at any other time, the Town finds and determines that the Property Owner has committed a material breach of the terms or conditions of this Agreement, the Town shall serve

notice in writing upon the Property Owner setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and provide the Property Owner with no less than sixty (60) days to cure the material breach. If the Property Owner fails to cure any material breach within the time given, then the Town unilaterally may terminate or modify this Agreement; provided, that the Town has first given the Property Owner the opportunity: (1) to rebut the Town's finding and determination; or (2) to consent to amend this Agreement to meet the concerns of the Town with respect to the findings and determinations.

22. Severability. Subject to the provisions of S.C. Code Ann. § 6-31-150, if any word, phrase, sentence, paragraph or provision of this Agreement shall be finally adjudicated to be invalid, void, or illegal, it shall be deleted and in no way affect, impair, or invalidate any other provision hereof.

23. Merger. This Agreement, coupled with its exhibits which are incorporated herein by reference, shall state the final and complete expression of the Parties' intentions. In return for the respective rights, benefits and burdens undertaken by the Parties, the Property Owner shall be, and is hereby, relieved of obligations imposed by future land development laws, ordinances and regulations, except those which may be specifically provided for herein. The parties hereto agree to cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all performances required under the Agreement. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action.

24. Conflicts of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

25. Remedies. Each Party recognizes that the other Party would suffer irreparable harm from a material breach of this Agreement and that no adequate remedy at law exists to enforce this

Agreement. Consequently, the Parties agree that any nonbreaching Party who seeks enforcement of the Agreement is entitled to the remedies of injunction and specific performance but not to any other legal or equitable remedies including, but not limited to, damages; provided, however, the Property Owner shall not forfeit its right to just compensation for any violation by the Town of Property Owner's Fifth Amendment rights.

26. Recording. Within fourteen (14) days after execution of this Agreement or any amendments to this Agreement, the Property Owner shall record the Agreement or amendments with the Dorchester County Register of Deeds. The burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the Parties to this Agreement.

27. Third Parties. Notwithstanding any provision herein to the contrary, this Agreement shall not be binding and shall have no force or effect as to persons or entities who are not Parties or successors and assigns to this Agreement.

28. Town Approval of Agreement. The Town Council has approved the Project under the process set forth in S.C. Code Ann. § 6-31-50 and Town Ordinance Number ____ on the terms and conditions set forth in this Agreement.

29. Successors and Assigns.

(a) Binding Effect. This Agreement shall be binding on the successors and assigns of the Property Owner in the ownership or Development of any portion of the Real Property or the Project. A purchaser, lessee or other successor in interest of any portion of the Real Property shall be solely responsible for performance of Property Owner's obligations hereunder as to the portion or portions of the Real Property so transferred. Assignees of development tracts shall be required to execute a written acknowledgment accepting and agreeing to the Property Owner's obligations in this Agreement, said document to be in recordable form and provided to the Town at the time of

the recording of any deed transferring a development tract. Following delivery of such documents Property Owner shall be released of any further liability or obligation with respect to said tract.

This paragraph shall not be construed to prevent Property Owner from obtaining indemnification of liability to the Town from third parties. Further, Property Owner shall not be required to notify the Town or obtain the Town's consent with regard to the sale of Lots in commercial areas which have been platted and approved in accordance with the terms of this Agreement.

This Agreement shall also be binding on the Town and all future Town Councils for the duration of this Agreement, even if the Town Council members change.

(b) Transfer of Project. Property Owner shall be entitled to transfer any portion or all of the Real Property to any purchaser without the consent of the Town. In the event of conveyance of all or a portion of the Real Property and compliance with the conditions set forth therein, the Property Owner shall be released from any further obligations with respect to this Agreement as to the portion of Real Property so transferred, and the transferee shall be substituted as the Property Owner under the Agreement as to the portion of the Real Property so transferred.

30. Estoppel Certificate. Upon request in writing from Property Owner, the Town will provide an estoppel certificate in recordable form that solely with respect to the portion of the Real Property described in the request, there are no violations or breaches of this Agreement, except as otherwise described in the estoppel certificate. The Town will respond to such a request within thirty (30) days of the receipt of the request. The estoppel certificate issued by the Town will be binding on the Town in accordance with the facts and statements contained therein as of its date and may be relied upon by all persons having notice thereof. No claim or action to enforce compliance with this Agreement may be brought against Property Owner or its assignees properly

holding rights hereunder, alleging any violation of the terms and covenants affecting such portion of the Real Property except as otherwise described in the Certificate.

If the Town does not respond to such request within thirty (30) days of the time of its receipt, the portion of the Real Property described in the request will be deemed in compliance with all of the covenants and terms of this Agreement. A certificate of such conclusion may be recorded by the Property Owner, including a copy of the request and the notice of receipt and it shall be binding on the Town as of its date. Such notice shall have the same effect as a Certificate issued by the Town under this Section.

31. General Terms and Conditions.

(a) Agreements to Run with the Land. This Agreement shall be recorded against the Real Property as described in Exhibit A and shown on Exhibits B. The covenants, agreements, and promises contained herein shall be deemed to run with the land. The burdens of this Agreement are binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to the Agreement.

(b) Construction of Agreement. This Agreement should be construed to effectuate the public purpose of settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of Facilities and compatibility between Developed and Undeveloped Lands.

(c) State and Federal Law. The Parties agree, intend and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of the development agreement, the provisions of this Agreement shall be modified or suspended as may be necessary to comply with state or federal laws or regulations. The Parties further agree that if any provision of this Agreement is declared invalid, this Agreement shall be

deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect.

(d) No Waiver. Failure of a Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the Town Council taken with the same formality as the vote approving this Agreement, no officer, official or agent of the Town has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind the Town by making any promise or representation contained herein. Any amendments are subject to Section 15 herein.

(e) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both Parties to this Agreement.

(f) Attorneys' Fees. Should any Party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeal or rehearings, the prevailing Party shall be entitled to receive from the other party thereto reimbursement for all attorneys' fees and all costs and expenses. Should any judgment or final order be issued in that proceeding, said reimbursement shall be specified herein.

(g) Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

To the Town:

Mayor of Town of Ridgeville
105 School Street
Ridgeville, SC 29472

With copy to:

To the Property Owner:

[NAME]
[ADDRESS]

With copy to:

E. Brandon Gaskins, Esq.
Moore & Van Allen, PLLC
PO Box 22828
Charleston, SC 29413

(h) Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

[SIGNATURES FOLLOW ON SUBSEQUENT PAGES]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties on the day and year first above written.

Witness:

TOWN OF RIDGEVILLE

By: _____
Clarence Hughes, Mayor

Attest: _____
_____, Clerk of Town

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

ACKNOWLEDGMENT

I, _____, Notary of the Public of the State of South Carolina, do hereby certify that the Town of Ridgeville, by Clarence Hughes, its Mayor, and _____ its Clerk of Town Council personally appeared before me this __ day of _____, 2022, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

My Commission Expires: _____

Witness:

[INSERT NAME]

By: _____

Its: _____

STATE OF SOUTH CAROLINA)

ACKNOWLEDGMENT

COUNTY OF DORCHESTER)

I, _____, Notary of the Public of the State of South Carolina, do hereby certify that [INSERT NAME], by _____, its _____, and its _____ personally appeared before me this ____ day of _____, 2019, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina
My Commission Expires: _____

EXHIBITS

- Exhibit A: Legal Description
- Exhibit B: Boundary Plat
- Exhibit C: Conceptual Land Use Master Plan
- Exhibit D: Development Schedule
- Exhibit E: Code of Ordinances Town of Ridgeville
- Exhibit F: Varn Tract PUD
- Exhibit G: Development Agreement Ordinance

Exhibit A
Legal Description
[TO BE INSERTED AT EXECUTION]

Exhibit B
Boundary Plat
[TO BE INSERTED AT EXECUTION]

Exhibit C
Conceptual Land Use Plan

Exhibit D
DEVELOPMENT SCHEDULE
[TO BE INSERTED AT EXECUTION]

Exhibit E
Code of Ordinances Town of Ridgeville
[TO BE INSERTED AT EXECUTION]

Exhibit F
Varn Tract PUD
[TO BE INSERTED AT EXECUTION]

Exhibit G

Varn Tract Development Agreement Ordinance
[TO BE INSERTED AT EXECUTION]

