

# TOWN OF RAVENEL

1<sup>st</sup> Reading: 9/28/21  
2<sup>nd</sup> Reading: 10/6/21

Introduced by: Harold T. Dukes, Jr.  
Date: 9/28/21

## ORDINANCE 19-21

### AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE THE TEA FARM ANNEXATION AND DEVELOPMENT AGREEMENT BETWEEN THE TOWN OF RAVENEL AND McLEOD LUMBER CO., INC.

**WHEREAS**, the South Carolina Development Agreement Act provides that local governments and property owners may, under specified circumstances, enter into agreements regarding the development of property; and,

**WHEREAS**, such agreements provide some assurance as to continued zoning so as to support long-range planning and investment rather than short-term focused development; and,

**WHEREAS**, such agreements can also make sense in matching long-term benefits with long-lasting commitments; and,

**WHEREAS**, the parties have spent considerable time and effort to negotiate the zoning and planning guidelines for this acreage so as to benefit both the owner and the Town of Ravenel and its citizens; and,

**WHEREAS**, after a public hearing on September 16, 2021, the Planning and Zoning Commission recommended approval of Planned Development District (PD) zoning for the PD Property (as defined in the Annexation and Development Agreement, which contains approximately 396 acres), and Agricultural Residential District (AR) zoning for the Residual Property (as defined in the Annexation and Development Agreement, which contains approximately 2,650 acres), with recommended amendments to the density of the Residual Property; and

**WHEREAS**, Council has given careful consideration to the related PD and AR zoning as set forth in the Annexation and Development Agreement and believes such PD and AR zoning as set forth in the Annexation and Development Agreement is appropriate for the parcels and the proposed development guidelines; and

**WHEREAS**, all statutory requirements are satisfied, and Council believes the attached Annexation and Development Agreement to be mutually beneficial and in the best interest of the Town's citizens and the surrounding community.

***NOW THEREFORE, BE IT ORDAINED*** by the Town Council of the Town of Ravenel, South Carolina, in Council duly assembled, and by authority of the same, that Mayor is authorized to execute the Tea Farm Annexation and Development Agreement as set forth on the attached Exhibit A, which is incorporated herein. The Mayor is further authorized to make corrections and scrivener revisions as may be necessary.

**EXHIBIT A**

TEA FARM ANNEXATION AND DEVELOPMENT AGREEMENT

THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ADOPTION.

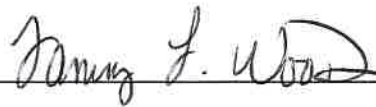
ADOPTED this 6<sup>th</sup> day of October, 2021 at Ravenel, South Carolina.

Ayes: 5 Nays: 0 Abstains: \_\_\_\_\_

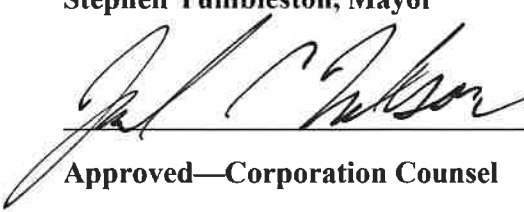
ATTEST:

  
\_\_\_\_\_

**Stephen Tumbleston, Mayor**

  
\_\_\_\_\_

**Clerk-Treasurer**

  
\_\_\_\_\_

**Approved—Corporation Counsel**

STATE OF SOUTH CAROLINA)  
 )  
TOWN OF RAVENEL )

**ANNEXATION AND DEVELOPMENT  
AGREEMENT  
(Tea Farm Tract)**

6<sup>th</sup> This Annexation and Development Agreement ("Agreement") is made and entered this day of October, 2021, by and between McLeod Lumber Co., Inc. ("Owner") and the Town of Ravenel, South Carolina, a municipal corporation created under the laws of South Carolina ("Town").

**WHEREAS**, the legislature of the State of South Carolina has enacted the "South Carolina Local Government Development Agreement Act (the "Act") as set forth in Sections 631-10 through 6-31-160 of the South Carolina Code of Laws (1976), as amended; and,

**WHEREAS**, the Act recognizes that "The lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning." [Section 6-31-10 (B)(1)]; and,

**WHEREAS**, the Act also states: "Development agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the Development Agreement or in any way hinder, restrict, or prevent the development of the Property. Development Agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State." [Section 6-31-10 (B)(6)]; and,

**WHEREAS**, the Act further authorizes local governments, including Municipal governments, to enter Development Agreements with owners to accomplish these and other goals as set forth in Section 6-31-10 of the Act; and,

**WHEREAS**, Section 5-3-150(3) of the South Carolina Code of Laws (1976), as amended, provides for the annexation of any area or property which is contiguous to a city or town by filing a petition with the municipal governing body which is signed by one-hundred percent (100%) of the property owners owning at least one-hundred percent (100%) of the assessed valuation of the real property in the area requesting annexation; and

**WHEREAS**, Owner owns two tracts of land containing approximately 2,876.54 and 167.51 acres of land, bearing Charleston County Tax Map Numbers 3010000015 and 3010000010 respectively, generally known as the Tea Farm Tract contiguous to the Town of Ravenel, which includes approximately 209 acres of highland, a portion of which is already located in the Town and a portion of which is contiguous to the Town, and has filed a petition to annex the contiguous property into the Town and also proposes to develop, or cause to be developed, therein a mixture of single-family residential, townhomes, duplexes, commercial, and recreational uses; and,

**WHEREAS**, the Town of Ravenel seeks to protect and preserve the natural environment and to secure for its citizens quality, well planned and designed development and a stable and viable tax base; and,

**WHEREAS**, the Town of Ravenel has agreed to annex the portion of Property located in the unincorporated part of County into the Town and finds that the program of development proposed by Owner for this Property is consistent with the Town 's comprehensive land use plan and land use regulations and will further the health, safety, welfare and economic well-being of the Town and its residents and,

**WHEREAS**, the program for annexation and development of the Property presents an unprecedented opportunity to secure quality planning and growth to protect the environment and strengthen and revitalized the tax base; and,

**WHEREAS**, this Annexation and Development Agreement is being made and entered between Owner and the Town of Ravenel, under the terms of the Act, for the purpose of providing assurances to Owner that it may proceed with its development plan under the terms hereof, as hereinafter defined, consistent with the Tea Farm Tract PD Ordinance (as hereinafter defined), without encountering future changes in law which would materially affect the ability to develop under the plan, and for the purpose of providing important protection to the natural environment and long term financial stability and a viable tax base, and for the purpose of providing certain funding and funding sources to assist in meeting the public service and public infrastructure needs associated with the development authorized hereunder;

**NOW THEREFORE**, in consideration of the terms and conditions set forth herein, and other good and valuable consideration, including the potential economic benefits to both the Town of Ravenel and Owner by entering this Agreement, and to encourage well planned development by Owner, the receipt and sufficiency of such consideration being hereby acknowledged, the Town of Ravenel and Owner hereby agree as follows:

**1. INCORPORATION.** The above recitals are hereby incorporated into this Agreement, together with the South Carolina General Assembly findings as set forth under Section 6-31-10(B) of the Act.

**2. DEFINITIONS.** As used herein, the following terms mean:

**"Act"** means the South Carolina Local Government Development Agreement Act, as codified in Sections 6-31-10 through 6-31-160 of the Code of Laws of South Carolina (1976), as amended; incorporated herein by reference.

**"Agreement"** shall mean this Development Agreement as amended by the Town of Ravenel and Developer in writing from time to time.

**"Association"** shall mean one (1) or more property owners' association established to maintain portions of the Property.

**"County"** shall mean Charleston County, South Carolina.

**"Developer"** means Owner and all successors in title or lessees of the Owner who undertake Development of the Property who receive by transfer in writing from the Owner portions of the Development Rights.

**"Development"** means the development of portions of the Property as contemplated in the Zoning Regulations.

**"Development Rights"** means the rights of the Owner or Developers in accordance with the Zoning Regulations and this Development Agreement.

**"Development Summary Table"** means the table, maintained by the Owner and the Town, detailing the number of units and/or square footage of development permitted to date, and the number of units and/or square footage remaining.

**"ERU"** shall mean an "equivalent residential unit" of three hundred (300) gallons per day (GPD) of sewer capacity.

**"GPD"** shall have the meaning set forth in Section 10.3.

**"Owner"** means McLeod Lumber Co., Inc., a South Carolina corporation, its corporate successors and any assignee, whereby such interest is assigned in writing, but specifically excluding retail purchasers of completed residential units or completed commercial or retail space.

**"PD Property"** has that meaning set forth in Section 9.2.

**"Residual Property"** has that meaning set forth in Section 9.3.

**"Tea Farm Tract" or "Property"** means all of that certain tract of land described on Exhibit A, as may be amended with the Agreement of the Town of Ravenel and Owner.

**"Tea Farm Tract PD Ordinance"** means the Planned Development District Ordinance for a portion of the Property to be submitted by the Owner for approval by the Town as provided herein.

**"Term"** means the term of this Agreement as set forth in Section 3 hereof.

**"Town of Ravenel" or "Town"** means the Town of Ravenel, South Carolina.

**"Town Parcel"** has the meaning set forth in Section 11.1.

**"Zoning Regulations"** means the Tea Farm Tract PD Ordinance establishing a Planned Development District for the Property and all the attachments thereto and all narratives, applications, and site development standards thereof, once the same has been submitted to and approved by the Town, this Development Agreement, the Ravenel Zoning Ordinance 2020 as

amended through the date of this Agreement, and applicable existing building, housing, electrical, plumbing, gas and safety codes of the Town, as the provisions thereof may be clarified or modified by the terms of the Tea Farm Tract PD Ordinance or as permitted in this Agreement.

**3. TERM.**

3.1 The term of this Agreement shall commence on the date this Agreement is executed by the Town and Owner and terminate five (5) years thereafter.

3.2 Notwithstanding the foregoing or anything to the contrary in this Agreement, to the extent permitted by law, the Town and Owner hereby agree that the term of this Agreement may be extended as follows:

3.2.2 The Owner shall have the unilateral right to extend the initial term of this Agreement for twelve (12) months upon delivery of written notice of such extension to the Town no later than one hundred eighty (180) days prior to the expiration of the initial five (5) year term; and

3.2.3 Upon mutual agreement among the Town, the Owner and/or any Developer, the term of this Agreement may be extended beyond the initial term for two successive five (5) year periods. Failing mutual written agreement by all parties to extend, this Agreement shall terminate.

**4. DEVELOPMENT OF THE PROPERTY.** The Property shall be developed in accordance with the Zoning Regulations, including this Agreement. All costs charged by or to the Town for reviews required by the Town shall be paid by the Owner or Developer or other party applying for such review as generally charged throughout the Town for plan review. The Town shall, throughout the Term, maintain or cause to be maintained a procedure for the processing of reviews as contemplated by the Zoning Regulations and this Agreement.

**5. CHANGES TO ZONING REGULATIONS.** Acknowledging that the Town may amend the Zoning Regulations with respect to other property, the Zoning Regulations as they relate to the Property subject to this Agreement shall not be amended or modified during the Term without the express written consent of the Owner except in accordance with the procedures and provisions of Section 6-31-80(B) of the Act, which Owner shall have the right to challenge. Owner does, for itself and its successors and assigns, including Developers and notwithstanding the Zoning Regulations, agree to be bound by the following:

5.1 The Owner shall be required to notify the Town, in writing, as and when Development Rights are transferred to any other party. Such information shall include the identity and address of the acquiring party, a proper contact person, the location and number of acres of the Property transferred, and the number of residential units and/or commercial acreage, as applicable, subject to the transfer. Developers transferring Development Rights to any other party shall be subject to this requirement of notification, and any entity acquiring Development Rights hereunder shall be required to file with the Town an acknowledgment of this Agreement and a commitment to

be bound by it. In conjunction with any such transfer, the Owner or Developer shall provide the Town with a current Development Summary Table.

5.2 The Owners and Developers, and their respective heirs, successors and assigns agree that all Development must be served by potable water and sewer prior to occupancy, except as otherwise provided herein for temporary use (temporary being one year or less). Septic tanks and/or wells may be allowed with the permission of the Town where there is a specific finding by the Town that such use for specific portions of the Property will comply with the overall environmental standards.

5.3 No Master Plan for any portion of the Property shall be submitted for processing, with the exception of the platting of road sections.

**6. DEVELOPMENT SCHEDULE.** The Property shall be developed in accordance with the development schedule, attached as **Exhibit B**, or as may be amended by Owner or Developer(s) in the future to reflect actual market absorption. Pursuant to the Act, the failure of the Owner and any Developer to meet the initial development schedule shall not, in and of itself, constitute a material breach of this Agreement. In such event, the failure to meet the development schedule shall be judged by the totality of circumstances, including but not limited to the Owners and Developer(s) good faith efforts to attain compliance with the development schedule. These schedules are planning and forecasting tools only, and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace if market conditions support a faster pace. The fact that actual development may take place at a different pace, based on future market forces, is expected and shall not be considered a default hereunder. Development activity may occur faster or slower than the forecast schedule, as a matter of right, depending upon market conditions. Furthermore, periodic adjustments to the development schedule which may be submitted unilaterally by Owner and Developers in the future, shall not be considered a material amendment or breach of the Agreement.

**7. DENSITY.** Single-family residential, multi-family residential, commercial, and recreational development on the Property shall be the densities and uses as set forth in the Tea Farm Tract PD Ordinance and the Zoning Regulations, which are incorporated herein by reference, and set forth on **Exhibit C**. For avoidance of doubt, the density and uses for the Town Parcel shall be as set forth on **Exhibit C**. The Owner shall have the right to sell or transfer density units (as described above) to Developers, and require that unused density units revert from Developers to the Owner.

**8. RESTRICTED ACCESS.** The Owner and/or each Developer shall have the right (but not the obligation) to create restricted access communities within the Property as long as such limited access does not adversely affect in any material respect adjacent traffic patterns located on public rights-of-way.

**9. ANNEXATION AND ZONING.**

9.1 Owner has filed a Petition for Annexation of the portion of Property located in the unincorporated part of County into the Town, and the Town has initiated and diligently pursued the process to accomplish the annexation in accordance with law.



9.2 Owner has submitted to the Town a proposed Planned Development District ordinance for a portion of the Property containing approximately 396 total acres (the “PD Property”), approximately 209 of which are highland, referred to herein as the “Tea Farm Tract PD Ordinance”, and the Tea Farm Tract PD Ordinance will be approved by the Town contemporaneously with this Agreement. The Town shall not require provisions in the Tea Farm Tract Ordinance that are in conflict with the terms of this Agreement. The portion of the Property that contains the PD Property is identified on Exhibit A.

9.3 The remainder of the Property exclusive of the PD Property (the “Residual Property”) shall be classified by the Town as being zoned in the Agricultural Residential District (AR). Hunting shall be a permitted use on the Residential Property, and no special exception shall be required for hunting to be a permitted use. However, no hunting shall be permitted within one thousand (1,000) feet from a residential area.

9.4 Owner and Developers, with the approval of Owner, shall have vested rights to undertake Development of any or all of the Property in accordance with the Zoning Regulations, as defined herein and modified hereby, and as may be modified in the future pursuant to the terms of this Agreement for the entirety of the Term. Subject to the provisions of Section 9.3, future enactments of, or changes or amendments to, the Town ordinances, including zoning or development standards ordinances, which conflict with the Zoning Regulations shall not apply to the Property unless the procedures and provisions of Section 6-31-80 (B) are followed, which Owner shall have the right to challenge. Notwithstanding the above, the Property will be subject to then current fire safety standards and state and/or federal environmental guidelines standards of general application.

9.5 The parties specifically acknowledge that this Agreement shall not prohibit the application of any present or future changes to the International Residential Code (the “IRC”) building codes, housing codes uniformly applied throughout the Town, changes to the National Electric Code, Uniform Plumbing Code, gas or other recognized state or federal building codes, building, housing, electrical, plumbing, gas or other standard codes, or any ad valorem tax of general application throughout the Town, found by the Town Council to be necessary to protect the health, safety and welfare of the citizens of the Town.

**10. INFRASTRUCTURE AND SERVICES.** The Town and Owner recognize that the majority of the direct costs associated with the Development of the Property will be borne by the Owner and Developers, and many other necessary services will be provided by other governmental or quasi-governmental entities, and not by the Town. For clarification, the parties make specific note of and acknowledge the following:

10.1 Roads.

10.1.1 Private Roads. All private roads within the Property, if any, shall be constructed by the Owner, Developer or other parties and maintained by such party(ies) and/or Association(s), or dedicated for maintenance to other appropriate entities. Owner shall have the right to locate and relocate all private roads within the Property in accordance with the Zoning Regulations. Except as provided in this Agreement, the

Town will not be responsible for the construction of any private roads within the Property, unless the Town specifically agrees to do so in the future.

10.1.2 Public Roads. All public roads outside the Property that serve the Property are under the jurisdiction of the State of South Carolina regarding access, construction, improvements and maintenance. Owner acknowledges that it must comply with all applicable state statutes and rules and regulations of the South Carolina Department of Transportation or its successor regarding access and use of such public roads. Though future public roads may serve the Property, the Town shall not construct any roads within the PD Property. However, the Town shall accept the dedication of any private roads constructed within the PD Property as public roads only if such roads are constructed to satisfy the requirements of Charleston County (collectively, "New Dedicated Roads"). Owner or Developer shall pay all inspection expenses to verify that the New Dedicated Roads satisfy Charleston County's requirements. Maintenance for New Dedicated Roads, whether dedicated to the Town or other governmental authority, may be funded through an ad valorem tax applied Town-wide, or such other mechanism as may be selected by the Town that is applied Town-wide. The parties agree that the Town may in its discretion transfer ownership and/or maintenance responsibility for New Dedicated Roads to Charleston County or to the South Carolina Department of Transportation, in the event the County or the State agrees to accept same.

10.2 Potable Water. Potable water is provided by Charleston Water System (CWS) pursuant to that certain Amended and Restated Retail Water Supply and Service Area Agreement dated June 11, 2019 between CWS and the Town (as may be amended or replaced, the "Water Supply Agreement"). If the Water Supply Agreement is amended or terminated, and in the event such amendment or termination results in the Town having the authority to grant water taps, then the Town shall ensure that sufficient water taps will be made available in order to fully service all portions of the PD Property.

10.3 Sewage Treatment and Disposal; Septic. Sewage treatment and disposal will be provided by the Town for the PD Property, however subject to certain functions performed by CWS pursuant to that certain Sewerage Agreement for Transportation and Treatment, billing and Collection dated May 5, 2006 between CWS and the Town (as may be amended or replaced, the "Sewer Supply Agreement"). Town shall ensure that no less than one hundred twenty thousand (120,000) gallons per day ("GPD") of sewer capacity will be made available for the residential portions of the of the PD Property and no less than twenty-four thousand (24,000) GPD of sewer capacity will be made available for the commercial portions of the PD Property, subject to payment of the Sewer Impact Fees (as defined hereinbelow). Developer will construct or cause to be constructed all related sewer infrastructure improvements within the boundaries of the PD Property that are required to connect into the Town's and/or CWS's sewer system, which infrastructure will be dedicated to the Town. Notwithstanding the foregoing or anything to the contrary in this Agreement, the Residual Property shall have the option of using septic tanks, and no owner of any portion of the Residual Property using a septic tank shall be required to tap into or pay any fees associated with the Town's and/or CWS's sewer system.

10.4 Police Services. Law enforcement services are currently provided by Charleston County. In the event the Town establishes a police department, the Town shall provide police protection services to the Property on the same basis as is provided to other similarly situated residents and businesses in the Town with the exception of restricted access communities, which may elect to provide in-house patrol services by security forces and/or constables and elect in writing to forego regular Town patrol functions.

10.5 Fire Services. Fire protection services are provided by St. Paul's Fire Department. In the event the Town establishes a fire department, the Town shall provide fire protection services to the Property on the same basis as is provided to other similarly situated residents and businesses in the Town.

10.6 Sanitation Services. The Town does not currently provide sanitation and trash collection services. In the event the Town provides sanitation and trash collection services in the future, the Town shall provide sanitation and trash collection services to the PD Property on the same basis as is provided to other similarly situated residents and businesses in the Town.

10.7 Emergency Medical Services (EMS). EMS services are provided by the County and are not the responsibility of the Town.

10.8 Drainage System.

10.8.1 All stormwater runoff, treatment and drainage system improvements within the Property will be designed in accordance with the South Carolina Stormwater Management and Sediment Reduction Act as regulated by the South Carolina Department of Environmental Control ("DHEC") and the regulations promulgated thereunder. All stormwater runoff, treatment and drainage system improvements for the Property shall be constructed by Owner or an Association. The Town will not be responsible for any construction or maintenance cost associated with the stormwater runoff, treatment and drainage system within the Property.

10.8.2 Protection of the quality in nearby waters and wetlands is a primary goal of the Town. The Owner shall be required to abide by all provisions of federal and state laws and regulations, including those established by the Department of Health and Environmental Control, the Office of Ocean and Coastal Resource Management, and their successors for the handling of stormwater. Further provisions regarding storm water are included within the PD for this Property. The Property will be subject to any future storm water regulations in the same manner as are applied Town-wide.

10.8.3 All drainage systems constructed within the Property shall be owned and maintained by one (1) or more Association(s) which may be established for various portions of the Property and the Town shall have no responsibility for the construction, operation or maintenance of such systems, except any portion of any storm drainage system which is expressly dedicated to and accepted by the Town. The Town shall have the right, but not the obligation, to enter upon any portion of the Property for the purpose of repairing or resolving any failure of maintenance or repair by any such

Association or any other party with respect to any storm drainage facility maintained by such Association or party, (i) in an emergency situation, without notice to such Association or party, and (ii) in all other circumstances, after giving notice to such Association or other party and failure of the same to promptly repair or resolve such situation. In the event the Town undertakes any such repair or resolution, such Association or other party shall pay to the Town all out-of-pocket costs and a reasonable fee for all internal staff and materials expenses incurred by the Town in connection therewith.

10.9 Underground Utilities. All water, sanitary sewer, irrigation, electricity, gas, cable television, telephone and other communication and information technology lines and other facilities shall be placed underground except: (i) those elements of such systems that from a practical standpoint should be above ground, and (ii) as otherwise approved by the Town.

10.10 No other Public Facilities Required. Except for dedication of utility facilities and roads to the extent provided herein, no other dedications or conveyances of lands for public facilities shall be required in connection with the development of the Property.

## **11. FEES / PARCEL DEDICATION.**

11.1 Owner shall donate to the Town a highland parcel from the commercial portion of the PD Property two (2) acres in size for the Town's municipal use (the "Town Parcel") within two (2) years after the date of this Agreement. The Owner and the Town shall use good faith efforts to mutually agree upon a location for the Town Parcel that will not unreasonably adversely impact the development of the PD Property. The deed conveying the Town Parcel shall contain the following: (a) a restrictive covenant limiting the use of the Town Parcel to municipal uses, and (b) a repurchase option providing that if the Town does not use the Town Parcel to provide municipal services within ten (10) years after the date of this Agreement, then the Owner shall have the right to repurchase the Town Parcel for \$250,000.00.

11.2 The Town shall charge impact fees for connecting into the sewer system, as described in the Sewer Supply Agreement ("Sewer Impact Fees") in exchange for the right to connect to the sewer system. The amount of the Sewer Impact Fees to be paid under this Agreement shall be that Town sewer impact fee rate on the date of this Development Agreement, which is \$2,600.00 per ERU. Notwithstanding the foregoing, in consideration of the Town Parcel being dedicated to the Town and the extension of the sewer system into the public rights-of-way within the PD Property, the Town agrees to provide to Owner and/or Developer a credit of Two Hundred Fifty Thousand and no/00 (\$250,000.00) against the aggregate amount of residential Sewer Impact Fees for the PD Property (the "Credit"). The Credit shall be applied on an annual basis against twenty-five percent (25%) of the total residential Sewer Impact Fees paid during that year, until the Credit is fully depleted.

11.3 Owner and/or Developer shall have the obligation to pay Sewer Impact Fees for at least fifty (50) ERUs each calendar year beginning in 2026; provided, however, that if the term of this Agreement is extended by the Owner and/or Developer pursuant to Section 3.2.2 herein, then such obligation shall not commence until calendar year 2027. Owner and/or Developer shall also have the right, but not the obligation, to pay more Sewer Impact Fees than the annual minimum requirement at any time during the term of this Agreement.

11.4 Except as provided in the Water Supply Agreement and the Sewer Supply Agreement (as amended), and except as further defined and set forth herein in this Section 11, the Town shall not charge, impose or assess any other fees related to infrastructure or services.

## **12. PERMITTING PROCEDURES.**

12.1 The Town agrees that the Owner and/or any Developer shall have the right to phase development. Property that is anticipated to use a minimum of fifty (50) ERUs shall be phased into development within the PD Property each calendar year, beginning no later than 2026; provided, however, that if the term of this Agreement is extended by the Owner and/or Developer pursuant to Section 3.2.2 herein, then such obligation shall not commence until calendar year 2027. For purposes of this Section 12.1, the term “phased into development” shall mean that the applicable property has been subdivided pursuant to an approved subdivision plat for purposes of development and marketing for sale.

12.2 The Town agrees to review all land use changes, land development applications, and plats in a reasonable manner in accordance with the Town Regulations as modified by the Zoning Regulations for this Property. Developer may submit these items for concurrent review with the County and other governmental authorities. The Town may give final approval to any submission, but will not grant authorization to record plats or begin development construction activities until all permitting agencies have completed their reviews.

12.3 Signage for the Property is governed by the provisions of the Zoning Regulations for this Property.

12.4 The parties acknowledge that architectural guidelines which are to be adopted are provided in the Zoning Regulations. Such guidelines must be reviewed and approved by the Town.

12.5 Roadways (public or private) may utilize swale drainage systems and are not required to have raised curb and gutter systems unless so mandated by the applicable Zoning Regulations. In addition, pedestrian and non-vehicular pathways or sidewalks shall be provided in order to provide interconnectivity between interior subdivisions, commercial or institutional areas and public gathering areas. Roadway cross sections will be designed, constructed and maintained to meet best management practice standards (imposed by regulatory agencies) for stormwater quality. Roadway cross sections will be reviewed at time of proposed construct of roadways based upon the engineering and planning standards set forth in the Tea Farm Tract PD Ordinance (or if not so set forth therein, as set forth in the applicable Town ordinances and regulations), subject to the approval of the Town. Sidewalks shall be required on roadways, both public and private, unless otherwise approved by the Town Administrator.

12.6 All plan review fees shall be consistent with the fees charged generally in the Town for projects of similar size and complexity.

12.7 Any cultural and/or historical structures and/or sites on the Property will be addressed through applicable federal and state regulations and the Zoning Regulations at the time of development.

**13. DEVELOPER ENTITLEMENTS.** The Town acknowledges that Developer is vested with the following items:

13.1 The zoning and densities for the Property set forth herein and in the Zoning Regulations, as modified, if applicable, by the Tea Farm Tract PD Ordinance for the PD Property.

13.2 On-site burning will be permitted within the Property upon obtaining applicable permits.

13.3 Town services shall be supplied to the Property in the same manner and to the same extent as provided to other properties within the Town, subject to the limitations (if any) of Section 10 above.

**14. COMPLIANCE REVIEWS.** Owner and all Developers shall meet with the Town, or its designee, at least once, per year, during the Term to review Development completed in the prior year and the Development anticipated to be commenced or completed in the ensuing year. The Owner and all Developers shall provide such information as may reasonably be requested by the Town, to include without limitation acreage of the Property sold in the prior year, acreage of the Property under contract, the number of certificates of occupancy issued in the prior year, and the number anticipated to be issued in the ensuing year, Development Rights transferred in the prior year, and anticipated to be transferred in the ensuing year. The Owner and all Developers shall be required to compile this information within a reasonable time after written request by the Town.

**15. DEFAULTS.**

15.1 The failure of the Owner, Developer or the Town to comply with the terms of this Agreement not cured within thirty (30) days after written notice from the non-defaulting party to the defaulting party (as such time period may be extended with regard to non-monetary breaches or a reasonable period of time based on the circumstances, provided such defaulting party commences to cure such breach within such thirty (30) day period and is proceeding diligently and expeditiously to complete such cure) shall constitute a default, entitling the non-defaulting party to pursue such remedies as deemed appropriate, including specific performance; provided however no termination of this Agreement may be declared by the Town absent its according the Owner and any relevant Developer the notice, hearing and opportunity to cure in accordance with the Act; and provided any such termination shall be limited to the portion of the Property in default, and provided further that nothing herein shall be deemed or construed to preclude the Town or its designee from issuing stop work orders or voiding permits issued for Development when such Development contravenes the provisions of the Zoning Regulations or this Agreement. A default of the Owner shall not constitute a default by Developers, and default by Developers shall not constitute a default by the Owner. The parties acknowledge that individual residents and owners

of completed buildings within the Property shall not be obligated for the obligations of the Owner or Developer set forth in this Agreement.

15.2 Notwithstanding the foregoing or anything to the contrary in this Agreement, the parties agree that the Town's sole and exclusive remedy for any default pursuant to Section 12.1 of this Agreement (a "Phasing Default") shall be to terminate this Agreement, upon which termination all rights and obligations of the parties under this Agreement shall cease, and the Town hereby expressly waives any and all other remedies it may otherwise have, either at law or in equity, resulting from or arising from a Phasing Default.

15.3 Notwithstanding anything to the contrary herein, in no event shall any party to this Agreement be liable, nor shall any action be brought, for consequential, incidental, exemplary or punitive damages.

## **16. MODIFICATION OF AGREEMENT.**

16.1 This Agreement may be modified or amended only by the written agreement of the Town and the Owner; such written agreement may be by resolution or ordinance at the Town's sole discretion. No statement, action or agreement hereafter made shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

16.2 This Agreement may be modified or amended as to a portion of the Property only by the written agreement of the Town and the Owner of said portion of the Property. No statement, action or agreement hereafter made shall be effective to change, amend, waive, modify, discharge, terminate, or effect an abandonment of this Agreement in whole or in part unless such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

16.3 Because this Agreement constitutes the plan for a Planned Development District under the zoning ordinance, minor modifications to a site plan or to development provisions may be made without a public hearing or amendment to applicable ordinances. 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, and such approval or consent shall be in writing and signed by the affected parties. Wherever said consent or approval is required, the same shall not be unreasonably withheld.

16.4 The master plans are not intended to be rigid, exact site plans for future development. The location of roads, buildings, recreational amenities and other elements may vary at the time of permit applications when more specific designs are available, as long as the maximum densities set herein and the general concept of environmentally sensitive residential developments suggested by the master plans are followed and respected.

**17. NOTICES.** Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by (i) personal delivery or by independent courier service evidenced by written receipt, (ii) by facsimile evidenced by return facsimile acknowledgement receipt, or by mail on the third (3rd) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, return receipt requested addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications shall be addressed:

To the Town:           Town of Ravenel  
Attn: Town/Planning & Zoning Administrator  
5962 Highway 165, Suite 100  
Ravenel, SC 29470

With a copy to:       William B. Harvey, III  
Harvey & Battey, P.A.  
Post Office Drawer 1107  
Beaufort, South Carolina 29901

To the Owner:         McLeod Lumber Co., Inc.  
Attn: William McLeod Rhodes  
1820 Savannah Highway, Suite F-2  
Charleston, SC 29407

With a copy to:       Nelson Mullins Riley & Scarborough, LLP  
Attn: Shawn R. Willis  
151 Meeting Street, Suite 600  
Charleston, SC 29401

**18. ENFORCEMENT.** Any party hereto shall have the right to enforce the terms, provisions and conditions of this Agreement (if not cured within the applicable cure period) by any remedies available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with said enforcement.

**19. GENERAL.**

19.1 Subsequent Laws. In the event state or federal laws or regulations are enacted after the execution of this Agreement or decisions are issued by a court of competent jurisdiction which prevent or preclude compliance with the Act or one or more provisions of this Agreement ("New Laws"), the provisions of this Agreement shall be modified or suspended as may be necessary to comply with such New Laws. Immediately after enactment of any such New Law, or court decision, a party designated by the Owners and Developer(s) and the Town shall meet and confer in good faith in order to agree upon such modification or suspension based on the effect



such New Law would have on the purposes and intent of this Agreement. During the time that these parties are conferring on such modification or suspension or challenging the New Laws, the Town may take reasonable action to comply with such New Laws. Should these parties be unable to agree to a modification or suspension, either may petition a court of competent jurisdiction for an appropriate modification or suspension of this Agreement. In addition, the Owner, Developers and the Town each shall have the right to challenge the N Law preventing compliance with the terms of this Agreement. In the event that such challenge successful, this Agreement shall remain unmodified and in full force and effect.

19.2 Estoppel Certificate. The Town, the Owner or any Developer may, at any time, and from time to time, deliver written notice to the other applicable party requesting such party to certify in writing:

19.2.1 that this Agreement is in full force and effect,

19.2.2 that this Agreement has not been amended or modified, or if so amended, identifying the amendments,

19.2.3 whether, to the knowledge of such party, the requesting party is in default or claimed default in the performance of its obligations under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and

19.2.4 whether, to the knowledge of such party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute a default and, if so, specifying each such event.

19.3 Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings among the Town and the Owner relative to the Property and its Development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

19.4 No Partnership or Joint Venture. Nothing in this Agreement shall be deemed to create a partnership or joint venture between the Town, the Owner or any Developer or to render such party liable in any manner for the debts or obligations of another party.

19.5 Exhibits. All exhibits attached hereto and/or referred to in this Agreement are incorporated herein as though set forth in full.

19.6 Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

19.7 Assignment. Subject to the notification provisions hereof, Owner may assign its rights and responsibilities hereunder to a subsidiary or sister company, or subsequent land owners and Developers.

19.8 Governing Law. This Agreement shall be governed by the laws of the State of South Carolina.

19.9 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

19.10 Agreement to Cooperate. 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; provided, however, each party shall retain the right to pursue its own independent legal defense.

19.11 Eminent Domain. Nothing contained in this Agreement shall limit, impair or restrict the Town's right and power of eminent domain under the laws of the State of South Carolina.

19.12 No Third Party Beneficiaries. The provisions of this Agreement may be enforced only by the Town, the Owner and Developers. No other persons shall have any rights hereunder.

19.13 Attorneys' Fees. If legal action is necessary to interpret this Agreement or to enforce a right or remedy of either party, the prevailing party shall be entitled to recover from the other party all expenses incurred in connection with such action, including without limitation reasonable attorney's fees based on standard hourly rates.

## **20. STATEMENT OF REQUIRED PROVISIONS.**

20.1 Specific Statements. The Act requires that a development agreement must include certain mandatory provisions, pursuant to Section 6-31-60 (A) of the Act. Although certain of these items are addressed elsewhere in this Agreement, the following required provisions are set forth for convenient reference.

20.1.1 Legal Description of Property and Legal and Equitable Owners. The legal description of the Property is set forth in **Exhibit A** attached hereto. The legal Owner of the Property is McLeod Lumber Co., Inc.

20.1.2 Duration of Agreement. The duration of this Agreement shall be as provided in Article 3.

20.1.3 Permitted Uses, Densities, Building Heights and Intensities. A complete listing and description of permitted uses, population densities, building intensities and heights, as well as other development-related standards, are contained in the Zoning Regulations, as supplemented by this Agreement.

20.1.4 Required Public Facilities. The utility services available to the Property are described generally above regarding water service, sewer service, cable and other telecommunication services, gas service, electrical services, telephone service and solid waste disposal. The mandatory procedures of the Zoning Regulations will ensure availability of roads and utilities to serve the residents on a timely basis.

20.1.5 Dedication of Land and Provisions to Protect Environmentally Sensitive Areas. All requirements relating to land transfers for public facilities are set forth in Article 10 above. The Zoning Regulations described above, and incorporated herein, contain numerous provisions for the protection of environmentally sensitive areas. All relevant State and Federal laws will be fully complied with, in addition to the provisions set forth in this Agreement.

20.1.6 Local Development Permits. The Development standards for the Property shall be as set forth in the Zoning Regulations. Specific permits must be obtained prior to commencing Development, consistent with the standards set forth in the Zoning Regulations. Building permits must be obtained under applicable law for any vertical construction, and appropriate permits must be obtained from the State of South Carolina (OCRM) and Army Corps of Engineers, when applicable, prior to any impact upon freshwater wetlands. It is specifically understood that the failure of this Agreement to address a particular permit, condition, term or restriction does not relieve the Owner, its successors and assign, of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions, unless otherwise provided hereunder.

20.1.7 Comprehensive Plan and Development Agreement. The Development permitted and proposed under the Zoning Regulations and permitted under this Agreement is consistent with the Comprehensive Plan and with current land use regulations of the Town, which include a Planned Development District for the Property.

20.1.8 Terms for Public Health, Safety and Welfare. The Ravenel Mayor and Town Council find that all issues relating to public health, safety and welfare have been adequately considered and appropriately dealt with under the terms of this Agreement, the Zoning Regulations and existing laws.

20.1.9 Historical Structures. Pursuant to Code Section 6-31-60(A)(9) of the Act, any cultural and/or historical structures and/or sites on the Property will be addressed through applicable federal and state regulations and the Zoning Regulations at the time of development, as stated in Article 12 of this Agreement.

**[Remainder of page intentionally left blank. Signature page to follow.]**



Signed and Seal and Delivered  
In the Presence of:

TOWN OF RAVENEL

[Signature]  
First Witness  
[Signature]  
Second Witness

By: [Signature]  
Stephen W. Tumbleston  
Mayor of Town of Ravenel

STATE OF SOUTH CAROLINA     )  
  )  
COUNTY OF CHARLESTON        )

I, Shawn R. Willis, a Notary Public for the State of South Carolina, do hereby certify that Stephen W. Tumbleston, as Mayor of the Town of Ravenel, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 6th day of October, 2021.

[Signature]  
Notary Public for South Carolina

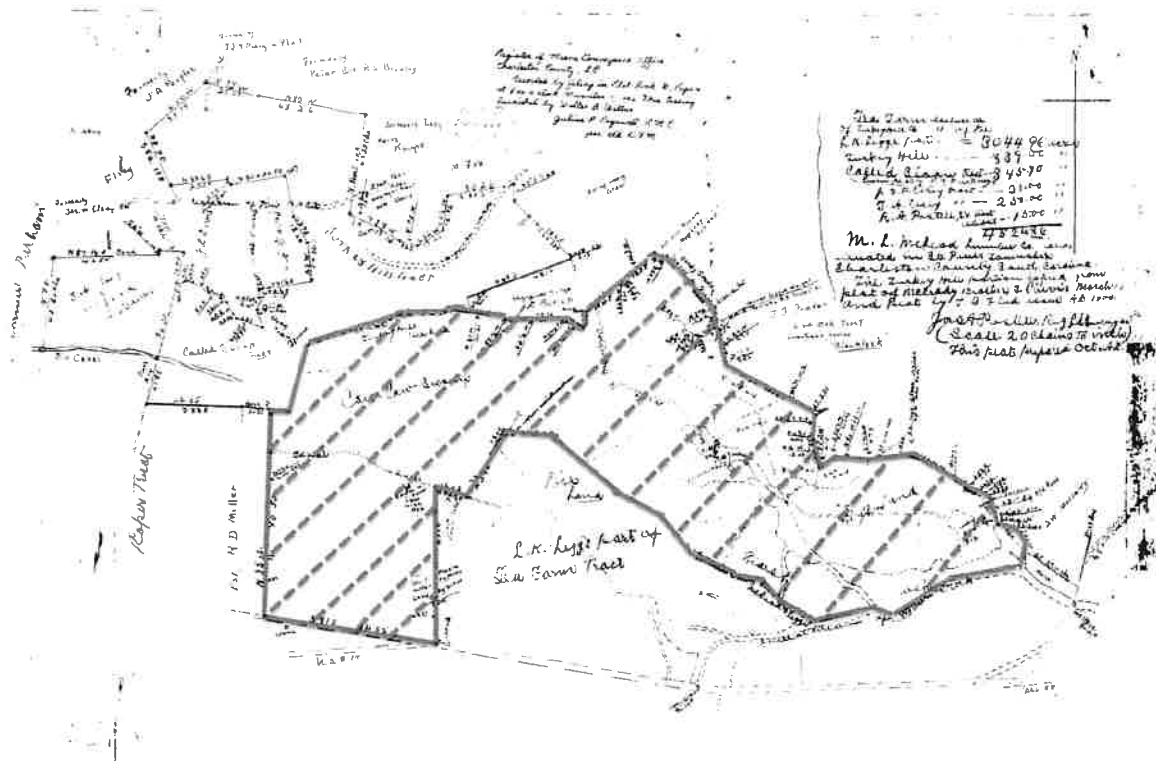
My Commission Expires: April 8, 2031

## EXHIBIT A

### Property Description Of Tea Farm Tract

#### 1. DESCRIPTION OF THE "PROPERTY"

All of those certain pieces, parcels or tracts of land described as the Tea Farm Tract (exclusive of the Turkey Hill Tract and the L.K. Legge Portion of the Tea Farm Tract) containing approximately 3,044.96 acres, and the R.A. Postell, Sr. Tract containing approximately 15.00 acres, on that certain plat prepared by J. Postell in October 1946 for M. L. McLeod Lumber Co. recorded on November 7, 1946 in Plat Book G at page 4 in the office of the Register of Deeds for Charleston County. Said property being designated as the cross-hatched area below:



#### LESS AND EXCEPT:

ALL that certain piece, parcel or tract of land situate, lying and being in St. Pauls Parish, Town of Ravenel, Charleston County, South Carolina, containing 16.00 acres, more or less, as shown on a plat thereof entitled "St. Pauls Parish, Town of Ravenel, Charleston County, S.C., Survey of a Portion of TMS 301-00-00-010, Containing 16.00 Acres Owned by McLeod Lumber Company, About to be Conveyed to the Charleston County School District", prepared by Lewis E. Seabrook, Civil Engineer and Land Surveyor, S.C. Reg. No. 09860, dated September 11, 2006, recorded in



## **2. DESCRIPTION OF THE "PD PROPERTY"**

All that certain piece, parcel or tract of land, lying, being and situate in Charleston County, South Carolina, containing 395.77 acres and designated as Tract 1 on that certain plat prepared for McLeod Lumber Co., Inc. entitled "SUBDIVISION PLAT OF A PORTION OF THE MCLEOD LUMBER CO. TRACT TO CREATE TRACT 1 CONTAINING 395.77 ACRES, LOCATED PARTIALLY IN THE TOWN OF RAVENEL AND PARTIALLY IN UNINCORPORATED CHARLESTON COUNTY, ST. PAULS PARISH, CHARLESTON COUNTY, SOUTH CAROLINA" prepared for McLeod Lumber Co., Inc. by Thomas & Hutton dated April 14, 2021 and to be recorded in the Office of the Register of Deeds for Charleston County.



## **EXHIBIT B**

### **Development Schedule**

Development of the PD Property is anticipated to occur over a five (5) to ten (10) year period, with the sequence and timing of development activity to be dictated largely by market conditions. The following is an estimated development schedule:

1. 2021-2023: Land planning, site civil design, permitting and commencement of construction of phase one of residential development.
2. 2022-2025: Homes sales and continued construction of phase one of residential development. Land planning, site civil design, permitting and commencement of construction of phase two of residential development.
3. 2024-2027: Homes sales of phase one of residential development. Homes sales and continued construction of phase two of residential development
4. 2025-2031: Neighborhood Commercial Center land planning, site civil design, permitting and construction.

As stated in the Development Agreement, Section VI, actual development may occur more rapidly or less rapidly, based on market conditions and final product mix.

## EXHIBIT C

### Land Uses and Densities

**1. PD Property (pursuant to Tea Farm Tract PD Ordinance):**

<b>Planning Areas and Land Use</b>	<b>Total Acres</b>	<b>Upland Acres</b>	<b>Wetland Acres</b>	<b>Max. DU's</b>	<b>Maximum Commercial SF</b>
Residential, Single Family	128	128	-	346	-
Residential, Attached	9	9	-	54(b)	-
Community Recreation	4	4	-	-	-
Neighborhood Commercial Center	14(a)	14(a)	-	-	128,000 sf (a)
Municipal Site	2	2	0		-
Wetland	187	-	187		
Upland Preserve	52	52			
<b>Total</b>	<b>396</b>	<b>209</b>	<b>187</b>	<b>400</b>	<b>128,000 sf (a)</b>

**FOOTNOTES:**

- (a) The PD Master Plan shall allow a minimum acreage for Neighborhood Commercial Center of 2 acres with 16,000 square feet or less of commercial space, and a maximum acreage and square footage of space shown in the table above
- (b) Attached residential units may be converted to Residential, Detached at a ratio of 1:1 (54 DU)

- 2. Residual Property:** Pursuant to applicable provisions in Zoning Regulations regarding the Agricultural Residential District zoning classification.
- 3. Town Parcel.** The Town Parcel shall be excluded from the density limitations of the Tea Farm Tract PD Ordinance. The permitted uses for the Town Parcel shall be: Government Offices/Facilities, Public Order and Safety, Police and Fire Protection Services.