

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (this “Agreement”) is made and entered into as of _____, 2020, by and between the CITY OF JACKSONVILLE, a Florida municipal corporation (the “City”), and ORTEGA PLACE, LLC, a Florida limited liability company (the “Company”), as follows:

RECITALS

WHEREAS, the Company is currently the owner of that certain parcel of real property located in Duval County, Florida, at 5469 110th Street, more particularly described as Lot 5, Block 29, ORTEGA FARMS, according to the map or plat thereof, recorded in Plat Book 3, Page(s) 79, Public Records of Duval County, Florida (the “Property”); and

WHEREAS, the Property is located within the RMD-A and RMD-C zoning districts under the City’s Zoning Code (the “Current Zoning”); and

WHEREAS, the Company has undertaken to develop the Property into a residential subdivision of single family detached homes (the “Subdivision”); and

WHEREAS, as initially proposed, the Subdivision contained single family lots, consistent with the Property’s Current Zoning (the “Initial Configuration”); and

WHEREAS, a question has arisen between the Company and the City regarding the Company’s entitlement to density based upon the application of Part 10 of the Zoning Code (“Part 10”) and corresponding policies in the City’s 2030 Comprehensive Plan (the “Comprehensive Plan”), and upon the location of the Property within Accident Potential Zone 2/II as described in the Comprehensive Plan and Part 10 (the “Entitlement Question”); and

WHEREAS, the Accident Potential Zone 2/II affecting the Property pertains to Naval Air Station Jacksonville (“NAS JAX”); and

WHEREAS, in consideration of the unique circumstances surrounding the development of the Subdivision and after consultation among the Company, the City and the Commanding Officer of NAS JAX, the latter through the installation's Community Planning and Liaison Officer, the Company and the City (each a "Party" and together the "Parties") have determined to resolve the Entitlement Question under the terms of this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF the foregoing Recitals, the mutual covenants set forth herein, and for other good and valuable consideration, the Parties agree as follows:

1. The Recitals set forth hereinabove form an integral part of this Agreement. In construing this Agreement, all resort to the Recitals shall be had to the extent necessary to give full effect to the manifest intent of the Parties expressed herein.

2. As used in this Agreement, the following terms shall have the meanings ascribed:

- (a) *Building* means a structure, either temporary or permanent, having a roof impervious to weather and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. The term *building* does not include any structure or portion thereof, the height of which does not equal or exceed 30 inches above the general ground level of the graded lot.
- (b) *Structure* means that which is built or constructed, an edifice of any kind or a piece of work artificially built up or composed of parts joined together in some definite manner. The term *structure* shall be construed as if followed by the words or part thereof and shall include buildings. The term *structure* does not include any structure or portion thereof, the height of which does not equal or exceed 30 inches above the general ground level of the graded lot.
- (c) *Coverage* means that percentage of Subdivision land area that is covered or occupied by buildings and structures, excluding roof eaves, awnings, and other shelters, tents, or coverings over unenclosed areas.
- (d) *Initial footprint* means the coverage of all buildings and structures constructed on a subdivision lot as authorized under the initial building permit issued by the City for the lot.

- (e) *End user* means the owner of a lot within a subdivision occupying a single family residence thereon.

3. The Company shall be entitled to develop the Property and the Subdivision under and subject to the following conditions:

- (a) The Subdivision may be developed into as many single family lots as are permitted in compliance with this Agreement and applicable City permitting requirements.
- (b) The total coverage by all buildings and structures within the Subdivision shall not exceed twenty percent of the total area of the Subdivision (the “20% Coverage Restriction”). By way of example and not limitation, if the total area of the Subdivision is 9.999 acres, the total coverage by all buildings and structures within the Subdivision shall not exceed 87,111.288 square feet of land area (9.999 x 43,560 x 0.2).
- (c) Prior to the recording of the Subdivision plat, the Company shall record in the public records of Duval County, Florida, the following:
 - (i) A restriction in favor of and enforceable by the City subjecting the Property to the 20% Coverage Restriction; and,
 - (ii) A restriction in favor of and enforceable by the City subjecting each lot within the Subdivision to the limitation that no building or structure may be added to the lot or to any building or structure on the lot beyond the initial footprint for the lot, and requiring that such restriction be stated on the face of each deed conveying a lot to the initial end user.
- (d) Each initial end user of a lot within the Subdivision, prior to purchasing the same, must execute an Airport Notice Zone Acknowledgement as required under Sec. 656.1005.2, Ordinance Code.

4. The City shall initiate and process administratively a site-specific text amendment to the Comprehensive Plan authorizing the development of the Property as specified in paragraph 3 above, subject to the 20% Coverage Restriction (the “Plan Amendment”). The City shall use reasonable efforts to bring about the adoption of the Plan Amendment in an expeditious manner.

5. The Company shall pay all costs of publishing notices required by law for the Plan Amendment.

6. This Agreement and the Plan Amendment resolve the Entitlement Question and authorize development of the Property in compliance with this Agreement and applicable City permitting requirements.

7. If the Plan Amendment has not been adopted and become final on or before March 15, 2020, then this Agreement shall be deemed null and void. For purposes of this paragraph, final means that the time for a third party challenge to the Plan Amendment has expired without a timely challenge, or if timely challenged, that the challenge has been denied and all appeals therefrom have been exhausted.

8. This Agreement shall inure to the benefit of the Company and its successors and assigns.

9. This Agreement shall be deemed effective as of the date and year first above-written.

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed on its behalf as of the date and year first above-written.

SIGNATURES ON THE FOLLOWING PAGES

“City”

CITY OF JACKSONVILLE, a Florida municipal corporation

By: _____
LENNY CURRY, MAYOR
CITY OF JACKSONVILLE
117 West Duval Street, Suite 400
Jacksonville, Florida 32202

Attest:

James McCain,
Corporation Secretary

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this ____ day of _____, 2020,
by _____.

Personally Known _____ OR Produced Identification _____.
Type of Identification Produced _____.

Signature of Notary Public

Form Approved
Office of General Counsel

By: _____

“Company”

ORTEGA PLACE, LLC

By: _____

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this ____ day of _____, 2020,
by _____.

Personally Known _____ OR Produced Identification _____.
Type of Identification Produced _____.

Signature of Notary Public