

OPTION AGREEMENT

This Option Agreement (this "Agreement") is made this ____ day of _____, 2020, by and between **Wake County**, a body politic and corporate body of the State of North Carolina ("Owner"), and **Lennar Carolinas, LLC**, a Delaware limited liability company, or its affiliates ("Buyer").

A. Grant of Option. In consideration of good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged by Owner and Buyer, Owner hereby grants to Buyer an exclusive option ("Option") for a period of twelve (12) months from the date hereof ("Option Period") to acquire from Owner non-exclusive, perpetual public road right of way, public drainage easement and public sanitary sewer easements and associated slope, landscaping and temporary construction easements for the installation of road improvements, storm drainage improvements and sewer facilities ("Easement Areas") over, across, upon and under a portion of the property located in Wake County, North Carolina owned by Owner ("Property") and more particularly described in the deeds recorded in Book 4803, Page 67 and Book 4914, Page 812, Wake County Registry ("Registry"). The purpose of this Option is to allow time for Buyer to secure development approvals from the Town of Holly Springs while finalizing and determining the necessary relocation of existing utilities located on the Property and the exact location of the Easement Areas anticipated to be conveyed hereunder as well as to allow time for Lennar, the Town of Holly Springs, Wake County, Duke Power and NCDOT to finalize the order of conveyance, deed language, consent agreements and any additional documentation as needed.

B. Exercise of Option and General Terms. The Option granted under this Agreement is given subject to the following terms and conditions:

1) Exercise of Option. If Buyer elects to exercise the Option, Buyer shall so notify Owner in writing within the Option Period, provided, however, Buyer shall not be entitled to exercise the Option unless and until:

- a. The existing power easement that encroaches within the Right of Way and Easement Area (as defined below) has been relocated pursuant to an easement modification agreement acceptable to Owner and Duke Energy providing for the relocation of power poles that conflict with the proposed Easement Areas, the cost of which shall be borne by Buyer.
- b. That the Town of Holly Springs and/or NC Department of Transportation and the Owner have mutually agreed upon a Deed of Right of Way for the expansion of the public road right of way.
- c. Final site plan and engineered construction plans approved by the Town of Holly Springs depicting with specificity the location of the proposed Easement Areas requested to be conveyed by Owner. As used herein, final engineered construction plans mean the final engineered construction plans that have been approved by the Town of Holly Springs for public bidding purposes, it being acknowledged by Buyer and Owner that engineered construction plans will not be signed by the Town of Holly Springs until all easements for the improvements to be installed pursuant to such engineered construction plans have been acquired by Buyer.
- d. An updated appraisal performed by a certified MAI Appraiser, licensed in North Carolina, indicating the fair market value of the proposed Easement Areas to be conveyed.
- e. Approval by the Wake County Board of Commissioners of a conveyance of a portion of the Property to Buyer for the proposed Easements Areas and a determination and acceptance of the fair market value to be paid by Buyer in consideration thereof.

Owner shall have absolute discretion in negotiating and approving any requested Easement Areas that are anticipated to be conveyed in association with this Agreement and is under no obligation to Buyer or any other intended easement holder to approve conveyances or deeds of easement that fail to meet Owner's standards or legal requirements for said conveyances under North Carolina law.

1. **Conveyance Instruments and Payment.** Within ten (10) business days after approval by the Wake County Board of Commissioner of the proposed Easement Areas and acceptance of the fair market value to be paid by Buyer for the same, Buyer shall deliver to Owner conveyance instruments (“**Conveyance Instruments**”) which grant to the applicable governmental authorities for public use perpetual road right of way, public drainage and public sanitary sewer easements and associated slope, landscaping and temporary construction easements for the installation of road improvements, drainage improvements and sewer facilities over, across, upon and under the areas shown on the survey map attached hereto as **Exhibit A**. In consideration for the conveyance of a public road right of way and grant of public drainage easement and public sewer easements and associated slope, landscaping, and temporary construction easements, after delivery of the Conveyance Instruments, it is estimated that Buyer shall pay to Owner an amount equal to \$143,600.00 for the easements above-described. The actual amount to be paid to Owner shall be fair market value in accordance with an appraisal of the property and easement areas performed by an MAI licensed, NC Real Estate Appraiser in accordance with Section (B)(1), above. Owner shall also execute and deliver any tax reporting forms required by Buyer in connection with such payment.

C. **Rights During the Option Period and after if the Option is Exercised.** During the Option Period and thereafter if the Option is exercised and subject to all conditions set forth in this Agreement including approval by the Wake County Board of Commissioners, Owner hereby grants to Buyer an irrevocable license coupled with an interest for such purpose to enter the Property to (i) inspect and to perform any and all reasonable investigations relating to the Property, including, without limitation, a survey of the portion of the Property which will be subject to the Conveyance Instruments (such area being the “**Right of Way and Easement Area**”) and (ii) subject to approval by the Wake County Board of Commissioner, to install the road, drainage and utility facilities and slope and landscaping improvements in accordance with Buyer’s construction plans for such improvements, as approved by the applicable governmental authorities. In the performance of its inspections, investigations, and installations of the road, drainage and utility facilities and slope and landscaping improvements in accordance with Buyer’s construction plans for such improvements, Buyer, its employees, contractors, and agents, shall not unreasonably disturb Owner in its use or occupancy of the Property. To this end, Buyer shall use its commercially reasonable efforts to notify Owner prior to the commencement of any inspections and investigations on the Property and prior to the commencement of the installation of improvements within the Right of Way and Easement. Buyer shall further use its commercially reasonable efforts to limit access and work within the Right of Way and Easement Area to the hours of 8:00 AM ET to 5:30 PM ET and to provide at least one point of access to the Property during construction activities within the Right of Way and Easement Area. In addition, Buyer shall maintain, and supply Owner with evidence of, general liability insurance coverage in an amount not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate before Buyer conducts any activities on the Property, which insurance coverage shall name Owner as an additional insured, as its interests may appear, and which such insurance coverages shall be maintained so long as Buyer shall have any indemnification obligations under this Agreement. Specifically, naming Wake County as an additional insured is not intended by Wake County to constitute a waiver of any applicable statutory or common law immunities that Wake County may have under applicable law including but not limited to governmental or sovereign immunity. If Buyer exercises the Option, upon completion of the installation of the improvements, Buyer shall restore and revegetate the areas within the permanent and temporary easements by re-grading, mulching, and re-seeding such areas in accordance with generally accepted landscaping and engineering practices. Buyer shall provide notice to Owner upon its completion of such restoration and revegetation work, and Owner and Buyer shall schedule an inspection of the Property. Owner shall have the right to have any professionals of its choosing present during such inspections. To the extent additional restoration or revegetation work is reasonably identified by Owner during such inspection, Buyer shall complete such restoration and revegetation work within a reasonable period, not to exceed 30 days after the inspection. Buyer shall defend (with counsel of Owner’s choosing and at Buyer’s expense), indemnify, and hold harmless Owner, its lenders, agents, contractors, employees, tenants, occupants, successors, and assigns, from and against any and all damages, injuries, mechanics’ liens, liabilities, losses, demands, actions, interest, penalties, causes of action, claims, costs and expenses (including reasonable attorneys’ fees and appeals) to the extent caused by entry onto the Property or activity on the Property by Buyer, its contractors, and/or consultants, and the employees and agents of any of them (collectively, “Damages”), whether the same result from inspections, investigations, installations, or otherwise; except to the extent such Damages are caused by the Owner, its agents or consultants acting under the direction of Owner. The survey of the Right of Way and Easement Area prepared by Buyer shall be drawn from the plans attached hereto as **Exhibit A**, subject to minor variations or changes required by the governmental authorities during the engineering/construction plan approval

process. There shall be no material deviation, enlargement, or change in location of the Right of Way and Easement Area when compared to the Right of Way and Easement Area as shown on Exhibit A.

D. MISCELLANEOUS. It is further agreed as follows:

(a) Notice. All notices, demands, requests, consents, approvals or other communications (the “Notices”) required or permitted to be given by this Agreement shall be in writing and shall be either personally delivered, or sent by Federal Express or other regularly scheduled overnight courier or sent by United States mail, registered or certified with return receipt requested, properly addressed and with the full postage prepaid or sent by electronic mail. Said Notices shall be deemed received and effective on the earlier of (i) the date actually received (which, in the case of Notices sent by overnight courier, shall be deemed to be the day following delivery of such Notices to such overnight courier and in the case of electronic mail, shall be deemed to be upon transmission), or (ii) three (3) business days after being placed in the United States Mail as aforesaid. Any Notice may be given by an attorney representing the party giving such Notice. Said Notices shall be sent to the parties hereto at the following addresses, unless otherwise notified in writing:

To Owner: Wake County
Attention: _____

Email: _____

To Buyer: Lennar Carolinas, LLC
Attention: Stephen Dorn
1100 Perimeter Park Drive, Suite 112
Morrisville NC 27560
Email: stephen.dorn@lennar.com

with a copy to: Michael F. King, Esq.
K&L Gates LLP
4350 Lassiter at North Hills Avenue, Suite 300
Raleigh, North Carolina 27609
Telephone No.: (919) 743-7310
Email: mike.king@klgates.com

(b) Default/Remedies. In the event Owner fails to perform its obligations under this Agreement, Buyer shall be entitled to exercise any rights at law or in equity, including, without limitation, maintaining an action for specific performance, to enforce the provisions of this Agreement. In the event Buyer fails to perform its obligations under this Agreement, Owner shall be entitled to pursue an action at law for its actual damages as its sole and exclusive remedy. Damages at law shall be limited to actual damages, and in no event shall either party be liable to the other under this Agreement for other damages at law, including, without limitation, lost profits, special, consequential or punitive damages.

(c) Additional Terms. This Agreement, together with all exhibits hereto and documents referred to herein, constitutes the entire understanding among the parties hereto, and supersedes any and all prior agreements, arrangements and understandings among the parties hereto. This Agreement may not be amended, modified, changed or supplemented, nor may any obligations hereunder be waived, except by a writing signed by the party to be charged or by its agent duly authorized in writing or as otherwise permitted herein. The provisions and covenants contained herein shall inure to and be binding upon the heirs, representatives, successors and assigns of the parties hereto. Owner represents and warrants to Buyer that it owns fee simple title to the Property. If any date set forth in this Agreement shall fall on, or any time period set forth in this Agreement shall expire on, a day which is a Saturday, Sunday, federal or state holiday, or other non-business day, such date shall automatically be extended to, and the expiration of such time period shall automatically be extended to, the next day which is not a Saturday, Sunday, federal or state holiday or other non-business day. This Agreement and each and every related document are to be governed by, and construed in accordance with, the laws of the State of North Carolina. No claim of waiver, consent, or acquiescence with respect to any provision of this Agreement shall be made against any

party hereto except on the basis of a written instrument executed by or on behalf of such party. However, the party for whose unilateral benefit a condition is herein inserted shall have the right to waive such condition. This Agreement may be executed via facsimile or electronic mail and in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute but one and the same instrument.

(d) Recording. Owner shall, at Buyer's request, execute and deliver to Buyer a memorandum of this Agreement in the form attached hereto as Exhibit B as to permit its recordation in the Registry.

IN WITNESS WHEREOF, Owner and Buyer have caused this Agreement to be duly executed, effective as of the day and year first written above.

OWNER:

WAKE COUNTY, NC

A body politic and corporate

(Corporate Seal)

By: _____
Greg D. Ford, Chairman
Wake County Board of Commissioners

ATTESTED BY:

Yvonne C. Gilyard
Deputy Clerk to the Board

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____ a Notary Public of the County and State aforesaid, certify that Yvonne C. Gilyard, personally appeared before me this day and acknowledged that she is the Deputy Clerk of the Wake County Board of Commissioners, and that by authority duly given, the foregoing instrument was signed in its name by its Chairman of the Wake County Board of Commissioners, sealed with its corporate seal and attested by Yvonne C. Gilyard as its Deputy Clerk.

Witness my hand and official stamp or seal, this _____ day of _____, 2020.

Notary Public

Notary Printed or Typed Name

(Seal)

My Commission Expires: _____

BUYER:

Lennar Carolinas, LLC

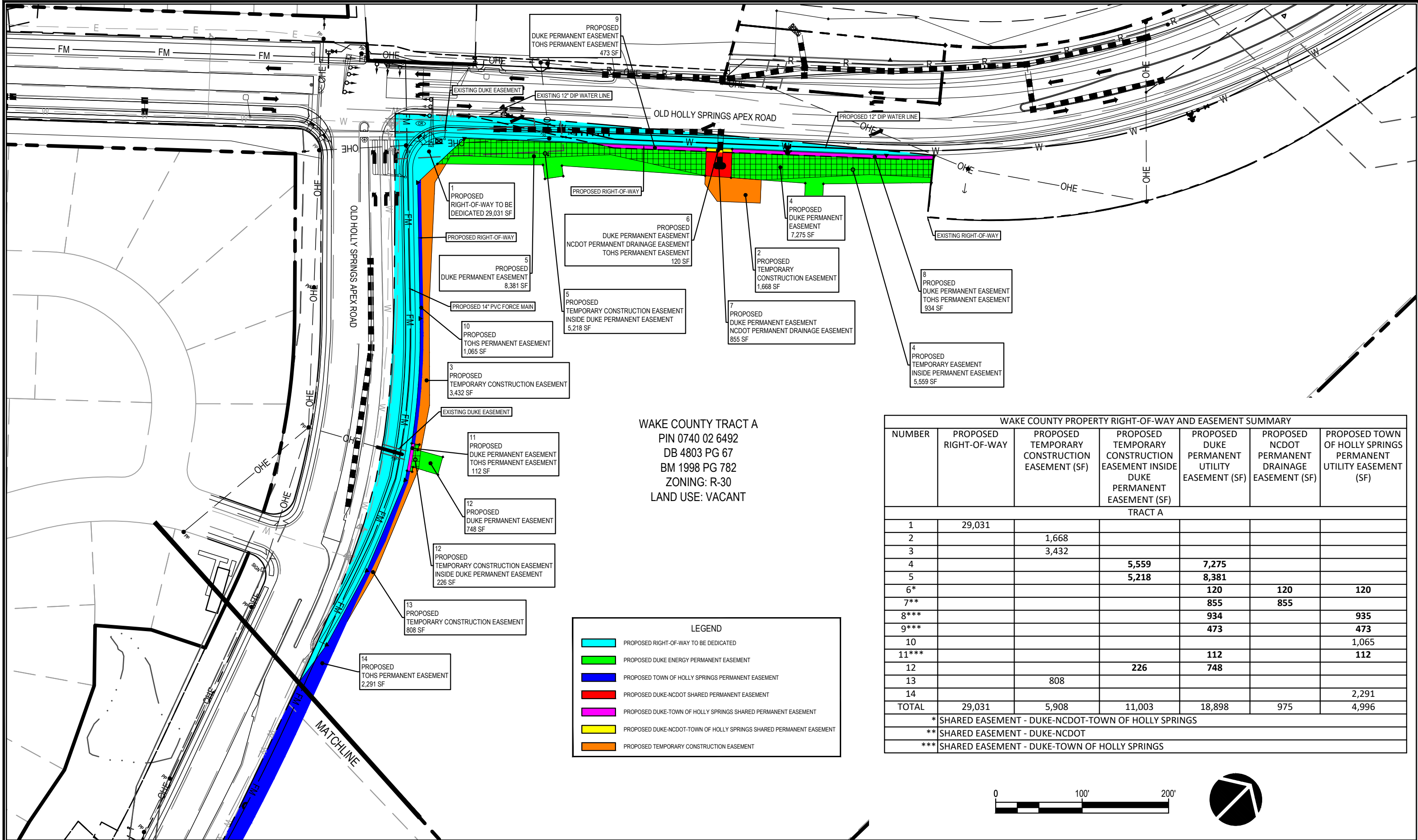
By: _____

Name: _____

Title: _____

EXHIBIT A

K:\19\19-0370\190372\10-Lenior-Carolina Springs Master Plan\CAD\Exhibits\Easements\Wake County Property Easement Exhibit.dwg - Tuesday, October 20, 2020 10:33:01 AM - MCCLURE, DAVID

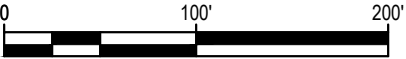


WAKE COUNTY TRACT A
PIN 0740 02 6492
DB 4803 PG 67
BM 1998 PG 782
ZONING: R-30
LAND USE: VACANT

LEGEND

- PROPOSED RIGHT-OF-WAY TO BE DEDICATED
- PROPOSED DUKE ENERGY PERMANENT EASEMENT
- PROPOSED TOWN OF HOLLY SPRINGS PERMANENT EASEMENT
- PROPOSED DUKE-NCDOT SHARED PERMANENT EASEMENT
- PROPOSED DUKE-TOWN OF HOLLY SPRINGS SHARED PERMANENT EASEMENT
- PROPOSED DUKE-NCDOT-TOWN OF HOLLY SPRINGS SHARED PERMANENT EASEMENT
- PROPOSED TEMPORARY CONSTRUCTION EASEMENT

WAKE COUNTY PROPERTY RIGHT-OF-WAY AND EASEMENT SUMMARY						
NUMBER	PROPOSED RIGHT-OF-WAY	PROPOSED TEMPORARY CONSTRUCTION EASEMENT (SF)	PROPOSED TEMPORARY CONSTRUCTION EASEMENT INSIDE DUKE PERMANENT EASEMENT (SF)	PROPOSED DUKE PERMANENT UTILITY EASEMENT (SF)	PROPOSED NCDOT PERMANENT DRAINAGE EASEMENT (SF)	PROPOSED TOWN OF HOLLY SPRINGS PERMANENT UTILITY EASEMENT (SF)
TRACT A						
1	29,031					
2		1,668				
3		3,432				
4			5,559	7,275		
5			5,218	8,381		
6*				120	120	120
7**				855	855	
8***				934		935
9***				473		473
10						1,065
11***				112		112
12			226	748		
13		808				
14						2,291
TOTAL	29,031	5,908	11,003	18,898	975	4,996
* SHARED EASEMENT - DUKE-NCDOT-TOWN OF HOLLY SPRINGS						
** SHARED EASEMENT - DUKE-NCDOT						
*** SHARED EASEMENT - DUKE-TOWN OF HOLLY SPRINGS						



No.	Revision	Date	By	Designer	WR	Scale	AS NOTED
				Drawn By	WR	Date	2020.10.20
				Checked By	WR	Job No.	02190372.10

CAROLINA SPRINGS

TOWN OF HOLLY SPRINGS

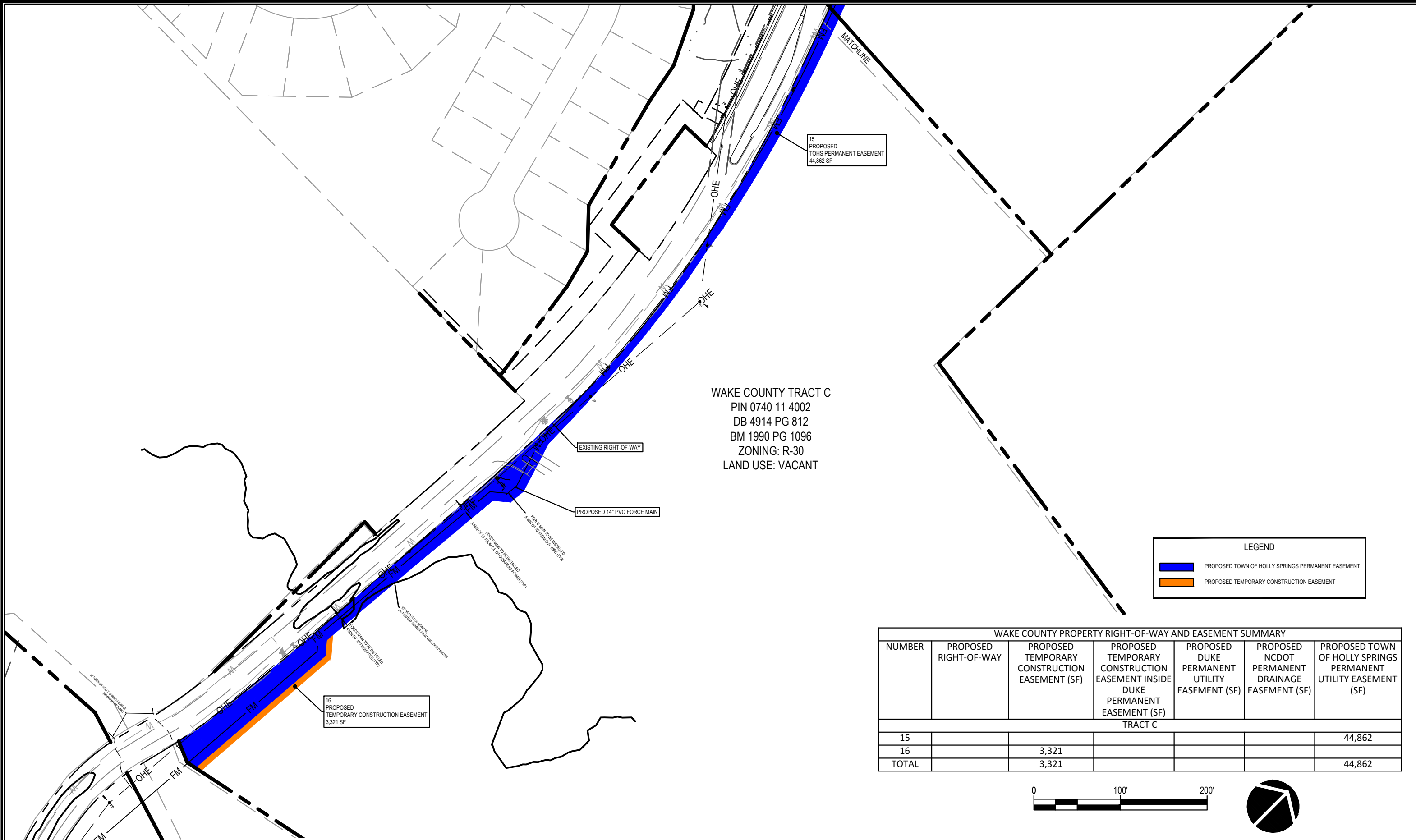
WAKE COUNTY

NORTH CAROLINA

WAKE COUNTY PROPERTY EASEMENT EXHIBIT

**WithersRavenel**
Engineers | Planners | Surveyors
115 MacKenan Drive | Cary, NC 27511
t: 919.469.3340 | license #: C-0832 | www.withersravenel.com

K:\19-0370\190372.10-Lenora- Carolina Springs Master Plan\CAD\Exhibits\Exhibits\Wake County Property Easement Exhibit.dwg-- Tuesday, October 20, 2020 10:33:16 AM -- MCCLURE, DAVID



LEGEND

PROPOSED TOWN OF HOLLY SPRINGS PERMANENT EASEMENT

PROPOSED TEMPORARY CONSTRUCTION EASEMENT

WAKE COUNTY PROPERTY RIGHT-OF-WAY AND EASEMENT SUMMARY						
NUMBER	PROPOSED RIGHT-OF-WAY	PROPOSED TEMPORARY CONSTRUCTION EASEMENT (SF)	PROPOSED TEMPORARY CONSTRUCTION EASEMENT INSIDE DUKE PERMANENT EASEMENT (SF)	PROPOSED DUKE PERMANENT UTILITY EASEMENT (SF)	PROPOSED NCDOT PERMANENT DRAINAGE EASEMENT (SF)	PROPOSED TOWN OF HOLLY SPRINGS PERMANENT UTILITY EASEMENT (SF)
TRACT C						
15						44,862
16		3,321				
TOTAL		3,321				44,862



No.	Revision	Date	By

Designer	WR	Scale	AS NOTED
Drawn By	WR	Date	2020.10.20
Checked By	WR	Job No.	02190372.10

CAROLINA SPRINGS

TOWN OF HOLLY SPRINGS

WAKE COUNTY

NORTH CAROLINA

WAKE COUNTY PROPERTY EASEMENT EXHIBIT

WithersRavenel

Engineers | Planners | Surveyors

115 MacKenan Drive | Cary, NC 27511

t: 919.469.3340 | license #: C-0832 | www.withersravenel.com

EXHIBIT B

[see attached]

Prepared by and return to:
Michael F. King
K&L Gates LLP (Vault Box #123)
4350 Lassiter at North Hills Avenue, Suite 300
Raleigh, NC 27609

STATE OF NORTH CAROLINA

COUNTY OF WAKE

MEMORANDUM OF OPTION AGREEMENT

THIS MEMORANDUM OF OPTION AGREEMENT (this "Memorandum") is made this ____ day of _____, 20____, by **WAKE COUNTY**, a body politic and corporate of the State of North Carolina ("Owner"), in favor of **LENNAR CAROLINAS, LLC**, a Delaware limited liability company, and its affiliates ("Buyer").

Owner and Buyer have entered into an Option Agreement ("Option Agreement") dated _____, 20____, with respect to certain real property located in the Wake County, North Carolina, said property more particularly described in the deeds recorded in Book 4803, Page 67 and Book 4914, Page 812, Wake County Registry ("Property"), under which Option Agreement Buyer has the option to acquire from Owner a non-exclusive, perpetual public road right of way, public drainage easement and public sanitary sewer easements and associated slope, landscaping and temporary construction easements as more particularly described in the Option Agreement.

Owner is executing this Memorandum in order to evidence the agreements of the parties under the Option Agreement, and intends this Memorandum to be filed in the Office of the Register of Deeds for Wake County, North Carolina, in order to afford record notice of the Option Agreement as set forth below.

NOW, THEREFORE, in consideration of the premises hereto and other good and valuable consideration, Owner hereby declares as follows:

1. Buyer's option to acquire the non-exclusive, perpetual public road right of way, public drainage easement and public sanitary sewer easements and associated slope, landscaping and temporary construction easements shall expire on _____.

2. This Memorandum is subject to the provisions set forth in the Option Agreement, which provisions are hereby incorporated by reference into this Memorandum as if fully set forth herein.

IN WITNESS WHEREOF, the Owner has caused this Memorandum to be duly executed.

Owner:

WAKE COUNTY, NC

A body politic and corporate

(Corporate Seal)

By: _____
Greg D. Ford, Chairman
Wake County Board of Commissioners

ATTESTED BY:

Yvonne C. Gilyard
Deputy Clerk to the Board

STATE OF NORTH CAROLINA
COUNTY OF _____

I, _____ a Notary Public of the County and State aforesaid, certify that Yvonne C. Gilyard, personally appeared before me this day and acknowledged that she is the Deputy Clerk of the Wake County Board of Commissioners, and that by authority duly given, the foregoing instrument was signed in its name by its Chairman of the Wake County Board of Commissioners, sealed with its corporate seal and attested by Yvonne C. Gilyard as its Deputy Clerk.

Witness my hand and official stamp or seal, this ____ day of _____, 2020.

Notary Public

Notary Printed or Typed Name

(Seal)

My Commission Expires: _____