

STATE OF SOUTH CAROLINA) **DEVELOPMENT AGREEMENT**
)
COUNTY OF LANCASTER)

This **DEVELOPMENT AGREEMENT** (the “Agreement”) is made and entered into as of the _____ day of _____ 2022 (“Agreement Date”), by and between **CLREF III ACQUISITION, LLC**, a Delaware limited liability company (“Developer”), and the **COUNTY OF LANCASTER** (the “County”), a body politic and corporate, a political subdivision of the State of South Carolina.

WHEREAS, Developer has obtained the contractual right to acquire certain real property consisting of approximately 780.4 acres, more or less, located in the County and known as the Nesbit development and more fully described in Section 1.04 of this Agreement (“Property”) and thus has an equitable interest therein;

WHEREAS, Developer has submitted an application to the County requesting that Tax Parcel Nos. 0022-00-002.00, 0022-00-002.02, 0022-00-002.03, 0022-00-003.00 and 0022-00-003.01 comprising the Property, be rezoned from Rural Neighborhood (RN) to Medium Density Residential District (MDR);

WHEREAS, Developer intends to submit an application to the County requesting that the Property be developed under the Cluster Subdivision Overlay District provisions for the MDR District;

WHEREAS, Developer and County have determined that it is in the best interests of the County and Developer to enter into this Agreement to set forth the terms and conditions of the development in order to achieve a well-coordinated, planned development, reasonably mitigate any project impacts to the community and achieve predictability to the County and the Developer on the scope and terms of the development;

WHEREAS, the Developer desires to obtain from the County in connection with the development, and the County is willing to provide, assurances: (1) that the Property will be zoned Medium Density Residential (MDR) District, Cluster Subdivision Overlay, and fully entitled for development as further provided by this Agreement for the duration of this Agreement; (2) that upon receipt of its development and construction permits it may proceed with the planned

development and construction; and (3) that the development rights will be vested for the duration of this Agreement;

WHEREAS, in connection with the proposed development, Developer and County recognize that the scope and term of the planned development under this Agreement accomplish the statutory aims of comprehensive, orderly planning and development within the County, thus providing benefits to the citizens of the County and providing public benefits through, among other things, the donation of funds or financing of those public facilities and services described and identified in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth in this Agreement, the receipt and sufficiency of such consideration being acknowledged by the parties, and pursuant to the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended (the “Act”) and the Development Agreement Ordinance for Lancaster County, South Carolina (“Ordinance No. 663”), the parties to this Agreement, intending to be legally bound to a development agreement in accordance with the Act and Ordinance No. 663, agree as follows:

ARTICLE I

GENERAL

Section 1.01. Incorporation. The above recitals are incorporated in this Agreement as if the recitals were set out in this Agreement in its entirety. The findings contained in the Act are incorporated into this Agreement as if it were set out in this Agreement in its entirety.

Section 1.02. Definitions. (A) As used in this Agreement:

(1) “Act” means the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended.

(2) “Agreement” means this Development Agreement.

(2A) “Agreement Date” means _____ 2022.

(3) “Comprehensive Plan” means the master plan for the County and the official map adopted pursuant to S.C. Code §§ 6-29-510 through 6-29-530, inclusive, as amended from time to time, including the Lancaster County Comprehensive Plan adopted December 14, 2014 and updated and amended on July 20, 2020, and further updated by adoption of the Southern Panhandle Small Area plan by Ordinance No. 2021-1704 on February 8, 2021 and by adoption of the Small Area Plan Extension by Ordinance No. 2021-1758 on September 13, 2021.

(4) “County” means the County of Lancaster, a body politic and corporate, a political subdivision of the State of South Carolina.

(5) “County Council” means the governing body of the County.

(6) “Developer” means CLREF III Acquisition, LLC a Delaware limited liability company, and its successors in title to the Property who undertake Development of the Property or who are transferred Development Rights.

(7) “Development Rights” means the right of the Developer to develop all or part of the Property in accordance with this Agreement.

(8) “Laws and Land Development Regulations” means the County’s current applicable rules and regulations governing development of real property in force as of the Agreement Date, including the UDO as amended through the Agreement Date, as evidenced by Exhibits E and E-1 through E-5 attached hereto and incorporated herein by reference.

(9) “Ordinance No. 663” means Ordinance No. 663 of the County which is cited as the Development Agreement Ordinance for Lancaster County, South Carolina.

(10) “Ordinance No. 2022-_____” means Ordinance No. 2022-_____ of the County, zoning Tax Parcel Nos. 0022-00-002.00, 0022-00-002.02, 0022-00-002.03, 0022-00-003.00 and 0022-00-003.01 comprising the Property, to Regional Business (RB) District, a copy of which is attached hereto as Exhibit E-1.

(11) “Ordinance No. 2022-_____” means Ordinance No. 2022-_____ of the County approving this Agreement, a copy of which is attached hereto as Exhibit E-2.

(12) “Parties” means County and Developer.

(13) “Property” means the land, and any improvements thereon, described in Section 1.04.

(14) “UDO” means the Lancaster County Unified Development Ordinance adopted by the County Council of Lancaster County, as amended through the Agreement Date, a copy of which is attached hereto as Exhibit E-4.

(B) Unless the context clearly indicates otherwise, terms not otherwise defined in this Agreement have the meanings set forth in the Act and Ordinance No. 663 or the UDO.

Section 1.03. Parties. The parties to this Agreement are County and Developer.

Section 1.04. Property. This Agreement applies to five (5) parcels of land identified as Tax Map Nos. 0022-00-002.00, 0022-00-002.02, 0022-00-002.03, 0022-00-003.00 and 0022-00-003.01, and these parcels are reflected in Exhibit A-1 (legal descriptions) and A-2 (survey), attached hereto and incorporated herein by reference as if these exhibits were set out in this Agreement in their entirety.

Section 1.05. Zoning. The Property is currently zoned Rural Neighborhood District (RN) and is anticipated to be rezoned Medium Density Residential (MDR) pursuant to Ordinance No. 2022-_____.

Section 1.06. Development Program.

(A) The UDO provides for the development uses on the Property, including population densities, building intensities and height.

(B) The development of the Property must meet all applicable standards contained in the UDO as of the Agreement Date. In the event of conflict between the standards contained in the UDO as of the Agreement Date and this Agreement, the terms of the UDO control. The Development Program for the Property with up to 1,019 single family lots as set forth in Exhibit B (as used in this Agreement, Exhibit B shall include sub Exhibit B-1).

Section 1.07. Development Schedule.

(A) The estimated development schedule for the Property is set forth on Exhibit C, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

(B) County and Developer acknowledge that the development schedule is an estimate. The failure of the Developer to meet a commencement or completion date does not, in and of itself, constitute a material breach of this Agreement, but must be judged based on the totality of the circumstances. The development schedule is a planning and forecasting tool only. County and Developer acknowledge that actual development is likely to take place at a different pace than set forth in the development schedule because of future market forces.

(C) County agrees that if Developer requests an adjustment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified if the Developer is able to demonstrate and establish that there is good cause to modify those dates. “Good cause” includes, but is not limited to, changes in market conditions.

(D) Periodic adjustments to the development schedule do not require a formal amendment to this Agreement and are not considered a major modification. To adjust the development schedule, the Developer shall submit a proposed adjustment to the Clerk to Council who shall forward copies of the proposed adjustment to each member of County Council. The proposed adjustment must be accompanied by an explanation and justification. The proposed adjustment is effective sixty (60) days from receipt by the Clerk to Council unless the County Council has disapproved the proposed adjustment by passage of a resolution to that effect within the sixty (60) day period.

Section 1.08. Relationship of Parties. This Agreement creates a contractual relationship among the Parties. This Agreement is not intended to create, and does not create, the relationship of partnership, joint venture, or any other relationship wherein any one of the parties may be held

responsible for the acts of any other party. This Agreement is not intended to create, and does not create, a relationship whereby any one of the parties may be rendered liable in any manner for the debts or obligations of any other party, to any person or entity whatsoever, whether the debt or obligation arises under this Agreement or outside of this Agreement.

Section 1.09. Benefits and Burdens.

(A) The Parties agree that the burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interests to the Parties to this Agreement.

(B) Except for the owners and lessees of completed residences on individual lots who are the end users and not developers thereof and the owners and lessees of individual lots, who are not developers and who intend to build a residence on the lot for the owner or lessee to occupy, any purchaser or other successor in title is responsible for performance of Developer's obligations pursuant to this Agreement as to the portion of the Property so transferred. Developer must give notice to the County of the transfer of property to a developer in the manner prescribed in Section 3.05.

(C) Developer acknowledges and agrees that it and its successors and assigns (i) are responsible for the development of the Property if and when Developer acquires title to and Development Rights for the Property, and (ii) if Developer develops the Property, Developer will develop the Property in accordance with the terms and conditions of this Agreement.

Section 1.10. Term. The term of this Agreement commences on the Agreement Date and terminates fifteen (15) years thereafter.

Section 1.11. Required Information. Ordinance No. 663 requires a development agreement to include certain information. Exhibit D contains the required information or identifies where the information may be found in this Agreement. Exhibit D is incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties of County.

(A) The County has found that the development permitted by this Agreement is consistent with the County's Comprehensive Plan and UDO.

(B) The County has approved this Agreement by adoption of Ordinance No. 2022-_____ in accordance with the procedural requirements of the Act, Ordinance No. 663 and any other applicable state law.

(C) The County represents that prior to the final reading of Ordinance No. 2022-_____ that at least two public hearings were held after publication of the required notice and the publication of a notice of intent to consider a proposed development agreement.

Section 2.02. Representations and Warranties of Developer.

(A) Developer represents that the number of acres of highland contained in the Property is greater than twenty-five acres and that the highlands equal approximately 654 acres.

(B) Developer represents that, as of the Agreement Date, it has contractual rights to acquire the Property and thus has an equitable interest therein.

(C) Developer represents and warrants that the execution, delivery and performance by the respective individual or entity signing this Agreement on behalf of the party has been duly authorized and approved by all requisite action on the part of Developer.

ARTICLE III

DEVELOPMENT RIGHTS

Section 3.01. Vested Right to Develop.

(A) County agrees that the Developer, upon receipt of its development permits as identified in Section 3.04, may proceed to develop the Property according to the terms and conditions of this Agreement, including the Master Development Plan described in Section 1.06(B), the UDO, and the other Laws and Land Development Regulations. The right of Developer to develop the Property as set forth in this Agreement is deemed vested with Developer for the term of this Agreement when the Developer has complied with all of the requirements of Section 5.19 of this Agreement.

(B) County agrees that the specific Laws and Land Development Regulations in force as of the Agreement Date, including the UDO, as set forth in Exhibits E and E-1 through E-5 to this Agreement, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety, shall govern all aspects of the development of the Property, according to the terms and standards as stated in this Agreement, for the term of this Agreement.

(C) The Developer has a vested right to proceed with the development of the Property in accordance with the zoning classification set forth in Ordinance No. 2022-_____, the UDO, the other Laws and Land Development Regulations, and the terms of this Agreement, including without limitation the Development Program, when the Developer has complied with all of the requirements of Section 5.19 of this Agreement.

(D) To the extent that this Agreement may contain zoning and development standards which conflict with existing zoning and development standards, including zoning and development

standards contained in the UDO, the standards contained in this Agreement supersede all other standards and this Agreement is deemed controlling.

(E) The Developer acknowledges that financial guarantees will not be accepted for water, sewer and storm water infrastructure and the water, sewer and storm water infrastructure must be installed, tested and in acceptable condition before final plat approval. Nothing in this section modifies the warranty requirements of Section 6.9.3 of the UDO or the performance requirements of Section 8.4.3.A.4 of the UDO.

Section 3.02. Effect on Vested Rights Act and County Ordinance No. 673. The Parties agree that vested rights conferred upon Developer in this Agreement are not affected by the provisions of the Vested Rights Act, codified as S.C. Code §§ 6-29-1510 to -1560, Code of Laws of South Carolina 1976, as amended, or the provisions of Ordinance No. 673, the County's ordinance relating to the Vested Rights Act. In addition, subject to the provisions of Section 3.03(A) of this Agreement, all rights and prerogatives accorded Developer by this Agreement shall immediately also constitute vested rights for the development of the Property including vested rights pursuant to the Vested Rights Act and the provisions of Ordinance No. 673, for the term of this Agreement and the maximum period for vesting rights under the Vesting Rights Act. Section 3.03(A) of this Agreement does not abrogate any rights either preserved by S.C. Code § 6-31-140, Ordinance No. 663, Ordinance No. 673, the UDO, or that may have vested pursuant to common law and otherwise in the absence of a development agreement.

Section 3.03. Applicability of Subsequently Adopted Laws and Land Development Regulations.

(A) It is recognized that laws and regulations will periodically change. However, the laws applicable to the development of the Property during the Term of this Agreement shall be the Laws and Land Development Regulations in effect on the Agreement Date as set forth on Exhibits E and E1 – E5, except as expressly provided otherwise in this Agreement.

Subject to the provisions of S.C. Code § 6-31-140, the County shall not apply subsequently adopted laws or regulations to the Property or the Project unless the County has held a public hearing and has determined: (1) the proposed subsequent laws or regulations are not in conflict with the Current Laws and Land Development Regulations governing the Agreement and do not prevent the development of the Property 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) substantial changes have occurred in pertinent conditions existing at the time of approval of this Agreement which changes, if not addressed by the County, 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 Developer.

(B) Notwithstanding the provisions of subsection (A) of this section, the County agrees that if County Council imposes a moratorium or other similar restriction that would curtail or hinder the rate at which development can occur, then the moratorium or other similar restriction shall not apply to the Development of the Property.

(C) Developer agrees to comply with any county-wide storm water regulations, building, housing, electrical, plumbing, and gas codes adopted by County Council after the Agreement Date and in force at the time plans for buildings are submitted to the County for review. Nothing in this Agreement is intended to supersede or contravene the requirements of any storm water, building, housing, electrical, plumbing, or gas code adopted by County Council.

Section 3.04. Development Permits.

(A) Developer agrees to obtain all local development permits for the development of the Property. Local development permits, approvals and processes, some of which may have been obtained or complied with as of the Agreement Date, include, but are not limited to:

- (1) Site plan or preliminary plan approval;
- (2) Civil plan approval;
- (3) Final plat approval;
- (4) Zoning permits;
- (5) Building permits; and
- (6) Sign permits.

(B) The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.

Section 3.05. Transfer of Development Rights.

(A) Developer may, at its sole discretion, transfer its Development Rights to other developers. The transferring Developer must give notice to the County of the transfer of any Development Rights. The notice to the County must include the identity and address of the transferring Developer, the identity and address of the acquiring Developer, the acquiring Developer's contact person, the location and number of acres of the Property associated with the transfer and the number of residential units or commercial acreage subject to the transfer. Any Developer acquiring Development Rights is required to file with the County an acknowledgment of this Agreement and the transfer of Development Rights is effective only when the County receives a commitment from the acquiring Developer to be bound by it. In the event of the sale, transfer, or other conveyance of all or a portion of the Property and compliance with the conditions set forth herein, Developer shall be released from any further obligations with respect to this Agreement as to the portion of the Property so transferred, and the transferee shall be considered as substituted as Developer under the Agreement as to the portion of the Property so transferred.

(B) This provision does not apply: (i) to the purchaser or other successor in title to Developer who is the owner or lessee of a completed residence and is the end user and not the developer thereof or who is the owner or lessee of an individual lot, who is not a developer and who intends to build a residence on the lot for the owner or lessee to occupy; (ii) to any mortgage lender either as the result of foreclosure of any mortgage secured by any portion of the Property or any other transfer in lieu of foreclosure; (iii) to any third party purchaser at such a foreclosure; or (iv) to any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the Property as set forth above. Furthermore, nothing contained herein shall prevent, hinder or delay any transfer of any portion of the Property to any such mortgage lender or subsequent purchaser. Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by and shall receive the benefits from this Agreement as the successor in title to Developer.

ARTICLE IV

DEDICATIONS AND FEES AND RELATED AGREEMENTS

Section 4.01. Purpose of Article. The Parties understand and agree that Development of the Property imposes certain burdens and costs on the County, including those for certain services and infrastructure improvements. Eventually, *ad valorem* taxes collected from the property may meet or exceed the burdens and costs placed upon the County, but certain initial costs and capital expenditures are now required that are not to be funded by any increase in taxes paid by existing residents of the County. The purpose of this article is to identify the matters agreed upon to be provided by the Developer to mitigate such burdens and costs.

Section 4.01A. Facilities for Development. Subject to compliance with applicable laws, all provisions of this Agreement and prior approval of construction plans by the County or other applicable governmental entity, Developer, at its cost and expense, shall install the requisite infrastructure, including transportation, water, and sanitary sewer infrastructure, for its Development of the Property, pursuant to Section 4.04 below and the Development Program set forth on Exhibit B as such Development proceeds pursuant to Exhibit C. Notwithstanding any provision herein to the contrary, Developer hereby assures the County that adequate infrastructure shall be available concurrent with the impacts of Development of the Property.

Section 4.01B. Payment for School District. On September 13, 2021, the County adopted Ordinance No. 2021-1761 establishing development impact fees for public school facilities ("School Impact Fees"), which impact fees were implemented as of January 1, 2022 and shall apply to the Property. County and Developer agree that no additional school funds are required pursuant to this Agreement because the School Impact Fees already address the impact that the development of the property will have on the public school facilities.

Section 4.01C. Funds for Public Safety. On July 21, 2021, the County adopted Ordinances establishing development impact fees for facility improvements for Fire (Ordinance No. 2021-1722), Emergency Medical Services (Ordinance No. 2021-1723), Sheriff (Ordinance No. 2021-1724) and Parks and Recreation (Ordinance No. 2021-1725) (collectively, the "County

Public Safety Impact Fees”), which impact fees were implemented as of October 1, 2021 and shall apply to the Property. County and Developer agree that no additional public safety funds are required pursuant to this Agreement because the County Public Safety Impact Fees already address the impact that the development of the property will have on the public safety facilities.

Section 4.01D. Fee Schedule Annual Update. The developer fees set forth in Section 4.01B and Section 4.01C (collectively “Developer Fees”) shall be the amount of School Impact Fees and County Public Safety Impact fees effective as of the date of payment.

Section 4.01E. Future Impact Fees. Developer’s right set forth herein are vested and thus Developer shall not be subject to any future impact fees or costs imposed by the County.

Section 4.01F. Solid Waste Fees. Developer agrees that County must be paid Five Hundred Dollars (\$500.00) per housing unit which shall be paid when a building permit is issued (the “Solid Waste Fund Payment”). Upon receipt of the Solid Waste Fund Payment, those monies must be accounted for separate and distinct from other monies of the County. The Solid Waste Fund Payment must be used for solid waste services in Lancaster County. The determination of the specific use of the Solid Waste Fund Payment is at the discretion of County Council.

Section 4.01G. Library Fees. Developer agrees that County must be paid Two Hundred Fifty Dollars (\$250.00) per housing unit which shall be paid when a building permit is issued (the “Library Fund Payment”). Upon receipt of the Library Fund Payment, those monies must be accounted for separate and distinct from other monies of the County. The Library Fund Payment must be used for library services in Lancaster County. The determination of the specific use of the Library Fund Payment is at the discretion of County Council.

Section 4.02. Payment of Costs. Upon submission of appropriate documentation of the expenditure, Developer agrees to reimburse the County, not later than March 1, 2023, for the County’s reasonable unreimbursed actual costs related to this Agreement. The foregoing cost reimbursement is capped at ten thousand dollars (\$10,000.00) and is limited to County payments to third-party vendors and service providers that have not been otherwise reimbursed from the fee paid by Developer pursuant to Section 10 of Ordinance No. 663.

Section 4.03. Other Charges or Fees.

(A) Nothing in this Agreement shall be construed as relieving Developer from the payment of any fees or charges in effect at the time of collection as may be assessed by entities other than the County.

(B) Developer is subject to the payment of any and all present or future fees enacted by the County that are of County-wide application and that relate to the County’s costs of processing applications, issuing development permits, reviewing plans, conducting inspections or similar type processing costs.

Section 4.04. Infrastructure and Services.

The Parties recognize that the majority of the direct costs associated with the Development of the Property will be borne by Developer, and many necessary infrastructure improvements and services will be provided by Developer or other governmental or quasi-governmental entities, and not by the County. For clarification, the Parties make specific note of and acknowledge the following:

(A) Roads. (1)(a) Developer is responsible for the construction and costs of all roads, whether for public or private use, within the Property including but not limited to any necessary entrance and intersection improvements as required by the South Carolina Department of Transportation related to the development of the Property. All roads must be constructed in accordance with the County's road standards. The road improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development. Developer is also responsible for maintenance of all roads that are not public roads. Pursuant to Ordinance 2014-1299, Developer acknowledges that County will only accept as public roads those roads constructed in full compliance with the UDO and providing connectivity to the county road system or serving as a necessary component for the proper development of the county road system. County will not accept the roads within the Property into the County road system for any other purpose, including, but not limited to, maintenance. Developer may transfer the ownership of the roads and its obligations for the roads to a homeowners' or property owners' association or similar organization.

(b) Developer shall cause to be prepared a traffic impact analysis conducted and sealed by a licensed South Carolina professional engineer (if not already prepared at time of Agreement). Any road improvements, which are determined to be necessary, based on the results of the traffic impact analysis, shall be incorporated into the final site plan prior to County approval and the Developer is responsible for all costs of the road improvements. The traffic impact analysis shall be reviewed by the County and in conjunction with the South Carolina Department of Transportation. If a County-level traffic planner is not available to review the traffic impact analysis at the time of submittal, the County may choose to hire a third-party consultant to assist in this review. The cost of the traffic impact analysis, including any additional reviews requested by the County, shall be paid by the Developer. Improvements set forth in the traffic impact analysis may be installed based on a phasing study prepared by a licensed South Carolina professional engineer at the expense of Developer. The installation of new traffic signals or improvements to existing traffic signals shall be based on warrant studies conducted by a licensed South Carolina professional engineer at established specific times and at the expense of Developer.

(B) Potable Water, Sewage Treatment and Disposal. Potable water, sewage treatment and disposal will all be supplied to the Property by the Lancaster County Water and Sewer District. Developer will construct, or cause to be constructed, all necessary water and sewer service infrastructure within the Property and the water and sewer service infrastructure will be maintained by the provider. County is not responsible for any construction, treatment, maintenance, or costs associated with water or sewer service or water and sewer service infrastructure to or within the Property. The water and sewer service infrastructure is expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development. Developer acknowledges that County has no authority or responsibility for providing potable water services or sewer services in the County and that the

Lancaster County Water and Sewer District is a governmental entity separate and distinct from the County.

(C) Storm Water Management. Developer will construct or cause to be constructed all storm water runoff and drainage improvements within the Property required by the development of the Property and such infrastructure will be maintained by Developer or a homeowners' association. County is not responsible for any construction, maintenance or costs associated with the storm water runoff and drainage for the Property. Storm water management improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(D) Solid Waste Collection. The County shall provide solid waste collection to the Property on the same basis as is provided to other residents and businesses within the County. It is understood and acknowledged that the County does not presently provide solid waste collection or disposal for single, multi-family or commercial developments. Residential units shall be served by a private waste hauling company.

(E) Fire Services. The Property is in the Van Wyck Fire Rescue service area and fire services will be provided by the Charlotte Rd / Van Wyck Voluntary Fire Department, or its successor entities. Developer acknowledges that the Charlotte Rd / Van Wyck Voluntary Fire Department provides services using volunteers.

(F) School Services. Public school services are now provided by the Lancaster County School District. Developer acknowledges that County has no authority or responsibility for providing public school services in the County.

ARTICLE V

MISCELLANEOUS

Section 5.01. Notices. Any notice, election, demand, request or other communication to be provided under this Agreement shall be in writing and shall be effective (i) when delivered to the party named below, (ii) when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, or (iii) when deposited in Federal Express (or any other reputable national "next day" delivery service) addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

To the County: County of Lancaster
 Attn: County Administrator
 101 N. Main St. (29720)
 P.O. Box 1809 (29721)
 Lancaster, SC

With a Copy to: County of Lancaster
Attn: County Attorney
101 N. Main St. (29720)
P.O. Box 1809 (29721)
Lancaster, SC

And to Developer: CLREF III Acquisitions, LLC
Attn: Mike Scisciani
10006 N. Dale Mabry Hwy, Ste 201
Tampa, FL 33618

With a Copy to: Spencer & Spencer
Attn: W. Chaplin Spencer, Jr.
226 East Main Street, Suite 200
P.O. Box 790
Rock Hill, SC 29731

Section 5.02. Amendments.

(A) This Agreement may be amended or cancelled by mutual consent of the Parties to the Agreement or by their successors in interest. An amendment to this Agreement must be in writing. No statement, action or agreement made after the Agreement Date 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 the change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

(B) An amendment to this Agreement with the exceptions identified on Exhibit B must be processed and considered in the same manner as set forth in Ordinance No. 663 for a proposed development agreement. Any amendment to this Agreement other than as set forth on Exhibit B constitutes a major modification and the major modification may occur only after public notice and a public hearing by the County Council.

(C) This Agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the Agreement Date which prevents or precludes compliance with one or more of the provisions of this Agreement but only to the extent necessary to effectuate compliance with the state or federal law.

(D) Anything to the contrary contained herein notwithstanding, in the event Developer or its successors or assigns elects not to or otherwise does not acquire the Property at any time, Developer may so notify the County in writing and upon such notification and written request by Developer to terminate this Agreement, this Agreement shall terminate and Developer shall not be considered in breach of this Agreement and the parties shall have no further obligations to one another.

Section 5.03. Periodic Review. At least every twelve (12) months, the Development Services Director for the County or the designee of the Development Services Director for the County, must review compliance with this Agreement by the Developer. At the time of review the Developer must demonstrate good faith compliance with the terms of the Agreement.

Section 5.04. Breach of Agreement.

(A) If, as a result of the periodic review provided in Section 5.03 of this Agreement or at any other time, the Development Services Director for the County, or their designee, finds and determines that the Developer has committed a material breach of the terms or conditions of this Agreement, the Development Services Director for the County shall serve notice in writing, within a reasonable time after the periodic review, upon the Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Developer a reasonable time in which to cure the material breach.

(B) If the Developer fails to cure the material breach within a reasonable time and is not proceeding expeditiously and with diligence to cure the breach, then the County Council may unilaterally terminate or modify this Agreement. Prior to terminating or modifying this Agreement as provided in this section, the County Council must first give the Developer the opportunity (i) to rebut the finding and determination, or (ii) to consent to amend the Agreement to meet the concerns of the County Council with respect to the findings and determinations.

Section 5.05. Enforcement. The Parties shall each have the right to enforce the terms, provisions and conditions of this Agreement, if not cured within the applicable cure period, by any remedy available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with enforcement.

Section 5.06. No Third Party Beneficiary. The provisions of this Agreement may be enforced only by the Parties. No other persons shall have any rights hereunder.

Section 5.07. Recording of Agreement. The Parties agree that Developer shall record this Agreement with the County Register of Deeds within fourteen (14) days of the date of execution of this Agreement.

Section 5.08. Administration of Agreement. County is the only local government that is a party to this Agreement and the County is responsible for the Agreement's administration.

Section 5.09. Effect of Annexation and Incorporation. The Parties agree that this Agreement remains in effect if the Property is, in whole or in part, included in a newly-incorporated municipality or is annexed into a municipality. The Parties acknowledge that upon incorporation or annexation the application and duration of this Agreement is controlled by Section 6-31-110 of the Act. County reserves the right to enter into an agreement with the newly-incorporated municipality or the annexing municipality for the administration and enforcement of this Agreement after the date of incorporation or annexation.

Section 5.10. Estoppel Certificate. Any of the Parties may, at any time, and from time to time, deliver written notice to the other party requesting the party to certify in writing (i) that this Agreement is in full force and effect, (ii) that this Agreement has not been amended or modified, or if so amended, identifying the amendments, and (iii) whether, to the knowledge of the party, the requesting party is in default or claimed default in the performance of its obligation under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and (iv) whether, to the knowledge of the 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.

Section 5.11. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions, and understandings among the Parties relative to the Property and its Development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among the Parties relative to the matters addressed in this Agreement other than as set forth or as referred to in this Agreement.

Section 5.12. Covenant to Sign other Documents. County and Developer acknowledge that consummation of the transactions contemplated by this Agreement may require the execution contemporaneously with the execution of this Agreement and thereafter of certain documents in addition to this Agreement and County and Developer agree to cooperate with the execution thereof.

Section 5.13. Construction of Agreement. 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 to this Agreement.

Section 5.14. Assignment. The rights, obligations, duties and responsibilities devolved by this Agreement on or to the Developer are assignable to any other person, firm, corporation or entity except that the assignment must conform to the requirements of Section 1.09 and Section 3.05. This Agreement shall also be binding on the County and all future County Councils for the duration of this Agreement, even if the County Council members change.

Section 5.15. Governing Law; Jurisdiction; and Venue.

(A) This Agreement is governed by the laws of the State of South Carolina.

(B) The Parties agree that the jurisdiction and venue for disputes relating to this Agreement is Lancaster County, South Carolina which is within the Sixth (6th) Judicial Circuit of the State of South Carolina.

Section 5.16. 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.

Section 5.17. Eminent Domain. Nothing contained in this Agreement shall limit, impair or restrict the County's right and power of eminent domain under the laws of the State of South Carolina.

Section 5.18. Severability. If any provision in this Agreement or the application of any provision of this Agreement is held invalid, the invalidity shall apply only to the invalid provision, and the remaining provisions of this Agreement, and the application of this Agreement or any other provision of this Agreement, shall remain in full force and effect. However, if the invalid provision would prevent or materially impair Developer's right or ability to complete performance of this Agreement, the Parties agree to use their best efforts to renegotiate that provision in order for Developer to complete performance of this Agreement.

Section 5.19. When Agreement takes Effect. This Agreement is dated as of the Agreement Date and takes effect when (i) the County and Developer have each executed the Agreement, and (ii) the Developer has delivered to the County Administrator clocked-in copies, with book and page numbers, of the recorded deeds conveying the Property to Developer. If the County Administrator has not received clocked-in copies of the deeds conveying the Property to Developer by 5:00 p.m., December 31, 2023, then this Agreement is automatically terminated without further action of either the County or Developer. The obligation of the Developer pursuant to Section 4.02 is effective on the date the last Party to sign this Agreement executes this Agreement and the obligations imposed on Developer pursuant to Section 4.02 survives the termination of this Agreement pursuant to this Section.

Section 5.20. General Terms and Conditions.

(A) Agreements to Run with the Land. This Agreement shall be recorded against the Property as described in Exhibit A-1 and shown on Exhibit A-2. The agreements contained herein shall be deemed to run with the land.

(B) 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.

(C) Merger. This Agreement, coupled with its Exhibits which are incorporated herein by reference, shall state the final and complete expression of the Parties' intentions with respect to the matters set forth herein. All prior negotiations and representations are superseded and merged herein.

SIGNATURES FOLLOW ON NEXT PAGE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date below found.

WITNESSES:

DEVELOPER:

CLREF III Acquisition, LLC,
A Delaware limited liability corporation

By: _____

Name: _____

Title: _____

STATE OF _____)

)

ACKNOWLEDGMENT

COUNTY OF _____)

I, _____, a Notary Public for the State of _____, do hereby certify that _____, by _____, its _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal this ____ day of _____ 2022.

(SEAL)

Notary Public for State of _____

My commission expires: _____

Print Name: _____

WITNESSES:

COUNTY:

COUNTY OF LANCASTER,
SOUTH CAROLINA

By: _____
Steve Harper, Chair, County Council

Date: _____

By: _____
Billy Mosteller, Secretary, County Council

Date: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER_) ACKNOWLEDGMENT

I, _____, a Notary Public for the State of South Carolina, do hereby certify that Lancaster County, by Steve Harper, its Chair, County Council, and Billy Mosteller, its Secretary, County Council personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and seal this ____ day of _____ 2022.

Notary Public for State of _____
My commission expires: _____
Print Name: _____

(SEAL)

Exhibit A

PROPERTY DESCRIPTION.

Parcel 1 – Tax Parcel No. 0022-00-002.00

All that piece, parcel or tract of land containing 602.5 acres, lying, being and situate in Lancaster County, South Carolina, located near the Town of Van Wyck on the waters of the Catawba River, being bounded on the West by the waters of Catawba River, North by Tract #1 on plat hereinafter referred to, East by lands formerly of William Oliver Nisbet, lands formerly of Julian M. Yoder, Tract #3 of said plat and lands formerly of Robert T. Yoder, and on the South by Creek, and being shown and described as Tract #2 on plat of survey entitled Map of Property of Dr. J.D. Nisbet "Ivy-Johnson" Tract made by W.C. White, RLS, on September 5, 1962 and recorded in the Office of the Clerk of Court for Lancaster County in Plat Book 13 at page 41.

Tax Map No.: 022-00-002.00

Derivation: Deed from William Oliver Nisbet, Jr., John Edwin Nisbet, and Caroline Nisbet Hewett a/k/a Carolina Walker Nisbet, successor Trustees under that certain Irrevocable Trust between W. Oliver Nisbet, as grantor, and C.K. Connelly, Thomas W. Thomas and D. Lindsay Pettus, as trustees, dated July 11, 1984, to William Oliver Nisbet, Jr., John Edwin Nisbet, Edward Q. Nisbet, C. Lee Nisbet and Caroline Nisbet Hewett dated October 23, 1998 and recorded 11/30, 1998 at Book 38, Page 334, in the Office of the Clerk of Court for Lancaster County, South Carolina.

Parcel 2 – Tax Parcel No. 0022-00-002.02

"All that piece, parcel or tract of land containing 53 acres, lying and being situate near the Town of Van Wyck, State and County aforesaid, being bounded on the West by Tracts Number One (1) and Two (2) on plat hereinafter referred to, North by Tract Number Four (4), East by Branch and South by other lands of Nisbet and being shown and described as Tract Number Five (5) on plat of survey entitled "Map of Property of Dr. J. D. Nisbet 'Ivey-Johnson' Tract" made by W. C. White, RLS, on September 5, 1962, and recorded in the Office of the Clerk of Court for Lancaster County in Plat Book 13, at Page 41."

Being the identical property conveyed to Grantor herein by deed recorded in the Office of the Clerk of Court for Lancaster County in Deed Book B-6, at Page 777.

Parcel 3– Tax Parcel No. 0022-00-002.03

"All that piece, parcel or tract of land containing 23.5 acres, lying and being situate in the State and County aforesaid, located near the Town of Van Wyck on the waters of the Catawba River, bounded on the West and North by Tract Number Two (2) on plat hereinafter referred to, East and South by Yoder Lands, and being shown and described as Tract Number Three (3) on plat of survey entitled 'Map of Property of Dr. J. D. Nisbet Estate 'Ivey-Johnson' Tract' made by W. C. White, PLS, on September 5, 1962, and recorded in the Office of the Clerk of Court for Lancaster County in Plat Book 13, at Page 41."

Being the identical property conveyed to Grantor herein by deed recorded in the Office of the Clerk of Court for Lancaster County in Deed Book A-6, at Page 877.

Parcel 4– Tax Parcel No. 0022-00-003.00

All that certain piece, parcel, or lot of land, lying, being and situate in the County of Lancaster, State of South Carolina and being shown and designated as that certain tract of land containing 4.405 acres upon plat entitled "Plat of Property of John Nisbet" prepared by William C. White, PLS dated November 3, 2006 and recorded in the office of the Clerk of Court for Lancaster County, SC in Plat Book 2006 at Page 869, which plat is incorporated herein by reference to said plat will more fully appear.

DERIVATION: This being the identical property conveyed to Emily Virginia Nisbet (one-half undivided) and Daniel Oliver Nisbet (one-half undivided) by Deed of Distribution dated September 9, 2009 and recorded September 22, 2009 in Deed Book 532 at Page 288 in the office of the Clerk of Court for Lancaster County, South Carolina.

Parcel 5– Tax Parcel No. 0022-00-003.01

All that piece, parcel or tract of land, lying, being and situate in Indian Land Township, County of Lancaster, State of South Carolina about two miles North of Van Wyck, on the north west side of Twelve Mile Creek and on the east side of the River Road leading from Six Mile Church and containing One Hundred Forty-nine acres, more or less. The metes and bounds of said tract being recorded in the Office of the Clerk of Court for Lancaster County in Deed Book D, page 82, as follows: BEGINNING at a sycamore North West of Twelve Mile Creek, thence N 27 W, 26.90 to stone; thence S 43 $\frac{3}{4}$ W, 5.08 to stone; thence S 26 $\frac{3}{4}$ W, 13.50 to P.O., thence S 88 W, 3.15 to stone; thence N 61 W 12.40 to pine stump; thence S 87 $\frac{1}{2}$ W, 10.85 to stone; thence N 18 E, 11.00 to stone; thence N 63 E, 14.40 to stake and stone, thence N 11 E, 7.00 to stake and stone; thence N 13 $\frac{3}{4}$, 4.43 to stake and stone on Porter Road; thence along said road N 71 $\frac{1}{2}$ W 3.50; N 61 $\frac{1}{2}$ W, 3.10; N 38 W, 1.50; N 57 W, 2.90; N 40 W, 1.85; N 30 W, 2.38 to pine " 3XNME Rd.; thence N 73 $\frac{3}{4}$ W to pine NME of Charlotte Road; thence along said road S 20 W, 2.15; S 44 $\frac{1}{2}$ W, 8.50; S 32 $\frac{1}{2}$ W, 7.50; S 21 $\frac{1}{2}$, 13.50; S 23 $\frac{3}{4}$ W, 9.60; to stake NME of road; thence S 66 $\frac{3}{4}$ E, 6.65 to stone, thence S 21 $\frac{1}{2}$ W, 9.57 to stake on drain, thence along said drain and spring branch N 78 E, 1.65; N 63 E, 1.80; N 47 E, 5.00; S 45 E, 3.40; S 83 E, 11.25; N 50 E, 2.00; S 63 E, 3.25; N 82 E, 11.70; S 55 E, 5.40; thence S 8 E, 6.50; S 50 E, 5.10, S 40 E, 6.00; S 59 E, 6.00, N 87 E, 3.25; N 54 E, 11.00; S 82, 1.50; N 67 E, 2.00; N 14 E, 2.80; N 55 E, 1.10; S 40 E, 4.15 to beginning corner.

TAX MAP NO. : 022-00-003.00

DERIVATION: Deed from Strauss W. Nisbet to W. Oliver Nisbet and Ida Q. Nisbet dated January 2, 1950 and recorded January 5, 1950 in Deed Book A-4, at page 391 in the Office of the Clerk of Court for Lancaster County, South Carolina and Deed from W. Oliver Nisbet to Ida Q. Nisbet dated March 27, 1974 and recorded in Deed Book B-6, at page 2956 in the Office of the Clerk of Court for Lancaster County, South Carolina. See also Deed of Distribution from, Probate File No. 95ES2900149, dated October 23, 1998 and recorded 11/20, 1998 in Deed Book 28, at page 334 in the Office of the Clerk of Court for Lancaster County, South Carolina.

LESS AND EXCEPTING FROM THE ABOVE DESCRIBED TRACT:

All that piece, parcel or tract of land situate, lying and being in the County of Lancaster, State of South Carolina, and being described as follows: Beginning at a point in the center of Twelve Mile Creek; thence North 29° 43 33 West for 1775.55 feet to an iron set by stone; thence South 52° 09 48 West for 344.78 feet to a stone; thence South 29° 14 52 East for 898.82 feet to a posted Oak; thence North 89° 11 30 West for 209.38 feet to a stone; thence North 54° 50 35 West for 862.87 feet to an iron set by a pine stump; thence North 88° 10 09 West for 711.63 feet to an iron set; thence South 23° 49 50 West for 86.03 feet to the centerline of a branch and thence following the centerline of that branch in a Southeasterly direction to the junction of said branch with Twelve Mile Creek; thence in a Northerly direction along the centerline of Twelve Mile Creek to the point of beginning. Being the identical property shown as Tract A and Tract B

containing 48.246 acres and being the identical property shown on Plat recorded as Plat Number 3097 as found in the Office of the Clerk of Court for Lancaster County.

DERIVATION: Deed from Ida Q. Nisbet to Ashe Brick Company dated September 1, 1977 and recorded September 1, 1977 in Deed Book C-6, at page 4626 in the Office of the Clerk of Court for Lancaster County, South Carolina.

Exhibit A-2

Survey

Exhibit B

Development Program

1. *Conceptual Site Plan*: The Conceptual Site Plan attached hereto as Exhibit B-1 shall serve as the general guide for the location of roads, buildings, and other development features. The Property shall be generally developed consistent with the approved Conceptual Site Plan located on Exhibit B-1 unless otherwise modified consistent with the terms of the Agreement.
2. *Zoning District*: The Property, once rezoned, will be located in the Medium Density Residential (MDR) zoning district and shall be developed consistent with the provisions of the UDO as applicable for this district. Further, the Property will be developed under the Cluster Subdivision Overlay provisions of the UDO.
3. *Permitted Uses*: The Property shall be permitted to be developed with all uses permitted within the Medium Density Residential (MDR) District and the Cluster Subdivision Overlay as set forth in the UDO and not identified as being prohibited.
4. *Dimensional Requirements*: The Property shall be permitted to be developed in accordance with the criteria with respect to minimum parcel sizes, open space, population densities, building intensities, setbacks, height, parking, buffers, fencing, signage, impervious coverage, and other dimensional requirements or building development standards as applicable to the Medium Density Residential (MDR) District and the Cluster Subdivision Overlay as set forth in the UDO.
5. *Design Review and Approval*. Development of the Property shall be subject to review by the County's Zoning Administrator and the Technical Review Committee, as applicable, as set forth in the UDO.
6. *Transportation*:
 - a. Offsite Improvements:
 - i. Traffic Impact Analysis (TIA): Provided by Developer dated August 2022 prepared by Kimley-Horn and Associates, Inc.
 - ii. South Carolina Department of Transportation and the County have not accepted the TIA or made comments at this time. Developer will work with South Carolina Department of Transportation and the County to resolve any comments or changes to the TIA.
 - iii. **US 521 and Van Wyck Road**
 - a. Construction of an additional northbound through lane with 725 feet of storage and additional northbound receiving lane along US 521. Based on SCDOT guidelines, the receiving lane must extend 1,000 feet north of the intersection prior to dropping or merging.
 - b. Changing the northbound left-turn movement from protected to permissive phasing if allowable.
 - iv. **Rock Hill Highway (SC 5) and Steel Hill Road**
 - Cost sharing with the planned Catawba Council of Governments (COG) project towards the following improvements:

- a. Reconfiguration of the Steel Hill Road (westbound) approach to consist of a free-flow right-turn lane along Steel Hill Road and a left-turn lane with 50 feet of storage. This requires a northbound acceleration lane of 900 feet as well.
 - b. Construction of a southbound left-turn lane along SC 5 with 575 feet of storage and appropriate taper.
 - v. **Rock Hill Highway (SC 5) and Riverside Road/W Rebound Road**
 - Cost sharing with the planned Catawba COG intersection and Riverside development projects towards the following improvements:
 - a. Installation of a traffic signal if/when warrants are met upon or prior to full build-out of the development.
 - b. Construction of a southbound left-turn lane along SC 5 with 150 feet of storage.
 - vi. **US 521 and W Rebound Road/E Rebound Road**
 - a. Construction of an eastbound right-turn lane along W Rebound Road with 125 feet of storage.
 - vii. **Van Wyck Road and Steel Hill Road**
 - a. Installation of all-way stop-control if/when warrants are met upon or prior to full build-out of the development.
 - viii. Because of the size and phasing of this Development along with development of nearby properties, Developer will seek cost-sharing from other developments as set forth in the TIA, depending upon development schedules.
- b. Onsite Improvements:
 - i. South Carolina Department of Transportation and the County have not accepted the TIA or made comments at this time. Developer will work with South Carolina Department of Transportation and the County to resolve any comments or changes to the TIA. Developer is prepared to make the suggested onsite improvements identified within the TIA.
 - ii. **Van Wyck Road and Access 1**
 - a. Construction of Access 1 to include a single ingress lane, a single egress lane, and a 60-foot internal protected stem (IPS) with stop control.
 - b. Construction of a southbound left-turn lane with 150 feet of storage.
 - iii. **Van Wyck Road and Access 2/Access 3**
 - a. Construction of Access 2 to include a single ingress lane, a single egress lane, and an 85-foot IPS with stop control.
 - b. Construction of Access 3 to include a single ingress lane, a single egress lane, and a 70-foot IPS with stop control.
 - c. Construction of a southbound right-turn lane with 100 feet of storage.

- d. Construction of northbound and southbound left-turn lanes with 150 feet of storage.
 - iv. **Van Wyck Road and Access 4**
 - a. Construction of Access 4 to include a single ingress lane, a single egress lane, and a 60-foot IPS with stop control.
 - b. Construction of a southbound left-turn lane with 150 feet of storage.
 - v. **Van Wyck Road and Access 5**
 - a. Construction of Access 5 to include a single ingress lane, a single egress lane, and a 105-foot IPS with stop control.
 - b. Construction of a southbound right-turn lane with 100 feet of storage.
 - c. Construction of a northbound left-turn lane with 150 feet of storage.
 - vi. *Internal Streets/ROW:* All internal streets shall be privately maintained by Developer or his/her assigns. All streets shall be constructed in accordance with County standards and inspected by the County throughout the development process. Construction testing results and As built surveys of all constructed roads shall also be required.
 - c. *Phasing:* Traffic improvements may be phased with the various phases of Development of the Property consistent with the needs and impacts as set forth in the TIA and associated TIA addenda.
7. *Sewer:* Developer will bring sanitary sewer lines to the Property through adjacent properties and will install a regional pump station and forcemain on the Property to connect to serve the Property, which pump station and forcemain will be dedicated to the Lancaster County Water and Sewer District.

Modification of Development Program: It is recognized that periodic modifications to the Development Program may be needed to address market conditions, environmental challenges, and other elements. The following will outline the processes for Minor, Moderate, and Major Modifications to Exhibit B. Modifications to other sections of the Agreement will be processed in accordance with those provisions.

- a. **Minor Modifications:** “Minor Modifications” are defined as those modifications that reflect minor adjustments to the site layout caused by environmental features, adaptations to comply with regulatory requirements, and other changes considered incidental by County staff. Generally, Minor Modifications shall only be to the Site Plan and not to a specific development standard set forth within Exhibit B. The Planning Director shall determine what shall constitute a Minor Modification and have the authority to administratively approve such.
- b. **Moderate Modifications:** “Moderate Modifications” are those modifications to the Conceptual Site Plan that are not caused by environmental features, adaptations to comply with regulatory requirements, and are not considered by County staff to be incidental changes. Moderate Modifications may be approved by the County Council after a review

and recommendation is provided by County Staff. Approved Moderate Modifications shall be recorded by the Developer and made an amendment to Exhibit B.

- c. Major Modifications: “Major Modifications” are those that do not qualify as either a Minor or Moderate Modification, such as the addition of new external access point to the public road system. Major Modifications must be processed and considered in the same manner as set forth in Ordinance No. 663 for a proposed development agreement.

Exhibit B-1
Conceptual Site Plan
[Attached]

Exhibit C

Development Schedule

<u>Years</u>	<u>Residential</u>
1	0 units
2	0 units
3	200 units
4	200 units
5	200 units
6	200 units
7	200 units
8	19 units
Total	1019 units

This Development Schedule is an estimate. The provisions of Section 1.07 of this Agreement apply to this exhibit.

NOTE: County and Developer acknowledge that development of the Property is limited to 1,025 residential units.

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Exhibit D

Required Information

The Act and Ordinance No. 663 require a development agreement to include certain information. The following information is provided in conformance with the Act and Ordinance No. 663.

(A) *a legal description of the property subject to the agreement and the names of the property's legal and equitable owners.* The legal description of the Property is set forth in Exhibit A. As of the Agreement Date, (i) Nisbet Properties, LLC, (ii) Edward Quintard Nisbet, (iii) Clarkson Lee Nesbit, and (iv) Emily Virginia Nisbet are the legal and equitable owners of the Property, except to the extent that Developer has contractual rights to acquire the Property.

(B) *the duration of the agreement which must comply with Code Section 6-31-40.* See Section 1.10.

(C) *a representation by the developer of the number of acres of highland contained in the property subject to the agreement.* See Section 2.02.

(D) *the then current zoning of the property and a statement, if applicable, of any proposed rezoning of the property.* See Section 1.05.

(E) *the development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities and height.* See Section 1.06 and Exhibit B.

(F) *a description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the County shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.* See Article IV.

(G) *a description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement.* Developer agrees to comply with all applicable environmental laws.

(H) *a description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.* See Section 3.04.

(I) *a finding that the development permitted or proposed is consistent, or will be consistent by the time of execution of the agreement, with the County's comprehensive plan and land development regulations. See Section 2.01(A).*

(J) *a description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens. See Article IV.*

(K) *a description, where appropriate, of any provisions for the preservation and restoration of historic structures. Developer agrees to comply with all laws applicable to the preservation and restoration of historic structures within the Property.*

(L) *a development schedule including commencement dates and interim completion dates at no greater than five year intervals. See Section 1.07 and Exhibit C.*

(M) *if more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement. See Section 5.08.*

(N) *a listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers or portions of the County Code of Ordinances or both. See Sections 3.01, 3.03 and Exhibits E and E-1 – E-5.*

(O) *a provision, consistent with Code Section 6-31-80, addressing the circumstances under which laws and land development regulations adopted subsequent to the execution of the agreement apply to the property subject to the agreement. See Section 3.03.*

(P) *a provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly-incorporated area and, if so, that the provisions of Code Section 6-31-110 apply. See Section 5.09.*

(Q) *a provision that the agreement may be amended or cancelled by mutual consent of the parties to the agreement or their successors in interest. See Section 5.02.*

(R) *a provision that if the amendment constitutes a major modification of the agreement, the major modification may occur only after public notice and a public hearing by the council, provided that, for purposes of this item, a "major modification" means: (i) significant changes to the development scheduled time-frames set forth in the agreement; (ii) density modifications; (iii) land use changes; (iv) any major miscalculations of infrastructure or facility needs which create demand deficiencies; or (v) any significant deviation from the development as contained in the agreement. See Section 5.02.*

(S) *a provision that if the developer requests an amendment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified by the council if the developer is able to demonstrate and establish that there is good cause to modify those dates. See Sections 1.07 and 5.02.*

(T) *a provision that the agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the agreement is entered into which prevents or precludes compliance with one or more of the provisions of the agreement. See Section 5.02*

(U) *a provision for periodic review, consistent with the provisions of Section 8 of Ordinance No. 663. See Section 5.03.*

(V) *a provision addressing the effects of a material breach of the agreement, consistent with the provisions of Section 9 of Ordinance No. 663. See Section 5.04.*

(W) *a provision that the developer, within fourteen days after the County enters into the agreement, will record the agreement with the County Register of Deeds. See Section 5.07.*

(X) *a provision that the burdens of the agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement. See Section 1.09(A).*

(Y) *a provision addressing the conditions and procedures by which the agreement may be assigned. See Section 1.09, Section 3.05 and Section 5.14.*

(Z) *a traffic impact analysis prepared in accordance with UDO Chapter 6.8 and SCDOT standards. See Section 4.04.*

Exhibit E

Laws and Land Development Regulations

1. Ordinance No. 2022-_____ zoning properties subject to the Development Agreement to Regional Business (RB) District attached hereto as Exhibit-1.
2. Ordinance No. 2022-_____, approving this Development Agreement attached hereto as Exhibit E-2.
3. The Development Agreement Ordinance for Lancaster County, South Carolina: Ordinance No. 663, a copy of which is attached hereto as Exhibit E-3.
4. Unified Development Ordinance of Lancaster County (UDO): Ordinance No. 309, as amended as of the Agreement Date. The UDO includes Ordinance No. 328, as amended, as of the Agreement Date and which is cited as the Land Development Regulations of Lancaster County, a copy of which attached hereto as Exhibit E-4.
5. Land Development Regulations of Lancaster County: See Unified Development Ordinance of Lancaster County.
6. Lancaster County Manual of Specification and Standard Details, See Appendix C to the UDO.

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Exhibit E-1

Ordinance No. 2022-_____

[Rezoning Ordinance - Attached]

Exhibit E-2

Ordinance No. 2022-_____

[Ordinance Approving Development Agreement - Attached]

Exhibit E-3

The Development Agreement Ordinance, Ordinance No. 663

[Attached]

Exhibit E-4

The UDO

[The UDO, updated to the effective date of the Ordinance 2022-_____, will be signed by County and Developer, and maintained by Lancaster County Development Services]

Exhibit E-5

Lancaster County Manual of Specification and Standard Details, See Appendix C to the UDO.