

Ordinance No. 886

Section 4. This ordinance is effective upon third reading.

AND IT SO ORDAINED THIS THIRD DAY OF MARCH, 2008.

LANCASTER COUNTY, SOUTH CAROLINA

By: _____
Rudy L. Carter
Chair, County Council

Wesley Grier
Secretary, County Council

Approved as to form:

Interim County Attorney

Attest:

Irene Plyler
Clerk to County Council

Planning Commission Public Hearing:	February 19, 2008
Council Public Hearing:	January 28, 2008
1 st reading:	January 7, 2008
2 nd reading:	January 28, 2008
3 rd reading:	March 3, 2008

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Exhibit A to Ordinance No. ____

**Development Agreement
Between
Greenwood Development Corporation and Lancaster County
Relating to the Liberty Hill Farms Development**

See attached.

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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 appropriately zoned 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, significantly lower density than is allowed under current law, preservation and protection of natural areas and open spaces, an enhanced tax base with minimal impact on or need for public services, the development of an area of the County which in recent years has seen little or no development, and the donation or payment 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 S.C. Code §§ 6-31-10 to -160, as amended (“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 S.C. Code §§ 6-31-10 to -160, as amended.
- (2) “Agreement” means this Development Agreement.
- (3) “County” means the County of Lancaster, a body politic and corporate, a political subdivision of the State of South Carolina.
- (4) “County Council” means the governing body of the County.
- (5) “Developer” means Greenwood Development Corporation, a South Carolina corporation, and their successors in title to the Property who undertake Development of the Property or who are transferred Development Rights.
- (6) “Development Rights” means the right of the Developer to develop all or part of the Property in accordance with this Agreement.
- (7) “Effective Date” means March 3, 2008.

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

(9) “Ordinance No. 886” means Ordinance No. 886 of the County approving this Agreement.

(10) “Parties” means County and Developer.

(11) “UDO” means Ordinance No. 309 as amended as of December 21, 2007 and which is cited as the Unified Development Ordinance of Lancaster County. A copy of the UDO has been signed by the Parties and is on file in the Office of the Lancaster County Planning Department. The UDO is incorporated into this Agreement by reference as if the UDO were set out in this Agreement in its entirety.

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

(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.

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

Section 1.04. Property. This Agreement applies to that portion of the land described in Exhibit A located in the County. Exhibit A is attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety. The Property is generally known as the Liberty Hill Farms development.

Section 1.05. Zoning. The Property is zoned R-45 Rural Residential/Agricultural District pursuant to the UDO. The UDO is incorporated into this Agreement by reference.

Section 1.06. Permitted Uses. The development uses permitted on the Property are limited to those shown on the attached Exhibit B. Density is limited as provided in Exhibit B. Building heights are limited to typical building heights as provided in the UDO and as otherwise provided in Exhibit B. Other terms and conditions of the development of the Property are set forth on Exhibit B.

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 County 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 County 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 individual lots who are the end users and not developers thereof, 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) Notwithstanding the provisions of Section 1.09(B), the purchaser or other successor in title to the Developer and who is the owner or lessee of an individual lot is responsible for performance of Developer's obligations pursuant to Section 4.02, but only as to the portion of the Property so transferred.

Section 1.10. Term. The term of this Agreement commences on the Effective Date and terminates twenty (20) 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 represents that it finds the development permitted by this Agreement is consistent with the County's comprehensive plan and land development regulations.

(B) The County represents that it has approved this Agreement by adoption of Ordinance No. 886 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. 886 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.

(D) The County represents that the execution, delivery and performance of this Agreement by the County has been duly authorized and approved by all requisite action on the part of the County.

Section 2.02. Representations and Warranties of Developer. (A) Developer represents that the number of acres of highland contained in the Property is more than one thousand (1000).

(B) Developer represents that, as of the Effective Date, it is the only legal and equitable owner of the portion of the Property described in Exhibit A of this Agreement.

(C) Developer represents that the execution, delivery and performance of this Agreement by the Developer has been duly authorized and approved by all requisite action on the part of the 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. As of the Effective Date, the right of Developer to develop the Property is deemed vested with Developer for the term of this Agreement.

(B) County agrees that the specific Laws and Land Development Regulations in force as of the Effective Date, unless another date is otherwise specified in this Agreement, as set forth in Exhibit E 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 the UDO and the terms of this Agreement.

(D) Except as may be provided for in this Agreement, the Act or Ordinance No. 663, no future changes or amendments to the Laws and Land Development Regulations shall apply to the Property, and no other local land development legislative enactments shall apply to the development, the Property, or this Agreement which have a direct or indirect adverse effect on the ability of the Developer to develop the Property in accordance with the Laws and Land Development Regulations.

(E) 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.

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, as amended, or the provisions of Ordinance No. 673, the County's ordinance relating to the Vested Rights Act.

Section 3.03. Applicability of Subsequently Adopted Laws and Land Development Regulations. (A) County may apply laws adopted after the Effective Date to the development of the Property only if the County Council holds a public hearing and determines:

(1) the laws are not in conflict with the laws governing this Agreement and do not prevent the development set forth in this Agreement and "laws" which prevent development include, but are not limited to, a moratorium, or any other similar restriction that curtails the rate at which development can occur on the Property;

(2) the laws are essential to the public health, safety, or welfare and the laws expressly state that they apply to the development that is subject to this Agreement;

(3) the laws are specifically anticipated and provided for in this Agreement;

(4) that substantial changes have occurred in pertinent conditions existing at the time this Agreement was approved which changes, if not addressed by County, would pose a serious threat to the public health, safety, or welfare; or

(5) that this Agreement was based on substantially and materially inaccurate information supplied by the Developer.

(B) Developer agrees to comply with any county-wide building, housing, electrical, plumbing, and gas codes adopted by County Council after the execution of this Agreement 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 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 or approvals needed, some of which may have been obtained as of the Effective Date include, but are not limited to:

(1) Zoning permit;

(2) Building permits, including plat approval; and

(3) Sign permit.

(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. Developer may 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.

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 are expected to exceed the burdens and costs placed upon the County, but certain initial costs and capital expenditures may be 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 4.02. Payment to Lancaster County. (A) At the time an application for a building permit is made for the first dwelling unit to be constructed on a lot, Developer agrees to pay County five thousand dollars (\$5000.00). Payment of the optional lump sum amount provided for in Section 4.02(B) fulfills the Developer's agreement to make a payment at the time of application for a building permit.

(B) Not later than twenty years from the Effective Date, Developer shall have the option to pay County a lump sum amount equal to five thousand dollars (\$5000.00) times the number of lots in the Liberty Hill Farms development minus the number of lots for which the payment in Section 4.02(A) has been made. The lump sum payment entitles the Developer to receive a certain number of building permits, as provided in subsection (D) of this section. Exercise of this option and, if exercised, the number by which the dollar amount is multiplied shall be totally within the discretion of the Developer, provided, however, in no event shall the development contain more than three hundred ninety three (393) lots.

(C) The expenditure and use of the revenue from the payments required by this section is at the sole discretion of the County Council.

(D) Payment of the optional lump sum amount entitles the Developer to building permits for constructing main dwelling units and guest houses on lots in the Property. The number of building permits for each lot shall be determined in accordance with the provisions of Exhibit B, provided, that in no event shall Developer be entitled to receive building permits for more than three hundred ninety three (393) main dwelling units. At the time of payment of the optional lump sum amount, the County shall provide to the Developer a document indicating the Developer: (i) has paid the optional lump sum amount; (ii) is entitled to a specified number of building permits for each lot to which the payment applies; (iii) will receive building permits upon meeting all ordinary requirements for the issuance of building permits including, but not limited to, any then applicable county-wide building, housing, electrical, plumbing, and gas codes adopted by County Council; (iv) will receive the building permits notwithstanding any applicable moratorium, limit on the issuance of building permits, or any other restriction on development rights in effect at the time of application or time of issuance for the building permit; and (v) that the County considers the issuance of the document entitling the Developer to building permits pursuant to this Section 4.02(D) to be a "building permit" as used in Section

13.6.2.6.5 of the UDO, as added to the UDO by Ordinance No. 673, and relating to vesting of construction.

Section 4.03. Payment of Costs. Upon submission of appropriate documentation of the expenditure, Developer agrees to reimburse the County, not later than May 31, 2008, for the County's reasonable unreimbursed actual costs related to this Agreement. The foregoing cost reimbursement is capped at fifteen thousand dollars (\$15,000.00) 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 4.04. 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, issuing building permits, reviewing plans, conducting inspections or similar type processing costs.

Section 4.05. 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) Developer is responsible for the construction and costs of all roads within the Property including but not limited to any necessary entrance and intersection improvements as may be required by the appropriate authority. County is not responsible for any construction or maintenance or the costs of any construction or maintenance associated with any roads within the Property including but not limited to any entrance and intersection improvements or any other road related to the development of the Property. 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.

(2) County acknowledges that the Liberty Hill Farms development is a restricted access community. Construction and maintenance of all roads within this restricted access community is the responsibility of the Developer. Developer may transfer its maintenance obligation to a homeowners' association established for the Liberty Hill Farms development, provided, that the transfer is for perpetual maintenance.

(3) Developer agrees to be responsible for the maintenance of the landscaping in the right of way and any medians of the roads within the Property, Developer may transfer its maintenance obligation to a homeowners' association established for the Liberty Hill Farms development, provided, that the transfer is for perpetual maintenance.

(4)(a) County and Developer each acknowledge that access to the portion of the Liberty Hill Farms development in Lancaster County is from public roads in Kershaw County. County is not responsible for providing, and has no obligation to provide, access to the Property by public road in Lancaster County or Kershaw County. Access to the Property is solely the responsibility and obligation of the Developer.

(b) Notwithstanding that access to the Liberty Hill Farms development is by road in Kershaw County, Developer agrees to equip the Kershaw County accesses with a rapid access system that conforms with the then current Lancaster County requirements for rapid access systems. Developer is responsible for the installation, maintenance and operation, and any associated costs, of any required rapid access system.

(B) Potable Water. Potable water will be supplied by wells located on each lot. Lot owners are responsible for the construction, maintenance, operation and all related costs for wells serving the lot. County is not responsible for any construction, treatment, maintenance, operation or any related costs associated with water service or water service infrastructure to or within the Property or any wells serving individual lots. Wells 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.

(C) Sewage Treatment and Disposal. Sewage treatment and disposal will be provided by septic tanks located on each lot. Lot owners are responsible for the construction, maintenance, operation and all related costs for septic tanks serving the lot. County is not responsible for any construction, treatment, maintenance, operation or any related costs associated with sewage conveyance service or infrastructure to or within the Property or any septic tank or system serving individual lots. Septic tanks or systems 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) 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 established for the Liberty Hill Farms development. County is not responsible for any construction or maintenance 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.

(E) 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 disposal for single family residential, multi-family residential or commercial developments.

(F) Law Enforcement Protection. The County shall provide law enforcement protection services to the Property on the same basis as is provided to other residents and businesses within the County.

(G) Recycling Services. The County shall provide recycling services to the Property on the same basis as is provided to other residents and businesses within the County.

(H) Emergency Medical Services (EMS). Emergency medical services shall be provided by the County to the Property on the same basis as is provided to other residents and businesses within the County. Developer acknowledges that access to the Property by road is on roads located in Kershaw County. If Developer wants Kershaw County emergency medical service to be the first responder to the Property, then County may consider entering into an appropriate mutual aid or intergovernmental agreement with Kershaw County, provided, however, if there is a cost to Lancaster County for this service arrangement, then it is the County's intent for the owners of the Property to pay the cost.

(I) Fire Services. Fire services shall be provided by the Bell Town Volunteer Fire Department on the same basis as is provided to other residents within the County. Developer acknowledges that access to the Property by road is on roads located in Kershaw County. If Developer wants Kershaw County fire services to be the first responder to the Property, then County may consider entering into an appropriate mutual aid or intergovernmental agreement with Kershaw County, provided, however, if there is a cost to Lancaster County for this service arrangement, then it is the County's intent for the owners of the Property to pay the cost.

(J) Library Service. The County shall provide library services on the same basis as is provided to other residents within the County.

(K) School Services. Public school services are now provided by the Lancaster County School District.

(L) Parks and Recreation. The County shall provide parks and recreation services on the same basis as is provided to other residents within the County.

ARTICLE V

MISCELLANEOUS

Section 5.01. Notices. Any notice, demand, request, consent, approval or communication which a party is required to or may give to another party to this Agreement shall be in writing and shall be delivered or addressed to the other at the address set forth below or to such other address as the party may from time to time direct by written notice given in the manner prescribed in this section, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile or if by mail on the fourteenth (14th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as provided in this section. All notices, demands, requests, consents, approvals or communications to the County shall be addressed to:

County of Lancaster
Attn: County Administrator
101 N. Main St.
P.O. Box 1809
Lancaster, SC 29721

And to Developer:

Greenwood Development Corporation
Attn: _____
P.O. Box 230
Liberty Hill, SC 29074
509B Walnut Street
Camden, SC 29020

and

Greenwood Development Corporation
Attn: General Counsel
P.O. Box 1546
Greenwood, SC 29648
104 Maxwell Avenue
Greenwood, SC 29646

Section 5.02. Amendments. (A) This Agreement may be amended or cancelled by mutual consent of the parties to the Agreement. An amendment to this Agreement must be in writing. No statement, action or agreement made after the Effective 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) If an amendment to this Agreement constitutes a major modification, the major modification may occur only after public notice and a public hearing by the County Council. A “major modification” means: (i) any increase in maximum gross density of development on the Property over that set forth in this Agreement; (ii) land use changes that are inconsistent with the land uses contained in this Agreement; (iii) any major miscalculations of infrastructure or facility needs from that contemplated in this Agreement and which create demand deficiencies; or (iv) any other significant deviation from the development as contemplated in this Agreement.

(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 Effective 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.

Section 5.03. Periodic Review. At least every twelve months, the County planning director 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 County planning director finds and determines that the Developer has committed a material breach of the terms or conditions of this Agreement, the County planning director 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: (1) to rebut the finding and determination; or (2) 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 S.C. Code § 6-31-110, as amended. 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: (1) that this Agreement is in full force and effect; (2) that this Agreement has not been amended or modified, or if so amended, identifying the amendments; and (3) 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 (4) 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. 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 5.13. 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. County may assign its rights, obligations, duties and responsibilities devolved by this Agreement on or to the County to any other person, firm, corporation, or entity.

Section 5.14. Governing Law; Jurisdiction; and Venue. (A) This Agreement is governed by the laws of the State of South Carolina.

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

Section 5.15. 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 5.16. 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 5.17. 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.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date below written.

WITNESSES:

DEVELOPER:

Greenwood Development Corporation,
a South Carolina corporation

By: _____
Name: _____
Title: _____
Date: _____

WITNESSES:

COUNTY:

COUNTY OF LANCASTER,
SOUTH CAROLINA

By: _____
Steve Willis
County Administrator
Date: _____

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Exhibit A
Property Description

Liberty Hill Farms

All that certain tract of land located in Cedar Creek Township, Lancaster County, South Carolina, and in Flat Creek Township, Kershaw County, South Carolina, designated as "AREA = 3,575.590 ACRES" on plat recorded in Plat Book 2006, Pages 513-517 in the Office of the Lancaster County Register of Deeds and in Plat Slide 13188, Pages 3-7 in the Office of the Kershaw County Register of Deeds ("**Plat**");

AND BEING all or a portion of the land conveyed to Southern Power Company (presently known as Duke Energy Corporation) by deed from R. C. Johnson (WA-39) recorded in Deed Book __, Page __; by deed to Southern Power Company (presently known as Duke Energy Corporation) from R. C. Johnson (WA-40) recorded in Deed Book P, Page 286; by deed to Southern Power Company (presently known as Duke Energy Corporation) from R. C. Johnson (WA-41) recorded in Deed Book P, Page 287; by deed to Southern Power Company (presently known as Duke Energy Corporation) from Dianah McIlwain (WA-41) recorded in Deed Book P, Page 373; and by deed to Crescent Land & Timber Corp. (presently known as Crescent Resources, LLC) from Duke Power Company (presently known as Duke Energy Corporation) recorded in Deed Book A6, Page 49, all in the Office of the Lancaster County Register of Deeds;

AND BEING all or a portion of the land conveyed to Southern Power Company (presently known as Duke Energy Corporation) by deed from R. C. Johnson (WA-39) recorded in Deed Book RRR, Page 282; by deed to Southern Power Company (presently known as Duke Energy Corporation) from J. R. Thompson (WA-83) recorded in Deed Book YYY, Page 482; by deed to Southern Power Company (presently known as Duke Energy Corporation) from J. M. Perry (WA-67) recorded in Deed Book PPP, Page 575; by Deed to Southern Power Company (presently known as Duke Energy Corporation) from W. F. Thompson, et al. (WA-84) recorded in Deed Book RRR, Page 414; by deed to Wateree Power Company (presently known as Duke Energy Corporation) from Lizzie Peay, et al. (WA-20) recorded in Deed Book AQ, Page 84; and by deed to Crescent Land & Timber Corp. (presently known as Crescent Resources, LLC) from Duke Power Company (presently known as Duke Energy Corporation) recorded in Deed Book HW, Page 1493, all in the Office of the Kershaw County Register of Deeds.

Tax Parcel Numbers: **Lancaster County – P/0 150-000-001-000**
 Kershaw County – P/0 073-000-000-001

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Exhibit B Development Conditions

Development of the Property shall occur in accordance with the provisions of this Agreement, specifically including, but not limited to, Section 1.06 and this Exhibit B.

Developer agrees to develop the Property subject to the following limitations, conditions and exceptions:

(1) UDO to Apply. Unless otherwise provided in this Agreement, the provisions of the UDO apply to the development, more specifically, the provisions applicable to property classified as R-45, Rural Residential/Agricultural District.

(2) Minimum Lot Size. The minimum lot size for the development is five (5) acres.

(3) Permissible Uses. All uses allowed in an R-45, Rural Residential/Agricultural District, are allowed for the development. The principal land use is residential. Facilities and activities on the Property might include, but are not limited to: (i) facilities for the management and maintenance of the Property; (ii) common area or amenity facilities for individual property owners; (iii) sales offices; (iv) forest management including timbering; (v) recreation facilities for individual property owners such as stables, docks, skeet ranges, and riding trails.

(4) Maximum Number of Lots, Density and Dwelling Units. The maximum number of lots in the Liberty Hill Farms development is three hundred ninety three (393).¹ A lot in the Liberty Hill Farms development may have more than one dwelling unit. If the size of the lot is less than ten (10) acres, then the maximum number of dwelling units allowed is three (3)², provided, that the largest dwelling unit is designated as the main dwelling unit and the other dwelling units are designated as guest houses. If the size of the lot is ten (10) acres or more, then the maximum number of dwelling units allowed is four (4), provided, that the largest dwelling unit is designated as the main dwelling unit and the other dwelling units are designated as guest houses. The maximum size of a dwelling unit designated as a guest house is seventy-five percent (75%) of the size of the main dwelling unit.

(5) Setbacks. All structures in the Liberty Hill Farms development shall be setback from the front, side and rear boundaries of the lot a minimum of fifty feet (50'). The setback area shall be maintained as a natural area. Maintenance of the setback area is limited to removal of litter, dead trees, plant materials, and brush. Portions of a setback area may be used for driveway crossings, shared driveways, walk paths, equestrian trails and providing access to adjoining property or a water body. Developer agrees to prepare and file with the Lancaster County Planning Department a shoreline management plan prior to the first phase of development construction.

¹ The formula for determining the maximum number of lots is number of acres in the development (1968) divided by the minimum lot size (5 acres) which equals 393.

² Assuming all lots in the Liberty Hill Farms development are five acres, the density for the development is capped at three dwelling units per lot or, stated on a per acre basis, six-tenths (.60) dwelling units per acre, or stated on a per dwelling unit basis, one and sixty-six hundredths (1.66) acres per dwelling unit.

(6) Open Space and Impervious Surfaces. Not less than eighty percent (80%) of a lot in the Liberty Hill Farms development shall be private open space. The impervious surface ratio for a lot may not exceed twenty percent (20%).

(7) Private Roads. All roads in the Liberty Hill Farms development must be private. The provisions of Section 13.7.10.4 of the UDO apply to the private roads except that any private road may access more than five lots. The private roads shall meet the road design and road construction standards of the UDO except as follows: (i) right-of-way width shall be not less than fifty feet (50'); (ii) pavement width shall not be less than eighteen feet (18'); (iii) street grades shall not exceed sixteen percent (16%); (iv) the number and location of accesses limitation in the UDO does not apply; (v) the block length and width limitations in the UDO do not apply; (vi) connectivity requirements in the UDO do not apply; (vii) roadside drainage may consist of open swales, provided, that all drainage plans meet or exceed requirements of the South Carolina Department of Health and Environmental Control; and (viii) permanent dead-end streets may be developed with Y turnarounds. The provisions of Sections 13.7.10.8 (Road Design (Geometric Criteria)), 13.7.10.9 (Road Construction), 13.7.10.13 (Roadside Drainage), and Chapter 21 (Specifications for Street Design and Construction) do not apply in the Liberty Hill Farms development. Notwithstanding any other provision of this item, all roads in the Liberty Hill Farms development shall be properly designed and constructed in accordance with sound engineering principles.

(8) Subdivision. Upon the sale of a lot to a purchaser, additional subdivision of the lot is prohibited. The deed conveying the Property to a purchaser shall include a provision prohibiting additional subdivision of the lot.

(9) Bed and Breakfast. The Liberty Hill Farms development may have not more than one (1) bed and breakfast operation. The bed and breakfast operation may be located in a structure constructed after the Effective Date of this Agreement. The following requirements apply to a bed and breakfast operation: (i) the owner of the bed and breakfast or full time manager must reside in the structure; (ii) the structure must contain one full bathroom for the exclusive use of the owner or resident manager and other members of the immediate household; (iii) the guest rooms shall be offered primarily to transient persons for rental or lease by the day or week, the maximum length of stay is limited to fourteen (14) days in any thirty-day period of time, the property owner or full time manager shall keep a current guest register including names, addresses, and dates of occupancy of all guests, and these records shall be available for inspection by the Building and Zoning Official; and (iv) not more than one sign advertising the existence of a bed and breakfast operation may be erected on the lot where such use is located, no side of this sign may exceed four square feet in surface area, and the sign may not be internally illuminated.

(10) Summer Camps. For purposes of the Liberty Hill Farms development, "child day care" or "child day care center", as defined in the UDO, does not include a summer resident or day camp or a school vacation or school holiday day camp for children of Liberty Hill Farms residents or their guests.

(11) Construction, Demolition and Land Clearing Debris Landfill. A construction, demolition and land clearing debris landfill may be located in the Liberty Hill Farms development only if it is used solely for the land filling of construction, demolition and land clearing debris generated in the Liberty Hill Farms development and the landfill complies with all state and federal laws.

(12) Pistol, Rifle or Skeet Range. A pistol, rifle or skeet range may be located in the Liberty Hill Farms development only if the use of the range is limited to the individual lot owners, residents of the Liberty Hill Farms development and their guests and the range is located on property owned by the homeowners association or the developer. The orientation, location, operation and construction of the range shall be determined by the developer, in the developer's discretion. The site upon which the range is located shall be suitable in size and topography to insure the safety of area residents.

(13) Notification to Purchasers of Property. Developer agrees to provide a written disclosure to the purchaser of each lot in the Property which informs the purchaser that: (i) the Property has no ingress or egress by road in Lancaster County; (ii) access to the Property by Lancaster County law enforcement, fire and emergency medical service personnel is by road in Kershaw County; (iii) the distance from the Bell Town Volunteer Fire Department station to the Kershaw County entrance to the Property is approximately sixteen miles and the distance from Kershaw County's Beaver Creek Fire Station to the Kershaw County entrance to the Property is approximately seven miles; (iv) Lancaster County and Kershaw County have in place mutual aid agreements for certain emergency services; (v) the Lancaster County Fire Service strongly advises the use of alternative fire protection measures such as the installation of National Fire Protection Association (NFPA) 13R sprinklers because of the rural isolated nature of the Liberty Hill Farms development and the structures it will contain; (vi) NFPA 13R sprinklers are required for buildings exceeding thirty-five feet (35') in height; and (vii) Lancaster County is not responsible for providing, and has no obligation to provide, access to the Property by public road in Lancaster County or Kershaw County. The disclosure shall be included in each contract for the sale of property in the Liberty Hill Farms development.

(14) Building Heights. The maximum height of a building on the Property shall be determined in accordance with the provisions of the UDO, provided, however, the maximum height may exceed thirty five feet (35') only if the building has a National Fire Protection Association (NFPA) 13R sprinkler system.

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Exhibit C
Development Schedule

Fifty percent (50%) of the land development for lots is expected to be completed within five (5) years of the Execution Date for this Agreement and the remaining fifty percent (50%) in the subsequent five (5) year period.

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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. Greenwood Development Corporation, as of the Effective Date, is the only legal and equitable owner of 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 re-zoning 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, including specifically Section 4.05.*

(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. Not applicable except that in regards to any environmentally sensitive property, 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, 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.

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

(L) 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.

(M) 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 Section 3.01(B) and Exhibit E.

(N) 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.

(O) 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.

(P) a provision [relating to the amendment, cancellation, modification or suspension of the agreement]. See Section 5.02.

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

(R) 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.

(S) 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.

(T) 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).

(U) a provision addressing the conditions and procedures by which the agreement may be assigned. See Section 1.09(B), Section 3.05 and Section 5.13.

Exhibit E
Laws and Land Development Regulations

1. Ordinance No. 886, approving this Development Agreement.
2. The Development Agreement Ordinance for Lancaster County, South Carolina: Ordinance No. 663.
3. Unified Development Ordinance of Lancaster County: Ordinance No. 309, as amended as of December 21, 2007. A copy of the Unified Development Ordinance has been signed by the Parties and is on file in the Office of the Lancaster County Planning Department
4. Land Development Regulations of Lancaster County: Ordinance No. 328, as amended as of December 21, 2007. The Land Development Regulations of Lancaster County are included in the Unified Development Ordinance of Lancaster County, a copy of which has been signed by the Parties and is on file in the Office of the Lancaster County Planning Department.

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