

## FIRST AMENDMENT TO LAND EXCHANGE AGREEMENT

THIS FIRST AMENDMENT TO LAND EXCHANGE AGREEMENT (this “First Amendment”) is made effective as of the latest date of the signatures of the parties hereto (the “Effective Date”), by and between ACRE Manager, LLC, a Delaware Limited Liability Company (“ACE”) and the Town of Apex (“Town”)(each, a “party” and collectively, the “parties”).

WHEREAS, Section 160A-271 of the North Carolina General Statutes expressly provides that a city may exchange any real property belonging to the city for other real property by private negotiations if the city receives full and fair consideration in exchange for its property;

WHEREAS, on October 8, 2024 the Apex Town Council approved a Land Exchange Agreement between ACRE and the Town to exchange certain tracts of real property and on October 10, 2024, the parties executed the Land Exchange Agreement (the “Agreement”);

WHEREAS, the Agreement included a Closing Date of August 26, 2026 but Closing was contingent on Rezoning approval and NCDOT approval of the new Perry Road Alignment;

WHEREAS, Town Council approved the Rezoning, but because ACRE is designing and constructing the full Perry Road section, formal NCDOT approval of the Perry Road Alignment will not occur until construction drawing review for the Development which will occur after August 26, 2026; and

WHEREAS, other requirements for the exchange Closing have been met, but the parties desire to enter this First Amendment to extend the Closing Date to allow NCDOT approval of the Perry Road Alignment to occur before Closing, and revise the Additional Consideration to reflect the extended Closing Date.

NOW, THEREFORE, in consideration of the mutual covenants set forth in this First Amendment and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree to amend the Agreement as follows:

1. **Recitals; Defined Terms**. The recitals of this First Amendment form an integral part hereof. Capitalized terms in this First Amendment shall have the meaning ascribed to them in the Agreement.

2. **Closing Date**. The Closing Date in Section 10 of the Agreement shall be revised as follows:

“Unless the Parties otherwise agree, the Closing shall occur on the date that is thirty (30) days following NCDOT approval of the Perry Road Alignment or August 26, 2027, whichever occurs first (the “Closing Date”), provided ACRE may, in its sole discretion, consummate the Closing earlier than the Closing Date upon thirty (30) days’ prior written notice to Town.”

3. **Additional Consideration**. Sections 1(c)(i), 1(c)(ii), and 1(c)(iii) of the Agreement shall be replaced with the following:

(i) the Additional Consideration to be paid by ACRE to the Town shall equal \$185,220 per acre for the difference in acreage between the Town Exchange Property and the ACRE Exchange Property. The difference in acreage is 11.54 acres and the total Additional Consideration is \$2,137,439.

4. **Full Force and Effect.** Except as amended herein, the Agreement shall remain in full force and effecting and binding on ACRE and Town and their respective successors and assigns.

5. **Counterparts; Electronic Signatures.** This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original, and counterpart signature pages may be assembled to form a single original document. Handwritten signatures to the Agreement and this First Amendment transmitted by email or other similar electronic transmission (for example, through the use of a Portable Document Format or "PDF" file), as well as electronic signatures obtained and transmitted via DocuSign®, shall be valid and effective to bind the Party so signing.

[Signature Pages Follow]

EXECUTED the date and year noted beside the respective signatures.

**ACRE Manager, LLC,**  
a Delaware Limited Liability Company

By: \_\_\_\_\_  
Name/Title:

STATE OF \_\_\_\_\_  
\_\_\_\_\_ COUNTY

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document \_\_\_\_\_.

Date: \_\_\_\_\_  
\_\_\_\_\_, Notary Public

*[Affix Notary Stamp or Seal]*

My Commission Expires: \_\_\_\_\_

Town of Apex

\_\_\_\_\_  
Randal Vosburg, Town Manager

(Corporate Seal)

ATTEST:

\_\_\_\_\_  
Allen Coleman, Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that Allen Coleman personally came before me this day and acknowledged he is Town Clerk of the Town of Apex, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Manager, sealed with its corporate seal and attested by him as its Town Clerk. Witness my hand and official stamp or seal, this the \_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
[Notary Signature]

\_\_\_\_\_, Notary Public

[Print or Type Notary Name]

My Commission Expires: \_\_\_\_\_