

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Contract**”) is made and entered into as of the ____ day of _____, 202__ (the “**Effective Date**”), by and between the **TOWN OF PINEVILLE**, a North Carolina municipal corporation (the “**Town**”) and **CONE MILL DEVELOPMENT VENTURES, LLC**, a North Carolina limited liability company (“**Developer**”). The Town and the Developer are sometimes separately referred to in this Contract as a “Party” or jointly referred to as the “Parties.”

RECITALS:

A. The Town is authorized, pursuant to powers granted under North Carolina General Statutes (“**N.C.G.S.**”) §160D-1312 and N.C.G.S. §160D-1315, to, among other things, convey a property owned by the Town to a private developer in connection with a joint development project; subject, however, to certain covenants, conditions and restrictions as the Town deems to be in the public interest and/or necessary to carry out the purpose of N.C.G.S. §160D-1315.

B. The Town, Pineville Redevelopment and Investment, Inc. (“**Pineville Redevelopment**”) and Developer are parties to that certain AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, dated October 23, 2024 (as amended and assigned from time to time, the “**Purchase Agreement**”) pursuant to which the Town and Pineville Redevelopment have agreed to sell, and Developer has agreed to purchase, that certain real property located at 200 Dover Street and 306 Dover Street in Pineville, North Carolina, owned by the Town and having Mecklenburg County Tax Parcel Numbers 221-051-11 and 221-051-17, respectively, and that certain real property located at 436 Cone Avenue in Pineville, North Carolina, owned by Pineville Redevelopment and having Mecklenburg County Tax Parcel Number 221-051-07, all being more particularly described on Exhibit A attached hereto (collectively, the “**Property**”).

C. The Purchase Agreement, among other things, provides for the Town and Developer to enter into a Public-Private Joint Development Agreement in order to facilitate the development and clearly state the rights, obligations, and liabilities of the Town and Developer as it relates to the construction of certain improvements on the Property, and Developer and the Town desire to enter into this Contract for such purpose.

D. N.C.G.S. §160D-1001 through §160D-1012 (the “**Development Agreement Act**”), enables local governments to enter into binding development agreements with entities intending to develop real property under certain conditions, procedures, and requirements set forth in the Development Agreement Act, which procedures and requirements include approval of the development agreement by the governing body of the local government by ordinance after a duly noticed public hearing.

E. The development of the Property is consistent with the Town’s adopted policy guidance, and is reasonable and in the public interest for the following reasons, each of which serve as a benefit to the Town:

1. Resulting in a significant positive effect on the revitalization of the central business district;
2. Furthering the goals of securing an appropriate residential and commercial density on the Property and implementation of the Development Plan (as defined herein); and

3. Provision of an efficient, effective, and practical overall plan for addressing the development of the Property.

F. The general benefits to be received by the Developer from the development of the Property include, without limitation:

1. Development rights for a total of a maximum of 162 townhome units on the Property, pursuant to the Development Plan.

2. Development rights for a total of between 24,000 and 50,000 square feet of commercial buildings on the Property, pursuant to the Development Plan.

3. Development rights for parking pads, off-street parking, and/or a parking garage on the Property, pursuant to the Development Plan.

G. The general benefits to be received by the Town from the development of the Property include, without limitation:

1. Pursuant to the terms of a Declaration of Use Restrictions, the terms of which shall be approved by the Town and which shall be recorded at the time of Closing on the Property, the quantity of townhome units that can be leased at any given time shall be limited to no more than ten percent (10%) of the total townhomes located on the Property;

2. Pursuant to the terms of the Purchase Agreement, execution and delivery of an option agreement in favor of the Town (the “**Option Agreement**”) to re-purchase the Property in the event the Phase I Improvements and/or Phase II Improvements (as each hereinafter defined) have not been commenced on or before the Phase I Deadline or Phase II Deadline (as both hereinafter defined), or the Phase I Improvements and/or or Phase II Improvements are abandoned as more particularly described in the Option Agreement; and

3. Construction by Developer of the Public Infrastructure Systems at the Developer’s sole cost and expense.

H. Pursuant to N.C.G.S. §160D-1005 and N.C.G.S §160D-1312, a public hearing regarding this Contract and the Purchase Agreement was held at the December 10, 2024 meeting of the Town of Pineville Town Council (the “**Town Council**”). The notice of public hearing specified, among other things, the location of the Property subject to this Contract and the Purchase Agreement, the development uses proposed on the Property in accordance with the Development Plan, and the appraisal of the Property. The Purchase Agreement was available for public inspection at the Town’s Town Hall. At that meeting, the Town Council passed a Resolution approving the Purchase Agreement, attached hereto as Exhibit B.

I. The Town and Developer agree that the Developer shall (i) complete the construction of the Phase I Improvements and Phase II Improvements on the Property; (ii) complete the construction of the Public Infrastructure Systems and the Water and Sewer Infrastructure; (iii) complete the construction of the Designated Parking Areas; (iv) complete the construction of the Town Green; and (v) dedicate the Public Infrastructure Systems and the Town Green to the Town following completion of such development.

J. The Town and Developer, pursuant to the Purchase Agreement, hereby enter into this Contract to more specifically set forth their understandings regarding the development and use of the Property.

AGREEMENT:

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and Developer hereby agree as follows:

SECTION 1. Incorporation of Recitals; Defined Terms.

(a) The above recitals are true and correct and by this reference are incorporated as if fully set forth herein.

(b) Defined terms are indicated herein by initial capital letters; and shall have the meanings set forth herein, whether or not such terms are used before or after the definitions are set forth; and if not specifically set forth herein, defined terms shall have the meanings set forth in the Purchase Agreement.

(c) “Designated Parking Area” shall mean that certain parking area designated for use at all times by the general public, comprised of approximately ninety (90) parking spaces, as labeled as “For Town/General Use” on the Development Plan.

(d) “Development Plan” shall mean the plan that becomes part of the zoning of the Property as approved by Town Council, which establishes the level and detail of development allowed absent further zoning action except as otherwise allowed or required under this Contract, and which is generally consistent with that certain Developer’s Concept Plan dated September 2024 as set forth on Exhibit C hereto. For the avoidance of doubt, such Development Plan is not approved by Town Council by execution of this Contract, and must be approved by Town Council, if at all, pursuant to all applicable laws and ordinances.

(e) “Force Majeure”: No Party shall be responsible for any default, delay or failure to perform if such default, delay or failure to perform is due to causes beyond such Party’s reasonable control, including, but not limited to, strikes, lockouts, actions or inactions of governmental authorities, epidemics, pandemics, wars, embargoes, fires, hurricanes, adverse weather, acts of God, interference duly caused by any other Party, or the default of a common carrier. In the event of a default, delay or failure to perform due to causes beyond such Party’s reasonable control or due to interference by another Party, any date or times by which the Parties are otherwise scheduled to perform, if any, shall be extended for a period of time equal in duration to the time lost by reason of the cause beyond the reasonable control of such Party. Written notice of such alleged delay shall be given to the other Party within fifteen (15) days of the commencement of such delay and shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure event are minimized. Notwithstanding the foregoing, in no event shall Developer’s performance of its obligations under this Contract be extended beyond one hundred fifty (150) days after the applicable deadline herein.

(f) “Governmental Requirements” shall mean all building, zoning, subdivision, traffic, parking, land use, environmental, occupancy, health, accessibility for disabled, and other applicable laws, statutes, codes, ordinances, rules, regulations, requirements, and decrees of any federal, state, county, city, town, other municipal corporation, governmental or quasi-governmental board, agency, authority,

department, including all conditions or requirements of any permits, licenses, variances, entitlements and/or approvals.

(g) “Improvements” shall mean all buildings, structures, fixtures, parking areas, parks, roadways, sidewalks, and other improvements located on the Property.

(h) “Phase I” shall mean the portion of the Property and Improvements labeled as “Phase I” on the Development Plan.

(i) “Phase I Deadline” shall mean the date that is twelve (12) months after the Closing Date.

(j) “Phase I Improvements” shall mean the Improvements set forth on the Development Plan and labeled as “Phase I” thereon.

(k) “Phase II” shall mean the portion of the Property and Improvements labeled as “Phase II” on the Development Plan.

(l) “Phase II Deadline” shall mean the date this is thirty-six (36) months after the Closing Date.

(m) “Phase II Improvements” shall mean the Improvements set forth on the Development Plan and labeled as “Phase II” thereon.

(n) “Public Infrastructure Systems” shall include the widening of Dover Street, installation of sidewalks bordering Dover Street, and construction of related and ancillary public infrastructure systems, all as depicted on the Development Plan.

(o) “Substantially Complete” shall mean, at Developer’s sole cost and expense: (i) all development, demolition, grading, site work, off-site development, related public infrastructure, construction, installation and remediation of the Improvements required to be completed pursuant to the Purchase Agreement, this Contract, and the Development Plan has been completed in accordance with the foregoing and in compliance with all Governmental Requirements, as evidenced by certificates from the architect and engineer responsible for design and development of the Phase I Improvements, and/or Phase II Improvements, and/or Water Sewer Infrastructure, and/or Public Infrastructure Systems (as applicable); and (only in the case of the Phase I Improvements and the Phase II Improvements) (ii) issuance of a certificate (or certificates) of occupancy by the applicable governmental authority for the immediate occupancy, use and opening to the public of the Phase I Improvements or Phase II Improvements (as applicable).

(p) “Term”: The term of this Contract shall commence upon the Closing Date and continue until Developer has completed all of its obligations and covenants set forth herein.

(q) “Town Green” shall mean that area designated as a public park and comprising approximately 0.5 acres and labeled as “Park to be Deeded to Town of Pineville” on the Development Plan, and any Improvements located thereon.

(r) “Water and Sewer Infrastructure” shall mean all infrastructure required by the Town that allows water and sewer to be delivered to or from the Property and integrated into the Town’s utility system, and all infrastructure, which may include natural features, that allows stormwater from the Property to be

managed in accordance with Governmental Requirements. It includes, but is not limited to, lines, mains, outfalls, water and sewer connections to the street mains including meter box and meter yoke, water meters to the extent required under Governmental Requirements, all construction and repair to streets and rights of way within which water, sewer, or stormwater infrastructure is located, pump stations, water towers, water booster stations, and all natural and constructed stormwater infrastructure that carries or treats stormwater, or mitigates the impact of stormwater. It may include, if allowed under Governmental Requirements, natural features and improvements located on individual lots to the extent they are part of the planned stormwater system or contribute to meeting water quality requirements.

SECTION 2. Developer Obligations.

(a) Developer shall commence construction of the Phase I Improvements on or before the Phase I Deadline and shall not abandon its construction activities for either (i) a total period of ninety (90) consecutive days, or (ii) a total period of one hundred twenty (120) cumulative days in any consecutive six (6) month period, in each case subject, however, to Force Majeure.

(b) Developer shall commence construction of the Phase II Improvements on or before the Phase II Deadline and shall not abandon its construction activities for either (i) a total period of ninety (90) consecutive days, or (ii) a total period of one hundred twenty (120) cumulative days in any consecutive six (6) month period, in each case subject, however, to Force Majeure.

(c) Developer shall Substantially Complete the Public Infrastructure Systems and the Water and Sewer Infrastructure on or before the date that is the date that the first townhome unit on the Property is sold.

(d) As part of the Improvements, Developer shall ensure that the following conditions are satisfied:

- i. The total square footage of Improvements designated as commercial use within the Property at the completion of the Phase I Improvements and the Phase II Improvements is between Twenty-Four Thousand (24,000) and Fifty Thousand (50,000); provided, however, in the event that the Improvements designated as commercial use include less than 24,000 square feet in the aggregate, same shall not constitute an Event of Default hereunder, but in such event the Town shall have the option to either (A) re-purchase any such undeveloped land in accordance with the Option Agreement, or (B) require Developer to convert any such undeveloped land to additional Town Green in accordance with the obligations established in this Section 2.
- ii. Prior to commencing construction of the Improvements, Developer must install a six-foot (6') fence along the boundary of the Property in the area highlighted in red and labeled "Fence" on the Development Plan.
- iii. Developer shall provide private trash service for the Phase I Improvements and Phase II Improvements; provided, however, the Town may provide public trash service for only the Phase I Improvements so long as the turning radius of the roadways within the Property meet the Town's applicable codes and ordinances required for public trash service.
- iv. Developer shall rehabilitate the existing historic smokestack and boiler room currently located on the Property in a good and workman-like manner for aesthetic purposes (i.e., the smokestack and boiler room are not required to function as their originally-constructed purpose).

(e) Within thirty (30) days of the Phase II Improvements being Substantially Completed, Developer shall, in a manner specified by the Town and in accordance with all Governmental Requirements, dedicate the Public Infrastructure Systems and Town Green to the Town. Upon acceptance of the dedicated Public Infrastructure Systems and Town Green by Town Council, the Town shall thereafter be responsible for maintenance of the Public Infrastructure Systems and Town Green. The determination as to whether the Public Infrastructure Systems and Town Green complies with Governmental Requirements shall be made by the Town in its sole discretion. The Town may require, among other things, certified as-built plans for the Public Infrastructure Systems and Town Green; a release of liens from contractors and subcontractors; additional plats or deeds for property containing the Town Green; releases of any mortgage or security interests in such property; and any other information the Town deems to be necessary to accept the constructed Public Infrastructure Systems and Town Green.

(f) Within thirty (30) days of the Phase II Improvements being Substantially Completed, Developer shall, in its sole discretion, either (i) in a manner specified by the Town and in accordance with all Governmental Requirements, dedicate the Designated Parking Area to the Town, or (ii) execute and record an easement agreement granting to the Town the use of the Designated Parking Area (the “**Designated Parking Area Easement**”). Upon acceptance of the dedicated Designated Parking Area by Town Council or recordation of the Designated Parking Area Easement (as applicable), the Town shall thereafter be responsible for maintenance of the Designated Parking Area at its sole cost and expense. The determination as to whether the Designated Parking Area complies with Governmental Requirements shall be made by the Town in its sole discretion. The Town may require, among other things, certified as-built plans for the Designated Parking Area; a release of liens from contractors and subcontractors; additional plats or deeds for property containing the Designated Parking Area; releases of any mortgage or security interests in such property; and any other information the Town deems to be necessary to accept the constructed Designated Parking Area. For the avoidance of doubt, the Designated Parking Area shall not be for residential use, shall not be reserved exclusively for use by any of the occupants within the Property, and shall not be counted towards any parking requirements under the Town’s code or ordinances necessary for the Phase I Improvements and/or Phase II Improvements.

SECTION 3. Town Obligations.

(a) The Parties understand and acknowledge that the terms of this Contract are subject to Developer acquiring title to the Property subject to the terms of the Purchase Agreement, and the Town, subject to the terms thereof, is required to convey the Property to Developer (and cause Pineville Redevelopment to convey the portion of the Property owned by Pineville Redevelopment to Developer).

(b) The Parties understand and acknowledge that in order for Developer to construct the Improvements, Developer is seeking approval of the Development Plan and this Contract, and Developer shall only be obligated to construct the Improvements if the Town grants such approval, which may be granted in the Town’s sole discretion.

SECTION 4. Indemnification. Except to the extent caused by the gross negligence or willful misconduct of the Town, its agents, employees or contractors, Developer shall indemnify, defend, and hold harmless the Town (including employees, council members, agents, consultants, attorneys, successors, and assigns), to the full extent permitted by law, from and against any and all liabilities, losses, claims, costs, damages, and expenses (including, without limitation, attorneys’ fees, costs, and expenses) arising from, or in connection with: (a) the development of the Improvements on the Property; and/or (b) the negligent acts or omissions, fraud, or willful misconduct of Developer (or by its agents or contractors) in connection with this Contract; and/or (c) an Event of Default of Developer.

SECTION 5. Event of Default and Remedies.

(a) Any breach or default by Developer of any covenant, duty, obligation, representation, warranty or covenant under this Contract shall be an “**Event of Default**”; provided, however, that before such breach or default shall be deemed an Event of Default, Developer: (i) shall have received written notice from the Town of such breach or default; and (ii) shall have (1) failed to cure or remedy such breach or default within thirty (30) days following such notice; or (2) if such breach or default does not consist of the failure to pay money and cannot reasonably be cured within such thirty (30) day period, failed to commence such cure within such thirty (30) day period or failed to diligently and continuously pursue such a cure or remedy thereafter and in any event failed to fully cure or remedy such breach or default within sixty (60) days of such notice.

(b) Upon an Event of Default, the Town shall have the right to exercise any and all rights and remedies available at law or in equity, including, without limitation, any one or more of the following: (i) terminate this Contract; and/or (ii) recapture the Property pursuant to the terms of the Option Agreement (to the extent expressly set forth therein), which will be agreed upon by the Parties pursuant to the terms of the Purchase Agreement; and/or (iii) the right, but not the obligation, to cure such default by the payment of money or the performance of some other action for the account of and at the expense of the Developer; and/or (iv) recover from the Developer all costs and expenses, including reasonable attorney’s fees, incurred by the Town related to the Purchase Agreement and/or this Contract.

(c) If the Town fails to cure any breach or default by the Town of any covenant, duty, obligation, representation, warranty or covenant under this Contract within the cure period stated below, then such breach shall be a “**Town Default**” hereunder, and Developer may be entitled to exercise any and all rights and remedies available at law or in equity, including, without limitation, the right to receive reimbursement of an amount of actual damages suffered by Developer to the extent such amounts have been reasonably documented and such documentation delivered to the Town; provided that, regardless of the remedy elected by Developer, Developer has first allowed a thirty (30) day period during which the Town shall have the opportunity to remedy Developer’s claimed breach, or if such breach or default cannot reasonably be cured within such thirty (30) day period, such time period as is necessary under the circumstances (not to exceed a total of sixty (60) days) if the Town has commenced such cure within such thirty (30) day period and thereafter diligently and continuously pursued such cure.

(d) Except as may otherwise be expressly provided in this Contract: (i) the exercise of one or more of the rights and remedies under this Contract shall not preclude the exercise of any other right or remedy under this Contract, at law, or in equity; and (ii) damages at law may not be an adequate remedy for a breach or threatened breach of this Contract and in the event of a breach or threatened breach of any provision hereunder, the respective rights and obligations hereunder shall be enforceable by specific performance, injunction, or other equitable remedy.

SECTION 6. Applicable Regulation.

(a) Applicable Law and Development Standards. Except as otherwise provided by this Contract, development of the Improvements on the Property shall be in conformance with the Governmental Requirements and all other applicable law.

(b) Building Codes and Laws Other Than Land Use Regulations. Developer, notwithstanding any provision which may be construed to the contrary in this Contract, must comply with any building,

housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the Town or other governmental entity. This Contract shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the Town or other governmental entity.

(c) Updates to Town Ordinances. Where any Town ordinance, fee structure, resolution, or regulation adopted after of the date hereof (a “**New Ordinance**”), differs from the Governmental Requirements, Developer may, at any time after adoption of such New Ordinance, request that such New Ordinance, or any portion thereof, be incorporated into the Governmental Requirements. The Parties recognize that this section shall not apply to any commitments reflected in the Development Plan or this Contract. Developer shall submit such request in writing to the Town, and the Town shall review and respond to such request within sixty (60) days. Incorporation of a New Ordinance, or any portion thereof, into the Governmental Requirements shall be a non-material change to this Contract.

(d) Permits Needed. The Parties anticipate that certain permits will be needed to complete the development of the Improvements on the Property, which may include, approval of the Development Plan, plat approvals (preliminary or final), street, water, sewer and stormwater construction drawing approval, building permits, certificates of compliance, and city water and sewer permits. The failure of this Contract to address a particular permit, condition, term, or restriction does not relieve the Developer of the necessity of complying with all laws governing permit requirements, conditions, terms, or restrictions.

(e) Changes. Changes to the Development Plan, the Purchase Agreement, and/or this Contract, shall be considered in accordance with the procedures set forth in the Town ordinances and State law.

SECTION 7. Miscellaneous.

(a) Insurance. Developer will maintain, at its sole cost and expense, the following insurance coverages throughout the Term: (i) commercial general liability insurance with limits of at least \$2,000,000.00 per occurrence and \$5,000,000.00 in the aggregate; (ii) workers’ compensation and employer’s liability insurance covering Developer’s employees that perform services under this Contract in an amount no less than statutory requirements; (iii) automobile liability insurance covering owned, hired, and non-owned vehicles, with a limit of at least \$1,000,000.00 for each accident; (iv) “Builder’s Risk” and property insurance to full insurable value of the Phase I Improvements or Phase II Improvements (as applicable) which insurance shall insure against the perils of fire and extended coverage and shall include “all risk” insurance; and (v) excess liability insurance insuring losses in excess of the insurance required under this section equal to at least \$5,000,000.00 per occurrence. The Town shall be named as additional insureds on Developer’s insurance policies. All insurance shall be obtained from reputable insurance companies licensed in the State of North Carolina. Developer shall deliver to the Town evidence of such insurance within ten (10) days after the Effective Date.

(b) Representations and Warranties. Developer represents, warrants and covenants to the Town that: (i) it is a valid limited liability company duly organized, validly existing and in good standing under the laws of the State of North Carolina and is qualified to do business and is in good standing under the laws of the State of North Carolina; (ii) it has the full right, power, and authority to perform its obligations under this Contract; (iii) it is qualified and has the skill and professional competence, expertise, and experience to undertake the obligations imposed, and to perform the work contemplated by this Contract; (iv) it holds and shall maintain at all times during the term of this Contract all licenses, permits, or other certifications necessary to perform its duties under this Contract, and is in compliance with and

shall continue to comply with all Governmental Requirements; and (v) it will execute, deliver and perform its obligations under this Contract, subject to the terms and conditions hereof.

(c) Survival of Provisions. All the warranties and representations set forth herein shall survive for a period of twelve (12) months following completion of the last of Developer's obligations. All covenants and indemnities set forth herein shall survive the expiration or termination of this Contract for a period of twelve (12) months following completion of the last of Developer's obligations.

(d) Notices. Any notice pursuant to this Contract shall be given in writing by (i) personal delivery, (ii) reputable overnight delivery service with proof of delivery, (iii) United States Mail, postage prepaid, registered or certified mail, return receipt requested, or (iv) electronic mail (e-mail) transmission, sent to the intended addressee at the address set forth below. Any notice may be given by a Party or a Party's attorney. If a notice is given by certified or registered mail (as described in item (iii)), it shall be deemed given when deposited in the United States mail. If a notice is given by overnight delivery (as described in item (ii)), it shall be deemed given when delivered to the applicable overnight courier. Any notice given by personal delivery (as described in item (i)) shall be deemed given on actual receipt by the addressee thereof (or upon refusal to accept delivery). If a notice is given by electronic mail (e-mail) transmission, it shall be deemed given on the date of the transmission. The addresses for notices given pursuant to this Contract shall be as follows:

Town: Town of Pineville
200 Dover Street
Pineville, North Carolina 28134
Attn: Ryan Spitzer
Email: rspitzer@pinevillenc.gov

With a copy to: Johnston Allison Hord
1065 East Morehead Street
Charlotte, North Carolina 28204
Attn: John Buben
Email: jbuben@jahlaw.com

Developer: Cone Mill Development Ventures, LLC
3315 Springbank Lane, Suite 308
Charlotte, North Carolina 28226
Attention: Kirk Broadbooks
Email: kirk.broadbooks@gmail.com

With a copy to: Alexander Ricks PLLC
1420 E. 7th Street, Suite 100
Charlotte, North Carolina 28204
Attention: Jim McLeod
Email: jim.mcleod@alexanderricks.com

Either Party may, from time to time, by notice as herein provided, designate a different address to which notices shall be sent.

(e) Applicable Law. This Contract shall be construed and enforced in accordance with the substantive laws of the State of North Carolina, without regard to principles of conflicts of laws. The only

proper venue and court for litigation related to, arising out of, or connected with this Contract or the relationships between the parties established by this Contract shall be Mecklenburg County Superior Court.

(f) Entire Agreement. This Contract and any exhibits and schedules hereto contain the entire understanding and agreement by and between the Parties and all prior or contemporaneous oral or written agreements or instruments are merged, and no amendment to this Contract shall be effective unless the same is in writing and signed by the Parties hereto; if there is a conflict between the terms of this Contract and the terms of the Purchase Agreement, the terms of this Contract shall control. Pursuant to North Carolina law, major modifications or significant changes to this Contract shall follow the same notice, public hearing, and approval procedures as were followed initially when the Parties formed this Contract. Unless this Contract is amended by vote of the Town Council taken with the same formality as the vote approving this Contract, no officer, official or agent of the Town has the power to amend, modify or alter this Contract or waive any of its conditions except as set forth herein.

(g) Binding Effect. This Contract shall be binding upon and shall inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

(h) Severability. If any term or provision, or any portion thereof, of this Contract, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to persons or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law.

(i) Captions and Headings. The captions and headings throughout this Contract are for convenience and reference only and the words set forth herein shall in no way be held to define or add to the interpretation, construction or meaning of any provision of this Contract.

(j) Counterpart Originals. This Contract may be executed in counterparts, each of which shall constitute an original and all of which when taken together shall constitute but one original. PDF or facsimile copies of signatures on this Contract shall be effective as originals.

(k) Assignment. Neither Developer nor Affiliate may Assign this Contract (which for avoidance of doubt, shall include a change in Control of Developer) or any of its rights or obligations hereunder, in whole or in part, whether voluntarily, by operation of law, or otherwise, nor permit or consummate any direct or indirect change of Control of Developer (and/or any assignee-Affiliate of Developer) without the prior written consent of Town; provided, however, Developer may Assign its rights and obligations under this Contract to the following without the Town's consent: (1) TRI Pointe Homes Holdings, Inc., (2) Stanley Martin Homes, LLC, (3) Red Cedar Development, LLC, (4) Century Communities or (5) a joint venture entity owned and controlled by (i) any of the foregoing, and (ii) Developer; provided, however, that any such assignment without Town's consent shall only be permitted if such assignee develops the Phase I Improvements in accordance with the elevations depicted on Exhibit D-1 or Exhibit D-2 attached hereto and incorporated herein by reference, which elevations have been approved by the Town.

For purposes herein, "**Assign**" shall mean to transfer, delegate, sell, pledge, encumber, or otherwise dispose of any rights or obligations under this Agreement to any third party, including by way of merger, consolidation, asset sale, or any transaction or series of transactions that results in a change in the beneficial ownership of more than fifty percent (50%) of a party's voting securities or management Control.

For purposes herein, “**Affiliate**” shall mean any individual, a trust, an estate, a domestic corporation, a foreign corporation, a professional corporation, a partnership, a limited partnership, a limited liability company, a foreign limited liability company, an unincorporated association, or another entity that is directly Controlling or Controlled by the Developer, TRI Pointe Homes Holdings, Inc., Stanley Martin Homes, LLC, Red Cedar Development, LLC or Century Communities (as applicable).

For purposes herein, “**Control**”, “**Controlling**”, or “**Controlled by**” shall mean the direct ownership of more than fifty percent (50%) of the voting securities of Developer (and/or Affiliate), TRI Pointe Homes Holdings, Inc., Stanley Martin Homes, LLC, Red Cedar Development, LLC, Century Communities or possession of the right to vote more than fifty percent (50%) of the voting interest in the ordinary direction of the Developer’s (and/or Affiliate’s), TRI Pointe Homes Holdings, Inc.’s, Stanley Martin Homes, LLC’s, Red Cedar Development, LLC’s or Century Communities’ affairs.

(l) **Recording**. The Parties agree to enter into a memorandum of this Contract and/or the Option Agreement, which the Town may record in the Office of the Register of Deeds for Mecklenburg County, North Carolina. Within ten (10) days following any written request, Developer shall return to the Town an original signed and notarized memorandum of this Contract and/or the Option Agreement described in this section.

(m) **Attorneys’ Fees and Costs**. If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach or default in connection with any of the provisions of the Contract, the prevailing Party or parties shall be entitled to recover reasonable paralegal and attorneys’ fees and other costs incurred in that action or proceeding, including those related to appeals, in addition to any other relief to which it or they may be entitled.

(n) **No Partnership**. Nothing contained in this Contract shall be construed to make the Town a partner with Developer or render either Party liable for the debts or obligations of the other.

(o) **Calculation of Time Periods**. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or legal holiday. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. Eastern Standard Time, unless otherwise expressly provided for herein.

(p) **Time of the Essence**. Time is of the essence with respect to every provision of this Contract.

(q) **Further Assurances**. On and after the Effective Date, the Town and Developer shall, at the request of the other, make, execute and deliver or obtain and deliver all such affidavits, deeds, approvals, certificates, resolutions and other instruments and documents, and shall do or cause to be done all such other things which either Party may reasonably require to effectuate the provisions and intention of this Contract.

(r) **No Third-Party Rights Created**. This Contract is intended for the benefit of the Town and Developer and their successors and assigns and not for any other person, and no such persons shall enjoy any right, benefit, or entitlement under this Contract.

(s) No Waiver of Governmental Authority or Discretion. Nothing in this Contract shall be construed to bind, estop, direct, limit, or impair the future regulatory, legislative, or governmental discretion of the Town Council in a manner not permitted by law. The Town shall incur no liability to Developer for any losses or damages it may incur as a result of or in connection with the Town's exercise or performance of its regulatory, legislative, or governmental powers or functions, or any judicial determination regarding such exercise or performance, provided the Town shall be contractually bound by the terms of this Contract.

(t) Release of Information. Town and Developer acknowledge that this Contract and related documents provided by Developer are subject to disclosure under the North Carolina Public Records Act, N.C.G.S. § 132-1 et seq. (the "Act"), except for information that is excluded from the disclosure requirements of the Act pursuant to N.C.G.S. § 132-1.2. Developer acknowledges that this disclosure of the Town's public records requirements is given pursuant to N.C.G.S. § 132-1.11(b) and agrees that such disclosure is full and sufficient to the satisfaction of Developer. Both Parties agree that this section will survive the termination of the Contract. Nothing in this Contract precludes either Party from discussing the terms of this Contract or its work product with its attorneys, accountants, consultants, contractors, or potential lenders or investors, or prevents the holding of public Council meetings in compliance with applicable laws.

(u) Construction of Agreement. Both Parties hereto have been represented by counsel in the negotiation of this Contract, and neither this Contract nor any provision hereof shall be construed against a party hereto because such party drafted it or caused it to be drafted.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed, under seal, as of the Effective Date.

TOWN:

TOWN OF PINEVILLE

ATTEST

By: _____(SEAL)
Name: _____
Title: _____

Town Clerk

[SEAL]

This instrument has been preaudited in the manner required by the “Local Government Budget and Fiscal Control Act.”

Name: _____
Title: Finance Director

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I certify that _____ personally appeared before me this day and acknowledged that (s)he is the _____ of THE TOWN OF PINEVILLE, a municipal corporation of the State of North Carolina, and that (s)he, in such capacity, being authorized to do so, voluntarily signed the foregoing on behalf of the corporation for the purposes stated therein.

Date: _____

By: _____
Print Name: _____

[SEAL OR STAMP]

Notary Public
My Commission Expires: _____

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed, under seal, as of the Effective Date.

DEVELOPER:

CONE MILL DEVELOPMENT VENTURES, LLC

By: _____(SEAL)
Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that _____ personally appeared before me this day and acknowledged that (s)he is the _____ of CONE MILL DEVELOPMENT VENTURES, LLC, a North Carolina limited liability company, and that (s)he, in such capacity, being authorized to do so, voluntarily signed the foregoing on behalf of the company for the purposes stated therein.

Date: _____

By: _____
Print Name: _____

[SEAL OR STAMP]

Notary Public
My Commission Expires: _____

Exhibit A

Description of the Property

ALL that certain lot or parcel of land situate, lying, and being in Mecklenburg County, North Carolina, and more particularly described as follows:

PARCEL I:

All that Tract of 27.561 Acres shown as Tract 1 on A Recombination & R/W Dedication Plat Showing Property Along Jack Hughes Lane recorded in [Map Book 64, at Page 414](#), in the Office of the Register of Deeds for Mecklenburg County, North Carolina.

PARCEL II:

All that Tract of 0.998 Acre shown as Tract 7 on A Recombination & R/W Dedication Plat Showing Property Along Jack Hughes Lane recorded in [Map Book 64, at Page 414](#), in the Office of the Register of Deeds for Mecklenburg County, North Carolina.

PARCEL III:

All that Tract of 0.931 Acre shown as Tract 8 on A Recombination & R/W Dedication Plat Showing Property Along Jack Hughes Lane recorded in [Map Book 64, at Page 414](#), in the Office of the Register of Deeds for Mecklenburg County, North Carolina.

Exhibit B

Town Resolution Approving this Contract and Purchase Agreement

Exhibit C

Development Plan



CONE MILL SITE - CONCEPT PLAN
SEPTEMBER 2024

Exhibit D-1

Approved Elevations



Exhibit D-2

Approved Elevations



5-Plex Front Elevation

tri pointe
HOMES

22' Rear Load Townhomes
Pineville, NC
02.23.2024

sg
Scott Gardner
Architect, LLC



5-Plex Rear Elevation

tri pointe
HOMES

22' Rear Load Townhomes
Pineville, NC

02.23.2024



5-Plex Left Elevation

5-Plex Right Elevation

tri pointe
HOMES

22' Rear Load Townhomes
Pineville, NC

02.23.2024

