STATE OF SOUTH CAROLINA	)	
	)	**ORDINANCE NO. 2015-1378**
COUNTY OF LANCASTER	)	

AN ORDINANCE

TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN FORESTAR (USA) REAL ESTATE GROUP INC. AND THE COUNTY OF LANCASTER RELATING TO A PORTION OF THE ANSLEY PARK (PDD-21) DEVELOPMENT; TO AUTHORIZE CERTAIN COUNTY OFFICIALS TO EXECUTE AND DELIVER THE DEVELOPMENT AGREEMENT; AND TO PROVIDE FOR OTHER MATTERS RELATED THERETO.

Be it ordained by the Council of Lancaster County, South Carolina:

Section 1. Findings and Determinations.

The Council finds and determines that:

(a) Lancaster County is authorized by the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 to -160, Code of Laws of South Carolina 1976, as amended (the "Act"), and by the Development Agreement Ordinance for Lancaster County, South Carolina, Ordinance No. 663 (the "Ordinance"), to enter into development agreements with developers;

(b) Forestar (USA) Real Estate Group Inc. seeks to enter into a development agreement with Lancaster County relating to a portion of the Ansley Park (PDD-21) development; and

(c) the Act and Ordinance require a development agreement to be approved by the county governing body by the adoption of an ordinance.

Section 2. Approval of Agreement; Authorization to Act.

A. The Council Chair and Council Secretary are each authorized, empowered and directed to execute, acknowledge and deliver a Development Agreement between Forestar (USA) Real Estate Group Inc. and the County of Lancaster relating to a portion of the Ansley Park (PDD-21) development (the "Development Agreement") in the name and on behalf of the County of Lancaster. The form of the Development Agreement is attached hereto as Exhibit A and all terms, provisions and conditions of the Development Agreement are incorporated herein by reference as if the Development Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, the Lancaster County Council

approves the Development Agreement and all of its terms, provisions and conditions. The Development Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such minor changes therein as shall be approved by the officials of Lancaster County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Development Agreement attached to this ordinance.

B. The Council Chair and Council Secretary are each authorized to execute and deliver any related instruments, documents, certificates and other papers as are necessary to effect the delivery of the Development Agreement. The Council and its duly elected or appointed officers and any other County official are authorized to take any and all action as may be necessary to effectuate the purposes of this ordinance.

Section 3. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section 4. Controlling Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, orders and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

Section 5. Effective Date.

This ordinance is effective upon third reading.

And it is so ordained, this ___ day of _____, 2015.

LANCASTER COUNTY, SOUTH CAROLINA

_____
Bob Bundy, Chair, County Council

_____
Steve Harper, Secretary, County Council

Attest:

_____
Debbie C. Hardin, Clerk to Council

Planning Commission Public Hearing:	November 17, 2015	Tentative
First Reading:	October 26, 2015	Passed 7-0
Second Reading:	November 9, 2015	Tentative
Council Public Hearing:	November 23, 2015	Tentative
Third Reading:	November 23, 2015	Tentative

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit A to Ordinance No. 2015-1378

Development Agreement
Between
Forestar (USA) Real Estate Group Inc. and the County of Lancaster
A Portion of the Ansley Park (PDD-21) Development

See attached.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

----------(Space above this line for recording use)----------

STATE OF SOUTH CAROLINA	)	**DEVELOPMENT AGREEMENT**
	)	**PORTION OF**
COUNTY OF LANCASTER	)	**ANSLEY PARK DEVELOPMENT**

This **DEVELOPMENT AGREEMENT** (the "Agreement") is made and entered into as of the ___ day of _____, 2015 ("Agreement Date"), by and between **FORESTAR (USA) REAL ESTATE GROUP INC.** ("Developer"), a Delaware corporation, and the **COUNTY OF LANCASTER** (the "County"), a body politic and corporate, a political subdivision of the State of South Carolina.

RECITALS

WHEREAS, Developer has obtained the right to acquire certain real property consisting of approximately 157 acres, more or less, located in the County and known as a portion of the Ansley Park development.

WHEREAS, the Property is currently zoned planned development district pursuant to Ordinance No. 650, PDD-21, Ansley Park Planned Development District-21 approved January 31, 2005 and amended by Ordinance No. 796 dated January 28, 2007.

WHEREAS, Developer and County have determined that it is in the best interests of the County and Developer to enter into this Agreement to set forth the terms and conditions of the development in order to more fully protect the Developer's development rights, thereby providing certainty and predictability to the Developer of those rights and providing certainty and predictability to the County on the scope and terms of the development.

WHEREAS, the Developer desires to obtain from the County in connection with the development, and the County is willing to provide, assurances: (1) that the property will be 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, the donation of funds or financing of those public facilities and services described and identified in this Agreement.

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

ARTICLE I

GENERAL

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

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

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

(2) "Agreement" means this Development Agreement.

(2A) "Agreement Date" means the date of this Agreement as set forth above.

(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 Forestar (USA) Real Estate Group Inc., a Delaware corporation, and its 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) Reserved.

(8) "Laws and Land Development Regulations" means the County's applicable rules and regulations governing development of real property as set forth on Exhibit E hereto.

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

(10) "Ordinance No. 650" means Ordinance No. 650, PDD-21, Ansley Park Planned Development District-21 approved January 31, 2005, as amended by Ordinance No. 796 dated January 29, 2007, zoning the Property planned development district (PDD-21).

(11) "Ordinance No. 2015-1378" means Ordinance No. 2015-1378 of the County approving this Agreement.

(12) "Parties" means County and Developer.

(12A) "PDD-21" means Ordinance No. 650.

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

(14) "Forestar Related Entity" means (*i*) an entity that is owned or controlled by Developer, or is owned or controlled by any entity that owns at least a fifty percent (50%) membership interest in Developer; and (*ii*) any entity that is the successor in interest to Developer via merger or operation of law.

(15) "UDO" means Ordinance No. 309, as amended, as of January 31, 2005, and which is cited as the Unified Development Ordinance of Lancaster County. The UDO includes Ordinance No. 328, as amended, as of January 31, 2005, and which is cited as the Land Development Regulations of Lancaster County.

(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 the land described in Exhibit A, 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 a portion of the Ansley Park development.

Section 1.05. Zoning. The Property is zoned planned development district (PDD-21) pursuant to Ordinance No. 650.

Section 1.06. Permitted Uses. (A) PDD-21 and the UDO provide for the development uses on the Property, including population densities, building intensities and height.

(B) All lots for the Development must meet all of the standards contained in this Agreement and if no specific standard is contained in this Agreement, then the standards contained in PDD-21 and the UDO apply.

Section 1.07. Development Schedule. (A) The estimated development schedule for the Property is set forth on Exhibit C, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

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

(C) County agrees that if Developer requests an adjustment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified if

the Developer is able to demonstrate and establish that there is good cause to modify those dates. "Good cause" includes, but is not limited to, changes in market conditions.

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

Section 1.08. Relationship of Parties. This Agreement creates a contractual relationship among the Parties. This Agreement is not intended to create, and does not create, the relationship of partnership, joint venture, or any other relationship wherein any one of the parties may be held responsible for the acts of any other party. This Agreement is not intended to create, and does not create, a relationship whereby any one of the parties may be rendered liable in any manner for the debts or obligations of any other party, to any person or entity whatsoever, whether the debt or obligation arises under this Agreement or outside of this Agreement.

Section 1.09. Benefits and Burdens. (A) The Parties agree that the burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interests to the Parties to this Agreement.

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

(C) Developer acknowledges and agrees that it (*i*) is responsible for the development of the Property when Developer acquires title to or development rights for the Property, and (*ii*) will develop the Property in accordance with the terms and conditions of this Agreement. It is the express intention of the Parties that the obligations of this Agreement are intended to run with the Property. If the Property is sold, either in whole or in part, and the Developer's obligations are transferred to a purchaser or successor in title to the Property as provided herein and in Section 3.05 below, Developer shall be relieved of any further liability for the performance of Developer's obligations as provided in this Agreement as it relates to the portion of the Property sold if the Developer is then current with its obligations pursuant to this Agreement.

Section 1.10. Term. The term of this Agreement commences on the Agreement Date and terminates five (5) 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. 2015-1378 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. 2015-1378 that at least two public hearings were held after publication of the required notice and the publication of a notice of intent to consider a proposed development agreement.

Section 2.02. Representations and Warranties of Developer. (A) Developer represents that the number of acres of highland contained in the Property is twenty-five (25) or more, the same being approximately one hundred and fifty seven (157) or more acres.

(B) Developer represents that, as of the Agreement Date, it has contractual rights to acquire the Property and that, following acquisition, Developer shall be the only legal and equitable owner of the Property.

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

ARTICLE III

DEVELOPMENT RIGHTS

Section 3.01. Vested Right to Develop. (A) County agrees that the Developer, upon receipt of its development permits as identified in Section 3.04, may proceed to develop the Property according to the terms and conditions of this Agreement. The right of Developer to develop the Property as set forth in this Agreement is deemed vested with Developer for the term of this Agreement when the Developer has complied with all of the requirements of Section 5.19.

(B) Except as otherwise provided in this Agreement, County agrees that the specific Laws and Land Development Regulations in force as of the Agreement Date 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 Ordinance No. 650, the UDO and the terms of this Agreement when the Developer has complied with all of the requirements of Section 5.19.

(D) Except as may be otherwise 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) (1) 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 Ordinance No. 650 and the UDO, the standards contained in this Agreement supersede all other standards and this Agreement is deemed controlling, (2) To the extent that Ordinance No. 650 may contain zoning and development standards which conflict with zoning and development standards contained in the UDO, the standards contained in Ordinance No. 650 supersede all other standards and Ordinance No. 650 is deemed controlling except as provided in subsection (E)(1).

(F) For purposes of Subsection (D) of this Section 3.01 and Section 3.03(A)(3), the Laws and Land Development Regulations are anticipated to be amended subsequent to the Agreement Date to provide for requirements and standards applicable to storm water runoff conveyance systems and drainage improvements. The anticipated amendments are expected to include, but not be limited to, minimum standards for the design and sizing of storm drainage piping systems and access easements. These amendments to the Laws and Land Development Regulations will apply to the Property.

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 Sections 6-29-1510 to -1560, Code of Laws of South Carolina 1976, as amended, or the provisions of Ordinance No. 673, the County's ordinance relating to the Vested Rights Act.

Section 3.03. Applicability of Subsequently Adopted Laws and Land Development Regulations. (A) County may apply laws adopted after the execution of this Agreement 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 that materially affected the terms and provisions of this Agreement.

(B) Developer agrees to comply with any county-wide building, housing, electrical, plumbing, fire and gas codes required to be enforced pursuant to the laws of South Carolina after the Agreement Date and in force at the time plans for buildings are submitted to the County for review. Nothing in this Agreement is intended to supersede or contravene the requirements of any building, housing, electrical, plumbing, fire or gas code adopted by County Council.

Section 3.04. Development Permits. (A) Developer agrees to obtain all local development permits for the development of the property. Local development permits, approvals and processes, some of which may have been obtained or complied with as of the Agreement Date, include, but are not limited to:

(1) Development Review Committee process;
(2) Preliminary plan approval;
(3) Final plat approval;
(4) Zoning permits;
(5) Building permits; and
(6) Sign permits.

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

Section 3.05. Transfer of Development Rights. Developer may, at its sole discretion, transfer its Development Rights to other developers. The transferring Developer must give notice to the County of the transfer of any Development Rights. The notice to the County must include the identity and address of the transferring Developer, the identity and address of the acquiring Developer, the acquiring Developer's contact person, the location and number of acres of the Property associated with the transfer and the number of residential units subject to the transfer. If the acquiring Developer is an entity, then, at the request of the County, the acquiring Developer shall provide the County the opportunity to view a listing of the names and addresses of the entity's officers and owners. 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. This provision does not apply to the purchaser or other successor in title to the Developer who is the owner or lessee of a completed residence and is the end user and not the developer thereof or who is the owner or lessee of an individual lot, who is not a developer and who intends to build a residence on the lot for the owner or lessee to occupy.

Section 3.06. Lot Widths; Bridges. County and Developer acknowledge, agree and ratify two minor changes to the Ansley Park Master Plan made pursuant to and in accordance with the provisions of Ordinance No. 650: (1) two lots widths; and (2) the removal of a bridge crossing Six Mile Creek.

ARTICLE IV

DEDICATIONS AND FEES AND RELATED AGREEMENTS

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

Section 4.01A. Funds for Public Safety. Developer agrees to pay County THREE HUNDRED TEN THOUSAND AND NO/100 DOLLARS ($310,000.00) upon the earlier of either June 30, 2017, or the closing on the sale of any portion of the Ansley Park development by the Developer to an individual or entity other than a Forestar Related Entity (the "Public Safety Payment"). Upon receipt of the Public Safety Payment, the monies must be accounted for separate and distinct from other monies of the County. The Public Safety Payment must be used for non-recurring purposes for law enforcement, fire and emergency medical service in the panhandle area of the County. The determination of the specific uses for the Public Safety Payment is at the discretion of the County Council. As used in this section, "Developer" means Forestar (USA) Real Estate Group Inc., a Delaware corporation, and does not include its successors or assigns but does include a Forestar Related Entity that holds title to the Property.

Section 4.01B. School Payments. Developer agrees to pay to the County for the benefit of the Lancaster County School District ONE HUNDRED FIFTY-FIVE THOUSAND AND NO/100 DOLLARS ($155,000.00) upon the earlier of either June 30, 2017 or the closing on the sale of any portion of the Ansley Park development to an individual or entity other than a Forestar Related Entity (the "School Payment"). Developer acknowledges and agrees that County is responsible only for the remittance of the School Payment to the Lancaster County School District and that the County has no other obligation or responsibility for the School Payment. As used in this section, "Developer" means Forestar (USA) Real Estate Group Inc., a Delaware corporation, and does not include its successors or assigns but does include a Forestar Related Entity that holds title to the Property.

Section 4.02. Payment of Costs. Upon submission of appropriate documentation of the expenditure, Developer agrees to reimburse the County, not later than December 31, 2015, for the County's reasonable unreimbursed actual costs related to this Agreement. The foregoing cost reimbursement is capped at ten thousand dollars ($10,000.00) and is limited to County payments to third-party vendors and service providers that have not been otherwise reimbursed from the fee paid by Developer pursuant to Section 10 of Ordinance No. 663.

Section 4.03. Other Charges or Fees. (A) Nothing in this Agreement shall be construed as relieving Developer from the payment of any fees or charges in effect at the time of collection as may be assessed by entities other than the County.

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

Section 4.04. Infrastructure and Services. The Parties recognize that the majority of the direct costs associated with the Development of the Property will be borne by Developer, and many necessary infrastructure improvements and services will be provided by Developer or other governmental or quasi-governmental entities, and not by the County. For clarification, the Parties make specific note of and acknowledge the following:

(A) Roads. (1)(a) Developer is responsible for the construction and costs of all roads, whether for public or private use, within the Property including but not limited to any necessary entrance and intersection improvements as required by the South Carolina Department of Transportation related to the development of the Property. All roads must be constructed in accordance with the County's road standards. The road improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

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

(c) If a signalized intersection is required by the traffic impact analysis, or additional poles are required at an existing signalized intersection, a mast-arm traffic signal shall be installed. At a minimum, the standard metal mast-arm poles used by Duke Energy Corporation shall be installed. Complete cost of the installation of the mast-arm traffic signal shall be paid by Developer. Developer shall furnish a financial guarantee, acceptable to the County in its discretion, to cover future repairs and replacement of the mast-arm traffic signal. Developer may transfer its obligation for future repairs and replacement for the mast-arm traffic signal to a homeowners' or property owners' association, or similar organization.

(2) Developer is responsible for all construction and maintenance, and the costs thereof, associated with the roads within the Property. Developer may transfer the ownership of the

roads and its obligations for the roads to a homeowners' or property owners' association, or similar organization.

(3) Developer agrees to maintain the landscaping at the entrance to the Property and obtain any necessary easements therefor from the South Carolina Department of Transportation. Developer's obligation to maintain the landscaping is limited to mowing and planting of grass, trimming and planting of shrubs, trees and other vegetation, and maintenance and operation of any associated irrigation system. County agrees to cooperate with Developer in obtaining an easement or other related approvals. Developer may transfer its maintenance obligation to a homeowners' or property owners' association, or similar organization.

(4) County is not responsible for any construction, maintenance, or costs associated with the roads within the Property. Developer acknowledges that County will not accept the roads within the Property into the County road system for any purpose, including, but not limited to, maintenance. Developer agrees to provide County prior to final plat approval documentation that a mechanism, such as a property owners' association, is in place for the perpetual maintenance of all roads within the Property. Developer acknowledges and agrees that the provisions of Section 26-27(B)(3)(a) and (b) of the Lancaster County Code, as amended by Ordinance No. 2014-1299, apply to the roads within the Property.

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

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

(D) Storm Water Management. Developer will construct or cause to be constructed all storm water runoff conveyance systems and drainage improvements within the Property required by the development of the Property. All inlets, piping within a system, associated swales or other conveyance system shall be designed for a minimum twenty-five (25) year storm event. Individual culvert crossing shall be designed for a minimum twenty-five (25) year storm event. Developer agrees to construct or cause to be constructed permanent water quantity and water quality systems and improvements in accordance with best management practices. The applicable requirements and standards shall be the more stringent of either the requirements and

standards contained in the Laws and Land Development Regulations as may be modified pursuant to Section 3.01(F) or the requirements and standards set by the South Carolina Department of Health and Environmental Control or its successor agency. All storm water systems and improvements will be maintained by Developer or a homeowners' association. County is not responsible for any construction, maintenance or costs associated with the storm water runoff and drainage for the Property. Storm water management improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(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, multi-family or commercial developments. Residential units shall be served by a private waste hauling company.

(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.

(I) Fire Services. The Property is located in the Pleasant Valley Fire Protection District and fire services will be provided by the Pleasant Valley Fire Department, or successor entities.

(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. Developer acknowledges that County has no authority or responsibility for providing public school services in the County.

(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.

Section 4.05. Maximum Density. Notwithstanding the maximum density set forth in the UDO, the maximum density for residential use for the Property is as set forth in Ordinance No. 650, PDD-21.

Section 4.05A. Final Plat Approval. Notwithstanding any other provision of this Agreement or any provision of the UDO, Developer agrees that prior to seeking final plat approval: (*i*) all water and sewer infrastructure for the area that is the subject of the final plat shall be installed by the Developer and subsequently tested, inspected, and found to be in acceptable condition by the applicable water or sewer provider, and (*ii*) the appropriate permits from the South Carolina Department of Health and Environmental Control (DHEC) have been obtained by the Developer for storm water management and the Developer shall provide proof that DHEC has issued the appropriate permits.

ARTICLE V

MISCELLANEOUS

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

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

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

And to Developer: Forestar (USA) Real Estate Group Inc.
3330 Cumberland Blvd., Suite 275
Atlanta, GA 30339
Attn: Larry Long and Brian Blythe

Bayard Development, LLC
11220 Elm Lane, 205B
Charlotte, NC 28277
Attn: Timothy F. Coey

With Copy to: Nexsen Pruet, PLLC
Attn: Joseph D. McCullough
227 W. Trade Street, Suite 1550
Charlotte, North Carolina 28202

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 Agreement Date shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the

party against whom the change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

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

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

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

Section 5.04. Breach of Agreement. (A) If, as a result of the periodic review provided in Section 5.03 of this Agreement or at any other time, the Chief Zoning Officer for the County finds and determines that the Developer has committed a material breach of the terms or conditions of this Agreement, the Chief Zoning Officer for the County shall serve notice in writing, within a reasonable time after making the finding and determination of a material breach, upon the Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Developer a reasonable time in which to cure the material breach.

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

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

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

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

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

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

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

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

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

Section 5.13. Construction of Agreement. The Parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 5.14. Assignment. The rights, obligations, duties and responsibilities devolved by this Agreement on or to the Developer are assignable to any other person, firm, corporation or entity except that the assignment must conform to the requirements of Section 1.09 and Section 3.05. 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 5.15. Governing Law; Jurisdiction; and Venue. (A) This Agreement is governed by the laws of the State of South Carolina.

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

Section 5.16. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

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

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

Section 5.19. When Agreement takes Effect. This Agreement is dated as of the Agreement Date and takes effect when (*i*) the County and Developer have each executed the Agreement, and (*ii*) the Developer has delivered to the County Administrator clocked-in copies, with book and page numbers, of the recorded deeds conveying the Property to Developer. If the County Administrator has not received clocked-in copies of the deeds conveying the Property to Developer by 5:00 p.m., February 15, 2016, then this Agreement is automatically terminated without further action of either the County or Developer. The obligation of the Developer pursuant to Section 4.02 is effective on the date the last Party to sign this Agreement executes this Agreement and the obligations imposed on Developer pursuant to Section 4.02 survives the termination of this Agreement pursuant to this Section.

SIGNATURES FOLLOW ON NEXT PAGE.

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

WITNESSES:

DEVELOPER:

FORESTAR (USA) REAL ESTATE GROUP INC.,
a _____ corporation

_____

By: _____

Name: _____

Title: _____

_____

Date: _____

STATE OF _____)
) PROBATE
COUNTY OF _____)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Forestar (USA) Real Estate Group Inc., by its duly authorized officer/s sign, seal and as its act and deed deliver the within written instrument and that (s)he with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

Seal

SWORN to before me this
____ day of _____, 2015.

_____
Notary Public Signs AS NOTARY
Notary Public for the State of _____
My Commission Expires:_____

COUNTY SIGNATURES FOLLOW ON NEXT PAGE.

WITNESSES:

COUNTY:

COUNTY OF LANCASTER,
SOUTH CAROLINA

_____ By: _____
Bob Bundy, Chair, County Council

_____ Date: _____

_____ By: _____
Steve Harper, Secretary, County Council

_____ Date: _____

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF LANCASTER)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named County of Lancaster by its duly authorized officer/s sign, seal and as its act and deed deliver the within written instrument and that (s)he with the other witness above subscribed, witnessed the execution thereof.

_____
First Witness Signs Again Here

Seal

SWORN to before me this
____ day of _____, 2015.

_____
Notary Public Signs AS NOTARY
Notary Public for the State of South Carolina
My Commission Expires:_____

Exhibit A
Property Description

Ansley Park Development

Tax Parcel No. 0010-00008.00

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit B

THIS EXHIBIT IS INTENTIONALLY LEFT BLANK.

Exhibit C
Development Schedule

	Begin	End
Engineering and Permitting	January, 2016	July, 2016
Phased Land Development	August, 2016	August, 2021
Home Construction Starts	April, 2017	August, 2020
Year 1 Home Closings – Approx. 62 per year	August, 2017	August, 2018
Year 2 Home Closings – Approx. 62 per year	August, 2018	August, 2019
Year 3 Home Closings – Approx. 62 per year	August, 2019	August, 2020
Year 4 Home Closings – Approx. 62 per year	August, 2020	August, 2021
Year 5 Home Closings – Approx. 62 per year	August, 2021	August, 2022

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

NOTE: County and Developer acknowledge that development of the Property is limited to three hundred ten (310) residential units.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

Exhibit D
Required Information

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

(A) *a legal description of the property subject to the agreement and the names of the property's legal and equitable owners.* The legal description of the Property is set forth in Exhibit A. As of the Agreement Date, Developer has contractual rights to acquire the Property and, following acquisition, Developer shall be the only legal and equitable owner of the Property. As of the Agreement Date, the legal owner of the Property is Jacqueline S. White, Trustee, Milbern Charles White Family Trust under agreement dated June 15, 2009.

(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 Section 4.05.

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

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

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

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

(J) *a description, 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 5.14.

Exhibit E
Laws and Land Development Regulations

1. Ordinance No. 650, as amended, zoning the Property planned development district (PDD-21).
2. Ordinance No. 2015-1378, approving this Development Agreement.
3. The Development Agreement Ordinance for Lancaster County, South Carolina: Ordinance No. 663.
4. Unified Development Ordinance of Lancaster County (UDO): Ordinance No. 309, as amended as of January 31, 2005. The UDO includes Ordinance No. 328, as amended, as of January 31, 2005 and which is cited as the Land Development Regulations of Lancaster County, as amended as of January 31, 2005.
5. Land Development Regulations of Lancaster County: See Unified Development Ordinance of Lancaster County.
6. Article V, Chapter 26, Lancaster County Code of Ordinances, Road Construction Standards, as of the Agreement Date, including, but not limited to, Section 26-27(B)(3)(a) and (b) of the Lancaster County Code of Ordinances, as amended by Ordinance No. 2014-1299.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.