

## DEVELOPMENT SERVICES AGREEMENT

This DEVELOPMENT SERVICES AGREEMENT (the "Agreement") is made and entered into and effective as of the Acceptance Date (as defined below) by and between Commonwealth Development Corporation of America, a Wisconsin corporation ("Commonwealth") and the Carolina Housing and Community Development Corporation, a South Carolina non-profit corporation ("CHCDC"), as authorized agent for the Housing Authority of the City of Rock Hill, South Carolina, a public body corporate and politic of the State of South Carolina ("RHHA"). Commonwealth and CHCDC may be referred to herein individually as a "Party" or collectively as "Parties."

### RECITALS

A. Commonwealth has entered into an agreement to acquire certain vacant real property located at 1867 West Main Street, Rock Hill, South Carolina (the "Property"). Commonwealth intends to construct a 60-unit affordable multi-family housing apartment project on the Property known as The Ridge at Rock Hill (the "Project"). Commonwealth intends to apply for affordable housing tax credits (the "Tax Credits") under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code") for the Project. Commonwealth will admit a Tax Credits investor member (the "Tax Investor") in exchange for capital contributions based upon the projected Tax Credits for the Development.

B. The Parties will form a limited liability company to act as the managing member ("Managing Member") for a to-be-formed single purpose entity ("Project Company") controlled by the Managing Member, created to acquire, construct, own, and operate for the Project. The Project Company will admit a Tax Credits investor member (the "Tax Investor") in exchange for capital contributions based upon the projected Tax Credits for the Development.

C. Commonwealth and RHHA entered into that certain base agreement for development services dated April 2, 2025 (#RHHA-23-C-001), the terms of which are incorporated herein by reference, including the terms of the solicitation (#RHHA 23-RFQ-001) and exhibits and addendums thereto. CHCDC is duly authorized to act on behalf of RHHA for the Project and to enter into this Agreement.

D. Commonwealth and CHCDC desire to set forth in writing their agreements regarding their rights, obligations, and restrictions relative to the Managing Member, the Project Company, and participation in the development Project.

### AGREEMENTS

NOW THEREFORE, for and in consideration of the mutual covenants and conditions contained in this Agreement, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The Project. The Project Company shall develop the Project and the Parties shall act as the Managing Member of the Project Company in accordance with the terms of this Agreement.

2. Commonwealth as Developer. Commonwealth shall oversee, arrange, supervise, coordinate and execute all necessary development, construction management and financial advisory services for structuring, planning, design, construction, financing and management

activities relating to the Project. CHCDC shall act as co-developer of the Project, provide such assistance as reasonably requested by Commonwealth from time to time. The services to be provided by Commonwealth are further described in Exhibit B attached hereto.

3. CHCDC on behalf of the Housing Authority of the City of Rock Hill. The services to be provided by CHCDC are further described on Exhibit A attached hereto.

4. Fees, Revenue and Expenses.

(a) Development Fees. Any Development Fees due in connection with the Project shall be divided as follows: (i) Commonwealth shall be entitled to Eighty percent (80%) of the Development Fees; and (ii) CHCDC shall be entitled to Twenty percent (20%) of the Development Fees. The Development Fees shall be earned in their entirety as of the date the Project is placed in service for purposes of Section 42 of the Internal Revenue Code. "Development Fees" means all development fees due from the Project Company for development services relating to the Project until the Project achieves stabilized operations (as defined by applicable lender requirements) and has received IRS forms 8609's.

(b) Profits and Losses. Profits of the Project Company shall be allocated, and all cash distributions shall be made, to the Members in accordance with their economic interest (Commonwealth 80% and CHCDC 20%). Losses shall be entirely allocated to Commonwealth such that CHCDC shall have no liability arising from losses.

(c) Costs and Expenses. Costs and expenses incurred in connection with the Project shall be paid by Commonwealth and reimbursed with proceeds from Project funding sources upon receipt by the Project Company. For the avoidance of doubt, CHCDC shall have no duty to pay, or otherwise be liable, for Project costs or expenses. Costs and expenses that are not directly incurred in connection with the Project, including but not limited to, organizational expenses, staff costs, salaries and legal costs incurred by the Parties, shall not be reimbursed.

5. Guarantees. Commonwealth shall execute and deliver any and all guaranties as may be required by any funding sources relating to the Project. CHCDC shall not be required to provide guarantees relating to the Project.

6. Architect Selection. The Parties agree that M + A Design, Inc. ("MAD") (or its affiliate) shall have the exclusive right to provide design services in connection with the development and construction of the Project. MAD shall be paid fees customarily associated with such projects and services and enter into agreements for such services having commercially reasonable terms. In the event that MAD declines an opportunity to participate, the Parties may engage a third party as needed to provide such services or serve in such role. Commonwealth certifies that MAD or its affiliate is duly licensed and a responsible contractor as defined in Section X of the RHHA Procurement Policy.

7. Operation of Managing Member. Each Party shall have a membership interest in the Managing Member including an economic interest and right to participate in the business and management of the Managing Member consistent with the rights and obligations set forth in this Agreement and the operating agreement for the Managing Member, which they will negotiate and enter into upon such terms and conditions as may be mutually agreeable to the Parties within a reasonable time after execution of this Agreement. The membership interest in the Managing Member shall be divided as follows: (a) Commonwealth shall own forty nine percent (49%) of the membership interests; and (b) CHCDC shall own fifty one percent (51%) of the membership

interests. CHCDC may withdraw from the Managing Member at its sole discretion at any time. Commonwealth shall indemnify, hold harmless and defend CHCDC from and against all claims, damages, losses and expenses arising in connection with the Project.

8. Option to Purchase. At the conclusion of the Initial Compliance Period (as defined in Section 42(i)(1) of the Code) applicable to the Project, CHCDC shall have a right of first refusal to purchase the membership interests of either or both Commonwealth and the Tax Investor in the Project Company under the following conditions:

(a) Triggering Events. The right of first refusal may be exercised by CHCDC upon the occurrence of any of the following events: (i) the expiration of the Initial Compliance Period as defined in Section 42(i)(1) of the Internal Revenue Code; or (ii) the decision by Commonwealth or the Tax Investor to sell their membership interests in the Project Company.

(b) Notice Requirements. Commonwealth or the Tax Investor must provide written notice to CHCDC of their intent to sell their membership interests. This notice must include the terms and conditions of the proposed sale, including the purchase price and the identity of the prospective purchaser. CHCDC shall have sixty (60) days from the receipt of such notice to exercise its right of first refusal.

(c) Exercise Period. CHCDC must deliver written notice of its intent to exercise the right of first refusal within the sixty (60) day period specified above. Failure to provide such notice within the specified period shall be deemed a waiver of the right of first refusal for that particular transaction.

(d) Purchase Terms. If CHCDC exercises its right of first refusal, it shall purchase the membership interests on the same or similar terms and conditions as those offered to the prospective purchaser, or on terms and conditions that are otherwise mutually agreeable to CHCDC and the selling Party.

9. Term. The term of this Agreement shall commence on the Acceptance Date and shall continue in force and effect unless and until terminated pursuant to the terms of this Agreement.

10. Termination. In the event the Parties elect not to proceed with the Project, the Parties will dissolve the Managing Member and the Project Company, and this Agreement shall terminate. Either party may otherwise terminate this Agreement for good cause, and upon delivery to the other party of a thirty (30) day notice of termination stating the reasons for the termination. "Good Cause" shall include the following: (a) the Project is reasonably determined to be infeasible; (b) the necessary financing, investments or tax credit allocations to advance the Project in an economically feasible manner have not been secured; or (c) either party defaults on its obligations hereunder. Upon termination of this Agreement, the obligations of the Parties shall cease and be of no effect; provided, however, that any indemnification obligations shall not be affected by such termination and shall remain in full force and effect until satisfied in full or until all remedies available pursuant to this Agreement have been (a) exercised in full, (b) waived, or (c) barred.

11. Confidentiality of Agreement. The Parties agree that this Agreement and its contents (including, but not limited to, the fact of payment and the amounts to be paid hereunder) shall remain confidential and shall not be disclosed to any third Party whatsoever, except the Parties' counsel, accountants, financial advisors, tax professionals retained by them, any federal, state, or local governmental taxing or regulatory authority, and the Parties' management, officers

and board of directors, and except as required by law or order of court. Any person identified in the preceding sentence to whom information concerning this Agreement is disclosed is bound by this confidentiality provision and the disclosing Party shall be liable for any breaches of confidentiality by persons to whom he/she/it has disclosed information about this Agreement in accordance with this paragraph.

12. Mutual Cooperation; Good Faith and Fair Dealing. The Parties shall cooperate with each other in connection with the performance of all obligations and exercise of all rights in connection with this Agreement and the transactions contemplated hereby, and agree that the actions and inactions of each Party shall be governed by the principles of good faith and fair dealing.

13. Miscellaneous.

(a) Headings. The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

(b) Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(c) Notices. All notices, demands and communications required or which either party desires to give or make hereunder shall be if in writing signed by or on behalf of the party giving or making the same, and if served/delivered to the addresses, fax numbers and/or electronic mail addresses set forth below:

To Commonwealth: Commonwealth Development Corporation of America  
Attn: Danny DiFrancesco  
2501 Parmenter St., Ste 300B  
Middleton, WI 53562  
[d.di francesco@commonwealthco.net](mailto:d.di francesco@commonwealthco.net)

With a copy to: Dan Kroetz  
2501 Parmenter St., Ste. 300B  
Middleton, WI 53562  
Telephone: (608) 438-8415  
[d.kroetz@commonwealthco.net](mailto:d.kroetz@commonwealthco.net)

To CHCDC: Carolina Housing and Community Development Corporation  
Attn: Dewayne Alford, Executive Director  
467 South Wilson Street  
Rock Hill, SC 29730  
[dalford@rhha.org](mailto:dalford@rhha.org)

Notice may be sent via confirmed delivery service (UPS, FedEx, US Certified Mail Return Receipt, etc.), facsimile or electronic mail (e-mail). Notices sent by confirmed delivery service shall be effective upon the date of the delivery confirmation. Notices sent by facsimile transmission shall be deemed to have been given at the time of transmission; provided, the sending party has a facsimile confirmation report. Notices by e-mail shall be deemed to have been given at the time of transmission; provided, the sending party has a send confirmation report. Any party hereto may

change its address, fax number or e-mail address for the service as aforesaid by giving written notice to the other of such change of address in accordance with the provision of this Section.

(d) Entire Agreement. This Agreement and the documents to be delivered hereunder constitute the sole and entire agreement of the Parties to this Agreement with respect to the subject matter contained herein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. If a conflict exists between a term of the solicitation, the base agreement, or this Agreement, the strictest term prevails.

(e) Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Party may assign its rights or obligations hereunder without the prior written consent of all other Parties. Any assignment in violation of this Section shall be void. No assignment shall relieve the assigning Party of any of its obligations hereunder.

(f) No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(g) Amendment and Modification. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party hereto.

(h) Waiver. No waiver by any Party hereto of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party hereto shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

(i) Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of South Carolina without giving effect to any choice or conflict of law provision or rule (whether of the State of South Carolina or any other jurisdiction).

(j) Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in the federal courts of the United States of America located in the District of South Carolina, Rock Hill Division or the courts of the State of South Carolina York County, and each Party hereto irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

(k) Specific Performance. The Parties hereto agree that irreparable damage would occur if any provision of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy to which they are entitled at law or in equity. Each Party hereto agrees that it shall not oppose the granting of such specific performance or relief.

(l) Effective Date. "Acceptance Date" shall mean the latest date upon which all parties to this Agreement execute the Agreement and deliver such executed Agreement to all other parties hereto.

(m) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

(n) Damages. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES OF ANY KIND FOR ANY REASON, EVEN IF A PARTY WAS WARNED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE IN ADVANCE.

IN WITNESS WHEREOF, the Parties hereto have executed this Development Services Agreement.

**COMMONWEALTH DEVELOPMENT  
CORPORATION OF AMERICA**

**CAROLINA HOUSING  
AND COMMUNITY  
DEVELOPMENT  
CORPORATION**

By:   
\_\_\_\_\_  
Kristi Morgan, Principal

By:   
\_\_\_\_\_  
Dewayne Alford, Executive Director

Date: 5/20/2025

Date: 5/20/2025

## **Exhibit A**

(Services to be provided by CHCDC)

1. Cooperating and assisting, to the extent permissible, in the closing of all construction loans including, without limitation, any city, state, county, state housing agency, bank, and other construction loans (including bond financings if applicable) and the closing of all equity investments, and to execute all documents required by any of the lenders or equity providers in connection therewith. The costs incurred in connection with the foregoing activities shall be paid by the Project's development budget.
2. If needed, developing and providing information for project operations, services, amenities, and other operations related items to develop the Project budget and any other information requested by agencies, lenders, or investors and permissible to provide.
3. Facilitation and guidance with community engagement process if requested.
4. Assisting to the extent permissible with communication with City of Rock Hill Staff and City of Rock Hill Council representatives.
5. If needed, and to the extent permissible, assistance with seeking out applications for any financial assistance, including supportive service grants/support, Project financing, grants, loans, subsidies, and rental assistance as may be available to the Project or CHCDC (and in particular those forms of assistance available to non-profit organizations).



## **Exhibit B**

### **(Services to be provided by Commonwealth)**

1. Coordinate the development of the Project, and shall perform the services and carry out the responsibilities with respect to the Project as are set forth herein, and such additional duties and responsibilities as are reasonably within the general scope of such services and responsibilities and are designated from time to time by the Managing Member, and, subject to the provisions of this Agreement and the Operating Agreement, until such time as Commonwealth withdraws from the Managing Member.

2. Apply its professional judgment and experience to estimate the likely cost of acquiring and constructing the Project and provide such estimates to the Managing Member and CHCDC for review and comment.

3. Apply its professional judgment and experience to identify likely sources of funding for the Project and negotiate financing, including (a) identifying or negotiating any permanent financing for the Project, and (b) identifying or negotiating the terms of any investment in the Project Company by an investor partner, and (c) the acquisition of land for the Project, and (d) obtaining an allocation of tax credits for the Project.

4. Negotiate and cause to be executed in the name and on behalf of the Managing Member agreements for architectural, engineering, testing or consulting services for the Project, and any agreements for the construction of any improvements or tenant improvements to be constructed or installed, or the furnishing of any supplies, materials, machinery or equipment therefor, or any amendments thereof, provided that no agreement shall be executed nor binding commitment made until the terms and conditions thereof and the party with whom the agreement is to be made have been approved by the Managing Member. All such agreements shall be negotiated and executed consistent with Section X of the RHHA Procurement Policy, and using competitive procurement practices to the maximum extent practicable. In every case, Commonwealth shall document procurements and make available such documentation to CHCDC for review.

5. Assist the Managing Member in dealing with neighborhood groups, local organizations, abutters and other parties interested in the development of the Project.

6. Establish and implement appropriate administrative and financial controls for the construction of the Project, including but not limited to:

- selection, contract award, management and supervision of the Project architect, the general contractor, and other contractors, professionals and consultants used in connection with the design and construction of the Project to complete the work in a good and workmanlike manner;
- administration of contracts on behalf of the Project Company;
- participation in conferences and the rendering of such advice and assistance as will aid in developing economical, efficient and desirable design and construction procedures;
- the enforcement of competitive selection procedures for and selection of subcontractors and suppliers;

- the review and submission to the Managing Member for approval of all requests for payments under any architectural agreement, general contractor's agreement, or any loan agreements with any lending institutions providing funds for the benefit of the Partnership for the design or construction of any improvements;
- the submission of any suggestions or requests for changes which could in any reasonable manner improve the design, efficiency or cost of the Project;
- applying for and maintaining in full force and effect any and all governmental permits and approvals required for the lawful construction of the Project;
- compliance with all terms and conditions applicable to the Project Company or the Project contained in any governmental permit or approval required or obtained for the lawful construction of the Project, or in any insurance policy affecting or covering the Project, or in any surety bond obtained in connection with the Project;
- furnishing such consultation and advice relating to the Project as may be reasonably requested from time to time by the Managing Member or Project Company;
- keeping the Project Company and Managing Member fully informed on a regular basis of the progress of the design and construction of the Project, including the preparation of such reports as are provided for herein or as may reasonably be requested by the Project Company and Managing Member;
- giving or making the Project Company's instructions, requirements, approvals and payments provided for in the agreements with the Project architect, general contractor, and other contractors, professionals and consultants, retained for the Project; and
- at the Project Company's expense, filing on behalf of and as the attorney-in-fact for the Project Company any notices of completion required or permitted to be filed upon the completion of any improvement(s) and taking such actions as may be required to obtain any certificates of occupancy or equivalent documents required to permit the occupancy of dwelling units and other space in the Project.

7. Inspect the progress of the course of construction of the Project, including verification of the materials and labor being furnished to and on such construction so as to be fully competent to approve or disapprove requests for payment made by the Project architect and the general contractor, or by any other parties with respect to the design and construction of the Project, and in addition to verify that the same is being carried out substantially in accordance with the plans and specifications approved by the Project Company or, in the event that the same is not being so carried out, to promptly so notify the Project Company and Managing Member.
8. Perform on behalf of the Managing Member all obligations of the Project Company contained in any loan agreement or security agreement entered into in connection with any financing for the Project, or in any lease or rental agreement relating to space in the Project, or in any agreement entered into with any governmental body or agency relating to the terms and conditions of such construction.

9. Prepare and distribute to the Managing Member monthly a schedule, and weekly updates thereto as necessary to reflect any material changes or risks, other design or construction cost estimates and financial accounting reports, including monthly progress reports with photos of the progress on the quality, progress and cost of construction and recommendations as to the drawing of funds from any loans arranged to cover the cost of design and construction of the Project.
10. Commonwealth shall maintain (at its cost) statutory Workers Compensation insurance; Employers Liability insurance in the amount of \$1,000,000; Commercial General Liability insurance, including Contractual Liability in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate, Automobile Insurance in the amount of \$1,000,000 per accident and Umbrella/Excess Liability in the amount of \$2,000,000 per occurrence/\$2,000,000 aggregate. With the exception of Workers Compensation and Employers Liability, such policies shall name CHCDC as additional insureds. Commonwealth shall obtain waivers of subrogation against CHCDC under such insurance policies relating to property damage. Upon CHCDC's request from time to time, Commonwealth shall furnish CHCDC with evidence that such insurance policies remain in full force and effect.
11. Use all commercially reasonable efforts to comply with all applicable present and future laws, ordinances, orders, rules, regulations and requirements ("laws") of all Federal, state and municipal governments, courts, departments, commissions, boards and offices, any national or local Board of Fire Underwriters or Insurance Services Offices having jurisdiction in the county in which the Project is located or any other body exercising functions similar to those of any of the foregoing, or any insurance carriers providing any insurance coverage for the Project, which may be applicable to the Project or any part thereof. And, ensure that all agreements between the Project Company and independent contractors comply with all such applicable laws.
12. Assemble and retain all contracts, agreements and other records and data as may be necessary to carry out Commonwealth's functions hereunder. Without limiting the foregoing, Commonwealth will prepare, accumulate data and information sufficient to identify the market value of improvements in place as of each real property tax lien date, and will make application for appropriate exclusions from the capital costs of the Project for purposes of real property ad valorem taxes.
13. Use all commercially reasonable efforts to accomplish the timely completion of the Project in accordance with the approved plans and specifications and the time schedules for such completion approved by the Project Company.
14. Commonwealth shall permit CHCDC, or its representatives, to enter upon the project at any time.