

AGENDA ITEM:

XI-F

Ordinance item F

**STATE OF SOUTH CAROLINA
COUNTY OF JASPER**

ORDINANCE O-2022-04

**AN ORDINANCE
OF JASPER COUNTY COUNCIL**

APPROVING A DEVELOPMENT AGREEMENT FOR 95 LOGISTICS CENTER PURSUANT TO THE SOUTH CAROLINA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT AND ARTICLE IV, TITLE 20 OF THE CODE OF ORDINANCES OF JASPER COUNTY, AND AUTHORIZING THE CHAIRMAN OF JASPER COUNTY COUNCIL TO EXECUTE SAID DEVELOPMENT AGREEMENT

WHEREAS, the South Carolina Local Government Development Agreement Act, South Carolina Code of Laws, Title 6, Chapter 31 (1976, as amended) (the “Act”), authorizes local governments to enter into development agreements with a developer as therein defined; and

WHEREAS, Jasper County Council (“Council”), the governing body of Jasper County, South Carolina (the “County” has adopted Article IV, Title 20 of the Code of Ordinances of Jasper County governing Jasper County’s participation in development agreements (the “Ordinance”); and

WHEREAS, SL Hardeeville Industrial Park LLC, its successors or assigns has an equitable interest in certain lands suitable for development; and

WHEREAS, pursuant to the Act and the Ordinance, the County is authorized to enter into binding development agreements with entities having legal or equitable interest in real property; and

WHEREAS, the County and the Owner have now concluded their negotiations with respect to the terms for a development agreement for the real property subject to the development agreement; and

WHEREAS, subject to the successful sale of the Property to SL Hardeeville Industrial Park LLC, the County, acting through the terms of this Ordinance, has determined to accept the terms and conditions of the Development Agreement by and between the County and SL Hardeeville Industrial Park LLC, the form of which is attached hereto as Exhibit A; and

WHEREAS, the County has provided for and held the statutorily required public hearings, finds that the development agreement is consistent with the Comprehensive Plan for Jasper County, as amended, and that approval of the development agreement would be in the best interests of the County.

NOW THEREFORE BE IT ORDAINED by the Jasper County Council in council duly assembled and by the authority of the same:

1. The Development Agreement, in substantially the form attached hereto as Exhibit A, with such minor or grammatical changes as the Chairman of Jasper County Council shall approve upon the advice of the County Attorney and County Administrator, her execution of a definitive Development Agreement to be conclusive evidence of such approval, is hereby approved.
2. The Development Agreement, in substantially the same form attached hereto as Exhibit A, shall be executed by the Council Chairman and delivered on behalf of the County by the County Administrator, and the Clerk to Council is authorized to attest the signature of the Chairman of the Jasper County Council. The consummation of the transactions and undertakings described in the Development Agreement, and such additional transactions and undertakings as may be determined necessary by the County Administrator to be necessary to fully implement the Development Agreement are hereby approved. **However, it is specifically recited that the provisions of the Development Agreement are expressly intended for the benefit of the Owner/Developer SL Hardeeville. LLC. To the extent the Property is not**

conveyed to the Owner/Developer by the current legal owner by September 15, 2022, then the Development Agreement shall be void, regardless of any execution by the Council Chairman and delivery by the County Administrator on behalf of the County.

3. If any one or more of the provisions of this Ordinance should be contrary to law, then such provision shall be deemed severable from the remaining provisions, and shall in no way affect the validity of the other provisions of this Ordinance.

4. This ordinance shall take effect upon approval by Council.

JASPER COUNTY COUNCIL

By: _____
Barbara Clark, Chairperson

ATTEST:

Wanda Simmons, Clerk to Council

First Reading: 02.07.2022

Second Reading: 03.21.2022

Public Hearings: 02.22.2022;03.07.2022;03.21.2022 and 05.02.2022

Third Reading and Adoption: 05.02.2022

It is required that the Development Agreement be attached as Exhibit A.

Reviewed for form and draftsmanship by the Jasper County Attorney:

David Tedder

Date

EXHIBIT A
95 Logistics Center Development Agreement

HARDEEVILLE TRACT
PROPERTY LINE DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN JASPER COUNTY, SOUTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 17, A.K.A. WHYTE HARDEEVILLE BOULEVARD (R/W VARIES) AND THE SOUTHERLY RIGHT-OF-WAY OF U.S. HIGHWAY 278;
THENCE IN A SOUTHERLY DIRECTION ALONG SAID EASTERLY RIGHT-OF-WAY +/-925 FEET TO A POINT;
SAID POINT BEING THE POINT OF BEGINNING;

THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY, SOUTH 79 DEGREES 18 MINUTES 48 SECONDS EAST, 19.16 FEET TO A POINT;
THENCE, SOUTH 20 DEGREES 06 MINUTES 56 SECONDS WEST, 52.11 FEET TO A 1/2" REBAR;
THENCE, SOUTH 57 DEGREES 40 MINUTES 57 SECONDS EAST, 50.04 FEET TO A 1/2" OPEN TOP PIPE;
THENCE, NORTH 23 DEGREES 34 MINUTES 14 SECONDS WEST, 70.82 FEET TO A 1/2" OPEN TOP PIPE;
THENCE, SOUTH 87 DEGREES 40 MINUTES 32 SECONDS EAST, 358.92 FEET TO A 3" MONUMENT;
THENCE, SOUTH 77 DEGREES 42 MINUTES 18 SECONDS EAST, 1032.99 FEET TO A 3" MONUMENT;
THENCE, NORTH 16 DEGREES 02 MINUTES 41 SECONDS EAST, 375.96 FEET TO A R/W MONUMENT;
THENCE, NORTH 15 DEGREES 55 MINUTES 48 SECONDS EAST, 15.77 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF INTERSTATE 95 (350' R/W);
THENCE ALONG SAID WESTERLY RIGHT-OF-WAY, ALONG A CURVE TO THE RIGHT, AN ARC DISTANCE OF 146.89 FEET, SAID CURVE HAVING A RADIUS OF 646.47 FEET AND BEING SUBTENDED BY A CHORD OF 146.58 FEET, AT SOUTH 01 DEGREES 13 MINUTES 54 SECONDS EAST, TO A R/W MONUMENT;
THENCE, SOUTH 04 DEGREES 19 MINUTES 09 SECONDS WEST, 957.34 FEET TO A 5" R/W MONUMENT;
THENCE ALONG A CURVE TO THE RIGHT, AN ARC DISTANCE OF 1427.77 FEET, SAID CURVE HAVING A RADIUS OF 5473.90 FEET AND BEING SUBTENDED BY A CHORD OF 1423.72 FEET, AT SOUTH 11 DEGREES 43 MINUTES 32 SECONDS WEST, TO A 5" R/W MONUMENT;
THENCE, SOUTH 19 DEGREES 05 MINUTES 34 SECONDS WEST, 2956.64 FEET TO A 5" R/W MONUMENT;
THENCE, SOUTH 46 DEGREES 31 MINUTES 05 SECONDS WEST, 262.70 FEET TO A POINT;
THENCE LEAVING SAID WESTERLY RIGHT-OF-WAY, ALONG A CURVE TO THE LEFT, AN ARC DISTANCE OF 1774.49 FEET, SAID CURVE HAVING A RADIUS OF 4491.08 FEET AND BEING SUBTENDED BY A CHORD OF 1762.97 FEET, AT NORTH 78 DEGREES 54 MINUTES 07 SECONDS WEST, TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY OF MCTEER STREET (40' R/W);
THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY, NORTH 52 DEGREES 19 MINUTES 05 SECONDS EAST, 253.17 FEET TO A 4" MONUMENT;
THENCE, NORTH 40 DEGREES 19 MINUTES 18 SECONDS EAST, 423.84 FEET TO A 4" MONUMENT;
THENCE, NORTH 22 DEGREES 30 MINUTES 04 SECONDS EAST, 154.89 FEET TO AN AXLE;
THENCE LEAVING SAID SOUTHEASTERLY RIGHT-OF-WAY, NORTH 61 DEGREES 02 MINUTES 25 SECONDS WEST, 1012.55 FEET TO A 1/2" OPEN TOP PIPE ON SAID EASTERLY RIGHT-OF-WAY;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, NORTH 32 DEGREES 07 MINUTES 56 SECONDS EAST, 131.55 FEET TO A 1/2" OPEN TOP PIPE;
THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY, SOUTH 60 DEGREES 06 MINUTES 04 SECONDS EAST, 177.80 FEET TO A POINT;
THENCE, NORTH 32 DEGREES 20 MINUTES 09 SECONDS EAST, 1716.00 FEET TO A POINT;
THENCE, NORTH 55 DEGREES 45 MINUTES 14 SECONDS WEST, 183.32 FEET TO A 3" MONUMENT ON SAID EASTERLY RIGHT-OF-WAY;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, NORTH 32 DEGREES 08 MINUTES 19 SECONDS EAST, 132.77 FEET TO A 4" MONUMENT;
THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY, SOUTH 58 DEGREES 05 MINUTES 12 SECONDS EAST, 178.44 FEET TO A POINT;
THENCE, NORTH 31 DEGREES 53 MINUTES 57 SECONDS EAST, 516.83 FEET TO A 1/2" OPEN TOP PIPE;
THENCE, NORTH 22 DEGREES 11 MINUTES 45 SECONDS EAST, 143.68 FEET TO A 1/2" OPEN TOP PIPE;
THENCE, NORTH 67 DEGREES 35 MINUTES 32 SECONDS WEST, 185.68 FEET TO A POINT ON SAID EASTERLY RIGHT-OF-WAY;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, NORTH 23 DEGREES 03 MINUTES 29 SECONDS EAST, 131.80 FEET TO A 4" MONUMENT;
THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY, SOUTH 68 DEGREES 29 MINUTES 21 SECONDS EAST, 206.27 FEET TO A 1/2" OPEN TOP PIPE;
THENCE, NORTH 22 DEGREES 15 MINUTES 24 SECONDS EAST, 659.95 FEET TO AN AXLE;
THENCE, NORTH 67 DEGREES 06 MINUTES 32 SECONDS WEST, 205.04 FEET TO A 4" MONUMENT ON SAID EASTERLY RIGHT-OF-WAY;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, NORTH 22 DEGREES 22 MINUTES 40 SECONDS EAST, 131.32 FEET TO A 1/2" OPEN TOP PIPE;
THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY, SOUTH 68 DEGREES 59 MINUTES 09 SECONDS EAST, 220.67 FEET TO A POINT;
THENCE, NORTH 22 DEGREES 15 MINUTES 34 SECONDS EAST, 792.30 FEET TO A POINT;
THENCE, NORTH 69 DEGREES 00 MINUTES 41 SECONDS WEST, 219.84 FEET TO A 1/2" OPEN TOP PIPE ON SAID EASTERLY RIGHT-OF-WAY;
THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, NORTH 22 DEGREES 25 MINUTES 02 SECONDS EAST, 70.01 FEET TO THE POINT OF BEGINNING;

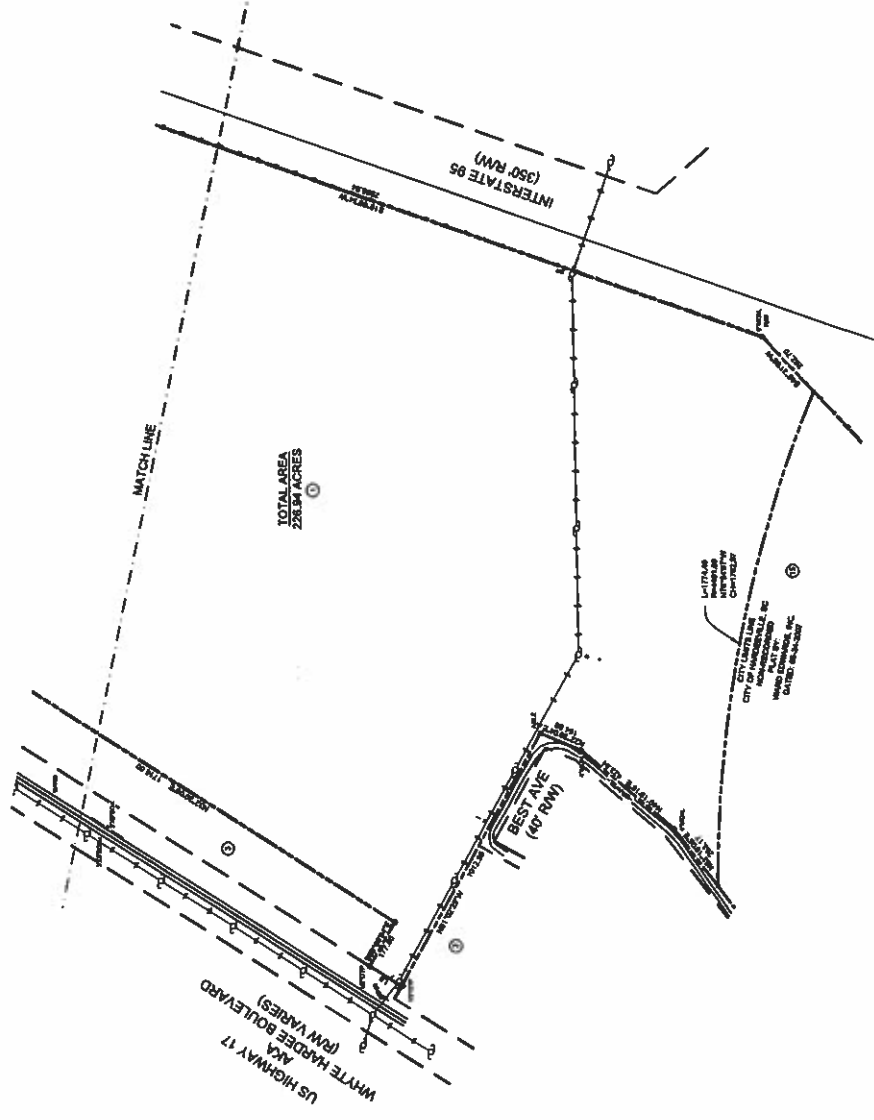
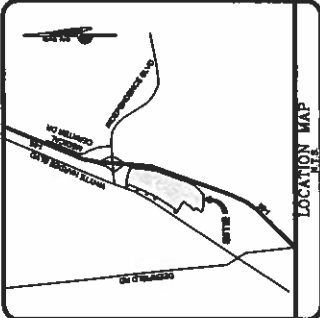
SAID TRACT OR PARCEL CONTAINING 226.94 ACRES



CURVE	LENGTH	NUMBER	CURVE NAME	CHORD BEARING	CHORD LENGTH
1	153.27	342.62	WESTERLY CURVE	S 121° 00' 00" W	153.27
2	153.27	342.62	EASTERLY CURVE	S 121° 00' 00" E	153.27

REF.	TRAIL NUMBER	OWNER
1	01-08-02-011	BLANCHARDVILLE
2	01-08-02-012	BLANCHARDVILLE
3	01-08-02-013	BLANCHARDVILLE
4	01-08-02-014	BLANCHARDVILLE
5	01-08-02-015	BLANCHARDVILLE
6	01-08-02-016	BLANCHARDVILLE
7	01-08-02-017	BLANCHARDVILLE
8	01-08-02-018	BLANCHARDVILLE
9	01-08-02-019	BLANCHARDVILLE
10	01-08-02-020	BLANCHARDVILLE
11	01-08-02-021	BLANCHARDVILLE
12	01-08-02-022	BLANCHARDVILLE
13	01-08-02-023	BLANCHARDVILLE
14	01-08-02-024	BLANCHARDVILLE
15	01-08-02-025	BLANCHARDVILLE
16	01-08-02-026	BLANCHARDVILLE
17	01-08-02-027	BLANCHARDVILLE
18	01-08-02-028	BLANCHARDVILLE
19	01-08-02-029	BLANCHARDVILLE
20	01-08-02-030	BLANCHARDVILLE
21	01-08-02-031	BLANCHARDVILLE
22	01-08-02-032	BLANCHARDVILLE
23	01-08-02-033	BLANCHARDVILLE
24	01-08-02-034	BLANCHARDVILLE
25	01-08-02-035	BLANCHARDVILLE
26	01-08-02-036	BLANCHARDVILLE
27	01-08-02-037	BLANCHARDVILLE
28	01-08-02-038	BLANCHARDVILLE
29	01-08-02-039	BLANCHARDVILLE
30	01-08-02-040	BLANCHARDVILLE

LINE	LENGTH	BEARING
1	153.27	S 121° 00' 00" W
2	153.27	S 121° 00' 00" E
3	153.27	S 121° 00' 00" W
4	153.27	S 121° 00' 00" E
5	153.27	S 121° 00' 00" W
6	153.27	S 121° 00' 00" E
7	153.27	S 121° 00' 00" W
8	153.27	S 121° 00' 00" E
9	153.27	S 121° 00' 00" W
10	153.27	S 121° 00' 00" E
11	153.27	S 121° 00' 00" W
12	153.27	S 121° 00' 00" E
13	153.27	S 121° 00' 00" W
14	153.27	S 121° 00' 00" E
15	153.27	S 121° 00' 00" W
16	153.27	S 121° 00' 00" E
17	153.27	S 121° 00' 00" W
18	153.27	S 121° 00' 00" E
19	153.27	S 121° 00' 00" W
20	153.27	S 121° 00' 00" E
21	153.27	S 121° 00' 00" W
22	153.27	S 121° 00' 00" E
23	153.27	S 121° 00' 00" W
24	153.27	S 121° 00' 00" E
25	153.27	S 121° 00' 00" W
26	153.27	S 121° 00' 00" E
27	153.27	S 121° 00' 00" W
28	153.27	S 121° 00' 00" E
29	153.27	S 121° 00' 00" W
30	153.27	S 121° 00' 00" E



REFERENCES:
 1) AS-RECORDED PLAT BY SAND CORRISS, INC. DATED 01/08/2003

NOTES:
 1) AREA WAS DETERMINED BY THE COORDINATE METHOD.
 2) ANYTHING SHOWN OUTSIDE THE DEFINED BOUNDARY IS FOR DESCRIPTIVE PURPOSES ONLY.
 3) THE PUBLIC RECORDS REFERENCED ON THIS PLAN ARE ONLY USED AS A REFERENCE TO THE LOCATION OF THE PROPERTY. THEY ARE NOT TO BE CONSIDERED A TITLE SEARCH.
 4) THIS PLAN HAS BEEN PREPARED FOR THE EXCLUSIVE USE AND PURPOSE OF THE CLIENT AND IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY MANNER OR BY ANY MEANS WITHOUT THE WRITTEN CONSENT OF THE SURVEYOR.
 5) DISTANCES SHOWN BETWEEN ARE HORIZONTAL, CIRCULAR DISTANCES.
 6) THIS IS NOT A SURVEY PLAN, JOB SUBMITTANCE OR DOCUMENTATION. THE PLAN IS FOR INFORMATION ONLY AND DOES NOT ADJUST THE BOUNDARY OR REPRESENT THE ACTUAL, CONTINGENT, OR EXISTING CONDITIONS WHICH MAY OCCUR UPON THE PLAN BY THIS PLAN.
 7) THIS PROPERTY IS LOCATED IN PLAT 284-2, TRACT A, ASHLEY TRACT, TRACT A, BEAR PLANT SUBDIVISION, 66.75 ACRES, SUBDIVISION, OFFERING 10/11/17.

LEGEND

- 1. BOUNDARY LINE
- 2. MATCH LINE
- 3. PROPERTY LINE
- 4. EASEMENT
- 5. RIGHT-OF-WAY
- 6. EXISTING ROAD
- 7. EXISTING UTILITY
- 8. EXISTING CURB
- 9. EXISTING SIDEWALK
- 10. EXISTING DRIVE
- 11. EXISTING FENCE
- 12. EXISTING WALL
- 13. EXISTING CONCRETE
- 14. EXISTING BRICK
- 15. EXISTING METAL
- 16. EXISTING WOOD
- 17. EXISTING ASPHALT
- 18. EXISTING GRAVEL
- 19. EXISTING SAND
- 20. EXISTING SOIL
- 21. EXISTING ROCK
- 22. EXISTING VEGETATION
- 23. EXISTING WATER
- 24. EXISTING SWAMP
- 25. EXISTING MOUND
- 26. EXISTING PIT
- 27. EXISTING TOWER
- 28. EXISTING STRUCTURE
- 29. EXISTING BUILDING
- 30. EXISTING GARAGE
- 31. EXISTING PORCH
- 32. EXISTING DECK
- 33. EXISTING PATIO
- 34. EXISTING DRIVEWAY
- 35. EXISTING WALKWAY
- 36. EXISTING STAIR
- 37. EXISTING RAMP
- 38. EXISTING FLOOR
- 39. EXISTING CEILING
- 40. EXISTING ROOF
- 41. EXISTING FOUNDATION
- 42. EXISTING WALL
- 43. EXISTING WINDOW
- 44. EXISTING DOOR
- 45. EXISTING HATCH
- 46. EXISTING SIGN
- 47. EXISTING LIGHT
- 48. EXISTING AIR
- 49. EXISTING WATER
- 50. EXISTING GAS
- 51. EXISTING ELECTRIC
- 52. EXISTING TELEPHONE
- 53. EXISTING CABLE
- 54. EXISTING FIBER
- 55. EXISTING SATELLITE
- 56. EXISTING ANTENNA
- 57. EXISTING TOWER
- 58. EXISTING MAST
- 59. EXISTING FLAG
- 60. EXISTING MONUMENT
- 61. EXISTING BENCHMARK
- 62. EXISTING CONTROL
- 63. EXISTING POINT
- 64. EXISTING LINE
- 65. EXISTING AREA
- 66. EXISTING VOLUME
- 67. EXISTING MASS
- 68. EXISTING WEIGHT
- 69. EXISTING FORCE
- 70. EXISTING ENERGY
- 71. EXISTING POWER
- 72. EXISTING HEAT
- 73. EXISTING COLD
- 74. EXISTING LIGHT
- 75. EXISTING DARK
- 76. EXISTING SOUND
- 77. EXISTING SILENCE
- 78. EXISTING SMELL
- 79. EXISTING TASTE
- 80. EXISTING FEEL
- 81. EXISTING TOUCH
- 82. EXISTING MOTION
- 83. EXISTING STILL
- 84. EXISTING CHANGE
- 85. EXISTING UNCHANGE
- 86. EXISTING BEGIN
- 87. EXISTING END
- 88. EXISTING START
- 89. EXISTING STOP
- 90. EXISTING CONTINUE
- 91. EXISTING INTERRUPT
- 92. EXISTING REPEAT
- 93. EXISTING VARY
- 94. EXISTING CONSTANT
- 95. EXISTING INVERSE
- 96. EXISTING REVERSE
- 97. EXISTING FORWARD
- 98. EXISTING BACKWARD
- 99. EXISTING UPWARD
- 100. EXISTING DOWNWARD

STATE OF SOUTH CAROLINA) DEVELOPMENT AGREEMENT
)
COUNTY OF JASPER) 95 LOGISTICS CENTER

This Development Agreement ("Agreement") is made and entered this _____ day of _____, 2022, by and between **SL Hardeeville Industrial Park LLC** ("Owner"), and the governmental authority of **Jasper County, South Carolina** ("County").

WHEREAS, the legislature of the State of South Carolina has enacted the "South Carolina Local Government Development Agreement Act," (the "Act") as set forth in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976), as amended; and,

WHEREAS, the Act recognizes that "The lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning." [Section 6-31-10 (B)(1)]; and,

WHEREAS, the Act also states: "Development agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the Development Agreement or in any way hinder, restrict, or prevent the development of the project. Development Agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State." [Section 6-31-10 (B)(6)]; and,

WHEREAS, the Act further authorizes local governments, including County governments, to enter Development Agreements with owners to accomplish these and other goals as set forth in Section 6-31-10 of the Act; and,

WHEREAS, Owner will acquire approximately 226.94 acres, generally to be known as 95 Logistics Center, proposes to develop, or cause to be developed therein distribution center uses, related warehousing and light industrial uses, including accessory and complimentary uses as

described in the Planned Development District Zoning and Conceptual Master Plan adopted herewith and attached as an Exhibit hereto; and,

WHEREAS, the County seeks to protect and preserve the natural environment and to secure for its citizens quality, well planned and designed development and a stable and viable tax base; and,

WHEREAS, the County finds that the program of development proposed by Owner for this Property is consistent with the County 's comprehensive land use plan; and will further the health, safety, welfare and economic well-being of the County and its residents; and,

WHEREAS, the program for development of the Property presents an unprecedented opportunity for the County to secure quality planning and growth to protect the environment and strengthen and revitalized the tax base; and,

WHEREAS, this Development Agreement is being made and entered between Owner and the County, under the terms of the Act, for the purpose of providing assurances to Owner that it may proceed with its development plan under the terms hereof, as hereinafter defined, consistent with its approved Planned Development District (PDD) plan (as hereinafter defined) without encountering future changes in law which would materially affect the ability to develop under the plan, and for the purpose of providing important protection to the natural environment and long term financial stability and a viable tax base to the County, and for the purpose of providing certain funding and funding sources to assist the County in meeting the service and infrastructure needs associated with the development authorized hereunder;

WHEREAS, The County conducted public hearings regarding its consideration of this Agreement on February 22, 2022 and March 7, 2022, after publishing and announcing notice, in accordance with the Act;

WHEREAS, County Council adopted Ordinance Number 2022-10 on _____, 2022, (a) determining that this Agreement is consistent with the County Comprehensive Plan, the Act, and the Current Regulations of the County, and (b) approving this Agreement. A copy of the Ordinance is attached hereto as **Exhibit E**, and incorporated herein by reference.

NOW THEREFORE, in consideration of the terms and conditions set forth herein, and other good and valuable consideration, including the potential economic benefits to both the County and Owner by entering this Agreement, and to encourage well planned development by Owner, the receipt and sufficiency of such consideration being hereby acknowledged, the County and Owner hereby agree as follows:

I. INCORPORATION.

The above recitals are hereby incorporated into this Agreement, together with the South Carolina General Assembly findings as set forth under Section 6-31-10(B) of the Act.

II. DEFINITIONS.

As used herein, the following terms mean:

"Act" means the South Carolina Local Government Development Agreement Act, as codified in Sections 6-31-10 through 6-31-160 of the Code of Laws of South Carolina (1976), as amended; incorporated herein by reference.

"Adjacent Land" shall mean any real property adjacent to the 95 Logistics Center.

"Agreement" shall mean this Development Agreement as amended by the County and Developer in writing from time to time.

"Association" shall mean one (1) or more property owners' associations established to maintain portions of the Property.

"BJWSA" shall mean the Beaufort/Jasper Water and Sewer Authority, its successors or assigns.

"County" shall mean Jasper County, South Carolina.

"Current Legal Owner" means Eagle Associates of Niagara Frontier, Inc., a New York Corporation who has contracted to sell to Owner as defined below.

"Developer" means Owner and all successors in title or lessees of the Owner who undertake Development of the Property who are transferred in writing from the Owner portions of the Development Rights.

"Development" means the development of portions of the Property and construction of improvements thereon as contemplated in the Zoning Regulations.

"Development Fees" or **"Developer Fees"** shall have the meaning set forth in Paragraph X.I.

"Development Rights" means Development undertaken by the Owner or Developers in accordance with the Zoning Regulations and this Development Agreement.

"95 Logistics Center", "PDD", "Project" or "Property" means that certain tract of land described on Exhibit A, as may be amended with the Agreement of the County and Owner.

"Owner" means SL Hardeeville Industrial Park LLC, its corporate successors and any assignee, whereby such interest is assigned in whole or in part in writing. Owner has a present equitable interest in the Property by virtue of a contract to purchase with Current Legal Owner.

"PDD Plan" shall mean the Conceptual Master Plan attached to the Planned Development District as same may be modified by agreement of the Owner and the County.

"Planned Development District" or "PDD Ordinance" means the PDD approved by the Jasper County on _____, 2022, attached hereto as part of Exhibit B.

"Term" means the duration of this agreement as set forth in Section III hereof.

"Zoning Regulations" means the PDD establishing a Planned Development District for the Property, and all the attachments thereto, including but not being limited to the PDD Plan, all narratives, applications, and site development standards thereof (a copy of all of which is attached hereto marked Exhibit C and incorporated herein by reference), all as same may be hereafter amended by mutual agreement of the County and the Owner, this Development Agreement, and the Jasper County Development Ordinance(s) being codified with Municode® and current on Municode® through Supplement No. 3 as of June 21, 2021 as amended through the date of this

Agreement except as the provisions thereof may be clarified or modified by the terms of the PDD and this Agreement.

III. TERM.

The term of this Agreement shall commence on the date this Agreement is executed by the County and Owner and terminate ten (10) years thereafter; provided however, that the terms of this Agreement may be considered by the County, in its discretion, for an extension of the Term in accordance with §6-31-60 of the Act absent a material breach of any terms of this agreement by the Owner or any Developer during the initial term, or any subsequent extension.

IV. DEVELOPMENT OF THE PROPERTY.

The Property shall be developed in accordance with the Zoning Regulations and this Agreement. All costs charged by or to the County for reviews required by the Jasper County Zoning Ordinance shall be paid by the Owner or Developer or other party applying for such review as generally charged throughout the County for plan review. The County shall, throughout the Term, maintain or cause to be maintained, a procedure for the processing of reviews as contemplated by the Zoning Regulations and this Agreement.

Whenever expressed or implied substantive provisions of this Agreement are inconsistent with the applicable standards set forth in the Zoning Regulations as defined above, the standards set forth in the Zoning Regulations and the standards set forth in this Agreement shall, to the extent possible, be considered *in pari materia* to give effect to both the Zoning Regulations and this Agreement; provided, however, that nothing in this section is intended to revoke or repeal the review, variance, special exception, or appeal authority of other bodies contained in Code of Laws of South Carolina § 6-29-800 or in the Zoning Regulations.

V. CHANGES TO ZONING REGULATIONS.

The Zoning Regulations relating to the Property subject to this Agreement shall not be amended or modified during the Term, without the express written consent of the Owner, except in accordance with the procedures and provisions of § 6-31-80 (B) of the Act, which Owner shall have the right to challenge. Owner does, for itself and its successors and assigns, including Developers and notwithstanding the Zoning Regulations, agrees to be bound by the following:

1. The Owner shall be required to notify the County, in writing, as and when Development Rights are transferred to any other party. Such information shall include the identity and address of the acquiring party, a proper contact person, the location and number of acres of the Property transferred, and the number of residential units and/or commercial acreage and associated square footage, as applicable, subject to the transfer. Developers transferring Development Rights to any other party shall be subject to this requirement of notification, and any entity acquiring Development Rights hereunder shall be required to file with the County an acknowledgment of this Agreement and a commitment to be bound by it.

2. The Owners and Developers, and their respective heirs, successors and assigns agree that all Development, with the exception of irrigation, incidental maintenance facilities, earthwork and similar amenities which exist from time to time, and facilities existing at the date of this Agreement will be served by potable water and sewer prior to occupancy, except as otherwise provided herein for temporary use, temporary being defined as one year or less. Septic tanks and/or wells may be allowed with the permission of BJWSA where there is a specific finding that such use for specific portions of the Property will comply with the overall environmental standards.

3. **Building Codes and Laws Other Than Land Use Regulations.** The Owner, notwithstanding any provision which may be construed to the contrary in this Agreement, must comply with any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the County or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the County or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. The provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the County to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes; provided, however, that Laws applicable to the Development of the Property shall be subject to Sections IX and XVIII (a).

4. **Additional buffers.** In order to provide enhanced visual buffering from Highway 17 and adjacent residential properties, the Project shall provide for the preservation and enhancement of the existing trees and understory vegetation for a depth of 100 feet from the edge of the Highway 17 road right of way. Along the adjacent residential properties to the South, there

shall be a 50 foot buffer with sound wall fencing and landscaping to provide opacity blocking the view of the structures and outdoor storage areas from view from the adjacent residential properties, and a landscaping plan to achieve this screening requirement shall be submitted for approval by the County Administrator, which approval shall not be unreasonably withheld. Buffers along I-95 shall be 35 feet.

VI. DEVELOPMENT SCHEDULE.

The Property shall be developed in accordance with the development schedule, attached as **Exhibit D**, or as may be amended by Owner or Developer(s) in the future to reflect actual market absorption. Pursuant to the Act, the failure of the Owner and any Developer to meet the initial development schedule shall not, in and of itself, constitute a material breach of this Agreement. In such event, the failure to meet the development schedule shall be judged by the totality of circumstances, including but not limited to the Owners and Developer(s) good faith efforts to attain compliance with the development schedule. These schedules are planning and forecasting tools only, and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace if market conditions support a faster pace. The fact that actual development may take place at a different pace, based on future market forces, is expected and shall not be considered a default hereunder. Development activity may occur faster or slower than the forecast schedule, as a matter of right, depending upon market conditions. Furthermore, periodic adjustments to the development schedule which may be submitted unilaterally by Owner / Developers in the future shall not be considered a material amendment or breach of the Agreement.

VII. DENSITY.

Uses and density on the Property shall be the densities and uses as set forth in the Planned Development District approval, Initial Master Plan, and as set forth below:

Up to a maximum of 2,600,000 square feet of distribution center, warehouse, and other related accessory and light industrial uses. The attached PDD depicts the initially planned lay out and expected uses and the expected mix and general location of allowed uses, however, so long as the total square footage of allowed uses does not exceed 2,600,000 square feet, the Owner shall be allowed to alter location and product mix among all allowed uses under the PDD, based upon ongoing project planning and market conditions. Any such changes to exact location, building size, or product mix shall not be considered a material amendment hereto, or an amendment to the attached PDD or the subsequent Initial Master Plan, so long as the total allowed density is not exceeded. Such minor changes will be approved at the staff review level.

VIII. RESTRICTED ACCESS

The Owner and/or each Developer shall have the right (but not the obligation) to restrict access within or into and out of the Property as long as such limited access does not adversely affect in any material respect adjacent traffic patterns located on public rights-of-way. Notwithstanding, there are required restrictions on truck traffic movements contained in Article XI (N) below.

IX. EFFECT OF FUTURE LAWS.

Owner and Developers shall have vested rights to undertake Development of any or all of the Property in accordance with the Zoning Regulations, as defined herein and modified hereby, and as may be modified in the future with the approval of the Owner pursuant to the terms hereof, and of this Agreement for the entirety of the Term. Future enactments of, or changes or amendments to the County ordinances, including zoning or development standards ordinances, which conflict with the Zoning Regulations shall not apply to the Property unless the procedures and provisions of §6-31-80 (B) of the Act are followed, which Owner shall have the right to challenge. Notwithstanding the above, the Property will be subject to then current fire safety standards and state and/or federal environmental quality standards of general application.

X. INFRASTRUCTURE AND SERVICES

The County and Owner recognize that the majority of the direct costs associated with the Development of the Property will be borne by the Owner and Developers, and many other necessary services will be provided by other governmental or quasi-governmental entities, and not by the County. For clarification, the parties make specific note of and acknowledge the following:

A. Private Roads. All roads within the Property shall be constructed by the Owner, Developer or other parties and maintained by such party(ies) and/or Association(s), or dedicated for maintenance to other appropriate entities. The County will not be responsible for the construction of any private roads within the Property, unless the County specifically agrees to do so in the future.

B. Public Roads. All public roads outside the Property that serve the Property are under the jurisdiction of the State of South Carolina regarding access, construction, improvements and maintenance. Owner acknowledges that it must comply with all applicable state statutes and rules and regulations of the South Carolina Department of Transportation or its successor regarding access and use of such public roads. Developer shall be responsible for the provision of funds for the construction of improvements to Highway 17 and John Smith Road in addition to property access improvements, all as required by SCDOT or Jasper County, as applicable, in conjunction with County approved traffic mitigation plans. Upon Completion of construction of any such improvements within the SCDOT right of way, and acceptance by SCDOT, the SCDOT shall maintain all roadway improvements within the public road right of way. Further provisions regarding traffic management and mitigation are contained in Article XI (N) hereinbelow.

C. Potable Water. Potable water will be supplied to the Property by BJWSA or some other legally constituted public or private provider allowed to operate in the County. The County shall not be responsible for any construction, treatment, maintenance or costs associated with water service to the Property unless the County elects to provide such services with the agreement of the applicable utility authority then providing such service to the Property. Owner will construct or cause to be constructed all related infrastructure improvements within the Property, which will be maintained by it or the service provider as provided in any utility agreement between Owner and the service provider.

D. Sewage Treatment and Disposal. Sewage treatment and disposal will be provided by BJWSA or some other legally constituted public or private provider allowed to operate in the County. The County will not be responsible for any treatment, maintenance or costs associated with sewage treatment within the Property, unless the County elects to provide such service with the agreement of the applicable utility authority then providing such service to the Property. Nothing herein shall be construed as precluding the County from providing sewer services to its residents in accordance with applicable provisions of law. Owner will construct or

cause to be constructed all related infrastructure improvements within the Property, which will be maintained by it or the provider as provided in any utility agreement between Owner and the service provider.

E. Use of Effluent. Owner agrees that treated effluent will be disposed of only in such manner as may be approved by DHEC and the BJWSA. The County will use good faith efforts to cooperate with the Owner to support Owner in its obtaining gray water in connection with providing irrigation water for the landscaped areas within the Property, if such is economically feasible. The Owner or its designee shall have the right to operate an irrigation system to provide irrigation services in connection with all or any portion of the Property, provided such is approved by DHEC or other applicable regulatory authority.

F. Police Services. County shall provide law enforcement protection services to the Property on the same basis as is provided to other similarly situated businesses in the County.

G. Fire Services. County shall provide fire protection services to the Property on the same basis as is provided to other similarly situated businesses in the County. It is further acknowledged the nature of the development of the Project will require additional equipment (generically, "Heavy Rescue Equipment"). Provision of funds towards that acquisition by the Developer are contained hereinbelow in Article XI. Owner acknowledges the jurisdiction of the County's fire department on the Property and shall not interfere or in any way hinder public safety activities on the Property regardless of whether such may be a restricted access community.

H. Sanitation Services. County shall provide sanitation services and trash collection services to all properties within the Property on the same basis as provided to other similarly situated businesses within the County.

I. Recreation Services. County shall provide recreation services to the Property on the same basis as provided to other similarly situated businesses in the County.

J. Library Services. Such services are available on the same basis as provided to all other citizens of the County.

K. Emergency Medical Services (EMS). Such services shall be provided to the Property on the same basis as provided to all other citizens of the County.

L. Drainage System. All stormwater runoff, treatment and drainage system improvements within the Property will be designed and operated in accordance with the Zoning Regulations and Best Management Practices then current. All stormwater runoff, treatment and drainage system improvements for the Property shall be constructed by Owner or the Association. The County will not be responsible for any construction or maintenance cost associated with the stormwater runoff, treatment and drainage system within the Property.

M. Storm Water Quality. Protection of the quality in nearby waters and wetlands is a primary goal of the County. The Owners shall be required to abide by all provisions of federal and state laws and regulations, including those established by the Department of Health and Environmental Control, the Office of Ocean and Coastal Resource Management, and their successors for the handling of storm water. Further provisions regarding Storm Water are included within the PDD for this Project and more fully set forth on Exhibit F.

N. Traffic Management /Mitigation.

1. Traffic mitigation measures include improvements to US Highway 17 and John Smith Road as detailed in the traffic impact study prepared by Bihl Engineering dated April, 2021, as updated on January _____ 2022 and March 4, 2022.

2. Truck traffic shall be physically prohibited from making left-turns out of the Property onto US Highway 17, through the use of height barriers, and/or narrow lanes, or such other additional restrictive devices as may be approved by the Jasper County Administrator, whose approval shall not be unreasonably withheld. It is acknowledged it is the intention of Jasper County to support the limitation on eighteen wheeler truck traffic on John Smith Road.

3. After approximately 500,000 square feet of building space has been constructed and is in operation, Owner shall pay for a traffic warrant examining the need for additional traffic improvements as a result of this Project, such as additional traffic lighting or stacking lane improvements on Highway 278 from its intersection with Highway 17 to John Smith Road, including signalization improvements onto I-95 and on Highway 17 and 278. In the event additional improvements are needed to avoid an unacceptable degradation of the intersection functioning, such traffic lighting and associated intersection improvements will be permitted and constructed at Owner's expense. If any such additional traffic improvements are warranted,

Owner shall engage, or cause to be engaged, appropriate professionals to design, permit and construct the signalized intersection, said construction to be completed within eighteen (18) months of approval and issuance of an encroachment permit by the SCDOT. If the initial traffic warrant does not support the installation of additional traffic improvements, additional warrant studies will be conducted on a recurring basis on the occurrence of the earlier of the construction and placement into operation of each additional 500,000 square feet of building space or the passage of two years from the date of the last warrant study.

4. In order to assist with, among other matters, the costs of these additional traffic mitigation measures and improvements, it is acknowledged that the County has agreed to enter into a Fee in Lieu of Tax Agreement contemporaneously herewith to provide a 15% Special Source Revenue Credit (the "SSRC") for the Project. The County will also consider the potential inclusion of the qualifying traffic improvements as part of the capital improvement program funded by future County impact fees. The County will provide up to fifty percent (50%) of the traffic signalization and intersection improvements at John Smith Road on a matching dollar for dollar basis with the Owner out of the Additional Development Fees.

XI. DEVELOPMENT FEES.

1. To assist the County in meeting expenses resulting from ongoing development, Owner shall pay development fees for, Fire/Public Safety and Roads ("Development Fees") as follows, as set forth below:

DEVELOPMENT FEES	AMOUNT
Non-Residential per 1,000 sf	\$660 Roads and Traffic Mitigation Facilities \$500 Fire/Public Safety

2. All Development Fees shall be collected at the time of obtaining a building permit. Roads and Traffic Mitigation Facilities Development Fees shall be placed in a separate interest bearing account and all such monies shall be utilized, unless otherwise agreed by the County and Owner, to reimburse Owner for the construction of external roadways and near-site traffic mitigation measures, including landscaping and lighting (which shall be paid by County to Owner within thirty (30) days after substantial completion of each road/traffic mitigation segment

out of the first funds in the Road and Traffic Fund, as collected and available). The Fire/Public Safety Fee is to be used for capital expenditures to provide Heavy Rescue capabilities made necessary by the industrial/commercial nature of the Project, as well as other usual capital expenditures associated with the demands for enhanced services.

3. In addition to the Development Fees, Owner agrees to make an Annual Development Fee equal to the assessed taxable value of the Property multiplied by 112 mills (the "Annual Fee"), payable beginning in the tax year 2022 and payable by January 15th of the following year and each year thereafter. The Annual Fee is payable for the term of this Agreement including any renewal hereunder. The parties acknowledge the County will provide the SSRC for the same term as the term such Annual Fee is due. The Annual Development Fee is being provided in consideration, among other things, of the granting of the Multi-County Business Park status, the SSRC, and the FILOT Agreements; the limitation of other development fees by the County, the exemption from the application of future laws as provided herein; and to assure other public benefits pursuant to §§ 6-31-10(4), and 6-31-60(D) of the South Carolina Code of Laws, 1976 (as amended).

4. Notwithstanding any provisions to the contrary contained within this Agreement, it is acknowledged Jasper County is in the process of considering the adoption of Impact Fees as allowed by §6-1-910, et. seq. of the South Carolina Code of Laws (1976, as amended). In the event Impact Fees are adopted by the County, the Property shall be subject to such fees provided they are applied uniformly to similar properties as this Property, and provided further, that any Developer Fees paid by the Developer under Article XI (1) and (2) shall be credited against the Impact Fees to the extent the Development fees are for items included in the capital program incorporated in the formulation of the Impact Fees. It is further provided Owner and/or Developers shall be subject to the payment of any and all present or future permitting fees enacted by the County that are of County wide application and that relate to processing applications, development permits, building permits, review of plans, or inspection (no other capital improvement related impact, development or other extractions).

5. Except as set forth in this Agreement, nothing herein shall be construed as relieving the Owner, its successors and assigns, from payment of any such fees or charges as may be assessed by entities other than the County, provided however, if an entity other than the County is permitted by County to impose fees or obligations similar in nature to those

contemplated by this Agreement, the Owner shall be entitled to either an offset against the Development Fees of this Agreement the amount of such fees or obligations which are collected or a credit against the other fees allowed to be collected. It is the intent of the parties that the fees and obligations contemplated by this Agreement are the only obligations which will be imposed upon the Property and that County shall not permit any other governmental authority to impose fees or obligations of a similar nature to that which are contemplated by this Agreement without providing for a credit against the other fees for the fees due under this Agreement; provided, however, the provisions of this paragraph shall not preclude the County or another governmental authority from imposing a fee of a nature which is for services or improvements other than those contemplated under this Agreement - (i.e., roads, fire/public safety), which are imposed on a consistent basis throughout the area regulated by such governmental authority imposing such obligations. The County or other governing body shall not be precluded by this Agreement from charging fees for delivery of services to citizens or residents (i.e., an EMS response fee or the like), nor from charging fees statutorily authorized in the future (i.e., a real estate transfer fee or the like) which are not collected as a prerequisite to approval of a plat, plan or construction.

6. The fees set forth above in Article XI (1) through (3) are vested for the entire Property during the Term of this Agreement and shall not be increased. No other Development Fee or development obligation shall be imposed in connection with the property, except as may be allowed pursuant to Article X (4) and (5) and fees set out in generally applicable ordinances such as building permitting fees and inspection fees. The Fire/Public Safety and Road/Traffic Mitigation Development Fees are subject to an annual inflation factor equal to inflation factor as provided by the State of South Carolina to each local government for the calculation of tax millage increases.

7. Any Development Fees paid and/or credits for Development Fees with respect to property conveyed, services performed and/or money paid as provided in this Agreement may be assigned by the Owner and/or Developer owning such credits and all such credits shall remain valid until utilized. The Owner and/or Developer shall provide written notice of intent to transfer such credits to the County and shall obtain an acknowledgement from the County prior to any such transfer. The County shall recognize all such written assignments of such rights and shall credit same against any Development Fees which are owned pursuant to this Agreement.

XI. PERMITTING PROCEDURES:

1. The County agrees that the Owner and/or any Developer is not required to phase development but shall have the right to do so.

2. The County agrees to review all land use changes, land development applications, and plats in an expeditious manner in accordance with County Regulations as modified by the PDD for this Project. Plans will be processed in accordance with the then current County PDD Plan, subdivision plat and development plan procedural requirements and fee schedules. Developer may submit these items for concurrent review with the County and other governmental authorities. County may give final approval to any submission, but will not grant authorization to record plats or begin development construction activities until all permitting agencies have completed their reviews.

3. Signage for the Project is governed by the provisions of the PDD for this Project.

4. The County acknowledges that the Owner and/or Developer has the initial right of architectural review regarding improvements and building upon the Property, subject to normal review by the County Planning Commission. It is the intent of this Agreement and its PUD to avoid long unarticulated facades visible from the adjacent Highway 17 and residential area.

5. The County agrees that the Property is approved and fully vested for intensity, density, development fees, uses and height, and shall not have any obligations for on or off site transportation or other facilities or improvements other than as provided in this Agreement, but must adhere to then current PDD Plan, Master Plan, and subdivision plat and development plan procedural guidelines. The County may not impose additional development obligations or regulations in connection with the ownership or development of the Property, except in accordance with the procedures and provisions of § 6-31-80 (B) of the Act, which the Owner shall have the right to challenge.

6. Private Roadways may utilize swale drainage systems and are not required to have raised curb and gutter systems, except where necessary to accommodate pedestrian or multi-use sidewalks or pathways. Public Road Improvements are subject to the drainage requirements of the public agency having jurisdiction and/or ownership. In order to incorporate and provide an opportunity to extend such of the off-site road landscape, lighting and sidewalk, bike and pedestrian improvements consistent with the Whyte Hardee Boulevard Traffic Improvement program prepared by the City of Hardeeville, a cash contribution to the County towards those improvements of \$100,000.00 shall be made at the time site work begins on the

Project. Roadway cross sections utilizing swale drainage will be designed, constructed and maintained to meet BMP standards (imposed by regulatory agencies) for stormwater quality. Roadway cross sections will be reviewed at time of proposed construction of such Roadway based upon engineering and planning standards consistent with the PDD Plan prepared by Developer subject to the approval of the County Planning Administrator.

7. All plan review fees shall be consistent with the fees charged generally in the County and in effect at that time.

XII. DEVELOPER ENTITLEMENTS

County acknowledges that Developer is vested with the following items:

1. The County will, to the extent available, promote public transportation which exists within the County to service the Property.

2. Intentionally Deleted.

3. All drainage systems constructed within the Project shall be owned and maintained by one (1) or more Association(s) which may be established for various portions of the Property and the County shall have no responsibility for the construction, operation or maintenance of such systems. Such systems shall be constructed in compliance with any applicable federal, state, or local requirement utilizing then current Best Management Practices.

4. On-site burning may be permitted within the Property upon obtaining applicable permits

5. The County agrees to cooperate with the Owner and each Developer with county, state and federal roadway permitting in connection with the Development of portions of the Property.

6. County services, including, but not limited to, police, fire, sanitation, recreational parks and other governmental services shall be supplied to the Property in the same manner and to the same extent as provided to other similar business properties within the County, subject to the limitations (if any) of Section X above. Subject to the limitations of Section X above (if any), should the Owner require enhanced services beyond that which is routinely provided

within the County, then the County agrees that upon the written request of Owner, it shall negotiate in good faith with the Owner to provide such enhanced services to the Property. Any enhanced services shall be at the sole cost of the Owner and/or Developer.

XIII. COMPLIANCE REVIEWS.

As long as Owner owns any of the Property, Owner or its designee, shall meet with the County, or its designee, at least once, per year, during the Term to review Development completed by Owner in the prior year and the Development anticipated to be commenced or completed by Owner in the ensuing year. The Owner, or its designee, shall provide such information as may reasonably be requested, to include but not be limited to, acreage of the Property sold in the prior year, acreage of the Property under contract, and the number anticipated to be issued in the ensuing year, Development Rights transferred in the prior year, and anticipated to be transferred in the ensuing year. The Owner, or its designee, shall be required to compile this information within a reasonable time after written request by the County.

XIV. DEFAULTS.

The failure of the Owner, Developer or the County to comply with the terms of this Agreement not cured within thirty (30) days after written notice from the non-defaulting party to the defaulting party (as such time period may be extended with regard to non-monetary breaches for a reasonable period of time based on the circumstances, provided such defaulting party commences to cure such breach within such period and is proceeding diligently and expeditiously to complete such cure) shall constitute a default, entitling the non-defaulting party to pursue such remedies that are deemed appropriate, including specific performance; provided however no termination of this Agreement may be declared by the County absent its according the Owner and any relevant Developer the notice, hearing and opportunity to cure in accordance with the Act; and provided any such termination shall be limited to the portion of the Property in default, and provided further that nothing herein shall be deemed or construed to preclude the County or its designee from issuing stop work orders or voiding permits issued for Development when such Development contravenes the provisions of the Zoning Regulations or this Agreement.

Each Party recognizes that the other Party may suffer irreparable harm from a material breach of this Agreement and that no adequate remedy at law may exist to enforce this Agreement. Consequently, the Parties agree that any non-breaching Party who seeks enforcement of the Agreement is entitled to seek the equitable remedies of injunction and specific

performance. However, if there is a dispute between the County and Property Owner, or its successor or assign, concerning the terms, meaning, interpretation, rights or obligations under this Agreement (including any determination of material breach under the Act), the Parties agree to submit such dispute to prompt mediation before invoking legal proceedings. This pre-litigation mediation, conducted pursuant to South Carolina Rules for Alternative Dispute Resolution with subsequent judicial action lying in the Court of Common Pleas for Jasper County, shall be initiated by one Party notifying the other Party or Parties in writing of the dispute together with a request for mediation as described herein. The Parties agree that disputes under this Agreement not involving the Current Regulations are contractual matters, not appealable to the Zoning Board of Appeals or the Planning Commission, but to the Court of Common Pleas for Jasper County; however, matters involving the application of the Current Regulations are not contractual, but are subject to the administrative review and appellate provisions involving the Zoning Board of Appeals or the Planning Commission.

A default of the Owner shall not constitute a default by Developers, and default by Developers shall not constitute a default by the Owner. Notwithstanding the foregoing, the failure of the Owner to reasonably pursue the required permitting/approvals for and completion of required traffic mitigation measures shall be grounds for the cessation of the issuance of development permits for future sites; provided, however, that should the County Administrator determine that there is a default by the Owner, he shall immediately notify the Owner in writing by certified mail, return receipt requested, and allow the Owner fifteen (15) days to respond with an explanation of why Owner is not in default or a plan for remedying the default. In the event the Owner presents a plan of remediation for approval by the County Administrator, whose approval shall not be unreasonably withheld, the parties shall agree to a commercially reasonable time to complete the remediation plan, and during such time no negative action shall be taken against the Owner or Developers. Failure to submit such a response or failure to subsequently pursue a plan of remediation may result in a moratorium on future development permits, a stop work order, and any other consequences reasonably determined by the County Administrator. The parties acknowledge that owners of completed buildings within the Project shall not be obligated for the obligations of the Owner or Developer set forth in this Agreement, unless the Property remains under unified ownership or unless such owners of completed buildings have been assigned any rights under this Agreement. In such case, the owners of completed buildings shall also be obligated for obligations set forth in this Agreement.

XV. MODIFICATION OF AGREEMENT.

This Agreement may be modified or amended only by the written agreement of the County and the Owner; such written agreement may be by resolution. No statement, action or agreement hereafter made 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 such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

This Agreement may be modified or amended as to a portion of the Property only by the written agreement of the County and the Owner of said portion of the Property. No statement, action or agreement hereafter made shall be effective to change, amend, waive, modify, discharge, terminate, or effect an abandonment of this Agreement in whole or in part unless such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

If an amendment affects less than all the persons and entities comprising the Property Owners, then only the County and those affected persons or entities need to sign such written amendment. Because this Agreement constitutes the plan for certain planned development under the zoning ordinance, minor modifications to a site plan or to development provisions may be made without a public hearing or amendment to applicable ordinances. Any requirement of this Agreement requiring consent or approval of one of the Parties shall not require amendment of this Agreement unless the text expressly requires amendment, and such approval or consent shall be in writing and signed by the affected parties. Wherever said consent or approval is required, the same shall not be unreasonably withheld.

The master plans are not intended to be rigid, exact site plans for future development. The location of roads, buildings, recreational amenities and other elements may vary at the time of permit applications when more specific designs are available, as long as the maximum densities set herein and the general concept of development suggested by the PDD and Master Plan is followed and respected; however, reductions in required buffers and setbacks in relation to external properties and roadways are a major modification. Such minor variations are eligible to be approved at staff level in accordance with the Zoning Regulations.

XVI. NOTICES.

Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing

and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile or if by mail on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications shall be given at:

To the County: County Administrator
Jasper County
PO Box 1149
Ridgeland, SC 29936

With Copy to: County Attorney
Jasper County
PO Box 420
Ridgeland, SC 29936

And to the Owner at: SL Hardeeville Industrial Park LLC
195 Morristown Road
Basking Ridge, NJ 07920
ATTN: Jimmy Constankis, Vice President
Email: Jimmyc@silvermangroup.net

And: SL Hardeeville Industrial Park LLC
195 Morristown Road
Basking Ridge, NJ 07920
ATTN: Holden Sabato, Development Coordinator
Email: holdensabato@silvermangroup.net

With Copy to: Nexsen Pruet, LLC
205 King Street, Suite 400
Charleston, SC 29401
ATTN: Nicole A. Scott

XVII. ENFORCEMENT.

Any party hereto shall have the right to enforce the terms, provisions and conditions of this Agreement (if not cured within the applicable cure period) by any remedies available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with said enforcement.

XVIII. GENERAL.

A. Subsequent Laws. In the event state or federal laws or regulations are enacted after the execution of this Agreement or decisions are issued by a court of competent jurisdiction which prevent or preclude compliance with the Act or one or more provisions of this Agreement ("New Laws"), the provisions of this Agreement shall be modified or suspended as may be necessary to comply with such New Laws. Immediately after enactment of any such New Law, or court decision, a party designated by the Owners and Developer(s) and the County shall meet and confer in good faith in order to agree upon such modification or suspension based on the effect such New Law would have on the purposes and intent of this Agreement. During the time that these parties are conferring on such modification or suspension or challenging the New Laws, the County may take reasonable action to comply with such New Laws. Should these parties be unable to agree to a modification or suspension, either may petition a court of competent jurisdiction for an appropriate modification or suspension of this Agreement. In addition, the Owner, Developers and the County each shall have the right to challenge the New Law preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

B. Estoppel Certificate. The County, the Owner or any Developer may, at any time, and from time to time, deliver written notice to the other applicable party requesting such party to certify in writing:

1. that this Agreement is in full force and effect,

2. that this Agreement has not been amended or modified, or if so amended, identifying the amendments,

3. whether, to the knowledge of such party, the requesting party is in default or claimed default in the performance of its obligations under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and

4. whether, to the knowledge of such 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.

C. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings among the County and the Owner

relative to the Property and its Development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

D. No Partnership or Joint Venture. Nothing in this Agreement shall be deemed to create a partnership or joint venture between the County, the Owner or any Developer or to render such party liable in any manner for the debts or obligations of another party.

E. Exhibits. All exhibits attached hereto and/or referred to in this Agreement are incorporated herein as though set forth in full.

F. Construction. 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 hereto. This Agreement should be construed so as to effectuate the public purpose of settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of public facilities and compatibility between developed and undeveloped lands and their uses.

G. Assignment. Subject to the notification provisions hereof, Owner may assign its rights and responsibilities hereunder to a subsidiary or sister company, or subsequent land owners and Developers.

H. Governing Law. This Agreement shall be governed by the laws of the State of South Carolina.

I. 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.

J. Agreement to Cooperate. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action; provided, however, each party shall retain the right to pursue its own independent legal defense.

K. **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.

L. **No Third Party Beneficiaries.** The provisions of this Agreement may be enforced only by the County, the Owner and Developers. No other persons shall have any rights hereunder.

M. **Contingencies.** This Agreement is contingent on Owner acquiring title to the Property and the approval of the Board of Directors of Owner and the County Council of the Jasper County, South Carolina. Notwithstanding the above, Owner agrees to remain responsible for the payment of the processing fees incurred by the County in reviewing and approving the Planned Development District application and Development Agreement as set forth in Section X (xi) above.

N. **Recording.** Within fourteen (14) days after execution of this Agreement, the Property Owner shall record the agreement with the Jasper County Register of Deeds. The burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the Parties to this Agreement.

O. **Agreement to Run with the Land.** This Agreement shall be recorded against the Real Property as described in Exhibit A and shown on Exhibits B attached hereto. The agreements contained herein shall be deemed to run with the land. The burdens of this Agreement are binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to the Agreement.

XIX. STATEMENT OF REQUIRED PROVISIONS

A. **Specific Statements.** The Act requires that a development agreement must include certain mandatory provisions, pursuant to Section 6-31-60 (A). Although certain of these items are addressed elsewhere in this Agreement, the following listing of the required provisions is set forth for convenient reference. The numbering below corresponds to the numbering utilized under Section 6-31-60 (A) for the required items:

1. **Legal Description of Property and Legal and Equitable Owners.** The legal description of the Property is set forth in **Exhibit A** attached hereto. The present legal Owner of the Property is Eagle Associates of Niagara Frontier, Inc., a New York Corporation. The equitable owner of the

Property is SL Hardeeville Industrial Park LLC, by virtue of its Contract/Option to Purchase.

2. **Duration of Agreement.** The duration of this Agreement shall be as provided in Article III.
3. **Permitted Uses, Densities, Building Heights and Intensities.** A complete listing and description of permitted uses, population densities, building intensities and heights, as well as other development – related standards, are contained in Zoning Regulations, as supplemented by this Agreement.
4. **Required Public Facilities.** The utility services available to the Property are described generally above regarding water service, sewer service, cable and other telecommunication services, gas service, electrical services, telephone service and solid waste disposal. The mandatory procedures of the Zoning Regulations will ensure availability of roads and utilities to serve the residents on a timely basis.
5. **Dedication of Land and Provisions to Protect Environmentally Sensitive Areas.** All requirements relating to land transfers for public facilities are set forth in Article XI above. The Zoning Regulations described above, and incorporated herein, contain numerous provisions for the protection of environmentally sensitive areas. All relevant State and Federal laws will be fully complied with, in addition to the important provisions set forth in this Agreement.
6. **Local Development Permits.** The Development standards for the Property shall be as set forth in the Zoning Regulations. Specific permits must be obtained prior to commencing Development, consistent with the standards set forth in the Zoning Regulations. Building Permits must be obtained under applicable law for any vertical construction, and appropriate permits must be obtained from the State of South Carolina (OCRM) and Army Corps of Engineers, when applicable, prior to any impact upon freshwater wetlands. It is specifically understood that the failure of this

Agreement to address a particular permit, condition, term or restriction does not relieve the Owner, its successors and assign, of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions, unless otherwise provided hereunder.

7. **Comprehensive Plan and Development Agreement.** The Development permitted and proposed under the Zoning Regulations and permitted under this Agreement is consistent with the Comprehensive Plan and with current land use regulations of the County, which include a Planned Development District for the Property.

8. **Terms for Public Health, Safety and Welfare.** The County Council finds that all issues relating to public health, safety and welfare have been adequately considered and appropriately dealt with under the terms of this Agreement, the Zoning Regulations and existing laws.

9. **Historical Structures.** Any cultural, historical structure or sites will be addressed through the applicable federal and state permitting process at the time of development, as required by applicable State regulations. No such structures or sites are known to exist.

[SEPARATE SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereby set their hands and seals, effective the date first above written.

WITNESSES: SL HARDEEVILLE INDUSTRIAL PARK LLC

By: _____

Its: _____

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF JASPER)

I HEREBY CERTIFY, that on this ____ day of _____, 2022. before me, the undersigned Notary Public of the State and County aforesaid, personally appeared the duly authorized official of _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within document, who acknowledged the due execution of the foregoing document.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

Notary Public for South Carolina
My Commission Expires: _____

IN WITNESS WHEREOF, the parties hereby set their hands and seals, effective the date first above written.

WITNESSES: COUNTY OF JASPER, SOUTH CAROLINA

By: _____

Its: _____

STATE OF SOUTH CAROLINA.)
) ACKNOWLEDGMENT
COUNTY OF JASPER.)

I HEREBY CERTIFY, that on this ____ day of _____, 2022. before me, the undersigned Notary Public of the State and County aforesaid, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within document, as the appropriate officials of Jasper County, South Carolina, who acknowledged the due execution of the foregoing document.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

Notary Public for South Carolina
My Commission Expires: _____

EXHIBIT A
TO DEVELOPMENT AGREEMENT
PROPERTY DESCRIPTION

Being all those certain pieces, parcels, or tracts of land located in Jasper County, South Carolina, containing_____.

EXHIBIT B
TO DEVELOPMENT AGREEMENT
PLANNED DEVELOPMENT DISTRICT

The Planned Development District approval for the 95 Logistics Center (the Property hereunder), as approved by the County Council on _____, is hereby incorporated herein by reference, to include all drawings, plans, narratives and documentation submitted therewith, as fully as if attached hereto. The parties hereto may elect to physically attach said documents hereto, or may rely upon the above stated incorporation by reference, at their discretion.

EXHIBIT C
TO DEVELOPMENT AGREEMENT
ZONING REGULATIONS

1. The Jasper County Development Ordinance(s) being codified with Municode® and current on Municode® through Supplement No. 3 as of June 21, 2021 as amended through the date of this Agreement
2. The Planned District Development (PDD) dated _____ and adopted by Jasper County by Ordinance Number _____ on _____.
3. This Development Agreement, which shall control in the event of any conflict with the above referenced Ordinance or PDD that cannot be resolved pursuant to Article IV above.

EXHIBIT D
TO DEVELOPMENT AGREEMENT
DEVELOPMENT SCHEDULE

Development of the Property is expected to occur over the 10-year term of the Agreement, with the sequence and timing of development activity to be dictated largely by market conditions. The following estimate of expected activity is hereby included, to be updated by Owner as the development evolves over the term:

Year(s) of Commencement / Completion					
Type of Development	2022	2023	2024	2025	2026
	Site Work				Any Remaining

As stated in the Development Agreement, Section VI, actual development may occur more rapidly or less rapidly, based on market conditions and final product mix.

EXHIBIT E

TO DEVELOPMENT AGREEMENT

Copy of Ordinance Adopting Development Agreement

(Attached)

EXHIBIT F

TO DEVELOPMENT AGREEMENT

1. Storm Water Analysis(Attached)

2. Jasper County shall also be provided with contemporaneous copies of all submissions to federal and state permitting authorities regarding storm water permitting and Stormwater Pollution Prevention Plans.

STATE OF SOUTH CAROLINA) DEVELOPMENT AGREEMENT
)
COUNTY OF JASPER) 95 LOGISTICS CENTER

This Development Agreement ("Agreement") is made and entered this _____ day of _____, 2022, by and between SL Hardeeville Industrial Park LLC ("Owner"), and the governmental authority of Jasper County, South Carolina ("County").

WHEREAS, the legislature of the State of South Carolina has enacted the "South Carolina Local Government Development Agreement Act," (the "Act") as set forth in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976), as amended; and,

WHEREAS, the Act recognizes that "The lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning." [Section 6-31-10 (B)(1)]; and,

WHEREAS, the Act also states: "Development agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the Development Agreement or in any way hinder, restrict, or prevent the development of the project. Development Agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State." [Section 6-31-10 (B)(6)]; and,

WHEREAS, the Act further authorizes local governments, including County governments, to enter Development Agreements with owners to accomplish these and other goals as set forth in Section 6-31-10 of the Act, and,

WHEREAS, Owner will acquire approximately 226.94 acres, generally to be known as 95 Logistics Center, proposes to develop, or cause to be developed therein distribution center uses, related warehousing and light industrial uses, including accessory and complimentary uses as

described in the Planned Development District Zoning and Conceptual Master Plan adopted herewith and attached as an Exhibit hereto; and,

WHEREAS, the County seeks to protect and preserve the natural environment and to secure for its citizens quality, well planned and designed development and a stable and viable tax base; and,

WHEREAS, the County finds that the program of development proposed by Owner for this Property is consistent with the County 's comprehensive land use plan; and will further the health, safety, welfare and economic well-being of the County and its residents; and,

WHEREAS, the program for development of the Property presents an unprecedented opportunity for the County to secure quality planning and growth to protect the environment and strengthen and revitalized the tax base; and,

WHEREAS, this Development Agreement is being made and entered between Owner and the County, under the terms of the Act, for the purpose of providing assurances to Owner that it may proceed with its development plan under the terms hereof, as hereinafter defined, consistent with its approved Planned Development District (PDD) plan (as hereinafter defined) without encountering future changes in law which would materially affect the ability to develop under the plan, and for the purpose of providing important protection to the natural environment and long term financial stability and a viable tax base to the County, and for the purpose of providing certain funding and funding sources to assist the County in meeting the service and infrastructure needs associated with the development authorized hereunder;

WHEREAS, The County conducted public hearings regarding its consideration of this Agreement on February 22, 2022 and March 7, 2022, after publishing and announcing notice, in accordance with the Act;

WHEREAS, County Council adopted Ordinance Number 2022-10 on _____, 2022, (a) determining that this Agreement is consistent with the County Comprehensive Plan, the Act, and the Current Regulations of the County, and (b) approving this Agreement. A copy of the Ordinance is attached hereto as Exhibit E, and incorporated herein by reference.

NOW THEREFORE, in consideration of the terms and conditions set forth herein, and other good and valuable consideration, including the potential economic benefits to both the County and Owner by entering this Agreement, and to encourage well planned development by Owner, the receipt and sufficiency of such consideration being hereby acknowledged, the County and Owner hereby agree as follows:

I. INCORPORATION.

The above recitals are hereby incorporated into this Agreement, together with the South Carolina General Assembly findings as set forth under Section 6-31-10(B) of the Act.

II. DEFINITIONS.

As used herein, the following terms mean:

"Act" means the South Carolina Local Government Development Agreement Act, as codified in Sections 6-31-10 through 6-31-160 of the Code of Laws of South Carolina (1976), as amended; incorporated herein by reference.

"Adjacent Land" shall mean any real property adjacent to the 95 Logistics Center.

"Agreement" shall mean this Development Agreement as amended by the County and Developer in writing from time to time.

"Association" shall mean one (1) or more property owners' associations established to maintain portions of the Property.

"BJWSA" shall mean the Beaufort/Jasper Water and Sewer Authority, its successors or assigns.

"County" shall mean Jasper County, South Carolina.

"Current Legal Owner" means Eagle Associates of Niagara Frontier, Inc., a New York Corporation who has contracted to sell to Owner as defined below.

"Developer" means Owner and all successors in title or lessees of the Owner who undertake Development of the Property who are transferred in writing from the Owner portions of the Development Rights.

"Development" means the development of portions of the Property and construction of improvements thereon as contemplated in the Zoning Regulations.

"Development Fees" or **"Developer Fees"** shall have the meaning set forth in Paragraph X.I.

"Development Rights" means Development undertaken by the Owner or Developers in accordance with the Zoning Regulations and this Development Agreement.

"95 Logistics Center", "PDD", "Project" or "Property" means that certain tract of land described on Exhibit A, as may be amended with the Agreement of the County and Owner.

"Owner" means SL Hardeeville Industrial Park LLC, its corporate successors and any assignee, whereby such interest is assigned in whole or in part in writing. Owner has a present equitable interest in the Property by virtue of a contract to purchase with Current Legal Owner.

"PDD Plan" shall mean the Conceptual Master Plan attached to the Planned Development District as same may be modified by agreement of the Owner and the County.

"Planned Development District" or "PDD Ordinance" means the PDD approved by the Jasper County on _____, 2022, attached hereto as part of Exhibit B.

"Term" means the duration of this agreement as set forth in Section III hereof.

"Zoning Regulations" means the PDD establishing a Planned Development District for the Property, and all the attachments thereto, including but not being limited to the PDD Plan, all narratives, applications, and site development standards thereof (a copy of all of which is attached hereto marked Exhibit C and incorporated herein by reference), all as same may be hereafter amended by mutual agreement of the County and the Owner, this Development Agreement, and the Jasper County Development Ordinance(s) being codified with Municode® and current on Municode® through Supplement No. 3 as of June 21, 2021 as amended through the date of this

Agreement except as the provisions thereof may be clarified or modified by the terms of the PDD and this Agreement.

III. TERM.

The term of this Agreement shall commence on the date this Agreement is executed by the County and Owner and terminate ten (10) years thereafter; provided however, that the terms of this Agreement may be considered by the County, in its discretion, for an extension of the Term in accordance with §6-31-60 of the Act absent a material breach of any terms of this agreement by the Owner or any Developer during the initial term, or any subsequent extension.

IV. DEVELOPMENT OF THE PROPERTY.

The Property shall be developed in accordance with the Zoning Regulations and this Agreement. All costs charged by or to the County for reviews required by the Jasper County Zoning Ordinance shall be paid by the Owner or Developer or other party applying for such review as generally charged throughout the County for plan review. The County shall, throughout the Term, maintain or cause to be maintained, a procedure for the processing of reviews as contemplated by the Zoning Regulations and this Agreement.

Whenever expressed or implied substantive provisions of this Agreement are inconsistent with the applicable standards set forth in the Zoning Regulations as defined above, the standards set forth in the Zoning Regulations and the standards set forth in this Agreement shall, to the extent possible, be considered *in pari materia* to give effect to both the Current Zoning Regulations and this Agreement; provided, however, that nothing in this section is intended to revoke or repeal the review, variance, special exception, or appeal authority of other bodies contained in Code of Laws of South Carolina § 6-29-800 or in the Current Zoning Regulations.

V. CHANGES TO ZONING REGULATIONS.

The Zoning Regulations relating to the Property subject to this Agreement shall not be amended or modified during the Term, without the express written consent of the Owner, except in accordance with the procedures and provisions of § 6-31-80 (B) of the Act, which Owner shall have the right to challenge. Owner does, for itself and its successors and assigns, including Developers and notwithstanding the Zoning Regulations, agrees to be bound by the following:

1. The Owner shall be required to notify the County, in writing, as and when Development Rights are transferred to any other party. Such information shall include the identity

and address of the acquiring party, a proper contact person, the location and number of acres of the Property transferred, and the number of residential units and/or commercial acreage and associated square footage, as applicable, subject to the transfer. Developers transferring Development Rights to any other party shall be subject to this requirement of notification, and any entity acquiring Development Rights hereunder shall be required to file with the County an acknowledgment of this Agreement and a commitment to be bound by it.

2. The Owners and Developers, and their respective heirs, successors and assigns agree that all Development, with the exception of irrigation, incidental maintenance facilities, earthwork and similar amenities which exist from time to time, and facilities existing at the date of this Agreement will be served by potable water and sewer prior to occupancy, except as otherwise provided herein for temporary use, temporary being defined as one year or less. Septic tanks and/or wells may be allowed with the permission of BJWSA where there is a specific finding that such use for specific portions of the Property will comply with the overall environmental standards.

3. **Building Codes and Laws Other Than Land Use Regulations.** The Owner, notwithstanding any provision which may be construed to the contrary in this Agreement, must comply with any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the County or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the County or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. The provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the County to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes; provided, however, that Laws applicable to the Development of the Property shall be subject to Sections IX and XVIII (a).

4. **Additional buffers.** In order to provide enhanced visual buffering from Highway 17 and ~~I-95~~adjacent residential properties, the Project shall provide for the preservation and enhancement of the existing trees and understory vegetation for a depth of ~~50~~100 feet from the edge of the Highway 17 road right-of-way ~~and~~ Along the adjacent residential properties ~~but if the building structures adjacent to the boundaries exceed 35 feet in height, the buffer~~ South, there shall be increased by another ~~50 feet, foot buffer with sound wall fencing and landscaping to the~~

~~extent the existing vegetation does not provide 100 percent~~provide opacity blocking the view of the structures and outdoor storage areas from view from the adjacent ~~roadways, residential properties,~~ and a landscaping plan to achieve this screening requirement shall be submitted for approval by the County Administrator, ~~which approval shall not be unreasonably withheld. Buffers along I-95 shall be 35 feet.~~

VI. DEVELOPMENT SCHEDULE.

The Property shall be developed in accordance with the development schedule, attached as Exhibit D, or as may be amended by Owner or Developer(s) in the future to reflect actual market absorption. Pursuant to the Act, the failure of the Owner and any Developer to meet the initial development schedule shall not, in and of itself, constitute a material breach of this Agreement. In such event, the failure to meet the development schedule shall be judged by the totality of circumstances, including but not limited to the Owners and Developer(s) good faith efforts to attain compliance with the development schedule. These schedules are planning and forecasting tools only, and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace if market conditions support a faster pace. The fact that actual development may take place at a different pace, based on future market forces, is expected and shall not be considered a default hereunder. Development activity may occur faster or slower than the forecast schedule, as a matter of right, depending upon market conditions. Furthermore, periodic adjustments to the development schedule which may be submitted unilaterally by Owner / Developers in the future shall not be considered a material amendment or breach of the Agreement.

VII. DENSITY.

Uses and density on the Property shall be the densities and uses as set forth in the Planned Development District approval, Initial Master Plan, and as set forth below:

Up to a maximum of 2,600,000 square feet of distribution center, warehouse, and other related accessory and light industrial uses. The attached PDD depicts the initially planned lay out and expected uses and the expected mix and general location of allowed uses, however, so long as the total square footage of allowed uses does not exceed 2,600,000 square feet, the Owner shall be allowed to alter location and product mix among all allowed uses under the PDD, based upon ongoing project planning and market conditions. Any such changes to exact location, building size, or product mix shall not be considered a material amendment hereto, or an amendment to the attached PDD or the subsequent Initial Master Plan, so long as the total allowed density is not exceeded. Such minor changes will be approved at the staff review level.

VIII. RESTRICTED ACCESS

The Owner and/or each Developer shall have the right (but not the obligation) to restrict access— within or into and out of the Property as long as such limited access does not adversely affect in any material respect adjacent traffic patterns located on public rights-of-way. Notwithstanding, there are required restrictions on truck traffic movements contained in Article XI (N) below.

IX. EFFECT OF FUTURE LAWS.

Owner and Developers shall have vested rights to undertake Development of any or all of the Property in accordance with the Zoning Regulations, as defined herein and modified hereby, and as may be modified in the future with the approval of the Owner pursuant to the terms hereof, and of this Agreement for the entirety of the Term. Future enactments of, or changes or amendments to the County ordinances, including zoning or development standards ordinances, which conflict with the Zoning Regulations shall not apply to the Property unless the procedures and provisions of §6-31-80 (B) of the Act are followed, which Owner shall have the right to challenge. Notwithstanding the above, the Property will be subject to then current fire safety standards and state and/or federal environmental quality standards of general application.

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X. INFRASTRUCTURE AND SERVICES

The County and Owner recognize that the majority of the direct costs associated with the Development of the Property will be borne by the Owner and Developers, and many other necessary services will be provided by other governmental or quasi-governmental entities, and not by the County. For clarification, the parties make specific note of and acknowledge the following:

A. Private Roads. All roads within the Property shall be constructed by the Owner, Developer or other parties and maintained by such party(ies) and/or Association(s), or dedicated for maintenance to other appropriate entities. The County will not be responsible for the construction of any private roads within the Property, unless the County specifically agrees to do so in the future.

B. Public Roads. All public roads outside the Property that serve the Property are under the jurisdiction of the State of South Carolina regarding access, construction, improvements and maintenance. Owner acknowledges that it must comply with all applicable state

statutes and rules and regulations of the South Carolina Department of Transportation or its successor regarding access and use of such public roads. Developer shall be responsible for the ~~financing and provision of funds for the~~ construction of improvements to Highway 17 and John Smith Road in addition to property access improvements, all as required by SCDOT or Jasper County, as applicable, in conjunction with ~~County approved traffic mitigation plans~~. Upon Completion of construction of any such improvements within the SCDOT right of way, and acceptance by SCDOT, the SCDOT shall maintain all roadway improvements within the public road right of way. Further provisions regarding traffic management and mitigation are contained in Article XI (N) hereinbelow.

C. Potable Water. Potable water will be supplied to the Property by BJWSA or some other legally constituted public or private provider allowed to operate in the County. The County shall not be responsible for any construction, treatment, maintenance or costs associated with water service to the Property unless the County elects to provide such services with the agreement of the applicable utility authority then providing such service to the Property. Owner will construct or cause to be constructed all related infrastructure improvements within the Property, which will be maintained by it or the service provider as provided in any utility agreement between Owner and the service provider.

D. Sewage Treatment and Disposal. Sewage treatment and disposal will be provided by BJWSA or some other legally constituted public or private provider allowed to operate in the County. The County will not be responsible for any treatment, maintenance or costs associated with sewage treatment within the Property, unless the County elects to provide such service with the agreement of the applicable utility authority then providing such service to the Property. Nothing herein shall be construed as precluding the County from providing sewer services to its residents in accordance with applicable provisions of law. Owner will construct or cause to be constructed all related infrastructure improvements within the Property, which will be maintained by it or the provider as provided in any utility agreement between Owner and the service provider.

E. Use of Effluent. Owner agrees that treated effluent will be disposed of only in such manner as may be approved by DHEC and the BJWSA. The County will use good faith efforts to cooperate with the Owner to support Owner in its obtaining gray water in connection with providing irrigation water for the landscaped areas within the Property, if such is economically feasible. The Owner or its designee shall have the right to operate an irrigation system to provide irrigation services in connection with all or any portion of the Property, provided such is approved by DHEC or other applicable regulatory authority.

F. **Police Services.** County shall provide law enforcement protection services to the Property on the same basis as is provided to other similarly situated businesses in the County.

G. **Fire Services.** County shall provide fire protection services to the Property on the same basis as is provided to other similarly situated businesses in the County. It is further acknowledged the nature of the development of the Project will require additional equipment (generically, "Heavy Rescue Equipment"). Provision of funds towards that acquisition by the Developer are contained hereinbelow in Article XI. Owner acknowledges the jurisdiction of the County's fire department on the Property and shall not interfere or in ~~anyway~~ any way hinder public safety activities on the Property regardless of whether such may be a restricted access community.

H. **Sanitation Services.** County shall provide sanitation services and trash collection services to all properties within the Property on the same basis as provided to other similarly situated businesses within the County.

I. **Recreation Services.** County shall provide recreation services to the Property on the same basis as provided to other similarly situated businesses in the County.

J. **Library Services.** Such services are available on the same basis as provided to all other citizens of the County.

K. **Emergency Medical Services (EMS).** Such services shall be provided to the Property on the same basis as provided to all other citizens of the County.

L. **Drainage System.** All stormwater runoff, treatment and drainage system improvements within the Property will be designed and operated in accordance with the Zoning Regulations and Best Management Practices then current. All stormwater runoff, treatment and drainage system improvements for the Property shall be constructed by Owner or the Association. The County will not be responsible for any construction or maintenance cost associated with the stormwater runoff, treatment and drainage system within the Property.

M. **Storm Water Quality.** Protection of the quality in nearby waters and wetlands is a primary goal of the County. The Owners shall be required to abide by all provisions of federal and state laws and regulations, including those established by the Department of Health

and Environmental Control, the Office of Ocean and Coastal Resource Management, and their successors for the handling of storm water. Further provisions regarding Storm Water are included within the PDD for this Project and more fully set forth on Exhibit F.

N. Traffic Management /Mitigation.

1. ~~It is understood and agreed that final traffic~~ Traffic mitigation measures ~~are not yet finalized, but at a minimum will include the Highway 17 improvements to US Highway 17 and John Smith Road~~ as detailed in the traffic impact study prepared by Bihl Engineering dated April, 2021, as updated on January _____ 2022 and March 4, 2022.

2. ~~It is a requirement of this Agreement that truck~~ Truck traffic shall be physically prohibited from making left-turns out of the Property onto US Highway 17, through the use of height barriers, and/or narrow lanes, or such other additional restrictive devices as may be approved by the Jasper County Administrator, whose approval shall not be unreasonably withheld. It is acknowledged it is the intention of Jasper County to support the limitation on eighteen wheeler truck traffic on John Smith Road.

3. After approximately 500,000 square feet of building space has been constructed and is in operation, Owner shall pay for a traffic warrant examining the need for additional traffic improvements as a result of this Project, such as additional traffic lighting or stacking lane improvements on Highway 278 from its intersection with Highway 17 to John Smith Road, including signalization improvements onto I-95 and on Highway 17 and 278. In the event additional improvements are needed to avoid an unacceptable degradation of the intersection functioning ~~to an "F" rating~~, such traffic lighting and associated intersection improvements will be ~~installed or in the process of being~~ permitted and constructed at Owner's expense prior to. ~~If any such additional building space being certified for occupancy~~ traffic improvements are warranted, Owner shall engage, or cause to be engaged, appropriate professionals to design, permit and construct the signalized intersection, said construction to be completed within eighteen (18) months of approval and issuance of an encroachment permit by the SCDOT. If the initial traffic warrant does not support the installation of additional traffic improvements, additional warrant studies will be conducted on a recurring basis on the occurrence of the earlier of the construction and placement into operation of each additional 500,000 square feet of building space or the passage of two years from the date of the last warrant study.

4. In order to assist with among other matters, the costs of these additional traffic mitigation measures ~~in the event the Development Fees as detailed below in Article XI (3)~~

and (2) below are insufficient to reimburse the Owner for the required infrastructure improvements, it is acknowledged that the County will seek additional funding from State or Federal sources, and negotiate in good faith with Owner ~~has agreed to enter into a Fee in Lieu of Tax Agreement contemporaneously herewith to provide a 15% Special Source Revenue Credit through a Multi-County Industrial Park and/or Fee in Lieu of Taxes Structure for up to 10% of the total fee available, to be available for both the unfunded by Developer Fees for traffic management/mitigation measures, and Fire and Public Safety capital expenditures caused by the need for enhanced services (the "SSRC") for the Project.~~ The County will also consider the ~~creation of a special tax district or a County Improvement District, and the potential inclusion of~~ the qualifying traffic improvements as part of the capital improvement program funded by future County impact fees. ~~The County will provide up to fifty percent (50%) of the traffic signalization and intersection improvements at John Smith Road on a matching dollar for dollar basis with the Owner out of the Additional Development Fees.~~

XI. DEVELOPMENT FEES.

1. To assist the County in meeting expenses resulting from ongoing development, Owner shall pay development fees for ~~Administrative, Fire/Public Safety, and Roads and Community Facilities~~ ("Development Fees") as follows, as set forth in the Table below:

DEVELOPMENT FEES	AMOUNT
Non-Residential per 1,000 sf	\$660 Roads and Traffic Mitigation Facilities
	\$500 Fire/Public Safety

2. All Development Fees shall be collected at the time of obtaining a building permit. Roads and Traffic Mitigation Facilities Development Fees shall be placed in a separate interest bearing account and all such monies shall be utilized, unless otherwise agreed by the County and Owner, to reimburse Owner for the construction of external roadways and near-site traffic mitigation measures, including landscaping and lighting (which shall be paid by County to Owner within thirty (30) days after substantial completion of each road/traffic mitigation segment out of the first funds in the Road and Traffic Fund, as collected and available). ~~The Fire/Public Safety Fee is to be used for capital expenditures to provide Heavy Rescue capabilities made necessary by the~~

~~industrial/commercial nature of the Project, as well as other usual capital expenditures associated with the demands for enhanced services.~~

~~3. Annual-In addition to the Development Fee-Credit-Property~~

~~(i) Fees. Owner agrees to make an Annual Development Fees equal to the assessed taxable value of the Property ~~times the then-current County millage (2021 millage equals 345 mills) plus multiplied by 112 mills, subject to a credit equal to (the actual amount "Annual Fee")~~, payable beginning in the tax year 2022 and payable by January 15th of the ~~ad valorem taxes or Fee in Lieu of Taxes (FILOT) paid as to the Property or any parcel thereof, as applicable. These following year and each year thereafter. The Annual Development Fees are~~ Fee is payable for ~~a~~ term equal to the longer of the Term of this Agreement ~~or including any renewal hereunder. The parties acknowledge the County will provide the scheduled SSRC for the same term of as the proposed FILOT Agreement.~~~~

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~~(ii) term such Annual Fee is due. The Annual Development Fee is being provided in consideration, among other things, of the granting of the Multi-County Business Park status the SSRC, and the FILOT Agreements, the limitation of other development fees by the County, the exemption from the application of future laws as provided herein, and to assure other public benefits pursuant to §§ 6-31-10(4), and 6-31-60(D) of the South Carolina Code of Laws, 1976 (as amended).~~

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~~(iii) The Fire/Public safety Fee is to be used for capital expenditures to provide Heavy Rescue capabilities made necessary by the industrial/commercial nature of the Project, as well as other usual capital expenditures associated with the demands for enhanced services.~~

4. Notwithstanding any provisions to the contrary contained within this Agreement, it is acknowledged Jasper County is in the process of considering the adoption of Impact Fees as allowed by §6-1-910, et. seq. of the South Carolina Code of Laws (1976, as amended). In the event Impact Fees are adopted by the County, the Property shall be subject to such fees provided they are applied uniformly to similar properties as this Property, and provided further, that any Developer Fees paid by the Developer under Article XI (1) and (2) shall be credited against the Impact Fees to the extent the Development fees are for items included in the capital program incorporated in the

formulation of the Impact Fees. It is further provided Owner and/or Developers shall be subject to the payment of any and all present or future permitting fees enacted by the County that are of County wide application and that relate to processing applications, development permits, building permits, review of plans, or inspection (no other capital improvement related impact, development or other extractions).

5. Except as set forth in this Agreement, nothing herein shall be construed as relieving the Owner, its successors and assigns, from payment of any such fees or charges as may be assessed by entities other than the County, provided however, if an entity other than the County is permitted by County to ~~impose fees~~ impose fees or obligations similar in nature to those contemplated by this Agreement, the Owner shall be entitled to either an offset against the Development Fees of this Agreement the amount of such fees or obligations which are collected or a credit against the other fees allowed to be collected. It is the intent of the parties that the fees and obligations contemplated by this Agreement are the only obligations which will be imposed upon the Property and that County shall not permit any other governmental authority to impose fees or obligations of a similar nature to that which are contemplated by this Agreement without providing for a credit against the other fees for the fees due under this Agreement; provided, however, the provisions of this paragraph shall not preclude the County or another governmental authority from imposing a fee of a nature which is for services or improvements other than those contemplated under this Agreement - (i.e., roads, fire/public safety), which are imposed on a consistent basis throughout the area regulated by such governmental authority imposing such obligations. The County or other governing body shall not be precluded by this Agreement from charging fees for delivery of services to citizens or residents (i.e., an EMS response fee or the like), nor from charging fees statutorily authorized in the future (i.e., a real estate transfer fee or the like) which are not collected as a prerequisite to approval of a plat, plan or construction.

6. The ~~Development Fees~~ fees set forth above in Article XI (1) ~~and (2) through (3)~~ are vested for the entire Property during the Term of this Agreement and shall not be increased ~~and no~~ No other Development Fee or development obligation shall be imposed in connection with the property, except as may be allowed pursuant to Article X (4) and (5) and fees set out in generally applicable ordinances such as building permitting fees and inspection fees. The Fire/Public Safety and Road/Traffic Mitigation Development Fees are subject to an annual inflation factor equal to inflation factor as provided by the State of South Carolina to each local government for the calculation of tax millage increases.

7. Any Development Fees paid and/or credits for Development Fees with respect to property conveyed, services performed and/or money paid as provided in this Agreement may be assigned by the Owner and/or Developer owning such credits and all such credits shall remain valid until utilized. The Owner and/or Developer shall provide written notice of intent to transfer such credits to the County and shall obtain an acknowledgement from the County prior to any such transfer. The County shall recognize all such written assignments of such rights and shall credit same against any Development Fees which are owned pursuant to this Agreement.

XI. PERMITTING PROCEDURES:

1. The County agrees that the Owner and/or any Developer is not required to phase development but shall have the right to do so.

2. The County agrees to review all land use changes, land development applications, and plats in an expeditious manner in accordance with County Regulations as modified by the PDD for this Project. Plans will be processed in accordance with the then current County PDD Plan, subdivision plat and development plan procedural requirements and fee schedules. Developer may submit these items for concurrent review with the County and other governmental authorities. County may give final approval to any submission, but will not grant authorization to record plats or begin development construction activities until all permitting agencies have completed their reviews.

3. Signage for the Project is governed by the provisions of the PDD for this Project.

4. The County acknowledges that the Owner and/or Developer has the initial right of architectural review regarding improvements and building upon the Property, subject to normal review by the County Planning Commission. It is the intent of this Agreement and its PUD to avoid long unarticulated facades visible from the adjacent Highway 17 and residential area. }

5. The County agrees that the Property is approved and fully vested for intensity, density, development fees, uses and height, and shall not have any obligations for on or off site transportation or other facilities or improvements other than as provided in this Agreement, but must adhere to then current PDD Plan, Master Plan, and subdivision plat and development plan procedural guidelines. The County may not impose additional development obligations or regulations in connection with the ownership or development of the Property, except in accordance

with the procedures and provisions of § 6-31-80 (B) of the Act, which the Owner shall have the right to challenge.

6. Private Roadways may utilize swale drainage systems and are not required to have raised curb and gutter systems, except where necessary to accommodate pedestrian or multi-use sidewalks or pathways. Public Road Improvements are subject to the drainage requirements of the public agency having jurisdiction and/or ownership. ~~It is agreed that~~In order to incorporate and provide an opportunity to extend such of the off-site road landscape, lighting and sidewalk, bike and pedestrian improvements ~~shall be installed in accordance~~consistent with the Whyte Hardee Boulevard Traffic Improvement program prepared by the City of Hardeeville, ~~to the extent possible in the opinion of a~~ cash contribution to the County Administrator. ~~towards those improvements of \$100,000.00 shall be made at the time site work begins on the Project~~ Roadway cross sections utilizing swale drainage will be designed, constructed and maintained to meet BMP standards (imposed by regulatory agencies) for stormwater quality. Roadway cross sections will be reviewed at time of proposed construction of such Roadway based upon engineering and planning standards consistent with the PDD Plan prepared by Developer subject to the approval of the County Planning Administrator.

7. All plan review fees shall be consistent with the fees charged generally in the County and in effect at that time.

XII. DEVELOPER ENTITLEMENTS

County acknowledges that Developer is vested with the following items:

1. The County will, to the extent available, promote public transportation which exists within the County to service the Property.

2. Intentionally Deleted.

3. All drainage systems constructed within the Project shall be owned and maintained by one (1) or more Association(s) which may be established for various portions of the Property and the County shall have no responsibility for the construction, operation or maintenance of such systems. Such systems shall be constructed in compliance with any applicable federal, state, or local requirement utilizing then current Best Management Practices.

4. On-site burning may be permitted within the Property upon obtaining applicable permits

5. The County agrees to cooperate with the Owner and each Developer with county, state and federal roadway permitting in connection with the Development of portions of the Property.

6. County services, including, but not limited to, police, fire, sanitation, recreational parks and other governmental services shall be supplied to the Property in the same manner and to the same extent as provided to other similar business properties within the County, subject to the limitations (if any) of Section X above. Subject to the limitations of Section X above (if any), should the Owner require enhanced services beyond that which is routinely provided within the County, then the County agrees that upon the written request of Owner, it shall negotiate in good faith with the Owner to provide such enhanced services to the Property. Any enhanced services shall be at the sole cost of the Owner and/or Developer.

XIII. COMPLIANCE REVIEWS.

As long as Owner owns any of the Property, Owner or its designee, shall meet with the County, or its designee, at least once, per year, during the Term to review Development completed by Owner in the prior year and the Development anticipated to be commenced or completed by Owner in the ensuing year. The Owner, or its designee, shall provide such information as may reasonably be requested, to include but not be limited to, acreage of the Property sold in the prior year, acreage of the Property under contract, and the number anticipated to be issued in the ensuing year, Development Rights transferred in the prior year, and anticipated to be transferred in the ensuing year. The Owner, or its designee, shall be required to compile this information within a reasonable time after written request by the County.

XIV. DEFAULTS.

The failure of the Owner, Developer or the County to comply with the terms of this Agreement not cured within thirty (30) days after written notice from the non-defaulting party to the defaulting party (as such time period may be extended with regard to non-monetary breaches for a reasonable period of time based on the circumstances, provided such defaulting party commences to cure such breach within such period and is proceeding diligently and expeditiously to complete such cure) shall constitute a default, entitling the non-defaulting party to pursue such remedies that

are deemed appropriate, including specific performance; provided however no termination of this Agreement may be declared by the County absent its according the Owner and any relevant Developer the notice, hearing and opportunity to cure in accordance with the Act; and provided any such termination shall be limited to the portion of the Property in default, and provided further that nothing herein shall be deemed or construed to preclude the County or its designee from issuing stop work orders or voiding permits issued for Development when such Development contravenes the provisions of the Zoning Regulations or this Agreement.

Each Party recognizes that the other Party may suffer irreparable harm from a material breach of this Agreement and that no adequate remedy at law may exist to enforce this Agreement. Consequently, the Parties agree that any non-breaching Party who seeks enforcement of the Agreement is entitled to seek the equitable remedies of injunction and specific performance. However, if there is a dispute between the County and Property Owner, or its successor or assign, concerning the terms, meaning, interpretation, rights or obligations under this Agreement (including any determination of material breach under the Act), the Parties agree to submit such dispute to prompt mediation before invoking legal proceedings. This pre-litigation mediation, conducted pursuant to South Carolina Rules for Alternative Dispute Resolution with subsequent judicial action lying in the Court of Common Pleas for Jasper County, shall be initiated by one Party notifying the other Party or Parties in writing of the dispute together with a request for mediation as described herein. The Parties agree that disputes under this Agreement not involving the Current Regulations are contractual matters, not appealable to the Zoning Board of Appeals or the Planning Commission, but to the Court of Common Pleas for Jasper County; however, matters involving the application of the Current Regulations are not contractual, but are subject to the administrative review and appellate provisions involving the Zoning Board of Appeals or the Planning Commission.

A default of the Owner shall not constitute a default by Developers, and default by Developers shall not constitute a default by the Owner. ~~Notwithstanding, a default by the Owner regarding the installation of required traffic mitigation measures, or supporting infrastructure (drainage, water, sewer, other utilities) shall be grounds for the cessation of the issuance of development permits for future sites until such time as the default is corrected and adequate infrastructure provided. Notwithstanding the foregoing, the failure of the Owner to reasonably pursue the required permitting/approvals for and completion of required traffic mitigation measures shall be grounds for the cessation of the issuance of development permits for future sites; provided, however, that should the County Administrator determine that there is a default by the Owner, he shall immediately notify the Owner in writing by certified mail, return receipt requested, and allow~~

~~the Owner fifteen (15) days to respond with an explanation of why Owner is not in default or a plan for remedying the default. In the event the Owner presents a plan of remediation for approval by the County Administrator, whose approval shall not be unreasonably withheld, the parties shall agree to a commercially reasonable time to complete the remediation plan, and during such time no negative action shall be taken against the Owner or Developers. Failure to submit such a response or failure to subsequently pursue a plan of remediation may result in a moratorium on future development permits, a stop work order, and any other consequences reasonably determined by the County Administrator.~~ The parties acknowledge that owners of completed buildings within the Project shall not be obligated for the obligations of the Owner or Developer set forth in this Agreement, unless the Property remains under unified ownership or unless such owners of completed buildings have been assigned any rights under this Agreement. In such case, the owners of completed buildings shall also be obligated for obligations set forth in this Agreement.

XV. MODIFICATION OF AGREEMENT.

This Agreement may be modified or amended only by the written agreement of the County and the Owner; such written agreement may be by resolution. No statement, action or agreement hereafter made 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 such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

This Agreement may be modified or amended as to a portion of the Property only by the written agreement of the County and the Owner of said portion of the Property. No statement, action or agreement hereafter made shall be effective to change, amend, waive, modify, discharge, terminate, or effect an abandonment of this Agreement in whole or in part unless such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

If an amendment affects less than all the persons and entities comprising the Property Owners, then only the County and those affected persons or entities need to sign such written amendment. Because this Agreement constitutes the plan for certain planned development under the zoning ordinance, minor modifications to a site plan or to development provisions may be made without a public hearing or amendment to applicable ordinances. Any requirement of this Agreement requiring consent or approval of one of the Parties shall not require amendment of this Agreement unless the text expressly requires amendment, and such approval or consent shall be

in writing and signed by the affected parties. Wherever said consent or approval is required, the same shall not be unreasonably withheld.

The master plans are not intended to be rigid, exact site plans for future development. The location of roads, buildings, recreational amenities and other elements may vary at the time of permit applications when more specific designs are available, as long as the maximum densities set herein and the general concept of development suggested by the PDD and Master Plan is followed and respected; however, reductions in required buffers and setbacks in relation to external properties and roadways are a major modification. Such minor variations are eligible to be approved at staff level in accordance with the Zoning Regulations.

XVI. NOTICES.

Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile or if by mail on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications ~~to the County~~ shall be ~~addressed to the County~~ given at:

To the County: County Administrator
 Jasper County
 PO Box 1149
 Ridgeland, SC 29936

With Copy to: County Attorney
 Jasper County
 PO Box ~~420~~Ridgeland~~420~~
 Ridgeland, SC 29936

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And to the Owner at: ~~The Silverman Group~~SL Hardeeville Industrial Park LLC
 195 Morristown Road
 Basking Ridge, NJ 07920
 ATTN: Jimmy Constankis, Vice President
 Email: Jimmyc@silvermangroup.net

And: ~~The Silverman Group~~SL Hardeeville Industrial Park LLC

195 Morristown Road
Basking Ridge, NJ 07920
ATTN: Holden Sabato, Development Coordinator
Email: holdensabato@silvermangroup.net

And with Copy to: _____ Nexsen Pruet, LLC
205 King Street, Suite 400
Charleston, SC 29401
ATTN: Nicole A. Scott

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XVII. ENFORCEMENT.

Any party hereto shall have the right to enforce the terms, provisions and conditions of this Agreement (if not cured within the applicable cure period) by any remedies available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with said enforcement.

XVIII. GENERAL.

A. Subsequent Laws. In the event state or federal laws or regulations are enacted after the execution of this Agreement or decisions are issued by a court of competent jurisdiction which prevent or preclude compliance with the Act or one or more provisions of this Agreement ("New Laws"), the provisions of this Agreement shall be modified or suspended as may be necessary to comply with such New Laws. Immediately after enactment of any such New Law, or court decision, a party designated by the Owners and Developer(s) and the County shall meet and confer in good faith in order to agree upon such modification or suspension based on the effect such New Law would have on the purposes and intent of this Agreement. During the time that these parties are conferring on such modification or suspension or challenging the New Laws, the County may take reasonable action to comply with such New Laws. Should these parties be unable to agree to a modification or suspension, either may petition a court of competent jurisdiction for an appropriate modification or suspension of this Agreement. In addition, the Owner, Developers and the County each shall have the right to challenge the New Law preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

B. Estoppel Certificate. The County, the Owner or any Developer may, at any time, and from time to time, deliver written notice to the other applicable party requesting such party to certify in writing:

1. that this Agreement is in full force and effect,

2. that this Agreement has not been amended or modified, or if so amended, identifying the amendments,

3. whether, to the knowledge of such party, the requesting party is in default or claimed default in the performance of its obligations under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and

4. whether, to the knowledge of such 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.

C. **Entire Agreement.** This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings among the County and the Owner relative to the Property and its Development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

D **No Partnership or Joint Venture.** Nothing in this Agreement shall be deemed to create a partnership or joint venture between the County, the Owner or any Developer or to render such party liable in any manner for the debts or obligations of another party.

E. **Exhibits.** All exhibits attached hereto and/or referred to in this Agreement are incorporated herein as though set forth in full.

F. **Construction.** 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 hereto. This Agreement should be construed so as to effectuate the public purpose of settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of public facilities and compatibility between developed and undeveloped lands and their uses.

G. **Assignment**. Subject to the notification provisions hereof, Owner may assign its rights and responsibilities hereunder to a subsidiary or sister company, or subsequent land owners and Developers.

H. **Governing Law**. This Agreement shall be governed by the laws of the State of South Carolina.

I. **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.

J. **Agreement to Cooperate**. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action; provided, however, each party shall retain the right to pursue its own independent legal defense.

K. **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.

L. **No Third Party Beneficiaries**. The provisions of this Agreement may be enforced only by the County, the Owner and Developers. No other persons shall have any rights hereunder.

M. **Contingencies**. This Agreement is contingent on Owner acquiring title to the Property and the approval of the Board of Directors of Owner and the County Council of the Jasper County, South Carolina. Notwithstanding the above, Owner agrees to remain responsible for the payment of the processing fees incurred by the County in reviewing and approving the Planned Development District application and Development Agreement as set forth in Section X (xi) above.

N. **Recording**. Within fourteen (14) days after execution of this Agreement, the Property Owner shall record the agreement with the Jasper County Register of Deeds. The burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the Parties to this Agreement.

O. **Agreement to Run with the Land.** This Agreement shall be recorded against the Real Property as described in Exhibit A and shown on Exhibits B attached hereto. The agreements contained herein shall be deemed to run with the land. The burdens of this Agreement are binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to the Agreement.

XIX. STATEMENT OF REQUIRED PROVISIONS

A. **Specific Statements.** The Act requires that a development agreement must include certain mandatory provisions, pursuant to Section 6-31-60 (A). Although certain of these items are addressed elsewhere in this Agreement, the following listing of the required provisions is set forth for convenient reference. The numbering below corresponds to the numbering utilized under Section 6-31-60 (A) for the required items:

1. **Legal Description of Property and Legal and Equitable Owners.** The legal description of the Property is set forth in Exhibit A attached hereto. The present legal Owner of the Property is Eagle Associates of Niagara Frontier, ~~INC~~Inc., a New York Corporation. The equitable owner of the Property is SL Hardeeville Industrial Park LLC, by virtue of its Contract/Option to Purchase.
2. **Duration of Agreement.** The duration of this Agreement shall be as provided in Article III.
3. **Permitted Uses, Densities, Building Heights and Intensities.** A complete listing and description of permitted uses, population densities, building intensities and heights, as well as other development – related standards, are contained in Zoning Regulations, as supplemented by this Agreement.
4. **Required Public Facilities.** The utility services available to the Property are described generally above regarding water service, sewer service, cable and other telecommunication services, gas service, electrical services, telephone service and solid waste disposal. The mandatory procedures of the Zoning Regulations will ensure availability of roads and utilities to serve the residents on a timely basis.

5. **Dedication of Land and Provisions to Protect Environmentally Sensitive Areas.** All requirements relating to land transfers for public facilities are set forth in Article XI above. The Zoning Regulations described above, and incorporated herein, contain numerous provisions for the protection of environmentally sensitive areas. All relevant State and Federal laws will be fully complied with, in addition to the important provisions set forth in this Agreement.

6. **Local Development Permits.** The Development standards for the Property shall be as set forth in the Zoning Regulations. Specific permits must be obtained prior to commencing Development, consistent with the standards set forth in the Zoning Regulations. Building Permits must be obtained under applicable law for any vertical construction, and appropriate permits must be obtained from the State of South Carolina (OCRM) and Army Corps of Engineers, when applicable, prior to any impact upon freshwater wetlands. It is specifically understood that the failure of this Agreement to address a particular permit, condition, term or restriction does not relieve the Owner, its successors and assign, of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions, unless otherwise provided hereunder.

7. **Comprehensive Plan and Development Agreement.** The Development permitted and proposed under the Zoning Regulations and permitted under this Agreement is consistent with the Comprehensive Plan and with current land use regulations of the County, which include a Planned Development District for the Property.

8. **Terms for Public Health, Safety and Welfare.** The County Council finds that all issues relating to public health, safety and welfare have been adequately considered and appropriately dealt with under the terms of this Agreement, the Zoning Regulations and existing laws.

9. **Historical Structures.** Any cultural, historical structure or sites will be addressed through the applicable federal and state permitting process at the

time of development, as required by applicable State regulations. No such structures or sites are known to ~~exist~~exist.

[SEPARATE SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereby set their hands and seals, effective the date first above written.

WITNESSES: SL HARDEEVILLE INDUSTRIAL PARK LLC

By: _____

Its: _____

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF JASPER)

I HEREBY CERTIFY, that on this ____ day of _____, 2022, before me, the undersigned Notary Public of the State and County aforesaid, personally appeared the duly authorized official of _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within document, who acknowledged the due execution of the foregoing document.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

Notary Public for South Carolina
My Commission Expires: _____

IN WITNESS WHEREOF, the parties hereby set their hands and seals, effective the date first above written.

WITNESSES: COUNTY OF JASPER, SOUTH CAROLINA

By: _____
Its: _____

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER.) ACKNOWLEDGMENT

I HEREBY CERTIFY, that on this ____ day of _____, 2022, before me, the undersigned Notary Public of the State and County aforesaid, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within document, as the appropriate officials of Jasper County, South Carolina, who acknowledged the due execution of the foregoing document.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above mentioned.

Notary Public for South Carolina
My Commission Expires: _____

EXHIBIT A
TO DEVELOPMENT AGREEMENT
PROPERTY DESCRIPTION

Being all those certain pieces, parcels, or tracts of land located in Jasper County, South Carolina,
containing _____.

EXHIBIT B
TO DEVELOPMENT AGREEMENT
PLANNED DEVELOPMENT DISTRICT

The Planned Development District approval for the 95 Logistics Center (the Property hereunder), as approved by the County Council on _____, is hereby incorporated herein by reference, to include all drawings, plans, narratives and documentation submitted therewith, as fully as if attached hereto. The parties hereto may elect to physically attach said documents hereto, or may rely upon the above stated incorporation by reference, at their discretion.

EXHIBIT C
TO DEVELOPMENT AGREEMENT
ZONING REGULATIONS

1. The Jasper County ~~Zoning/Development~~ Ordinance ~~as(s) being~~ codified with Municode[®] and current on Municode[®] through Supplement ~~—No. 3 as of June 21, 2021 as amended through the date of this Agreement~~ |
2. The Planned District Development (PDD) dated _____ and adopted by Jasper County by Ordinance Number _____ on _____.
3. This Development Agreement, which shall control in the event of any conflict with the above referenced Ordinance or PDD ~~—that cannot be resolved pursuant to Article IV above.~~ |

EXHIBIT D
TO DEVELOPMENT AGREEMENT
DEVELOPMENT SCHEDULE

Development of the Property is expected to occur over the 10-year term of the Agreement, with the sequence and timing of development activity to be dictated largely by market conditions. The following estimate of expected activity is hereby included, to be updated by Owner as the development evolves over the term:

Year(s) of Commencement / Completion					
Type of Development	2022	2023	2024	2025	2026
	Site Work				Any Remaining

As stated in the Development Agreement, Section VI, actual development may occur more rapidly or less rapidly, based on market conditions and final product mix.

EXHIBIT E

TO DEVELOPMENT AGREEMENT

Copy of Ordinance Adopting Development Agreement

(Attached)

EXHIBIT F

TO DEVELOPMENT AGREEMENT

1. Storm Water Analysis(Attached)

2. Jasper County shall also be provided with contemporaneous copies of all submissions to federal and state permitting authorities regarding storm water permitting and Stormwater Pollution Prevention Plans.