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DEVELOPMENT AGREEMENT

KARRH TRACT

HARDEEVILLE, SOUTH CAROLINA

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**STATE OF SOUTH CAROLINA)
) DEVELOPMENT AGREEMENT
COUNTY OF JASPER) KARRH TRACT**

This Development Agreement ("Agreement") is made effective as of _____________, 2022, being the latter date of execution below by and between **Two Bridge Bluff, LLC**, a Georgia limited liability company ("Owner") and the governmental authority of the **City of Hardeeville, South Carolina** ("City").

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 city 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 is the landowner of approximately 2,231 acres, generally known as the Karrh Tract ("Property"), and proposes to develop and/or to sell to Secondary Developers who will develop all or portions of the Property for a mixture of residential, mixed use or commercial and conservation uses as described in the Planned Development District Standards adopted herewith and attached as Exhibit B hereto; and

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

WHEREAS, the program for development of the Property presents an opportunity for the City to secure quality planning and managed growth to protect the environment and strengthen and improve the tax base; and

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

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 City 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 City and Owner hereby agree as follows:

1. RECITALS. 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.

2. DEFINITIONS. As used herein, the following terms mean:

"**Act**" shall mean 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 real property described in Exhibit A also referred to as Karrh Tract.

"Adjustment Factor" shall mean three percent (3%) applied on July 1st of each year with the first adjustment being applied on July 1, 2022.

"**Agreement**" shall mean this Development Agreement, as amended by the City and Owner and/or Owner's successors and assigns 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.

“**Builder**” shall mean any Person applying for a building permit to construct a structure on a portion of the Property.

“**City**” shall mean the City of Hardeeville, South Carolina.

“**Civic Site**” or “**Civic Sites**” shall have the meaning set forth in Section 11(B).

“**Concept Plan**” shall mean the Concept Plan dated January 31, 2022 attached as Exhibit A to the PDD Standards as same may be modified by agreement of the City and Owner.

“**County**” shall mean Jasper County, South Carolina.

“**Developer**” or “**Owner**” means Two Bridge Bluff, LLC, a Georgia limited liability company, its successors in title or assigns 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 as defined in Hardeeville MZDO undertaken by Owner, Developer or a Subsequent Developer on all or portions of the Property and construction of improvements thereon.

“**Development Fees**” shall have the meaning set forth in Section 12.

“**Development Rights**” means all rights provided to the Owner or a Secondary Developer in accordance with the Zoning Regulations.

“**DHEC**” shall mean the South Carolina Department of Health and Environmental Control.

“**Karrh Tract**” or “**Property**” shall mean that certain tract of land described on **Exhibit A** attached hereto and incorporated into this Agreement by reference, as may be amended upon the agreement of the City and Owner.

“**Lot**” shall mean an area designated as a separate and distinct parcel of land on a legally recorded subdivision/development plat as filed in the official records of Jasper County, South Carolina.

“**Master Plan**” shall mean the Master Plan as defined in Section 4.2.1 et sec. of the Zoning Regulations (2008 MZDO reference).

“Municipal Improvement District” shall mean a district that may be created by the City of Hardeeville for the public components of the Project including public roadways and infrastructure and the water and sewer infrastructure pursuant to and as more particularly described in Section 5-37-10 et seq. of the South Carolina Code of Laws (1976), as amended.

“**Municipal Improvement District Bond**” shall mean any special assessment bond financing approved and obtained by the City of Hardeeville for the Property, the proceeds of which

are to be used for public infrastructure serving the Property, as more particularly described in Section 5-37-10 et seq. of the South Carolina Code of Laws (1976), as amended.

“**MZDO**” shall mean the Municipal Zoning and Development Ordinance of the City of Hardeeville, South Carolina dated March 20, 2008, as amended through the date of this Agreement.

“**Owner**” shall mean Two Bridge Bluff, LLC, a Georgia limited liability company, its successors in title or assigns or lessees of the Owner who undertake Development of the Property who are transferred in writing from the Owner portions of the Development Rights.

“Park Development Fees” shall have the meaning set forth in Section 12.

“**Park Site**” or “**Park Sites**” shall have the meaning set forth in Section 11(C).

“**PDD Standards**” or “**Planned Development District Standards**” shall mean the Karrh Tract Planned Development District Standards and Concept Plan approved by the City of Hardeeville on April _________, 2022 attached as **Exhibit B** and incorporated into this Agreement by reference.

“**Person**” means any individual, limited liability company, limited liability partnership, partnership, corporation, trust or other person or entity.

“**Project**” shall mean the Development to occur on the Property.

“**Property**” shall mean that certain tract of land described in the attached **Exhibit A**, also known as the Karrh Tract, as may be amended upon the agreement of the City and Owner.

“**Residential Dwelling Unit**” shall mean a building or portion of a building arranged or designed to provide living quarters for one or more Persons.

“**Secondary Developer**” means any and all successors in title or lessees of Owner who (a) undertake Development of any portion of the Property; (b) are transferred in writing from Owner title to all or a portion of the Property; and (c) are assigned all or a portion of the Development Rights.

“**Term**” means the duration of this agreement as set forth in Section 3 hereof.

“**Zoning Regulations**” means the (a) PDD Standards and all the attachments thereto, including but not being limited to the Concept Plan, all narratives, applications, and site development standards thereof, all as same may be hereafter amended by mutual agreement of the City and the Owner; (b) this Development Agreement; (c) the MZDO except as the provisions thereof may be clarified or modified by the terms of the PDD Standards and this Agreement; and (d) other applicable statutes, ordinances, and regulations governing development and uses for the Property. In the event of conflicts, the terms of the Development Agreement shall take precedence, followed by the PDD Standards, and then the MZDO.

3. TERM. The term of this Agreement commences on the date that this Agreement is executed by the parties and shall terminate twenty (20) years thereafter; provided however, that the terms of this Agreement may be renewed for two successive five (5) year periods absent a material breach of any terms of this Agreement by the Owner or any Secondary Developer during the initial or any renewal terms, as applicable.

4. 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 City for reviews required by the MZDO shall be paid by the Owner, Developer, or Secondary Developer or other party applying for such review as generally charged throughout the City for plan review. The City shall, throughout the Term, maintain or cause to be maintained, a procedure for the timely processing of reviews as contemplated by the Zoning Regulations and this Agreement. Notwithstanding any provision of this Agreement, City acknowledges that neither Owner nor Developer shall be obligated under any circumstance to undertake any Development of the Property, unless funds are obtained by Owner, its successors or assigns, through public financing, in which case Owner, its successors or assigns, as applicable, shall be obligated to complete the infrastructure to be financed through such public financing.

5. CHANGES TO ZONING REGULATIONS; NOTICE OF ASSIGNMENT; WATER & SEWER SERVICE. 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 Secondary Developers and notwithstanding the Zoning Regulations, agrees to be bound by the following:

A. Transfer of Development Rights. Owner shall be required to notify the City, in writing, as and when Development Rights are transferred to any other party, including Secondary Developers. 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 Dwelling Units and/or mixed use or commercial acreage and square footage of the building area, as applicable, subject to the transfer. Secondary 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 City an acknowledgment of this Agreement and a commitment to be bound by it.

B. Water and Sewer Required. Owner and Secondary Developers, and their respective heirs, successors and assigns agree that all Development, with the exception of irrigation, incidental maintenance facilities, golf courses, 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 by BJWSA that such use for specific portions of the Property will comply with overall environmental standards, and any applicable federal or state requirements and the Zoning Regulations.

C. **<u>Acreage Requirement for Each Submission</u>.** With the exception of the first Master Plan submission for the Property proposed by Owner or a Secondary Developer which addresses the entry area for the Project off of South Carolina Highway 46, which may be less than ten (10) acres, or the platting of a road section, no initial Master Plan for any portion of the Property shall be submitted for processing unless that plan encompasses ten (10) or more acres of high land which are not jurisdictional wetlands.

6. DEVELOPMENT SCHEDULE. Owner anticipates that the Property will be developed in accordance with the development schedule attached as **<u>Exhibit D</u>**, or as may be amended by Owner, Developer, or Secondary Developer(s) in the future to reflect actual market absorption. Pursuant to the Act, the failure of the Owner and any Secondary 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 Owner's and Secondary 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 or Secondary Developers in the future, shall not be considered a material amendment or breach of the Agreement.

7. DENSITY, USES AND ACREAGE. Mixed use, residential and commercial development on the Property shall be in accordance with the densities and uses as set forth in the PDD Standards, as set forth below:

A. **<u>Number of Residential Dwelling Units</u>**.

1) Up to 3,354 Residential Dwelling Units shall be allowed on the Property.

2) The Developer requirements set forth in this Agreement are based upon a presumed density of 3,354 Residential Dwelling Units. Additional density which results in total units above 3,354 Residential Dwelling Units will require additional dedications for parks on a pro rata basis, and continued payment of development fees on the additional units for the various infrastructure and services set forth below in Section 11. Reductions in density may reduce the amount of required dedications for acreage for parks on a pro rata basis, but such reductions shall be negotiated in good faith by both Owner and City based upon the need to provide required levels of service and facilities on a par with other residents and/or similar developments.

B. **<u>Mixed Use Acreage</u>**. Up to 40 acres of planned mixed use development shall be allowed on the Property.

8. RESTRICTED ACCESS. The Owner and/or each Secondary Developer shall have the right (but not the obligation) to create restricted access communities within 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.

9. EFFECT OF FUTURE LAWS. Owner and Secondary Developers shall have vested rights to undertake Development of any portion or all of the Property in accordance with the Zoning Regulations, as may be modified in the future with the approval of the Owner pursuant to the terms hereof, or in accordance with this Agreement or statutory authority under the Act, for the entirety of the Term. Future enactments of, or changes or amendments to the City ordinances, including zoning or development standards ordinances (but not procedures), 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, and which Owner and Secondary Developers 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. The parties specifically acknowledge that this Agreement shall not prohibit the application of any present or future building, housing, electrical, plumbing, gas or other standard codes, or any ad valorem tax of general application throughout the City found by the Hardeeville City Council to be necessary to protect the health, safety and welfare of the citizens of Hardeeville.

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

A. <u>Private Roads</u>. All roads within the Property shall be constructed by the Owner, Developer, Secondary Developer, or other parties and maintained by such party(ies) and/or Association(s), or dedicated for maintenance to other appropriate entities. Except as provided in this Agreement, the City will not be responsible for the construction of any private roads within the Property, unless the City specifically agrees to do so in the future. Private roads and those within the South Carolina Department of Transportation ("SCDOT") right of ways shall comply with all applicable federal and state statutes and regulations of the SCDOT. Roadway section details shall be submitted for review at the time of development permit applications, as provided in the PDD Standards.

B. <u>Public Roads</u>. All public roads outside the Property that serve the Property are under the jurisdiction of the State of South Carolina or other governmental entities 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 required to conduct a Transportation Impact Analysis ("TIA") that shall determine whether improvements are needed to mitigate impacts of the development to the road network. Developer shall be responsible for construction of property access improvements as required by the Transportation Impact Analysis and/or SCDOT and the Zoning Regulations in conjunction with access 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. Owner and the City acknowledge and agree that Owner will be required to complete any off-site road improvements required for the Development of the Property as required by the TIA unless otherwise agreed upon by SCDOT, the City and Developer. The City agrees to cooperate with Owner in order to obtain a right of way if necessary for improvements pursuant to the TIA or alternative improvements if agreed upon by SCDOT, the City and Developer. Owner shall be responsible for any costs associated with such governmental action. In the event a roadway improvement is required that is not solely attributable to the subject development a pro rata share of the cost of said improvement shall be paid to the City as negotiated by all parties. Offsite road improvements may be modified as needed to avoid environmental impacts to wetlands or other environmentally sensitive areas, to stay within existing rights of way, and to avoid any relocation of existing utilities. To the extent the improvements are within existing rights of way, Owner will not be required to obtain additional right of way or be required to relocate utilities, unless such items are required by the TIA or alternative improvements are agreed upon by SCDOT, the City and Developer. City will assist Owner with coordination with SCDOT and utility providers to allow for modified roadway improvements without impact to wetlands. City also agrees to cooperate with Owner in order to obtain any necessary right of way to complete such improvements. Owner shall be responsible for any costs associated with such governmental action.

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 City. The City shall not be responsible for any construction, treatment, maintenance or costs associated with water service to the Property unless the City 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 City. The City will not be responsible for any treatment, maintenance or costs associated with sewage treatment within the Property, unless the City 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 City 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 BJWSA.

F. **Police Services**. City shall provide police protection services to the Property on the same basis as is provided to other similarly situated residents and businesses in the City. Owner acknowledges the concurrent jurisdiction of the City's police department and the

Sheriff of Jasper County on the Property and shall not interfere with or in any way hinder public safety activities on the Property regardless of whether such Property may contain restricted access.

G. **Fire Services**. City shall provide fire protection services to the Property on the same basis as is provided to other similarly situated residents and businesses in the City. Owner acknowledges the jurisdiction of the City'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**. City shall provide sanitation and trash collection services to the Property on the same basis as is provided to other similarly situated residents and businesses in the City.

I. **Recreation Services**. City shall provide recreation services to the Property on the same basis as the City provides such services to other similarly situated residents and businesses in the City. Notwithstanding the above, the City shall not be obligated to improve any of the Park Sites until such time as Park Development Fees are adequate to fund the design and construction of such Park Sites.

J. **Library Services**. Library services shall be provided for the Property on the same basis as provided to other similarly situated residents and businesses in the City.

K. **Emergency Medical Services (EMS)**. EMS services shall be provided to the Property on the same basis as provided to other similarly situated residents and businesses in the City.

L. **Drainage System**. All stormwater runoff, treatment and drainage system improvements within the Property will be designed 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, as applicable. The City 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 City. Owner, Developer and Secondary Developers shall be required to abide by all provisions of federal, state laws and regulations, and local rules and regulations (including but not limited to Zoning Regulations), and including those established by DHEC, the South Carolina 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 Standards.

N. **Municipal Improvement District.** Notwithstanding anything contained herein to the contrary, in the event that (1) the Owner and the City may jointly agree that the construction of public infrastructure required for the Development of the Property will be defrayed from the proceeds of Municipal Improvement District Bonds or from the receipts of assessments imposed upon the Property; (2) the City creates the Municipal Improvement

District; (3) the City is able to issue Municipal Improvement District Bonds which are non-recourse to the City; and (4) suitable arrangements are made by the Owner with the City to guarantee completion of the construction of such public infrastructure, then the Owner shall notify the City prior to the sale of the first parcel within the Property, whereupon the City shall take such action as necessary to implement a Municipal Improvement District with respect to the Property and issue Municipal Improvement District Bonds to provide such amount as then current, definitive plans indicate to be necessary to complete such public infrastructure improvements, which monies shall be made available to design, permit and construct such public infrastructure improvements. Upon obtaining such funding (which may be in phases), the City shall cause the design, permitting and construction of such required public infrastructure improvements (or phased portions of the public infrastructure improvements, as may be the case). Nothing herein shall preclude the submission of a design/build proposal for such public infrastructure improvements by Owner which complies with the procurement requirements of the City. Notwithstanding the above, Owner, with the prior written approval of the City, may begin construction of such public infrastructure improvements prior to the creation of the Municipal Improvement District, and provided the Municipal Improvement District Bonds are issued, Owner shall be reimbursed for any qualifying funds previously expended by Owner in the construction of such public infrastructure improvements.

11. CONVEYANCES AND CONTRIBUTIONS. The City and Owner understand and agree that the Development of the Property shall result in additional public services being required to be provided by the City and other governmental agencies. The City and Owner acknowledge it is desirable that certain public facilities be located in the vicinity of the Property. The Owner agrees to participate in mitigating certain initial costs of the City for such services as provided in this Agreement. The following items are hereby agreed upon to be provided by Owner, its successors and assigns, and to offset the costs and expenditures created by the Development of the Property:

A. Roads. Owner may transfer to the City certain rights-of-way and roads within the Property upon agreement by the City.

B. Civic Site.

1) Generally. Unless the City chooses to locate a site on adjacent property as set forth in Section 11(B)(2) below, which choice shall release Owner from the obligation to transfer property and shall obligate Owner to make a financial contribution in lieu of property transfer, Owner shall transfer to the City up to five (5) acres of the Property at a location or locations mutually agreed upon to be utilized as a civic site ("Civic Site") which may be used for fire, police, EMS, community facility, or other public safety and support facilities, which Civic Site shall be dedicated to the City no later than the period between when the seven hundredth (700th) residential certificate of occupancy is issued on the Property and prior to when the seven hundred and fiftieth (750th) residential certificate of occupancy is issued on the Property (the "Dedication Period"), unless dedication of the Civic Site must occur prior to the Dedication Period in order to allow the construction of a combined fire/police facility in order to preserve the City's ISO

rating (currently a 3) for fire protection or otherwise agreed. If Owner is obligated to transfer land, Owner may elect to classify such transfer as a donation.

2) Location. The Civic Site shall be located so as to be able to provide municipal services to residents and others located upon the Property in an efficient manner. The City may choose to combine the Civic Site with the dedications from the Owner for other public infrastructure, and also may combine the Owner's dedications and payments with those from adjacent landowners and developers to maximize utilization of resources. The City may choose to locate civic facilities on other adjacent property, and if so, the dedication of the Civic Site may not occur. If the Civic Site is located on other adjacent property, the Owner shall pay Two Hundred and Fifty Thousand Dollars ($250,000.00) plus the Adjustment Factor computed on an annual basis from the date of this Agreement until the date of notice provided for herein to the City to be used towards the development, construction and equipping of the Civic Site ("Civic Site Payment"). This payment shall be due no sooner than the Dedication Period and within sixty (60) days' notice by the City to the Owner of the Civic Site location.

3) Timeframe for Design. It is agreed that the City will, within six (6) months after the Civic Site is transferred to the City or the Civic Site Payment is made, by the Owner or other conveyor, begin design and permitting for a civic facility on the Civic Site.

C. Park Site or Park Sites.

1) Owner shall transfer to City a minimum of 20 contiguous acres or as otherwise mutually agreed upon to be utilized solely as park sites ("Park Sites") as shown on the Concept Plan and attached Exhibit D. The Park Sites shall be transferred to the City within ninety (90) days of execution of this Agreement. Owner may designate the transfer as a donation.

2) The City shall construct park improvements (the "Park Improvements") on the Park Sites in accordance with a plan devised by the City. The City shall commence to design such Park Improvements after the Park Sites are transferred by Owner to the City and sufficient Park Development Fees are available to pay for such Improvements. The City shall proceed with all due diligence to permit and construct such Park Improvements promptly thereafter, if and to the extent that sufficient Park Development Fees are available. It is estimated sufficient Park Development Fees shall be available after the seven hundredth (700th) residential certificate of occupancy is issued and prior to the seven hundred and fiftieth (750th) residential certificate of occupancy is issued on the Property.

3) Park Development Fees shall be utilized solely to permit, construct and equip Park Improvements. Park Development Fees may be used jointly with adjoining tracts of land, the owners of which have entered into similar agreements with the City.

D. **Efficient Construction**. In order to minimize disturbance to the Property and adverse impacts to public roads, Owner shall have the right to use and access identified or future, as applicable, Civic Site and Park Sites for use as staging areas and for the temporary storage of construction materials, equipment, supplies, soil, and cleared debris. Owner may reserve easements for such use and access in Owner's deeds of conveyance to the City, so long as the City has given some written approval of the location of such easements prior to acceptance of the Civic Site(s) or Park Site(s). Prior to the City's acceptance of any of the Civic Site or Park Sites, Owner shall remove all such materials stored on a particular site and shall grade such site, removing any unsuitable spoil as may have been deposited thereon. The City shall not accept any Civic Site or Park Site until such work is complete. Owner's usage of the Civic Site and Park Sites shall be in such places and in such manner as provided in the PDD Standards and grading of the sites shall be in accordance with the PDD Standards.

E. **No Other Dedications**. Except with respect to the dedications and/or conveyances of the properties referred to in Section 11, no other dedications or conveyances of lands for public facilities shall be required by the City in connection with the Development of the Property.

F. **No Wetlands**. All conveyances and dedications of lands pursuant to this Agreement shall mean upland gross acres of highlands, net of wetlands.

12. DEVELOPMENT FEES.

A. **Fee Chart**. To assist the City in meeting expenses resulting from ongoing development, a Developer shall pay development fees for direct capital expenses incurred by the City that it incurs related the property. ("Development Fees") as follows, as set forth in the table below.

DEVELOPMENT TYPE	DEVELOPMENT FEE AMOUNT
Non-Residential, Commercial, Light Industrial	$680 per 1,000 square feet consisting of: $250 plus the Adjustment Factor per unit – Police $250 plus the Adjustment Factor per unit – Fire $100 plus the Adjustment Factor per unit – Public Works $50 plus the Adjustment Factor per unit – Recreation $30 plus the Adjustment Factor per unit – Community Facilities
Single Family Residential Dwelling Units	$2,245 per unit consisting of: $750 plus the Adjustment Factor per unit – Police $750 plus the Adjustment Factor per unit – Fire $100 plus the Adjustment Factor per unit – Public Works $545 plus the Adjustment Factor per unit – Recreation $100 plus the Adjustment Factor per unit – Community Facilities
Multifamily Residential Dwelling Units	$563 per unit consisting of: $188 plus the Adjustment Factor per unit – Police $188 plus the Adjustment Factor per unit – Fire $25 plus the Adjustment Factor per unit – Public Works $137 plus the Adjustment Factor per unit – Recreation $25 plus the Adjustment Factor per unit – Community Facilities

B. Payment of Fees. All Development Fees shall be collected at the time of a Developer or Builder obtaining a building permit for a primary structure and placed in separate interest-bearing accounts established for (the individual improvements, road, police, fire, etc.) and direct capital expenses. The City may expend these funds for any purposes designed to meet a discrete need of the property or a discrete need created by the development of the property

C. No Other City Impact Fees. Notwithstanding any provision to the contrary contained within this Agreement, the Development Fees are being paid in lieu of any other impact fees, development fees or any other similar fees presently existing or adopted by the City at any time hereafter during the term of this Agreement; provided, however, the Owner, a Secondary Developer, or a Builder shall be subject to the payment of any and all present or future permitting fees enacted by the City that are of City-wide application and that relate to processing applications, development permits, building permits, review of plans, or inspections (but no other capital improvement related impact, development or other extractions).

D. Other Governmental Fees. Except as set forth in this Agreement, nothing herein shall be construed as relieving the Owner, a Secondary Developer, or a Builder, their successors and assigns, from payment of any such fees or charges as may be assessed by entities other than the City. The provisions of this section shall not preclude the City or another governmental authority from imposing a fee of a nature for services or improvements contemplated under this Agreement which are imposed on a consistent basis throughout the area regulated by such governmental authority imposing such obligations. The City 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. The City shall not oppose Owner's challenge to any developer fee, impact fee or other obligation imposed by other governmental authorities to the extent that such fees or obligations are not specifically permitted to be imposed pursuant to the terms of this Agreement. If the City's becomes involved in litigation or challenge at the request of the Owner/Developer and/or the City becomes a party to litigation or challenge at the request of the Owner/Developer, the Owner/Developer shall reimburse the City for legal costs up to $30,000.00 in total for the term of the Development Agreement.

E. **County Impact Fees**. The parties hereto recognize that Jasper County may, now or in the future, impose certain development impact fees upon the Property. The intent hereof is that the Owner shall not be charged in both jurisdictions for the same impact fee (development fee) categories, however, should a dispute arise as to whether Owner/Developer shall pay fees to the County or to the City, the Owner/Developer shall be responsible for settling such dispute with each party. The City shall not offset any development fee contained herein against such fees payable to Jasper County. The same principle shall apply regarding all applicable Development Fee categories hereunder. Owner and City Manager may meet and agree to resolve any issues that may arise in the future regarding the application of these principles to Development Fees due hereunder, and any such future agreement shall not be deemed a material amendment or breach hereof. If the City's becomes involved in litigation or challenge at the request of the Owner/Developer and/or the City becomes a party to litigation or challenge at the request of the Owner/Developer, the Owner/Developer shall reimburse the City for legal costs up to $30,000.00 in total for the term of the Development Agreement.

F. **Assignment of Fees**. 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 Secondary Developer owning such credits, to the extent such credits exist, and all such credits shall remain valid until utilized. In connection with such Assignment of Development Fees pursuant to this section, the assignee receiving the assignment of such credits must provide notice to the City of such assignment along with a copy of the actual assignment. The City shall recognize all such written assignments of such rights and shall credit the same, to the extent such credits exist, against any Development Fees which are owned pursuant to this Agreement.

G. **Annual Adjustment**. The Development Fees set forth in the Fee Chart are based upon 2021 figures. The Development Fee amounts shall be increased annually according to the Adjustment Factor.

H. **Special Tax District**. The City, County, or other governmental entity, may establish, solely or in conjunction with each other, a Tax Increment, fee in lieu of tax (FILOT), Multi-County Business Park, or any other special tax district or financing vehicle authorized by applicable provisions of the Code of Laws of South Carolina (1976), as amended, which does not impose additional ad valorem taxes or assessments against the Project. The establishment by the City, County, or other governmental entity, solely or in conjunction with each other, of a special tax district or financing vehicle authorized by

applicable provisions of the Code of Laws of South Carolina (1976), as amended, which increases the assessments within the Property solely, shall require the consent of the Owner or Secondary Developer unless such increase is otherwise expressly permitted pursuant to the terms of this Agreement. It is acknowledged that at the written election of Owner, a Municipal Improvement District may be implemented with the consent of the City for the Project as set forth in this Agreement.

I. **Wetlands Mitigation**. The City and Owner agree that the Property appears to contain more wetlands than are necessary to meet Owner's requirements for open space or for wetlands mitigation on the Property. To the extent that there are excess wetlands available, if Owner creates a mitigation bank with such excess wetlands and the City has a need for mitigation bank credits in connection with road improvements it is obligated to undertake, then the City may purchase such mitigation bank credits from Owner. Such purchase shall be at the fair market value for such mitigation bank credits and shall be paid by the City in form of credit to the Owner's Development Fees, cash, or in such other form as the City and Owner agree upon.

J. **Interconnectivity**. Recognizing the potential interconnectivity of the Property and the adjacent Anderson Tract and Morgan Tract, Owner and the City acknowledge and agree that it may be practical for land planning and economic reasons to consider combining and/or sharing the Development Fees and associated land dedications for the Civic Site and Park Site requirements under this Agreement with those required for the Morgan and Anderson Tracts, so as to meet similar needs of all three tracts in an efficient manner. If a reasonable basis is demonstrated for combining and/or sharing the Development Fees and associated land dedications for the Civic Site and Park Site requirements for the Anderson, Karrh, and Morgan Tracts to better meet the combined needs of such tracts (such as preserving the City's ISO rating), the City and Owner agree to negotiate in good faith with the owner/developers of the other tracts for the joint use of such Development Fees and land dedications among the Karrh Tract, Anderson Tract, and Morgan Tract to more efficiently meet the collective needs of the properties.

K. Fees for Review of Agreement, PDD, and Related Documents. Owner agrees to pay the actual costs and reasonable, actual expenses of the City's consultants and professionals incurred in negotiating, processing and evaluating the Development Agreement and the PDD Standards in an amount not to exceed $30,000.00. An Owner or Developer requesting amendments, assignments, estoppel letters or and any other documentation as contemplated by this Agreement, shall pay the actual costs and reasonable, actual expenses of the City's consultants and professionals incurred in negotiating, processing and evaluating such documentation based upon the City's fee schedule available upon request. City will provide invoices and sufficient supporting documentation of these charges. Owner or Developer shall pay such fees within sixty (60) days of the delivery by City of the invoice(s). Owner shall receive credit for all amounts previously paid to City.

13. PERMITTING PROCEDURES.

A. **Model Homes**. The City agrees to allow the Owner and/or any Secondary Developer the ability to permit and construct model homes without utilities (i.e., dry

models) and to relocate the models as necessary within each subdivision; and the ability to permit and construct temporary sales and construction offices with temporary utilities, in accordance with applicable Zoning Regulations.

B. **Phasing Allowed**. The City agrees that the Owner and/or any Secondary Developer is not required to phase development but shall have the right to do so.

C. **Timely Review**. The City agrees to review all land use changes, land development applications, and plats in an expeditious manner in accordance with the MZDO as modified by the PDD Standards for this Property. A Secondary Developer may submit these items for concurrent review with the City and other governmental authorities. The City 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.

D. **Signage**. Signage for the Property is governed by the PDD Standards and the Zoning Regulations.

E. **Architectural Guidelines**. The City acknowledges that the Owner and Secondary Developers have or will have an internal set of architectural guidelines and employs an architectural review board, which are to be adopted as provided in the PDD Standards. These architectural guidelines must meet the minimum standards set forth in the MZDO for architectural review. Owner, Developer and/or Secondary Developer shall be responsible for assuring such architectural guidelines are in compliance with the Zoning Regulations.

F. **Bond for Plat Recording**. The City agrees to allow plat recording with a bond of 125% of the infrastructure cost prior to completion of infrastructure development and to issue building permits and permit sale of lots prior to completion of such bonded infrastructure; in accordance with the MZDO as modified by the PDD Standards for this Property.

G. **Zoning Regulations**. The City agrees the Property shall be governed by the Zoning Regulations.

H. **No Additional Development Obligations**. The City agrees that the Property is approved and fully vested for intensity, density, development fees, uses and height, and shall not have any City obligations for on or off site transportation or other facilities or improvements other than as specifically provided in this Agreement, but must adhere to then current PDD Standards, subdivision plat, and development plan procedural guidelines in accordance with the then current MZDO. The City 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.

I. **Roadway Drainage** . Roadways (public or private) may utilize swale drainage systems and are not required to have raised curb and gutter systems in areas of less than one (1) unit per acre, unless otherwise agreed at master planning. 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 for approval at the time of proposed construction of such roadway based upon engineering and planning standards consistent with the PDD Standards.

J. **Plan Review Fees**. All plan review fees shall be consistent with the fees charged generally in the City and shall be paid by the Person submitting an application to the City for such review.

14. DEVELOPER ENTITLEMENTS. City acknowledges that Owner is vested with the following entitlements:

A. **Irrigation**. The Owner or its written designee may own and operate an internal irrigation company and system that serves the Property and the City will grant a franchise and such easements over public rights-of-way as may be reasonably required by the Owner (or its designee) to implement such irrigation system. The City agrees to cooperate with the Owner in connection with providing such irrigation water in connection with the Development of the Property.

B. **Public Transportation**. The City will, to the extent available, promote public transportation which exists within the City to service the Property.

C. **Telecommunications**. The City agrees to grant a non-exclusive franchise for an on-site telecommunications company to Owner on terms consistent with then current franchise agreements. The City acknowledges that the Owner shall not be required to provide easements to any utility companies other than over public streets which may be located within the Property. The City agrees that, upon the request of the Owner, the City will grant easements within public rights-of-way to telecommunication providers which Owner authorizes to provide service within the Property, upon payment of applicable franchise fees to the City. Additionally, the City agrees that it will franchise on terms consistent with then current franchise agreements to such party providing telecommunication services to the Property, a franchise to enable such company to perform such service; provided, however, the City shall have the right to grant other franchises to third party telecommunication companies providing telecommunication services within the City.

D. **Drainage Systems**. All drainage systems constructed within the Property shall be owned and maintained by the Owner, its assigns, or one (1) or more Association(s) which may be established for various portions of the Property and the City 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 requirements, as set forth in the Zoning Regulations.

E. **Sidewalks**. Sidewalks will be governed by the terms of the Zoning Regulations.

F. **On-Site Burning**. On-site burning will be permitted within the Property upon obtaining applicable federal, state and local permits.

G. **Roadway Permitting**. The City agrees to cooperate with the Owner and each Secondary Developer with applicable County, State, federal and local roadway permitting in connection with the Development of portions of the Property.

H. **City Services**. City 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 properties within the City, subject to the limitations (if any) of Section 10 above. Subject to the limitations of Section 10 above (if any), should the Owner require enhanced services beyond those that are routinely provided within the City, then the City 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 Owner and/or Developer and/or Secondary Developer.

I. **Private Schools**. The City shall not oppose private schools, charter schools, and other alternate educational systems which Owner may desire to have located within the Property. Any enhanced services shall be at the sole cost of the Owner and/or Developer.

15. COMPLIANCE REVIEWS. As long as Owner owns any of the Property, Owner, or its designee, shall meet with the City, or its designee, at City's request, not more than 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. During the compliance review meeting, Owner, or its designee, shall provide such information as may reasonably be requested by City, to include but not be limited to, acreage of the Property sold in the prior year, acreage of the Property under contract, the number of certificates of occupancy issued to Owner in the prior year, 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. Owner shall provide to the City an estimate of the upcoming year's development schedule as provided in Exhibit D to the City during each compliance review meeting.

16. DEFAULTS. The failure of the Owner, Developer or the City 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 or a reasonable period of time based on the circumstances, provided such defaulting party commences to cure such breach within such thirty (30) day period and is proceeding diligently and expeditiously to complete such cure) shall constitute a default, entitling the non-defaulting party to pursue such remedies as deemed appropriate, including specific performance; provided however no termination of this Agreement may be declared by the City 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 City 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. A default of the Owner shall not constitute a default by Developers, and default by Developers shall not constitute a default by the Owner. The parties acknowledge that owners of completed buildings within the Property 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.

17. MODIFICATION OF AGREEMENT.

A. Development Agreement. This Agreement may be modified or amended only by the written agreement of the City and the Owner; such written agreement may be by resolution or ordinance at the City's sole discretion. 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.

B. Modification Applicable to Portion of Property. This Agreement may be modified or amended as to a portion of the Property only by the written agreement of the City 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 City and those affected persons or entities need to sign such written amendment.

C. Minor Modifications. Because this Agreement constitutes the plan for certain planned unit development under the Zoning Regulations, 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 Owners of a portion of the Property 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.

D. Concept Plan Modified by Master Plan. The Concept Plan is not intended to be a rigid, exact site plan 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 Concept Plan, and master plans is followed and respected. Such variations are eligible to be approved at staff level in accordance with the Zoning Regulations.

18. 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 City shall be addressed to the City at:

City of Hardeeville, SC
205 Main Street
P.O. Box 609
Hardeeville, South Carolina 29927
Attention: City Manager

With Copy To:

City of Hardeeville, SC
205 Main Street
P.0. Box 609
Hardeeville, South Carolina 29927
Attention: City Attorney

And to Owner at:

Two Bridge Bluff, LLC
100 Bull Street, Suite 212
Savannah, GA 31401
Attention: Brian Appel

With Copy To:

Burr & Forman LLP
4 Clarks Summit Drive, Suite 200
Bluffton, South Carolina 29910
Attention: Sarah F. Robertson, Attorney at Law

19. 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, which shall be the primary remedy, and the right to recover attorney's fees and costs associated with said enforcement.

20. 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 Law"), the provisions of this Agreement shall be modified or suspended as may be necessary to comply with any such New Law. Immediately after enactment of any such New Law, or court decision, a party designated by the Owner and Secondary Developer(s) and the City 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 any New Law, the City may take reasonable action to comply with any such New Law. 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, Developer, Secondary Developers and the City 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 City, the Owner, Developer or any Secondary 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,

4) the density remaining, and

5) 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 City 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 City, the Owner or any Secondary 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.

G. Assignment. The sale, transfer or assignment of all or any portion of the Property, or creation of a joint venture or partnership shall not require the amendment of this Agreement. Subject to the notification provisions hereof, Owner may assign its rights and

responsibilities hereunder to a subsidiary or sister company, or subsequent landowners and Developers.

H. **Right to Assign**. Owner shall have the right to sell, transfer, ground lease, or assign Development Rights associated with the Property in whole or in part to any Person (an "Assignee") upon written notice to the City in accordance with the notification provisions of Section 5(A) of this Agreement; provided, however, that the sale, transfer, or assignment of any right or interest under this Agreement shall be made only together with the sale, transfer, ground lease, or assignment of all or a portion of the Property subdivided in accordance with subdivision plats approved under the Zoning Regulations. Concurrently with such sale, transfer, ground lease, or assignment, Owner shall (a) notify the City in writing of such sale, transfer, or ground lease, and (b) Owner and Assignee shall provide a written assignment and assumption agreement in form reasonably acceptable to the City pursuant to which the Assignee shall assume and succeed to the rights, duties, and obligations of Owner with respect to the parcel or parcels of all or a portion of the Property so purchased, acquired, or leased. Owner shall continue to be obligated under this Agreement with respect to all portions of the Property retained by Owner.

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

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

K. **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. If the City's involvement in litigation or challenge is at the request of the Owner/Developer and/or the City becomes a party to litigation or challenge at the request of the Owner/Developer, the Owner/Developer shall reimburse the City for legal costs up to $30,000.00 in total for the term of the Development Agreement.

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

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

N. **Effective Date**. The Effective Date of this Agreement shall be the date the Agreement is signed by all parties, and if the parties do not sign on the same date, the date on which it is signed by the last party.

O. **Approvals**. For any approval required to be given by a party or their successors and/or assigns, such approval shall not be unreasonably withheld.

P. **Hierarchy of Documents**. In the event of a conflict among the documents, the hierarchy of documents is: 1) the Development Agreement; 2) the PDD Standards; 3) the MZDO; and 4) other applicable statutes, ordinances, and regulations governing development and uses for the Property. In the event of an omission, the MZDO shall govern. To the extent of ambiguity, the parties shall attempt to review same consistent with the terms of the PDD Standards and the MZDO.

Q. **Adjacent Property**. In the event Owner or a Developer, as applicable, acquires real property adjacent to the Property, City agrees to allow Owner or a Developer, as applicable, to subject such real property to the terms of this Development Agreement and the PDD Standards by an amendment to this Development Agreement subject to the approval of the City and Owner or Developer, as applicable.

21. STATEMENT OF REQUIRED PROVISIONS. 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:

A. **Legal Description of Property and Legal and Equitable Owner**. The legal description of the Property is set forth in **Exhibit A** attached hereto. The present legal owner of the Property is Two Bridge Bluff, LLC.

B. **Duration of Agreement**. The duration of this Agreement shall be as provided in Section 3 above.

C. **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.

D. **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 Property on a timely basis.

E. **Dedication of Land and Provisions to Protect Environmentally Sensitive Areas**. Any requirements relating to land transfers for public facilities are set forth in Section 11 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.

F. **Local Development Permits**. The standards for Development of 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 DHEC and the U.S. 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.

G. **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 City, which include the PDD Standards for the Property.

H. **Terms for Public Health, Safety and Welfare**. The City 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.

I. **Historical Structures**. Any cultural, historical structure or sites will be addressed through the applicable federal and State permitting process at the time of development.

IN WITNESS WHEREOF, the authorized agents of the parties have executed this Agreement as of the date below.

WITNESS:

Two Bridge Bluff, LLC

____
Witness

By:___________________________________
Name:__________________________
Title:__________________________

____
Notary Public

STATE OF ____________________)
)
COUNTY OF __________________)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this ___ day of __________, 2022 by __________________, ________________, of Two Bridge Bluff, LLC, a Georgia limited liability company, on behalf of the company.

____
Notary Public for_____________________________
Print Name:_________________________________
My Commission Expires:______________________

WITNESSES: **City of Hardeeville, South Carolina**

_______________________________ By:________________________________

Witness Name:_________________________

Title:__________________________

_______________________________ _______________________________

Notary _________________, City Clerk

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 _______________ and ___________________ known to me (or satisfactorily proven) to be the person whose name is subscribed to the within document, as the appropriate officials of the City of Hardeeville, 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.

____

Print Name:__________________________

Notary Public for South Carolina

My Commission Expires:_______________

MORTGAGEE CONSENT TO DEVELOPMENT AGREEMENT

The undersigned **Capital Plus Financial, LLC**, a Texas limited liability company (the "**Mortgagee**"), as holder of that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing from Two Bridge Bluff, LLC, a Georgia limited liability company (the "**Mortgagor**"), dated December 27, 2021, and recorded in Book 1093 at Page 968 in the Office of the Register of Deeds for Jasper County, South Carolina (as modified from time to time, the "**Mortgage**"), relating to the real property described in the Mortgage and more particularly described in and encumbered by this Development Agreement, as amended or supplemented (the "**Development Agreement**"), does hereby consent to the foregoing Development Agreement and acknowledges that the terms thereof are and shall be binding upon the undersigned and its successors and assigns.

NOW, THEREFORE, the undersigned consents to the recordation of the Development Agreement.

Mortgagee makes no warranty or any representation of any kind or nature concerning the Development Agreement, any of its terms or provisions, or the legal sufficiency thereof, and disavows any such warranty or representation as well as any participation in the development of the Property, and does not hereby assume and shall not hereby be responsible for any of the obligations or liabilities of the Owner in the Development Agreement. None of the representations contained in the Development Agreement shall be deemed to have been made by Mortgagee, nor shall they be construed to create any obligations on Mortgagee to any person relying thereon. Nothing contained herein shall affect or impair the rights and remedies of Mortgagee as set forth in the Mortgage or in the Development Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Consent as of the ____ day of ___________________, 2022.

Signed, sealed and delivered
in the presence of:

Capital Plus Financial, LLC,
a Texas limited liability company

____
Witness

By:_____________________________________
Name:___________________________
Title:____________________________

____
Notary Public

STATE OF _______________________

COUNTY OF ____________________

The foregoing instrument was acknowledged before me this ___ day of _____________________, 2022, by ____, as _____________________________ of Capital Plus Financial, LLC, a Texas limited liability company, on behalf of the company.

____
Notary Public for the State of ______________________
Print Name:_______________________________________
My Commission Expires:_________________________

MORTGAGEE CONSENT TO DEVELOPMENT AGREEMENT

The undersigned **Karrh Land & Timber, LLC**, a Georgia limited liability company ("**Karrh Mortgagee**"), as holder of that certain Mortgage of Real Estate from Two Bridge Bluff, LLC, a Georgia limited liability company (the "**Mortgagor**"), dated December 30, 2021, and recorded in Book 1093 at Page 1632 in the Office of the Register of Deeds for Jasper County, South Carolina (as modified from time to time, the "**Karrh Mortgage**"), relating to the real property described in the Karrh Mortgage and more particularly described in and encumbered by this Development Agreement, as amended or supplemented (the "**Development Agreement**"), does hereby consent to the foregoing Development Agreement and acknowledges that the terms thereof are and shall be binding upon the undersigned and its successors and assigns.

NOW, THEREFORE, the undersigned consents to the recordation of the Development Agreement.

Karrh Mortgagee makes no warranty or any representation of any kind or nature concerning the Development Agreement, any of its terms or provisions, or the legal sufficiency thereof, and disavows any such warranty or representation as well as any participation in the development of the Property, and does not hereby assume and shall not hereby be responsible for any of the obligations or liabilities of the Owner in the Development Agreement. None of the representations contained in the Development Agreement shall be deemed to have been made by Karrh Mortgagee, nor shall they be construed to create any obligations on Karrh Mortgagee to any person relying thereon. Nothing contained herein shall affect or impair the rights and remedies of Karrh Mortgagee as set forth in the Karrh Mortgage or in the Development Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Consent as of the ____ day of ___________________, 2022.

Signed, sealed and delivered
in the presence of:

Karrh Land & Timber, LLC,
a Georgia limited liability company

____
Witness

By:_____________________________________
Tobe C. Karrh, Manager

____
Notary Public

STATE OF _______________________

COUNTY OF _____________________

The foregoing instrument was acknowledged before me this ___ day of _____________________, 2022, by Tobe C. Karrh, Manager of Karrh Land & Timber, LLC, a Georgia limited liability company, on behalf of the company.

____
Notary Public for the State of ______________________
Print Name:______________________________________
My Commission Expires:__________________________

EXHIBIT A

TO DEVELOPMENT AGREEMENT
PROPERTY DESCRIPTION

ALL those certain pieces, parcels or tracts of land, with improvements thereon, located in Jasper County, South Carolina, consisting of

Parcel 4B containing 1,350 Acres, more or less,
Parcel 4C containing 118.63 acres more or less, and
Parcel 4D containing 762 Acres, more or less,

as more particularly shown and described on a plat entitled "Subdivision Plat Parcel 4B, Parcel 4C and Parcel 4D Formerly Parcel 4, Karrh Tract, Jasper County, South Carolina," dated November 12, 2020, prepared by Thomas & Hutton Engineering Co., certified by Robert K. Morgan, III, PLS (S.C. #26957), and recorded in the Office of the Register of Deeds for Jasper County, South Carolina in Plat Book 37 at Page 288 on December 15, 2020 (the "Plat"). For a more detailed description as to metes and bounds, reference may be had to the above described Plat of record.

The above described property is the same property conveyed to Two Bridge Bluff, LLC by deed from Karrh Land and Timber LLC dated December 29, 2020, and recorded in Book 1069 at Page 59 on December 29, 2020 in the Office of the Register of Deeds for Jasper County, South Carolina and by deed from Karrh Land and Timber LLC dated December 30, 2021, and recorded in Book 1093 at Page 1626 on December 30, 2021 in the Office of the Register of Deeds for Jasper County, South Carolina.

TM: Portion of 040-00-04-006
040-00-04-008
040-00-04-009

This legal description was prepared without benefit of title review by Sarah F. Robertson, Attorney at Law, of Burr & Forman LLP, 4 Clarks Summit Drive, Suite 200, Bluffton, SC 29910.

EXHIBIT B

TO DEVELOPMENT AGREEMENT

PLANNED UNIT DEVELOPMENT DISTRICT STANDARDS AND CONCEPT PLAN

The Karrh Tract Planned Development District Standards and Concept Plan approved by the City Council hereby is incorporated into this Agreement 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, file separately with the Register of Deeds for Jasper County, South Carolina and provide recording information, or may rely upon the above stated incorporation by reference, at their discretion.

EXHIBIT C

TO DEVELOPMENT AGREEMENT

ZONING REGULATIONS

(a) Karrh Tract Planned Development District Standards and Concept Plan established for the Property, and all the attachments thereto, including but not being limited to the Concept Plan, all narratives, applications, and site development standards thereof, all as same may be hereafter amended by mutual agreement of the City and the Owner, and

(b) the MZDO dated March 20, 2008 as amended through the date of this Agreement except as the provisions thereof may be clarified or modified by the terms of the PDD Standards and this Agreement.

EXHIBIT D

TO DEVELOPMENT AGREEMENT

DEVELOPMENT SCHEDULE

Development of the Property is expected to occur over the twenty (20) 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:

3354	Total Dus			
750	Multi Family Dus			
2354	Single Family Dus			
250	Mixed Use Dus			
Year:	Percent of total sold:	Multi Family Sold	Single Family Sold	Mixed Use Sold
2022	0	0	0	0
2023	0	0	0	0
2024	5	38	118	13
2025	10	75	235	25
2026	10	75	235	25
2027	15	113	353	38
2028	15	113	353	38
2029	15	113	353	38
2030	10	75	235	25
2031	10	75	235	25
2032	5	38	118	13
2033	5	38	118	13
Total:	100	750	2354	250

As stated in Section 6 of the Development Agreement actual development may occur more rapidly or less rapidly, based on market conditions and final product mix.