

STATE OF SOUTH CAROLINA            )  
  )  
COUNTY OF JASPER                    )     DEVELOPMENT AGREEMENT  
  )     (EAST ARGENT TRACT)

**FIRST AMENDED AND RESTATED**

This Development Agreement ("Agreement") is made and entered this 21<sup>st</sup> day of October, 2005, and first amended this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by and between JPR Properties, LLC ("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 has acquired, or is in the process of acquiring approximately 7,351 acres, generally known as the East Argent Tract, and proposes to develop, or cause to be developed, therein a mixture of residential, commercial and conservation uses; 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 unprecedented opportunity for the City 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 City, 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 Unit Development (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 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:

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 East Argent Tract.

**"Adjustment Factor"** shall mean: three percent (3 %) per annum simple interest.

**"Additional Adjustment Factor"** shall mean that from and after the end of the twentieth (20<sup>th</sup>) year of the Term of this Agreement, the Development Fee set forth in Article XI.I for any Development Fees that are payable after the twentieth (20<sup>th</sup>) year of the Term during the remainder of the Term shall be adjusted as of the first day of the twenty-first (21<sup>st</sup>) year of the Term to an amount equal to the greater of (a) the Development Fee in effect on the last day of the twentieth (20<sup>th</sup>) year of the Term; or (b) an amount equal to the lesser of (x) one hundred fifty percent (150%) of the amount of the Development Fee in effect on the date of this Agreement, or (y) the Development Fee in effect on the date of this Agreement multiplied by the amount of the Consumer Price Index increase from the date of this Agreement through the first day of the twenty-first (21<sup>st</sup>) year of the Term.

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

**“East Argent Tract PDD” or “Property”** means that certain tract of land described on **Exhibit A**, as may be amended with the Agreement of the City and Owner.

**“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.

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

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

**“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 as contemplated in the Zoning Regulations.

**“Development Fees”** shall have the meaning set forth in Paragraph XI.1, and are based upon amounts in effect on July 1, 2005, with an initial date for adjustment of July 1, 2006.

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

**“Fire Site”** shall have the meaning set forth in Article XI.B.

**“Fire Site Value”** shall have the meaning set forth in Article XI.B.

**"Fire Fund"** shall mean the segregated interest bearing Escrow Account into which all Development Fees for Fire are contributed.

**"Fire Shortfall"** shall have the meaning set forth in Article XI.B.

**"Owner"** means JPR Properties, Inc, its corporate successors and any assignee, whereby such interest is assigned in writing.

**"Park Site"** shall have the meaning set forth in Article XI.C.

**"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 City.

**"Planned Development District"** or **"PDD Ordinance"** means the PDD approved by the City of Hardeeville on July 21, 2005, as amended contemporaneously herewith, and attached hereto as part of **Exhibit B**.

**"Police Fund"** shall mean the segregated interest bearing Escrow Account into which all Development Fees for Police are contributed.

**"Police Shortfall"** shall have the meaning set forth in Article XI.A.

**"Police Site"** shall have the meaning set forth in Article XI.A.

**"Police Site Value"** shall have the meaning set forth in Article XI.A.

**"Roadway Fund"** shall mean the segregated interest bearing account into which all Development Fees for Roads are contributed until utilized for public roadway improvements within the Specified Area.

**"School Site"** shall have the meaning set forth in Article XI.D.

**"School Price"** shall have the meaning in Article XI.D.

**"School Option Site"** shall have the meaning set forth in Article XI.D.

**"Specified Area"** shall have the meaning set forth in Article XI.J(viii).

**"School Fund"** shall mean the segregated interest bearing Escrow Account into which the Development Fees for School are contributed.

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

**"Unacceptable Level of Service" or "Unacceptable LOS"** shall mean a level of service below level C, as determined by the standards of the ASHTO Highway Capacity Manual.

**"Zoning Regulations"** means the East Argent Planned Development District and PDD adopted by establishing a Planned Unit Development 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, all as same may be hereafter amended by mutual agreement of the City and the Owner, (a copy of all of which is attached hereto marked **Exhibit C** and incorporated herein by reference), this Development Agreement, and the MDZO dated March 20, 2003 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 commenced on the date this Agreement was executed by the City and Owner (October 21, 2005) and terminates Thirty (30) years thereafter. Furthermore, this Agreement may be terminated at the end of the Fifteen (15<sup>th</sup>) year upon written notice from the City to Owner delivered within thirty (30) days prior to the end of such fifteen (15) year period if the average fair market value of the residences constructed within the Property as of the end of the of the fifteenth (15<sup>th</sup>) year from the date of this Agreement does not average \$180,000.00 per residential dwelling unit, as adjusted by three percent (3%) annual adjustment.

**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 City for reviews required by the MZDO shall be paid by the Owner or 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 processing of reviews as contemplated by the Zoning Regulations and this Agreement.

**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 Section 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 City, 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, 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 City 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, 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 that such use for specific portions of the Property will comply with the overall environmental standards.

3. No Initial Master Plan for any portion of the Property shall be submitted for processing unless that plan encompasses ten or more acres of high land which acres are not jurisdictional wetlands, with the exception of the platting of road sections.

## **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.**

Mixed use, residential and commercial development on the Property shall be the densities and uses as set forth in the Planned Unit Development approval, set forth below:

(a) Up to a maximum of 12,574 residential density units. Owner shall have the right to have more than 1,000 multifamily units, provided at the time of such request for a building permit for multifamily units in excess of 1,000 multifamily units, the average fair market value of all dwelling units then constructed on the Property is \$180,000.00 plus a three percent (3%) annual adjustment or more, or provided that the applicant can demonstrate at the time of such request for a building permit for multifamily units in excess of 1000 multifamily units that the majority of multifamily units in excess of the initial 1,000 units being then requested are designed and reasonably expected to be utilized for resort type transient or short term lodging, or for retirement living, and thus have a lesser demand for public services than traditional single family residences.

(b) In addition to the base maximum number of residential units set forth above, up to a maximum of 5,000 additional residential units shall be allowed if Owner, or its assigns, can demonstrate, through a traffic impact analysis acceptable to City, that traffic generated by such additional density can be adequately handled by existing area traffic infrastructure or infrastructure which the City forecasts to be constructed within a reasonable time, and further, that the City determines that adequate provision has been made for the handling of governmental services, including fire, police, school and library services, to serve the additional density.

(c) Up to a maximum of 1,392 acres of commercial development, as more fully described in the PDD approval.

(d) Owner and Developers shall have the right to convert commercial density into residential density, and residential density into commercial density, subject to the limitations set forth in Section 2(c) of the PDD Narrative.

Owner and Developer shall notify the City of conversions during the prior year during each annual compliance meeting.

#### **VIII. RESTRICTED ACCESS**

The Owner and/or each 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.

#### **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 pursuant to the terms of this Agreement for the entirety of the Term. Future enactments of, or changes or amendments to the City 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 Section 6-31-80 (B) 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 guidelines 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 City Council to be necessary to protect the health, safety and welfare of the citizens of Hardeeville.

**X. 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 and 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. 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. 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.

**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 statues and rules and regulations of the South Carolina Department of Transportation or its successor regarding access and use of such public roads. Future public roads may serve the Property. Additional public roads on the Property may be planned in the future, upon written agreement between Owner and the City. The City shall not be responsible for construction, improvements or maintenance of the public roads which now or hereafter serve the Property, unless set forth in this Agreement or it otherwise agrees. The Property shall be served by direct access to the existing roads, Highway 141 and Highway 278, and the proposed roads or offsite road improvements as shown on the PDD Plan, including Nearsite Improvements. Nearsite Improvements include modifications to Jasper Station Road as stated in Exhibit "E", the SC 141 and Jasper Station Road intersection, modifications to the SC 170 and Central Loop Road intersection, the enhancement of the New River Entrance Road, the improvement of the Highway 141 (John Smith Road) and Highway 278 intersection, the four laning of Highway 141 from the intersection with US Highway 278 to the western intersection of the Central Loop Road and Highway 141 as shown on the Conceptual Master Plan map in the PDD and/or the construction of a road shown as "Tram Road" on the conceptual Master Plan in the event the

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enhancement of the New River Entrance cannot be acquired and/or constructed in a manner sufficient to handle the projected traffic loadings from the Project at an acceptable Level of Service, in conjunction with the Highway 278 and 141 intersection and road improvements, as described on Exhibit E hereto. These Nearsite improvements are intended to provide traffic mitigation from the expected impacts on the community resulting from the construction of the Project, and are to be designed, permitted and constructed within certain time frames to avoid creating unacceptable Levels of Service on the road system servicing the Project. Timing of the improvements are set forth in Exhibit E.

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The Owner shall have the right to design and construct upon obtaining permits from applicable governmental authorities the loop roadway designated on the PDD Plan ("Central Loop Road"), provided such design is in conformance with and capable of absorbing the traffic loading created by the Property. The Central Loop Road is proposed to be designed and constructed as a four-laned limited access arterial roadway with appropriate turn storage, and with divided landscaped median located within a right-of-way of at least 150 feet in width and in accordance with the road design standard to be approved at Master Plan submittal for such portion of the Central Loop Road then being constructed. The 150 foot right of way is being provided (without charge for the land comprising such 150 right-of-way) to accommodate future road widenings that may be appropriate due to increase traffic loading resulting from off-Property impacts, with funding and responsibility for such widening and improvements to be the responsibility of the City or other governmental entity(ies). In connection with the construction of such four (4) lanes of Central Loop Road, the Owner shall be required to construct two twelve foot wide travel lanes side by side, if all four lanes are not built concurrently. The Owner shall construct such Central Loop Road (which may be completed in phases) and, upon completion of portions of such Central Loop Road, will dedicate road and right-of-way to the City (or other governmental authority). The Owner shall install landscaping in a manner consistent with the landscape plan submitted by Owner and approved by the City, and an Association shall be established which shall have the perpetual maintenance obligation for maintaining the landscaping located within such Central Loop Road. Additionally, the Association shall maintain all aspects of the four (4) lane segments constructed by the Owner, drainage and rights of way of such Central Loop Road as it is constructed until two years after the Property has received its 3,000<sup>th</sup> Certificate of Occupancy; however, the Association will have perpetual responsibility for

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the entire drainage system serving such Central Loop Road. At such time as this condition is met, the City shall take full maintenance responsibility with regard to the constructed asphalt portions of Central Loop Road. Any asphalt portions of Central Loop Road constructed after the 3,000<sup>th</sup> C.O., but within two years of the 3,000<sup>th</sup> C.O., shall not become the responsibility of the City until four years after the 3,000<sup>th</sup> C.O., and asphalted portion of Central Loop Road constructed after the expiration of the two year period following the 3,000<sup>th</sup> Certificate of Occupancy shall become the maintenance responsibility of the City three (3) years after completion of such portions of Central Loop Road. To the extent that any third party is permitted by the City to utilize any public road right-of-way within the Property to install underground utilities or other public services within such road right-of-way, then the City shall require that such party perform such work in a good and workmanlike manner and restore any damage to the right-of-way, including Central Loop Road and/or landscaping or other improvements in connection therewith promptly. All utility improvements within such road right-of-way(s) shall be located underground, except such above ground improvements related thereto, such as lift stations, meter boxes, etc.. To the extent practical, Owner will utilize construction accesses and temporary construction roads to minimize the use by construction vehicles and construction supply trucks of the public roads to be constructed, to avoid undue wear and tear.

**C. Additional Roads.** If Owner is required to construct two lanes of a roadway within a right of way sized to accommodate more lanes, then the Owner shall construct those two lanes on one side of the right of way, in accordance with plans approved by the City.

Maintenance for roadways dedicated to the City (or other governmental authority) may be funded through an ad valorem tax applied City-wide, or such other mechanism as may be selected by the City that is applied City-wide. The parties agree that the City may transfer ownership and maintenance responsibility for Central Loop Road to Jasper County or SC Dept. of Transportation, in the event the County or State agrees to accept same and has a reasonable maintenance program in place.

The City agrees, provided funds are available, that it, in conjunction with Jasper County and other applicable governmental authorities, will acquire the necessary right-of-way (including the use of eminent domain, if necessary and legally permissible) to enable the

construction of the Nearsite improvements. [Nearsite Improvements, projected costs and dates or residential unit construction deadlines are set forth more fully on Exhibit E hereto]. Owner agrees to use its best efforts to acquire the necessary right of way and/or easements for the enhancement of the New River Entrance improvements, and at no cost to the City provide right of way for the Jasper Station Road and Tram Road (if needed) construction. Funding for such acquisition and construction may include Development Fees for Roads, the funds from other governmental agencies and other funding mechanisms the City may obtain, including a Municipal Improvement District and Tax Increment Financing. The City agrees to update the Owner, and Owner the City, and keep each other advised as to the status of the acquisition of the road right-of-way and construction of Nearsite Improvements for those areas where right of way must be acquired from others. In the event the Owner should choose at its exclusive option to acquire the right-of-way for and to construct Nearsite Improvements, or any portion thereof, the Owner shall receive a credit for the acquisition and/or construction of the right-of-way and Nearsite Improvements, against the Development Fee for Roads, provided that the costs incurred by the Owner have been submitted to the City for approval prior to commencement of such acquisition or construction by the Owner.

The City agrees, provided funds are available, that on or before the issuance of the 4,000<sup>th</sup> certificate of occupancy within the Property, or such earlier date as the City may elect, the City shall permit and construct a minimum of a six (6) lane, divided highway with median from the east ramp of the existing I-95 interchange at Exit 8 of I-95 east to intersection of Highway 278 and Highway 141 ("278 Construction"), which 278 Construction shall be completed by the City utilizing Development Fees which have been collected from the Owner and/or monies from other land owners, a traffic impact fee pursuant to a Jasper County impact fee ordinance, US Highway 278 and/or other funding sources which, together are sufficient to design, permit and construct such 278 Construction, provided the South Carolina Department of Transportation permits such 278 Construction.

**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 the BJWSA. The City 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 golf courses, and other landscaped areas within the Property. 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.** 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 with the exception of restricted access communities, which may elect to provide in-house patrol services by security forces and/or constables and elect in writing to forego regular City patrol functions. Owner acknowledges the concurrent jurisdiction of the City's police department the sheriff of Jasper County on the Property and shall not interfere or in anyway

hinder law enforcement activities of either on the Property regardless of whether such may be a restricted access community.

**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 anyway hinder public safety activities on the Property regardless of whether such may be a restricted access community.

Notwithstanding the forgoing, fees for fire protection will be charged as if the Owner of the Property was a "non-resident" under the fire protection fee ordinance (Section 8-120 of the City Code of Ordinances) until such time as a site specific development plan is approved for an area of the Property, at which time the non-resident treatment shall be removed as to that area only.

**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 it provided to other similarly situated residents and businesses in the City. Notwithstanding the above, the City shall not be obligated to improve the Park Site until such time as Developer Fees-Park are adequate to fund the design and construction of the site or bond such improvement. Should the Owner desire to construct such Park Site or park thereon prior to these funds being adequate, it may do so, upon electing in writing to pay to the City the cost of providing such services and improvements. Should the Owner make such election, Recreational Developer Fees then collected shall be made available to Owner for such improvements and services and Owner shall receive a credit against future Development Fees-Parks for expenditures in excess of then collected Development Fees-Parks to construct and operate such park improvements, provided such expenditures are approved in advance by the City, which approval shall not be unreasonably withheld.

J. **Library Services.** Such services are now provided by Jasper County. City shall not be obligated to provide library services to the Property, absent its election to provide such services on a city-wide basis. City shall allocate, at its discretion, Library Developer Fees to assist with library services in Southern Jasper County..

K. **Emergency Medical Services (EMS).** Such services are now provided by Jasper County. City shall not be obligated to provide EMS services to the Property, absent is election to provide such services on a city-wide basis.

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. The City will not be responsible for any construction or maintenance cost associated with the stormwater runoff, treatment and drainage system within the Property.

1. **Storm Water Quality.** Protection of the quality in nearby waters and wetlands is a primary goal of the City. 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.

## **XI. CONVEYANCES AND CONTRIBUTIONS.**

The City and Owner understand and agree that future 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, to offset such future costs and expenditures created by the Development of the Property:

**A.** The Owner shall transfer to the City three (3) acres of land at a location or locations mutually agreed upon to be utilized as a police station site or sites (collectively "Police Site") which may be combined with other public safety and support facilities, which site shall be dedicated to the City no later than the period between when the one-thousandth (1,000<sup>th</sup>) residential certificate of occupancy is issued and prior to the twelve hundredth (1,200<sup>th</sup>) residential certificate of occupancy being issued on the Property, unless otherwise agreed. It is acknowledged that if there are to be more than two combined sites, the additional site shall be identified as being necessary during this period and dedicated simultaneously. The parties acknowledge that the value of the Police Site shall be deemed to be Thirty Thousand Dollars (\$30,000) per acre plus the Adjustment Factor from the date of such transfer until such amount is credited against Development Fees ("Police Site Value") and the Owner shall be entitled to credits against the Development Fees payable with respect to the Property in the amount of the Police Site Value. If at the request of Owner a Municipal Improvement District or a special tax assessment district is implemented, the City may request and the Owner shall transfer such Police Site to the City, and construction may begin prior to the one thousandth (1,000<sup>th</sup>) residential certificate of Occupancy is issued.

It is agreed that the City will, within six (6) months after the Police Site is transferred to the City, design and permit such police facility. If more than one site is transferred, the City shall only be obligated to design and permit one police facility within this timeframe. Within thirty (30) days after such police facility has been designed and permitted, the Owner shall pay Two Million Five Hundred Thousand Dollars (\$2,500,000) (less any Development Fees-Police previously

paid) into the Police Fund (and Owner will receive Development Fee–Police credits for such payment) to be utilized by the City to construct and equip such Police Site (recognizing that the City may elect to combine the Police Site and Fire Site as a joint facility and that there may be more than two sites), and the City will construct and equip such Police Site/Fire Site promptly after Owner has funded Two Million Five Hundred Thousand Dollars (\$2,500,000) into the Police Fund. It is specifically acknowledged, except as set forth in subsection (C) below, that the Owner's obligation as to Police Sites is three (3 acres), regardless of the number of sites, and its capital contribution for these police facilities is Two Million Five Hundred Thousand Dollars (\$2,500,000), less any Development Fees previously paid.

The Police Site shall be located as to be able to primarily provide police and other municipal services to residents and others located upon the Property in an efficient manner. It is further agreed that the City may choose to combine this Police Site(s) with the dedications from the Owner for the Fire Site and other public infrastructure to maximize utilization of resources. The City and Owner shall mutually agree as to the location of such Police Site and Fire Site.

All Development Fees for Police as hereafter provided shall be placed in a segregated interest bearing account and such funds ("Police Fund") may be combined with the Development Fees for Fire to be allocated for police/fire services for construction and equipping of the police station on the Police Site and fire station on the Fire Site, as the City determines in its discretion. These fees shall be utilized to construct and equip the Police facility or combined Police/Fire facility(s) upon the site or sites, and/or as a credit enhancement as set forth hereinbelow in connection with obtaining bond financing by the City to construct such site or sites.

Owner consents that any Developer Fees collected for Police purposes may be available for both land acquisition, construction and equipment costs, and debt service as set forth below. Upon completion of construction, the City shall be entitled to utilize any excess funds in such account which are not needed in connection with the initial acquisition, construction, equipping and debt servicing of such site(s) in conjunction with other Developer Fees to mitigate impacts relating to the Property.

The City agrees upon payment to the Police Fund of Two Million Five Hundred Thousand Dollars (\$2,500,000) to promptly construct and equip the Police facility on the Police Site.

**B.** The Owner shall transfer to the City three (3) acres of land at a location or locations mutually agreed upon to be utilized as a fire station site or sites (collectively "Fire Site") which may be combined with other public safety and support facilities, which site shall be dedicated to the City no later than the period between when the one-thousandth (1,000th) residential certificate of occupancy is issued and prior to the twelve hundredth (1,200th) residential certificate of occupancy being issued on the Property, unless otherwise agreed. It is acknowledged that if there are to be more than two combined sites, the additional site shall be identified as being necessary during this period and dedicated simultaneously., The parties acknowledge that the value of the Fire Site shall be deemed to be Thirty Thousand Dollars (\$30,000) per acre plus the Adjustment Factor from the date of such transfer until such amount is credited against Development Fees ("Fire Site Value") and the Owner shall be entitled to credits against the Development Fees payable with respect to the Property in the amount of the Fire Site Value. If at the request of Owner a Municipal Improvement District or a special tax assessment district is implemented, or the City is advised that construction must be completed prior to the schedule set forth below to preserve its ISO rating, the City may request and the Owner shall transfer such Fire Site to the City, and construction may begin, prior to the one thousandth (1,000th) residential certificate of Occupancy is issued

It is agreed that the City will, within six (6) months after the Fire Site is transferred to the City, design and permit such fire facility. If more than one site is transferred, the City shall only be obligated to design and permit one fire facility within this timeframe, Within thirty (30) days after the City has designed and permitted such fire facility, the Owner shall pay Two Million Five Hundred Thousand Dollars (\$2,500,000) (less any Development Fees-Fire previously paid) into the Fire Funds (and Owner will receive Development Fees-Fire credits for such payment) to be utilized by the City to construct and equip such Fire Site (recognizing that the City may elect to combine the Fire Site and Police Site as a joint facility and there may be more than two sites) and the City will construct and equip such Police Site/Fire Site promptly after Owner has funded Two Million Five Hundred Thousand Dollars (\$2,500,000) into the Fire Fund. It is specifically

acknowledged, except as set forth in subsection (C) below, that the Owner's obligation as to Fire Sites is three (3) acres, regardless of the number of sites, and its capital contribution for these fire facilities is Two Million Five Hundred Thousand Dollars (\$2,500,000) less Developer Fees previously paid.

The Fire Site shall be located as to be able to primarily provide fire and other municipal services to residents and others located upon the Property in an efficient manner. It is further agreed that the City may choose to combine this Fire Site(s) with the dedications from the Owner for the Police Site and other public infrastructure to maximize utilization of resources. The City and Owner shall mutually agree as to the location of such Fire Site and Police Site.

All Development Fees for Fire as hereafter provided shall be placed in a segregated interest bearing account and such funds ("Fire Fund") may be combined with the Development Fees for Police to be allocated for police/fire services for construction and equipping of the police station on the Fire Site and fire station on the Police Site, as the City determines in its discretion. These fees shall be utilized to construct and equip the Fire facility or combined Fire/Police facility(s) upon the site or sites, and/or as a credit enhancement as set forth hereinbelow in connection with obtaining bond financing by the City to construct such site or sites.

Owner consents that any Developer Fees collected for Fire purposes may be available for both land acquisition, construction and equipment costs, and debt service as set forth below. Upon completion of construction, the City shall be entitled to utilize any excess funds in such account which are not needed in connection with the initial acquisition, construction, equipping and debt servicing of such site(s) in conjunction with other Developer Fees to mitigate impacts relating to the Property.

The City agrees upon payment to the Fire Fund of Two Million Five Hundred Thousand Dollars (\$2,500,000) to promptly construct and equip the Fire facility on the Fire Site.

C. The above referenced Police Site and Fire Site transfers by Owner to City, and the \$2,500,000.00 Police Fund and Fire Fund payments are calculated to facilitate police and fire services to the first 9,500 dwelling units or residential equivalent units constructed within the

Property. Owner and City shall meet on or before the time of the 8,500<sup>th</sup> residential unit certificate of occupancy or equivalent residential unit to determine the projected buildout of the entire Property and determine the amount of additional police/fire acreage and/or equipment necessary to adequately serve the projected buildout and preserve the existing ISO rating. Owner shall provide up to an additional 5 acre site, at a value of \$30,000.00 per acre plus the adjustment factor above described, at a location within the Property mutually agreed upon by Owner and City to service this additional density. Payment of the per unit Development Fees, as provided under (H) below shall continue for all development within the Property, including Police and Fire Fees, even if the initial facilities described above have been constructed, in order to facilitate construction of additional facilities and/or acquisition of equipment which may be needed to serve residential units beyond the first 9,500 units, or residential equivalent units, unless adequate measures have been taken to create a Municipal Improvement District which includes the ability to finance the additional acreage/equipment needs for the additional density.

D. The Developer shall transfer to the City a seventy-five (75) acre site at a location to be mutually agreed upon to be utilized solely as a park site ("Park Site"). The Park Site shall be transferred to the City at such time after the one-thousandth (1,000<sup>th</sup>) residential certificate of occupancy is issued and prior to the twelve hundredth (1,200<sup>th</sup>) residential certificate of occupancy being issued on the Property. The Owner shall receive a credit against Developer Fees-Park in the amount of \$30,000.00 per acre of the Park Site, as adjusted by the Adjustment Factor from the date of such conveyance until such credits are utilized ("Park Value").

The City shall construct park improvements upon the Park Site in accordance with a plan devised by the City and reasonably approved by Owner. The City shall commence to design such park improvements within six (6) months after the Park Site being transferred to the City and shall proceed with all due diligence to design, permit and construct such Park Site promptly thereafter, if and to the extent that sufficient Developer Fees-Park are available.

Developer Fees-Park shall be placed into the Park Fund and monies in the Park Fund shall be utilized to construct and equip the Park upon the Park Site. Any Developer Fees collected prior to the commencement of construction will be available for construction and equipment costs. After the construction has commenced, the City will continue to collect

Developer Fees and issue the appropriate receipt for Development Fees-Park credits due the Owner to fully reimburse the Owner the Park Value comprising the Park Site. Upon completion of construction, the City shall be entitled to utilize any excess funds in such Park Account which are not needed connection with the initial construction and equipping of such site(s) in conjunction with other Developer Fees to mitigate impacts relating to the Property.

In the event that the Owner shall choose, at its exclusive option, to construct the park improvements on the Park Site prior to the date that the City can make such park improvements on the Park Site, then the City shall make its design requirements for such park improvements available to the Owner and the Owner may submit a design/permitting proposal in accordance with such design requirements and, upon the City's reasonable review and approval of such design and costs to construct such improvements, the City agrees that the Owner shall have the right to construct such park improvements on the Park Site, whereupon the City shall make available all funds in the Park Fund and, to the extent of any costs or expenses incurred by Owner which are not reimbursed from funds in the Park Fund, then the Owner would be entitled to a credit for all such costs and expenses incurred by the Owner, plus an Adjustment Factor on such sums against Development Fees-Parks which are owed pursuant to this Agreement.

The Park Site shall be located as to be able to primarily provide recreation services to residents and others located upon the Property in an efficient manner.

All Development Fees for Parks shall be placed in a segregated interest bearing account to be utilized solely for the acquisition of the Park Site and for park improvements to the Park Site and within the Property ("Park Fund"). Neighborhood or local parks may be integrated into master plan subdivisions within the Property and may be private or public as determined by the Owner or Developer creating such parks. Unless otherwise agreed, Recreation Developer Fees shall not be used for neighborhood or local parks.

Owner agrees to offer up additional acreage to the City for additional Park sites or expansion, based upon a proportionate increase in density from 9,500 units, at \$30,000 per acre as adjusted by the Adjustment Factor, if and when residential density exceeds or is expected to exceed 9,500 residential units within the Property. Owner and City shall meet on or before the time of the 9,000<sup>th</sup> residential unit construction to determine the projected buildout of

the entire Property and determine the amount of additional park acreage necessary to result in a ratio of 75 acres per 9500 units, and the resulting acreage will be offered to the City at the adjusted price. The option to purchase this additional acreage will expire if not exercised by the City within nine months of written notice of the determination of expected density and offer to sell, unless otherwise agreed.

E. The Owner and the City acknowledge that all Development Fees for School shall be collected and placed in a segregated interest bearing account ("School Fund") to be utilized for the acquisition of a total of seventy-five (75) acres for public school site(s) to be selected by mutual agreement of the Owner and City ("School Sites") at a purchase price of Thirty Thousand Dollars (\$30,000) per gross acre ("School Price"), which School Site(s) shall be utilized as neighborhood school sites or site serving the Property and the surrounding area. The City shall be required to purchase the School Site(s) on or before 90 days after the four thousand five hundredth (4,500<sup>th</sup>) residential certificate of occupancy and notice from the Owner to the City of the approaching threshold for exercising the option is issued with respect to the Property. Should the City not timely acquire the School Sites and/or School Option Site pursuant to the terms of this paragraph, the City shall no longer have the right to acquire such School and/or School Option Site, and such sites which are not timely acquired may then be utilized for and all purposes permitted under the Zoning Regulations, free and clear of any rights of the City to acquire such sites.

Additionally, the City shall be granted an option to purchase up to an additional one hundred (100) acres of the Property in a location mutually agreed upon by the Owner and City to be utilized as additional public School Site(s) ("School Option Site") which School Site(s) shall be located as to be able to primarily provide schools for residents and others located upon the Property in an efficient manner at a purchase price of Thirty Thousand Dollars (\$30,000) per gross acre comprising such School Option Site. In the event that the City shall fail to acquire such School Option Site on or before the expiration of one hundred eighty days after the issuance of the six thousandth (6,000) certificate of occupancy and notice from the Owner to the City of the approaching threshold for exercising the option, the City shall no longer have any right to acquire the School Option Site and such School Option Site may be utilized for any and

all purposes permitted under the Zoning Regulations, free of any rights of the City to acquire such School Option Site.

In the event either or both sites are acquired, but any such areas are not developed with school thereon within 5 years after such site is conveyed to the City, the Owner shall have the right, during the term of this Agreement, to repurchase the Site(s) or a portion thereof, at the \$30,000.00 per acre purchase price, plus the City's documented costs of acquisition and the right to repurchase shall be included in the deed of conveyance for each such site.

All Development Fees for Schools shall be solely utilized for schools and associated infrastructure. After purchase of the School Site and School Option Site (or waiver of the right to acquire the School Option Site) the City shall be entitled to utilize any excess funds in such account which are not needed in connection with the land acquisition of such site(s) for associated infrastructure costs, schools in the Southern Jasper County area, and/or enhancement of recreational and library services associated with the school(s)

E. Except with respect to the dedications and/or conveyances of the properties referred to in Article XI subsections A through E, inclusive, no other dedications or conveyances of lands for public facilities shall be required in connection with the development of the Property.

F. **Administrative Charges for Professional Assistance and Interim Services.** Owner and Hardeeville agree that certain cost may be incurred early in the development, or predevelopment process, making it difficult for Hardeeville to provide the necessary funds for professional services and interim government services prior to actual development and the eventual collection of funds through property taxes and other sources provided hereunder. Owner hereby agrees that a one time Administrative and Services Fee shall be paid to Hardeeville at the time that bulk acreage is transferred by Owner to a Developer in the future, or transferred to a development entity of Owner for development, said fee to be \$220.00 per high ground acre payable at the time of transfer; provided however, that Owner will guarantee that at least a minimum of \$100,000 per year, cumulatively, shall be paid to City, including at least \$50,000 by the 120 day anniversary hereof, and at least an additional \$50,000 by the six month anniversary hereof. Subsequent payments will be due by December 15<sup>th</sup> of each following year. If total payments of \$1,000,000 have not been made by the end of 5 years

from the execution hereof, remaining payments shall be adjusted by a cost of living factor to put the City in the same position, ultimately, as would have been the case for a five year payout, utilizing the Consumer Price Index for such adjustments..

The City agrees that it shall retain a building department inspector or similar officials(s), or other support staff, on or before January 1, 2006 and shall maintain those positions in connection the Development of the Property. Such employee(s) shall have appropriate certifications within twelve (12) months of being retained. In recognition of the Owner's commitment to reimburse the City for its expenses as contemplated in this paragraph, the City agrees to maintain throughout the Term sufficient personnel who are qualified to review development applications and matters pertaining to the Property in a professional and expeditious manner. The City agrees that all submissions for governmental approvals with respect to the Property and review building plans and inspect construction shall be expeditiously processed in accordance with MZDO procedures.

Prior to November 1, 2005, the Owner agrees to reimburse the City for any and all reasonable expenses incurred by the City for consultants employed by the City associated with engineering and planning review of any submissions for Master Plans or site development plans of the development of the Property. Any such sums paid shall be credited against the salaries payable by Owner in the first year of the five year commitment to fund personnel as set for the above.

**G.** All conveyances and dedications of lands pursuant to this Agreement shall mean upland gross acres of highlands, net of wetlands.

**H. Development Fees.**

(i) To assist the City in meeting expenses resulting from ongoing development, Owner shall pay development fees for Road, Police, Fire, School, Library and Parks ("Development Fees") as follows (which shall be adjusted by the Additional Adjustment Factor (if applicable) on the first day of the 21<sup>st</sup> year of the Term), as set forth in the Table below. These amounts are those in effect on July 1, 2005, and are subject to the annual 3% Adjustment Factor implemented each subsequent year on July1.

DEVELOPMENT FEES	AMOUNT
Commercial and Retail Space	See <u>Exhibit G</u> attached hereto and made a part hereof.
Residential Dwelling Units	<p>\$4,295 plus the Adjustment Factor per unit – Road*  [\$2315 is for internal, on-site or nearsite roads;  \$1980 is for external, off-site roads]</p> <p>\$320 plus the Adjustment Factor per unit – Police**  \$320 plus the Adjustment Factor per unit – Fire***  \$500 plus the Adjustment Factor per unit – School  \$100 plus the Adjustment Factor per unit – Library  \$636 plus the Adjustment Factor per unit – Park</p>
Multifamily Dwelling Units	<p>\$3,006 plus the Adjustment Factor per unit – Road*  [\$1620 is for internal, on-site or nearsite roads;  \$1386 is for external, off-site roads]</p> <p>\$224 plus the Adjustment Factor per unit – Police**  \$224 plus the Adjustment Factor per unit – Fire***  \$250 plus the Adjustment Factor per unit – School  \$70 plus the Adjustment Factor per unit – Library  \$445 plus the Adjustment Factor per unit – Park</p>

\*Central Loop Road. Notwithstanding anything contained herein to the contrary, in the event that the Owner elects to construct Central Loop Road by use of funds from assessments imposed upon the Property, and the City shall consent to the creation of a special taxing or municipal improvement district and is able to obtain bond financing which is non-recourse as to the City, with respect to raising proceeds to construct such Central Loop Road, then the Owner shall notify the City prior to the ~~sale~~ <sup>OCG opening</sup> of the first residential unit from the Property ("Central Loop Road Assessment Notice"), whereupon the City shall take such action as necessary to implement a municipal improvement district or special assessment taxing district with respect to the Property (as Owner requests) to enable the Owner to obtain up to Fourteen Million, Five Hundred Thousand Dollars (\$14,500,000.00) of principal proceeds which monies shall be made available by the City to the Owner (as and when needed by the Owner) to design, permit and construct such Central Loop Road and (i) upon obtaining such funding (which may be in phases), the Owner shall design, permit and construct portions of Central Loop Road, and (ii) upon Owner providing such Road Assessment Notice to the City, the Development Fees for Roads with respect to (a) commercial and retail space shall be as set forth in Exhibit G attached hereto; (b) residential dwelling units shall be reduced by One Thousand Five Hundred Forty Two Dollars (\$1,542.00) per residential units for Roads, and (c) multi-family dwelling units shall be reduced by Nine Hundred Twenty Five Dollars (\$925.00) per multi-family unit.

\*\_Near-site Improvements. Notwithstanding anything contained herein to the contrary, in the event that the Owner elects to construct Near-site Improvements (see Section X (B) and Exhibit D

*Central Loop*

*Occupancy*

**\*\*Police.** In the event that prior to the ~~sale~~ of the first residential unit within the Project, the Owner notifies the City that the Owner desires to impose a special assessment taxing district on the Property to raise Two Million Five Hundred Thousand Dollars (\$2,500,000) for payment of the Police Site and improvements and facilities related thereto ("Police Assessment Notice"), and the City shall consent to the creation of a special taxing or municipal improvement district and is able to obtain bond financing which is non-recourse as to the City, with respect to raising proceeds to construct such Police Facilities, then, upon delivery to the City of the Police Assessment Notice, the City agrees to take such action as is reasonably necessary to implement a municipal improvement district or special assessment taxing district (as Owner requests) to enable the City to obtain Two Million Five Hundred Thousand Dollars (\$2,500,000) of principal proceeds, which \$2,500,000 shall be paid by the City into the Police Fund, whereupon the Owner shall have no obligation for payment of any residential Development Fees with regard to Police, unless density in excess of 9,500 units is requested. In the event that such Police Assessment Notice is given by the Owner to the City, no Development Fees-Police shall be payable with respect to the issuance of residential building permits as provided in this Article XI.I and the City shall retain Two Million Four Hundred Ten Thousand Dollars (\$2,410,000) of such proceeds received by creating such municipal improvement district or special assessment district (as Owner requests) in the Police Fund (as payment in full for all residential Development Fees-Fire) with respect to the Property for use to improve and equip the Police Site, and simultaneous with receipt of such sums, the City shall pay to Owner Ninety Thousand Dollars (\$90,000) as payment for the Police Site. If the Police/Assessment Notice is provided, and such special assessment district or municipal improvement district (as selected by Owner) is created to obtain such Two Million Five Hundred Thousand Dollars (\$2,500,000) , the funding shall be upon a date in accordance with Section XI (A) above.

*Occupancy*

\*\*\*Fire. In the event that prior to the ~~sale~~ of the first residential unit within the Project, the Owner notifies the City that the Owner desires to impose a special assessment taxing district on the Property to raise Two Million Five Hundred Thousand Dollars (\$2,500,000) for payment of the Fire Site and improvements and facilities related thereto ("Fire Assessment Notice"), and the City shall consent to the creation of a special taxing or municipal improvement district and is able to obtain bond financing which is non-recourse as to the City, with respect to raising proceeds to construct such Fire Facilities, then, upon deliver to the City of the Fire Assessment Notice, the City agrees to take such action as is reasonably necessary to implement a municipal improvement district or special assessment taxing district (as Owner requests) to enable the City to obtain Two Million Five Hundred Thousand Dollars (\$2,500,000) of principal proceeds, which Two Million Five Hundred Thousand Dollars (\$2,500,000) shall be paid by the City into the Fire Fund, whereupon the Owner shall have no obligation for payment of any residential Development Fees with regard to Fire, unless density in excess of 9,500 is requested. In the event that such Fire Assessment Notice is given by the Owner, no residential Development Fees shall be payable with respect to the issuance of building permits as provided in this Article XI.I and the City shall retain Two Million Four Hundred Ten Thousand, Dollars (\$2,410,000) of such proceeds received by creating such municipal improvement district or special assessment district (as Owner requests) in the Fire Fund (as payment in full for all residential Development Fees-Fire) with respect to the Property for use to improve and equip the Fire Site, and simultaneous with receipt of such sums, the City shall pay to Owner Ninety Thousand Dollars (\$90,000) as payment for the Fire Site. If such Fire Assessment Notice is provided, and such special assessment district or municipal district (as selected by Owner) s created to obtain such Two Million Five Hundred Thousand Dollars (\$2,500,000) the funding shall be in accordance with Section XI (B) above.

(ii) Except as provided in Article XI.I(i) above, all Development Fees in this item I. shall be collected at the time of obtaining a building permit and placed in separate interest bearing accounts established for Roads, Police, Fire, School, Library and Parks which may be utilized for the purposes set forth in this Agreement.

(iii) 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 and/or Developers 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).

(iv) (iv) 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 City, provided however, if an entity other than the City imposes, or is permitted by City to impose, fees or obligations similar in nature to those contemplated by this Agreement, the Owner shall be entitled to an offset against the Development Fees of this Agreement the amount of such fees or obligations which are 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 City shall not permit any other governmental authority to impose fees or obligations of a similar nature to that which are contemplated by this Agreement; provided, however, the provisions of this paragraph shall not preclude the City or another governmental authority from imposing a fee of a nature which is not for services or improvements contemplated under this Agreement (i.e., police, fire, roads, parks, schools, libraries and other obligations contemplated under this Agreement or services and improvements contemplated by 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, at Owner's request, together with Owner, challenge 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.

(v) The Development Fees set forth above are vested for the entire Property and shall not be increased and no other Development Fee or development obligation imposed in

connection with the Property, except for the Adjustment Factor and Additional Adjustment Factor as provided in this Agreement.

(vi) The City agrees that no other PDD within the municipal boundaries of the City or otherwise regulated by the City within the area set forth in **Exhibit F** ("Hardeeville Planning District") having a cumulative land area of fifty acres or more will be approved without paying fees, making dedications or contributions, or performing obligations substantially equivalent to or greater than the Development Fees set forth above and performing obligations required to be performed by Owner pursuant to this Agreement and the Zoning Regulations, (except as may be reduced for Affordable Housing pursuant to the South Carolina Development Impact Fee Act, FILOT or Multi-County Business Park, or other substantive reason, including, but not limited to, differences in ratios of commercial to residential, in-kind dedications, the need for particular services, etc.) and the City agrees to use its best efforts to obtain an interlocal agreement with the County for the same. Notwithstanding anything contained herein to the contrary, in the event that any other such property, located within the Hardeeville Planning District, is permitted by Hardeeville to develop with payment of Developer Fees for Fire, Police, Park, Library and off-site road improvements, which are less than the Development Fees set forth above, or obligations for performance of non-fee responsibilities, which are less restrictive those imposed with respect to the Owner, Developer, or Property, then, without waiving any other right or remedy available to the Owner, the Owner and Developer shall be entitled to adjust downward the amount of Development Fees and/or reduce its obligations which are thereafter payable or required to be performed in connection with the Property so that the aggregate Development Fees payable by Owner and/or Developer do not exceed the lower of the amount of Development Fees set forth above or that which is collected by the City in connection with any other such property and the Owner and Developer obligations shall not exceed on a comparable basis, the obligations required to be performed by such other party, and Owner shall be relieved of such excess obligations.

(vii) 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 City shall recognize all such written assignments of such rights

and shall credit same against any Development Fees which are owned pursuant to this Agreement.

(viii) All Development Fees for On-Site or Nearsite Roads which are collected after election by the Owner as set in X (I) above shall be held by the City in an insured interest bearing account ("On-Site/Nearsite Roadway Fund") and all such monies shall be utilized, unless otherwise agreed by the City and Owner, to reimburse Owner for Central Loop Road (which shall be paid by City to Owner within thirty (30) days after substantial completion of each ¼ segment of Central Loop Road out of the first funds in the Roadway Fund on the basis of \$3,625,000.00 for each ¼ of Central Loop Road which is constructed and after payment (or reserve for payment of the \$14,5000,000.00 referred to in (i)), to the extent such funds are collected and as may be thereafter available. Funds for Nearsite Improvements shall be held and disbursed in a like manner.

(ix) All Development Fees for Off-Site Roads which are collected shall be held by the City in a separate insured interest bearing account ("Off-Site Roadway Fund") and all such monies shall be utilized, unless otherwise agreed by the City and Owner, for public roadway improvements in the following order of improvements: first for Nearsite Improvements and 278 Construction; and then for other roadway improvements located within the boundary of US 17, US 278, the northern property line and the Great Swamp ("Specified Area"); provided, however, that all monies transferred to the Roadway Fund from other Development Fee funds shall first be utilized to complete acquisition, design and construction of Central Loop Road and Nearsite Improvements and specifically to acquire and construct the roads as contemplated in Article X.B of this Agreement.

(x) Nothing in this Agreement shall be construed to prevent the establishment by the City, County or other governmental entity, solely or in conjunction with each other, of a Tax Increment, FILOT, Multi-County Business Park, or other special tax district or financing vehicle authorized by applicable provisions of the Code of Laws of South Carolina (1976 as amended), so long as such do not operate to increase the ad valorem taxes or assessment solely against the Property or cost to the Owner or Developer, unless the Owner or Developer (as applicable) otherwise agrees or same 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 and/or special taxing district may be implemented for the Property as set forth in this Agreement.

(xi) Owner agrees to pay the costs and expenses of the City's consultants and professionals incurred in negotiating, processing and evaluating this Agreement and the accompanying PDD. City will provide sufficient documentation of these charges. Owner shall pay such fees within 60 days of the delivery of the invoice(s).

**XI. PERMITTING PROCEDURES:**

1. The City agrees to allow the 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.

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

3. 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 for this Project. Plans will be processed in accordance with then current City PDD Plan, subdivision plat and development plan procedural requirements. Developer may submit these items for concurrent review with the City and other governmental authorities. 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.

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

5. The City acknowledges that the Developer has an internal set of architectural guidelines and employs an architectural review board, which are to be adopted as provided in the PDD.

6. The City agrees to allow plat recording with a bond 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 for this Property.

7. The City 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 and the East Argent PDD, but must adhere to then current PDD Plan and subdivision plat and development plan procedural guidelines. 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..

8. Roadways (public or private) may utilize swale drainage systems and are not required to have raised curb and gutter systems, provided that pedestrian and non-vehicular pathways or sidewalks are provided in order to provide interconnectivity between interior subdivisions, commercial or institutional areas and public gathering areas. 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 City planner.

9. All plan review fees shall be consistent with the fees charged generally in the City.

## **XII. DEVELOPER ENTITLEMENTS:**

City acknowledges that Developer is vested with the following items:

1. The City agrees to sell water and sewer capacity to the Owner and Developers at the current city rates as shall be more particularly detailed in water and sewer agreements that may be entered into by the Owner and/or Developers with BJWSA plus a Two Hundred Fifty Dollar (\$250) administration fee so long as such is available. The Owner or Developer shall each have the right to assign any of its water and sewer capacity which it has acquired to third parties and collect administration fees in connection therewith in accordance with Section 5.6 of the City/BJWSA Agreement.

2. 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 development of the Property.

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

4. 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.

5. 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 City shall have no responsibility for the construction, operation or maintenance of such systems.

**6. Roadway/Subdivision Linkage.** Roadway and sidewalk/pathway linkage of major land use areas, including internal linkage between residential, commercial, recreational and institutional uses, shall be provided. Sidewalks shall be provided in the East Argent Tract PDD in appropriate locations. The frequency and location of sidewalks shall be established based upon anticipated pedestrian usage within, and between land uses in addition to the proposed traffic loads of adjacent roads. A master sidewalk plan, including design criteria governing sidewalk placement, shall be submitted and approved as part of the Master Plan submittal. Direct connectivity by roads, sidewalks or non-vehicular pathways through private subdivisions is not required, although encouraged, and will be determined at time of Master Plan.

**7.** On-site burning will be permitted within the Property upon obtaining applicable permits.

**8.** The City 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.

**9.** 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 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 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.

**10.** The City shall not oppose private schools, charter schools, and other alternate educational systems which Owner may desire to have located within the Property.

### **XIII. COMPLIANCE REVIEWS.**

As long as Owner owns any of the Property, Owner or its designee, shall meet with the City, 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, the number of certificates of occupancy issued 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. The Owner, or its designee, shall be required to compile this information within a reasonable time after written request by the City.

### **XIV. DEFAULTS.**

The failure of the Owner, Developer or the City to comply with the terms of this Agreement not cured within fifteen (15) 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 fifteen [15] 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 individual residents and owners of completed buildings within the Project shall not be obligated for the obligations of the Owner or Developer set forth in this Agreement.

**XV. MODIFICATION OF 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.

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. Because this Agreement constitutes the plan for certain planned unit 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 environmentally sensitive residential developments suggested by the master plans are followed and respected.

**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 City shall be addressed to the City at:

City Administrator  
City of Hardeeville, SC  
205 East Main Street  
Post Office Box 609  
Hardeeville, South Carolina 29927

And to the Owner at: JPR Properties, LLC  
Attention: John Reed  
Post Office Box 21067  
Hilton Head Island, South Carolina 29925

With Copy To: Law Office of Lewis J. Hammet, PA  
Post Office Box 2960  
Bluffton, South Carolina, 29910

**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 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 the New Laws, the City 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 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 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 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 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.** 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 City'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 City, the Owner and Developers. No other persons shall have any rights hereunder.

M. **Contingencies.** This Agreement is contingent on Owner, JPR Properties, Inc. or its assign, acquiring title to the Property and the approval of the City Council of the City of Hardeeville, South Carolina. Notwithstanding the above, Owner agrees to remain responsible for the payment of the processing fees incurred by the City in reviewing and approving the Planned Unit Development application and Development Agreement as set forth in Section X (xi) above.

## **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 International Paper Company, or its affiliated entity, and the equitable owner is JPR Properties, Inc., who will take title prior to the recording hereof.

**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. Based on prior experience with the type of Development contemplated by the Zoning Regulations, it is estimated that the average size household of the Property will be **2.2** persons. Based on maximum density build out, the population density of the Property is anticipated to be no more than **27,236** persons (unless optional additional density is granted).

**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 City, which include a Planned Development District for the Property.

8. **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.

9. **Historical Structures.** Any cultural, historical structure or sites will be addressed through applicable federal and state regulations the permitting process at the time of development, as required by applicable state regulations.

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

WITNESSES:

JPR PROPERTIES, LLC

\_\_\_\_\_

By: \_\_\_\_\_  
John P. Reed

\_\_\_\_\_

Its: Manager

STATE OF

)

ACKNOWLEDGMENT

)

COUNTY OF JASPER

)

I HEREBY CERTIFY, that on this \_\_\_\_ day of \_\_\_\_\_, 2007. before me, the undersigned Notary Public of the State and County aforesaid, personally appeared the duly authorized official of JPR PROPERTIES, LLC., 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: \_\_\_\_\_

**SIGNATURES AND ACKNOWLEDGMENTS CONTINUE ON THE FOLLOWING PAGE**

WITNESSES:

HARDEEVILLE, SOUTH CAROLINA

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF SOUTH CAROLINA.

)

ACKNOWLEDGMENT

COUNTY OF JASPER.

)

I HEREBY CERTIFY, that on this \_\_\_\_ day of \_\_\_\_\_, 2007. 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 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.

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_

## EXHIBIT A

### TO DEVELOPMENT AGREEMENT

#### PROPERTY DESCRIPTION OF EAST ARGENT TRACT

Being all those certain pieces, parcels, or tracts of land located in Jasper County, South Carolina, containing 7,278.25 acres, more or less, as being more particularly described in the attached "Legal Descriptions for East Argent".

Parcel A and B as shown on ("Plat") dated September 28, 2004, entitled "A Plat of Parcels A and B being a portion of the east argent tract" prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, SCRLS No. 11079.

The Great Swamp as shown on ("Plat") dated September 28, 2004, entitled "A Plat of (1,514.17 acres) Great Swamp being a portion of the argent tract" prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, SCRLS No. 11079.

The Peninsula #2 tract as shown on ("Plat") dated November 23, 1999, entitled "A Plat of 343.57 acres tract known as the Peninsula #2 tract being a portion of the argent tract" prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, SCRLS No. 11079.

A 19.9 acre tract along S.C. Highway 278 as shown on ("Plat") dated June 4, 2003, entitled "Plat of 19.9 acre tract, being a portion of the argent tract, International Paper Realty Corporation" prepared by Gardner, Williams and Assoc., Inc., and certified by Michael Jim Gardener SCRLS No. 12239.

A 25.6 acre tract along S.C. Highway 278 as shown on ("Plat") dated June 4, 2003, entitled "Plat of 25.6 acre tract, being a portion of the argent tract, International Paper Realty Corporation" prepared by Gardner, Williams and Assoc., Inc., and certified by Michael Jim Gardener SCRLS No. 12239.

#### INSERT SHUMAN/72 ACRES DESCRIPTION

For more complete description as to the metes, bounds and distances, reference may be had to said plats which is recorded in the Office of the Clerk of Court for Jasper County, South Carolina.

**EXHIBIT B**  
**TO DEVELOPMENT AGREEMENT**  
**PLANNED DEVELOPMENT DISTRICT**

The Planned Development District approval for the East Argent Tract (the Property hereunder), as approved by the City Council on July 21, 2005, and 1<sup>st</sup> amended on \_\_\_\_\_, 2007 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 Municipal Zoning and Development Ordinance of the City of Hardeeville, as codified through Supplement 21.
2. The Planned Development District (PDD) Conceptual Master Plan dated July 21, 2005, and adopted by the City of Hardeeville on July 21, 2005 by Ordinance Number 2005-7-17K,, as amended by Ordinance \_\_\_\_\_, adopted \_\_\_\_\_, 2007

**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:

<u>Type of Development</u>	<u>Year(s) of Commencement / Completion</u>			
	<u>2010</u>	<u>2015</u>	<u>2020</u>	<u>2025</u>
Commercial	375,000 SF	375,000 SF	375,000 SF	375,000 SF
Residential, Single Family	2,500 units	2,500 units	2,500 units	2,000 units

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**

#### **CENTRAL LOOP ROAD AND NEARSITE IMPROVEMENT DESCRIPTIONS, ESTIMATED COST AND SCHEDULING**

Central Loop Road begins at a point on Highway 141 (John Smith Road) across from the existing entrance into the New River Commercial Subdivision, and extends North and Eastward terminating at SC 170, as more generally shown on the Conceptual Master Plan map included in the PDD. Estimated Cost is \$14.5 million. Central Loop Road may be constructed in phases, with each phase to be designed to adequately manage the projected traffic loadings resulting from the phased development of the Project. Completion of the entirety of Central Road is required by issuance of the 10,000<sup>th</sup> certificate of occupancy, or such earlier time as may be indicated to prevent unacceptable Levels of Service on the road system as specific Master Plan and site specific developments are submitted with accompanying traffic analysis during the term of this Agreement. Adequacy of Central Road components will be demonstrated at each Master Plan submission and approved by Council.

Jasper Station Road is an existing Road on the Northeastern boundary of the Property extending to and terminating at SC 141, as more generally shown on the Conceptual Master Plan included in the PDD. Such communities in East Argent Tract abutting Jasper Station Road shall utilize Jasper Station Road as secondary access point to promote traffic distribution. Improvements to access points along Jasper Station Road, Jasper Station Road, and the intersection of SC 141 and Jasper Station Road will be determined by Traffic Impact Analysis at the time of Master Plan approval, or such earlier time as may be indicated to prevent unacceptable Levels of Service on the road system as specific Master Plan and site specific developments are submitted with accompanying traffic analysis during the term of this Agreement.

New River Entrance Road Enhancement includes the intersection and lane improvements at the intersection of the New River Entrance and Highway 278, which are to be determined as part of the traffic mitigation study submitted as part of the encroachment permitting process with SCDOT, and are to be designed to prevent an unacceptable Level of Service at that intersection, when traffic loads from the Project are considered. Estimated cost is \$3.0 million. Improvements to the intersection are required to be completed by the issuance of the 3,000<sup>th</sup> certificate of occupancy, Adequacy of the intersection improvements are to be approved by City Council in conjunction with the SCDOT encroachment permitting process.

Tram Road is an existing right of way as shown on the Conceptual Master Plan in the PDD, and is a supplement/alternative to the New River Entrance Enhancements, to be constructed in the event the New River Entrance Enhancements and Highway 278 and 141 intersection and road improvements are not sufficient to prevent an unacceptable Level of Service when traffic loadings from the Project are considered. Estimated cost is \$4 million. Tram Road, if required to supplement the New River Entrance, may be constructed in phases, (two lane initially, then four lane) with each phase to be designed to adequately manage the projected traffic loadings resulting from the phased development of the Project. Completion of Tram Road, if required, shall be by the issuance of the 4,000<sup>th</sup> certificate of occupancy, or such earlier time as may be indicated to prevent unacceptable Levels of Service on the road system as specific Master Plan and site specific developments are submitted with accompanying traffic analysis during the term of this Agreement. Adequacy of Tram Road improvement components will be demonstrated at each Master Plan submission and approved by Council. Necessity for the road will be determined as part of the New River Entrance improvement approval process, based upon projected traffic loadings. Adequacy of Tram Road improvements, if Tram Road

is required to be constructed, will be demonstrated at each Master Plan submission and approved by Council.

Highway 278 and 141 Intersection Improvements include the improvement of the intersection, including potential widening, signalization, addition of acceleration and deceleration lanes, which are to be determined as part of the traffic mitigation study submitted as part of the encroachment permitting process with SCDOT, and are to be designed to prevent an unacceptable Level of Service at that intersection, when traffic loads from the Project are considered. Estimated cost is \$1.0 million. Improvements to the intersection are required to be completed by the issuance of the 2,000<sup>th</sup> certificate of occupancy, or such earlier time as may be indicated by the traffic mitigation study. Adequacy of the intersection improvements are to be approved by City Council in conjunction with the SCDOT encroachment permitting process.

Highway 141 widening includes adding two travel lanes to create a four lane highway with acceleration and deceleration lanes, with accesses limited to those shown on the Conceptual Master Plan in the PDD, Design requirements are to be determined as part of the traffic mitigation study submitted as part of the encroachment permitting process with SCDOT in conjunction with the Highway 278 and 141 Intersection improvements, and are to be designed to prevent an unacceptable Level of Service on that road and its intersections when traffic loads from the Project are considered. The widening begins at Highway 141 intersection with Highway 278 (exclusive of the intersection improvements above), and continues to the western intersection of the Central Loop Road and Highway 141 as shown on the Conceptual Master Plan in the PDD. Estimated Cost is \$2 million. Improvements to the intersection are required to be completed by the issuance of the 2,000<sup>th</sup> certificate of occupancy, Adequacy of

)

the widening improvements are to be approved by City Council in conjunction with the SCDOT encroachment permitting process.

**EXHIBIT F**  
**TO DEVELOPMENT AGREEMENT**  
**Hardeeville Planning District Map**

As depicted on attached Map "F", the Hardeeville Planning District encompasses the southern most areas of Jasper County.

**EXHIBIT G**  
**TO DEVELOPMENT AGREEMENT**  
**Commercial Fees (Based on July 1, 2005 date)**