

1 Introduced March 25, 2008, by Councilman
2 Canada, seconded by Councilman Hursey
3 (by request of Administration)

4 **RESOLUTION R08-22**

5
6 A resolution authorizing the Mayor to execute a Development Agreement
7 relative to the Summit Fremaux project.

8 WHEREAS, Louisiana Constitution Article VII, Section 14 provides for
9
10 cooperative endeavors for a public purpose; and

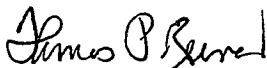
11 WHEREAS, the Slidell Development Company ("SDC") has proposed a
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13 Development Agreement relative to the respective intentions, representations and
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15 obligations of SDC and the City of Slidell ("City") relative to the Summit Fremaux
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17 development; and

18 WHEREAS, the City believes that the Summit Fremaux project will be
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20 economically beneficial to the City and the entire area; and


21 WHEREAS, the parties to the Agreement acknowledge that they will mutually
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23 and commensurately benefit.

24 NOW THEREFORE BE IT RESOLVED by the Slidell City Council that the
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26 Mayor is hereby authorized to execute the Development Agreement between the City and
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28 Slidell Development Company, L.L.C., a copy of which is attached hereto and made a part
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30 hereof.

31 **ADOPTED** this 25th day of March, 2008.

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35 

36 Thomas P. Reeves
37 Council Administrator
38
39


Raymond H. Canada
President of the Council
Councilman, District E

DEVELOPMENT AGREEMENT

(Cooperative Endeavor Agreement)

THIS DEVELOPMENT AGREEMENT (this "**Agreement**"), dated this ___ day of _____, 2008, is by and between **SLIDELL DEVELOPMENT COMPANY, L.L.C.**, a Delaware limited liability company ("**SDC**"), the **CITY OF SLIDELL**, a municipal corporation organized and existing under the laws of the State of Louisiana (the "**City**") **SDC** and the City and the Parish may be together referred to as the "**Parties.**"

RECITALS:

1. SDC is entitled to acquire a fee simple interest in certain real property located in the City of Slidell, the Parish of St. Tammany, Louisiana as more particularly described on **Exhibit A** attached hereto and as depicted on the map attached hereto as **Exhibit A-1** (the "**Land**").

2. The Parties have agreed that upon SDC's acquisition of the Land and the development of certain improvements to be located on and under the Land (as more particularly described herein), SDC shall dedicate, or caused to be dedicated, certain portions of the Land and certain improvements to the City and the City shall accept the dedication of same from SDC pursuant to the terms and conditions contained herein.

3. Based upon the agreements of the Parties as set forth herein, the Land will be developed for certain public and nonpublic uses. The public uses will include the Infrastructure Improvements (as hereinafter defined). The nonpublic uses will consist of a mixed use development, which mixed use development may include a shopping center with national anchor tenants, restaurants and other retail establishments, the initial phase of a technology park, and other possible uses such as residential, hotel and office (collectively, the "**Mixed Use Development**"), as more specifically shown on **Exhibit A-2**. The Infrastructure Improvements and the Mixed Use Development shall be collectively referred to herein as the "**Development**".

4. The City and SDC shall construct certain infrastructure improvements at the Development (the "**Infrastructure Improvements**") as described on **Exhibit B**. For purposes of this Agreement, the portions of the Land (or servitudes on the Land, as applicable) upon which the Infrastructure Improvements are situated are referred to as the "**Public Land**".

5. The "**Preliminary Site Plan**" for the Development, attached hereto as **Exhibit A-2**, is attached for purposes of setting forth the basic conceptual nature of the Development upon which the agreements of the Parties set forth herein are based. The parties acknowledge that the Development is the initial phases of a proposed multi-phase development on approximately 400 acres, including the Land, and that future phases of developments may be addressed in future development agreements among the Parties or supplements to this Agreement.

6. The City acknowledges that the Development will result in significantly increased tax revenues to the City, will boost property values in the vicinity of the Development, and will lead to additional economic activity in the area of the City and the Parish surrounding the

Development. In addition, as a result of the Development, many new jobs will be generated for employees engaged in the construction and ongoing operation of the Development.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged by the Parties, the Parties hereby covenant and agree as follows:

ARTICLE I

DEFINITIONS

1.1. Definitions. As used in this Agreement, all defined terms set forth above shall have the meanings so ascribed to them, and, in addition, the following terms shall have the following meanings:

- (a) **“Agreement”** means this Development Agreement.
- (b) **“Boulevard”** means “Summit Boulevard” to be constructed in accordance with the terms of this Agreement and generally shown on Exhibit A-2.
- (c) **“Boulevard Fund”** means \$10,000,000 to be provided for the construction of certain Infrastructure Improvements in accordance with that certain Cooperative Endeavor Agreement dated March ___, 2008, between the City and the Parish, a copy of which is attached hereto as Schedule. 1.
- (d) **“City Authorizing Resolution”** means that certain resolution adopted by the applicable governing body on March 25, 2008, approving the transactions contemplated by this Agreement, including without limitation, all obligations of the City hereunder.
- (e) **“City”** means the City of Slidell, Louisiana.
- (f) **“City Infrastructure Improvements”** means the Infrastructure Improvements to be constructed by the City as set forth on Exhibit B.
- (g) **“Force Majeure”** means any Act of God (including inclement weather) or the public enemy, strikes, lockouts, work slowdowns or stoppages or other labor disputes, insurrections, riots or other civil disturbances, orders of the United States of America or any state of the United States of America or of any of the departments, agencies, political subdivisions or officials of the United States of America or any state thereof (including without limitation acts, delays, or omissions of either of the Government Parties), or orders of any other civil or military authority, or partial or entire interruption or failure of public utilities, or any other condition or event beyond the reasonable control of the delayed Party.
- (h) **“Frontage Road”** means that certain service road shown on Exhibit A-2 to be constructed as a part of Project No. ___.

(i) **“Infrastructure Improvements Plans”** means the plans and specifications for the Infrastructure Improvements.

(j) **“Land”** means that certain real property located in the Parish of St. Tammany, Louisiana as more particularly described on Exhibit A attached hereto and as depicted on the map attached hereto as Exhibit A-1.

(k) **“Mixed Use Development”** means the nonpublic uses portion of the Development as described in the Recitals hereto.

(l) **“Parish”** means the Parish of St. Tammany, a parish organized and existing under the laws of the State.

(m) **“Parties”** means, collectively, SDC and the City.

(n) **“Party”** means any one of the Parties to this Agreement.

(o) **“Paying Party”** shall have the meaning set forth in Section 9.3.

(p) **“Preliminary Site Plan”** means the preliminary site plan for the Development as described in the Recitals hereto and Exhibit A-2.

(q) **“Public Land”** means the portions of the Land (or servitudes, as applicable) on which the Infrastructure Improvements are situated.

(r) **“Receiving Party”** shall have the meaning set forth in Section 9.3.

(s) **“SELA”** means the Southeast Louisiana Urban Flood Control Program.

(t) **“SDC Infrastructure Improvements”** means the Infrastructure Improvements to be constructed by SDC as set forth in Exhibit B.

(u) **“Sewer Consolidation Fund”** means \$2,000,000 of Community Block Grant Funds applied for by the Parish and to be made available to the City for certain Infrastructure Improvements pursuant to that certain Cooperative Endeavor Agreement dated March ___, 2008, between the City and the Parish, a copy of which is attached hereto as Schedule 2.

(v) **“Weigh Station”** means that area of land shown on Exhibit A-2 which is owned (but not used) by the State that the City and SDC will be entitled to incorporate into the Development as described in Section 4.3 below.

(w) **“USACE”** means the United States Army Corps of Engineers.

(x) **“State”** means the State of Louisiana.

ARTICLE II

THE DEVELOPMENT

2.1. Infrastructure Improvements.

(a) The City may appoint an agent to manage the City's obligations hereunder, and such agent shall accept such appointment and the responsibility for causing to be carried out such work as set forth herein pursuant to a separate management agreement, reasonably acceptable to the Parties.

(b) The Parties acknowledge and agree that the Infrastructure Improvements shall be engineered, constructed and funded as provided on Exhibit B and in accordance with the schedules set forth on Exhibit B, time being of the essence. All construction performed pursuant to this Agreement shall be performed in a good and workmanlike manner. SDC and the City agree to use good faith diligent efforts not to interfere with or delay the work to be performed by any Party with respect to the Development. Engineering work shall not be considered "completed" unless and until it has been approved by the City and SDC as provided herein.

(c) The Infrastructure Improvements Plans shall be subject to the reasonable approval of the City and SDC. Each of the Parties agrees that its approval will not be unreasonably withheld, conditioned, or delayed. Such approval shall not amount to an approval of the Infrastructure Improvements' conformity to applicable building codes and other usual inspection approvals by the City normal to any new construction in the City, which such approval process shall proceed in the normal course. The City agrees to assist SDC in obtaining all necessary approvals and permits for the SDC Infrastructure Improvements from the City and/or other applicable governmental entities in the normal course.

(d) The City, or City's designee, shall construct the City Infrastructure Improvements substantially in accordance with the applicable, approved Infrastructure Improvements Plans and shall complete such construction on or before the dates set forth on Exhibit B, subject to delays incident to force majeure. SDC shall be entitled to "upgrade" such plans, in its sole discretion, provided that (i) it shall be responsible for the costs of such upgrades in excess of the Boulevard Fund and, at its option, may separately contract for the construction of such upgrades and (ii) such upgrades do not materially impair the City's ability to complete the Infrastructure Improvements in accordance with the schedules set forth on Exhibit B.

(e) SDC shall construct the SDC Infrastructure Improvements substantially in accordance with the applicable, approved Infrastructure Improvement Plans and shall complete such construction on or before the dates set forth on Exhibit B, subject to delays incident to Force Majeure and subject to any changes to design caused by completion of SELA Study etc.

(f) In constructing the City Infrastructure Improvements, the City shall comply, as required, with competitive bid laws and requirements applicable to municipal public works projects. SDC shall not be required to comply with competitive bid laws and

requirements with respect to the construction and completion of the SDC Infrastructure Improvements.

(g) The City agrees that it shall require the general contractor for the City Infrastructure Improvements to post a performance bond and a labor and materialmen's payment bond with good and sufficient surety issued by a company qualified to issue such bonds in the State in an amount sufficient to ensure completion of the construction of such Infrastructure Improvements in accordance with the approved Infrastructure Improvements Plans and the completion deadlines set forth in Exhibit B. The City shall be an obligee of the bonds, and the SDC (and any assignee of SDC pursuant to Section 5.1 below) shall be named as additional obligees thereunder (to the extent not a violation of the law of the state). The bonds shall be obtained from such companies in such amounts as shall be approved in advance by the City and SDC, such approval not to be unreasonably withheld, conditioned, or delayed. A copy of such bonds shall be furnished to the City and SDC (and any assignee of SDC pursuant to Section 5.1 below) prior to the beginning of the construction of any Infrastructure Improvements. In the event the general contractor for the City Infrastructure Improvements defaults in the performance of its construction contract, the City shall take immediate and appropriate action to enforce such bonds or otherwise cause the work to be completed on or before the deadline set forth on Exhibit B.

(h) SDC and the City covenant and agree that each will pay, or cause to be paid, promptly all persons or entities supplying work or materials for the construction of the Infrastructure Improvements. In the event that any materialmen's or mechanics' liens are filed against the Land or the Public Land in connection with the construction of the Infrastructure Improvements, SDC or the City, as applicable, covenants and agrees that it will discharge bond off or insure over any such lien.

2.2. Contingencies to SDC's Construction Obligations. Notwithstanding any provision to the contrary contained in this Agreement, in no event shall SDC be required to commence construction of the SDC Infrastructure Improvements or any other improvements unless and until the following conditions have been satisfied:

- (a) SDC shall have acquired the Land;
- (b) SDC shall have obtained the City Authorizing Resolution in form reasonably acceptable to SDC and any assignee under Section 5.1 and all other documents executed by the Parish and the City in connection herewith;
- (c) SDC shall have obtained satisfactory financing for the cost of construction of the Mixed Use Development and SDC's portion of the Infrastructure Improvements; and
- (d) The City shall not be in default of its obligations under this Agreement. The Parish shall not be in default of its obligations under any of the Cooperative Endeavor Agreements between the City and the Parish related to the Infrastructure Improvements.

2.3. The Development.

(a) Provided that SDC is successful in obtaining the leasing and acquisition commitments that it requires to proceed with the Development (as shall be determined by SDC in SDC's discretion), the City has performed (or is performing timely) its respective obligations hereunder, and subject to the requirements set forth herein, SDC shall develop the Mixed Use Development in accordance with a Development Plan to be approved by the City.

(b) The City acknowledges that SDC's plans for the Development are not finalized and cannot be finalized until after this Agreement is executed by the Parties, SDC successfully acquires the Land, SDC successfully obtains both a Clean Water Act Section 401(c) Water Quality Certification issued by the Louisiana Department of Environmental Quality and a Clean Water Act Section 404 permit issued by the USACE authorizing the Development, and SDC's sales and leasing of the Mixed Use Development are completed. The City further acknowledges that the configuration of the Development and the configuration of the Preliminary Site Plan may change numerous times during the term of this Agreement as anchor transactions are completed, leases and development agreements are executed for the Development, or as other reasons incident to the development of the Development arise. The City acknowledges that any and all required tree mitigation is shown, or will be shown, on the landscaping plans to be submitted as a part of the final Development Plan approval, which approval will not be unreasonably withheld, and that no further mitigation will be required.

(c) Design work for the Development shall be prepared in accordance with SDC's business judgment with respect to constructing the Development. SDC agrees to obtain all necessary approvals and permits for the Development from the City or other governmental entities having jurisdiction over the Development in the normal course, and the City agrees that neither of them will impose any additional or new requirements or fees on SDC or the Development with respect to the initial construction of the Development other than those existing as of the date of the full execution of this Agreement.

ARTICLE III

DEDICATION AND ACCEPTANCE OF INFRASTRUCTURE IMPROVEMENTS AND PUBLIC LAND

3.1. Dedication and Acceptance of Infrastructure Improvements and Public Land to the City. Subject to the provisions of Section 2.2 and all other applicable provisions of this Agreement, SDC shall dedicate, or cause to be dedicated, pursuant to a subdivision plat, the Public Land (including all applicable servitudes) to the City, as applicable, and such Parties shall accept the dedicated Public Land. Upon completion of the Infrastructure Improvements, the City shall accept the dedication of the Infrastructure Improvements within thirty (30) days following the completion in accordance with the approved Infrastructure Improvements Plans. Such dedication and acceptance shall be subject to SDC or its assignee's right to use and to maintain the landscaped areas for amenities, lighting, signage and related uses incidental to the Development.

3.2. **Expenses.** Each Party shall be responsible for payment of its attorneys' fees related to this transaction.

ARTICLE IV

COVENANTS OF THE PARTIES

4.1. **Covenants of SDC.** Throughout the term of this Agreement, SDC hereby covenants to the City that it shall comply with the following:

(a) In the use of the Land and the abutting public ways, SDC will comply in all material respects with all lawful requirements of all governmental bodies having jurisdiction over the Development; provided, however, SDC may, at its own expense in good faith, contest the validity or applicability of any such requirements. No contest by SDC shall be construed as an admission by the City of support of the validity of SDC's position in any such contest.

(b) SDC will duly pay and discharge all taxes, assessments and other governmental charges and liens lawfully imposed on the Land.

(c) SDC will do, execute, acknowledge and deliver such further acts, instruments and assurances as the City shall reasonably require for accomplishing the purposes of this Agreement.

4.2. **Covenants of the City.** Throughout the term of this Agreement, the City hereby covenants to SDC that it shall comply with the following:

(a) The City will do, execute, acknowledge and deliver such further acts, conveyances, assurances, easements, servitudes, licenses, permits, and documents as SDC shall reasonably require for accomplishing the purposes of this Agreement. Prior to commencement of construction of any SDC Infrastructure Improvements, the City and the Parish shall grant to SDC (its permitted successors and assigns, contractors, agents and employees) a temporary construction easement over the areas of the Public Land upon which such Infrastructure Improvements shall be situated. Specifically, and without limitation, the Parish and the City agree that certain dewatering/erosion control activity may commence prior to the final subdivision approval but subsequent to the issuance of the necessary USACE permits, which activity would include erosion control for the existing Lakewood Ditch, W-14 Canal, and the Mixed Use Development as well as on site excavation as necessary to establish shallow drainage channels to remove surface and near surface water and selective clearing and temporary access routes as needed to facilitate these activities.

(b) The City agrees to do all things and to take all actions necessary to assist SDC in its expeditious processing of all applications for, obtaining and maintaining the permits relating to development of the Development and the timely renewal of all applicable permits, licenses, authorizations and approvals of or with the Federal Government, the State and all applicable agencies and local governments necessary to permit SDC to construct the Development.

(c) SDC shall be entitled to any and all dirt from the W-14 Canal widening and the relocation of the Lakewood Ditch (all as more particularly described on Exhibit B), including the part of the Lakewood Ditch currently located within the property designated as the Weigh Station on Exhibit A-1. Such dirt shall be placed in the area(s) of the Development designated by SDC and used in the Development or otherwise disposed in SDC's sole discretion but in accordance with all applicable laws and regulations. The parties acknowledge that material from the W-14 Canal Excavation may be used in the construction of the Boulevard.

(d) The City agrees to cooperate in good faith with SDC in any replatting or subdivision approvals which may be required in connection with the construction of the Development.

4.3. Covenants of Parties with respect to Weigh Station.

The Parties acknowledge that the Weigh Station is owned by the State and has not (and will not) be declared "excess property." The City agrees to enter into a Cooperative Endeavor Agreement with the State in a form similar to the form attached hereto as Schedule 3 (or in a form approved by the City) with respect to the use of the Weigh Station for (i) the W-15 Canal (also know as the "Lakewood Ditch"), as relocated in accordance with the terms of this Agreement and (ii) the Frontage Road. In connection therewith, the City hereby grants and assigns to SDC all rights, licenses and easements necessary for the construction of the SDC Infrastructure Improvements and related improvements for the Development to be located within the Weigh Station. In addition, the City acknowledges that certain parking spaces to be constructed within the Development (as shown on Exhibit A-2) will be located within the Weigh Station and that SDC will be entitled to the use of such spaces pursuant to a Joint Use Agreement between the State and SDC.

4.4. Covenants of Parties with respect to Frontage Road.

The City and the State have entered into an Agreement dated March __, 2008, a copy of which is attached hereto as Schedule 4, pursuant to which the Frontage Road will be constructed by the City with State allocated funds. In order to satisfy the City's twenty percent (20%) match pursuant to such agreement, SDC agrees to contribute the land, or to cause the land to be contributed, on which the Frontage Road within the Development is to be located.

4.5. Assignment. This Agreement may be assigned or transferred in whole or in part by SDC to any of its affiliates, related entities or any of their lender(s) financing any portion of the Development without obtaining the prior written consent of the City (but with prior written notice to the City), so long as the assignee expressly assumes this Agreement in writing and agrees in writing to perform all of SDC's obligations under this Agreement.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

5.1. Representations and Warranties of SDC. To induce the City to enter into this Agreement, to construct and/or fund the Infrastructure Improvements in accordance with Exhibit

B, and to accept the dedication of the Public Land and the Infrastructure Improvements, SDC does hereby make the following representations and warranties to the Parish City:

(a) SDC is a limited liability company duly formed, validly existing, and in good standing under the laws of the State of Delaware, and is duly qualified to do business in and is in good standing with the State. SDC has full power and authority to enter into this Agreement and to incur the obligations set forth herein, each of which have been authorized by all necessary limited liability company action of SDC.

(b) This Agreement constitutes a legal, validly binding obligation of SDC, enforceable in accordance with its terms.

5.2. Representations of the Government Parties. To induce SDC to enter into this Agreement, to construct a portion of the Infrastructure Improvements in accordance with Exhibit B, to dedicate the Infrastructure Improvements and the Public Land as provided herein, and to develop the Development, the City hereby makes the following representations and warranties to SDC:

(a) The City has the legal power and authority to enter into this Agreement, to make the respective commitments made in this Agreement and to perform its respective obligations under this Agreement, and to the extent that any authorization, approval or consent of any government authority, body or agency or third party is required for it to have entered into this Agreement and make the commitments contained in this Agreement, such authorizations, approvals and consents have been duly obtained in accordance with applicable law and procedures. In furtherance of the foregoing, the City has adopted or entered into all original and duly authorized resolutions and/or agreements or ordinances if any, necessary so that this Agreement may be properly authorized and executed. This Agreement constitutes the valid and binding obligation of the City, enforceable in accordance with its terms. True and correct copies of all documents referenced in this Section 6.2(a) have been provided to SDC.

(b) The City is not prohibited from consummating the transactions contemplated in this Agreement by any law, regulation, agreement, instrument, restriction, order or judgment.

(c) The City has determined that there are sufficient public purposes served by this Agreement for each to enter into this Agreement and to perform its obligations hereunder.

(d) Except as described on Exhibit B, there is no off-site work required in order for SDC or any other party to obtain a certificate of occupancy from either of the Government Parties for any building to be constructed in the Development. Neither SDC nor any of its assignees, transferees or tenants will be denied a Certificate of Occupancy due to the City's failure to complete the City Infrastructure Improvements on or prior to the deadlines set forth in Exhibit B.

(e) The proper zoning classification for the Development is C-4 and the Land and the Development is zoned as such as of the date of this Agreement and shall continue to be zoned as such for the duration of the construction and operation of the Development.

ARTICLE VI

DEFAULTS AND REMEDIES

6.1. Defaults.

(a) In the event that SDC shall fail to keep and perform any covenant or agreement herein provided on the part of SDC to be kept or performed, then in such case, the City or the Parish may serve upon SDC written notice of such failure. SDC shall be deemed in default if such failure shall continue without being remedied prior to the expiration of the 30 day period following the service of such notice, or in the event of a breach other than the payment of money, SDC shall not have commenced the remedying of such default within the thirty (30) day period subsequent to written notice and shall not diligently prosecute same to completion; provided further that no Party shall be entitled to provide a notice of default to SDC if such Party is then in default of its obligations under this Agreement after applicable notice and opportunity to cure.

(b) In the event that the City shall fail to keep and perform any covenant or agreement herein provided on the part of the City to be kept or performed, then in such case, SDC may serve upon the City written notice of such failure. The City shall be deemed in default if such failure shall continue without being remedied prior to the expiration of the 30 day period following the service of such notice, or in the event of a breach other than the payment of money, the City as applicable, shall not have commenced the remedying of such default within the thirty (30) day period subsequent to written notice and shall not diligently prosecute same to completion; provided further that SDC shall be not entitled to provide a notice of default to the City if SDC is then in default of its obligations under this Agreement after applicable notice and opportunity to cure.

6.2. Remedies.

(a) Remedies of SDC. Upon default by the City as set forth in 7.1(b), SDC may take whatever legal proceedings may appear necessary or desirable to enforce any obligation or covenant or agreement the City under this Agreement or by law. Without limiting the foregoing and notwithstanding anything to the contrary contained in this Agreement, the Parties agree that it is impossible to measure in money the damages which will accrue to SDC by reason of a failure of the City to perform any of its obligations under this Agreement. Therefore, the City hereby waive the claim or defense that SDC has or will have an adequate remedy at law solely for money damages, the City specifically acknowledges SDC's right to specific performance under this Agreement, in addition to all other rights and remedies set forth in this Section 7.2(a).

(b) Remedies of the City and the Parish. Upon default by SDC as set forth in 7.1(a) above, the City (i) may take whatever legal proceedings may appear necessary or desirable to enforce any obligation of the SDC to construct the SDC Infrastructure Improvements or (ii) may elect (A) to refuse to accept dedication of any of the Infrastructure Improvements to be constructed by SDC during the pendency of any such default or (B) to cease the performance of any of its obligations hereunder, including, without limitation,

construction of the City Infrastructure Improvements. Such remedy shall last only until such time as the default has been cured.

6.3. Availability of Remedies.

(a) In the event any agreement contained in this Agreement should be breached by a Party and thereafter waived by the other Parties, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

(b) All rights, remedies and powers provided by this Article 7 may be exercised only to the extent the exercise thereof does not violate any applicable provision of law applicable to the Development, and all the provisions of this Article 7 are intended to be subject to all applicable mandatory provisions of law which may be controlling in respect of the Development and to be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable.

ARTICLE VII

LAKWOOD DITCH AND W-14 CANAL

7.1. Relocation of Lakewood Ditch and Improvement of W-14.

The City hereby approves the relocation of the Lakewood Ditch (W-15 Canal) by SDC from its existing location to the location shown on **Exhibit A-2** attached hereto. The relocation shall be at SDC's sole cost and expense. Upon the dedication of the relocated Lakewood Ditch, the City shall vacate (in favor of SDC) the existing portions of such ditch that have been relocated. The parties acknowledge that certain off-site easements will be required in order to complete the required improvements to the W-14 Canal. The Parties agree to cooperate in good faith and to use all necessary action to obtain such off-site easements.

7.2. Off – Site Work, Baker Property and Sewer Consolidation.

Except as described on Exhibit B and in the following sentences, there is no off-site work required in order for SDC or any other party to obtain a certificate of occupancy from the City for any building to be constructed in the Development. SDC agrees to advance funds in order to facilitate completion (in accordance with the deadlines set forth on Exhibit B) of the Infrastructure Improvements related to off-site construction of water and sewer from Fremaux Avenue to the Development and to the Baker Property (as defined below).

The Parties acknowledge that certain Governmental Authorities have required that the construction of the Boulevard at Fremaux Avenue align with the Frontage Road to be constructed on the northern side of Fremaux Avenue. Such alignment requires the acquisition of certain property known as the "Baker Property" and more particularly described in Schedule 5. SDC agrees to fund the acquisition of the Baker Property.

The City agrees to make available to the Development the Sewer Consolidation Fund, and to that end, agrees to perform its obligations under the Cooperative Endeavor Agreement

with the Parish dated March ____, 2008 and attached hereto as Schedule 5 and to enforce its rights under such Agreement for the benefit of the Development. Neither SDC nor any of its assignees, transferees or tenants will be denied a Certificate of Occupancy due to the City's failure to complete the City Infrastructure Improvements on or prior to the deadlines set forth in Exhibit B.

ARTICLE VIII

MISCELLANEOUS

8.1. Real Estate Commissions. Each of the Parties warrants and represents to the other Parties, that there are and shall be no brokerage fees, commissions, or other remuneration of any kind arising from the execution or performance of this Agreement. Each of the Parties shall forever indemnify and hold the other Parties harmless against and in respect of any and all claims, losses, liabilities and expenses, including, without limitation, reasonable attorney's fees and court costs, which the respective Parties may incur on account of any claim by any broker or agent or other person on the basis of any arrangements or agreements made or alleged to have been made by or on behalf of any Party, in respect to the transactions herein contemplated. The provisions of this Section shall survive the dedication of the Infrastructure Improvements.

8.2. Notices. Any notice required or permitted to be delivered hereunder shall, except as otherwise expressly provided herein, be deemed to have been given upon the earlier to occur of (i) actual receipt by the addressee thereof including without limitation via facsimile transmission or personal delivery; (ii) the third (3rd) day after the deposit of such notice in the United States Mail, postage prepaid, registered or certified mail, return receipt requested, addressed to SDC or the Parish or the City, as the case may be, as set forth below; or (iii) the first (1st) day after such notice has been deposited with a nationally recognized overnight courier (i.e. Federal Express); in either case, such notices to be addressed as follows:

To SDC: Slidell Development Company, L.L.C.
 c/o Bayer Properties, L.L.C.
 2222 Arlington Avenue
 Birmingham, Alabama 35205
 Attn: General Counsel

With a copy to: Denise W. Killebrew, Esq.
 Baker Donelson Bearman Caldwell & Berkowitz, P.C.
 420 20th Street North, Suite 1600
 Birmingham, AL 35203

To the City: The City of Slidell
 2056 Second Street
 Slidell, Louisiana 70458
 Attn: Tim Mathison

To the City: The City of Slidell

1330 Bayou Lane
No. 103
Slidell, Louisiana 70460
(Note: This is a temporary address)

With a copy to: Tim Mathison
City Attorney
2056 Second Street
Slidell, Louisiana 70458

With a copy to: Tim Mathison
City Attorney
1330 Bayou Lane
No. 103
Slidell, Louisiana 70460
(Note: This is a temporary address)

8.3. Attorney's Fees. If any party receives a judgment, settlement, or award in its favor (the "**Receiving Party**") against another Party (the "**Paying Party**") regarding an action under this Agreement, the Paying Party will pay upon demand all of each Receiving Party's costs, charges, and expenses, including reasonable attorneys' fees, associated with such legal action; provided, however, if, prior to commencement of a trial, the Paying Party offered to pay an amount equal to or in excess of such judgment, settlement or award, then the Receiving Party shall not be entitled to such costs, charges and expenses, including reasonable attorneys' fees, associated with such legal action.

8.4. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered to be an original document.

8.5. Successors and Assigns. This Agreement shall be inure to the benefit of and bind the parties hereto, their respective successors and/or assigns.

8.6. Survival of Covenants. The covenants in this Agreement shall not terminate until they have been fully performed or have expired by their terms. All covenants, representations and warranties shall survive the expiration or earlier termination of this Agreement (and the obligations to be performed hereunder) unless otherwise expressly provided in a written agreement signed by all of the Parties.

8.7. Severability. If any term or provision hereof shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not effect the validity of the remainder of this Agreement.

8.8. Governing Law. This Agreement shall be governed by the laws of the State without regard to its principles of conflict of laws which would result in the application of the laws of any other jurisdiction.

8.9. No Waiver. No consent or waiver, express or implied, by any Party hereto or to any breach or default by any Party in the performance by another Party of its obligations hereunder shall be valid unless in writing, and no such consent or waiver to or of one breach or default shall constitute a consent or waiver to or of any other breach or default in the performance by any other Party of the same or any other obligations of any such Party hereunder. Failure on the part of any Party to complain of any act or failure to act any other Party or to declare the any other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by any such Part(ies) of its (their) rights hereunder. The granting of any consent or approval in any one instance by or on behalf of any Party hereto shall not be construed to waive or limit the need for such consent in any other or subsequent instance.

8.10. Remedies. Whenever a Party hereto shall default in the performance of any of its obligations under this Agreement, the other Parties hereto may take whatever legal proceeding as is provided for such Party(ies) in Article 7 of this Agreement.

8.11. No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be construed to be a partnership or joint venture among the Parties and their respective successors and assigns.

8.12. Headings. The headings in the sections in this Agreement are for convenience of reference only and shall not form a part hereof.

8.13. No Third-Party Beneficiaries. Except as otherwise expressly set forth herein, this Agreement is intended only for the benefit of the signing Parties hereto (or any assignee pursuant to Section 5.1 above), and neither this Agreement, nor any of the rights, interest or obligations hereunder, is intended for the benefit of any other person or third-party. Notwithstanding the foregoing sentence, the Parties acknowledge that SDC may sell or ground lease certain portions of the Mixed Use Development to anchor occupants, and the Parties hereby agree that such conveyed or ground leased portions shall be released from any obligations under this Agreement that would otherwise be binding on such tracts or the owners or ground lessees thereof. The owners and ground lessees referenced in the preceding sentence shall be third party beneficiaries under this Section 9.13 and under Section 6.2(d).

8.14. Press Releases. The City and SDC agree to cooperate fully in connection with any and all press releases and publications concerning the tenants or occupants of the Development. Without limiting the foregoing, the Parties agree that no press releases relating to the Development will be issued without SDC's prior written approval.

8.15. Further Assurances. The City agrees to do all things and take all actions required and/or desirable, consistent with this Agreement, to assist, cooperate with and enable SDC in the construction of the Development (including, without limitation, the construction of the Mixed Used Development in accordance with the Preliminary Site Plan and the spirit and intent of this Agreement) and to continue to do same on an ongoing basis thereafter, including without limitation, the obtaining, negotiation, execution and delivery of all necessary or desirable agreements, filings, consents, authorizations, approvals, permits, certificates, licenses, easements, servitudes, or deeds. SDC agrees to do all things and take all actions required and/or desirable, consistent with this Agreement, to assist, cooperate with and enable the City in the

construction of the City Infrastructure Improvements and to continue to do same on an ongoing basis thereafter, including without limitation, the obtaining, negotiation, execution and delivery of all necessary or desirable agreements, filings, consents, authorizations, approvals, permits, certificates, licenses, easements, servitudes, or deeds.

8.16. Entire Agreement. This Agreement contains the entire agreement of the Parties and there are no representations, oral or written, relating to the transactions described herein which have not been incorporated herein. Any agreement hereafter made shall be ineffective to change, modify, or discharge this Agreement in whole or in part unless such agreement is in writing and is signed by the Party against whom enforcement of any change, modification, or discharge is sought.

8.17. Exhibits. The Recitals set forth above and the following exhibits attached hereto are incorporated herein for all purposes:

- Exhibit A Legal Description of the Land
- Exhibit A-1 Map of the Land
- Exhibit A-2 Preliminary Site Plan
- Exhibit B Infrastructure Improvements
- Schedule 1 Cooperative Endeavor Agreement between the City and the Parish with respect to the funding of the Boulevard.
- Schedule 2 Cooperative Endeavor Agreement between the City and the Parish with respect to CDBG Funds.
- Schedule 3 Form of Weigh Station Cooperative Endeavor Agreement.
- Schedule 4 Agreement between the State and City with respect to the Frontage Road.
- Schedule 5 Cooperative Endeavor Agreement between the City and the Parish with respect to the Baker Property.

8.18. CDD and EDD. The City acknowledges that SDC is considering the creation of a Community Development District (“**CDD**”) and/or an Economic Development District (“**EDD**”) to facilitate its infrastructure and development financing for a portion of the Development. In the event SDC elects to proceed with the creation of a CDD and/or an EDD, the City agrees to cooperate with SDC with respect to same and agrees that SDC’s payment obligations as set forth herein and in Exhibit B may be satisfied from proceeds of bonds issued through the CDD and/or EDD.

[Remainder of page intentionally left blank]

**SIGNATURE PAGE
FOR
DEVELOPMENT AGREEMENT**

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their duly authorized officers and/or representatives, to be effective the day and year first above written.

SDC:

SLIDELL DEVELOPMENT COMPANY, L.L.C.
a Delaware limited liability company

By: _____
Name: _____
Its: _____

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of **SLIDELL DEVELOPMENT COMPANY, L.L.C.**, a Delaware limited liability company, is signed to the foregoing Development Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Development Agreement, as such officer and with full authority executed the same voluntarily for and as the act of said corporation.

Given under my hand this the _____ day of _____, 2008.

[NOTARIAL SEAL]

Notary Public
My Commission Expires: _____

**SIGNATURE PAGE
FOR
DEVELOPMENT AGREEMENT**

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed by their duly authorized officers and/or representatives, to be effective the day and year first above written.

CITY:

CITY OF SLIDELL, LOUISIANA,
a municipal corporation

By: _____
Name: _____
Its: _____

STATE OF LOUISIANA
PARISH/COUNTY OF _____

Before me, the undersigned Notary Public, duly commissioned, qualified and sworn within and for the State and Parish/County aforesaid, personally came and appeared _____, who acknowledged that he/she is the _____ of the **CITY OF SLIDELL, LOUISIANA**, a municipal corporation (the "**Corporation**"), that as such duly authorized officer, by and with the authority of the Board of Directors of the Corporation, he/she signed and executed the foregoing instrument for and on behalf of the Corporation, as his/her and its free and voluntary act and deed, for the uses, purposes and benefits therein expressed.

WITNESSES:

Print name: _____

(Signature)

Sworn to and subscribed before me
this _____ day of _____, 2008.

NOTARY PUBLIC
My commission expires: _____

EXHIBIT "A"

Legal Description of the Land

Lifestyle Center

Vintage

UNO

EXHIBIT "A-1"
Preliminary Site Plan

EXHIBIT "B"

Infrastructure Improvements

Improvement	Engineering/ Responsible Party	Construction/ Responsible Party	Payment of Costs/Responsible Party	Engineering Completion	Construction Commencement	Construction Completion
1. Boulevard including tie-ins to Development at Fremaux and Old Spanish Trail and upgrades.	City	City	City (up to \$10,000,000) Balance – SDC			12/31/08
2. Utilities (Water Loop and off-site water and sewer to site)	City/SDC	City/SDC	City (up to \$2,000,000) Balance – SDC			3/31/09
3. W-14 Canal - Improvements	SDC	SDC	SDC			
4. Lakewood Ditch Relocation	SDC	SDC	SDC	N/A	4-30-08	Prior to commencement of building construction on the retail portion of the Mixed Use Development
5. Frontage Road	City	City	State			12/31/08

SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

SCHEDULE 4

SCHEDULE 5