



Huntsville, Alabama

305 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 2/12/2026

File ID: TMP-6554

Department: Urban Development

Subject:

Type of Action: Approval/Action

Resolution authorizing and approving (i) a Project Development Agreement among the City, Eli Lilly and Company, and the Industrial Development Board of the City of Huntsville respecting a new pharmaceutical facility to be located within the City, and (ii) a Property Transfer Agreement between the City and Eli Lilly and Company for the transfer of the facility site.

Resolution No.

Finance Information:

Account Number: TBD

City Cost Amount: TBD

Total Cost: TBD

Special Circumstances:

Grant Funded: NA

Grant Title - CFDA or granting Agency: NA

Resolution #: NA

Location: (list below)

Address:

District: District 1 District 2 District 3 District 4 District 5

Additional Comments:

RESOLUTION NO. 26-_____

WHEREAS, Eli Lilly and Company, an Indiana corporation (the "Company"), is a globally-recognized, Fortune 200 pharmaceutical company engaged in the research, manufacture, production and distribution of numerous pharmaceutical and medicinal treatments (collectively, "Company Products"), with offices in 18 countries and world-wide product sales in approximately 125 countries; and

WHEREAS, the Company has determined to construct and develop a not less than 750,000 square foot facility for the research, manufacture, and production of Company Products (said facility and all equipment to be located therein, the "Project"), and following a nation-wide site selection process and consideration of proposals from various state and regional economic development authorities, many of which offered free project sites, up-front cash grants, utility infrastructure, tax abatements, and other substantial economic incentives and inducements, the Company determined to locate the Project within the corporate limits of the City; and

WHEREAS, the Company anticipates making an initial capital investment of taxable real and personal property of not less than \$4,200,000,000 over a seven (7) year period for the Project, and by the end of a six (6) year "ramp-up" hiring period having at least 449 full time employees earning an average hourly wage, exclusive of benefits and overtime, of \$54.20, employed at the Project; and

WHEREAS, in order to attract the Company to select the City as the location of the Project, the City offered to (i) transfer to the Company, at no cost, an approximately 260 acre parcel of real property to serve as the site for the Project (the "Project Site"), (ii) hold for future expansion of the Project an additional 240 acre site of City owned land located adjacent to the Project Site, (iii) provide up to \$2.0 million in workforce development, recruitment, and training for Project employees, (iv) provide points of contact, technical assistance, expedited review and processing, and other support incident to construction permitting for the Project, and (v) provide up to \$250,000 in related Project costs, all under the terms and conditions, and as more particularly described and set forth, in the Project Agreements hereinafter defined and authorized; and

WHEREAS, the City has determined to enter an agreement among the City, the Company, and the Industrial Development Board of the City of Huntsville (the "IDB"), hereinafter authorized and defined as the "Project Development Agreement", under and pursuant to which the foregoing terms are to be memorialized and agreed, and, further, under which the City, acting in concert with Huntsville Utilities ("HU"), will extend or have HU extend sewer, water, and natural gas infrastructure to an agreed upon point of delivery up to the Project Site at no cost to the Company; and

WHEREAS, the City has determined to enter an agreement between it and the Company, hereinafter authorized and defined as the "Property Transfer Agreement", setting forth and

memorializing certain terms respecting the transfer of the Project Site and payment by the City of up to \$250,000 for certain Project related costs; and

WHEREAS, the City has determined that the location of the Project in the City will substantially expand and enhance the prosperity, health, safety, contentment, and general welfare of the City and its residents by, among other things: (i) promoting, improving, and expanding economic and industrial development; (ii) expanding the economic diversity of industrial and manufacturing activities in the City through the location of a world-leader in the research, development, production, and distribution of pharmaceuticals; (iii) enhancing the City's reputation as a national destination for life science and other advanced scientific companies and enterprises; (iv) increasing the number and diversity of research, manufacturing, and industrial jobs and related employment opportunities; (v) enabling the area surrounding the Project Site to better attract and retain life science and other advanced scientific, research, manufacturing and industrial enterprises; and (vi) expanding the overall tax base of the City; and

WHEREAS, the City Council of the City (the "Council") hereby recites that the location and operation of the Project at the Project Site will assist in the expansion of economic developments that are critical to the sustained health and wellbeing of the City and its citizens, and that the provision of the Project Site to the Company, along with the City payments, the utility improvements, and the various other forms of financial and Project assistance to be provided by the City as described in the Project Development Agreement and the Property Transfer Agreement (together, the "Project Agreements"), are being made under and in furtherance of any power and authority authorized by Amendment 772 to the Constitution of Alabama of 1901, now codified as Section 94.01 of the Constitution of Alabama of 2022, as amended, and the Council has determined that the provision of land and other things of value by the City, and the expenditure of public funds by the City, for the purposes specified in the Project Agreements, will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

NOW, THEREFORE, BE IT RESOLVED, by the Council that the Project Development Agreement respecting the Project among the Company, the City and the IDB, in substantially the form attached hereto as Exhibit A and with such changes thereto as shall be approved by the Mayor on behalf of the City (the "Project Development Agreement"), is hereby authorized and approved, and that the Mayor is herein authorized to sign, by and on behalf of the City, the Project Development Agreement and deliver the same to the Company, and that the City Clerk is hereby authorized to execute, attest, and affix the corporate seal of the City to the Project Development Agreement by and on behalf of the City; and

FURTHER RESOLVED, by the Council that the Property Transfer Agreement respecting the transfer by the City of the Project Site among the Company and the City, in substantially the form attached hereto as Exhibit B and with such changes thereto as shall be approved by the Mayor on behalf of the City (the "Property Transfer Agreement"), is hereby authorized and approved, and that the Mayor is herein authorized to sign, by and on behalf of the

City, the Property Transfer Agreement and deliver the same to the Company, and that the City Clerk is hereby authorized to execute, attest, and affix the corporate seal of the City to the Property Transfer Agreement by and on behalf of the City; and

FURTHER RESOLVED, that the Mayor is hereby authorized to execute and deliver, by and on behalf of the City, such amendments to the Project Agreements and such other documents, instruments, and agreements, as may be necessary or desirable to accomplish cause the Project to be completed and located within the City, and to accomplish the intentions of the parties to the Project Agreements and any other results as may be contemplated by the Project Agreements, and the City Clerk is hereby authorized to execute, attest and affix the corporate seal of the City to any such amendments, documents, instruments, and agreements.

ADOPTED this the 12th day of February, 2026

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 12th day of February, 2026

Mayor of the City of
Huntsville, Alabama

EXHIBIT A
FORM OF PROJECT DEVELOPMENT AGREEMENT

PROJECT DEVELOPMENT AGREEMENT

THIS PROJECT DEVELOPMENT AGREEMENT (this "Agreement") is hereby made and entered into on February 12, 2026, by and between the **CITY OF HUNTSVILLE, ALABAMA**, an Alabama municipal corporation (the "City"), **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF HUNTSVILLE**, a political corporation of the State of Alabama (the "IDB,"), and together with the City, the "Local Authorities" and, individually, a "Local Authority"), and **ELI LILLY AND COMPANY**, a corporation organized under the laws of the State of Indiana (the "Company"). The City, the IDB, and the Company are herein together sometimes referred to collectively as the "Parties" and, individually, as a "Party".

RECITALS

WHEREAS, the Company is a globally-recognized, Fortune 200 pharmaceutical company engaged in the research, manufacture, production and distribution of numerous pharmaceutical and medicinal treatments ("Company Products"), with offices in 18 countries and world-wide product sales in approximately 125 countries; and

WHEREAS, the Company is seeking to construct a manufacturing facility of not less than 750,000 square feet for the research, manufacture, and production of Company Products (the "Facility"); and

WHEREAS, the Company conducted a nation-wide process to identify a site for the Facility (such site, the Facility, the equipment to be installed therein, and the research, manufacture, production and distribution of Company Products, the "Project"), and considered proposals from state and regional economic development authorities across the United States, many of which offered a free site for the Facility, future expansion space, up-front funding, utility infrastructure, tax abatements, and various other substantial incentives and inducements for the Company to locate the Project to their respective jurisdictions; and

WHEREAS, the Company anticipates making an initial capital investment of taxable real and personal property of not less than \$4,200,000,000 over a seven (7) year period for the Project, and by the end of a six (6) year "ramp-up" hiring period having at least 449 full time employees earning an average hourly wage, exclusive of benefits and overtime, of \$54.20, employed at the Facility (defined in Section 3.3 of this Agreement as the "Jobs Target"), all as more particularly set forth and described herein; and

WHEREAS, in order to cause the Company to locate the Project to the City, and in consideration thereof, the City offered and has agreed (as more particularly set forth herein) to (i) transfer to the Company, at no cost, an industrial site for the Facility consisting of that certain parcel of real property aggregating approximately 260 acres, as more particularly described in **EXHIBIT A** hereto (the "Facility Site"), (ii) hold for future expansion of the Project an additional 240 acre site located adjacent to the Facility Site, as more particularly shown on **EXHIBIT B** hereto (the "Expansion Site"), (iii) provide up to \$2.0 million in workforce development, recruitment and training for Project employees, (iv) provide points of contact, technical assistance,

expedited review and processing, and other support incident to construction permitting for the Facility, and (v) agree to certain other terms and provisions, all as more particularly described and set forth herein; and

WHEREAS, the City, acting in concert with Huntsville Utilities ("HU") will extend or have HU extend necessary and appropriate sewer, water, and natural gas infrastructure to an agreed upon point of delivery up to the Facility Site at no cost to the Company; and

WHEREAS, the IDB is also herein committing to further incentivize the Company to locate the Project at the Facility Site by causing a ten (10) year abatement allowable under Alabama law of ad valorem taxes, sales and use taxes, and mortgage and recording taxes with respect to the Project, all as more particularly described and set forth herein (together with the land, money and other incentives described in the immediately preceding recitals, the "Public Incentives"); and

WHEREAS, the City has determined that the location of the Project in the City will substantially expand and enhance the prosperity, health, safety, contentment, and general welfare of the City and its residents by, among other things: (i) promoting, improving, and expanding economic and industrial development; (ii) expanding the economic diversity of industrial and manufacturing activities in the City through the location of a world-leader in the research, development, production, and distribution of pharmaceuticals; (iii) enhancing the City's reputation as a national destination for life science and other advanced scientific companies and enterprises; (iv) increasing the number and diversity of research, manufacturing, and industrial jobs and related employment opportunities; (v) enabling the area surrounding the Facility Site to better attract and retain life science and other advanced scientific, research, manufacturing and industrial enterprises; and (iv) expanding the overall tax base of the City; and

WHEREAS, the location and operation of the Project at the Facility Site will assist in the expansion of economic developments that are critical to the sustained economic health and well-being of the City, and the City finds that the provision of the Facility Site, the City payments, the utility improvements and other forms of assistance by the City described in this Agreement are being made under and in furtherance of any power and authority authorized by Amendment 772 to the Constitution of Alabama of 1901, now codified as Section 94.01 of the Constitution of Alabama of 2022 (the "Alabama Constitution"), and the City has determined that the provision of land and other things of value by the City, and the expenditure of public funds by the City, for the purposes herein specified, will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

NOW, THEREFORE, for and in consideration of the foregoing premises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby covenant, agree and bind themselves as follows:

ARTICLE I
REPRESENTATIONS AND WARRANTIES

Section 1.1 Representations and Warranties of the Local Authorities.

(a) The City hereby makes the following representations and warranties:

(i) The City, by action of its governing body, has duly authorized the execution, delivery and performance of this Agreement, and has the power to perform its obligations contained herein.

(ii) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the City, violates, constitutes a default under or a breach of any agreement, instrument, contract, mortgage, ordinance, resolution or indenture to which the City is a party or to which the City or its assets or properties are subject.

(iii) There is not now pending nor, to the knowledge of the City, threatened, any litigation affecting the City which questions (A) the validity or organization of the City, (B) the members, titles or positions of the members of the governing body or the manner in which the officers of the City are selected, or (C) the subject matter of this Agreement.

(b) The IDB hereby makes the following representations and warranties:

(i) The IDB, by action of its governing body, has duly authorized the execution, delivery and performance of this Agreement, and has the power to perform its obligations contained herein.

(ii) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the IDB, violates, constitutes a default under or a breach of any agreement, instrument, contract, mortgage, ordinance, resolution or indenture to which the IDB is a party or to which the IDB or its assets or properties are subject.

(iii) There is not now pending nor, to the knowledge of the IDB, threatened, any litigation affecting the IDB which questions (A) the validity or organization of the IDB, (B) the members, titles or positions of the members of the governing body or the manner in which the officers of the IDB are selected, or (C) the subject matter of this Agreement.

Section 1.2 Representations and Warranties of the Company. The Company hereby makes the following representations and warranties:

(a) The Company is duly organized and validly existing as a corporation under the laws of the State of Indiana and has duly authorized its execution, delivery and performance of this Agreement.

(b) Neither the execution and delivery of this Agreement, nor the performance hereof, by the Company requires any consent of, filing with or approval of, or notice to, or hearing with any person or entity (including, but not limited to, any governmental or quasi-governmental entity), except for such consents, filings, notices and hearings described herein, or already held or maintained.

(c) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the Company, violates, constitutes a default under or a breach of (i) the Company's articles of incorporation or other organizational documents of the Company, (ii) any agreement, instrument, contract, mortgage or indenture to which the Company is a party or to which the Company or its assets are subject, or (iii) any judgment, decree, order, ordinance, regulation, consent or resolution applicable to the Company or any of its assets.

(d) There is not now pending nor, to the knowledge of the Company, threatened, any litigation affecting the Company which questions the validity or organization of the Company, or any of the representations and warranties of the Company contained herein.

ARTICLE II

CITY AND IDB OBLIGATIONS

Section 2.1 The Facility Site. (a) In consideration of the Company designing, developing, installing, equipping, locating, and operating the Project at the Facility Site as described herein, the City shall convey the Facility Site to the Company for a price of \$10.00 as more particularly set forth and described in a Property Transfer Agreement to be entered at the time of execution of this Agreement between such parties, the form of which is set forth on **EXHIBIT C** (the "**PTA**"). The PTA shall set forth and describe the due diligence and similar, pre-conveyance rights of the Company and related obligations of the City concerning the Facility Site. As more particularly set forth in the PTA, the City shall not prohibit or impede the actions of the Company or its agents in conducting its reasonable due diligence efforts, if any, respecting the Facility Site, and shall not sell, lease, convey, or otherwise encumber the Facility Site during the period from the Effective Date of this Agreement through and including the earlier to occur of the City having conveyed to the Company fee simple title to the Facility Site pursuant to the terms of the Facility Site PTA or termination of the Facility Site PTA.

(b) In addition to all terms in the PTA respecting the conveyance of the Facility Site to the Company, prior to the conveyance of the Facility Site to the Company the following special Facility development conditions shall have been satisfied:

(i) the Company shall have delivered to the City the preliminary site plan and the preliminary engineering plans and specifications for the overall construction of the Facility on the Facility Site, and

(ii) the Company shall have delivered to the City a certificate, signed by an authorized officer of the Company, to the effect that:

(1) the Company has completed its diligence efforts respecting the Facility Site, and

(2) the Company has the funding earmarked for and has determined to proceed with the construction, development, installation and equipping of the Facility on the Facility Site for the operations of the Project thereon and intends to satisfy the Capital Investment Target at the Facility Site.

(c) Unless otherwise agreed to in a written instrument between the Company and the City referencing this section of this Agreement (with the Mayor of the City herein authorized to execute and deliver any such written instrument on behalf of the City), if, for any reason, the PTA is terminated prior to such time as the Facility Site is transferred to the Company pursuant to the terms of the PTA, then any Party may terminate this Agreement upon written notice to the other Parties, at which point the Parties shall have no obligations to one another hereunder.

Section 2.2 Future Expansion Site. (a) The City covenants and agrees not to sell, transfer, convey, lease, or otherwise encumber the Expansion Site during the term of the Expansion Site Initial Period. As used herein, "Expansion Site Initial Period" shall mean a period of time commencing on the Effective Date of this Agreement and terminating on the earlier to occur of (i) the Capital Investment Deadline, or (ii) the date on which there is a Company Event of Default. At the time the City transfers the Facility Site to the Company, the City will execute a document setting forth the terms of this Section 2.2 to be recorded on the Expansion Site.

(b) The City covenants and agrees that, (i) if the Company shall have satisfied at least 85% of the Capital Investment Target (*i.e.*, the Company shall have made a Capital Investment at the Facility Site of at least \$3,570,000,000) by the Capital Investment Deadline, (ii) if the Company shall have satisfied at least 85% of the Jobs Target on or by the Jobs Target Deadline, and (iii) there shall not be a Company Event of Default, then the City shall not sell, transfer, convey, lease or otherwise encumber the Expansion Site for a period of five (5) years from the Capital Investment Deadline (the "Expansion Site Negotiation Period"). The City and the Company agree during the Expansion Site Negotiation Period to work in good faith in negotiating terms and agreements mutually agreeable to each of the Parties respecting the capital improvements and equipment to be made and installed by the Company on or at the Expansion Site to expand the Project, employment requirements for the said expansion, the price to be paid by the Company for the Expansion Site, and other related terms, as well as the terms and provisions of a purchase and sale agreement regarding the transfer and conveyance by the City to the Company of the Expansion Site.

Section 2.3 Workforce Grant. The City hereby agrees to make certain payments to the Company in connection with workforce training, development, recruitment and related costs of the Project (such payments herein called the "City Payments"), up to the aggregate sum of \$2,000,000, as follows:

(i) the City shall remit to the Company the sum of \$1,000,000 within 90 days after the Company furnishes to the City a certificate in the form set forth on **EXHIBIT D** hereto, signed by an authorized employee of the Company and submitted to the City on or before the close of the sixth Project Year, certifying that, as of the last business day of each of the three (3) consecutive calendar months immediately preceding the month in which such certificate is submitted, the Company employed at least 200 Full-Time Employees at the Facility earning the Minimum Average Hourly Wage, along with all supporting information and materials as shall enable the City to reasonably confirm and independently verify the employment and wage levels so certified by the Company; and

(ii) the City shall remit to the Company the sum of \$1,000,000 within 90 days after the Company furnishes to the City a certificate in the form set forth on **EXHIBIT D** hereto, signed by an authorized employee of the Company and submitted to the City on or before the close of the sixth Project Year, certifying that, as of the last business day of each of the three (3) consecutive calendar months immediately preceding the month in which such certificate is submitted, the Company employed at least 400 Full-Time Employees at the Facility earning the Minimum Average Hourly Wage, along with all supporting information and materials as shall enable the City to reasonably confirm and independently verify the employment and wage levels so certified by the Company.

Section 2.4 Permit Assistance and Expedited Inspection. The City agrees to assign a City officer, or an agent of the City, as a single point of contact to the Project to assist the Company and its agents with all coordination, permitting, inspections, and similar items for the Project, and a dedicated City officer and staff for expedited plan reviews, project permitting (including without limitation NPDES and air permits), and construction inspection services for the Project.

Section 2.5 Certain Utility Improvements for the Facility; Roadway Naming; Public Roadway Improvements. (a) The City shall, acting both independently and by and through Huntsville Utilities, at no cost to the Company, provide "point of service" sewer, water, and natural gas connections in the capacities described on Exhibit G (such sewer, water, and natural gas connections, the "Utility Requirements") up to locations at the Facility Site (but in no event within the Facility Site) mutually agreeable by the City and the Company. The City shall provide the Utility Requirements within the schedule set forth on Exhibit G; provided, if the Commencement of Construction Deadline is extended due to one or more Force Majeure Events or as may otherwise be agreed to by the parties then the deadlines set forth in Exhibit G shall be extended by the same number of days. (the "Utility Requirements Deadline"). For the avoidance of doubt, under no circumstances shall electric utility improvements be considered within the meaning of "Utility Requirements" as used in this Agreement.

(b) The City shall work with the Company in causing the Tennessee Valley Authority ("TVA") and Athens Utilities ("AU") to provide electric utilities in the manner previously committed by TVA and AU to the Company in capacities and in the timelines described in Exhibit G or, if the agreements between the Company and TVA and AU, as the case may be, require

capacities and/or deadlines different from those set forth on Exhibit G then on such timelines and in such capacities as so agreed among the Company, TVA and AU; provided, in no event whatsoever shall the City (including, without limitation, Huntsville Utilities) be obligated to provide, pay for, install, or otherwise be liable for any electric utility improvements.

(c) So long as the Company is not in default under this Agreement, the City, at no cost to the Company (other than the Company's obligation to convey certain property as described herein), shall realign Greenbrier Road at the intersection of Greenbrier Parkway once the Company has determined site access points (the "Realignment"). The Company agrees to donate to the City such portion of the Facility Site as shall be necessary for public rights-of-way to accommodate the Realignment. The Realignment shall be completed no later than 24 months from the later of (1) the date the Company has Commenced Construction of the Facility, and (2) the Commencement of Construction Deadline (the "Realignment Deadline").

(d) The City hereby covenants and agrees to name the public road that provides direct access to the Facility Site "Eli Lilly Way", or such other name as shall be determined by the Company.

(e) In the event that the City, (i) working through HU, fails to construct or cause construction of the Utility Requirements as set forth on Section 2.5(a) hereof by the close of the Utility Requirements Deadline or (ii) fails to complete the Realignment by the Realignment Deadline, then the Company, in addition to all remedies available at law or in equity, shall have the right, following the City Cure Period, to elect any one or more of the following remedies (herein called "Company Infrastructure Rights") as to any Utility Requirements or Realignment failures specified in the Company Notice that are not timely cured by the City before the end of the City Cure Period: (i) to have assigned by the City to the Company any and all underlying agreements and contracts entered into in connection with the Utility Requirements and/or Realignment; or (ii) to enforce the performance or observance by the City of any obligation, term or condition in connection with the Utility Requirements and Realignment (including, without limitation, the right to specifically enforce any such obligation, term or condition); or (iii) to cure, on the account of the City, any failure of the City to perform or observe a material obligation, term or condition in connection with the Utility Requirements or Realignment to be performed or observed by the City and to recover from the City all of the Company's reasonable costs and expenses incurred in curing such failure of the City. Prior to its exercise of any Company Infrastructure Rights, the Company shall have first provided written notice (a "Company Notice") to the City specifying the Utility Requirements or Realignment the Company claims the City to have failed to timely complete, and the City shall have a period of not to exceed sixty (60) days to cure such failure (the "City Cure Period").

Section 2.6 Tax Abatements. The IDB, with the consent of the City and Limestone County (the "County") (which consents the IDB represents and warrants it has obtained prior to the Effective Date of this Agreement), shall abate the following taxes in favor of the Company to the fullest extent allowed under Chapter 9B of Title 40 of the Code of Alabama 1975, as amended: (i) non-educational sales and use taxes imposed by the State, the City, and the County on tangible personal property and taxable services incorporated into the Project, (ii) non-educational ad valorem taxes imposed by the State, the City, and/or the County with respect to the Project and

the Facility Site for a period of 10 years from the October 1st following the C.O. Date for the Facility, and (iii) deed, mortgage and all other similar recording taxes with respect to the Project and the Facility Site whenever such taxes become due and payable; provided, such abatements shall cease in the event of a Closure/Relocation Event. The Local Authorities shall reasonably cooperate with the efforts of the Company in obtaining the abatements described in this Section 2.6.

ARTICLE III
PROJECT DEVELOPMENT AND EMPLOYMENT

Section 3.1 General. The Company acknowledges that the City and its citizens anticipate the receipt of economic benefit in return for the Public Incentives by the Company making the Capital Investment and operating and staffing the Project as described herein.

Section 3.2 Development of the Facility; Capital Investment; Commencement of Construction and Commencement of Operations. (a) The Company intends, and agrees to make commercially reasonable efforts, to design, develop, construct, install, and equip the Facility at the Facility Site, and to incur other Capital Investment costs at the Facility Site prior to expiration of seven (7) Project Years as shown on **EXHIBIT E** hereto (the "Capital Investment Period") so as to be suitable for the operation of the Project. In connection with the foregoing the Company intends to make a Capital Investment at the Facility Site of at least \$4,200,000,000 (the "Capital Investment Target") by the Capital Investment Deadline. The Company fully intends to diligently proceed with site preparation, construction, development, installation, and equipping of the Facility following its acquisition of title to the Facility Site.

(b) The Company agrees to make commercially reasonable efforts to Commence Construction of the Facility on or before the Commencement of Construction Deadline. As used herein, "Commencement of Construction Deadline" means December 31, 2027, subject to extension as set forth in (d) below upon one or more Force Majeure Events.

(c) The Company agrees to make commercially reasonable efforts to Commence Operations of the Project at the Facility on or before the Commencement of Operations Deadline. As used herein, "Commencement of Operations Deadline" means December 31, 2033, subject to extension as set forth in (d) below upon one or more Force Majeure Events.

(d) In the event the Company is unable to Commence Construction of the Facility by the Commencement of Construction Deadline, or Commence Operations of the Project by the Commencement of Operations Deadline, due to the occurrence of a Force Majeure Event, such deadlines shall be extended by the number of days, subject to the Extension Cap, if, within sixty (60) days from the date of such Force Majeure Event, the Company gives the IDB, as agent for the City, written notice containing (i) a description of the Force Majeure Event in question, (ii) an explanation of how the Company anticipates such event will affect the Company's performance under this Agreement, and (iii) what actions the Company plans to undertake to address the conditions caused by the Force Majeure Event; provided, in no event shall either such deadline be extended by more than one-hundred eighty (180) days (the "Extension Cap") as a result of one or more Force Majeure Events.

Section 3.3 Employment at the Facility. The Company intends, and agrees to make commercially reasonable efforts, to hire at the Facility over a period of six (6) Project Years, as shown on **EXHIBIT F**, such that the Company has reached the Jobs Target by the close of the sixth (6th) Project Year (the "Jobs Target Deadline"). As used herein, "Jobs Target" means employment at the Facility of least 449 Full-Time Employees earning the Minimum Average Hourly Wage. The Company further fully intends to maintain employment at least at the 10 Year Jobs Maintenance Requirement over the 10 Year Jobs Maintenance Period.

Section 3.4 General Regulatory Compliance.

(a) The Company will cause any construction activities on the Facility Site to be conducted in compliance with all applicable laws, ordinances, rules and regulations of any governmental authority, including, without limitation, all applicable licenses, permits, building codes, restrictive covenants, zoning and subdivision ordinances and flood, disaster and environmental protection laws. The Company shall require any architect, general contractor, subcontractor or other business performing any work in connection with the Facility to obtain all necessary permits, licenses and approvals to construct the same.

(b) At all times during the term of this Agreement, the Company shall be in material compliance with all applicable laws, ordinances, rules and regulations of the City and, further, shall be current in payment of any and all taxes, fees, and other charges imposed by the City and all local government entities unless such payments are the subject of a bona fide dispute and are being challenged by the Company.

**ARTICLE IV
RECONVEYANCE, RECAPTURE PAYMENT, AND
REPORTING OBLIGATIONS BY THE COMPANY**

Section 4.1 General Company Performance. The Company acknowledges that the City and its citizens anticipate the receipt of economic benefit in return for the Public Incentives through the Capital Investment Target and Jobs Target, Commencement of Operations within the timeframe anticipated and described herein, and maintenance of the 10 Year Jobs Maintenance Requirement during the 10 Year Jobs Maintenance Period.

Section 4.2 Restrictive Covenant Agreement; Confirmation of Commencement of Construction; Commencement Reconveyance. (a) At such time as the Facility Site is conveyed to the Company, a Restrictive Covenant Agreement (the "Restrictive Covenant Agreement") shall be recorded on the Facility Site, for the benefit and in favor of the City, establishing that the Facility Site may only be owned by the Company, or an Affiliate thereof, and used for the construction, development and operations of the Project. The Restrictive Covenant Agreement shall also contain additional provisions respecting the reversionary rights of the City set forth in Section 4.2(c) below; provided, upon the Company Commencing Construction (or, pursuant to Section 4.2(b) below, being deemed to have Commenced Construction) of the Facility by the Commencement Deadline, the City's reversionary interest shall automatically terminate, and the City shall execute and deliver to the Company such termination, quitclaim deed, or other

instrument as may be reasonably requested by the Company and determined thereby as necessary or desirable to evidence termination of the same.

(b) At such time as the Company determines it has Commenced Construction it may, but shall not be required to, submit notice of such determination to the City (a "Commencement of Construction Notice"), and the City shall have a reasonable period of time that is not in excess of forty-five (45) days to respond in writing to the Company either confirming the determinations of the Company or specifying in detail why the City believes the Company has not Commenced Construction. If the City fails to respond to a Commencement of Construction Notice as aforesaid within forty-five (45) days of the City's receipt of a Commencement of Construction Notice from the Company then the City shall be deemed to have agreed that the Company has Commenced Construction as of the date of its receipt of the Commencement of Construction Notice.

(c) If the Company does not Commence Construction of the Facility at the Facility Site by the Commencement of Construction Deadline, then, unless otherwise agreed to in writing by the City and the Company following good faith discussion between the Parties to (1) determine whether the Commencement of Construction Deadline has been met, and (2) whether reconveyance of the Facility Site to the City is required pursuant to the terms of this Agreement, the Company shall be required to convey fee simple title of the Facility Site, free and clear of any and all liens, third party rights, encumbrances or similar items, other than those in existence as of the date the Facility Site was conveyed to the Company, to the City within a period of not to exceed sixty (60) days from the Commencement of Construction Deadline; provided, if the Company has completed or caused to be completed rough grading of the Facility Site but not the pouring of the foundations and footings for the Facility by the Commencement of Construction Deadline, the Company may extend the Commencement of Construction Deadline for up to ninety (90) days by delivery of written notice to the City prior to the original Commencement of Construction Deadline. Anything in this Agreement to the contrary notwithstanding, whether express or implied, upon conveyance of the Facility Site to the City as aforesaid and in accordance with the requirements of this Section 4.2(c), this Agreement shall terminate and be of no further force or effect, and the Parties shall owe no obligations to one another, whether pursuant to this Agreement or otherwise.

Section 4.3 Certain Company Recapture and Related Obligations. The provisions of this Section 4.3 set forth and describe certain Recapture Obligations of the Company to the City that are not tied solely to employment levels during the 10 Year Jobs Maintenance Period.

(a) **Capital Investment Recapture Obligation.** Upon the earlier to occur of (1) the date the Company achieves the Capital Investment Target, or (2) the end of the seventh (7th) Project Year (such date, the "Capital Investment Report Date"), the Company shall furnish to the IDB, as agent for the City, a document executed by an authorized officer of the Company certifying the Capital Investment made or caused to be made by the Company at the Facility Site. In the event Capital Investment at the Facility is less than \$4,200,000,000 as of the Capital Investment Report Date, then the Company shall owe the City a Recapture Payment in an amount equal to the product of a percentage (which percentage is equal to 1 minus the percentage equal to the Actual Capital Investment divided by \$4,200,000,000) times the Recapture Base (the amount of such payment obligation, the "Capital Investment Recapture Obligation"). The Parties

acknowledge that any payment of a Capital Investment Recapture Obligation shall reduce the Recapture Base as applied to future Recapture Payment obligations of the Company hereunder. As used herein, "Actual Capital Investment" means the actual Capital Investment amount at the Facility Site as of the Capital Investment Report Date. For example purposes only, if the Actual Capital Investment as of the Capital Investment Report Date is \$3,750,000,000, the Capital Investment Recapture Obligation would equal $\$2,785,714$, as follows: $1 - (\$3,750,000,000/\$4,200,000) * \$26,000,000$.

(b) **Jobs Target Recapture Obligation.** Upon the earlier to occur of (1) the date the Company achieves the Jobs Target, or (2) the Jobs Target Deadline, the Company shall furnish to the IDB, as agent for the City, a document executed by an authorized officer of the Company certifying the number of Full-Time Employees earning the Minimum Average Hourly Wage at the Facility (the "Jobs Target Report"). In the event the Company has not achieved the Jobs Target by the Jobs Target Deadline, then the Company shall owe the City a Recapture Payment in an amount equal to the product of a percentage (which percentage is equal to 1 minus the percentage calculated by the FTE Result divided by the Jobs Target) times the Recapture Base (a "Jobs Target Recapture Obligation"). The Parties acknowledge that any payment of a Jobs Target Recapture Obligation shall reduce the Recapture Base as applied to all other Recapture Payment obligations of the Company hereunder. As used herein, "FTE Result" means the number of Full-Time Employees earning the Minimum Average Annual Wage employed at the Facility by the Jobs Target Deadline as reported by the Company in the Jobs Target Report.

(c) **Commencement of Operations Recapture Obligation.** (i) At such time as the Company determines it has Commenced Operations at the Facility Site it may, but shall not be required to, submit notice of such determination to the City (a "Commencement of Operations Notice"), and the City shall have a reasonable period of time that is not in excess of forty-five (45) days to respond in writing to the Company either confirming the determinations of the Company or specifying in detail why the City believes the Company has not Commenced Operations at the Facility Site. If the City fails to respond to a Commencement of Operations Notice from the Company as aforesaid within forty-five (45) days of the City's receipt of a Commencement of Operations Notice then the City shall be deemed to have agreed that the Company has Commenced Operations at the Facility Site as of the date of its receipt of the Commencement of Operations Notice.

(ii) If the Company does not Commence Operations at the Facility Site by the Commencement of Operations Deadline then, unless otherwise agreed to in writing by the City and the Company following good faith discussion between the Parties regarding whether the Commencement of Operations Deadline has been met, the City may elect to require that the Company pay the City an amount equal to the Recapture Base, as may have been reduced by the amount of any other recapture obligation payments made by the Company to the City pursuant to this Article IV (the "Commencement of Operations Recapture Obligation"); provided, if the Company has met the Capital Investment Target by the Capital Investment Deadline, the Company may extend the Commencement of Operations Deadline by up to one hundred eighty (180) days by delivery of written notice to the City prior to the original Commencement of Operations Deadline.

(iii) The Commencement of Operations Recapture Obligation shall be paid within thirty (30) days of coming due, and such amount shall bear interest at a per annum rate of 5.0% from and after such date, until paid. Upon payment of the Commencement of Operations Recapture Obligation, the Company shall have no further obligations or liabilities to the City under Article IV of this Agreement.

(d) **Closure/Relocation Recapture Obligation.** If, following Commencement of Operations at the Facility, either (i) the Facility is closed for a period in excess of one hundred eighty (180) consecutive days (other than temporary closures to the extent necessary to (A) complete renovations, restoration or repairs or (B) respond to the occurrence of a Force Majeure Event), or (ii) the Company relocates all or substantially all of its operations conducted at the Facility Site to a location outside the corporate limits of the City prior to the end of the 10 Year Jobs Maintenance Period (each of the foregoing herein called a "Closure/Relocation Event"), then an amount equal to (1) if the Closure/Relocation Event occurs before the close of the fifth (5th) year of the 10 Year Jobs Maintenance Period, the Recapture Base, or (2) if the Closure/Relocation Event occurs on or after commencement of the sixth (6th) year of the 10 Year Jobs Maintenance Period, the Unamortized Recapture Base (as defined below) shall be immediately due and payable by the Company to the City (such amount, the "Closure/Relocation Recapture Obligation"). Upon payment of any Closure/Relocation Recapture Obligation, the Company shall have no further obligations or liabilities to the City under this Agreement.

For the purposes of determining the amount of any Closure/Relocation Recapture Obligation due for a Closure/Relocation Event occurring on or after commencement of the sixth (6th) year of the 10 Year Jobs Maintenance Period, the term: (i) "Remaining 10 Year Jobs Maintenance Period" shall mean the number of full calendar months remaining in the 10 Year Jobs Maintenance Period as of the date of such Closure/Relocation Event, and (ii) "Unamortized Recapture Base" shall mean the amount determined in accordance with the following formula: (Remaining 10 Year Jobs Maintenance Period divided by 120) times the Recapture Base.

(e) **Certain Reporting Obligations of the Company.** No later than 45 days following the last day of each Project Year, and at such other times as the IDB may reasonably request (but not more than two times in any calendar year), the Company shall furnish to the IDB, as agent of the City, an instrument signed by an authorized officer of the Company certifying,

(1) for each Project Year (i) the Yearly Average number of Full-Time Employees at the Facility, and (ii) the amount of Wages paid to Full-Time Employees at the Facility, and

(2) for each Project Year, the Capital Investment made or caused to be made by the Company at the Facility Site during such Project Year, as well as the then aggregate amount of the Capital Investment made or caused to be made by the Company at the Facility Site.

The Company shall provide such other information as the City or the IDB shall reasonably request to enable the IDB to confirm the information being certified by the Company.

Section 4.4 10 Year Jobs Maintenance Period. The Company hereby agrees that, for each Reporting Year during the 10 Year Jobs Maintenance Period, the Company shall employ at the Facility at least 382 Full-Time Employees earning the Minimum Average Hourly Wage (the "10 Year Jobs Maintenance Requirement").

(a) **Reporting by Company During 10 Year Jobs Maintenance Period.** No later than 45 days following the last day of each Reporting Year during the 10 Year Jobs Maintenance Period, and at such other times as the IDB may reasonably request, the Company shall furnish to the IDB, as agent of the City, an instrument signed by an authorized officer of the Company certifying, for each Reporting Year (i) the Yearly Average number of Full-Time Employees at the Facility, and (ii) the amount of Wages paid to Full-Time Employees at the Facility. The Company shall provide such other information as the IDB shall reasonably request to enable the IDB to confirm the information being provided by the Company.

(b) **Recapture Payment Obligations During the 10 Year Jobs Maintenance Period.** (i) The Company hereby agrees that, for any Reporting Year during the 10 Year Jobs Maintenance Period, if the Company does not maintain sufficient Full-Time Employees to meet a Yearly Average at least equal to the 10 Year Jobs Maintenance Requirement (the "Yearly Average Target") and the Minimum Average Hourly Wage, then the Company shall pay to the City an amount as shall equal 10% of the greater of:

(1) the sum equal to the product of a percentage [which percentage is equal to 1 minus (the Yearly Average Target) less (the Yearly Average number of Full-Time Employees employed by the Company during the Reporting Year)] divided by (the Yearly Average Target] multiplied by (the Recapture Base); or

(2) the sum equal to the product of a percentage [which percentage is equal to 1 minus [(\$54.20) less (the Actual Average Hourly Wage paid by the Company during the Reporting Year)] divided by (\$54.20) multiplied by (the Recapture Base).

For purposes of the calculation in (2) immediately above, if the number of Full-Time Employees for the Reporting Year is over 382, then the Company may elect to provide the average hourly Wage respecting any collection of 382 Full-Time Employees selected by the Company).

Section 4.5 Total Cap on Recapture Payments; Timing of Recapture Payments; Survival. (a) Notwithstanding anything contained in this Agreement to the contrary, whether express or implied, the maximum amount of Recapture Payments that may ever be owed by the Company shall in no event exceed \$26,000,000. In the event any of the calculations described in this Article IV should ever result in the Company owing total Recapture Obligation payments in excess of \$26,000,000, then the terms of this Section 4.5 shall control and the amount deemed owed by the Company in excess of \$26,000,000 shall no longer be owed or deemed owed by the Company.

(b) Any Recapture Payment or Recapture Payments due by the Company under this Article IV shall be paid by the Company to the City within 30 days of becoming due.

(c) The Parties agree that the right of the City to receive any Recapture Payment or Recapture Payments owing under this Agreement shall survive termination of this Agreement.

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES

Section 5.1 Events of Default by the Local Authorities.

(a) Any one or more of the following shall constitute an event of default by the Local Authorities under this Agreement (a "Local Authorities Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) the City shall fail to deliver the Facility Site Deed as set forth in the Facility Site PTA;

(ii) the City shall fail to make a City Payment as and when due;

(iii) the dissolution or liquidation of any Local Authority, or the filing by any Local Authority of a voluntary petition in bankruptcy, or any Local Authority seeking or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of any Local Authority as a bankrupt, or any assignment by any Local Authority for the benefit of its creditors, or the entry by any Local Authority into an agreement of composition with its creditors, or if a petition or answer is filed by any Local Authority proposing the adjudication of the Local Authority as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(iv) material failure by a Local Authority to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of 30 calendar days after written notice thereof from the Company, unless (A) the Company shall agree in writing to an extension of such period prior to its expiration, or (B) during such 30-day period or any extension thereof, the Local Authority has commenced and is diligently pursuing appropriate corrective action and has cured such default within 60 days.

(b) If a Local Authority Event of Default occurs, the Company shall have available to it all rights and remedies, both legal and equitable, provided by law (including without limitation specific performance and mandamus; provided, however, the Company agrees that it

shall not be entitled to or otherwise pursue any punitive, incidental, consequential, business interruption, or similar damages, whether arising at law, in equity or otherwise).

Section 5.2 Events of Default by the Company. (a) Any one or more of the following shall constitute an event of default by the Company under this Agreement (a "Company Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) at any time prior to the completion by the Company of its obligations and commitments hereunder, the Company is dissolved or liquidated, or the filing by the Company of a voluntary petition in bankruptcy, or the Company seeking or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the Company as a bankrupt, or any assignment by the Company for the benefit of its creditors, or the entry by the Company into an agreement of composition with its creditors, or if a petition or answer is filed by the Company proposing the adjudication of the Company as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) material failure by the Company to perform or observe any of its agreements or covenants contained in Article IV of this Agreement, which failure shall have continued for a period of 30 days after written notice thereof from the City or the IDB, unless (A) the City shall agree in writing to an extension of such period prior to its expiration, or (B) during such 30-day period or any extension thereof, the Company has commenced and is diligently pursuing appropriate corrective action and, further, the Company has cured such default within not more than 60 days.

(c) If a Company Event of Default occurs, the City's and the IDB's sole and exclusive remedies shall be to receive the reconveyance of the Facility Site as set forth hereunder and/or to receive the Recapture Payments as provided in this Agreement. Each of the City and the IDB agrees that it shall not be entitled to or otherwise pursue any punitive, incidental, consequential, business interruption, or similar damages, whether arising at law, in equity or otherwise; provided further, each of the City and the IDB shall have no rights to pursue remedies or other rights against the Company upon a Company Event of Default for failure to (i) Commence Construction of the Facility by the Commencement of Construction Deadline if the Company shall have timely reconveyed the Facility Site to the City as required under this Agreement and under any of the terms of the Facility Site PTA and the Restrictive Covenant Agreement, or (ii) Commence Operations of the Project by the Commencement of Operations Deadline, achieve the Jobs Target by the Jobs Target Deadline, and/or achieve the Capital Investment Target by the Capital Investment Deadline should the Company have timely paid the City the Recapture Payment or Recapture Payments due to the City in connection therewith.

Section 5.3 Remedies Subject to Applicable Law. All rights, remedies and powers provided in this Article VI may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article VI are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.1 Severability; Enforceability. 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 affect the validity of the remainder of this Agreement.

Section 6.2 Entire Agreement. This Agreement, including the Exhibits attached hereto, contains the entire agreement of the Parties regarding the transactions described herein, 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.

Section 6.3 Counterparts; Assignment.

(a) This Agreement may be executed in two or more counterparts, each of which shall constitute but one and the same agreement.

(b) This Agreement is not assignable by any Party hereto except upon the written consent of the other Party hereto; provided, however, that the Company shall have the right at any time to assign all its rights and obligations in and to the Project and to transfer this Agreement or any part thereof to any financially solvent Affiliate of the Company that agrees to assume assigned obligations of the Company in and to the Project; and if so assigned, the Company shall continue to be responsible for the performance of the obligations of the assignee under this Agreement unless specifically excused therefrom by the Local Authorities, to be expressed in writing and signed by an authorized representative of each Local Authority.

Section 6.4 Binding Effect; Governing Law. This Agreement shall inure to the benefit of, and shall be binding upon, the Parties hereto and their respective successors and assigns. This Agreement shall be governed exclusively by, and construed and interpreted in accordance with, the laws of the State of Alabama.

Section 6.5 Notices.

(a) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered

personally to the Party or to an officer of the Party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

(i) If to the City:

The City of Huntsville
305 Fountain Circle
8th Floor
Huntsville, AL 35801
Attn: City Attorney

(ii) If to the IDB:

The Industrial Development Board of the City of Huntsville
c/o Chamber of Commerce of Huntsville/Madison County
225 Church Street
Huntsville, AL 35801
Attn: Chairman

(iii) If to the Company:

Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285
Attn: Erik Orstead, Sr. Director Strategic Real Estate
Email: Orstead_erik_m@lilly.com

With a copy to:

Taft Stettinius & Hollister LLP
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
Attn: Erik D. Ponader
Email: eponader@taftlaw.com

(b) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier.

Section 6.6 Liabilities of the Local Authorities. Any provision hereof to the contrary notwithstanding, the Parties agree and acknowledge that the obligations and commitments of the Local Authorities as set forth herein are limited by the limitations imposed by the Alabama Constitution.

Section 6.7 Survival of Covenants. The covenants in this Agreement shall not terminate until they have been fully performed or have expired by their terms.

Section 6.8 No Waiver. No consent or waiver, express or implied, by any Party hereto to any breach or default by any other Party in the performance by such other Party of its obligations and commitments 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 such other Party of the same or any other obligations or commitments of such Party hereunder. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare such other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder. The granting of any consent or approval in any one instance by or on behalf of any Party hereto shall be construed to be a waiver or limit the need for such consent in any other or subsequent instance.

Section 6.9 Venue.

(a) Each of the Parties irrevocably submits to the jurisdiction of the Alabama state courts sitting in Madison County, Alabama (collectively, the "Courts") over any suit, action or proceeding arising out of or relating to this Agreement or any transaction undertaken in connection therewith (an "Agreement Action"); and waives, to the fullest extent permitted by law, any objection or defense that such Party may now or hereafter have based on improper venue, lack of personal jurisdiction, inconvenience of forum or any similar matter in any Agreement Action brought in any of the Courts.

Section 6.10 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 permitted successors and assigns.

Section 6.11 Headings. The headings in the Sections in this Agreement are for convenience of reference only and shall not form a part hereof.

Section 6.12 No Third-Party Beneficiaries. This Agreement is intended only for the benefit of the signing Parties hereto, and neither this Agreement, nor any of the rights, interest, obligations or commitments hereunder, is intended for the benefit of any other person or third-party.

ARTICLE VII
DEFINITIONS

All initially capitalized terms not otherwise defined herein shall have the following meanings:

"Affiliate" of any specified entity shall mean any other entity directly or indirectly Controlling or Controlled by or under direct or indirect common Control with, or which directly or indirectly owns voting securities of an entity directly or indirectly Controlled by, such specified entity.

"Actual Average Hourly Wage" shall mean an average wage computed by the following formula: (Wages for all Full-Time Employees in a Reporting Year) divided by (hours worked by all Full-Time Employees in the same Reporting Year).

"C.O. Date" shall mean the date on which a certificate of occupancy is issued for the Facility.

"Capital Investment" shall have the meaning as provided in Section 40-18-370 of the Code of Alabama (1975), as amended.

"Capital Investment Deadline" shall mean the last day of the Capital Investment Period.

"Commence Construction", "Commenced Construction" or "Commencement of Construction" shall mean completion of the pouring of the foundation and footings for the Facility on the Facility Site.

"Commence Operations" or "Commencement of Operations" shall mean that research, development, production and distribution operations at the Project have commenced at the Facility Site.

"Control" when used with respect to any entity means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "Controlling" and "Controlled" have meanings correlative to the foregoing.

"Facility Site Deed" shall mean the deed from the City conveying the Facility Site to the Company.

"Facility Site Possession Date" shall mean the date of the Facility Site Deed.

"Force Majeure Event" shall mean a matter which the Company is unable to control, including acts of God, acts of terrorism, shortages or unavailability of materials or labor, strikes or other labor troubles, governmental restrictions and limitations, delays not caused by the Company in connection with the receipt or issuance of any permits or approvals by any governmental authority or agency, war or other national emergency, delay in transportation, civil riot, declared state of emergency or public health emergency, epidemic, pandemic (including, without limitation, COVID-19), government-mandated quarantine, stay-at-home orders, shelter-in-place orders, travel bans, government-mandated closures, accidents, fire, damage or other casualties, natural disasters, including without limitation floods, earthquakes, tornadoes and hurricanes and other extreme weather, but excluding unfavorable economic conditions.

"Fringe Benefits" shall include, but are not limited to, health insurance, retirement, life insurance, workers' compensation, unemployment compensation, and Federal Insurance Contributions Act taxes; provided, that the amount of any 401(k) contributions, elected or contributed by an employee (as distinguished from a matching contribution or similar 401(k)

contribution made by the employer for the benefit of an employee) shall not be deemed a "Fringe Benefit" and shall not be subtracted from the definition of "Wages".

"Full-Time Employee" shall mean a person that is:

(i) being paid directly by the Company for not less than an average of 36 hours per week, is employed at the Facility, and who the Company identifies as its employee to the U.S. Internal Revenue Service or the Alabama Department of Revenue or the Alabama Department of Labor on returns or reports filed with the foregoing, including but not limited to, IRS Form 941, or

(ii) an employee of a direct contractor of the Company who is paid by the Company's direct contractor for working at the Facility for not less than an average of 36 hours per week, or

(iii) a person working under a contract with the Company for working at the Facility for not less than an average of 36 hours per week.

Notwithstanding the above, the definition of "Full-Time Employee" for purposes of this Agreement shall not include an unskilled temporary employee or a worker performing construction work on buildings or other structures which are intended to be part of the Project. All Full-Time Employees shall be eligible to receive any Fringe Benefit provided by his or her employer.

"Minimum Average Hourly Wage" shall mean a Reported Average Hourly Wage that is equal to or greater than \$54.20, exclusive of Fringe Benefits.

"Project Year" shall mean each calendar year during the term of this Agreement, with the first Project Year commencing January 1 of the first calendar year immediately following the calendar year of the Facility Site Possession Date.

"Reported Average Hourly Wage" shall mean, as of any date of calculation, an average wage computed by the following formula: (Wages for all Full-Time Employees for the date or the period, as the case may be, being reported) divided by (hours worked by all Full-Time Employees for the same date or period, as the case may be, being reported).

"Recapture Base" shall mean \$26,000,000.

"Recapture Payments" shall mean any payments due by the Company under Article IV of this Agreement, including any (i) Capital Investment Recapture Obligation payment, (ii) Jobs

Target Recapture Obligation payment, (iii) Commencement of Operations Recapture Obligation payment, (iv) Closure/Relocation Recapture Obligation payment, and (v) other payment due by the Company during the 10 Year Jobs Maintenance Period under Section 4.4(d) of this Agreement.

"Recapture Year" shall mean any Reporting Year in which the Company fails to satisfy the 10 Year Jobs Maintenance Requirement during the 10 Year Jobs Maintenance Period.

"Reporting Year" shall mean each calendar year during the 10 Year Jobs Maintenance Period.

"Wage" or "Wages" shall have the meaning as provided in Section 40-18-370 of the Code of Alabama (1975), as amended; provided, in no event shall "Wage" or "Wages" include Fringe Benefits.

"Yearly Average" shall mean an average number of Full-Time Employees calculated on an annual basis for each Reporting Year. The Yearly Average shall be calculated by adding the total number of Full-Time Employees on the 15th day of each month in the applicable Reporting Year and dividing that sum by 12.

"10 Year Jobs Maintenance Period" shall mean a 10-year period beginning on the January 1st immediately following the end of the Jobs Target Deadline, or, following the Company's satisfaction of the Jobs Target by the Jobs Target Deadline, such earlier January 1st as shall be designated by the Company in writing as the first day of the 10 Year Jobs Maintenance Period and delivered to the IDB, as agent of the City.

"10 Year Jobs Maintenance Requirement" shall mean 382 Full-Time Employees earning the Minimum Average Hourly Wage.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the City, the IDB, and the Company have each caused this Agreement to be duly executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and have caused this Agreement to be dated the date and year first above written.

"CITY":

CITY OF HUNTSVILLE, ALABAMA

ATTEST:

Shaundrika Edwards, City Clerk

By: _____
Tommy Battle, Mayor

(SEAL)

"IDB":

**THE INDUSTRIAL DEVELOPMENT
BOARD OF THE CITY OF HUNTSVILLE**

ATTEST:

Secretary

By: _____
Chairman

(SEAL)

"COMPANY":

ELI LILLY AND COMPANY

By: _____

Its: _____

**EXHIBIT A
FACILITY SITE**

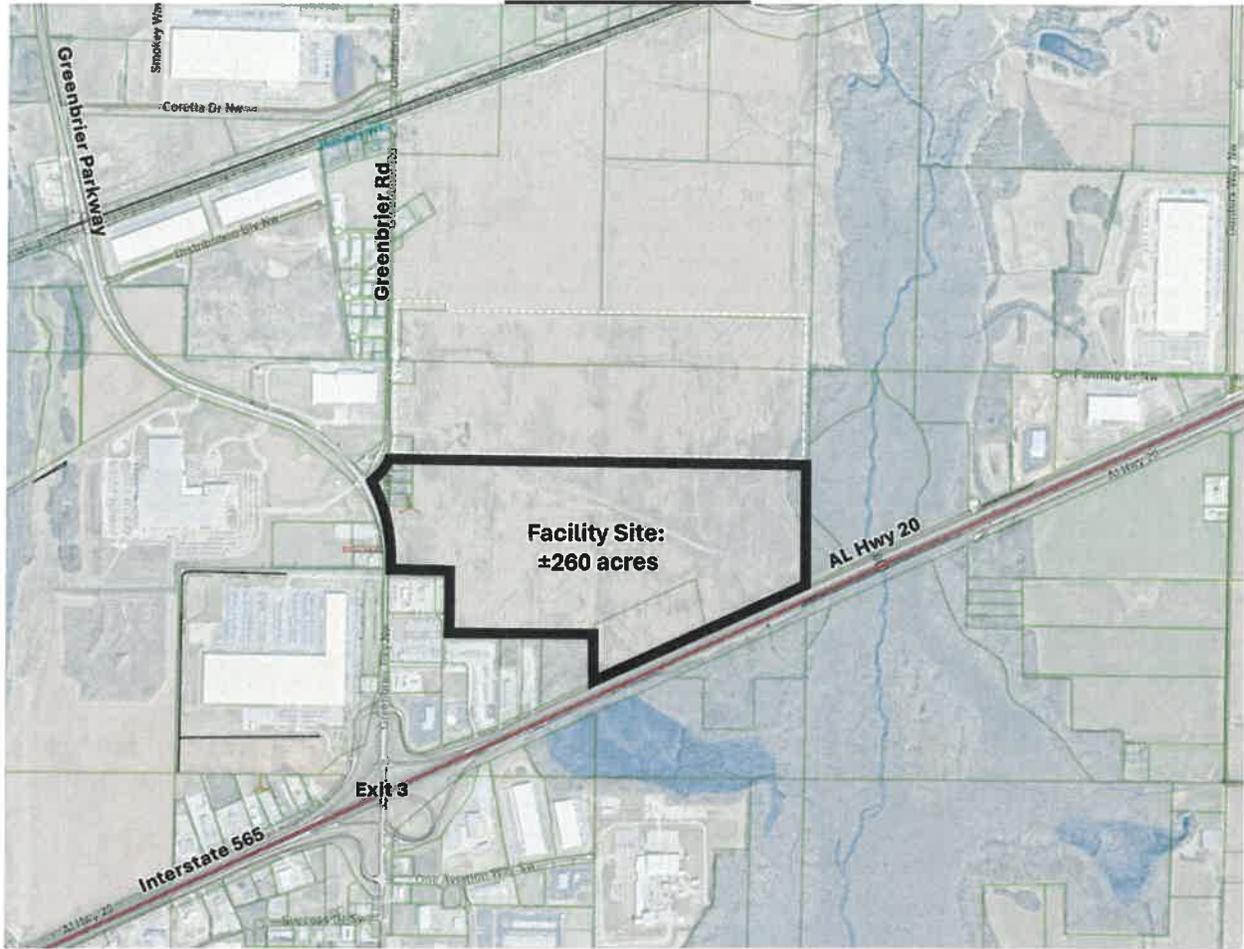


EXHIBIT B
EXPANSION SITE

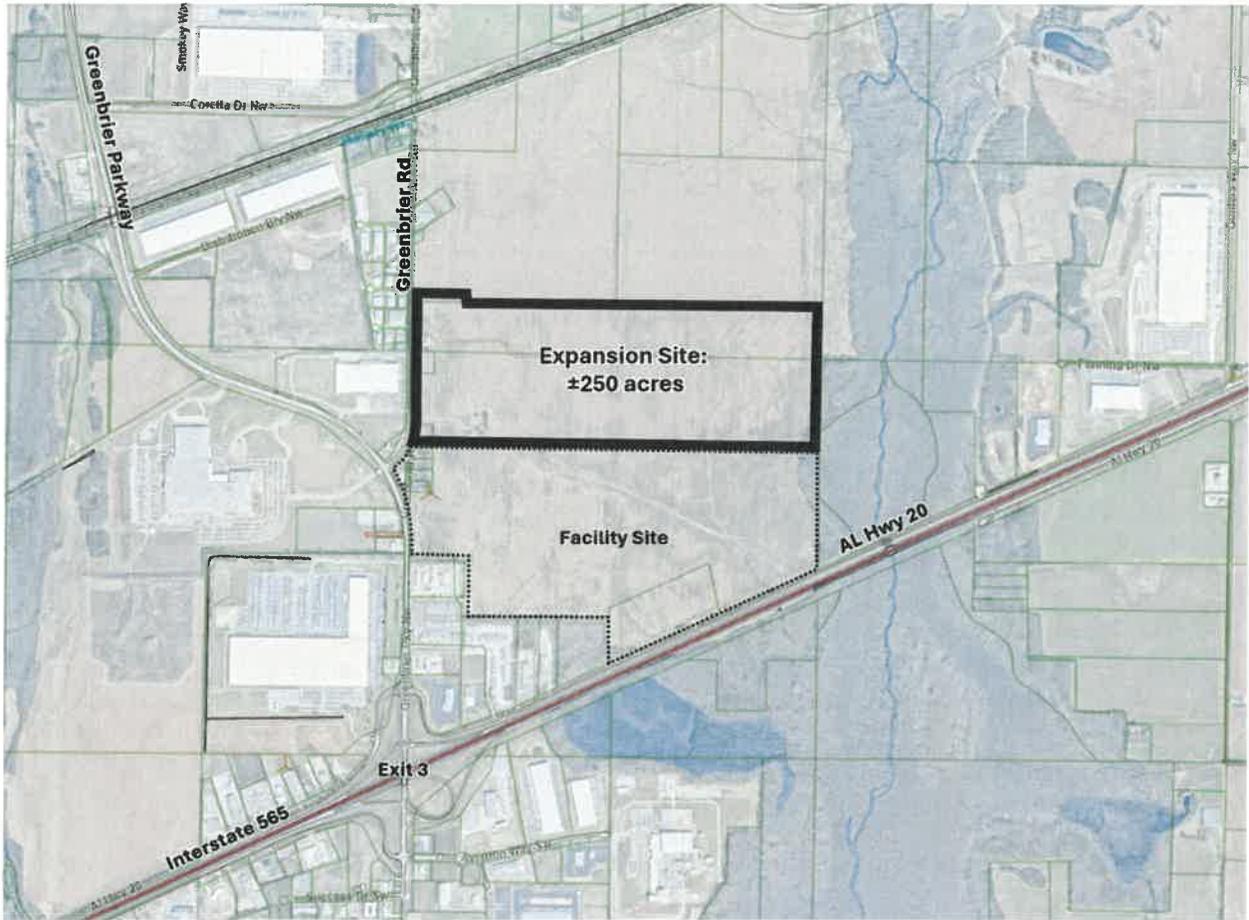


EXHIBIT C
FORM OF PTA

**EXHIBIT D
CITY PAYMENTS CERTIFICATE
FORM OF REQUEST FOR CITY PAYMENT**

REQUEST FOR CITY PAYMENT NO. [1/2]

Date: _____, 20__

Amount Requested: \$1,000,000

Applicable Project Development Agreement Section: [Section 2.3(i)]/[Section 2.3(ii)]

Pursuant to the Project Development Agreement dated _____, 2026 (the "Project Development Agreement") between the City of Huntsville (the "City") and Eli Lilly and Company, a corporation under the laws of the State of Indiana (the "Company"), the Company hereby represents, declares, and certifies as follows:

(a) The Company hereby requests payment of \$1,000,000 pursuant to [Section 2.3(i)]/[Section 2.3(ii)] of the Project Development Agreement.

(b) the Company hereby certifies that as of the last business day of each month of (i) _____, 20__ ("Month 1"), (ii) _____, 20__ ("Month 2"), and (iii) _____, 20__ ("Month 3"), the Company had employed Full-Time Employees at the Facility, as follows:

	Month 1	Month 2	Month 3	Average
Full-Time Employees				
Average Hourly Wage ⁽¹⁾				

(c) Attached hereto is all supporting information and materials as shall enable the City to confirm and independently verify the employment and wage levels so certified by the Company.

(d) The Company is not in default of its obligations under the Project Development Agreement.

(e) The following are the wire or payment instructions to use in remitting the Payment Amount:

(f) Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Project Development Agreement (including all exhibits thereto).

⁽¹⁾ Excludes Fringe Benefits and overtime pay.

IN WITNESS WHEREOF, the undersigned has executed and delivered this certificate to the City this ____ day of ____, 20__.

Eli Lilly and Company

By: _____

Title: _____

EXHIBIT E CAPITAL INVESTMENT CHART

	YE2026	YE2027	YE2028	YE2029	YE2030	YE2031	YE2032	Total
New Improvements and Investment								
Real Property Improvements								
<i>Site Preparation</i>	\$377,093,654	\$460,892,243	\$0	\$0	\$0	\$0	\$0	\$837,985,897
<i>Site Infrastructure</i>	\$0	\$5,682,550	\$14,206,376	\$14,206,376	\$11,365,101	\$8,523,826	\$2,841,275	\$56,825,505
<i>Building Shell Construction</i>	\$0	\$58,464,994	\$146,162,486	\$163,701,984	\$128,622,987	\$64,311,494	\$23,385,998	\$584,649,942
<i>Interior Buildout</i>	\$0	\$51,919,387	\$114,222,651	\$129,798,467	\$103,838,774	\$67,495,203	\$51,919,387	\$519,193,870
<i>Tank Farm & Pipe Rack</i>	\$0	\$0	\$15,555,926	\$42,001,000	\$46,667,777	\$28,000,666	\$23,333,889	\$155,559,258
Subtotal	\$377,093,654	\$576,959,175	\$290,147,439	\$349,707,827	\$290,494,639	\$168,331,189	\$101,480,549	\$2,154,214,472
Personal Property								
<i>Machinery & Equipment</i>	\$0	\$147,742,365	\$398,904,387	\$369,355,914	\$339,807,441	\$177,290,839	\$44,322,710	\$1,477,423,655
<i>IT</i>	\$0	\$2,964,770	\$7,411,925	\$8,894,310	\$7,411,925	\$2,964,770	\$0	\$29,647,701
<i>Furniture & Fixtures</i>	\$0	\$4,415,243	\$9,124,836	\$9,419,186	\$5,003,942	\$1,471,748	\$0	\$29,434,956
<i>Environmental Controls</i>	\$0	\$50,000,000	\$50,000,000	\$125,000,000	\$150,000,000	\$75,000,000	\$50,000,000	\$500,000,000
<i>Solvent Recovery</i>	\$0	\$0	\$3,986,415	\$10,763,321	\$11,959,245	\$7,175,547	\$5,979,623	\$39,864,151
Subtotal	\$0	\$205,122,379	\$469,427,563	\$523,432,731	\$514,182,554	\$263,902,904	\$100,302,332	\$2,076,370,462
REAL & PERSONAL PROPERTY TOTAL	\$377,093,654	\$782,081,554	\$759,575,002	\$873,140,558	\$804,677,193	\$432,234,092	\$201,782,881	\$4,230,584,934
Additional Expenses								
<i>Pro Services (Design+C/Q)</i>	\$50,090,126	\$150,270,377	\$175,315,440	\$112,702,783	\$81,396,454	\$37,567,594	\$18,783,797	\$626,126,570
<i>Construction Management</i>	\$21,999,042	\$43,998,083	\$65,997,125	\$87,996,167	\$109,995,208	\$87,996,167	\$21,999,042	\$439,980,833
<i>Owner Costs Production</i>	\$10,322,627	\$41,290,509	\$51,613,136	\$65,376,639	\$72,258,391	\$68,817,515	\$34,408,757	\$344,087,575
Subtotal	\$82,411,795	\$235,558,969	\$292,925,701	\$266,075,588	\$263,650,053	\$194,381,276	\$75,191,596	\$1,410,194,978
TOTAL INVESTMENT	\$459,505,448	\$1,017,640,523	\$1,052,500,703	\$1,139,216,146	\$1,068,327,246	\$626,615,368	\$276,974,477	\$5,640,779,912

EXHIBIT F
EMPLOYMENT RAMP-UP CHART

Job Title	Avg. Wage (Base Salary + Avg. Bonus)	YE2026	YE2027	YE2028	YE2029	YE2030	YE2031	Total
		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	
Lead Team	\$290,000	4	4	2	0	0	0	10
Manager	\$176,000	4	8	9	3	2	1	27
Operations/Production Support	\$74,000	1	4	30	35	45	45	160
Maintenance	\$103,000	1	2	10	15	15	1	44
QCL/QC	\$124,000	1	20	25	25	25	2	98
Engineering/Technical	\$150,000	10	15	20	20	15	6	86
Finance HR SC	\$142,000	2	3	6	10	2	1	24
Total Payroll:	\$52,484,000	23	56	102	108	104	56	449

EXHIBIT G
UTILITY REQUIREMENT

Natural Gas: Firm natural gas service to the site with commitment to the capacities and dates below.

<u>Phase</u>	<u>Avg. Consumption (cumulative):</u>	<u>Peak Consumption (cumulative):</u>	<u>Timeline Needed:</u>
CUP Startup	<u>2,500</u> therms/hour (250 MMBtu)	<u>3,300</u> therms/hour (330 MMBtu)	Q1 2029 (i.e. by 3/30/2029)
Full Operations	<u>5,000</u> therms/hour (500 MMBtu)	<u>6,700</u> therms/hour (670 MMBtu)	Q2 2030 (i.e. by 6/30/2030)
Future Expansions (potential)	<i>Additional 2,075 therms/hour</i> <u>7,075</u> therms/hour total (708 MMBtu)	<i>Additional 2,075 therms/hour</i> <u>8,775</u> therms/hour total (878 MMBtu)	Q1 2032 or later

Water: Water service to the site with commitment to the capacities and dates indicated below. A minimum water pressure of 65 PSI is required.

<u>Phase</u>	<u>Average Daily Consumption Capacity Needed (cumulative):</u>	<u>Peak Consumption GPM (cumulative):</u>	<u>Timeline Needed:</u>
CUP Startup	<u>350,000</u> GPD	<u>630</u> GPM	Q1 2029 (i.e. by 3/30/2029)
Certificate of Occupancy	<u>750,000</u> GPD	<u>1,350</u> GPM	Q3 2029 (i.e. by 9/30/2029)
Additional Ramp-up Steps	<u>1,500,000</u> GPD	<u>1,350</u> GPM	Q2 2030 (i.e. by 6/30/2030)
Future Expansions (potential)	<i>Additional 500,000 GPD</i> <u>2,000,000</u> GPD cumulative total	<i>Additional 460 GPM</i> <u>1,810</u> GPM total	Q1 2032 or later

Wastewater: Service to the site with commitment to the capacities and dates indicated below.

<u>Phase</u>	<u>Average Daily Discharge Capacity Needed (cumulative):</u>	<u>Peak Discharge GPM (cumulative):</u>	<u>Timeline Needed:</u>
CUP Startup	<u>350,000</u> GPD	<u>583</u> GPM	Q1 2029 (i.e. by 3/30/2029)
Certificate of Occupancy	<u>600,000</u> GPD	<u>600</u> GPM	Q3 2029 (i.e. by 9/30/2029)
Additional Ramp-up Steps	<u>1,400,000</u> GPD	<u>1,400</u> GPM	Q2 2030 (i.e., by 6/30/2030)

Future Expansions (potential)	<i>Additional 400,000 GPD</i> <u>1,800,000</u> GPD cumulative total	Discharge rate does not change GPM from above	Q1 2032 or later
-------------------------------	---	---	------------------

Electric Power: Initial capacity requirement of 80 MW by Q2-2028. A full electric ramp-up schedule will be provided at a later date. A 90% power factor is assumed for the operation; load factor 85%.

<u>Phases</u>	<u>Capacity Needed</u> <u>(Cumulative):</u>	<u>Timeline:</u>
Construction/Temporary Power	<u>10</u> MW (not in cumulative)	Q3 2027 (i.e., by 9/30/2027)
Other Interim Ramp-up Steps	<u>25</u> MW	Q2 2028 (i.e., by 6/30/2028)
CUP Startup	<u>50</u> MW	Q1 2029 (i.e., by 3/30/2029)
Full Operations	<u>80</u> MW	Q2 2030 (i.e., by 6/30/2030)
Future Expansions (potential)	<i>Additional 25 MW</i> <u>105</u> MW cumulative total	Q1 2032 or later

Electric Service: The operation will be 24/7 and require fully uninterruptible power; dual feed circuits and a fully redundant automatic transfer service. The electrical load associated with production will be a constant uniform load. Electrical demand will fluctuate based on the seasons but will be correlated with the grid's forecasted demand. Customer dedicated substation will be needed.

EXHIBIT B
FORM OF PROPERTY TRANSFER AGREEMENT

PROPERTY TRANSFER AGREEMENT

THIS PROPERTY TRANSFER AGREEMENT (this "Agreement") is made and entered into by, between and among **Eli Lilly and Company**, an Indiana corporation, or its permitted assignee ("Buyer" or "Company"), and **City of Huntsville, Alabama, an Alabama municipal corporation** (the "City" or "Seller") effective as of this ____ day of _____, 2026 (the "Effective Date").

WHEREAS, the City owns fee simple title to the Property (defined below), located in Limestone County, Alabama, and Buyer desires to acquire said Property to be used as a manufacturing facility, as more particularly described in that certain Project Development Agreement of even date, a copy of which is attached as **Exhibit C** hereto (the "**Project Agreement**") by, between and among Buyer, the City, and The Industrial Development Board of the City of Huntsville (the "**IDB**").

NOW THEREFORE, in consideration of the premises, which are incorporated herein by reference, and in consideration of the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Company agree as follows:

1. **Property Transfer:** Subject to and in accordance with the terms of this Agreement, and in exchange for valuable consideration described herein, the City agrees to transfer to the Company an approximately **260 acre +/-** tract of land located in Limestone County, Alabama, as more particularly described in **Exhibit A**, together with any and all structures, fixtures and other improvements thereon and all rights (including mineral rights owned by the City), privileges, tenements and hereditaments appurtenant thereto, except for certain public utility easements and infrastructure set forth on **Exhibit D** attached hereto the "**Retained Easements**"), which shall be reserved unto the City at Closing (the "**Property**").

2. **Property Transfer Commitments.** At the closing and consummation of the transaction contemplated by this Agreement ("**Closing**") and in exchange for transfer of the Property from the City, the Company shall execute and make commitments to make certain investments and create jobs at the Property as set forth in the Project Agreement.

3. **Title and Survey.** Within ten (10) business days from the Effective Date, Seller shall cause Lanier, Ford, Shaver & Payne, P.C. (the "**Title Agent**") to issue a title commitment to Buyer (the "**Commitment**"), issued by First American Title Insurance Company, through its offices in Birmingham, Alabama ("**Title Insurer**"), which shall be in accordance with commercially reasonable standards and shall insure Buyer with good and marketable and insurable fee simple title to the Property, free and clear of all liens, encumbrances, leases (other than those existing outdoor billboard lease(s) and that certain Farm Lease between Seller and Devaney Brothers Farms, all of which leases shall be terminated by Seller on or before the Closing Date, and which are collectively referenced as the "**Leases**"), tenancies, covenants, conditions, restrictions, rights-of-way, easements and other matters affecting title, except for the Permitted Exceptions. "**Permitted Exceptions**" shall mean: a lien for taxes that are not yet due and payable; mineral rights not owned by the Seller; the Retained Easements; the Leases; and other matters as may be approved by Buyer in its sole discretion. Seller shall cause the Commitment to be updated prior to Closing. On or prior to Closing, Seller must remove all delinquent taxes, mortgages, and deeds of trust, as well as mechanic's or materialmen's liens and monetary liens (whether or not objected to by Buyer). Seller shall obtain an ALTA survey of the Property (the "**Survey**"), the survey will be utilized for the preparation of the Plat (defined below), the legal description of which shall be included in the statutory warranty deed to be delivered by Seller to Buyer at Closing. The Commitment shall be updated within thirty (30) days prior to delete the standard survey exceptions and to delete the exception for mechanic's and materialmen's liens. The Commitment shall also provide for, at Buyer's request, the issuance of an ALTA 35 endorsement.

Buyer shall give the Seller written notice of any exceptions to title shown on the Commitment or the Survey which are disapproved by Buyer (the "Title Disapproval Notice") prior to the expiration of the Inspection Period (hereinafter defined). Seller shall have up to ten (10) days after its receipt of the Title Disapproval Notice within which to notify Buyer (the "Title Response Notice") that it will or will not commit to remove, on or before Closing, any of the disapproved exceptions set forth in the Title Disapproval Notice (the Seller having the right but not the obligation to do so). The Seller's failure to deliver a Title Response Notice as to a particular disapproved exception set forth in the Title Disapproval Notice shall be deemed to mean that the Seller will not commit to remove such disapproved exception. If Buyer fails to deliver the Termination Notice (as defined below) prior to the expiration of the Inspection Period, then Buyer shall be deemed to have approved the exceptions listed in the Commitment and the Survey, except those disapproved exceptions set forth in the Disapproval Notice that Seller has affirmatively committed to remove in the Title Response Notice. Buyer may object to any matters set forth in any update of the Commitment or Survey on the same terms set forth herein provided that Buyer shall give the Seller written notice of its objection to any such new matters within five (5) business days of receipt of such update to the Title Commitment or Survey, and Seller shall remove such items from Commitment or Survey prior to Closing. Notwithstanding the foregoing provisions or anything to the contrary contained in this Agreement, Buyer hereby objects to (i) any mortgage lien and/or financing statement, and/or monetary lien encumbering the Property, (ii) any mechanic's lien or materialman's lien unless resulting from work performed by or on behalf of Buyer, and (iii) all other monetary claims of an ascertainable amount encumbering the Property (except for taxes not yet due and payable) and the Seller agrees to cause all such liens to be terminated and released, at the Seller's sole cost, on or prior to Closing.

4. Investigation Activities. The City shall allow the Buyer such access to the Property as the Buyer requires to perform environmental, geotechnical, and other inspections, investigations, and assessments of the Property as the Buyer deems necessary or desirable to determine the suitability of the Property for the Project (the "**Investigation Activities**"). Buyer shall have ninety (90) days from the Effective Date to conduct and perform Investigation Activities or other related due diligence on the Property ("**Inspection Period**"). Buyer may extend the Inspection Period for three (3) periods of thirty (30) days each upon written notice to Seller prior to expiration of the then current Inspection Period. Buyer shall indemnify and hold harmless Seller from and against any and all expenses, claims, or losses arising from or in connection with any activities of Buyer, its officers, agents, employees, or contractors on the Property prior to Closing, including without limitation, any attorney's fees or court costs occasioned by any such claims. Notwithstanding the foregoing, Buyer shall have no liability or obligation to indemnify Seller or Seller's members, officers, agents and employees for (a) the discovery of any pre-existing conditions at the Property including any damage caused by such conditions, except to the extent Buyer or Buyer's representatives aggravates or exacerbates such conditions, or (b) any claims to the extent caused by the negligence or willful actions of Seller or any of Seller's members, officers, agents and employees. Upon completion of all Investigation Activities, Buyer in its sole discretion may elect to either (a) deliver to the City, on company letterhead and signed by a duly authorized officer of Buyer, written notice specifying that Buyer has completed all Investigation Activities and other due diligence it deemed necessary and desirable respecting the Property, and expressing Buyer's desire to proceed with the purchase and acquisition of the Property from the City ("**Inspection Notice**"), or (b) for any reason or no reason, and in Buyer's sole discretion, terminate this Agreement and the parties shall have no further obligation hereunder. In the event Buyer fails to give the Inspection Notice, Buyer shall be deemed to have elected to terminate this Agreement as provided in subparagraph (b) above. The Inspection Notice shall be given in accordance with **Section 12** below.

5. Due Diligence Materials.

(a) Due Diligence Documents. Promptly following the Effective Date, Seller shall provide Buyer copies of all diligence documents previously performed on the Property, and such other information and documents related to the Property, to the extent the same are in Seller's actual possession

or reasonable control (collectively, "**Due Diligence Documents**"), including, without limitation, the following:

- (i) Seller's most recent survey of the Land;
- (iii) Property tax bills for calendar years 2022, 2023, 2024, and 2025;
- (iv) Wetlands delineations and environmental reports concerning the Property;
- (v) Governmental or quasi-governmental permits or approvals;
- (vi) Any prior surveys of the Property;
- (vii) Topographical, geological, geotechnical subsurface exploration, soils and engineering studies and reports for the Property;
- (viii) Development, zoning or entitlements agreements and applications;
- (ix) Seller's most recent title commitment and owner's policy of title insurance ("Title Policy");
- (x) Covenants, conditions and restrictions affecting the Property;
- (xi) Design or architectural guidelines or limitations affecting the Property;
- (xii) Easements, rights of way and other such matters affecting the Property;
- (xiii) Tests, studies, reports and documents relating to the Property and any other information as may be reasonably requested by Buyer; and
- (xiv) Any existing leases, subleases, license agreements, occupancy agreements, or similar agreements to which the Property, or any portion thereof, is subject to.

(b) **Additional Due Diligence Studies.** Promptly following the Effective Date, Seller, at its sole cost and expense, shall cause to be prepared and certified to Buyer, and deliver to Buyer copies of the following (the "Due Diligence Studies"):

- (i) An AAI compliant Phase 1 Environmental Site Assessment dated within six (6) months of the Closing Date issued to the Buyer.
- (ii) An geotechnical report using sampling locations identified by and acceptable to the Buyer.
- (iii) A "cultural assessment" and endangered species study of the Property.
- (iv) An ALTA/NSPS survey of the Property, including a wetlands study and assessment.

6. **Representations and Warranties.**

(a) City Representations and Warranties. The City represents and warrants to Buyer that at the time of execution of this Agreement and that as of the Closing Date:

(i) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the City, violates, constitutes a default under or a breach of (1) any agreement, instrument, contract, mortgage, ordinance, resolution or indenture to which the City is a party or, to the City's knowledge, to which the City or its assets or properties are subject or (2) to the City's knowledge, any law, judgment, decree, order, ordinance, rule, regulation, consent or resolution applicable to the City or any of its assets or properties.

(ii) There is not now pending nor, to the knowledge of the City, threatened, any suit, action, investigation, claims or proceedings affecting the City which questions or affects (1) the validity or organization of the City, (2) the members, titles or positions of the members of the City Council or the manner in which the officers of the City are selected, or (3) the subject matter of this Agreement.

(iii) The City has the full power and authority to enter into and perform this Agreement and perform its obligations hereunder and has received all approvals necessary in connection with the foregoing including without limitation the approvals of the Huntsville City Council;

(iv) The City represents that the Title Policy insures the City's fee simple title to the Property and the City warrants it will convey fee simple title to the Property to Buyer at Closing subject only to the Permitted Exceptions.

(v) The City has not received any written notice that the Property or any portion or portions thereof is or will be subject to or affected by any special assessments other than (a) as will be disclosed in the Title Commitment, or (b) any ad valorem taxes imposed pursuant to applicable ordinances.

(vi) The City has not received any written notice from any applicable governmental authority that the Property is in violation of any laws, regulations, codes, ordinances, orders or requirements affecting the Property.

(vii) The City has not received written notice from any governmental or quasi-governmental agency or authority indicating that the Property is in violation of any Environmental Laws and Regulations (as hereafter defined) that has not been remedied. The City has not engaged in any activities thereon in violation of any Environmental Laws and Regulations (including any unlawful storage, use, treatment, manufacture or disposal of any Hazardous Materials (as hereinafter defined)). For purposes hereof, the term "**Hazardous Materials**" shall mean and refer to any "hazardous waste" or "hazardous substance," as such terms are set forth in, under or pursuant to the Environmental Laws and Regulations (as hereinafter defined), oil or petroleum products or their derivatives, polychlorinated biphenyls, asbestos, radioactive materials or waste, and any other toxic, ignitable, reactive, corrosive, explosive, contaminating or polluting materials which are now or in the future subject to governmental regulation. "**Environmental Laws and Regulations**" shall mean any federal, or applicable state or local laws now or hereafter in effect relating to pollution or protection of the environment or emissions, discharges, spills, releases or threatened releases of any Hazardous Materials into the environment (including without limitation indoor air, ambient air, surface water, ground water or land), including without limitation, the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*, as amended, the Comprehensive Environmental Response, Compensation and Liability Act ("**CERCLA**"), 42 U.S.C. §§ 9601 *et seq.*, as amended, the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 *et seq.*, as amended, the Clean Water

Act, 33 U.S.C. §§ 1251 *et seq.*, as amended, the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*, as amended, the Toxic Substance Control Act, 15 U.S.C. § 2601 *et seq.*, as amended, and any rules and regulations now or hereafter promulgated under any of such acts

(viii) The City has not received written notice of any actions, suits, proceedings or proposals of any kind or nature whatsoever relating to any proposed changes to the highways, roadways and/or access ways adjoining or adjacent to the Property, including, without limitation, the widening thereof, construction of acceleration/deceleration lanes, changes in or additions to existing or approved curb cuts, proposed or pending installation or removal of traffic lights or any other changes or proposed changes in traffic patterns or management of traffic flow there over.

(ix) To the Seller's knowledge, without investigation or inquiry, the Due Diligence Materials provided by Seller to Buyer are all of the Due Diligence Materials in Seller's actual possession or reasonable control.

The foregoing representations and warranties shall survive the Closing. Buyer shall be entitled to seek the remedies as a result of the City's breach or violation pursuant to the provisions of Section 11 (a) below.

As used in this Agreement, "Seller's knowledge" or "City's knowledge" or terms of similar import, means the actual knowledge of Shane Davis, Kathy Martin, and Trey Riley (the "**City's Knowledge Group**"), without any special duty to investigate and without regard to any implied, imputed or constructive knowledge of the City's Knowledge Group; provided, however, that Seller represents and warrants that the City's Knowledge Group are the representatives of Seller with the most knowledge of the Property and are the most likely to possess the necessary knowledge to make the representations and warranties contained in this Section 6 and this Agreement.

Prior to Closing, Seller shall have the right to supplement the Representations and Warranties contained in this Section 6 (based on newly discovered information or resulting for a change in circumstances and/or facts) any of Seller's Representations and Warranties by delivering written notice thereof to Buyer, and any such supplement shall be deemed an amendment of this Section. No supplement shall be considered a breach by Seller of any of Seller's Representations and Warranties or form the basis for any claim by Buyer against Seller under this Agreement with respect to Seller's Representations and Warranties. In the event any such supplement discloses a fact or circumstance respecting the Property that Buyer reasonably determines adversely affects the Property or Buyer's ability to develop and operate the Project, the Buyer, as its sole remedy, shall have the right to terminate this Agreement by delivering written notice thereof to Seller, and neither party shall have any further obligations hereunder, except for those obligations that survive a termination of this Agreement

(b) Buyer Representations and Warranties. Buyer represents, warrants, and promises to the City at the time of execution of this Agreement and that as of the Closing Date:

(i) The Buyer is duly organized and validly existing as a corporation under the laws of the State of Indiana, and has duly authorized its execution, delivery and performance of this Agreement.

(ii) Neither the execution and delivery of this Agreement, nor the performance hereof, by the Buyer requires any consent of, filing with or approval of, or notice to, or hearing with any person or entity (including, but not limited to, any governmental or quasi-governmental entity), except for such consents, filings, notices and hearings described herein, or already held or maintained.

(iii) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the Buyer, violates, constitutes a default under or a breach of (i) the Buyer's certificate of incorporation or other organizational documents of the Buyer, (ii) any agreement, instrument, contract, mortgage or indenture to which the Buyer is a party or to which the Buyer or its assets are subject, or (iii) any judgment, decree, order, ordinance, regulation, consent or resolution applicable to the Buyer or any of its assets.

There is not now pending nor, to the knowledge of the Buyer, threatened, any litigation affecting the Buyer which questions the validity or organization of the Buyer, or any of the representations and warranties of the Buyer contained herein.

7. Covenants of the Seller. The Seller covenants and agrees as follows:

(a) Seller shall promptly inform Buyer upon receiving any notice of any alleged violation of and, from the Effective Date until the Closing, shall comply with, any statute, ordinance, law, rule, regulation or code of any governmental authority having jurisdiction relating to the Property, or the use, occupancy or operation thereof, or any restriction, condition, covenant or agreement concerning the Property or the use, occupancy or operation thereof;

(b) From the Effective Date until the Closing, the Seller shall maintain, or cause to be maintained, the Property in the same order and condition as of the Effective Date, subject to normal wear and tear;

(c) From the Effective Date until the Closing, the Seller shall not, except with regard to the platting of the Property and the rezoning of a portion of the property from Highway Business C4 to Commercial Industrial Park (CIP), without the prior written consent of Buyer, which Buyer shall grant or deny in Buyer's sole discretion, enter into any agreement or instrument, or take any action, that would encumber the Property after the Closing or bind Buyer or the Property after the Closing.

(d) Seller agrees to reasonably cooperate Buyer, including furnishing Buyer with all necessary information, and executing such applications and other documents as may be required, in connection with Buyer's satisfaction of Buyer's due diligence. Furthermore, Seller shall, upon Buyer's reasonable request, attend and support Buyer's in any meetings or hearings of administrative officials and legislative bodies necessary to obtain such permits and approvals, including, without limitation, the Plan Approvals, as hereinafter defined; provided however, that the foregoing does not require that Seller waive any rights that Seller holds to review such applications and petitions in Seller's capacity as a municipal government.

(e) From and Effective Date until the Closing, the Seller shall comply with all material obligations of the Leases.

(f) Seller shall give Buyer immediate notice upon the occurrence of any event, or receipt of any notice, which might give rise to a breach by Seller of any of its representations or warranties as set forth in this Agreement.

(g) Seller shall cause the Property to be platted, with such conditions, easements, and matters of plat being a Permitted Exception. Seller shall consult with Buyer in connection with such replatting including providing Buyer with the opportunity to review and comment on the proposed plat prior to submission for governmental approval.

(h) Seller shall remove all irrigation equipment from the Property on or prior to the Closing Date.

8. Conditions to Closing for Seller. Seller's obligation to convey the Property to Buyer is contingent upon the following conditions being satisfied at the time the Closing is scheduled to occur:

(a) Buyer is not in default under any of the provisions of this Agreement or the Project Agreement beyond any applicable cure period; and

(b) Buyer shall have satisfied the development conditions set forth in Section 2.1(b) of the Project Agreement.

If any of the foregoing conditions to Closing for Seller are not satisfied as of the time Closing is scheduled to take place, Seller shall notify Buyer of such failure, and in the event Buyer fails to cure such failure within twenty (20) business days following receipt of such notice from Seller, then Seller may, at its option, terminate this Agreement by giving written notice to Buyer or waive the same; provided no waiver of such conditions shall be deemed to have been made unless expressly set forth in a writing signed by the City. The Closing Date shall be extended for an additional forty-five (45) days to permit Buyer's cure.

9. Conditions to Closing for Buyer. Buyer's obligation to purchase the Property from Seller is contingent upon all of the following conditions being satisfied at the time the Closing is scheduled to occur:

(i) Seller not having defaulted under or breached any of the provisions of this Agreement, including, without limitation, any of the representations and warranties set forth in **Section 6**;

(ii) Title Agent providing Buyer with a revised copy of the Commitment (the "Updated Commitment") that (A) has been down dated to Closing, (B) unconditionally and irrevocably committing the Title Insurer to insure that Buyer has good and marketable fee simple absolute title to the Property subject to the Permitted Exceptions, (C) contains no requirements that must be satisfied (other than the parties compliance with this Agreement) before a title insurance policy will be issued based thereon, and (D) contains no new exceptions that are not approved by Buyer;

(iii) This Agreement has been approved by the Huntsville City Council.

(iv) Buyer has obtained, in its sole discretion and judgment, all development and site plan approvals for Buyer's intended use and development of the Property, including approval from all governmental authorities, quasi-governmental authorities, utility providers, architectural review boards and any other similar entities (the "**Plan Approvals**"). Provided that Buyer is actively and diligently pursuing the Plan Approvals, in the event that Buyer has not obtained the Plan Approvals prior to the expiration of the Inspection Period, Buyer shall have the right to extend the Inspection Period for up to an additional sixty (60) days by written notice thereof given to Seller prior to the expiration of the Inspection Period, which written notice shall confirm that all contingencies set forth in **Section 4** have been satisfied. If Buyer is unable to obtain the Plan Approvals within the additional 60-day period, Buyer may terminate this Agreement by written notice thereof to Seller and this Agreement shall be deemed of no further force or effect.

(v) A portion of the Property must have been lawfully rezoned from Highway Business C4 to Commercial Industrial Park (CIP).

(vi) The Property must have been lawfully subdivided by the Seller in accordance with the City of Huntsville's subdivision regulations (the "Plat") with the Plat to be recorded on or before Closing.

If any of the foregoing conditions to Closing for Buyer are not satisfied as of the time Closing is scheduled to take place, Buyer may, at its option, extend the Closing Date until such time that the City satisfies all conditions precedent to Closing, or terminate this Agreement by giving written notice to the City, or waive the same; provided (i) no waiver of such conditions shall be deemed to have been made unless expressly set forth in a writing signed by the Buyer, and (ii) nothing contained herein shall be deemed to limit the remedies available to Buyer as a result of Seller's default hereunder.

10. Closing.

(a) Closing shall occur on or within thirty (30) days after expiration of the Inspection Period, or at such other date and time as may be mutually agreed upon by the parties (the "Closing Date"). The Closing shall be held at the office of Title Agent, or at such other place as is mutually agreeable to the parties. All closing documents and closing funds shall be provided on or before Closing to be held in escrow by Title Agent such that neither party shall be required to be physically present at Closing.

(b) At Closing, Seller shall deliver the following items to Buyer, properly executed and notarized and in form and substance acceptable to Buyer:

(i) Statutory warranty deed, in substantially the same form as attached **Exhibit "B"** (the "Deed"), conveying a good and marketable fee simple absolute estate in the Property to Buyer, together with all rights, interests, privileges, tenements and hereditaments appurtenant to the Property, except the Retained Easements. The Property shall be conveyed to Buyer subject only to the Permitted Exceptions.

(ii) Recorded or recordable releases terminating and releasing all Monetary Liens.

(iii) An owner's affidavit (without indemnity provisions if approved by the Title Insurer) for purposes of having the exceptions for mechanics' and materialmen's liens, the rights of parties in possession and unrecorded matters and any other standard pre-printed exceptions deleted from the Updated Commitment and the Title Policy, and any other documents, certificates and agreements that the title company requires to issue the Updated Commitment and the Title Policy.

(iv) An Assignment of Lease for each of the Leases;

(v) An updated Rent Roll;

(vi) A notice to each of the tenants under the Leases advising them of the sale of the Property and the assignment of the Leases;

(vii) All keys and security codes, if any, to any portion of the Real Property, to the extent in Seller's possession or control; and

(viii) All other documents reasonably requested by Buyer to carry out the transaction contemplated by this Agreement, including, but not limited to, (A) an IRS §1445 Certificate, (B) a settlement statement, and (C) formation documents, secretary's certifications, resolutions, brokers affidavits and other reasonable and customary documents establishing that Seller is duly authorized and empowered to enter into this Agreement and perform its obligations hereunder.

(c) At Closing, Buyer shall deliver the following items to Seller, properly executed and notarized and in form and substance acceptable to Seller:

(i) All documents reasonably requested by Title Agent and/or Seller to carry out the transaction contemplated by this Agreement, including, but not limited to, (A) a settlement statement, (B) resolutions establishing that Buyer is duly authorized and empowered to enter into this Agreement and perform its obligations hereunder, (C) brokers affidavits, and (D) other reasonable and customary documents necessary to close the transaction

Immediately upon the completion of the Closing, Seller shall deliver exclusive possession of the Property to Buyer, subject to the Permitted Exceptions.

(c) Closing Costs and Prorations. Each of the parties shall pay for their own respective attorneys' fees incurred in connection with the transaction contemplated by this Agreement. At Closing, Buyer shall pay for Buyer's attorney's fees, the title insurance premium(s)(including premiums for any endorsements), any nominal deed taxes and recording costs associated with the conveyance of the Property to Buyer that are not abated by the IDB, and all charges associated with any subordinate financing of Buyer's Facility improvements to of the Property, if any. At Closing, the City shall pay for the City's attorney's fees, title examinations performed by the Title Agent, the cost of the Survey, the Plat, any costs it may have incurred in clearing title, and the cost of preparing the Deed and other closing documents required by this Agreement. Any ad valorem assessments and/or property taxes (collectively, "Property Taxes") shall be prorated between the parties. If any Property Tax to be paid under this section cannot be paid at Closing, Buyer shall receive a credit against the Purchase Price equal to Seller's share thereof, and Buyer shall thereafter be responsible for paying the same; provided if such credit is not sufficient to pay Seller's share of the Property Tax in question, Seller shall pay the remainder of its share thereof to Buyer, upon demand. If the amount of any Property Tax is not known with certainty as of the Closing, the same shall be estimated based on the best available information, with adjustment between the parties as soon as reasonably possible. The provisions of this section shall survive the Closing and the delivery of the deed. Buyer shall retain any rents and other amounts paid under the Leases from and after the Closing Date. Seller shall retain any rents and other amounts paid under the Leases prior to the Closing Date, except for any prepaid rents attributable to time periods after the Closing Date, in which case the Seller shall either remit such amounts to Buyer or provide Buyer with a credit at Closing.

11. Default.

(a) City Default. Any one or more of the following shall constitute an event of default under this Agreement by the City (herein called a "City Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) the dissolution or liquidation of the City, or the filing by the City of a voluntary petition in bankruptcy, or the City's seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the City as a bankrupt, or any assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or if a petition or answer is filed by the City proposing the adjudication of the City as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within sixty (60) days; or

(ii) failure by the City to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of thirty (30) days after written notice thereof from the Buyer, unless (A) the Buyer shall agree in writing to an extension of such period prior to its expiration, or (B) during such thirty (30) day period or any extension thereof, the City has commenced and is diligently pursuing appropriate corrective action.

If a City Event of Default exists, the sole and exclusive remedy of the Buyer shall be to elect to either (i) enforce specific performance, or (ii) terminate this Agreement. The Buyer shall not be entitled to any other damages whatsoever, including, without limitation, incidental or consequential damages, whether arising at law or in equity.

(b) **Buyer Default.** Any one or more of the following shall constitute an event of default under this Agreement by the Buyer (herein called a "Buyer Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) at any time prior to the completion by the Buyer of its obligations hereunder, the dissolution or liquidation of the Buyer, or the filing by the Buyer of a voluntary petition in bankruptcy, or the Buyer's seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the Buyer as a bankrupt, or any assignment by the Buyer for the benefit of its creditors, or the entry by the Buyer into an agreement of composition with its creditors, or if a petition or answer is filed by the Buyer proposing the adjudication of the Buyer as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within sixty (60) days;

(ii) failure by the Buyer to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of thirty (30) days after written notice thereof from the City, unless (A) the City shall agree in writing to an extension of such period prior to its expiration, or (B) during such thirty (30) day period or any extension thereof, the Buyer has commenced and is diligently pursuing appropriate corrective action.

If a Buyer Event of Default exists, the City's sole and exclusive remedy shall be to terminate this Agreement. The City shall not be entitled to any other damages whatsoever, including, without limitation, incidental or consequential damages, whether arising at law or in equity.

12. **Notices.** All notices, consents and other communications (collectively, "Notices") which may be or are required to be given by Seller or Buyer hereunder shall be properly given only if made in writing and sent to the address set forth below and may be provided by any of the following methods: (i) by hand delivery, (ii) U.S. Certified Mail (Return Receipt Requested), or nationally recognized overnight delivery service (such as UPS or FedEx), or (iii) through electronic mail, PDF, or similar electronic transmission. Such Notices shall be deemed received, (i) if delivered by hand, on the date of delivery, (ii) if sent by U.S. Mail or overnight delivery service, on the date the same is deposited with the applicable carrier, or (iii) or if delivered electronically, on the date the transmission is sent. Notices shall be addressed as follows:

If to Seller: City of Huntsville
 305 Fountain Circle, 4th Floor
 Huntsville, Alabama 35801
 Attention: Shane Davis, Director of Urban &

Economic Development
Phone: 256-427-5100
Email: shane.davis@huntsvilleal.gov

City of Huntsville
305 Fountain Circle, 5th Floor
Huntsville, Alabama 35801
Attention: Trey Riley, City Attorney
Phone: 256-427-5026
Email: trey.rile@huntsvilleal.gov

with copy to: Lanier, Ford, Shaver & Payne, P.C.
2101 W. Clinton Ave., Suite 102
Huntsville, Alabama 35805
Attention: Sam Givhan/Katie Beasley
Phone: 256-535-1100
Email: shg@lanierford.com
kab@lanierford.com

If to Buyer: Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285
Attn: Erik Orstead, Sr. Director Strategic Real
Estate
Email: Orstead_erik_m@lilly.com

with copy to : Taft Stettinius & Hollister LLP
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204
Attn: Erick D. Ponader
Email: eponader@taftlaw.com

If to Title Company: First American Title Insurance Company
2204 Lakeshore Dr., Suite 150
Birmingham, Alabama 35209
Attn: Jance Voytanovsky
Email: jance@firstam.com

Either party may change its address for Notices by giving written notice to the other party in accordance with this provision.

12. **Brokerage Commissions.** Except for CBRE, Inc. (“Buyer Broker”), who shall be paid by Buyer, the City and Buyer acknowledge that no brokers/advisors or real estate agents have been or will be involved in the sale of the Property contemplated by this Agreement. In the event of any claim for any broker’s, agent’s or finder’s fees or commissions or other similar amounts in connection with the negotiation, execution or consummation of the Agreement, each party whose actions or alleged actions or commitments form the basis of any such claim, will indemnify and hold the other parties harmless from any claims for other brokerage/advisory or real estate agent fees or commissions arising from the proposed transaction.

13. Construction of Agreement. Each of the parties hereto has agreed to the use of the particular language of this Agreement, and any question regarding the meaning of this Agreement shall not be resolved by any rule providing for construction against the party who caused the uncertainty to exist or against the draftsman. This Agreement (i) constitutes the entire agreement and understanding of Buyer and Seller with respect to the subject matter hereof and supersedes all prior agreements, understandings, letters, negotiations and discussions, whether oral or written, of the parties, and (ii) may be amended only by a written instrument executed by Buyer and Seller. In the event any provision hereof shall be prohibited by or invalidated under applicable law, the remaining provisions of this Agreement shall remain fully effective. No waiver of any provision of this Agreement shall be deemed to have been made unless expressed in writing and signed by the party charged therewith. No delay or omission in the exercise of any remedy accruing upon the breach of this Agreement shall impair such remedy or be construed as a waiver of such breach. The waiver by Seller or Buyer of any breach shall not be deemed a waiver of any other breach of the same or any other provision hereof. The captions and headings contained herein are for convenience and reference only, and they shall not be deemed to define, modify or add to the meaning of any provision of this Agreement. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. Buyer may freely assign this Agreement; provided any such assignment shall not release Buyer from its duties, obligations and liabilities hereunder. If any date specified in this Agreement for the performance of an obligation, the giving of a notice, or the expiration of a time period falls on a Saturday, Sunday, or bank holiday, then this Agreement shall be automatically revised so that such date falls on the next occurring business day. FOR PURPOSES OF THIS AGREEMENT, TIME SHALL BE CONSIDERED OF THE ESSENCE. In the event that there is a conflict between the term of this Agreement and the Project Agreement, then the terms of the Project Agreement shall prevail.

14. Governing Law; Binding Effect. This Agreement shall be governed by and construed under the laws of the State of Alabama, without regard to its conflict of provisions, and shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, successors, assigns, and personal and legal representatives.

15. Attorneys' Fees. If any legal proceeding is commenced related to this Agreement, the prevailing party in such legal proceeding shall be entitled to recover its reasonable attorneys' fees, court costs and litigation expenses from the non-prevailing party therein.

16. Exhibits. Buyer and Seller hereby acknowledge and agree that all recitals and exhibits referenced in both this Agreement and the Project Agreement are attached hereto and incorporated herein by reference.

17. Definitions. Any capitalized term that is not defined in this Agreement shall have the meaning ascribed to such term in the Project Agreement.

18. Reverter; Restriction, and Recapture Payments. A Restrictive Covenant Agreement (as defined in the Development Agreement) containing a reversionary interest, restriction, and recapture provisions for the benefit and in favor of the City, as set forth in Article 4 of the Project Agreement, shall be recorded at Closing.

19. Damage or Destruction; Condemnation. All risk of loss or damage to the Property occurring subsequent to the Effective Date shall be borne by the Seller to and including the Closing Date. If any of the Property shall suffer a loss by fire, flood, tornado, accident or other cause after the Effective Date and on or before the date of the Closing or if proceedings to take or condemn the whole or any part of the Property for public or quasi-public use under any statute or by the right of eminent domain are commenced or threatened prior to the date of the Closing, then Buyer may, at its option, either consummate or not consummate the transaction contemplated hereby. If Buyer elects to consummate the

transaction, then Seller shall assign to Buyer all of Seller's rights to insurance proceeds payable in respect of such casualty and/or any and all damages or awards payable in respect of such taking or condemnation of the Property, and there shall be no reduction of the Purchase Price. If Buyer elects not to consummate such transaction, this Agreement shall terminate and be of no further force and effect.

20. Post-Closing Obligations. The City, without cost to the Company, agrees to work in good faith with the Company to (a) assist the Company in its efforts to relocate that certain cell tower (the "Cell Tower") located on that certain outparcel, consisting of approximately 0.15 acres, lying near the Northwest Quadrant of the Property, (b) terminate the corresponding cell tower lease, and (c) cause all of the property underlying the Cell Tower to be conveyed to the Company (collectively, the "Cell Tower Tasks"). The City's obligations shall include facilitating and participating in discussions, together with the Company, with the owner of the parcel upon which the Cell Tower is located, and any tenants and subtenants of the Cell Tower, regarding the Cell Tower Tasks. The City agrees to pay the cost of accomplishing the Cell Tower Tasks in an amount not to exceed \$250,000. This would be the first \$250,000. If the cost is \$250,000 or less then the City would cover all of that cost. All costs and expenses exceeding the amount of \$250,000 shall be the responsibility of the Company and shall not be an obligation of the City. The parties understand, acknowledge, and agree that the decision whether to pursue any one of the Cell Tower Tasks shall be made at the sole discretion of the Company. The terms of this Section 20 shall survive transfer of the Property or termination of this Agreement, unless this Agreement terminates prior to the transfer of the Property to the Company, in which event this Section 20 shall terminate simultaneously with this Agreement.

21. Assignment. Except as otherwise expressly set forth herein, the Buyer shall not have the right to assign or otherwise transfer its rights or obligations under this Agreement, and any purported assignment, transfer, encumbrance or hypothecation of this Agreement or any of the rights or obligations hereunder shall be null and void and of no force or effect. Notwithstanding the foregoing, Buyer may assign its rights and obligations under this Agreement to any entity controlled by or under common control with Buyer (an "Affiliate Entity"), or otherwise made as a result of any restructure, consolidation, merger, or reorganization of Buyer in which Buyer or an Affiliate Entity is the surviving entity. In the event of an Assignment, Buyer shall provide the City with written notice of the Assignment, and such notice shall include the name, form of entity, and address of the Affiliate Entity, along with any related entity documents of said Affiliate Entity as may be requested by the City. Prior to the Assignment, the City may request Buyer and Affiliate Entity to execute and acknowledge an assignment and assumption agreement in a form reasonably acceptable to the City.

22. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Handwritten signatures to this Agreement transmitted by facsimile, email or other similar electronic transmission (for example, through the use of a "PDF" file) shall be valid and effective to bind the party so signing.

23. Party Cooperation. The parties agree to cooperate with one another and will work in good faith and will use commercially reasonable efforts in order to complete each of their respective obligations as set forth herein and in accordance with the terms of the Project Agreement.

24. Further Assurances. At Title Agent's request, the parties shall execute and deliver any additional documents reasonably required to carry out the transaction contemplated herein or to correct any scrivener's error or omissions contained in this Agreement or any document executed pursuant hereto or in connection with the transaction contemplated herein.

25. No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be construed to be a partnership or joint venture among or between Seller and Buyer, and/or their respective successors and assigns.

26. Arm's Length Transaction. Seller and Buyer acknowledge and agree that this Agreement shall be interpreted as an agreement between two parties of equal bargaining strength, it being the intention of the parties that this Agreement reflect the conditions and terms which would be obtained by and between comparable, independent persons or parties in substantially similar transactions (taking into account the relative responsibilities and risks between the parties) and comparable market and economic conditions and circumstances.

27. Press Releases. Any press release issued with respect to the transactions contemplated by this Agreement shall be subject to the prior written approval of both parties hereto.

28. Anti-Terrorism Law. Each party shall take any actions that may be required to comply with the terms of the USA Patriot Act of 2001, as amended, any regulations promulgated under the foregoing law, Executive Order No. 13224 on Terrorist Financing, any sanctions program administered by the U.S. Department of Treasury's Office of Foreign Asset Control or Financial Crimes Enforcement Network) (the "Executive Order") (collectively, the "Anti Money Laundering and Anti-Terrorism Laws"), or any other laws, regulations or executive orders designed to combat terrorism or money laundering, if applicable, to this Agreement. Each party represents and warrants to the other party that it is not an entity named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury (the "Government List"), as last updated prior to the date of this Agreement.

29. Effective Date. The term "Effective Date" shall mean the date this Agreement is executed by both the City and Buyer.

[Signatures on Following Pages.]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the dates set forth below.

BUYER:

ELI LILLY AND COMPANY, an Indiana corporation

By: _____
Name: _____
Title: _____

Date: _____

SELLER:

CITY OF HUNTSVILLE, ALABAMA, an Alabama municipal corporation

By: _____
Tommy Battle, Mayor

ATTEST:

By: _____
Shaundrika Edwards, City Clerk

Date: _____

Exhibit "A"
(Legal Description for Property)

*[**The legal description contained herein shall be updated and replaced by the legal description as contained within the Plat, which is the legal description to be contained in the Deed.**]*

Exhibit "B"
(Deed Form)

Exhibit C
Project Agreement

195422451v9