

STATE OF GEORGIA

COUNTY OF EFFINGHAM

SPRAY FIELD LEASE AGREEMENT

This **SPRAY FIELD LEASE AGREEMENT** (hereinafter, this “**Lease**”) is made and entered into on the ____ day of [____], 2022, by and between **EFFINGHAM COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY**, a public body corporate and politic, by and through its agent and attorney-in-fact, (hereinafter “**Lessor**”), at the direction and with the consent of **SAVANNAH INDUSTRIAL DEVELOPMENT, LLC**, a Colorado limited liability company (hereinafter, “**Developer**”), and **EFFINGHAM COUNTY**, a political subdivision of the State of Georgia, acting by and through its governing authority, the Board of Commissioners of Effingham County (hereinafter “**Lessee**”).

WITNESSETH

A. Pursuant to that certain Master Development Agreement dated as of March 3, 2016, as amended by that certain Amendment to Master Development Agreement dated as of November 10, 2017 (the “**Master Development Agreement**”), a short-form version of which is recorded in Deed Book 2338, Page 461, Effingham County, Georgia records, Lessor has appointed Developer to be its sole and exclusive agent and attorney-in-fact, and as its master developer, with respect to approximately 2,584 acres of land owned by Lessor (such property, together with all other property now owned or hereafter acquired by Developer and developed therewith, is hereby referred to as the “**Master Development Land**”). Developer intends to develop the Master Development Land into an industrial complex known as the Savannah Gateway Industrial Hub (the “**Master Development**”).

B. To promote the Master Development and to accommodate the needs of the Lessee with respect to its water treatment system, Developer and Lessee have entered into that certain Pre-Development Agreement dated as of [____, 2022] (the “**Pre-Development Agreement**”), for the construction and operation of a Spray Field (hereinafter defined).

C. To further promote the Master Development and to accommodate the needs of the Lessee with respect to its water treatment system, Lessor, at the direction and with the consent of Developer, desires to lease to Lessee, and Lessee desires to lease from Lessor, an approximately 20 acre portion of the Master Development Land described on Exhibit A attached hereto (the “**Leased Premises**”) for the construction and operation of a Spray Field, subject to and in accordance with the terms of this Lease.

For and in consideration of the mutual covenants, promises, and obligations contained herein, the parties agree as follows:

1. LEASED PREMISES AND PERMITTED USE:

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Leased Premises, on the terms and conditions set forth herein. Lessee shall use the Leased Premises solely for the operation of a spray irrigation field (the “**Spray Field**”) to dispose of pre-treated municipal wastewater (and not, for the avoidance of doubt, untreated wastewater or so-called “gray water”), and no other purpose (the “**Permitted Use**”).

(b) Pursuant to the Pre-Development Agreement, Lessee shall be solely responsible for constructing, the Spray Field and all supporting utility infrastructure and access driveways required by Lessee in connection with its use of the Leased Premises. The costs of the design and construction of the Spray Field shall be borne by the Developer and Lessee as set forth in the Pre-Development Agreement. Lessee shall be solely responsible for procuring, and for paying for, all utilities consumed by Lessee in connection with its use of the Leased Premises.

(c) Lessee shall not use or occupy the Leased Premises in any unlawful, disorderly, or hazardous manner. In no event shall Lessee overspray the Spray Field to the detriment of the Leased Premises or adjacent property, or conduct or permit any activity that might constitute a public or private nuisance or diminish the usefulness or utility of the Master Development.

2. TERM AND RENT; NET LEASE: The term of this Lease shall commence on the date upon which both the Developer and the County have fully approved the "Spray Field Plans" under the Pre-Development Agreement and the County has obtained all necessary "Permits" under the Pre-Development Agreement, and shall expire at 11:59 p.m., EST, on December 31, 2121 (hereinafter the "**Term**"), unless earlier terminated pursuant to the terms hereof. For the rights herein granted by Lessor to Lessee, for and during the Term of this Lease, Lessee shall pay to Lessor the amount of One Dollar and 00/100 (\$1.00) per year (hereinafter referred to as "**Rent**") in January each year. Lessee shall also provide to Developer the credits and other consideration set forth in the Pre-Development Agreement. Except as otherwise explicitly provided herein, this Lease shall be deemed and construed to be a "triple net lease," and Lessee shall be solely responsible for any and all charges, assessments, impositions, and expenses of any nature whatsoever pertaining to the Leased Premises.

3. CONSTRUCTION, MAINTENANCE AND REPAIRS: Subject to the terms of the Pre-Development Agreement, Lessee shall be responsible for and bear the liability and expense of all construction, repairs and maintenance of the Leased Premises and all improvements, additions, and alterations on or about the Leased Premises, including, without limitation, the Spray Field. Lessee shall keep and maintain the Spray Field in good working condition throughout the Term at Lessee's sole cost and expense. Lessee, at its expense, shall discharge any and every mechanics' or materialman's lien with respect to any work performed on the Leased Premises during the Term, or any other work by or for Lessee, within fifteen (15) days from the filing thereof, or Lessor shall have the right (but not the obligation) to do so at Lessee's expense.

4. EASEMENTS, AGREEMENTS, OR ENCUMBRANCES: The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the Leased Premises. Additionally, Lessor shall have the right, but not the obligation, to further encumber the Leased Premises with restrictive covenants and easements in the future without Lessee's consent unless such covenants and easements will materially interfere with Lessee's construction or operation of the Spray Field or its other express rights under this Lease, in which case Lessee shall not unreasonably withhold, condition or delay its consent.

5. QUIET ENJOYMENT: Lessor warrants that Lessee shall be granted peaceable and quiet enjoyment of the Leased Premises free from any eviction or interference by Lessor if Lessee pays the Rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Lessee.

6. ASSIGNMENT OR SUBLEASE: Lessee may not assign this lease or sublease any portion of the Leased Premises without the expressed written consent of Lessor. All rights of Lessor hereunder shall be fully and freely assignable by Lessor, without notice to, or consent of, Lessee.

7. COMPLIANCE WITH LAWS:

(a) Lessee shall comply, at Lessee's sole risk, cost and expense, with all applicable laws and any and all orders, requirements or conditions now or hereafter imposed affecting or with respect to the Leased Premises by the ordinances, laws or regulations of the State of Georgia, the federal government, or any political subdivision thereof, to be done or performed during the Term, and whether required in the conduct of Permitted Use or not (collectively, "**Applicable Laws**"). Without limiting the foregoing, Lessee shall timely comply with all reporting requirements relating to its use of the Spray Field imposed by Applicable Laws, and shall make such reports available to Lessor upon request. Lessee shall likewise procure all governmental licenses and permits required to conduct the Permitted Use at the Leased Premises, and comply with the requirements of each such license or permit. Lessee shall not disturb or impact any portion of the Leased Premises that constitutes "wetlands" under Applicable Law without first obtaining the prior written consent of Lessor and securing all applicable permits and licenses required therefor.

(b) Lessee shall not (i) cause or permit any Hazardous Materials (hereinafter defined) to be brought upon, stored, used or disposed on, in or about the Leased Premises, or (ii) permit the release, discharge, spill or emission of any Hazardous Material in or from the Leased Premises. Lessee shall be fully responsible for, and shall pay for, all costs, expenses, damages or liabilities (including, but not limited to those incurred by Lessor or other adjoining property owners) that may occur from the use, storage, disposal, release, spill, discharge or emissions of Hazardous Materials on the Leased Premises by, through or under Lessee or otherwise occurring during the Term. The provisions of this Section 7(b) shall be in addition to any other obligations and liabilities Lessee may have to Lessor at law or in equity and shall survive the Term or any earlier termination of this Lease. As used in this Lease, the term "**Hazardous Materials**" shall include, without limitation: (1) those substances included within the definitions of "hazardous substances", "hazardous materials," "toxic substances," or "solid waste" in the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. §9601 et seq.) ("**CERCLA**"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("**SARA**"), the Resource Conservation and Recovery Act of 1976 ("**RCRA**"), and the Hazardous Materials Transportation Act, and in the regulations promulgated pursuant to said laws, all as amended; (2) those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto); and (3) any material, waste or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyl, (D) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. §1251 et seq. (33 U.S.C. §1321) or listed pursuant to Section of the Clean Water Act (33 U.S.C. §1317); (E) flammables or explosives; (F) radioactive materials; or (G) untreated wastewater or so-called "gray water."

8. RESERVATION OF RIGHTS: During the Term, Lessor hereby expressly reserves the right to enter upon and to use the Leased Premises or any portion thereof for all purposes that do not materially impair Lessee's ability to use the Leased Premises for the Permitted Use. Lessor shall not unreasonably disturb Lessee's construction, use or operation of the Spray Field. Notwithstanding anything to the contrary

contained in this Agreement, if Lessor uses the Leased Premises for the purposes reserved herein, Lessor shall be solely responsible for any and all incremental liabilities, costs and expenses caused thereby.

9. TERMINATION RIGHTS:

(a) If Lessee fails to timely construct and commence operation of the Spray Field on or prior to _____, 20____, then Lessor shall have the right, but not the obligation, to terminate this Lease upon not less than thirty (30) days prior written notice to Lessee, provided, however, that if within such thirty (30) day period, Lessee commits in writing to Lessor to construct and thereafter commence the operation of the Spray Field for the Permitted Use within one hundred eighty (180) days after its receipt of Lessor's termination notice, and thereafter diligently and continuously abides by such commitment within such one hundred eighty (180) day period, then Lessor's termination shall be of no force and effect and this Lease shall continue.

(b) If Lessee, having previously constructed and commenced operation of the Spray Field for the Permitted Use, ceases operation of the Spray Field for the Permitted Use for a continuous period of one (1) year or more, then Lessor shall have the right, but not the obligation, to terminate this Lease upon not less than thirty (30) days prior written notice to Lessee, provided, however, that subject to the last sentence of this paragraph, if within such thirty (30) day period, Lessee commits in writing to Lessor to recommence the operation of the Spray Field for the Permitted Use within ninety (90) days after its receipt of Lessor's termination notice, and thereafter diligently and continuously abides by such commitment within such ninety (90) day period, then Lessor's termination shall be of no force and effect and this Lease shall continue. Notwithstanding the foregoing, if Lessor has purported to terminate this Lease, and Lessee has voided such termination, under this provision more than twice during the Term, then further terminations by Lessor under this Section 9(b) shall not be thereafter voidable by Lessee.

(c) If the Pre-Development Agreement terminates in accordance with its terms, then either party may terminate this Lease effective immediately upon written notice to the other party.

10. DEFAULT: A "**Default**" shall be deemed to have been committed by Lessee upon the occurrence of any of the following events: (i) Lessee's failure to timely pay when due any amount for which Lessee is responsible hereunder, which failure continues for a period of fifteen (15) days after written notice from Lessor; or (ii) the conveyance, assignment, mortgage or sublet of this Lease, the Leased Premises or any part thereof, or Lessee's interest therein, or attempt any of the foregoing, without the prior written consent of Lessor; or (iii) Lessee's failure to maintain the insurance coverage required herein, which failure is not cured within five (5) days after written notice from Lessor; (iv) Lessee's violation or failure to perform any of the other terms, conditions, covenants, or agreements herein made by Lessee and which violation or failure continues for thirty (30) days after written notice from Lessor; or (v) any default beyond applicable notice and cure periods occurs under the Pre-Development Agreement. Upon a Default, at Lessor's option, this Lease shall terminate, and Lessor shall be entitled to exercise all remedies available to Lessor under Applicable Laws.

11. INSURANCE:

(a) Lessee shall maintain at all times during the Term hereof and at its sole cost and expense, broad-form commercial general liability insurance for bodily injury and property damage, including, without limitation, personal injury and contractual liability coverage. Such insurance at all times shall be

in an amount of not fewer than Two Million Dollars (\$2,000,000) combined single limit aggregate for bodily injury or death or damage to property, which minimum amount shall escalate by ten percent (10%) every fifth (5th) year of the Term unless waived by Lessor. In no event shall the limits of such policy be considered as limiting the liability of Lessee under this Lease. Such policy shall name Lessor, Developer, and any other person named by Lessor, as additional insureds, and shall contain a provision that the same may not be cancelled or reduced without providing Lessor and Developer not fewer than thirty (30) days prior written notice. Lessee shall deliver to Lessor certificates of insurance evidencing the existence and amounts of said insurance prior to the commencement of the Term and at least ten (10) days prior to any renewals thereof. Lessee shall bear all risk of loss with respect to the Spray Field and its other improvements to the Leased Premises.

(b) Each party hereby waives any and every right or cause of action for any and all loss of, or damage to, any of its property (whether or not such loss or damage is caused by the fault or negligence of the other party or anyone for whom said other party may be responsible), which loss or damage is covered by valid and collectible fire, extended coverage, "All Risk" or similar policies, maintained by such party or required to be maintained by such party under this Lease, but only to the extent that such loss or damage is recovered under said insurance policies (if such policy or policies have been obtained) or would have been covered if such party had obtained the required insurance coverage hereunder. Written notice of the terms of said mutual waivers shall be given to each insurance carrier and said insurance policies shall be properly endorsed, if necessary, to prevent the invalidation of said insurance coverages by reason of said waivers.

12. LIABILITY:

(a) Neither Lessor nor Developer shall be liable to Lessee or any party claiming by, through or under Lessee for any damage, loss, compensation, accident, injury or claims whatsoever as to persons or property; interruption in the use of the Leased Premises; use or operation (by Lessor, Lessee or any other person or persons whatsoever) of the Spray Field; termination of this Lease by reason of the destruction of the Leased Premises; fire, robbery, theft, or any other criminal or tortuous activity whatsoever, or any other casualty whatsoever; any leakage in any part or portion of the Leased Premises; acts or omissions of any third party occupying property adjoining all or any part of the Leased Premises; any water, gas, steam, fire, explosion, or electrical problem; the bursting, stoppage or leakage of any pipes, sewer pipes, drains, conduits, appliances or plumbing works; or any other cause whatsoever. Lessee shall look solely to the equity in the Leased Premises of the then owner of the Leased Premises for satisfaction of any remedies of Lessee under this Lease.

(b) Lessee shall be solely responsible for, and shall pay for, any cost, damage, claim, liability or expense (including attorneys' fees) incurred by or claimed against Lessor or Developer, directly or indirectly, as a result of or in any way arising from (i) Lessee's use and occupancy of the Leased Premises, including, but not limited to, any cost, damage, claim, liability or expense arising from any Applicable Law; (ii) the negligence or willful misconduct of Lessee, its officers, directors, employees and agents; (iii) any default, breach or violation of this Lease by Lessee; or (iv) injury or death to individuals or damage to property sustained at the Leased Premises.

13. END OF TERM: Upon the expiration or other termination of the Term, Lessee shall surrender the Leased Premises in good order, condition, and repair. At Lessor's option, Lessee shall either (a) remove the Spray Field and its other improvements from the Leased Premises and restore the Leased Premises to

substantially the same condition existing prior to the commencement of the Term, or (b) leave in place the Spray Field or any other specified improvements, in which case such specified improvements will automatically be and become the property of Lessor without need of further action by the parties. Lessee shall be solely responsible for, and shall pay, all damages (including consequential damages), losses, expenses and costs (including attorneys' fees and court costs) that Lessor may suffer as a result of Lessee's holdover use and occupancy of the Leased Premises.

14. NOTICE: Any notice required to be given pursuant to the terms of this Lease shall be effective when made in writing and sent via certified or registered mail to the respective parties at the following addresses: If to Lessor: Effingham County Industrial Development Authority, 520 W. Third Street, Springfield, Georgia 31329, Attn: CEO, with a copy to Savannah Industrial Development, LLC, c/o Broe Real Estate Group, 252 Clayton Street, Denver, Colorado 80206, Attn: Ronald J. Corsentino, with another copy to Holland & Knight LLP, 1180 West Peachtree Street NE, Suite 1800, Atlanta, Georgia 30309, Attn: Matthew T. Joe. If to Lessee: Board of Commissioners of Effingham County, 601 N. Laurel Street, Springfield, Georgia 31329, Attn.: County Administrator. Any party may change its respective notice addresses by written notice to the other party.

15. ROLE OF DEVELOPER: During the term of the Master Development Agreement, and so long as Effingham County Industrial Development Authority is and remains the fee owner of the Leased Premises, Lessee shall be entitled to rely, and shall rely, solely upon the approvals, consents, and directives of Developer as being binding upon "Lessor" hereunder.

16. BINDING EFFECT: The terms of this Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns.

17. APPLICABLE LAW: This Lease shall be governed by and construed in accordance with the laws of the State of Georgia.

18. TIME OF THE ESSENCE: Time is of the essence of this Lease.

19. ENTIRE AGREEMENT: This Lease constitutes the entire agreement between the parties, and no other prior oral or written agreements shall be binding upon the parties. This Lease may not be modified except by a written addendum executed by both the parties with the same formality with which this Lease is executed.

IN WITNESS WHEREOF, the parties have executed this agreement in duplicate on the date and year indicated above.

LESSOR:

EFFINGHAM COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY,
a body corporate and politic of the State of Georgia

By: Savannah Industrial Development, LLC,
a Colorado limited liability company,
its agent and attorney-in-fact pursuant to instrument recorded in Deed
Book 2338, Pages 452-460, Effingham County, Georgia records

By: _____
Name: Ronald J. Corsentino
Title: Manager

LESSEE:

BOARD OF COMMISSIONERS OF EFFINGHAM COUNTY, GEORGIA

By: _____
Wesley Corbitt
Its: Chairman

Attest

By: _____
Stephanie Johnson
Its: Clerk