

BEFORE THE
SURFACE TRANSPORTATION BOARD

307964

FD 36489
SAVANNAH INDUSTRIAL TRANSPORTATION, LLC
—OPERATION EXEMPTION—
IN EFFINGHAM COUNTY, GA.

ENTERED
Office of Proceedings
February 9, 2024
Part of
Public Record

FD 36723
SAVANNAH INDUSTRIAL LOGISTICS, LLC
— CONSTRUCTION EXEMPTION —
IN EFFINGHAM COUNTY, GA

FD 36723 (SUB-NO. 1)
SAVANNAH INDUSTRIAL TRANSPORTATION, LLC
— LEASE AND OPERATION EXEMPTION —
LINE OF SAVANNAH INDUSTRIAL LOGISTICS, LLC
IN EFFINGHAM COUNTY, GA

**PETITION FOR CLARIFICATION OR OTHER RELIEF OF
SAVANNAH INDUSTRIAL LOGISTICS, LLC AND
SAVANNAH INDUSTRIAL TRANSPORTATION, LLC**

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**ATTORNEYS FOR SAVANNAH
INDUSTRIAL LOGISTICS, LLC AND
SAVANNAH INDUSTRIAL
TRANSPORTATION, LLC**

Dated: February 9, 2024

BEFORE THE
SURFACE TRANSPORTATION BOARD

FD 36489
SAVANNAH INDUSTRIAL TRANSPORTATION, LLC
—OPERATION EXEMPTION—
IN EFFINGHAM COUNTY, GA.

ET AL.

**PETITION FOR CLARIFICATION OR OTHER RELIEF OF
SAVANNAH INDUSTRIAL LOGISTICS, LLC AND
SAVANNAH INDUSTRIAL TRANSPORTATION, LLC**

For the reasons offered below, Savannah Industrial Transportation, LLC (“SIT”) and Savannah Industrial Logistics, LLC (“SIL”)¹ jointly request such relief as the Surface Transportation Board (“Board”) deems appropriate to permit SIT to offer rail service to new customers (each a “Customer” and collectively the “Customers”) that are planning to locate along the line that SIT currently operates, and prospectively also to additional rail shippers in the future. SIT is in advanced negotiations with several users, some of which are discussed below, to locate within the Savannah Gateway Industrial Hub² (the “Hub”) to take advantage of the Hub’s

¹ SIL and SIT are affiliated companies created, respectively to – (a) construct and own the Track (as described below); and (b) to provide railroad transportation services over it. Because of this interplay between the two affiliates, negotiations regarding railroad service with third parties entail a degree of SIL and SIT joint engagement.

² The Hub is a phased, multi-modal logistics park located near the Port. It is part of a regional commerce initiative among SIL, SIT, and Effingham County. The Hub project entails the development of County-owned lands to be deployed to facilitate freight traffic flows to and from the Port moving from and to various national and international markets, thereby promoting the regional economy, all in keeping with an Effingham County Master Plan. See <https://www.effinghamcounty.org/DocumentCenter/View/3409/Effingham-County-2020-2040-Joint-Comprehensive-Plan>. The map attached as Exhibit A (taken from the Master Plan) depicts in purple the land Effingham County has designated for industrial development, and the boxed section of that map shows the industrial use-zoned land within which the Hub is located. The

strategic location, including its proximity to the Port of Savannah, Georgia (the “Port”). Yet other prospective rail customers have approached SIT, expressing interest in locating within the Hub. Locating the Customers and other rail service-dependent industries within the Hub during the pendency of the above-captioned construction and lease and operation proceedings would advance Effingham County’s local economic development objectives (as are being promoted through the Effingham County Industrial Development Authority – “ECIDA”), bring new traffic to the Port, promote expanded use of rail service regionally and nationally, and greatly aid in meeting prospective shippers’ business and logistics needs.

BACKGROUND

SIL has constructed the relevant portion of the Hub, including the 11,404 feet of main line track (the “Track”) that is the subject of both the original FD 36489 proceeding and the subsequent railroad line construction and railroad line lease and operation petitions for exemption docketed, respectively, as FD 36723 and FD 36723 (Sub-No. 1), and filed on September 28, 2023.

SIT had been operating over the Track as a private switching carrier under an agreement with SIL from October of 2020 until August 1, 2023, when the Board concluded that SIT had “intended to operate the Track as jurisdictional track for which Board authority should have been obtained under 49 U.S.C. § 10901 before construction commenced,”³ and thereupon

Track currently extends over two portions of the Hub as planned by Effingham County and SIL – Areas 1 and 2, shown in the map attached as Exhibit B. And see also <https://omnitrax.com/savannah-gateway-industrial-hub-2>. Areas 1 and 2 on the Exhibit B map have been partially developed to date. Areas 3 and 4 are slated for development in the future.

³ *Savannah Industrial Transportation, LLC – Operation Exemption – In Effingham County, GA*, FD 36489 (STB served Aug. 1, 2023) (“*August 1 Decision*”), 4; and see also *id.*, 5 (finding that “the Track was intended to be operated as common carrier track for which Board authority—and the associated environmental and historic review—is required.”).

granted SIT a limited, provisional exemption to conduct common carrier service, effective immediately, pending initiation of, and Board action on, the above-referenced FD 36723 and FD 36723 (Sub-No. 1) proceedings. In granting SIT a qualified exemption to conduct common carriage, the Board explained that such authorization would “only apply to service provided to any shippers currently located on the Track at the time of service of this decision and only for the duration of the Board’s consideration of SIL’s request for construction authority after the fact and SIT’s request for operating authority after the fact.”⁴

In “allowing SIT to continue to serve the limited number of shipper(s) currently located on the Track,”⁵ the Board directed SIT to “provide the Board with a list of shippers to which SIT currently provides service, and to provide a copy of [the *August 1 Decision*] to those shippers,” and to certify its compliance with these orders by no later than August 31, 2023.⁶ SIT did as directed by way of a filing tendered to the Board on August 30, 2023 (the “August 30 Filing”). The Board did not indicate under what circumstances SIT could provide railroad transportation service – either under common carriage or private carriage – to any other customers that might locate at the Hub and seek railroad transportation service during the pendency of the FD 36723 and FD 36723 (Sub-No. 1) proceedings.

In certifying compliance with Ordering Paragraphs 5 and 6 of the *August 1 Decision*, SIT advised that it provided railroad service to one customer – Quantix SCS, Inc. SIT stated that it was “mindful of the Board’s directives with respect to its limited and provisional authority to conduct common carrier operations,” and committed to “abide by the terms of the

⁴ *Id.*, 6.

⁵ *Id.*, 7.

⁶ *Id.*

Board-issued exemption in this proceeding, subject to any further agency guidance going forward.” SIT added that it planned “to address currently-pending railroad shipper opportunities that have been developed in cooperation with Effingham County in a subsequent filing.”⁷

The present document constitutes the “subsequent filing” that SIT anticipated on August 30, 2023.

SIT referred to “currently-pending railroad shipper opportunities” because it was, and is, in active negotiations with potential Hub customers to which SIT, with ECIDA’s support, has promoted the Hub as an advantageous logistics option. These negotiations commenced after the Track was built and have evolved since the pendency of the FD 36489 proceeding. SIT contemplated that, following its August 30 Filing, one or more of these prospective, rail service-dependent customers would likely reach terms to locate within the Hub. Indeed, a major transportation logistics and transport company (“Transport Co”), which for strategic and confidentiality reasons cannot be identified at this time, has advance significant negotiations to locate new facilities within the Hub. In addition, an aggregate transload facility operator, Conrad Yelvington (“Yelvington”) is close to finalizing terms to locate within the Hub, and, indeed could possibly be ready to commence operations within the second quarter of 2024. Lastly, SIT this week held in-person discussions with a major transportation, logistics and materials handling company for the storage and transport of distillers’ grain (“Logistics Co”) (Yelvington, Transport Co and Logistics Co, collectively, are the Customers).⁸ Each of these Customers intends to use SIT’s railroad transportation services at the Hub, whether as common or private carriage.

⁷ August 30 Filing, 1.

⁸ Yelvington, along with Effingham County and the Port, has supplied a support letter endorsing SIT and SIL’s present request for relief to ensure the availability of SIT rail service to customers attracted to the Hub. See Exhibit C.

SIT's negotiations with each of these Customers concerning Hub opportunities commenced *after* the Track was constructed, and those negotiations have been driven by the Customers' perception of the Hub's geographic advantages and its access to line-haul railroad service from two highly-competitive eastern carriers – Norfolk Southern Railway Company (“NSR”) and CSX Transportation, Inc. (“CSXT”). The map attached as Exhibit D shows the proposed locations of the Customers within the Hub, as well as the ancillary track that SIL would construct to support each.⁹ Transport Co expects to begin rail service-dependent operations by year end 2024; Yelvington could begin service as soon as its transloading facility could be constructed, potentially as soon as the second quarter of 2024; and Logistics Co is currently forecast to begin shipping in the fourth quarter of 2024 or the first quarter of 2025.

Finally, as the Board may be aware, discussions among SIL, SIT and the Board's Office of Environmental Analysis (“OEA”) have proceeded apace, constructively. SIL and the environmental consultant with which it worked in the planning and development of the Hub facilities – and with which SIL continues to work in connection with the pending FD 36723 and FD 36723 (Sub-No. 1) proceedings – have supplied OEA, via file share, with around 1,247 pages of documents related to the planning, impacts analysis, and state, federal and local permitting that preceded the construction of the Tracks and related facilities. SIL and SIT also have reached terms to provide OEA with a third-party environmental consultant.

⁹ The tracks that SIL plans to construct to serve the Customers would connect to extant SIL Track. Because the new track to be installed would be strictly for purposes of supporting an individual customer at separate locations within the Hub, SIL understands that a majority of the track will be ancillary track falling under the ambit of 49 U.S.C. § 10906, while some new track may be offered to the individual customer under a lease or license agreement, thus functioning as private industry track. For the reasons supplied above, none of this additional track was identified in the map supplied with the SIT operation exemption filing in FD 36489, as neither the customers nor their specific service and track needs were known at the time.

OEA is formulating an appropriate review process under the circumstances, which OEA currently expects to occur under a form of Environmental Assessment as assisted by the SIL-supplied third-party environmental consultant. SIL and SIT understand that OEA's expected approach is intended to avoid duplication of effort associated with the planning and permitting associated with Track construction that was undertaken outside of the scope of Board review. OEA has advised that it is seeking to minimize redundant solicitation of consulting agency input, while focusing on items that SIL and its environmental consultant might not have addressed previously in a manner consistent with OEA review procedures under the National Environmental Policy Act (42 U.S.C. §§ 4321-4370m-11). Although SIT and SIL are thoroughly engaged with OEA to address the line construction and operation environmental and historic resources impacts analysis, and hope for a swift review, it is unclear how long it may take for OEA to complete its project assessment and forward its conclusions and recommendations to the Board as part of the individual petition for exemption proceedings.

REQUEST FOR RELIEF

In its *August 1 Decision*, the Board invoked its prerogative under 49 U.S.C. § 10502(b) to issue, on its own motion, an exemption for SIT to “continue its current operations on the Track pending consideration of the anticipated construction and acquisition proceedings” that are the subject of the pending FD 36723 and FD 36723 (Sub-No. 1) proceedings.¹⁰ The Board limited the exercise of its discretionary exemption authority to SIT's provision of common carrier service to “any shippers currently located on the Track at the time of service of this decision . . .”¹¹ The Board did not indicate under what circumstances it would permit SIT to

¹⁰ *August 1 Decision*, 6.

¹¹ *Id.*

provide railroad service – whether common carriage or private carriage – to any other customers that might, during the pendency of the FD 36723 and FD 36723 (Sub-No. 1) proceedings, seek to locate within the Hub and utilize SIT’s services.

For the reasons supplied above, SIT and SIL jointly urge the Board either to extend SIT’s exemption authority to permit SIT to provide common carrier service to the Customers, or, in the alternative, to clarify that SIT may provide the Customers with private switching during the pendency of the FD 36723 and FD 36723 (Sub-No. 1) proceedings. SIT and SIL also ask that the Board extend to SIT permission to serve other businesses that may in the future locate within the Hub during the pendency of these proceedings, or, alternatively, to prescribe an expeditious process by which the Board could assess and act upon such additional service requests (if any) during such pendency. SIL and SIT respectfully submit that such relief would assure shippers of access to a strategically-situated rail transportation service option consistent with the public interest generally, and to the benefit of the surrounding community and the neighboring Port. Furthermore, prompt and favorable action on the present joint request for relief would promote interstate commerce and rail-customer service in furtherance of the Rail Transportation Policy as set forth at 49 U.S.C. § 10101.

Appropriate Board action consistent with SIT’s and SIL’s joint request would protect Effingham County, whose economic development aspirations would otherwise be severely restricted by limiting rail service at the Hub. Granting the requested relief also would advance the interests of the Customers that SIT, SIL and ECIDA have attracted to the Hub, each of which has found (for its own particular reasons) that the Hub’s location is commercially and logistically advantageous. Allowing SIT to serve the Customers and other prospective rail service-dependent industries that may seek to locate at the Hub would assist the Port in

expanding its services and in advancing its competitive position for Eastern Seaboard cargo.

Accordingly, SIT and SIL urge the Board to consider the voices of the Port, Effingham County, and Yelvington, each of which has joined in supporting this Petition.

SIL and SIT ask the Board to consider that, while SIT fully expected to attract rail service-dependent customers to the Hub following SIL's Track construction, the Customers did not emerge as prospective Hub tenants until *after* the Track – which was designed to be, and serves as, SIT's main line of railroad – was built in 2018-19. As with any other fledgling, multi-phase logistics park, the Hub is expected to expand as new customers locate to it, and, in the course of such expansion, ancillary and private industry trackage would be appended to the main line Track to meet the particular needs of each new, rail-shipping tenant. Thus, as circumstances unfold and as prospective customers are attracted to the facility, shipper structures and supporting track infrastructure would be built "to suit."

SIT recognizes that the Board's actions in this proceeding were not intended to harm Effingham County, prospective rail service-dependent customers attracted to the Hub due to its proximity to the Port, or local economic development. SIL and SIT are willing to engage (and are engaged) in appropriate, after-the-fact remedial efforts in connection with the construction of, and provision of common carrier operations over, the subject 11,404 feet of the Track, and they remain committed to those ongoing remedial processes, as the Board has ordered them to do. But SIT (in particular) urges the Board not to penalize those who were uninvolved in the actions that the Board has concluded SIL and SIT undertook to trigger ongoing construction and operation proceedings. The new services at the Hub will not entail constructing additional railroad lines under 49 U.S.C. § 10901, but they would require the construction of a certain

amount of Section 10906 ancillary track, as is shown in the maps supplied with this request, as we hope that the Board will appreciate.

CONCLUSION

For the foregoing reasons and in keeping with the support offered by interested parties as set forth in Exhibit C, SIL and SIT respectfully urge the Board promptly to offer relief designed to facilitate Hub development plans. Such relief would protect the interests of rail service-dependent Customers attracted to the Hub (beyond the SIT's existing customer), and the interests of other industries that may hereafter locate at the Hub while SIL and SIT engage in after-the-fact authorization for construction, and operation, respectively, of the Track.

Respectfully submitted,

By: /s/ *R.A. Wimbish*

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(312) 252-1500

**ATTORNEYS FOR SAVANNAH
INDUSTRIAL LOGISTICS, LLC AND
SAVANNAH INDUSTRIAL
TRANSPORTATION, LLC**

Dated: February 9, 2024

BEFORE THE
SURFACE TRANSPORTATION BOARD

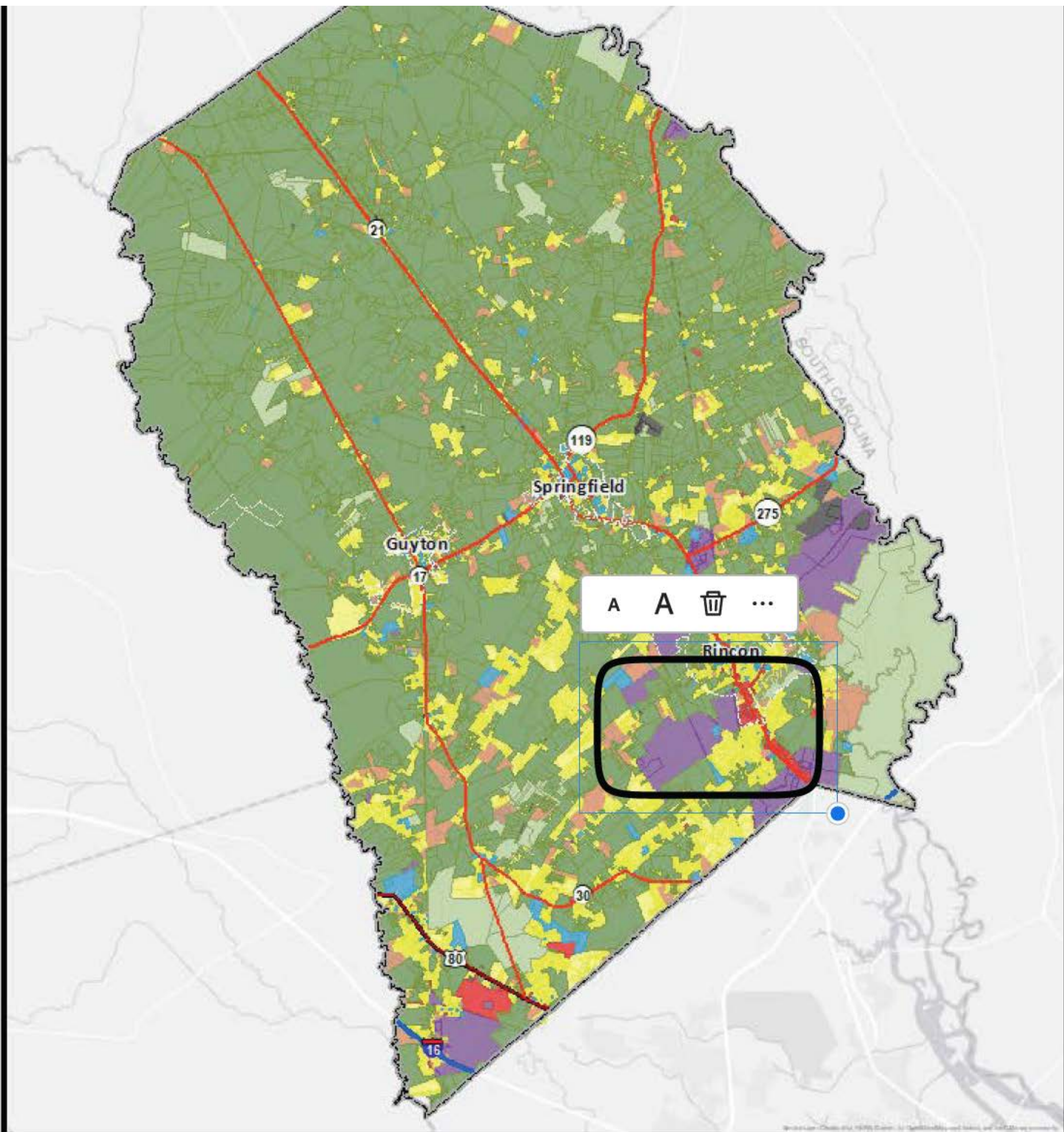
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EXHIBIT A

MAP



- Effingham County
- Agriculture
- Commercial
- Conservation/Recreation
- Industrial

Existing Land Use

Effingham County

Published: 7/25/2019
1 in = 4 miles

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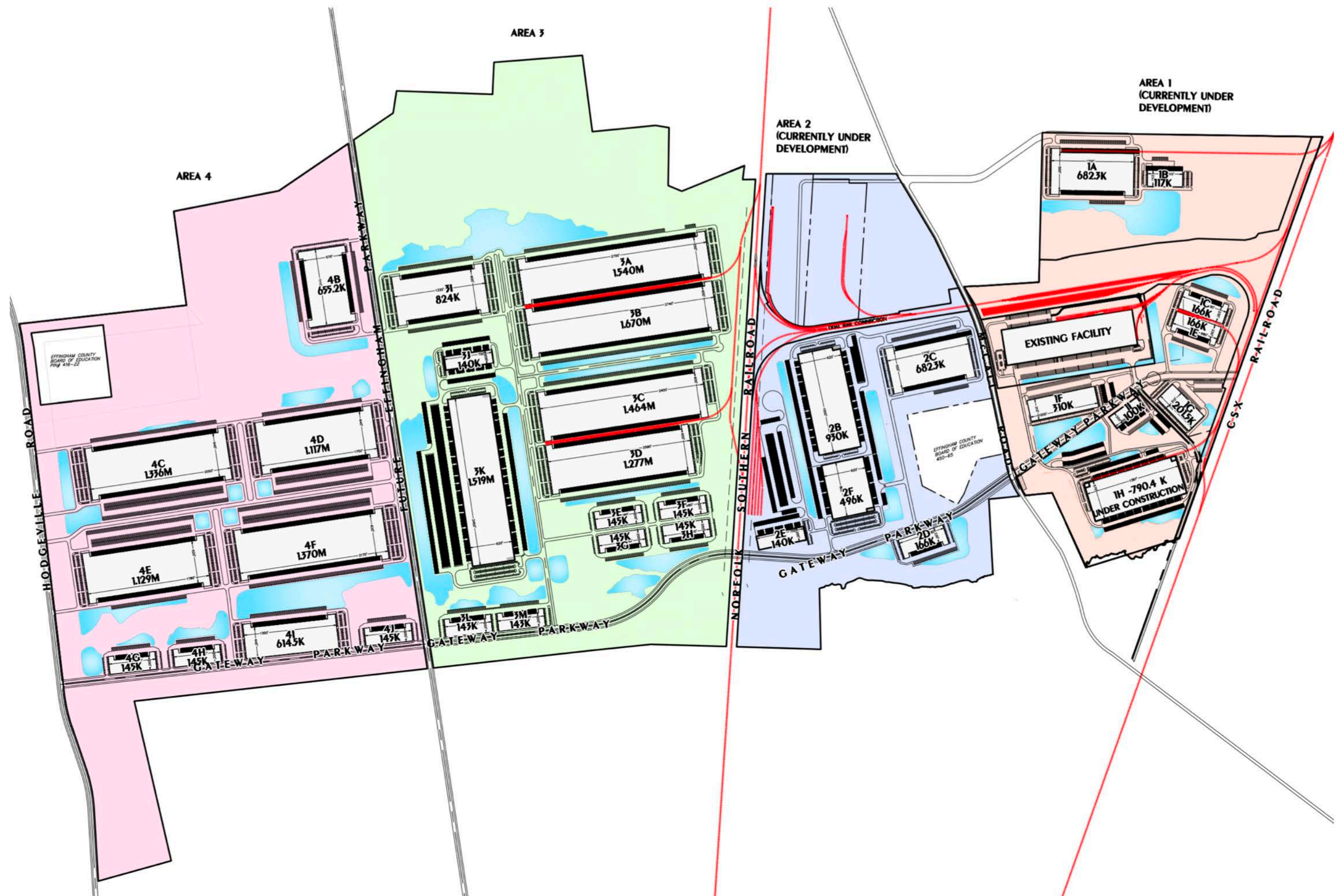
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EXHIBIT B

HUB MAP



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EXHIBIT C

LETTERS OF SUPPORT



February 9, 2024

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: **FD 36489**
Savannah Industrial Transportation LLC — Operation Exemption —
in Effingham County, Ga.

Dear Ms. Brown:

Conrad Yelvington Distributors is a construction aggregates supply chain company and is looking to build/lease a facility which will require rail service from Savannah Industrial Transportation LLC (SIT) at the Savannah Gateway Industrial Hub (the Gateway). We are aware that SIT is currently engaged in a proceeding before the Surface Transportation Board (STB) concerning SIT's railroad operations, including, as relevant here, SIT's recent request for authorization to provide common carrier rail service, as opposed to private switching, to us and others. We heartily endorse SIT's request to be permitted to serve our facility as a common carrier as of the date we begin shipping at this facility.

The Gateway is ideally-located for our business, given the facility's proximity to the Port of Savannah, as well as its competitive access to connecting NS and CSXT service. Nevertheless, without SIT's common carrier rail service option, we would have to reconsider locating to Savannah, and that, in turn, would, without question, create a significant hardship for our company and for the Savannah and Effingham County communities. But we are confident that this agency will carefully avoid any actions that would unnecessarily conflict with the interests of shippers such as ourselves.

For these reasons, we strongly encourage the Board to allow SIT to provide rail service as a common carrier effective as of the commencement of our operations at the Gateway, which we currently forecast will begin as of April 2024. We appreciate the Board considering the view from our perspective as a rail service consumer.

Sincerely,

Conrad Yelvington Distributors

Gary Yelvington
President

EFFINGHAM COUNTY
industrial development authority

December 6, 2023

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: **FD 36489**
Savannah Industrial Transportation LLC — Operation
Exemption — in Effingham County, Ga.

Dear Ms. Brown:

The Effingham County Industrial Development Authority, on behalf of itself and Effingham County, Georgia (collectively, the “County”), write to endorse Savannah Industrial Transport’s (SIT) request for authorization to provide common carrier rail service customers expanding or building new facilities in Effingham County, Georgia. It is imperative to the County that SIT is able to serve existing and new customers, either as a common carrier or a private switching carrier pending SIT’s current Petition for Exemption before your agency.

Our rail partners are critical to the continued growth and economic vitality of the County and the greater Savannah area. Moreover, the Savannah Gateway Industrial Hub, in which SIT operates, is an important and strategic part of the County’s rail and port infrastructure. Accordingly, if SIT were unable to provide rail service, that would materially and negatively impact regional economic development, including, chiefly, the County’s ability to provide continued growth and employment opportunities for local residents.

For these reasons, the County strongly encourages the Board to allow SIT to provide rail service to any and all customers now as a common carrier or switching carrier and officially as a common carrier at the conclusion of SIT’s Petition proceeding. We appreciate the Board considering the view from our perspective as a rail service partner to SIT.

Sincerely,



Brandt Herndon, CEO
Effingham County Industrial Development Authority

Post Office Box 263 | Rincon, GA 31326 | 912.392.3000



Telephone: 912.964.3811
Toll Free (in U.S.): 800.342.8012

P.O. Box 2406
Savannah, GA 31402
USA

Griff Lynch
*President and
Chief Executive Officer*

Email: glynch@gaports.com
Call Direct: 912.964.3874

December 6, 2023

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: **FD 36489**
Savannah Industrial Transportation LLC — Operation Exemption —
in Effingham County, Ga.

Dear Ms. Brown:

The Georgia Ports Authority and the Port of Savannah (collectively, the "Port") write to endorse Savannah Industrial Transport's (SIT) request for authorization to provide common carrier rail service, to new customers that will, directly or indirectly, also make use of Port services. It is of key importance that SIT is able to serve existing and new customers either as a common carrier or a private switching carrier pending SIT's current Petition for Exemption before your agency.

Our rail partners are critical to the success of the Port of Savannah and the economic vitality of the region. SIT is ideally located proximate to the Port's Savannah facilities, and to regional users (and Port shippers) such as Hyundai. Moreover, the Savannah Gateway Industrial Hub, in which SIT operates, is an important and strategic part of regional rail and port infrastructure. Accordingly, if SIT were unable to provide rail service, that would materially and negatively impact regional economic development, including, the Port's customers.

For these reasons, the Port strongly encourages the Board to allow SIT to provide rail service to any and all customers now as a common carrier or switching carrier and officially as a common carrier at the conclusion of SIT's Petition proceeding. We appreciate the Board considering the view from our perspective as a rail service partner to SIT.

Sincerely,

A handwritten signature in red ink, appearing to read "Griff Lynch", written over a blue line.

Griff Lynch
President and CEO

www.gaports.com

+ Port of Savannah
+ Port of Brunswick

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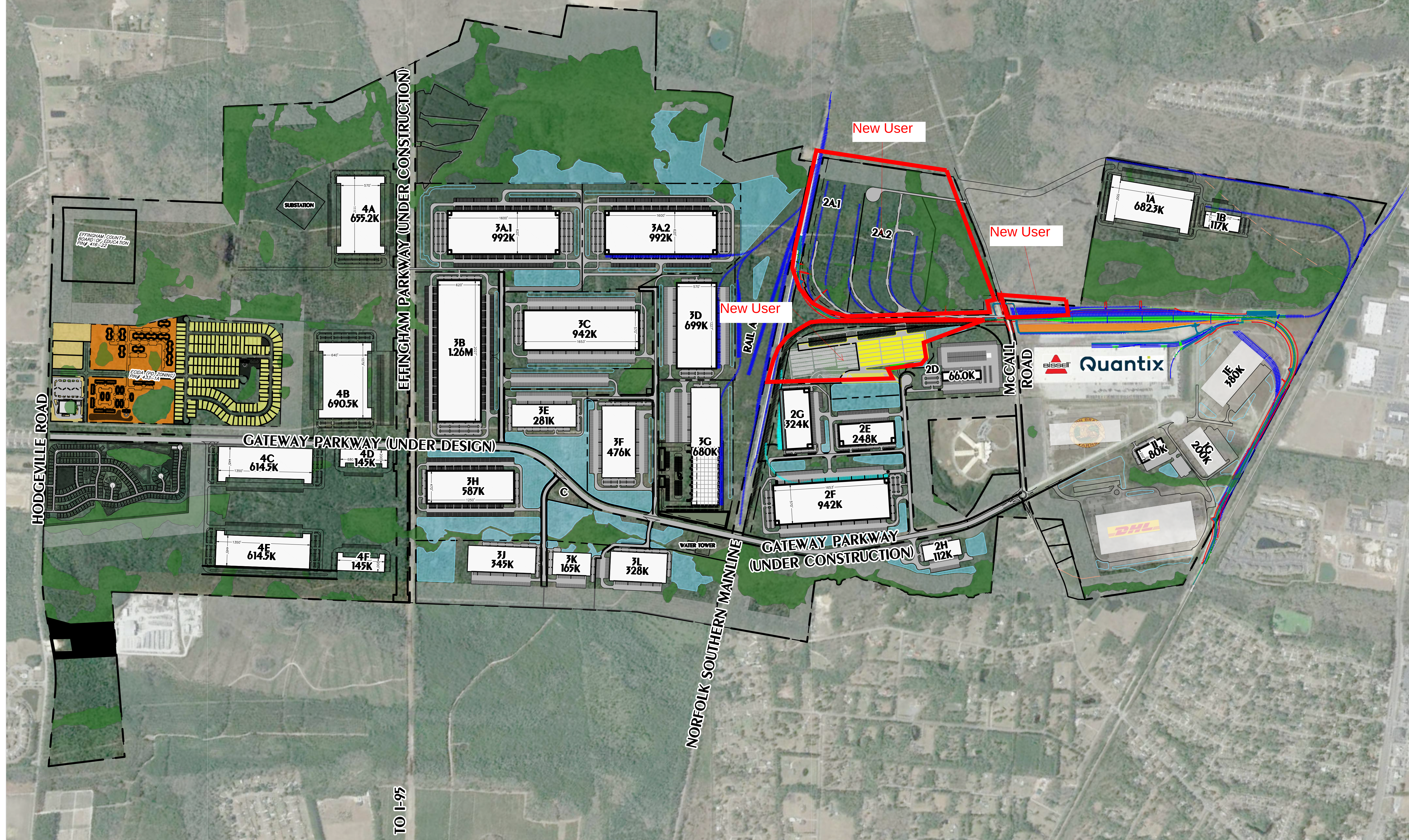
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EXHIBIT D

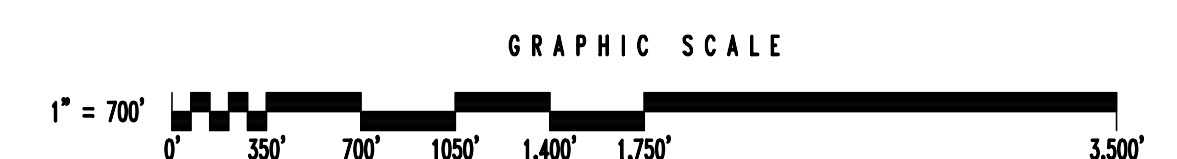
**MAP OF PROPOSED CUSTOMER
LOCATIONS**



**4.0 MSF CURRENTLY CONSTRUCTED OR PERMITTED
DUAL RAIL ACCESS TO SITE WITH SHORTLINE OPS
STATE FUNDED ROADWAY INFRASTRUCTURE
FULLY ENTITLED SITE
EARLY PERMITTING POTENTIAL
USACE INDIVIDUAL PERMIT ISSUED**



**SAVANNAH GATEWAY INDUSTRIAL HUB
EFFINGHAM COUNTY, GA
DATE: OCTOBER 24, 2023 SCALE: 1" = 700'**



CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of February, 2024, a copy of the foregoing Petition was served via electronic mail upon all parties of record in the above three proceedings.

/s/ *R. A. Wimbish*
Robert A. Wimbish