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Pursuant to Ordinance #08-17, Any citizen of the County may sign to speak in person at the Council Meeting (before the Council Meeting's Regular Meeting start time) on the **Public Comments Sign in Sheet** on the Podium to address Council on matters pertaining to County Services and Operations. Presentations will be limited to three (3) minutes per person and total public input will be limited to 30 minutes. Written Public Comments may also be submitted by 1PM on the date of the Council Meeting by emailing your comment to: comments@jaspercountysc.gov.

To participate in a **Public Hearing for a specific agenda item**, you may either email written public comments to comments@jaspercountysc.gov by **1:00PM on Monday, February 3, 2025** or you can speak in person at the Council Meeting by signing in on the **Public Hearing Sign In Sheet** located outside the Council Chambers Doors prior to the start of the meeting. **Public Hearing Comments** shall be limited to **3 minutes per person**.

Instructions may also be found at the Jasper County website www.jaspercountysc.gov

FOR MORE INFORMATION, PLEASE CALL (843) 717-3696



JASPER COUNTY COUNCIL
COUNCIL MEETING

Jasper County Clementa C. Pinckney Government Bldg.
358 3rd Avenue, Ridgeland, SC 29936

Monday, February 03, 2025

AGENDA

6:00PM

1. Call to Order by Chairman Kemp

Clerk's Report of Compliance with the Freedom of Information Act: In accordance with South Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, notification of the meeting and the meeting agenda were posted at least 24 hours prior to the meeting on the County Council Building at a publicly accessible place, on the county website, and a copy of the agenda was provided to the local news media and all person's or organizations requesting notification.

2. Pledge of Allegiance and Invocation:

3. Approval of the Consent Agenda Items:

Approval of Consent Agenda passes all Consent Agenda Items. Consent Agenda Items are not considered separately unless any Councilmember so requests. In the event of such a request the item is placed at the end of the Public Hearings, Ordinances and Action Items.

4. Approval of the Regular Agenda:

PROCLAMATION

5. None

PRESENTATIONS

6. Jim Iwanicki – Presentation on The Transportation Tax

7. CHAIRMAN KEMP'S COMMENTS:

8. CITIZEN COMMENTS:

Open Floor to the Public per Ordinance Number #08-17 Any citizen of the County may sign to speak in person at the Council Meeting (before the Council Meeting's 6:00PM start time on the Sign-In Sheet on the Podium), to address Council on matters pertaining to County Services and Operations. Presentations will be limited to three (3) minutes per person and total public input will be limited to 30 minutes.

RESOLUTIONS

9. **Kimberly Burgess** – Consideration of Resolution [#R-2025-10](#) approving Professional Services Proposal for architectural and related services by Moseley Architects for Jasper County Detention Center pursuant to Jasper County Procurement Code and matters related thereto.

PUBLIC HEARINGS, ORDINANCES AND ACTION ITEMS

10. **David Tedder** – [2nd Public Hearing Only](#) of Ordinance [#O-2025-03](#) Approving a Development Agreement for the Daly Organics Development Property consisting of approximately 223 acres, more or less, owned by Bellinger Hill Properties, LLC in the Bellinger Hill Area of Jasper County, South Carolina, Pursuant to the South Carolina Local Government Development Agreement Act and Article IV, Title 20 of the Code of Ordinances of Jasper county, Authorizing the Chairperson of the Jasper County Council to execute he Development Agreement, and Matters Related Thereto. (This document is included in the agenda e-packet) *(1st reading 12.02.2024 and Public hearing 01.06.2025) (Daly Organics DA)*

11. Administrator's Report:

CONSENT AGENDA

12. Approval of the Minutes 01.06.2025

13. Councilmember Comments and Discussion:

14. Executive Session SECTION 30-4-70.

(a) A public body may hold a meeting closed to the public for one or more of the following reasons:

(2) Discussion of negotiations incident to proposed contract arrangements and proposed purchase or sale of property, the receipt of legal advice where the legal advice related to pending, threatened, or potential claim or other matters covered by the attorney-client

privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim – [Third Amendment to Tolling Agreement by and between Jasper County and Nickel Plate Road, LLC](#)

(5) Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by a public body – [Prospect Update; Discussion of Economic Development Incentive Grant Offer from the SC Dept. of Commerce;](#)

ANY EXECUTIVE SESSION MATTER ON WHICH DISCUSSION HAS NOT BEEN COMPLETED MAY HAVE DISCUSSION SUSPENDED FOR PURPOSES OF BEGINNING THE OPEN SESSION AT ITS SCHEDULED TIME, AND COUNCIL MAY RETURN TO EXECUTIVE SESSION DISCUSSION AFTER THE CONCLUSION OF THE OPEN SESSION AGENDA ITEMS. **PLEASE BE ADVISED THERE MAY BE VOTES BASED ON ITEMS FROM THE EXECUTIVE SESSION.**

Return to Open Session

- 14.1 Action coming out of Executive Session

**Council may act on any item appearing on the agenda including items discussed in executive session.*

15. Adjournment:

***Special Accommodations Available Upon Request to Individuals with Disabilities**, please contact the Jasper County ADA & Civil Rights Coordinator, **Tisha Williams** in person at 358 Third Avenue, Ridgeland, South Carolina, by telephone at **(843) 717-3690** or via email at jadministrator@jaspercourtysc.gov no later than 48 hours prior to the scheduled meeting*

Agenda Item

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*No information provided for the packet for this
item*

Agenda Item

8

Citizen

Comments

Agenda Item

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**STATE OF SOUTH CAROLINA
JASPER COUNTY**

RESOLUTION NUMBER R-2025-10

**RESOLUTION OF JASPER COUNTY COUNCIL TO
APPROVE SPECIAL SERVICES CONTRACT WITH MOSELY
ARCHITECTS FOR ARCHITECTURAL AND RELATED
SERVICES FOR JASPER COUNTY DETENTION CENTER
PURSUANT TO THE JASPER COUNTY PURCHASING AND
CONTRACTING ORDINANCE, AND MATTERS RELATED
THERE TO**

WHEREAS, the State of South Carolina Department of Corrections identified deficiencies at the Jasper County Detention Center during its most recent inspection of the facility; and

WHEREAS, the Director of the Detention Center, in conjunction with the County Administrator and Chief Procurement Officer, has determined that Mosely Architects (“the Contractor”), an architectural firm specializing in correctional facilities, and who designed the Jasper County Detention Center, is the best and most appropriate provider to assist the County in addressing the deficiencies; and

WHEREAS, section 2-413 defines special services as those professional services provided by physicians, architects ministers, engineers, accountants, attorneys, and management and consulting services, which are normally obtained on a fee basis, and further provides that these services may be procured without utilization of a bidding process; and

WHEREAS, section 2-413 further provides that the departments using such services may contract on their behalf for such services provided that the following: 1) the department solicits the best possible contract, 2) negotiation with the provider of such services shall include the department head and the purchasing officer, 3) the department shall obtain the approval of the county council, 4) the department procuring the services shall seek the advice of department heads with expertise on the subject, and 5) County council shall have the authority to continue to contract for the services from year to year when it is in the best interest of the county.

WHEREAS, the Contractor designed the Jasper County Detention Center and has also provided similar services to the County for other Detention Center projects; and

WHEREAS, the Jasper County Administration, in cooperation with the purchasing officer has solicited the best possible contract, and

WHEREAS, the Jasper County Council desires to utilize the Contractor's expertise related to the correction of deficiencies at the Detention Center, and the provision of related technical and other services; and

WHEREAS, there are sufficient funds in the current fiscal year 2025 Detention Center budget designated as Building Repairs (058-5095) and as such, the funding will be from this account; and

NOW THEREFORE, BE IT RESOLVED by Jasper County Council, in the council duly assembled and by the authority of the same that Jasper County Council hereby is of the belief and finds that the requirements of Article V, Sec. 2-413 are met and hereby approve the service of Mosely Architects, as described in Exhibit A; and

BE IT FURTHER RESOLVED THAT, the County Council authorizes the County Administrator, Mr. Andrew Fulghum, to execute the contract after review by the County Attorney.

SIGNATURES FOLLOW

This Resolution No. R- 2025-10 made this 3rd day of February 2025.

John Kemp
Chairman

ATTEST:

Wanda H. Giles
Clerk to Council

Reviewed for form and draftsmanship by the Jasper County Attorney.

David L. Tedder

Date

MOSELEYARCHITECTS

6210 Ardrey Kell Road
The Hub at Waverly, Suite 425
Charlotte, NC 28277
P: (704) 540-3755

January 23, 2025

RE: Jasper County Detention Center Inspection Deficiencies
Ridgeland, South Carolina

Mr. Andrew Fulchum, County Administrator
Jasper County
358 3rd Avenue
Ridgeland, South Carolina 29936

Dear Mr. Fulchum:

In accordance with your request, Moseley Architects is pleased to offer this Agreement for Services to provide professional services to Jasper County to address the deficiencies noted in the state inspection at the Jasper County Detention Center, referred to hereinafter as the "Project".

We offer the following:

1. 1065- Facility Security - Multiple intercom stations throughout the facility do not operate correctly. These include cells in B-2 housing which were completely missing the assembly and had bare exposed wiring.
 - a. Moseley proposes security electronics design for the repair, and or replace of all elements associated with bringing the intercoms back into compliance.
2. 1082- Classification Categories - The facility does not provide for the separate management of the sentenced and pre-trial female population.
 - a. Moseley proposes the design or re-purpose of existing space to address this area of non-compliance. This effort would consist of architecture, engineering, security, possible mechanical, and detention equipment design and specifications depending on if it is a re-purposing of existing space or the addition of new space. It is also noted in the inspection that the female unit is constantly overcrowded so additional bed space will also need to be provided.
3. 2012-Rated Capacity - The inspection identifies reoccurring overcrowding throughout the facility and the facility has added 12 "overflow" beds with six (6) being located inside Bravo-1 and six (6) in Bravo-2. The inspection reports that though this may have been a reasonable temporary measure at the time to deal with an overcrowding issue, it does not change the actual rated capacity and has not been approved for permanence.
 - a. Moseley proposes to perform a bed projection analysis to determine the number of bed needs both now and in the future. Based on what the projections determine and discussed with Jasper County an addition to

the current facility can be explored to address the overcrowding issues noted in the state inspection as well as future bed needs.

4. 2014-2 Fire Codes - In the inspection report referencing IFC (2015) 913.5 Testing and maintenance there are several areas noted as being deficient and noted that the emergency back-up generator may not be operational and has lost the communications function for the alarms.
 - a. Moseley proposes to provide electrical engineering design and assessment on the require life-safety back-up generator to assess the operations ability and communications to bring this back into compliance.
5. 2014-2 Fire Codes - IFC 703.2 fire dampers and smoke control system has not maintained proper regular inspections, and some are noted as unable to prove that they are working as according to code.
 - a. Moseley proposes to provide engineering services for the evaluation of the smoke and fire dampers and complete fire, smoke system to bring system back into compliance with department of correction and the state fire marshal's office.
 - b. There are numerous other items pertaining to international fire Code703.4 that also were noted as being out of compliance. Moseley would propose to evaluate and make recommendations for corrective action to bring back into compliance. Moseley has in-house fire alarm and life safety engineers on staff that can address all of the stated issue in the inspection even the horizontal shutters in the laundry room that failed the inspection by overhead door.
6. 2014-3- Design for separation - The facility is designed and constructed to provide that inmates can be separated according to existing laws, regulations, and standards. The state inspection notes that not only separation of female sentenced, sand pre-trial inmates as previously noted but due to the overcrowding there are males being housed int multipurpose room which was not designed for living space.
 - a. Moseley proposes to address the overcrowding issue as previously noted to determine both immediate as well as long term space needs.
7. The inspection report continues to list out of compliance issue that all revolve around overcrowding to the facility.
 - a. Moseley proposes to perform an update to the bed projections performed back in 2019. Since then, the pandemic as well as law changes in South Carolina that have an impact on bed needs an update to previous bed projections need to be calculated in effort to address the numerous mentions of overcrowding within the state inspections report. The fee for the update of the bed projections will be lump sum amount of Nine Thousand, Eight Hundred and 00/100 Dollars (\$9,800.00).
8. Identified renovations based on the executive summary of the 2019 Moseley study and from Jasper County the following items are identified:
 - a. The addition of a recreation yard to the existing 24-bed dormitory Unit F.
 - b. Renovation of the medical unit adjacent to booking area to include two (2) negative pressure cells.
 - c. Replace HVAC equipment as needed.
 - d. Replace backup power generator to accommodate the entire facility.
 - e. Update the older plumbing fixtures as identified

RE: Jasper County Detention Center Inspection Deficiencies
Mr. Andrew Fulchum, County Administrator
Page 3

January 23, 2025

- f. Provide video visitation electrical and data in the older visitation and housing units.
- g. Add high-density property storage system "space-saver" to accommodate the additional needs for inmate property storage.
- h. Design privacy doors and curbs in shower areas per PREA and ADA requirements.
- i. Design and engineering to add appropriate HVAC inside the transformer room.

Compensation shall be the lump sum of Forty-Three Thousand, Four Hundred and 00/100 Dollars (\$43,400.00) to perform a comprehensive study to determine more specific Scope of Work to address all deficiencies noted in the state inspection.

For other services not defined herein, compensation shall be as mutually agreed by Moseley Architects and Jasper County and shall be computed using the attached Schedule of Hourly Billing Rates, which is an integral part of this Agreement.

If this Agreement for Services is acceptable, please indicate your acceptance of and agreement to its terms and your authorization to proceed by signing below and returning one fully executed original for our files.

Thank you for this opportunity to be of service. Please let me know if you have any questions.

Sincerely,



Todd B. Davis, CJE, NCCE
Vice President

ACCEPTED AND AGREED:

JASPER COUNTY

BY: _____

PRINTED NAME AND TITLE: _____

DATE: _____

pte

Attachments:
Schedule of Hourly Billing Rates
Terms and Conditions of Agreement for Services

MOSELEYARCHITECTS

SCHEDULE OF HOURLY BILLING RATES - CALENDAR YEAR 2025

Principals	\$264
Architects	
Senior Project Manager	\$246
Project Manager	\$193
Architect	\$185
Project Designer	\$123
Security and Detention Design	
Security Design Specialist	\$233
Moseley Engineering Director	\$264
Moseley Mechanical/Electrical/Plumbing/Engineering	
Senior Engineer	\$216
Engineer/Designer	\$177
Intern Technician	\$123
Moseley Structural Engineering	
Senior Engineer	\$193
Engineer/Designer	\$161
Intern Technician	\$123
Moseley Interior Design	
Interior Design Director	\$216
Senior Interior Designer	\$145
Project Interior Designer	\$123
Corrections Planner	\$264
Criminal Justice Consultant	\$210
Construction Administration	
Construction Administrator	\$185
Specification Writer	\$185
Sustainability Planning	
Sustainability Planning Director	\$216
Energy Analyst	\$181
Sustainability Coordinator	\$161
Administrative	\$85

Rates are subject to change on January 1 of each year.

MOSELEYARCHITECTS

TERMS AND CONDITIONS OF AGREEMENT FOR SERVICES

These Terms and Conditions are an integral part of the Agreement for Services (“Agreement”) between Moseley Architects (“Architect”) and its client (“Owner”). In the event of a conflict between the Agreement and these Terms and Conditions, the Agreement shall govern. Architect’s services, Instruments of Service, and work product are intended for the sole use and benefit of Owner and are not intended to create any third-party rights or benefits or for any use by any other person or entity or for any other purpose. Architect’s Services shall be limited to those expressly set forth in this Agreement. Architect shall have no other obligations or responsibilities for the Project except as agreed to in writing.

1. COORDINATION WITH THE OWNER

The Architect shall confer with the Owner to coordinate its services with the Owner. The Architect shall have the benefit of the Owner’s experience and knowledge of its facilities, requirements, and current policies and standards applicable to the Project. To implement this coordination, the Owner shall provide to the Architect at no cost all existing information relevant to the Project and available to the Owner.

2. OWNER’S RESPONSIBILITIES

The Owner shall provide full information in a timely manner regarding its requirements for and limitations on the Project, and the Architect shall be entitled to rely on such information. The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Architect’s services, including any errors, omissions or inconsistencies in any documents prepared by the Architect.

3. COMPENSATION

For and in consideration of the services to be rendered by the Architect, the Owner shall pay and the Architect shall receive the compensation set forth in the Agreement. Unless otherwise specified, compensation shall be paid to the Architect on a monthly basis in accordance with monthly billing statements based upon the progress of services performed and reimbursable expenses (if applicable) incurred during that month. Monthly compensation shall be due and payable upon receipt of the billing statement by the Owner. Any payments not made within sixty (60) days on statements rendered shall be subject to a charge for interest at the maximum legal rate of interest, beginning sixty (60) days after the date of the statement, and failure to make any payments when due shall entitle the Architect to suspend services. The Architect’s final payment is due and payable upon completion of the Architect’s services.

The Owner shall not withhold amounts from the Architect’s compensation to impose a penalty of liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the construction/Work unless the Architect agrees or has been found liable for the amounts in a binding and final dispute resolution proceeding.

4. OWNERSHIP OF DOCUMENTS AND RECORDS

It is understood that the Architect is preparing documents for this specific Project and use; therefore, all documents, including original drawings, estimates, specifications, field notes, reports and data are and remain the property of the Architect as Instruments of Service. The Owner may obtain, upon payment of compensation due the Architect, and upon performance of all the Owner’s obligations under this Agreement, reproducible and/or electronic copies for drawings and other documents in consideration of which it is mutually agreed that the Owner will use them solely in conjunction with the Project, and shall not use or authorize their use on other projects or by others, except by separate written agreement with the Architect.

Under no circumstances shall the transfer of ownership of the Drawings, Specifications, electronic data or other Instruments of Service be deemed to be a sale by the Architect, and the Architect makes no warranties, express or implied, of merchantability or of fitness for a particular purpose.

The Architect shall retain all pertinent records relating to the services performed hereunder for a period of seven years after completion thereof. The Owner shall have access to such records at all reasonable times during such period as may be required for audit of reimbursable expenses.

5. PROFESSIONAL RESPONSIBILITIES

The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same manner or similar locality under the same or similar circumstances.

The Architect’s Services shall be limited to those expressly set forth in this Agreement. The Architect makes no warranties, either express or implied, with respect to services provided under this Agreement. The Architect shall have no other obligations or responsibilities for the Project except as agreed to in writing.

The Architect shall provide the following insurance: Worker's Compensation – Statutory; Commercial General Liability – Bodily Injury - \$100,000; Property Damage - \$100,000; Comprehensive Automobile Liability - Bodily Injury - \$100,000; and Property Damage - \$100,000; Professional Liability - \$250,000 per claim and \$500,000 annual aggregate on a claims-made basis. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. Certificates of insurance, on an ACORD form, shall be furnished to the Owner upon request.

Upon written request of the Owner, the Architect will provide additional insurance, if available, including increased coverage and/or limits, and the Owner will pay the Architect a mutually agreed amount for the increased coverage. The Architect's liability to the Owner for any indemnity or any damages arising in any way out of the performance of this Agreement is limited to the insurance coverages and amounts stated herein. The Architect shall not be liable to the Owner for any indirect, special or consequential loss or damage arising out of the performance or services hereunder including, but not limited to loss of use, loss of profit, or business interruption whether caused by the negligence of the Architect or otherwise.

In performance of its services, the Architect shall exercise the standard of care ordinarily exercised by members of its profession in the same locale and who are performing their services under the same conditions. Nothing in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or the Architect.

Neither the Architect nor the Architect's consultants will offer or have offered any fiduciary service to the Owner and no fiduciary responsibility shall be owed to the Owner by either the Architect or the Architect's consultants as a result of the Owner and Architect entering into this Agreement.

6. DISPUTE RESOLUTION

The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them related to the Agreement by mediation, which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement and with the mediator as mutually agreed. The request may be made concurrently with the filing of a legal or equitable proceeding, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

7. TERMINATION; SUSPENSION OF WORK

The Owner may, at its discretion, terminate the Project or indefinitely suspend the Project under this Agreement by giving the Architect seven-day written notice. In such event, the Owner shall assume all obligations, commitments and claims that the Architect may have in good faith undertaken or incurred in connection with the Project. The Architect shall be equitably paid for services rendered prior to effective termination notice date.

8. SUCCESSORS AND ASSIGNS

The Owner and the Architect each binds itself and its partners, successors, executors, administrators, and assigns to the other party to the Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of the Agreement. Neither the Owner nor the Architect shall assign, sublet, or transfer its interest in the Agreement without the written consent of the other, and agree that the Agreement represents the entire understanding of the Owner and the Architect and cannot be changed, added to, or modified and any way except in writing, signed by both the Owner and the Architect.

9. NON DISCRIMINATION

The Architect will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Architect. The Architect agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Architect shall state in all solicitations or advertisements for employees placed by or on behalf of the Architect that the Architect is an equal opportunity employer.

10. DRUG-FREE WORKPLACE

During the performance of services provided under this Agreement, the Architect agrees to (i) provide a drug-free workplace for the Architect's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Architect's workplace and specifying the actions that will be taken against employees for

violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Architect that the Architect maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses (substituting the consultant or vendor for the Architect as the obligated party) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each consultant or vendor.

For the purposes of this paragraph, "drug-free workplace" means a site for the performance of work done by the Architect in connection with this Agreement, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of such services.

11. MISCELLANEOUS PROVISIONS

This Agreement may be executed in one or more counterparts and shall be effective when all the Parties have signed a counterpart hereof. Electronic transmission of original signatures in .pdf or similar format are as final and binding as pen and ink originals executed and exchanged in the presence of all Parties.

END OF TERMS AND CONDITIONS

Agenda Item

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This item is for public
hearing only

AFTER RECORDING, PLEASE RETURN TO:
RONALD T. SCOTT, ESQ.
RSCOTT@HSBLAWFIRM.COM
HAYNSWORTH SINKLER BOYD, P.A.
POST OFFICE BOX 11889
COLUMBIA, SOUTH CAROLINA 29211

------(SPACE ABOVE THIS LINE FOR RECORDING USE)-----

SOUTH CAROLINA) **DEVELOPMENT AGREEMENT**
) **DALY ORGANICS**
JASPER COUNTY) **DEVELOPMENT**

This **DEVELOPMENT AGREEMENT** (“Agreement”) is entered as of _____, 2025 (“Agreement Date”), by and among **BELLINGER HILL PROPERTIES, LLC**, a South Carolina limited liability company (“Owner”), and **JASPER COUNTY, SOUTH CAROLINA** (“County”), a body politic and corporate and a political subdivision of the State of South Carolina (“State”), each a “Party,” and collectively the “Parties.”

RECITALS

WHEREAS, the Owner owns legal title to certain real property consisting of approximately 223.7 +/- acres, located in the County with frontage on Bellinger Hill Road and Bellinger Hill Run, and known as the Daly Organics development and more fully described in Section 1.04 of this Agreement (“Property”); and

WHEREAS, the County has rezoned the Property a Planned Development District (“PDD”); and

WHEREAS, the Owner and the County have determined that it is in the best interests of the County and the Owner to enter this Agreement to set forth the terms and conditions of the development to achieve a well-coordinated, master planned development, reasonably mitigate any project impacts to the community and achieve predictability to the County and the Owner on the scope and terms of the development; and

WHEREAS, The Owner desires to obtain from the County in connection with the development, and County is willing to provide, assurances: (1) that the Property is zoned a PDD for the duration of this Agreement, (2) that at receipt of the Owner’s development and construction permits, the Owner may proceed with the planned development and construction, and (3) that the Development Rights (defined below) will be vested for the duration of this Agreement; and

WHEREAS, in connection with the proposed development, the Owner and the County recognize that the scope and term of the planned development under this Agreement accomplish the statutory aims of comprehensive, orderly planning and development in the County, thus providing benefits to the citizens of the County and providing public benefits through, among other things, the donation of funds or financing of those public facilities and services described and identified in this Agreement:

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth in this Agreement, the receipt and sufficiency of such consideration being acknowledged by the parties, and pursuant to the South Carolina Local Government Development Agreement Act, codified in South Carolina Code Annotated sections 6-31-10 through and including 6-31-160, as amended (collectively,

“Act”) and Jasper County Ordinance No. [] (“Ordinance No. []”), the parties to this Agreement, intending to be legally bound, agree as follows:

ARTICLE I GENERAL

Section 1.01. Incorporation. The above recitals are incorporated in this Agreement as if the recitals were set out in this Agreement in its entirety. The findings contained in the Act are incorporated into this Agreement as if it were set out in this Agreement in its entirety.

Section 1.02. Definitions.

(A) In addition to those vest pocket definitions contained throughout this Agreement, as used in this Agreement, the following terms have the following meanings:

- (1) “County Council” means the governing body of Jasper County, South Carolina.
- (2) “Development Plan” means the Daly Organics Planned Development District and Concept Plan for development of the Property, including permitted uses, as set forth in Exhibit B, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.
- (3) “Development Rights” means the right of the Owner to develop all or part of the Property in accordance with this Agreement.
- (4) “Laws and Land Development Regulations” means the County’s applicable rules and regulations governing development of the Property as set forth on Exhibit E attached hereto. A copy of the Laws and Land Development Regulations, as of the Agreement Date, is on file in the Office of the Planning and Building Department for the County.
- (5) “Ordinance No. []” means Ordinance No. [] of County which is cited as the Development Agreement Ordinance for Jasper County, South Carolina.
- (6) “Property” means the land described in Exhibit A, attached hereto, and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.
- (7) “UDO” means Ordinance No. [], as amended to be the most current adopted version on file with the County.

(B) Unless the context clearly indicates otherwise, terms not otherwise defined in this Agreement have the meanings set forth in the Act and Ordinance No. [].

Section 1.03. Parties. The Parties to this Agreement are the County and the Owner.

Section 1.04. Property. This Agreement applies to the land described in Exhibit A, attached hereto, and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety. The Property is generally known as the Daly Organics development.

Section 1.05. Zoning. The Property is currently zoned as Rural Preservation as set forth in Exhibit B attached hereto.

Section 1.06. Permitted Uses.

(A) The Development Plan for the Property, including permitted uses, is set forth in Exhibit B, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

(B) The UDO and this Agreement provide for the development uses on the Property, including development standards, allowed density, building intensities and height, as applicable.

(C) All lots for the Development must meet all standards contained in this Agreement and if no specific standard is contained in this Agreement, then the standards contained in the UDO shall apply. In the event of a conflict between the standards contained in the UDO and this Agreement, the terms of this Agreement control.

Section 1.07. Development Schedule.

(A) The estimated development schedule for the Property is set forth on Exhibit C, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

(B) The County and the Owner acknowledge that the development schedule is an estimate. The failure of the Owner to meet a commencement or completion date does not, in and of itself, constitute a material breach of this Agreement, but must be judged based on the totality of the circumstances. The development schedule is a planning and forecasting tool only. The County and the Owner acknowledge that actual development is likely to take place at a different pace than set forth in the development schedule because of future market forces.

(C) The County agrees that if the Owner requests an adjustment to the development schedule, including commencement dates and interim completion dates, then the dates must be modified if the Owner is able to demonstrate and establish that there is good cause to modify those dates. "Good cause" includes, but is not limited to, changes in market conditions.

(D) Periodic adjustments to the development schedule do not require a formal amendment to this Agreement and are not considered a major modification. To adjust the development schedule, the Owner shall submit a proposed adjustment in writing, substantially in the form of Exhibit F attached hereto, to the Director of the Planning and Building Department for the County who shall forward copies of the proposed adjustment to each member of County Council. The proposed adjustment shall include an explanation and justification. The proposed adjustment shall become effective sixty (60) days from receipt by the Director of the Planning and Building Department for the County unless County Council has disapproved the proposed adjustment by adoption of a resolution to that effect within the sixty (60) day period.

Section 1.08. Relationship of Parties. This Agreement creates a contractual relationship between the Parties. This Agreement is not intended to create, and does not create the relationship of partnership, joint venture, or any other relationship wherein any one of the parties may be held responsible for the acts of any other party. This Agreement is not intended to create and does not create a relationship whereby any one of the Parties may be rendered liable in any manner for the debts or obligations of any other party, to any person, firm, corporation, or entity whatsoever, whether the debt or obligation arises under this Agreement or outside of this Agreement.

Section 1.09. Benefits and Burdens.

(A) The Parties agree that the burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interests to the Parties to this Agreement.

(B) Except for the owners and lessees of completed residences on individual lots who are the end users and not the Owners thereof and the owners and lessees of individual lots, who are not the Owners and who intend to build a residence on the lot for the owner or lessee to occupy, any purchaser or other successor in title is responsible for performance of the Owner's obligations pursuant to this Agreement as to the portion of the Property so transferred. The Owner must give notice to County of the transfer of any portion or all of the Property to a Owner in the manner prescribed in Section 3.05 hereof.

(C) The Owner acknowledges and agrees that it and its successors and assigns (i) are responsible for the development of the Property, and (ii) will develop the Property in accordance with the terms and conditions of this Agreement. It is the express intention of the Parties that the obligations of this Agreement are intended to run with the Property. If the Property is sold, either in whole or in part, and the Owner's obligations are transferred to a purchaser or successor in title to the Property as provided herein and in Section 3.05 hereof, the Owner shall be relieved of any further liability for the performance of the Owner's obligations as provided in this Agreement as it relates to the portion of the Property sold if the Owner is then current with its obligations pursuant to this Agreement.

Section 1.10. Term. The term of this Agreement shall commence on the Agreement Date and terminate 5 years thereafter as provided herein; provided, however that the Owner and the County may extend the Term of this Agreement or enter into subsequent development agreements upon mutual written consent to the extent permitted by the Act.

The expiration of the Term of this Agreement shall have no effect on the validity or authority of any restrictive covenants except as may be specifically provided for therein.

Section 1.11. Required Information. Ordinance No. [] requires a development agreement to include certain information. Exhibit D contains the required information or identifies where the information may be found in this Agreement. Exhibit D is attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties of the County.

(A) The County represents that it finds the development permitted by this Agreement is consistent with County's comprehensive plan and Laws and Land Development Regulations.

(B) The County has approved this Agreement by adoption of Ordinance No. _____-[] in accordance with the procedural requirements of the Act, Ordinance No. [] and any other applicable state law.

(C) The County represents that prior to the final reading of Ordinance No. _____-[] that at least two (2) public hearings were held after publication of the required notice and the publication of a notice of intent to consider a proposed development agreement.

Section 2.02. Representations and Warranties of the Owner.

(A) The Owner represents that the number of acres of highland contained in the Property is approximately 223.7 +/- acres.

(B) The Owner represents that, as of the Agreement Date, it owns legal title to the Property.

(C) The Owner represents and warrants that the execution, delivery, and performance by the respective individual or entity signing this Agreement on behalf of the Owner has been duly authorized and approved by all requisite action on the part of the Owner.

ARTICLE III DEVELOPMENT RIGHTS

Section 3.01. Vested Right to Develop.

(A) The County agrees that the Owner, upon receipt of its development permits as identified in Section 3.04 hereof, may proceed to develop the Property according to the terms and conditions of this Agreement. The right of the Owner to develop the Property as set forth in this Agreement is deemed vested with the Owner for the term of this Agreement when the Owner has complied with all requirements of Section 5.19 of this Agreement.

(B) The County agrees that the specific Laws and Land Development Regulations in force as of the Agreement Date as set forth in Exhibit E to this Agreement, attached hereto and incorporated herein by reference as if the exhibit were set out in this Agreement in its entirety, shall govern all aspects of the development of the Property, according to the terms and standards as stated in this Agreement, for the term of this Agreement.

(C) The Owner has a vested right to proceed with the development of the Property in accordance with the zoning classification set forth in Ordinance No. _____-**[]**, the UDO and the terms of this Agreement when the Owner has complied with all the requirements of Section 5.19 of this Agreement.

(D) Except as may be otherwise provided for in this Agreement, the Act or Ordinance No. _____-**[]**, no future changes or amendments to the Laws and Land Development Regulations shall apply to the Property, and no other local land development legislative enactments shall apply to the development, the Property, or this Agreement which have a direct or indirect adverse effect on the ability of the Owner to develop the Property in accordance with the Laws and Land Development Regulations.

(E) To the extent that this Agreement may contain zoning and development standards which conflict with existing zoning and development standards, including zoning and development standards contained in the UDO, the standards contained in this Agreement supersede all other standards and this Agreement is deemed controlling.

Section 3.02. Effect on Vested Rights Act and County Ordinance No. **[].** The Parties agree that vested rights conferred upon the Owner in this Agreement are not affected by the provisions of the Vested Rights Act, codified as South Carolina Code Annotated Section 6-29-1510 through and including Section 6-29-1560, as amended, or the provisions of Ordinance No. **[]**, the County's ordinance relating to the Vested Rights Act.

Section 3.03. Applicability of Subsequently Adopted Laws and Land Development Regulations.

(A) It is recognized that laws and regulations will periodically change. The County shall not enforce subsequently adopted laws and land development regulations on the development of the Property except in conformance with the procedures and provisions of Section 6-31-80(B) of the Act in effect as of the Effective Date.

(B) Notwithstanding the provisions of subsection (A) of this Section, County agrees that if County imposes a moratorium or other similar restriction that would curtail or hinder the rate at which development can occur, then the moratorium or other similar restriction shall not apply to the Development of the Property. No moratorium or schedule for allocation or approval of any development permits as set forth in Section 3.04 hereof, or any other subsequently adopted laws and land development regulations shall affect the rights and prerogatives of the Owner under this Agreement except in conformance with Section 5.02 hereof.

(C) The Owner agrees to comply with any county-wide storm water regulations, building, housing, electrical, plumbing, fire and gas codes adopted by County pursuant to the laws of South Carolina after the Agreement Date and in force at the time plans for buildings are submitted to the County for review. Nothing in this Agreement is intended to supersede or contravene the requirements of any storm water, building, housing, electrical, plumbing, fire or gas code adopted by the County.

Section 3.04. Development Permits.

(A) Notwithstanding this Agreement, the Owner shall obtain all local development permits for the development of the Property. Local development permits, approvals, and processes, some of which may have been obtained or complied with as of the Agreement Date, may include, but are not limited to:

- (1) Site Plan approval;
- (2) Preliminary plan approval;
- (3) Final plat approval;
- (4) Zoning permits;
- (5) Building permits; and
- (6) Sign permits.

(B) With respect to the County's review and processing of subdivision plats, development plan applications, grading permits, building permits, certificates of occupancy and other County permits, applications and approvals relating to the development of the Property (including dwellings and other improvements thereon), the County shall approve or reject (and, in the case of a rejection, provide feedback necessary for the Owner to resubmit any such submittals) within the time limitations as set forth in the County ordinances.

Section 3.05. Transfer of Real Property and Assignment of Development Rights.

(A) Nothing in this Agreement shall limit or constrain the Owner's right to legally convey, sell, transfer, ground lease, or otherwise dedicate any portion or all of the Property or an interest therein to any other person, firm, corporation, or entity.

(B) The Owner may, at its sole discretion, transfer its Development Rights to other Owners or purchasers of the Property. Together with any conveyance or transfer of interest in a portion or all of the Property, the Owner may assign any portion or all of its Development Rights and obligations under this Agreement to such transferee or grantee.

The Owner may transfer any or all Development Rights and/or development obligations to any person, firm, corporation, or entity even in an absence of a transfer of portion of Property, and shall be entitled to effect a recording of an Assignment in accordance with this Section 3.05.

Any Owner shall be entitled to legally convey real property in accordance with this Agreement and to legally assign its Development Rights and/or development obligations in accordance with this Section 3.05 in an instrument substantially in the Form of Assignment attached hereto as Exhibit G.

(C) The recording requirement of an Assignment shall not apply to (i) any mortgage lender either as the result of foreclosure of any mortgage secured by any portion of the Property or any other transfer in lieu of foreclosure; (ii) any third party purchaser at such a foreclosure; or (iii) any third party purchaser of such mortgage lender's interest subsequent to the mortgage lender's acquiring ownership of any portion of the Property as set forth above. Any such mortgage lender or subsequent purchaser shall be bound by the development obligations and be a beneficiary of the Development Rights as the Owner successor in title to the Owner.

(D) Notwithstanding anything to the contrary in this Agreement, the Owner shall have the right to manage its corporate affairs in such manner that may cause another person, firm, corporation, or entity, including without limitation, the Owner's subsidiaries and affiliates, to assume some or all of the Owner's Development Rights and/or development obligations pursuant to this Agreement (the "Assumption").

Section 3.06. Allowed Density. The allowed density for the Property shall be as set forth in this Agreement. The location of land uses as set forth in Exhibit B may be adjusted and transferred within the Property by the Owner, at its sole discretion. An adjustment and/or transfer of the location of land uses shall not be deemed a minor modification or major modification of this Agreement, described in Section 5.02 of this Agreement.

ARTICLE IV DEDICATIONS AND FEES AND RELATED AGREEMENTS

Section 4.01. Purpose of Article. The Parties understand and agree that Development of the Property imposes certain burdens and costs on the County, including those for certain services and infrastructure improvements. Eventually, *ad valorem* taxes collected from the Property may, but are not necessarily guaranteed to, meet, or exceed the burdens and costs placed on the County, but certain initial costs and capital expenditures are now required that are not to be funded by any increase in taxes paid by existing residents of the County. The purpose of this article is to identify the matters agreed upon to be provided by the Owner to mitigate such burdens and costs.

Section 4.02. [RESERVED]

Section 4.03. Other Charges or Fees.

(A) Nothing in this Agreement shall be construed as relieving the Owner from the payment of any fees or charges in effect at the time of collection as may be assessed by entities other than the County.

(B) The Property shall be subject to development and/or permit fees enacted by the County that are in effect on the Agreement Date, of County-wide application and that relate to the County's costs of processing applications, issuing development permits, reviewing plans, conducting inspections, or similar

type processing costs. The property shall not be subject to any additional development and/or permit fees enacted by the County after the Agreement Date, however characterized.

Section 4.04. Infrastructure and Services. The Parties recognize that most of the direct costs associated with the Development of the Property will be borne by the Owner, and many necessary infrastructure improvements and services will be provided by the Owner or other governmental or quasi-governmental entities, and not by the County. For clarification, the Parties make specific note of and acknowledge the following:

(A) **Roads.** The Owner is responsible for the construction and costs of all roads, whether for public or private use, within the Property including but not limited to any necessary entrance and intersection improvements as required by the County related to the development of the Property. The Owner shall dedicate and convey public roads within the Property to the County, and the County shall accept such dedication, pursuant to the County's road dedication and acceptance process. Thereafter, the County shall assume maintenance responsibility for such roads. All roads must be constructed in accordance with the County's road standards. The road improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development. The Owner is also responsible for maintenance of all roads that are not public roads. The Owner acknowledges that the County will only accept and maintain as public roads those roads constructed in full compliance with the UDO and providing connectivity to the County road system or serving as a necessary component for the proper development of the County road system. The County will not accept private roads within the Property into the County road system for any other purpose, including, but not limited to, maintenance. The Owner may transfer the ownership of the roads and its obligations for the roads to a homeowners' or property owners' association or similar organization.

(B) **Potable Water.** Potable water will be supplied to the Property by a well. The Owner will construct, or cause to be constructed, all necessary water service infrastructure within the Property and the water service infrastructure will be maintained by the Owner. The County is not responsible for any construction, treatment, maintenance, or costs associated with water service or water service infrastructure to or within the Property. The water service infrastructure is expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(C) **Sewage Treatment and Disposal.** Sewage treatment and disposal will be supplied to the Property by private septic system. The Owner will construct, or cause to be constructed, all necessary sewage treatment and disposal service infrastructure within the Property and the sewage treatment and disposal service infrastructure will be maintained by the Owner. The County is not responsible for any construction, treatment, maintenance, or costs associated with sewage treatment and disposal service and/or infrastructure to or within the Property. The sewage treatment and disposal service infrastructure is expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(D) **Storm Water Management.** The Owner will construct or cause to be constructed all storm water runoff and drainage improvements within the Property required by the development of the Property. The County is not responsible for any construction, maintenance or costs associated with the storm water runoff and drainage for the Property. The applicable requirements and standards for all storm water management improvements shall be the more stringent of either the requirements and standards contained in the Laws and Land Development regulations as may be modified pursuant to Section 5.02 hereof or the requirements and standards established by the South Carolina Department of Health and Environmental Control or its successor agency. The County shall accept into its storm water

management system and maintain all drainage system components within easements and rights-of-way that are constructed according to the requirements set forth herein. Storm water management improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

(E) **Solid Waste Collection.** The County shall provide solid waste collection to the Property on the same basis as is provided to other residents and businesses in the County. It is understood and acknowledged that the County does not presently provide solid waste disposal for single, multi-family or commercial developments.

(F) **Recycling Services.** The County shall provide recycling services to the Property on the same basis as is provided to other residents and businesses within the County. It is understood and acknowledged that the County does not presently provide recycling services for single, multi-family or commercial developments.

(G) **Law Enforcement Protection Services.** The County shall provide law enforcement protection services to the Property on the same basis as is provided to other residents and businesses within the County.

(H) **Emergency Medical Services (EMS).** The County shall provide emergency medical services to the Property on the same basis as is provided to other residents and businesses within the County.

(I) **Fire Services.** The Property is located in the _____ Fire Service District and fire services will be provided by the Levy Fire Department, or its successor entities.

(J) **Library Services.** The County shall provide library services to the Property on the same basis as is provided to other residents and businesses within the County.

(K) **Parks and Recreation Services.** The County shall provide parks and recreation services to the Property on the same basis as is provided to other residents and businesses within the County.

(L) **School Services.** Public school services are now provided by the Jasper County School District. The Owner acknowledges that the County has no authority or responsibility for providing public school services in the County.

ARTICLE V MISCELLANEOUS

Section 5.01. Notices. Any notice, election, demand, request or other communication to be provided under this Agreement shall be in writing and shall be effective (i) when delivered to the party named below, (ii) when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, or (iii) when deposited in Federal Express (or any other reputable national “next day” delivery service) addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

To The Owner: Bellinger Hill Properties, LLC
 Attn: Madison Daly
 1465 Bellinger Hill Road
 Hardeeville, SC 29927

With a Copy to (does not constitute notice):

Haynsworth Sinkler Boyd, P.A.
Attn: Ron Scott, Esq.
1201 Main Street (hand delivery/courier service)
P.O. Box 11889
Columbia, South Carolina 29201

To County: Jasper County, South Carolina
Attn: County Administrator
358 Third Avenue (hand delivery/courier service)
Ridgeland, South Carolina 29936

With a Copy to (does not constitute notice):

Jasper County, South Carolina
Attn: County Attorney
358 Third Avenue (hand delivery/courier service)
Ridgeland, South Carolina 29936

Section 5.02. Amendments.

(A) This Agreement may not be amended or cancelled in whole or in part except upon mutual consent of the County and the Owner. An amendment to this Agreement must be in writing. No statement, action or agreement made after the Agreement Date shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom the change, amendment, waiver, modification, discharge, termination, or abandonment is sought to be enforced.

(B) Any minor modifications of this Agreement, enumerated in Section 5.02(D) hereof, may be made without a public hearing and shall constitute an amendment of this Agreement upon mutual written consent of the County and the Owner. Any major modifications of this Agreement, enumerated in Section 5.02(D) hereof, shall constitute an amendment of this Agreement and may occur only pursuant to the public notice and hearing requirements of the Act.

(C) This Agreement must be modified or suspended as may be necessary to comply with any state or federal laws or regulations enacted after the Agreement Date which prevents or precludes compliance with one or more of the provisions of this Agreement but only to the extent necessary to effectuate compliance with the state or federal law.

(D) Minor and Major Modification of the Development Agreement. The Parties recognize that periodic modifications to the Development Plan may be needed to address market conditions, environmental challenges, and other elements. The following will outline what is considered a minor modification and a major modification to this Agreement and the processes for a minor modification and major modification to this Agreement.

- a. Minor Modifications: The Director of the Planning and Building Department for the County shall have the authority to administratively approve a minor modification to this

Agreement. The following modifications, adjustment, and clarifications shall constitute minor modifications to this Agreement:

- i. Correction of any typographic or scrivener's error.
 - ii. Minor adjustments to the site layout set forth in Exhibit B attached hereto caused by environmental features, adaptations to comply with regulatory requirements, and other changes considered incidental by County staff.
 - iii. Dimensional adjustments that are within ten percent (10%) of the dimensional requirements set forth in Exhibit B attached hereto and/or dimensional adjustments that are within ten percent (10%) of the dimensional requirements as set forth in other applicable County codes or ordinances, as approved by the Director of the Planning and Building Department for the County.
 - iv. Recording of any subsequent laws or regulations enforceable pursuant to the public hearing provisions of Section 6-31-80(B) of the Act.
 - v. Recording of modification in the addressee provisions of Section 5.01 of this Agreement.
 - vi. Recording of any instruments or documentation to evidence any act permissible or regulated pursuant to the terms of this Agreement, where the Agreement does not specifically provide for the recording of such instruments or documentation.
 - vii. Adjustments to the development schedule set forth in Exhibit C, including commencement dates and interim completion dates, as requested by the Owner.
- b. Major Modifications: major modifications are those that do not qualify as a minor modification. Major modifications must be processed and considered in the same manner as set forth in the Act.

Section 5.03. Periodic Review. At least every twelve (12) months, the Director of the Planning and Building Department for the County, or his or her designee, must review compliance with this Agreement by the Owner. At the time of review the Owner must demonstrate good faith compliance with the terms of the Agreement.

Section 5.04. Breach of Agreement.

(A) If, as a result of the periodic review provided in Section 5.03 of this Agreement or at any other time, the Director of the Planning and Building Department for the County finds and determines that the Owner has committed a breach of the terms or conditions of this Agreement, then the Director of the Planning and Building Department for the County shall serve notice in writing, within a reasonable time after the periodic review, on the Owner setting forth with reasonable particularity the nature of the breach and the information supporting the determination, and providing the Owner sixty (60) days in which to cure or rectify said breach or account for those obligations pursuant to this Agreement that have a material effect on the ability of the Owner to cure such breach.

(B) If the Owner fails to cure the breach within sixty (60) days, or if the breach cannot be cured within such 60-day period and the Owner does not commence to cure the breach within such 60-day period, and thereafter diligently pursue the same to completion, then the County Council may unilaterally terminate or modify this Agreement; provided, that prior to terminating or modifying this Agreement as

provided in this section, County Council must first give the Owner the opportunity (i) to rebut the finding and determination, or (ii) to consent to amend the Agreement to meet the County Council's concerns with respect to the determination.

Section 5.05. Enforcement. The Parties shall each have the right to enforce the terms, provisions, and conditions of this Agreement, if not cured within the applicable cure period, by any remedy available at law or in equity, including specific performance, and the right to recover attorney's fees and costs associated with enforcement.

Section 5.06. No Third-Party Beneficiary. The provisions of this Agreement may be enforced only by the Parties and their successors and assigns. No other persons, natural or corporate, shall have any rights hereunder.

Section 5.07. Recording of Agreement. The Parties agree that the Owner shall record this Agreement with the County Clerk of Court within fourteen (14) days after the date of execution of this Agreement.

Section 5.08. Administration of Agreement. The County is the only local government that is a party to this Agreement and the County is responsible for the Agreement's administration.

Section 5.09. Effect of Annexation and Incorporation. The Parties agree that this Agreement remains in effect if the Property is, in whole or in part, included in a newly-incorporated municipality or annexed into a municipality. The Parties acknowledge that upon incorporation or annexation the application and duration of this Agreement is controlled by section 6-31-110 of the Act. The County reserves the right to enter into an agreement with the newly incorporated municipality or the annexing municipality for the administration and enforcement of this Agreement after the date of incorporation or annexation.

Section 5.10. Estoppel Certificate. Any of the Parties may, at any time, and from time to time, deliver written notice to the other party requesting the party to certify in writing: (i) that this Agreement is in full force and effect, (ii) that this Agreement has not been amended or modified, or if so amended, identifying the amendments, and (iii) whether, to the knowledge of the party, without inquiry, the requesting party is in default or claimed default in the performance of its obligation under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and (iv) whether, to the knowledge of the party, without inquiry, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute a default and, if so, specifying each such event.

Section 5.11. Entire Agreement. This Agreement sets forth, and incorporates by reference all the agreements, conditions, and understandings among the Parties relative to the Property and its Development and there are no promises, agreements, conditions, or understandings, oral or written, expressed or implied, among the Parties relative to the matters addressed in this Agreement other than as set forth or as referred to in this Agreement.

Section 5.12. Covenant to Sign Other Documents. The County and the Owner acknowledge that consummation of the transactions contemplated by this Agreement may require the execution contemporaneously with the execution of this Agreement and thereafter of certain documents in addition to this Agreement, and the County and the Owner agree to cooperate with the execution thereof.

Section 5.13. Construction of Agreement. The Parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to

be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 5.14. Assignment. The rights, obligations, duties, and responsibilities devolved by this Agreement on or to the Owner are assignable to any other person, firm, corporation, or entity except that the assignment must conform to the requirements of Section 1.09 and Section 3.05 hereof. The County may assign its rights, obligations, duties, and responsibilities devolved by this Agreement on or to the County to any other person, firm, corporation, or entity.

Section 5.15. Governing Law; Jurisdiction; and Venue.

(A) This Agreement is governed by the laws of the State of South Carolina.

(B) The Parties agree that jurisdiction and venue for disputes relating to this Agreement is the 14th Judicial Circuit of the State of South Carolina.

Section 5.16. Counterparts. This Agreement may be executed in several counterparts in original, facsimile, or electronic means, provided such means of execution are sufficient for recording, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

Section 5.17. Eminent Domain. Nothing contained in this Agreement shall limit, impair, or restrict the County's right and power of eminent domain under the laws of the State of South Carolina.

Section 5.18. Severability. If any provision of this Agreement is held to be void by a court of competent jurisdiction, the remaining provisions of this Agreement shall be unaffected and shall remain in full force and effect. However, if any invalid provision would prevent or materially impair the Owner's right or ability to complete performance of this Agreement, the Parties agree to use their best efforts to renegotiate such provision(s) in order for the Owner to complete performance of this Agreement.

Section 5.19. When Agreement takes Effect. This Agreement is dated as of the Agreement Date and takes effect when (i) the County and the Owner have each executed the Agreement, and (ii) the Owner has delivered to the County Administrator clocked-in copies of the recorded Agreement. If the County Administrator has not received clocked-in copies of the Agreement within ten (10) business days after recording the Agreement with the Jasper County Clerk of Court, then this Agreement is automatically terminated without further action of either the County or the Owner. The obligation of the Owner pursuant to section 4.02 hereof is effective on the date the last Party to sign this Agreement executes this Agreement and the obligations imposed on the Owner pursuant to Section 4.02 hereof survives the termination of this Agreement pursuant to this Section 5.19.

[TWO SIGNATURE PAGES AND 1 EXHIBITS FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the first date written above.

WITNESSES:

Name:

Name:

THE OWNER:

BELLINGER HILL PROPERTIES, LLC,
A South Carolina Limited Liability Company

By: Madison Daly
Its:

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

ACKNOWLEDGMENT

[_____], who personally appeared before me and proved to me through government-issued photo identification to be the above-named person and acknowledged the execution and delivery of the within name Development Agreement and that s/he executed and delivered the same as his/her own free act and deed.

Dated: _____

Notary Public for the State of South Carolina

My commission expires: _____

[NOTARIAL SEAL]

WITNESSES:

Carolina

Name:

Name:

COUNTY:

JASPER COUNTY, SOUTH CAROLINA,
a political subdivision of the State of South

By: Andrew P. Fulghum
Its: County Administrator

[COUNTY SEAL]

Attest:

Wanda Simmons
Clerk to County Council

SOUTH CAROLINA)
)
JASPER COUNTY)

ACKNOWLEDGMENT

Andrew P. Fulghum, who personally appeared before me and proved to me through government-issued photo identification to be the above-named person and acknowledged the execution and delivery of the within name Development Agreement and that s/he executed and delivered the same as his/her own free act and deed.

Dated: _____

Notary Public for the State of South Carolina

My commission expires: _____

[NOTARIAL SEAL]

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Jasper County Tax Map#: 038-00-08-044

EXHIBIT B
DEVELOPMENT PLAN

1. Daly Organics Planned Development District and Concept Plan: The Daly Organics Planned Development District and Concept Plan, which is attached hereto as Exhibit B-1, incorporated by reference, and made a part hereof, shall serve as the general guide for the location of roads, buildings, and other development features and land uses. The Property shall be generally developed consistent with the approved Development Plan and associated exhibits unless otherwise modified consistent with the terms of the Agreement.

2. Zoning District: The Property is in the Planned Development District and shall be developed consistent with the provisions of the applicable zoning restrictions/requirements unless otherwise specified in the Agreement.

3. Permitted Uses: As set forth in “Section II – Land Use” of Exhibit B-1, the Property shall be permitted to include allowed land uses of the following zoning districts established in the Jasper County Zoning Ordinance and Land Development Regulations: Rural Preservation, General Commercial, and Industrial Development. With respect to the Industrial Development land uses, the allowed uses are limited to the existing farm, including the composting and mulching operations, the proposed bagging facility, and other uses in support of Daly Organics operations. Excluded land uses are set forth in “Section II – Land Use” of Exhibit B-1. The permitted location and development standards for all said uses on the Property shall be identified on the approved Development Plan, provided that the Owner, at its sole discretion, shall have the sole right and discretion to adjust the location of said uses at the Property.

4. Excluded Uses: Excluded land uses are set forth in “Section II – Land Use” of Exhibit B-1. With respect to the Industrial Development land uses, the allowed uses are limited to the existing farm, including the composting and mulching operations, the proposed bagging facility, and other uses in support of Daly Organics operations.

5. Dimensional Requirements: The Property shall comply with the dimensional requirements (*i.e.*, building setbacks, height, and related provisions) specified in the Development Plan.

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

EXHIBIT C
DEVELOPMENT SCHEDULE

This estimated Development Schedule is subject to update according to Section 1.07 of the Agreement. Within one year after the Agreement Date, the Owner anticipates beginning environmental assessments, site development studies, and/or plan development for the Property. Subject to approval by the County of development plans and permits, which approval the County agrees that it will not unreasonably withhold, the Owner anticipates beginning construction at the Property within one years after the Agreement Date. Consistent with the long-term approach to planning and developing the Property, the County and the Owner anticipate the following interim completion dates for development of the Property pursuant to the Agreement.

<u>Year</u>	<u>Percentage Completed</u>
1	20%
2	40%
3	60%
4	80%
5	100%

For the limited purpose of this Exhibit C only, the Development of any portion of the Property shall be deemed completed upon the approval of a development permit for such portion.

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

EXHIBIT D
REQUIRED INFORMATION

The Act and Ordinance No. require a development agreement to include certain information. The following information is provided in conformance with the Act and Ordinance No. .

(A) *a legal description of the property subject to the agreement and the names of the property's legal and equitable owners.* The legal description of the Property is set forth in Exhibit A. As of the Agreement Date, Bellinger Hill Properties, LLC, is the legal and equitable owner of the Property.

(B) *the duration of the agreement which must comply with section 6-31-40 of the Act. See Section 1.10.*

(C) *a representation by the Owner of the number of acres of highland contained in the property subject to the agreement. See Section 2.02.*

(D) *the then current zoning of the property and a statement, if applicable, of any proposed re-zoning of the property. See Section 1.05.*

(E) *the development uses that would be permitted on the property pursuant to the agreement, including population densities, building intensities, and height. See Section 1.06 and Exhibit B.*

(F) *a description of the public facilities that will service the development, including who provides the facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development construction timeline for those facilities. If the agreement provides that the County shall provide certain public facilities, the agreement shall provide that the delivery date of the public facilities will be tied to defined completion percentages or other defined performance standards to be met by the Owner. See Article IV.*

(G) *a description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the agreement. See Section 4.04. The Owner shall comply with all applicable environmental laws.*

(H) *a description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the Owner of the necessity of complying with the law governing the permitting requirements, conditions, terms, or restrictions. See Section 3.04.*

(I) *a finding that the development permitted or proposed is consistent or will be consistent by the time of execution of the Agreement, with the County's comprehensive plan and land development regulations. See Section 2.01(A).*

(J) *a description, where appropriate, of any provisions for the preservation and restoration of historic structures.* The Owner shall comply with all laws applicable to the preservation and restoration of historic structures within the Property.

(K) *a development schedule including commencement dates and interim completion dates at no greater than five-year intervals. See Section 1.07 and Exhibit C.*

(L) *if more than one local government is made party to the agreement, a provision stating which local government is responsible for the overall administration of the agreement. See Section 5.08.*

(M) *a listing of the laws and land development regulations that will apply to the development of the property subject to the agreement, including citation to specific ordinance numbers, portions of the County Code of Ordinances, or both. See Section 3.01(B) and Exhibit E.*

(N) *a provision, consistent with section 6-31-80 of the Act, addressing the circumstances under which laws and land development regulations adopted after the execution of the agreement apply to the property subject to the agreement. See Section 3.03.*

(O) *a provision stating whether the agreement continues to apply to the property or portions of it that are annexed into a municipality or included in a newly incorporated area and, if so, that the provisions of section 6-31-110 of the Act apply. See Section 5.09.*

(P) *a provision relating to the amendment, cancellation, modification, or suspension of the Agreement. See Section 5.02.*

(Q) *a provision for periodic review, consistent with the Act. See Section 5.03.*

(R) *a provision addressing the effects of a material breach of the agreement, consistent with the provisions of Ordinance No. **I**. See Section 5.04.*

(S) *a provision that the Owner, within 14 days after the County executes the Agreement, will record the Agreement with County Clerk of Court. See Section 5.07.*

(T) *a provision that the burdens of the Agreement are binding on, and the benefits of the Agreement shall inure to, the County and the Owner. See Section 1.09(A).*

(U) *a provision addressing the conditions and procedures by which the Agreement may be assigned, if applicable. See Section 1.09(B), Section 3.05, and Section 5.14.*

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

EXHIBIT E
LAWS AND LAND DEVELOPMENT REGULATIONS

1. Ordinance No. _____, zoning the Property as a Planned Development District.
2. Ordinance No. _____, approving this Development Agreement.
3. Ordinance No. _____, the Development Agreement Ordinance.
4. Unified Development Ordinance of Jasper County: Ordinance No. [], as amended as of the Agreement Date (“UDO”). The UDO includes Ordinance No. [], as amended, as of the Agreement Date and which is cited as the Land Development Regulations of Jasper County. A copy of the UDO has been signed by the Parties and is on file in the office of County Planning Department.
5. Land Development Regulations of Jasper County: *See* Unified Development Ordinance of Jasper County.
6. Article [], Chapter [], Jasper County Code of Ordinances [] [] [].

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

**Exhibit F
Form Request to Modify Development Schedule**

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER) **ADDENDUM**
) **TO**
) **DEVELOPMENT AGREEMENT**

THIS ADDENDUM TO A DEVELOPMENT AGREEMENT (“Addendum”) is made effective on the

[insert recording date of Addendum]

, by Jasper County, a political subdivision of the State of South Carolina, and Bellinger Hill Properties, LLC, a South Carolina limited liability company, or its successor or assign.

RECITALS

WHEREAS, BELLINGER HILL PROPERTIES, LLC, a South Carolina limited liability company (the “Property Owner”), is a party to that certain Development Agreement with JASPER COUNTY, SOUTH CAROLINA (the “County”), effective date of _____, 2025, recorded on _____, 2025 in the office of Jasper County Clerk of Court in Book _____, Page _____ (the “Development Agreement”); and

**[if applicable, insert successor or assign of Bellinger Hill Properties, LLC as
Owner pursuant to an Assignment]**

WHEREAS, the Development Agreement is appurtenant to and runs with that certain real property situate in Jasper County, South Carolina, as set forth on a legal description of the real property attached to the Development Agreement as Exhibit A (the “Property”); and

WHEREAS, without limitation, Section 1.07. of the Development Agreement establishes a vested right in a Development Schedule, together with commencement, interim completion, and completion dates for development of the Property in accordance with the terms of the Development Agreement; and

WHEREAS, without limitation, Section 1.07. of the Development Agreement provides that the

[insert either Property Owner or Owner]

(hereinafter the “Petitioner”) may request a modification in the Development Schedule of Section 1.07. of the Development Agreement; and

WHEREAS, Section 1.07. of the Development Agreement further provides that where the Petitioner demonstrates that there is good cause to modify the Development Schedule, the County shall approve such request within 60 days of its submittal, and that such modification shall not constitute or require an amendment of the Development Agreement; and

WHEREAS, the Petitioner has requested and the County has approved a modification in the Development Schedule of Section 1.07, of the Development Agreement as more specifically set forth herein below with respect to the portion of the Property more specifically identified in the legal description attached hereto as Attachment A (the “Addendum Property”).

NOW, THEREFORE, the Petitioner desires to execute and record this Addendum to the Development Agreement to modify the Development Schedule of Section 1.07, of the Development Agreement as follows:

1. Modification of Development Phasing Schedule. The Development Schedule for the Addendum Property shall hereby be modified as follows:

[insert description of the proposed modification, including a proposed schedule for the submittal of the Development Applications consistent with the proposed modification]

2. Approval by County. This modification of the Development Schedule for the Addendum Property has been approved by the County as evidenced by the Planning and Zoning Director’s signature and insignia imprinted below. This approval constitutes a finding by the County that the Petitioner has demonstrated good cause to modify the Development Schedule for the Addendum Property.

[insert name]
Director of Planning and Building
Jasper County

Director of Planning and Building
Dated Stamp of Approval

3. Effect of Modification of Development Phasing Schedule. Except as specifically modified in this Addendum with respect to the Development Schedule for the Addendum Property, no other modification or amendment of the Development Agreement shall be effected by the recording of this Addendum, and all other terms and conditions of the Agreement shall remain in full force and effect. This Addendum shall be binding upon the County, the Petitioner, its successors and assigns, and shall run with the title to the Addendum Property.

4. Recording Required. This Addendum shall be recorded by the Petitioner within fourteen (14) days of the date of County’s approval herein below. The modification of the Development Schedule shall be effective upon the recording of this Addendum, and this Addendum as recorded shall constitute conclusive evidence of the same.

5. Authority. The Petitioner represents and warrants that this Addendum has been duly authorized by all necessary corporate action.

[insert Section 6. only if Petitioner is not [ORIGINAL OWNER NAME] or its successor in corporate interest]

6. Consent by Property Owner. The undersigned Property Owner hereby consents to the modification of the Development Phasing Schedule for the Addendum Property:

Witness:

Property Owner:

Print Name: _____

By: _____

Print Name: _____

Print Name: _____

Its: _____

STATE OF _____

COUNTY OF _____

Personally appeared before me the undersigned witness who being duly sworn deposes and says that he/she saw the within named _____, (name), the _____ (title) of _____ (Property Owner), _____ (corporate form), sign, and as its act and deed deliver the foregoing instrument for the uses and purposes therein mentioned, and that he/she, together with _____ (witness #2), the other witness subscribed above, witnessed the execution thereof.

Sworn to before me this _____
day of _____, 20____

Notary Public for _____
County, State of _____

(Witness #1 sign here)

My Commission Expires: _____

[NOTARIAL STAMP-SEAL]

[Insert Signature Pages for Petitioner]

[Insert Attachment A: Legal Description of Assignment Property]

**Exhibit G
Form Assignment**

STATE OF SOUTH CAROLINA)	
)	ASSIGNMENT AND ASSUMPTION
)	OF CERTAIN DEVELOPMENT RIGHTS
COUNTY OF JASPER)	AND OBLIGATIONS PURSUANT TO
)	A DEVELOPMENT AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF CERTAIN DEVELOPMENT RIGHTS AND OBLIGATIONS PURSUANT TO A DEVELOPMENT AGREEMENT (“Assignment”) is made effective on the

[insert date of Assignment]

, by

[insert name of assignor]

, (the “Assignor”), and

[insert name of assignee]

, (the “Assignee”), (collectively, the “Parties”).

RECITALS

WHEREAS, BELLINGER HILL PROPERTIES, LLC, a South Carolina limited liability company, is a party to that certain Development Agreement with JASPER COUNTY, SOUTH CAROLINA, effective date of _____, 2025, recorded on _____, 2025 in the office of Jasper County Clerk of Court in Book _____, Page _____ (the “Development Agreement”); and

WHEREAS, the Development Agreement is appurtenant to and runs with that certain real property situate in Jasper County, State of South Carolina, as set forth on a legal description of the real property attached to the Development Agreement as Exhibit A (the “Property”); and

WHEREAS, the Development Agreement establishes certain vested Development Rights and development obligations as more specifically set forth therewith; and

WHEREAS, Section 3.05 of the Development Agreement authorizes the conveyance, sale, transfer, ground lease, and other dedications by Bellinger Hill Properties, LLC, and its successors and assigns of any portion or all of the Property, and Sections 3.05 and 5.14 of the Development Agreement authorizes the Assignment by Bellinger Hill Properties, LLC, and its successors and assigns, of any portion or all of its Development Rights and/or development obligations to such transferee or grantee; and

[insert interim conveyances and assignments, if any]

WHEREAS, on

[insert date of contract to sell and purchase a portion or all of the Property]

Assignor and Assignee entered into a contract to sell and purchase that portion of the Property as more specifically set forth in the legal description attached hereto as Attachment A (the “Assignment Property”); and

WHEREAS, in consideration of Assignor’s agreement to convey the Assignment Property to Assignee, Assignee has agreed to assume those certain development obligations under the Development Agreement appurtenant to the Assignment Property as more specifically set forth herein below; and

WHEREAS, in consideration of Assignee’s agreement to acquire the Assignment Property, Assignor has agreed to assign to Assignee those certain Development Rights under the Development Agreement appurtenant to the Assignment Property as more specifically set forth herein below.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the Parties agree as follows:

1. Assignment and Assumption of Development Rights. Assignor hereby assigns to Assignee, and Assignee hereby assumes from Assignor, those certain Development Rights as specifically set forth herein:

[insert assigned Development Rights]

2. Retained Development Rights. Assignor retains any and all Development Rights not specifically assigned to Assignee herein above, including without limitation:

[insert retained Development Rights]

3. Assignment and Assumption of Development Obligations. Assignor hereby assigns to Assignee and Assignee hereby assumes from Assignor those certain development obligations as specifically set forth herein:

[insert assigned development obligations]

4. Retained Development Obligations. Assignor retains the following development obligations:

[insert retained development obligations]

5. Release; Indemnity. Assignee hereby releases Assignor and its successors and assigns (other than Assignee and its affiliates, successors and assigns) from any and all liability in connection with the performance of any of the development obligations and the exercise of any Development Rights as specifically set forth herein above. Assignee shall indemnify, defend and hold harmless Assignor and its members, managers, officers, agents, employees, successors and assigns, from and against all losses, fines, penalties, liabilities, claims, demands, causes of action, costs and expenses (including, without limitation, reasonable attorneys’ and consultants’ fees) arising in any manner, directly or indirectly, out of or by reason of the development obligations and Development Rights as specifically set forth hereinabove. This indemnification shall survive the execution and delivery of this Assignment and the closing of the sale of the Assignment Property to Assignee.

6. **Severability.** If any provision of this Assignment shall be held to be invalid or unenforceable, then the validity and enforceability of the remaining provisions shall not be affected thereby.

7. **Notice to Jasper County.** Assignor covenants and agrees for the benefit of Assignee that, to the full extent required under the Development Agreement, Assignor shall, prior to or contemporaneously with the making hereof, comply with all requirements of the Development Agreement regarding notice of Assignment to Jasper County. Pursuant to Section 3.05 of the Development Agreement, Assignee shall have the obligation to record this executed Assignment with the Jasper County Clerk of Court, together with the recording of the instrument transferring an interest in the Assignment Property to Assignee.

8. **Binding Effect.** This Assignment shall be binding upon the Parties hereto and their respective successors and assigns and shall run with the title to the Property.

9. **Authority.** The undersigned Parties each represent and warrant that this Assignment has been duly authorized by all necessary company action.

10. **Counterparts.** This Assignment may be signed in one or more counterparts which, together, shall constitute one agreement.

[Insert Signature Pages]

[Insert Attachment A: Legal Description of Assignment Property]

Agenda Item

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OFFICE OF THE JASPER COUNTY ADMINISTRATOR

*Jasper County Clementa C. Pinckney Government Building
358 Third Avenue – Courthouse Square – Post Office Box 1149
Ridgeland, South Carolina 29936 - 843-717-3690 – Fax: 843-726-7800*

Andrew P. Fulghum
County Administrator

afulghum@jaspercountysc.gov

Tisha L. Williams
Executive Assistant

tlwilliams@jaspercountysc.gov

Administrator's Report February 3, 2025

1. Planning & Building Department Update:

Ms. Lisa Wagner, Planning Director, will provide an update on the status of the Jasper Telfair Planned Development District (PDD) materials and distribute copies of the peer review traffic study requested by the County Council.

The County Administrator's Progress Report and any miscellaneous correspondence, agendas, and minutes follow this report.



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Andrew P. Fulghum
County Administrator

afulghum@jaspercountysc.gov

Tisha L. Williams
Executive Assistant

tlwilliams@jaspercountysc.gov

Progress Report January 22, 2025 – February 3, 2025

1. Winter Storm Enzo:

Collaborated with staff and the County Council to prepare for and respond to the weather event Jan. 20-25.

2. 2025 SC City and County Manager Association (SCCCMA) Winter Meeting:

Was scheduled to attend Jan. 23-25. Canceled due to the weather.

3. County Council meetings:

Prepared for and attended the following County Council meetings:

- Emergency Meeting re: Winter Storm Enzo
- Strategic Planning Session Jan. 27-28
- County Council meeting on Jan. 29

4. 2024 Transportation Sales Tax Program:

Prepared for and attended the inaugural meeting of the 2024 Transportation Sales Tax Advisory Committee on Jan. 22. Mr. Jim Iwanicki, PE, will provide more information to Council at the Feb. 3 County Council meeting.

5. Economic Development Projects:

Met with SCA staff, outside counsel, and the County Attorney on Jan. 29 to review active economic development projects.

6. Other Meetings/Events Attended or Scheduled to Attend:

195 Widening MM9-MM21 public meeting in Hardeeville on Jan. 30.

Consent
Agenda Item
12



JASPER COUNTY COUNCIL COUNCIL MEETING

Jasper County Clementa C. Pinckney Government Bldg.
358 3rd Avenue, Ridgeland, SC 29936

Monday, January 6, 2025

MINUTES

Officials Present: Chairman John Kemp, Vice Chairman Joey Rowell, L. Martin Sauls IV, Councilman Chris VanGeison, and Councilman Joseph Arzillo

Staff Present: County Administrator Andrew Fulghum, Clerk to Council Wanda Giles, County Attorney David Tedder, Kimberly Burgess, Lisa Wagner, Danny Lucas, Chief Russell Wells, and Videographer Jonathan Dunham.

1. Call to Order of Council Meeting by Chairman Sauls

Chairman Sauls called the meeting to order. The Report of Compliance with the Freedom of Information Act was read for the records as follows: *In accordance with South Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, notification of the meeting and the meeting agenda were posted at least 24 hours prior to the meeting on the County Council Building at a publicly accessible place, on the county website, and a copy of the agenda was provided to the local news media and all person's or organizations requesting notification.*

2. Pledge of Allegiance and Invocation:

The Pledge to the Flag was recited and the Invocation was given by Councilman Rowell.

3. Swearing In Ceremonies:

- **Swearing In Ceremony for Councilman John Kemp**

Councilman John Kemp was given his Oath of Office by Judge Nancy Gutierrez as a Jasper County Councilmember.

- **Swearing In Ceremony for Councilman William Joseph Rowell III**

Councilman William Joseph Rowell III was given his Oath of Office by Judge Nancy Gutierrez as a Jasper County Councilmember.

- **Swearing In Ceremony for Councilman Joseph Arzillo**

Councilman Joseph Arzillo was given his Oath of Office by Judge Nancy Gutierrez as a Jasper County Councilmember.

- **Swearing In Ceremony for Clerk of Court R. Keith Horton**

Clerk of Court, R. Keith Horton, was given his Oath of Office by Judge Nancy Gutierrez as the Jasper County Clerk of Court.

- **Swearing In Ceremony for Sheriff Christopher Malphrus**

Sheriff Christopher Malphrus was given his Oath of Office by Judge Nancy Gutierrez as the Jasper County Sheriff.

- **Swearing In Ceremony for Coroner Jeremiah Vaigneur**

Coroner Jeremiah Vaigneur was given his Oath of Office by Judge Williams as the Jasper County Coroner.

4. Election of Officers:

- **Andrew Fulghum – Election of Chairman**

The meeting was turned over to Mr. Fulghum for the Election of the Chairman. Mr. Fulghum asked for nominations. Councilman Arzillo nominated Councilman Kemp for the position of Chairperson of the County Council. The Council unanimously approved this nomination. Chairman Kemp thanked the Council for placing him in this position of Chairman.

Mr. Fulghum turned the meeting was turned back over to Chairman Kemp.

- **Chairman Kemp – Election of Vice Chairman**

Chairman Kemp asked for nominations of the County Council’s Vice Chairman. Councilman Chris VanGeison nominated Councilman Rowell for the position of Vice Chairperson of the County Council. The Council unanimously approved this nomination. Vice Chairman Rowell thanked the Chairman and Council for placing him in this position. Chairman Kemp welcomed Vice Chairman Rowell to that position.

5. Approval of the Regular Agenda:

The motion was made to approve the agenda with the removal of Item # 12: Councilman Rowell. The Council unanimously approved, and the motion passed.

PRESENTATIONS

6. None

PROCLAMATIONS

7. **Chairman: Proclamation presented to Barbara B. Clark for 24 years of Jasper County Council Service.**

Ms. Clark was not present to receive this proclamation at this meeting.

8. **Chairman: Proclamation presented to Margaret Bostick for 36 years of Jasper County Clerk of Court Service.**

The presentation of the Proclamation was made to Margaret Bostick for her 36 years of dedicated service as the Jasper County Clerk of Court.

9. Andrew Fulghum: Proclamation presented to Arthur Benjamin for 25 years of service for Jasper County as the Director of the Jasper County Detention Center.

The presentation of the Proclamation was made to Arthur Benjamin for his 25 years of dedicated service to Jasper County as the Director of the Jasper County Detention Center. Senator Tim Scott's Office was present to present Mr. Benjamin with a flag. This flag they noted was flown over the U.S. Capital for Mr. Arthur Benjamin in celebration of his retirement from the Jasper County Detention Center.

RESOLUTIONS

10. Kimberly Burgess – Consideration of Resolution #R-2025-01 relating to the Business and Licensure of Peddlers and Hawkers.

Ms. Burgess was present to review and address the request for the consideration of Resolution #R-2025-01 relating to the Business and Licensure of Peddlers and Hawkers. Ms. Burgess noted that this was a Resolution that was done each year. Chairman Kemp noted that the attachment that was with this document needed to be removed, as it did not pertain to the agenda item.

Motion to approve: Councilman Sauls

Second: Councilman Arzillo

Vote: Unanimous

The motion passed.

11: Andrew Fulghum - Consideration of Resolution #R-2025-02 for a Special Services Contract with Lowcountry Council of Governments for Grant Administration.

Mr. Fulghum was present to review and address the request for the consideration of Resolution #R-2025-02 for a Special Services Contract with Lowcountry Council of Governments for Grant Administration.

Motion to approve: Councilman Rowell

Second: Councilman Sauls

Vote: Unanimous

The motion passed.

12. Andrew Fulghum - Consideration of Resolution #R-2025-03 for a Special Services Contract with Heather Rath Consulting.

This item was deferred until the end of January.

12A. Councilman VanGeison – Discussion / Consideration of Proposed Resolution #R-2025-04 supplementing and amending Resolution #R-2024-06 (County Bank Accounts).

Chairman Kemp said he would like to see this item tabled until Friday. All Council Members were in favor, and it was tabled.

PUBLIC HEARINGS, ORDINANCES AND ACTION ITEMS

13. Lisa Wagner – Public Hearing and 2nd Reading of Ordinance #O-2025-01 to amend the Official Zoning Map of Jasper County so as to transfer a property located along Floyd Road, bearing Jasper County Tax Map Number 045-00-01-049, consisting of 3 acres from the Rural Preservation Zone to the Residential Zone on the Jasper County Official Zoning Map. (1st reading 12.02.2024)

Ms. Wagner was present to review and address the request for the consideration of the 2nd Reading of Ordinance #O-2025-01 to amend the Official Zoning Map of Jasper County so as to transfer a property located along Floyd Road, bearing Jasper County Tax Map Number 045-00-01-049, consisting of 3 acres from the Rural Preservation Zone to the Residential Zone on the Jasper County Official Zoning Map.

Ms. Wagner noted that this was a staff-initiated request for a Zoning Map Amendment to have a property designated as Residential. The subject property consists of three (3) acres and is identified by TMS #045-00-01-049, located along Floyd Road near the Tillman area. The property is currently zoned Rural Preservation. The purpose for the re-zoning is to have the subject property zoned the same as the adjacent property in order to combine the properties without creating a parcel of land that would be split zoned. The adjacent property is zoned Residential.

According to the 2018 Jasper County Comprehensive Plan, the Future Land Use Map identifies this area as “Rural Conservation”. The Rural Conservation areas seek to protect and promote the character of Jasper County that largely exists today outside of the municipalities. The adjacent parcels are zoned Rural Preservation and Residential. She mentioned that the adjacent land uses are residential and vacant property. The subject property is accessed by Floyd Road, which is a two-lane state-maintained highway classified as a local road. Ms. Wagner stated that the Planning Commission recommends approval of the request to have the property designated as Residential on the Jasper County Official Zoning Map.

The public hearing was called to order, and the following people spoke on this matter:

Mr. A Fletcher spoke on this matter and discussed his concerns.

Mr. Bentley spoke on the matter of Bellinger Hill and the traffic impact.

Councilman Sauls asked if the rezoning of the daughter’s request was to build housing for themselves on the family property, and Ms. Wagner noted that this was the reason for the request.

The public hearing was closed.

Motion to approve: Councilman Rowell

Second: Councilman Kemp

Vote: Unanimous

The motion passed.

14. Lisa Wagner – Public Hearing and 2nd Reading of Ordinance #O-2025-02 to adopt Planned Development District Zoning, Planned Development District Standards, and Conceptual Master Plan for a tract of land

consisting of approximately 223.70 acres, bearing Jasper County Tax Map Numbers 038-00-08-044, located along Bellinger Hill Road, and known as Daly Organics PDD. (1st reading 12.02.2024) (Daly Organics PDD)

Ms. Wagner was present to review and address the request for the consideration of the 2nd Reading of Ordinance #O-2025-02 to adopt Planned Development District Zoning, Planned Development District Standards, and Conceptual Master Plan for a tract of land consisting of approximately 223.70 acres, bearing Jasper County Tax Map Numbers 038-00-08-044, located along Bellinger Hill Road, and known as Daly Organics PDD.

She noted that the Applicant is requesting approval of a Planned Development District (PDD) zoning designation for a commercial project, and if approved, will be known as Daly Organics PDD. Included with the Zoning Map Amendment application is a Concept Plan and PDD Standards. The project site consists of a 223.7 acre parcel located along Bellinger Hill Road and also has frontage on Bellinger Hill Run. The property is currently zoned Rural Preservation and is developed as an existing farm, that includes an organic composting and mulching operation. The applicant proposes to add a bagging facility, which will require an Industrial zoning designation or a PDD that will allow this type of land use.

In accordance with Article 8:1 of the Jasper County Zoning Ordinance, the intent of a PDD is to encourage flexibility in the development of land to promote its most appropriate use; and to do so in a manner that will enhance public health, safety, morals, and general welfare. The PDD regulations are intended to accomplish the purpose of zoning and other applicable regulations to an equivalent or higher degree and are designed to control unscheduled development on individual lots or tracts, promote economical and efficient land use, provide an improved level of amenities, foster a harmonious variety of uses, encourage creative design, and produce a better environment. In view of the substantial public advantage of “planned development,” it is the intent of the PDD regulations to promote and encourage or require development in this form where appropriate in character, timing, and location, particularly in large undeveloped tracts. All PDD’s shall conform to the Jasper County Comprehensive Land Use Plan and Land Use Map (latest edition). According to the 2018 Jasper County Comprehensive Plan, the Future Land Use Map identifies this area as “Rural Transition.” The rural transition areas are located in southern Jasper County and will likely be under pressure to develop within the foreseeable future. Development proposals in existing communities, such as Levy-Limehouse, should be respectful and complement the scale and character of the area.

Ms. Wagner noted that the subject property is accessed by Bellinger Hill Road and Bellinger Hill Run. Bellinger Hill Road is a 2-lane state maintained road, classified as a limited local road. Bellinger Hill Run is a private dirt road. The Daly Organics Concept Plan illustrates the proposed land use, the general layout, and access point. A Master Plan will be submitted separately and will provide additional information regarding the proposed layout of the development.

She noted that the proposed PDD would establish the following:

- The main access point exists and is located on Bellinger Hill Road.
- Allowed land uses of rural preservation, general commercial and industrial.
- 166 acres is designated to remain Rural Preservation, 36 acres is designated as General Commercial, and 21 acres is designated as Industrial.

- A minimum of 10% open space based on overall commercial highlands will be provided.
- Stormwater Management – best management practices will be used in the development to ensure runoff leaving the site meets SC Department of Environmental Services Office of Ocean and Coastal Resource Management and Jasper County standards for water quality.
- The concept map shows the commercial areas are setback 400' + from Bellinger Hill Road.
- A landscape road-side buffer will be provided along Bellinger Hill as required by the Jasper County Zoning Ordinance.

Ms. Wagner mentioned that the Daly Organics PDD and Concept Plan meets all of the requirements for a PDD *Application and Concept Plan* as outlined in Article 8:1.7 of the Jasper County Zoning Ordinance. Hussey Gay Bell, engineering firm determined that the current use produces 40 trips a day, which is made up of 30 trucks/day (customers) and 10 cars/day (employees). The future conditions is predicted to produce 40 trucks/day (customers) and 20 cars/day (employees). The Daly Organic property is currently served by well and septic tank. Electric is provided by Palmetto Electric. Telecommunication and fiber are not currently available to serve the subject property. A zoning designation of PDD does not entitle an applicant or owner of the affected property a right to develop or engage in any land use or land disturbing activity, other than the rights in existence at the time of the Concept Plan approval. To engage in development or any land use or land disturbing activity, a Master Plan and subsequent Development Plan(s) must be approved for the areas to be developed. While the Concept Plan is very generalized, a Master Plan is a more refined document which will be reassessed by the Planning Commission at a future date. The Planning Commission recommends approval of the PDD designation and Concept Map.

Ms. Wagner noted that the Planning Commission also recommended that the PDD Standards limit the uses to only allow commercial and industrial uses that support the Daly Organic Farm, including the existing composting and mulching operation, and the proposed bagging facility.

The public hearing was called to order, and the following people spoke on this matter:

Herman West of Bellinger Hill Rd. discussed his concerns of this project.

Tillie Mae Harrington discussed her concerns along with the disapproval of this request.

Leroy Bentley discussed his concerns and noted this was not good for Bellinger Hill.

Ron Staton was present representing the developers on this request. He noted that this project had been explained to the Council and the Planning Commission endorsed it.

An unidentified person noted that they could hear the sawmill in this area.

Christy asked about the impact to the dirt road and where the facility would be located.

Quincy of the Levy area discussed the concerns he had on this matter and the traffic.

Vera of Bellinger Hill Road, discussed her traffic concerns regarding the daycare she owned.

The public hearing was closed.

Motion to table until Daly Organics meetings with the Bellinger Hill Community people: Councilman Rowell

Second: Councilman Sauls

Vote: Unanimous

The motion passed.

15. David Tedder – Public Hearing Only of Ordinance #O-2025-03 Approving a Development Agreement for the Daly Organics Development Property consisting of approximately 223 acres, more or less, owned by Bellinger Hill Properties, LLC in the Bellinger Hill Area of Jasper County, South Carolina, Pursuant to the South Carolina Local Government Development Agreement Act and Article IV, Title 20 of the Code of Ordinances of Jasper county, Authorizing the Chairperson of the Jasper County Council to execute the Development Agreement, and Matters Related Thereto. (1st reading 12.02.2024) (Daly Organics DA)

Mr. Tedder was present to for the public hearing of Ordinance #O-2025-03 Approving a Development Agreement for the Daly Organics Development Property consisting of approximately 223 acres, more or less, owned by Bellinger Hill Properties, LLC in the Bellinger Hill Area of Jasper County, South Carolina, Pursuant to the South Carolina Local Government Development Agreement Act and Article IV, Title 20 of the Code of Ordinances of Jasper county, Authorizing the Chairperson of the Jasper County Council to execute the Development Agreement, and Matters Related Thereto. This item was for public hearing only and no vote was taken. The public hearing was called to order and Ms. Harrington noted that they did not want this project. As there was no other public input, the public hearing was closed.

16. Lisa Wagner – Public Hearing and 2nd Reading of Ordinance #O-2025-04 to Amend Article 2.1.1 of the Jasper County Land Development Regulations, *Exempt Subdivision*, limiting the number of parcels that can be subdivided from a single parcel of land when using the State’s exemption, to 4 individual parcels; to define an existing street and existing easement; Invoking application of the Pending Ordinance Doctrine; and other matters related thereto. (1st reading 12.02.2024)

Ms. Wagner was present to review and address the request for the consideration of the 2nd Reading of Ordinance #O-2025-04 to Amend Article 2.1.1 of the Jasper County Land Development Regulations, *Exempt Subdivision*, limiting the number of parcels that can be subdivided from a single parcel of land when using the State’s exemption, to 4 individual parcels; to define an existing street and existing easement; Invoking application of the Pending Ordinance Doctrine; and other matters related thereto. Ms. Wagner reviewed her staff report on this item.

The public hearing was called to order, and an unidentified person asked how this would impact the County. There were no other public hearing comments, so the public hearing was closed.

Motion to approve: Councilman Rowell

Second: Councilman Arzillo

Vote: Unanimous

The motion passed.

17. Wanda Giles - Consideration of Approval of a Candidate to be Appointed by the Jasper County Council to the Regional Housing Trust Oversight Board.

Ms. Giles was present to review and address the request for the consideration of approval of a candidate to be appointed by the Jasper County Council to the Regional Housing Trust Oversight Board. This item was to be taken up at the next scheduled Council Meeting.

18. Wanda Giles – Consideration of the proposed schedule of 2025 County Council Schedule Meeting Dates.

Ms. Giles was present to review and address the request for consideration of the proposed schedule of 2025 County Council Schedule Meeting Dates. All changes as requested had been made to this proposed schedule she noted.

Motion to approve the 2025 Council Meeting Schedule as proposed: Councilman Sauls

Second: Councilman Rowell

Vote: Unanimous

The motion passed.

19. Approval of Minutes of 08.27.24; 09.03.24; 09.05.24; 09.16.24; 09.19.24; 10.07.24; 10.21.24; 11.04.24 and 11.18.24

Motion to approve: Councilman Rowel

Second: Councilman Sauls

Vote: Unanimous

The motion passed.

CITIZEN COMMENTS

20. Open Floor to the Public per Ordinance 08-17 Any citizen of the County may sign to speak in person at the Council Meeting (before the Council Meeting's 6:30PM start time on the Sign-In Sheet on the Podium), to address Council on matters pertaining to County Services and Operations. Presentations will be limited to three (3) minutes per person and total public input will be limited to 30 minutes.

Mr. A. Fletcher was signed up to speak but had spoken earlier on his topic of concern, so he did not speak under this section of the agenda.

21. Administrator's Report: Mr. Fulghum reviewed the information from his report. There were no Action Items requiring a vote from the Council in the Administrator's Report

22. Council Members Comments: Councilmember Comments were given but there were no comments that required action.

23. Executive Session SECTION 30-4-70.

(a) A public body may hold a meeting closed to the public for one or more of the following reasons:

1) Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body – County Administrator Employment Agreement

(2) Discussion of negotiations incident to proposed contract arrangements and proposed purchase or sale of property, the receipt of legal advice where the legal advice related to pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim – Consulting Agreement with Margaret Bostick; Consulting Agreement with Arthur Benjamin

(5) Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by a public body – Prospect Update; Project Salmon

Motion to go into executive session: Councilman Sauls

Second: Councilman Rowell

Vote: Unanimous

The motion passed.

24: Return to Open Session

Motion to return to regular session: Councilman Sauls

Second: Councilman Rowell

Vote: Unanimous

The motion passed.

○ 24.1 Action coming out of Executive Session

Motion to authorize the County Administrator to contract consulting services with our Arthur Benjamin to assist the Detention Center Administrator with the transition of responsibilities and duties in the Detention center not to exceed a monthly amount of \$5260.80 for a period of time not to exceed 30 days: Councilman Sauls

Second: Councilman VanGeison

Vote: Unanimous

Motion to authorize the Clerk of Court to contract for Consulting Services with Margaret Bostick or such other person or persons with professional expertise to assist the Clerk of Court with the transition of responsibilities and duties in the Clerk of Court office not to exceed a monthly amount \$1920.00 dollars for a period of time not to exceed 30 days: Councilman Arzillo

Second: Councilman Sauls

Vote: Unanimous

The motion passed.

Motion to authorize the County Administrator to execute and deliver on behalf of Jasper County the Economic Development Closing Fund Grant in the amount of \$5,110,000.00 for the South Carolina Department of Commerce for the Economic Development Project designated as Project Salmon along with

such other documents related thereto as may be necessary or desired to receive the funding offered:

Councilman VanGeison

Second: Councilman Rowell

Vote: Unanimous

The motion passed.

Motion to authorize the County Administrator to execute and deliver on behalf of Jasper County the Economic Development Set Aside Grant in the amount of \$75,000 from the South Carolina Department of Commerce for S&P Produce Incorporated (Project Veggie) along with such other documents related thereto as may be necessary or desired to receive the funding offered: Councilman Rowell

Second: Councilman Sauls

Vote: Unanimous

The motion passed.

For more information on this meeting please go to our YouTube Channel for the video go to https://www.youtube.com/channel/UCBmloqX05cKAsHm_ggXCJIA

Adjournment

Motion to adjourn: Councilman Sauls

Second: Councilman Rowell

Vote: Unanimous

The motion passed and the meeting adjourned.

Respectfully submitted:

Wanda H. Giles
Clerk to Council

John Kemp
Chairman, Jasper County Council

Agenda Item

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