



**DUE TO THE COVID-19
CONSIDERATIONS, A VIRTUAL
MEETING WILL BE CONDUCTED WITH
COUNTY COUNCIL AND **ELECTRONIC
VIRTUAL ACCESS FOR THE PUBLIC****

Watch Live via YouTube at:

https://www.youtube.com/channel/UCBmloqX05cKAsHm_ggXCjIA

To Participate in Public Comment, please email to comments@jaspercountysc.gov and or mail to Attn: Clerk to Council P.O. Box 1149 Ridgeland, SC 29936. To be called for public Comment, please email at the mentioned email address. ***Public Comments must be submitted by Tuesday, February 22, 2022, at 1:00pm.***

To participate in a **Public Hearing**, you may either email to comments@jaspercountysc.gov or request via email or phone by 1:00pm on Tuesday, February 22, 2022, to speak via telephone at the Virtual Council Meeting.

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

Tuesday, February 22, 2022

AGENDA

5:00 P.M.

I. Call to Order by Chairperson

Clerk's Report of Compliance with the Freedom of Information Act.

In compliance with the Freedom of Information Act, notice of meetings and agendas were posted and furnished to all news media and persons requesting notification

II. 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 – [Emergency Services; Aeronautics Commission](#)**
- (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 a 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 – [Levy Volunteer Fire Dept.; Register of Deeds Software; Election Matters](#)**
- (4) Discussion regarding the development of security personnel or devices: [Security Measures](#)**
- (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 –[Jasper Ocean Terminal \(JOT\); Project Thunderbolt; Prospect Update](#)**

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 EXECUTIVE SESSION.

6:00 P.M.

III. Return to Open Session

IV. Pledge of Allegiance

V. Invocation

VI. Approval of Agenda

VII. Approval of the Minutes of 01.31.2022:

VIII. Presentation / Public Hearing:

A: **Jessica Dailey** – Public Hearing and Presentation on the Annual Needs Assessment for Jasper County

IX. Open Floor to the Public per Ordinance 08-17 any citizen of the County may sign to speak before the Council on matters pertaining to County Services and Operations. Presentations will be limited to three (3) minutes and total public input will be limited to 30 minutes.

Please submit **Public Comments via email at comments@jaspercountysc.gov or via US Mail at Attention: Clerk to Council P.O. Box 1149 Ridgeland, SC 29936. If you would like to be contacted by phone during **Open Floor**, please email your name, address and phone number to the email address listed above.*

X. Resolutions:

A: **David Tedder** – Resolution # **R2022-04** Authorizing, Under Certain Conditions, The Execution and Delivery by Jasper County, South Carolina of a Fee In Lieu Of Tax Agreement with CP Hardeeville, LLC with respect to an Industrial Project in the County whereby the Project would be subject to payment of Certain Fees In Lieu Of Taxes, and whereby CP Hardeeville, LLC will be provided Certain Credits against Fee Payments in Reimbursement Of Investment in Related Qualified Infrastructure; and Providing For Related Matters.

B: **David Tedder** – Resolution # **R2022-05** Authorizing, Under Certain Conditions, The Execution and Delivery by Jasper County, South Carolina of A Fee In Lieu Of Tax Agreement with SDKM Commerce, LLC with respect to an Industrial Project in the County whereby the Project would be subject to payment of Certain Fees In Lieu Of Taxes, and whereby SDKM Commerce, LLC will be provided Certain Credits against Fee Payments in Reimbursement Of Investment in Related Qualified Infrastructure; and Providing for Related Matters.

XI. Ordinances:

A: **David Tedder** – Public Hearing and **3rd Reading** of Ordinance # **02022-01** an Ordinance to Reapportion and Redistrict the Four (4) Election Districts for the election of Jasper County Council Members based upon the 2020 Decennial Census in order that the population of such Districts shall comply with the Voting Rights Act of 1965 and South Carolina Law.

B: David Tedder -Public Hearing and **3rd Reading** of Ordinance # **2021-29** authorizing the execution and delivery of a Fee-In-Lieu of Tax Agreement by and between CP Hardeeville, LLC (formerly known to the County as "Project Mandolin") (the "Company") and Jasper County, whereby Jasper County will enter into a Fee-In-Lieu of Tax Agreement with the Company and providing for payment by the Company of certain Fees-In-Lieu of *Ad Valorem* Taxes; providing for Special Source Revenue Credits in connection with such Agreement; providing for the allocation of Fees-In-Lieu of Taxes payable under the Agreement for the establishment of a Multi-County Industrial/Business Park; and other matters relating thereto.

C: David Tedder -Public Hearing and **3rd Reading** of Ordinance # **2021-30** authorizing the execution and delivery of a Fee-In-Lieu of Tax Agreement by and between SDKM Commerce, LLC (formerly known to the County as "Project Dolphin") (the "Company") and Jasper County, whereby Jasper County will enter into a Fee-In-Lieu of Tax Agreement with the Company and providing for payment by the Company of certain Fees-In-Lieu of *Ad Valorem* Taxes; providing for Special Source Revenue Credits in connection with such Agreement; providing for the allocation of Fees-In-Lieu of Taxes payable under the agreement for the establishment of a Multi-County Industrial/Business Park; and other matters relating thereto.

D: Lisa Wagner -**Public Hearing** of an Ordinance to adopt Planned Development District Zoning for two tracts of land consisting of approximately 226.94 acres, bearing Jasper County Tax Map Numbers 041-00-02-010 and 041-00-02-012 and known as 95 Logistics Center.

E: David Tedder - **Public Hearing** of an Ordinance approving a Development Agreement for 95 Logistics Center pursuant to the South Carolina Local Government Development Agreement Act and Article IV, Title 20 of the Code of Ordinances of Jasper County and authorizing the Chairman of Jasper County Council to execute said Development Agreement.

F: Lisa Wagner - Public Hearing and **2nd Reading** of Ordinance # **02022-02** to amend the Official Zoning Map of Jasper County so as to transfer a 26.22-acre portion of property, as depicted on the attached plat, and bearing Jasper County Tax Map Number 071-00-00-009, from the Rural Preservation Zone to the Resource Extraction on the Jasper County Official Zoning Map.

XII. New Business:

A: Danny Lucas - Appointments to the Jasper County Aeronautics Commission as per Sections 2-212 and 2-78 of the Jasper County Code of Ordinances.

B: Danny Lucas -Ridgeland - Claude Dean Airport Terminal / Fixed Based Operations (FBO) Furnishings.

C: Danny Lucas - Ridgeland - Claude Dean Airport Fiber Optic Infrastructure Phase I and Phase II.

D: Coroner Willie Aiken - Discussion of the Coroner's Office

XIII. Old Business:

A: Chief Russell Wells - COVID update

XIV. Council Members Comments

XV. Administrator's Report

XVI. Possible Return to Executive Session to Continue Discussion on Matters Regarding Agenda Item II.

XVII. Adjourn

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

In accordance with South Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, notification of the meeting was posted on the County Council Building at a publicly accessible place and on the county website at least 24 hours prior to the meeting. A copy of the agenda was given to the local news media and posted at the meeting location twenty-four hours prior to the meeting.

***Special Accommodations Available Upon Request to Individuals with Disabilities*
*(843) 717-3696***

AGENDA ITEM:

X

Resolution: Item A



RESOLUTION NO. R2022-04

A RESOLUTION AUTHORIZING, UNDER CERTAIN CONDITIONS, THE EXECUTION AND DELIVERY BY JASPER COUNTY, SOUTH CAROLINA OF A FEE IN LIEU OF TAX AGREEMENT WITH CP HARDEEVILLE, LLC WITH RESPECT TO AN INDUSTRIAL PROJECT IN THE COUNTY WHEREBY THE PROJECT WOULD BE SUBJECT TO PAYMENT OF CERTAIN FEES IN LIEU OF TAXES, AND WHEREBY CP HARDEEVILLE, LLC WILL BE PROVIDED CERTAIN CREDITS AGAINST FEE PAYMENTS IN REIMBURSEMENT OF INVESTMENT IN RELATED QUALIFIED INFRASTRUCTURE; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, Jasper County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered, under and pursuant to the provisions of Title 12, Chapter 44 (the "FILOT Act"), Title 4, Chapter 1 (the "Multi-County Park Act"), Code of Laws of South Carolina 1976, as amended (the "Code"), to enter into agreements with industry, to offer certain privileges, benefits and incentives as inducements for economic development within the County; to acquire, or cause to be acquired, properties as may be defined as "projects" in the Act and to enter agreements with the business or industry to facilitate the construction, operation, maintenance and improvement of such projects; to enter into or allow financing agreements with respect to such projects; and to accept any grants for such projects through which powers the industrial and business development of the State will be promoted, whereby the industry would pay fees-in-lieu-of taxes with respect to qualified industrial projects; to provide credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure serving the County or the project, including improved or unimproved real estate and personal property, including machinery and equipment, used in the manufacturing or industrial enterprise (collectively, "Infrastructure"); through all such powers, the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, CP Hardeeville, LLC (the "Company") has requested that the County assist in the acquisition, construction and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute a manufacturing or distribution facility in the County (collectively, the "Project"), which will result in expected aggregate investment by the Company in the Project of at least \$184,450,000 in non-exempt investment (the "Project Commitment") by December 31 of the eighth year after the first year in which any portion of the Project is first placed in service (the "Investment Period"); and

WHEREAS, the Company has requested that the County enter into a fee in lieu of tax agreement with the Company, thereby providing for certain fee in lieu of tax and infrastructure credit incentives with respect to the Project; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a "project" and "economic development property" as such terms are defined in the FILOT Act and that the Project would serve the purposes of the FILOT Act; and

WHEREAS, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution (collectively, the "Multi-County Park Authority"), the

County intends to place the site on which the Project will be located in a multi-county industrial and business park (a "Park") established by the County pursuant to qualifying agreement with an adjoining South Carolina county (the "Park Agreement"); and

WHEREAS, the County has determined and found, on the basis of representations of the Company, that the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; that the Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either; that the purposes to be accomplished by the Project, *i.e.*, economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes; that the inducement of the location of the Project within the County and State is of paramount importance; and that the benefits of the Project will be greater than the costs.

NOW, THEREFORE, BE IT RESOLVED, by the County Council as follows:

Section 1. (a) Pursuant to the authority given to County Council by the South Carolina Constitution, the Code, the FILOT Act and the Multi-County Park Act, and subject to the enactment of required legislative authorizations by the County Council (and the partner county in connection with the Park Agreement), and for the purpose of providing development incentives for the Project through the payment by the Company of fees in lieu of taxes with respect to the Project pursuant to Section 12-44-40 of the Act, there is hereby authorized to be executed a fee in lieu of tax agreement (the "FILOT Agreement") between the Company and the County.

(b) Pursuant to the Multi-County Park Act, the County Council will use its best efforts to cause the site of the Project to be located in a Park. Pursuant to Section 4-1-175 of the Multi-County Park Act, and for the purpose of providing reimbursement to the Company for certain of its investment in qualified Infrastructure within the meaning and purposes of Section 4-29-68 of the Code, the FILOT Agreement shall provide for a special source tax credit against payments in lieu of taxes in the amount of 40% of the Company's payments in lieu of taxes for each year of the Project, provided that the Company meets and maintains the Project Commitment by and through the end of the Investment Period.

Section 2. The provisions, terms and conditions of the FILOT Agreement shall be prescribed and authorized by subsequent ordinance(s) of the County Council, which, to the extent not prohibited by law, shall be consistent with the terms of this Resolution.

Section 3. All orders, resolutions and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This resolution shall take effect and be in full force from and after its passage by the County Council.

Section 4. The authorization of the execution and delivery of the documents related to the FILOT Agreement and all other related documents or obligations of the County is subject to the compliance by the County Council with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions.

Section 5. It is the intention of the County Council that this resolution shall constitute an inducement resolution with respect to the Project, within the meaning of the FILOT Act.

DONE in meeting duly assembled this ___ day of _____, 2022.

JASPER COUNTY, SOUTH CAROLINA

(SEAL)

By: _____

Barbara Clark
Chair of County Council
Jasper County, South Carolina

ATTEST:

By: _____

Wanda Simmons
Clerk to County Council,
Jasper County, South Carolina

AGENDA ITEM:

X

Resolution: Item B

RESOLUTION NO. R2022-05

A RESOLUTION AUTHORIZING, UNDER CERTAIN CONDITIONS, THE EXECUTION AND DELIVERY BY JASPER COUNTY, SOUTH CAROLINA OF A FEE IN LIEU OF TAX AGREEMENT WITH SDKM COMMERCE, LLC WITH RESPECT TO AN INDUSTRIAL PROJECT IN THE COUNTY WHEREBY THE PROJECT WOULD BE SUBJECT TO PAYMENT OF CERTAIN FEES IN LIEU OF TAXES, AND WHEREBY SDKM COMMERCE, LLC WILL BE PROVIDED CERTAIN CREDITS AGAINST FEE PAYMENTS IN REIMBURSEMENT OF INVESTMENT IN RELATED QUALIFIED INFRASTRUCTURE; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, Jasper County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered, under and pursuant to the provisions of Title 12, Chapter 44 (the "FILOT Act"), Title 4, Chapter 1 (the "Multi-County Park Act"), Code of Laws of South Carolina 1976, as amended (the "Code"), to enter into agreements with industry, to offer certain privileges, benefits and incentives as inducements for economic development within the County; to acquire, or cause to be acquired, properties as may be defined as "projects" in the Act and to enter agreements with the business or industry to facilitate the construction, operation, maintenance and improvement of such projects; to enter into or allow financing agreements with respect to such projects; and to accept any grants for such projects through which powers the industrial and business development of the State will be promoted, whereby the industry would pay fees-in-lieu-of taxes with respect to qualified industrial projects; to provide credits against payment in lieu of taxes for reimbursement in respect of investment in certain infrastructure serving the County or the project, including improved or unimproved real estate and personal property, including machinery and equipment, used in the manufacturing or industrial enterprise (collectively, "Infrastructure"); through all such powers, the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate or remain in the State and thus utilize and employ the manpower, products and resources of the State and benefit the general public welfare the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

WHEREAS, SDKM Commerce, LLC (the "Company") has requested that the County assist in the acquisition, construction and installation of land, buildings, improvements, fixtures, machinery, equipment, furnishings and other real and/or tangible personal property to constitute a manufacturing or distribution facility in the County (collectively, the "Project"), which will result in expected aggregate investment by the Company in the Project of at least \$23,490,000 in non-exempt investment (the "Project Commitment") by December 31 of the eighth year after the first year in which any portion of the Project is first placed in service (the "Investment Period"); and

WHEREAS, the Company has requested that the County enter into a fee in lieu of tax agreement with the Company, thereby providing for certain fee in lieu of tax and infrastructure credit incentives with respect to the Project; and

WHEREAS, the County has determined on the basis of the information supplied to it by the Company that the Project would be a "project" and "economic development property" as such terms are defined in the FILOT Act and that the Project would serve the purposes of the FILOT Act; and

WHEREAS, pursuant to the authority of Section 4-1-170 of the Multi-County Park Act and Article VIII, Section 13 of the South Carolina Constitution (collectively, the "Multi-County Park Authority"), the

County intends to place the site on which the Project will be located in a multi-county industrial and business park (a "Park") established by the County pursuant to qualifying agreement with an adjoining South Carolina county (the "Park Agreement"); and

WHEREAS, the County has determined and found, on the basis of representations of the Company, that the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; that the Project will give rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either; that the purposes to be accomplished by the Project, *i.e.*, economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes; that the inducement of the location of the Project within the County and State is of paramount importance; and that the benefits of the Project will be greater than the costs.

NOW, THEREFORE, BE IT RESOLVED, by the County Council as follows:

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(b) Pursuant to the Multi-County Park Act, the County Council will use its best efforts to cause the site of the Project to be located in a Park. Pursuant to Section 4-1-175 of the Multi-County Park Act, and for the purpose of providing reimbursement to the Company for certain of its investment in qualified Infrastructure within the meaning and purposes of Section 4-29-68 of the Code, the FILOT Agreement shall provide for a special source tax credit against payments in lieu of taxes in the amount of 40% of the Company's payments in lieu of taxes for each year of the Project, provided that the Company meets and maintains the Project Commitment by and through the end of the Investment Period.

Section 2. The provisions, terms and conditions of the FILOT Agreement shall be prescribed and authorized by subsequent ordinance(s) of the County Council, which, to the extent not prohibited by law, shall be consistent with the terms of this Resolution.

Section 3. All orders, resolutions and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed. This resolution shall take effect and be in full force from and after its passage by the County Council.

Section 4. The authorization of the execution and delivery of the documents related to the FILOT Agreement and all other related documents or obligations of the County is subject to the compliance by the County Council with the provisions of the Home Rule Act regarding the procedural requirements for adopting ordinances and resolutions.

Section 5. It is the intention of the County Council that this resolution shall constitute an inducement resolution with respect to the Project, within the meaning of the FILOT Act.

DONE in meeting duly assembled this __ day of _____, 2022.

(SEAL)

JASPER COUNTY, SOUTH CAROLINA

By: _____
Barbara Clark
Chair of County Council
Jasper County, South Carolina

ATTEST:

By: _____
Wanda Simmons
Clerk to County Council,
Jasper County, South Carolina

AGENDA ITEM:

XI-A

Ordinance item A

STATE OF SOUTH CAROLINA

COUNTY OF JASPER

ORDINANCE NO. O-2022-01

AN ORDINANCE TO REAPPORTION AND REDISTRICIT THE FOUR (4) ELECTION DISTRICTS FOR THE ELECTION OF JASPER COUNTY COUNCIL MEMBERS BASED UPON THE 2020 DECENNIAL CENSUS IN ORDER THAT THE POPULATION OF SUCH DISTRICTS SHALL COMPLY WITH THE VOTING RIGHTS ACT OF 1965 AND SOUTH CAROLINA LAW.

ARTICLE I

FINDINGS OF FACT

Section 1.01. Recitals and Statement of Purpose.

Incident to the adoption of this Ordinance, the County Council of Jasper County, South Carolina (the "Council"), the governing body of Jasper County, South Carolina (the "County"), finds, as a fact, that each of the statements hereinafter set forth In Article I is in all respects True and correct.

(a) The United States Department of Commerce has declared final the results of the federal decennial census of 2020 (the "2020 Census").

(b) In compliance with the United States Constitution, the Constitution of the State of South Carolina, Title 4, Chapter 9 of the South Carolina Code of

Laws, 1976, as amended, and the United States Voting Rights Act of 1965, as amended, the Council has determined to realign the electoral districts for the election of members of Council in accordance with 2020 census and is adopting this Ordinance for that purpose.

(c) In creating a reapportionment and redistricting plan, County Council first adopted Resolution 2021-___ on December 6, 2021, setting forth the considerations to be utilized in creating new district boundaries, and County Council finds those considerations to have been fairly incorporated in the Plan as described below.

ARTICLE II

ADOPTION OF PLAN

Section 2.01 New District Lines.

From and after the Effective Date of this Ordinance as defined in Article VI below, the County shall be divided into four (4) new districts (the "New Districts") for the purposes of electing members to the Council, and the previous District boundaries are repealed.. Each New District shall be entitled to have one of its residents elected by at-large county-wide voting in accordance with the Jasper County Ordinance providing for the method of electing council members adopted on June 25, 1976 and pursuant to Section 4-9-90 and Section 4-9-10, South Carolina Code of Laws, 1976, as amended. The fifth member of council shall continue be elected at-large county wide without a

residency requirement. The New Districts are as defined and delineated on the on the map entitled “ _____, based on the statistical data pertaining to such Districts as described contained in Exhibit A attached hereto. The New Districts contained in this ordinance, the statistical data pertaining to such districts, and the maps delineating these districts have been provided by the South Carolina Department of Revenue and Fiscal Affairs. These maps and statistical data are maintained in the Jasper County Clerk of Council Office. A copy of the map delineating the geographic boundaries of the County Council New Districts and the census information pertaining to such districts are incorporated by reference as if set forth verbatim herein. The statistical census data is attached to this ordinance.

ARTICLE III

IMPLEMENTATION

Section 3.01 2022 Elections.

The Election Commission of the County is hereby directed, immediately upon the Effective Date hereof, to undertake, by and with the South Carolina Election Commission, all steps necessary for holding elections for members of the Council according to the regular schedule for the primary elections and the general election on November __, 2022, in such of the New Districts as is required in accordance with Section 4-9-90, South Carolina Code of Laws, 1976, as amended.

ARTICLE IV

REPEAL

Section 4.01 Repeal of Inconsistent Provisions.

The existing ordinance previously adopted by the Council establishing the current districts and any other ordinances of the Council now in effect that are inconsistent with this Ordinance are hereby repealed as of the Effective Date of this Ordinance.

ARTICLE V

SEVERABILITY

If any part of this Ordinance is held to be unconstitutional, illegal or invalid for any reason, it shall be construed to have been the legislative intent of the County Council of Jasper County, South Carolina, to pass this Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed and held to be valid as if such portion had not been included. If this Ordinance, or any provision thereof, is held to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

ARTICLE VI

EFFECTIVE DATE

AND IT IS SO ORDAINED AND ADOPTED this _____ day of _____, 2022, by the Jasper County Council in meeting duly assembled, effective immediately.

JASPER COUNTY COUNCIL

By: _____
Barbara B. Clark , Chairwoman

Attest:

_____(SEAL)
Wanda Simmons, Clerk to Council

First Reading: 01.18.2022

Second Reading: 02.07.2022

Public Hearings: 02.07.2022

Adopted: _____

It is required that the following Exhibits be attached before the second reading:

- 1. Exhibit A - Map**
- 2. Exhibit B – Statistical Data**

Reviewed for form and draftsmanship by the Jasper County Attorney.

David L. Tedder

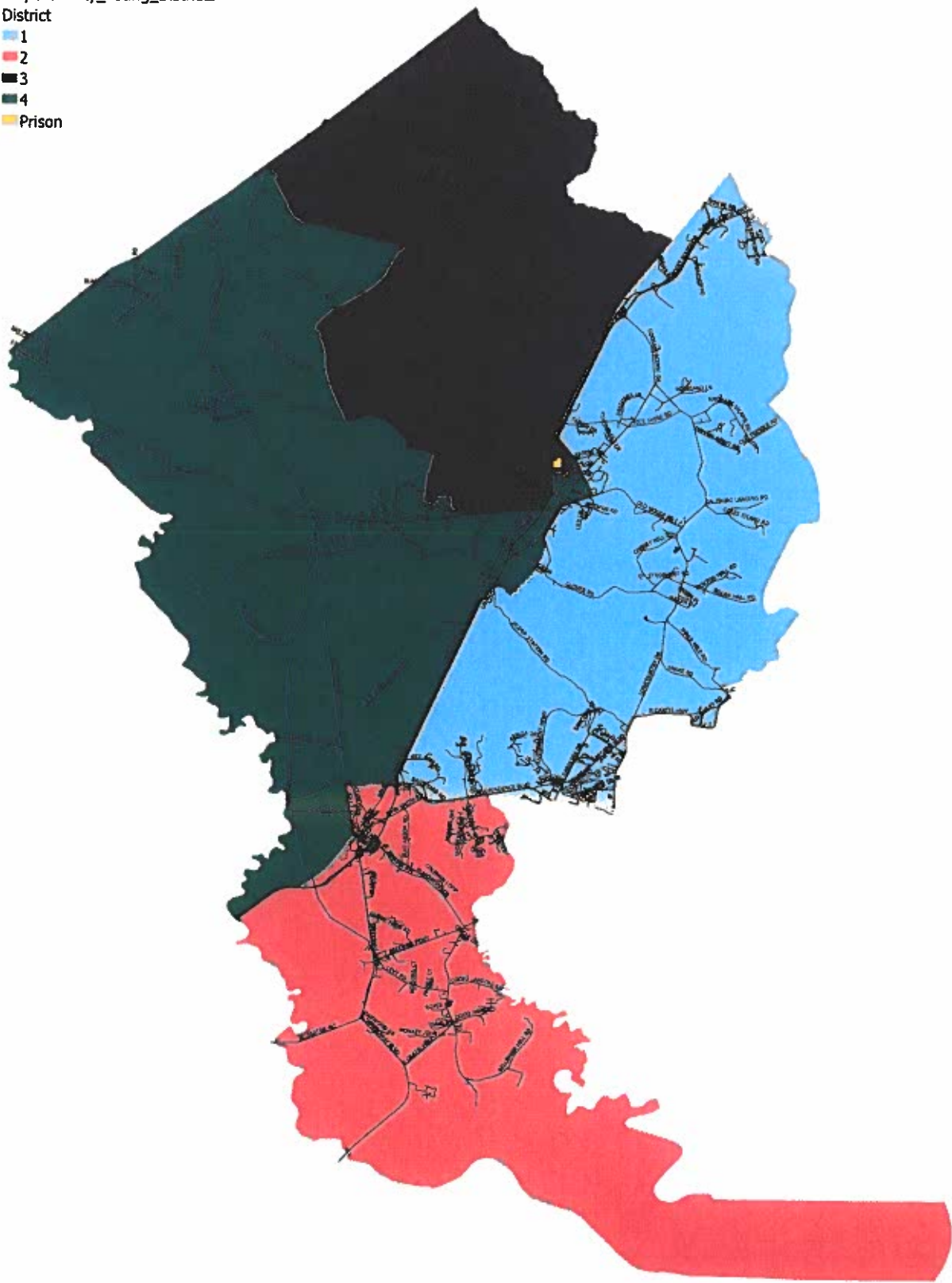
Date

Jasper County: Current Voting Districts

JasperCounty_Voting_Districts

District

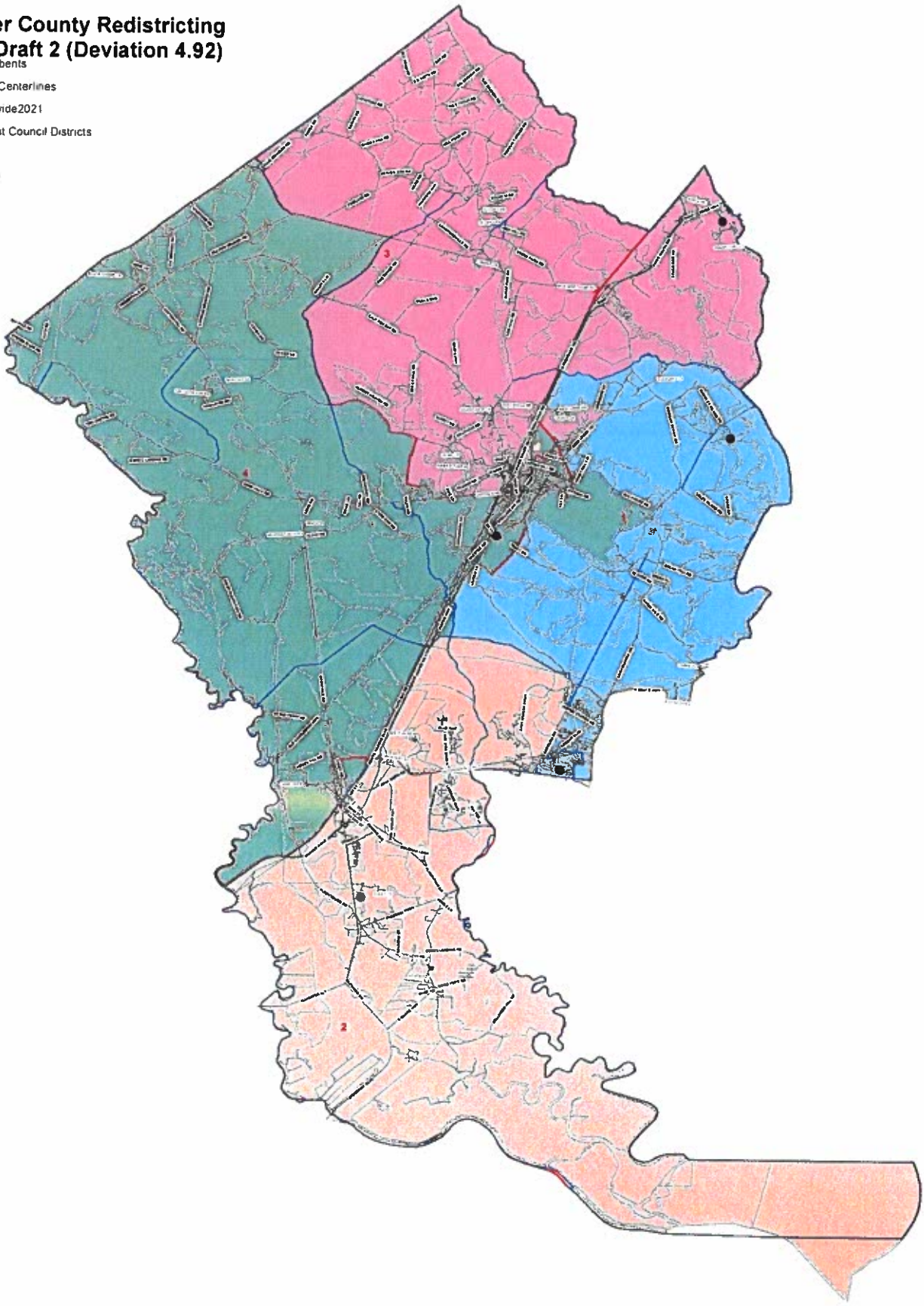
- 1
- 2
- 3
- 4
- Prison



Jasper County Redistricting RFA Draft 2 (Deviation 4.92)

- Incumbents
- StreetCenterlines
- Statewide2021
- Current Council Districts

- district**
- Prison
 - 1
 - 2
 - 3
 - 4



Total Population by Race *Race defined using DOJ definitions. Not Hispanic or Latino is abbreviated as NH.

County	District	Total	Hispanic	% Hispanic	White	% NH White	NH DOJ Black*	DOJ Black	Other Race	% NH Other Race
Jasper	1	6,908	681	9.86%	4,605	66.66%	1,437	20.80%	185	2.68%
Jasper	2	7,199	1,887	26.21%	2,961	41.13%	2,119	29.43%	232	3.22%
Jasper	3	6,901	1,226	17.77%	3,243	46.99%	2,244	32.52%	188	2.72%
Jasper	4	6,856	1,146	18.17%	2,018	29.43%	3,369	49.14%	233	3.35%
	Total	27,864	5,040	18.09%	12,827	46.03%	9,169	32.91%	828	2.97%

Voting Age Population by Race *Race defined using DOJ definitions. Not Hispanic or Latino is abbreviated as NH.

County	District	Total VAP	Hispanic VAP	% Hispanic VAP	White VAP	% NH White VAP	NH DOJ Black* VAP	DOJ Black VAP	Other VAP	% NH Other VAP
Jasper	1	6,066	491	8.09%	4,304	70.95%	1,115	18.38%	156	2.57%
Jasper	2	5,038	1,203	23.89%	2,668	52.96%	1,613	31.97%	170	3.37%
Jasper	3	5,291	771	14.57%	2,720	51.41%	1,665	31.47%	135	2.55%
Jasper	4	5,160	737	14.28%	1,695	32.85%	2,552	49.46%	176	3.41%
	Total	22,175	3,204	14.45%	11,387	51.35%	6,947	31.33%	637	2.87%

MUNI_NAME Jasper

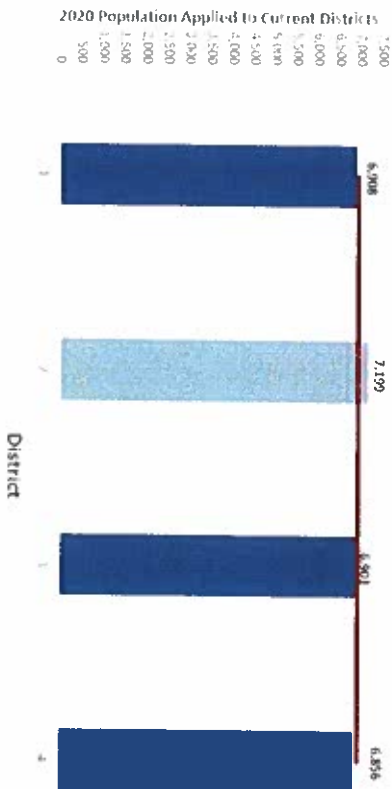
Row Labels	Sum of Total	Sum of Hispanic	Sum of NH White LK	Sum of NH DOJ_B ER	Sum of NH_OTH VAP_TOTA L	Sum of VAP_HISP ANTC_O	Sum of VAP_NH_WHT K	Sum of VAP_NH_HER
1	6,908	681	4605	1437	185	6066	491	1115
2	7,199	1887	2961	2119	232	5038	1205	1615
3	6,901	1226	3243	2244	188	5291	771	135
4	6,856	1146	2018	3369	233	5160	737	176
Grand Total	27,864	5,040	12,827	9,169	828	22,175	3,204	6,947

Draft 2 Statistics, January 2022

District	2020 Census	Goal	Over/Under	% Deviation
1	6,908	6,966	(58)	-0.83%
2	7,199	6,966	233	3.34%
3	6,901	6,966	(65)	-0.93%
4	6,856	6,966	(110)	-1.58%

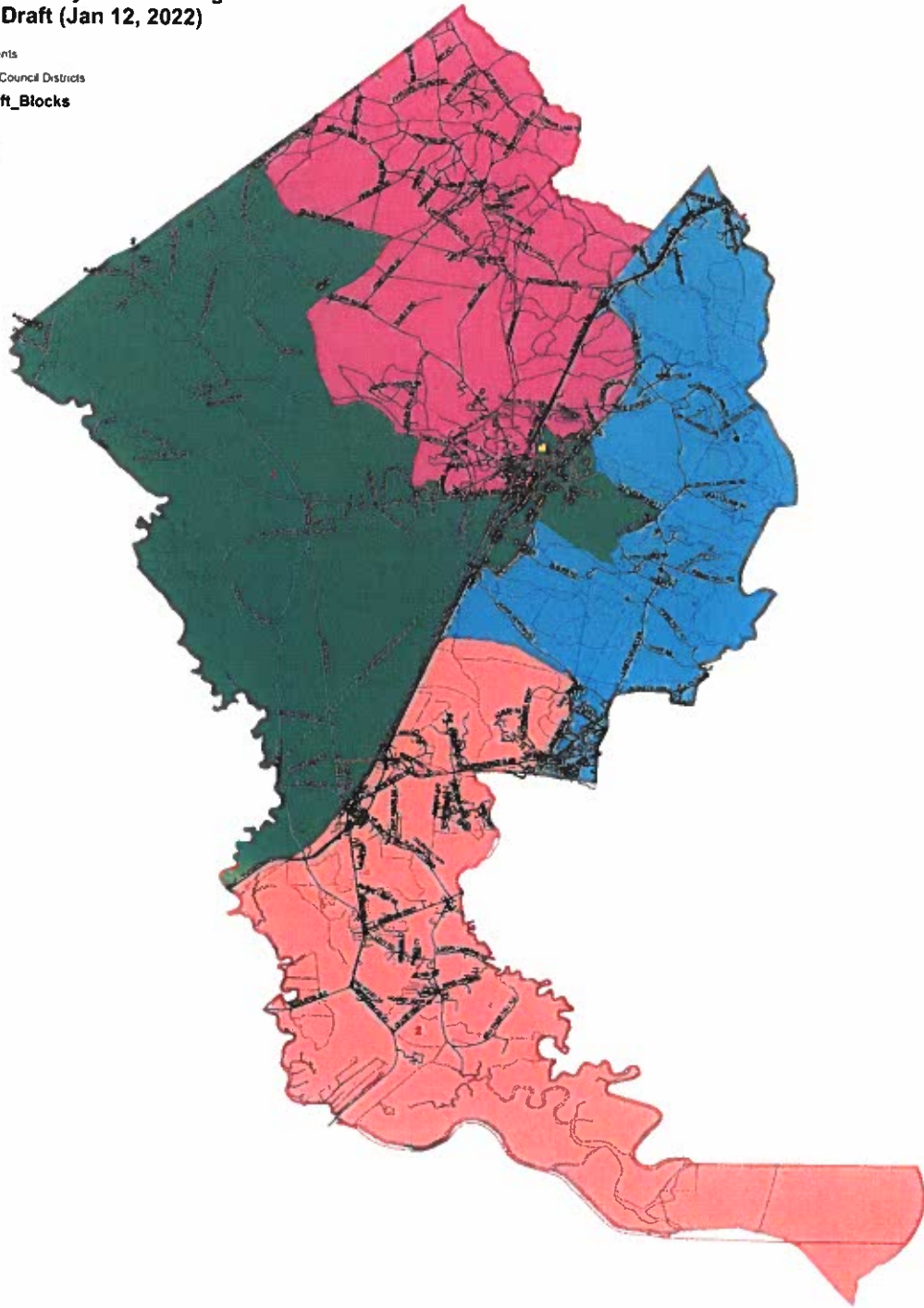
Lowest Range -1.58%
Highest Range 3.34%

County of Jasper Draft 2, January 2022
Target Population: 6,966



**Jasper County Redistricting
RFA Draft (Jan 12, 2022)**

- Incumbents
 - Current Council Districts
- Jasper_Draft_Blocks**
- district
- Prison
 - 1
 - 2
 - 3
 - 4



Jasper Total Population by Race *Race defined using DOJ detentions. Not Hispanic or Latino is abbreviated as NH

County	District	Total	Hispanic	% Hispanic	White	% NH	NH DOJ	Black	DOJ	Other	% NH Other
Jasper	1	6,807	636	9.34%	4,538	66.67%	1,453	21.35%	180	2.64%	
Jasper	2	7,199	1,887	26.21%	7,901	41.13%	2,119	29.43%	232	3.22%	
Jasper	3	6,959	1,307	18.78%	3,326	47.79%	2,121	30.48%	205	2.95%	
Jasper	4	6,899	1,210	17.54%	2,002	29.02%	3,476	50.38%	211	3.06%	
	Total	27,864	5,040	18.09%	12,827	46.03%	9,169	32.91%	828	2.97%	

Voting Age Population by Race *Race defined using DOJ detentions. Not Hispanic or Latino is abbreviated as NH

County	District	Total	Hispanic	% Hispanic	White	% NH	NH DOJ	Black	DOJ	Other	% NH Other
Jasper	1	5,991	462	7.71%	4,256	71.04%	1,122	18.73%	151	2.52%	
Jasper	2	5,658	1,105	21.30%	2,668	47.15%	1,615	28.54%	170	3.00%	
Jasper	3	5,320	820	15.41%	2,787	52.39%	1,563	29.38%	150	2.82%	
Jasper	4	5,206	717	13.77%	1,676	32.19%	2,647	50.83%	180	3.10%	
	Total	22,175	3,204	14.45%	11,387	51.35%	6,947	31.33%	637	2.87%	

Note: The population of 927 housed at Ridgeland Correctional Institute was removed for this analysis

MULTI_NAME Jasper

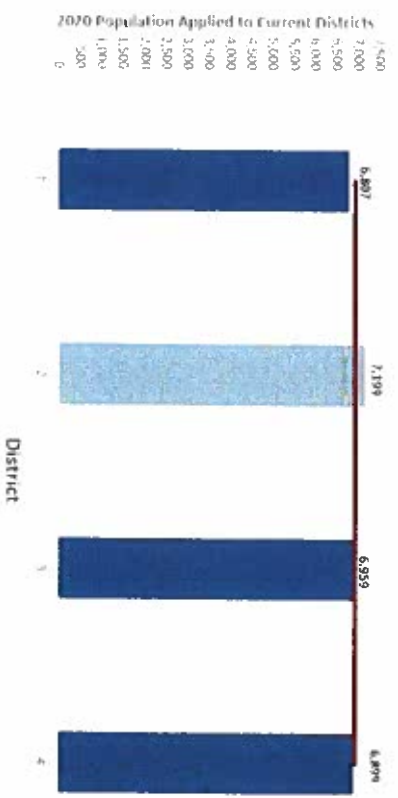
Row Labels	Sum of Hispanic	Sum of NH WHT LK	Sum of NH DOJ B	Sum of NH OTL ER	Sum of VAP TOTA	Sum of VAP HISP	Sum of VAP NH DOJ BL	Sum of VAP NH OT
1	6807	4338	1453	180	5991	462	4256	1122
2	7199	2961	2119	232	5658	1205	2668	1615
3	6959	1307	2121	205	5320	820	2787	1563
4	6899	1210	2002	211	5206	717	2647	180
Grand Total	27,864	12,827	9,169	828	22,175	3,204	11,387	6,947

Draft Statistics: January 2022

District	2020 Census	Goal	Over/Under	% Deviation
1	6,807	6,966	(159)	-2.28%
2	7,199	6,966	233	3.34%
3	6,959	6,966	(7)	-0.10%
4	6,899	6,966	(67)	-0.96%

Lowest -2.28%
Highest 3.34%
Range 5.63%

County of Jasper Draft, December 2021
Target Population: 6,966



AGENDA ITEM:

XI-B

Ordinance item B



ORDINANCE NO. 2021-29

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BY AND BETWEEN CP HARDEEVILLE, LLC (FORMERLY KNOWN TO THE COUNTY AS “PROJECT MANDOLIN”) (THE “COMPANY”) AND JASPER COUNTY, WHEREBY JASPER COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAX AGREEMENT WITH THE COMPANY AND PROVIDING FOR PAYMENT BY THE COMPANY OF CERTAIN FEES-IN-LIEU OF *AD VALOREM* TAXES; PROVIDING FOR SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH SUCH AGREEMENT; PROVIDING FOR THE ALLOCATION OF FEES-IN-LIEU OF TAXES PAYABLE UNDER THE AGREEMENT FOR THE ESTABLISHMENT OF A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Jasper County, South Carolina (the “County”), acting by and through its County Council (the “County Council”) is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the “FILOT Act”), to designate real and tangible personal property as “economic development property” and to enter into an arrangement which provides for payments-in-lieu of taxes (“FILOT Payments”) for a project qualifying under the FILOT Act; and

WHEREAS, the County, acting by and through the County Council, is further authorized and empowered under and pursuant to the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (collectively, the “the MCIP Act”) to provide for payments-in-lieu of taxes with respect to property located in a multi-county business or industrial park created under the MCIP Act and to permit investors to claim special source credits against their FILOT Payments to reimburse such investors for expenditures for infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used or to be used in the operation of manufacturing or commercial enterprise in order to enhance the economic development of Jasper County (“Infrastructure Improvements”); and to create, in conjunction with one or more other counties, a multi-county park in order to afford certain enhanced tax credits to such investors and facilitate the grant of special source or infrastructure improvement credits; and

WHEREAS, CP Hardeeville, LLC (referred to herein as the “Company”) is considering an industrial development at a site located in the City of Hardeeville (“City”) in Jasper County by acquiring and constructing real property and real property improvements (the “Project”) which the Company estimates will likely consist of a capital investment of at least One Hundred Eighty Four Million Four Hundred Fifty Thousand Dollars (\$184,450,000.00).

WHEREAS, the County desires to enter into a Fee Agreement with the Company, as the Company has expressed its intent to the County to make a capital investment in the County (i.e., the Project);

WHEREAS, the Project is located entirely within Jasper County and, with the consent of the Partner County (as defined herein) and the City of Hardeeville, will be included in and subject to

the multi-county park and fee-in-lieu of tax arrangements as described herein; and

WHEREAS, the County has made specific proposals, including proposals to offer certain economic development incentives set forth herein, for the purpose of inducing the Company to invest its funds to acquire and equip the Project (the “Incentives”); and

WHEREAS, it is in the public interest, for the public benefit and in furtherance of the public purposes of the FILOT Act and the MCIP Act that the County Council provide approval for qualifying the Project under the FILOT Act and the entire Project under the MCIP Act for the Incentives;

NOW, THEREFORE, BE IT ORDAINED by the County Council as follows:

Section 1. Evaluation of the Project. The County Council has evaluated the Project on the following criteria based upon the advice and assistance of the South Carolina Department of Revenue:

- (a) whether the purposes to be accomplished by the Project are proper governmental and public purposes;
- (b) the anticipated dollar amount and nature of the investment to be made; and
- (c) the anticipated costs and benefits to the County.

Section 2. Findings by County Council. Based upon information provided by and representations of the Company, County Council’s investigation of the Project, including the criteria described in Section 1 above, and the advice and assistance of the South Carolina Department of Revenue, as required, County Council hereby find that:

- (a) the Project constitutes a “project” as that term is defined in the FILOT Act;
- (b) the Project will serve the purposes of the FILOT Act;
- (c) the Company anticipates an investment of at least One Hundred Eighty-Four Million Four Hundred Fifty Thousand Dollars (\$184,450,000.00) within eight (8) years from the end of the property tax year in which the Company and the County execute the FILOT Agreement (as defined herein);
- (d) the Project will be located entirely within the County;
- (e) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally;
- (f) the Project will not give rise to a pecuniary liability of the County or any municipality nor a charge against its general credit or taxing power of the County or any municipality;

- (g) the purposes to be accomplished by the Project are proper governmental and public purposes;
- (h) the inducement of the location of the Project is of paramount importance; and
- (i) the benefits of the Project to the public are greater than the costs to the public.

Section 3. Fee-in-Lieu of Taxes Arrangement. Pursuant to the authority of the FILOT Act, the Project is hereby designated as “economic development property” under the FILOT Act and there is hereby authorized a fee-in-lieu of taxes arrangement with the Company for a term of thirty (30) years, which will provide FILOT Payments to be made with respect to the Project based upon a 6% assessment ratio and a millage rate which shall be fixed for the full term of the agreement at 457.0 mills, and including Special Source Revenue Credits in the amount of 40% of the Project for each year of the Term (as defined in the FILOT Agreement), subject to reduction at the County’s discretion based on failure to achieve certain investment thresholds during the investment period, all as more fully set forth in the Fee Agreement by and between the Company and the County (the “FILOT Agreement”).

Section 4. Extension of Investment Period. The Company has represented to the County that it does not anticipate completing the Project within five (5) years of the last day of the property tax year during which economic development property is first placed in service (the “Investment Period”). Accordingly, the Company has applied to the County for an extension of time to complete the Project pursuant to Section 12-44-30(13) of the FILOT Act. The County hereby extends the Investment Period by three (3) additional years; provided however that there is no extension of the period for meeting the minimum statutory investment requirement as specified in Section 12-44-30(13) of the FILOT Act.

Section 5. Execution of the Fee Agreement. The form, terms and provisions of the FILOT Agreement presented to this meeting and filed with the Clerk of the County Council be and hereby are approved, and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if such FILOT Agreement were set out in this Ordinance in its entirety. The Chair of the County Council and the Clerk of the County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the FILOT Agreement in the name and on behalf of the County, and thereupon to cause the FILOT Agreement to be delivered to the Company. The FILOT Agreement is to be in substantially the form now before this meeting and hereby approved, or with any changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the County Attorney and the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of all changes therein from the form of FILOT Agreement now before this meeting.

Section 6. Multi-County Park.

- (a) The County, in cooperation with Hampton County (the “Partner County”) and subject to the consent of the City of Hardeeville, which consent has been provided pursuant to that certain Intergovernmental Agreement dated as of November 5, 2021 between Jasper County and the City of Hardeeville, South Carolina (the “2021 IGA”), hereby designates

the site of the Project as a multi-county park (the "Park") pursuant to Article VIII, Section 13 of the Constitution of South Carolina, the MCIP Act, and the terms of that certain Agreement for the Establishment of Multi-County Industrial/Business Park by and between the County and the Partner County and dated as of even date herewith or the date of the Partner County's approval of said Agreement (the "MCIP Agreement"). In the FILOT Agreement, the County will agree to use its commercially reasonable efforts to maintain such designation throughout the term of the FILOT Agreement.

- (b) Pursuant to the terms of the MCIP Act and the MCIP Agreement, the County hereby provides that throughout the term of the FILOT Agreement, the annual allocation of the fee-in-lieu of ad valorem taxes payable by the Company to the County in accordance with the terms of the MCIP Agreement, after deducting any amounts distributed to the Partner County, will be distributed as follows:
- a. To the County, for providing the Special Source Revenue Credits, an amount equal to the annual Special Source Revenue Credits provided in Section 3 of this Ordinance and in the FILOT Agreement; and
 - b. After making the allocations under paragraph (a) of this Section, Park Revenues (as defined in the MCIP Agreement) derived from the Project shall be distributed in accordance with the MCIP Agreement and allocable to the County as the "Host County" under the MCIP Agreement in accordance with that certain Intergovernmental Agreement dated November 5th, 2021 between the County and the City.

Section 7. Miscellaneous.

- (a) The Chair and all other appropriate officials of the County are hereby authorized to execute, deliver and receive any other agreements and documents as may be required by the County in order to carry out, give effect to and consummate the transactions authorized by this Ordinance.
- (b) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.
- (c) This Ordinance shall become effective immediately upon approval following its third reading by the County Council.
- (d) The provisions of this Ordinance are hereby declared to be severable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, that declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.
- (e) All ordinances, resolutions and parts thereof in conflict herewith are, to the extent of the conflict, hereby repealed.

[Signature Page to Follow]

ENACTED in meeting duly assembled this __ day of _____, 2022.

(SEAL)

JASPER COUNTY, SOUTH CAROLINA

By: _____

Barbara Clark
Chair of County Council
Jasper County, South Carolina

ATTEST:

By: _____

Wanda Simmons
Clerk to County Council
Jasper County, South Carolina

First Reading: October 4, 2021
Second Reading: February 7, 2022
Public Hearing: February 22, 2022
Third Reading: February 22, 2022

STATE OF SOUTH CAROLINA)	
)	AGREEMENT FOR THE ESTABLISHMENT
COUNTY OF JASPER)	OF MULTI-COUNTY INDUSTRIAL/
)	BUSINESS PARK (HARDEEVILLE PARK)
COUNTY OF HAMPTON)	

THIS AGREEMENT FOR THE ESTABLISHMENT OF MULTI-COUNTY INDUSTRIAL/BUSINESS PARK (HARDEEVILLE PARK) for the establishment of a multi-county industrial/business park to be located within Jasper County and Hampton County is made and entered into as of _____, 2022, by and between Jasper County, South Carolina (“Jasper County”) and Hampton County, South Carolina (“Hampton County”).

RECITALS

WHEREAS, Jasper County and Hampton County are contiguous counties which, pursuant to Ordinance No. _____, enacted by Jasper County Council on February 22, 2022, and Ordinance No. _____ enacted by Hampton County Council on _____, 2022, have each determined that, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, there should be established in Jasper County a multi-county industrial/business park (the “Park”), to be located upon property more particularly described in Exhibit A (Jasper); and

WHEREAS, as a consequence of the establishment of the Park, property comprising the Park and all property having a situs therein is exempt from *ad valorem* taxation pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, but the owners or lessees of such property shall pay annual fees in an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for such exemption.

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Binding Agreement.** This Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on Jasper County and Hampton County, their successors and assigns.

2. **Authorization.** Article VIII, Section 13(D) of the South Carolina Constitution provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a manner in which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of taxable property in all school districts in South Carolina. The Code of Laws of South Carolina, 1976, as amended (the “Code”) and particularly, Section 4-1-170 thereof, satisfies the conditions imposed by Article VIII, Section 13(D) of the South Carolina Constitution and provides the statutory vehicle whereby a multi-county industrial or business park may be created.

3. **Location of the Park.**

(A) The Park consists of property that is located in Jasper County and which now or will be owned by project sponsors for the purpose of establishing industrial, distribution and/or commercial facilities, the property being more particularly described in Exhibit A hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties within Jasper County. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinance of the county council of Jasper County (“Jasper Approval”), and resolution of the county council of Hampton County (“Hampton Approval”). Except as permitted by the Intergovernmental Agreement dated as of November 5, 2021 between Jasper County and the City of Hardeeville, South Carolina (“2021 IGA”) attached hereto as Exhibit B, if any property proposed for inclusion in the Park is located, at the time such inclusion is proposed, within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of the property in the Park.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A which shall contain a legal description of the boundaries of the Park as enlarged or diminished, together with a copy of Jasper Approval and the Hampton Approval pursuant to which such enlargement or diminution was authorized.

(C) Prior to any Jasper Approval authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by Jasper County Council. Notice of such public hearing shall be published in a newspaper of general circulation in Jasper County, at least once and not less than fifteen (15) days prior to such hearing. Notice of such public hearing shall also be given by certified mail that is deposited with the U.S. Postal Service at least fifteen (15) days prior to such public hearing upon the owner and, if applicable, the lessee of any property which would be excluded from the Park by virtue of the diminution.

4. Fee in Lieu of Taxes.

(A) Pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, all property located in the Park is exempt from all ad valorem taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Agreement an amount (referred to as fees in lieu of ad valorem taxes) equivalent to the ad valorem taxes or other in-lieu-of payments that would have been due and payable but for the location of such property within the Park.

(B) The amount of the annual fees in lieu of ad valorem taxes may be reduced if the owner or lessee of property located in the Park (i) has negotiated a fee in-lieu-of taxes arrangement with respect to the property with Jasper County pursuant to the provisions of Sections 12-44-10, et seq., 4-12-30, or 4-29-67 of the Code of Laws of South Carolina 1976, as amended, or any successor provisions thereto as may be provided under South Carolina law, or (ii) receives a special source revenue or infrastructure credit with respect to the property under the provisions of Section 4-1-175 of the Code of Laws of South Carolina 1976, as amended, or any successor provisions thereto as may be provided under South Carolina law (collectively, (i) and (ii), “Negotiated Fee in Lieu of Tax Agreements”).

5. **Allocation of Expenses.** Jasper County and Hampton County shall bear expenses incurred in connection with the Park, including, but not limited to, those incurred in the administration, development, operation, maintenance and promotion of the Park, in the following proportions:

- A. Jasper County – 100%
- B. Hampton County – 0%

6. **Allocation of Revenues.** Jasper County and Hampton County shall receive an allocation of all revenues generated by the Park through payment of fees in lieu of *ad valorem* taxes (“Park Revenues”) in the following proportions:

- A. Jasper County – 99%
- B. Hampton County – 1%

Any payment from Jasper County to Hampton County of Hampton County's allocable share of Park Revenues shall be made and accompanied by a statement showing the manner in which total payment and each County's share were calculated. If any Park Revenues are received by Jasper County through payment by any owner, or any lessee/tenant, or any other taxpayer is made under protest, or otherwise as part of a dispute, then Jasper County is not obligated to pay Hampton County more than Hampton County's share of the undisputed portion of the Park Revenues until thirty (30) days after the final resolution of the protest or dispute.

7. Revenue Allocation within Each County. Park Revenues received shall be distributed to and within the County as follows:

(A) Revenues generated by the Park through the payment of fees in lieu of *ad valorem* taxes shall be distributed to Jasper County and to Hampton County, as the case may be, according to the proportions established by this Agreement. With respect to revenues allocable to Jasper County by way of fees in lieu of *ad valorem* taxes generated from properties within the Park, such revenue shall be distributed within Jasper County pursuant to the 2021 IGA.

(B) With respect to revenues allocable to Hampton County by way of fees in lieu of *ad valorem* taxes generated from properties located in the Park, such revenue shall be distributed within Hampton County in accordance with a distribution scheme established by the Hampton County Council and, in the absence of any such adopted distribution scheme, on a pro rata basis to the millage levying entities in Hampton County.

8. Fees in Lieu of Ad Valorem Taxes Pursuant to Title 4 or Title 12 of the Code. It is hereby agreed that the entry by Jasper County into any one or more Negotiated Fee in Lieu of Tax Agreements with respect to property located within the Park and the terms of such agreements shall be at the sole discretion of Jasper County.

9. Consent by the City and Other Municipalities. In accordance with the Act, the City of Hardeeville, by Resolution No. 2021-11-4F and the terms of the 2021 IGA, has consented to the location of the property within the City's geographical boundaries in the Park as described on Exhibit A as of the effective date of this agreement.

10. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code, allocation of the assessed value of property within the Park to Jasper County and Hampton County and to each of the taxing entities within the participating counties shall be in accordance with the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to Sections 6 and 7 herein.

11. Governing Laws and Regulations. Any applicable ordinances and regulations of Jasper County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in the Jasper County portion of the Park unless any such property is within the boundaries of a municipality in which case, the municipality's applicable ordinances and regulations shall apply.

11. South Carolina Law Controlling. This Agreement has been entered into in the State of South Carolina and shall be governed by, and construed in accordance with South Carolina law.

12. **Severability.** In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision of this Agreement.

13. **Counterpart Execution.** This Agreement may be executed in multiple counterparts.

14. **Additional Parties.** This Agreement may be amended from time to time to add additional counties located in South Carolina, subject to Article VIII, Section 13(D) of the Constitution of South Carolina and Title 4, Chapter 1 of the Code, by ordinance of the county council of Jasper County, and by resolution of the county council of Hampton County; provided, however, that to the extent permitted by law, additional counties may be added as parties hereto with only the enactment of an ordinance of the county council of Jasper County only in the event that such additional county's allocation of Park Revenues hereunder shall be allocated solely out of Jasper County's residual net share of the Park Revenues provided for its use and distribution pursuant to **Section 7** hereof.

15. **Term; Termination.** Except as specifically provided in this **Section 15**, Jasper County and Hampton County agree that this Agreement may not be terminated in its entirety by unilateral action of any party and shall remain in effect for a period equal to the longer of (i) thirty-one (31) years commencing with the effective date of this Agreement or (ii) a period of time of sufficient length to facilitate any special source revenue credits due with respect to Park property. This Agreement may be terminated at any time upon adoption of ordinances by the County Councils of both Jasper County and Hampton County, which ordinances must specifically authorize the termination of this Agreement.

16. **Law Enforcement Jurisdiction.** Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties is vested with the Sheriff's Office of Jasper County, for matters within their jurisdiction. If any of the Park properties are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is also vested with the law enforcement officials of the municipality for matters within their jurisdiction.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the day and the year first above written.

[signatures on following page]

JASPER COUNTY, SOUTH CAROLINA

By: _____
Chair, County Council
Jasper County, South Carolina

[SEAL]

Attest:

By: _____
County Council Clerk
Jasper County, South Carolina

HAMPTON COUNTY, SOUTH CAROLINA

By: _____
Chair, County Council
Hampton County, South Carolina

[SEAL]

Attest:

By: _____
County Council Clerk
Hampton County, South Carolina

**Exhibit A (Jasper)
PARK PROPERTY**

All those certain properties consisting of the Monroe Tract (TMS ## 038-00-04-059 and 039-00-03-004).

Exhibit B
Intergovernmental Agreement

FEE AGREEMENT

by and between

CP HARDEEVILLE, LLC

and

JASPER COUNTY, SOUTH CAROLINA

Dated as of February 22, 2022

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FEE AGREEMENT

This FEE AGREEMENT (this "Agreement") is dated as of February 22, 2022, by and between CP Hardeeville, LLC, a Delaware limited liability company (the "Company"), and Jasper County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the "County").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the "Act") of the Code of Laws of South Carolina 1976, as amended through the date hereof (the "Code") and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution (the "Multi-County Park Act"): (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain industrial and commercial properties through which the economic development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the workforce, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain payments in lieu of *ad valorem* taxes with respect to the project (a "FILOT"); (iii) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors; and (iv) permit investors to claim special source credits against FILOT payments to reimburse such investors for expenditures for infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used or to be used in the operation of manufacturing or commercial enterprise in order to enhance the economic development of the County;

WHEREAS, the Company proposes to purchase and develop the Project (as defined herein) within the County;

WHEREAS, the Company anticipates that the Project will result in an investment of One Hundred Eighty-Four Million Four Hundred Fifty Thousand Dollars (\$184,450,000.00) in the County;

WHEREAS, as a result of the Company locating certain operations in the County, the Company requested that the County complete the FILOT arrangement by entering into this Agreement with the Company pursuant to the Act, and the Company elects to enter into such FILOT arrangement with the County in an effort to encompass the terms surrounding the Project and allowing the Company to make FILOT Payments pursuant to the Act;

WHEREAS, for the Project, the parties have also determined that the Company is a Sponsor, and that the Project constitutes Economic Development Property, each within the meaning of the Act; and

WHEREAS, for the purposes set forth above, the County has determined that it is in the best interests of the County to enter into this Agreement with the Company, subject to the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, and the sum of \$1.00 in hand, duly paid by the Company to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

ARTICLE I

DEFINITIONS AND RECAPITULATION

Section 1.01. Statutorily Required Recapitulation.

(a) Pursuant to Section 12-44-55(B) of the Act, the County and the Company agree to waive the recapitulation requirements of Section 12-44-55 of the Act. Subsection (b) of this section is inserted for convenience only and does not constitute a part of this Agreement or a summary compliant with Section 12-44-55 of the Act.

(b) Summary of Agreement:

1. Legal name of each initial party to this Agreement:

CP Hardeeville, LLC, a Delaware limited liability company
Jasper County, South Carolina

2. County, street address, parcel number or other location identifier of the Project and property to be subject to this Agreement:

See Exhibit A

3. Minimum investment agreed upon: \$184,450,000.00

4. Length and term of this Agreement: thirty (30) years for each annual increment of investment in the Project during the Investment Period

5. Investment Period: eight (8) years

6. Assessment ratio applicable for each year of this Agreement: 6%

7. Millage rate applicable for each year of this Agreement: 457.0 mills

8. Schedule showing the amount of the fee and its calculation for each year of this Agreement: Waived by the County and the Company.

9. Schedule showing the amount to be distributed annually to each of the affected taxing entities: Waived by the County and the Company.

10. Statements

- (a) The Project is to be located in a multi-county industrial or business park;
 - (b) Disposal of property subject to payments-in-lieu-of-taxes is allowed;
 - (c) Special Source Revenue Credits will be provided in an amount of forty percent (40%) of FILOT payments for each year of the Term.
 - (c) Payment will not be modified using a net present value calculation; and
 - (d) Replacement property provisions will apply.
11. Any other feature or aspect of this Agreement which may affect the calculation of items (8) and (9) of this summary. None.
12. Description of the effect upon the schedules required by items (8) and (9) of this summary of any feature covered by items (10) and (11) not reflected in the schedules for items (8) and (9): Waived by the County and the Company.
13. Which party or parties to this Agreement are responsible for updating any information contained in this summary: The Company.

Section 1.02. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings, unless the context or use indicates another or different meaning or intent.

“Act” or “Simplified FILOT Act” shall mean Title 12, Chapter 44 of the Code, as amended through the date hereof.

“Administration Expense” shall mean the reasonable and necessary out-of-pocket expenses, including attorneys’ fees, incurred by the County with respect to: (i) the preparation, review, approval and execution of this Agreement; (ii) the preparation, review, approval and execution of other documents related to this Agreement and any multi-county park documents; and (iii) the fulfillment of its obligations under this Agreement and any multi-county park documents, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof.

“Affiliate” shall mean any Person directly or indirectly controlling, controlled by, or under common control with such other Person. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person, whether through the ownership of voting securities, by contract, or otherwise.

“*Agreement*” shall mean this Fee-in-Lieu of Tax Agreement by and among the County and the Company, as originally executed and from time to time supplemented or amended as permitted herein, and dated as of February 22, 2022.

“*Co-Investor*” shall mean the Company, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Act, any Affiliate of the Company or of any such other Sponsor or Sponsor Affiliate, any tenant leasing all or a portion of the Project from the Company or any other existing Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement or other leasing arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in, providing funds for or otherwise making investment in real or personal property in connection with the Project. The Company shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Company and any such other Sponsor, Sponsor Affiliate, or other Co-Investor intend to extend the benefits of the FILOT to property owned by any such Sponsor, Sponsor Affiliate, or other Co-Investor pursuant to Section 6.02 hereof, comply with any additional notice requirements, or other applicable provisions, of the Act. As of the original execution and delivery of this Agreement, the Company is the only Co-Investor.

“*Code*” shall mean the Code of Laws of South Carolina 1976, as amended through the date hereof, unless the context clearly requires otherwise.

“*Commencement Date*” shall mean the last day of the property tax year during which the Project or any portion thereof is placed in service, which date shall not be later than the last day of the property tax year which is three (3) years from the year in which the County and the Company enter into this Agreement.

“*Company*” shall mean CP Hardeeville, LLC, a Delaware limited liability company, and its successors and assigns.

“*Confidential Information*” shall have the meaning set forth in Section 4.02(c) hereof.

“*County*” shall mean Jasper County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, and its successors and assigns.

“*County Council*” shall mean the governing body of the County and its successors.

“*Department of Revenue*” shall mean the South Carolina Department of Revenue.

“*Economic Development Property*” shall mean each item of real and tangible personal property comprising the Project, except Non-Qualifying Property, if any, within the meaning of that term as defined and used in Sections 12-44-30(6) and 12-44-40(C) of the Code.

“*Equipment*” shall mean all machinery, equipment, furnishings, and other personal property acquired by the Company and installed as part of the Project during the Investment Period in accordance with this Agreement.

“*Event of Default*” shall have the meaning set forth in Section 11.01 hereof.

“*Existing Property*” shall mean property proscribed from becoming Economic Development Property pursuant to Section 12-44-110 of the Code, including, without limitation, property which has been subject to *ad valorem* taxes in the State prior to the execution and delivery of this Agreement and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (i) property acquired or constructed by the Company during the Investment Period which has not been placed in service in this State prior to the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property; (ii) modifications which constitute an expansion of Existing Property; or (iii) property described in Section 12-44-110 of the Code to the extent that the Company and any Co-Investors invest at least an additional Forty-Five Million Dollars (\$45,000,000.00) in the Project.

“*FILOT*” shall mean the fee-in-lieu of taxes, which the Company are obligated to pay to the County pursuant to Section 5.01 hereof.

“*FILOT Payments*” shall mean the payments to be made by the Company or any Co-Investor with respect to its respective portion of the Project, whether made as Negotiated FILOT Payments pursuant to Section 5.01 hereof or as FILOT payments made pursuant to the Multi-County Park Act.

“*Investment Commitment*” shall mean the agreement of the Company and any other Co-Investors to make investments with respect to the Project as set forth in Sections 2.02(d) and 4.01 of this Agreement.

“*Investment Period*” shall mean the period beginning with the first day that Economic Development Property is purchased or acquired and ending on the date that is eight (8) years from the Commencement Date (which Investment Period represents a five-year investment period, plus an additional three (3) years that the County has hereby granted pursuant to the Act).

“*Land*” shall mean the real estate upon which the Project is to be located, as described in Exhibit A attached hereto. Additional real estate may be included as part of Exhibit A as provided in Section 4.03(i), and the Company shall deliver to the County an updated Exhibit A to reflect such addition.

“*Multi-County Park*” shall mean the multi-county industrial/business park established pursuant to that certain Agreement for the Establishment of Multi-County Industrial/Business Park, by and between the County and Hampton County, South Carolina (as amended, modified, supplemented or replaced from time to time).

“*Multi-County Park Act*” shall have the meaning set forth in the recitals hereto.

“*Negotiated FILOT*” shall have the meaning set forth in Section 5.01(b)(ii) hereof.

“*Negotiated FILOT Payment*” shall mean the FILOT due pursuant to Section 5.01(b) hereof with respect to that portion of the Project consisting of Economic Development Property.

“Non-Qualifying Property” shall mean that portion of the Project, if any, consisting of: (i) property as to which the Company incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any Released Property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation property as to which the Company have terminated the Negotiated FILOT pursuant to Section 4.03(a)(iii) hereof.

“Person” shall mean and include any individual, association, unincorporated organization, corporation, partnership, limited liability company, joint venture, or government or agency or political subdivision thereof.

“Project” shall mean, collectively herein, the Land and buildings and other improvements on the Land to the extent placed thereon by or on behalf of the Company or any Co-Investor, including water, sewer treatment and disposal facilities, and other machinery, apparatus, equipment, office facilities, and furnishings which are necessary, suitable, or useful, including the Equipment, and any Replacement Property.

“Project Millage Rate” shall mean a millage rate of 457.0 mills.

“Property Tax Year” shall mean the annual period which is equal to the fiscal year of the Company, or any other Co-Investor, as the case may be.

“Released Property” shall mean any portion of the Project removed, scrapped, traded in, sold, or otherwise disposed of pursuant to Section 4.03 hereof, any portion of the Project stolen, damaged, destroyed, or taken by condemnation or eminent domain proceedings as described in Article VII hereof, and any infrastructure which the Company dedicates to the public use (within the meaning of that phrase as used in Section 12-6-3420(C) of the Code).

“Replacement Property” shall mean all property installed in or on the Land in substitution of, or as replacement for, any portion of the Project, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to Section 5.01(c) hereof and Section 12-44-60 of the Code.

“Special Source Revenue Credits” shall mean the special source credits provided pursuant to Section 5.01(d) hereof.

“Sponsor” shall have the meaning set forth in Section 12-44-30(19) of the Code. As of the date of this Agreement, the Company is the only Sponsor.

“Sponsor Affiliate” shall have the meaning set forth in Section 12-44-30(20) of the Code.

“State” shall mean the State of South Carolina.

“Term” shall mean the term of this Agreement, as set forth in Section 10.01 hereof.

“Transfer Provisions” shall mean the provisions of Section 12-44-120 of the Code, as amended through the date hereof.

Section 1.03. References to Agreement. The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties by County. The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State of South Carolina and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(b) The County, based on representations of the Company, has determined that the Project will serve the purposes of the Act, and has made all other findings of fact required by the Act in order to designate the Project as Economic Development Property.

(c) By proper action of the County Council, the County has duly authorized the execution and delivery of this Agreement and any and all actions necessary and appropriate to consummate the transactions contemplated hereby.

(d) This Agreement has been duly executed and delivered on behalf of the County.

(e) The County agrees to use its commercially reasonable efforts to continue to cause the Land to be located within the Multi-County Park, and the County will take all reasonable acts to ensure that the Project will continuously be included within the boundaries of the Multi-County Park or another multi-county park during the Term of this Agreement in order that the maximum tax benefits afforded by the laws of the State for projects in the County located within multi-county industrial parks will be available to the Company.

(f) No actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the County are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

Section 2.02. Representations and Warranties by the Company. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company, validly existing and in good standing under the laws of Delaware and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreements with the County with respect to the FILOT have been instrumental in inducing the Company to locate the Project within the County and the State.

(c) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the Company are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(d) For the Project, the Company commits to an investment, collectively with any Co-Investors, of at least One Hundred Eighty-Four Million Four Hundred Fifty Thousand Dollars (\$184,450,000.00) (the "Project Commitment") in Economic Development Property by the end of the eight-year Investment Period. The investment amount shall not include any amount paid by the Company for real estate improvements on the Land placed in service as of the date of this Agreement. Investments made by the Company and any Co-Investors in Economic Development Property shall be included in the determination whether the Company has fulfilled its commitment made in this item to invest in the Project.

(e) The income tax year of the Company, and accordingly the Property Tax Year, for federal income tax purposes is a 52/53 week fiscal year ending December 31.

(f) No event has occurred and no condition currently exists with respect to the Company, which would constitute a default or an Event of Default as defined herein.

(g) This Agreement is a legal, valid, and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such terms may be limited by laws affecting creditors' rights generally.

ARTICLE III

UNDERTAKINGS OF THE COUNTY

Section 3.01 Agreement to Accept FILOT Payments; Rollback Taxes.

(a) The County hereby agrees to accept FILOT Payments made by the Company and any Co-Investor in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

(b) The County hereby acknowledges and agrees that, pursuant to Section 12-43-220(d)(6) of the Act, no Economic Development Property shall be subject to rollback taxes. The County further covenants, to the extent allowed by law, that any portion of the Land that has not been developed by the Company (or by any Co-Investors) shall continue to be assessed using the agricultural assessment ratio until such Land is developed, so long as such property lawfully qualifies for such assessment ratio.

Section 3.02 No Warranties by County. The Company acknowledges that the County has made no warranties or representations, either express or implied, as to the condition or state of the Project or as to the design or capabilities of the Project or that it will be suitable for the Company's purposes or needs. No representation of the County is hereby made with regard to compliance by the Project or any Person with laws regulating: (i) the construction or acquisition of the Project; (ii) environmental matters pertaining to the Project; (iii) the offer or sale of any securities; or (iv) the marketability of title to any property.

Section 3.03 Invalidity. The parties acknowledge that the intent of this Agreement is to afford the Company and any Co-Investors the benefits of the Negotiated FILOT Payments in consideration of the Company's decision to locate the Project within the County and that this Agreement has been entered into in reliance upon the enactment of the Simplified FILOT Act. In the event that, for any reason, the Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Economic Development Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County express their intentions that such payments be reformed so as to afford the Company or any Co-Investors benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under the Code, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder, with respect to the portion of the Economic Development Property affected by such circumstances, *ad valorem* taxes and that, to the extent permitted by law, the Company and any Co-Investors shall be entitled: (i) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (ii) to enjoy all allowable depreciation; and (iii) to receive other tax credits which would be due if the Company or any Co-Investor were obligated to pay *ad valorem* taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are required by law to be subject to retroactive adjustment, then there shall be due and payable by the Company or any Co-Investor to the County with respect to the portion of the Economic Development Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, together with, but only if required by law, interest on such deficiency as provided in Section 12-54-25(D) of the Code. The Company agrees that if this Agreement is reformed as provided in this Section or if retroactive adjustments are made, then under no circumstances shall the County be required to refund or pay any monies to the Company or any Co-Investor.

In addition to and notwithstanding the foregoing paragraph, the County shall not be obligated to perform any of its obligations or promises under this Section 3.03 unless the Company has otherwise complied with or provides satisfactory evidence to the County that it intends to comply with its obligations and responsibilities under this Agreement.

Section 3.04 Multi-County Park Status. The County agrees to use its commercially reasonable efforts to maintain the Land in the Multi-County Park until the date this Agreement expires or is terminated. If it becomes necessary to remove the Land from the Multi-County Park prior to the expiration or termination of this Agreement, the County agrees to use its commercially reasonable efforts to place the Land in another multi-county park established pursuant to the Multi-County Park Act and to maintain the multi-county park designation until the date this Agreement is terminated. The parties acknowledge and agree that the County's agreement to place and maintain the Land in a multi-county park may be subject to the exercise of discretion by a governmental entity other than the County and the exercise of that discretion is not controlled by the County.

ARTICLE IV

UNDERTAKINGS OF THE COMPANY

Section 4.01. Investment by Company in Project. For the Project, the Company agrees to invest, collectively with any Co-Investors, at least One Hundred Eighty-Four Million Four Hundred Fifty Thousand (\$184,450,000.00) in Economic Development Property by the end of the Investment Period. Investments made by the Company and any Co-Investors in Economic Development Property shall be included in any determination whether the Company has fulfilled its commitments made in this Section.

Section 4.02. Reporting and Filing.

(a) The Company agrees to provide a copy of Form PT-443 filed with the Department of Revenue to the County Auditor, the County Economic Development Director, the County Attorney, the County Administrator and the County Assessor of the County and the County Auditor and the County Assessor of Hampton County, not later than thirty (30) days after execution and delivery of this Agreement. Each year during the Term of this Agreement, the Company shall deliver to the County Auditor, the County Economic Development Director, the County Attorney, the County Assessor, the County Administrator and the County Treasurer, a copy of their most recent annual filings made with the Department of Revenue with respect to the Project, not later than thirty (30) days following delivery thereof to the Department of Revenue. The Company acknowledges that the terms of the Act provide that to the extent requested, the Jasper County Auditor shall make such forms and returns available to the County Auditor of Hampton County. The Company agrees to provide the County with written notice of any failure to comply with the reporting requirements set forth in this Section.

(b) The Company agrees to maintain such books and records with respect to the Project as will permit the identification of those portions of the Project placed in

service in each Property Tax Year during the Investment Period, the amount of investment with respect thereto and its computations of all FILOT Payments made hereunder and will comply with all reporting requirements of the State and the County applicable to property subject to FILOT Payments under the Act, including the reports described in paragraph (a) (collectively, "Filings").

(c) The County acknowledges and understands that the Company may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Company's operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Company and could have a significant detrimental impact on the Company's employees and also upon the County. The Company acknowledges that the County is subject to the provisions of the South Carolina Freedom of Information Act. The County acknowledges that information the Company may hereafter provide to the County and which is clearly identified as Confidential Information may be deemed by the Company to be confidential and proprietary. To the extent that the Company clearly identifies information as Confidential Information, the County agrees to maintain the confidentiality of such Confidential Information and will, to the extent permitted by law (including, specifically, the South Carolina Freedom of Information Act), decline to honor any request for release of the Confidential Information so designated to persons other than the Company and its designated officers and representatives. In the event that the County is required by law to disclose any Confidential Information obtained from the Company to any third party, the County agrees to provide the Company with prompt advance notice of such requirement before making such disclosure. In the event an action at law or equity is brought against the County to require the disclosure of any Confidential Information that the Company identified as Confidential Information, the County reserves the right to include the Company in such action, and the Company hereby agrees to bear the reasonable costs associated with defending the County in such action, including payment of any judgment against the County for attorneys' fees or other liabilities related to such action.

Section 4.03. Modification of Project. As long as no Event of Default exists hereunder, the Company and any Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Company and each other Co-Investor may, at its own expense, add to the Project Land or any real and personal property as the Company or each other Co-Investor in its discretion deems useful or desirable.

(ii) In any instance where the Company or any other Co-Investor, in its discretion, determines that any items included in the Project have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Company or such other Co-Investor may remove such items or portions from the Project and sell, trade in, exchange, or otherwise dispose of them (as a whole or in part) without the consent of the County; as such may be permitted under the Simplified FILOT Act.

(iii) The Company and any other Co-Investor may, at any time in its discretion by written notice to the County, remove any real or personal property from the Negotiated FILOT (as defined in Section 5.01) set forth in this Agreement, and thereafter such property will be considered Non-Qualifying Property and will be subject to FILOT Payments as set forth in Section 5.01(b)(i) hereof.

ARTICLE V

PAYMENTS IN LIEU OF TAXES

Section 5.01. Payments in Lieu of Ad Valorem Taxes.

(a) In accordance with the Act, the parties hereby agree that, during the Term of the Agreement, the Company and any Co-Investors shall pay annually, with respect to the Project, a FILOT in the amount calculated as set forth in this Section, to be collected and enforced in accordance with Section 12-44-90 of the Act.

(b) The FILOT Payment due with respect to each Property Tax Year shall equal:

(i) With respect to any portion of the Project consisting of Non-Qualifying Property, if any, as long as such property is located in the Multi-County Park, a payment equal to the *ad valorem* taxes that would otherwise be due on such Non-Qualifying Property if it were taxable giving effect to all credits, exemptions, rebates and abatement that would be available if such undeveloped land or Non-Qualifying Property were taxable; and

(ii) With respect to those portions of the Project consisting of Economic Development Property, for each of the thirty (30) consecutive years following the year in which such portion of the Project is placed in service, a payment calculated each year as set forth in paragraphs (c) and (d) of this Section 5.01 (a "Negotiated FILOT").

(c) The Negotiated FILOT Payments shall be calculated with respect to each Property Tax Year based on: (i) the fair market value (determined in accordance with Section 12-44-50(A)(1)(c) of the Code) for (A) any real property component of the Economic Development Property constructed or purchased in an arm's length transaction determined by Department of Revenue using the original income tax basis for South Carolina income tax purposes without regard to depreciation, otherwise the real property must be reported at the fair market value for ad valorem property taxes as determined by appraisal, with the fair market value estimate established for the first year of the Negotiated FILOT Payments with respect to such property remaining the fair market value of such real property for the entire Term hereof, and (B) the personal property component of the Economic Development Property determined by Department of Revenue using the original tax basis for South Carolina income tax purposes less depreciation allowable for property tax purposes as provided in Section 12-44-

50(A)(1)(c) of the Code); (ii) a fixed millage rate equal to the Project Millage Rate, for the entire Term of this Agreement; and (iii) an assessment ratio of 6%. All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the exemption allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) Special Source Revenue Credits shall be provided in the amount of forty percent (40%) of each annual FILOT Payment, for each year of the Term. Such Special Source Revenue Credits shall be applied automatically and reflected on each year's property tax bill provided to the Company.

(e) The FILOT payments are to be recalculated:

(i) to reduce such payments in the event the Company or any Co-Investor disposes of any part of the Project within the meaning of Section 12-44-50(B) of the Code and as provided in Section 4.03 hereof, by the amount applicable to the Released Property;

(ii) to increase such payments, based on the methodology set forth in Section 5.01(c) hereof, in the event the Company or any Co-Investor adds property (other than Replacement Property) to the Project; or

(iii) to adjust such payments if the Company or any Co-Investor elects to convert any portion of the Project from the Negotiated FILOT to the FILOT required by Section 5.01(b)(i) above, as permitted by Section 4.03(a)(iii).

(f) To the extent permitted by law, because the FILOT Payments agreed to herein are intended to be paid by the Company or any Co-Investor to the County in lieu of taxes, it is agreed that said FILOT Payments shall not, as to any year, be in any amount greater than what would otherwise be payable by the Company or such Co-Investor to the County in property taxes if the Company or such Co-Investor had not entered into a fee-in-lieu of taxes arrangement with the County (except it is not intended that said FILOT Payments would necessarily be less than such property taxes to the extent that the constitutional abatement of property taxes would otherwise apply).

(g) Upon the Company's or any Co-Investor's installation of any Replacement Property for any portion of the Project removed under Section 4.03 hereof and sold, scrapped, or disposed of by the Company or such Co-Investor, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the FILOT, whether real or

personal, which is disposed of in the same Property Tax Year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Economic Development Property which it is replacing. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the FILOT payment for the period of time remaining on the thirty-year FILOT period for the property which it is replacing.

(ii) The new Replacement Property which qualifies for the Negotiated FILOT payment shall be recorded using its income tax basis, and the Negotiated FILOT Payment shall be calculated using the millage rate and assessment ratio provided on the original property subject to FILOT payment.

(h) In the event that the Act or the FILOT or any portion thereof, are declared, by a court of competent jurisdiction following allowable appeals, invalid or unenforceable, in whole or in part, for any reason, the Company and the County express their intentions that such payments be reformed so as to afford the Company the maximum benefit then permitted by law, including, without limitation, the benefits afforded under Section 12-44-50 of the Code and, specifically, that the Company may, at the Company's expense, exercise the rights granted by Section 12-44-160 of the Code upon terms and conditions (including evidence acceptable to the County that the Project is free from environmental contamination and mutually agreeable environmental indemnifications and warranties by the Company) acceptable to the County and the Company. If the Project is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County agree that the Company shall pay an alternate fee-in-lieu of tax calculated in the manner set forth in Section 5.01(b)(i) hereof. In such event, the Company shall be entitled, to the extent permitted by law: (i) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Section 3(g) of Article X of the Constitution of the State of South Carolina, and any other exemption allowed by law; and (ii) to enjoy all allowable depreciation. The Company agrees that if the FILOT Payments or this Agreement is reformed pursuant to this subsection (h), that under no circumstance shall the County be required to refund or pay any monies to the Company.

(i) For the Project, this Agreement is automatically terminated in the event that the investment in the Project in land, buildings, and personal property, including machinery and equipment, by the Company does not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) by the end of the Investment Period. If terminated pursuant to this subsection (i), the Negotiated FILOT Payments shall revert retroactively to payments equivalent to what the *ad valorem* taxes would have been with respect to the property absent this Agreement. At the time of termination, the Company shall pay to the County an additional fee equal to the difference between the total amount of property

taxes that would have been paid by the Company had the project been taxable, taking into account exemptions from property taxes that would have been available to the Company, and the total amount of fee payments actually made by the Company. This additional amount is subject to interest as provided in Section 12-54-25. The Company agrees, if the Negotiated FILOT Payments revert to payments equivalent to what the *ad valorem* taxes would be pursuant to this subsection (i), that under no circumstance shall the County be required to refund or pay any monies to the Company.

(j) In the event that the Company fails to meet and maintain the Project Commitment by and through the end of the Investment Period as provided herein (without regard to any subsequent extensions thereof), the Company shall be obligated to repay a prorated portion of the Special Source Revenue Credits provided under Section 5.01(d) hereof theretofore received by the Company with respect to the qualifying property, and the amount of Special Source Revenue Credits provided to the Company thereafter shall be so reduced with such prorated portion to be calculated by determining the achievement percentage of the Project Commitment as of the last day of the Investment Period.

(k) For example, and by way of example only, if the Company invested \$156,782,500 as of the last day of the Investment Period, the Company would have met 85% of the Project Commitment and would be obligated to repay 15% of the Special Source Revenue Credits provided under Section 5.01(d) hereof, and the amount of Special Source Revenue Credits provided to the Company thereafter would be reduced by 15%. Unless otherwise provided by the Act, any amounts due to the County under this Section 5.01 by virtue of the application of Sections 5.01(i) hereof shall be paid within ninety (90) days, following written notice thereof from the County to the Company or Co-Investor, as applicable.

(l) The Company agrees to make FILOT Payments with respect to the Economic Development Property that it owns for each Property Tax Year during the term hereof beginning with the Property Tax Year following the year the applicable Economic Development Property is first placed in service. The FILOT Payments shall be made to the Jasper County Treasurer on the due dates which would otherwise be applicable for *ad valorem* property taxes for the Economic Development Property, with the first payment being due on the first date following the delivery of this Agreement when, but for this Agreement, such taxes would have been paid with respect to the Economic Development Property.

(m) To the extent required by Section 4-29-68(A)(2)(ii) of the Code, if the Company claims Special Source Revenue Credits as reimbursement for investment in personal property, including machinery and equipment, if such property is removed from the Project during the term of this Agreement, the amount of the FILOT Payments due from the Company on such personal property for the year in which the personal property was removed from the Project also shall be due for the two (2) years following such removal.

(n) The Company agrees to provide or cause to be provided all funding for the costs of acquisition, construction, and installation of Infrastructure Improvements (as defined in the Act) for which reimbursement is being provided by the Special Source Revenue Credits. In accordance with the Act, such Special Source Revenue Credits shall not, in the aggregate, exceed the aggregate cost of the Infrastructure Improvements funded from time to time by the Company.

(o) The County and the Company acknowledge and agree that any obligation which the County may incur for the payment of money as a result of the transactions described in the herein, including providing the Special Source Revenue Credits, shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers but shall be payable solely out of the funds received by it under this Agreement.

ARTICLE VI

PAYMENTS BY COMPANY

Section 6.01. Defaulted Payments. In the event the Company should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid. The Company agrees that the collection and enforcement of the defaulted payment shall be as provided in Section 12-44-90 of the Code. The Company expressly acknowledges that in the event of its failure to make the required FILOT Payments when due, that the County is only required to give notice thereof in accordance with the Section 12-44-90 of the Code, and that no further notice is required hereunder in order to enforce the remedies set forth in this Section 6.01, including any notices of default set forth in Article XI hereof. The County's right to receive FILOT Payments shall have a first priority lien status pursuant to Section 12-44-90 of the Code and Chapters 4 and 54 of Title 12 of Code of Laws of South Carolina 1976, as amended.

ARTICLE VII

CASUALTY AND CONDEMNATION

Section 7.01. Adjustments in the Event of Damage and Destruction or Condemnation. In the event that the Project or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings, the Company, in its sole discretion, may determine whether or not to repair or replace the same. The parties hereto agree that if the Company decides not to repair or replace all or any portion of the Project pursuant to this Section, the FILOT required pursuant to Section 5.01 hereof shall be abated in the same manner and in the same proportion as if *ad valorem* taxes were payable with respect to the Project.

ARTICLE VIII

PARTICULAR COVENANTS AND AGREEMENTS

Section 8.01. Use of Project for Lawful Activities. During the Term of this Agreement, the Company shall use the Project for any lawful purpose that is authorized pursuant to the Act.

Section 8.02. Indemnification. The Company releases the County, including the members of the governing body of the County, and the employees, officers, attorneys and agents of the County (herein collectively referred to as the "Indemnified Parties") from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Company's performance of its obligations pursuant to this Agreement, except for that occasioned by grossly negligent or intentional acts of an Indemnified Party, or by a breach of this Agreement by the County. The Company further agrees to indemnify and hold harmless Indemnified Parties against and from any and all costs, liabilities, expenses, and claims arising from any breach or default on the part of the Company in the performance of any covenant or agreement on the part of the Company to be performed pursuant to the terms of this Agreement or arising from any act or negligence of, or negligent failure to act where there is a duty to do so, by the Company, and from and against all cost, liability, and expenses incurred in or in connection with any such claim or action or proceeding brought thereon.

All covenants, stipulations, promises, agreements, and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the County and not of any member of the County Council or any officer, agent, attorney, servant, or employee of the County in his or her individual capacity, and, absent bad faith, no recourse shall be had for the payment of any moneys hereunder or the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon against any member of the governing body of the County or any officer, attorney, agent, servant, or employee of the County.

Notwithstanding the fact that it is the intention of the Indemnified Parties hereto that none of them shall incur any pecuniary liability by reason of the terms of this Agreement, any related agreements or the undertakings required of the County hereunder by reason of the performance of any act requested of the County by the Company, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if any Indemnified Party shall incur any such pecuniary liability, then in such event the Company shall indemnify and hold them harmless against all claims by or on behalf of any Person, firm, or corporation or other legal entity arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, provided, however, that nothing herein shall absolve the Indemnified Parties from, or entitle the Indemnified Parties to indemnification from, any obligation such Indemnified Party has specifically agreed to undertake (including, without limitation, the obligation to place and maintain the Land within a multi-county park). If any action, suit, or proceeding is brought against any Indemnified Party to which such Indemnified

Party is entitled to indemnification, such Indemnified Party shall promptly notify the Company, and the Company shall have the sole right and duty to assume, and shall assume, the defense thereof, at its expense, with full power to litigate, compromise, or settle the same in its sole discretion; provided the Company shall obtain the prior written consent of the County to settle any such claim unless such claim is for monetary damages for which the Company has the ability to, and do, pay. Notwithstanding the foregoing, if the Indemnified Party is the County, in the event the County reasonably believes there are defenses available to it that are not being pursued or that the counsel engaged by the Company reasonably determines that a conflict of interest exists between the County and the Company, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Company shall be liable for the reasonable cost of such counsel.

The indemnity specified in this Section shall be in addition to any heretofore extended by the Company to any Indemnified Party and shall survive the termination of this Agreement with respect to liability arising out of any event or act occurring prior to such termination.

Section 8.03. Sponsors and Sponsor Affiliates. The Company may designate, from time to time, other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Simplified FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Company and other Co-Investors and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall be Affiliates of Company or other Sponsors or Sponsor Affiliates, any tenant leasing all or a portion of the Project from the Company or any other existing Sponsor or Sponsor Affiliate or other Persons described in Section 9.01 hereof. All other Sponsors or Sponsor Affiliates who otherwise meet the requirements of Section 12-44-30 (19) or (20) and Section 12-44-130 of the Simplified FILOT Act are subject to approval in accordance with Section 12-44-130(D) of the Act. To the extent that the aggregate investment in the Project by the end of the Investment Period by all Sponsors and Sponsor Affiliates exceeds \$5,000,000.00, to the extent permitted by Section 12-44-30(19) of the Simplified FILOT Act, all investment by such Sponsors and Sponsor Affiliates during the Investment Period shall qualify for the FILOT pursuant to Section 5.01 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Investment Commitment by the end of the Investment Period. Sponsor or Sponsor Affiliate shall provide the County and the Department of Revenue with written notice of any other Sponsor or Sponsor Affiliate designated pursuant to this Section 8.04 in accordance with Section 12-44-130(C) of the Simplified FILOT Act. The parties agree that, if any Sponsor or Sponsor Affiliate ceases to become party to this Agreement, the Agreement shall continue to remain in effect with respect to any remaining Sponsors or Sponsor Affiliates.

Section 8.04. Compliance with GASB 77. The Company agrees annually to prepare Form SC DOR PT-300G (Schedule G – Fee in Lieu of Tax Supplemental) with respect to the Project, even if the Company is not required to file such form with the Department of Revenue, and provide a copy to the County not later than June 30 of each year of the Term of this Agreement in order to assist the County in complying with Statement No. 77 of the Governmental Accounting Standards Board known as “GASB 77.” The Company agrees further

to cooperate with the County in providing reasonably requested information regarding the Project in order to assist the County in complying with GASB 77.

ARTICLE IX

FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 9.01. Conveyance of Liens and Interests; Assignment. The Company and any Co-Investor may at any time: (a) assign or transfer all or any of its rights and interests hereunder or with respect to the Project to any Person; or (b) enter into any lending, financing, security, or similar arrangement or succession of such arrangements with any financing entity with respect to the Agreement or the Project, including without limitation any sale, leaseback, or other financing lease arrangement; provided that, in connection with any of the foregoing transfers: (i) except in connection with any assignment or transfer to any Affiliate of the Company or such Co-Investor, or transfers pursuant to clause (b) above, including, for the avoidance of doubt, any assignment or transfer to any entity that assumes from the Company the purchase agreement with respect to the Land (as to which such transfers the County hereby consents), the Company or such Co-Investor shall first obtain the prior written approval or subsequent ratification of the County, in the County's sole discretion, and evidenced, to the extent allowed by law, by a Resolution of County Council or a writing signed by an officer of the County; (ii) the Company or the applicable Co-Investor, transferee, or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (iii) the Company or the applicable Co-Investor and the transferee shall comply with all other requirements of the Transfer Provisions.

The Company acknowledges that such a transfer of an interest under this Agreement or in the Project may cause the Project to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the Company with the Transfer Provisions.

Section 9.02. Relative Rights of County and Financing Entities as Secured Parties. The parties acknowledge the application of the provisions of Section 12-44-90 of the Act, and that the County's right to receive FILOT Payments hereunder shall be the same as its rights conferred under Title 12, Chapter 49 and 54, among others, of the Code relating to the collection and enforcement of *ad valorem* property taxes.

ARTICLE X

TERM; TERMINATION

Section 10.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Company executes this Agreement, and ending at midnight on the last day of the Property Tax Year in which the last Negotiated FILOT Payment is due hereunder. This Agreement has a term of thirty (30) years, as calculated pursuant to the respective dates when the relevant portions of the Project are placed in service, and as discussed in greater detail in this Agreement. The County's rights to receive indemnification and payment

of Administration Expenses pursuant hereto shall survive the expiration or termination of this Agreement.

Section 10.02. Termination.

(a) The County and the Company may agree to terminate this Agreement at any time, or the Company may, at its option, terminate this Agreement at any time upon providing the County thirty (30) days' notice of such termination, in which event the Project shall be subject to *ad valorem* taxes from the date of termination. In the event that this Agreement is terminated by the operation of this Section 10.02 at any time during the initial Investment Period prior to the Company's investment of at least Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in the Project, amounts due to the County as a result thereof shall be calculated as provided in Section 5.01(i) hereof. The County's rights to receive payment for such *ad valorem* taxes and its rights to enforce the terms of this Agreement shall survive termination of this Agreement.

(b) This Agreement will automatically terminate as provided in Section 12-44-140(B) of the Act in the event the investment requirements at the Project set forth in Section 12-44-140(B) of the Act are not satisfied.

(c) The FILOT incentive with respect to any Sponsor or Sponsor Affiliate will automatically terminate as provided in Section 12-44-140(C) of the Act in the event such Sponsor or Sponsor Affiliate no longer has the statutory minimum level of investment at the Project.

(d) This Agreement will terminate in whole or in part in the event the Company or any other Co-Investor removes real or personal property from the Negotiated FILOT pursuant to Section 4.03(iii) hereof (with such termination effective solely with respect to such removed property).

(e) This Agreement will automatically terminate as provided in Section 5.01(i) hereof.

(f) This Agreement will terminate in whole or in part in the event of casualty or condemnation at the Project and the FILOT is abated pursuant to Section 7.01 hereof (with such termination effective solely with respect to the property subject to such casualty or condemnation).

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

Section 11.01. Events of Default by Company.

(a) Any one or more of the following events (herein called an “Event of Default”, or collectively “Events of Default”) shall constitute an Event of Default (but solely with respect to the defaulting entity):

(1) if default shall be made in the due and punctual payment of any FILOT Payments,

(2) if default shall be made in the due and punctual payment of any indemnification payments or Administration Expenses, which default shall not have been cured within thirty (30) days following receipt of written notice thereof from the County;

(3) if default shall be made by the Company in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing paragraphs (1) and (2), and such default shall continue for sixty (60) days after the County shall have given the Company written notice of such default, provided, the Company shall have such longer period of time as necessary to cure such default if the Company proceeds promptly to cure such default and thereafter to prosecute the curing of such default with due diligence; and provided further, that no Event of Default shall exist under this paragraph (3) during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which the Company has contested the occurrence of such default.

(4) if any material representation or warranty on the part of the Company or any Co-Investor made herein (including representations regarding the capital investment resulting from the Project), or in any report, certificate, financial or other statement furnished in connection with this Agreement or the transactions described in this Agreement shall have been false or misleading in any material respect.

(b) The failure of the Company or any other Co-Investor to meet the Investment Commitment as set forth herein shall not be deemed to be an Event of Default under this Agreement, and the County’s sole recourse for failure to meet the Investment Requirement shall be as set forth in Section 5.01 hereof.

Section 11.02. Remedies on Event of Default by Company. Upon the occurrence and continuance of any Event of Default by Company (and the expiration of any applicable cure periods), the County may exercise any of the following remedies, any of which may be exercised at any time during the periods permitted under the following clauses:

(a) terminate this Agreement by delivery of written notice to the Company not less than thirty (30) days prior to the termination date specified therein; or

(b) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the Company under this Agreement.

Section 11.03. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, the Company may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation, a suit for mandamus or specific performance.

Section 11.04. No Additional Waiver Implied by One Waiver. In the event any warranty, covenant, or agreement contained in this Agreement should be breached by the Company or the County and thereafter waived by the other party to this Agreement, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

Section 11.05. Reimbursement of Legal Fees and Expenses and Other Expenses. Upon the occurrence of an Event of Default hereunder by the Company or any Co-Investor or Sponsor Affiliate, if the County employs attorneys or incurs other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the County shall be entitled, within thirty (30) days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Company or any other Co-Investor provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced; and the exercise by the County or by the Company or any other Co-Investor of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company or any other Co-Investor of any or all such other rights, powers or remedies.

Section 12.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as permitted hereunder.

Section 12.03. Administration Expenses. The Company agrees to reimburse the County from time to time for its Administration Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administration Expenses. The Administration Expenses reimbursable to the County pursuant to this Agreement for the initial drafting and negotiation of this Agreement and related documentation shall not exceed Five Thousand Dollars (\$5,000.00).Section 12.04 Rules of Construction. The County and the Company acknowledge and agree that each has been represented by legal counsel of its choice throughout the negotiation and drafting of this Agreement, that each has participated in the drafting hereof and that this Agreement will not be construed in favor of or against either party solely on the basis of such party's drafting or participation in the drafting of any portion of this Agreement.

Section 12.05. Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County or the Company shall be in writing and shall be deemed to be properly given or made if sent by United States first class mail, postage prepaid or via facsimile or other commonly-used electronic transmission or reputable courier service, addressed as follows or to such other persons and places as may be designated in writing by such party.

(a) As to the County:

Jasper County
Attn: Jasper County Administrator
358 Third Avenue
Ridgeland, South Carolina 29936

with a copy (which shall not constitute notice) to:

Jasper County
Attn: Jasper County Attorney
358 Third Avenue
Ridgeland, South Carolina 29936

(b) As to the Company:

CP Hardeeville, LLC
c/o Clarius Partners, LLC
Attn: Craig Dannegger
200 W. Madison St., Suite 1625
Chicago, Illinois 60606

With a copy to (which shall not constitute notice):

Womble Bond Dickinson (US) LLP
Attn: Ms. Stephanie L. Yarbrough
5 Exchange Street

Charleston, South Carolina 29401

Section 12.06. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

Section 12.07. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 12.08. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 12.09. Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or Sections or paragraphs of this Agreement are references to the designated articles or Sections or paragraphs of this Agreement.

Section 12.10. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

Section 12.11. Amendments. Subject to the limitations set forth in the Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by all parties. The County agrees that, to the extent allowed by law, such amendment may be approved by a Resolution of County Council.

Section 12.12. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 12.13. Force Majeure. Except with respect to (i) the obligation to invest at least Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in Economic Development Property by the end of the Investment Period; and (ii) the payment obligations with respect to FILOT Payments, the Administrative Expenses and indemnification of the Indemnified Parties hereunder, the Company and any Co-Investors shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, labor shortages, fire, floods, inability to obtain materials, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Company's reasonable control.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS THEREOF, the County, acting by and through the County Council, has caused this Agreement to be executed in its name and behalf by the Council Chair and to be attested by the Clerk to Council; and the Company has caused this Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

JASPER COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Barbara Clark
Chair of County Council
Jasper County, South Carolina

ATTEST:

By: _____
Wanda Simmons
Clerk to County Council
Jasper County, South Carolina

CP HARDEEVILLE, LLC

By: _____
Name: _____
Title: _____

EXHIBIT A

Land

All those certain properties consisting of the Monroe Tract (TMS ## 038-00-04-059 and 039-00-03-004).

AGENDA ITEM:

XI-C

Ordinance item C

ORDINANCE NO. 2021-30

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF TAX AGREEMENT BY AND BETWEEN SDKM COMMERCE, LLC (FORMERLY KNOWN TO THE COUNTY AS “PROJECT DOLPHIN”) (THE “COMPANY”) AND JASPER COUNTY, WHEREBY JASPER COUNTY WILL ENTER INTO A FEE-IN-LIEU OF TAX AGREEMENT WITH THE COMPANY AND PROVIDING FOR PAYMENT BY THE COMPANY OF CERTAIN FEES-IN-LIEU OF *AD VALOREM* TAXES; PROVIDING FOR SPECIAL SOURCE REVENUE CREDITS IN CONNECTION WITH SUCH AGREEMENT; PROVIDING FOR THE ALLOCATION OF FEES-IN-LIEU OF TAXES PAYABLE UNDER THE AGREEMENT FOR THE ESTABLISHMENT OF A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Jasper County, South Carolina (the “County”), acting by and through its County Council (the “County Council”) is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended (the “FILOT Act”), to designate real and tangible personal property as “economic development property” and to enter into an arrangement which provides for payments-in-lieu of taxes (“FILOT Payments”) for a project qualifying under the FILOT Act; and

WHEREAS, the County, acting by and through the County Council, is further authorized and empowered under and pursuant to the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended (collectively, the “the MCIP Act”) to provide for payments-in-lieu of taxes with respect to property located in a multi-county business or industrial park created under the MCIP Act and to permit investors to claim special source credits against their FILOT Payments to reimburse such investors for expenditures for infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used or to be used in the operation of manufacturing or commercial enterprise in order to enhance the economic development of Jasper County (“Infrastructure Improvements”); and to create, in conjunction with one or more other counties, a multi-county park in order to afford certain enhanced tax credits to such investors and facilitate the grant of special source or infrastructure improvement credits; and

WHEREAS, SDKM Commerce, LLC (referred to herein as the “Company”) is considering an industrial development at a site located in the City of Hardeeville (“City”) in Jasper County by acquiring and constructing real property and real property improvements (the “Project”) which the Company estimates will likely consist of a capital investment of at least Twenty-Three Million Four Hundred Ninety Thousand Dollars (\$23,490,000.00).

WHEREAS, the County desires to enter into a Fee Agreement with the Company, as the Company has expressed its intent to the County to make a capital investment in the County (i.e., the Project);

WHEREAS, the Project is located entirely within Jasper County and, with the consent of the Partner County (as defined herein) and the City of Hardeeville, will be included in and subject to

the multi-county park and fee-in-lieu of tax arrangements as described herein; and

WHEREAS, the County has made specific proposals, including proposals to offer certain economic development incentives set forth herein, for the purpose of inducing the Company to invest its funds to acquire and equip the Project (the “Incentives”); and

WHEREAS, it is in the public interest, for the public benefit and in furtherance of the public purposes of the FILOT Act and the MCIP Act that the County Council provide approval for qualifying the Project under the FILOT Act and the entire Project under the MCIP Act for the Incentives;

NOW, THEREFORE, BE IT ORDAINED by the County Council as follows:

Section 1. Evaluation of the Project. The County Council has evaluated the Project on the following criteria based upon the advice and assistance of the South Carolina Department of Revenue:

- (a) whether the purposes to be accomplished by the Project are proper governmental and public purposes;
- (b) the anticipated dollar amount and nature of the investment to be made; and
- (c) the anticipated costs and benefits to the County.

Section 2. Findings by County Council. Based upon information provided by and representations of the Company, County Council’s investigation of the Project, including the criteria described in Section 1 above, and the advice and assistance of the South Carolina Department of Revenue, as required, County Council hereby find that:

- (a) the Project constitutes a “project” as that term is defined in the FILOT Act;
- (b) the Project will serve the purposes of the FILOT Act;
- (c) the Company anticipates an investment of at least Twenty-Three Million Four Hundred Ninety Dollars (\$23,490,000.00) within eight (8) years from the end of the property tax year in which the Company and the County execute the FILOT Agreement (as defined herein);
- (d) the Project will be located entirely within the County;
- (e) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise adequately provided locally;
- (f) the Project will not give rise to a pecuniary liability of the County or any municipality nor a charge against its general credit or taxing power of the County or any municipality;

- (g) the purposes to be accomplished by the Project are proper governmental and public purposes;
- (h) the inducement of the location of the Project is of paramount importance; and
- (i) the benefits of the Project to the public are greater than the costs to the public.

Section 3. Fee-in-Lieu of Taxes Arrangement. Pursuant to the authority of the FILOT Act, the Project is hereby designated as “economic development property” under the FILOT Act and there is hereby authorized a fee-in-lieu of taxes arrangement with the Company for a term of thirty (30) years, which will provide FILOT Payments to be made with respect to the Project based upon a 6% assessment ratio and a millage rate which shall be fixed for the full term of the agreement at 457.0 mills, and including Special Source Revenue Credits in the amount of 40% of the Project for each year of the Term (as defined in the FILOT Agreement), subject to reduction at the County’s discretion based on failure to achieve certain investment thresholds during the investment period, all as more fully set forth in the Fee Agreement by and between the Company and the County (the “FILOT Agreement”).

Section 4. Extension of Investment Period. The Company has represented to the County that it does not anticipate completing the Project within five (5) years of the last day of the property tax year during which economic development property is first placed in service (the “Investment Period”). Accordingly, the Company has applied to the County for an extension of time to complete the Project pursuant to Section 12-44-30(13) of the FILOT Act. The County hereby extends the Investment Period by three (3) additional years; provided however that there is no extension of the period for meeting the minimum statutory investment requirement as specified in Section 12-44-30(13) of the FILOT Act.

Section 5. Execution of the Fee Agreement. The form, terms and provisions of the FILOT Agreement presented to this meeting and filed with the Clerk of the County Council be and hereby are approved, and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if such FILOT Agreement were set out in this Ordinance in its entirety. The Chair of the County Council and the Clerk of the County Council be and they are hereby authorized, empowered and directed to execute, acknowledge and deliver the FILOT Agreement in the name and on behalf of the County, and thereupon to cause the FILOT Agreement to be delivered to the Company. The FILOT Agreement is to be in substantially the form now before this meeting and hereby approved, or with any changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the County Attorney and the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of all changes therein from the form of FILOT Agreement now before this meeting.

Section 6. Multi-County Park.

- (a) The County, in cooperation with Hampton County (the “Partner County”) and subject to the consent of the City of Hardeeville, which consent has been provided pursuant to that certain Intergovernmental Agreement dated as of November 5, 2021 between Jasper County and the City of Hardeeville, South Carolina (the “2021 IGA”), hereby designates

the site of the Project as a multi-county park (the "Park") pursuant to Article VIII, Section 13 of the Constitution of South Carolina, the MCIP Act, and the terms of that certain Agreement for the Establishment of Multi-County Industrial/Business Park by and between the County and the Partner County and dated as of even date herewith or the date of the Partner County's approval of said Agreement (the "MCIP Agreement"). In the FILOT Agreement, the County will agree to use its commercially reasonable efforts to maintain such designation throughout the term of the FILOT Agreement.

- (b) Pursuant to the terms of the MCIP Act and the MCIP Agreement, the County hereby provides that throughout the term of the FILOT Agreement, the annual allocation of the fee-in-lieu of ad valorem taxes payable by the Company to the County in accordance with the terms of the MCIP Agreement, after deducting any amounts distributed to the Partner County, will be distributed as follows:
 - a. To the County, for providing the Special Source Revenue Credits, an amount equal to the annual Special Source Revenue Credits provided in Section 3 of this Ordinance and in the FILOT Agreement; and
 - b. After making the allocations under paragraph (a) of this Section, Park Revenues (as defined in the MCIP Agreement) derived from the Project shall be distributed in accordance with the MCIP Agreement and allocable to the County as the "Host County" under the MCIP Agreement in accordance with that certain Intergovernmental Agreement dated November 5th, 2021 between the County and the City.

Section 7. Miscellaneous.

- (a) The Chair and all other appropriate officials of the County are hereby authorized to execute, deliver and receive any other agreements and documents as may be required by the County in order to carry out, give effect to and consummate the transactions authorized by this Ordinance.
- (b) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.
- (c) This Ordinance shall become effective immediately upon approval following its third reading by the County Council.
- (d) The provisions of this Ordinance are hereby declared to be severable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, that declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.
- (e) All ordinances, resolutions and parts thereof in conflict herewith are, to the extent of the conflict, hereby repealed.

[Signature Page to Follow]

ENACTED in meeting duly assembled this __ day of _____, 2022.

(SEAL)

JASPER COUNTY, SOUTH CAROLINA

By: _____

Barbara Clark
Chair of County Council
Jasper County, South Carolina

ATTEST:

By: _____

Wanda Simmons
Clerk to County Council
Jasper County, South Carolina

First Reading: October 4, 2021
Second Reading: January 18, 2022
Public Hearing: February 7, 2022
Third Reading: February 7, 2022

STATE OF SOUTH CAROLINA)	
)	AGREEMENT FOR THE ESTABLISHMENT
COUNTY OF JASPER)	OF MULTI-COUNTY INDUSTRIAL/
)	BUSINESS PARK (HARDEEVILLE PARK)
COUNTY OF HAMPTON)	

THIS AGREEMENT FOR THE ESTABLISHMENT OF MULTI-COUNTY INDUSTRIAL/BUSINESS PARK (HARDEEVILLE PARK) for the establishment of a multi-county industrial/business park to be located within Jasper County and Hampton County is made and entered into as of _____, 2022, by and between Jasper County, South Carolina (“Jasper County”) and Hampton County, South Carolina (“Hampton County”).

RECITALS

WHEREAS, Jasper County and Hampton County are contiguous counties which, pursuant to Ordinance No. _____, enacted by Jasper County Council on February 22, 2022, and Ordinance No. _____ enacted by Hampton County Council on _____, 2022, have each determined that, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, there should be established in Jasper County a multi-county industrial/business park (the “Park”), to be located upon property more particularly described in Exhibit A (Jasper); and

WHEREAS, as a consequence of the establishment of the Park, property comprising the Park and all property having a situs therein is exempt from *ad valorem* taxation pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, but the owners or lessees of such property shall pay annual fees in an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for such exemption.

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Binding Agreement. This Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on Jasper County and Hampton County, their successors and assigns.

2. Authorization. Article VIII, Section 13(D) of the South Carolina Constitution provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a manner in which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed valuation of taxable property in all school districts in South Carolina. The Code of Laws of South Carolina, 1976, as amended (the “Code”) and particularly, Section 4-1-170 thereof, satisfies the conditions imposed by Article VIII, Section 13(D) of the South Carolina Constitution and provides the statutory vehicle whereby a multi-county industrial or business park may be created.

3. Location of the Park.

(A) The Park consists of property that is located in Jasper County and which now or will be owned by project sponsors for the purpose of establishing industrial, distribution and/or commercial facilities, the property being more particularly described in Exhibit A hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties within Jasper County. The boundaries of the Park may be enlarged or diminished from time to time as authorized by ordinance of the county council of Jasper County (“Jasper Approval”), and resolution of the county council of Hampton County (“Hampton Approval”). Except as permitted by the Intergovernmental Agreement dated as of November 5, 2021 between Jasper County and the City of Hardeeville, South Carolina (“2021 IGA”) attached hereto as Exhibit B, if any property proposed for inclusion in the Park is located, at the time such inclusion is proposed, within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of the property in the Park.

(B) In the event of any enlargement or diminution of the boundaries of the Park, this Agreement shall be deemed amended and there shall be attached hereto a revised Exhibit A which shall contain a legal description of the boundaries of the Park as enlarged or diminished, together with a copy of Jasper Approval and the Hampton Approval pursuant to which such enlargement or diminution was authorized.

(C) Prior to any Jasper Approval authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by Jasper County Council. Notice of such public hearing shall be published in a newspaper of general circulation in Jasper County, at least once and not less than fifteen (15) days prior to such hearing. Notice of such public hearing shall also be given by certified mail that is deposited with the U.S. Postal Service at least fifteen (15) days prior to such public hearing upon the owner and, if applicable, the lessee of any property which would be excluded from the Park by virtue of the diminution.

4. Fee in Lieu of Taxes.

(A) Pursuant to Article VIII, Section 13(D) of the South Carolina Constitution, all property located in the Park is exempt from all ad valorem taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Agreement an amount (referred to as fees in lieu of ad valorem taxes) equivalent to the ad valorem taxes or other in-lieu-of payments that would have been due and payable but for the location of such property within the Park.

(B) The amount of the annual fees in lieu of ad valorem taxes may be reduced if the owner or lessee of property located in the Park (i) has negotiated a fee in-lieu-of taxes arrangement with respect to the property with Jasper County pursuant to the provisions of Sections 12-44-10, et seq., 4-12-30, or 4-29-67 of the Code of Laws of South Carolina 1976, as amended, or any successor provisions thereto as may be provided under South Carolina law, or (ii) receives a special source revenue or infrastructure credit with respect to the property under the provisions of Section 4-1-175 of the Code of Laws of South Carolina 1976, as amended, or any successor provisions thereto as may be provided under South Carolina law (collectively, (i) and (ii), “Negotiated Fee in Lieu of Tax Agreements”).

5. **Allocation of Expenses.** Jasper County and Hampton County shall bear expenses incurred in connection with the Park, including, but not limited to, those incurred in the administration, development, operation, maintenance and promotion of the Park, in the following proportions:

- A. Jasper County – 100%
- B. Hampton County – 0%

6. **Allocation of Revenues.** Jasper County and Hampton County shall receive an allocation of all revenues generated by the Park through payment of fees in lieu of *ad valorem* taxes (“Park Revenues”) in the following proportions:

- A. Jasper County – 99%
- B. Hampton County – 1%

Any payment from Jasper County to Hampton County of Hampton County's allocable share of Park Revenues shall be made and accompanied by a statement showing the manner in which total payment and each County's share were calculated. If any Park Revenues are received by Jasper County through payment by any owner, or any lessee/tenant, or any other taxpayer is made under protest, or otherwise as part of a dispute, then Jasper County is not obligated to pay Hampton County more than Hampton County's share of the undisputed portion of the Park Revenues until thirty (30) days after the final resolution of the protest or dispute.

7. Revenue Allocation within Each County. Park Revenues received shall be distributed to and within the County as follows:

(A) Revenues generated by the Park through the payment of fees in lieu of *ad valorem* taxes shall be distributed to Jasper County and to Hampton County, as the case may be, according to the proportions established by this Agreement. With respect to revenues allocable to Jasper County by way of fees in lieu of *ad valorem* taxes generated from properties within the Park, such revenue shall be distributed within Jasper County pursuant to the 2021 IGA.

(B) With respect to revenues allocable to Hampton County by way of fees in lieu of *ad valorem* taxes generated from properties located in the Park, such revenue shall be distributed within Hampton County in accordance with a distribution scheme established by the Hampton County Council and, in the absence of any such adopted distribution scheme, on a pro rata basis to the millage levying entities in Hampton County.

8. Fees in Lieu of Ad Valorem Taxes Pursuant to Title 4 or Title 12 of the Code. It is hereby agreed that the entry by Jasper County into any one or more Negotiated Fee in Lieu of Tax Agreements with respect to property located within the Park and the terms of such agreements shall be at the sole discretion of Jasper County.

9. Consent by the City and Other Municipalities. In accordance with the Act, the City of Hardeeville, by Resolution No. 2021-11-4F and the terms of the 2021 IGA, has consented to the location of the property within the City's geographical boundaries in the Park as described on Exhibit A as of the effective date of this agreement.

10. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code, allocation of the assessed value of property within the Park to Jasper County and Hampton County and to each of the taxing entities within the participating counties shall be in accordance with the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to Sections 6 and 7 herein.

11. Governing Laws and Regulations. Any applicable ordinances and regulations of Jasper County including those concerning zoning, health and safety, and building code requirements shall apply to the Park properties located in the Jasper County portion of the Park unless any such property is within the boundaries of a municipality in which case, the municipality's applicable ordinances and regulations shall apply.

11. South Carolina Law Controlling. This Agreement has been entered into in the State of South Carolina and shall be governed by, and construed in accordance with South Carolina law.

12. **Severability.** In the event and to the extent (and only to the extent) that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision of this Agreement.

13. **Counterpart Execution.** This Agreement may be executed in multiple counterparts.

14. **Additional Parties.** This Agreement may be amended from time to time to add additional counties located in South Carolina, subject to Article VIII, Section 13(D) of the Constitution of South Carolina and Title 4, Chapter 1 of the Code, by ordinance of the county council of Jasper County, and by resolution of the county council of Hampton County; provided, however, that to the extent permitted by law, additional counties may be added as parties hereto with only the enactment of an ordinance of the county council of Jasper County only in the event that such additional county's allocation of Park Revenues hereunder shall be allocated solely out of Jasper County's residual net share of the Park Revenues provided for its use and distribution pursuant to **Section 7** hereof.

15. **Term; Termination.** Except as specifically provided in this **Section 15**, Jasper County and Hampton County agree that this Agreement may not be terminated in its entirety by unilateral action of any party and shall remain in effect for a period equal to the longer of (i) thirty-one (31) years commencing with the effective date of this Agreement or (ii) a period of time of sufficient length to facilitate any special source revenue credits due with respect to Park property. This Agreement may be terminated at any time upon adoption of ordinances by the County Councils of both Jasper County and Hampton County, which ordinances must specifically authorize the termination of this Agreement.

16. **Law Enforcement Jurisdiction.** Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties is vested with the Sheriff's Office of Jasper County, for matters within their jurisdiction. If any of the Park properties are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is also vested with the law enforcement officials of the municipality for matters within their jurisdiction.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the day and the year first above written.

[signatures on following page]

JASPER COUNTY, SOUTH CAROLINA

By: _____
Chair, County Council
Jasper County, South Carolina

[SEAL]

Attest:

By: _____
County Council Clerk
Jasper County, South Carolina

HAMPTON COUNTY, SOUTH CAROLINA

By: _____
Chair, County Council
Hampton County, South Carolina

[SEAL]

Attest:

By: _____
County Council Clerk
Hampton County, South Carolina

**Exhibit A (Jasper)
PARK PROPERTY**

**Lot 13, 26.48 Acres
A Section of Parcel C – West Parcel
A Portion of Hardeeville Commerce Park
City of Hardeeville, Jasper County, South Carolina**

All that certain piece, parcel or tract of land situated, lying and being in the City of Hardeeville, Jasper County, South Carolina as shown on that certain survey prepared by Surveying Consultants, by Terry G. Hatchell, S.C.R.L.S. No. 11059, Entitled "A Minor Subdivision Survey of Lot 13, Parcel C – West North Parcel & Parcel C – West South Parcel, City of Hardeeville, Jasper County, South Carolina", Dated: 07/06/2021,

and being more particularly described as follows:

Commencing at a point marked by a 3" Concrete Monument (Found) at the intersection of the Southern Right-of-Way of Paynesville Road (aka State Road S-27-156) and the Western Right-of-Way of Mockingbird Drive, said point having SC State Plane Coordinates N. 162,050.840 E. 1,973,462.190 said point being the Point of Commencing,

From the Point of Commencing in a Westerly direction as follows:

Thence S 45°46'50" W A Distance Of 174.82' to a 1/2" Iron Pin (Found),
Thence S 45°46'50" W A Distance Of 14.10' to a 1/2" Iron Pin (Found),
Thence S 01°08'38" W A Distance Of 350.23' to a 1/2" Iron Pipe (Found),
Thence S 01°11'16" W A Distance Of 511.18' to a 1/2" Iron Pin W/Cap (Found),
Thence N 87°14'54" W A Distance Of 135.95' to a 1/2" Iron Pin W/Cap (Found),
Thence S 65°13'59" W A Distance Of 67.44' to a 1/2" Iron Pin W/Cap (Found),
Thence S 00°33'04" W A Distance Of 218.99' to a 1/2" Iron Pin W/Cap (Found),
Thence S 87°14'54" W A Distance Of 120.87' to a 1/2" Iron Pin W/Cap (Found),
Thence N 89°35'35" W A Distance Of 47.03' to a 1/2" Iron Pin W/Cap (Found),
Thence along a Curve to the left having an Arc Length of 497.01',
a Radius of 420.61', a Tangent of 188.30', a Chord Length of 354.73',
a Chord Bearing of S 66°17'22" W, and a Delta Angle of 48°14'06"
to a 1/2" Iron Pin W/Cap (Set),
Said point having SC State Plane Coordinates N. 160,673.440 E. 1,972,869.061
Said point being the Point of Beginning,

From the Point of Beginning in a Southerly direction as follows:

Thence along a Curve to the left having an Arc Length of 297.94',
a Radius of 420.61', a Tangent of 155.53', a Chord Length of 291.75',
a Chord Bearing of S 21°52'45" W, and a Delta Angle of 40°35'10"
to a 1/2" Iron Pin W/Cap (Found),

Thence S 01°35'10" W A Distance Of 717.12' to a 1/2" Iron Pin W/Cap (Found),
Thence along a Curve to the left having an Arc Length of 103.39',
a Radius of 350.00', a Tangent of 52.08', a Chord Length of 103.02',
a Chord Bearing of S 06°52'37" E, and a Delta Angle of 16°55'33"
to a 1/2" Iron Pin W/Cap (Found),
Thence S 15°20'24" E A Distance Of 137.38' to a 1/2" Iron Pin W/Cap (Set),
Thence along a Curve to the right having an Arc Length of 47.24',
a Radius of 250.00', a Tangent of 23.69', a Chord Length of 47.12',
a Chord Bearing of S 09°55'34" E, and a Delta Angle of 10°49'39"
to a 1/2" Iron Pin W/Cap (Found),
Thence S 04°30'45" E A Distance Of 14.42' to a 1/2" Iron Pin W/Cap (Set),
Thence N 85°58'12" W A Distance Of 314.12' to a 1/2" Iron Pin W/Cap (Set),
Thence N 63°44'29" W A Distance Of 145.19' to a 1/2" Iron Pin W/Cap (Set),

Thence N 57°59'41" W A Distance Of 180.16' to a 1/2" Iron Pin W/Cap (Set),
Thence N 30°57'50" W A Distance Of 121.48' to a 1/2" Iron Pin W/Cap (Set),
Thence N 31°40'51" W A Distance Of 875.96' to a 1/2" Iron Pin W/Cap (Set),
Thence N 32°42'55" E A Distance Of 489.04' to a 1/2" Iron Pin W/Cap (Set),
Thence S 88°48'35" W A Distance Of 699.36' to a 1/2" Iron Pin W/Cap (Set),
Thence S 57°17'78" W A Distance Of 268.58' to a 1/2" Iron Pin W/Cap (Set),

Said point being the Point of Beginning,
Said lot having an area of 26.48 Acres, more or less

Exhibit B
Intergovernmental Agreement

FEE AGREEMENT

by and between

SDKM COMMERCE, LLC

and

JASPER COUNTY, SOUTH CAROLINA

Dated as of February 22, 2022

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FEE AGREEMENT

This FEE AGREEMENT (this "Agreement") is dated as of February 22, 2022 by and between SDKM Commerce, LLC, a Delaware limited liability company (the "Company"), and Jasper County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina (the "County").

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (the "Council"), is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the "Act") of the Code of Laws of South Carolina 1976, as amended through the date hereof (the "Code") and Sections 4-1-170, 4-1-172, and 4-1-175 of the Code and Article VIII, Section 13(D) of the South Carolina Constitution (the "Multi-County Park Act"): (i) to enter into agreements with certain investors to construct, operate, maintain, and improve certain industrial and commercial properties through which the economic development of the State of South Carolina will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the workforce, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain payments in lieu of *ad valorem* taxes with respect to the project (a "FILOT"); (iii) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors; and (iv) permit investors to claim special source credits against FILOT payments to reimburse such investors for expenditures for infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used or to be used in the operation of manufacturing or commercial enterprise in order to enhance the economic development of the County;

WHEREAS, the Company proposes to purchase and develop the Project (as defined herein) within the County;

WHEREAS, the Company anticipates that the Project will result in an investment of Twenty-Three Million Four Hundred Ninety Thousand Dollars (\$23,490,000.00) in the County;

WHEREAS, as a result of the Company locating certain operations in the County, the Company requested that the County complete the FILOT arrangement by entering into this Agreement with the Company pursuant to the Act, and the Company elects to enter into such FILOT arrangement with the County in an effort to encompass the terms surrounding the Project and allowing the Company to make FILOT Payments pursuant to the Act;

WHEREAS, for the Project, the parties have also determined that the Company is a Sponsor, and that the Project constitutes Economic Development Property, each within the meaning of the Act; and

WHEREAS, for the purposes set forth above, the County has determined that it is in the best interests of the County to enter into this Agreement with the Company, subject to the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, and the sum of \$1.00 in hand, duly paid by the Company to the County, the receipt and sufficiency of which are hereby acknowledged, the County and the Company agree as follows:

ARTICLE I

DEFINITIONS AND RECAPITULATION

Section 1.01. Statutorily Required Recapitulation.

(a) Pursuant to Section 12-44-55(B) of the Act, the County and the Company agree to waive the recapitulation requirements of Section 12-44-55 of the Act. Subsection (b) of this section is inserted for convenience only and does not constitute a part of this Agreement or a summary compliant with Section 12-44-55 of the Act.

(b) Summary of Agreement:

1. Legal name of each initial party to this Agreement:

SDKM Commerce, LLC, a Delaware limited liability company
Jasper County, South Carolina

2. County, street address, parcel number or other location identifier of the Project and property to be subject to this Agreement:

See Exhibit A

3. Minimum investment agreed upon: \$23,490,000.00

4. Length and term of this Agreement: thirty (30) years for each annual increment of investment in the Project during the Investment Period

5. Investment Period: eight (8) years

6. Assessment ratio applicable for each year of this Agreement: 6%

7. Millage rate applicable for each year of this Agreement: 457.0 mills

8. Schedule showing the amount of the fee and its calculation for each year of this Agreement: Waived by the County and the Company.

9. Schedule showing the amount to be distributed annually to each of the affected taxing entities: Waived by the County and the Company.

10. Statements

- (a) The Project is to be located in a multi-county industrial or business park;
- (b) Disposal of property subject to payments-in-lieu-of-taxes is allowed;
- (c) Special Source Revenue Credits will be provided in an amount of forty percent (40%) of FILOT payments for each year of the Term.
- (c) Payment will not be modified using a net present value calculation; and
- (d) Replacement property provisions will apply.

11. Any other feature or aspect of this Agreement which may affect the calculation of items (8) and (9) of this summary. None.

12. Description of the effect upon the schedules required by items (8) and (9) of this summary of any feature covered by items (10) and (11) not reflected in the schedules for items (8) and (9): Waived by the County and the Company.

13. Which party or parties to this Agreement are responsible for updating any information contained in this summary: The Company.

Section 1.02. Definitions. In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings, unless the context or use indicates another or different meaning or intent.

“Act” or “Simplified FILOT Act” shall mean Title 12, Chapter 44 of the Code, as amended through the date hereof.

“Administration Expense” shall mean the reasonable and necessary out-of-pocket expenses, including attorneys’ fees, incurred by the County with respect to: (i) the preparation, review, approval and execution of this Agreement; (ii) the preparation, review, approval and execution of other documents related to this Agreement and any multi-county park documents; and (iii) the fulfillment of its obligations under this Agreement and any multi-county park documents, and in the implementation and administration of the terms and provisions of the documents after the date of execution thereof.

“Affiliate” shall mean any Person directly or indirectly controlling, controlled by, or under common control with such other Person. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person, whether through the ownership of voting securities, by contract, or otherwise.

“*Agreement*” shall mean this Fee-in-Lieu of Tax Agreement by and among the County and the Company, as originally executed and from time to time supplemented or amended as permitted herein, and dated as of February 22, 2022.

“*Co-Investor*” shall mean the Company, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Act, any Affiliate of the Company or of any such other Sponsor or Sponsor Affiliate, any tenant leasing all or a portion of the Project from the Company or any other existing Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement or other leasing arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in, providing funds for or otherwise making investment in real or personal property in connection with the Project. The Company shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Company and any such other Sponsor, Sponsor Affiliate, or other Co-Investor intend to extend the benefits of the FILOT to property owned by any such Sponsor, Sponsor Affiliate, or other Co-Investor pursuant to Section 6.02 hereof, comply with any additional notice requirements, or other applicable provisions, of the Act. As of the original execution and delivery of this Agreement, the Company is the only Co-Investor.

“*Code*” shall mean the Code of Laws of South Carolina 1976, as amended through the date hereof, unless the context clearly requires otherwise.

“*Commencement Date*” shall mean the last day of the property tax year during which the Project or any portion thereof is placed in service, which date shall not be later than the last day of the property tax year which is three (3) years from the year in which the County and the Company enter into this Agreement.

“*Company*” shall mean SDKM Commerce, LLC, a Delaware limited liability company, and its successors and assigns.

“*Confidential Information*” shall have the meaning set forth in Section 4.02(c) hereof.

“*County*” shall mean Jasper County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, and its successors and assigns.

“*County Council*” shall mean the governing body of the County and its successors.

“*Department of Revenue*” shall mean the South Carolina Department of Revenue.

“*Economic Development Property*” shall mean each item of real and tangible personal property comprising the Project, except Non-Qualifying Property, if any, within the meaning of that term as defined and used in Sections 12-44-30(6) and 12-44-40(C) of the Code.

“*Equipment*” shall mean all machinery, equipment, furnishings, and other personal property acquired by the Company and installed as part of the Project during the Investment Period in accordance with this Agreement.

“*Event of Default*” shall have the meaning set forth in Section 11.01 hereof.

“*Existing Property*” shall mean property proscribed from becoming Economic Development Property pursuant to Section 12-44-110 of the Code, including, without limitation, property which has been subject to *ad valorem* taxes in the State prior to the execution and delivery of this Agreement and property included in the Project as part of the repair, alteration, or modification of such previously taxed property; provided, however, that Existing Property shall not include: (i) property acquired or constructed by the Company during the Investment Period which has not been placed in service in this State prior to the Investment Period notwithstanding that *ad valorem* taxes have heretofore been paid with respect to such property; (ii) modifications which constitute an expansion of Existing Property; or (iii) property described in Section 12-44-110 of the Code to the extent that the Company and any Co-Investors invest at least an additional Forty-Five Million Dollars (\$45,000,000.00) in the Project.

“*FILOT*” shall mean the fee-in-lieu of taxes, which the Company are obligated to pay to the County pursuant to Section 5.01 hereof.

“*FILOT Payments*” shall mean the payments to be made by the Company or any Co-Investor with respect to its respective portion of the Project, whether made as Negotiated FILOT Payments pursuant to Section 5.01 hereof or as FILOT payments made pursuant to the Multi-County Park Act.

“*Investment Commitment*” shall mean the agreement of the Company and any other Co-Investors to make investments with respect to the Project as set forth in Sections 2.02(d) and 4.01 of this Agreement.

“*Investment Period*” shall mean the period beginning with the first day that Economic Development Property is purchased or acquired and ending on the date that is eight (8) years from the Commencement Date (which Investment Period represents a five-year investment period, plus an additional three (3) years that the County has hereby granted pursuant to the Act).

“*Land*” shall mean the real estate upon which the Project is to be located, as described in Exhibit A attached hereto. Additional real estate may be included as part of Exhibit A as provided in Section 4.03(i), and the Company shall deliver to the County an updated Exhibit A to reflect such addition.

“*Multi-County Park*” shall mean the multi-county industrial/business park established pursuant to that certain Agreement for the Establishment of Multi-County Industrial/Business Park, by and between the County and Hampton County, South Carolina (as amended, modified, supplemented or replaced from time to time).

“*Multi-County Park Act*” shall have the meaning set forth in the recitals hereto.

“*Negotiated FILOT*” shall have the meaning set forth in Section 5.01(b)(ii) hereof.

“*Negotiated FILOT Payment*” shall mean the FILOT due pursuant to Section 5.01(b) hereof with respect to that portion of the Project consisting of Economic Development Property.

“*Non-Qualifying Property*” shall mean that portion of the Project, if any, consisting of: (i) property as to which the Company incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any Released Property or other property which fails or ceases to qualify for Negotiated FILOT Payments, including without limitation property as to which the Company have terminated the Negotiated FILOT pursuant to Section 4.03(a)(iii) hereof.

“*Person*” shall mean and include any individual, association, unincorporated organization, corporation, partnership, limited liability company, joint venture, or government or agency or political subdivision thereof.

“*Project*” shall mean, collectively herein, the Land and buildings and other improvements on the Land to the extent placed thereon by or on behalf of the Company or any Co-Investor, including water, sewer treatment and disposal facilities, and other machinery, apparatus, equipment, office facilities, and furnishings which are necessary, suitable, or useful, including the Equipment, and any Replacement Property.

“*Project Millage Rate*” shall mean a millage rate of 457.0 mills.

“*Property Tax Year*” shall mean the annual period which is equal to the fiscal year of the Company, or any other Co-Investor, as the case may be.

“*Released Property*” shall mean any portion of the Project removed, scrapped, traded in, sold, or otherwise disposed of pursuant to Section 4.03 hereof, any portion of the Project stolen, damaged, destroyed, or taken by condemnation or eminent domain proceedings as described in Article VII hereof, and any infrastructure which the Company dedicates to the public use (within the meaning of that phrase as used in Section 12-6-3420(C) of the Code).

“*Replacement Property*” shall mean all property installed in or on the Land in substitution of, or as replacement for, any portion of the Project, but only to the extent that such property may be included in the calculation of the Negotiated FILOT pursuant to Section 5.01(c) hereof and Section 12-44-60 of the Code.

“*Special Source Revenue Credits*” shall mean the special source credits provided pursuant to Section 5.01(d) hereof.

“*Sponsor*” shall have the meaning set forth in Section 12-44-30(19) of the Code. As of the date of this Agreement, the Company is the only Sponsor.

“*Sponsor Affiliate*” shall have the meaning set forth in Section 12-44-30(20) of the Code.

“*State*” shall mean the State of South Carolina.

“*Term*” shall mean the term of this Agreement, as set forth in Section 10.01 hereof.

“*Transfer Provisions*” shall mean the provisions of Section 12-44-120 of the Code, as amended through the date hereof.

Section 1.03. References to Agreement. The words “hereof”, “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations and Warranties by County. The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State of South Carolina and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.

(b) The County, based on representations of the Company, has determined that the Project will serve the purposes of the Act, and has made all other findings of fact required by the Act in order to designate the Project as Economic Development Property.

(c) By proper action of the County Council, the County has duly authorized the execution and delivery of this Agreement and any and all actions necessary and appropriate to consummate the transactions contemplated hereby.

(d) This Agreement has been duly executed and delivered on behalf of the County.

(e) The County agrees to use its commercially reasonable efforts to continue to cause the Land to be located within the Multi-County Park, and the County will take all reasonable acts to ensure that the Project will continuously be included within the boundaries of the Multi-County Park or another multi-county park during the Term of this Agreement in order that the maximum tax benefits afforded by the laws of the State for projects in the County located within multi-county industrial parks will be available to the Company.

(f) No actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the County are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

Section 2.02. Representations and Warranties by the Company. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company, validly existing and in good standing under the laws of Delaware and authorized to do business in the State; has all requisite power to enter into this Agreement; and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The agreements with the County with respect to the FILOT have been instrumental in inducing the Company to locate the Project within the County and the State.

(c) Except as otherwise disclosed to the County, no actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the Company are pending or threatened against or affecting the Company in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Agreement or which could, in any way, adversely affect the validity or enforceability of this Agreement.

(d) For the Project, the Company commits to an investment, collectively with any Co-Investors, of at least Twenty-Three Million Four Hundred Ninety Thousand Dollars (\$23,490,000.00) (the "Project Commitment") in Economic Development Property by the end of the eight-year Investment Period. The investment amount shall not include any amount paid by the Company for real estate improvements on the Land placed in service as of the date of this Agreement. Investments made by the Company and any Co-Investors in Economic Development Property shall be included in the determination whether the Company has fulfilled its commitment made in this item to invest in the Project.

(e) The income tax year of the Company, and accordingly the Property Tax Year, for federal income tax purposes is a 52/53 week fiscal year ending December 31.

(f) No event has occurred and no condition currently exists with respect to the Company, which would constitute a default or an Event of Default as defined herein.

(g) This Agreement is a legal, valid, and binding obligation of the Company enforceable against the Company in accordance with its terms, except as such terms may be limited by laws affecting creditors' rights generally.

ARTICLE III

UNDERTAKINGS OF THE COUNTY

Section 3.01 Agreement to Accept FILOT Payments; Rollback Taxes.

(a) The County hereby agrees to accept FILOT Payments made by the Company and any Co-Investor in accordance with Section 5.01 hereof in lieu of *ad valorem* taxes with respect to the Project until this Agreement expires or is sooner terminated.

(b) The County hereby acknowledges and agrees that, pursuant to Section 12-43-220(d)(6) of the Act, no Economic Development Property shall be subject to rollback taxes. The County further covenants, to the extent allowed by law, that any portion of the Land that has not been developed by the Company (or by any Co-Investors) shall continue to be assessed using the agricultural assessment ratio until such Land is developed, so long as such property lawfully qualifies for such assessment ratio.

Section 3.02 No Warranties by County. The Company acknowledges that the County has made no warranties or representations, either express or implied, as to the condition or state of the Project or as to the design or capabilities of the Project or that it will be suitable for the Company's purposes or needs. No representation of the County is hereby made with regard to compliance by the Project or any Person with laws regulating: (i) the construction or acquisition of the Project; (ii) environmental matters pertaining to the Project; (iii) the offer or sale of any securities; or (iv) the marketability of title to any property.

Section 3.03 Invalidity. The parties acknowledge that the intent of this Agreement is to afford the Company and any Co-Investors the benefits of the Negotiated FILOT Payments in consideration of the Company's decision to locate the Project within the County and that this Agreement has been entered into in reliance upon the enactment of the Simplified FILOT Act. In the event that, for any reason, the Act and/or the Negotiated FILOT or any portion thereof is, by a court of competent jurisdiction following allowable appeals, declared invalid or unenforceable in whole or in part, or the portion of the Project consisting of Economic Development Property is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County express their intentions that such payments be reformed so as to afford the Company or any Co-Investors benefits commensurate with those intended under this Agreement as then permitted by law, including without limitation any benefits afforded under the Code, to the extent allowed by law. Absent the legal authorization to effect such reformation, the Company and the County agree that there shall be due hereunder, with respect to the portion of the Economic Development Property affected by such circumstances, *ad valorem* taxes and that, to the extent permitted by law, the Company and any Co-Investors shall be entitled: (i) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Article X, Section 3 of the Constitution of the State, and any other exemption allowed by law; (ii) to enjoy all allowable depreciation; and (iii) to receive other tax credits which would be due if the Company or any Co-Investor were obligated to pay *ad valorem* taxes hereunder. To the extent that under such circumstances the Negotiated FILOT Payments hereunder are required by law to be subject to retroactive adjustment, then there shall be due and payable by the Company or any Co-Investor to the County with respect to the portion of the Economic Development Property in question an amount equal to the difference between the Negotiated FILOT Payments theretofore actually paid and the amount which would have been paid as *ad valorem* taxes, together with, but only if required by law, interest on such deficiency as provided in Section 12-54-25(D) of the Code. The Company agrees that if this Agreement is reformed as provided in this Section or if retroactive adjustments are made, then under no circumstances shall the County be required to refund or pay any monies to the Company or any Co-Investor.

In addition to and notwithstanding the foregoing paragraph, the County shall not be obligated to perform any of its obligations or promises under this Section 3.03 unless the Company has otherwise complied with or provides satisfactory evidence to the County that it intends to comply with its obligations and responsibilities under this Agreement.

Section 3.04 Multi-County Park Status. The County agrees to use its commercially reasonable efforts to maintain the Land in the Multi-County Park until the date this Agreement expires or is terminated. If it becomes necessary to remove the Land from the Multi-County Park prior to the expiration or termination of this Agreement, the County agrees to use its commercially reasonable efforts to place the Land in another multi-county park established pursuant to the Multi-County Park Act and to maintain the multi-county park designation until the date this Agreement is terminated. The parties acknowledge and agree that the County's agreement to place and maintain the Land in a multi-county park may be subject to the exercise of discretion by a governmental entity other than the County and the exercise of that discretion is not controlled by the County.

ARTICLE IV

UNDERTAKINGS OF THE COMPANY

Section 4.01. Investment by Company in Project. For the Project, the Company agrees to invest, collectively with any Co-Investors, at least Twenty-Three Million Four Hundred Ninety Thousand Dollars \$23,490,000.00 in Economic Development Property by the end of the Investment Period. Investments made by the Company and any Co-Investors in Economic Development Property shall be included in any determination whether the Company has fulfilled its commitments made in this Section.

Section 4.02. Reporting and Filing.

(a) The Company agrees to provide a copy of Form PT-443 filed with the Department of Revenue to the County Auditor, the County Economic Development Director, the County Attorney, the County Administrator and the County Assessor of the County and the County Auditor and the County Assessor of Hampton County, not later than thirty (30) days after execution and delivery of this Agreement. Each year during the Term of this Agreement, the Company shall deliver to the County Auditor, the County Economic Development Director, the County Attorney, the County Assessor, the County Administrator and the County Treasurer, a copy of their most recent annual filings made with the Department of Revenue with respect to the Project, not later than thirty (30) days following delivery thereof to the Department of Revenue. The Company acknowledges that the terms of the Act provide that to the extent requested, the Jasper County Auditor shall make such forms and returns available to the County Auditor of Hampton County. The Company agrees to provide the County with written notice of any failure to comply with the reporting requirements set forth in this Section.

(b) The Company agrees to maintain such books and records with respect to the Project as will permit the identification of those portions of the Project placed in

service in each Property Tax Year during the Investment Period, the amount of investment with respect thereto and its computations of all FILOT Payments made hereunder and will comply with all reporting requirements of the State and the County applicable to property subject to FILOT Payments under the Act, including the reports described in paragraph (a) (collectively, "Filings").

(c) The County acknowledges and understands that the Company may have and maintain at the Project certain confidential and proprietary information, including, but not limited to, trade secrets, financial, sales or other information concerning the Company's operations and processes ("Confidential Information") and that any disclosure of the Confidential Information could result in substantial harm to the Company and could have a significant detrimental impact on the Company's employees and also upon the County. The Company acknowledges that the County is subject to the provisions of the South Carolina Freedom of Information Act. The County acknowledges that information the Company may hereafter provide to the County and which is clearly identified as Confidential Information may be deemed by the Company to be confidential and proprietary. To the extent that the Company clearly identifies information as Confidential Information, the County agrees to maintain the confidentiality of such Confidential Information and will, to the extent permitted by law (including, specifically, the South Carolina Freedom of Information Act), decline to honor any request for release of the Confidential Information so designated to persons other than the Company and its designated officers and representatives. In the event that the County is required by law to disclose any Confidential Information obtained from the Company to any third party, the County agrees to provide the Company with prompt advance notice of such requirement before making such disclosure. In the event an action at law or equity is brought against the County to require the disclosure of any Confidential Information that the Company identified as Confidential Information, the County reserves the right to include the Company in such action, and the Company hereby agrees to bear the reasonable costs associated with defending the County in such action, including payment of any judgment against the County for attorneys' fees or other liabilities related to such action.

Section 4.03. Modification of Project. As long as no Event of Default exists hereunder, the Company and any Co-Investor shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Company and each other Co-Investor may, at its own expense, add to the Project Land or any real and personal property as the Company or each other Co-Investor in its discretion deems useful or desirable.

(ii) In any instance where the Company or any other Co-Investor, in its discretion, determines that any items included in the Project have become inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary for operations at the Project, the Company or such other Co-Investor may remove such items or portions from the Project and sell, trade in, exchange, or otherwise dispose of them (as a whole or in part) without the consent of the County; as such may be permitted under the Simplified FILOT Act.

(iii) The Company and any other Co-Investor may, at any time in its discretion by written notice to the County, remove any real or personal property from the Negotiated FILOT (as defined in Section 5.01) set forth in this Agreement, and thereafter such property will be considered Non-Qualifying Property and will be subject to FILOT Payments as set forth in Section 5.01(b)(i) hereof.

ARTICLE V

PAYMENTS IN LIEU OF TAXES

Section 5.01. Payments in Lieu of *Ad Valorem* Taxes.

(a) In accordance with the Act, the parties hereby agree that, during the Term of the Agreement, the Company and any Co-Investors shall pay annually, with respect to the Project, a FILOT in the amount calculated as set forth in this Section, to be collected and enforced in accordance with Section 12-44-90 of the Act.

(b) The FILOT Payment due with respect to each Property Tax Year shall equal:

(i) With respect to any portion of the Project consisting of Non-Qualifying Property, if any, as long as such property is located in the Multi-County Park, a payment equal to the *ad valorem* taxes that would otherwise be due on such Non-Qualifying Property if it were taxable giving effect to all credits, exemptions, rebates and abatement that would be available if such undeveloped land or Non-Qualifying Property were taxable; and

(ii) With respect to those portions of the Project consisting of Economic Development Property, for each of the thirty (30) consecutive years following the year in which such portion of the Project is placed in service, a payment calculated each year as set forth in paragraphs (c) and (d) of this Section 5.01 (a "Negotiated FILOT").

(c) The Negotiated FILOT Payments shall be calculated with respect to each Property Tax Year based on: (i) the fair market value (determined in accordance with Section 12-44-50(A)(1)(c) of the Code) for (A) any real property component of the Economic Development Property constructed or purchased in an arm's length transaction determined by Department of Revenue using the original income tax basis for South Carolina income tax purposes without regard to depreciation, otherwise the real property must be reported at the fair market value for ad valorem property taxes as determined by appraisal, with the fair market value estimate established for the first year of the Negotiated FILOT Payments with respect to such property remaining the fair market value of such real property for the entire Term hereof, and (B) the personal property component of the Economic Development Property determined by Department of Revenue using the original tax basis for South Carolina income tax purposes less depreciation allowable for property tax purposes as provided in Section 12-44-

50(A)(1)(c) of the Code); (ii) a fixed millage rate equal to the Project Millage Rate, for the entire Term of this Agreement; and (iii) an assessment ratio of 6%. All such calculations shall take into account all deductions for depreciation or diminution in value allowed by the Code or by the tax laws generally, as well as tax exemptions which would have been applicable if such property were subject to *ad valorem* taxes, except the exemption allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(d) Special Source Revenue Credits shall be provided in the amount of forty percent (40%) of each annual FILOT Payment, for each year of the Term. Such Special Source Revenue Credits shall be applied automatically and reflected on each year's property tax bill provided to the Company.

(e) The FILOT payments are to be recalculated:

(i) to reduce such payments in the event the Company or any Co-Investor disposes of any part of the Project within the meaning of Section 12-44-50(B) of the Code and as provided in Section 4.03 hereof, by the amount applicable to the Released Property;

(ii) to increase such payments, based on the methodology set forth in Section 5.01(c) hereof, in the event the Company or any Co-Investor adds property (other than Replacement Property) to the Project; or

(iii) to adjust such payments if the Company or any Co-Investor elects to convert any portion of the Project from the Negotiated FILOT to the FILOT required by Section 5.01(b)(i) above, as permitted by Section 4.03(a)(iii).

(f) To the extent permitted by law, because the FILOT Payments agreed to herein are intended to be paid by the Company or any Co-Investor to the County in lieu of taxes, it is agreed that said FILOT Payments shall not, as to any year, be in any amount greater than what would otherwise be payable by the Company or such Co-Investor to the County in property taxes if the Company or such Co-Investor had not entered into a fee-in-lieu of taxes arrangement with the County (except it is not intended that said FILOT Payments would necessarily be less than such property taxes to the extent that the constitutional abatement of property taxes would otherwise apply).

(g) Upon the Company's or any Co-Investor's installation of any Replacement Property for any portion of the Project removed under Section 4.03 hereof and sold, scrapped, or disposed of by the Company or such Co-Investor, such Replacement Property shall become subject to Negotiated FILOT Payments to the fullest extent allowed by law, subject to the following rules:

(i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest property subject to the FILOT, whether real or

personal, which is disposed of in the same Property Tax Year as the Replacement Property is placed in service. Replacement Property qualifies for Negotiated FILOT Payments up to the original income tax basis of the Economic Development Property which it is replacing. More than one piece of property can replace a single piece of property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to payments equal to the *ad valorem* taxes which would have been paid on such property but for this Agreement. Replacement property is entitled to the FILOT payment for the period of time remaining on the thirty-year FILOT period for the property which it is replacing.

(ii) The new Replacement Property which qualifies for the Negotiated FILOT payment shall be recorded using its income tax basis, and the Negotiated FILOT Payment shall be calculated using the millage rate and assessment ratio provided on the original property subject to FILOT payment.

(h) In the event that the Act or the FILOT or any portion thereof, are declared, by a court of competent jurisdiction following allowable appeals, invalid or unenforceable, in whole or in part, for any reason, the Company and the County express their intentions that such payments be reformed so as to afford the Company the maximum benefit then permitted by law, including, without limitation, the benefits afforded under Section 12-44-50 of the Code and, specifically, that the Company may, at the Company's expense, exercise the rights granted by Section 12-44-160 of the Code upon terms and conditions (including evidence acceptable to the County that the Project is free from environmental contamination and mutually agreeable environmental indemnifications and warranties by the Company) acceptable to the County and the Company. If the Project is deemed not to be eligible for a Negotiated FILOT pursuant to the Act in whole or in part, the Company and the County agree that the Company shall pay an alternate fee-in-lieu of tax calculated in the manner set forth in Section 5.01(b)(i) hereof. In such event, the Company shall be entitled, to the extent permitted by law: (i) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by Section 3(g) of Article X of the Constitution of the State of South Carolina, and any other exemption allowed by law; and (ii) to enjoy all allowable depreciation. The Company agrees that if the FILOT Payments or this Agreement is reformed pursuant to this subsection (h), that under no circumstance shall the County be required to refund or pay any monies to the Company.

(i) For the Project, this Agreement is automatically terminated in the event that the investment in the Project in land, buildings, and personal property, including machinery and equipment, by the Company does not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) by the end of the Investment Period. If terminated pursuant to this subsection (i), the Negotiated FILOT Payments shall revert retroactively to payments equivalent to what the *ad valorem* taxes would have been with respect to the property absent this Agreement. At the time of termination, the Company shall pay to the County an additional fee equal to the difference between the total amount of property

taxes that would have been paid by the Company had the project been taxable, taking into account exemptions from property taxes that would have been available to the Company, and the total amount of fee payments actually made by the Company. This additional amount is subject to interest as provided in Section 12-54-25. The Company agrees, if the Negotiated FILOT Payments revert to payments equivalent to what the *ad valorem* taxes would be pursuant to this subsection (i), that under no circumstance shall the County be required to refund or pay any monies to the Company.

(j) In the event that the Company fails to meet and maintain the Project Commitment by and through the end of the Investment Period as provided herein (without regard to any subsequent extensions thereof), the Company shall be obligated to repay a prorated portion of the Special Source Revenue Credits provided under Section 5.01(d) hereof theretofore received by the Company with respect to qualifying property, and the amount of Special Source Revenue Credits provided to the Company thereafter shall be so reduced with such prorated portion to be calculated by determining the achievement percentage of the Project Commitment as of the last day of the Investment Period.

For example, and by way of example only, if the Company has invested \$19,966,500 as of the last day of the Investment Period, the Company would have met 85% of the Project Commitment and would be obliged to repay 15% of the Special Source Revenue Credits provided under Section 5.01(d) hereof, and the amount of Special Source Revenue Credits provided to the Company thereafter would be reduced by 15%.

(k) Unless otherwise provided by the Act, any amounts due to the County under this Section 5.01 by virtue of the application of Sections 5.01(i) hereof shall be paid within ninety (90) days, following written notice thereof from the County to the Company or Co-Investor, as applicable.

(l) The Company agrees to make FILOT Payments with respect to the Economic Development Property that it owns for each Property Tax Year during the term hereof beginning with the Property Tax Year following the year the applicable Economic Development Property is first placed in service. The FILOT Payments shall be made to the Jasper County Treasurer on the due dates which would otherwise be applicable for *ad valorem* property taxes for the Economic Development Property, with the first payment being due on the first date following the delivery of this Agreement when, but for this Agreement, such taxes would have been paid with respect to the Economic Development Property.

(m) To the extent required by Section 4-29-68(A)(2)(ii) of the Code, if the Company claims Special Source Revenue Credits as reimbursement for investment in personal property, including machinery and equipment, if such property is removed from the Project during the term of this Agreement, the amount of the FILOT Payments due from the Company on such personal property for the year in which the personal property was removed from the Project also shall be due for the two (2) years following such removal.

(n) The Company agrees to provide or cause to be provided all funding for the costs of acquisition, construction, and installation of Infrastructure Improvements (as defined in the Act) for which reimbursement is being provided by the Special Source Revenue Credits. In accordance with the Act, such Special Source Revenue Credits shall not, in the aggregate, exceed the aggregate cost of the Infrastructure Improvements funded from time to time by the Company.

(o) The County and the Company acknowledge and agree that any obligation which the County may incur for the payment of money as a result of the transactions described in the herein, including providing the Special Source Revenue Credits, shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation and shall never create a pecuniary liability of the County or a charge upon its general credit or against its taxing powers but shall be payable solely out of the funds received by it under this Agreement.

ARTICLE VI

PAYMENTS BY COMPANY

Section 6.01. Defaulted Payments. In the event the Company should fail to make any of the payments required under this Agreement, the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid. The Company agrees that the collection and enforcement of the defaulted payment shall be as provided in Section 12-44-90 of the Code. The Company expressly acknowledges that in the event of its failure to make the required FILOT Payments when due, that the County is only required to give notice thereof in accordance with the Section 12-44-90 of the Code, and that no further notice is required hereunder in order to enforce the remedies set forth in this Section 6.01, including any notices of default set forth in Article XI hereof. The County's right to receive FILOT Payments shall have a first priority lien status pursuant to Section 12-44-90 of the Code and Chapters 4 and 54 of Title 12 of Code of Laws of South Carolina 1976, as amended.

ARTICLE VII

CASUALTY AND CONDEMNATION

Section 7.01. Adjustments in the Event of Damage and Destruction or Condemnation. In the event that the Project or any portion thereof is damaged or destroyed, lost or stolen, or the subject of condemnation proceedings, the Company, in its sole discretion, may determine whether or not to repair or replace the same. The parties hereto agree that if the Company decides not to repair or replace all or any portion of the Project pursuant to this Section, the FILOT required pursuant to Section 5.01 hereof shall be abated in the same manner and in the same proportion as if *ad valorem* taxes were payable with respect to the Project.

ARTICLE VIII

PARTICULAR COVENANTS AND AGREEMENTS

Section 8.01. Use of Project for Lawful Activities. During the Term of this Agreement, the Company shall use the Project for any lawful purpose that is authorized pursuant to the Act.

Section 8.02. Indemnification. The Company releases the County, including the members of the governing body of the County, and the employees, officers, attorneys and agents of the County (herein collectively referred to as the "Indemnified Parties") from, agrees that the Indemnified Parties shall not be liable for, and agrees to hold the Indemnified Parties harmless against, any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Company's performance of its obligations pursuant to this Agreement, except for that occasioned by grossly negligent or intentional acts of an Indemnified Party, or by a breach of this Agreement by the County. The Company further agrees to indemnify and hold harmless Indemnified Parties against and from any and all costs, liabilities, expenses, and claims arising from any breach or default on the part of the Company in the performance of any covenant or agreement on the part of the Company to be performed pursuant to the terms of this Agreement or arising from any act or negligence of, or negligent failure to act where there is a duty to do so, by the Company, and from and against all cost, liability, and expenses incurred in or in connection with any such claim or action or proceeding brought thereon.

All covenants, stipulations, promises, agreements, and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the County and not of any member of the County Council or any officer, agent, attorney, servant, or employee of the County in his or her individual capacity, and, absent bad faith, no recourse shall be had for the payment of any moneys hereunder or the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon against any member of the governing body of the County or any officer, attorney, agent, servant, or employee of the County.

Notwithstanding the fact that it is the intention of the Indemnified Parties hereto that none of them shall incur any pecuniary liability by reason of the terms of this Agreement, any related agreements or the undertakings required of the County hereunder by reason of the performance of any act requested of the County by the Company, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if any Indemnified Party shall incur any such pecuniary liability, then in such event the Company shall indemnify and hold them harmless against all claims by or on behalf of any Person, firm, or corporation or other legal entity arising out of the same and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, provided, however, that nothing herein shall absolve the Indemnified Parties from, or entitle the Indemnified Parties to indemnification from, any obligation such Indemnified Party has specifically agreed to undertake (including, without limitation, the obligation to place and maintain the Land within a multi-county park). If any action, suit, or proceeding is brought against any Indemnified Party to which such Indemnified

Party is entitled to indemnification, such Indemnified Party shall promptly notify the Company, and the Company shall have the sole right and duty to assume, and shall assume, the defense thereof, at its expense, with full power to litigate, compromise, or settle the same in its sole discretion; provided the Company shall obtain the prior written consent of the County to settle any such claim unless such claim is for monetary damages for which the Company has the ability to, and do, pay. Notwithstanding the foregoing, if the Indemnified Party is the County, in the event the County reasonably believes there are defenses available to it that are not being pursued or that the counsel engaged by the Company reasonably determines that a conflict of interest exists between the County and the Company, the County may, in its sole discretion, hire independent counsel to pursue its own defense, and the Company shall be liable for the reasonable cost of such counsel.

The indemnity specified in this Section shall be in addition to any heretofore extended by the Company to any Indemnified Party and shall survive the termination of this Agreement with respect to liability arising out of any event or act occurring prior to such termination.

Section 8.03. Sponsors and Sponsor Affiliates. The Company may designate, from time to time, other Sponsors or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Simplified FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Company and other Co-Investors and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall be Affiliates of Company or other Sponsors or Sponsor Affiliates, any tenant leasing all or a portion of the Project from the Company or any other existing Sponsor or Sponsor Affiliate or other Persons described in Section 9.01 hereof. All other Sponsors or Sponsor Affiliates who otherwise meet the requirements of Section 12-44-30 (19) or (20) and Section 12-44-130 of the Simplified FILOT Act are subject to approval in accordance with Section 12-44-130(D) of the Act. To the extent that the aggregate investment in the Project by the end of the Investment Period by all Sponsors and Sponsor Affiliates exceeds \$5,000,000.00, to the extent permitted by Section 12-44-30(19) of the Simplified FILOT Act, all investment by such Sponsors and Sponsor Affiliates during the Investment Period shall qualify for the FILOT pursuant to Section 5.01 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Investment Commitment by the end of the Investment Period. Sponsor or Sponsor Affiliate shall provide the County and the Department of Revenue with written notice of any other Sponsor or Sponsor Affiliate designated pursuant to this Section 8.04 in accordance with Section 12-44-130(C) of the Simplified FILOT Act. The parties agree that, if any Sponsor or Sponsor Affiliate ceases to become party to this Agreement, the Agreement shall continue to remain in effect with respect to any remaining Sponsors or Sponsor Affiliates.

Section 8.04. Compliance with GASB 77. The Company agrees annually to prepare Form SC DOR PT-300G (Schedule G – Fee in Lieu of Tax Supplemental) with respect to the Project, even if the Company is not required to file such form with the Department of Revenue, and provide a copy to the County not later than June 30 of each year of the Term of this Agreement in order to assist the County in complying with Statement No. 77 of the Governmental Accounting Standards Board known as “GASB 77.” The Company agrees further

to cooperate with the County in providing reasonably requested information regarding the Project in order to assist the County in complying with GASB 77.

ARTICLE IX

FINANCING ARRANGEMENTS; CONVEYANCES; ASSIGNMENTS

Section 9.01. Conveyance of Liens and Interests; Assignment. The Company and any Co-Investor may at any time: (a) assign or transfer all or any of its rights and interests hereunder or with respect to the Project to any Person; or (b) enter into any lending, financing, security, or similar arrangement or succession of such arrangements with any financing entity with respect to the Agreement or the Project, including without limitation any sale, leaseback, or other financing lease arrangement; provided that, in connection with any of the foregoing transfers: (i) except in connection with any assignment or transfer to any Affiliate of the Company or such Co-Investor, or transfers pursuant to clause (b) above, including, for the avoidance of doubt, any assignment or transfer to any entity that assumes from the Company the purchase agreement with respect to the Land (as to which such transfers the County hereby consents), the Company or such Co-Investor shall first obtain the prior written approval or subsequent ratification of the County, in the County's sole discretion, and evidenced, to the extent allowed by law, by a Resolution of County Council or a writing signed by an officer of the County; (ii) the Company or the applicable Co-Investor, transferee, or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue a true and complete copy of any such transfer agreement; and (iii) the Company or the applicable Co-Investor and the transferee shall comply with all other requirements of the Transfer Provisions.

The Company acknowledges that such a transfer of an interest under this Agreement or in the Project may cause the Project to become ineligible for a Negotiated FILOT or result in penalties under the Act absent compliance by the Company with the Transfer Provisions.

Section 9.02. Relative Rights of County and Financing Entities as Secured Parties. The parties acknowledge the application of the provisions of Section 12-44-90 of the Act, and that the County's right to receive FILOT Payments hereunder shall be the same as its rights conferred under Title 12, Chapter 49 and 54, among others, of the Code relating to the collection and enforcement of *ad valorem* property taxes.

ARTICLE X

TERM; TERMINATION

Section 10.01. Term. Unless sooner terminated pursuant to the terms and provisions herein contained, this Agreement shall be and remain in full force and effect for a term commencing on the date on which the Company executes this Agreement, and ending at midnight on the last day of the Property Tax Year in which the last Negotiated FILOT Payment is due hereunder. This Agreement has a term of thirty (30) years, as calculated pursuant to the respective dates when the relevant portions of the Project are placed in service, and as discussed in greater detail in this Agreement. The County's rights to receive indemnification and payment

of Administration Expenses pursuant hereto shall survive the expiration or termination of this Agreement.

Section 10.02. Termination.

(a) The County and the Company may agree to terminate this Agreement at any time, or the Company may, at its option, terminate this Agreement at any time upon providing the County thirty (30) days' notice of such termination, in which event the Project shall be subject to *ad valorem* taxes from the date of termination. In the event that this Agreement is terminated by the operation of this Section 10.02 at any time during the initial Investment Period prior to the Company's investment of at least Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in the Project, amounts due to the County as a result thereof shall be calculated as provided in Section 5.01(i) hereof. The County's rights to receive payment for such *ad valorem* taxes and its rights to enforce the terms of this Agreement shall survive termination of this Agreement.

(b) This Agreement will automatically terminate as provided in Section 12-44-140(B) of the Act in the event the investment requirements at the Project set forth in Section 12-44-140(B) of the Act are not satisfied.

(c) The FILOT incentive with respect to any Sponsor or Sponsor Affiliate will automatically terminate as provided in Section 12-44-140(C) of the Act in the event such Sponsor or Sponsor Affiliate no longer has the statutory minimum level of investment at the Project.

(d) This Agreement will terminate in whole or in part in the event the Company or any other Co-Investor removes real or personal property from the Negotiated FILOT pursuant to Section 4.03(iii) hereof (with such termination effective solely with respect to such removed property).

(e) This Agreement will automatically terminate as provided in Section 5.01(i) hereof.

(f) This Agreement will terminate in whole or in part in the event of casualty or condemnation at the Project and the FILOT is abated pursuant to Section 7.01 hereof (with such termination effective solely with respect to the property subject to such casualty or condemnation).

ARTICLE XI

EVENTS OF DEFAULT AND REMEDIES

Section 11.01. Events of Default by Company.

(a) Any one or more of the following events (herein called an “Event of Default”, or collectively “Events of Default”) shall constitute an Event of Default (but solely with respect to the defaulting entity):

(1) if default shall be made in the due and punctual payment of any FILOT Payments,

(2) if default shall be made in the due and punctual payment of any indemnification payments or Administration Expenses, which default shall not have been cured within thirty (30) days following receipt of written notice thereof from the County;

(3) if default shall be made by the Company in the due performance of or compliance with any of the terms hereof, including payment, other than those referred to in the foregoing paragraphs (1) and (2), and such default shall continue for sixty (60) days after the County shall have given the Company written notice of such default, provided, the Company shall have such longer period of time as necessary to cure such default if the Company proceeds promptly to cure such default and thereafter to prosecute the curing of such default with due diligence; and provided further, that no Event of Default shall exist under this paragraph (3) during any period when there is pending, before any judicial or administrative tribunal having jurisdiction, any proceeding in which the Company has contested the occurrence of such default.

(4) if any material representation or warranty on the part of the Company or any Co-Investor made herein (including representations regarding the capital investment resulting from the Project), or in any report, certificate, financial or other statement furnished in connection with this Agreement or the transactions described in this Agreement shall have been false or misleading in any material respect.

(b) The failure of the Company or any other Co-Investor to meet the Investment Commitment as set forth herein shall not be deemed to be an Event of Default under this Agreement, and the County’s sole recourse for failure to meet the Investment Requirement shall be as set forth in Section 5.01 hereof.

Section 11.02. Remedies on Event of Default by Company. Upon the occurrence and continuance of any Event of Default by Company (and the expiration of any applicable cure periods), the County may exercise any of the following remedies, any of which may be exercised at any time during the periods permitted under the following clauses:

(a) terminate this Agreement by delivery of written notice to the Company not less than thirty (30) days prior to the termination date specified therein; or

(b) take whatever action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due or to enforce observance or performance of any covenant, condition, or agreement of the Company under this Agreement.

Section 11.03. Default by County. Upon the default of the County in the performance of any of its obligations hereunder, the Company may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement, including without limitation, a suit for mandamus or specific performance.

Section 11.04. No Additional Waiver Implied by One Waiver. In the event any warranty, covenant, or agreement contained in this Agreement should be breached by the Company or the County and thereafter waived by the other party to this Agreement, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach.

Section 11.05. Reimbursement of Legal Fees and Expenses and Other Expenses. Upon the occurrence of an Event of Default hereunder by the Company or any Co-Investor or Sponsor Affiliate, if the County employs attorneys or incurs other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the County shall be entitled, within thirty (30) days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Rights and Remedies Cumulative. Each right, power, and remedy of the County or of the Company or any other Co-Investor provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced; and the exercise by the County or by the Company or any other Co-Investor of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company or any other Co-Investor of any or all such other rights, powers or remedies.

Section 12.02. Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns as permitted hereunder.

Section 12.03. Administration Expenses. The Company agrees to reimburse the County from time to time for its Administration Expenses promptly upon written request therefore, but in no event later than thirty (30) days after receiving the written request from the County. The written request shall include a description of the nature of the Administration Expenses. The Administration Expenses reimbursable to the County pursuant to this Agreement for the initial drafting and negotiation of this Agreement and related documentation shall not exceed Five Thousand Dollars (\$5,000.00).

Section 12.04 Rules of Construction. The County and the Company acknowledge and agree that each has been represented by legal counsel of its choice throughout the negotiation and drafting of this Agreement, that each has participated in the drafting hereof and that this Agreement will not be construed in favor of or against either party solely on the basis of such party's drafting or participation in the drafting of any portion of this Agreement.

Section 12.05. Notices; Demands; Requests. All notices, demands and requests to be given or made hereunder to or by the County or the Company shall be in writing and shall be deemed to be properly given or made if sent by United States first class mail, postage prepaid or via facsimile or other commonly-used electronic transmission or reputable courier service, addressed as follows or to such other persons and places as may be designated in writing by such party.

(a) As to the County:

Jasper County
Attn: Jasper County Administrator
358 Third Avenue
Ridgeland, South Carolina 29936

with a copy (which shall not constitute notice) to:

Jasper County
Attn: Jasper County Attorney
358 Third Avenue
Ridgeland, South Carolina 29936

(b) As to the Company:

SDKM Commerce, LLC
c/o Clarius Partners, LLC
Attn: Craig Dannegger
200 W. Madison St., Suite 1625
Chicago, Illinois 60606

With a copy to (which shall not constitute notice):

Womble Bond Dickinson (US) LLP
Attn: Ms. Stephanie L. Yarbrough

5 Exchange Street
Charleston, South Carolina 29401

Section 12.06. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

Section 12.07. Entire Understanding. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 12.08. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 12.09. Headings and Table of Contents; References. The headings of the Agreement and any Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular articles or Sections or paragraphs of this Agreement are references to the designated articles or Sections or paragraphs of this Agreement.

Section 12.10. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

Section 12.11. Amendments. Subject to the limitations set forth in the Act, this Agreement may be amended, or the rights and interest of the parties hereunder surrendered, only by a writing signed by all parties. The County agrees that, to the extent allowed by law, such amendment may be approved by a Resolution of County Council.

Section 12.12. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

Section 12.13. Force Majeure. Except with respect to (i) the obligation to invest at least Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in Economic Development Property by the end of the Investment Period; and (ii) the payment obligations with respect to FILOT Payments, the Administrative Expenses and indemnification of the Indemnified Parties hereunder, the Company and any Co-Investors shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, labor shortages, fire, floods, inability to obtain materials, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Company's reasonable control.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS THEREOF, the County, acting by and through the County Council, has caused this Agreement to be executed in its name and behalf by the Council Chair and to be attested by the Clerk to Council; and the Company has caused this Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

JASPER COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Barbara Clark
Chair of County Council
Jasper County, South Carolina

ATTEST:

By: _____
Wanda Simmons
Clerk to County Council
Jasper County, South Carolina

SDKM COMMERCE, LLC

By: _____
Name: _____
Title: _____

EXHIBIT A

Land

**Lot 13, 26.48 Acres
A Section of Parcel C – West Parcel
A Portion of Hardeeville Commerce Park
City of Hardeeville, Jasper County, South Carolina**

All that certain piece, parcel or tract of land situated, lying and being in the City of Hardeeville, Jasper County, South Carolina as shown on that certain survey prepared by Surveying Consultants, by Terry G. Hatchell, S.C.R.L.S. No. 11059, Entitled "A Minor Subdivision Survey of Lot 13, Parcel C – West North Parcel & Parcel C – West South Parcel, City of Hardeeville, Jasper County, South Carolina", Dated: 07/06/2021,

and being more particularly described as follows:

Commencing at a point marked by a 3" Concrete Monument (Found) at the intersection of the Southern Right-of-Way of Paynesville Road (aka State Road S-27-156) and the Western Right-of-Way of Mockingbird Drive, said point having SC State Plane Coordinates N. 162,050.840 E. 1,973,462.190 said point being the Point of Commencing,

From the Point of Commencing in a Westerly direction as follows:

Thence S 45°46'50" W A Distance Of 174.82' to a 1/2" Iron Pin (Found),
Thence S 45°46'50" W A Distance Of 14.10' to a 1/2" Iron Pin (Found),
Thence S 01°08'38" W A Distance Of 350.23' to a 1/2" Iron Pipe (Found),
Thence S 01°11'16" W A Distance Of 511.18' to a 1/2" Iron Pin W/Cap (Found),
Thence N 87°14'54" W A Distance Of 135.95' to a 1/2" Iron Pin W/Cap (Found),
Thence S 65°13'59" W A Distance Of 67.44' to a 1/2" Iron Pin W/Cap (Found),
Thence S 00°33'04" W A Distance Of 218.99' to a 1/2" Iron Pin W/Cap (Found),
Thence S 87°14'54" W A Distance Of 120.87' to a 1/2" Iron Pin W/Cap (Found),
Thence N 89°35'35" W A Distance Of 47.03' to a 1/2" Iron Pin W/Cap (Found),
Thence along a Curve to the left having an Arc Length of 497.01',
a Radius of 420.61', a Tangent of 188.30', a Chord Length of 354.73',
a Chord Bearing of S 66°17'22" W, and a Delta Angle of 48°14'06"
to a 1/2" Iron Pin W/Cap (Set),
Said point having SC State Plane Coordinates N. 160,673.440 E. 1,972,869.061
Said point being the Point of Beginning,

From the Point of Beginning in a Southerly direction as follows:

Thence along a Curve to the left having an Arc Length of 297.94',
a Radius of 420.61', a Tangent of 155.53', a Chord Length of 291.75',

a Chord Bearing of S 21°52'45" W, and a Delta Angle of 40°35'10"
to a 1/2" Iron Pin W/Cap (Found),
Thence S 01°35'10" W A Distance Of 717.12' to a 1/2" Iron Pin W/Cap (Found),
Thence along a Curve to the left having an Arc Length of 103.39',
a Radius of 350.00', a Tangent of 52.08', a Chord Length of 103.02',
a Chord Bearing of S 06°52'37" E, and a Delta Angle of 16°55'33"
to a 1/2" Iron Pin W/Cap (Found),
Thence S 15°20'24" E A Distance Of 137.38' to a 1/2" Iron Pin W/Cap (Set),
Thence along a Curve to the right having an Arc Length of 47.24',
a Radius of 250.00', a Tangent of 23.69', a Chord Length of 47.12',
a Chord Bearing of S 09°55'34" E, and a Delta Angle of 10°49'39"
to a 1/2" Iron Pin W/Cap (Found),
Thence S 04°30'45" E A Distance Of 14.42' to a 1/2" Iron Pin W/Cap (Set),
Thence N 85°58'12" W A Distance Of 314.12' to a 1/2" Iron Pin W/Cap (Set),
Thence N 63°44'29" W A Distance Of 145.19' to a 1/2" Iron Pin W/Cap (Set),

Thence N 57°59'41" W A Distance Of 180.16' to a 1/2" Iron Pin W/Cap (Set),
Thence N 30°57'50" W A Distance Of 121.48' to a 1/2" Iron Pin W/Cap (Set),
Thence N 31°40'51" W A Distance Of 875.96' to a 1/2" Iron Pin W/Cap (Set),
Thence N 32°42'55" E A Distance Of 489.04' to a 1/2" Iron Pin W/Cap (Set),
Thence S 88°48'35" W A Distance Of 699.36' to a 1/2" Iron Pin W/Cap (Set),
Thence S 57°17'78" W A Distance Of 268.58' to a 1/2" Iron Pin W/Cap (Set),

Said point being the Point of Beginning,
Said lot having an area of 26.48 Acres, more or less

AGENDA ITEM:

XI-F

Ordinance item F

**STATE OF SOUTH CAROLINA
COUNTY OF JASPER**

ORDINANCE NO. 02022-02

**AN ORDINANCE
OF JASPER COUNTY COUNCIL**

To amend the Official Zoning Map of Jasper County so as to transfer a 26.22 acre portion of property, as depicted on the attached plat, and bearing Jasper County Tax Map Number 071-00-00-009, from the Rural Preservation Zone to the Resource Extraction on the Jasper County Official Zoning Map.

WHEREAS, the owner of a parcel consisting of approximately 26.22 acres, as depicted on the attached plat, bearing Jasper County Tax Map Number 071-00-00-009, and located at 859 Bellinger Hill Run has requested rezoning of a portion of the parcel on the Official Zoning Map of Jasper County from the Rural Preservation Zone to the Resource Extraction Zone, and the property owner submitted that request to the Jasper County Planning Commission and County Council; and

WHEREAS, the Jasper County Planning Commission has concurred with the recommendations of the staff report as reflected in this Ordinance and recommends approval by Council; and

WHEREAS, this matter is now before the Jasper County Council for determination;

NOW THEREFORE BE IT ORDAINED, by the Jasper County Council in council duly convened and by the authority of the same:

1. Jasper County Council finds that in accordance with the staff report and the recommendation of the Planning Commission, the proposed zoning is consistent with the continued pattern of growth in the vicinity and is in harmony with the Jasper County Comprehensive Plan. Good cause having been shown, approximately 26.22 acres, as depicted on the attached plat,

bearing Jasper County Tax Map Number 071-00-00-009, located at 859 Bellinger Hill Run and depicted on the Jasper County Official Zoning Map in the Rural Preservation Zone is hereby transferred to the Resource Extraction Zone.

2. This ordinance shall take effect upon approval by Council.

Ms. Barbara B. Clark
Chairwoman

ATTEST:

Wanda Simmons
Clerk to Council

ORDINANCE: # O2022-02

First Reading: February 7, 2022

Second Reading: February 22, 2022

Public Hearing: February 22, 2022

Adopted: _____

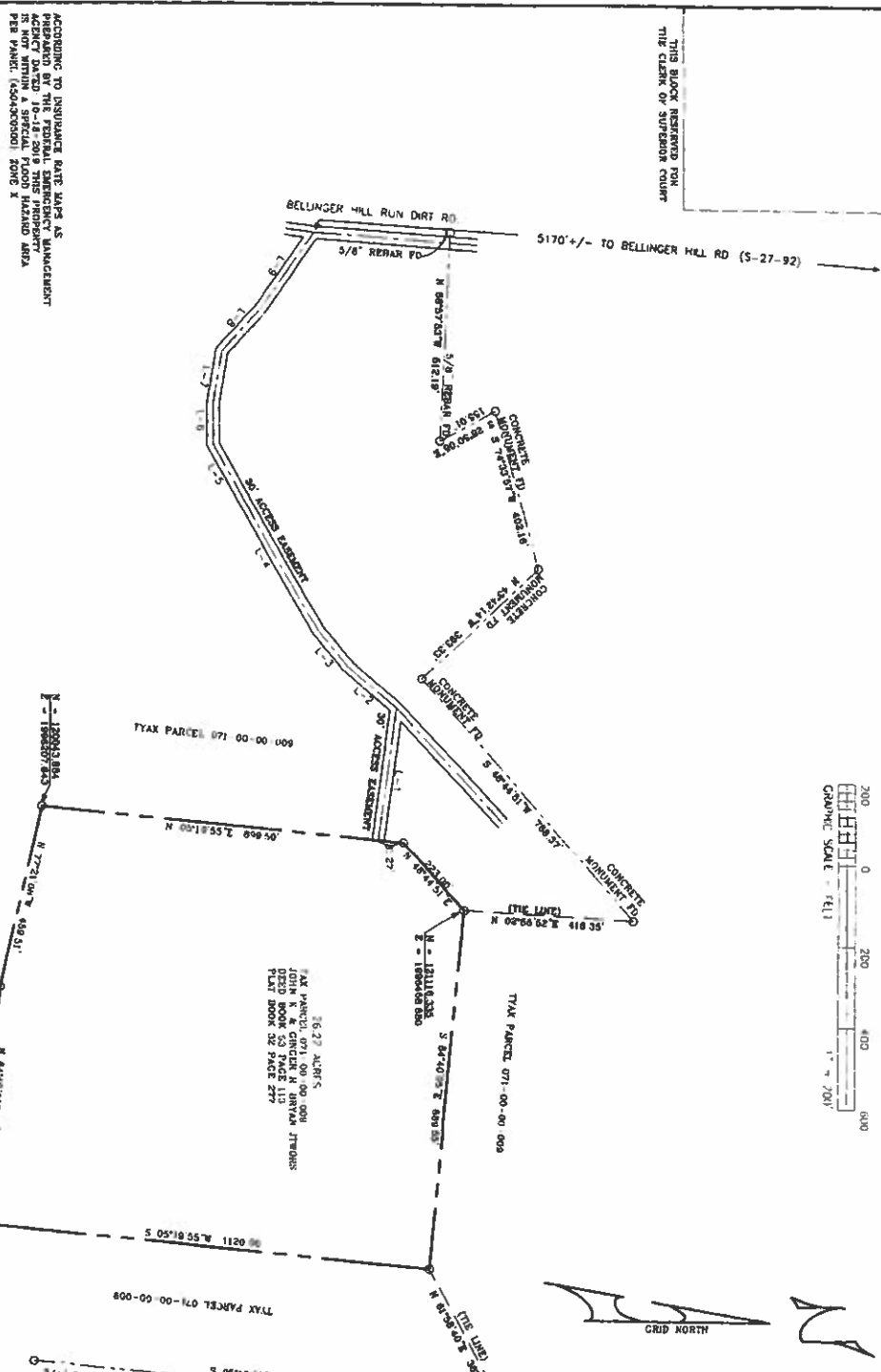
Considered by the Jasper County Planning Commission at it's meeting on
January 11, 2022 and recommended for approval.

Reviewed for form and draftsmanship by the Jasper County Attorney.

David Tedder

Date

THIS BLOCK RESERVED FOR THE CLERK OF SUPERIOR COURT



AVRIL 21, 2021
 Surveyor's Signature

EQUIPMENT USED: SOKKIA IN 30 STRIPS
 ADJUSTED BY COMPASS RULE
 FIELD CLOSURE: 1/29 485
 FIELD SURVEY: NOVEMBER 12TH, 2021

MICHAEL JIM GARDNER, SOUTH CAROLINA REGISTERED LAND SURVEYOR NO. 12219

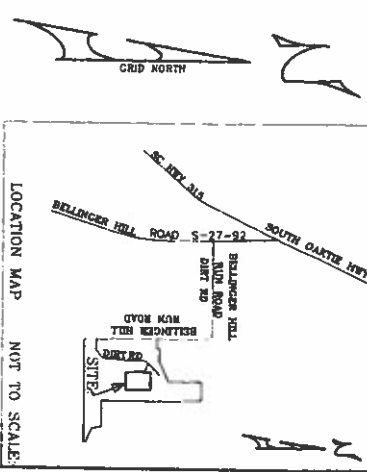


COURSE	BEARING	DISTANCE
C-1	N 82°27'56"W	329.90'
C-2	S 39°59'28"W	157.10'
C-3	S 30°03'37"W	112.78'
C-4	S 59°28'08"W	345.42'
C-5	S 80°54'49"W	182.24'
C-6	S 89°51'38"W	107.72'
C-7	S 89°51'38"W	128.25'
C-8	N 47°02'15"W	148.48'
C-9	N 54°31'02"W	228.69'

1. THIS PLAN IS SUBJECT TO ALL REQUISITE EASEMENTS, RESTRICTIONS, AND BUILDING RESTRICTIONS.
2. CONTACT LOCAL GOVERNING AGENCIES FOR ALL NECESSARY PERMITS AND BUILDING RESTRICTIONS.
3. ACCORDING TO LOCAL REQUIREMENTS OF SOUTH CAROLINA, THIS IS A CLASS (C) SURVEY.
4. THIS PLAN CONTAINS ONE PARCEL.
5. LINE: TAKE BALANCES AND DISTANCES FROM CENTER LINE OF 30 ACCESS DRIVEWAY.

A BOUNDARY SURVEY SUBMITTED FOR TYAX PARCEL 071-00-009 KNOWN AS THE JOHN K AND GINGER R BRYAN PROPERTY LOCATED IN THE BELLINGER HILL SECTION, NEAR THE CITY OF MARDEWELL, ASPHE COUNTY, SOUTH CAROLINA. SURVEYED FOR JOHN AND GINGER BRYAN. NOVEMBER 19, 2021. JOB NO. 21-539. LAST FINISHED 1/29 485 BY RHW.

MICHAEL JIM GARDNER
 LAND SURVEYOR
 120 VARNDOE AVENUE
 GARDEN CITY, GEORGIA 31406
 PHONE (912) 984-8282



ROLLINGER HILL ROAD
AKA S-27-92



THE PROPOSED BRYAN MINE
T.H. COBURN CONSTRUCTION, LLC
THE PROPOSED BORROW PIT
NEAR HARDEVILLE,
JASPER COUNTY, SOUTH CAROLINA

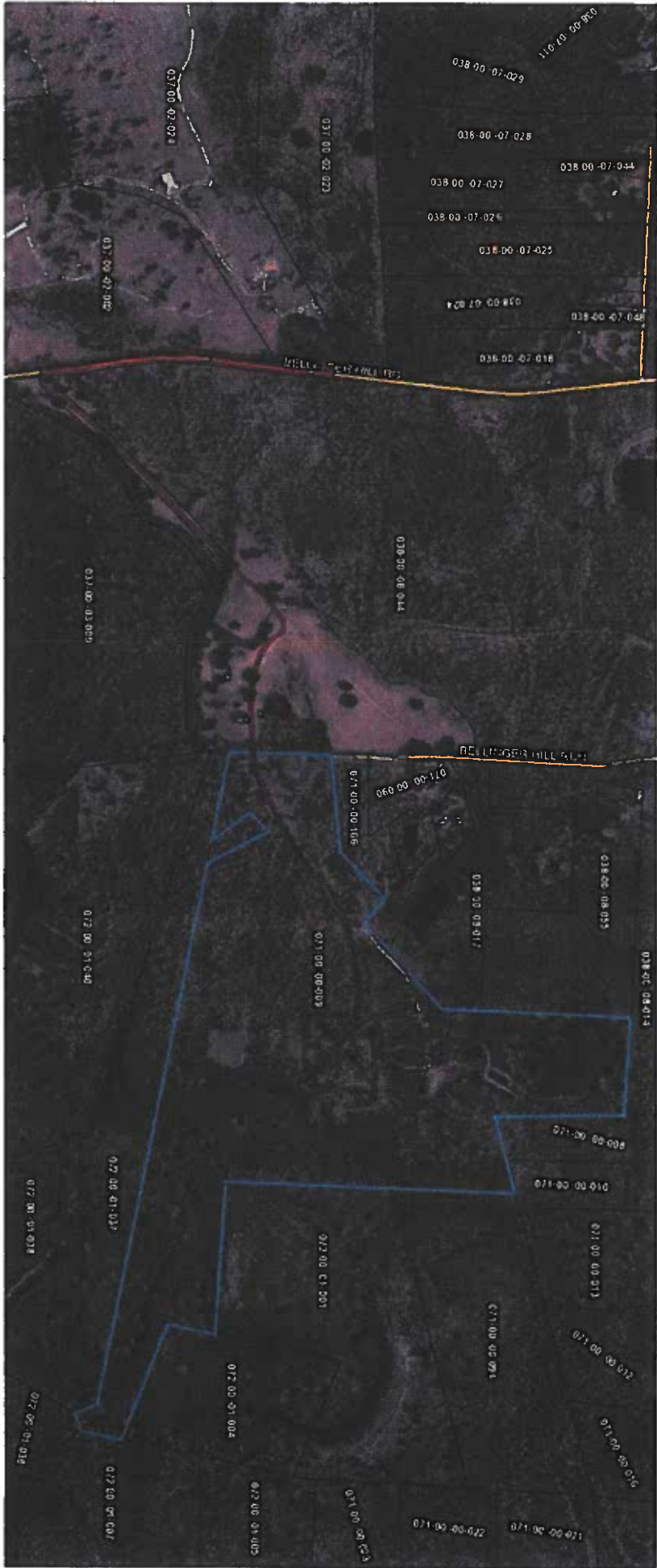
MICHAEL JIM GARDNER
LAND SURVEYOR

120 YARBROOK AVENUE
CAROLINA CITY, GEORGIA 31418
PHONE (912) 964-0282

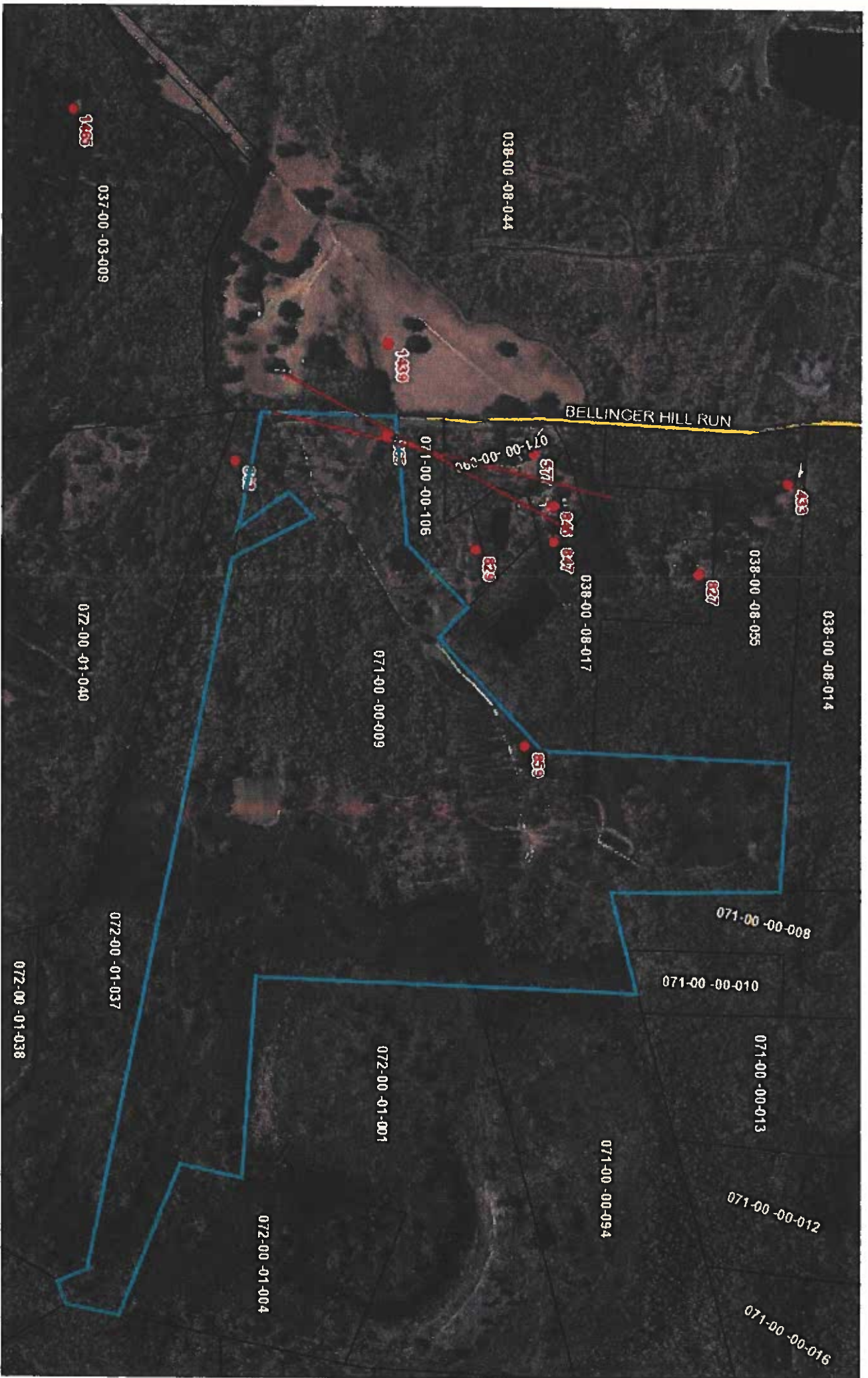
DATE OF DRAWING: DECEMBER 1, 2021
DRAWN BY: DEAN J. FARMER

NOTICE OF PROPOSED MINE: 1.501 ACRES
2. COBURN CONSTRUCTION, LLC
3. THE PROPOSED BORROW PIT
4. NEAR HARDEVILLE, JASPER COUNTY, SOUTH CAROLINA
5. DRAWING NO. 2021-001

TRUCK & TRAFFIC PLAN



TO HWY-315



1335
037-00-03-009

038-00-08-044

1333

BELLINGER HILL RUN

071-00-00-106

062-00-00-290

133

038-00-08-055

038-00-08-014

072-00-01-040

071-00-00-009

038-00-08-017

127

133

071-00-00-008

071-00-00-010

072-00-01-037

072-00-01-001

071-00-00-013

072-00-01-038

071-00-00-094

071-00-00-012

072-00-01-004

071-00-00-016

