

# AGENDA

## ITEM # 19

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

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

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

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

#### **RECITALS**

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

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

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

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

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

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

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

## ARTICLE I GENERAL

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

### Section 1.02. Definitions.

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

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

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

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

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

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

**Section 1.06. Permitted Uses.**

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

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

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

#### **Section 1.07. Development Schedule.**

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

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

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

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

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

#### **Section 1.09. Benefits and Burdens.**

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

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

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

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

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

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

## ARTICLE II REPRESENTATIONS AND WARRANTIES

### Section 2.01. Representations and Warranties of the County.

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

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

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

### Section 2.02. Representations and Warranties of the Owner.

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

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

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

### ARTICLE III DEVELOPMENT RIGHTS

#### Section 3.01. Vested Right to Develop.

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

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

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

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

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

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

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

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

(B) Notwithstanding the provisions of subsection (A) of this Section, County agrees that if County imposes a moratorium or other similar restriction that would curtail or hinder the rate at which development

can occur, then the moratorium or other similar restriction shall not apply to the Development of the Property. No moratorium or schedule for allocation or approval of any development permits as set forth in Section 3.04 hereof, or any other subsequently adopted laws and land development regulations shall affect the rights and prerogatives of the Owner under this Agreement except in conformance with Section 5.02 hereof.

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

### **Section 3.04. Development Permits.**

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

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

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

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

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

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

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

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

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

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

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

#### **ARTICLE IV DEDICATIONS AND FEES AND RELATED AGREEMENTS**

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

**Section 4.02. [RESERVED]**

**Section 4.03. Other Charges or Fees.**

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

(B) The Property shall be subject to development and/or permit fees enacted by the County that are in effect on the Agreement Date, of County-wide application and that relate to the County's costs of processing applications, issuing development permits, reviewing plans, conducting inspections, or similar type processing costs. The property shall not be subject to any additional development and/or permit fees enacted by the County after the Agreement Date, however characterized.

**Section 4.04. Infrastructure and Services.** The Parties recognize that most of the direct costs associated with the Development of the Property will be borne by the Owner, and many necessary



infrastructure improvements and services will be provided by the Owner or other governmental or quasi-governmental entities, and not by the County. For clarification, the Parties make specific note of and acknowledge the following:

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

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

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

(D) **Storm Water Management.** The Owner will construct or cause to be constructed all storm water runoff and drainage improvements within the Property required by the development of the Property. The County is not responsible for any construction, maintenance or costs associated with the storm water runoff and drainage for the Property. The applicable requirements and standards for all storm water management improvements shall be the more stringent of either the requirements and standards contained in the Laws and Land Development regulations as may be modified pursuant to Section 5.02 hereof or the requirements and standards established by the South Carolina Department of Health and Environmental Control or its successor agency. The County shall accept into its storm water management system and maintain all drainage system components within easements and rights-of-way that are constructed according to the requirements set forth herein. Storm water management improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

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

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

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

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

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

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

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

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

## ARTICLE V MISCELLANEOUS

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

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

With a Copy to (does not constitute notice):

  Haynsworth Sinkler Boyd, P.A.  
  Attn: Ron Scott, Esq.

1201 Main Street (hand delivery/courier service)  
P.O. Box 11889  
Columbia, South Carolina 29201

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

With a Copy to (does not constitute notice):

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

### **Section 5.02. Amendments.**

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

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

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

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

- a. Minor Modifications: The Director of the Planning and Building Department for the County shall have the authority to administratively approve a minor modification to this Agreement. The following modifications, adjustment, and clarifications shall constitute minor modifications to this Agreement:
  - i. Correction of any typographic or scrivener's error.

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

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

**Section 5.04. Breach of Agreement.**

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

(B) If the Owner fails to cure the breach within sixty (60) days, or if the breach cannot be cured within such 60-day period and the Owner does not commence to cure the breach within such 60-day period, and thereafter diligently pursue the same to completion, then the County Council may unilaterally terminate or modify this Agreement; provided, that prior to terminating or modifying this Agreement as provided in this section, County Council must first give the Owner the opportunity (i) to rebut the finding and determination, or (ii) to consent to amend the Agreement to meet the County Council's concerns with respect to the determination.

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

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

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

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

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

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

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

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

**Section 5.13. Construction of Agreement.** The Parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

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

assign its rights, obligations, duties, and responsibilities devolved by this Agreement on or to the County to any other person, firm, corporation, or entity.

**Section 5.15. Governing Law; Jurisdiction; and Venue.**

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

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

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

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

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

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

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



**WITNESSES:**

\_\_\_\_\_

Name:

\_\_\_\_\_

Name:

**COUNTY:**

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

\_\_\_\_\_

By: Andrew P. Fulghum  
Its: County Administrator

[COUNTY SEAL]

Attest:

\_\_\_\_\_

Wanda Simmons  
Clerk to County Council

**SOUTH CAROLINA**                    )  
  )  
**JASPER COUNTY**                    )

**ACKNOWLEDGMENT**

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

Dated: \_\_\_\_\_

\_\_\_\_\_

Notary Public for the State of South Carolina

My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]



**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

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

**EXHIBIT B**  
**DEVELOPMENT PLAN**

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

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

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

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

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

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

**EXHIBIT C**  
**DEVELOPMENT SCHEDULE**

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

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

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

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

**EXHIBIT D**  
**REQUIRED INFORMATION**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(R) a provision addressing the effects of a material breach of the agreement, consistent with the provisions of Ordinance No. 17. See Section 5.04.

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

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

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

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

**EXHIBIT E**  
**LAWS AND LAND DEVELOPMENT REGULATIONS**

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

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

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

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

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

**[insert recording date of Addendum]**

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

**RECITALS**

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

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

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

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

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

**[insert either Property Owner or Owner]**

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

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

**WHEREAS**, the Petitioner has requested and the County has approved a modification in the Development Schedule of Section 1.07. of the Development Agreement as more specifically set forth herein

below with respect to the portion of the Property more specifically identified in the legal description attached hereto as Attachment A (the “Addendum Property”).

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

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

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

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

\_\_\_\_\_  
**[insert name]**  
Director of Planning and Building  
Jasper County

Director of Planning and Building  
Dated Stamp of Approval

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

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

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

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

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



Witness:

**Property Owner:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

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

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
County, State of \_\_\_\_\_

\_\_\_\_\_  
(Witness #1 sign here)

My Commission Expires: \_\_\_\_\_

[NOTARIAL STAMP-SEAL]

**[Insert Signature Pages for Petitioner]**

**[Insert Attachment A: Legal Description of Assignment Property]**

**Exhibit G  
Form Assignment**

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

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

[insert date of Assignment]

, by

[insert name of assignor]

, (the “Assignor”), and

[insert name of assignee]

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

RECITALS

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

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

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

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

**[insert interim conveyances and assignments, if any]**

WHEREAS, on

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

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

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

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

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

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

**[insert assigned Development Rights]**

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

**[insert retained Development Rights]**

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

**[insert assigned development obligations]**

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

**[insert retained development obligations]**

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

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

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

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

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

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

**[Insert Signature Pages]**

**[Insert Attachment A: Legal Description of Assignment Property]**

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

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

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

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

**RECITALS**

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

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

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

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

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

**NOW, THEREFORE**, in consideration of the foregoing and the terms and conditions set forth in this Agreement, the receipt and sufficiency of such consideration being acknowledged by the parties, and pursuant to the South Carolina Local Government Development Agreement Act, codified in South

Carolina Code Annotated sections 6-31-10 through and including 6-31-160, as amended (collectively, “Act”) and Jasper County Ordinance No. [ ] (“Ordinance No. [ ]”), the parties to this Agreement, intending to be legally bound, agree as follows:

## ARTICLE I GENERAL

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

### Section 1.02. Definitions.

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

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

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

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

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

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

**Section 1.06. Permitted Uses.**

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

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

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

**Section 1.07. Development Schedule.**

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

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

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

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

**Section 1.08. Relationship of Parties.** This Agreement creates a contractual relationship between the Parties. This Agreement is not intended to create, and does not create the relationship of partnership, joint venture, or any other relationship wherein any one of the parties may be held responsible for the acts of any other party. This Agreement is not intended to create and does not create a relationship whereby any one of the Parties may be rendered liable in any manner for the debts or obligations of any other

party, to any person, firm, corporation, or entity whatsoever, whether the debt or obligation arises under this Agreement or outside of this Agreement.

**Section 1.09. Benefits and Burdens.**

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

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

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

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

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

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

**ARTICLE II  
REPRESENTATIONS AND WARRANTIES**

**Section 2.01. Representations and Warranties of the County.**

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

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



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

**Section 2.02. Representations and Warranties of the Owner.**

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

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

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

**ARTICLE III  
DEVELOPMENT RIGHTS**

**Section 3.01. Vested Right to Develop.**

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

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

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

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

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

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

Section 6-29-1560, as amended, or the provisions of Ordinance No. **1**, the County's ordinance relating to the Vested Rights Act.

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

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

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

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

**Section 3.04. Development Permits.**

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE IV DEDICATIONS AND FEES AND RELATED AGREEMENTS

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

### **Section 4.02. [RESERVED]**

### **Section 4.03. Other Charges or Fees.**

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

(B) The Property shall be subject to development and/or permit fees enacted by the County that are in effect on the Agreement Date, of County-wide application and that relate to the County's costs of processing applications, issuing development permits, reviewing plans, conducting inspections, or similar type processing costs. The property shall not be subject to any additional development and/or permit fees enacted by the County after the Agreement Date, however characterized.

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

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

(B) **Potable Water.** Potable water will be supplied to the Property by a well;. The Owner will construct, or cause to be constructed, all necessary water service infrastructure within the Property and the water service infrastructure will be maintained by the Owner. The County is not responsible for any construction, treatment, maintenance, or costs associated with water service or water service

infrastructure to or within the Property. The water service infrastructure is expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

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

(D) **Storm Water Management.** The Owner will construct or cause to be constructed all storm water runoff and drainage improvements within the Property required by the development of the Property. The County is not responsible for any construction, maintenance or costs associated with the storm water runoff and drainage for the Property. The applicable requirements and standards for all storm water management improvements shall be the more stringent of either the requirements and standards contained in the Laws and Land Development regulations as may be modified pursuant to Section 5.02 hereof or the requirements and standards established by the South Carolina Department of Health and Environmental Control or its successor agency. The County shall accept into its storm water management system and maintain all drainage system components within easements and rights-of-way that are constructed according to the requirements set forth herein. Storm water management improvements are expected to be implemented on a schedule consistent with the development of the Property as contained in the development schedule and as necessary to serve the development.

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

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

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

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

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

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

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

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

## ARTICLE V MISCELLANEOUS

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

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

With a Copy to (does not constitute notice):

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

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

With a Copy to (does not constitute notice):

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

### **Section 5.02. Amendments.**

(A) This Agreement may not be amended or cancelled in whole or in part except upon mutual consent of the County and the Owner. An amendment to this Agreement must be in writing. No statement, action or agreement made after the Agreement Date shall be effective to change, amend,

waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom the change, amendment, waiver, modification, discharge, termination, or abandonment is sought to be enforced.

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

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

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

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

- b. Major Modifications: major modifications are those that do not qualify as a minor modification. Major modifications must be processed and considered in the same manner as set forth in the Act.

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

**Section 5.04. Breach of Agreement.**

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

(B) If the Owner fails to cure the breach within sixty (60) days, or if the breach cannot be cured within such 60-day period and the Owner does not commence to cure the breach within such 60-day period, and thereafter diligently pursue the same to completion, then the County Council may unilaterally terminate or modify this Agreement; provided, that prior to terminating or modifying this Agreement as provided in this section, County Council must first give the Owner the opportunity (i) to rebut the finding and determination, or (ii) to consent to amend the Agreement to meet the County Council's concerns with respect to the determination.

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

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

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

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

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



municipality for the administration and enforcement of this Agreement after the date of incorporation or annexation.

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

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

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

**Section 5.13. Construction of Agreement.** The Parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

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

**Section 5.15. Governing Law; Jurisdiction; and Venue.**

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

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

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

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

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

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

[TWO SIGNATURE PAGES AND 1 EXHIBITS FOLLOW]  
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**WITNESSES:**

\_\_\_\_\_  
Carolina

Name:

\_\_\_\_\_  
Name:

**COUNTY:**

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

\_\_\_\_\_  
By: Andrew P. Fulghum  
Its: County Administrator

[COUNTY SEAL]

Attest:

\_\_\_\_\_  
Wanda Simmons  
Clerk to County Council

**SOUTH CAROLINA**                    )  
  )  
**JASPER COUNTY**                    )

**ACKNOWLEDGMENT**

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

Dated: \_\_\_\_\_

\_\_\_\_\_

Notary Public for the State of South Carolina

My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]

**EXHIBIT A**  
**LEGAL DESCRIPTION OF PROPERTY**

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

**EXHIBIT B**  
**DEVELOPMENT PLAN**

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

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

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

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

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

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

**EXHIBIT C**  
**DEVELOPMENT SCHEDULE**

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

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

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

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

**EXHIBIT D**  
**REQUIRED INFORMATION**

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

**EXHIBIT E**  
**LAWS AND LAND DEVELOPMENT REGULATIONS**

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

[NOTHING SUBSTANTIVE FOLLOWS ON THIS PAGE]

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

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

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

**[insert recording date of Addendum]**

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

RECITALS

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

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

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

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

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

**[insert either Property Owner or Owner]**

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

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

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

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

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

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

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

\_\_\_\_\_  
**[insert name]**  
Director of Planning and Building  
Jasper County

Director of Planning and Building  
Dated Stamp of Approval

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

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

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

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

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

Witness:

**Property Owner:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

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

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
County, State of \_\_\_\_\_

\_\_\_\_\_  
(Witness #1 sign here)

My Commission Expires: \_\_\_\_\_

[NOTARIAL STAMP-SEAL]

**[Insert Signature Pages for Petitioner]**

**[Insert Attachment A: Legal Description of Assignment Property]**

**Exhibit G  
Form Assignment**

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

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

[insert date of Assignment]

, by

[insert name of assignor]

, (the “Assignor”), and

[insert name of assignee]

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

RECITALS

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

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

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

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

**[insert interim conveyances and assignments, if any]**

WHEREAS, on

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

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

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

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

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

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

**[insert assigned Development Rights]**

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

**[insert retained Development Rights]**

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

**[insert assigned development obligations]**

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

**[insert retained development obligations]**

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

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

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

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

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

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

[Insert Signature Pages]

[Insert Attachment A: Legal Description of Assignment Property]



# AGENDA

## ITEM # 20

**ORDINANCE NO. O-2025-\_\_**

**AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF AD VALOREM TAX AGREEMENT BY AND BETWEEN JASPER COUNTY, SOUTH CAROLINA AND PROJECT SALMON, WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, PROVIDING FOR THE PAYMENT OF FEE-IN-LIEU OF AD VALOREM TAXES; PROVIDING FOR SPECIAL SOURCE REVENUE CREDITS; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, Jasper County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“FILOT Act”), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “State”) or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the FILOT Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”), with respect to economic development property, as defined in the FILOT Act;

**WHEREAS**, the County is authorized by Section 4-1-175 of the Multi-County Park Act and Section 4-29-68, Code of Laws of South Carolina 1976, as amended (the "Infrastructure Credit Act") to provide special source revenue credits against payments in lieu of taxes to provide reimbursement to companies in respect of investment in infrastructure enhancing the economic development of the County, including improvements to real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise; and

**WHEREAS**, CP Hardeeville, LLC (the "Developer") owns and has constructed a speculative building on property in the County more specifically described in Exhibit A hereto (the “Real Property”); and

**WHEREAS**, Project Salmon (the “Company”), intends to enter into a lease agreement with the Developer as to the Real Property and to invest over \$60,000,000 in Real Property improvements and personal property (the "Personal Property") to be located at the Real Property in order to establish a new manufacturing facility in the County (the “Project”) (collectively, the Real Property improvements and the Personal Property shall be referred to herein as the "Property"); and

**WHEREAS**, the Real Property is subject to a Fee Agreement dated February 22, 2022 (the "2022 FILOT Agreement"), which provides for a fee-in-lieu of tax transaction and a 30 year 40% special source revenue credit; and

**WHEREAS**, the County Council of Jasper County (“County Council”) has agreed to assist the Company in connection with the Project by (i) maintaining the Project in a joint county industrial and business park established by the County with an adjoining South Carolina county pursuant to Article VIII, Section 13 of the South Carolina Constitution and Section 4-1-170 of the Multi-County Park Act and (ii) pursuant to the Infrastructure Credit Act, providing certain special

source revenue credits (“Special Source Revenue Credits”) to the Company with respect to qualified Infrastructure used in the establishment and operation of the Project; and

**WHEREAS**, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Section 4-1-170 of the Multi-County Park Act, the Property has been incorporated into a multi-county park pursuant to an agreement by and between Jasper County, South Carolina and Hampton County, South Carolina, as such agreement may be further supplemented, modified, amended, or replaced from time to time; 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; and, that the Project gives 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, retention of jobs, and addition to the tax base of the County, are proper governmental and public purposes; and

**WHEREAS**, at the request of the Company and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes Agreement with the Company (the “Fee Agreement”), pursuant to which the County will provide certain incentives to the Company with respect to the Project, including (i) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; and (ii) providing Special Source Revenue Credits, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure; and

**WHEREAS**, it appears that the Fee Agreement above referred to, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered or approved by the County for the purposes intended.

**NOW, THEREFORE, BE IT ORDAINED**, by the County Council of Jasper County, in meeting duly assembled, as follows:

**Section 1. Statutory Findings.** Based on information supplied to the County by the Company, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created, and the anticipated costs and benefits to the County, and hereby finds:

(a) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;

(b) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs.

**Section 2. *Approval of Incentives; Authorization to Execute and Deliver Fee Agreement.***

The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Fee Agreement and to deliver the Fee Agreement to the Company.

**Section 3. *Further Assurances.*** The County Council confirms the authority of the Chair, the County Administrator, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Sponsors under this Ordinance and the Fee Agreement.

**Section 5. *Savings Clause.*** The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

**Section 6. *General Repealer.*** Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

**Section 7. *Effectiveness.*** This Ordinance is effective after its third reading and public hearing.

**DONE, RATIFIED AND ADOPTED** this \_\_\_ day of \_\_\_\_\_, 2025.

**JASPER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
John Kemp, Chairman of Jasper County Council

ATTEST:

\_\_\_\_\_  
Wanda Giles, Clerk  
Jasper County Council

First Reading:  
Second Reading:  
Public Hearing:  
Third Reading:

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**FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT**

**BETWEEN**

**PROJECT SALMON**

**AND**

**JASPER COUNTY, SOUTH CAROLINA**

**EFFECTIVE AS OF \_\_\_\_\_, 2025**

**SUMMARY OF CONTENTS OF  
FEE AGREEMENT**

The parties have agreed to waive the requirement to recapitulate the contents of this Fee Agreement pursuant to Section 12-44-55 of the Code (as defined herein). However, the parties have agreed to include a summary of the key provisions of this Fee Agreement for the convenience of the parties. This summary is included for convenience only and is not to be construed as a part of the terms and conditions of this Fee Agreement.

<b>PROVISION</b>	<b>BRIEF DESCRIPTION</b>	<b>SECTION REFERENCE</b>
<b>Sponsor Name</b>	Project Salmon	
<b>Project Location</b>	See Exhibit A attached hereto	
<b>Tax Map Nos.</b>		
<b>FILOT</b>		
• Phase Exemption Period	30 Years	Section 1.1
• Contract Minimum Investment Requirement	\$60,000,000	Section 1.1
• Investment Period	5 Years	Section 1.1
• Assessment Ratio	6%	Section 4.1
• Millage Rate	.440	Section 4.1
• Fixed or Five-Year Adjustable Millage	Fixed	Section 4.1
• Minimum Investment Requirement	Act Minimum Investment	Section 1.1
<b>Multicounty Park</b>	Jasper and Hampton County	
<b>Infrastructure Credit</b>		
• Brief Description	50% SSRC – see below	Section 5.1
• Credit Term	30 Years	Section 5.1
• Claw Back Information	Pursuant to a Fee Agreement between CP Hardeeville, LL and Jasper County dated as of February 22, 2022, the Property is subject to a FILOT and 40% SSRC. An additional 10% credit has been authorized for the benefit of the Company so it will receive a 50% SSRC.	Section 6.1
<b>Other Information</b>		

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**TABLE OF CONTENTS**

---

	Page
Recitals.....	1
 <b>ARTICLE I</b> <b>DEFINITIONS</b>  	
Section 1.1 Terms.....	2
 <b>ARTICLE II</b> <b>REPRESENTATIONS AND WARRANTIES</b>  	
Section 2.1 Representations, Warranties, and Agreements of the County.....	5
Section 2.2 Representations, Warranties, and Agreements of the Sponsor.....	5
 <b>ARTICLE III</b> <b>THE PROJECT</b>  	
Section 3.1 The Project.....	6
Section 3.2 Leased Property.....	6
Section 3.3 Filings and Reports.....	6
 <b>ARTICLE IV</b> <b>FILOT PAYMENTS</b>  	
Section 4.1 FILOT Payments.....	7
Section 4.2 FILOT Payments on Replacement Property.....	8
Section 4.3 Removal of Components of the Project.....	8
Section 4.4 Damage or Destruction of Economic Development Property.....	8
Section 4.5 Condemnation.....	9
Section 4.6 Calculating FILOT Payments on Diminution in Value.....	9
Section 4.7 Payment of <i>Ad Valorem</i> Taxes.....	9
Section 4.8 Place of FILOT Payments.....	9
 <b>ARTICLE V</b> <b>ADDITIONAL INCENTIVES</b>  	
Section 5.1 Infrastructure Credits.....	9
 <b>ARTICLE VI</b> <b>CLAW BACK</b>  	
Section 6.1 Claw Back.....	10

ARTICLE VII  
DEFAULT

Section 7.1	Events of Default .....	10
Section 7.2	Remedies on Default .....	11
Section 7.3	Reimbursement of Legal Fees and Other Expenses.....	11
Section 7.4	Remedies Not Exclusive .....	11

ARTICLE VIII  
PARTICULAR COVENANTS AND AGREEMENTS

Section 8.1	Right to Inspect .....	11
Section 8.2	Confidentiality .....	12
Section 8.3	Indemnification Covenants .....	12
Section 8.4	No Liability of County Personnel .....	13
Section 8.5	Limitation of Liability .....	13
Section 8.6	Assignment.....	13
Section 8.7	No Double Payment, Future Changes in Legislation.....	13
Section 8.8	Administration Expenses .....	13

ARTICLE IX  
SPONSOR AFFILIATES

Section 9.1	Sponsor and Sponsor Affiliates.....	13
-------------	-------------------------------------	----

ARTICLE X  
MISCELLANEOUS

Section 10.1	Notices .....	14
Section 10.2	Provision of Agreement for Sole Benefit of County and Sponsor .....	15
Section 10.3	Counterparts .....	15
Section 10.4	Governing Law .....	15
Section 10.5	Headings.....	15
Section 10.6	Amendments .....	15
Section 10.7	Agreement to Sign Other Documents .....	15
Section 10.8	Interpretation; Invalidity; Change in Laws .....	15
Section 10.9	Force Majeure .....	16
Section 10.10	Termination; Termination by Sponsor .....	16
Section 10.11	Entire Agreement .....	16
Section 10.12	Waiver .....	16
Section 10.13	Business Day.....	16
Section 10.14	Agreement’s Construction .....	16

Exhibit A – Description of Property  
Exhibit B – Form of Joinder Agreement



## FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT ("*Fee Agreement*") is entered into, effective, as of \_\_\_\_\_, 2025, between Jasper County, South Carolina ("*County*"), a body politic and corporate and a political subdivision of the State of South Carolina ("*State*"), acting through the Jasper County Council ("*County Council*") as the governing body of the County, and Project Salmon, a corporation organized and existing under the laws of the State of Delaware (the "*Company*"), the Company also being referred to herein as the "Sponsor".

WITNESSETH:

**WHEREAS**, Jasper County, South Carolina ("*County*"), acting by and through its County Council ("*County Council*") is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended ("*FILOT Act*"), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina ("*South Carolina*" or "*State*") or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the FILOT Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax ("*FILOT Payments*"), with respect to economic development property, as defined in the FILOT Act;

**WHEREAS**, the County is authorized by Section 4-1-175 of the Multi-County Park Act and Section 4-29-68, Code of Laws of South Carolina 1976, as amended (the "*Infrastructure Credit Act*") to provide special source revenue credits against payments in lieu of taxes to provide reimbursement to companies in respect of investment in infrastructure enhancing the economic development of the County, including improvements to real estate and personal property including machinery and equipment used in the operation of a manufacturing or commercial enterprise; and

**WHEREAS**, CP Hardeeville, LLC (the "*Developer*") owns and has constructed a speculative building on property in the County more specifically described in Exhibit A hereto (the "*Real Property*"); and

**WHEREAS**, Project Salmon (the "*Company*"), intends to enter into a lease agreement with the Developer as to the Real Property and to invest over \$60,000,000 in Real Property leasehold improvements (the "*Leasehold Improvements*") and personal property (the "*Equipment*") to be located at the Real Property in order to establish a new manufacturing facility in the County (the "*Project*") (collectively, the Leasehold Improvements and the Equipment shall be referred to herein as the "*Property*"); and

**WHEREAS**, the Real Property is subject to a Fee Agreement dated February 22, 2022 (the "*2022 FILOT Agreement*"), which provides for a fee-in-lieu of tax transaction and a 30 year 40% special source revenue credit; and

**WHEREAS**, by an ordinance enacted on [\_\_\_\_], County Council authorized the County to enter into this Fee Agreement with the Company to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Company to develop the Project in the County.

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties agree as follows:

## **ARTICLE I DEFINITIONS**

**Section 1.1. Terms.** The defined terms used in this Fee Agreement have the meaning given below, unless the context clearly requires otherwise.

“**Act**” means Title 12, Chapter 44 of the Code, and all future acts successor or supplemental thereto or amendatory of this Fee Agreement.

“**Act Minimum Investment Requirement**” means an investment of at least \$2,500,000 in the Project within five years of the Commencement Date.

“**Additional Special Source Revenue Credit**” shall have the meaning set forth in Section 5.1.

“**Administration Expenses**” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT Payments [Special Source Revenue Credits or other incentives] provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

“**Building**” means the building constructed by the Developer on the Real Property.

“**Code**” means the Code of Laws of South Carolina, 1976, as amended.

“**Commencement Date**” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2025.

“**Company**” shall mean Project Salmon and any surviving, resulting or transferee entity in any merger, consolidation or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Company.

“**Contract Minimum Investment Requirement**” means a taxable investment in certain leasehold Improvements and Equipment at the Project of not less than \$60,000,000.

“**County**” means Jasper County, South Carolina, a body politic and corporate and a political subdivision of the State, its successors and assigns, acting by and through the County Council as the governing body of the County.

“**County Council**” means the Jasper County Council, the governing body of the County.

“**Credit Term**” means the years during the Fee Term in which the Special Source Revenue Credit is applicable, as described in Section 5.1.

**“Department”** means the South Carolina Department of Revenue.

**“Diminution in Value”** means a reduction in the fair market value of Economic Development Property, as determined in Section 4.1(a)(i) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to Section 4.3 of this Fee Agreement; (ii) a casualty as described in Section 4.4 of this Fee Agreement; or (iii) a condemnation as described in Section 4.5 of this Fee Agreement.

**“Economic Development Property”** means those items of real and tangible personal property of the Project placed in service not later than the end of the Investment Period that (i) satisfy the conditions of classification as economic development property under the Act, and (ii) are identified by a Sponsor in its annual filing of a PT-300S or comparable form with the Department (as such filing may be amended from time to time).

**“Equipment”** means all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions.

**“Event of Default”** means any event of default specified in Section 7.1 of this Fee Agreement.

**“Fee Agreement”** means this Fee-In-Lieu of *Ad Valorem* Taxes and Incentive Agreement.

**“Fee Term”** means the period from the effective date of this Fee Agreement until the Final Termination Date.

**“FILOT Payments”** means the amount paid or to be paid in lieu of *ad valorem* property taxes as provided in Section 4.1.

**“Final Phase”** means the Economic Development Property placed in service during the last year of the Investment Period.

**“Final Termination Date”** means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2029, the Final Termination Date is expected to be January 15, 2060, which is the due date of the last FILOT Payment with respect to the Final Phase.

**“Improvements”** means all improvements to the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with all additions, fixtures, accessions, replacements, and substitutions.

**“Infrastructure”** means (i) the infrastructure serving the County or the Project, (ii) improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise, or (iii) such other items as may be described in or permitted under Section 4-29-68 of the Code.

**“Investment Period”** means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five (5) years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act.

**“Leasehold Improvements”** means those improvements made to the Building by or for the benefit of Project Salmon.

“**MCIP Act**” means Article VIII, Section 13(D) of the Constitution of the State of South Carolina, and Sections 4-1-170, 4-1-172, 4-1-175, and 4-29-68 of the Code.

“**Multicounty Park**” means the multicounty industrial or business park governed by that certain Agreement for the Establishment of Multi-County Industrial/Business Park between the County and Hampton County, South Carolina, as may be amended.

“**Net FILOT Payment**” means the FILOT Payment net of the Special Source Revenue Credit.

“**Phase**” means the Economic Development Property placed in service during a particular year of the Investment Period.

“**Phase Exemption Period**” means, with respect to each Phase, the period beginning with the property tax year the Phase is placed in service during the Investment Period and ending on the Phase Termination Date.

“**Phase Termination Date**” means, with respect to each Phase, the last day of the property tax year which is the 29<sup>th</sup> year following the first property tax year in which the Phase is placed in service.

“**Project**” means all the Equipment, Improvements, and Real Property improvements in the County that the Company or any other Sponsor or Sponsor Affiliate determine to be necessary, suitable, or useful by the Company or such other Sponsor or Sponsor Affiliate in connection with its investment in the County.

“**Real Property**” shall have the meaning set forth in the Recitals.

“**Removed Components**” means Economic Development Property which the Company or Sponsor, as the case may be, in its sole discretion, (a) determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.3 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to Section 4.4(c) or Section 4.5(b)(iii) of this Fee Agreement.

“**Replacement Property**” means any property which is placed in service as a replacement for any Removed Component regardless of whether the Replacement Property serves the same functions as the Removed Component it is replacing and regardless of whether more than one piece of Replacement Property replaces a single Removed Component.

“**Special Source Revenue Credit**” means the credits provided to the Sponsor pursuant to Section 12-44-70 of the Act or Section 4-1-175 of the MCIP Act and Section 5.1 of this Fee Agreement, with respect to the Economic Development Property. Special Source Revenue Credits are to be used for the payment of Infrastructure constituting real property, improvements and infrastructure before any use for the payment of Infrastructure constituting Equipment.

“**Sponsor**” means the Company and any entity that joins with the Companies and participates in the investment in, or financing of, the Project and which meet the requirements under the Act to be entitled to the benefits of this Fee Agreement with respect to its participation in the Project. An additional Sponsor must join in the Fee Agreement by that Joinder Agreement, the form of which is attached hereto as Exhibit B. The Sponsor may also be a Sponsor Affiliate.

“**Sponsor Affiliate**” means an entity that joins with or is an affiliate of a Sponsor and participates in the investment at the Project and joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit B to this Fee Agreement.

“*State*” means the State of South Carolina.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall include any and all amendments, supplements, addenda, and modifications to such agreement or document.

The term “investment” or “invest” as used in this Fee Agreement includes not only investments made by the Sponsor, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Sponsor, any other Sponsors or Sponsor Affiliates in connection with the Project through federal, state, or local grants, to the extent such investments are or, but for the terms of this Fee Agreement, would be subject to *ad valorem* taxes to be paid by the Sponsor or Sponsor Affiliates, as the case may be.

## **ARTICLE II REPRESENTATIONS AND WARRANTIES**

**Section 2.1. *Representations and Warranties of the County.*** The County represents and warrants as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The Act authorizes and empowers the County to enter into the transactions that this Fee Agreement contemplates and to carry out its obligations under this Fee Agreement. The County has duly authorized the execution and delivery of this Fee Agreement and all other documents, certificates or other agreements contemplated in this Fee Agreement and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations under this Fee Agreement.

(b) Based on representations by the Company, County Council evaluated the Project based on all relevant criteria including the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment resulting from the Project, and the anticipated costs and benefits to the County and following the evaluation, the County determined that (i) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against the County’s general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project are greater than the costs.

(c) The County identified the Project, as a “project” on November 4, 2024 by adopting an Inducement Resolution, as defined in the Act on November 4, 2024.

(d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Fee Agreement.

(e) The County has located or will take all reasonable action to locate and maintain the Project in the Multicounty Park.

**Section 2.2. *Representations and Warranties of the Sponsors.*** Each Company represents and warrants as follows:

(a) The Company is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Company intends to develop the Project for the purpose of operating a manufacturing facility and for such other purposes that the Act permits as the Company may deem appropriate.

(c) The Company's execution and delivery of this Fee Agreement and its compliance with the provisions of this Fee Agreement do not result in a default under any agreement or instrument to which the Company is now a party or by which it is bound.

(d) The Company will use commercially reasonable efforts to achieve the Contract Minimum Investment Requirement.

(e) The execution and delivery of this Fee Agreement by the County and the availability of the FILOT and other incentives provided by this Fee Agreement has been instrumental in inducing the Company to develop the Project in the County.

(f) The Company has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for the FILOT and other incentives granted by this Fee Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

### **ARTICLE III THE PROJECT**

**Section 3.1. *The Project.*** The Company intends to invest in Leasehold Improvements and Equipment, which together with the Real Property and Improvements, comprise the Project and which are anticipated to create at least the Act Minimum Investment Requirement in eligible Economic Development Property investment subject to Payments in Lieu of Taxes in the County.

**Section 3.2 *Leased Property.*** To the extent that State law allows or is revised or construed to permit leased assets including a building, or personal property to be installed in a building, to constitute Economic Development Property, then any property leased by a Sponsor is, at the election of the Sponsor, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

#### **Section 3.3. *Filings and Reports.***

(a) The Company shall file a copy of this Fee Agreement and a completed PT-443 with the Department and the Auditor, Treasurer and Assessor of the County and partner county to the Multicounty Park.

(b) On request by the County Administrator, a Sponsor shall remit to the County Administrator records accounting for the acquisition, financing, construction, and operation of the Project which records (i) permit ready identification of all Economic Development Property; (ii) confirm the dates that the Economic Development Property or Phase was placed in service; and (iii) include copies of all filings made in accordance with this Section.

### **ARTICLE IV FILOT PAYMENTS**

(a) **Section 4.1. FILOT Payments.** Pursuant to Section 12-44-50 of the Act, the Company is required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Company anticipates an initial investment of sums sufficient for the Project to qualify for a fee in lieu of tax arrangement under the Act, the County and the Company have negotiated the amount of the FILOT Payments in accordance therewith. The Company shall make FILOT Payments on all Economic Development Property which comprises the Project and is placed in service, as follows: the Company shall make FILOT Payments during the Fee Term with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual FILOT Payments shall be in accordance with the following procedure (subject, in any event, to the procedures that the Act requires):

(a) The FILOT Payment due with respect to each Phase through the Phase Termination Date is calculated as follows:

- Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Exemption Period using original income tax basis for State income tax purposes for any Real Property and Improvements without regard to depreciation; provided however, at the election of a Sponsor, the fair market value will be determined by appraisal by the Department, in which case the Real Property and Improvements will be subject to reappraisal no more than once every 5 years; and original income tax basis for State income tax purposes for any personal property less depreciation for each year allowable for property tax purposes, except that no extraordinary obsolescence shall be allowable. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Company or a Sponsor if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the Act specifically disallows.
- Step 2: Apply an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the 29 years thereafter or such longer period of years in which the Act permits the Company or a Sponsor to make annual fee payments.
- Step 3: Use a fixed millage rate equal to the millage rate in effect on June 30, 2024, which is .440, as Section 12-44-50(A)(1)(d) of the Act provides, during the Exemption Period against the taxable value to determine the amount of the Payments in Lieu of Taxes due during the Exemption Period on the payment dates that the County prescribes for such payments or such longer period of years in which the Act permits the Company or a Sponsor to make annual fee payments.

Upon election by a Company or any Sponsor to have any Real Property valued by appraisal of the Department, the Company or Sponsor, as the case may be, shall notify the County and such election shall be evidenced by an amendment to the Fee Agreement.

The calculation of the FILOT Payment must allow all applicable property tax exemptions except those excluded pursuant to Section 12-44-50(A)(2) of the Act. The Sponsor acknowledges that (i) the calculation of the annual FILOT Payment is a function of the Department and is wholly dependent on the Sponsor timely submitting the correct annual property tax returns to the Department, (ii) the County has no responsibility for the submission of returns or the calculation of the annual FILOT Payment, and (iii) failure by the Sponsor to submit the correct annual property tax return could lead to a loss of all or a portion of the FILOT and other incentives provided by this Fee Agreement.

(b) If a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties shall negotiate the reformation of the calculation of the FILOT Payments to most closely afford the Sponsors with the intended benefits of this Fee Agreement. If such order has the effect of subjecting the Economic Development Property to *ad valorem* taxation, this Fee Agreement shall terminate, and the Sponsor shall owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.7.

**Section 4.2. FILOT Payments on Replacement Property.** If a Sponsor elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the Act, the Sponsor shall make the following payments to the County with respect to the Replacement Property for the remainder of the Phase Exemption Period applicable to the Removed Component of the Replacement Property:

(a) FILOT Payments, calculated in accordance with Section 4.1, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

(b) Regular *ad valorem* tax payments to the extent the income tax basis of the Replacement Property exceeds the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

**Section 4.3. Removal of Components of the Project.** Subject to the other terms and provisions of this Fee Agreement, a Sponsor is entitled to remove and dispose of components of the Project in its sole discretion. Components of the Project are deemed removed when scrapped, sold or otherwise removed from the Project. If the components removed from the Project are Economic Development Property, then the Economic Development Property is a Removed Component, no longer subject to this Fee Agreement and is subject to *ad valorem* property taxes to the extent the Removed Component remains in the State and is otherwise subject to *ad valorem* property taxes.

**Section 4.4. Damage or Destruction of Economic Development Property.**

(a) *Election to Terminate.* If Economic Development Property is damaged by fire, explosion, or any other casualty, then a Sponsor may terminate this Fee Agreement as to such Sponsor's interest. For the property tax year corresponding to the year in which the damage or casualty occurs, the Sponsor is obligated to make FILOT Payments with respect to the damaged Economic Development Property only to the extent property subject to *ad valorem* taxes would have been subject to *ad valorem* taxes under the same circumstances for the period in question.

(b) *Election to Restore and Replace.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor does not elect to terminate this Fee Agreement, then the Sponsor may restore and replace the Economic Development Property. All restorations and replacements made pursuant to this subsection (b) are deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property.



(c) *Election to Remove*. If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to restore or replace pursuant to subsection (b), then the damaged portions of the Economic Development Property are deemed Removed Components.

#### **Section 4.5. Condemnation.**

(a) *Complete Taking*. If at any time during the Fee Term, title to or temporary use of the Economic Development Property is vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a portion of the Economic Development Property which renders continued use or occupancy of the Economic Development Property commercially unfeasible in the judgment of a Sponsor, the Sponsor shall have the option to terminate such Sponsor's interest in this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting.

(b) *Partial Taking*. In the event of a partial taking of the Economic Development Property or a transfer in lieu, the Sponsor may elect: (i) to terminate this Fee Agreement; (ii) to restore and replace the Economic Development Property, with such restorations and replacements deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) In the year in which the taking occurs, the Sponsor is obligated to make FILOT Payments with respect to the Economic Development Property so taken only to the extent property subject to *ad valorem* taxes would have been subject to taxes under the same circumstances for the period in question.

**Section 4.6. Calculating FILOT Payments on Diminution in Value.** If there is a Diminution in Value, the FILOT Payments due with respect to the Economic Development Property or Phase so diminished shall be calculated by substituting the diminished value of the Economic Development Property or Phase for the original fair market value in Section 4.1(a) of this Fee Agreement.

**Section 4.7. Payment of Ad Valorem Taxes.** If Economic Development Property becomes subject to *ad valorem* taxes as imposed by law pursuant to the terms of this Fee Agreement or the Act, then the calculation of the *ad valorem* taxes due with respect to the Economic Development Property in a particular property tax year shall: (i) include the property tax reductions that would have applied to the Economic Development Property if it were not Economic Development Property; and (ii) include a credit for FILOT Payments the Sponsor has made with respect to the Economic Development Property.

**Section 4.8. Place of FILOT Payments.** All FILOT Payments shall be made directly to the County in accordance with applicable law.

## **ARTICLE V ADDITIONAL INCENTIVES**

**Section 5.1. Special Source Revenue Credits.** To assist in paying for costs of Infrastructure, the Sponsor and any qualifying Sponsor or Sponsor Affiliate is entitled to claim a Special Source Revenue Credit to reduce certain FILOT Payments due and owing from the Sponsor to the County under this Fee Agreement. All qualifying expenses of the Sponsor during the Investment Period shall qualify for a 30-year Special Source Revenue Credit which is comprised of a 50% credit as more specifically described below. In no event may a Sponsor's aggregate Infrastructure Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor on Infrastructure.

The Real Property and Improvements, to be leased by the Company, are currently subject to the 2022 Fee Agreement which provides for a FILOT and 40% SSRC. The 40% SSRC shall also apply to the Leased Improvements and Equipment. The Company also qualifies for a 10% SSRC (the “Additional Special Source Revenue Credit”) that will apply to the Real Property and Improvements, as well as the Leasehold Improvements and Equipment.

For each property tax year in which the Special Source Revenue Credit is applicable (“*Credit Term*”), the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment. Following receipt of the bill, the Sponsor shall timely remit the Net FILOT Payment to the County in accordance with applicable law.

## **ARTICLE VI CLAW BACK**

### **Section 6.1. *Claw Back.***

(i) If, following the end of the Investment Period, the Company fails to meet the Contract Minimum Investment, the County may, in its discretion, reduce the Additional Special Source Revenue Credits by a prorated amount based upon the Company’s achievement percentage (the “Achievement Percentage”). The Achievement Percentage shall be determined as a percentage of the actual investment divided by the Contract Minimum Investment and, if less than 100%, a percentage amount equal to (1-the Achievement Percentage) shall be applied to reduce the additional Special Source Revenue Credit on a prospective basis only.

For example, (and by way of example only) if the Company invested or cause to be invested \$45,000,000 in Leasehold Improvements and Equipment at the Real Property by the end of the Investment Period, the Company’s Achievement Percentage would be 75% (i.e.,  $\$45,000,000/\$60,000,000 = 75\%$ ). Since the Company’s Achievement Percentage in this example is less than 100%, the County may, at its discretion, reduce the Additional Special Source Revenue Credits by 25% (1-the Achievement Percentage), that is from 10% to 7.5%. In this example, in the years following the end of the Investment Period, the Additional Special Source Revenue Credit would be reduced to 7.5% of FILOT Payments made with respect to the Project.

## **ARTICLE VII DEFAULT**

**Section 7.1. *Events of Default.*** The following are “Events of Default” under this Fee Agreement:

(a) Failure to make FILOT Payments, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in FILOT Payments and requesting that it be remedied;

(b) Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement;

(c) A representation or warranty made by a Sponsor which is deemed materially incorrect when deemed made;

(d) Failure by a Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under (a), above), which failure has not been cured within 30 days

after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Sponsor is diligently pursuing corrective action;

(e) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

(f) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Sponsor to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

### **Section 7.2. Remedies on Default.**

(a) If an Event of Default by a Sponsor has occurred and is continuing, then the County may take any one or more of the following remedial actions:

(i) terminate this Fee Agreement as to the defaulting Sponsor's interest; or

(ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages;

(iii) Notwithstanding anything set forth herein to the contrary, in the event the Sponsor, together with any other Sponsor or Sponsor Affiliate, fail to meet the Contract Minimum Investment Requirement, the County's sole remedy will be the clawback as provided in Article VI.

(b) If an Event of Default by the County has occurred and is continuing, a Sponsor may take any one or more of the following actions:

(i) bring an action for specific enforcement;

(ii) terminate this Fee Agreement; or

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

**Section 7.3. Reimbursement of Legal Fees and Other Expenses.** On the occurrence of an Event of Default, if a party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Fee Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

**Section 7.4. Remedies Not Exclusive.** No remedy described in this Fee Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Fee Agreement or existing at law or in equity or by statute.

## **ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS**

**Section 8.1. Right to Inspect.** The County and its authorized agents, at any reasonable time on prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

**Section 8.2. Confidentiality.** The County acknowledges that a Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“**Confidential Information**”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County pursuant to this Fee Agreement as “**Confidential Information.**” Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled Confidential Information to any other person, firm, governmental body or agency. The Sponsor acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Sponsor with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure, and to cooperate reasonably with any attempts by the Sponsor to obtain judicial or other relief from such disclosure requirement.

**Section 8.3. Indemnification Covenants.**

(a) Except as provided in paragraph (d) below, the Sponsor shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “**Indemnified Party**”) harmless against and from all liability or claims arising from the County’s execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement.

(b) The County is entitled to use counsel of its choice and the Sponsor shall reimburse the County for all of its costs, including attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in paragraph (a), above. The County shall provide a statement of the costs incurred in the response or defense, and the Sponsor shall pay the County within 30 days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

(c) The County may request the Sponsor to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Sponsor shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsor’s expense. The Sponsor is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Sponsor is not entitled to settle any such claim without the consent of that Indemnified Party.

(d) Notwithstanding anything in this Section or this Fee Agreement to the contrary, the Sponsor is not required to indemnify any Indemnified Party against or reimburse the County for costs arising from any claim or liability (i) occasioned by the acts of that Indemnified Party, which are unrelated to the execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement, or the administration of its duties under this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement; or (ii) resulting from that Indemnified Party’s own negligence, bad faith, fraud, deceit, or willful misconduct.

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the

circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

**Section 8.4. *No Liability of County Personnel.*** All covenants, stipulations, promises, agreements and obligations of the County contained in this Fee Agreement are binding on members of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse for the payment of any moneys under this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Fee Agreement or for any claims based on this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity.

**Section 8.5. *Limitation of Liability.*** The County is not liable to the Sponsors for any costs, expenses, losses, damages, claims or actions in connection with this Fee Agreement, except from amounts received by the County from the Sponsors under this Fee Agreement. Notwithstanding anything in this Fee Agreement to the contrary, any financial obligation the County may incur under this Fee Agreement is deemed not to constitute a pecuniary liability or a debt or general obligation of the County.

**Section 8.6. *Assignment.*** A Sponsor may assign its interest in this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not be unreasonably withheld. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

**Section 8.7. *No Double Payment; Future Changes in Legislation.*** Notwithstanding anything contained in this Fee Agreement to the contrary, and except as expressly required by law, the Sponsor is not required to make a FILOT Payment in addition to a regular *ad valorem* property tax payment in the same year with respect to the same piece of Economic Development Property. A Sponsor is not required to make a FILOT Payment on Economic Development Property in cases where, absent this Fee Agreement, *ad valorem* property taxes would otherwise not be due on such property.

**Section 8.8. *Administration Expenses.*** The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in an amount not to exceed \$7,500. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

## **ARTICLE IX SPONSOR AND SPONSOR AFFILIATES**

**Section 9.1. *Sponsor and Sponsor Affiliates.*** The Sponsor 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 Act, which Sponsors or Sponsor Affiliates shall be persons who join with the Company and other Sponsors 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. All other Sponsor or Sponsor Affiliates who otherwise meet the requirements of Section 12-44-30 (19) or (20) and Section 12-44-130 of the Act are subject to the consent of the County, which consent shall not be unreasonably withhold. 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, to the extent permitted by Section 12-44-30(19) of the Act, all investment by such Sponsors and Sponsor Affiliates during the Investment Period shall qualify for the FILOT pursuant to Section 4.1 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Contract Minimum Investment Requirement by the end of the Investment Period. A 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 9.01 in accordance with Section 12-44-130(B) of the Act. The parties agree that, if any Sponsor or Sponsor Affiliate ceases to become a party to this Agreement, the Agreement shall continue to remain in effect with respect to any remaining Sponsors or Sponsor Affiliates. The Sponsor's or Sponsor Affiliate's joining in the investment at the Project will be effective on delivery of a Joinder Agreement, the form of which is attached as Exhibit B, executed by the Sponsor or Sponsor Affiliate, as the case may be, to the County.

**ARTICLE X  
MISCELLANEOUS**

**Section 10.1. Notices.** Any notice, election, demand, request, or other communication to be provided under this Fee Agreement is effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms of this Fee Agreement require receipt rather than sending of any notice, in which case such provision shall control:

**IF TO THE COMPANY:**

Project Salmon

Attn:

**WITH A COPY TO (does not constitute notice):**

Haynsworth Sinkler Boyd, P.A.  
Attn: Gary W. Morris  
1201 Main Street, Suite 2200  
Columbia, SC 29201

**IF TO THE COUNTY:**

Jasper County, South Carolina  
Attn: County Administrator  
PO Box 1149  
358 Third Avenue,  
Ridgeland, SC 29936

**WITH A COPY TO (does not constitute notice):**

Parker Poe Adams & Bernstein  
Attn: Ray Jones  
1221 Main Street, Suite 1100  
Columbia, SC 29201

**Section 10.2. Provisions of Agreement for Sole Benefit of County and Sponsor.** Except as otherwise specifically provided in this Fee Agreement, nothing in this Fee Agreement expressed or implied confers on any person or entity other than the County and the Sponsor any right, remedy, or claim under or by reason of this Fee Agreement, this Fee Agreement being intended to be for the sole and exclusive benefit of the County and the Sponsor.

**Section 10.3. Counterparts.** This Fee Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

**Section 10.4. Governing Law.** South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Fee Agreement to the laws of another jurisdiction, governs this Fee Agreement and all documents executed in connection with this Fee Agreement.

**Section 10.5. Headings.** The headings of the articles and sections of this Fee Agreement are inserted for convenience only and do not constitute a part of this Fee Agreement.

**Section 10.6. Amendments.** This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

**Section 10.7. Agreement to Sign Other Documents.** From time to time, and at the expense of the Sponsor, to the extent any expense is incurred, the County agrees to execute and deliver to the Sponsor such additional instruments as the Sponsor may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

**Section 10.8. Interpretation; Invalidity; Change in Laws.**

(a) If the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, then the parties intend that the interpretation of this Fee Agreement be done in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the Act, to the extent not inconsistent with any of the explicit terms of this Fee Agreement.

(b) If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Fee Agreement are unimpaired, and the parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Fee Agreement so as to afford the Sponsor with the maximum benefits to be derived under this Fee Agreement, it being the intention of the County to offer the Sponsor the strongest inducement possible, within the provisions of the Act, to locate the Project in the County.

(c) The County agrees that in case the FILOT incentives described in this Fee Agreement are found to be invalid and the Sponsor does not realize the economic benefit it is intended to receive from the County under this Fee Agreement as an inducement to locate in the County, the County agrees to negotiate with the Sponsor to provide a special source revenue credit to the Sponsor (in addition to the Special Source Revenue Credit explicitly provided for above) to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

**Section 10.9. Force Majeure.** The Sponsor is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Sponsor's reasonable control.

**Section 10.10. Termination; Termination by Sponsor.**

(a) Unless first terminated under any other provision of this Fee Agreement, this Fee Agreement terminates on the Final Termination Date.

(b) The Sponsor is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project on providing the County with 30 days' notice.

(c) Any monetary obligations due and owing at the time of termination and any provisions which are intended to survive termination, survive such termination.

(d) In the year following termination, all Economic Development Property is subject to *ad valorem* taxation or such other taxation or payment in lieu of taxation that would apply absent this Fee Agreement. The Sponsor's obligation to make FILOT Payments under this Fee Agreement terminates to the extent of and in the year following the year the Sponsor terminates this Fee Agreement pursuant to this Section.

**Section 10.11. Entire Agreement.** This Fee Agreement expresses the entire understanding and all agreements of the parties, and neither party is bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery of this Fee Agreement.

**Section 10.12. Waiver.** Either party may waive compliance by the other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

**Section 10.13. Business Day.** If any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which the party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Fee Agreement, and no interest will accrue in the interim.

**Section 10.14. Agreement's Construction.** Each party and its counsel have reviewed this Fee Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Fee Agreement or any amendments or exhibits to this Fee Agreement.

*[Signature pages follow]* **IN WITNESS WHEREOF**, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk of the County Council; and the Company has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

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**JASPER COUNTY, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
County Council Chair  
Jasper County, South Carolina

**ATTEST:**

By: \_\_\_\_\_  
Clerk to County Council  
Jasper County, South Carolina

*[Signature Page 1 to Fee in Lieu of Ad Valorem Taxes [and Incentive] Agreement]*

**PROJECT SALMON**

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

*[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes [and Incentive] Agreement]*

**EXHIBIT A**  
**PROPERTY DESCRIPTION**

**EXHIBIT B (see Section 9.1)**  
**FORM OF JOINDER AGREEMENT**

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective \_\_\_\_\_m 2021 (“Fee Agreement”), between Jasper County, South Carolina (“County”) and Project Salmon.

**1. Joinder to Fee Agreement.**

[\_\_\_\_\_], a [STATE] [corporation]/[limited liability company]/[limited partnership] authorized to conduct business in the State of South Carolina, hereby (a) joins as a party to, and agrees to be bound by and subject to all of the terms and conditions of, the Fee Agreement as if it were a Sponsor [except the following: \_\_\_\_\_]; (b) shall receive the benefits as provided under the Fee Agreement with respect to the Economic Development Property placed in service by the Sponsor Affiliate as if it were a Sponsor [except the following \_\_\_\_\_]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsor/Sponsor Affiliate by the Sponsor for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsor/Sponsor Affiliate under the Fee Agreement and Section 12-44-30(18), Section 12-44-30(20) and Section 12-44-130 of the Act.

[As a Sponsor, \_\_\_\_\_ hereby further agrees to fully perform all of the obligations of the Sponsor set forth in the Fee Agreement.]

**2. Capitalized Terms.**

Each capitalized term used, but not defined, in this Joinder Agreement has the meaning of that term set forth in the Fee Agreement.

**3. Representations of the Sponsor Affiliate.**

The Sponsor/Sponsor Affiliate represents and warrants to the County as follows:

(a) The Sponsor/Sponsor Affiliate is in good standing under the laws of the state of its organization, is duly authorized to transact business in the State (or will obtain such authority prior to commencing business in the State), has power to enter into this Joinder Agreement, and has duly authorized the execution and delivery of this Joinder Agreement.

(b) The Sponsor/Sponsor Affiliate’s execution and delivery of this Joinder Agreement, and its compliance with the provisions of this Joinder Agreement, do not result in a default, not waived or cured, under any agreement or instrument to which the Sponsor/Sponsor Affiliate is now a party or by which it is bound.

(c) The execution and delivery of this Joinder Agreement and the availability of the FILOT and other incentives provided by this Joinder Agreement has been instrumental in inducing the Sponsor/Sponsor Affiliate to join with the Company in the Project in the County.

**4. Governing Law.**

This Joinder Agreement is governed by and construed according to the laws, without regard to principles of choice of law, of the State of South Carolina.

**5. Notice.**

Notices under Section 10.1 of the Fee Agreement shall be sent to:

[\_\_\_\_\_]

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement to be effective as of the date set forth below.

\_\_\_\_\_  
Date

**PROJECT SALMON**

Name of Entity

By: \_\_\_\_\_

Its: \_\_\_\_\_

IN WITNESS WHEREOF, the County acknowledges it has consented to the addition of the above-named entity as a Sponsor Affiliate under the Fee Agreement effective as of the date set forth above.

**JASPER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
By: \_\_\_\_\_

Its: \_\_\_\_\_

AGENDA

ITEM # 21

Administrator's Report



## OFFICE OF THE JASPER COUNTY ADMINISTRATOR

---

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

Andrew P. Fulghum  
County Administrator

[afulghum@jaspercountysc.gov](mailto:afulghum@jaspercountysc.gov)

Tisha L. Williams  
Executive Assistant

[twilliams@jaspercountysc.gov](mailto:twilliams@jaspercountysc.gov)

### **Administrator's Report February 18, 2025**

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1. Exit 3:  
I will provide a brief update on the project.
2. Short-term Rentals:  
Staff will provide a brief update on business license enforcement efforts which have led to shutting down some short-term rental operations due to zoning restrictions.
3. Overages from Delinquent Tax Sales:  
I will review correspondence received from Reverend Allen Galloway and my response to him as he requested. Details follow this report.
4. FY 2026 Proposed Budget Timeline:  
Ms. Burgess will present a proposed budget timeline for discussion.

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

Reverend Allen Galloway  
P.O. Box 1858 Ridgeland, SC, 29936  
Office: 843-726-8697 ~ Cell: 843-812-4430

January 9, 2025

Mr. Andrew Fulghum  
County Administrator  
PO Box 1149  
Ridgeland, SC 29936

Subject: Outcome of the 2024 Delinquent Tax Sale

Dear Mr. Fulghum:

This is a follow-up to a discussion during the May 6, 2025 County Council meeting in regard to late property taxes and delinquent tax sales. The most recent delinquent tax sale occurred in November 2024. Accordingly, the purpose of this communication is to inquire about the County's policy for "overages" that result from delinquent tax sales.

Questions

- 1) Of those properties sold during the November 2024 tax delinquent sale and sales in previous years, in how many cases were there overages?
- 2) What is the current policy for addressing overages? In other words, what type actions does the County take in attempting to reimburse funds collected in excess of the taxes owed? For example:
  - a. Does the county contact such individuals by mail?
  - b. If contact by US mail is not successful, does the county make a listing of such individuals available on their website?
  - c. Does the county announce the availability of "overage" funds in a local newspaper?

I would greatly appreciate if the answers to the questions above can be discussed during a scheduled Jasper County Council meeting in January or February 2025.

Yours sincerely,

*Rev. Allen Galloway*

Rev. Allen Galloway

cc: Members of the Forfeited Land Commission  
- County Treasurer (Michael T. Skinner)  
- Auditor (Megan Horton)  
- Registrar of Deeds (Vanessa F. Wright)  
- County Council Chairperson (John Kemp) – [jkemp@jaspercountysc.gov](mailto:jkemp@jaspercountysc.gov)  
Clerk to County Council (Wanda Simmons) [wsimmons@jaspercountysc.gov](mailto:wsimmons@jaspercountysc.gov)





## OFFICE OF THE JASPER COUNTY ADMINISTRATOR

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

Andrew P. Fulghum  
County Administrator

[afulghum@jaspercountysc.gov](mailto:afulghum@jaspercountysc.gov)

Tisha L. Williams  
Executive Assistant

[twilliams@jaspercountysc.gov](mailto:twilliams@jaspercountysc.gov)

February 6, 2025

***VIA Hand Delivery***

Reverend Allen Galloway  
PO Box 1858  
Ridgeland, South Carolina 29936

Re: Letter of Response – Outcome of the 2024 Delinquent Tax Sale

Dear Reverend Galloway:

Thank you for your inquiry. Here are some short answers to your questions, and I will also discuss this information at our February 18<sup>th</sup> County Council Meeting.

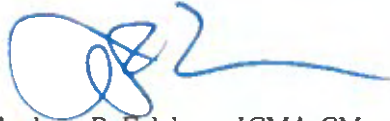
1. Of those properties sold during the November 2024 tax delinquent sale and sales in previous years, in how many cases were there overages? **See attached spreadsheet for tax sale years prior to 2022. There were (13) deeds prepared for the 2022 tax sale which produced overages, shown on a separate sheet. Tax deeds from the properties sold at the 2023 tax sale, whose redemption period just expired, are just now being processed. There are approximately 25 properties, some of which may not have a deed prepared if a defect in the process is discovered as part of the deed preparation process and the bid has to be refunded.**
2. What is the current policy for addressing overages? In other words, what type actions does the County take in attempting to reimburse funds collected in excess of the taxes owed? For example:
  - a. Does the county contact such individuals by mail? **Besides the certified mailings done 20 to 45 days prior to the end of the redemption period, after the tax deeds are prepared and delivered, the sale proceeds remaining after reconciliation for fees and costs are determined. A letter is sent to the last owner of record at the time of the sale after reconciliation.**

b. If contact by US mail is not successful, does the county make a listing of such individuals available on their website? **The list is not posted on the website. The list is made available under the Freedom of Information Act, which requires an affirmation that the information is not being requested for commercial solicitation. Two Court Orders from Aiken County are provided to illustrate how commercial solicitation firms can take advantage of the ill-informed and vulnerable citizens.**

c. Does the county announce the availability of "overage" funds in a local newspaper? **No.**

. If I may be of further assistance, please feel free to contact me.

Sincerely,



Andrew P. Fulghum, ICMA-CM

Cc: Members of the Forfeited Land Commission  
Mr. Michael Skinner, County Treasurer  
Ms. Megan Horton, County Auditor  
Ms. Vanessa Wright, Register of Deeds  
Mr. John Kemp, County Council Chairman  
Ms. Wanda Giles, Clerk to County Council

JASPER COUNTY TAX COLLECTOR - TAX SALE OVERAGES

TAX SALE YEAR	PROPERTY OWNERS NAME	MAP#	AMOUNT
2010	BAKER JESSIE KENNETH	046-32A-04-007	\$ 149.00
2010	CARABALLO MARIA C/O TOM CREWS	013-00-02-019	\$ 2,258.37
2010	FULTON CHARLES R	046-00-05-140	\$ 491.52
2010	GORE BOBBY	064-27-02-002	\$ 300.38
2010	HARRISON HENRY \$ BAR	014-00-02-017	\$ 64.64
2010	HORTON WILLIAM LIFE ESTATE	050-00-04-005	\$ 1,674.49
2010	JACKSON ANGNES HEIRS	064-15-02-001	\$ 774.84
2010	JEROME JENKINS	016-00-06-012	\$ 3,710.57
2010	MCCALL LEVY & SUSIE	059-00-02-013	\$ 101.77
2010	ORR DOLLY HEIRS	021-00-02-056	\$ 356.92
2010	ORR NURVILLE HEIRS	021-00-02-051	\$ 393.32
2010	REED ROBERT	014-36-00-021	\$ 181.09
2010	STEVENSON REGINALD & SHIRLEY	050-00-02-059	\$ 122.13
2011	FULTON JAMES HEIRS	046-00-05-127	\$ 674.68
2011	GARMONY ROSELLA	046-00-02-025	\$ 258.75
2011	HODGE WILLIAM P	039-00-06-150	\$ 305.06
2011	LOTT HENRY	021-00-02-063	\$ 4.08
2011	PINCKNEY RAMONA	062-47-00-035	\$ 166.82
2011	SMITH NICOLE J	085-01-00-041	\$ 5.40
2012	CLAY HENRY AND LILA	029-47-02-007	\$ 135.82
2012	JBRE LLC	091-01-00-083	\$ 437.47
2012	LEBLANC TONY J	091-01-00-114	\$ 28.05
2012	SHELLMAN WILLIAM	046-00-02-045	\$ 57.10
	TOTAL		\$ 12,652.27
2013	BRANTLEY BARBARA ANN	014-00-03-016	\$ 493.57
2013	BRANTLEY JETHRO	014-00-03-029	\$ 122.28
2013	DARIEN HULIE	020-00-03-009	\$ 9.56
2013	GREEN FRANK	013-00-02-050	\$ 304.81
2013	HARRIS BETTY & ROBERT	063-24-11-028	\$ 29.01
2013	HARRIS BETTY & ROBERT	063-24-11-029	\$ 29.01
2013	HEYWARD RICHARD JR	063-41-04-009	\$ 1,280.93

2013	JOHNSON HAKIM A & KATHY B	085-06-04-009	\$	911.45	
2013	JOHNSON ROBERT	065-00-03-002	\$	695.48	
2013	JONES ZACK SR HEIRS	021-00-03-014	\$	0.60	
2013	KENNEDY BETTY	046-00-05-122	\$	237.90	
2013	KIPA STEVEN M & KIMBERLY A K	091-01-00-076	\$	164.85	
2013	PARKER SHIRLEY	089-00-03-008	\$	124.37	
2013	SCOTT DAVID & HERBERT SCOTT	063-22-02-008	\$	9,776.23	
2013	SHERMAN JESSEE T	084-33-00-010	\$	13.85	
2013	SIMCO ENTERPRISES	088-00-04-063	\$	3.16	
2013	SMITH ROBERT & ROBERTA	059-00-02-016	\$	186.80	
2013	TERRY MATTHEWS A	091-01-00-085	\$	2.69	
2013	WEAVER TIFFANY & ERIC	063-25-04-005	\$	0.72	
2013	WEAVER TIFFANY & ERIC	063-25-04-006	\$	10.97	
2013	WHITE JOHN F JR	038-00-06-121	\$	45.45	
2013	WRIGHT E;IZA HEIRS	063-40-02-006	\$	30.06	
2013	YOUNG HENRIETTA TURNER	085-00-07-008	\$	2.52	
	TOTAL		\$	14,476.27	
2015	ALSTON LOUIS & CHARLOTTE	038-00-06-098	\$	4,560.23	
2015	BENNETT JONATHAN OTTA ETAL	003-00-02-047	\$	380.21	
2015	BING TIMOTHY J ETAL	039-00-09-052	\$	14.08	
2015	BISHOP A J HEIRS	028-00-03-069	\$	2,065.52	
2015	BROWDER M J ETAL	046-00-03-036	\$	379.85	
2015	CARSWELL TONYA ETAL	039-00-06-235	\$	2,192.89	
2015	MARLENE CHISOLM	039-01-00-067	\$	418.74	
2015	CIULIS MICHAEL B	091-01-00-067	\$	2,092.83	
2015	CREAMER JOYCE	091-01-00-019	\$	1,411.93	
2015	DELOACH MEDICUS	060-00-02-067	\$	234.86	
2015	GILMORE THOMAS	091-00-02-005	\$	5.89	
2015	GILMORE THOMAS	091-00-02-006	\$	5.56	
2015	GIORDANO JOHN L	091-01-00-003	\$	7.25	
2015	GREENBERG JOSEPH B	042-00-05-039	\$	1,890.96	
2015	GRIMALDO ROSALINA	039-00-06-199	\$	21.92	
2015	HEYWARD MAYBELL ETAL	063-41-02-008	\$	15.33	

2015	HOME SERVICING LLC	058-03-00-014	\$	4,023.39	
2015	BROWN OTIS	013-*00-02-011	\$	596.40	
2015	JACKSON SOLOMON HEIRS	091-00-01-063	\$	21.58	
2015	JACKSON WILLIE JR	029-44-03-016	\$	28.38	
2015	JOHNSON LUCILLE DICKERSON	040-00-02-068	\$	16.70	
2015	PINCKNEY ADELAIDE B HEIRS	046-00-01-057	\$	284.09	
2015	PRESSLEY JANIE ALBERTHA	046-00-01-019	\$	62.91	
2015	RAY TIMOTHY R & WENDY F	072-00-01-042	\$	2,727.28	
2015	ROWELLS STEVEN GREGORY	041-06-06-002	\$	241.46	
2015	SCOTT SHENISE M	039-00-05-005	\$	297.58	
2015	SEYLE RHONDELLE R	029-47-02-012	\$	488.15	
2015	SEYLE RHONDELLE R	029-47-04-003	\$	20.77	
2015	SHULER ROSEMELLE M	046-32A-03-008	\$	67.04	
2015	SIMMONS WILLE	042-00-04-015	\$	38.35	
2015	TAYLOR PAUL LEE	015-00-02-020	\$	923.77	
2015	WILLIAMS RICHARD	037-00-04-009	\$	1,434.20	
	TOTAL		\$	26,970.10	
2016	ADDISON JAMES J	015-00-01-008	\$	4.08	
2016	ASHBY RHONDA & STEPHEN	090-08-01-001	\$	18,448.37	
2016	BANK OF NORTH CAROLINA	063-24-11-036	\$	8.91	
2016	BOULINEAU BRYAN	096-12-00-018	\$	7,385.86	
2016	BRANTLEY SHARON DAVIS	015-00-02-024	\$	587.95	
2016	BROWN ARCHIE SR	028-00-03-020	\$	0.89	
2016	BRYANT HERMAN JR HEIRS	039-00-09-041	\$	2,213.81	
2016	BURRISON DAVID	046-00-01-053	\$	566.90	
2016	CD POST CONSTRUCTION INC	091-01-00-017	\$	2,420.21	
2016	CLARK WILLIE HEIRS	063-21-02-005	\$	528.23	
2016	CLARK WILLIE HEIRS	063-21-03-008	\$	1,271.81	
2016	CLELAND ROBERT F JR	020-00-02-031	\$	1,259.25	
2016	CLEVELAND LUKE BUTLER	063-18-01-020	\$	12.56	
2016	CLEVELAND LUKE BUTLER	063-18-01-021	\$	24.33	
2016	DAVIS FRANK HEIRS	088-00-02-036	\$	479.21	
2016	DAVIS MARION	063-24-14-010	\$	8,725.24	

2016	DELOACH MINNIE	018-00-01-037	\$	780.07	
2016	ELLINGTON ELEANOR DORINE ETAL	063-22-02-006	\$	5,763.38	
2016	FERNELIUS DONALD D SURV	084-01-00-045	\$	666.89	
2016	FIRST FEDERAL OF SC FSB	058-00-02-023	\$	590.93	
2016	GARRETT HENRY HEIRS	060-00-05-032	\$	588.35	
2016	GILLISON MINNIE ETAL	015-00-02-046	\$	7,411.53	
2016	GIORDANO JOHN L & KRISTIN P	091-01-00-039	\$	4,400.91	
2016	GRANT GERLINE ETAL	046-00-03-002	\$	492.89	
2016	GREGORY QUEEN ESTHER R	085-02-00-003	\$	2,456.81	
2016	HORTON MARIE Y ETAL	051-00-09-017	\$	1,505.60	
2016	HYLAND ERNESTINE B	013-00-02-126	\$	241.35	
2016	JENKINS MERRICK JR ETAL	015-00-02-059	\$	694.51	
2016	JOHNSON JAMES	063-21-03-007	\$	47.77	
2016	JOHNSON ROBERT F	085-00-05-023	\$	0.23	
2016	KIPA STEPHEN M & KIMBERLY A K	091-01-00-037	\$	7,020.21	
2016	KNIPHER RICHARD R & JENNETTE J	029-43-06-005	\$	1,533.47	
2016	LAWYER WESLEY J	018-00-02-009	\$	571.41	
2016	MAXWELL WILLIE & CHRISTINIA	029-39-07-031	\$	9.73	
2016	MENEES MARK PHILLIP	091-01-00-065	\$	5,087.04	
2016	MILEY ROBERT W	091-01-00-059	\$	9,191.60	
2016	MIMS DONALD E SR	003-00-02-010	\$	1,262.59	
2016	MYRTLE PLANTATION PARTNERSHIP	040-00-02-098	\$	2,508.28	
2016	OREILLY RICHARD &	091-01-00-082	\$	6,418.89	
2016	PRAYLOW TERRANCE	014-01-00-018	\$	670.48	
2016	RAYSOR LAMAR & TANIKA L	014-00-01-043	\$	925.69	
2016	RILEY HATTIE	046-00-02-026	\$	27.60	
2016	SMITH JANIE	063-31-03-016	\$	389.10	
2016	SMIT VIOLA BOTD	029-46-01-020	\$	18,422.35	
2016	WRIGHT BESSIE M	046-00-02-004	\$	763.15	
	TOTAL		\$	124,380.42	
2017	BOLDEN WILLIAM & VICTORIA	085-00-01-054	\$	1,387.38	
2017	BRISBANE MARY & JULIAN	050-00-03-017	\$	2,932.01	
2017	BALDWIN JOE	046-00-05-033	\$	866.28	

2017	BROWN GUS		016-00-03-024	\$	1,632.88	
2017	BUTLER CHARLENE		016-00-02-029	\$	419.98	
2017	CARSWELL NATHANIEL JR ETAL		039-00-06-234	\$	4,258.49	
2017	CLINKSCALES EVELYN T		046-00-07-019	\$	1,388.33	
2017	GRANT JEROLINE		047-00-01-003	\$	377.48	
2017	GRIFFIN TRAVIS ROLANDO		014-00-02-002	\$	480.06	
2017	HALL FLORENCE & KENNETH GALMON		046-00-04-012	\$	3,822.86	
2017	HEYWARD EARNEST C ETAL		038-00-06-085	\$	1,809.53	
2017	HEYWARD ZENA HEIRS		039-00-06-028	\$	1,084.27	
2017	KEIFFER C J		028-00-03-050	\$	17,645.54	
2017	KEIFFER CHARLES BRADFORD		028-00-03-128	\$	3,122.54	
2017	LOWTHER EDWARD L JR		047-00-03-018	\$	991.04	
2017	PINCKNEY KENYA		021-00-02-039	\$	9,676.66	
2017	POLLINS LOUIS ETAL		016-00-03-050	\$	18.16	
2017	SEYMORE MARGARET		059-00-02-018	\$	2,271.74	
2017	SIMMONS CURTIS		026-00-01-008	\$	1,861.62	
2017	STANLEY MONON		051-00-05-022	\$	230.79	
2017	WALLACE CHATERIA & CHADRICK		046-00-05-040	\$	4,785.66	
2017	WIGGINS HASKELL		041-03-02-011	\$	291.72	
2017	WRIGHT DAVID		046-00-02-005	\$	2,256.00	
2017	YOUNG HENRY		039-09A-00-011	\$	41.96	
	TOTAL			\$	63,652.98	
2018	CARLSON RICHARD		029-47-04-006	\$	1,120.85	
2018	CARLSON RICHARD		090-01-00-009	\$	1,241.84	
2018	CLARK SADIE		064-28-01-030	\$	9,787.49	
2018	CLAYTON EMIMA		046-00-03-009	\$	1,775.13	
2018	DANCY HAYWARD		029-40-01-003	\$	432.55	
2018	FLORES MARY JESSICA		085-09-00-014	\$	4,946.75	
2018	FREDRIC BESSIE ETAL		016-00-02-014	\$	4,266.11	
2018	GIORDANO JOHN L & KRISTIN P		091-01-00-087	\$	820.36	
2018	JENKINS LILLIE MAE ETAL		046-00-01-075	\$	591.55	
2018	JOHNSON LOUISE & MARY SAUNDERS		064-00-07-010	\$	2,094.13	
2018	MITCHELL KATHERINE		058-00-04-003	\$	1,137.50	

2018	MORGAN SPENCER L	091-01-00-051	\$	292.36	
2018	REID ROSE M	021-00-03-026	\$	63.87	
2018	RHETT ELIZABETH ETAL	087-00-02-022	\$	54.72	
2018	RIVERS JOE JAMAR ETAL	050-00-02-054	\$	1.63	
2018	SANTIAGO ADALID SUASTEGUI	071-01-00-101	\$	862.15	
2018	TAYLOR JAMES F REVOCABLE TRUST	062-12-01-011	\$	1,988.00	
2018	WILLIAMS MIGNON & MICHELLE	046-38B-01-028	\$	418.09	
2018	WILLIAMS RUTHELL	014-00-01-009	\$	1,198.17	
2018	ZINNERMAN JAMIE L	085-06-03-004	\$	506.08	
	TOTAL		\$	33,599.33	
2019	BONAPARTE DOROTHY P	025-00-03-025	\$	4,105.24	
2019	BROWDER M J ETAL	046-00-03-036	\$	414.55	
2019	BROWN J C	014-00-02-011	\$	2,041.12	
2019	COXWELL MICHAEL	062-49-00-006	\$	4.06	
2019	DELOACH CLIFFORD	029-39-07-025	\$	7,184.47	
2019	DINGLE LEON JR ETAL	050-00-03-005	\$	1,809.80	
2019	DRAYTON EVERETTE R L	046-00-03-064	\$	3,431.89	
2019	FLORES MARY JESSICA	085-09-00-017	\$	6,052.72	
2019	HARRELL HATTIE MAE	063-24-16-001	\$	9,853.51	
2019	KING JOHN	060-00-05-056	\$	40.00	
2019	MELLOW ANDERSON	042-00-02-023	\$	3,308.74	
2019	RILEY BRYAN	085-01-00-041	\$	11,689.73	
2019	RILEY FELISA	029-38-04-014	\$	1,189.78	
2019	RYAN JOHNNY HEIRS	087-00-02-052	\$	1,015.96	
2019	SCOTT WAY REALTY LLC	029-43-05-036	\$	720.41	
2019	SCOTT WAY REALTY LLC	029-43-05-050	\$	4,728.28	
2019	SCOTT WAY REALTY LLC	029-43-05-021	\$	7.37	
2019	SINGLETON ROBERT LEE	038-00-07-012	\$	1,553.30	
2019	THOMPSON GLENN	029-37-00-013	\$	16,417.70	
2019	WILLIAMS ANNA	016-00-02-004	\$	4,269.77	
2019	WELLS FARGO LAND	029-39-07-015	\$	14.53	
2019	WELLS FARGO LAND	029-39-07-014	\$	98.94	
2019	WYNDHAM OSSIE LEE	062-17-01-004	\$	25,261.42	

105,213.29





2021	MIDWAY PARK LLC	081-00 -03-003X	\$	2,300.00	
2021	MARTIN EARL R ESTATE	047-00-03-109A	\$	4,250.00	
2021	WHITE CAROLINE FIELDS	060-00-03-005E	\$	1,900.00	
2021	LOZANOLIZABETH RAMOS	050-00-01-038A	\$	255.00	
2021	FLOYD MARGARET	020-00-03-025B	\$	4,750.00	
2021	BRYANT JUSTINE & LIDIA	053-00-03-002C	\$	255.00	
2021	SAULS JANIE	047-00-03-115E	\$	175.00	
2020	GILBERT DANIEL LEE	085-00-03-051A	\$	400.00	
2020	CAMARGO MARGARITA SANTIBANEZ	085-07-00-051B	\$	680.00	
2020	GONZALEZ JULIO CAESAR	039-00-06-239B	\$	200.00	
2020	ROBINSON DOROTHY	038-00 -06-046B	\$	200.00	
2020	MITCHELL MALIK	063-23-01-005D	\$	250.00	
2020	CUYLER DELORIS R	020-00-03-098A	\$	250.00	
TOTAL			\$	35,715.00	OVER

**Jasper County Tax Collector**  
**Tax Sale Overages**  
**As of January 6, 2025**

<b>Year of Tax Sale</b>	<b>Property Owner's Name</b>	<b>Map #</b>	<b>Amount Bid</b>	<b>Taxes &amp; Fees</b>	<b>Overage</b>
2022	Pennoak Homes LLC	063-49 -00-148	372.61	113.02	259.59
2022	Gregory Wendell	087-00 -02-015	15,000.00	532.11	14,467.89
2022	David and Tammy Mock	022-00 -01-065	15,000.00	747.18	14,252.82
2022	Wallace Orr	063-24 -15-009	8,000.00	404.43	7,595.57
2022	Bonnie Griffin	038-00 -08-003	210.22	230.89	(20.67)
2022	Bonnie Griffin	038-00 -08-052	96.44	123.52	(27.08)
2022	Christine Ward Erwin	046-38A -02-006	8,000.00	682.38	7,317.62
2022	Phillip M. Gordon	018-00 -01-049	32,000.00	635.80	31,364.20
2022	N. (Nathaniel) Wright & Edgar Wade	087-00 -02-008	9,000.00	527.20	8,472.80
2022	Richard Carlson	050-00 -03-027	13,000.00	614.58	12,385.42
2022	Scott Way Realty, LLC	029-43 -05-038	5,000.00	252.49	4,747.51
2022	Nicole Bass	060-00 -05-026	16,000.00	2,250.29	13,749.71
					114,565.38



Carolina, 1976, as amended.

2. Mrs. Marsha Earlene van Dinteren (“Mrs. van Dinteren”) is a resident of Aiken County, South Carolina, is the surviving spouse of the Decedent, and is listed as the “Applicant/Petitioner” on the “Application For Informal Probate Of Will and Appointment,” Form #ES300, filed on March 10, 2021, in this case.

3. Pursuant to S.C.Code Ann. Section 62-100(b)(1), this Court has jurisdiction of this matter and venue is proper in Aiken County, South Carolina.

4. Pursuant to Rule 24, SCRCP, intervention as a matter of right in accordance with subsection (a)(2) is appropriate in that the Petitioner-Intervenor, “claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede [her] ability to protect that interest...”

5. Petitioner-Intervenor brings her action pursuant to S.C.Code Ann. §§ 15-53-10 *et seq.*, Uniform Declaratory Judgments Act, especially S.C.Code Ann. § 15-53-30, “Determination of questions under deed, will, written contract, statute, municipal ordinance, contract or franchise.”

6. The Decedent passed away on May 27, 2015.

7. On March 11, 2021, Mrs. van Dinteren was appointed Personal Representative and Fiduciary of the Decedent’s Estate.

8. On November 13, 2017, Decedent’s real property bearing Aiken County Tax Map Number 154-09-06-009 (“Property”), was sold for delinquent taxes (“Tax Sale”) pursuant to S.C.Code Ann. §§ 12-51-40 *et seq.*, “Alternate Procedure for Collection of Property Taxes.”

9. At the time of the Tax Sale, unpaid taxes for 2016 and 2017 totaled \$1,233.23, and

Page #2  
of 7 pages  
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\$998.22, respectively, plus an overage notice charge of \$14.75, for a total delinquency plus fees and costs of \$2,246.20.

10. The successful bidder at the Tax Sale offered and paid \$22,000.00 for the property.

11. S.C.Code Ann. § 12-51-130 provides in relevant part:

If the tax sale of an item produced more cash than the full amount due in taxes, assessments, penalties, and costs, the overage must be applied to any outstanding municipal tax liens on the property. Any remaining overage belongs to the owner of record immediately before the end of the redemption period to be claimed or assigned according to law. (Emphasis supplied herein).

12. The tax sale “overage” described in § 12-51-130 is commonly referred to as an “overage,” or a tax sale “surplus.”

13. The Tax Sale of the Property at issue in this case produced an overage of \$19,753.80.

14. In accordance with § 12-51-130, had the Decedent been alive at the time the overage was produced, he would have been entitled to the full amount thereof as, “the owner of record immediately before the end of the redemption period.”

15. There is no requirement in Title 12, Chapter 51 of the Code of Laws of South Carolina for an owner of record immediately before the end of the redemption period to have the assistance of a lawyer, a representative, or of any other person to claim a Tax sale overage as described in § 12-51-130.

16. As Decedent had passed away prior to the Tax Sale and the overage it produced, Mrs. van Dinteren is entitled to claim the overage by virtue of the Last Will and Testament of Aaldert M. van Dinteren a/k/a A.M. van Dinteren, which provides at Paragraph II:

I do hereby will, devise and bequeath all of my property both real, personal and mixed wheresoever situate, of which I may be seized

and possessed or to which I may be entitled at the time of my death unto MARSHA EARLENE van DINTEREN, to be hers absolutely and in fee simple forever.

17. Several years after her husband's death, Mrs. van Dinteren was sent a letter dated February 26, 2019, from Asset Recovery, Inc. ("Asset Recovery"), having an address at "910 16<sup>th</sup> Street, Suite 624, Denver, CO 80202," which provided in part:

Asset Recovery Inc. is a business that audits government records in order to locate individuals that are owed money. We specialize in assisting the rightful owners in claiming this money, thus preventing its forfeiture to the government.

**Why are we contacting you?**

We have located unclaimed funds and/or property whose value is \$20,766.77<sup>1</sup> that is due in full or in part to Aaldert M Van Dinteren (sic). We can assist you in claiming the funds before time runs out or before other parties present a valid claim. These funds will not be available indefinitely.

18. Neither Mrs. van Dinteren nor anyone acting on her behalf solicited the letter described in paragraph 17, *supra*.

19. At some point in April 2019, "Ann Fox" of Asset Recovery telephoned Mrs. van Dinteren to follow up on Asset Recovery's letter of February 26, 2019.

20. Mrs. van Dinteren's understanding of the conversation described in Paragraph 19, *supra*, and her dealings with Asset Recovery, Inc., are further set forth in Affidavit of Marsha Earlerne van Dinteren, which is attached to the Petition.

21. Asset Recovery, Inc., sent a second letter, dated April 11, 2019, to Mrs. van Dinteren, seeking copies of her "Drivers (sic) License or Picture ID," "Social Security Card," "Death Certificate for Aaldert Van (sic) Dinteren, and the Decedent's "Will."

22. In January 2021, "Rebecca Baker," appeared at Mrs. van Dinteren's home in

Millington, Tennessee,<sup>2</sup> represented that she was a notary public working on behalf of Asset Recovery, Inc., and presented various documents for Mrs. van Dinteren to sign.

23. Ms. Baker left a handwritten note at Mrs. van Dinteren's house to attempt to arrange a time for her to, "...come by at your convenience to notarise (sic) the documents."

24. Petitioner-Intervenor submitted with her Petition a document entitled, an "Agreement, Release and Waiver -- Regarding Overage on Defaulting Tax Sale of Aiken County Property," that Ms. Baker presented to Mrs. van Dinteren at her home in Tennessee, bearing what purports to be Mrs. van Dinteren's signature, and notarized by Ms. Baker.

25. Petitioner also submitted an assignment from Mrs. van Dinteren to Asset Recovery, Inc., of the right to claim the overage of \$19,753.80 produced from the Tax Sale of the Property. That form does not set forth any compensation, fee, or any other remuneration method or amount Mrs. van Dinteren was or is to pay to Asset Recovery in connection with its attempt to collect the overage.

26. Petitioner-Intervenor has a ministerial duty to hold tax sale overages until they are claimed pursuant to § 12-51-130; specifically, to pay the same over to the owner of record immediately before the end of the redemption period to be claimed or assigned according to law.

27. The phrase, "assigned according to law," is not defined in S.C.Code Ann. § 12-51-130 or elsewhere in Title 12, Chapter 51 of the Code of Laws of South Carolina.

28. Mrs. van Dinteren's affidavit submitted as part of the Petition raises serious concerns over whether she willingly and freely entered into the purported assignment.

28. Pursuant to S.C.Code Ann. §§ 15-53-10 *et seq.*, Petitioner-Intervenor is entitled to seek from this Court a declaration of the rights of the parties and those with any interest in the

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<sup>1</sup> It is unclear where this amount came from, as the overage at issue in this matter is \$19,753.80.



overage, and Petitioner-Intervenor has made a sufficient showing of her entitlement to participate in this Estate proceeding.

29. The only asset that appears to be involved in this Estate is the tax sale overage.

30. Mrs. van Dinteren did not freely and voluntarily enter into an assignment with Asset Recovery, Inc., or with anyone acting on Asset Recovery's behalf, and the Court finds and concludes that the assignment is invalid and *void ab initio*. Any obligation Mrs. van Dinteren may have had under the assignment is extinguished by this Order, including any obligation to pay Asset Recovery, Inc., any "finder's" or other fee or compensation of any kind in connection with the purported assignment.

31. No attorney-client relationship exists or has ever existed between Mrs. van Dinteren and Mr. Miller, Esquire. Mr. Miller, Esquire, has never spoken with Mrs. van Dinteren, has no fee or other agreement with her, and has offered to submit a motion to withdrawal from any involvement in this case. The Court accepts that motion, which is to be submitted to the Court within ten (10) days of the date of this Order.

33. Petitioner-Intervenor's motion to intervene in this case is granted.

**NOW, THEREFORE, IT IS ORDERED:**

1. The Court finds and concludes, and **ORDERS** that Mrs. van Dinteren is entitled to receive and shall receive in her capacity as Personal Representative and the surviving spouse of the decedent the overage in the amount of \$19,753.80, free and clear from the claims of Asset Recovery, Inc., or of any other party. The Aiken County Tax Collector shall issue a check to Marsha Earlene van Dinteren as Personal Representative for Aaldert M. van Dinteren, Estate.

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<sup>2</sup> Mrs. van Dinteren has since returned to live in Aiken County.

Page # 6  
of 7 pages  
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2. Mrs. van Dinteren may proceed to conclude any outstanding matters of the Estate and to close this Estate in accordance with the procedures outlined by this Court and consistent with State law, including distribution to herself of the overage as the sole and lawful claimant thereof at any time following the issuance of this Order.

3. Within ten (10) days of the date of this Order, Mr. Miller, Esquire, shall provide to the Court and to counsel for the Petitioner-Intervenor the Finder's Fee Agreement, however captioned, he advised during the hearing that Mrs. van Dinteren entered into with Asset Recovery, Inc.

4. Within ten (10) days of the date of this Order, Mr. Miller, Esquire, will submit a Motion to Withdraw from any involvement in this case as he agreed to on the record.

**AND IT IS SO ORDERED** at Aiken County, South Carolina this 29<sup>th</sup> day of October, 2021.

Page # 7  
of 7 pages

  
\_\_\_\_\_  
The Honorable Tonya L. Marchant  
Probate Court Judge

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN )

IN THE PROBATE COURT

IN THE MATTER OF: )  
DONALD BROCK CAMPBELL, )  
(Decedent) )

Case Number 2024-ES-02-0120

**CONSENT ORDER**

Kimberly B. Halcomb, as Tax Collector for )  
Aiken County, South Carolina, )  
 )  
Petitioner-Intervenor, )

v. )

John Fox, as Personal Representative of the )  
Estate of Donald Brock Campbell, )  
 )  
Respondent. )

This matter came before the Court on Petitioner-Intervenor’s<sup>1</sup> motion pursuant to Rule 24 of the South Carolina Rules of Civil Procedure to intervene in this case as of right for the purposes of this Court under S.C.Code Ann. §§ 15-53-10 *et seq.*, Uniform Declaratory Judgments Act, declaring the rights of the parties and anyone claiming an interest in a tax sale overage in accordance with S.C.Code Ann. § 12-51-130.

The Respondent consented to Petitioner-Intervenor’s motion, and on April 4, 2024, the Court issued its Consent Order Granting Petitioner-Intervenor’s Motion to Intervene.

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<sup>1</sup> After the filing of this motion, but prior to the call of the hearing, Kimberly B. Halcomb retired as the Aiken County Tax Collector. The Court understands that K. Warren Fulghum has assumed Ms. Halcomb’s duties. The intent of this Order is that the Aiken County Tax Collector, whoever currently holds such position, is granted the right to participate in this matter for purposes of Rule 24, SCRCF.

Contemporaneous with his motion, Petitioner filed a Summons and Petition, dated February 22, 2024, in which he set forth against the Respondent sixteen causes of action under the Uniform Declaratory Judgments Act, the South Carolina Unfair Trade Practices Act, the South Carolina Family Privacy Protection Act, and the South Carolina Probate Code.

Thereafter, Respondent filed his Answer and a Motion to Dismiss. In his Answer, Respondent noted at paragraph 13 that “he has resigned as Personal Representative of the Estate of Donald Brock Campbell...”

The Court accepted the Respondent’s Statement of Resignation on March 20, 2024. A Termination of Appointment of John Fox as Personal Representative by “Voluntary Resignation” also was filed by the Court on March 20, 2024.

By Order of Appointment, dated March 20, 2024, Donnie Jerome Campbell was appointed as Successor Personal Representative of the Estate.

Prior to the hearing on Respondent’s motion to dismiss, the parties advised the Court that they were in agreement on certain facts, that they stipulate to those facts, and that they ask the Court to issue its Order adopting those facts as findings and conclusions herein.

Therefore, upon motion and consent of the parties, and their stipulation to the facts set forth hereinbelow, the Court finds and concludes as follows:

#### Findings and Conclusions

1. Petitioner-Intervenor is the Tax Collector for Aiken County, South Carolina, a political subdivision of the State of South Carolina, whose duties and responsibilities are set forth, *inter alia*, in Title 12, Chapters 45 and 51, of the Code of Laws of the State of South Carolina, 1976, as amended.

2. Pursuant to S.C.Code Ann. Section 62-100(b)(1), this Court has jurisdiction of this

matter and venue is proper in Aiken County, South Carolina.

3. Petitioner brings his action pursuant to S.C.Code Ann. §§ 15-53-10 *et seq.*, Uniform Declaratory Judgments Act, especially S.C.Code Ann. § 15-53-30, “Determination of questions under deed, will, written contract, statute, municipal ordinance, contract or franchise.”

4. On January 22, 2024, Respondent John Fox was appointed Personal Representative of the Estate of Donald Brock Campbell.

5. John Fox is the registered agent for Asset Recovery, Inc. (“Asset Recovery”), a Colorado corporation formed on October 23, 2009, with a principal office address of 910 16<sup>th</sup> Street, Suite 624, Denver, Colorado 80202. John Fox is not an attorney.

6. Asset Recovery advises its potential clients, among other things, that it specializes in “recovering money” and “helping people (like you) around the country who have lost property.”<sup>2</sup>

7. Pursuant to S.C.Code Ann. §§ 12-51-40 *et seq.*, “Alternate Procedure for Collection of Property Taxes,” Petitioner-Intervenor is responsible for conducting delinquent tax sales when property taxes remain unpaid after the notices required by State law have been given.

8. On November 8, 2021, Petitioner-Intervenor sold at the Aiken County Tax Sale real property at 121 Minter Street, Warrentville, South Carolina 29851, bearing Aiken County Tax Map Parcel Number 037-07-27-005 (“Property”), for delinquent taxes, to TNR Investments, LLC.<sup>3</sup>

9. The defaulting taxpayer and owner of record of the Property was Donald B. Campbell, *a/k/a* Donald Brock Campbell.

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<sup>2</sup> Letter dated October 10, 2023, from Vincent Trujillo III (sic), Claims Manager, Asset Recovery, Inc.

<sup>3</sup> Title To Real Estate By The Tax Collector (“Tax Deed”), recorded on February 21, 2023, recorded in Deed Book RB 5074 at Pages 1468-1471, in the Aiken County Registrar of Mesne Conveyance [*n/k/a* the Aiken County Register of Deeds (ROD)].

10. Pursuant to S.C.Code Ann. § 12-51-50, the Property was sold for \$533.56 in taxes, assessments, penalties, and costs.

11. The successful bidder, TNR Investments, LLC, paid \$20,000.00 for the Property.

12. Pursuant to S.C.Code Ann. § 12-51-130:

If the tax sale of an item produced more cash than the full amount due in taxes, assessments, penalties, and costs, the overage must be applied to any outstanding municipal tax liens on the property. Any remaining overage belongs to the owner of record immediately before the end of the redemption period to be claimed or assigned according to law. These sums are payable ninety days after execution of the deed unless a judicial action is instituted during that time by another claimant. (Emphasis supplied herein).

13. The sale of the Property produced a tax sale overage (*i.e.*, surplus tax sale funds) of \$19,466.44 (“Overage”).

14. Pursuant to § 12-51-130, Donald B. Campbell would have been entitled to the Overage produced by the sale of his Property for delinquent taxes. However, Donald B. Campbell (“Decedent”) died intestate on October 8, 2023, at age forty-six (46).

15. Donald B. Campbell did not assign any rights he may have had in the Overage to anyone. Further, Donald B. Campbell was unmarried, had no children, and his mother, Patsy Marie Walker, predeceased him. Therefore, pursuant to S.C.Code Ann. § 62-2-103(2), the Decedent’s Father, Donnie J. Campbell, is entitled to Donald B. Campbell’s intestate estate.

16. The Decedent did not leave a will.

17. The Decedent entered into no contract with the Respondent, Asset Recovery, Inc., or anyone else with respect to the Overage.

18. This Court has not approved any transaction with respect to the Overage.

19. On January 29, 2024, John Fox, Managing Director, Asset Recovery, Inc., sent to

Petitioner-Intervenor an e-mail wherein he made a claim for the Overage, advising:

“We have a new tax sale overage claim to submit.

- Property Address: 121 Minter Street, Warrentville, SC 29851
- County Map #: 037-07-27-005
- Sale Date: 11/8/2021

The owner Donald B Campbell died on 10/8/2023. A probate (sic) was opened in Aiken County and I (John Fox) was appointed Personal Representative of the Estate and issued a Certificate of Appointment. See attached

Please mail check to the following address:

Asset Recovery Inc  
910 16<sup>th</sup> St Suite 624  
Denver, CO 80202

Please forward to your county attorney for review if necessary. I am likewise Ccing our attorneys Andy Shook and Rachel Ferguson Bailey of the Finkel Law Firm.

Thank you!

Sincerely,

John Fox”

20. With his email, Mr. Fox attached copies of the tax deed for the Property, a Georgia Death Certificate for Donald Brock Campbell, and a copy of Mr. Fox’s appointment as Personal Representative *In The Matter Of: Donald Brock Campbell*, Probate Case Number 2024-ES-02-0120.

21. As Respondent recommended, Petitioner-Intervenor forwarded his claim on behalf of Asset Recovery to the Aiken County Attorney.

22. On February 9, 2024, Donnie J. Campbell, after advising that he is not represented by an attorney in connection with any matter set forth in this Petition, met with Petitioner-Intervenor

and the Aiken County Attorney.

23. During the meeting described in paragraph 21, *supra*, Donnie J. Campbell provided Petitioner-Intervenor with copies of the following documents he was sent or given by Asset Recovery:

- (a) Contingency Fee Agreement;
- (b) Limited Power of Attorney;
- (c) Affidavit of Descent; and
- (d) Transfer and Assignment of Tax Sale Overate Proceeds.

24. Petitioner-Intervenor filed an Affidavit of Donnie J. Campbell, wherein Mr. Campbell described his experience with John Fox, Asset Recovery, Inc., and a notary public Asset Recovery sent to his house on two separate occasions to notarize the certain documents Asset Recovery advised were needed to process his claim for the Overage.

25. On December 19, 2023, Mr. Campbell also was asked by Asset Recovery to sign a document renouncing his right to serve as Personal Representative for his son's estate, and nominating John Fox, a Colorado businessman Mr. Campbell has never met, to serve as Personal Representative for his son's estate in Aiken, South Carolina.

26. Respondent prepared or caused to be prepared and tendered to Donald J. Campbell for his signature a contingency fee agreement, a limited power of attorney, an "Affidavit of Descent," and a document captioned, "Transfer and Assignment of Tax Sale Overage Proceeds, to help facilitate Asset Recovery's attempt to claim a the Overage. The contingency fee agreement, limited power of attorney, Affidavit of Descent, and the Transfer and Assignment of Tax Sale Overage Proceeds are legal documents.

27. Paragraph 3.d) of the Contingency Fee Agreement sets forth a compensation scale



that provides that Asset Recovery is to charge and receive an “Assignment Fee” of fifty (50%) percent of the Overage amount collected.

28. The Contingency Fee Agreement makes no mention of probating Donald Brock Campbell’s estate, or the possibility of probate in connection with collecting the tax sale Overage.

29. Exhibit 12 to Petitioner-Intervenor’s Petition is an Affidavit of Donnie J. Campbell. Mr. Campbell’s Affidavit sets forth averments that raise serious concerns over whether or not he knowingly, willingly, and freely entered into the purported assignment of any rights he might have to the Overage, and whether he knowingly, willingly, and freely wanted John Fox to serve as Personal Administrator and to administer his son’s estate.

30. The facts and circumstances of this matter are strikingly similar to those of another case before this Court in the case of *In the Matter Of: Aaldert M. Van Dinteren a/k/a. M. Van Dinteren*, Aiken County Probate Court Case Number 2021-ES-02-03329, where Asset Recovery, Inc. also attempted to misuse the probate process to claim an exorbitant fee in submitting an overage claim on behalf of a 74-year old retired woman.<sup>4</sup>

31. Pursuant to S.C.Code Ann. § 62-1-102(a), the Probate Code, “[s]hall be liberally construed and applied to promote its underlying purposes and policies,” including “(2) to discover and make effective the intent of a decedent in the distribution of his property;” The Court finds and concludes that it was not the Decedent’s intent to give any of his property to Asset Recovery.

32. The Overage is part of the decedent’s “estate” and “probate estate” pursuant to §§

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<sup>4</sup> See Order Granting Intervention and Final Distribution of Tax Sale Overage Funds, dated October 29, 2021, and related documents from that case, included as Exhibit 14 to the Petition.

62-1-201(11) and (35), respectively.

33. Donnie J. Campbell is an “heir,” an “interested person,” and a “parent” pursuant to §§62-1-201(20), (23), and (31), respectively.

34. Donnie J. Campbell is entitled to the entire Overage and all probate estate assets, the Court having received no claims or filings against the Estate since its opening until the date of this Order. Neither Respondent nor Asset Recovery, Inc., is or shall be entitled to the Overage or any portion thereof.

**NOW, THEREFORE, IT IS ORDERED:**

1. Within ten (10) days of the date of this Order, the Aiken County Tax Collector shall remit or cause to be remitted the full Overage amount to Donnie J. Campbell. The Aiken County Tax Collector shall thereafter have no duty, responsibility or liability for the Overage disposed of herein to anyone. Upon receipt of the Overage, Donnie J. Campbell may take steps to close out the administration of this Estate, the Overage appearing to be the sole probate asset as listed on the Inventory and Appraisalment.

2. Neither Respondent nor Asset Recovery, Inc., nor anyone acting on behalf of either, is or shall be entitled to the Overage or any portion thereof.

3. The Contingency Fee Agreement, Limited Power of Attorney, Affidavit of Descent, and Transfer and Assignment of Tax Sale Overate Proceeds, all included in the file of this case, are void *ab initio* and shall be of no effect, Donnie J. Campbell forever being discharged from any obligations that he may have been purported to be under with respect to any of these documents.

4. As this is now the second time Asset Recovery, Inc., has attempted to claim a tax sale overage through the Aiken County Probate Court as using its principal, agent, or employee to serve as Personal Representative or to participate in the appointment of a Personal Representative,<sup>5</sup> pursuant to the Court's inherent powers prescribed in S.C.Code Ann. § 62-1-112, John Fox, and any employee, agent, subcontractor, person, or entity of any kind affiliated or associated with John Fox or Asset Recovery, Inc., are permanently enjoined from serving as a Personal Representative in any matter before the Aiken County Probate Court except for matters involving John Fox's immediate family members. The Court retains jurisdiction over this matter and shall be the sole arbiter of what "affiliated or associated with" means, and shall determine whether anyone attempts to circumvent this prohibition.

**AND IT IS SO ORDERED** at Aiken County, South Carolina this \_\_\_\_ day of July, 2024.

\_\_\_\_\_  
The Honorable Tonya L. Marchant  
Probate Court Judge

I SO MOVE AND CONSENT:

\_\_\_\_\_  
Bradley T. Farrar  
Attorney for Petitioner-Intervenor

\_\_\_\_\_  
Brad A. Brodie, Esquire  
Attorney for John Fox,  
as Personal Representative

\_\_\_\_\_  
<sup>5</sup> See Order *In the Matter Of: Aaldert M. Van Dinteren a/k/a. M. Van Dinteren*, Aiken County Probate Court Case Number 2021-ES-02-0329.



## OFFICE OF THE JASPER COUNTY ADMINISTRATOR

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

Andrew P. Fulghum  
County Administrator

[afulghum@jaspercountysc.gov](mailto:afulghum@jaspercountysc.gov)

Tisha L. Williams  
Executive Assistant

[tlwilliams@jaspercountysc.gov](mailto:tlwilliams@jaspercountysc.gov)

### Progress Report February 4, 2025 – February 18, 2025

1. Exit 3:  
Attended meeting of the project team on Feb. 4. Scheduled to meet again on Feb. 12. Will provide update for County Council at the Feb. 18 County Council meeting.
2. SC Ports Port Ambassador Program:  
Attended session in Sellers, SC on Feb. 7 entitled Inland Network Experience Part II.
3. Central Traffic Court:  
Attended meeting with Judges Lee and Badgett and County staff to review needs of magistrate offices.
4. 2024 Transportation Sales Tax Program:  
Prepared for 2024 Transportation Sales Tax Advisory Committee meeting to be held on Feb. 24.
5. Economic Development Projects:  
Met with SCA staff, outside counsel, and the County Attorney on Feb. 12 to review active economic development projects.
6. Other Meetings/Events Attended or Scheduled to Attend:  
None.

**FEBRUARY 2025**

*Employee  
Spotlight*

**Cecelia Preston**



**Cecelias Favorites:**

HOLIDAY: THANKSGIVING

SEASON: FALL

COLOR: BLACK & RED

HOBBIES: READING & SLEEPING

PLACE TRAVELED: JAMAICA

DREAM TRAVEL SPOT: ITALY



**Cecelia is Jasper County Attorneys Executive Assistant. She has been with Jasper County since 2022. She is engaged to be married. Cecelia has four children, 3 girls and 1 boy. She also has a cat named Socks.**

**Favorite Quote or  
Scripture:**

**PSALMS 23**

**If you won  
\$1,000,000, what  
would you do with it?**

**HELP FAMILY & TAKE  
THAT DREAM VACATION**

# CONSENT AGENDA

## ITEM # 22



# A SPECIAL CALLED WORKSHOP WILL BE CONDUCTED BY THE JASPER COUNTY COUNCIL.

Meeting Date: Friday, January 10, 2025 AT 12:00 P.M.

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

Watch In Person or Live via YouTube at:

[https://www.youtube.com/channel/UCBmloqX05cKAsHm\\_ggXCJIA](https://www.youtube.com/channel/UCBmloqX05cKAsHm_ggXCJIA)

Instructions may also be found at the Jasper County website  
[www.jaspercountysc.gov](http://www.jaspercountysc.gov)

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



**JASPER COUNTY COUNCIL**  
**SPECIAL CALLED WORKSHOP**  
Jasper County Clementa C. Pinckney Government Bldg  
358 3<sup>rd</sup> Avenue Ridgeland, SC 29936  
Friday, January 10, 2025  
**Minutes**

**Officials Present:** Chairman John Kemp, Vice Chairman Joey Rowell, Councilman Chris VanGeison and Councilman Joe Arzillo   **Absent:** Councilman Marty Sauls

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

**Also Present:** Treasurer Mike Skinner, Judge Albert Kleckley, Sheriff Malphrus, Chief Deputy Atwood

**Call to Order of Council Meeting by Chairman Kemp**

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

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

**Approval of Agenda:**

The agenda was unanimously approved by all Councilmembers.

**Discussion regarding Proposed Resolution [#R-2025-04](#) and potential amendments and or supplementation of Resolution [#R-2024-06](#) (County Bank Accounts)**

**Councilman VanGeison read a letter that he received from a constituent for the record. The letter read as follows:**

*Councilman VanGeison's amending resolution not only upholds the law written by its own legislators, but respects the will of the voters he duly elected Mr. Skinner to oversee the money flowing in and out of Jasper County government.*

*Jasper County ordinance regarding the Disposition of Funds Collected is a County Law that was specifically written in plain language and passed by our legislative body. The law reads, "all such funds generated from fees collected and monies received by the county departments' employees and / or elected officials shall be memorialized with appropriate accounting methods for the purposes of audit all such funds shall be timely deposited with the county treasurer's office".*



*Let's consider Black's Law definition of funds - Available monies, Cash in hand, bank balances and accounts receivable.*

*Now "Monies", which means collectively; all cash, notes drafts or similar items of payments, foreign currencies, credits, compensation, including instruments evidencing such amounts that are deposited or credited to any account held by a banking or financial institution.*

*The ordinance does not include the Office Of The Sheriff -it does not include the Office Of The Clerk Of Courts. And -it certainly does not include the Office Of Jasper County's Probate Judge.*

*That language is clear - all search funds shall be timely deposited with the county treasurer's office*

*This unnecessary litigation - including the frivolous lawsuit instigated but our County Attorney has cost We The People more than \$200,000 dollars. To me, this entire debacle, which has all the markings of a personal / political vendetta - has placed our community in a very bad light.*

*In closing, it is my understanding that this body is considering adding additional language, specifically "home rule", to this amendment.*

*Why? For what purpose and to what end would we mucky up a perfectly crafted resolution? Adding superfluous language would not only create ambiguity to the resolution itself, as South Carolina's Home Rule is not law- it is a process that allows county governments to deviate from established State Law.*

*Notwithstanding, Jasper County's laws relating to the responsibility of the duly elected treasurer almost mirrors South Carolina's laws governing a State Treasurer.*

*It is time this legislative body stop wasting our hard-earned tax money on damn lawyers and consultants. This isn't complicated - it's good old common sense. (See attachment A for copy)*

#### **Public Comments:**

Vanessa Wright, Registrar of Deeds spoke regarding the ROD Regular Standard Account and the ROD Escrow Account. She noted that she had these two accounts in her department and just wanted to make sure everything was done properly. She also mentioned that if Treasurer Skinner wanted signatory rights, then they could just let him pay everything and remove her name from the account. She said that she could send him reports to take care of all the payments and that she was just uncomfortable with more than one signatory on the account.

Sheriff Malphrus noted that he wanted Treasurer Skinner to have full access to everything on his accounts for transparency. He noted that it would make it easier if they went to training as Mr. Skinner could assist his staff in his absence for purchases, giving another layer of transparency.

Chief Wells discussed his accounts, the 1% money that comes to the Treasurer's office, and noted he had no problem with him wanting access. He asked Treasurer Skinner to please provide him in writing, a letter stating what he wants. He also noted that their concerns were because there are restricted funds that they want to make sure no errors occur within those accounts.

Judge Kleckley noted That the word signatory is one of the things that had gotten everyone there. He mentioned that transparency is everything and that they wanted to make it easier, so he was on board to do so.

Clerk of Court Keith Horton noted that he had run on the platform of open transparency and that he was on board as well period.

Discussion:

Mr. Fulghum noted that the accounts handled under Administration were the: Tax Collector, Finance, Emergency Services Revenue, Detention Center, Planning and Building, and Register of Deeds. Mr. Fulghum noted that they wanted to be sure because if the Council approved the resolution changes would have to be made at the bank.

Councilman Rowell stated that there had to be procedures established regardless. Mr. Fulghum noted that the Treasurer had been in the office for 2 years now. He then noted that 6-7 years ago they had a discussion regarding a Central Cash Register. He mentioned that for this County software would have to be in line for the different departments to be able to get into Central Cashier. He noted that they did not want to have money in different parts of the building and that this Central Cash Register system would be the next step to consider. Councilman VanGeison noted that the purpose of this resolution was to put the past 18 months to rest and put a final period on the end of this issue. He mentioned that he wanted the language to stay as presented.

Ms. Burgess noted that Ms. Wright prepares checks at the end of the month and gives them to the Treasurer after she reconciles her books. She also noted that Ms. Wagner and the Business License Department followed the same procedure. Councilman Arzillo said that Mrs. Wright noted that if an additional person was added to her accounts as a signatory, it could just as well be that Treasurer Skinner could handle the processing from his office. Councilman Arzillo said he'd like to let Treasurer Skinner respond to that. Treasurer Skinner said that this was not how he was told the county worked which proves this point. He noted that they needed to move to rein in all the bank accounts, use less banks, and move to a centralized system. He said this eliminated the need for all the small accounts. Ms. Burgess noted that having more accounts meant that you have less control issues. The types of accounts, processing of accounts, backup information for the checks, checks and procedures were all discussed thoroughly. The Council expressed the need for procedures to be in place, so that the procedures be known by everyone and followed. The council discussed their desire for transparency and for everyone to work together. The item of the Resolution was left for Councilman VanGeison to have ready for the 01.21.2025 Council Meeting e-packet.

#### **General Discussion:**

Chairman Kemp noted that people needed to be appointed to positions on certain boards. He noted that the following appointments were needed:

2 for the New Life Board

1 for the Library Board of Trustees

7 for the Parks and Recreation Board

1 for the TCL Board (which was a Delegation Appointment, so Council makes a referral)

2 for Lowcountry Council of Governments (one as a minority member and one as a Council Member)

1 for LATS Council Appointment

1 Councilmember for SOLOCO (he noted has 8 jurisdictions that get together to meet every month)

1 Councilmember for Cypress Ridge Business Industrial Park Design Review Committee

Mr., Fulghum noted that there had been some changes so some modifications may need to be done on this.

He noted that Ms. Wagner administers this board and the Power Company is on this board.

Chairman Kemp said he need to have someone to attend the City of Hardeeville Meeting, Town of Ridgeland Meeting and the Jasper County School Board Meeting. Chairman Kemp noted that at the 27<sup>th</sup> Meeting they would like to review agencies. Mr. Fulghum noted that on the first day they would have the legal group(s) and the consultant(s) there and on the second day the Audit firm, staff updates on all projects and what will be coming to the Council in the upcoming year would be presented. They discussed upcoming workshops that were needed.

The following Councilmembers agreed to attend these meetings throughout the year:

Councilman Rowell – SOLOCO and LATS Meetings

Councilman VanGeison – Cypress Ridge Business Industrial Park Design Review Committee Meetings and the Town of Ridgeland Meetings

Councilman Arzillo - Jasper County School Board Meetings

Chairman Kemp – City of Hardeeville Meeting

Chairman Kemp noted changes were coming to the agenda. They discussed the desire to have Town Hall Meetings in their districts.

For more information on this workshop please go to our YouTube Channel for the video go to [https://www.youtube.com/channel/UCBmloqX05cKAsHm\\_ggXCJIA](https://www.youtube.com/channel/UCBmloqX05cKAsHm_ggXCJIA)

### **Adjournment**

**Motion to adjourn:** Councilman Rowell

**Second:** Councilman Arzillo

**Vote:** Unanimous

The motion passed and the workshop adjourned.

### **Respectfully submitted:**

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Wanda H. Giles  
Clerk to Council

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John Kemp  
Chairman



**JASPER COUNTY COUNCIL**  
**EMERGENCY**  
**SPECIAL CALLED**  
**VIRTUAL MEETING**

**Jasper County Clementa C. Pinckney Government Bldg**  
**358 3<sup>rd</sup> Avenue Ridgeland, SC 29936**  
**Monday, January 20, 2025**

**Minutes**

**Officials Present:** Chairman John Kemp, Vice Chairman Joey Rowell, Councilman Marty Sauls, Councilman Chris VanGeison and Councilman Joe Arzillo

**Staff Present:** County Administrator Andrew Fulghum, Clerk to Council Wanda Giles, County Attorney David Tedder, Chief Russell Wells and Videographer Jonathan Dunham.

**Call to Order of the Emergency Special Called Council Meeting by Chairman Kemp:**

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

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

**Approval of Agenda:**

**Motion to approve:** Councilman Rowell

**Second:** Councilman VanGeison

**Vote:** Unanimous

The motion passed.

○ **Chief Russell Wells – Winter Storm Update**

Chief Wells gave the Winter Storm Update to Council. Chief wells shared his computer screen to show the Surface Map for Tuesday and Wednesday. He noted that it showed accumulating snow and freezing rain and provided the Impact Threat Matrix as well from the National Weather Service. Sheltering operations were in conjunction with Kingdom Touch. Future National Weather Service briefings were also discussed. Chairman Kemp stated that this meeting had been called to declare a State of Emergency in the County.

- **David Tedder – Resolution # R-2025-03A - Resolution/Proclamation Declaring State Of Emergency In Jasper County Due to the January 21-24 2025 Winter Storm**

Mr. Tedder discussed emergency situations and how emergency resolutions could be passed without notification of 24 hours due to the emergency situation. He noted that Governor McMaster had issued an executive order and possibly may have future orders. He noted that this implemented our Emergency Operations Plan which included roads being closed, DOT closing roads, ways to mitigate injuries to property and personnel and other areas of concern during emergency status. He did note that due to information on the Emergency Order from the Governor that he needed to change the date on the document, the Council had been presented and would need to make some typographical changes.

Mr. Fulghum Noted that this resolution also authorizes him to seek reimbursement of federal funding sources if available. He noted that employees had been notified that tomorrow operational hours would be from 9:00 AM to 1:00 PM and then they would be sent home. He noted that this situation would be reviewed as the weather situation progressed. He also mentioned that recycling centers would also be open tomorrow from 9:00 AM to 1:00 PM and they are closed normally on Wednesday.

**Motion to approve with the corrections to the date as stated by the County Attorney :** Councilman Sauls

**Second:** Councilman Rowell

**Vote:** Unanimous

The motion passed.

For more information on this meeting please go to our YouTube Channel for the video go to [https://www.youtube.com/channel/UCBmloqX05cKAsHm\\_ggXCJIA](https://www.youtube.com/channel/UCBmloqX05cKAsHm_ggXCJIA)

### **Adjournment**

**Motion to adjourn:** Councilman Rowell

**Second:** Councilman VanGeison

**Vote:** Unanimous

The motion passed and the meeting adjourned.

**Respectfully submitted:**

---

Wanda H. Giles  
Clerk to Council

---

John Kemp  
Chairman

AGENDA

ITEM # 23

Councilmember  
Comments and  
Discussion

AGENDA

ITEM # 24

Executive Session