

# AGENDA

## ITEM # 12

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**STATE OF SOUTH CAROLINA  
JASPER COUNTY**

**ORDINANCE #O-2024-23**

**ORDINANCE OF JASPER COUNTY COUNCIL**

An Ordinance authorizing the sale to S&P Produce, Inc., of a 10 acre parcel, more or less, being subdivided out of the original 40.00 acre Parcel identified as Parcel B-1A as shown on a Plat recorded at Plat Book 23 at Page 345, with such new 10.00 acre parcel being shown on an individual plat and being a portion of tax parcel 048-00-01-005, and to authorize the Jasper County Administrator to execute such contracts, amendments, deeds and other documents as may be necessary and appropriate to effect the sale to S&P Produce, Inc., or its assigns, and matters related thereto.

**WHEREAS**, Jasper County and S&P Produce, Inc. (“S&P”) have negotiated the terms of a proposed Contract for the Purchase and Sale of Commercial Real Property (“Agreement”) between them by which Jasper County would sell, and SC Grays would purchase a parcel of land totaling approximately 10.00 acres located at the Cypress Ridge Industrial Park, said parcel being a portion of TMS 048-00-01-005, in order to establish a new commercial enterprise; and

**WHEREAS**, Addendum #1 to the Agreement provides that it is not valid, binding, or enforceable unless and until ratified by Jasper County Council within 30 days of Jasper County Administrator executing the Agreement; and

**WHEREAS**, in accordance with South Carolina law, Jasper County Council must pass an ordinance authorizing the sale of real property; and

**WHEREAS**, a new subdivision survey of the 10 acre more or less parcel to be conveyed has been commissioned, and County Council desires to utilize this survey as the legal description of the property in the deed and related documents; and

**WHEREAS**, Jasper County Council finds the terms of the Agreement to be fair, equitable and in the best interests of the citizens of Jasper County, and in furtherance of additional economic development within the County;

**NOW THEREFORE, BE IT RESOLVED** by Jasper County Council, in council duly assembled and by the authority of the same:

1. Jasper County Council adopts the foregoing recitals as part of this Ordinance, ratifies the execution of the Contract for the Purchase and Sale of Commercial Real Property ( "Agreement") as required by Addendum # 1 to the Agreement, and approves the sale of the referenced County property, as described by the new subdivision plat attached hereto as Exhibit "A," upon the terms and conditions of the Agreement to S&P Prioduce, Inc., or its assigns;
2. The Jasper County Administrator, with the assistance of the County Attorney, is further authorized to execute and deliver a deed, closing statements and such other documents as may be necessary or desirable to accomplish the transfer of title to the property to the purchaser this transaction as more particularly described in the Agreement, as modified.
3. In connection with the execution and delivery of the deeds and other documents authorized hereunder, the County Administrator, with the advice and counsel of the County Attorney, and the law firm of Harvey & Battey, PA, is fully authorized to prepare, review, negotiate, execute, deliver, and agree to such additional agreements, amendments, certifications, documents, closing proofs, and undertakings as he shall deem necessary or advisable.
4. Any actions previously undertaken by the County Administrator, County Council or County staff in connection with the execution and delivery of the contracts, contract amendments, deeds, including the negotiation of the terms related thereto and any other agreements prior to the enactment of this Ordinance are ratified and confirmed.
5. This Ordinance shall take effect upon approval of the Council.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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L. Martin Sauls, IV, Chairman

ATTEST:

\_\_\_\_\_  
Wanda Giles, Clerk to Council

ORDINANCE O-2024-23

First Reading: 09.16.2024

Second Reading: \_\_\_\_\_

Public hearing: 10.07.2024

Adopted: \_\_\_\_\_

Reviewed for form and draftsmanship by the Jasper County Attorney.

\_\_\_\_\_  
David L. Tedder      Date: \_\_\_\_\_

Drawing of Area to be Conveyed  
(To be Replaced with Recordable Survey)



Vincigill Construction Company  
Wilmington, NC

Senn Brother's Warehouse Cypress Ridge

No.	Description	Area
1	CONCRETE	2,127.22
2	GRAVEL	1,400.00
3	ASPHALT	1,400.00
4	STEEL DECK	1,400.00
5	WOOD FLOORING	1,400.00
6	PAINT	1,400.00
7	MECHANICAL	1,400.00
8	ELECTRICAL	1,400.00
9	PLUMBING	1,400.00
10	LANDSCAPING	1,400.00
11	UTILITIES	1,400.00
12	PERMITS	1,400.00
13	INSURANCE	1,400.00
14	LABOR	1,400.00
15	EQUIPMENT	1,400.00
16	OFFICE	1,400.00
17	TRAVEL	1,400.00
18	MEALS	1,400.00
19	ENTERTAINMENT	1,400.00
20	OTHER	1,400.00

A-1

**Initial Phase 1 Site Layout**

Project Number: 74403

Date: 4.11.24

Client: SBC

Drawn By: [Name]

Scale: 1" = 100'









AGENDA

ITEM # 13

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A SPECIAL SOURCE REVENUE CREDIT AGREEMENT BY AND BETWEEN JASPER COUNTY, SOUTH CAROLINA AND PROJECT PILGRIMAGE WITH RESPECT TO CERTAIN ECONOMIC DEVELOPMENT PROPERTY IN THE COUNTY, WHEREBY SUCH PROPERTY WILL RECEIVE CERTAIN SPECIAL SOURCE CREDITS; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, Jasper County, South Carolina (the "County") is authorized by Article VIII, Section 13 of the South Carolina Constitution and Title 4, Chapter 1, Code of Laws of South Carolina 1976, as amended (the "Multi-County Park Act"), to enter into agreements with one or more contiguous counties for the creation and operation of joint county industrial and business parks, whereby the industrial development of the State of South Carolina (the "State") will be promoted and trade developed by inducing new industries to locate in the State and by encouraging industries now located in the State to expand their investments and thus utilize and employ manpower and other resources of the State and benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; and

**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 infrastructure 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**, Freedom Industrial Partners, 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 Pilgrimage (the "Company") intends to enter into a lease agreement with the Developer as to the Real Property and to invest approximately \$8,000,000 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 and the Personal Property shall be referred to herein as the "Property"); and

**WHEREAS**, the Property is subject to a Fee-in-Lieu of Taxes and Special Source Revenue Credit Agreement dated November 21, 2022 (the "2022 FILOT Agreement"), which provides for a fee-in-lieu of tax transaction and a 15 year 10% 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

infrastructure 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, and pursuant to that certain Agreement for Development of Joint County Industrial Park by and between Jasper County, South Carolina and Hampton County, South Carolina dated as November 21, 2022, as supplemented, modified or amended, and as such agreement may be further supplemented, modified, amended, or replaced from time to time (the “Park Agreement”), the County and Hampton County created a joint industrial business park to be located upon property geographically located in Hampton and Jasper Counties (the “Park”), which was approved by duly enacted ordinances of each of Hampton and Jasper Counties; and

**WHEREAS**, the County Council has agreed, pursuant to the Multi-County Park Act and the Infrastructure Credit Act, that the Project shall qualify for a 10-year infrastructure credit comprised of a 25% credit during years 1-5 and a 10% credit during years 6-10, all as set forth more fully in the Special Source Revenue Credit Agreement between the County and the Company presented to this meeting (the “SSRC Agreement”); and

**WHEREAS**, the County has determined and found, on the basis of representations of the Company, that the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; 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**, it appears that the SSRC 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. The Chair of County Council and the Clerk to County Council, for and on behalf of the County, are hereby each authorized to execute and deliver the SSRC Agreement, in substantially the form attached hereto, or with such minor changes as are not materially adverse to the County and as such officials shall determine and as are not inconsistent with the matters contained herein, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the SSRC Agreement now before this meeting, and are directed to do anything otherwise necessary to effect the execution and delivery of the SSRC Agreement and the performance of all obligations of the County under and pursuant to the SSRC Agreement.

Section 2. The provisions of this ordinance are hereby declared to be separable and if any section, phrase or provisions shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

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

**DONE, RATIFIED AND ADOPTED** this [\_\_\_\_] day of [\_\_\_\_\_], 2024.

**JASPER COUNTY, SOUTH CAROLINA**

\_\_\_\_\_  
L. Martin Sauls, IV, Chairman, of Jasper County Council

ATTEST:

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

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

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**SPECIAL SOURCE REVENUE CREDIT AGREEMENT**

between

**JASPER COUNTY, SOUTH CAROLINA,**

and

**PROJECT PILGRIMAGE,**  
a South Carolina \_\_\_\_\_

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Dated as of \_\_\_\_\_, 2024

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## SPECIAL SOURCE REVENUE CREDIT AGREEMENT

**THIS SPECIAL SOURCE REVENUE CREDIT AGREEMENT**, dated as of [\_\_\_\_], 2024 (the "Agreement"), between **JASPER COUNTY, SOUTH CAROLINA**, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), and **PROJECT PILGRIMAGE**, a limited liability company organized and existing under the laws of the State of South Carolina (the "Company").

### W I T N E S E T H:

**WHEREAS**, the County, acting by and through its County Council (the "County Council") is authorized by Section 4-1-175 of the Code of Laws of South Carolina 1976, as amended and Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the "Infrastructure Credit Act"), to provide infrastructure credit financing, secured by and payable solely from revenues of the County derived from payments in lieu of taxes pursuant to Article VIII, Section 13 of the South Carolina Constitution, for the purpose of defraying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise in order to enhance the economic development of the County; and

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

**WHEREAS**, Project Pilgrimage (the "Company") intends to enter into a lease agreement with the Developer as to the Real Property and to invest approximately \$8,000,000 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 and the Personal Property shall be referred to herein as the "Property"); and

**WHEREAS**, the Property is subject to a Fee-in-Lieu of Taxes and Special Source Revenue Credit Agreement dated November 21, 2022 (the "2022 FILOT Agreement"), which provides for a fee-in-lieu of tax transaction and a 15 year 10% special source revenue credit; and

**WHEREAS**, pursuant to the provisions of Article VIII, Section 13 of the South Carolina Constitution and Title 4, Chapter 1 Code of Laws of South Carolina 1976 (collectively, the "Multi-County Park Act"), and pursuant to that certain Agreement for Development of Joint County Industrial Park by and between Jasper County, South Carolina and Hampton County, South Carolina dated as November 11, 2022, as supplemented, modified or amended, and as such agreement may be further supplemented, modified, amended, or replaced from time to time (the "Park Agreement"), the County and Hampton County created a joint industrial business park to be located upon property geographically located in Jasper and Hampton Counties (the "Park"), which was approved by duly enacted ordinances of each of Jasper and Hampton Counties; and

**WHEREAS**, pursuant to the Infrastructure Credit Act, the County has agreed to provide certain special source revenue credits in the amount of 25% for years 1-5 and 10% for years 6-10 beginning in the year after the Real Property improvements are placed in service, which infrastructure credits shall apply to the Property (the "Additional Infrastructure Credits"); and

**WHEREAS**, the County Council has duly authorized execution and delivery of this Agreement by ordinance duly enacted by the County Council on [\_\_\_\_], 2024, following a public hearing held on [\_\_\_\_], 2024.

**NOW, THEREFORE**, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

### **ARTICLE I DEFINITIONS**

The terms defined in this Article I shall for all purposes of this Agreement have the meanings herein specified, unless the context clearly otherwise requires. Except where the context otherwise requires, words importing the singular number shall include the plural number and *vice versa*.

*"Additional Infrastructure Credits"* shall have the meaning set forth with respect to such term in the recitals in this Agreement.

*"Agreement"* shall mean this Agreement, as the same may be amended, modified or supplemented in accordance with the terms hereof.

*"Code"* shall mean the Code of Laws of South Carolina 1976, as amended.

*"Company"* shall have the meaning set forth with respect to such term in the recitals to this Agreement.

*"Cost of Infrastructure"* shall mean the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the Project and for improved or unimproved real estate and personal property in connection with the Project, and any other such similar or like expenditures authorized by the Infrastructure Credit Act.

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

*"Fee Payments"* shall mean the payments in lieu of taxes, including, if applicable, any negotiated payments in lieu of taxes pursuant to the Code, made by the owners(s) of the Project.

*"Infrastructure Credit Act"* shall have the meaning set forth with respect to such term in the recitals to this Agreement.

*"Multi-County Park Act"* shall mean Title 4, Chapter 1 of the Code, and all future acts amendatory thereto.

*"Ordinance"* shall mean the ordinance enacted by the County Council on [\_\_\_\_], 2024, authorizing the execution and delivery of this Agreement.

*"Park"* shall mean (i) the joint county industrial park established pursuant to the terms of the Park Agreement and (ii) any joint county industrial park created pursuant to a successor park agreement delivered by the County and a partner county in accordance with Section 4-1-170 of the Act, or any successor provision, with respect to the Project.



“*Park Agreement*” shall mean the Multi-County Industrial and Business Park Agreement dated November 21, 2022 and all amendments thereto between the County and Hampton County, South Carolina, as the same may be further amended or supplemented from time to time or such other agreement as the County may enter with respect to the Project to offer the benefits of the Infrastructure Credit Act to the Company hereunder.

“*Person*” shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization, or a government or political subdivision.

“*Project*” shall have the meaning set forth with respect to such term in the recitals to this Agreement.

“*Property*” shall have the meaning set forth with respect to such term in the recitals to this Agreement.

## ARTICLE II REPRESENTATIONS AND WARRANTIES

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

(a) The County is a body politic and corporate and a political subdivision of the State of South Carolina and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. By proper action by the County Council, the County has been duly authorized to execute and deliver this Agreement and any and all agreements collateral thereto.

(b) The County proposes to provide the Additional Infrastructure Credits to reimburse the Company for the purpose of promoting economic development within the County.

(c) To the best knowledge of the undersigned representatives of the County, the County is not in violation of any of the provisions of the laws of the State of South Carolina, where any such default would affect the validity or enforceability of this Agreement.

(d) To the best knowledge of the undersigned representatives of the County, the authorization, execution and delivery of this Agreement, the enactment of the Ordinance, and performance of the transactions contemplated hereby and thereby do not and will not, to the best knowledge of the County, conflict with, or result in the violation or breach of, or constitute a default or require any consent under, or create any lien, charge or encumbrance under the provisions of (i) the Constitution of the State or any law, rule, or regulation of any governmental authority, (ii) any agreement to which the County is a party, or (iii) any judgment, order, or decree to which the County is a party or by which it is bound.

(e) To the best knowledge of the undersigned representatives of the County, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, or before or by any court, public body, or public board which is pending or threatened challenging the creation, organization or existence of the County or its governing body or the power of the County to enter into the transactions contemplated hereby or wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or would affect the validity, or adversely affect the enforceability, of this Agreement, or any other agreement or instrument to which the County is a party and which is to be used in connection with or is contemplated by this Agreement, nor to the best of the knowledge of the undersigned representatives of the County is there any basis therefor.

SECTION 2.02. Representations and Covenants by the Company. The Company makes the following representations, warranties and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of South Carolina and qualified to do business in the State of South Carolina, has power to enter into this Agreement and to carry out its obligations hereunder, and by proper corporate action has been duly authorized to execute and deliver this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, will result in a material breach of any of the terms, conditions, or provisions of any corporate restriction or any agreement or instrument to which the Company is now a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the property or assets of the Company, other than as may be created or permitted by this Agreement.

(c) To the best knowledge of the Company, there is no action, suit, proceeding, inquiry, or investigation, at law or in equity, or before or by any court, public body, or public board which is pending or threatened challenging the power of the Company to enter into the transactions contemplated hereby or wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated hereby or would affect the validity, or adversely affect the enforceability, of this Agreement, or any other agreement or instrument to which the Company is a party and which is to be used in connection with or is contemplated by this Agreement, nor to the best of the knowledge of the Company is there any basis therefore.

(d) The financing of the Cost of Infrastructure by the County has been instrumental in inducing the Company to establish the Project in Jasper County, South Carolina.

SECTION 2.03. Covenants of the County.

(a) To the best of its ability, the County will at all times maintain its corporate existence and will use its best efforts to maintain, preserve, and renew all its rights, powers and privileges; and it will comply with all valid acts, rules, regulations, orders, and directions of any legislative, executive, administrative, or judicial body applicable to this Agreement.

(b) In the event the Park Agreement is terminated, the County agrees to use commercially reasonable efforts to cause the Project, at the Company's expense, pursuant to Section 4-1-170 of the Act or any successor provision, to be included in a duly authorized, executed and delivered successor joint county industrial park agreement with an adjoining South Carolina county, which successor agreement shall contain a termination date occurring no earlier than the final year as to which any Infrastructure Credit shall be payable under this Agreement.

(c) The County covenants that it will from time to time, at the request and expense of the Company, execute and deliver such further instruments and take such further action as may be reasonable and as may be required to carry out the purpose of this Agreement; provided, however, that such instruments or actions shall never create or constitute a general obligation or an indebtedness of the County within the meaning of any State constitutional provision (other than the provisions of Article X, Section 14(10) of the South Carolina Constitution) or statutory limitation and shall never constitute or give rise to a pecuniary

liability of the County or a charge against its general credit or taxing power or pledge the full faith, credit or taxing power of the State, or any other political subdivision of the State.

### **ARTICLE III INFRASTRUCTURE CREDITS**

#### SECTION 3.01. Infrastructure Credits.

(a) To assist in paying for the Cost of Infrastructure, the Company and any qualifying sponsor are entitled to claim an Additional Infrastructure Credit to reduce certain Fee Payments due and owing from the Company or sponsor to the County that pertain to the Project. The Real Property and improvements thereon and all qualifying Personal Property expenses of the Company shall qualify for a 10-year Additional Infrastructure Credit comprised of a 25% credit during years 1-5 and 10% credit during years 6-10. The Additional Infrastructure Credit shall begin in the year after the Real Property Improvements are placed in service. The Additional Infrastructure Credit will continue to be applied to the next ten annual FILOT Payments. In no event may the Company's aggregate infrastructure credit claimed pursuant to this Section exceed the aggregate expenditures by the Company or sponsor on the Cost of Infrastructure.

(b) THIS AGREEMENT AND THE ADDITIONAL INFRASTRUCTURE CREDITS BECOMING DUE HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FEE PAYMENTS RECEIVED BY THE COUNTY FOR THE PROJECT PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OR AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY ARE NOT PLEDGED FOR THE INFRASTRUCTURE CREDITS.

(c) No breach by the County of this Agreement shall result in the imposition of any pecuniary liability upon the County or any charge upon its general credit or against its taxing power. The liability of the County under this Agreement or of any warranty herein included or for any breach or default by the County of any of the foregoing shall be limited solely and exclusively to the Fee Payments for the Project in the Park. The County shall not be required to execute or perform any of its duties, obligations, powers, or covenants hereunder except to the extent of the Fee Payments.

(d) To the extent that the Additional Infrastructure Revenue Credit is used as payment for Personal Property and the Personal Property is removed from the Project during the twenty-year period and not otherwise replaced, then the amount of the fee-in-lieu of taxes due on the Personal Property for the year in which the Personal Property was removed from the Project shall be due for the two years immediately following the removal, as set forth in Section 4-29-68(A)(2)Iii) of the Code of Laws of South Carolina, 1976, as amended. If the Company replaces the removed property with qualifying replacement property, as defined in the Act, then the removed Personal Property is deemed not to have been removed from the Project. This Special Source Credit Agreement is applicable to the Real and Personal Properties located in the Park as part of the Project.

**ARTICLE IV CONDITIONS TO DELIVERY OF AGREEMENT;  
TITLE TO PROJECT**

SECTION 4.01. Documents to be Provided by County. Prior to or simultaneously with the execution and delivery of this Agreement, the County shall provide to the Company:

- (a) A copy of the Ordinance, duly certified by the Clerk of the County Council to have been duly enacted by the County and to be in full force and effect on the date of such certification; and
- (b) Such additional related certificates, instruments or other documents as the Company may reasonably request in a form and substance acceptable to the Company and the County.

SECTION 4.02. Transfers of Project; Assignment of Interest in this Agreement by the Company. The County hereby acknowledges that the Company may from time to time and in accordance with applicable law, sell, transfer, lease, convey, or grant the right to occupy and use the Project, in whole or in part, or assign its interest in this Agreement, to others; provided, however, that any transfer by the Company of any of its interest in this Agreement to any other Person shall require the prior written consent of the County, which shall not be unreasonably withheld. No such sale, lease, conveyance, grant or assignment shall relieve the County from the County's obligations to provide Additional Infrastructure Credits to the Company or any assignee of the same, under this Agreement as long as such assignee is qualified to receive the Additional Infrastructure Credits under the Infrastructure Credit Act.

SECTION 4.03. Assignment by County. The County shall not assign, transfer, or convey its obligations to provide Additional Infrastructure Credits hereunder to any other Person, except as may be required by South Carolina law.

**ARTICLE V DEFAULTS AND REMEDIES**

SECTION 5.01. Events of Default. If the County or the Company shall fail duly and punctually to perform any covenant, condition, agreement or provision contained in this Agreement on its part to be performed, which failure shall continue for a period of thirty (30) days after written notice by the County or the Company, respectively, specifying the failure and requesting that it be remedied is given to the County by the Company, or to the Company by the County, by first-class mail, the County or the Company, respectively, shall be in default under this Agreement (an "Event of Default").

SECTION 5.02. Remedies and Legal Proceedings by the Company or the County. Upon the happening and continuance of any Event of Default, then and in every such case the Company or the County, as the case may be, in their discretion may:

- (a) by mandamus, or other suit, action, or proceeding at law or in equity, enforce all of its or their rights and require the other party to carry out any agreements with or for its benefit and to perform its or their duties under the Act and this Agreement;
- (b) bring suit upon this Agreement;
- (c) exercise any or all rights and remedies provided by applicable laws of the State of South Carolina; or
- (d) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of its rights.

SECTION 5.03. Remedies Not Exclusive. No remedy in this Agreement conferred upon or reserved to the County or the Company hereunder is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.

SECTION 5.04. Nonwaiver. No delay or omission of the County or the Company to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default, or an acquiescence therein; and every power and remedy given by this Article V to any party may be exercised from time to time and as often as may be deemed expedient.

## ARTICLE VI MISCELLANEOUS

SECTION 6.01. Termination. Subject to Sections 5.01 and 5.02 above, this Agreement shall terminate on the date upon which all Additional Infrastructure Credits provided for herein have been credited to the Company.

SECTION 6.02. Successors and Assigns. All the covenants, stipulations, promises, and agreements in this Agreement contained, by or on behalf of, or for the benefit of, the County, shall bind or inure to the benefit of the successors of the County from time to time and any officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County, shall be transferred.

SECTION 6.03. Provisions of Agreement for Sole Benefit of the County and the Company. Except as in this Agreement otherwise specifically provided, nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any Person other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

SECTION 6.04. Severability. In case any one or more of the provisions of this Agreement shall, for any reason, be held to be illegal or invalid, the illegality or invalidity shall not affect any other provision of this Agreement, and this Agreement shall be construed and enforced as if the illegal or invalid provisions had not been contained herein or therein.

SECTION 6.05. No Liability for Personnel of the County or the Company. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any member, agent, or employee of the County or its governing body or the Company or any of its officers, employees, or agents in his individual capacity, and neither the members of the governing body of the County nor any official executing this Agreement shall be liable personally for the Additional Infrastructure Credits or this Agreement or be subject to any personal liability of accountability by reason of the issuance thereof.

SECTION 6.06. Notices. All notices, certificates, requests, or other communications under this Agreement shall be sufficiently given and shall be deemed given, unless otherwise required by this Agreement, when (i) delivered or (ii) sent by facsimile and confirmed by United States certified mail, return receipt requested, restricted delivery, postage prepaid, addressed as follows:

- (a) if to the County: Jasper County, South Carolina  
Attn: County Administrator  
PO Box 1149  
358 Third Avenue,  
Ridgeland, SC 29936
  
- with a copy to: Parker Poe Adams & Bernstein  
(which shall not Attn: Ray Jones  
constitute notice 1221 Main Street, Suite 1100  
to the County) Columbia, SC 29201
  
- (b) if to the Company: Project Pilgrimage  
[ ]  
[ ]  
Attention: [ ]
  
- with a copy to: Haynsworth Sinkler Boyd, P.A.  
(which shall not 1201 Main Street, Suite 2200  
constitute notice to Columbia, SC 29201  
the Company) Attention: Gary W. Morris

A duplicate copy of each notice, certificate, request or other communication given under this Agreement to the County or the Company shall also be given to the others. The County and the Company may, by notice given under this Section 6.06, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

SECTION 6.07. Applicable Law. The laws of the State of South Carolina shall govern the construction of this Agreement.

SECTION 6.08. Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument.

SECTION 6.09. Amendments. This Agreement may be amended only by written agreement of the parties hereto.

SECTION 6.10. Waiver. Either party may waive compliance by the other party with any term or condition of this Agreement only in a writing signed by the waiving party.

SECTION 6.11. Joinder. To the extent required, Developer, as the owner of the Real Property, hereby joins in this Agreement and hereby agrees to the terms and provisions hereof.

SECTION 6.12. Indemnity.

(a) Notwithstanding the fact that it is the intention of the parties that the County, its members, officers, elected officials, employees, servants and agents (collectively, the “Indemnified Parties”) shall not incur pecuniary liability by reason of the terms of this Agreement, or the undertakings required of the County hereunder, by reason of the granting of the Infrastructure Credits, by reason of the execution of this Agreement, by the reason of the performance of any act requested of it by the Company, or by reason of the County’s relationship to the Project or by the operation of the Project by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County or any of the other Indemnified Parties should incur any such pecuniary liability, then in such event the Company shall indemnify, defend and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action or proceeding with legal counsel acceptable to the County (the approval of which shall not be unreasonably withheld); provided, however, that such indemnity shall not apply to the extent that any such claim is proximately caused by (i) the grossly negligent acts or omissions or willful misconduct of the County, its agents, officers or employees, or (ii) any breach of this Agreement by the County.

(b) Notwithstanding anything in this Agreement to the contrary, the above-referenced covenants insofar as they pertain to costs, damages, liabilities or claims by any Indemnified Party resulting from any of the above-described acts of or failure to act by the Company, shall survive any termination of this Agreement.

SECTION 6.13. Facsimile/Scanned Signature. The Parties agree that use of a fax or scanned signature and the signatures, initials, and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the Parties as if the original signature, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, Jasper County, South Carolina, has caused this Agreement to be executed by the Chairman of the Jasper County Council and its corporate seal to be hereunto affixed and attested by the Clerk of its County Council, and Project Pilgrimage has each caused this Agreement to be executed by an authorized officer, all as of the day and year first above written.

**JASPER COUNTY, SOUTH CAROLINA**

---

L. Martin Sauls, IV, Chairman of Calhoun County Council

[SEAL]

Attest:

---

Wanda Simpson, Clerk  
Calhoun County, South Carolina

*[Signature page 1 to Special Source Revenue Credit Agreement]*



**PROJECT PILGRIMAGE**

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

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

Title: \_\_\_\_\_

*[Signature page 2 to Special Source Credit Agreement]*

**FREEDOM INDUSTRIAL PARTNERS, LLC**

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

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

Title: \_\_\_\_\_

*[Signature page 3 to Special Source Credit Agreement]*

**EXHIBIT A**

**PROPERTY**



# AGENDA

## ITEM # 14

STATE OF SOUTH CAROLINA  
COUNTY COUNCIL FOR JASPER COUNTY  
ORDINANCE NO. O-2024-24

**AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT BY AND BETWEEN JASPER COUNTY, SOUTH CAROLINA AND S&P PRODUCE, INC. AND S2P, LLC, TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; APPROVING THE CREATION OF A MULTICOUNTY PARK WITH HAMPTON COUNTY, SOUTH CAROLINA; AUTHORIZING THE EXECUTION AND DELIVERY OF A MULTICOUNTY PARK AGREEMENT BY AND BETWEEN JASPER COUNTY, SOUTH CAROLINA AND HAMPTON COUNTY, SOUTH CAROLINA; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS AND; AND OTHER RELATED MATTERS.**

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, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County wishes to create a multicounty park with Hampton County, South Carolina more particularly known as the [project name] Park (“Park”) by entering into an Agreement for Development of a Joint County Industrial and Business Park (Project Veggie) the form of which is attached here as Exhibit B (“Park Agreement”);

WHEREAS, pursuant to the FILOT and MCIP Acts, the County is authorized to provide credits (“Infrastructure Credits”) against FILOT Payments derived from economic development property to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial enterprise or manufacturing facility (“Infrastructure”);

WHEREAS, S2P, LLC and S&P Produce, Inc. (“Sponsors”), desires to establish a raw food warehouse and distribution facility in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$2.9 million and the creation of 19, new full-time jobs; and

WHEREAS, at the request of the Sponsor 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 and Incentive Agreement with the Sponsor, as Sponsor, the form of which is attached as Exhibit A (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Sponsor 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 (2) locating the Project in the Park; and (3)

providing Infrastructure Credits and other incentives, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure.

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

**Section 1. *Statutory Findings.*** Based on information supplied to the County by the Sponsor, 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 Sponsor.

**Section 3. *Inclusion within the Park.*** The creation of the Park and the inclusion of the Project in the Park is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. The Park Agreement is approved and will be complete on adoption of this Ordinance by County Council and the adoption of an approving companion ordinance by the Hampton County, South Carolina.

**Section 4. *Further Assurances.*** The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, the Director of Economic Development 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 Sponsor 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.

JASPER COUNTY, SOUTH CAROLINA

---

Chair, Jasper County Council

(SEAL)  
ATTEST:

---

Clerk of Council, Jasper County Council

First Reading: 10.07.2024  
Second Reading: 10.21.2024  
Public Hearing: 10.21.2024  
Third Reading:

Reviewed for form and draftsmanship by the Jasper County Attorney.

---

**David L. Tedder**

---

**Date**



**EXHIBIT A**  
**FORM OF FEE AGREEMENT**

---

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

**AMONG**

**S2P, LLC AND S&P PRODUCE, INC.**

**AND**

**JASPER COUNTY, SOUTH CAROLINA**

**EFFECTIVE AS OF []**

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**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>Sponsors Names</b>	S2P, LLC and S&P Produce, Inc.	Recitals
<b>Project Location</b>	Jasper County	Exhibit A
<b>Tax Map No.</b>	048-00-01-005	Exhibit A
<b>FILOT</b>		
• Phase Exemption Period	30 years	Definitions
• Contract Minimum Investment Requirement	\$2,900,000	Definitions
• Contract Minimum Jobs Requirement	19 jobs	Definitions.
• Investment Period	5 years	Definitions
• Assessment Ratio	6%	Section 4.1(a)(ii)
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## 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 [DATE], among 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, S2P, LLC and S&P Produce, Inc. both organized and existing under the laws of the State of South Carolina (“*Sponsors*”).

### WITNESSETH:

(a) Title 12, Chapter 44, (“*Act*”) of the Code of Laws of South Carolina, 1976, as amended (“*Code*”), authorizes the County to induce manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises currently 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 sponsors, as defined in the Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“*FILOT*”) with respect to Economic Development Property, as defined below;

(b) The Sponsors have committed to establish a raw food warehouse and distribution facility (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$2,900,000 and the creation of 19 new, full-time jobs;

(c) By an ordinance enacted on [DATE], County Council authorized the County to enter into this Fee Agreement with the Sponsors to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Sponsors to locate its Facility 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.

“*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 or other incentives provided by this Fee Agreement brought by third parties or the Sponsors or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsors outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

“*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 Sponsors enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2025.

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property at the Project of not less than \$2,900,000.

“**Contract Minimum Jobs Requirement**” means not less than 19 full-time, jobs created by the Sponsors in the County in connection with the Project.

“**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.

“**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 the Sponsors 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 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, 2059, the Final Termination Date is expected to be January 15, 2061, 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 years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2025.

**“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 the [NAME OF MULTICOUNTY PARK AGREEMENT], dated as of [DATE], between the County and Hampton County, South Carolina.

**“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 in the County that the Sponsors determines to be necessary, suitable, or useful by the Sponsors in connection with its investment in the County.

**“Real Property”** means real property that the Sponsors uses or will use in the County for the purposes that Section 2.2(b) describes, and initially consists of the land identified on Exhibit A of this Fee Agreement.

**“Removed Components”** means Economic Development Property which the Sponsors, 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.

“**Sponsors**” means S&P Produce, Inc. and S2P, LLC 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 Sponsors under this Fee Agreement.

“**Sponsors Affiliate**” means an entity that participates in the investment [or job creation] at the Project and, following receipt of the County’s approval pursuant to Section 9.1 of this Fee Agreement, 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 Sponsors, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Sponsors 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 Sponsors.

## 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 Sponsors, 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 [DATE] by adopting an Inducement Resolution, as defined in the Act on [DATE].

(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 the Project in the Multicounty Park.

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

(a) The Sponsors 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 Sponsors intends to operate the Project as a raw food warehouse and distribution facility and for such other purposes that the Act permits as the Sponsors may deem appropriate.

(c) The Sponsors’ 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 Sponsors is now a party or by which it is bound.

(d) The Sponsors will use commercially reasonable efforts to achieve the Contract Minimum Investment Requirement and the Contract Minimum Jobs 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 Sponsors to locate the Project in the County.

(f) The Sponsors 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 Sponsors intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement within the Investment Period. The Sponsors anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2025. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsors is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsors, or Sponsors Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

**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 the Sponsors is, at the election of the Sponsors, 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 Sponsors shall file a copy of this Fee Agreement and a completed PT-443 with the Economic Development Director and 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 or the Economic Development Director, the Sponsors shall remit to the Economic Development Director 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

**Section 4.1. FILOT Payments.**

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

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion of the Phase, the County and the Sponsors have elected to [use the fair market value established in the first year of the Phase Exemption Period), multiplied by
- (ii) An assessment ratio of six percent (6%), multiplied by
- (iii) A fixed millage rate for thirty years equal to 0.343, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2023.

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 Sponsors acknowledges that (i) the calculation of the annual FILOT Payment is a function of the Department and is wholly dependent on the Sponsors 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 Sponsors 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 Sponsors 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 the Sponsors elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the Act, the Sponsors 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, the Sponsors 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 the Sponsors may terminate this Fee Agreement. For the property tax year corresponding to the year in which the damage or casualty occurs, the Sponsors 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 Sponsors does not elect to terminate this Fee Agreement, then the Sponsors 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 Sponsors 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 the Sponsors, the Sponsors shall have the option to terminate 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 Sponsors 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 Sponsors 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)(i) 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 Sponsors 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. Other Incentives.** The County has agreed to sell the site to Sponsors at a below market value of \$150,000 (“Site Price”). The parties agree the market value of the site is [\$] (“Site Value”).

## ARTICLE VI

### CLAW BACK

**Section 6.1. Claw Back.** If the Sponsors fails to perform its obligations under this Fee Agreement as described in Exhibit C, then the Sponsors is subject to the claw backs as described in Exhibit C. Any amount that may be due from the Sponsors to the County as calculated in accordance with or described in Exhibit C is due within 30 days of receipt of a written statement from the County. If not timely paid, the amount due from the Sponsors to the County is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation arising under this Section and Exhibit C survives termination of this Fee Agreement.

## 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 Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means a publicly announced closure of the Facility, a layoff of a majority of the employees

working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;

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

(e) Failure by the Sponsors 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 Sponsors specifying such failure and requesting that it be remedied, unless the Sponsors 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 Sponsors is diligently pursuing corrective action;

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

(g) 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 Sponsors 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 the Sponsors has occurred and is continuing, then the County may take any one or more of the following remedial actions:

- (i) terminate this Fee Agreement; 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.

(b) If an Event of Default by the County has occurred and is continuing, the Sponsors 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 the Sponsors 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 Sponsors. The Sponsors 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 Sponsors 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 Sponsors 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 Sponsors to obtain judicial or other relief from such disclosure requirement.

### **Section 8.3. Indemnification Covenants.**

(a) Except as provided in paragraph (d) below, the Sponsors 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 Sponsors 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 Sponsors shall pay the County within 30 days of receipt of the statement. The Sponsors 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 Sponsors to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Sponsors shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsors expense. The Sponsors 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 Sponsors 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 Sponsors 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 Sponsors 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 Sponsors 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.*** The Sponsors may assign 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 unreasonably withhold. The

Sponsors 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 Sponsors 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. The Sponsors 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 Sponsors will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$7,500 relating to the negotiation, documentation and approval of this Agreement. The Sponsor shall also be responsible for all any other Administration Expenses incurred by the County during the term of this Agreement. The Sponsors 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 Sponsors 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 Sponsors 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 SPONSORS AFFILIATES**

**Section 9.1. Sponsors Affiliates.** The Sponsors may designate Sponsors Affiliates from time to time, including at the time of execution of this Fee Agreement, pursuant to and subject to the provisions of Section 12-44-130 of the Act. To designate a Sponsors Affiliate, the Sponsors must deliver written notice to the Economic Development Director identifying the Sponsors Affiliate and requesting the County's approval of the Sponsors Affiliate. Except with respect to a Sponsors Affiliate designated at the time of execution of this Fee Agreement, which may be approved in the County Council ordinance authorizing the execution and delivery of this Fee Agreement, approval of the Sponsors Affiliate may be given by the County Administrator delivering written notice to the Sponsors and Sponsors Affiliate following receipt by the County Administrator of a recommendation from the Economic Development Committee of County Council to allow the Sponsors Affiliate to join in the investment at the Project. The Sponsors 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 Sponsors Affiliate to the County.

**Section 9.2. Primary Responsibility.** Notwithstanding the addition of a Sponsors Affiliate, the Sponsors acknowledges that it has the primary responsibility for the duties and obligations of the Sponsors and any Sponsors Affiliate under this Fee Agreement, including the payment of FILOT Payments or any other amount due to or for the benefit of the County under this Fee Agreement. For purposes of this Fee Agreement, "primary responsibility" means that if the Sponsors Affiliate fails to make any FILOT Payment or remit any other amount due under this Fee Agreement, the Sponsors shall make such FILOT Payments or remit such other amounts on behalf of the Sponsors Affiliate.

## **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 SPONSOR:**

Gregg Senn

327 Wholesale Lane

West Columbia, SC 29172

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

Burnet R. Maybank, III

1221 Main Street, Suite 1200

Columbia, SC 29201

**IF TO THE COUNTY:**

Jasper County, South Carolina

Attn: Jasper County Administrator

P.O. Box 1149

358 Third Avenue

Ridgeland, South Carolina 29936

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

Parker Poe Adams & Bernstein LLP

Attn: Ray E. Jones

1221 Main Street, Suite 1100 (29201)

Post Office Box 1509

Columbia, South Carolina 29202-1509

**Section 10.2. Provisions of Agreement for Sole Benefit of County and Sponsors.** 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 Sponsors 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 Sponsors.

**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 Sponsors, to the extent any expense is incurred, the County agrees to execute and deliver to the Sponsors such additional instruments as the Sponsors 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 Sponsors with the maximum benefits to be derived under this Fee Agreement, it being the intention of the County to offer the Sponsors 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 incentive described in this Fee Agreement is found to be invalid and the Sponsors 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 Sponsors to provide a special source revenue or Infrastructure Credit to the Sponsors [(in addition to the Infrastructure Credit explicitly provided for above)] to the maximum extent permitted by law, to allow the Sponsors to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

**Section 10.9. Force Majeure.** The Sponsors are 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 Sponsors reasonable control.



**Section 10.10. Termination; Termination by Sponsors.**

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

(b) The Sponsors are 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 Sponsors obligation to make FILOT Payments under this Fee Agreement terminates to the extent of and in the year following the year the Sponsors 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 Sponsors have caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

**JASPER COUNTY, SOUTH CAROLINA**

(SEAL)

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

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 Agreement]*

**S&P Produce, Inc.**

\_\_\_\_\_  
By: Gregg Senn

Its: President

**S2P, LLC**

\_\_\_\_\_  
By: Gregg Senn

Its: President

*[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes 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 [DATE] (“Fee Agreement”), between Jasper County, South Carolina (“County”) and [COMPANY] (“Sponsors”).

**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 Sponsors [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 Sponsors Affiliate as if it were a Sponsors [except the following \_\_\_\_\_]; (c) acknowledges and agrees that (i) according to the Fee Agreement, the undersigned has been designated as a Sponsors Affiliate by the Sponsors for purposes of the Project; and (ii) the undersigned qualifies or will qualify as a Sponsors Affiliate under the Fee Agreement and Section 12-44-30(20) and Section 12-44-130 of the Act.

**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 Sponsors Affiliate.**

The Sponsors Affiliate represents and warrants to the County as follows:

(a) The Sponsors 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 Sponsors 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 Sponsors 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 Sponsors Affiliate to join with the Sponsors 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

\_\_\_\_\_  
Name of Entity

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

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

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

**JASPER COUNTY, SOUTH CAROLINA**

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

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







**EXHIBIT C (see Section 6.1)**

**DESCRIPTION OF CLAW BACK**

*Should Sponsors fail to meet the Contract Minimum Investment Requirement or the Contract Minimum Jobs Requirement, a pro rata clawback shall be paid calculated as follows:*

**Repayment Amount = Total Benefits Received x Claw Back Percentage**

**The following definitions shall apply:**

**“Land Component” means the difference between the Site Value and the Site Price.**

**“Total Benefits Received” means the difference between the amount Sponsors pay under this Fee Agreement and the amount of ad valorem tax that would be owed absent this Fee Agreement plus the Land Component.**

**Claw Back Percentage = 100% - Overall Achievement Percentage**

**Overall Achievement Percentage = (Investment Achievement Percentage + Jobs Achievement Percentage) / 2**

**Investment Achievement Percentage = Actual Investment Achieved / Contract Minimum Investment Requirement [may not exceed 100%]**

**Jobs Achievement Percentage = Actual New, Full-Time Jobs Created / Contract Minimum Jobs Requirement [may not exceed 100%]**

In calculating each achievement percentage, only the investment made or new jobs achieved up to the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement will be counted.

*For example, and by way of example only, if the Total Benefits Received were equal to \$1,000,000 \$2,800,000 had been invested at the Project and 13 jobs had been created by the end of the Investment Period, the Claw Back Percentage would be calculated as follows:*

$$\text{Jobs Achievement Percentage} = 13/19 = 68.42\%$$

$$\text{Investment Achievement Percentage} = 2,800,000/2,900,000 = 96.55\%$$

$$\text{Overall Achievement Percentage} = 68.42 + 96.55/2 = 82.49\%$$

$$\text{Claw Back Percentage} = 100\% - 82.49\% = 17.51\%$$

$$\text{Repayment Amount} = \$1,000,000 \times 17.51\% = \$175,100$$

The Sponsor shall pay any amounts described in or calculated pursuant to this Exhibit C within 30 days of receipt of a written statement from the County. If not timely paid by the Sponsor, the amount due is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation described in this Exhibit C survives termination of this Fee Agreement.

**EXHIBIT B**  
**FORM OF PARK AGREEMENT**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF JASPER ) **AGREEMENT FOR DEVELOPMENT OF**  
 ) **A JOINT COUNTY INDUSTRIAL AND**  
 COUNTY OF HAMPTON ) **BUSINESS PARK (PROJECT VEGGIE)**  
 )

**THIS AGREEMENT** for the development of a joint county industrial and business park to be located within Jasper County and Hampton County is made and entered into as of [the later of the third reading date for Jasper or the third reading date for Hampton for the MCIP ordinance - just bracket the anticipated date and we will remove the brackets later], by and between Jasper County, South Carolina (“Jasper County”) and Hampton County, South Carolina (“Hampton County”).

**RECITALS**

**WHEREAS**, Jasper County and Hampton County are contiguous counties which, pursuant to Ordinance No. [] enacted by Jasper County Council on [Jasper third reading date], and Ordinance No. [], enacted by Hampton County Council on [Hampton third reading date], have each determined that, in order to promote economic development and thus encourage investment and provide additional employment opportunities within both of said counties, there should be developed in Jasper County and Hampton County a joint county industrial and business park (the Jasper County/Hampton County Park (Project Veggie), referred to herein as the “Park”), to be located upon property more particularly described in **Exhibit A** hereto; and

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

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

1. **Binding Agreement.** This Agreement serves as a written instrument setting forth the entire agreement between the parties and shall be binding on Jasper County and Hampton County, their successors and assigns.
2. **Authorization.** Article VIII, Section 13(D) of the South Carolina Constitution provides that counties may jointly develop an industrial or business park with other counties within the geographical boundaries of one or more of the member counties, provided that certain conditions specified therein are met and further provided that the General Assembly of the State of South Carolina provides by law a manner in which the value of property in such park will be considered for purposes of bonded indebtedness of political subdivisions and school districts and for purposes of computing the index of taxpaying ability pursuant to any provision of law which measures the relative fiscal capacity of a school district to support its schools based on the assessed valuation of taxable property in the district as compared to the assessed

valuation of taxable property in all school districts in South Carolina. The Code of Laws of South Carolina, 1976, as amended (the “Code”) and particularly, Section 4-1-170 thereof, satisfies the conditions imposed by Article VIII, Section 13(D) of the South Carolina Constitution and provides the statutory vehicle whereby a joint county industrial or business park may be created.

**3. Location of the Park.**

(A) As of the original execution and delivery of this Agreement, the Park initially consists of property that is located in Jasper County and which is now or is anticipated to be owned and/or operated by [Company Name] (collectively, the “Company”), as more particularly described in Exhibit A (Jasper Property) hereto. It is specifically recognized that the Park may from time to time consist of non-contiguous properties within each county. The boundaries of the Park may be enlarged or diminished from time to time as authorized by unilateral ordinance of the county council of the County in which the property to be added to the Park is located. If any property proposed for inclusion in the Park is located, at the time such inclusion is proposed, within the boundaries of a municipality, then the municipality must give its consent prior to the inclusion of the property in the Park.

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

(C) Prior to the adoption by the respective county council of an ordinance authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by such county council. Notice of such public hearing shall be published in a newspaper of general circulation in the respective county at least once and not less than fifteen (15) days prior to such hearing. Notice of such public hearing shall also be served in the manner of service of process at least fifteen (15) days prior to such public hearing upon the owner and, if applicable, the lessee of any property which would be excluded from the Park by virtue of the diminution.

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

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

If the property is located in the Jasper County portion of the Park:

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

If the property is located in the Hampton County portion of the Park:

- |                  |    |
|------------------|----|
| A. Jasper County | 0% |
|------------------|----|

B. Hampton County 100%

Notwithstanding anything herein to the contrary, to the extent that privately owned property is located in the Park, the owner of such property shall bear, exclusively, any expense associated with such property.

6. **Allocation of Revenues.** Revenues generated by the Park through the payment of fees in lieu of *ad valorem* taxes shall be distributed in accordance with the attached **Exhibit B**.

7. **Fees in Lieu of Ad Valorem Taxes Pursuant to Title 4 or Title 12 of the Code.** It is hereby agreed that the entry by Jasper County into any one or more fee in lieu of *ad valorem* tax agreements pursuant to Title 4 or Title 12 of the Code or any successor or comparable statutes (“Negotiated Fee in Lieu of Tax Agreements”), with respect to property located within the Jasper County portion of the Park and the terms of such agreements shall be at the sole discretion of Jasper County. It is further agreed that entry by Hampton County into any one or more Negotiated Fee in Lieu of Tax Agreements with respect to property located within the Hampton County portion of the Park and the terms of such agreements shall be at the sole discretion of Hampton County.

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

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

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

11. **Emergency Services.** All emergency services in the Park shall be provided by those emergency service providers who provide the respective emergency services in that portion of the Host County.

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

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



14. **Counterpart Execution.** This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

15. **Term; Termination.** This Agreement shall extend until December 31, 2027, or such other date as shall be specified in any amendment hereto. Notwithstanding the foregoing provisions of this Agreement or any other provision in this Agreement to the contrary, this Agreement shall not expire and may not be terminated to the extent that Jasper County or Hampton County has outstanding contractual covenants, commitments or agreements to any owner or lessee of Park property, including, but not limited to the Company, to provide, or to facilitate the provision of incentives requiring inclusion of property of such owner or lessee within the boundaries of a joint county industrial or business park created pursuant to Article VIII, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code, unless Jasper County shall first (i) obtain the written the consent of such owner or lessee and, to the extent required (ii) include the property of such owner or lessee as part of another joint county industrial or business park created pursuant to Article III, Section 13(D) of the South Carolina Constitution and Title 4, Chapter 1 of the Code, which inclusion is effective immediately upon termination of this Agreement.

[End of Agreement – Execution Page to Follow]

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

JASPER COUNTY, SOUTH CAROLINA

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

Chair, County Council

Jasper County, South Carolina

[SEAL]

Attest:

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

Clerk to County Council

Jasper County, South Carolina

*[signature page 1 to Agreement for Development of a Joint County Industrial and Business Park (Project \_\_\_\_\_)(Jasper County/Hampton County Park)]*

HAMPTON COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Charles H. Phillips, Chairman of County Council  
Hampton County, South Carolina

(SEAL)

Attest:

By: \_\_\_\_\_  
Aline Newton, Clerk to County Council  
Hampton County, South Carolina

*[signature page 2 to Agreement for Development of a Joint County Industrial and Business Park (Project \_\_\_\_\_) (Jasper County/Hampton County Park)]*

**Exhibit A**

legal description

## **Exhibit B Revenue Distribution**

For fee in lieu of tax revenues Jasper County (“County”) receives as the host county in a joint county industrial and business park there shall first be deducted any special source revenue credits.

After making the deduction of special source revenue credits, the County shall distribute 1% to any companion County.

The amount of revenues the County receives after making the deduction of special source revenue credits and the distribution of 1% to any companion county (“Retained Revenues”) shall be distributed as follows:

**FIRST:** For reimbursement of the County for any expenditures made to attract to and locate any particular property in the joint county industrial and business park including expenses incurred with the creation of the joint county industrial and business park and ongoing expenses related to the joint county industrial and business park;

**SECOND:** 10% of the Retained Revenues shall be distributed to the County’s Commercial Development Fund;

**THIRD:** To the Taxing Entities, where “Taxing Entities” are those entities within the County which, as of the date of the agreement establishing the joint county industrial and business park, have taxing jurisdiction over the property to be located in such joint county industrial and business park, and no others, in the same ratio as each Taxing Entity’s millage bears to the aggregate millage of all Taxing Entities in any given year.

For Example:

Assuming a special source revenue credit of 15%, fee in lieu of tax revenues of \$1000 and expenditures by the County of \$100, the revenues shall be distributed as follows:

First, \$150 is deducted leaving \$850.

Next, 1% of the \$850 is distributed to the companion county. 1% of \$850 is \$8.50 leaving \$841.50 in Retained Revenues.

Next, 10% of the Retained Revenues is distributed to the County’s Commercial Development Fund. 10% of \$841.50 is \$84.15 leaving \$757.35

Next, \$100 is distributed to the County to reimburse the County for expenditures leaving \$657.35.

Finally, \$657.35 is distributed to the Taxing Entities, as defined above, pro rata according to millage.

# AGENDA

## ITEM # 15



**STATE OF SOUTH CAROLINA  
JASPER COUNTY**

**ORDINANCE #O-2024-\_\_\_\_\_**

**AN ORDINANCE TO ESTABLISH, PURSUANT TO SECTION 4-1-170 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, A MULTI-COUNTY INDUSTRIAL/BUSINESS PARK, IN CONJUNCTION WITH BEAUFORT COUNTY, SOUTH CAROLINA; TO AUTHORIZE THE EXECUTION AND DELIVERY OF A MULTICOUNTY PARK AGREEMENT BY AND BETWEEN JASPER COUNTY, SOUTH CAROLINA AND BEAUFORT COUNTY, SOUTH CAROLINA TO PROVIDE FOR A WRITTEN AGREEMENT WITH BEAUFORT COUNTY AS TO THE SHARING OF THE REVENUES AND EXPENSES OF THE PARK; TO PROVIDE FOR THE DISTRIBUTION OF REVENUES FROM THE PARK AMONG TAXING ENTITIES HAVING JURISDICTION OVER THE PARK; TO PROVIDE FOR A FEE IN LIEU OF AD VALOREM TAXATION; AND OTHER MATTERS RELATED THERETO.**

WHEREAS, Jasper County, Carolina (“Jasper County”) and Beaufort County, South Carolina (“Beaufort County”) (collectively, the “Counties” and together with any additional counties that become parties to the MCP Agreement described below, the “Member Counties”), as authorized under Article VIII, Section 13(D) of the South Carolina Constitution and Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended (the “Act”), propose to establish jointly a multi-county industrial/business park within the geographical boundaries of one or more of the Member Counties (the “Park”); and

WHEREAS, Article VIII, Section 13(B) of the South Carolina Constitution provides that nothing in the State Constitution may be construed to prohibit any of the counties in South Carolina from agreeing to share the lawful cost, responsibility, and administration of functions with one or more governments, whether within or without the State of South Carolina; and

WHEREAS, in order to promote the economic development of Beaufort County and Jasper County, the Counties have initially agreed to include in the Park properties located in Beaufort County and described in Exhibit A hereto (the “Initial Property”) and as more particularly described in Exhibit A to that certain Agreement for the Establishment of Multi-County Industrial/Business Park to be entered into by the Counties as of such date as may be agreed to by the Counties (the “MCP Agreement”), the form of which is attached herein as Exhibit B (the MCP Agreement”); and

WHEREAS, the Counties have agreed to the specific terms and conditions of the arrangement set forth in the MCP Agreement; and

WHEREAS, the Counties now desire to establish the Park to include the Initial Property;

NOW, THEREFORE, BE IT ORDAINED BY THE JASPER COUNTY COUNCIL AS FOLLOWS:

**Section 1. *Establishment of Multi-County Park; Approval of MCP Agreement; Location of Park; Change of Park Boundaries.***

(a) There is hereby authorized to be established, initially in conjunction with Jasper County, a multi-county industrial/business park to include therein the Initial Property. The form, provisions, terms, and conditions of the MCP Agreement (Exhibit A) in sustainably the form before Jasper County Council (the "County Council") at the meeting at which this Ordinance receives third reading, and filed with the Clerk to County Council, be and they are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the MCP Agreement were set out in this Ordinance in its entirety.

(b) The MCP Agreement is to be in the form as negotiated by the County Administrator with the advice of legal counsel, with such changes therein as shall not materially adversely affect the rights of Jasper County thereunder and as shall be approved by the officials of Jasper County executing the same. The Chairman of County Council, the County Administrator, and the Clerk to County Council, for and on behalf of Jasper County, are each authorized to execute such documents with such changes therein as shall not materially adversely affect the rights of Jasper County thereunder and take such further actions as may be necessary or proper to effect the establishment of the Park, the execution and delivery of the MCP Agreement, and the performance of all obligations of Jasper County under and pursuant to the MCP Agreement and to carry out the transactions contemplated thereby and by this Ordinance.

(c) As of the date of enactment of this Ordinance, the Park shall consist of the Initial Property located in Beaufort County. It is recognized that the Park may from time to time consist of non-contiguous properties within each Member County. The boundaries of the Park may be enlarged or diminished from time to time as authorized by (a) an ordinance of the Member County in which the property to be added or removed from the Park is actually located, and (b) a resolution (or comparable action) of the governing bodies of all other Member Counties.

**Section 2. *Payment of Fee-in-lieu of Taxes.***

(a) In accordance with Article VIII, Section 13(D) of the South Carolina Constitution, the area comprising the Park and all property having a situs therein is exempt from all *ad valorem* taxation. All owners and lessees of property situated in the Park will pay a fee in lieu of *ad valorem* taxes as provided for in the MCP Agreement. The fee paid in lieu of *ad valorem* taxes shall be paid to the county treasurer of the county in which such property is located. That portion of the fee from the Park property located in a Member County and allocated pursuant to the MCP Agreement to the other Member Counties shall be paid to the respective county treasurer (or other designated official) of the other Member Counties in accordance with the terms of the MCP Agreement. Payments of fees in lieu of *ad valorem* taxes for each year will be due on the due date for property taxes for such year. Penalties for late payment will be at the same rate as late tax payments. Any late payment beyond the due date will accrue interest at the same rate as late tax payments. The Member Counties, acting by and through the appropriate official, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

(b) Nothing herein shall be construed to prohibit any Member County from negotiating and collecting reduced fees in lieu of taxes pursuant to Title 4, Chapter 29 or Chapter 12, or Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended, or any similar provision of South Carolina law.

**Section 3. *Further Assurances.*** The County Council confirms the authority of the Chair, the County Administrator, the County Attorney, the Clerk to County Council, and various other County officials and

staff, acting at the direction of the Chair, the County Administrator, the County Attorney, 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 Sponsor under this Ordinance and the Fee Agreement.

**Section 4. *Savings Clause.*** If any portion of this Ordinance shall be held void or otherwise invalid, the validity and binding effect of the remaining portions shall not be affected thereby.

**Section 5. *General Repealer.*** Any prior ordinance or resolution, the terms of which are in conflict herewith, is, only to the extent of such conflict, hereby repealed.

**Section 5. *Effectiveness.*** This Ordinance shall be effective upon approval following third and final reading.

JASPER COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
L. Martin Sauls, IV  
Chairman of County Council  
Jasper County, South Carolina

ATTEST:

\_\_\_\_\_  
Wanda Giles  
Clerk to County Council  
Jasper County, South Carolina

Approved as to Form:

\_\_\_\_\_  
David L. Tedder  
Jasper County Attorney

\_\_\_\_\_  
Date



**EXHIBIT A**

Initial Property

To Be Inserted

**EXHIBIT B**

MCP Agreement

**MULTI-COUNTY PARK AGREEMENT  
(PROJECT MICRO)**

**between**

**BEAUFORT COUNTY, SOUTH CAROLINA**

**and**

**JASPER COUNTY, SOUTH CAROLINA**

**Dated as of \_\_\_\_\_, 2024**

**Multi-County Park Agreement  
Project Micro**

This MULTI-COUNTY PARK AGREEMENT (Project Micro) is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2024, by and between BEAUFORT COUNTY, SOUTH CAROLINA (“Beaufort County”) and JASPER COUNTY, SOUTH CAROLINA (“Jasper County”) (collectively, Beaufort County and Jasper County are the “Parties”), each a body politic and corporate, a political subdivision of the State of South Carolina (“Park Agreement”).

In consideration of the mutual agreements, representations and benefits contained in this Park Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Beaufort County and Jasper County agree as follows:

1. Effective Date. This Park Agreement is effective at 12:00 a.m. (midnight), [\_\_\_\_\_], 2024 (the “Effective Date”).

2. Authorization. Article VIII, section 13(D) of the South Carolina Constitution and Sections 4-1-170, -172, and -175 of the Code of Laws of South Carolina 1976, as amended (the “MCP Law”), authorizes contiguous counties to jointly develop industrial and business parks within the geographical boundaries of one or more of the participating counties. Beaufort County authorized and approved this Park Agreement by passage of Ordinance No. \_\_\_\_\_ and Jasper County authorized and approved this Park Agreement by passage of Ordinance No. \_\_\_\_\_.

3. Purpose. The purpose of this Park Agreement is to (i) provide for the establishment of a multi-county park in accordance with the MCP Law and (ii) encourage the investment of capital and the creation of jobs in Beaufort County and Jasper County.

4. Agreement to Develop Park. The Parties agree to jointly develop an industrial and business park in accordance with the MCP Law and the terms and conditions of this Park Agreement (the “Park”).

5. The Park. (A) *Location.* The Park consists of certain property located in Beaufort County as further identified in Exhibit A (Beaufort County) to this Park Agreement, and property located in Jasper County, as further identified in Exhibit B (Jasper County), to this Park Agreement. The Park may consist of non-contiguous properties within each county. The Parties acknowledge that on the Effective Date, the Park does not contain any property located in Jasper County.

(B) *Addition and Removal of Property.*

(1) *County Action.* Property may be added to or removed from the Park by ordinance of the county in which the subject property is located, provided that the host county shall provide notice to the non-host county as well as revised exhibits pursuant to subsection (2) below.

(2) *Revised Exhibits.* If property is added to or removed from the Park, this Park Agreement is deemed amended and a revised Exhibit A (Beaufort County) or Exhibit B (Jasper County), as applicable, shall be prepared by the county in which the added or removed property is located. The revised exhibit must contain a legal description or other identification of the properties included in the Park, after the addition or removal. A copy of the revised exhibit shall be provided to the Administrator, Clerk to Council, Assessor, Auditor and Treasurer of Beaufort County and Jasper County.

(3) *Public Hearings and Notice.* Prior to the adoption by either county of an ordinance authorizing the removal of property from the Park, the county council in the county in which the



property to be removed is located, shall hold a public hearing. The county that will conduct the public hearing must give notice of the public hearing by publication in a newspaper of general circulation in the county in which the public hearing will be held at least once and not less than fifteen (15) days prior to the public hearing. Notice of the public hearing shall also be served in the manner of service of process at least fifteen (15) days prior to the public hearing upon the owner of the real property and, if applicable and known, the lessee of any real property which would be removed from the Park.

6. Fee in Lieu of Taxes. Pursuant to article VIII, section 13(D), of the South Carolina Constitution, all property located in the Park is exempt from all *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Park Agreement and the MCP Law an amount equivalent to the *ad valorem* property taxes or other in-lieu-of payments that would have been due and payable but for the location of the property within the Park (“Fee in Lieu of Taxes” or “FILOT”).

7. Allocation of Expenses. Beaufort County and Jasper County shall bear the expenses for the development, operation, maintenance and promotion of the Park and the cost of providing public services, in the following proportions:

If property is in the Beaufort County portion of the Park:

(1)	Beaufort County	100%
(2)	Jasper County	0%

If property is in the Jasper County portion of the Park:

(1)	Beaufort County	0%
(2)	Jasper County	100%

8. Allocation of Revenues. Beaufort County and Jasper County shall receive an allocation of revenue generated by the Park through payment of Fee in Lieu of Taxes (net of any special source revenue bond payments or special source revenue credits) in the following proportions:

If property is in the Beaufort County portion of the Park:

(1)	Beaufort County	99%
(2)	Jasper County	1%

If property is in the Jasper County portion of the Park:

(1)	Beaufort County	1%
(2)	Jasper County	99%

9. Revenue Allocation Within Each County.

(A) *Host County.* Revenues generated by the Park through the payment of Fee in Lieu of Taxes shall be distributed to Beaufort County and to Jasper County, as applicable, according to the proportions established by Paragraph 8 of this Park Agreement. With respect to revenues allocable to Beaufort County or Jasper County by way of FILOT generated within the respective county (the “Host County”), such revenue shall be distributed within the Host County in the manner provided by ordinance of the council of the Host County; provided, that (i) all taxing districts which overlap the applicable revenue-generating portion of the Park shall receive at least some portion of the revenues generated from such portion, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body

of the taxing entity shall allocate the revenues received between operations and debt service of the taxing entity. Each Host County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the council of the Host County. Each Host County is further specifically authorized to amend the distribution within such Host County at any time by the passage of an ordinance.

(B) *Non-Host County*. Revenues allocable to Beaufort County by way of FILOT generated within Jasper County shall be distributed solely to Beaufort County. Revenues allocated to Jasper County by way of FILOT generated within Beaufort County shall be distributed solely to Jasper County.

10. Fees In Lieu of Taxes Pursuant to Title 4 and Title 12 Code of Laws of South Carolina. The Parties agree that the entry by Beaufort County into any one or more fee in lieu of tax agreements pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina 1976, as amended (“Negotiated Fee-in-Lieu of Tax Agreements”), with respect to property located within the Beaufort County portion of the Park and the terms of those agreements shall be at the sole discretion of Beaufort County. The Parties further agree that entry by Jasper County into any one or more Negotiated Fee-in-Lieu of Tax Agreements with respect to property located within the Jasper County portion of the Park and the terms of those agreements shall be at the sole discretion of Jasper County.

11. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code of Laws of South Carolina 1976, as amended, allocation of the assessed value of property within the Park to Beaufort County and Jasper County and to each of the taxing entities within the participating counties shall be identical to the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to Paragraphs 8 and 9 of this Park Agreement.

12. Applicable Regulations. Any applicable ordinances and regulations of Jasper County concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Jasper County unless the properties are within the boundaries of a municipality in which case the municipality’s applicable ordinances and regulations shall apply. Any applicable ordinances and regulations of Beaufort County concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Beaufort County unless the properties are within the boundaries of a municipality in which case the municipality’s applicable ordinances and regulations shall apply.

13. Law Enforcement Jurisdiction. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Jasper County is vested with the Sheriff’s Department of Jasper County. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Beaufort County is vested with the Sheriff’s Department of Beaufort County. If any of the Park properties located in either Jasper County or Beaufort County are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of the municipality.

14. Severability. If any provision or any part of a provision of this Park Agreement is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Park Agreement.

15. Amendments. The provisions of this Park Agreement may be modified or amended only in a writing signed by the Parties.

16. Headings and Catch Lines. The headings of the paragraphs and subparagraphs of this Park Agreement are inserted for convenience only and do not constitute a part of this Park Agreement.

17. Governing Law. This Park Agreement, and all documents executed in connection with it, shall be construed in accordance with and governed by the laws of the State of South Carolina.

18. Counterparts. This Park Agreement may be executed in any number of counterparts, and all of the counterparts taken together constitute one and the same instrument.

19. Binding Agreement. This Park Agreement is binding upon and shall inure to the benefit of the respective Parties.

20. Merger. This Park Agreement, and all documents executed in connection with it, express the entire understanding and all agreements of the Parties with each other, and neither Beaufort County nor Jasper County has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Park Agreement.

21. Waiver. Either party may waive compliance by the other party with any term or condition of this Park Agreement only in a writing signed by the waiving party. The failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall not operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

22. Termination.

(A) *Duration and Renewal.* This Park Agreement commences on the Effective Date and shall continue with respect to each parcel included in the Park for at least the duration of any special source revenue credits applicable to such parcel.

(B) *Mutual Termination.* Notwithstanding the provisions of subparagraph (A) of this Paragraph 22, the Parties may mutually agree to terminate this Park Agreement at any time upon passage of an ordinance to that effect by each county and after conducting a public hearing and giving notice as set forth in subparagraph (B)(3) of Paragraph 5 of this Park Agreement.

SIGNATURES FOLLOW ON NEXT PAGE.

WITNESS our hands and seals as of the date first above written.

BEAUFORT COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Joseph Passiment, Chair, County Council

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

[Additional Signature Page Follows]

JASPER COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
L. Martin Sauls, IV, Chair, County Council

ATTEST:

\_\_\_\_\_  
Wanda Simmons, Clerk to Council

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**EXHIBIT A (Beaufort County)**

**Beaufort County Property**

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**PROJECT MICRO**  
**LEGAL DESCRIPTION**



**EXHIBIT B (Jasper County)**

**Jasper County Property**

**NONE AS OF [\_\_\_\_\_], 2024**

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# AGENDA

## ITEM # 16



# Jasper County Planning and Building Services

358 Third Avenue - Post Office Box 1659  
Ridgeland, South Carolina 29936  
Phone (843) 717-3650 Fax (843) 726-7707

Lisa Wagner, CFM  
Director of Planning and Building Services  
[lwagner@jaspercountysc.gov](mailto:lwagner@jaspercountysc.gov)

## Jasper County Council Staff Report

<b>Meeting Date:</b>	October 21, 2024
<b>Project:</b>	Zoning Map Amendment – Residential
<b>Applicant:</b>	Roberto Cubias and Jasper County Planning Commission
<b>Tax Map Number:</b>	029-00-02-100 – 1607 Deerfield Road – by Roberto Cubias 029-00-02-099 – 1613 Deerfield Road – by Jasper County Planning Commission 029-00-02-095 – 1619 Deerfield Road – by Jasper County Planning Commission
<b>Submitted For:</b>	Public Hearing and 2 <sup>nd</sup> Reading
<b>Recommendation:</b>	Planning Commission recommends approval

**Description:** A property owner and the Jasper County Planning Commission requests that three (3) properties be designated as Residential on the Official Jasper County Zoning Map. Parcel #029-00-02-100 consists of a total of 1.08 acres, located at 1607 Deerfield Road. Parcel #029-00-02-099, consists of 1.06 acres and is located at 1613 Deerfield Road. Parcel #029-00-02-095, consists of 2.86 acres and is located at 1619 Deerfield Road. The property owner submitted a zoning map amendment application for Parcel #029-00-02-100 and during Planning Commission’s review, the Commission recommended that the two additional properties be re-zoned to Residential too, since they are all immediately adjacent to each other and all three parcels were originally part of a larger tract. The properties are currently zoned Rural Preservation. The applicant intends to place a mobile home on the property. The side yard setbacks are 25’ in the Rural Preservation Zoning District, whereas, the side yard setbacks in the Residential Zoning District require 10’ setbacks, which would allow for the front door of the mobile home to face Deerfield Road, also meeting the requirements of the zoning ordinance. The Planning Commission recognized that the two additional properties will be faced with the same challenges, which is why they recommended re-zoning of the two additional properties.

**Analysis:** The Zoning Map Amendment application and request is reviewed by considering the following factors:

- ***Comprehensive Plan:*** According to the 2018 Jasper County Comprehensive Plan, the Future Land Use Map identifies this area as “Urban Transition.” The Urban Transition areas are pockets of unincorporated Jasper County that are partially or entirely surrounded by either the City of Hardeeville or the Town of Ridgeland. For areas that experience new development or redevelopment within the Urban Transition zones, consideration should be given to working with the adjacent municipality for annexation.
- ***Adjacent Zoning:*** The adjacent parcels are zoned Rural Preservation and Residential with the municipal limits of Hardeeville adjacent to the property’s southern boundary.
- ***Adjacent Land Use:*** Adjacent land uses are residential and vacant property with an automotive towing business located across the road.
- ***Traffic and Access:*** The subject property is accessed by Deerfield Road, which is a two-lane state-maintained highway classified as a major arterial.

**Planning Commission Recommendation:** The subject properties are existing lots and are intended for a single-family residence and not intended to for any other type of development; as such, Planning Commission recommends approval to have the properties designated as Residential.

**Attachments:**

1. Application
2. Ordinance
3. Aerial map of property and surrounding area
4. Aerial map with zoning layer

**STATE OF SOUTH CAROLINA  
COUNTY OF JASPER**

**ORDINANCE: O-2024-25**

**AN ORDINANCE  
OF JASPER COUNTY COUNCIL**

To amend the Official Zoning Map of Jasper County so as to transfer three (3) parcels located at 1607, 1613, and 1619 Deerfield Road, bearing Jasper County Tax Map Numbers 029-00-02-100, 029-00-02-099, and 029-00-02-095 from the Rural Preservation Zone to the Residential Zone on the Official Zoning Map of Jasper County.

**WHEREAS**, the owner of a property and the Jasper County Planning Commission requests parcels bearing Jasper County Tax Map Numbers 029-00-02-100 consisting of 1.08 acres, 029-00-02-099 consisting of 1.06 acres, and 029-00-02-095 consisting of 2.86 acres, located at 1607, 1613, and 1619 Deerfield Road, has requested rezoning of the parcels on the Official Zoning Map of Jasper County from the Rural Preservation Zone to the Residential Zone; and

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

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

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

1. Jasper County Council finds that in accordance with the staff report and the recommendation of the Planning Commission, the proposed zoning is consistent with the continued pattern of growth in the vicinity and is in harmony with the Jasper County Comprehensive Plan. Good cause having been shown, approximately 1.08 acres bearing Jasper County Tax Map

Number 029-00-02-100, located at 1607 Deerfield Road; approximately 1.06 acres bearing Jasper County Tax Map Number 029-00-02-099, located at 1613 Deerfield Road; and approximately 2.86 acres bearing Jasper County Tax Map Number 029-00-02-095, located at 1619 Deerfield Road, all depicted on the Official Zoning Map of Jasper County in the Rural Preservation Zone shall be changed to the Residential Zone.

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

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**L. Martin Sauls IV**  
**Chairman**

**ATTEST:**

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**Wanda Giles**  
**Clerk to Council**

**ORDINANCE: # O-2024-25**

**First Reading:** October 7, 2024

**Second Reading:** October 21, 2024

**Public Hearing:** October 21, 2024

**Adopted:** \_\_\_\_\_

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Considered by the Jasper County Planning Commission at it's meeting on  
September 10, 2024 and recommended for approval.

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Reviewed for form and draftsmanship by the Jasper County Attorney.

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**David Tedder**

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**Date**







