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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM JASPER COUNTY COURT OF COMMON PLEAS
The Honorable H. Steven DeBerry, IV, Circuit Court Judge

Appellate Case No. 2022-001266
Common Pleas Case No. 2021-CP-27-00028

City of Hardeeville.....Appellant,

v.

Jasper County, South Carolina, Jasper County Treasurer,
and Jasper County Auditor.....Respondents,

and

Jasper County, South Carolina.....Cross Co-Plaintiff,

Verna Garvin, in her official capacity
as Jasper County Treasurer Cross Co-Plaintiff,

and

Monica Wilson, in her official capacity
as Jasper County Auditor.....Cross Co-Plaintiff,

v.

City of Hardeeville, Nickel Plate Road, LLC, and Beaufort County,
South Carolina.....Cross Defendants.

RECORD ON APPEAL – VOLUME 1 OF 2

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-00028
	)	
Plaintiff,	)	
	)	
vs.	)	CONSENT ORDER
	)	TO AMEND COMPLAINT
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity	)
as Jasper County Treasurer,	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity	)
as Jasper County Auditor,	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE,	)
NICKEL PLATE ROAD, LLC, and	)
BEAUFORT COUNTY, SOUTH	)
CAROLINA,	)
Cross Defendants.	)

Pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedure, this matter comes before the Court on Plaintiff's Motion to Amend Complaint in the above-captioned matter. As it appears Plaintiff wishes to amend said pleadings to include an omitted exhibit and correct minor

errors in the original Complaint. The Plaintiff has not previously amended its Complaint and counsel for the parties have consented to said motion.

It is hereby, ORDERED, ADJUDGED AND DECREED that Plaintiff be allowed to amend its Summons and Complaint to include an omitted exhibit and correct minor errors and in any other particulars as set forth in the draft Amended Summons and Complaint attached as “Exhibit A.”

This ____ day of _____ 2021.
Hardeeville, South Carolina

Presiding Judge for the 14th Judicial Circuit

I SO MOVE.

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Jasper Common Pleas

Case Caption: City Of Hardeeville VS Jasper County, South Carolina , defendant, et al
Case Number: 2021CP2700028
Type: Order/Consent Order

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

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ROA 00004

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE No.: 2021-CP-27-00028
	)	
CITY OF HARDEEVILLE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	
	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity as	)
Jasper County Treasurer,	)
	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity as	)
Jasper County Auditor,	)
	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE, NICKEL PLATE	)
ROAD, LLC, and BEAUFORT COUNTY,	)
SOUTH CAROLINA,	)
	)
Cross-Defendants	)

**ORDER OF THE COURT
FOR
DEFENDANT JASPER COUNTY**

This matter came before the Court pursuant to Defendant Jasper County's ("Jasper") Motion for Partial Summary Judgment and Plaintiff City of Hardeeville's ("Hardeeville") Motion for Summary Judgment. Both parties requested in their summary judgment motions that the Court rule on the parties' respective declaratory judgment causes of action.

This case presents the Court with a number of issues that require the proper interpretation of complex and arcane statutory and constitutional provisions governing economic development and public finance in South Carolina. Although Jasper's and Hardeeville's requests for a declaratory judgment require the Court to consider a number of separate sub-issues, both parties have essentially asked the Court for answers to the same two questions: (1) what is legally required for the proper development of a multi-county industrial park as contemplated by Article VIII, Section 13(D) of the South Carolina Constitution and Title 4 of the South Carolina Code; and (2) if the development of a multi-county industrial park satisfies these constitutional and statutory requirements, what is the legal effect on the property tax status of property located within that park.

Having reviewed the parties' pleadings, motions, affidavits, and other filings and having considered the arguments of counsel, the Court finds in favor of Jasper and grants its Motion for Partial Summary Judgment for the reasons set forth below.

STATEMENT OF THE CASE

On February 1, 2021, Hardeeville filed a Complaint against Jasper, the Jasper County Treasurer ("Treasurer"), and the Jasper County Auditor ("Auditor") (collectively, the "Jasper Defendants"). On April 16, 2021, Hardeeville filed a Motion to Amend Complaint. On June 21, 2021, the Court entered the parties' Consent Order to Amend Complaint. Hardeeville's Amended Complaint sought injunctive relief and a declaratory judgment, and requested that the Court determine and declare the rights and legal relations of the parties as it relates to certain property

annexed by Hardeeville that is located within a multi-county industrial park jointly developed by Jasper and Beaufort County (the “Park”).

On July 21, 2021, the Jasper Defendants filed their Answer to Hardeeville’s Amended Complaint and Amended Cross Complaint (“Answer and Counterclaim”). In the Answer and Counterclaim, the Jasper Defendants requested a declaratory judgment from the Court and asserted a cause of action for unjust enrichment against Hardeeville. The Jasper Defendants’ counter-request for a declaratory judgment similarly asked the Court to determine and declare (i) the rights of the parties with regard to the revenue arising from Park property, including Park property annexed by Hardeeville; (ii) whether Park property is exempt from *ad valorem* taxes; (iii) whether the *ad valorem* taxes on Park property are converted to fee-in-lieu of taxes as a matter of law; and (iv) whether the revenues derived from Park property must be distributed in the manner provided in the underlying park agreement between Jasper and Beaufort County. On July 27, 2021, Jasper filed a Motion for Partial Summary Judgment (“Jasper’s Motion”) moving the Court for judgment as a matter of law on these issues.

After Jasper’s Motion was filed, Hardeeville served its First Set of Interrogatories and First Set of Requests for Production on Jasper on August 9, 2021. In response, Jasper filed a Motion for Protective Order on August 24, 2021, requesting an order staying the time for Jasper’s answers and objections to Hardeeville’s discovery requests until at least thirty (30) days after the Court enters a decision on Jasper’s Motion for Partial Summary Judgment.

Then, on October 15, 2021, Hardeeville filed its own Motion for Summary Judgment (“Hardeeville’s Motion”), a Response to Jasper’s Motion for Partial Summary Judgment (“Hardeeville’s Response”), and the Affidavit of Michael Czymbor. In Hardeeville’s Motion, Hardeeville argued that there are no genuine issues of material fact, this dispute involves basic statutory interpretation and contract law, and the Court could find as a matter of law that the

underlying park agreement was invalid and did not bind Hardeeville. In Hardeeville's Response to Jasper's Motion, Hardeeville alternatively argued that there is a genuine issue of material fact as to whether the underlying park agreement is valid, and until Jasper responded to Hardeeville's discovery requests, granting summary judgment would be premature at this stage of the litigation.

On October 25, 2021, Jasper filed a Memorandum of Law in Support of its Motion for Partial Summary Judgment and Reply to Hardeeville's Response in Opposition. Also on October 25, 2021, Jasper filed a Memorandum of Law in Opposition to Hardeeville's Motion for Summary Judgment and the Affidavit of Records Custodian Wanda Hendrix Simmons.

On October 27, 2021, the Court held a hearing on Jasper's and Hardeeville's cross-motions for summary judgment. On November 11, 2021, Nickel Plate Road, LLC, with the permission of the Court, filed a supplemental Memorandum in Opposition to Hardeeville's Motion for Summary Judgment.

FINDINGS OF FACT

I. THE CREATION OF THE PARK

On February 7, 2000, Jasper enacted an ordinance (the "Park Ordinance") approving the development of the Park, which is a multi-county industrial park jointly developed with Beaufort County ("Beaufort"). [Amended Complaint (hereinafter "Compl.") Ex. A; Affidavit of Wanda Hendrix Simmons (hereinafter "Simmons Aff.") Ex. 1-A at Jasper_000078]. The Park Ordinance made reference to and attached the form of the written Agreement for Development of Joint County Industrial and Business Park between Jasper and Beaufort (the "Park Agreement"). [Compl. Ex. A; Simmons Aff. Ex. 1-A at Jasper_000078]. Specifically, the Park Ordinance provided the following with respect to the Park Agreement:

The form of **the [Park Agreement]** is attached hereto and all terms of the **[Park] Agreement are hereby incorporated herein**. The forms, terms and provisions of the [Park] Agreement presented to this meeting and filed with the Clerk of Jasper

County Council be and they are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the [Park] Agreement were set out in this Ordinance in its entirety.

[*Id.* (emphasis added)].

The Park Ordinance, including the Park Agreement as an attachment, was read at three public meetings of Jasper's County Council on three separate days with an interval of greater than seven days between the second and third readings. [Compl. Ex. A; Simmons Aff. Ex. 1-A-B]. The Park Agreement was executed by the respective County Councils for Jasper and Beaufort on April 10, 2000 and February 14, 2000, respectively. [Compl. Ex. B; Simmons Aff. Ex. 1-A]. The Park Ordinance, Beaufort's respective park ordinance authorizing the Park Agreement, and an executed copy of the Park Agreement were filed with Jasper's Register of Deeds Office at Book 8, pages 82-84, on April 10, 2000 between 3:44 PM and 3:51 PM. [Compl. Ex. A; Simmons Aff. Ex. 1-A].

II. TERMS OF THE PARK AGREEMENT

A. Park Property is Exempt from *Ad Valorem* Taxes, and Park Property Owners Must, Instead, Pay a Fee-In-Lieu of *Ad Valorem* Taxes.

Consistent with the provisions of Section 4-1-170 of the South Carolina Code and Article VIII, Section 13(D) of the South Carolina Constitution, the Park Agreement states that all property located in the Park is exempt from *ad valorem* taxation during the term of the Park Agreement. [Compl. Ex. B § 4; Simmons Aff. Ex. 1-A at Jasper_000082]. Instead of *ad valorem* taxes, owners of property located inside the Park's boundaries are required to pay a fee-in-lieu of *ad valorem* taxes. [*Id.*]. The amount that any Park property owner is required to pay is "equivalent to the *ad valorem* property taxes or other in-lieu-of payments that would have been due and payable" if the property was not located in the Park ("Park Revenues"). [*Id.*].

B. The Park Agreement Allocates Park Expenses and Park Revenues and Directs How Park Revenues Must Be Distributed to Each County's Taxing Entities.

The Park Agreement contains specific provisions addressing the requirements of Section 4-1-170(A) of the South Carolina Code, which includes requirements to (1) address sharing expenses of the Park ("Park Expenses"), (2) specify by percentage the revenue to be allocated to each county, and (3) specify the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties. [See Compl. Ex. B; Simmons Aff. Ex 1-A at Jasper_000083]. First, the Park Agreement addresses the allocation of Park Expenses between Jasper and Beaufort. [*Id.*]. Under Section 5 of the Park Agreement, Park Expenses are to be allocated as follows:

5. **Allocation of Park Expenses.** The Counties shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park in the following proportions:

A. Site Location County	100%
B. Partner County	0%

[*Id.* (emphasis in original)].

Second, the Park Agreement addresses the allocation of Park Revenues between Jasper and Beaufort. [*Id.*]. Under Section 6 of the Park Agreement, Park Revenues are allocated as follows:

6. **Allocation of Park Revenues.** The Counties shall receive an allocation of all revenue generated by the Park through payment of fees in lieu of *ad valorem* property taxes or from any other source in the following proportions:

A. Site Location County	99%
B. Partner County	1%

[*Id.* (emphasis in original)].

Third, the Park Agreement addresses the manner in which the Park Revenues allocated to Jasper must be distributed to each of the taxing entities within Jasper. Under Section 7 of the Park Agreement, "[r]evenues received by Jasper County shall be distributed by Jasper County to the

political subdivisions of Jasper County . . . ***in accordance with an ordinance adopted by Jasper County.***” [*Id.* (emphasis added)]. At the time Jasper and Beaufort executed the Park Agreement, the incorporated and referenced Park Ordinance had already been adopted by Jasper’s County Council.¹ The Park Ordinance provides further detail about the manner in which Park Revenues must be distributed to each of the taxing entities within Jasper:

SECTION IX. Jasper County hereby designates that the distribution of the fee-in-lieu of ad valorem taxes pursuant to the [Park] Agreement actually received by Jasper County for Park premises be paid to each of the taxing entities in Jasper County which levy ad valorem property tax in any of the areas comprising the Park **in the same percentage as is equal to that taxing entities’ percentage of the millage rate being levied in the then current tax year for property tax purposes, provided that the County may, from time to time, by ordinance, amend the distribution of the fee-in-lieu of tax payments to all taxing entities.** A portion of the fee-in-lieu of ad valorem taxes which Jasper County receives pursuant to the Agreement for Park premises may be, from time to time any by ordinance of Jasper County Council or its successor, designated for the payment of special source revenue bonds.

[Compl. Ex. A; Simmons Aff. Ex. 1-A at Jasper_000079–80 (bold emphasis added) (underline emphasis in original)].

III. APPROVAL AND ISSUANCE OF SPECIAL SOURCE REVENUE BONDS SECURED BY PARK REVENUES.

A. The Park Ordinance Approved Jasper’s Issuance of Special Source Revenue Bonds Secured by Park Revenues.

The Park Ordinance also authorized Jasper to issue special source revenue bonds (“Bonds”) payable from Park Revenues. Section IX of the Park Ordinances states, in part, as follows:

A portion of the fee-in-lieu of ad valorem taxes which Jasper County receives pursuant to the [Park] Agreement for Park premises may be, from time to time and by ordinance of Jasper County Council or its successor, designated for the payment of special source revenue bonds.

¹ Compare Compl. Ex. A with Compl. Ex. B (showing that the Park Ordinance was adopted by Jasper’s County Council on February 7, 2000, and Jasper’s County Council executed the Park Agreement on April 10, 2000).

[Compl. Ex. A; Simmons Aff. Ex. 1-A at Jasper_000079–80 (emphasis in original)]. In other words, if Jasper did not issue Bonds, then all Park Revenues must be proportionally distributed to Jasper’s taxing entities. If, however, Jasper issued Bonds, the Park Ordinance permitted Jasper to use a portion of Park Revenues to make Bond payments.

B. Jasper Issued the Bonds.

On April 16, 2001, Jasper adopted General Bond Ordinance No. 01-04 (the “General Bond Ordinance”). The General Bond Ordinance authorized the issuance of Bonds in one or more series for a total principal amount of up to \$20,000,000.00. [Compl. Ex. C; Simmons Aff. Ex. 1-C]. Contemporaneously with the adoption of General Bond Ordinance No. 01-04, Jasper adopted the First Supplemental Ordinance No. 01-05, providing for the issuance and sale of bonds not to exceed \$7,000,000.00. [Compl. Ex. D; Simmons Aff. Ex. 1-E]. Then, on October 20, 2003, Jasper adopted the Second Supplemental Ordinance No. 02-16, providing for the issuance and sale of Bonds not to exceed \$7,000,000.00. [Compl. Ex. E; Simmons Aff. Ex. 1-F].²

C. The Park Agreement was Amended to Secure Payment of the Bonds with the First 40% of Park Revenues Received by Jasper.

The General Bond Ordinance adopted by Jasper (which again authorized the issuance of Bonds) expressly amended Section IX of the Park Ordinance, and, thus, the manner in which the Park Agreement required Park Revenues to be distributed to each of the taxing entities within Jasper. [Compl. Ex. C § 11.1; Simmons Aff. Ex. 1-C at Jasper_000025]. After the amendment, Section IX of the Park Ordinance now reads:

SECTION IX. Jasper County hereby directs that, of the fee-in-lieu of *ad valorem* taxes pursuant to the [Park] Agreement actually received by Jasper County for Park premises, one (1%) percent of such fees be paid to Beaufort County. Of the remainder of such fees,

² The General Bond Ordinance, First Supplemental Ordinance No. 01-05, and Second Supplemental Ordinance No. 02-16 are collectively the “Bond Ordinances.” The Bond Ordinances were each read at three public meetings of Jasper’s County Council on three separate days with an interval of greater than seven days between the second and third readings. [See Compl. Exs. C–E; Simmons Aff. Exs. 1-C–G].

forty (40%) percent shall be designated for the payment of special source revenue bonds, and the balance shall be paid to each of the taxing entities in Jasper County which levy an *ad valorem* property tax in any areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes.

[*Id.*]. Section 7 of the Park Agreement is controlled by the terms of Section IX of the Park Ordinance. Accordingly, the amendment to the Park Ordinance also amended the manner in which Park Revenues must be distributed to each of the taxing entities within Jasper under the Park Agreement.

Thus, after 1% of Park Revenues are distributed to Beaufort, the Park Agreement requires the next 40% of Park Revenues to be used as payment for Bonds. [Compl. Ex. C § 5.2; Simmons Aff. Ex. 1-C at Jasper_000017]. The Park Agreement then distributes the remainder of Park Revenues to each of the taxing entities within Jasper (which would include Hardeeville when it later annexed the Annexed Property as described in Section IV below) “in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes.” [*Id.*].

IV. HARDEEVILLE'S ANNEXATION OF PARK PROPERTY

The properties comprising the Park are identified in the Park Agreement as three tracts of land: Tract I, consisting of 170.565 acres; Tract II, consisting of 41.464 acres; and Tract III, consisting of 106.75 acres. [Compl. Ex. B; Simmons Aff. Ex. 1-A at Jasper_000087]. At the time the Park was created, no Hardeeville property was located within the geographic boundary of the Park. [See Compl. ¶¶ 9 & 38]. On October 5, 2006—over six years after the Park was created—Hardeeville annexed into its jurisdictional limits property that was already located within the geographic boundary of the Park (the “Annexed Property”) [Compl. ¶ 38].

STANDARD OF REVIEW

Summary judgment must be granted when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRCP. To determine whether there is a genuine issue of material fact, the evidence and all inferences which can be reasonably drawn from the evidence are to be viewed in the light most favorable to the nonmoving party. *Koester v. Carolina Rental Ctr.*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). The moving party bears the initial burden of demonstrating the absence of a genuine issue of material fact. *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991).

The moving party’s initial burden is discharged by showing to the court that there is an absence of evidence to support the nonmoving party’s case. *Id.* Once the moving party makes this demonstration to the court, the nonmoving party “must, under Rule 56(e), do more than simply show some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a *genuine issue for trial*.” *Id.* (emphasis in original); *Midland Mutual Life Ins. Co. v. Darrell*, 331 S.C. 394, 397, 503 S.E.2d 189, 190 (Ct. App. 1998). “Where a plaintiff relies solely upon the pleadings, files no counter-affidavits, and makes no factual showing in opposition to a motion for summary judgment, the lower court is required under Rule 56, to grant summary judgment, if, under the facts presented by the defendant, he was entitled to judgment as a matter of law.” *Dawkins v. Field*, 354 S.C. 58, 70, 580 S.E.2d 433, 439 (2003) (quoting *Humana Hosp.-Bayside v. Lightle*, 305 S.C. 214, 216, 407 S.E.2d 637, 638 (1991)).

CONCLUSIONS OF LAW

I. THE PARK AGREEMENT IS VALID.

The threshold question in this case is whether the Park Agreement meets the requirements of Title 4 of the South Carolina Code and Article VIII, Section 13(D) of the South Carolina Constitution. Under both the Code and the Constitution, there are two primary requirements to create a park: (1) two or more contiguous counties, and (2) a written agreement that includes the three requirements enumerated in Section 4-1-170(A)(1)–(3).³ See S.C. Code Ann. §§ 4-1-170(A) & -172; S.C. CONST. art. VIII, § 13(D).

There is no dispute that Jasper and Beaufort are contiguous counties. There is also no dispute that the Park Agreement satisfies subsections (A)(1) & (A)(2) of Section 4-1-170. Thus, the only question at issue regarding the general validity of the Park Agreement is whether the Park Agreement sufficiently satisfies Section 4-1-170(A)(3). For the reasons explained below, the Court finds that there is no genuine issue of material fact and Jasper is entitled to judgment as a matter of law because the Park Agreement is valid under Section 4-1-170 of the South Carolina Code and Article VIII, Section 13(D) of the South Carolina Constitution.

A. The Park Agreement Satisfies Section 4-1-170(A)(3).

Under Section 4-1-170(A)(3), “the written agreement entered into by the participating counties must include [a] provision which: . . . (3) [specifies] the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties.” Jasper argues the Park Agreement sufficiently satisfies this statutory subsection because the Park Agreement expressly incorporated by reference the terms of the Park Ordinance, which specified the manner

³ Section 4-1-170(A) states that “[t]he written agreement entered into by the participating must include provisions which: (1) address sharing expenses of the park; (2) specify by percentage the revenue to be allocated to each county; (3) specify the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties.” S.C. Code Ann. § 4-1-170(A)(1)–(3).

in which Park Revenues must be distributed to each of the taxing entities within Jasper. Hardeeville argues the Park Agreement does not satisfy Section 4-1-170(A)(3) because the specific manner in which Park Revenues must be distributed to each of the taxing entities in Jasper is not within the four corners of the Park Agreement. [See Hr’g Tr. p. 24, ll. 10–14 (Oct. 27, 2021)]. In other words, Hardeeville argues a park agreement may only be comprised of a single document and cannot incorporate by specific reference other documents already in effect to comprise the entirety of that agreement.

As an initial matter, it is basic contract law that a contract may incorporate by reference the terms of another document. *E.g.*, *Shaw v. East Coast Builders of Columbia, Inc.*, 291 S.C. 482, 484, 354 S.E.2d 392, 392 (1987) (citing *Twiggs v. Williams*, 98 S.C. 431, 82 S.E. 676 (1914)). There is nothing within Section 4-1-170 that either expressly or implicitly prohibits a park agreement from supplementing its terms by reference to another document’s terms. Hardeeville has not presented any legal authority to the Court in support of its argument that the Park Agreement cannot adequately satisfy the provisions of Section 4-1-170(A)(3) by referencing the terms of the Park Ordinance.

Hardeeville argues *Horry County School District v. Horry County* 346 S.C. 621, 552 S.E.2d 737 (2001) supports its position that the Park Agreement does not satisfy Section 4-1-170(A)(3). The Court does not agree. In that case, the Supreme Court noted that the park agreement failed to comply with Section 4-1-170(A)(3) because the agreement did not provide a basis for determining what proportion of park revenues went to debt service and what proportion to school operations. 346 S.C. at 631, 552 S.E.2d at 742. However, the *Horry County* Court did not address, let alone hold, that a park agreement’s terms could not be supplemented by another, incorporated and referenced document.

Additionally, in the present case, the Park Ordinance (both originally and as amended by the General Bond Ordinance) states that Park Revenues

shall be paid to each of the taxing entities in Jasper County which levy an *ad valorem* property tax in any areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes.

[Compl. Ex. A § IX; *id.* at Ex. C § 11.1]. This language instructs the taxing authorities in Jasper to distribute Park Revenues in the same manner they allocated *ad valorem* revenues each year. And because the manner of distribution is based on the millage rate being levied in the current tax year, this language also specifies what proportion of Park Revenues goes to debt service and what proportion goes to operations. Therefore, the Court finds that *Horry County* is neither applicable nor instructive to whether the Park Agreement is valid.

Moreover, the Court finds that the credibility of Hardeeville's argument regarding the alleged invalidity of the Park Agreement is further undermined by the materials submitted with Nickel Plate Road, LLC's ("Nickel Plate") Opposition to Plaintiff's Motion for Summary Judgment. Nickel Plate asserts that incorporating the terms of a park ordinance is common method by which park agreements satisfy Section 4-1-170(A)(3)'s requirements. [Nickel Plate Mem. 4]. In support of this position, Nickel Plate attached as Exhibit A to its Memorandum an agenda packet from the Oconee County Council. [*Id.* at Ex. A]. Included within that agenda packet was a copy of an Agreement for Development of a Joint County Industrial and Business Park (Project Ruby Slipper) between Oconee County and Pickens County (the "Oconee-Pickens Park Agreement"), with an effective date of December 31, 2021. [Nickel Plate Mem. Ex. A]. Section 7 of Oconee-Pickens Park Agreement, "Revenue Allocation within Each County," states, in pertinent part, the following: "Revenues allocable to Oconee County by way of fees in lieu of *ad valorem* taxes generated from properties located in Oconee County shall be distributed within Oconee County *in*

accordance with the applicable governing ordinance of Oconee County in effect from time to time.” [*Id.* (emphasis added)]. The difference in this language from the language in the Park Agreement is negligible.

The undisputed evidence in this case shows that park agreements have satisfied the requirements of Section 4-1-170(A)(3) through reference to ordinances since the early 2000s and are still doing so to this day. Hardeeville did not present any legal authority to suggest that a park agreement’s reference to an ordinance’s terms is insufficient or invalidates the underlying park agreement. The remaining requirements to create a valid park agreement under Section 4-1-170 are not in dispute. Therefore, the Court finds that there is no genuine issue of material fact and the Park Agreement is valid and enforceable as a matter of law.

C. Discovery is Not Necessary for Determining that the Park Agreement is Valid as a Matter of Law.

As an alternative argument, Hardeeville argues that granting Jasper’s Motion on the issue of the Park Agreement’s validity is premature until Jasper responds to Hardeeville’s first set of discovery requests because there could exist information and documents that would support Hardeeville’s arguments. Jasper argues that Hardeeville’s discovery requests seek information that is not relevant to Jasper’s Motion, and, therefore, answering Hardeeville’s discovery requests is not necessary for the Court to rule on Jasper’s declaratory judgment cause of action. [Jasper’s Mot. Prot. Order ¶ 7]. The Court agrees with Jasper.

Both parties’ initial pleadings sought a declaratory judgment regarding the legal effect the Park Agreement had on the property tax status of Hardeeville’s Annexed Property. In making their requests for declaratory judgment (in their respective pleadings and summary judgment motions) both parties relied exclusively on the documents attached to Hardeeville’s Complaint. Although Hardeeville claims that additional discovery *could* uncover additional facts that may be relevant

to this case, Hardeeville has failed to even generally identify documents or information that would have any impact on making the determinations the parties requested in their declaratory judgment causes of action. Hardeeville's claim that discovery is necessary is further belied by Hardeeville's Motion, which claimed that there was no genuine issue of material fact and the Court could determine that the Park Agreement was invalid and that Hardeeville was not bound to the terms of the Park Agreement as a matter of law.⁴

For purposes of withstanding Jasper's Motion, Hardeeville must "demonstrate that further discovery *will likely uncover additional relevant evidence*." *Dawkins*, 354 S.C. at 71, 580 S.E.2d at 440 (emphasis added). Hardeeville has failed to make this demonstration. Accordingly, the Court finds that Jasper's answers to Hardeeville's discovery requests would not create a genuine issue of material fact for purposes of ruling on Jasper's Motion.

II. HARDEEVILLE'S CONSENT TO THE PARK AGREEMENT WAS NOT REQUIRED.

The next issue the Court must decide is whether Hardeeville's consent to the Park Agreement was required for the Annexed Property to be bound by the terms of the Park Agreement. Hardeeville argues that the Annexed Property is not bound by the Park Agreement because Hardeeville did not consent to the Park Agreement's terms. Jasper argues that Hardeeville's consent was not required because no Hardeeville property was located inside the

⁴ Hardeeville also argues that the Affidavit of Wanda Simmons Hendrix was untimely filed, and the Court should, therefore, not consider the documents attached to Ms. Simmons' Affidavit. Jasper, on the other hand, argues Ms. Simmons' Affidavit was timely because it was in response and reply to issues raised for the first time in Hardeeville's Motion and Hardeeville's Response. The evidence shows that Hardeeville's initial pleadings did not allege that the Park Agreement was generally invalid or deficient in any way. These arguments were not raised until Hardeeville's Motion and Hardeeville's Response. Ms. Simmons's Affidavit (a records custodian affidavit), which contained certified copies of the relevant ordinances and meeting minutes, was plainly in response and reply to these newly raised issues. Ms. Simmons' Affidavit was filed four days prior to the hearing, and was, therefore, timely filed. *See* Rules 6(d) & 56(c), SCRCP.

Park's geographical boundaries at the time the Park was created. The Court agrees with Jasper and finds that as a matter of law Hardeeville's consent was not required.

A statute must be interpreted according "to its plain and ordinary meaning, and this Court may not resort to subtle or forced construction in an attempt to limit or expand the statute's scope." *New York Times Co. v. Spartanburg Cty. Sch. Dist. No. 7*, 374 S.C. 307, 310, 649 S.E.2d 28, 29–30 (2007) (citing *City of Columbia v. Am. Civ. Liberties Union of South Carolina, Inc.*, 323 S.C. 384, 388, 475 S.E.2d 747, 749 (1996)). The statutory provision governing when a municipality's consent is required states, in full, the following: "If the industrial or business park encompasses all or a portion of a municipality, the counties must obtain the consent of the municipality *prior to the creation of the multi-county industrial park.*" S.C. Code Ann. § 4-1-170(C) (emphasis added).

The Court finds that Section 4-1-170(C) plainly requires counties to obtain a municipality's consent *only if* a park would encompass municipal property *at the time the park is created*. Accepting Hardeeville's proposed interpretation of Section 4-1-170(C) would require this Court to impose a duty on counties entering into park agreements to predict a municipality's future annexation of park property and seek out that municipality's consent before the municipality annexes park property. This interpretation would also permit a municipality, without any express authority, to usurp a county's authority to create a park and determine how that park's revenues are to be allocated and distributed—authority expressly given to counties by the South Carolina Constitution and South Carolina Code and affirmed by the South Carolina Supreme Court. *See* S.C. Code Ann. §§ 4-1-170(A) & -172; S.C. CONST. art. VIII, § 13(D); *Horry Cty. Sch. Dist.*, 346 S.C. 621, 552 S.E.2d 737. This interpretation not only leads to a plainly absurd result, but it would require the Court to impose a meaning that is not present in the statutory or constitutional text. Therefore, Hardeeville's interpretation must be rejected. *See Fullbright v. Spinnaker Resorts, Inc.*, 420 S.C. 265, 272, 802 S.E.2d 794, 797 (2017) ("If a statute's language is plain, unambiguous, and

conveys a clear meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.”) (quoting *Brown v. Bi-Lo, Inc.*, 354 S.C. 436, 439, 581 S.E.2d 836, 838 (2002)); *Duke Energy Corp. v. S.C. Dep’t of Revenue*, 415 S.C. 351, 355, 782 S.E.2d 590, 592 (2016) (“[C]ourts will reject that meaning when to accept it would lead to a result so plainly absurd that it could not have been intended by the General Assembly.”).

III. ALL PROPERTY IN THE PARK, INCLUDING THE ANNEXED PROPERTY, IS EXEMPT FROM ALL AD VALOREM TAXATION.

Because the Court finds that that the Park Agreement is valid and Hardeeville’s consent to the Park Agreement was not required, the Court also finds that all property in the Park, including the Annexed Property, is exempt from all *ad valorem* taxation as a matter of law. Article VIII, Section 13(D) of the South Carolina Constitution states that “[t]he area comprising parks and all property having a situs therein is exempt from all *ad valorem* taxation.” S.C. CONST. art. VIII, § 13(D) (emphasis added); *see also Horry Cty. Sch. Dist. v. Horry Cty.*, 346 S.C. 621, 630, 552 S.E.2d 737, 741 (2001). The Court is unaware of any exception to this constitutional provision that makes all park property exempt from all *ad valorem* taxation. There is no dispute that the Annexed Property is located within the Park’s geographical boundaries.

Hardeeville argues that the Annexed Property is not bound by the Park Agreement’s required revenue distribution scheme. [Pl.’s Resp. 6–7; Pl.’s Mot. Summ J. 3 9–5]. However, Hardeeville’s entire argument is premised on the false idea that a municipality can take up residence in a park after its creation, annex park property into its jurisdictional limits, and then collect *ad valorem* taxes levied on that property without any regard to the agreement governing the park.

The Court does not find any merit to these arguments. The South Carolina Constitution does not say all property, *except for municipal property*, is exempt from all *ad valorem* taxation.

It simply states that all park property is exempt from all *ad valorem* taxation and that owners will make payments in lieu of taxes, with such payments to be distributed pursuant to the park agreement. S.C. CONST. art. VIII, § 13(D) (“***The area comprising the parks and all property having a situs therein is exempt from all ad valorem taxation.*** . . . The participating counties shall reduce the agreement to . . . share expenses and revenues of the park to a written instrument.”) (emphasis added). Therefore, contrary to Hardeeville’s arguments, the South Carolina Constitution does limit Hardeeville’s ability to collect *ad valorem* taxes from the Annexed Property—because the Annexed Property is constitutionally exempt from *ad valorem* taxation.

For these reasons, there is no genuine issue of material fact and Jasper is entitled to judgment as a matter of law that all Park property, including the Annexed Property, is exempt from all *ad valorem* taxation.

IV. PARK REVENUES MUST BE ALLOCATED AND DISTRIBUTED IN ACCORDANCE WITH THE PARK AGREEMENT.

The Park Agreement is statutorily required to govern how all Park Revenues must be distributed to each of the taxing entities within Jasper and Beaufort. *See* S.C. Code Ann. § 4-1-170. Section 4-1-170 provides that the Park Agreement must “(2) specify by percentage the revenue to be allocated to each county; [and] (3) specify the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties.” S.C. Code Ann. § 4-1-170(A). In other words, Section 4-1-170 not only requires that Park Revenues be distributed in accordance with the Park Agreement, but it also grants Jasper and Beaufort complete discretion over the distribution of each county’s respective Park Revenues to each county’s taxing entities. *See Horry Cty. Sch. Dist.*, 346 S.C. at 626–30, 552 S.E.2d at 739–41 (Rejecting the School District’s argument that Section 4-1-170 did not grant the county the discretion over how to

allocate park revenues and finding that Section 4-1-170 “specifically allocates that revenue to the **county, not to any other taxing entity.**”) (emphasis added).

Hardeeville argues the statutorily granted discretion to counties over the allocation of park revenues extends only to a taxing entity’s park property if that taxing entity is not a municipality. The Court does not agree. The Court is unaware of any South Carolina authority which limits a county’s discretion over the allocation of park revenues resulting from a validly created park simply because the property is municipal property.

A recently issued May 5, 2022 opinion from the South Carolina Attorney General’s Office explains in detail the extent of a county’s discretion (by way of a valid park agreement) over the allocation of a park’s revenues for **all taxing entities’ park property**. Specifically, the Attorney General was asked, among other questions, the following: (1) is park revenue generated from fee-in-lieu of taxes required to be distributed in the same proportion that it would if the property were taxable, (2) is a county required to employ a specific allocation method for the distribution of park revenue, and (3) is there any remedy for a “**local government entity**” within a county to redress the inequitable allocation of park revenues. *See* Op. S.C. Att’y Gen., 2022 WL 1606364, at *1 (May 5, 2022) (emphasis added).

Analyzing Sections 4-1-170 and 4-29-67 of the South Carolina Code and the Supreme Court’s decision *Horry County*, the Attorney General concluded that counties are under no obligation to either distribute park revenues in the same proportion as it would if the property were taxable or employ a specific methodology in doing so. *Id.* at *4.⁵ And in response to the final question (whether there was any statutory remedy for a “**local government entity**” who believed

⁵ The only limitation on the county’s discretion in allocating park revenues is that each taxing entity within a park “must receive *some* allocation” of the park revenues. *See* Op. S.C. Att’y Gen., 2022 WL 1606364, at *4 (May 5, 2022) (emphasis added). However, Hardeeville does not argue it will not receive at least a portion of Park Revenues generated from the Annexed Property. Rather, Hardeeville simply suggests that its allocation is not as much as it would be if the Annexed Property were taxable.

that the distribution of park revenues was inequitable), the Attorney General concluded “the law does not provide for remedy for school districts **or other taxing entities** who believe they received an inequitable allocation of fee in lieu revenue in the agreement creating a [park].” 2022 WL 1606364, at *1 (S.C.A.G. May 5, 2022) (emphasis added).

Neither the statutory scheme nor the *Horry County* decision nor the Attorney General’s opinion make any distinction between a municipality’s property and other taxing entities’ property with respect to a county’s discretion over the allocation of park revenues. Therefore, the Court finds, as a matter of law, that Park Revenues, including those generated from the Annexed Property, must be distributed pursuant to the terms of the Park Agreement.

The undisputed material facts show that the Park Agreement requires 99% of Park Revenues be allocated to the county where the property generating Park Revenues is located and the remaining 1% of Park Revenues to the other participating county. [Compl. Ex. B; Simmons Aff. Ex. 1-A].⁶ For Park property located in Jasper, the Park Agreement requires the first 40% of Park Revenues (after payment of 1% to Beaufort) to be used as payment for the Bonds.⁷ [Compl. Ex. C; Simmons Aff. Ex. 1-C]. The Park Agreement requires the remainder of Park Revenues to be distributed proportionally to each of Jasper’s taxing entities according to “the same percentage as is equal to that taxing entity’s percentage of the millage rate being levied in the then current tax year.” [*Id.*].

Accordingly, there is no genuine issue of material fact and the Court finds as a matter of law that Park Revenues, including those generated from the Annexed Property, must be allocated

⁶ The practical effect of this distribution scheme, because all Park property is physically located in Jasper, is that 99% of Park Revenues must be distributed to Jasper and 1% of Park Revenues must be distributed to Beaufort.

⁷ If the total principal and interest due on the Bonds is greater than 40% of Park Revenues, then the difference is forgiven; however, if the total principal and interest due on the Bonds is less than 40% of Park Revenues, the difference must be paid to the bondholder as additional interest on the Bonds. [Compl. Ex. C; Simmons Aff. Ex. 1-C]. In other words, 40% of Park Revenues always go to the bondholders before the remainder is distributed to each of the taxing entities within Jasper.

and distributed in accordance with the Park Agreement. Therefore, the Court further finds as a matter of law that Park Revenues must be allocated and distributed as follows: 1% of all Park Revenues must first be distributed to Beaufort; 40% of the remaining Park Revenues, after distribution to Beaufort, must then be distributed as payment for the Bonds; the remainder of Park Revenues, after distribution as payment for the Bonds, must then be distributed to each of Jasper's taxing entities in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year.

V. JASPER PROPERLY ISSUED THE BONDS AND PAYMENT FOR THE BONDS IS SECURED BY 40% OF REMAINING PARK REVENUES.

A. Jasper Properly Issued the Bonds.

Jasper has requested as part of its declaratory judgment cause of action for the Court to declare Jasper properly issued the Bonds as a matter of law. Hardeeville has not asserted any argument contesting this issue. The Court finds that Jasper properly issued the Bonds as a matter of law.

Ordinances authorizing the issuance of special source revenue bonds pursuant to Section 4-1-175 "shall be read at three public meetings of council on three separate days with an interval of not less than seven days between the second and third readings." S.C. Code Ann. § 4-9-120. "All proceedings of council shall be recorded and all ordinances adopted by council shall be compiled, indexed, codified, published by title and made available to public inspection at the office of the clerk of council." *Id.*

The undisputed material facts show that the Park Ordinance and all Bond Ordinances complied with these statutory requirements. The Park Ordinance, which incorporated the Park Agreement, was read at three public meetings of Jasper's County Council on three separate days with an interval of greater than seven days between the second and third readings. [Simmons Aff.

Ex. 1-A & 1-B]. Next, the General Bond Ordinance and First Supplemental Bond Ordinance No. 01-05 were read at three public meetings of Jasper’s County Council on three separate days with an interval of greater than seven days between the second and third readings. [See *id.* at Ex. 1-C–E]. Finally, The Second Supplemental Ordinance No. 02-16 was read at three public meetings of Jasper’s County Council on three separate days with an interval of greater than seven days between the second and third readings. [See *id.* at Ex. 1-F & 1-G].

Furthermore, although Hardeeville has not contested Jasper’s adoption of the Bond Ordinances, even if Hardeeville did make such a challenge, the applicable statute of limitations for doing so has long since expired. Ordinances authorizing the issuance of bonds must be challenged “within sixty days after the enactment by the council.” S.C. Code Ann. § 4-9-1220. Thus, there is no genuine issue of material fact that the Park Ordinance and the Bond Ordinances were all properly adopted by Jasper. Therefore, the Court finds as a matter of law that Jasper properly issued the Bonds.

B. Payment for the Bonds is Secured by 40% of Remaining Park Revenues.

Jasper has also requested as part of its declaratory judgment cause of action for the Court to declare that payment for the Bonds is secured by 40% of Park Revenues. Hardeeville has not asserted any argument contesting this issue. The Court finds as a matter of law that payment for the Bonds is secured by 40% of Park Revenues.

Counties that receive park revenues pursuant to Article VIII, Section 13 of the South Carolina Constitution “may issue special source revenue bonds secured by and payable from all or part of that portion of the revenues which the county is entitled to retain pursuant to the agreement required by Section 4-1-170 in the manner and for the purposes set forth in Section 4-29-68.” S.C. Code Ann. § 4-1-175. Pursuant to Section 4-29-68, park “[r]evenues received by a county . . . which may be pledged or from which bonds may be payable and secured pursuant to . . . Section

4-1-175 may be used jointly to pay or secure a single series of bonds.” S.C. Code Ann. § 4-29-68(D).

The Park Ordinance provides that a portion of Remaining Park Revenues “may be, from time to time and by ordinance of Jasper County Council or its successor, designated for the payment of special source revenue bonds.” [Compl. Ex. A; Simmons Aff. Ex. 1-A]. On April 16, 2001, Jasper adopted the General Bond Ordinance and authorized the issuance of special source revenue bonds not to exceed \$20,000,000.00. [Compl. ¶ 19; Compl. Ex. C; Simmons Aff. Ex. 1-C]. The General Bond Ordinance secured the Bonds by designating up to 40% of Remaining Park Revenues to be used as payment for the Bonds. [*Id.*].

Contemporaneously with Jasper’s adoption of the General Bond Ordinance, Jasper also adopted Supplemental Ordinance No. 01-05. This ordinance provided for the issuance and sale of special source revenue bonds in the amount of \$7,000,000.00. [Compl. ¶ 32; Compl. Ex. D; Simmons Aff. Ex. 1-E]. In the same manner as the General Bond Ordinance, Supplemental Ordinance No. 01-05 secured the Bonds by designating up to 40% of Park Revenues to be used as payment for the Bonds. [Compl. Ex. D; Simmons Aff. Ex. 1-E]. Then, on October 20, 2003, Jasper adopted Supplemental Ordinance No. 02-16. This ordinance provided for the issuance and sale of another series of special source revenue bonds in the amount of \$6,000,000.00. [Compl. ¶ 34; Compl. Ex. E; Simmons Aff. Ex. 1-F]. Again, Supplemental Ordinance No. 02-16 secured the Bonds by designating up to 40% of Park Revenues to be used as payment for the Bonds. [Compl. Ex. E; Simmons Aff. Ex. 1-F].

Therefore, there is no genuine issue of material fact and Jasper is entitled to judgment as a matter of law that payment for the Bonds is secured by 40% of Park Revenues.

ORDER

IT IS THEREFORE ORDERED that Hardeeville's Motion for Summary Judgment is denied.

IT IS FURTHER ORDERED that Jasper's Motion for Partial Summary Judgment is granted, and the Court declares the following as a matter of law:

1. The Park Agreement is valid.
2. All property located within the Park, including the Annexed Property, is exempt from all *ad valorem* taxation.
3. The City of Hardeeville's annexation of property located within the Park after the Park was created does not result in the Annexed Property being subject to *ad valorem* taxation.
4. Jasper County properly issued special source revenue bonds, and the payments of the bonds are secured by Park Revenues.
5. Park Revenues generated from Park property, including the Annexed Property, must be distributed and allocated in accordance with the Park Agreement.
6. Pursuant to the Park Agreement, Park Revenues must be distributed as follows: 1% must first be distributed to Beaufort County; 40% of the remainder after distribution to Beaufort County must then be distributed to the bondholders; the remainder, after distribution to both Beaufort County and the bondholders, must be distributed pro rata to applicable taxing entities within Jasper County, including the City of Hardeeville.

IT IS FURTHER ORDERED that Jasper shall serve its answers and objections to Hardeeville's First Set of Interrogatories and First Set of Requests for Production within 30 days of the date of this Order, subject to any extensions available to Jasper under the South Carolina Rules of Civil Procedure or any extension that may be granted to Jasper by this Court or Hardeeville.

AND IT IS SO ORDERED.



Jasper Common Pleas

Case Caption: City Of Hardeeville VS Jasper County, South Carolina , defendant, et al
Case Number: 2021CP2700028
Type: Order/Other

H. Steven DeBerry, IV

Circuit Court Judge 2771

Electronically signed on 2022-07-13 14:34:38 page 25 of 25

ELECTRONICALLY FILED - 2022 Jul 13 3:42 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)
City of Hardeeville,)
)
Plaintiff,)
v.)
Jasper County, South Carolina,)
Jasper County Treasurer, and)
Jasper County Auditor,)
)
Defendants)
)
Jasper County, South Carolina,)
)
Cross Co-Plaintiff,)
)
Verna Garvin, in her official capacity)
as Jasper County Treasurer,)
Cross Co-Plaintiff, and)
)
Monica Wilson, in her official capacity)
as Jasper County Auditor,)
Cross Co-Plaintiff)
)
vs.)
)
City of Hardeeville, Nickle Plate Road,)
LLC, and Beaufort County, South Carolina,)
)
Cross Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
Civil Action No.: 2021-CP-27-00028

**ORDER DENYING MOTION
MOTION TO RECONSIDER**

The Plaintiff, City of Hardeeville, requests the Court to reconsider the Order dated July 13, 2022 and filed in Jasper County Clerk of Court's office.

Having duly considered the motion of the Plaintiff, this Court has determined that its original ruling of July 13, 2022 is fully supported by the law and the evidence and is hereby ratified and reconfirmed.

The motion is therefore **DENIED**.

AND IT IS SO ORDERED.

Dated: _____

H. Steven DeBerry, IV
Judge, Twelfth Judicial Circuit



Jasper Common Pleas

Case Caption: City Of Hardeeville VS Jasper County, South Carolina , defendant, et al
Case Number: 2021CP2700028
Type: Order/Amend

H. Steven DeBerry, IV

Circuit Court Judge 2771

Electronically signed on 2022-09-02 10:39:57 page 3 of 3

ELECTRONICALLY FILED - 2022 Sep 02 1:19 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-_____
	)	
Plaintiff,	)	
	)	
vs.	)	SUMMONS
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	
_____	)	

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE SUMMONED and required to answer the Complaint in the captioned matter, a copy of which is served on you, and to serve a copy of your answer to the Complaint on the subscriber at the address below, no more than 30 days after the service of this Summons and the Complaint, exclusive of the day of service; should you fail to answer the Complaint in the time prescribed, judgement by default will be rendered against you for the relief demanded in the Complaint.

KOZLAREK LAW LLC

/s/ Michael E. Kozlarek
Michael E. Kozlarek (SC Bar #69330)
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Attorneys for Plaintiff

Greenville, South Carolina
February 1, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-_____
	)	
Plaintiff,	)	
	)	
vs.	)	COMPLAINT
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff, City of Hardeeville (“Plaintiff”), complaining of Defendants Jasper County, South Carolina, Jasper County Treasurer, and Jasper County Auditor, alleges and would respectfully show the Court the following:

PARTIES AND JURISDICTIONS

1. Plaintiff is a body politic and municipal corporation formed in the State of South Carolina (“State”), located at least partially in Jasper County, South Carolina (“County”).
2. On information and belief, Jasper County, South Carolina, is a political subdivision of the State located in the County.
3. On information and belief, Jasper County Treasurer is a constitutionally elected political officer of the State elected to the office of County treasurer, located in and performing functions as the treasurer in the County.
4. On information and belief, Jasper County Auditor is a constitutionally elected political officer of the State elected to the office of County auditor, located in and performing functions as the auditor in the County.
5. The subject of the dispute involves the tax status and multi-county industrial or business

park status of one or more parcels of real property located at or about (as of on or about October 5, 2006) Tax Map Number 067-00-01-017, consisting of approximately 106.75 acres, in Plaintiff's jurisdiction in the County (collectively, "Property").

6. This is a civil action for declaratory judgment pursuant to the Uniform Declaratory Judgments Act, located in South Carolina Code Annotated section 15-53-10, *et seq.*, and Rule 57 of the South Carolina Rules of Civil Procedure, to declare the rights, duties, and responsibilities of Plaintiff and Defendants under the State law, and for injunctive relief prohibiting Defendants' violations of the State law and their respective duties and responsibilities thereunder all as relates to the Property.
7. This Court has jurisdiction over this action, at a minimum, pursuant to the Uniform Declaratory Judgments Act, located in South Carolina Code Annotated section 15-53-10, *et seq.*
8. Venue is proper in the County because all parties are located in the County, all of the acts and omissions giving rise to the causes of action in this Complaint have occurred and/or will occur in this County, and the Property that is the subject of the action is entirely located in this County.

ADDITIONAL FACTUAL ALLEGATIONS

9. On or about February 7, 2000, the County enacted an ordinance, to which Plaintiff craves reference, and which is attached to this Complaint as Exhibit A and incorporated by reference ("Park Ordinance"), in which the County, among other things, authorized the development of a jointly owned and operated industrial/business park in connection with Beaufort County and provided for an agreement related to the industrial/business park, effective December 31, 1999 ("Park Agreement"), to which Plaintiff craves reference, and

which is attached to this Complaint as Exhibit B and incorporated by reference (“Park Agreement”).

10. Section 3 of the Park Agreement states that the Park (as defined in the Park Agreement) initially consists of property located in the County (“Park Property”) and is described on Exhibit A to the Park Agreement.

11. Both the Park Ordinance and the Park Agreement state the authorization to jointly develop an industrial or business park is South Carolina Constitution Article VIII, Section 13(d) (“Section 13(d)”) and South Carolina Code Annotated section 4-1-170 (“Section 170”).

12. Section 13(d) provides that “all property having a situs [in a multi-county industrial or business park] is exempt from all ad valorem taxation” but that “[t]he owners or lessees of any property situated in the park shall pay an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for the exemption herein provided.”

13. Section 13(d) provides further that “[t]he participating counties shall reduce the agreement to develop and share expenses and revenues of the park to a written instrument which is binding on all participating counties,” but does not contain language binding municipalities.

14. A portion of section 4 of the Park Agreement contains the following language:

Property located in the Park shall be exempt from *ad valorem* taxation, only during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of this Agreement 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 such property within the Park.

15. Section 170 provides further that “If the industrial or business park encompasses all or a portion of a municipality, the counties must obtain the consent of the municipality prior to the creation of the multi-county industrial park.”
16. Plaintiff has not enacted an ordinance or adopted a resolution which relates to the subject matter of either the Park Ordinance or the Park Agreement and which relates to the Park Property, and Plaintiff has not consented to the inclusion of the Property in a multi-county industrial or business park.
17. Plaintiff is not a party to the Park Agreement.
18. Neither the Park Ordinance nor the Park Agreement indicate Plaintiff consented to being bound by the Park Ordinance or being a party to the Park Agreement, and Plaintiff has not consented to the same.
19. On or about April 16, 2001, the County enacted an ordinance, to which Plaintiff craves reference, and which is attached to this Complaint as Exhibit C and incorporated by reference (“General Bond Ordinance”), in which the County, among other things, authorized the issuance of not to exceed \$20,000,000 special source revenue bonds and limited the payment of the bonds from certain revenues.
20. The General Bond Ordinance defines Act to include South Carolina Code Annotated section 4-1-175 (“Section 175”).
21. Section 175 permits a “county . . . receiving revenues from a payment in lieu of taxes pursuant to Section 13 of Article VIII of the Constitution of this State [to] issue special source revenue bonds secured by and payable from all or a part of that portion of the

revenues which the county is entitled to retain pursuant to the agreement required by Section 4-1-170”

22. The General Bond Ordinance defines “Fee Payments” as “the revenues that the County receives and retains pursuant to the Park Agreement [as defined above] from the payments in lieu of taxes which are paid for all real property and personal property located within the Park [as defined above].”
23. The General Bond Ordinance defines “Multi-County Park Fees” as “the amount of the allocation of all revenues generated by the park attributable to the Fee Payments payable by [Jasper] County to Beaufort County, South Carolina, or any successor thereto under the Park Agreement [as defined above].”
24. The General Bond Ordinance defines “Net Fee Payments” as “the Fee Payments remaining after payment of the Multi-County Park Fees.”
25. Section 2.1(H) of the General Bond Ordinance provides that the project, for which the bonds are being issued, results in “no pecuniary liability of . . . [any] incorporated municipality, or a charge against the general credit or taxing power of [either the County or any incorporated municipality].”
26. Section 5.2 of the General Bond Ordinance provides the security for and payment of any bonds issued according to the General Bond Ordinance solely is “Net Fee Payments.”
27. Section 5.2 of the General Bond Ordinance contemplates the Property may be subject to *ad valorem* taxes despite the “conversion to fees-in-lieu-of-tax[es] pursuant to the Park Agreement [as defined above].”
28. Net Fee Payments include only those amounts received by the County pursuant to the Park Agreement.

29. Net Fee Payments do not include *ad valorem* taxes.
30. Section 11.1 of the General Bond Ordinance states it is intending to amend Section IX of the Park Ordinance but still refers to only those “fee-in-lieu of *ad valorem* taxes pursuant to the [Park] Agreement.”
31. That is, even as amended by the General Bond Ordinance, Net Fee Payments include only those amounts received by the County pursuant to the Park Agreement and do not include *ad valorem* taxes.
32. On or about April 16, 2001, the County enacted an ordinance, to which Plaintiff craves reference, and which is attached to this Complaint as Exhibit D and incorporated by reference (“First Supplemental Bond Ordinance”), in which the County, among other things, authorized the issuance of \$7,000,000 special source revenue bonds but did not amend the General Bond Ordinance.
33. Section 8 of the First Supplemental Bond Ordinance states the security of the bonds is “the Net Fee Payments referred to and subject to the limitations as set forth in Section 5.2 of the General Bond Ordinance [as defined above].”
34. On or about October 20, 2003, the County enacted an ordinance, to which Plaintiff craves reference, and which is attached to this Complaint as Exhibit E and incorporated by reference (“Second Supplemental Bond Ordinance,” with First Supplemental Bond Ordinance, collectively, “Supplemental Bond Ordinance”), in which the County, among other things, authorized the issuance of \$6,000,000 special source revenue bonds but did not amend the General Bond Ordinance.
35. Section 8 of the Second Supplemental Bond Ordinance states the security of the bonds is “the Net Fee Payments referred to and subject to the limitations as set forth in Section 5.2

of the General Bond Ordinance [as defined above].”

36. Plaintiff is not a party to any document related to the bonds described in either the General Bond Ordinance or the Supplemental Bond Ordinance (collectively, “Bond Documents”).
37. Neither the General Bond Ordinance nor the Supplemental Bond Ordinance indicate Plaintiff consented to being bound by either ordinance or by any Bond Documents, and Plaintiff has not consented to the same.
38. On or about October 5, 2006, Plaintiff annexed certain property into Plaintiff’s jurisdictional limits. *See* Exhibit F, which is attached to this Complaint and incorporated by reference (“Annexation Materials”).
39. According to the Annexation Materials, the owner of the property petitioned Plaintiff to annex the property (“Annexed Property”).
40. According to a letter from the County to Plaintiff, dated November 9, 2020, which is attached to this Complaint as Exhibit G and incorporated by reference (“November 9 Letter”), since 2011, “the total millage levy for Hardeeville on the [A]nnexed [P]roperty has been assessed and paid in their entirety to Hardeeville.”
41. Further, according to the November 9 Letter, the County Treasurer, not the County, “will be pursuing” “the remedy.”
42. The November 9 Letter continues by stating that Plaintiff “has been overpaid \$221,350.97 in property tax . . . ” and that “[t]he Auditor and Treasurer are in the process of preparing the refund/rebill”
43. The November 9 Letter states that all Defendants are acting in concert against Plaintiff.
44. From and after Plaintiff annexed the Annexed Property in 2006 and until the conversation referenced in the November 9 Letter, to the best of Plaintiff’s knowledge, none of the

Defendants provided notice to Plaintiff that Plaintiff was not entitled to annex the Annexed Property, was not entitled to levy a millage against the Annexed Property, was not entitled to collect 100% of its millage levy, was allegedly bound by any agreement to which the County was a party relating to the Annexed Property, or any combination of the same.

45. Plaintiff responded by letter, dated December 23, 2020, which is attached to this Complaint as Exhibit H and incorporated by reference (“December 23 Letter”).
46. According to a letter from the County to Plaintiff, dated January 5 Letter, which is attached to this Complaint as Exhibit H and incorporated by reference (January 5 Letter), the County suggests the County Treasurer could distribute disputed funds (to the County and other third parties) as soon as the end of January.
47. On information and belief, there is no constitutional, statutory, regulatory, judicial, or authority limiting an incorporated municipality’s ability to annex property that has been designated as part of a multi-county industrial or business park and restricting that municipality’s tax levy from being imposed in addition to and outside of any type of multi-count park arrangement absent the municipality’s express consent.
48. On information and belief, the County Auditor is not entitled to adjust Plaintiff’s tax levy absent Plaintiff’s direction.
49. On information and belief, the County Treasurer is not entitled to adjust the distribution of Plaintiff’s tax revenues absent Plaintiff’s direction.
50. On information and belief, the County is not entitled to adjust Plaintiff’s tax levy or adjust the distribution of Plaintiff’s tax revenues or to direct or purport to authorize other persons or entities to do the same.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)

51. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs and incorporates them by reference as if fully restated in this paragraph.
52. There exists an actual dispute and controversy among the parties which cannot be resolved absent declaratory relief by this Court.
53. Declaratory judgment in the manner sought would eliminate the uncertainty of Defendants' threatened actions.
54. Accordingly, Plaintiff is entitled to a declaratory judgment pursuant to the Uniform Declaratory Judgments Act, located in South Carolina Code Annotated section 15-53-10, *et seq.*, declaring the rights and legal relations of the parties as it relates to the Annexed Property and the multi-county industrial or business park arrangement to which Plaintiff is not a party but according to which Defendants intend to assert their will against Plaintiff.

FOR A SECOND CAUSE OF ACTION
(Injunctive Relief)

55. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs and incorporates them by reference as if fully restated in this paragraph.
56. Plaintiff has demonstrated a strong likelihood of success on the merits.
57. If Defendants are permitted to implement their actions, Plaintiff will suffer ongoing and irreparable harm through the loss of revenue and/or the restricted ability to annex property as it would result in a necessity to provide services but without the ability to recoup revenue necessary to provide for those services.
58. Plaintiff has no adequate remedy at law.
59. The issuance of a restraining order and a temporary injunction preserving the status quo will not cause substantial harm to Defendants or those acting in concert with Defendants.

60. Absent injunctive relief preserving the status quo, the General Assembly's purpose and intent in enacting the provisions of State law that protect an incorporated municipality from (a)(i) having property in its jurisdiction located in a multi-county industrial or business park without consent and (ii) having an incorporated municipality's tax levy forcibly taken without consent, and (b) having its ability to annex property unreasonably curtailed will be thwarted.
61. Accordingly, the Court should issue a temporary restraining order, a temporary injunction, and a permanent injunction, restraining and enjoining Defendants from taking or asking others to take any actions in furtherance of adjusting Plaintiff's tax levy, restraining or otherwise expending Plaintiff's funds, and distributing Plaintiff's funds except directly to Plaintiff.
62. Plaintiff is entitled to (a) a temporary restraining order, a temporary injunction, and a permanent injunction, as described above, and (b) such other relief as is just, equitable and proper.

WHEREFORE, Plaintiff prays for judgment that:

- A. Declares the rights of the parties with respect to the Annexed Property, Plaintiff's imposition of a tax levy against the Annexed Property, and Plaintiff's collection of the tax revenues based on that tax levy without regard to the multi-county industrial and business park arrangement involving the County;
- B. Includes a temporary restraining order, a temporary injunction, and a permanent injunction, restraining and enjoining Defendants from taking, or asking others to take, any actions in furtherance of implementing the threats contained in the November 9 Letter or January 5 Letter or otherwise negatively to impact Plaintiff's ability to impose of a tax levy against

the Annexed Property, and Plaintiff's ability to collect tax revenues based on that tax levy without regard to the multi-county industrial and business park arrangement involving the County;

- C. Includes this Court's retaining jurisdiction of this action for the purpose of supervising Defendants' compliance with any injunctive relief granted by this Court; and
- D. Grants any and all other legal and equitable relief as may be available, and the Court may deem just and proper.

[SIGNATURE PAGE FOLLOWS]
[REMAINDER OF PAGE INTENTIONALLY BLANK]

KOZLAREK LAW LLC

/s/ Michael E. Kozlarek

Michael E. Kozlarek (SC Bar #69330)

michael@kozlareklaw.com

Kimila L. Wooten (SC Bar #64516)

kim@kozlareklaw.com

330 East Coffee Street (29601)

Post Office Box 565

Greenville, South Carolina 29602-0565

O: 864.527.5941/5979

F: 864.670.5246

Attorneys for Plaintiff

Greenville, South Carolina
February 1, 2021

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)
CITY OF HARDEEVILLE,)
Plaintiff,)
vs.)
JASPER COUNTY, SOUTH CAROLINA,)
JASPER COUNTY TREASURER, and)
JASPER COUNTY AUDITOR,)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

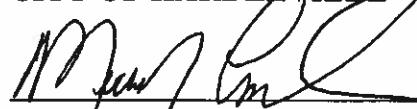
CIVIL ACTION NO: 2021-CP-27-_____

VERIFICATION

I, Michael J. Cyzmbor, being first duly sworn, deposes and says:

1. I am the City Manager of the City of Hardeeville, Plaintiff in the captioned action, and am a duly authorized representative of Plaintiff;
2. I have read the foregoing Complaint, including any attachments, and know the contents thereof;
3. The contents of the foregoing Complaint, including any attachments, are, to the best of my knowledge, true, except as to those items based on information and belief, and as to those items, I believe them to be true.

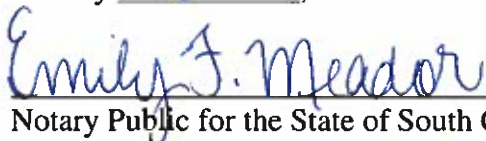
CITY OF HARDEEVILLE



Name: Michael J. Cyzmbor

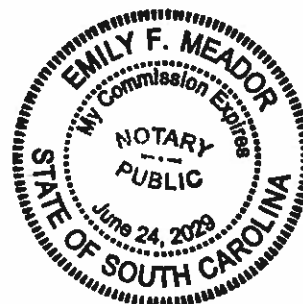
Title: City Manager

SWORN TO and subscribed before me
January 28, 2021.



Notary Public for the State of South Carolina

My Commission Expires: 6/24/2024



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-00028
	)	
Plaintiff,	)	
	)	
vs.	)	CONSENT ORDER
	)	TO AMEND COMPLAINT
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity	)
as Jasper County Treasurer,	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity	)
as Jasper County Auditor,	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE,	)
NICKEL PLATE ROAD, LLC, and	)
BEAUFORT COUNTY, SOUTH	)
CAROLINA,	)
Cross Defendants.	)

Pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedure, this matter comes before the Court on Plaintiff's Motion to Amend Complaint in the above-captioned matter. As it appears Plaintiff wishes to amend said pleadings to include an omitted exhibit and correct minor

errors in the original Complaint. The Plaintiff has not previously amended its Complaint and counsel for the parties have consented to said motion.

It is hereby, ORDERED, ADJUDGED AND DECREED that Plaintiff be allowed to amend its Summons and Complaint to include an omitted exhibit and correct minor errors and in any other particulars as set forth in the draft Amended Summons and Complaint attached as “Exhibit A.”

This ____ day of _____ 2021.
Hardeeville, South Carolina

Presiding Judge for the 14th Judicial Circuit

I SO MOVE.

/s/ Kimila L. Wooten
Michael E. Kozlarek (SC Bar #69330)
Kimila L. Wooten (SC Bar #64516)
Kozlarek Law LLC
Post Office Box 565
Greenville, South Carolina 29602-0565
864.527.5972
michael@kozlareklaw.com
kim@kozlareklaw.com
Attorneys for Plaintiff

I CONSENT.

/s/ Walter H. Cartin
Walter H. Cartin (SC Bar #78405)
Parker Poe Adams & Bernstein LLP
1221 Main Street, Suite 1100
Columbia, South Carolina 29201
803.255.8000
waltcartin@parkerpoe.com
Attorneys for Defendant and Co-Plaintiff
Jasper County

I CONSENT.

/s/ Mary B. Lohr
Mary B. Lohr (SC Bar #16927)
Howell Gibson & Hughes, PA
Post Office Box 40
Beaufort, SC 29901
843.522.2400
mlohr@hgupa.com
Attorneys for Defendants and Co-Plaintiffs
Treasurer and Auditor

I CONSENT.

/s/ Bernie W. Ellis
Bernie W. Ellis (SC Bar #64841)
Burr & Forman, LLP
104 South Main Street, Suite 700
Greenville, SC 29601
864.271.4940
bellis@burr.com
Attorneys for Cross Defendant
Nickel Plate Road, LLC

I CONSENT.

/s/ Thomas J. Keaveney, II
Thomas J. Keaveney, II (SC Bar #3308)
Beaufort County Attorney's Office
PO Box 1225
Beaufort, SC 29901
843.255.2025
tkeaveney@bcgov.net
Attorneys for Cross Defendant
Beaufort County



Jasper Common Pleas

Case Caption: City Of Hardeeville VS Jasper County, South Carolina , defendant, et al
Case Number: 2021CP2700028
Type: Order/Consent Order

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2021-06-18 16:52:42 page 4 of 4

ROA 00050

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-00028
	)	
Plaintiff,	)	
	)	
vs.	)	AMENDED SUMMONS
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity	)
as Jasper County Treasurer,	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity	)
as Jasper County Auditor,	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE,	)
NICKEL PLATE ROAD, LLC, and	)
BEAUFORT COUNTY, SOUTH	)
CAROLINA,	)
Cross Defendants.	)

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE SUMMONED and required to answer the Amended Complaint in the captioned matter, a copy of which is served on you, and to serve a copy of your answer to the Amended Complaint on the subscriber at the address below, no more than 30 days after the service of this

Amended Summons and the Amended Complaint, exclusive of the day of service; should you fail to answer the Amended Complaint in the time prescribed, judgement by default will be rendered against you for the relief demanded in the Amended Complaint.

KOZLAREK LAW LLC

/s/ Michael E. Kozlarek

Michael E. Kozlarek (SC Bar #69330)

michael@kozlareklaw.com

Kimila L. Wooten (SC Bar #64516)

kim@kozlareklaw.com

330 East Coffee Street (29601)

Post Office Box 565

Greenville, South Carolina 29602-0565

O: 864.527.5941/5979

F: 864.670.5246

Attorneys for Plaintiff

Greenville, South Carolina

June 21, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-00028
	)	
Plaintiff,	)	
	)	
vs.	)	AMENDED COMPLAINT
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity	)
as Jasper County Treasurer,	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity	)
as Jasper County Auditor,	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE,	)
NICKEL PLATE ROAD, LLC, and	)
BEAUFORT COUNTY, SOUTH	)
CAROLINA,	)
Cross Defendants.	)

Plaintiff, City of Hardeeville (“Plaintiff”), complaining of Defendants Jasper County, South Carolina, Jasper County Treasurer, and Jasper County Auditor, alleges and would respectfully show the Court the following:

PARTIES AND JURISDICTION

1. Plaintiff is a body politic and municipal corporation formed in the State of South Carolina (“State”), located at least partially in Jasper County, South Carolina (“County”).
2. On information and belief, Jasper County, South Carolina, is a political subdivision of the State located in the County.
3. On information and belief, Jasper County Treasurer is a constitutionally elected political officer of the State elected to the office of County treasurer, located in and performing functions as the treasurer in the County.
4. On information and belief, Jasper County Auditor is a constitutionally elected political officer of the State elected to the office of County auditor, located in and performing functions as the auditor in the County.
5. The subject of the dispute involves the tax status and multi-county industrial or business park status of one or more parcels of real property located at or about (as of on or about October 5, 2006) Tax Map Number 067-00-01-017, consisting of approximately 106.75 acres, in Plaintiff’s jurisdiction in the County (collectively, “Property”).
6. This is a civil action for declaratory judgment pursuant to the Uniform Declaratory Judgments Act, located in South Carolina Code Annotated section 15-53-10, *et seq.*, and Rule 57 of the South Carolina Rules of Civil Procedure, to declare the rights, duties, and responsibilities of Plaintiff and Defendants under the State law, and for injunctive relief prohibiting Defendants’ violations of the State law and their respective duties and responsibilities thereunder all as relates to the Property.
7. This Court has jurisdiction over this action, at a minimum, pursuant to the Uniform Declaratory Judgments Act, located in South Carolina Code Annotated Section 15-53-10, *et seq.*

8. Venue is proper in the County because all parties are located in the County; all of the acts and omissions giving rise to the causes of action in this Complaint have occurred and/or will occur in this County; and the Property that is the subject of the action is entirely located in this County.

ADDITIONAL FACTUAL ALLEGATIONS

9. On or about February 7, 2000, the County enacted an ordinance, to which Plaintiff craves reference, (which is attached to this Complaint as Exhibit A and incorporated by reference (“Park Ordinance”)), in which the County, among other things, authorized the development of a jointly owned and operated industrial/business park in connection with Beaufort County. The Park Ordinance also provided for an agreement related to the industrial/business park, effective December 31, 1999 (“Park Agreement”), to which Plaintiff craves reference, and which is attached to this Complaint as Exhibit B and incorporated by reference (“Park Agreement”).
10. Section 3 of the Park Agreement states that the Park (as defined in the Park Agreement) initially consists of property located in the County (“Park Property”) and is described on Exhibit A to the Park Agreement.
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other in-lieu-of payments that would have been due and payable except for the exemption herein provided.”

13. Section 13(d) provides further that “[t]he participating counties shall reduce the agreement to develop and share expenses and revenues of the park to a written instrument which is binding on all participating counties,” but does not contain language binding municipalities.

14. A portion of section 4 of the Park Agreement contains the following language:

Property located in the Park shall be exempt from *ad valorem* taxation, only during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of this Agreement 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 such property within the Park.

15. Section 170 provides further that “If the industrial or business park encompasses all or a portion of a municipality, the counties must obtain the consent of the municipality prior to the creation of the multi-county industrial park.”

16. Plaintiff has not enacted an ordinance or adopted a resolution which relates to the subject matter of either the Park Ordinance or the Park Agreement and which relates to the Park Property. Further, Plaintiff has not consented to the inclusion of the Property in a multi-county industrial or business park.

17. Plaintiff is not a party to the Park Agreement.

18. Neither the Park Ordinance nor the Park Agreement indicate Plaintiff consented to being

bound by the Park Ordinance or being a party to the Park Agreement, and Plaintiff has not consented to the same.

19. On or about April 16, 2001, the County enacted an ordinance, to which Plaintiff craves reference, and which is attached to this Complaint as Exhibit C and incorporated by reference (“General Bond Ordinance”), in which the County, among other things, authorized the issuance of not to exceed \$20,000,000 special source revenue bonds and limited the payment of the bonds from certain revenues.
20. The General Bond Ordinance defines “Act” to include South Carolina Code Annotated section 4-1-175 (“Section 175”).
21. Section 175 permits a “county . . . receiving revenues from a payment in lieu of taxes pursuant to Section 13 of Article VIII of the Constitution of this State [to] issue special source revenue bonds secured by and payable from all or a part of that portion of the revenues which the county is entitled to retain pursuant to the agreement required by Section 4-1-170”
22. The General Bond Ordinance defines “Fee Payments” as “the revenues that the County receives and retains pursuant to the Park Agreement [as defined above] from the payments in lieu of taxes which are paid for all real property and personal property located within the Park [as defined above].”
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25. Section 2.1(H) of the General Bond Ordinance provides that the project, for which the bonds are being issued, results in “no pecuniary liability of . . . [any] incorporated municipality, or a charge against the general credit or taxing power of [either the County or any incorporated municipality].”
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amend the General Bond Ordinance.

33. Section 8 of the First Supplemental Bond Ordinance states the security of the bonds is “the Net Fee Payments referred to and subject to the limitations as set forth in Section 5.2 of the General Bond Ordinance [as defined above].”
34. On or about October 20, 2003, the County enacted an ordinance, to which Plaintiff craves reference, and which is attached to this Complaint as Exhibit E and incorporated by reference (“Second Supplemental Bond Ordinance,” with First Supplemental Bond Ordinance, collectively, “Supplemental Bond Ordinance”), in which the County, among other things, authorized the issuance of \$6,000,000 special source revenue bonds but did not amend the General Bond Ordinance.
35. Section 8 of the Second Supplemental Bond Ordinance states the security of these bonds is “the Net Fee Payments referred to and subject to the limitations as set forth in Section 5.2 of the General Bond Ordinance [as defined above].”
36. Plaintiff is not a party to any document related to the bonds described in either the General Bond Ordinance or the Supplemental Bond Ordinance (collectively, “Bond Documents”).
37. Neither the General Bond Ordinance nor the Supplemental Bond Ordinance indicate Plaintiff consented to being bound by either ordinance or by any Bond Documents, and Plaintiff has not consented to the same.
38. On or about October 5, 2006, Plaintiff annexed certain property into Plaintiff’s jurisdictional limits. *See* Exhibit F, which is attached to this Complaint and incorporated by reference (“Annexation Materials”).
39. According to the Annexation Materials, the owner of the property petitioned Plaintiff to annex the property (“Annexed Property”).

40. According to a letter from the County to Plaintiff, dated November 9, 2020, which is attached to this Complaint as Exhibit G and incorporated by reference (“November 9 Letter”), since 2011, “the total millage levy for Hardeeville on the [A]nnexed [P]roperty has been assessed and paid in their entirety to Hardeeville.”
41. Further, according to the November 9 Letter, the County Treasurer, not the County, “will be pursuing” “the remedy.”
42. The November 9 Letter continues by stating that Plaintiff “has been overpaid \$221,350.97 in property tax . . . ” and that “[t]he Auditor and Treasurer are in the process of preparing the refund/rebill”
43. The November 9 Letter states that all Defendants are acting in concert against Plaintiff.
44. From and after Plaintiff annexed the Annexed Property in 2006 and until the conversation referenced in the November 9 Letter, to the best of Plaintiff’s knowledge, none of the Defendants provided notice to Plaintiff that Plaintiff: (1) was not entitled to annex the Annexed Property; (2) was not entitled to levy a millage against the Annexed Property; (3) was not entitled to collect 100% of its millage levy; (4) was allegedly bound by any agreement to which the County was a party relating to the Annexed Property, or (5) any combination of the same.
45. Plaintiff responded to the November 9 letter with correspondence dated December 23, 2020, attached to this Complaint as Exhibit H and incorporated by reference (“December 23 Letter”).
46. According to a letter from the County to Plaintiff, dated January 5, 2021, which is attached to this Complaint as Exhibit I and incorporated by reference (“January 5 Letter”), the County suggests the County Treasurer could distribute disputed funds to the County and

other third parties as soon as the end of January.

47. On information and belief, there is no constitutional, statutory, regulatory, judicial, or authority limiting an incorporated municipality's ability to annex property that has been designated as part of a multi-county industrial or business park and restricting that municipality's tax levy from being imposed in addition to and outside of any type of multi-count park arrangement absent the municipality's express consent.
48. On information and belief, the County Auditor is not entitled to adjust Plaintiff's tax levy absent Plaintiff's direction.
49. On information and belief, the County Treasurer is not entitled to adjust the distribution of Plaintiff's tax revenues absent Plaintiff's direction.
50. On information and belief, the County is not entitled to adjust Plaintiff's tax levy or adjust the distribution of Plaintiff's tax revenues or to direct or purport to authorize other persons or entities to do the same.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgment)

51. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs and incorporates them by reference as if fully restated in this paragraph.
52. There exists an actual dispute and controversy among the parties which cannot be resolved absent declaratory relief by this Court.
53. This case involves rights of the Plaintiff affected by contracts, statutes and/or municipal ordinances as set forth in §15-53-30 of the Uniform Declaratory Judgment Act (SC Code Ann. §15-53-10 *et seq.*)
54. Declaratory judgment in the manner sought would eliminate the uncertainty of Defendants' threatened actions.

55. Accordingly, Plaintiff is entitled to a declaratory judgment declaring the rights and legal relations of the parties as it relates to the Annexed Property and the multi-county industrial or business park arrangement to which Plaintiff is not a party but according to which Defendants intend to assert their will against Plaintiff.

FOR A SECOND CAUSE OF ACTION
(Injunctive Relief)

56. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs and incorporates them by reference as if fully restated in this paragraph.

57. Plaintiff has demonstrated a strong likelihood of success on the merits.

58. If Defendants are permitted to implement their actions, Plaintiff will suffer ongoing and irreparable harm through the loss of revenue and/or the restricted ability to annex property as it would result in a necessity to provide services but without the ability to recoup revenue necessary to provide for those services.

59. Plaintiff has no adequate remedy at law.

60. The issuance of a restraining order and a temporary injunction preserving the status quo will not cause substantial harm to Defendants or those acting in concert with Defendants.

61. Absent injunctive relief preserving the status quo, the General Assembly's purpose and intent in enacting the provisions of State law that protect an incorporated municipality from (a)(i) having property in its jurisdiction located in a multi-county industrial or business park without consent and (ii) having an incorporated municipality's tax levy forcibly taken without consent, and (b) having its ability to annex property unreasonably curtailed will be thwarted.

62. Accordingly, the Court should issue a temporary restraining order, a temporary injunction, and a permanent injunction, restraining and enjoining Defendants from taking or asking

others to take any actions in furtherance of adjusting Plaintiff's tax levy, restraining or otherwise expending Plaintiff's funds, and distributing Plaintiff's funds except directly to Plaintiff.

63. Plaintiff is entitled to (a) a temporary restraining order, a temporary injunction, and a permanent injunction, as described above, and (b) such other relief as is just, equitable and proper.

WHEREFORE, Plaintiff prays for judgment that:

- A. Declares the rights of the parties with respect to the Annexed Property, Plaintiff's imposition of a tax levy against the Annexed Property, and Plaintiff's collection of the tax revenues based on that tax levy without regard to the multi-county industrial and business park arrangement involving the County;
- B. Includes a temporary restraining order, a temporary injunction, and a permanent injunction, restraining and enjoining Defendants from taking, or asking others to take, any actions in furtherance of implementing the threats contained in the November 9 Letter or January 5 Letter or otherwise negatively to impact Plaintiff's ability to impose of a tax levy against the Annexed Property, and Plaintiff's ability to collect tax revenues based on that tax levy without regard to the multi-county industrial and business park arrangement involving the County;
- C. Includes this Court's retaining jurisdiction of this action for the purpose of supervising Defendants' compliance with any injunctive relief granted by this Court; and
- D. Grants any and all other legal and equitable relief as may be available, and the Court may deem just and proper.

[SIGNATURE PAGE FOLLOWS]
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KOZLAREK LAW LLC

/s/ Michael E. Kozlarek

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michael@kozlareklaw.com

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Post Office Box 565

Greenville, South Carolina 29602-0565

O: 864.527.5941/5979

F: 864.670.5246

Attorneys for Plaintiff

Greenville, South Carolina

June 21, 2021

EXHIBIT A

ORDINANCE NO. *Jav 21*

AN ORDINANCE TO DEVELOP A JOINTLY OWNED AND OPERATED INDUSTRIAL/BUSINESS PARK IN CONJUNCTION WITH BEAUFORT COUNTY, SUCH INDUSTRIAL/BUSINESS PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY AND BEAUFORT COUNTY AND ESTABLISHED PURSUANT TO SOUTH CAROLINA CODE OF LAWS OF 1976 §4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH BEAUFORT COUNTY PROVIDING FOR THE EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES, AND, TO PROVIDE THAT JOBS TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PARK, AND TO PERMIT A USER FEE IN LIEU OF AD VALOREM TAXATION.

WHEREAS, Jasper County and Beaufort County (jointly the "Counties") are authorized under Article VIII, Section 13 of the South Carolina Constitution to jointly develop an industrial or business park within the geographical boundaries of one or more of the member counties; and

WHEREAS, in order to promote the economic welfare of the citizens of the Counties by providing employment and other benefits to the citizens of the Counties, Jasper County proposes to enter into an agreement with Beaufort County to develop jointly an industrial and business park as provided by Article VIII, Section 13 of the South Carolina Constitution and in accordance with Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended, (the "Act");

NOW, THEREFORE, BE IT ORDAINED BY THE JASPER COUNTY COUNCIL

SECTION I: Jasper County is hereby authorized to execute and deliver a written agreement to jointly develop an industrial and business park (the "Park") with Beaufort County. The Park is to be located within the boundaries of both Counties. The form of the joint industrial park agreement (the "Agreement") is attached hereto and all terms of the Agreement are hereby incorporated herein. The form, terms and provisions of the Agreement presented to this meeting and filed with the Clerk of the Jasper County Council be and they are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Agreement were set out in this Ordinance in its entirety. The Administrator of the County be and he is hereby authorized, empowered and directed to execute, acknowledge and deliver the Agreement in the name and on behalf of the County. The Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Agreement now before this meeting.

SECTION II. The maximum tax credits allowable by South Carolina Code of Laws of 1976, Section 12-6-3360, as amended, will apply to any business enterprise locating in the Park

20000021401
Filed for Record in
JASPER COUNTY, SC
MARGARET BOYD
CLERK
ON 04-10-2000 AT 03:44 PM.
MISC N/C
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SECTION III. Any business or industrial enterprise locating in the Park shall pay a fee in lieu of ad valorem taxes as provided for in the Agreement, Article VIII Section 13 of the South Carolina Constitution and the Act. The user fee paid in lieu of ad valorem taxes shall be paid to the County Treasurer of the respective County in which a particular parcel of Park property is located. That portion of the fees from the Park premises located in one County and allocated pursuant to the Agreement to the other County shall be paid by the collecting County Treasurer to the other County Treasurer within five business days following the end of the calendar quarter of receipt for distribution, in accordance with the Agreement. Payments of user fees shall be made by a business or industrial enterprise on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate and at the same times as for late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the county tax collector for the collecting County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of ad valorem taxes.

SECTION IV. The administration, development, promotion, and operation of the Park shall be the responsibility of the County in which the Park property in question is located. Provided, that to the extent any Park premises is owned by a private developer, the developer shall be responsible for development expenses as contained in the Agreement.

SECTION V. In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion.

SECTION VI. The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

SECTION VII. Should any section of this Ordinance be, for any reason, held void or invalid, it shall not affect the validity of any other section hereof which is not itself void or invalid.

SECTION VIII. The Agreement may not be terminated except by concurrent ordinances of Jasper County Council and Beaufort County Council, in accordance with the terms of the Agreement. In any event, this Ordinance shall terminate twenty-eight (28) years from the date of its execution by both parties.

SECTION IX. Jasper County hereby designates that the distribution of the fee-in-lieu of ad valorem taxes pursuant to the Agreement actually received by Jasper County for Park premises be paid to each of the taxing entities in Jasper County which levy an ad valorem property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of

And 144723 v2

the millage rate being levied in the then current tax year for property tax purposes, provided that the County may, from time to time, by ordinance, amend the distribution of the fee-in-lieu of tax payments to all taxing entities. A portion of the fee-in-lieu of ad valorem taxes which Jasper County receives pursuant to the Agreement for Park premises may be, from time to time and by ordinance of Jasper County Council or its successor, designated for the payment of special source revenue bonds.

SECTION XI. This Ordinance shall be effective after third and final reading and publication.

Resolved, in meeting duly assembled, on this 2nd day of July 2000

JASPER COUNTY, SOUTH CAROLINA

By: [Signature]
Chairman, County Council
Jasper County, South Carolina

By: _____
Administrator
Jasper County, South Carolina

Attest:

By: [Signature]
Clerk to County Council
Jasper County, South Carolina

Date: 2nd July 2000

FIRST READING: 1/3/00
SECOND READING: 1/12/00
PUBLIC READING: 2/7/00
THIRD READING: 2/7/00

EXHIBIT B

STATE OF SOUTH CAROLINA	)	
	)	AGREEMENT FOR DEVELOPMENT
COUNTY OF BEAUFORT	)	OF JOINT COUNTY INDUSTRIAL AND
	)	BUSINESS PARK
COUNTY OF JASPER	)	

THIS AGREEMENT for the development of a joint county industrial and business park to be located in Jasper and Beaufort Counties, dated as of December 31, 1999 is made and entered into by and between the County of Beaufort and the County of Jasper, both political subdivisions of the State of South Carolina.

RECITALS

WHEREAS, Beaufort County, South Carolina ("Beaufort County"), and Jasper County, South Carolina ("Jasper County") (collectively the "Counties"), have determined that, in order to promote economic development and thus provide additional employment opportunities within both of said counties, there should be established in one or both Counties a Joint County Industrial and Business Park (the "Park"); and

WHEREAS, as a consequence of the establishment of the Park, property therein shall be exempt from *ad valorem* taxation, during the term of this Agreement, but the owners or lessees of such property shall pay annual fees during that term in an amount equal to that amount of *ad valorem* taxes for which such owner or lessee would be liable except for such exemption; and

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby 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 the Counties, their successors and assigns.

2. **Authorization.** Article VIII, Section 13(d), of the Constitution of South Carolina 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 means by 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 taxing ability for school districts. Section 4-1-170, *South Carolina Code of Laws*, 1976, as amended ("Section 4-1-170"), satisfies the conditions imposed by Article VIII, Section 13(d), of the Constitution and provides the statutory vehicle whereby a joint county industrial park may be created.

3. Location of the Park.

(A) The Park initially consists of property located in Jasper County as is hereinafter described in Exhibit "A". The boundaries of the Park may be enlarged, to include additional properties in one or both Counties, or diminished from time to time as authorized by ordinances of both of the Counties.

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

(C) Prior to the adoption by Beaufort County Council and by Jasper County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by the respective County Council of the County in which area proposed for deletion is located. Notice of such public hearing shall be published in a newspaper of general circulation in that 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 real property which would be excluded from the Park by virtue of the diminution.

(D) Notwithstanding the foregoing, for a period of twenty-eight (28) years commencing with the later of the effective date of this Agreement or the effective date of the expansion of the boundaries of the Park to include such parcel, the boundaries of the Park shall not be diminished so as to exclude therefrom any parcel of real estate without the consent of the owner and the Counties and, if applicable, lessee of such parcel; and this sentence of this Agreement may not be modified or deleted here from for a period of twenty-eight (28) years commencing with the effective date hereof, except as provided in Section 11 below.

4. **Fee in Lieu of Taxes.** Property located in the Park shall be exempt from *ad valorem* taxation, only during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of this Agreement 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 such property within the Park. The user fee paid in lieu of *ad valorem* taxes shall be paid to the respective County Treasurer of the County in which Park property is located. That portion of the fees from the Park premises located in one County and allocated pursuant to the Agreement to the other County shall be paid by the collecting County Treasurer to the other County Treasurer within five business days following the end of the calendar quarter of receipt for distribution, in accordance with the Agreement. Payments of user fees shall be made by a business or industrial enterprise on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate and at the same times as for late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the county tax collector for the County in which a parcel of Park

property in question is located, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

5. Allocation of Park Expenses. The Counties shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park in the following proportions:

A. Site Location County	100%
B. Partner County	0%

Provided, that to the extent any Park premises is owned by a private developer, the developer shall be responsible for development expenses.

6. Allocation of Park Revenues. The Counties shall receive an allocation of all revenue generated by the Park through payment of fees in lieu of *ad valorem* property taxes or from any other source in the following proportions:

A. Site Location County	99%
B. Partner County	1%

7. Revenue Allocation Within Each County. Revenues generated by the Park through the payment of fees in lieu of *ad valorem* property taxes shall be distributed to the Counties according to the proportions established by Paragraph 6. Such revenue shall be distributed within Beaufort County to the political subdivisions in Beaufort County (hereinafter referred to as the "Beaufort Participating Taxing Entities") in accordance with an ordinance to be adopted by Beaufort County. Revenues received by Jasper County shall be distributed by Jasper County to the political subdivisions of Jasper County (hereinafter referred to as the "Jasper Participating Taxing Entities") in accordance with an ordinance adopted by Jasper County.

8. Fees in Lieu of Taxes Pursuant to Section 4-29-67, *South Carolina Code of Laws*, 1976. It is hereby agreed that the entry by Beaufort County or Jasper County into any one or more agreements pursuant to Sections 4-29-67, 4-12-10, *et seq.*, or 12-44-10, *et seq.*, *South Carolina Code of Laws*, 1976, as amended, with respect to property located within the Park and the terms of such agreements shall be at the sole discretion of the two counties, respectively.

9. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation of the Beaufort Participating Taxing Entities and the Jasper Participating Taxing Entities and for the purpose of computing the index of taxpaying ability of the respective School Districts of each County pursuant to Section 59-20-20(3), *South Carolina Code of Laws*, 1976, as amended, allocation of the assessed value of property within the Park to Beaufort County and Jasper County shall be identical to the percentage established for the allocation of revenue to each of the counties pursuant to Paragraphs 6 and 7, respectively.

10. Jobs Tax Credit Valuation. For purposes of the jobs tax credit authorized by subsections of Section 12-6-3360 of the *South Carolina Code of Laws*, 1976, as amended, the County in which a particular business enterprise is located is the county in which the permanent

business enterprise is deemed to be located. Section 12-6-3360, *South Carolina Code of Laws*, 1976, has been amended so as to provide an additional annual corporate income tax credit equal to One Thousand Dollars (\$1,000.00) beyond the current jobs tax credit amount applicable for new jobs in the respective County in which a business enterprise is located for each new full-time job created in the Park property located in that County.

11. **Non-qualifying Use.** In the event that a tract or site of land located in the Park is purchased and developed by a business enterprise which locates employees within the Park and which employees, because of the nature of their employment, do not qualify for the corporate income tax credit provided in *South Carolina Code of Laws*, 1976, as amended, Section 12-6-3360 (the "Non-qualifying Site"), the respective County in which that tract or site is located may remove, by ordinance, the Non-qualifying Site from the Park, provided there are no infrastructure credits, bonds, or other financings or obligations which would be affected by such removal.

12. **Records.** The Counties, parties to this Agreement, covenant and agree that, upon the request of either, the other will provide to the requesting party copies of the records of the annual tax levy and copies of the actual tax bills, for parcels of property encompassed by this Agreement, and will further provide copies of the County Treasurer's collection records for the taxes so imposed, all as such records became available in the normal course of County procedures. It is further agreed that none of the parties shall request such records from any other party more frequently than once annually, absent compelling justification to the contrary.

13. **Applicable Law.** In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion.

14. **Law Enforcement.** The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

15. **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.

16. **Termination.** Notwithstanding any provision of this Agreement to the contrary, Beaufort County and Jasper County agree that this Agreement may not be terminated by either party for a period of twenty-eight (28) years commencing with the effective date hereof.

WITNESS our hands and seals this 14th day of February, 2000.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: 
Frank Brafman
Chairman

ATTEST:


Clerk to Council

WITNESS our hands and seals this 10 day of April, 2000.

JASPER COUNTY, SOUTH CAROLINA

By: Leroy Sneed
Leroy Sneed, Chairman, County Council,
Jasper County, South Carolina

ATTEST:

By: Judy Frank
Judy Frank, Clerk to County Council,
Jasper County, South Carolina

And: 144733

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EXHIBIT "A"

To the Agreement for Development of
Joint County Industrial and Business Park
Beaufort County and Jasper County
Dated as of December 31, 1999

The Park consists of:

TRACT I:

ALL that certain piece, parcel and tract of land, containing 170.565 acres, situate, lying and being in the New River East Section of Jasper County, South Carolina, with said tract more specifically shown and described on a plat thereof entitled "A Plat Of A 170.565 Acre Tract Being a Portion Of The Argent Tract", with said plat prepared by Thomas & Hutton Engineering Co., Inc., as certified by Boyce L. Young, S.C.R.L.S. No. 11079, said plat dated the 28th day of March, 1997, and last revised on the 24th day of June, 1997 and recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 23 at Page 4.

TRACT II:

ALL that certain piece, parcel, and tract of land, containing 41.464 acres, situate, lying and being in Jasper County, South Carolina, said 41.464 acre parcel more specifically shown and described on a plat thereof entitled "A Plat Of A 41.464 Acre Tract Being A Portion Of The Argent Tract", said plat dated October 12, 1999, as prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 118.

TRACT III:

ALL that certain piece, parcel and tract of land, containing 106.75 acres, situate, lying and being in Jasper County, South Carolina, with said 106.75 acre tract more specifically shown and described on a plat thereof entitled "A Plat Of 106.75 Acre Tract Being A Portion Of The Argent Tract", said plat prepared by Thomas & Hutton Engineering Co. and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 119.

And: 144733

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ROA 00076

EXHIBIT C

STATE OF SOUTH CAROLINA)

COUNTY OF JASPER)

CERTIFIED COPY OF GENERAL
BOND ORDINANCE NO. 01-04

I, the undersigned being the duly qualified and acting Clerk to the County Council of Jasper County, South Carolina (the "County"), and as such official I further certify that I am the recorder and custodian of the official records of the County Council and that attached hereto is a true copy of General Bond Ordinance No. 01-04 authorizing and providing the issuance of Special Source Revenue Bonds (Nickel Plate Road LLC Project) of the County, enacted by the County Council at a meeting duly called and held on April 16, 2001, at which a quorum was present and acting throughout, which Ordinance has been compared by me with the original thereof, and that such Ordinance has been duly enacted including the required number of readings and has not been modified, amended or repealed and is in full force and effect on and as of the date hereof in the form attached hereto.

In witness hereof, I have hereunto set my hand this 20th day of April, 2001.

[Signature]
Clerk to County Council of Jasper County,
South Carolina

200100000000
Filed for Record in
JASPER COUNTY
MARSHALL BOSTICK
05-10-2001 at 03:10 AM
MISC N/C
Volume 6 Page 244 - 244

Case#01:154000

JASPER COUNTY, SOUTH CAROLINA

ORDINANCE NO. 01-04

GENERAL BOND ORDINANCE
(NICKEL PLATE ROAD LLC PROJECT - SPECIAL SOURCE REVENUE BONDS)

A GENERAL BOND ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BONDS (NICKEL PLATE ROAD LLC PROJECT) IN A PRINCIPAL AMOUNT OF UP TO \$20,000,000; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY FROM CERTAIN REVENUES DERIVED FROM THE PAYMENTS OF FEES IN LIEU OF TAX FROM THE PROPERTIES LOCATED IN THE JASPER COUNTY AND BEAUFORT COUNTY JOINT COUNTY INDUSTRIAL AND BUSINESS PARK; PLEDGING SUCH MONEYS TO THE PAYMENT OF SUCH SPECIAL SOURCE REVENUE BONDS; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH FUNDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING; APPROVING A THIRD AMENDMENT TO THAT INDUCEMENT AGREEMENT BY AND AMONG JASPER COUNTY, SOUTH CAROLINA AND NICKEL PLATE ROAD LLC, ASSET MANAGEMENT ASSOCIATES INC., AND NEW RIVER - OKATIE CO. LLC; AND AMENDING ORDINANCE NUMBER 2000-1 RELATING TO THE DISTRIBUTION OF THE FEES IN LIEU OF *AD VALOREM* TAXES IN THE PARK; AND OTHER MATTERS RELATING THERETO.

Greenville, 155564

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Greenville 158564

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BE IT ORDAINED BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH
CAROLINA, IN COUNCIL ASSEMBLED:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Unless the context shall clearly indicate some other meaning, the terms defined in this Section shall, for all purposes of this General Bond Ordinance and of any ordinance, resolution, certificate, opinion, instrument or other document herein or therein mentioned, have the meanings herein specified, with the definitions to be equally applicable to both the singular and plural forms of any of the terms herein defined and vice versa. The term:

"Act" shall mean Section 4-1-175 and Section 4-29-68, Code of Laws of South Carolina 1976, as amended, and all other statutory authorizations, now or hereinafter enacted, authorizing and enabling the County to provide for the issuance of the Bonds.

"Authorized County Representative" shall mean the Chairman or Vice Chairman of the County Council, the County Administrator or the Clerk of the County Council.

"Authorized Developer Representative" shall mean any person or persons at the time designated to act on behalf of the Developer by a written certificate furnished to the Clerk to County Council of the County and the Purchaser containing the specimen signature of each such person and signed on behalf of the Developer by its President, any Vice President, Treasurer or Assistant Treasurer.

"Authorized Owner Representative" shall mean any person or persons at the time designated to act on behalf of the Owner by a written certificate furnished to the Clerk to County Council of the County and the Purchaser containing the specimen signature of each such person and signed on behalf of the Owner by its President, any Vice President, Treasurer or Assistant Treasurer.

"Bondholders" or the term **"Holders"** or any similar term shall mean the registered owner or owners of any Outstanding Bond or Bonds.

"Bond" or **"Bonds"** shall mean any Bond, some of the Bonds or all of the Bonds issued under and pursuant to Article III hereof.

"Books of Registry" shall mean the registration books maintained by the Registrar in accordance with Section 4.2 hereof.

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"Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of South Carolina are required or authorized by law (including executive orders) to close.

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

"Cost of Acquisition and Construction" shall mean, to the extent permitted by the Act, all costs (including architectural and engineering fees) of designing, acquiring, constructing, improving, or expanding the Infrastructure (as described herein) and any other infrastructure serving the County in order to enhance the economic development of the County, including sums required to reimburse the Owner and Developer for payments previously made with respect to Infrastructure, the Costs of Issuance and capitalized interest, if any, on Bonds.

"Cost of Issuance" shall mean all items of expense, directly or indirectly payable or reimbursable by or to the County and related to the authorization, sale and issuance of a Series of Bonds including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any Custodian, legal fees and charges, auditing and accounting fees and charges, fees and disbursements of consultants and professionals, and any other costs, charges or fees in connection with the original issuance of Bonds.

"Council" shall mean the County Council of Jasper County, South Carolina.

"County" shall mean Jasper County, South Carolina.

"Custodian" shall mean any bank or trust company or national banking association or national association selected by the County as a depository of moneys or securities held in the Debt Service Fund or the Revenue Fund. A Supplemental Ordinance may appoint the County Treasurer as Custodian of one or more of these funds.

"Debt Service Fund" shall mean the fund of that name established pursuant to Section 5.5 of this General Bond Ordinance.

"Default" or "Event of Default" shall mean any of those defaults specified in and defined by Article VIII hereof.

"Developer" shall mean Asset Management Associates, Inc., a South Carolina Corporation and New-River - Okatie Co. LLC, a South Carolina limited liability company.

"Fee Payments" shall mean the revenues that the County receives and retains pursuant to the Park Agreement from the payments in lieu of taxes which are paid for all real property and personal property located within the Park.

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"Fiscal Year" shall mean the fiscal year for the County as determined by the Council, initially being the period from July 1 in any year to and including June 30 in the following year.

"General Bond Ordinance" shall mean this General Bond Ordinance as from time to time amended or supplemented by one or more Supplemental Ordinances, as defined herein.

"Government Obligations" shall mean noncallable and nonprepayable bonds, notes or direct obligations and general obligations of the United States.

"Infrastructure" shall mean infrastructure serving the County (including improved and unimproved real property) in order to enhance the economic development of the County.

"Interest Account" shall mean the account by that name established in the Debt Service Fund.

"Interest Payment Date" shall mean February 1 of each year on which interest is paid on Bonds, or such other interest payment date established by a Supplemental Ordinance.

"Multi-County Fees" shall mean the amount of the allocation of all revenues generated by the park attributable to the Fee Payments payable by the County to Beaufort County, South Carolina, or any successor thereto under the Park Agreement.

"Net Fee Payments" shall mean the Fee Payments remaining after payment of the Multi-County Fees.

"Original Inducement Agreement" shall mean that certain inducement agreement by and between the County, the Owner and the Developer, executed on April 20, 1998, as amended by a First Amendment to such Inducement Agreement and by a Second Amendment to Inducement Agreement.

"Outstanding" when used with respect to any Bond shall have the construction given to such word in Article X hereof; i.e., a Bond shall not be Outstanding if such Bond is not, or would not be, at the time, deemed to be Outstanding by reason of the operation and effect of said Article X.

"Owner" shall mean Nickel Plate Road LLC, a South Carolina limited liability company.

"Park" shall mean the Jasper County and Beaufort County, South Carolina, Joint County Industrial and Business Park as defined in the Park Agreement.

"Park Agreement" shall mean the Agreement for Development of Joint County Industrial and Business Park executed on behalf of Beaufort County as of February 14, 2000, and executed on behalf of Jasper County as of April 10, 2000, as such may be amended or supplemented from time to time.

"Paying Agent" shall mean the County Treasurer or any bank, trust company or national banking association which is authorized to pay the principal of or interest on any Bonds and having the duties, responsibilities and rights provided for in this General Bond Ordinance.

"Permitted Investments" shall mean (a) any one or more of the investments now or hereafter permitted by Section 6-5-10, Code of Laws of South Carolina 1976, as amended and in effect from time to time, or any authorization relating to the investments of County funds, and (b) the South Carolina Pooled Investment Fund or similar State administered pool investment fund.

"Principal Account" shall mean the account by that name established within the Debt Service Fund.

"Principal Payment Date" shall mean February 1 of each year on which principal is paid on Bonds, or such other principal payment date established by a Supplemental Ordinance.

"Project" shall include, but not be limited to, all of the real property, personal property, machinery, fixtures, buildings and equipment owned, sold, leased or used by the Owner, the Developer, or any other enterprise having facilities located on the real property described in *Exhibit A* attached hereto and which are subject to the Park Agreement and the Fee Payments.

"Registrar" shall mean the County Treasurer or any bank, trust company, or national banking association which is authorized to maintain an accurate list of those who from time to time shall be the holders of the Bonds and shall effect the exchange and transfer of Bonds in accordance with the provisions of this General Bond Ordinance and having the duties, responsibilities, and rights provided for in this General Bond Ordinance.

"Revenue Fund" shall mean the fund of that name established pursuant to Section 5.4 of this General Bond Ordinance.

"Second Amendment to Inducement Agreement" shall mean that certain amendment to the Original Inducement Agreement executed on May 17, 1999 by the County, June 7, 1999 by the Owner, and June 14, 1999 by the Developer.

"Series" or "Series of Bonds" or "Bonds of Series" shall mean a Bond or all Bonds designated as being of the same series issued and delivered on original issuance in a simultaneous

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transaction, and any Bond or Bonds thereafter delivered in lieu thereof or in substitution therefor pursuant to this General Bond Ordinance.

"Supplemental Ordinance" shall mean any ordinance enacted by the County providing for the issuance of a Bond or Bonds hereunder and any ordinance enacted by the Council pursuant to and in compliance with the provisions of Article III hereof amending or supplementing the provisions of this General Bond Ordinance.

"Tax Year" shall mean the consecutive twelve (12) month period during which the County *ad valorem* real property taxes are levied and collected, presently being the period from July 1 to June 30.

"Third Amendment to Inducement Agreement" shall mean the amendment to the Original Inducement Agreement authorized to be executed under this General Bond Ordinance, and attached hereto as *Exhibit B*.

ARTICLE II

FINDINGS AND DETERMINATIONS

Section 2.1. Findings and Determinations. The County Council of Jasper County, South Carolina, hereby finds and determines:

A. The County is a political subdivision of the State of South Carolina and as such has all powers granted to counties by the Constitution and the general law of this State.

B. Article X, Section 14, of the Constitution of the State of South Carolina, 1895, as amended, provides that indebtedness payable solely from a special source, which source does not involve revenues from any tax or license, may be issued by a county upon such terms and conditions as the General Assembly may prescribe by general law.

C. Section 4-1-175 of the Code provides that a county that receives revenues from a payment in lieu of taxes pursuant to Section 13 of Article VIII of the Constitution of South Carolina, may issue special source revenue bonds secured by and payable from all or a part of such revenues, subject to certain terms and conditions as provided therein, and, as provided in Section 4-29-68 of the Code, for the purpose of paying the cost of designing, acquiring, constructing, improving or expanding the Infrastructure serving the County (and for improved and unimproved real estate used in the operation of a manufacturing commercial enterprise) in order to enhance the economic development of the County and the Cost of Issuance of Bonds.

D. In accordance with the provisions of the Original Inducement Agreement, the County agreed to issue special source revenue bonds under the terms set forth in such Original

Inducement Agreement. More particularly, in the Original Inducement Agreement, the County agreed to issue special source revenue bonds with a maturity of 13 years, for up to \$7,000,000 in Infrastructure costs, in one or more series, secured and payable by 40% of that portion of the revenues from payment in lieu of taxes attributable to the Park which the County is entitled to retain pursuant to the Park Agreement.

E. In the Second Amendment to Inducement Agreement, the County agreed to issue a single special source revenue bond under the same terms as the Original Inducement Agreement, as amended by a First Amendment to Inducement Agreement, except that such bond would be for a total of up to \$20,000,000 in Infrastructure costs, and have a maturity of 28 years.

F. The County now agrees to authorize and provide for a Third Amendment to Inducement Agreement in the form attached as *Exhibit B*, which provides for the issuance of special source revenue bonds, in one or more series rather than as a single bond, under the same terms set forth in the Original Inducement Agreement, as amended by the First Amendment to Inducement Agreement and Second Amendment to Inducement Agreement.

G. The County and Beaufort County have established a joint county industrial and business park (the "Park") by entering into the Park Agreement.

H. The County has given due consideration to the economic development impact of the Project, has found that the Project and the payments in lieu of taxes which would be made for properties located in the Park would be directly and substantially beneficial to the County, the taxing entities of the County, and the citizens and residents of the County, and that the Project would directly and indirectly benefit the general public welfare and serve a public purpose of the County by providing services, employment, recreation, promotion of tourism, or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality, or a charge against the general credit or taxing power of either; and, that the purposes to be accomplished by the Project, i.e., economic development and welfare, creation of jobs, promotion of tourism, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs.

I. The County has agreed to issue and sell Special Source Revenue Bonds, (Nickel Plate Road LLC Project) (the "Bonds") in a total principal amount of up to \$20,000,000, the proceeds of which will be used to design, acquire, construct, improve or expand Infrastructure, or to make reimbursement to the Developer or Owner thereof.

J. The Bonds will be issued under and pursuant to the provisions of the Act and will be secured by and payable solely from a portion of the Net Fee Payments.

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K. No bonds or other obligations have heretofore been issued by the County pledging the Net Fee Payments.

L. By the enactment of this General Bond Ordinance, the County will: provide for the issuance of the Bonds at the time and on the terms and conditions set forth in this General Bond Ordinance; authorize the execution of the Third Amendment to Inducement Agreement by and between the County, the Developer and the Owner; and amend Ordinance No. 2000-1 relating to the distribution of fees in lieu of *ad valorem* taxes in the Park.

ARTICLE III

AUTHORIZATION AND ISSUANCE OF BONDS

Section 3.1. Authorization of Bonds. There is hereby authorized to be issued Bonds of the County to be known as "Jasper County, South Carolina, Special Source Revenue Bonds (Nickel Plate Road LLC Project)" in one or more series for a total principal amount of up to \$20,000,000, which Bonds may be issued pursuant to this General Bond Ordinance and in accordance with the terms, conditions and limitations set forth herein, in such amounts and from time to time as the County, at the written request of the Owner or the Developer, shall issue under this General Bond Ordinance and the Act.

Section 3.2. General Provisions for Issuance of Bonds. (a) The Bonds shall be issued in Series by means of Supplemental Ordinances enacted by the Council in accordance with the provisions of this Article. Each Supplemental Ordinance shall designate the Bonds provided for thereby by an appropriate Series designation and by such further particular designations, if any, as the County deems appropriate, and shall, unless or except as is otherwise set forth herein, also specify: (i) the authorized principal amount of such Series of Bonds; (ii) the purpose or purposes for which the Bonds of such Series are being issued; (iii) the date or dates of the Bonds of the Series; (iv) a maturity of not longer than twenty-eight (28) years from the date of their respective issuance; (v) the interest rate or rates of the Bonds of such Series, or the manner of determining such rate or rates, and the Interest Payment Dates; (vi) the denominations of, and manner of numbering and lettering, the Bonds of such Series; (vii) the redemption premium, if any, and the terms and conditions, if any, of such redemption; (viii) the place or places of payment of the Bonds of the Series and interest thereon; (ix) any other provisions which may be required to be inserted therein by other provisions of this General Bond Ordinance; and (x) any other necessary or desirable provisions not inconsistent or in conflict with the provisions of this General Bond Ordinance.

Section 3.3. Conditions for the Issuance of Bonds under this General Bond Ordinance. Anytime and from time to time, one or more Series of Bonds shall be issued by the County at the request of the Owner or the Developer for such purposes as may be permitted by the Act upon

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compliance with the provisions of Section 3.2 hereof and this Section in such principal amounts as may be requested by the Owner and Developer within the limitations set forth in the Original Inducement Agreement and the Second Amendment to Inducement Agreement for the purpose of paying all or part of the Costs of Acquisition and Construction authorized to be financed under the Act with Bonds.

Bonds issued upon compliance with this Section and Section 3.2 shall be issued on a parity in all respects *inter sese*, notwithstanding, that they may be in different form, and bear different dates, interest rates, number, date of issuance or date of execution; and in all such instances, the pledge of Net Fee Payments made thereunder, and the covenants and remedies hereby granted shall be applicable and available to the holders of the Bonds.

Prior to the issuance of Bonds hereunder, there shall be filed with the County a certificate of an Authorized Owner Representative or an Authorized Developer Representative requesting the County to issue Bonds hereunder and stating:

(1) a description, and cost thereof, of the Infrastructure to be financed with the proceeds of Bonds; and

(2) the principal amount of and interest rate on the Bonds and a pro forma debt service schedule structured in accordance with the terms of the Original Inducement, as amended.

ARTICLE IV

THE BONDS

Section 4.1. Execution. Unless or except as is otherwise set forth in the Supplemental Ordinance providing for the issuance of a Series of Bonds, the Bonds shall be executed on behalf of the County by the Chairman or Vice Chairman of the County Council by his or her manual or facsimile signature, and the corporate seal of the County or a facsimile thereof shall be impressed or reproduced thereon and attested by the Clerk to the County Council by his or her manual or facsimile signature.

In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 4.2. Registration and Transfer of Bonds; Persons Treated as Holders. Each Bond shall be fully registered and transferable only upon the Books of Registry of the County, which shall initially be kept for that purpose at the office of the County Treasurer. Upon the

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transfer of any Bond, the County shall issue in the name of the transferee, a new Bond or Bonds of the same Series and of the same aggregate principal amount as the unpaid principal amount of the surrendered Bond.

Section 4.3. Form of Bonds; Denominations; Medium of Payment. The Bonds shall be in such form as provided in the Supplemental Ordinance authorizing their issuance. The Bonds shall be payable with respect to principal, interest, and premium, if any, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Section 4.4. Numbers, Date, and Payment Provisions. The Bonds shall be numbered and designated in such manner as the County shall determine. Each Bond of a Series shall bear interest as provided in the Supplemental Ordinance authorizing its issuance.

Section 4.5. Redemption of Bonds. The Bonds of a Series shall be subject to redemption prior to their stated maturities upon such terms and conditions and at such dates and redemption price or prices or premium or premiums as shall be set forth in the Supplemental Ordinance providing for the issuance of such Bonds.

Section 4.6. Bonds Exempt from South Carolina Taxes. As prescribed by Section 12-2-50 of the Code, the Bonds and the interest thereon are exempt from all State, county, municipal, school district, and all other taxes or assessments except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

ARTICLE V

ESTABLISHMENT OF FUNDS; SECURITY FOR AND PAYMENT OF THE BONDS; INVESTMENT OF MONEYS

Section 5.1. Listing of Funds and Accounts. The following are the funds and accounts created and established by this General Bond Ordinance:

- (i) Revenue Funds to be held by the County Treasurer.
- (ii) Debt Service Fund to be held by the County Treasurer, as provided in Section 5.5, including one or more Interest Accounts and Principal Accounts.

One or more accounts may, by direction of the County or by the terms of a Supplemental Ordinance, be established within any of the above funds of each Series of Bonds. It is intended by

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this General Bond Ordinance that the funds referred to in this Article shall remain in existence for so long a time as any sum remains due and payable by way of principal of and interest on the Bonds, and that deposits and withdrawals therefrom be made in the manner herein prescribed and in the order of priority hereinafter set forth in this Article V.

Section 5.2. Security for and Payment of the Bonds. Each Series of Bonds, together with the interest thereon, shall be payable solely from and secured equally and ratably by a pledge of Net Fee Payments received and retained by the County under the Park Agreement which shall be and hereby are irrevocably pledged to the payment of the principal of and interest on the Series of Bonds authorized by the Supplemental Ordinances; provided, in no event (including, without limitation upon any acceleration pursuant to Section 9.1 hereof) shall the County be obligated to pay in any year more than 40% of the Net Fee Payments to the Holder of any Bond issued under this General Bond Ordinance. In the event the total principal and interest payment due on any Series of Bonds in any year is greater than 40% of such Net Fee Payments, the difference thereon shall be forgiven without further notice by the County to the Holder. In the event the total principal and interest payment due on any Series of Bonds is less than 40% of such Net Fee Payments, the difference shall be paid to the Holder as additional interest on any Series of Bonds.

To the extent that *ad valorem* taxes, prior to the conversion to fees-in-lieu-of-tax pursuant to the Park Agreement, have been pledged to secure general obligation indebtedness issued by a political subdivision prior to the establishment of the Park, such fees-in-lieu-of-tax attributable to any real property and improvements thereon existing prior to the Park Agreement shall first be applied, to the extent necessary, to the payment of such outstanding general obligation indebtedness.

The Bonds and the interest thereon are (a) payable solely from all or a specifically described part of the Fee Payments in lieu of taxes received and retained by the County under Section 13 of Article VIII of the South Carolina Constitution and the Park Agreement; (b) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (c) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (d) not a pecuniary liability of the County or a charge against the County's general credit or taxing power.

Nothing in this General Bond Ordinance or the Bonds shall be construed as an obligation or commitment by the County to expend any of its funds other than (a) the proceeds of the Bonds, or (b) 40% of the Net Fee Payments derived by the County under Section 13 of Article VIII of the South Carolina Constitution and the Park Agreement.

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Section 5.3. Provision for Segregation of Funds. The designation and establishment of the Revenue Fund and Debt Service Funds in and by this General Bond Ordinance shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of the Fee Payments for certain purposes and to establish certain priorities for application of such Fee Payments and assets as herein provided.

Section 5.4. Revenue Fund. There is hereby created and established a Revenue Fund to be designated as "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Revenue Fund" (the "Revenue Fund") and to be maintained by the County Treasurer and into which shall be deposited all Fee Payments. Moneys in the Revenue Fund shall be made use of only in the manner specified in this Article V. The County Treasurer may invest moneys held in the Revenue Fund, from time to time, in Permitted Investments; provided, however, that the County Treasurer shall transfer funds in the Revenue Fund on the dates and in amounts sufficient to make all transfers required to be made from the Revenue Fund by this Article V. After paying the Multi-County Fees and subject to limitation set forth in the last paragraph of Section 5.2(b) hereof, the County shall apply or cause to be applied the Net Fee Payments in the manner set forth in this General Bond Ordinance.

Section 5.5. Debt Service Funds. There is hereby established special funds of the County for each Series of Bonds to be designated as "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Debt Service Fund (the "Debt Service Fund"). The Debt Service Fund shall be kept on deposit with the County Treasurer or its designee, and withdrawals therefrom shall be made for the purposes provided in this General Bond Ordinance or any Supplemental Ordinance. Each Debt Service Fund shall bear a separate series designation as may be necessary to distinguish such Debt Service Fund.

The respective Debt Service Funds are intended to provide for the payment of the principal of, redemption premium, if any, and interest on each Series of Bonds as the same respectively fall due. Payments into such Funds shall be made in the manner prescribed by this General Bond Ordinance and all moneys in the respective Debt Service Funds shall be used solely to pay the principal of, redemption premium, if any, and interest on the respective Series of Bonds, and for no other purpose, and withdrawals therefrom shall be made only to effect payment of the principal of, redemption premium, if any, and interest on the respective Series of Bonds. Earnings on investments in the respective Debt Service Fund, including the accounts therein, shall be added to and become a part of such respective Funds and their accounts.

The respective Interest and Principal Accounts in the Debt Service Funds are intended to provide for the payment of the principal of, redemption premium, if any, and interest on each Series of Bonds as the same respectively fall due. Payments into such Funds shall be made in the manner prescribed by this General Bond Ordinance and each Supplemental Ordinance and all moneys in the respective Debt Service Fund shall be used solely to pay the principal of,

redemption premium, if any, and interest on the respective Series of Bonds to which the same have been pledged by Supplemental Ordinance, and for no other purpose. Withdrawals therefrom shall be made only to effect payment of the principal of, redemption premium, if any, and interest on the respective Series of Bonds.

There may be established in the respective Debt Service Funds from time to time a capitalized interest account to provide for the payment of interest on the Bonds of a particular Series as may be permitted hereunder. Any such account shall be created by a Supplemental Ordinance relating to the issuance of the Bonds of such Series. Any earnings from the investment of funds in the capitalized interest account not required to pay interest on the Bonds of any Series during the period for which interest on the Bonds of such Series is capitalized shall be deposited in the Construction fund created by the Supplemental Ordinance relating to such Bonds or, if such Construction has been terminated or no such fund was created, such earnings shall be retained in the appropriate Debt Service Fund.

Not later than the last Business Day prior to February 1 of each year, and subject to the proviso contained in Section 5.2 hereof, the County shall transfer or cause to be transferred for deposit into the respective Debt Service Fund for the Bonds from the Net Fee Payments in the Revenue Fund, the amounts hereinafter set forth.

(a) There is hereby created, for the purpose of paying the interest on each respective Series of Bonds as the same becomes due and payable, an Interest Account in the respective Debt Service Fund. A separate Interest Account shall be established for each Series of Bonds. Not later than the last Business Day prior to February 1 of each year, the County shall transfer or cause to be transferred into the Debt Service Fund for credit to the Interest Account an amount of applicable Net Fee Payments equal to the installment of interest to fall due on the Interest Payment Date with respect to each of the Series of Bonds then Outstanding. In making any of the credits to the Interest Account required by this paragraph (a), consideration shall be given to and allowance made for accrued interest received upon delivery of any Series of Bonds to the initial purchasers and for any other credits such as capitalized interest otherwise made to such Account.

(b) There is hereby created, for the purpose of paying the principal of each respective Series of Bonds as they mature, a Principal Account in the respective Debt Service Fund. A separate Principal Account shall be established for each Series of Bonds. Not later than the last Business Day prior to each Principal Payment Date, the County shall transfer or cause to be transferred into the respective Debt Service Fund to the credit of the Principal Account an amount of applicable Net Fee Payments which would on such date be equal to the installment of principal then falling due on each of the Series of Bonds.

(c) Earnings on investments in the Interest Account or Principal Account for a Series of Bonds shall be retained in such Account and considered as funding for such account for

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the subsequent Tax Year. Any earnings remaining after the final payment of principal of, premium, if any, and interest on a Series of Bonds shall be transferred to the Revenue Fund.

Moneys in the respective Interest Account or Principal Account of the Debt Service Funds shall be used and applied solely to the payment of the interest on and the retirement of the principal of and redemption premium, if any, on the Series of Bonds for which such Interest Account or Principal Account in the Debt Service Funds was established and shall be used and applied in accordance with the provisions of this Section and this General Bond Ordinance. The moneys paid into the Interest Account and the Principal Account of the Debt Service Fund established for each Series of Bonds shall be held by the County or its designee, as applicable, in trust solely for the purpose of paying the interest on and the retirement of the principal of and premium, if any, on the Bonds of such Series and withdrawals from the applicable accounts of said Debt Service Funds shall be made by the County or its designee in order to transfer such moneys to the Paying Agent for such Series of Bonds. Such withdrawals shall be made so that the necessary moneys shall be available to the Paying Agent not later than one (1) Business Day prior to the day on which principal or interest or both, and redemption premium, if any, as the case may be, are payable on the applicable Series of Bonds.

Section 5.6. Application of Remaining Net Fee Payments. Any Net Fee Payments remaining in the Revenue Funds after the above required payments to the respective Debt Service Funds have been made or provided for in each Tax Year shall be disposed of by the Council in accordance with the terms of the Park Agreement or ordinances of the County relating thereto.

Section 5.7. Investment of Funds. Moneys held for the credit of the respective accounts of the Debt Service Fund shall be invested, to the fullest extent practicable and reasonable, in Permitted Investments which shall mature prior to the respective dates when the moneys held for the credit of such accounts will be required for the purpose intended. Moneys in any other funds established by this General Bond Ordinance shall be invested, to the fullest extent practicable, in Permitted Investments, maturing at such times and in such amounts as shall be required to provide moneys to make the payments required to be made from such funds. Investment instructions shall be given to the Custodian, if different than the County Treasurer, by the County Treasurer.

ARTICLE VI

COVENANTS

Section 6.1. To Pay Principal, Premium, and Interest on the Bonds. The County shall punctually pay, or cause to be paid, out of the Net Fee Payments pledged to such payment in Article V hereof and the Supplemental Ordinance, the principal of and the interest on each and

every Bond issued under the provisions of this General Bond Ordinance, at the place, on the dates and in the manner provided herein.

Section 6.2. Park Agreement. The County shall promptly perform the duties and obligations imposed and assumed by it in accordance with the terms and provisions of the Park Agreement.

Section 6.3. Records, Accounts, Budgets and Audits. The County will keep proper books of records and accounts (separate from all other records and accounts), in which complete and correct entries shall be made of all transactions relating to the Fee Payments. The County will cause to be furnished to any Holder of any of the Bonds, who make written request therefor, a copy of the annual audited financial statements of the County.

Section 6.4. Sale, Lease or Other Encumbrances. The County will not issue any bonds, notes, certificates or other obligations or evidences of indebtedness other than the Bonds or obligations authorized or permitted hereby secured by a pledge of any of the Net Fee Payments pledged to the payment of any Series of Bonds, and the County will not create or cause to be created any lien or charge on the Net Fee Payments pledged to the payment of any Series of Bonds other than the liens and charges created or permitted to be created hereby.

ARTICLE VII

CUSTODIAN

Section 7.1. Duties and Obligations of Custodians. The recitals of fact made in this General Bond Ordinance and in the Bonds shall be taken as statements of the County, and no Custodian shall be deemed to have made any representation as to the correctness of the same nor shall any Custodian be deemed to have made any representation whatsoever as to the validity or sufficiency of this General Bond Ordinance or of the Bonds issued hereunder. The Custodian shall not be under any responsibility or duty with respect to the issuance of the Bonds or the application of the proceeds thereof, except to the extent provided for herein. The Custodian shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in response to this General Bond Ordinance, or to the Bonds issued hereunder, or to advance any of its own moneys, unless properly indemnified to its satisfaction. The Custodian shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

Section 7.2. Custodians Protected in Relying upon Resolutions, etc. All Custodians shall at all times be protected in acting upon any notice, resolution, request, consent, order, certificate, statement, opinion, bond, or other paper or document believed to be genuine and to have been signed by the proper party or parties.

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ARTICLE VIII
EVENTS OF DEFAULT

Section 8.1. Events of Default. With respect to each Series of Bonds, the following shall constitute "Events of Default":

A. If payment of the principal of any Bond of such Series, whether at maturity or by proceedings for redemption, by declaration as provided in Article IX hereof, or otherwise, is not made by the County after the same has become due and payable; however, such non-payment will not be regarded as an Event of Default where the total principal payment due is not paid because 40% of the Net Fee Payments is not sufficient therefor as described in Section 5.2;

B. If payment of any installment of interest on any Bond of such Series is not made by the County as the same becomes due and payable; however, such non-payment will not be regarded as an Event of Default where the total interest payment due is not paid because 40% of the Net Fee Payments is not sufficient therefor as described in Section 5.2;

C. If the County shall fail in the due and punctual performance of any of the covenants, conditions, agreements and provisions contained in such series of Bonds or in this General Bond Ordinance or in any ordinance supplemental with respect to such Series hereto on the part of the County to be performed, and such failure continues for thirty (30) days after written notice specifying such failure and requiring the same to be remedied has been given to the County by the Custodian, or the Holders of not less than twenty percent (20%) in principal amount of such series of Bonds then Outstanding or any trustee or committee therefor;

D. If any proceedings are instituted, with the consent or acquiescence of the County, for the purpose of effecting a composition between the County and its creditors and if the claim of such creditors is in any circumstance payable from the Net Fee Payments pledged in this General Bond Ordinance or any ordinance supplemental hereto for the payment of the Bonds, or any such proceedings are instituted for the purpose of adjusting the claims of such creditors, pursuant to any Federal or State statute now or hereafter enacted; or

E. If the County is for any reason rendered incapable of fulfilling its obligations hereunder in any material respect.

Subject to the provisions, limitations and conditions of Section 9.1 hereof, insofar as the remedies provided in said Section are concerned, nothing in Section 9.2 hereof or in this Article, and particularly nothing in paragraph C of this Article, shall prohibit or limit, or be construed as prohibiting or limiting any Holder of a Bond from enforcing the duties of the County, or any of the officers thereof, under any provisions of this General Bond Ordinance

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(including, without limiting the generality of the foregoing, the duties imposed by or referred to in Section 9.2 hereof) by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, even though the failure of the County or any of the officers thereof to perform any such duty may not then constitute an "Event of Default" as defined in this Article.

ARTICLE IX

REMEDIES UPON EVENT OF DEFAULT

Section 9.1. Declaration of Principal and Interest as Due. Upon the occurrence of an Event of Default, and at any time thereafter while such Event of Default continues, then and in each and every case the Holders of the Bonds or if a Custodian has been appointed for such Series of Bonds, the Custodian in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Holders of all Outstanding Bonds, may proceed, and upon the written request of the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding, shall proceed to declare the principal of all Bonds then Outstanding, together with all accrued and unpaid interest thereon, if not already due, to be due and payable immediately, and upon any such declaration the same shall become and be due and payable immediately, anything contained in this General Bond Ordinance or any Supplemental Ordinance hereto or in any of such Series of Bonds to the contrary notwithstanding. This provision is subject, however, to the condition that, if at any time after the principal of the Bonds of such Series, together with the accrued and unpaid interest thereon and other moneys secured hereby, have been so declared due and payable and before any further action has been taken (other than the making of the above declaration), the principal amount of all Bonds of such Series which have matured either according to the maturity date or dates otherwise specified therein (except as a result of such declaration) and all arrears of interest upon all Bonds of such Series, except interest accrued but not yet due on said Bonds, have been paid or caused to be paid, and all other Events of Default, if any, which have occurred have been remedied, cured or secured, then and in each and every such case the Holders of twenty-five percent (25%) in principal amount of the Bonds of such Series then Outstanding, by notice in writing delivered to the Custodian, if appointed, and the County, may waive such Default and its consequences and rescind and annul such declaration. No such waiver or rescission or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power related to such subsequent Default.

Section 9.2. Suits at Law or in Equity and Mandamus. In case any one or more of the Events of Default shall happen and be continuing, then and in every such case, but subject to the provisions, limitations and conditions of Section 9.1 so far as the remedies provided in said provisions are concerned, the Holder of any Bond at the time Outstanding, or Custodian therefor, may, for the equal benefit and protection of all Holders of the Bonds of a Series similarly situated:

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(a) By mandamus or other suit, action or proceedings at law or in the equity, enforce such Bondholder's right against the County and require and compel the County to perform and carry out its duties and obligations under the Act and this General Bond Ordinance, and to perform and carry out its covenants and agreements with the Bondholders;

(b) by action or suit in equity require the County to account as if such County were the trustee of an express trust;

(c) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders; or

(d) bring suit upon the Bonds.

Section 9.3. Remedies Not Exclusive; Effect of Waiver of Default; Effect of Abandonment of Proceedings or Adverse Determination. The Holders from time to time of the Bonds shall be entitled to all the remedies and benefits of this General Bond Ordinance as are and as shall be provided by law, and, subject to the provisions of Section 9.1 hereof, nothing herein shall be construed to limit the rights or remedies of any such Holders under any applicable statute that may now exist or be enacted thereafter. No remedy conferred by the Act and this Article upon any Holder of any Bond is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by the Act and this Article or by any other law now or hereafter existing. Every substantive right and remedy conferred upon the Holders of the Bonds may be enforced and exercised from time to time and as often as may be deemed expedient.

No waiver of any default or breach of duty or contract by any Holder of any Bond shall extend to or affect any subsequent default or breach of duty or contract, or shall impair any rights or remedies thereon. No delay or omission of any Holder of a Bond to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein.

In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to Holders of the Bonds then and in every such case, the County and such Holders shall be restored to their former positions and rights and remedies as if no suit, action or proceeding had been brought or taken.

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ARTICLE X

DEFEASANCE

Section 10.1. Defeasance. The obligations of the County under this General Bond Ordinance and the liens, pledges, charges, trusts and the covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any Bond and, unless or except as otherwise provided in the Supplemental Ordinance providing for the issuance of any Series of Bonds, such Bond or Series of Bonds shall no longer be deemed to be Outstanding hereunder when:

(a) such Bond or Series of Bonds shall have been purchased by the County and surrendered to the County for cancellation or otherwise surrendered to the County or the Paying Agent, and is cancelled or subject to cancellation by the County or Paying Agent, or

(b) payment of the principal of, redemption premium, if any, and interest on such Bond or Series of Bonds, either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Paying Agent, in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment. At such time as a Bond or Series of Bonds shall no longer be deemed to be Outstanding hereunder, as aforesaid, such Bond or Series of Bonds shall cease to draw interest from the due date thereof, and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this General Bond Ordinance.

ARTICLE XI

AMENDMENT TO ORDINANCE NO. 2000-1 AND THIRD AMENDMENT TO INDUCEMENT AGREEMENT

Section 11.1. Amendment to Ordinance No. 2000-1. Currently, County Ordinance 2000-1 designates that the distribution of Fee Payments pursuant to the Park Agreement be paid to each of the taxing entities in the County which levy an *ad valorem* property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes. Ordinance 2000-1 further provides that the County may, from time to time, by ordinance, amend the distribution of the fee in lieu of tax payments to all taxing entities. Ordinance 2000-1 also provides that a portion of *ad valorem* taxes which the County receives pursuant to the Park Agreement may be, from

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time to time and by ordinance of the County, designated for the payment of special source revenue bonds.

Pursuant to this General Bond Ordinance, the Council hereby amends SECTION IX of County Ordinance 2000-1 to provide as follows:

SECTION IX. Jasper County hereby directs that, of the fee-in-lieu of *ad valorem* taxes pursuant to the Agreement actually received by Jasper County for Park premises, one (1%) percent of such fees be paid to Beaufort County. Of the remainder of such fees, forty (40%) percent shall be designated for the payment of special source revenue bonds, and the balance shall be paid to each of the taxing entities in Jasper County which levy an *ad valorem* property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes.

Section 11.2. Third Amendment to Inducement Agreement. The County, as authorized and empowered under and pursuant to the provisions of the South Carolina Constitution, the Code and the case law of the Courts of the State of South Carolina, has previously entered into the Original Inducement Agreement as amended by the First Amendment to Inducement Agreement and the Second Amendment to Inducement Agreement with the Owner and Developer pursuant to which the County agreed to provide certain economic inducements to the Owner and Developer. Currently, the County has agreed to issue a single special source revenue bond secured and payable by forty (40%) percent of: that portion of the revenues from payment in lieu-of-taxes attributable to the Joint County and Industrial Business Park in which the Project will be located, which Jasper County is entitled to retain pursuant to the Agreement required by Section 4-1-170 of the Code; or, all or a part of the revenues from the payment in-lieu-of-taxes pursuant to Section 4-12-20 or Section 4-12-30 or Section 12-44-10 of the Code which Jasper County is entitled to receive and retain, whichever is greater, for a period of twenty-eight years after the issuance of the bonds, which may occur anytime within five years after a particular phase of the Project is placed in service for South Carolina tax purposes.

The County, the Owner and the Developer desire to execute a Third Amendment to Inducement Agreement under the same terms as the Original Inducement Agreement as amended by the First Amendment to Inducement Agreement and the Second Amendment to Inducement Agreement, except that the County may issue special source revenue bonds in one or more series, instead of a single series of bonds, for the Infrastructure serving the Project.

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Accordingly, pursuant to this General Bond Ordinance, the Council hereby approves the Third Amendment to Inducement Agreement attached hereto as *Exhibit B*. The Chairman of Jasper County Council and the Jasper County Administrator are hereby authorized and directed to execute and deliver the Third Amendment to Inducement Agreement with such minor changes and amendments as may be required to carry out the intent of the Council, the signatures of the Chairman and the Administrator thereon evidencing their approval of and concurrence with such changes and amendments.

All other terms and provisions of the Original Inducement Agreement, as amended, by the First Amendment to Inducement Agreement and the Second Amendment to Inducement Agreement, not hereby amended or otherwise affected remain in full force and effect. All Ordinances, Resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Benefits of General Bond Ordinance Limited to the County, the Custodian and Holders of the Bonds. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this General Bond Ordinance or the Bonds is intended or should be construed to confer upon or give to any person other than the County, the Custodian and the Holders of the Bonds, any legal or equitable right, remedy or claim under or by reason of or in respect to this General Bond Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. This General Bond Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the County, the Custodian and the Holders from time to time of the Bonds as herein and therein provided.

Section 12.2. General Bond Ordinance Binding Upon Successors or Assigns of the County. All the terms, provisions, conditions, covenants, warranties and agreements contained in this General Bond Ordinance shall be binding upon the successors and assigns of the County and shall inure to the benefit of the Custodian, its successors or substitutes in trust and assigns, and the Holders of the Bonds.

Section 12.3. No Personal Liability. No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the County contained in this General Bond Ordinance or the Bonds, against any member of the County, any officer or employee, as such, in his or her individual capacity, past, present or future, of the County, either directly or through the County, whether by virtue of any constitutional provision, statute or rule of law, or by the

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enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this General Bond Ordinance and the Bonds are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer or employee as such past, present or future, of the County, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the County and the Custodian or the Bondholder or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member, officer and employee is, by the adoption of this General Bond Ordinance and the execution of the Bonds, and as a condition of, and as a part of the consideration for, the adoption of this General Bond Ordinance and the execution of the Bonds, expressly waived and released. The immunity of members, officers and employees of the County under the provisions contained in this Section 12.3 shall survive the completion of the Project, the termination of this General Bond Ordinance and the termination of the Park Agreement.

Section 12.4. Effect of Saturdays, Sundays and Legal Holidays. Whenever this General Bond Ordinance requires any action to be taken on a Saturday, Sunday, legal holiday or bank holiday in the State of South Carolina, such action shall be taken on the first business day occurring thereafter. Whenever in this General Bond Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, legal holiday or bank holiday, in the State of South Carolina, such time shall continue to run until midnight on the next succeeding business day.

Section 12.5. Partial Invalidity. If any one or more of the covenants or agreements or portions thereof provided in this General Bond Ordinance on the part of the County or the Custodian or any paying agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements and portions thereof provided in this General Bond Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this General Bond Ordinance or of the Bonds, but the Holders of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

If any provisions of this General Bond Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because of conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 12.6. Law and Place of Enforcement of this General Bond Ordinance. This General Bond Ordinance shall be construed and interpreted in accordance with the laws of the

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State of South Carolina and all suits and actions arising out of this General Bond Ordinance shall be instituted in a court of competent jurisdiction in said State.

Section 12.7. Effect of Article and Section Headings and Table of Contents. The headings or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this General Bond Ordinance.

Section 12.8. Repeal of Inconsistent Ordinances and Resolutions. All ordinances and resolutions of the County, and any part of any ordinance or resolution, inconsistent with this General Bond Ordinance are hereby repealed to the extent of such inconsistency.

Section 12.9. Notice of Public Hearing. The Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bonds and this General Bond Ordinance, such notice in the form attached as *Exhibit C*, having been published in the *Jasper County Sun*, a newspaper of general circulation in the County, not less than 15 days prior to the date of such public hearing

Section 12.10. Effectiveness of this General Bond Ordinance. This General Bond Ordinance shall become effective upon its adoption; provided, however, that it shall not be necessary for the County to establish the funds and accounts created in Article VI hereof prior to the issuance of any Bonds.

Section 12.11. Notices. All notices, certificates, or other communications hereunder or under this General Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, or given when dispatched by telegram addressed as follows:

If to the County:

Jasper County Council
~~305 Russell Street~~ P.O. Box 1149
Ridgeland, South Carolina 29936
Attention: County Administrator

If to the Owner:

Nickel Plate Road LLC
Post Office Box 1107
Jacksonville, Illinois 62651
Attn: Michael C. Rausch, President

Ordinance 100004

EXHIBIT A

Joint County Industrial and Business Park
Beaufort County and Jasper County

The Park consists of:

TRACT I:

ALL that certain piece, parcel and tract of land, containing 170.565 acres, situate, lying and being in the New River East Section of Jasper County, South Carolina, with said tract more specifically shown and described on a plat thereof entitled "A Plat Of A 170.565 Acre Tract Being a Portion Of The Argent Tract", with said plat prepared by Thomas & Hutton Engineering Co., Inc., as certified by Boyce L. Young, S.C.R.L.S. No. 11079, said plat dated the 28th day of March, 1997, and last revised on the 24th day of June, 1997 and recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 23 at Page 4.

TRACT II:

ALL that certain piece, parcel, and tract of land, containing 41.464 acres, situate, lying and being in Jasper County, South Carolina, said 41.464 acre parcel more specifically shown and described on a plat thereof entitled "A Plat Of A 41.464 Acre Tract Being A Portion Of The Argent Tract", said plat dated October 12, 1999, as prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 118.

TRACT III:

ALL that certain piece, parcel and tract of land, containing 106.75 acres, situate, lying and being in Jasper County, South Carolina, with said 106.75 acre tract more specifically shown and described on a plat thereof entitled "A Plat Of 106.75 Acre Tract Being A Portion Of The Argent Tract", said plat prepared by Thomas & Hutton Engineering Co. and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 119.

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EXHIBIT B

**THIRD AMENDMENT TO THAT INDUCEMENT AGREEMENT BY AND
AMONG JASPER COUNTY, SOUTH CAROLINA AND NICKEL PLATE
ROAD LLC, ASSET MANAGEMENT ASSOCIATES, INC., AND NEW
RIVER - OKATIE CO. LLC FINAL DATED APRIL 20, 1998**

WHEREAS, Jasper County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), as authorized and empowered under and pursuant to the provisions of the South Carolina Constitution (the "Constitution") and the Code of Laws of South Carolina, 1976, as amended (the "Code") and the case law of the Courts of the State of South Carolina, has previously, pursuant to its Resolution enacted on March 16, 1998, entered into an Inducement Agreement (the "Agreement") with Nickel Plate Road LLC, Asset Management Associates, Inc., and New River - Okatie Co. LLC (the "Companies"), final dated April 20, 1998, for a retail, commercial and business development in Jasper County, pursuant to which Jasper County will provide certain economic inducements to the Companies for such development and, pursuant to its Resolution enacted on June 15, 1998, amended that Inducement Agreement with the First Amendment thereto and, pursuant to its Resolution enacted on _____, further amended that Inducement Agreement with the Second Amendment thereto; and,

WHEREAS, among other inducements, the County has committed to issue a special source revenue bond to fund the development of infrastructure pertaining to the Project; and,

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WHEREAS, the Agreement provides, in Section 2.3, that the special source revenue bond will be secured and payable by forty (40%) percent of: that portion of the revenues from payment in lieu-of-taxes attributable to the Joint County and Industrial Business Park in which the Project will be located, which Jasper County is entitled to retain pursuant to the Agreement required by Section 4-1-170 of the Code; or, all or a part of the revenues from the payment in-lieu-of-taxes pursuant to Section 4-12-20 or Section 4-12-30 or Section 12-44-10 of the Code which Jasper County is entitled to receive and retain, whichever is greater, for a period of twenty-eight (28) years after the issuance of the bond, which may occur anytime within five years after the Project is placed in service for South Carolina tax purposes, up to the total amount of infrastructure of \$20,000,000; and,

WHEREAS, Jasper County Council and the Companies have agreed to issue multiple series of bonds, instead of a single special source revenue bond, for the infrastructure serving the Project, which bonds will be limited to the same total principal payment amount, the same maturity period, and will serve the same purposes as the single bond authorized by the Second Amendment; and,

WHEREAS, pursuant to Ordinance No. ____ enacted on ____, 2001, Jasper County Council has heretofore approved the execution and delivery of the Third Amendment (the "Third Amendment") to the Agreement for that purpose.

IT IS THEREFORE agreed by and among Jasper County, South Carolina and Nickel Plate Road LLC, Asset Management Associates, Inc., and New River - Okatie Co. LLC that:

Section 2. Section 2.3 of the Inducement Agreement is hereby amended to read as follows:

"Section 2.3. In connection with, and based upon the creation of a joint county industrial and business park (the "Park") and the execution of a fee-in-lieu-of-tax agreement for the Project, the County will issue special source revenue bonds for Project infrastructure, in one or more series, pursuant to Section 4-1-175 or Section 4-29-68, South Carolina Code, 1976, as amended, with such special source revenue bonds secured by and payable by forty (40%) percent of: that portion of the revenues from payment in-lieu-of-taxes attributable to the Park which Jasper County is entitled to retain pursuant to the agreement required by Section 4-1-170, South Carolina Code, 1976, as amended, or, all or a part of the revenues from the payment in-lieu-of-taxes pursuant to Section 4-12-20 or Section 4-12-30, South Carolina Code, 1976, as amended, or Section 12-44-10, *et seq.*, South Carolina Code, 1976, as amended, which Jasper County is entitled to receive and retain from the Project, whichever is greater, but with the principal amount of the bond not to exceed the actual cost of infrastructure of the Project. The special source revenue bonds authorized hereby will each have a maturity not to exceed twenty-eight (28) years, will be issued pursuant to and in accordance with the authority granted under Chapter 1 and Chapter 29 of Title 4 of the South Carolina Code, 1976, as amended, and will be the basis and subject of a separate Ordinance to be enacted by the County Council, which among other things will address the date of issuance and the multiple series issuance of the special source revenue bonds as to be mutually agreed upon by the County and owner and/or developer, which agreement will specifically authorize a new series of such bonds and the principal amount of the bonds, up to the maximum projected investment in

NICKEL PLATE ROAD LLC

By:

Michael Rausch

Its:

President

Date: April 20, 2001

Greenville: 150004

ASSET MANAGEMENT ASSOCIATES, INC.

By: _____

Its:

Date: _____, 2001

Greenville: 155564

NEW RIVER - OKATIE CO. LLC

By: _____

Its:

Date: _____, 2001

Greenville: 106504

NOTICE OF PUBLIC HEARING

EXHIBIT C

Notice is hereby given that a public hearing will be held by the County Council of Jasper County, South Carolina (the "County"), in the County Council Chambers, 914 Grays Road, Ridgeland, South Carolina at 7:00 p.m. on April 16, 2001, or at such other location within the said building as proper notice on the main entrance to the said County Council Chambers might specify.

The purpose of the public hearing is to consider an Ordinance entitled "A GENERAL BOND ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BONDS (NICKEL PLATE ROAD LLC PROJECT) IN A PRINCIPAL AMOUNT OF UP TO \$20,000,000; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY FROM CERTAIN REVENUES DERIVED FROM THE PAYMENTS OF FEES IN LIEU OF TAX FROM THE PROPERTIES LOCATED IN THE JASPER COUNTY AND BEAUFORT COUNTY JOINT COUNTY INDUSTRIAL AND BUSINESS PARK; PLEDGING SUCH MONEYS TO THE PAYMENT OF SUCH SPECIAL SOURCE REVENUE BONDS; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH FUNDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING; APPROVING A THIRD AMENDMENT TO THAT INDUCEMENT AGREEMENT BY AND AMONG JASPER COUNTY, SOUTH CAROLINA AND NICKEL PLATE ROAD LLC, ASSET MANAGEMENT ASSOCIATES INC., AND NEW RIVER - OKATIE CO. LLC; AND AMENDING ORDINANCE NUMBER 2000-1 RELATING TO THE DISTRIBUTION OF THE FEES IN LIEU OF *AD VALOREM* TAXES IN THE PARK; AND OTHER MATTERS RELATING THERETO," and an Ordinance entitled "A FIRST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD LLC PROJECT), SERIES 2001, NOT TO EXCEED \$7,000,000; AND OTHER MATTERS RELATING THERETO." The Ordinances relate to the authorization and issuance of Special Source Revenue Bonds (Nickel Plate Road LLC Project) as well as Series 2001 Bonds in the principal amount not to exceed \$7,000,000.

For the payment of the principal of and interest on the Bonds authorized by the Ordinances, there shall be pledged a portion of the fee in lieu of tax payments to be received by the County for properties located within the Joint County Industrial and Business Park located at or near the intersection of Highway 278 and Highway 141 in Jasper County. The proceeds of the Bonds will be used to pay for infrastructure including, but not limited to, land, site work performed with respect to the land, site utilities installed with respect to the land and off-site, and the costs of issuance of the Bonds.

The full faith, credit and taxing power of the County will not be pledged for the repayment of the Bonds, and the Bonds will not constitute a general obligation of the County.

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At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinances and the issuance of the Bonds.

COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA

County Administrator,

Greenville: 150884

EXHIBIT D

STATE OF SOUTH CAROLINA) CERTIFIED COPY
) OF FIRST SUPPLEMENTAL
 COUNTY OF JASPER) ORDINANCE NO. 01-05

I, the undersigned being the duly qualified and acting Clerk to the County Council of Jasper County, South Carolina (the "County"), and as such official I further certify that I am the recorder and custodian of the official records of the County Council and that attached hereto is a true copy of a First Supplemental Ordinance No. 01-05 providing for the issuance and sale of a not exceeding \$7,000,000 Special Source Revenue Bond (Nickel Plate Road LLC Project), Series 2001 of the County, enacted by the County Council at a meeting duly called and held on April 16, 2001, at which a quorum was present and acting throughout, which Ordinance has been compared by me with the original thereof, and that such Ordinance has been duly enacted including the required number of readings and has not been modified, amended or repealed and is in full force and effect on and as of the date hereof in the form attached hereto.

In witness hereof, I have hereunto set my hand this 20th day of April, 2001.


 Clerk to County Council of Jasper County,
 South Carolina

Filed for Record in
 JASPER COUNTY
 MARGARET BUSTICK
 05-30-2001 at 09:10 AM
 MSC N/C
 Volume 8 Page 245 - 245

Greenville: 156031

JASPER COUNTY, SOUTH CAROLINA

SUPPLEMENTAL ORDINANCE NO. 01-05
(NICKEL PLATE ROAD LLC PROJECT - SPECIAL SOURCE REVENUE BOND)

A FIRST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD LLC PROJECT) SERIES 2001, NOT TO EXCEED \$7,000,000; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED, BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Definitions. The terms in this Section 1 and all words and terms defined in the General Bond Ordinance enacted by Council on April 16, 2001 (the "General Bond Ordinance"), shall for all purposes of this Supplemental Ordinance have the respective meanings given to them in the General Bond Ordinance and in Section 1 hereof. The following terms as used in this Supplemental Ordinance shall, unless the context requires otherwise, have the following meanings:

"2001 Infrastructure" shall mean the Infrastructure to be financed with the proceeds of the Bond of 2001 described in *Exhibit A* attached hereto.

"Bond of 2001" shall mean the Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Series 2001, in the aggregate principal amount of not more than \$7,000,000 authorized to be issued hereunder.

"Purchaser" shall mean the Owner.

"Supplemental Ordinance" shall mean this Ordinance.

Section 2. Certain Findings and Determinations. The Council hereby finds and determines:

(a) This Supplemental Ordinance supplements the General Bond Ordinance, constitutes and is a "Supplemental Ordinance" within the meaning of such quoted term as defined and used in the General Bond Ordinance, and is enacted under and pursuant to the General Bond Ordinance.

(b) The Bond of 2001 constitutes and is a "Bond" as defined and used in the General Bond Ordinance.

(c) The Net Fee Payments pledged under the General Bond Ordinance and this Supplemental Ordinance are not encumbered by any pledge thereof, other than the pledge thereof

Greenville: 154022

created by the General Bond Ordinance and this Supplemental Ordinance for payment and security of the Bond of 2001.

(d) There does not exist an Event of Default, nor does there exist any condition which, after the passage of time or the giving of notice, or both, would constitute such Event of Default.

(e) The Bond of 2001 is being issued for the purpose of paying the cost of designing, acquiring, constructing, improving or expanding the 2001 Infrastructure.

(f) As set forth on Attachment I to Exhibit C hereto, the Owner and Developer have invested over \$7,000,000 in the 2001 Infrastructure.

(g) The Purchaser has offered to purchase the Bond of 2001 at a price of par and an interest rate of 6 % per annum, the proceeds of which shall be used to defray the Cost of Acquisition and Construction of the 2001 Infrastructure and pay Costs of Issuance.

Section 3. Authorization of Bond of 2001, Maturities and Interest Rates.

(a) There is hereby authorized to be issued a Series of Bonds designated "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project), Series 2001", (the "Bond of 2001"), in the total principal amount of the actual cost of the Infrastructure of the Project, but not exceeding \$7,000,000, for the purpose of defraying the Cost of Acquisition and Construction of the 2001 Infrastructure and paying Costs of Issuance.

(b) The offer of the Purchaser to purchase the Bond of 2001 is hereby accepted.

(c) The Bond of 2001 shall mature on February 1 in each of the years and in the principal amounts as follows:

Year	Principal Amount	Year	Principal Amount
*2001	\$10,726.96	2015	\$100,000.00
2002	\$14,273.04	2016	\$125,000.00
2003	\$25,000.00	2017	\$125,000.00
2004	\$50,000.00	2018	\$150,000.00
2005	\$50,000.00	2019	\$150,000.00
2006	\$50,000.00	2020	\$200,000.00
2007	\$50,000.00	2021	\$200,000.00
2008	\$75,000.00	2022	\$250,000.00
2009	\$75,000.00	2023	\$250,000.00
2010	\$75,000.00	2024	\$500,000.00
2011	\$75,000.00	2025	\$500,000.00
2012	\$100,000.00	2026	\$600,000.00
2013	\$100,000.00	2027	\$1,000,000.00
2014	\$100,000.00	2028	\$2,000,000.00

*Maturity date shall be date of issuance of the Bond of 2001.

(d) The Bond of 2001 shall originally be dated its date of initial issuance and shall be issued as a fully registered Bond in substantially the form set forth as *Exhibit B* hereto.

Section 4. Optional Redemption of Bond of 2001. The Bond of 2001 shall be subject to redemption at a price equal to the amount of the outstanding principal, plus accrued interest, of the Bond of 2001 prior to maturity, at the option of the County, but only upon the prior written direction of the Owner and Developer, as a whole or in part at any time, in such order of its maturities as the County may determine upon the prior written direction of the Owner and Developer.

Section 5. Establishment of 2001 Debt Service Fund. In accordance with Section 5.5 of the General Bond Ordinance, the 2001 Debt Service Fund is hereby directed to be established by the County Treasurer on the date of original delivery of the Bond of 2001 for the benefit of the Purchaser of the Bond of 2001. The payments from the Net Fee Payments authorized herein shall be made at the times set forth in Section 5.5 of the General Bond Ordinance.

Section 6. Advances in Payment for Bond of 2001. The moneys advanced in payment for the Bond of 2001 by the Purchaser shall be noted on the Schedule of Infrastructure Advances attached to the Bond of 2001 and shall be used and applied to the payment of Cost of Acquisition and Construction of the 2001 Infrastructure and Cost of Issuance.

Each advance for the Cost of Acquisition and Construction of 2001 Infrastructure or Cost of Issuance shall be made only upon receipt by the County of a Certificate Regarding Advances, in substantially the form attached hereto as *Exhibit C*, signed by an Authorized Owner Representative or Authorized Developer Representative, and filed with the County.

Greenfile 154022

Section 7. Sale and Issuance of Bond of 2001.

(a) The County hereby finds and determines that the issuance and sale of the Bond of 2001 is fair and reasonable and in the best interest of the County; that the Bond of 2001 shall be sold to the Purchaser at a purchase price of not less than \$7,000,000 and upon the terms and conditions set forth herein.

(b) A copy of this Supplemental Ordinance shall be filed with the minutes of this meeting.

(c) The County hereby authorizes and directs all of the officers and employees of the County to carry out or cause to be carried out all obligations of the County hereunder and to perform such other actions as they shall consider necessary or advisable in connection with the issuance, sale and delivery of the Bond of 2001.

Section 8. Security. The Bond of 2001 is secured by a pledge of the Net Fee Payments referred to and subject to the limitations set forth in Section 5.2 of the General Bond Ordinance.

Section 9. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file with or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual audit of the County within thirty (30) days of the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the County, adversely affects more than five percent (5%) of the Fee Payments or the County's tax base. Notwithstanding anything herein to the contrary, compliance with the above covenant shall be solely the responsibility of the County, and neither the Custodian, if any, the Owner or Developer, or the Purchaser shall have any duty hereunder to monitor compliance by the County with such covenant. Any failure by the County to comply with the provisions of this Section shall not constitute an Event of Default.

Section 10. Further Actions. The Chairman of the Council, the County Administrator, the Clerk of the Council and the County Attorney are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate issuance of the Bond of 2001 and to carry out the intentions of this Supplemental Ordinance.

Section 11. Section Headings; Table of Contents. The headings and titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Supplemental Ordinance.

Section 12. Notices. All notices, certificates or other communications hereunder or under the Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by first-class, postage prepaid, addressed as follows:

If to the County:

Greenville: 154022

Jasper County Council
914 Grays Road
Post Office Box 1149
Ridgeland, South Carolina 29936
Attn: County Administrator

If to the Owner:

Nickel Plate Road LLC
Post Office Box 1107
Jacksonville, Illinois 62651
Attn: Michael C. Rausch, President

If to the Developer:

Asset Management Associates, Inc.
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

New River - Okatie Co. LLC
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

Any party may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 13. Effective Date. This Supplemental Ordinance shall become effective upon its enactment.

[Execution follows on next page]

Enacted by the County Council of Jasper County, South Carolina, this 16th day of April, 2001.

JASPER COUNTY, SOUTH CAROLINA

By: *Leroy Sneed*
Leroy Sneed
Chairman, Jasper County Council
Jasper County, South Carolina

(SEAL)

ATTEST:

Judith M. Frank
Judith Frank, Clerk to County
Council, Jasper County, South Carolina

First Reading: March 5, 2001
Second Reading: March 19, 2001
Public Hearing: April 16, 2001
Third Reading: April 16, 2001

Greenville: 154022

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EXHIBIT A

DESCRIPTION OF 2001 INFRASTRUCTURE

Cost of acquiring certain real property used in the operation of manufacturing or commercial enterprises and constructing thereon certain infrastructure with respect to the first phase of the Project on or before December 31, 2000, including, but not limited to: real property, site work, surveying costs, legal fees, engineering services, permitting fees, consulting fees, utility fees, maintenance fees, insurance, landscaping fees, architectural fees, and accounting fees.

Case-File: 154022

(FORM OF BOND)

EXHIBIT B

UNITED STATES OF AMERICA
 STATE OF SOUTH CAROLINA
 JASPER COUNTY
 SPECIAL SOURCE REVENUE BOND
 (NICKEL PLATE ROAD LLC PROJECT)
 SERIES 2001

Amount
 \$7,000,000.00

Jasper County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to Nickel Plate Road LLC (the "Owner") or its registered assigns, but solely from the special source hereinafter mentioned, and not otherwise, a principal amount of \$7,000,000 or such lesser amount as is set forth on the schedule of advances annexed hereto as Schedule I (unless this Bond shall be subject to prior redemption and shall have been duly called for previous redemption and payment of redemption price made or provided for), and the County hereby promises to pay interest on the principal amount hereof from time to time unpaid at the rate of 6 % per annum, but solely from such special source and not otherwise, until this Bond matures. Interest on this Bond is payable on February 1 of each year commencing February 1, 2002. This Bond is payable as to principal on February 1 in each of the years and in the principal amounts as follows:

Year	Principal Amount	Year	Principal Amount
*2001	\$10,726.96	2015	\$100,000.00
2002	\$14,273.04	2016	\$125,000.00
2003	\$25,000.00	2017	\$125,000.00
2004	\$50,000.00	2018	\$150,000.00
2005	\$50,000.00	2019	\$150,000.00
2006	\$50,000.00	2020	\$200,000.00
2007	\$50,000.00	2021	\$200,000.00
2008	\$75,000.00	2022	\$250,000.00
2009	\$75,000.00	2023	\$250,000.00
2010	\$75,000.00	2024	\$500,000.00
2011	\$75,000.00	2025	\$500,000.00
2012	\$100,000.00	2026	\$600,000.00
2013	\$100,000.00	2027	\$1,000,000.00
2014	\$100,000.00	2028	\$2,000,000.00

*Maturity date shall be date of issuance of the Bond of 2001.

Owner-File (134022)

B-1

This Bond and the interest thereon are (a) payable solely from all or a specifically described part of the payments in lieu of taxes received and retained by the County under Section 13 of Article VIII of the Constitution of the State of South Carolina the Park Agreement (as defined in the General Bond Ordinance hereafter mentioned); (b) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (c) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (d) not a pecuniary liability of the County or a charge against the County's general credit or taxing power.

Both the principal of and interest on this Bond are payable at the principal office of the Owner in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

This Bond is issued by the County for the purpose of defraying the Cost of Acquisition and Construction of the 2001 Infrastructure (as such term is defined in the Supplemental Ordinance hereafter mentioned). This Bond is authorized to be issued and is issued under, pursuant to and in full compliance with the Constitution and statutes of the State of South Carolina, including particularly Section 4-1-175 and Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the "Act"). This Bond is also authorized to be issued and is issued under and pursuant to General Bond Ordinance No. 01-04 of the County Council of Jasper County duly enacted on April 16, 2001 (the "General Bond Ordinance"), and Supplemental Ordinance No. 01-05 of the County Council of Jasper County duly enacted on April 16, 2001 (the "Supplemental Ordinance"), under the Act, which General Bond Ordinance and Supplemental Ordinance have been duly codified and indexed as prescribed by law.

The General Bond Ordinance contains provisions defining terms; sets forth the Net Fee Payments (as defined in the General Bond Ordinance) pledged for the payment of the principal of and interest on this Bond and the Bonds of other series herewith which may hereafter be issued on a parity herewith under the General Bond Ordinance; sets forth the nature, extent and manner of enforcement of the security of this Bond and of such pledge, and the rights and remedies of the holder hereof with respect thereto; sets forth the terms and conditions upon which this Bond is issued and upon which other bonds may be hereinafter issued payable as to principal, premium, if any, and interest on a parity with this Bond and equally and ratably secured herewith; sets forth the rights, duties and obligations of the County thereunder; and sets forth the terms and conditions upon which the pledge made in the General Bond Ordinance for the security of this Bond and upon which the covenants, agreements and other obligations of the County made therein may be discharged at or prior to the maturity or redemption of this Bond with provisions for the payment thereof in the manner set forth in the General Bond Ordinance. Reference is hereby made to the General Bond Ordinance and the Supplemental Ordinance to all of the provisions of which any holder of this Bond by the acceptance hereof thereby assents. The provisions of the Act, the General Bond Ordinance and the Supplemental Ordinance shall be a contract with the holder of this Bond.

This Bond, including interest thereon, is payable solely from a portion of the Net Fee Payments and is secured equally and ratably by a pledge of such Net Fee Payments derived by the

Gerrville 154022

County from the Park Agreement (as defined in the General Bond Ordinance) and any Series of Bonds (as defined in the Bond Ordinance) hereafter issued under the General Bond Ordinance and certain funds and accounts established under the Supplemental Ordinance with respect thereto heretofore mentioned which are pledged to the payment thereof, and the County is under no obligation to pay the same except from such sources; provided, in no event shall the County be obligated to pay in any year more than 40% of such Net Fee Payments to the Purchaser. In the event the total principal and interest payment due on this Bond in any year is greater than 40% of such Net Fee Payments, the difference thereon shall be, and is hereby forgiven without further notice by the County to the Purchaser. In the event the total principal and interest payment due on this Bond is less than 40% of such Net Fee Payments, the difference shall be paid to the Purchaser as additional interest on this Bond.

Bonds on a parity with this Bond may hereafter be issued under terms and conditions set forth in the General Bond Ordinance. Such Bonds shall be equally and ratably secured with the pledge of the Net Fee Payments.

The County reserves the right upon the prior written direction of the Owner and Developer without payment of any premium to make prepayments of principal installments on this Bond at any time upon payment of such principal amounts and interest accrued thereon to the date fixed for redemption. Partial prepayment shall be applied to scheduled principal installments on this Bond in such order as the County determines at the direction of the Owner and Developer.

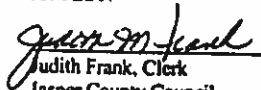
IN WITNESS WHEREOF, Jasper County, South Carolina, has caused this Bond to be executed in its name by the manual signature of the Chairman of the County Council and attested by the Clerk to the County Council under the seal of the County, this Bond to be dated the 16th day of April, 2001.

JASPER COUNTY, SOUTH CAROLINA

By: 
Leroy Sneed,
Chairman, Jasper County Council
Jasper County, South Carolina

(SEAL)

ATTEST:


Judith Frank, Clerk
Jasper County Council
Jasper County, South Carolina

Overseer: 154022

B-3

REGISTRATION

This Bond has been registered in the name of Nickel Plate Road LLC, on the registration books kept by the Treasurer of Jasper County, South Carolina.

Dated this _____ day of _____, 2001.

Treasurer, Jasper County, South Carolina

Greenville: 154022

B-4

SCHEDULE IJASPER COUNTY, SOUTH CAROLINA
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2001

SCHEDULE OF INFRASTRUCTURE ADVANCES

<u>Date</u>	<u>Amount of Advance</u>	<u>Outstanding Principal Balance</u>	<u>Signature of Authorized County Representative</u>	<u>Signature of Authorized Owner/Developer Representative</u>
April 20, 2001	\$7,000,000	\$7,000,000		

Greenfile 124022

B-5

EXHIBIT C

CERTIFICATE REGARDING ADVANCES

Jasper County, South Carolina, Special Source Revenue Bond, Series 2001 (the "Bond of 2001")
(Nickel Plate Road LLC Project)

Dated: April 20, 2001

Advance No.: 1

Nickel Plate Road LLC hereby certifies and warrants to Jasper County, South Carolina (the "County"), pursuant to Section 3.3 of the General Bond Ordinance No. 01-04 (the "General Bond Ordinance") enacted by the County Council of Jasper County, South Carolina, on April 16, 2001, and Section 6 of the Supplemental Ordinance No. 01-05 (the "Supplemental Ordinance") enacted by the County Council of the County on April 16, 2001 the following in connection with the payment of 2001 Infrastructure and Cost of Issuance (as defined in the General Bond Ordinance and Supplemental Ordinance):

1. The amount to be paid: \$7,000,000.00
2. The amount to be paid will be applied to the payment of 2001 Infrastructure or Cost of Issuance and is due and payable and has not been the subject of any previous advance.
3. A description, and cost thereof, of the 2001 Infrastructure to be financed with the proceeds of the Bond of 2001 is included on *Attachment I*.
4. The principal amount of the Bond of 2001 is \$7,000,000.00 and the interest rate on such Bond is 6 % per annum. A pro forma debt service schedule structured in accordance with the terms of the Inducement Agreement (as defined in the General Bond Ordinance) is attached as *Attachment II*.

Nickel Plate Road LLC

By: _____
Michael Rausch

Its: President

Date: April 20, 2001

ref: 154022 v1

1

I, the undersigned Clerk to the County Council of the County, hereby acknowledge receipt of this Certificate Regarding Advances which shall be filed with the County.

JASPER COUNTY, SOUTH CAROLINA

By: Judith Frank

Judith Frank
Clerk to County Council

Greenville 114032

ATTACHMENT L

2001 INFRASTRUCTURE

DESCRIPTION	COST
1. Land	\$2,441,306.34
2. Construction in Process	
a. Buildings	\$2,001,871.64
b. Landscaping	\$ 354,806.68
c. Roads, Water, Sewer Systems	\$ 741,598.28
Total Construction in Process	\$3,098,276.60
3. Paving and Drainage	\$ 835,888.73
4. Sewer System	\$ 587,712.86
5. Water Distribution System	\$ 208,370.76
Total Infrastructure Investment as of 12/31/00	\$7,171,555.29

ATTACHMENT II

DEBT SERVICE SCHEDULE

Year	Principal Amount	Year	Principal Amount
2001	\$10,726.96	2015	\$100,000.00
2002	\$14,273.04	2016	\$125,000.00
2003	\$25,000.00	2017	\$125,000.00
2004	\$50,000.00	2018	\$150,000.00
2005	\$50,000.00	2019	\$150,000.00
2006	\$50,000.00	2020	\$200,000.00
2007	\$50,000.00	2021	\$200,000.00
2008	\$75,000.00	2022	\$250,000.00
2009	\$75,000.00	2023	\$250,000.00
2010	\$75,000.00	2024	\$500,000.00
2011	\$75,000.00	2025	\$500,000.00
2012	\$100,000.00	2026	\$600,000.00
2013	\$100,000.00	2027	\$1,000,000.00
2014	\$100,000.00	2028	\$2,000,000.00

*Maturity date shall be date of issuance of the Bond of 2001.

EXHIBIT E

JASPER COUNTY, SOUTH CAROLINA

SECOND SUPPLEMENTAL ORDINANCE NO. 02-16
(NICKEL PLATE ROAD LLC PROJECT - SPECIAL SOURCE REVENUE BOND)

A SECOND SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD LLC PROJECT) SERIES 2003, NOT TO EXCEED \$6,000,000; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED, BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Definitions. The terms in this Section 1 and all words and terms defined in General Bond Ordinance No. 01-04 enacted by Council on April 16, 2001 (the "General Bond Ordinance"), shall for all purposes of this Second Supplemental Ordinance have the respective meanings given to them in the General Bond Ordinance and in Section 1 hereof. The following terms as used in this Second Supplemental Ordinance shall, unless the context requires otherwise, have the following meanings:

"2003 Infrastructure" shall mean the Infrastructure to be financed with the proceeds of the Bond of 2003 described in *Exhibit A* attached hereto.

"Bond of 2001" shall mean the Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Series 2001, in the aggregate principal amount of \$7,000,000 authorized to be issued under the First Supplemental Ordinance.

"Bond of 2003" shall mean the Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Series 2003, in the aggregate principal amount of not to exceed \$6,000,000 authorized to be issued hereunder.

"First Supplemental Ordinance" shall mean First Supplemental Ordinance No. 01-05 enacted by Council on April 16, 2001 which authorized the issuance of the Bond of 2001.

"Purchaser" shall mean the Owner.

"Second Supplemental Ordinance" shall mean this Ordinance.

Section 2. Certain Findings and Determinations. The Council hereby finds and determines:

(a) This Second Supplemental Ordinance supplements the General Bond Ordinance, constitutes and is a "Supplemental Ordinance" within the meaning of such quoted term

as defined and used in the General Bond Ordinance, and is enacted under and pursuant to the General Bond Ordinance.

(b) The Bond of 2003 constitutes and is a "Bond" as defined and used in the General Bond Ordinance.

(c) The Net Fee Payments pledged under the General Bond Ordinance and this Second Supplemental Ordinance are not encumbered by any pledge thereof, other than the pledge thereof created by the General Bond Ordinance and the First Supplemental Ordinance for payment and security of the Bond of 2001, and the pledge thereof created by the General Bond Ordinance and this Second Supplemental Ordinance for payment and security of the Bond of 2003.

(d) There does not exist an Event of Default, nor does there exist any condition which, after the passage of time or the giving of notice, or both, would constitute such Event of Default.

(e) The Bond of 2003 is being issued for the purpose of paying the cost of designing, acquiring, constructing, improving or expanding the 2003 Infrastructure.

(f) As set forth on Attachment I to Exhibit C attached hereto, the Owner and Developer have invested over \$6,000,000 in the 2003 Infrastructure.

(g) The Purchaser has offered to purchase the Bond of 2003 at a price of par and an interest rate of 4.36% per annum, the proceeds of which shall be used to defray the Cost of Acquisition and Construction of the 2003 Infrastructure and pay Costs of Issuance.

Section 3. Authorization of Bond of 2003, Maturities and Interest Rates.

(a) There is hereby authorized to be issued a Series of Bonds designated "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project), Series 2003", (the "Bond of 2003"), in the total principal amount of the actual cost of the 2003 Infrastructure of the Project, but not exceeding \$6,000,000, for the purpose of defraying the Cost of Acquisition and Construction of the 2003 Infrastructure and paying Costs of Issuance.

(b) The offer of the Purchaser to purchase the Bond of 2003 is hereby accepted.

(c) The Bond of 2003 shall mature on February 1 in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2004	\$ 25,000	2018	\$ 150,000
2005	25,000	2019	150,000
2006	50,000	2020	200,000
2007	50,000	2021	200,000
2008	75,000	2022	250,000
2009	75,000	2023	250,000
2010	100,000	2024	300,000
2011	100,000	2025	300,000
2012	100,000	2026	400,000
2013	100,000	2027	400,000
2014	100,000	2028	500,000
2015	100,000	2029	500,000
2016	150,000	2030	600,000
2017	150,000	2031	600,000

(d) The Bond of 2003 shall originally be dated its date of initial issuance and shall be issued as a fully registered Bond in substantially the form set forth as *Exhibit B* hereto.

Section 4. Optional Redemption of Bond of 2003. The Bond of 2003 shall be subject to redemption at a price equal to the amount of the outstanding principal, plus accrued interest, of the Bond of 2003 prior to maturity, at the option of the County, but only upon the prior written direction of the Owner and Developer, as a whole or in part at any time, in such order of its maturities as the County may determine upon the prior written direction of the Owner and Developer.

Section 5. Establishment of 2003 Debt Service Fund. In accordance with Section 5.5 of the General Bond Ordinance, the 2003 Debt Service Fund is hereby directed to be established by the County Treasurer on the date of original delivery of the Bond of 2003 for the benefit of the Purchaser of the Bond of 2003. The payments from the Net Fee Payments authorized herein shall be made at the times set forth in Section 5.5 of the General Bond Ordinance.

Section 6. Advances in Payment for Bond of 2003. The moneys advanced in payment for the Bond of 2003 by the Purchaser shall be noted on the Schedule of Infrastructure Advances attached to the Bond of 2003 and shall be used and applied to the payment of Cost of Acquisition and Construction of the 2003 Infrastructure and Cost of Issuance.

Each advance for the Cost of Acquisition and Construction of 2003 Infrastructure or Cost of Issuance shall be made only upon receipt by the County of a Certificate Regarding Advances, in substantially the form attached hereto as *Exhibit C*, signed by an Authorized Owner Representative or Authorized Developer Representative, and filed with the County.

GREENVILLE 176793v3

ROA 00135

Section 7. Sale and Issuance of Bond of 2003.

(a) The County hereby finds and determines that the issuance and sale of the Bond of 2003 is fair and reasonable and in the best interest of the County; that the Bond of 2003 shall be sold to the Purchaser at a purchase price of not less than \$6,000,000 and upon the terms and conditions set forth herein.

(b) A copy of this Second Supplemental Ordinance shall be filed with the minutes of this meeting.

(c) The County hereby authorizes and directs all of the officers and employees of the County to carry out or cause to be carried out all obligations of the County hereunder and to perform such other actions as they shall consider necessary or advisable in connection with the issuance, sale and delivery of the Bond of 2003.

Section 8. Security. The Bond of 2003 is secured by a pledge of the Net Fee Payments referred to and subject to the limitations set forth in Section 5.2 of the General Bond Ordinance. The pledge of the Net Fee Payments provided for in the General Bond Ordinance and this Second Supplemental Ordinance for the security of the Bond of 2003 shall be on a parity with the pledge of the Net Fee Payments provided for in the General Bond Ordinance and the First Supplemental Ordinance for the security for the Bond of 2001.

Section 9. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file with or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual audit of the County within thirty (30) days of the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the County, adversely affects more than five percent (5%) of the Fee Payments or the County's tax base. Notwithstanding anything herein to the contrary, compliance with the above covenant shall be solely the responsibility of the County, and neither the Custodian, if any, the Owner or Developer, or the Purchaser shall have any duty hereunder to monitor compliance by the County with such covenant. Any failure by the County to comply with the provisions of this Section shall not constitute an Event of Default.

Section 10. Further Actions. The Chairman of the Council, the County Administrator, the Clerk of the Council and the County Attorney are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate issuance of the Bond of 2003 and to carry out the intentions of this Second Supplemental Ordinance.

Section 11. Section Headings; Table of Contents. The headings and titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Second Supplemental Ordinance.

Section 12. Notices. All notices, certificates or other communications hereunder or under the General Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by first-class, postage prepaid, addressed as follows:

If to the County:

Jasper County Council
914 Grays Road
Post Office Box 1149
Ridgeland, South Carolina 29936
Attn: County Administrator

If to the Owner:

Nickel Plate Road LLC
Post Office Box 1107
Jacksonville, Illinois 62651
Attn: L. Dianne Barnett

If to the Developer:

Asset Management Associates, Inc.
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

New River – Okatie Co. LLC
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

Any party may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 13. Effective Date. This Second Supplemental Ordinance shall become effective upon its enactment.

[Execution follows on next page]

Enacted by the County Council of Jasper County, South Carolina, this 20th day of October, 2003.

JASPER COUNTY, SOUTH CAROLINA

By: 
Chairman, Jasper County Council
Jasper County, South Carolina

(SEAL)

ATTEST:


Clerk to County Council,
Jasper County, South Carolina

First Reading: September 15, 2003

Second Reading: October 6, 2003

Public Hearing: October 20, 2003

Third Reading: October 20, 2003

EXHIBIT A

DESCRIPTION OF 2003 INFRASTRUCTURE

Cost of acquiring certain real property used in the operation of manufacturing or commercial enterprises and constructing thereon certain infrastructure with respect to the second phase of the Project on or before July 31, 2003, including, but not limited to: real property, improvements, site work, surveying costs, legal fees, engineering services, permitting fees, consulting fees, utility fees, maintenance fees, insurance, landscaping fees, architectural fees, and accounting fees.

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ROA 00139

EXHIBIT B

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
JASPER COUNTY
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2003

Amount
\$6,000,000.00

Jasper County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to Nickel Plate Road LLC (the "Purchaser") or its registered assigns, but solely from the special source hereinafter mentioned, and not otherwise, a principal amount of \$6,000,000 or such lesser amount as is set forth on the schedule of advances annexed hereto as Schedule I (unless this Bond shall be subject to prior redemption and shall have been duly called for previous redemption and payment of redemption price made or provided for), and the County hereby promises to pay interest on the principal amount hereof from time to time unpaid at the rate of 4.36% per annum, but solely from such special source and not otherwise, until this Bond matures. Interest on this Bond is payable on February 1 of each year commencing February 1, 2004. This Bond is payable as to principal on February 1 in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2004	\$ 25,000	2018	\$ 150,000
2005	25,000	2019	150,000
2006	50,000	2020	200,000
2007	50,000	2021	200,000
2008	75,000	2022	250,000
2009	75,000	2023	250,000
2010	100,000	2024	300,000
2011	100,000	2025	300,000
2012	100,000	2026	400,000
2013	100,000	2027	400,000
2014	100,000	2028	500,000
2015	100,000	2029	500,000
2016	150,000	2030	600,000
2017	150,000	2031	600,000

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ROA 00140

This Bond and the interest hereon are (a) payable solely from all or a specifically described portion of the payments-in-lieu of taxes received and retained by the County pursuant to the Park Agreement (as defined in the General Bond Ordinance hereafter mentioned) created under Section 13 of Article VIII of the Constitution of the State of South Carolina; (b) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (c) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (d) not a pecuniary liability of the County or a charge against the County's general credit or taxing power.

Both the principal of and interest on this Bond are payable at the principal office of the Purchaser in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

This Bond is issued by the County for the purpose of defraying the Cost of Acquisition and Construction of the 2003 Infrastructure and the Cost of Issuance (as such terms are defined in the General Bond Ordinance and Second Supplemental Ordinance hereafter mentioned). This Bond is authorized to be issued and is issued under, pursuant to and in full compliance with the Constitution and statutes of the State of South Carolina, including particularly Section 4-1-175 and Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the "Act"). This Bond is also authorized to be issued and is issued under and pursuant to General Bond Ordinance No. 01-04 of the County Council of Jasper County duly enacted on April 16, 2001 (the "General Bond Ordinance"), and Second Supplemental Ordinance No. ____ of the County Council of Jasper County duly enacted on October 20, 2003 (the "Second Supplemental Ordinance"), under the Act, which General Bond Ordinance and Second Supplemental Ordinance have been duly codified and indexed as prescribed by law.

The General Bond Ordinance contains provisions defining terms; sets forth the Net Fee Payments (as defined in the General Bond Ordinance) pledged for the payment of the principal of and interest on this Bond and the Bonds of other series herewith which have previously been issued or which may hereafter be issued on a parity herewith under the General Bond Ordinance; sets forth the nature, extent and manner of enforcement of the security of this Bond and of such pledge, and the rights and remedies of the holder hereof with respect thereto; sets forth the terms and conditions upon which this Bond is issued and upon which other bonds have previously been issued or which may be hereinafter issued payable as to principal, premium, if any, and interest on a parity with this Bond and equally and ratably secured herewith; sets forth the rights, duties and obligations of the County thereunder; and sets forth the terms and conditions upon which the pledge made in the General Bond Ordinance for the security of this Bond and upon which the covenants, agreements and other obligations of the County made therein may be discharged at or prior to the maturity or redemption of this Bond with provisions for the payment thereof in the manner set forth in the General Bond Ordinance. Reference is hereby made to the General Bond Ordinance and the Second Supplemental Ordinance to all of the provisions of which any holder of this Bond by the

acceptance hereof thereby assents. The provisions of the Act, the General Bond Ordinance and the Second Supplemental Ordinance shall be a contract with the holder of this Bond.

This Bond, including interest hereon, is payable solely from a portion of the Net Fee Payments and is secured equally and ratably by a pledge of such Net Fee Payments derived by the County from the Park Agreement which also secures the Bond of 2001 (as defined in the Second Supplemental Ordinance) and any Series of Bonds (as defined in the Bond Ordinance) hereafter issued under the General Bond Ordinance, and certain funds and accounts established under the Second Supplemental Ordinance with respect thereto heretofore mentioned which are pledged to the payment thereof, and the County is under no obligation to pay the same except from such sources; provided, in no event shall the County be obligated to pay in any year more than 40% of the total of such Net Fee Payments to the holders, including the Purchaser, of all Series of Bonds issued pursuant to the General Bond Ordinance and any ordinance supplemental thereto. In the event the total principal and interest payment due on all Series of Bonds, including this Bond, in any year is greater than 40% of such Net Fee Payments, the difference thereon shall be, and is hereby forgiven without further notice by the County to the Purchaser. In the event the total principal and interest payment due on all Series of Bonds, including this Bond, is less than 40% of such Net Fee Payments, the difference shall be paid to the Purchaser as additional interest.

This Bond and the Bond of 2001 are equally and ratably secured by a pledge of the Net Fee Payments. Bonds on a parity with this Bond and the Bond of 2001 may hereafter be issued under terms and conditions set forth in the General Bond Ordinance. Such Bonds shall be equally and ratably secured with the pledge of the Net Fee Payments.

The County reserves the right upon the prior written direction of the Owner and Developer (as defined in the General Bond Ordinance) without payment of any premium to make prepayments of principal installments on this Bond at any time upon payment of such principal amounts and interest accrued thereon to the date fixed for redemption. Partial prepayment shall be applied to scheduled principal installments on this Bond in such order as the County determines at the direction of the Owner and Developer.

[EXECUTION PAGE FOLLOWS]

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IN WITNESS WHEREOF, Jasper County, South Carolina, has caused this Bond to be executed in its name by the manual signature of the Chairman of the County Council and attested by the Clerk to the County Council under the seal of the County, this Bond to be dated the _____ day of _____, 2003.

JASPER COUNTY, SOUTH CAROLINA

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

(SEAL)

ATTEST:

Clerk
Jasper County Council
Jasper County, South Carolina

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ROA 00143

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REGISTRATION

This Bond has been registered in the name of Nickel Plate Road LLC, on the registration books kept by the Treasurer of Jasper County, South Carolina.

Dated this _____ day of _____, 2003.

Treasurer, Jasper County, South Carolina

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ROA 00144

SCHEDULE I

**JASPER COUNTY, SOUTH CAROLINA
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2003**

SCHEDULE OF INFRASTRUCTURE ADVANCES

<u>Date</u>	<u>Amount of Advance</u>	<u>Outstanding Principal Balance</u>	<u>Signature of Authorized County Representative</u>	<u>Signature of Authorized Owner/Developer Representative</u>
_____, 2003	\$6,000,000	\$6,000,000	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

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ROA 00145

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EXHIBIT C

CERTIFICATE REGARDING ADVANCES

Jasper County, South Carolina, Special Source Revenue Bond, Series 2003 (the "Bond of 2003")

(Nickel Plate Road LLC Project)

Dated: _____, 2003

Advance No.: 1

Nickel Plate Road LLC hereby certifies and warrants to Jasper County, South Carolina (the "County"), pursuant to Section 3.3 of the General Bond Ordinance No. 01-04 (the "General Bond Ordinance") enacted by the County Council of Jasper County, South Carolina, on April 16, 2001, and Section 6 of the Second Supplemental Ordinance No. _____ (the "Second Supplemental Ordinance") enacted by the County Council of the County on October 20, 2003 the following in connection with the payment of 2003 Infrastructure and Cost of Issuance (as defined in the General Bond Ordinance and Second Supplemental Ordinance):

1. The amount to be paid: \$6,000,000.00
2. The amount to be paid will be applied to the payment of 2003 Infrastructure or Cost of Issuance and is due and payable and has not been the subject of any previous advance.
3. A description, and cost thereof, of the 2003 Infrastructure to be financed with the proceeds of the Bond of 2003 is included on *Attachment I*.
4. The principal amount of the Bond of 2003 is \$6,000,000.00 and the interest rate on such Bond is 4.36% per annum. A pro forma debt service schedule structured in accordance with the terms of the General Bond Ordinance is attached as *Attachment II*.

Nickel Plate Road LLC

By: _____

Its: _____

Date: _____, 2003

I, the undersigned Clerk to the County Council of the County, hereby acknowledge receipt of this Certificate Regarding Advances which shall be filed with the County.

JASPER COUNTY, SOUTH CAROLINA

By: _____
Clerk to County Council

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ROA 00147

ATTACHMENT I.

2003 INFRASTRUCTURE

<u>DESCRIPTION</u>	<u>COST</u>
1. New River Center Construction – New River Center	
a. Construction	\$ 2,560,948.79
b. Professional Fees	152,025.36
c. Development Management	379,395.00
2. Automall	
a. Land Acquisition	1,685,951.56
b. Construction/Development	
i. Roads, Water & Sewer Systems	1,209,185.34
ii. Landscaping	186,805.50
iii. Development Management	85,000.00
c. Professional, Permitting, Licensing and Filing Fees	104,760.36
Total Infrastructure Investment as of July 31, 2003	\$ 6,364,071.91

ATTACHMENT II.**DEBT SERVICE SCHEDULE**

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2004	\$ 25,000	2018	\$ 150,000
2005	25,000	2019	150,000
2006	50,000	2020	200,000
2007	50,000	2021	200,000
2008	75,000	2022	250,000
2009	75,000	2023	250,000
2010	100,000	2024	300,000
2011	100,000	2025	300,000
2012	100,000	2026	400,000
2013	100,000	2027	400,000
2014	100,000	2028	500,000
2015	100,000	2029	500,000
2016	150,000	2030	600,000
2017	150,000	2031	600,000

EXHIBIT F

March 2, 2007

Mr. Rodney Cannon
Mayor
City of Hardeeville
Post Office Box 609
Hardeeville, South Carolina 29927-0609

Re: Annexation letter dated October 5, 2006
Annexation: 2006-7-1, 2006-9-21C, 2006-9-21G

Re: Annexation letter dated January 4, 2007
Annexation: 2006-12-1C

Dear Mr. Cannon:

Thank you for your letters of October 5, 2006 and January 4, 2007 notifying us that certain revisions were made in the corporate limits of the City of Hardeeville. The information will be reflected on the next revision of the official SCDOT map. All necessary mileage records will be adjusted.

If you have any questions, you may contact Anna Stefanowicz, GIS Analyst at 803-737-3151, stefanowa@scdot.org or Donald E. McElveen, Jr., Manager, GIS / Mapping, at 803-737-1677, mcelveende@scdot.org. Thank you.

Sincerely,


William B. Beck
Chief, Road Data Services


Donald E. McElveen, Jr.
Manager, GIS / Mapping

WBB: as

File: TE/AS

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)
CITY OF HARDEEVILLE)
)
ORDINANCE NUMBER 2006-9-21G)

An Ordinance Annexing those Portions of
TMP 067-00-01-017 (+/-106.75 ac) not
already within the City Limits of
Hardeeville

AN ORDINANCE ANNEXING INTO THE CITY OF HARDEEVILLE APPROXIMATELY +/- 106.75 ACRES OF REAL ESTATE LOCATED IN JASPER COUNTY NOT ALREADY WITHIN THE HARDEEVILLE CITY LIMITS, AS WELL AS ALL ADJACENT PUBLIC RIGHTS OF WAY, RAILROAD RIGHTS OF WAY, WATERS, LOWLANDS AND WETLANDS.

Section 1 Findings of Facts

As an incident to the adoption of this ordinance, City Council of Hardeeville finds the followings facts to exist:

- a) Section 5-3-150, Code of Laws of South Carolina (1976) as amended, provides a method of annexing property to a city or town by a Petition signed by all persons owning real estate in the area requesting annexation.
- b) A proper Petition has been filed with the City of Hardeeville by one hundred percent (100%) of the freeholders owning one hundred percent (100%) of the assessed value of the contiguous property herein described, petitioning for annexation of the property to the City of Hardeeville under the provisions of South Carolina Code Section 5-3-150(3), and requesting the City's zoning of General Commercial and Mixed Use.
- c) The area comprising the said property is contiguous to the City of Hardeeville.
- d) It appears to Council that annexation would be in the best interest of the property owners and the City.
- e) The zoning request for the property has been presented to the Joint Hardeeville-Southern Jasper County Planning Commission, which has recommended zoning the property General Commercial and Mixed Use, and the City Council is adopting contemporaneously with this Ordinance and Ordinance zoning the property and amending the Official Zoning Map of the City.

Section 2.

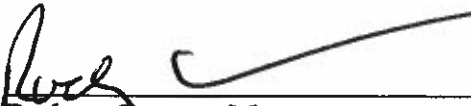
NOW, THEREFORE, BE IT ORDAINED by the Mayor and the Council of the City of Hardeeville, South Carolina, duly assembled and with authority of same, pursuant to Section 5-3-150, Code of Laws of South Carolina (1976), as amended, the following described property is hereby annexed to and made part of the City of Hardeeville, to wit:

ALL THOSE CERTAIN PIECES, PARCELS OR TRACTS OF LAND being known as a portion of TMP 067-00-01-017, +/- 106.75 acres, and all adjacent public rights of way, railroad rights of way, waters, lowlands and wetlands as shown on the attached map.

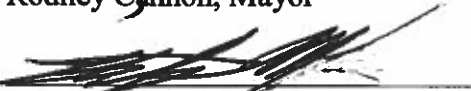
This Ordinance shall become effective upon ratification.

SO ORDERED AND ORDAINED this 5th day of Oct, 2006

By the Hardeeville City Council being duly and lawfully assembled.


Rodney Cannon, Mayor


A. Brooks Willis, Mayor Pro Tem


Bea Jones, Council Member


Bill Horton, Council Member


Earl Cooler, Council Member

Attest: 
Cindy Thompson, City Clerk

Approved as to form: 
David Tedder, City Attorney

(Seal)

First Reading: 9/21/2006

Public Hearings 9/21/2006 & 10/5/2006

Second Reading 10/5/2006

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER) PETITION FOR ANNEXATION
CITY OF HARDEEVILLE)

TO THE HONORABLE MAYOR AND CITY COUNCIL OF HARDEEVILLE

The Undersigned Freeholders in the area described on the pages herein and being one hundred percent (100%) of the Freeholders as defined in Section 5-3-150, Code of Laws of South Carolina (1976), and owning one hundred percent (100%) of the assessed valuation of the real property in said area hereby respectfully petition and request the City Council of Hardeeville to annex the said area, making it part of the City of Hardeeville as provided by Section 5-3-150, Code of Laws of South Carolina (1976). It is proposed to annex said area hereinafter property owning one hundred percent (100%) of the Freeholders of the described property owning one hundred percent (100%) of the assessed valuation thereof have signed this petition.

Tax Map Number: 067-00-01-017 Acreage: 106.75
Property Address: New Run Cr/Hwy 41
Property Owner(s): JPR Properties LLC Date: 8/31
Authorized Signature: [Signature]
Print Name & Title: John P Reed Manager
Authorized Signature: —
Print Name & Title: —

* Four (4) original and one (1) electronic copies of the property plat, prepared by a S.C. licensed land surveyor must be submitted with this petition.

The information requested below is required by the US Department of Justice

Number of persons residing at the property proposed to be annexed: _____
Race: White ✓ Black _____ Other _____

* A zoning request form should be filed with this petition. Failure to submit a zoning request will result in default R-20 zoning.

STATE OF SOUTH CAROLINA

BEFORE THE CITY COUNCIL OF HARDEEVILLE, SOUTH CAROLINA

IN THE MATTER OF:	)	
	)	
JPR PROPERTIES, LLC	)	PETITION FOR ANNEXATION
	)	OF PROPERTY
	)	
Petition for Annexation	)	
of Property in the Municipal	)	
Limits of Hardeeville, South Carolina	)	
_____	)	

JPR Properties, LLC (hereinafter "Owner") pursuant to the laws of the State of South Carolina hereby petitions the City Council of Hardeeville, South Carolina to annex certain of its properties (hereinafter described) that are contiguous to the City's corporate boundaries into the City of Hardeeville as follows:

1. The Owner, JPR Properties, LLC, owns certain real property (the "Property") more fully described on Exhibit "A", attached hereto, that is contiguous to the corporate boundaries of the City of Hardeeville, South Carolina;

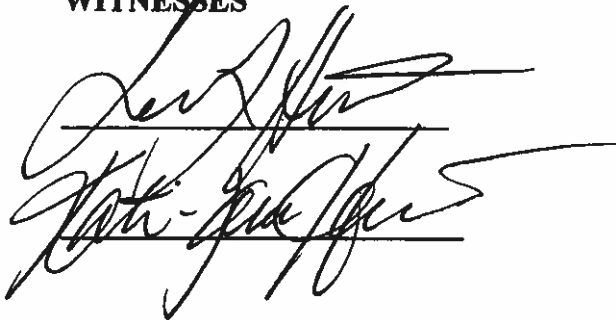
2. Owner respectfully requires as a condition of this Petition that, to the fullest extent permitted by law and the ordinances ("Ordinances") of the City required for the annexation, the approval of General Commercial zoning be adopted simultaneously;

3. Owner reserves the right to amend or withdraw this Petition at any time prior to the adoption of the aforementioned Ordinances upon delivery of written notice to the City Council of Hardeeville.

WHEREFORE, Owner, pursuant to the laws of the State of South Carolina, petitions the City Council of Hardeeville, South Carolina to annex the Property described in Exhibit "A" into the municipal boundaries of the City, conditioned upon the simultaneous adoption by the City Council of General Commercial zoning, acceptable to Owner, to be applied to the Property.

Witness the hand and seals of the undersigned this 23 day of Aug, 2006.

WITNESSES



JPR PROPERTIES, LLC

By: _____

Its: _____

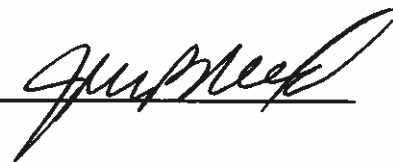


EXHIBIT "A"
TO ANNEXATION PETITION
PROPERTY DESCRIPTION

All that certain piece and parcel of real property, containing 106.75 acres, more or less, lying and being located in Jasper County, South Carolina, being more fully described on a plat entitled "A 106.75 AC. Tract Being A Portion of the Argent Tract", said plat being prepared by Thomas H. H. H., dated 10/15/94, etc., a reduced copy of which is attached hereto.

CITY OF HARDEEVILLE
PUBLIC HEARING & REGULAR
CITY COUNCIL MEETING
OCTOBER 5, 2006
6:00 PM

Present: Mayor Rodney Cannon, Mayor Pro Tem Willis, Council Members Bea Jones, Bill Horton, & Earl Cooler. City Attorney David Tedder, ACM Kevin Griffin, City Clerk Cindy Thompson, Finance Director Michelle Werner, Planning Director Brana Snowden, Recreation Director Joe Gailey, Fire Chief John Ekaitis, Police Chief Jimmy Hubbard & Media Director Paul Floeckher

- I. **CALL TO ORDER**
Mayor Cannon called the meeting to order.
- II. **INVOCATION & PLEDGE OF ALLEGIANCE**
Mayor Pro Tem Willis gave the invocation.
- III. **PUBLIC PRESENTATIONS/COMMENTS(2 MINUTE TIME LIMIT)**
None.
- IV. **PROCLAMATIONS**
 - A. DOMESTIC VIOLENCE AWARENESS MONTH
 - B. FIRE PREVENTION WEEK
 - C. BREAST CANCER AWARENESS MONTH
- V. **OLD BUSINESS**
 - A. SECOND READING OF AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF THE PROPERTY KNOWN AS TMP 041-00-04-005 (+/- 2,742 AC) KNOWN AS THE ANDERSON TRACT (2006-7-1)
Planning Director Snowden stated this was given first reading in July. They have been working on the PDD and the Development Agreement. It is staff's recommendation to annex this property.
PUBLIC COMMENT-None
Mayor Pro Tem Willis made a motion to accept this ordinance as written; motion received a proper second from Council Member Jones and passed unanimously.
 - B. SECOND READING OF AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE OF THE HARDEEVILLE MUNICIPAL ZONING AND DEVELOPMENT ORDINANCE TO PROVIDE FOR PLANNED DEVELOPMENT DISTRICT (PDD) ZONING AND APPROVING A CONCEPTUAL MASTER PLAN FOR THE ANDERSON TRACT (2006-9-7E) (See attached Executive Summary)

Planning Director Snowden stated this is the zoning assignment for the Anderson tract. It is approximately 3200 residential units, but no more than 3888. If any kind of commercial conversion, 71 acres of commercial retail, they will have to have a minimum of 20 acres. It is staff and Planning Commission's recommendation for approval.

PUBLIC COMMENT-None

Council Member Horton made a motion to accept this ordinance as written; motion received a proper second from Council Member Jones and passed unanimously.

C. SECOND READING OF AN ORDINANCE AUTHORIZING A DEVELOPMENT AGREEMENT FOR THE ANDERSON TRACT WITH TMP 041-00-04-005 (+/-2,742 AC) (2006-9-7F)

City Attorney Tedder stated since the last meeting; they have continued to look at the DA which has had some changes incorporated in to it. The DA does include the same ranges of fees; it requires certain road improvements. Staff has reviewed the document and believes this is a fair development agreement. Attorney Tedder stated he would like a clause to be added to the cover ordinance so it will have the same language as the other development agreements.

PUBLIC COMMENT-None

Council Member Jones made a motion to accept this ordinance with the proposed change; motion received a proper second from Council Member Horton and passed unanimously.

D. SECOND READING OF A SET OFF DEBT COLLECTION ORDINANCE (2006-9-21A)

Council Member Horton made a motion to accept this ordinance as written; motion received a proper second from Council Member Jones and passed unanimously.

E. SECOND READING OF AN ORDINANCE TO PROVIDE FOR ANNEXATION OF THE PROPERTY WITH TMP 041-00-04-009 (+/-6.49 ACES) KNOWN AS THE GETSINGER PROPERTY LOCATED ON HWY 278 AND BRICKYARD ROAD (2006-9-21C)

Planning Director Snowden stated there have been no changes since the first reading. Staff recommends approval.

PUBLIC COMMENT-None

Mayor Pro Tem Willis made a motion to accept this ordinance as written; motion received a proper second from Council Member Cooler and passed unanimously.

F. SECOND READING OF AN ORDINANCE FOR A ZONING AMENDMENT FOR THE FOLLOWING PARCEL 041-00-04-009 LOCATED ON HIGHWAY 278 & BRICKYARD ROAD TO GENERAL COMMERCIAL (2006-9-21D)

Planning Director Snowden stated this parcel is currently zoned Restricted Development through Jasper County but are requesting General Commercial with the annexation. There is General Commercial in the vicinity. It is staff and Planning Commission's recommendation for approval.

PUBLIC COMMENT-None

Council Member Cooler made a motion to accept this ordinance as written; motion received a proper second from Council Member Horton and passed unanimously.

- G. SECOND READING OF AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF PROPERTY WITH TMP 041-00-03-033 (+/-5.17 ACRES) KNOWN AS THE SMITH PROPERTY LOCATED AT HIGHWAY 278 & JOHN SMITH ROAD (2006-9-21E)

Planning Director Snowden stated this parcel is adjacent to the previous property and has frontage on Brickyard and 278, and John Smith Road. It is currently being developed for commercial. Staff and Planning Commission recommend approval.

PUBLIC COMMENT-None

Council Member Jones made a motion to accept this ordinance as written; motion received a proper second from Council Member Cooler and passed unanimously.

- H. SECOND READING OF AN ORDINANCE FOR A ZONING AMENDMENT FOR THE FOLLOWING PARCEL 041-00-03-033 LOCATED ON HIGHWAY 278 & JOHN SMITH ROAD TO GENERAL COMMERCIAL (2006-9-21F)

PUBLIC COMMENT-None

Council Member Horton made a motion to accept this ordinance as written; motion received a proper second from Council Member Cooler and passed unanimously.

- I. SECOND READING OF AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF PROPERTY WITH TMP 067-00-01-017 (+/-106.75 ACRES) KNOWN AS THE REED PROPERTY LOCATED AT NEW RIVER CENTER ON ARGENT BLVD (2006-9-21G)

Planning Director Snowden stated this has frontage along Argent Blvd. This will be two parcels subdivided by right of way.

PUBLIC COMMENT-None

Mayor Pro Tem Willis made a motion to accept this ordinance as written; motion received a proper second from Council Member Cooler and passed unanimously.

J. SECOND READING OF AN ORDINANCE FOR A ZONING AMENDMENT FOR THE FOLLOWING PARCEL 067-00-01-017 LOCATED ON ARGENT BLVD TO GENERAL COMMERCIAL AND MIXED USE (2006-9-21H)

Planning Director Snowden stated that 57.94 acres will be Mixed Use and 34.69 acres will be General Commercial.

PUBLIC COMMENT-None

Council Member Jones made a motion to accept this ordinance as written; motion received a proper second from Council Member Cooler and passed unanimously.

VI. PRESENTATION & APPROVAL OF MINUTES FROM THE SEPTEMBER 21, 2006 PUBLIC HEARING & REGULAR CITY COUNCIL MEETING

Council Member Horton made a motion to accept the minutes as written; motion received a proper second from Council Member Cooler and passed unanimously.

VII. NEW BUSINESS

None

VIII. COMMITTEE REPORTS

Public Works-Mayor Pro Tem Willis stated that there is one culvert at Keller Place that needs to be lowered. SCDOT would like us to have an engineer on site to oversee DOT do the work. The committee did not feel this should not be done since SCDOT has engineers. McTeer Street is progressing well. Mayor Pro Tem Willis stated that Ms. Lyndia Daniels would like let the city put a retention pond on her property.

Planning & Zoning-Council Member Cooler stated they are making very good progress and will be requesting another workshop soon.

Recreation-Council Member Jones stated that adult flag football registrations will go through October 27th. Youth Basketball registration will be starting soon.

Special Events-Council Member Jones stated they will be having the 2nd annual car show from 8 am to 2 pm. There will be music, arts and crafts, and rides and fireworks at the end of the show.

IX. MANAGER'S REPORT

ACM Griffin introduced Finance Director Michelle Werner. ACM Griffin introduced Special Events Coordinator Alexis Roeber.

Planning-Director Snowden stated they have the first Master Plan for East Argent. They have been going over the concept PDD for the Sherwood tract. The plats were recorded for Tradition. The Two Sisters Project has come back in for development on the residential portion and should be moving forward soon. They are working on two road reviews. Energov Software is

up and running. The committee has worked on the tree ordinance and now they are moving towards the sign ordinance.

Fire-Chief Ekaitis stated the department has responded to 90 calls; 50% were EMS with one fatality. Overall response time was 4 minutes 29 seconds which is below average. The total training hours were 138.5. Next week is Fire Prevention Week. There were 45 fire inspections and code enforcement hangers were 21 and one citation. There were 36 residential burn permits, 3 commercial burn permits and 11 businesses turned in for business licenses.

Building Official-Hatter stated that the new slope mower has arrived. They are working on the mowing and trash. There was a water leak at Exit 5 where the tractor ran over the sprinkler system. He plans on leveling that area out so they can cut it better. Two tractors have been down; one is fixed. He has installed a new sign at Industrial Park. The street sweeper is used every two weeks.

Police-Chief Hubbard stated the department answered 609 calls for service; 30 alarms, 21 escorts, assisted 27 motorists, investigated 25 traffic accidents and conducted 21 welfare checks and 485 other related calls.

Municipal Court-Judge Carroll stated court is running smooth. They will be getting ready for some jury trials. Court had 417 cases with approximately 45 bond hearings and 23 arrest warrants were issued. The audio/visual equipment is still being worked on.

ACM-Griffin stated Tradition will be having their grand opening on October 21st. They are continuing to work on development agreements.

X. **ADJOURNMENT**

Council Member Horton made a motion to adjourn; motion received proper second from Council Member Jones and passed unanimously.



City of Hardeeville

205 East Main Street, Hardeeville, SC 29927
843/784-2231 843/784-6384 fax

Zoning Map Amendment (Rezoning) Application

Date Filed: 9/5/06 Application/Case No. 7004

Instructions

A zoning map amendment may be initiated by the property owner(s), Planning Commission, Planning Director, or City Council.

If the application is on behalf of the property owner(s), all owners must sign. If the applicant is not an owner, applicant is not an owner, the owner(s) must sign the Designation of Agent section.

THE APPLICANT HEREBY REQUESTS that the property described below be rezoned from New River Center/Jasper Co to General Commercial

APPLICANT(S) [print]: JPR Properties, LLC
Address: 1022 Parkway Hall Blvd., Bluffton SC 29910
Telephone: 843-85-8400 [work] _____ [home] _____
Interest: ☒ Owner(s); ☐ Agent of owner(s); ☐ Other: _____

OWNER(S) [if other than Applicant(s)]: _____

Address: _____
Telephone: _____ [work] _____ [home] _____

[Use reverse side if more space is needed]

PROPERTY ADDRESS:

Tax Map No. 067-00-01-017 Plat Book: 24 Page: 119
Lot Dimensions: See Plat Area: 106.75 Aca.
Zoning District: _____ Zoning Map Page: _____

DESIGNATION OF AGENT [complete only if owner is not applicant]:

I (we) hereby appoint the person named as Applicant as my (our) agent to represent me (us) in this request for rezoning.

Date: 8/23/06

JPR Properties, LLC

John P. Reed, Manager
Owner Signature(s)

I (we) certify that the information in this request is correct.

Date: _____

Applicant Signature(s)

Zoning Map Amendment Fees:

Up to 2 lots: \$250.00
Each Additional Lot: \$25.00
Raw Acreage: \$250.00 plus \$10.00/acre

106.75 Acres

1,317.50 9/5/06 LE
Amount Collected Date Initial of Staff

STATE OF SOUTH CAROLINA	)	An Ordinance to zone
	)	approximately ac known as
CITY OF HARDEEVILLE	)	TMP# 067-00-01-017 from (RD)
	)	Restricted Development to (GC)
ORDINANCE: 2006-9-21H	)	General Commercial and (MU)
	)	Mixed Use

BE IT ORDAINED by the Mayor and City Council Members of Hardeeville, In City Council duly and lawfully assembled;

WHEREAS, the property listed as TMP#067-00-01-017 has petitioned for annexation into the city limits of the City of Hardeeville, and;

WHEREAS, there are trends apparent in that area which are anticipated to accelerate commercial and mixed use development, and;

WHEREAS, the Southern Jasper/Hardeeville Planning Commission has reviewed the GC and MU zoning request for the above parcel and recommended approval to the City Council, and;

WHEREAS, the Hardeeville City Council finds the proposed General Commercial and Mixed Use zoning is consistent with the Hardeeville Comprehensive Plan (as amended and revised), and is a more restrictive zoning than the present RD under Jasper County ordinances;

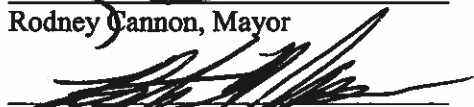
NOW THEREFORE BE IT ORDAINED, the Hardeeville City Council, in council meeting duly assembled, has examined the proposed General Commercial zoning, held public hearings thereon, and has determined the proposed General Commercial/Mixed Use zoning request is acceptable and appropriate, and thereby adopt General Commercial (GC) and Mixed Use (MU) as the appropriate zoning for the parcel, and authorize the official zoning map to be amended to reflect such General Commercial and Mixed Use rezoning.

This ordinance shall become effective immediately upon ratification.

Signature Page to Follow

SO ORDERED AND ORDAINED this 5th day of Oct, 2006
By the Hardeeville City Council being duly and lawfully assembled.


Rodney Cannon, Mayor


Bea Jones, Council Member


Earl S. Cooler, Council Member


A. Brooks Willis, Mayor Pro-Tem


Bill Horton, Council Member

Attest: 
Cindy Thompson, City Clerk

Approved as to form:


David Tedder, City Attorney

(Seal)

First Reading: 9/21/2006

Public Hearing: 9/21/2006 & 10/5/2006

Second Reading: 10/5/2006

Planning Commission Hearing: 9/14/2006

EXHIBIT G



OFFICE OF THE JASPER COUNTY ADMINISTRATOR

358 Third Avenue – Courthouse Square – Post Office Box 1149
Ridgeland, South Carolina 29936 – 843-717-3690 – Fax: 843-726-7800

Andrew P. Fulghum
County Administrator

afulghum@jaspercountysc.gov

November 9, 2020

VIA ELECTRONIC AND REGULAR MAIL

Mr. Michael J. Czymbor
City Manager
City of Hardeeville
P.O. Box 609
205 Main Street
Hardeeville SC 29927

RECEIVED
NOV 16 2020

Re: Nickel Plate Multi-County Industrial Park (MCIP)

Dear Mike:

Thank you for speaking with me about this situation last week. I am hopeful that this letter further explains our current situation and the remedy the Treasurer will be pursuing. After you have had a chance to review this information, if you would like me to try to facilitate a meeting with County staff and/or the County's constitutional officers, I am happy to do that. The history of the issue follows:

Jasper County created the Nickel Plate MCIP in 2000 by Ordinance 2000-01 (see attached map). Subsequently, by General Bond Ordinance 2001-04 adopted in March of 2001, special source bonds not to exceed \$20 million dollars were authorized to be issued by supplemental ordinances in series, with the payments for these bonds secured by earmarking 40% of the Net Fee Payments under the FILOT. General Bond Ordinance 01-04 in Article XI also amended Ordinance 2000-01 to incorporate a new FILOT distribution. The split was 1% to Beaufort County, 40% for payment of the bonds, with the remainder (59%) to be paid to each of the taxing entities in Jasper County which levy an ad valorem tax in any of the areas comprising the Park in the same percentage equal to that taxing entities percentage of the millage rate being levied in the then current tax year for property tax purposes. At that point, the only taxing entities were Jasper County and the School District.

In 2011, Hardeeville annexed two development areas (identified by six separate tax map numbers and including the Courtney Bend Apartments) located in the Nickel Plate Park MCIP area. Since the annexations in 2011, the total millage levy for Hardeeville on the annexed property has been assessed and paid in their entirety to Hardeeville, without any split to Beaufort County (1%) or the bond holder (40%). The Cherry Point Fire District millage was also erroneously collected for those apartments, on top of the City millage, although that Cherry Point millage was supposed to be removed the year after annexation under the Fire Contract Agreements in place until 2019.

ROA 00167

ELECTRONICALLY FILED - 2021 Jun 21 2:26 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

Mr. Michael J. Czymbor
 Nickel Plate MCIP
 November 9, 2020
 Page Two

In 2019, as part of the termination of the Fire Service Contracts with Hardeeville, the agreement as to Cherry Point Fire District millage being paid to Hardeeville was also terminated, and an amendatory ordinance redefining the boundaries of the Cherry Point Fire District was adopted which by map and tax parcel listing excluded those areas annexed by Hardeeville, and clarified the remaining areas. As part of this process, tax billing errors were discovered.

At this point, the County is reconciling the errors and confining that reconciliation to the three years immediately past, as is the general rule when one considers tax refunds. The summary for this three-year period follows:

- The apartments have overpaid \$166,595.84 since Cherry Point Fire District fees were collected longer than they should have been collected, once annexed;
- Cherry Point Fire District has been overpaid the same \$166,595.84 owed back to the taxpayer, as its levy on the apartments should have ended in tax year 2012, the tax year after the annexation. Even though the \$166,595.84 overpayment of Cherry Point Fire District fees went to the City of Hardeeville as part of the previous fire service contract, the County will refund that overpayment to the property owner(s);
- The City of Hardeeville has been overpaid \$221,350.97 in property tax since the distributions to it of its millage levy included the 41% that should have gone to Beaufort County and the bond holders. The Auditor and Treasurer are in the process of preparing the refund/rebill, and by doing so, the bond holder is made whole and the various entities receive the correct distribution.
- In addition to the three-year correction of \$221,350.97, the County has negotiated an additional payment of \$48,486.85 to the bondholder at the bondholder's request. The County will be funding that \$48,486.85 from the County's Fiscal Year 2022 Operating Budget.

Below is my quick summary of budget impact to the City and County due to these corrections:

City of Hardeeville

FY21	\$221,350.97	Nickel Plate MCIP
FY22	\$114,822.93	Nickel Plate MCIP
Total	\$336,173.90	

Jasper County

FY21	\$166,595.84.	Cherry Point Fire District
FY22	\$ 87,117.16	Shortage – Cherry Point Fire District Budget
FY22	\$ 48,486.85	Negotiated settlement to bond holder (Nickel Plate)
Total	\$302,199.85	

Mr. Michael J. Czymbor
Nickel Plate MCIP
November 9, 2020
Page Three

I hope that this information is a helpful by way of explanation. I know that this is not good, near-term financial news for the City or the County, but tax billing errors must be corrected when detected.

Sincerely,



Andrew P. Fulghum

Attachment: Nickel Plate MCIP map

cc:	The Honorable Jasper County Council	<i>via electronic mail</i>
	The Honorable Ms. Verna Garvin, Jasper County Treasurer	<i>via electronic mail</i>
	The Honorable Ms. Monica Wilson, Jasper County Auditor	<i>via electronic mail</i>
	Ms. Kim Burgess, CPA, Director of Administrative Services	<i>via electronic mail</i>
	Mr. David Tedder, County Attorney	<i>via electronic mail</i>
	Chief Russell Wells, Acting Director of Emergency Services	<i>via electronic mail</i>

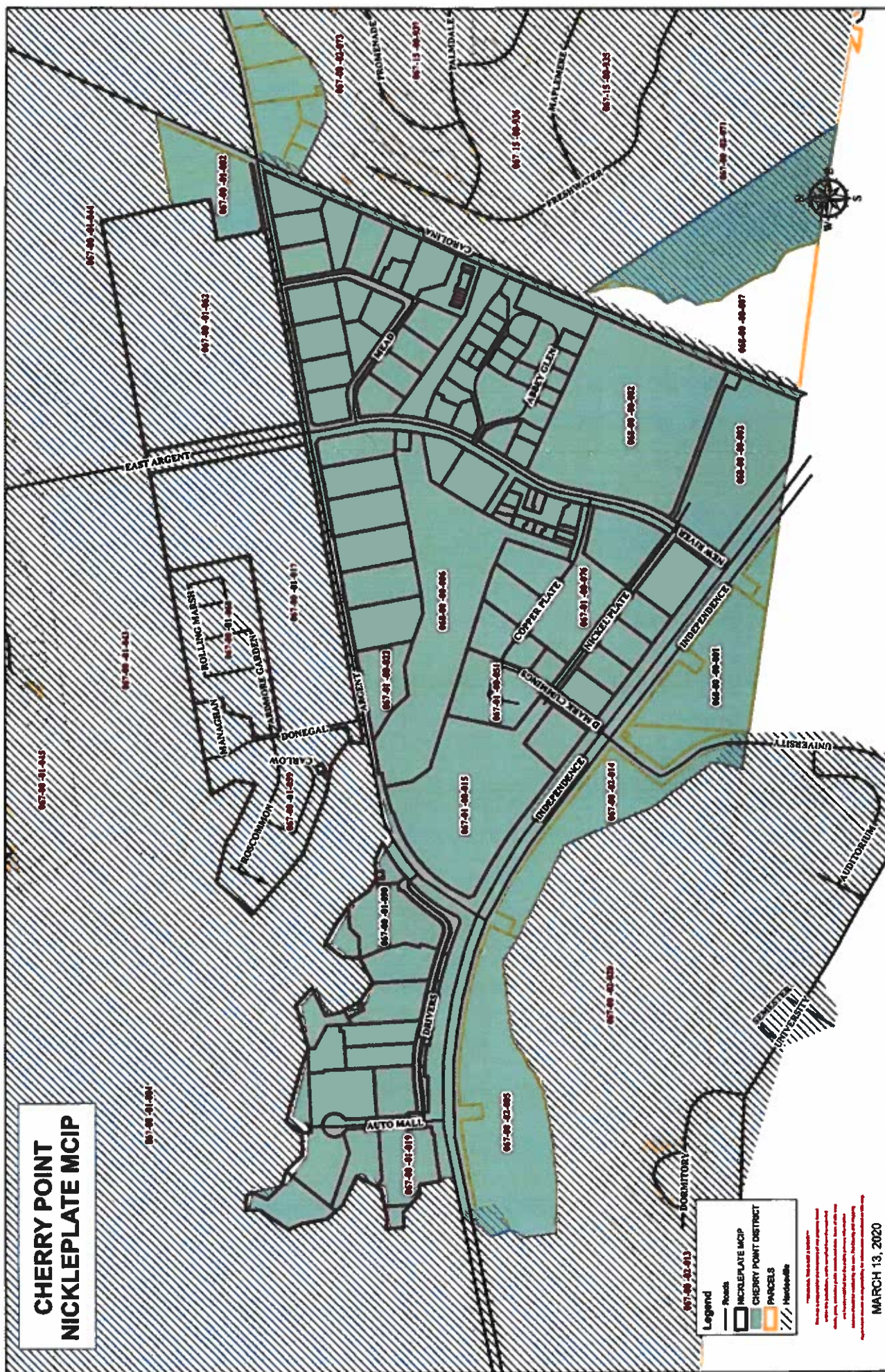


EXHIBIT H



December 23, 2020

BY EMAIL AND US MAIL

Andrew P. Fulghum, ICMA-CM
County Administrator
Jasper County, South Carolina
Post Office Box 1149
Ridgeland, South Carolina 29936

***Re: Cherry Point Fire District
Nickel Plate Multi-County Industrial Park***

Dear Andy:

Please accept this Letter as the City's additional response to the County's letter of November 9, 2020, regarding the referenced items. The County's November 9 Letter raises two, distinct issues: (a) an alleged overpayment to the City regarding the Cherry Point Fire District ("CPFD") and (b) an alleged overpayment to the City regarding the Nickel Plate Multi-County Industrial Park ("NP Park").

Cherry Point Fire District

The City may not agree with the County's analysis or decision regarding the CPFD situation. However, because the County has agreed to resolve the CPFD situation without any City involvement, including by not requesting any funds from the City, then the City has no further response. Should the situation change, then the City may respond further.

Nickel Plate Multi-County Industrial Park

The NP Park, however, is a very different matter. Until the County's November 9 Letter, the City was not aware of any "billing errors," as the letter calls them. In response to these "errors," which were not of the City's creation, the County threatens to withhold \$336,173.90 from the City (and, presumably, to reduce future tax distributions to the City). The County bases its ability to withhold and reduce funds on one or more agreements the County has with a bondholder and other entities. The City could not be more opposed to the County's threatened action.

The City has never been a part of any arrangement involving the NP Park, the bond(s), the bond ordinance(s), the County's purported distribution of revenue, or any other aspect of the arrangements involving either the NP Park or any County obligations related to the NP Park. Not being a party to any of these arrangements, the City is not responsible for any of the County's obligations. Period. There is no "billing error" involved in the City's receiving tax revenue to which it is entitled.

Further, the County Treasurer, not the County, collects the City's tax revenue. As a result, the County's letter's implying that the County is withholding funds raises questions about the nature and level of the "discussions" between the County, the County Treasurer, and the other entities or individuals that may have been involved to reach this threatened resolution. The City was not part of these discussions and does not consent to the County or the County Treasurer doing anything with the City's tax revenue other than remitting the tax revenue, in whole, to the City. The City finds it, to say the least, disturbing that the County, not the County Treasurer, delivered the message of the "remedy the Treasurer will be pursuing" based on what "the County has negotiated." Either the County or the County Treasurer's withholding funds from the City without the City's consent would constitute conversion of the City's public funds and may also subject those involved to criminal sanctions.

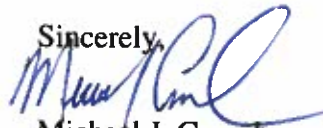
If the County and the County Treasurer had approached the City when these "errors" were initially uncovered, which the City understands, from rumor, may have been as much as a year ago, the City, the County, and the County Treasurer, could have discussed this situation in a very different context and potentially avoided some of the harsh words that are now likely to be exchanged and hard feelings that may now result. Unfortunately, the County and the County Treasurer did not elect for an open and honest course of conduct. Rather, the County and the County Treasurer decided it would be better to hide these "negotiations" behind closed doors and then threaten the City with unjustifiable action. As a result, the City is left with no option but to demand the County and the County Treasurer rescind the threat of withholding funds (and the implicit future threat of the same).

No later than January 5, 2021, the City expects the County and the County Treasurer to rescind their threats and acknowledge the City is not responsible in any way for arrangements involving the NP Park.

Freedom of Information Act Request

To the County, the County Treasurer, and the County Auditor, please provide all materials related to any arrangement involving the NP Park, the bond(s), the bond ordinance(s), the County's purported distribution of revenue, or any other aspect of the arrangements involving either the NP Park or any County obligations related to the NP Park. As the City and each of the named entities/offices are public bodies and this matter is a matter of public interest because it is intended primarily to benefit the general public, the City requests these documents be furnished without charge

Sincerely,



Michael J. Czymbor
City Manager



BY EMAIL AND US MAIL

cc: The Honorable Verna Garvin (vgarvin@jaspercountysc.gov)
Jasper County Treasurer

The Honorable Monica Wilson (mwilson@jaspercountysc.gov)
Jasper County Auditor

BY ONLY EMAIL

cc: Prina C. Maines, Esq. (pmaines@hardeevillesc.gov)
Hardeeville City Attorney

Michael E. Kozlarek, Esq. (michael@kozlareklaw.com)
Kozlarek Law LLC

EXHIBIT I



OFFICE OF THE JASPER COUNTY ADMINISTRATOR

358 Third Avenue - Courthouse Square - Post Office Box 1149
Ridgeland, South Carolina 29936 - 843-717-3690 - Fax: 843-726-7800

Andrew P. Fulghum
County Administrator

afulghum@jaspercountysc.gov

January 5, 2021

VIA ELECTRONIC AND REGULAR MAIL

Mr. Michael J. Czymbor
City Manager
City of Hardeeville
P.O. Box 609
205 Main Street
Hardeeville SC 29927

Re: Nickel Plate Multi-County Industrial Park (MCIP)

Dear Mike:

Thank you for your letter dated December 23, 2020. I shared your letter with the County Council and the Council had the opportunity yesterday evening to discuss the City's position regarding both the Cherry Point Fire District fee overpayment to the City and the Nickel Plate MCIP underpayment to the bondholder since 2011.

Council authorized the retaining of individual legal counsel for the Auditor and Treasurer so that there will be no question that they are able to have legal guidance for themselves as elected officials. We thought it appropriate to allow time to get that advice before responding and it is our understanding that the Treasurer will not be making any distributions from these funds until at least the end of January.

Your request for information will be handled through Mr. Tedder's office. We are pleased to provide the information and I have waived any fees as you requested.

Sincerely,

Andrew P. Fulghum

cc: The Honorable Jasper County Council
The Honorable Ms. Verna Garvin, Jasper County Treasurer
The Honorable Ms. Monica Wilson, Jasper County Auditor
Ms. Kim Burgess, CPA, Director of Administrative Services
Mr. David Tedder, County Attorney
Chief Russell Wells, Acting Director of Emergency Services

via electronic mail
via electronic mail
via electronic mail
via electronic mail
via electronic mail

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE No.: 2021-CP-27-00028
	)	
CITY OF HARDEEVILLE,	)	
	)	
Plaintiff,	)	
	)	ANSWER OF JASPER COUNTY,
vs.	)	JASPER COUNTY TREASURER,
	)	AND JASPER COUNTY AUDITOR
JASPER COUNTY, SOUTH CAROLINA,	)	TO PLAINTIFF'S AMENDED
JASPER COUNTY TREASURER, and	)	COMPLAINT
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	
	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)	
	)	
Cross Co-Plaintiff,	)	
	)	
VERNA GARVIN, in her official capacity as	)	
Jasper County Treasurer,	)	
	)	
Cross Co-Plaintiff, and	)	
	)	
MONICA WILSON, in her official capacity as	)	
Jasper County Auditor,	)	
	)	
Cross Co-Plaintiff	)	AMENDED CROSS COMPLAINT
	)	
vs.	)	
	)	
CITY OF HARDEEVILLE, NICKEL PLATE	)	
ROAD, LLC, and BEAUFORT COUNTY,	)	
SOUTH CAROLINA,	)	
	)	
Cross-Defendants	)	

Jasper County, Jasper County Treasurer, and Jasper County Auditor ("Defendants"), by and through their undersigned counsel, hereby submit this Answer in response to the Amended Complaint ("Complaint") of Plaintiff City of Hardeeville ("Plaintiff") and state as follows:

GENERAL DENIAL

Defendants deny each and every allegation of Plaintiff's Complaint that is not hereinafter specifically admitted, modified, or explained.

FOR A FIRST DEFENSE

Defendants respond to the individual numbered paragraphs of the Complaint as follows:

1. Defendants admit the allegations of Paragraph 1 of the Complaint.
2. Defendants admit the allegations of Paragraph 2 of the Complaint.
3. Defendants admit the allegations of Paragraph 3 of the Complaint.
4. Defendants admit the allegations of Paragraph 4 of the Complaint.
5. Defendants admit the allegations of Paragraph 5 of the Complaint, but further allege by way of clarification that as of on or about October 5, 2006, the referenced tax parcel was solely located within the unincorporated area of Jasper County, and not subject of Plaintiff's jurisdiction.
6. Upon information and belief, Defendants admit only so much of Paragraph 6 of the Complaint regarding the characterization of the statutory basis for the instant civil action, but deny there are any violations by Defendants of State law or under their respective duties and responsibilities relating to the Property.
7. Upon information and belief, Defendants admit the allegations of Paragraph 7 of the Complaint.
8. Upon information and belief, Defendants admit the allegations of Paragraph 8 of the Complaint.
9. Defendants admit the allegations of Paragraph 9 of the Complaint, but would crave reference to the document itself for a more complete contextual reading, as the document speaks for itself.

10. Defendants admit the allegations of Paragraph 10 of the Complaint, but would crave reference to the document itself for a more complete contextual reading, as the document speaks for itself.

11. Defendants admit the allegations of Paragraph 11 of the Complaint, but would crave reference to the documents referenced for a more complete contextual reading, as the document speaks for itself.

12. Defendants admit the allegations of Paragraph 12 of the Complaint, but would crave reference to the Constitution Section referenced for a more complete contextual reading, as the document speaks for itself, and clarifies that “the area of the park and all property having a situs therein” is exempt from all *ad valorem* taxation.

13. Defendants admit the allegations of Paragraph 13 of the Complaint, but would crave reference to the Constitution Section itself and related statutes for a more complete contextual reading, as Section 170,¹ the statute authorizing the joint development of an industrial or business park, provides that the written agreement by the participating counties required by Section 13(d) must include “the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties,” which would include distributions to municipalities as a taxing entity, not just the participating counties.

14. Defendants admit the allegations of Paragraph 14 of the Complaint.

15. Defendants admit the allegations of Paragraph 15 of the Complaint, but would allege that at the time of the creation of this Park, all of the Park was located within the unincorporated area of Jasper County, with the subject property not being annexed until years later;

¹ Capitalized terms that are not defined herein have the same meaning ascribed to them in Plaintiff’s Complaint.

therefore, this portion of Section 170 is inapplicable, and as such, Paragraph 15 is immaterial, irrelevant, and misleading.

16. Defendants admit the allegations of Paragraph 16 of the Complaint, but would again state that at the time of the creation of this Park, all of the Park was located within unincorporated Jasper County; therefore, no ordinance or resolution or any type of consent from the City relating to the Park, the Property to be included in the Park, the Park Agreement, nor the bond ordinances and distributions of revenue was necessary or required, as all of these matters occurred before the annexation.

17. Defendants admit the allegations of Paragraph 17 of the Complaint, but would further allege that at the time of the creation of this Park, all of the Park was located within unincorporated Jasper County, and there is no need or requirement to include a City in a Park Agreement for property not located in the municipal boundaries at the time of creation of the Park.

18. Defendants admit the allegations of Paragraph 18 of the Complaint, but would again allege that the time of the creation of this Park, all of the Park was located within unincorporated Jasper County; therefore, no ordinance or resolutions of any type of consent from the City relating to the Park, Property to be included in the Park, the Park Agreement, nor the bond ordinances and distributions of revenue was necessary or required, as all of these matters occurred before the annexation; further, Defendants are informed and believe that the actions of the City annexing an area of the Park after the fact does not impose any municipal authority over revenues and distributions that are subject to the terms and conditions of the Park, including the Park Agreement and bond ordinances applicable to Park Property.

19. Defendants admit the allegations of Paragraph 19 of the Complaint.

20. Defendants admit the allegations of Paragraph 20 of the Complaint.

21. Defendants admit the allegations of Paragraph 21 of the Complaint, but would crave reference to the documents referenced for a more complete contextual reading, as the complete recitation of the unspecified first paragraph of Section 175 is “a county or municipality receiving revenues from a payment in lieu of taxes pursuant to Section 13 of Article VIII of the Constitution of this State may issue special source revenue bonds secured by and payable from all or a part of that portion of the revenues which the county is entitled to retain pursuant to the agreement required by Section 4-1-170. . . .”; the reference to the “revenues which the County is entitled to retain pursuant to the agreement” is 99% of the Site Location Jasper County retains pursuant to Section 6 of the Agreement, with 1% going to Beaufort County as the Partner County; there is no mention of revenue to which a municipality is entitled to retain.

22. Defendants admit the allegations of Paragraph 22 of the Complaint.

23. Defendants admit the allegations of Paragraph 23 of the Complaint.

24. Defendants admit the allegations of Paragraph 24 of the Complaint.

25. Defendants admit the allegations of Paragraph 25 of the Complaint, but would crave reference to the entirety of that Section 2.1(H) and to Section 4-29-60 of the Code of Laws of South Carolina for a more complete textual reading, wherein it can be seen that the excerpted language is a mere recitation of statutory language stating the required findings by the governing board (the governing bodies of the counties involved), and upon information and belief, are intended to clarify the bonds being issued are special source revenue bonds, not general obligation bonds.

26. Defendants admit the allegations of Paragraph 26 of the Complaint, but would crave reference to the entirety of that Section 5.2 for a more complete contextual reading, which clarifies the pledge for the bonds are from the Net Fee Payments received and retained by the County under

the Park Agreement, provided the obligation to pay in any year is limited to no more than 40% of the Net Fee Payments.

27. Defendants deny the allegations of Paragraph 27 of the Complaint inasmuch as this portion of Section 5.2, being the unspecified second paragraph, is only applicable “(t)o the extent that *ad valorem* taxes, prior to the conversion to fees-in-lieu-of-tax pursuant to the Park Agreement, have been pledged to secure general obligation indebtedness issued by a political subdivision prior to the establishment of the Park, such fees-in-lieu-of-taxes, attributable to any real property and improvements thereon existing prior to the Park Agreement shall be first applied, to the extent necessary, to the payment of such outstanding general obligation indebtedness” (emphasis added); Defendants further allege, contrary to the assertion of Plaintiff that the Property may be subject to *ad valorem* taxes, by provisions of the State Constitution and statutes, what would have been the *ad valorem* taxes have been converted to fees-in-lieu-of-taxes, do not continue to exist as *ad valorem* taxes, and the referenced section only applies to a situation not existing in the instant case, due to the non-existence of municipal *ad valorem* taxes on the property at the time of creation of the Park in 2001, six years prior to the annexation, and therefore, this allegation is immaterial, irrelevant, and misleading.

28. Defendants admit the allegations of Paragraph 28 of the Complaint, but would crave reference to Article I of the General Bond Ordinance (the Definitions section) which clarifies that “‘Fee Payments’ shall mean the revenues the County receives and retains pursuant to the Park Agreement from the payments in lieu of taxes which are paid for all real property and personal property located in the Park,” and “‘Net Fee Payments’ shall mean the Fee Payments remaining after payment of the Multi-County Fees.”

29. Defendants admit the allegations of Paragraph 29 of the Complaint, as there are no *ad valorem* taxes existing in a Multi-County Park after its creation; property located in the Park

are exempt from *ad valorem* taxes, and the equivalent of the *ad valorem* taxes are collected as a fee-in-lieu-of-taxes as a matter of law.

30. Defendants admit the allegations of Paragraph 30 of the Complaint, but would crave reference to the documents themselves, as the intent of the amendment is clearly to provide for a distribution methodology denoting the percentages to be paid to Beaufort County and for debt service on special source revenue bonds, and is directed at the fee-in-lieu of *ad valorem* taxes; as a matter of law there are no *ad valorem* taxes collected in a multi-county park.

31. Defendants admit the allegations of Paragraph 31 of the Complaint, as there are no *ad valorem* taxes existing in a Multi-County Park after its creation; properties located in the Park are exempt from *ad valorem* taxes, and the equivalent of the *ad valorem* taxes are collected as a fee-in-lieu-of-taxes as a matter of law.

32. Defendants admit the allegations of Paragraph 32 of the Complaint.

33. Defendants admit the allegations of Paragraph 33 of the Complaint.

34. Defendants admit the allegations of Paragraph 34 of the Complaint.

35. Defendants admit the allegations of Paragraph 35 of the Complaint.

36. Defendants admit the allegations of Paragraph 36 of the Complaint, but would further allege that the City had not annexed any property located within the Park at the time of the enactment of the referenced county ordinances and including the City as a party was neither required nor would it have been appropriate.

37. Defendants admit the allegations of Paragraph 37 of the Complaint, but would further allege that the City had not annexed any property located within the Park at the time of the enactment of the referenced county ordinances, consent of the City for a multi-county industrial business park outside municipal boundaries was not required, and Defendants are informed and believe that by the act of annexing property within an existing multi-county park (a matter of public

record as the ordinances adopted by the County in this matter are recorded on the Jasper County Register of Deeds Office), the City is bound by the terms governing the Park and no consent post annexation is required.

38. Defendants admit the allegations of Paragraph 38 of the Complaint.

39. Upon information and belief, Defendants admit the allegations of Paragraph 39 of the Complaint.

40. Defendants admit the allegations of Paragraph 40 of the Complaint, but would crave reference to the document itself for a more complete contextual reading.

41. Defendants admit the allegations of Paragraph 41 of the Complaint, but would crave reference to the document itself for a more complete contextual reading, as a partial, out-of-context sentence does not indicate the purpose of the letter was to further explain the current situation and the remedy the Treasurer would be pursuing, and offered a facilitated meeting with the County staff and/or the County's constitutional offices—an offer the City did not accept; neither does it recognize the individual statutory responsibilities of the Treasurer to correct errors, not the County.

42. Defendants admit the allegations of Paragraph 42 of the Complaint, but would crave reference to the document itself for a more complete contextual reading, as a partial, out-of-context sentence does not indicate that the amounts listed were the reconciliation of the past three years indicating tax billing errors had been discovered; neither does it recognize the individual statutory responsibilities or responsibilities under the Park and bond ordinances of the Treasurer and Auditor to correct errors and billings, not the County.

43. Defendants deny the allegations of Paragraph 43 of the Complaint, and would further allege that the referenced letter states no such thing.

44. Defendants deny the allegations of Paragraph 44 of the Complaint, and would further allege that the County has never taken the position that the City was not able to annex the

Annexed Property; that the City is on notice of matters appearing of public record, and the County had no duty to affirmatively provide notice to the City of the existence of a multi-county park created five years before the annexation, nor perform the investigation and fiscal analysis of the proposed annexation in light of the existence of the Park and bonds affecting the Annexed Property on the part of the City; and further, the error and its extent was communicated to the City in advance of the current year tax billings and collections after discussions with the bondholder which could have limited the total overpayment amount shown to have been paid to the City and sought by the bondholders.

45. Defendants admit the allegations of Paragraph 45 of the Complaint.

46. Defendants deny the allegations of Paragraph 46 of the Complaint, and would crave reference to the document itself for a more complete contextual reading, as the allegation does not indicate the Treasurer and Auditor were obtaining independent legal guidance “so that there would be no question that they are able to have legal guidance for themselves as elected officials. We thought it appropriate to allow time to get that advice before responding and it is our [the County’s] understanding that the Treasurer will not be making any distributions from these funds until at least the end of January,” and omits the fact that prior to the filing of the instant Complaint, Defendant’s attorneys had attempted to enter into discussions with Plaintiff’s attorneys, but that Plaintiff’s attorneys were not responsive until after they had filed suit.

47. Defendants deny the allegations of Paragraph 47 of the Complaint, and would further allege that municipal consent is only required when the multi-county industrial park is to be located within the then existing municipal boundaries, a situation not applicable herein where the annexation occurred years after the Park creation and adoption of the bond ordinances, and that the multi-county ordinances and agreements run with the land and the municipal levy is not an *ad*

valorem levy, but is converted to a fee-in-lieu-of-taxes levy which is subject to the terms of the park ordinances and agreements.

48. Defendants deny the allegations of Paragraph 48 of the Complaint.

49. Defendants deny the allegations of Paragraph 49 of the Complaint.

50. Defendants deny the allegations of Paragraph 50 of the Complaint insofar as the County has discretion in its MCIP ordinances as authorized by statute to direct the revenue distributions of the fees in lieu of taxes, and certain responsibilities and duties in the administration, development, promotion and operation of the Park pursuant to Ordinance 2000-1, but the County (as discrete from the constitutional officers) does not have authority over the responsibilities committed by the Constitution and statutes to those officers.

**AS TO THE FIRST CAUSE OF ACTION
(Declaratory Judgment)**

51. Defendants adopt the foregoing answers to the Complaint in response to the allegations of Paragraph 51 of the Complaint.

52. Defendants admit the allegations of Paragraph 52 of the Complaint.

53. Defendants would admit so much of the allegations of Paragraph 53 of the Complaint as those allegations relate to the governing statutes, but would deny that any of Plaintiff's rights have been affected.

54. Defendants would admit only so much of the allegations of Paragraph 54 of the Complaint as alleges a declaratory judgment would eliminate uncertainty.

55. Defendants would admit so much of the allegations of Paragraph 55 of the Complaint as those allegations relate to the entitlement to a declaratory judgment, but would deny that Defendants are intending to assert their will against Plaintiff, alleging Defendants are merely taking what they are informed and believe are the appropriate measures to comply with applicable

statutes, ordinance and agreements affecting the Park and the bonds secured by the fees-in-lieu-of-taxes pledged to debt service.

**AS TO THE SECOND CAUSE OF ACTION
(Injunctive Relief)**

56. Defendants adopt the foregoing answers to the Complaint in response to the allegations of Paragraph 55 of the Complaint.

57. Defendants deny the allegations of Paragraph 57 of the Complaint.

58. Defendants deny the allegations of Paragraph 58 of the Complaint, further alleging that there is no irreparable harm, as in the case of the overpayments sought to be correctly re-distributed by Defendants, should the Court find the re-distribution improper in any way, an action for damages is available to recover such funds; and in the case of the alleged restricted ability to annex because of service costs, there is no requirement that the City annex any property in an existing multi-county park (or anywhere for that matter), and the City has already consensually participated in other multi-county parks where it has provided economic incentives reducing the amount of revenue the City obtains from the distributions of fee-in-lieu-of-taxes in those parks.

59. Defendants deny the allegations of Paragraph 59 of the Complaint.

60. Defendants deny the allegations of Paragraph 60 of the Complaint inasmuch as Defendants have made no “threats” and have duties and responsibilities under the Park and bond ordinances to others not made parties to this action, who could claim a default against Defendant Jasper County.

61. Defendants deny the allegations of Paragraph 61 of the Complaint, further alleging, upon information and belief, (a)(i) there are no provisions of State law requiring consent of any kind for a municipality that chooses, wisely or not, to annex an existing multi-county industrial business park; (a)(ii) the municipal tax levy is not taken without consent in the context of an annexation of an existing multi-county industrial or business park, as the act of annexation is in

itself a consent to whatever exists as a matter of record regarding the annexed area; and (b) the ability to annex is not thwarted, the municipality must merely assess the annexation to determine whether the benefits outweigh the responsibilities attendant to annexation

62. Defendants deny the allegations of Paragraph 62 of the Complaint.

63. Defendants deny the allegations of Paragraph 63 of the Complaint.

64. Defendants deny that Plaintiff is entitled to the relief requested in the unnumbered

WHEREFORE paragraph.

**AMENDED CROSS CLAIM
OF
JASPER COUNTY, VERA GARVIN, AND MONICA WILSON**

Cross Co-Plaintiffs Jasper County, Jasper County Treasurer Verna Garvin, and Jasper County Auditor Monica Wilson (“Cross-Plaintiffs”), by and through their respective undersigned counsels, cross complaining of Cross Defendants City of Hardeeville, Nickel Plate Road, LLC, and Beaufort County, South Carolina (“Cross Defendants”) allege and say as follows:

1. Cross Co-Plaintiff Jasper County (“Jasper County”) is a political subdivision of the State of South Carolina operating under the Council-Administrator form of government, with its County Seat located in the Town of Ridgeland, South Carolina.

2. Cross Co-Plaintiff Verna Garvin is the lawfully elected Treasurer of Jasper County (“Treasurer”), and bring this action in her official capacity as such.

3. Cross Co-Plaintiff Monica Wilson is the lawfully elected Auditor of Jasper County (“Auditor”), and brings this action in her official capacity as such.

4. Cross Defendant City of Hardeeville (“City”) is a municipal corporation organized and existing in accordance with the laws of the State of South Carolina, and operates under the Council-Manager form of government.

5. Cross Defendant Nickel Plate Road, LLC (“Nickel Plate” or “Bond Holder”) is a South Carolina limited liability company, whose registered agent has an address of 23-B Shelter Cove Lane, Suite 400, Hilton Head Island, South Carolina 29928, which does business in Jasper County, South Carolina.

6. Cross Defendant Beaufort County (“Beaufort County”) is a political subdivision of the State of South Carolina operating under the Council-Administrator form of government, with its County Seat located in the City of Beaufort, South Carolina, and is made a defendant by virtue of it having an interest in the subject matter of this Cross-Complaint as the Partner County under the hereinafter identified Nickel Plate MCIP.

7. Jasper County, in accordance with the State Constitution and statutes in effect at that time, including Section 4-1-170 of the Code of Laws of South Carolina, authorizing the creation by counties of multi-county industrial or business parks (“MCIP”), in order to promote economic development, created what is generally referred to as the Nickel Plate MCIP in 2000 by adopting on February 7, 2000, Ordinance 2000-01, a copy of which is recorded in the Jasper County Register of Deeds Office (“ROD”) in Book 8 at Page 82.

8. Ordinance 2000-01 provided that “any business or industrial enterprise locating in the Park shall pay a fee in lieu of *ad valorem* taxes as provided for in the Agreement, Article VIII Section 13 of the South Carolina Constitution and the Act.”

9. The reference to the Agreement is to the “Agreement for Development of Joint Industrial and Business Park,” signed by Beaufort County Council Chairman on February 14, 2000, and by Jasper County Council Chairman on April 10, 2000 (the “Multi County Park Agreement” or “MCIP Agreement,” the form of which was incorporated into Ordinance 2000-1, which stated “all terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Agreement were set out in this Ordinance in its entirety”).

10. The properties comprising the Park are identified in the Agreement incorporated in the Ordinance 2000-1 as three tracts of land comprising 170.565 acres (Tract I), 41.464 acres (Tract II), and 106.75 acres (Tract III).

11. Ordinance 2000-1 provided that “[t]he user fee paid in lieu of *ad valorem* taxes shall be paid to the County Treasurer of the respective County in which a particular piece of Park property is located.”

12. Ordinance 2000-1 further provided that “the administration, development, promotion and operation of the Park shall be the responsibility of the County in which the Park property in question is located.”

13. The MCIP Agreement provides in Section 4 that “Property located in the Park shall be exempt from *ad valorem* taxation, only during the term of this Agreement. The owners or lessees of any property located in the Park shall pay in accordance with and during the term of this Agreement an amount equivalent to the *ad valorem* property taxes or other in-lieu-of payments that would have been due but for the location of such property in the Park.”

14. Section 7 of the MCIP Agreement provided for the Revenue Allocation of revenues generated by the Park in accordance with ordinances to be within each County.

15. Section IX of Ordinance 2000-1 provided that “the distribution of the fee-in-lieu of *ad valorem* taxes pursuant to the Agreement actually received by Jasper County for Park premises be paid to each of the taxing entities in Jasper County which levy an *ad valorem* property tax in any of the areas comprising the Park in the same percentage as is equal to the taxing entity’s percentage of the millage rate being levied in the then current tax year for property tax purposes, provided that the County may, from time to time, by ordinance, amend the distribution of the fee-in-lieu of tax payments to all entities.”

16. Section IX of Ordinance 2000-1 further provided that “a portion of the fee-in-lieu of *ad valorem* taxes which Jasper County receives pursuant to the Agreement for Park premises may be, from time to time and by ordinance of Jasper County Council or its successor, designated for the payment of special source revenue bonds.”

17. Notwithstanding the conversion of *ad valorem* taxes to a fee-in-lieu payment, the Auditor and Treasurer, in conjunction with the Department of Revenue, assess and collect the fee-in-lieu payments in similar manner as *ad valorem* taxes, with the distribution of the revenue in accordance with the Agreement’s provisions.

18. Subsequently, by General Bond Ordinance 01-04 adopted April 16, 2001, a copy of which is recorded in the ROD Office in Book 8 at Page 244, special source bonds not to exceed \$20,000,000.00 were authorized to be issued by supplemental ordinances in series, with the payments for these bonds secured by earmarking 40% of the Net Fee Payments, with Fee Payments being defined as “the revenues that the County receives and pays pursuant to the Park Agreement from the payments in lieu of taxes which are paid for all real and personal property in the Park,” and Net Fee Payments being defined as “the Fee Payments remaining after payment of the Multi-County Fees.”

19. General Bond Ordinance 01-04 created and established a Revenue Fund for each series of bonds issued, into which all Fee Payments were to be deposited, with distributions to be made in accordance with the terms of Article V.

20. Article V of General Bond Ordinance 01-04 provided for the County Treasurer to hold the Revenue Funds for each series of bonds issued that were to be distributed.

21. Article V of General Bond Ordinance 01-04 provided for the creation of a Debt Service Fund to be kept on deposit by the Treasurer for each series of bonds for the purpose of paying principal, interest and any redemption premium, and no other purpose.

22. Within each Debt Service Fund, Interest and Principal Accounts were created for the purpose of paying the interest, principal and any redemption premium on the respective series of bonds to which the same were pledged by Supplemental Ordinance, with each restricted to payment of these particular items and for no other purpose.

23. General Bond Ordinance 01-04 further provided that if there was not enough Net Fee Payments available under the 40% allocation to pay the annual payments, the then remaining due principal and interest payment was to be forgiven, but if less than entire 40% was needed to service the bonds, the difference was to be paid to the bond holder as additional interest.

24. General Bond Ordinance 01-04 in its Article XI also amended Ordinance 2000-01 to incorporate a new FILOT distribution, which was 1% to Beaufort County, 40% for payment of special source revenue bonds, with the remainder (59%) to be paid to each of the taxing entities in Jasper County which levy an *ad valorem* tax in any of the areas comprising the Park in the same percentage equal to that taxing entities percentage of the millage rate being levied in the then current tax year for property tax purposes.

25. Article VIII of General Bond Ordinance 01-04 defines events of default, which include among others the non-payment of principal, interest, or both after such has become due.

26. Article IX of General Bond Ordinance 01-04 provides for remedies in the event of default, with the Holder of any Bond empowered to bring mandamus or other suit, action or proceedings at law or in the equity to enforce such Bondholder's rights against the County, require and compel the County to perform and carry out its duties and obligations under the Act and the General Bond Ordinance, perform an accounting, and enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders.

27. Contemporaneously with the adoption of General Bond Ordinance 01-04, and in accordance with its terms, Jasper County Council adopted on April 16, 2001 the First

Supplemental Ordinance No. 01-05, a copy of which is recorded in the ROD Office in Book 8, Page 245, providing for the issuance and sale of not exceeding \$7,000,000.00 special source revenue bonds (the “Bond of 2001) with a maturity date of February 2028.

28. The Purchaser/Owner of these Bonds was Nickel Plate.

29. Pursuant to First Supplemental Ordinance No. 01-05, the Bond of 2001, including interest, is secured equally and ratably by a pledge of the Net Fee Payments up to a maximum of 40%, as provided in General Bond Ordinance 01-04.

30. Thereafter, Jasper County Council authorized another series of bonds in the Second Supplemental Ordinance No. 02-16, adopted on October 20, 2003, a copy of which is recorded in the ROD Office in Book 14 at Page 72, providing for the issuance and sale of not exceeding \$6,000,000.00 special source revenue bonds (the “Bond of 2003”) with a maturity date of February 2031.

31. The Purchaser/Owner of these Bonds was Nickel Plate.

32. Pursuant to the Second Supplementary Ordinance No. 02-16, the Bond of 2003, including interest, is secured by a pledge of the Net Fee Payments up to a maximum of 40%, as provided in General Bond Ordinance 01-04, on a parity with the pledge of the Net Fee Payments provided for in General Bond Ordinance 01-04 and the First Supplemental Ordinance No. 01-05 for the security of the Bond of 2001.

33. Cross Co-Plaintiffs are informed and believe that all of the enactments of the Ordinances referenced above were done in accordance with the provisions and requirements of the Constitution, relevant statutes, and applicable case law.

34. All payments due to the Bondholder under both bonds were properly made up until and including February 2006.

35. In 2006, the City annexed two development areas located in the Nickel Plate MCIP area (as defined in Ordinance 2000-1).

36. The annexed areas are currently designated on the tax records of Jasper County as tax parcels 067-00-01-017; 067-00-01-069; 067-00-01-060; 067-00-01-061; 068-00-01-062; and 067-00-01-069.

37. City taxes were assessed and collected by the City and its Treasurer separate and apart from County assessments and collections until 2008.

38. By intergovernmental arrangement implemented in 2008, the Jasper County Treasurer and Jasper County Auditor administer, now collect, and distribute municipal taxes for both the Town of Ridgeland and the City of Hardeeville.

39. Cross Co-Plaintiffs are informed and believe that the fee-in-lieu-of-taxes resulting from the conversion by the MCIP ordinances of the *ad valorem* taxes of the City were and are to be included in the Park Revenue for distribution under the formulas included in the MCIP Ordinances and MCIP Agreement referenced above, as the Park was in existence prior to the annexation.

40. Cross Co-Plaintiffs are further informed and believe that the City is under the mistaken belief that approval of the City is needed for the City *ad valorem* taxes to become fee-in-lieu payments in a multi-county industrial or business park.

41. Cross Co-Plaintiffs are informed and believe the consent of the City is only needed when a multi-county industrial or business park is proposed to be located within the existing incorporated area of a municipality, and as such, no consent is required as the Park in question was created in 2000, long before the annexation by the City.

42. After 2008, City municipal millage was levied and collected by the Jasper County Treasurer, in addition to the other existing levies of Jasper County and the Jasper County School District.

43. Through inadvertence or mistake, likely resulting from the transfer of taxing responsibilities under the intergovernmental agreement, the 1% of the Fee and 40% of the Net Fee of the City fee-in-lieu-of-tax payments (the *ad valorem* taxes which were converted into fee-in-lieu payments by operation of the MCIP ordinances and Agreement) were not included in the distribution to either Beaufort County (1%) or to the Bondholder (40%), as Cross Co-Plaintiffs are informed and believe was and is required under the various ordinances and the MCIP.

44. In 2020, in accordance with an internal accounting by Cross Co-Plaintiffs, the distribution omission of the aforementioned 1% and 40% of Hardeeville municipal taxes was discovered, and the various accounting adjustments necessary to provide a corrected distribution to the Bondholder determined by Cross Co-Plaintiffs.

45. The internal accounting indicated that the City had received over time an overpayment of \$463,226.13 for tax years 2011 through 2019.

46. For that same period of 2011 through 2019, the internal accounting indicated the Bondholder was underpaid \$311,743.44.

47. For that same period of 2011 through 2019, the internal accounting indicated Beaufort County was underpaid \$8,141.13.

48. For that same period of 2011 through 2019, the internal accounting indicated that Jasper County was underpaid \$143,341.56.

49. For convenience, Jasper County prepared a Reconciliation of Revenues and Distributions which is attached as **Exhibit A**.

50. Jasper County contacted the Bondholder and discussed these findings, and through negotiation, a reduced amount was determined to be acceptable to the Bondholder to cure the inadvertent default, subject to payment being made in a timely fashion.

51. The Treasurer and Auditor are informed and believe that pursuant to state statutes, including but not limited to Chapter 39 of Title 12 of the South Carolina Code of Laws, as to the Auditor, and Chapter 45 of Title 12 of the South Carolina Code of Laws, as to the Treasurer, they are obligated to correct the billings for *ad valorem* taxes or fee-in-lieu payments for the current year in which the error(s) are discovered and at least the prior tax year; and that pursuant to the terms of the bond ordinances and relevant statutes, they are obligated to reconcile underpayments and overpayments of the distributions to provide the revenue due to each of the entities to receive distributions for the entire period at issue.

52. The Treasurer and Auditor are informed and believe that they are under a duty and obligation to make a proper billing of the properties and distribution to the Bondholders and recover the overpayment from current and/or future tax collections payable to the City, which has been overpaid.

53. Upon the determination of the amounts necessary to recover the overpayments to the City and reconcile the various Revenue and Debt Service Funds, Jasper County, through its Administrator, advised the City of the findings, amounts, and intended course of action by the Treasurer and Auditor by letter dated November 9, 2020.

54. By correspondence dated November 10, 2020, the City, through its City Manager, disagreed and opposed the analysis and proposed solution of Jasper County, objecting to the inclusion of the City's taxes as part of the MCIP.

55. By letter dated December 23, 2020, the City Manager on behalf of the City again objected to the proposed action by Co-Plaintiffs County, Treasurer and Auditor, and demanded remittance of the whole of the City's tax revenue.

56. As a result of the City's opposition to the reconciliation and settlement with the Bondholder, Jasper County, as Administrator of the MCIP, and the Treasurer, under the responsibilities of State statutes, Jasper County Ordinances, and the MCIP Agreement, are uncertain of their obligations and responsibilities, and are concerned that without timely resolution of this dispute, the Bondholders could invoke the default remedies under the MCIP Ordinances and Agreement, which could impose severe monetary consequences on the County.

57. The Treasurer has collected funds which are intended to be used for distributions due to the Bondholder on February 1, 2021, and also for distribution to the various taxing entities for the 2020 tax year, and desires to have her duties and obligations determined by the Court in an expeditious manner so as to both provide to the Bondholder the correct amount of Net Fees due to it, present and past, as well as provide the City with its correct revenue, taking into account the prior overpayments.

58. To that end, pursuant to Rule 67 of the South Carolina Rules of Civil Procedure, the Treasurer, by contemporaneous motion, and with the consent of the Auditor and Jasper County, as well as Beaufort County, tendered to the Jasper County Clerk of Court all sums collected on behalf of the City's fee-in-lieu revenues, in an amount not exceeding the amount determined by the Auditor and Treasurer to have been overpaid to the City for the current and prior years from the annexed portion of the Nickel Plate MCIP, being \$463,226.13.

FOR A FIRST CAUSE OF ACTION
(Declaratory Judgement)

59. Cross Co-Plaintiffs bring this action pursuant to the provisions of Section 15-53-10 *et seq.* of the South Carolina Code of Laws (Uniform Declaratory Judgment Act) for the purpose

of determining and ruling on the respective rights, duties, and responsibilities of the Cross Co-Plaintiffs and Cross Defendants under the facts, statutes, ordinances, and agreements as set forth above, including but not limited to:

a. The inclusion in Park Revenues of the City's *ad valorem* tax levy as a fee-in-lieu payment subject to distribution under the formulas, terms and conditions as contained in the various Ordinances and MCIP Agreement;

b. The obligation under the statutes, ordinances, and MCIP Agreement to correct the billings and distributions already made, and to be made in the future for properties located within the MCIP which were subsequently annexed after creation of the MCIP;

c. The funds deposited with the Clerk of Court pursuant to Rule 67 of the South Carolina Rules of Civil Procedure represent the total of the overpayment to the City of the fee-in-lieu revenue collected within the MCIP area annexed by the City, which the Treasurer proposed to use to reconcile the underpayments to the other distributees;

d. The authority of the Treasurer to utilize future Net Payment Revenue which would be distributed to the City under the allocations as set forth in the MCIP ordinances after the 41% allocation to the Bondholder, for the purpose of fully funding the reconciliation of the amounts which should have been distributed in prior tax years, if such Net Payment Revenue is required; and the availability of other tax revenue payable to the City to accomplish the complete reconciliation of underpayments if the Net Payment payable to the City is insufficient to fully fund the reconciliation; and

e. The number of years in the past for which adjustments in distributions must be made.

FOR A SECOND CAUSE OF ACTION
(Unjust Enrichment)

60. The foregoing allegations of Paragraph 1 through 58 of the Cross Complaint are hereby incorporated by reference as fully as set forth verbatim.

61. The overpayments made to the City conferred a non-gratuitous benefit upon the City in the amount of \$463,226.13.

62. The City has realized the value of this overpayment.

63. Cross Co-Plaintiffs are informed and believe that it would be inequitable for the City to retain the benefit of the overpayment.

64. The retention by the City of the overpayments would result in the unjust enrichment of the City, to the detriment of Nickel Plate and other distributees under the MCIP Agreement and ordinances.

WHEREFORE, Cross Co-Plaintiffs pray that the Court inquire into the matters set forth herein, taking judicial notice of the Jasper County Ordinances referenced herein, and issue its Judgment and Order:

1. As to the First Cause of Action of Cross Co-Plaintiffs, and the Complaint of Plaintiff, declaring that:

a. Declare the rights of the parties with regard to the MCIP revenue arising from the property annexed by the City, determining and declaring City *ad valorem* tax levies are converted into user fees in lieu of taxes by operation of law, including the State Constitution, statutes, the MCIP Ordinances and Agreement, and are included in the pre-existing MCIP as fee-in-lieu revenue to be distributed by the Treasurer in the percentages provided in the MCIP Ordinances and Agreement;

b. The prior year overpayments to the City should be returned to the various Funds as created and provided for in the MCIP Ordinances set forth above for the purpose of funding the correct distribution;

c. The current and future year collections of City revenue within the Park are available to the Treasurer for distribution for the then current distribution under the MCIP Ordinances and Agreement, and that current collections from properties annexed by the City within the Park, and other tax revenue payable to the City from sources outside the Park is available to fully fund the reconciliation in the event there are not sufficient funds from the revenue within the Park to satisfy the refunding of any prior year overpayment;

d. Confirming the amounts identified in the internal accounting by Co-Plaintiffs to be correct;

e. Determining the number of years in the past for which adjustments in distributions must be made; and

f. Denying the request for a temporary restraining order, temporary injunction and permanent injunction.

2. As to the Second Cause of Action of the Cross Co-Plaintiffs, finding and order that:

a. The City has been unjustly enriched by the overpayments;

b. Nickle Plate, Jasper County, and Beaufort County are entitled to receive from the funds over-paid to the City the amounts as set forth in the attached Exhibit A;

c. The Treasurer may fund the restitution/reimbursements necessary to reconcile the distributions from the current and future collections by the Treasurer on behalf of the City in the manner set forth above of the amounts shown in Exhibit A, or such other manner as the Court finds equitable, just and proper; and

d. Entering judgment against the City in favor of Jasper County, as the administrator of the MCIP, in the amounts overpaid to the City, plus fees and costs of this action, and providing that the sums collected pursuant to any judgment be first paid to fund the under-payments due to each of the distributees in accordance with Exhibit A, or such other amount as the Court may determine.

3. As to either and/or both of the Causes of Action, and the Complaint of Plaintiff, granting such other and further relief as the Court may deem just and proper.

s/J. Evan Phillips

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Columbia, South Carolina
July 21, 2021

s/Mary B. Lohr

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Beaufort, South Carolina
July 21, 2021

Exhibit A to Cross Complaint

2011 - 2019 RECONCILIATION OF REVENUES AND DISTRIBUTIONS				
	<u>Jasper</u>	<u>Hardeeville</u>	<u>Beaufort Cty.</u>	<u>Nickel Plate</u>
Total Tax Assessed	\$3,319,993.15	\$1,140,951.07	\$ -	\$ -
Beaufort County MCP Fee (1%)	33,199.93	11,409.51	44,609.44	-
Nickel Plate Bond Payment (40%)	<u>1,314,717.29</u>	<u>451,816.62</u>	<u>-</u>	<u>1,766,533.91</u>
Correct distribution amount	1,972,075.93	677,724.94	44,609.44	1,766,533.91
Amt. distributed per QS1 documents	<u>1,828,734.37</u>	<u>1,140,951.07</u>	<u>36,468.31</u>	<u>1,454,790.47</u>
Amt. Receivable/(Payable)	<u>\$ 143,341.56</u>	<u>\$ (463,226.13)</u>	<u>\$ 8,141.13</u>	<u>\$ 311,743.44</u>
Jasper County includes both County and School District				

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE NO. 2021 – CP– 27 – 00028

CITY OF HARDEEVILLE,	)
	)
Plaintiff,	)
	)
vs.	)
	)
JASPER COUNTY, SOUTH CAROLINA,	)
JASPER COUNTY TREASURER, and	)
JASPER COUNTY AUDITOR,	)
	)
Defendants.	)
	)

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity	)
as Jasper County Treasurer,	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity	)
as Jasper County Auditor,	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE,	)
NICKEL PLATE ROAD, LLC, and	)
BEAUFORT COUNTY, SOUTH	)
CAROLINA,	)
Cross Defendants.	)
	)

**ANSWER TO AMENDED
CROSS COMPLAINT**

Beaufort County, a political subdivision of the State of South Carolina hereby responds to the July 21, 2021 Amended Cross Complaint (“Answer and Cross Complaint”) of Cross Co-Plaintiffs as follows:

1. It denies each and every allegation of the Answer and Cross Complaint which is not hereinafter specifically and expressly admitted.
2. It is informed and believes Paragraphs 1 through 64 of the Answer of Jasper County, its Treasurer and its Auditor, do not apply to it and that no response is required.
3. In response to the Cross-Claim of Cross Co-Plaintiffs which begins on page 12 of the Answer and Cross Complaint, Beaufort County responds as follows.
4. It admits the allegations of Paragraphs 1 through 4.
5. It lacks information sufficient to form a belief as to the allegations of Paragraphs 5, 34 through 38, 40, 42 through 50, 53 through 55 and 61 through 64.
6. It admits the allegations of Paragraph 6.
7. It admits, upon information and belief, the allegations of Paragraphs 7 through 33, 39, 41 and 57 through 59.
8. It is informed and believes Paragraphs 51, 52 and 56 assert conclusions of law which it is not required to admit or to deny.
9. Responding to Paragraph 60 it incorporates herein by reference the allegations of Paragraphs 1 through 8 above as if set forth herein verbatim.

WHEREFORE, having responded fully to the allegations of the Answer and Cross Complaint, Beaufort County prays that the Court inquire into the matters alleged by the parties and that it grant the relief which is proper and appropriate based upon the facts and the applicable law.

/s/ Thomas J. Keaveny, II
S.C. Bar No.: 3308
Beaufort County Attorney's Office
Post Office Drawer 1228
Beaufort, SC 29901-1228
Telephone (843) 255-2025
tkeaveny@bcgov.net

ATTORNEY FOR BEAUFORT COUNTY

July _____, 2021
Beaufort, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE No.: 2021-CP-27-00028
	)	
CITY OF HARDEEVILLE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	
	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity as	)
Jasper County Treasurer,	)
	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity as	)
Jasper County Auditor,	)
	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE, NICKEL PLATE	)
ROAD, LLC, and BEAUFORT COUNTY,	)
SOUTH CAROLINA,	)
	)
Cross-Defendants	)

**MOTION FOR PARTIAL SUMMARY JUDGMENT
OF
DEFENDANT JASPER COUNTY**

Pursuant to Rule 56, SCRCP, Defendant Jasper County, by and through its undersigned counsel, hereby submits this Motion for Partial Summary Judgment. Jasper County moves this Court for an Order granting partial summary judgment in its favor and against Plaintiff City of Hardeeville because there is no genuine issue of material fact and Jasper County is entitled to judgment as a matter of law. Specifically, Jasper County requests that this Court issue an order granting summary judgment on Jasper County's declaratory judgment cause of action. In support of this Motion, Jasper County shows to the Court the following:

1. By written agreement, counties are entitled to create an industrial or business park with other counties within the geographical boundaries of those counties in accordance with Article VIII, Section 13 of the South Carolina Constitution ("multi-county industrial park" or "park"). S.C. Code Ann. 4-1-170(A).

2. All property located within a multi-county industrial park "is exempt from *all* ad valorem taxation." S.C. CONST. art. VIII, §13(D) (emphasis added). No exception to this constitutional provision exists.

3. Before entering into an agreement to create a multi-county industrial park, counties must obtain consent of municipalities only if the park "encompasses all or a portion of a municipality." § 4-1-170(C). If a multi-county industrial park does not encompass any portion of a municipality, counties are not required to obtain the consent of any municipalities before a park may be created. *See id.*

4. Written agreements creating a multi-county industrial park must address, among other things, the manner in which revenue must be distributed to the taxing entities within each of the counties. S.C. Code Ann. §4-1-170(A); *see also* S.C. Const. art. VIII, § 13(D) ("The participating counties shall reduce the agreement to develop and share . . . revenues of the park to a written instrument which is binding on all participating counties.").

5. A county that receives revenues from fee-in-lieu of *ad valorem* tax payments for property that is located in an MCIP may issue special source revenue bonds that are secured by and are payable from the revenues the county is entitled to receive pursuant to a multi-county industrial park agreement. S.C. Code Ann. § 4-1-175.

6. Effective December 31, 1999, Jasper County and Beaufort County entered into a written agreement (the “MCIP Agreement”), in which Jasper County and Beaufort County agreed to create a multi-county industrial park (the “MCIP”).

7. The MCIP Agreement complied with all statutory and constitutional requirements. [Am. Compl. Ex. B]. See S.C. Code Ann. § 4-1-170; S.C. CONST. art. VIII, §13.

8. On February 7, 2000, Jasper County enacted an ordinance authorizing the creation of the MCIP (the “Park Ordinance”). [Am. Compl. ¶ 9; Am. Compl. Ex. A; Am. Cross Claim ¶ 7].

9. The Park Ordinance expressly incorporated the MCIP Agreement. [Am. Compl. ¶ 9; Am. Compl. Ex. B; Am. Cross Claim ¶ 9].

10. The MCIP Agreement provides that all property located in the MCIP shall be exempt from *ad valorem* taxation. [Am. Compl. Ex. B. § 4].

11. The properties comprising the MCIP are identified in the MCIP Agreement as three tracts of land: Tract I, consisting of 170.565 acres; Tract II, consisting of 41.464 acres; and Tract III, consisting of 106.75 acres. [Am. Compl. Ex. B; Am. Cross Claim ¶ 10].

12. At the time the MCIP was created, the geographic boundary of the MCIP did not encompass any portion of property that was within the City of Hardeeville’s jurisdictional limits. [See Am. Compl. ¶¶ 9 & 38].

13. Therefore, neither Jasper County nor Beaufort County was required to obtain the consent of the City of Hardeeville prior to creating the MCIP. S.C. Code Ann. § 4-1-170(C).

14. The Park Ordinance provides that, instead of *ad valorem* taxes, any business or enterprise locating in the MCIP shall be required to pay a fee-in-lieu of *ad valorem* taxes in accordance with the MCIP Agreement. [Am. Compl. Ex. A; Am. Cross Claim ¶ 8]. Specifically, “[t]he owners or lessees of any property situated in the [MCIP] shall pay . . . 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 locating of such property in the [MCIP]” (“Park Revenues”). [Am. Compl. Ex. B ¶ 4; Am. Cross Claim ¶ 13].

15. The Park Ordinance also authorized Jasper County to designate a portion of Park Revenues for the payment of special source revenue bonds. [Am. Compl. Ex. A § IX; Am. Cross Claim ¶ 16].

16. On April 16, 2001, Jasper County adopted General Bond Ordinance 01-04 authorizing the issuance of special source revenue bonds in one or more series for a total principal amount of up to \$20,000,000.00. Contemporaneously with the adoption of General Bond Ordinance 01-04, Jasper County adopted the First Supplement Ordinance No. 01-05, providing for the issuance and sale of Bonds not to exceed \$7,000,000.00. Then, on October 20, 2003, Jasper County adopted the Second Supplemental Ordinance No. 02-16, providing for the issuance and sale of Bonds not to exceed \$7,000,000.00 (collectively, the “Bonds”). [Am. Compl. Exs. C, D, & E; Am. Cross Claim ¶¶ 18, 27, & 30]. The General Bond Ordinance 01-04, the First Supplemental Ordinance 01-05, and the Second Supplemental Ordinance No. 02-16 are, collectively, the “Bond Documents.”

17. The MCIP Agreement sets forth how Park Revenues generated by the MCIP must be distributed. [Am. Compl. Exhibit B, §§ 6 & 7; Am. Cross Claim ¶ 13].

18. The MCIP Agreement requires that 99% of Park Revenues be distributed to the county where the property generating Park Revenues is located, and 1% of remaining Park Revenues associated with that property to the other participating county. [Am. Compl. Ex. B § 6].

19. Pursuant to the Bond Documents, the payments of the Bonds are secured by 40% of the Park Revenues generated from the MCIP. [Am. Compl. Ex. C; Am. Cross Claim ¶ 18]. If the total payment due on the Bonds is less than 40% of Park Revenues, the difference must be paid to the bondholder as additional interest on the Bonds. [Am. Compl. Ex. C; Am. Cross Claim ¶ 23].

20. The Bond Documents further direct that Park Revenues actually received by Jasper County are to be paid as follows: (A) 1% to Beaufort County; (B) 40%¹ to the bondholders as payment for the Bonds; and (C) the remainder to each of the taxing entities in Jasper County “in the same percentage as is equal to that taxing entity’s percentage of the millage rate being levied in the then current tax year.” [Am. Compl. Ex. C p. 19 (General Bond Ordinance 01-04 amending Section IX of the Park Ordinance and setting forth the manner in which all Park Revenues must be distributed); Am. Cross Claim ¶ 24].

21. On October 5, 2006, the City of Hardeeville annexed into its jurisdictional limits certain property that was located within the geographic boundary of the MCIP (the “Annexed Property”). [Am. Compl. ¶ 38; Am. Compl. Ex. E; Am. Cross Claim ¶ 35].

22. The City of Hardeeville’s action of annexing property located within the geographic boundary of the MCIP after the MCIP was created does not have any effect on the constitutional provision that “[t]he area comprising the parks and all property having a situs therein is exempt from all *ad valorem* taxation.” See S.C. CONST. art. VIII, § 13. The Annexed Property remains

¹ This is 40% of the remainder after 1% of Park Revenues is first distributed to Beaufort County. By way of example, if Jasper County received \$100.00 in Park Revenues for MCIP property located in Jasper County, \$1.00 must first be distributed to Beaufort County. Then, 40% of the remaining \$99.00 (\$39.60) must be distributed to the bondholders. [Am. Cross Claim Ex. A].

exempt from *ad valorem* taxation and is governed by the provisions of the MCIP Agreement, as modified by the Bond Documents.

23. Pursuant to the MCIP Agreement, as modified by the Bond Documents, Park Revenues generated from the Annexed property must be distributed as follows: (A) 1% of Park Revenues generated from the Annexed Property must first be distributed to Beaufort County; (B) 40% of remaining Park Revenues generated from the Annexed Property must then be distributed to the bondholders as payment for the Bonds; and (C) the remainder of Park Revenues generated from the Annexed Property, after distribution to both Beaufort County and the bondholders as described in (A) and (B) above, must be distributed pro rata to the applicable taxing entities, including the City of Hardeeville. [Am. Compl. Ex. C p. 19; Am. Cross Claim Ex. A].

WHEREFORE, for the reasons stated above, Jasper County respectfully requests that the Court enter an Order granting summary judgment in Jasper County's favor declaring that:

- a. All property located within a multi-county industrial park is exempt from all *ad valorem* taxation.
- b. The property located within the MCIP is exempt from all *ad valorem* taxation.
- c. The City of Hardeeville's annexation of property located within the MCIP after the MCIP was created does not result in the Annexed Property being subject to *ad valorem* taxation.
- d. The Annexed Property is exempt from *ad valorem* taxation and is governed by the MCIP Agreement, as modified by the Bond Documents.
- e. Jasper County issued the Bonds that are secured by Park Revenues in accordance with all statutory and constitutional requirements.
- f. All Park Revenues must be distributed in accordance with the MCIP Agreement, as modified by the Bond Documents.
- g. Park Revenues generated from the Annexed Property are to be distributed as follows: 1% must first be distributed to Beaufort County; 40% of the remainder after distribution to Beaufort County must then be distributed to the bondholders; the remainder, after distribution to both Beaufort County and the bondholders, must be distributed pro rata to the applicable taxing entities, including the City of Hardeeville.

Respectfully submitted,

s/J. Evan Phillips

Walter H. Cartin (SC Bar #78405)

J. Evan Phillips (SC Bar #103679)

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*Attorneys for Defendant and Cross Co-
Plaintiff Jasper County*

Columbia, South Carolina
July 27, 2021

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)
IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2021 – CP– 27 – 00028

CITY OF HARDEEVILLE,)
Plaintiff,)
vs.)
JASPER COUNTY, SOUTH CAROLINA,)
JASPER COUNTY TREASURER, and)
JASPER COUNTY AUDITOR,)
Defendants.)

AND

JASPER COUNTY, SOUTH CAROLINA,)
Cross Co-Plaintiff,)
VERNA GARVIN, in her official capacity)
as Jasper County Treasurer,)
Cross Co-Plaintiff, and)
MONICA WILSON, in her official capacity)
as Jasper County Auditor,)
Cross Co-Plaintiff)
vs.)
CITY OF HARDEEVILLE,)
NICKEL PLATE ROAD, LLC, and)
BEAUFORT COUNTY, SOUTH)
CAROLINA,)
Cross Defendants.)

**ANSWER OF NICKEL PLATE
ROAD, LLC TO THE
AMENDED CROSSCLAIM**

The Cross-Defendant, Nickel Plate Road, LLC (“Nickel Plate”) hereby answers the Cross Co-Plaintiffs’ Amended Cross Complaint. Any allegation of the Cross Complaint not admitted is denied, and strict proof is demanded thereof.

1. Paragraph 1 is admitted.
2. Paragraph 2 is admitted.
3. Paragraph 3 is admitted.
4. Paragraph 4 is admitted.
5. Paragraph 5 is admitted.
6. Paragraph 6 is admitted.
7. Paragraph 7 is admitted.
8. Answering Paragraph 8, Nickel Plate craves reference to the terms of the Ordinance described therein.
9. Answering Paragraph 9, Nickel Plate craves reference to the terms of the documents described therein.
10. Answering Paragraph 10, Nickel Plate craves reference to the terms of the documents described therein.
11. Answering Paragraph 11, Nickel Plate craves reference to the terms of the Ordinance described therein.
12. Answering Paragraph 12, Nickel Plate craves reference to the terms of the Ordinance described therein.
13. Answering Paragraph 13, Nickel Plate craves reference to the terms of the Agreement described therein.

14. Answering Paragraph 14, Nickel Plate craves reference to the terms of the Agreement described therein.

15. Answering Paragraph 15, Nickel Plate craves reference to the terms of the Ordinance described therein.

16. Answering Paragraph 16, Nickel Plate craves reference to the terms of the Ordinance described therein.

17. Answering Paragraph 17, Nickel Plate lacks knowledge and information sufficient to form a belief as to the truth of the allegations set forth therein.

18. Answering Paragraph 18, Nickel Plate craves reference to the terms of the Ordinance described therein.

19. Answering Paragraph 19, Nickel Plate craves reference to the terms of the Ordinance described therein.

20. Answering Paragraph 20, Nickel Plate craves reference to the terms of the Ordinance described therein.

21. Answering Paragraph 21, Nickel Plate craves reference to the terms of the Ordinance described therein.

22. Answering Paragraph 22, Nickel Plate craves reference to the terms of the Ordinance described therein.

23. Answering Paragraph 23, Nickel Plate craves reference to the terms of the Ordinance described therein.

24. Answering Paragraph 24, Nickel Plate craves reference to the terms of the Ordinance described therein.

25. Answering Paragraph 25, Nickel Plate craves reference to the terms of the Ordinance described therein.

26. Answering Paragraph 26, Nickel Plate craves reference to the terms of the Ordinance described therein.

27. Answering Paragraph 27, Nickel Plate craves reference to the terms of the Ordinances described therein.

28. Paragraph 28 is admitted.

29. Answering Paragraph 29, Nickel Plate craves reference to the terms of the Ordinance described therein.

30. Answering Paragraph 30, Nickel Plate craves reference to the terms of the Ordinance described therein.

31. Paragraph 31 is admitted.

32. Answering Paragraph 32, Nickel Plate craves reference to the terms of the Ordinance described therein.

33. Paragraph 33 is admitted.

34. Paragraph 34 is admitted, upon information and belief.

35. Paragraph 35 is admitted, upon information and belief.

36. Answering Paragraph 36, Nickel Plate craves reference to the tax records of Jasper County.

37. Answering Paragraph 37, Nickel Plate lacks knowledge and information sufficient to form a belief as to the truth of the allegations set forth therein.

38. Answering Paragraph 38, Nickel Plate lacks knowledge and information sufficient to form a belief as to the truth of the allegations set forth therein.

39. Paragraph 39 is admitted.

40. Paragraph 40 is admitted.

41. Paragraph 41 is admitted.

42. Paragraph 42 is admitted.

43. Paragraph 43 is admitted.

44. Paragraph 44 is admitted.

45. Paragraph 45 is admitted.

46. Paragraph 46 is admitted.

47. Paragraph 47 is admitted.

48. Paragraph 48 is admitted.

49. Paragraph 49 is admitted.

50. Paragraph 50 is admitted.

51. Paragraph 51 is admitted.

52. Paragraph 52 is admitted.

53. Paragraph 53 is admitted.

54. Paragraph 54 is admitted.

55. Paragraph 55 is admitted.

56. Paragraph 56 is admitted.

57. Paragraph 57 is admitted.

58. Answering Paragraph 58, upon information and belief, an order under SCRCP 67 has been entered.

59. Answering Paragraph 59, Nickel Plate admits that a determination of the issues described therein is appropriate.

60. Answering paragraph 60, the foregoing allegations of the Answer are incorporated herein.

61. Paragraph 61 is admitted.

62. Paragraph 62 is admitted.

63. Paragraph 63 is admitted.

64. Paragraph 64 is admitted.

65. Paragraph 65 is admitted.

WHEREFORE, having answered the Crossclaim, Cross Co-Defendant Nickel Plate prays that the matters set forth be inquired into by the Court and that the Court grant such relief as this Court deems just and proper.

/s/ Bernie W. Ellis

Bernie W. Ellis (SC Bar #64841)

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*Attorney for Cross Co-Defendant Nickel
Plate Road, LLC*

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-00028
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S ANSWER TO
	)	AMENDED CROSS-CLAIM
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity	)
as Jasper County Treasurer,	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity	)
as Jasper County Auditor,	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE,	)
NICKEL PLATE ROAD, LLC, and	)
BEAUFORT COUNTY, SOUTH	)
CAROLINA,	)
Cross Defendants.	)

COMES NOW Plaintiff, City of Hardeeville ("Plaintiff/Cross Defendant"), answering the Amended Cross-Claim of Defendants Jasper County, South Carolina, Jasper County Treasurer, and Jasper County Auditor ("Cross Co-Plaintiffs"), respectfully show the Court the following:

FOR A FIRST DEFENSE

1. Each and every allegation (or portion thereof) of the Cross-Claim not hereinafter expressly and specifically admitted or modified is denied.

2. Paragraphs 1 through 64 of the Answer and Amended Cross-Claim do not require a response from Plaintiff/Cross Defendant however, to the extent paragraphs 1 through 64 requires a response, Plaintiff/Cross Defendant is without knowledge or information sufficient to form a belief as to the truth of paragraphs 1 through 64, and, therefore, the same is denied.

3. Upon information and belief, Plaintiff/Cross Defendant admits Paragraphs 1 through 4 of the Amended Cross-Claim which begins on Page 12 of the Amended Cross-Claim.

4. Plaintiff/Cross Defendant is without sufficient information to either admit or deny the allegations of Paragraph 5 of the Amended Cross-Claim; therefore, same are denied.

5. Upon information and belief, Plaintiff/Cross Defendant admits Paragraph 6 of the Amended Cross-Claim.

6. Upon information and belief, Plaintiff/Cross Defendant admits Paragraph 7 of the Amended Cross-Claim.

7. Plaintiff/Cross Defendant admits only so much of Paragraphs 8, 11, 12, 15 and 16 of the Amended Cross-Claim as alleges the Ordinance 2000-01 ("Ordinance"), to which Plaintiff/Cross Defendant craves reference, the provisions of which speak for themselves. Except as herein specifically admitted, the allegations contained in Paragraphs 8, 11, 12, 15 and 16 of the Amended Cross-Claim are denied.

8. Plaintiff/Cross Defendant admits only so much of Paragraphs 9, 10, 13, and 14 of the Amended Cross-Claim as alleges the Agreement for Development of Joint Industrial and Business Park ("MCIP Agreement"), to which Plaintiff/Cross Defendant craves reference, the

provisions of which speak for themselves. Except as herein specifically admitted, the allegations contained in Paragraphs 9, 10, 13, and 14 of the Amended Cross-Claim are denied.

9. Plaintiff/Cross-Defendant is without sufficient information to either admit or deny the allegations of Paragraph 17 of the Amended Cross-Claim; therefore, same are denied.

10. Plaintiff/Cross Defendant admits only so much of Paragraphs 18 through 27 of the Amended Cross-Claim as alleges the General Bond Ordinance 01-04 (“General Bond Ordinance”), to which Plaintiff/Cross Defendant craves reference, the provisions of which speak for themselves. Except as herein specifically admitted, the allegations contained in Paragraphs 18 through 27 of the Amended Cross-Claim are denied.

11. Plaintiff/Cross Defendant admits the allegations of Paragraph 28 of the Amended Cross-Claim.

12. Plaintiff/Cross Defendant admits only so much of Paragraphs 27 and 29 of the Amended Cross-Claim as alleges the First Supplemental Ordinance No. 01-05 (“First Supplemental Ordinance”), to which Plaintiff/Cross Defendant craves reference, the provisions of which speak for themselves. Except as herein specifically admitted, the allegations contained in Paragraphs 27 and 29 of the Amended Cross-Claim are denied.

13. Plaintiff/Cross Defendant admits only so much of Paragraphs 30 and 32 of the Amended Cross-Claim as alleges the Second Supplemental Ordinance No. 02-16 (“Second Supplemental Ordinance”), to which Plaintiff/Cross Defendant craves reference, the provisions of which speak for themselves. Except as herein specifically admitted, the allegations contained in Paragraphs 30 and 32 of the Amended Cross-Claim are denied.

14. Plaintiff/Cross Defendant is without sufficient information to either admit or deny the allegations of Paragraphs 33-39 of the Amended Cross-Claim; therefore, same are denied.

15. Plaintiff/Cross Defendant denies the allegations of Paragraphs 40 and 41 of the Amended Cross-Claim.

16. Plaintiff/Cross Defendant is without sufficient information to either admit or deny the allegations of Paragraphs 42-53 of the Amended Cross-Claim; therefore, same are denied.

17. Plaintiff/Cross Defendant admits the allegations of Paragraphs 54 and 55 of the Amended Cross-Claim.

18. Plaintiff/Cross Defendant is without sufficient information to either admit or deny the allegations of Paragraph 56-58 of the Amended Cross-Claim; therefore, same are denied.

19. Plaintiff/Cross Defendant denies the allegations of Paragraphs 59-64 of the Amended Cross-Claim.

FOR A SECOND DEFENSE
(S.C.R.C.P. Rule 12(b)(6))

20. Cross Co-Plaintiffs have failed to state a claim for which relief may be granted; accordingly, the Amended Cross-Claim should be dismissed under Rule 12(b)(6).

FOR A THIRD DEFENSE
(Failure of Condition Precedent)

21. Upon information and belief, there may be a failure of a condition precedent to the Cross-Co Plaintiff's claims.

FOR A FOURTH DEFENSE
(Unclean Hands)

22. Cross Co-Plaintiffs' claims are barred by the doctrine of unclean hands.

FOR A FIFTH DEFENSE
(Waiver)

23. Cross Co-Plaintiffs have waived all claims by their actions and/or inactions during the transactions forming the basis of this litigation.

FOR A SIXTH DEFENSE
(Reservation of Additional Defenses)

24. Plaintiff/Cross Defendant reserves the right to amend this Answer to add any additional or new defenses as provided by the Rules of Civil Procedure and as may otherwise become apparent as discovery (to extent any is required) progresses in this action.

WHEREFORE, having Plaintiff/Cross Defendant having fully responded to Cross Co-Plaintiffs Jasper County, South Carolina, Jasper County Treasurer, and Jasper County Auditor Answer and Amended Cross-Claim, respectfully request that this Court enter an Order:

1. For judgment in favor of Plaintiff/Cross Defendant on the Amended Cross- Claim;
2. For costs and attorney's fees incurred in this case; and
3. For such other and further relief to which Plaintiff/Cross Defendant may be justly entitled.

KOZLAREK LAW LLC

/s/ Kimila L. Wooten
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Attorneys for Plaintiff City of Hardeeville

Greenville, South Carolina
August 24, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE No.: 2021-CP-27-00028
	)	
CITY OF HARDEEVILLE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	
	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity as	)
Jasper County Treasurer,	)
	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity as	)
Jasper County Auditor,	)
	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE, NICKEL PLATE	)
ROAD, LLC, and BEAUFORT COUNTY,	)
SOUTH CAROLINA,	)
	)
Cross-Defendants	)

**MOTION FOR PROTECTIVE ORDER
OF
DEFENDANT JASPER COUNTY**

Defendant Jasper County (“Jasper”), by and through its undersigned counsel, pursuant to Rule 26(c) of the South Carolina Rules of Civil Procedure, hereby moves the Court for a Protective Order relating to Plaintiff City of Hardeeville’s (“Hardeeville”) First Set of Interrogatories and First Set of Requests for Production, served on August 9, 2021 (“Hardeeville’s Discovery Requests”). Specifically, Jasper requests that the Court enter a Protective Order staying the time for Jasper’s answers and objections to Hardeeville’s Discovery Requests until thirty (30) days after the Court enters a decision on Jasper’s Motion for Partial Summary Judgment. In support of this Motion for Protective Order, Jasper shows to the Court the following:

1. On June 21, 2021, Hardeeville filed its Amended Complaint against Jasper, Jasper County Treasurer, and Jasper County Auditor (collectively, the “Jasper Defendants”).
2. On July 21, 2021, the Jasper Defendants filed their Answer to Plaintiff’s Amended Complaint and Amended Cross-Complaint.
3. Also on July 21, 2021, Jasper filed a Motion for Partial Summary Judgment (“Motion”), requesting that the Court issue an order granting summary judgment on Jasper’s declaratory judgment cause of action.
4. On August 9, 2021, Hardeeville’s Discovery Requests were served on Jasper. Thus, Jasper’s answers and objections to Hardeeville’s Discovery Requests are due on or before September 13, 2021.¹
5. On August 17, 2021, the parties received notice from the Court that Jasper’s Motion for Partial Summary Judgment would be heard by the Court on September 14, 2021.
6. Rule 26(c), SCRCF, states that “[u]pon motion by a party . . . and for good cause shown, the court in which the action is pending . . . may make any order which justice request to

¹ Hardeeville’s Discovery Requests were served on Jasper by electronic mail. Accordingly, Jasper is required to answer and/or object to Hardeeville’s Discovery Requests within 35 days of service. See Order 2021-06-15-01, *Operation of Trial Courts During the Coronavirus Emergency* § (c)(13)(C); Rules 6(e), 33(a), & 34(b), SCRCF.

protect a party . . . from annoyance, embarrassment, oppression, or undue burden by expense.” Staying discovery pending the Court’s final decision on Jasper’s Motion is well within the Court’s broad discretion to limit discovery at this stage of the case. *See Gattison v. S.C. State Coll.*, 318 S.C. 148, 150, 456 S.E.2d 414, 415 (Ct. App. 1995) (stating that the South Carolina Rules of Civil Procedure provide the Court with broad latitude in limiting discovery).

7. Hardeeville’s Discovery Requests seek information that is not relevant to Jasper’s Motion, which is currently pending before the Court. The Court’s decision on Jasper’s Motion will have implications on the remaining causes of actions asserted by the parties in this case. A decision from the Court in Jasper’s favor would render some, if not all, of Hardeeville’s Discovery Requests irrelevant and moot. Fully answering and objecting to Hardeeville’s Discovery Requests will also require Jasper to expend a significant amount of time and money. Requiring Jasper to do so before the Court enters a decision on Jasper’s Motion would be wasteful, inefficient, and would cause undue burden by expense. Therefore, Jasper is entitled to a Protective Order staying the time for Jasper’s answers and objections to Hardeeville’s Discovery Requests until after the Court enters a decision on Jasper’s Motion. *See Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009) (“If the discovery process threatens to create a particularized harm to a litigant, then the court may issue an order to protect a party ‘from an undue burden by expense.’” (quoting Rule 26(c), SCRPC)).

8. Pursuant to Rule 11, SCRPC, Jasper conferred with Hardeeville prior to the filing of this Motion.

WHEREFORE, having stated its grounds for a Protective Order, Jasper respectfully requests this Court for an Order staying Jasper’s answers and objections to Hardeeville’s Discovery Requests until at least thirty (30) days after the Court enters a decision on Jasper’s Motion, which is being heard by the Court on September 14, 2021.

Respectfully submitted,

s/J. Evan Phillips

Walter H. Cartin (SC Bar #78405)

J. Evan Phillips (SC Bar #103679)

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evanphillips@parkerpoe.com

*Attorneys for Defendant and Cross Co-Plaintiff
Jasper County*

Columbia, South Carolina
August 24, 2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-00028
	)	
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT OF MICHAEL CZYMBOR
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and)	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity	)
as Jasper County Treasurer,	)
Cross Co-Plaintiff, and)	)
	)
MONICA WILSON, in her official capacity	)
as Jasper County Auditor,	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE,	)
NICKEL PLATE ROAD, LLC, and	)
BEAUFORT COUNTY, SOUTH	)
CAROLINA,	)
Cross Defendants.	)

APPEARED before me the undersigned, who being duly sworn, swears and states:

1. My name is Michael J. Czymbor, and I am 18 years of age or older, am of sound mind and body, and personally aware of the information contained in this Affidavit;
2. I am the City of Hardeeville ("City"), City Manager and have served in that capacity since on or about August 31, 2015;
3. I swear and affirm, to the best of my knowledge, the following:
 - A. The City's intention to annex Property was properly noticed, was properly accomplished

by ordinance, and has been a matter of public record since 2006;

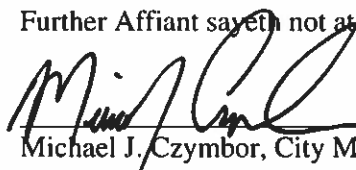
B. During my tenor as City Manager and otherwise since the property that is central in the captioned dispute ("Property") was annexed by the City, Jasper County, the Jasper County Auditor, and the Jasper County Treasurer have been directly involved in, or had knowledge of, the collection of Plaintiff's levy and distribution of 100% of the collected revenue to Plaintiff;

C. Following the City's annexation of Property until approximately November 2020, despite the City's annexation of Property and the levy and collection of 100% of the City's revenue related to Property, none of Jasper County, the Jasper County Auditor, the Jasper County Treasurer, Beaufort County, or Nickel Plate Road, LLC, ever suggested to Plaintiff that Plaintiff was not entitled, directly or indirectly, to levy and collect 100% of Plaintiff's revenue related to Property; and

D. The ordinance, attached to this Affidavit as Exhibit A, is a true and an accurate copy of the original.

3. I intend for the Circuit Court to rely on this Affidavit in its decision regarding the City's Motion for Summary Judgment as a part of the City's Response to Jasper County's Motion for Partial Summary Judgment.

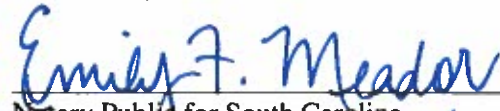
Further Affiant sayeth not at this time.



Michael J. Czymbor, City Manager
City of Hardeeville, South Carolina

October 15, 2021

SWORN to and subscribed before me
October 15, 2021



Notary Public for South Carolina
My Commission Expires: 6/24/2029



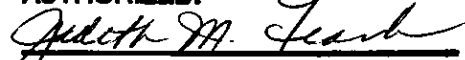
EXHIBIT A
JASPER COUNTY ORDINANCE NO. 09-30
[SEE 5 PAGES, ATTACHED]

ELECTRONICALLY FILED - 2021 Oct 15 4:50 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

CERTIFIED TRUE COPY

DATE: 12/14/09

AUTHORIZED:


 JUDITH M. FRANK, CCC
 CLERK TO JASPER COUNTY COUNCIL

 STATE OF SOUTH CAROLINA
 COUNTY OF JASPER

ORDINANCE 09-30

AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 09-13 ADOPTED BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA ON JUNE 15, 2009; TO DEVELOP A JOINTLY OWNED AND OPERATED INDUSTRIAL AND BUSINESS PARK IN CONJUNCTION WITH BEAUFORT COUNTY AND/OR HAMPTON COUNTY, SUCH INDUSTRIAL AND BUSINESS PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY AND ESTABLISHED PURSUANT TO SEC. 4-1-170 OF THE SOUTH CAROLINA CODE OF LAWS 1976, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH BEAUFORT COUNTY AND/OR HAMPTON COUNTY TO PROVIDE FOR THE EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES; AND TO PERMIT A USER FEE IN LIEU OF AD VALOREM TAXATION.

BE IT ORDAINED BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA:

SECTION I: Jasper County is hereby authorized to jointly develop an industrial and business park with Beaufort County and/or Hampton County (the "Park"). The Park shall be located on real property located in Jasper County as authorized by Sec. 4-1-170 of the South Carolina Code of Laws 1976, as amended.

SECTION II: Jasper County will enter into a written agreement to develop the Park jointly with Beaufort County and/or Hampton County in substantially the form attached hereto as Schedule I (if both Beaufort County and Hampton County are parties to such agreement) or Schedule II (if only Hampton County is a party to such agreement) and, in either such case, incorporated herein by reference (the "Park Agreement"). The Chairman of Jasper County Council is hereby authorized to execute the applicable Park Agreement on behalf of Jasper County, with such changes thereto as the Chairman shall deem, upon advice of counsel, necessary and do not materially change the import of the matters contained in the form of agreement set forth in Schedule I or Schedule II, as applicable. If the initial Park Agreement includes only Jasper County and Hampton County and, at a later date, Beaufort County takes the actions necessary to become a party to the Park Agreement, then Jasper County may, by resolution adopted by Jasper County Council at a meeting duly called and held, approve any amendment or amendment and restatement to the Park Agreement that may be necessary to add Beaufort County as a party thereto.

SECTION III: The businesses or industries located in the Park will pay a fee in lieu of ad valorem taxes ("FILOT") as provided for in the Park Agreement. The FILOT revenues shall



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 OR Volume 0781 Page 0032 - 0096
 Filed for Record in JASPER COUNTY ROD
 Ordinances Fee: \$0.00

ROA 00232

be paid to the Treasurer of Jasper County. If Beaufort County is a party to the Park Agreement, that portion of FILOT revenues allocated pursuant to the Park Agreement to Beaufort County shall be thereafter paid by the Treasurer of Jasper County to the Treasurer of Beaufort County within thirty (30) days of receipt for distribution in accordance with the terms of the agreement. If Hampton County is a party to the Park Agreement, that portion of FILOT revenues allocated pursuant to the Park Agreement to Hampton County shall be thereafter paid by the Treasurer of Jasper County to the Treasurer of Hampton County within thirty (30) days of receipt for distribution in accordance with the terms of the Park Agreement. Payments of FILOT revenues will be made on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate as late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. Jasper County, acting by and through the Treasurer of Jasper County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of ad valorem taxes.

SECTION IV: The ordinances of Jasper County concerning zoning, health and safety regulations, and building code requirements will apply with respect to all real property in the Park.

SECTION V: The Sheriff's Department of Jasper County will have jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park.

SECTION VI: Jasper County will enter into an infrastructure financing arrangement with the developer of the Park and the City of Hardeeville (the "City") pursuant to the terms of an Infrastructure Financing Agreement (the "Infrastructure Financing Agreement"). The Infrastructure Financing Agreement will provide that the FILOT payments shall be calculated using the actual assessment ratio and millage rate in effect from time to time.

SECTION VII: FILOT revenues generated from industries or businesses located in the Park will be distributed among Jasper County, Beaufort County and/or Hampton County, as applicable, in accordance with the provisions of the Park Agreement. The portion of FILOT revenues to be retained by Jasper County pursuant to the Park Agreement shall be distributed in the following manner:

- (1) To Jasper County, for its use in its discretion in accordance with applicable law, an amount equal to one-third ($1/3^{\text{rd}}$) of such FILOT revenues (the "County Multi-County Park FILOT Allocation");
- (2) To the City, for its use in its discretion in accordance with applicable law, an amount equal to one-third ($1/3^{\text{rd}}$) of such FILOT revenues (the "City Multi-County Park FILOT Allocation"); and
- (3) To the City, for providing, at the election of the developer of the real property in the Park, any Special Source Revenue Credits ("SSRCs") or debt service on any Special Source Revenue Bonds ("SSRBs") issued by the City in the manner provided in the second paragraph of, Section 4-1-175, Code of Laws of South Carolina 1976, as amended, or any successor statutes or provisions, payable in whole or in part by or from revenues generated from any properties in the Park, an amount equal to one-third ($1/3^{\text{rd}}$) of the

FILOT revenues (the "Infrastructure Multi-County Park FILOT Allocation"), with any excess to be paid to Jasper County;

provided, that (i) all taxing districts which overlap the applicable properties within the Park shall receive some portion of the revenues generated from such properties, and (ii) all revenues receivable by a taxing entity in a fiscal year shall be allocated as determined by the governing body of such taxing entity;

provided further that Jasper County understands that in consideration for an increased allocation of FILOT revenue for SSRs and SSRBs, the developer of the real property within the Park will donate fee simple title to approximately ten (10) acres of such property to the City to be used for economic development purposes (such property to include adequate access and utilities) and if and when the developer commits in a legal binding manner to such donation, Jasper County and the City will agree to modify the distribution of the Infrastructure Multi-County Park FILOT Allocation provided in (3) above by increasing the Infrastructure Multi-County Park FILOT Allocation to 36 1/3%, and reducing the City Multi-County Park FILOT Allocation to 30 1/3%.

The County Multi-County Park FILOT Allocation will be distributed by Jasper County as follows:

- (a) To the Low Country Economic Alliance or any successor entity to such organization, for its use in its discretion in accordance with applicable law, an amount equal to 16% of the County Multi-County Park FILOT Allocation;
- (b) To Jasper County's General Fund, for its use in its discretion in accordance with applicable law, an amount equal to 42% of the County Multi-County Park FILOT Allocation; and
- (c) To the Jasper County School District, for its use in its discretion in accordance with applicable law, an amount equal to 42% of the County Multi-County Park FILOT Allocation;

provided, that Jasper County may, by ordinance, from time to time, amend the distribution of the County Multi-County Park FILOT Allocation, and in doing so, if it deems it necessary and desirable, Jasper County may agree to pledge a portion of the County Multi-County Park FILOT Allocation as additional security and source of payment for any SSRs or SSRBs issued by the City.

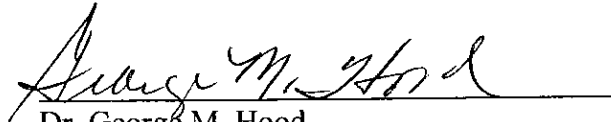
SECTION VIII: This Ordinance shall supercede and amend in its entirety any other ordinances or resolutions of Jasper County Council pertaining to the Park, including Ordinance No. 09-13 adopted by Jasper County Council on June 15, 2009.

SECTION IX: Should any section of this Ordinance be, for any reason, held void or invalid, it shall not effect the validity of any other section hereof which is not itself void or invalid.

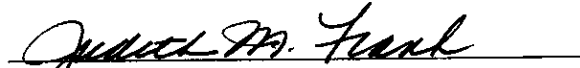
SECTION X: This Ordinance shall be effective after third and final reading thereof.

DONE in meeting duly assembled this 19th day of October, 2009.

This ordinance shall take effect upon approval by Council.


Dr. George M. Hood
Chairman

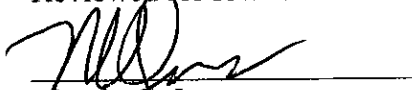
ATTEST:

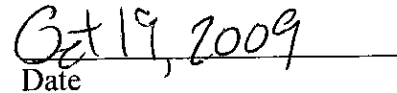

Judith M. Frank
Clerk to Council

ORDINANCE: 09-30

First Reading: September 21, 2009
Second Reading: October 5, 2009
Public Hearing: October 19, 2009
Adopted: October 19, 2009

Reviewed for form and draftsmanship by the Jasper County Attorney.

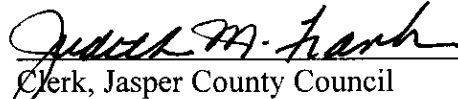

Marvin C. Jones


Date

ELECTRONICALLY FILED - 2021 Oct 15 4:50 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

STATE OF SOUTH CAROLINA)
)
COUNTY OF JASPER)

I, the undersigned Clerk to County Council of Jasper County, South Carolina, do hereby certify that attached hereto is a true, accurate and complete copy of an ordinance which was given reading, and received majority approval, by Jasper County Council at meetings of September 21, 2009, October 5, 2009, and October 19, 2009, at which meetings a quorum of members of Jasper County Council were present and voted, and an original of which ordinance is filed in the permanent records of the Jasper County Council.


Clerk, Jasper County Council

Dated: October 19, 2009

ELECTRONICALLY FILED - 2021 Oct 15 4:50 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-00028
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S RESPONSE TO
	)	DEFENDANT JASPER COUNTY'S
JASPER COUNTY, SOUTH CAROLINA,	)	MOTION FOR PARTIAL SUMMARY
	)	JUDGMENT
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	
_____	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity	)
as Jasper County Treasurer,	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity	)
as Jasper County Auditor,	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE,	)
NICKEL PLATE ROAD, LLC, and	)
BEAUFORT COUNTY, SOUTH	)
CAROLINA,	)
Cross Defendants.	)
_____	)

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Plaintiff City of Hardeeville ("Plaintiff"), by and through its undersigned counsel, responds to the Defendant Jasper County's Motion for Partial Summary Judgment as follows:

I. GENERAL AND PROCEDURAL BACKGROUND

The subject of this dispute is the revenue status and multi-county industrial or business park status of one or more parcels of real property located at or about (as of on or about October 5, 2006) Tax Map Number 067-00-01-017, consisting of approximately 106.75 acres, in Plaintiff's jurisdiction, also located in Jasper County (collectively, "Property").

Plaintiff filed this action for declaratory judgment pursuant to the Uniform Declaratory Judgments Act, located in South Carolina Code Annotated section 15-53-10, *et seq.*, and Rule 57 of the South Carolina Rules of Civil Procedure, to declare the rights, duties, and responsibilities of Plaintiff and Defendants Jasper County, Jasper County Auditor, and Jasper County Treasurer under State law, and for injunctive relief prohibiting Defendants' violations of State law and their respective duties and responsibilities thereunder all as relates to Property. Defendant Jasper County filed a Motion for Partial Summary Judgment on July 17, 2021. On August 9, 2021, Plaintiff served interrogatories on Defendant Jasper County. In response, Defendant Jasper County moved for protection from participating in discovery while Defendant Jasper County's motion is pending.

II. UNDISPUTED FACTS¹

1. In 2000, Defendant Jasper County executed, with Beaufort County, the MCIP Agreement based on an ordinance dated April 10, 2020.
2. The MCIP Agreement is dated as of December 31, 1999.
3. Neither the collection nor distribution of Plaintiff's millage is contemplated or referenced in the MCIP Agreement.
4. Plaintiff annexed Property in 2006.
5. Since 2006, Plaintiff and/or Defendants Jasper County, Auditor, and Treasurer have

¹ For purposes solely of responding to Defendant Jasper County's motion, Plaintiff does not dispute these facts. However, Plaintiff's position in this regard is limited to only this Response.

been directly involved in the collection of Plaintiff's levy and distribution of 100% of the collected revenue to Plaintiff.

6. From 2006 until November 2020, none of Defendants or Cross-Defendants² suggested to Plaintiff that Plaintiff was not entitled to levy and collect 100% of Plaintiff's revenue.
7. The documents related to the issuance of the Bonds that are an additional item of interest in this action are derivative of the MCIP Agreement, in as much as the Bonds are repayable solely from revenues received according to the MCIP Agreement.

III. SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate when it is clear there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *City of Columbia v. ACLU of South Carolina*, 323 S.C. 384, 475 S.E.2d 747 (1996). In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party. *Barr v. City of Rock Hill*, 330 S.C. 640, 500 S.E.2d 157 (Ct. App. 1998). Every benefit of the doubt is given to the non-moving party. *Watters v. Terminix Service, Inc.*, 376 S.C. 632, 658 S.E.2d 110 (Ct. App. 2008).

To be able to receive summary judgment, Defendant Jasper County must establish, with every inference drawn against it, that Defendant Jasper County meets the procedural requirements, that there are no genuine issues of material fact in dispute, and that Defendant Jasper County's legal argument is correct as a matter of law. Defendant Jasper County's motion fails in each respect.

IV. DISCUSSION

A. Summary Judgment is Procedurally Premature

"Summary judgment is a drastic remedy and must not be granted until the opposing party

² For simplicity, Plaintiff often refers to Defendants and Cross-Defendants, generally, as "defendants."

has had a full and fair opportunity to complete discovery.” *Dawkins v. Fields*, 354 S.C. 58, 580 S.E.2d 433 (2003). Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *Evening Post Pub. Co. v. Berkeley County School Dist.*, 392 S.C. 76, 708 S.E.2d 745 (2011); *Moriarty v. Garden Sanctuary Church of God*, 334 S.C. 150, 511 S.E.2d 699 (Ct. App. 1999).

This case was filed February 1, 2021. The parties negotiated and entered a Rule 67 consent order for the deposit of contested funds with the Court. This order was entered on March 17. By all parties’ consent, Plaintiff filed its Amended Complaint on June 21. Shortly after receiving Defendant Jasper County’s answer to the Amended Complaint, Plaintiff served initial discovery on August 9. Thus, there has been no delay in pursuing discovery in the case, and the Plaintiff should be offered ample time to conduct discovery on all issues raised.

For example, in its Amended Cross-Complaint, Defendants Jasper County, Jasper County Treasurer and Jasper County Auditor (“Defendants”) allege that “Jasper County, in accordance with the State Constitution and statutes in effect at that time, including § 4-1-170 of the Code of Laws of South Carolina, authorizing the creation by counties of multi-county industrial or business parks (‘MCIP’), in order to promote economic development, created what is generally referred to as the Nickel Plate MCIP in 2000” Defendants’ Amended Cross-Complaint, ¶ 7.

In its motion for partial summary judgment, Defendant Jasper County specifically alleges, without proof, that “[t]he MCIP Agreement complied with all statutory and constitutional requirements.” Motion for Partial Summary Judgment, ¶ 7. Defendant Jasper County then requests that the Court declare that Jasper County issued the Bonds that are secured by Park Revenues in accordance with all statutory and constitutional requirements.” Motion for Partial Summary Judgment, ¶ 6(e).

Defendant Jasper County offers no *evidence* to prove that it complied with all constitutional

and statutory requirements. Rather, Defendant Jasper County is attempting to thwart Plaintiff's effort to obtain discovery on these very issues. As noted above, Plaintiff issued interrogatories and requests for production to Defendant Jasper County on August 9 asking detailed questions about any evidence Defendant Jasper County had to support the allegations of the Defendant Jasper County's Answer and Cross-Complaint and asking for documentation supporting those assertions. Instead of providing the information, Defendant Jasper County refused to answer discovery and sought protection from this Court trying to keep Plaintiff from discovering the very information that would allegedly prove or (more likely) disprove Defendant Jasper County's allegations. This is a circuitous attempt by Defendant Jasper County to avoid producing evidence that could prevent summary judgment in Defendant Jasper County's favor.

Essentially, Defendant Jasper County holds out an empty hand to the Court inviting to Court to accept that "there is nothing to see here," that is, there is no factual dispute, while with the other hand holding the evidence that would disprove its own motion behind its back. As a movant and Cross-Claimant, Defendant Jasper County bears the burden of establishing its version of the facts *and* that those facts are uncontested. It cannot refuse to participate in discovery and yet claim summary judgment is appropriate.

Thus, procedurally, Defendant Jasper County's motion is inappropriate and should be denied.

B. Fact Issues Preclude Summary Judgment (for Defendant Jasper County)

Defendant Jasper County suggest to this Court that there are no genuine issues of material fact in dispute. On the contrary, there are several fact issues appearing on the face of the Defendant Jasper County's Answer and Cross-Complaint and in the Motion.

For example, Defendant Jasper County admits:

- (a) the MCIP Agreement fails to address how revenue based on Plaintiff's

millage would be distributed, but Defendant Jasper County alleges, in its motion, the “[w]ritten agreements creating a multi-county industrial park must address . . . the manner in which revenue must be distribute to the taxing entities within of each the counties,” compare Answer, ¶ 21 with Answer, ¶ 40 and Motion for Partial Summary Judgment, ¶ 4;³

(b) Plaintiff annexed Property in 2006, and Plaintiff’s “taxes” were assessed and collected by the City and its Treasurer separate . . . until 2008, and since 2008 Defendants Jasper County, the Treasurer, and the Auditor have all been involved in collecting Plaintiff’s “municipal taxes” and remitting them to Plaintiff without complaint, Answer (Cross-Complaint), ¶¶ 35, 37, 38, 40 (emphasis added) and

(c) the MCIP Agreement purports to have an effective date prior to the MCIP Agreement’s authorization by Defendant Jasper County’s governing body, compare Cross-Claim of Defendants, ¶¶ 9 with Amended Complaint, Ex. B.

Thus, factually, Defendant Jasper County’s motion is contested and should be denied.

C. Legal Issues Preclude Summary Judgment (for Defendant Jasper County)

The South Carolina Constitution prohibits the result Defendant Jasper County seeks. Article VIII, section 13, paragraph D provides, in relevant part, that “Counties may jointly develop an industrial or business park . . . [and the] written instrument . . . is binding on all participating counties” (emphasis added). Not once in paragraph D does the Constitution suggest that any governmental entity (other than “participating counties”) is bound by the MCIP Agreement. *See also* S.C. Code Ann. § 4-1-170(A) (“By **written agreement, counties** may develop jointly an

³ Defendant Jasper County’s Motion inadvertently removed an important phrase from the requirements of South Carolina Code Annotated section 4-1-170(3). The full provision reads: “specify the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties.” As admitted by Defendant Jasper County, its agreement does not address how each of the taxing entities are to receive revenue distributions: Plaintiffs revenues are, according to Defendant Jasper County, intentionally omitted from the MCIP Agreement.

industrial or business park [and t]he written agreement entered into by the participating counties . . . “ (emphasis added)). This is not only basic statutory interpretation but also simple contract law. The primary rule of statutory construction is to ascertain and give effect to the intent of the General Assembly. *S.C. Pub. Int. Found. v. Calhoun Cnty. Council*, 432 S.C. 492, 854 S.E.2d 836 (2021); *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). The first question to be asked when interpreting a statute is whether the statute’s meaning is clear on its face. *Kennedy v. S.C. Ret. Sys.*, 345 S.C. 339, 549 S.E.2d 243 (2001). If a statute’s language is plain, unambiguous, and conveys a clear and definite meaning, there is no need to employ the rules of statutory interpretation, and this Court must apply the statute according to its literal meaning. *Miller v. Aiken*, 364 S.C. 303, 613 S.E.2d 364 (2005). Under the plain meaning rule, this Court has no right to search for or impose another meaning or resort to subtle or forced construction to change the scope of a clear and unambiguous statute. *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 342, 713 S.E.2d 278, 283 (2011); *State v. Sweat*, 386 S.C. 339, 350, 688 S.E.2d 569, 575 (2010); *Cain v. Nationwide Prop. & Cas. Ins. Co.*, 378 S.C. 25, 29-30, 661 S.E.2d 349, 351-52 (2008).

Further, as a general rule, a contract is binding only on the parties to that contract. *See, e.g., Goode v. St. Stephens United Methodist Church*, 329 S.C. 433, 494 S.E.2d 827 (Ct. App. 1997); *Hammond Constr. Co. v. Banks Constr. Co.*, 312 S.C. 422, 440 S.E.2d 890 (Ct. App. 1994) (holding a party not in privity with contracting parties has no right to enforce a contract).

As Defendant Jasper County admits in its Answer, Plaintiff is not a party to the MCIP Agreement. Thus, Plaintiff is not bound by the agreement under the Constitution, State statute, or the contract.

Further, the MCIP Agreement does not comply with, at a minimum, section 4-1-170(A)(3) because the MCIP Agreement fails to “specify the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties.” Section 7 of the MCIP

Agreement provides that any revenue Defendant Jasper County receives pursuant to the MCIP Agreement will be distributed “in accordance with an ordinance adopted by Jasper County.” That is, on the face of the MCIP Agreement there is no provision for the actual distribution of revenue. Rather, someone reading the MCIP Agreement would have to hope to find the subsequent document or documents that addressed revenue distribution. That is not what section 4-1-170 requires. Thus, the MCIP Agreement fails as a matter of law and cannot bind anyone, including Plaintiff.

Moreover, Defendant Jasper County’s arguments now do not comport with either its, or the Auditor’s, Treasurer’s, Beaufort County’s, or Nickel Plate Road, LLC’s (bondholder)⁴ longstanding interpretation of the Constitution, State law, and the MCIP Agreement and how Plaintiff’s imposed millage should be distributed. Since annexation in 2006 (approximately 14 years), Defendant Jasper County, the bondholder, and Beaufort County, with, since 2008 (approximately 12 years), the Auditor and Treasure, interpreted the MCIP Agreement exactly as Defendant Jasper County admits the MCIP Agreement is written: not including Plaintiff’s millage or its distribution to anyone other than Plaintiff. Thus, these defendants’ own legal interpretation of the Constitution, State law, and the MCIP Agreement itself speak against Defendant Jasper County’s motion. For 12-14 years, each of these defendants interpreted the governing principles to conclude that Plaintiff was entitled to levy and collect its millage. Period. Thus, under Defendant Jasper County’s own longstanding interpretation, Plaintiff’s millage must continue to be collected and distributed to Plaintiff, and Defendant Jasper County’s motion fails.

Finally, at least for purposes of this Response, the MCIP Agreement does not address how to collect and distribute Plaintiff’s millage. As discussed above, this failure invalidates the MCIP

⁴ Plaintiff disputes the appropriateness of Beaufort County and Nickel Plate Road, LLC as parties to this action but that is a matter for a different motion.

Agreement. But, even if the MCIP Agreement is not invalidated, Defendant Jasper County is essentially asking this Court to provide a judicial amendment to the MCIP Agreement. The requested amendment would authorize Defendant Jasper County to collect and distribute Plaintiff's millage as Defendant Jasper County deems appropriate. Such a substantive amendment would have the impact of material changing a number of fundamental elements⁵ of the MCIP Agreement after Property is already located inside Plaintiff's jurisdiction and would violate section 4-1-170(C) which requires the municipality's consent. Thus, Defendant Jasper County is asking this Court to violate State law to do what Defendant Jasper County otherwise could not do.

Thus, legally, Defendant Jasper County's motion is incorrect and should be denied.

V. CONCLUSION

For the reasons stated above, for those reasons stated in Plaintiff's Partial Motion for Summary Judgment, and for the reasons that will be provided at a hearing of this matter (including any additional materials that Plaintiff may present), Plaintiff requests that the Court deny Defendant Jasper County's motion for summary judgment.

KOZLAREK LAW LLC

/s/ Michael E. Kozlarek

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Facsimile: 864.670.5246

Attorneys for City of Hardeeville

Greenville, South Carolina
October 15, 2021

⁵ For example, (a) the judicially forced addition of a new party to the MCIP Agreement, (b) the inclusion of Plaintiff's millage as part of the revenue contemplated under the MCIP Agreement, and (c) the initial mention of distribution of Plaintiff's millage, particularly in amounts other than Plaintiff has enjoyed since annexing Property in 2006 and to entities other than Plaintiff. Admittedly (by Defendant Jasper County), none of these items are addressed in the MCIP Agreement, yet Defendant Jasper County's requested ruling would require the Court to add all of them.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	
CITY OF HARDEEVILLE,	)	CIVIL ACTION NO: 2021-CP-27-00028
	)	
Plaintiff,	)	
	)	
vs.	)	PLAINTIFF'S MOTION FOR
	)	SUMMARY JUDGMENT
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	
_____	)	

AND

JASPER COUNTY, SOUTH CAROLINA,	)
	)
Cross Co-Plaintiff,	)
	)
VERNA GARVIN, in her official capacity	)
as Jasper County Treasurer,	)
Cross Co-Plaintiff, and	)
	)
MONICA WILSON, in her official capacity	)
as Jasper County Auditor,	)
Cross Co-Plaintiff	)
	)
vs.	)
	)
CITY OF HARDEEVILLE,	)
NICKEL PLATE ROAD, LLC, and	)
BEAUFORT COUNTY, SOUTH	)
CAROLINA,	)
Cross Defendants.	)
_____	)

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Plaintiff City of Hardeeville ("Plaintiff"), by and through its undersigned counsel, hereby submits this Motion for Summary Judgment to be heard concurrently with Jasper County's Motion for Partial Summary Judgment. Plaintiff moves this Court for an Order granting summary judgment in Plaintiff's favor

and against Defendants Jasper County, Jasper County Treasurer, and Jasper County Auditor¹ because there is no genuine issue of material fact, and Plaintiff is entitled to judgment as a matter of law. In support of this Motion, Plaintiff shows to the Court the following:

I. GENERAL AND PROCEDURAL BACKGROUND

The subject of this dispute is the revenue status and multi-county industrial or business park status of one or more parcels of real property located at or about (as of on or about October 5, 2006) Tax Map Number 067-00-01-017, consisting of approximately 106.75 acres, in Plaintiff's jurisdiction, also located in Jasper County (collectively, "Property").

Plaintiff filed this action for declaratory judgment pursuant to the Uniform Declaratory Judgments Act, located in South Carolina Code Annotated section 15-53-10, *et seq.*, and Rule 57 of the South Carolina Rules of Civil Procedure, to declare the rights, duties, and responsibilities of Plaintiff and Defendants Jasper County, Jasper County Treasurer, and Jasper County Auditor under State law, and for injunctive relief prohibiting these Defendants' violations of State law and their respective duties and responsibilities thereunder all as relates to Property.

II. UNDISPUTED FACTS²

1. In 2000, Defendant Jasper County executed, with Beaufort County, the MCIP Agreement based on an ordinance dated April 10, 2020.
2. Neither the collection nor distribution of Plaintiff's revenue is contemplated or referenced in the MCIP Agreement.
3. Plaintiff annexed Property in 2006.
4. Since 2006, Plaintiff and/or Defendants Jasper County, Auditor, and Treasurer have

¹ Although Plaintiff disputes the appropriateness of Beaufort County and Nickel Plate Road, LLC (bond holder) being parties to this action, those defendants' claims are solely derivative of the County's claims (as neither Beaufort County nor Nickel Plate Road, LLC have alleged independent causes of action against Plaintiff). As a result, if the Court grants Plaintiff's Motion, then the entire case, as it relates to Plaintiff and Plaintiff's revenue, would end.

² For purposes solely of this Motion, Plaintiff does not dispute these facts. However, Plaintiff's position in this regard is limited to only this Motion.

been directly involved in the collection of Plaintiff's levy and distribution of 100% of the collected revenue to Plaintiff.

5. From 2006 until November 2020, none of Defendants or Cross-Defendants³ suggested to Plaintiff that Plaintiff was not entitled to levy and collect 100% of Plaintiff's revenue.
6. The documents related to the issuance of the Bonds that are an additional item of interest in this action are derivative of the MCIP Agreement, in as much as the Bonds are repayable solely from revenues received according to the MCIP Agreement.

III. SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate when it is clear there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *City of Columbia v. ACLU of South Carolina*, 323 S.C. 384, 475 S.E.2d 747 (1996). In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party. *Barr v. City of Rock Hill*, 330 S.C. 640, 500 S.E.2d 157 (Ct. App. 1998). Every benefit of the doubt is given to the non-moving party. *Watters v. Terminix Service, Inc.*, 376 S.C. 632, 658 S.E.2d 110 (Ct. App. 2008).

Defendant Jasper County has signaled its concurrence with disposition by summary judgment by filing its own Motion for Partial Summary Judgment on July 17, 2021. Further, despite the high standard for receiving summary judgment, for the Court to award Plaintiff summary judgment, the Court need find only that Plaintiff is not governed by the MCIP Agreement.

IV. DISCUSSION

This dispute is simple and involve the most basic notions of statutory interpretation and contract law. The primary rule of statutory construction is to ascertain and give effect to the intent

³ For simplicity, Plaintiff often refers to Defendants and Cross-Defendants, generally, as "defendants."

of the General Assembly. *S.C. Pub. Int. Found. v. Calhoun Cnty. Council*, 432 S.C. 492, 854 S.E.2d 836 (2021); *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). The first question to be asked when interpreting a statute is whether the statute’s meaning is clear on its face. *Kennedy v. S.C. Ret. Sys.*, 345 S.C. 339, 549 S.E.2d 243 (2001). If a statute’s language is plain, unambiguous, and conveys a clear and definite meaning, there is no need to employ the rules of statutory interpretation, and this Court must apply the statute according to its literal meaning. *Miller v. Aiken*, 364 S.C. 303, 613 S.E.2d 364 (2005). Under the plain meaning rule, this Court has no right to search for or impose another meaning or resort to subtle or forced construction to change the scope of a clear and unambiguous statute. *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 342, 713 S.E.2d 278, 283 (2011); *State v. Sweat*, 386 S.C. 339, 350, 688 S.E.2d 569, 575 (2010); *Cain v. Nationwide Prop. & Cas. Ins. Co.*, 378 S.C. 25, 29-30, 661 S.E.2d 349, 351-52 (2008).

Further, as a general rule, a contract is binding only on the parties to that contract. *See, e.g., Goode v. St. Stephens United Methodist Church*, 329 S.C. 433, 494 S.E.2d 827 (Ct. App. 1997); *Hammond Constr. Co. v. Banks Constr. Co.*, 312 S.C. 422, 440 S.E.2d 890 (Ct. App. 1994) (holding a party not in privity with contracting parties has no right to enforce a contract).

A. Plaintiff is not bound by the MCIP Agreement

The language of Article VII, section 13, paragraph D of the South Carolina Constitution is plain, unambiguous, and conveys a clear and definite meaning: “Counties may jointly develop an industrial or business park . . . [and the] written instrument . . . is binding on all participating counties” (emphasis added). Counties are bound by their written instruments regarding a multi-county park. Nothing in paragraph D purports constitutionally to bind a municipality to a multi-county park “instrument.”

If the Constitution does not force a municipality to be bound, then the language binding a

municipality must be statutory. But, like the Constitution, the relevant statutory authority contains no such binding language: “By written agreement, counties may develop jointly an industrial or business park . . . as provided in Section 13 of Article VIII of the Constitution of this State.” S.C. Code Ann. § 4-1-170(A) (emphasis added). Section 170(A) points the reader back to the constitutional provision discussed above, which contains no language binding a municipality.

Absent constitutional and statutory authority forcing a municipality to be bound by a written agreement, Plaintiff must have been a party to the MCIP Agreement and, thus, bound by contract. Except, Defendant Jasper County admits in its Answer: Plaintiff is not a party to the MCIP Agreement.

As a result, based on basic principles of statutory and contractual construction, Plaintiff is not bound by the MCIP Agreement.

B. MCIP Agreement is invalid

At a minimum, the MCIP Agreement does not comply with section 4-1-170(A)(3) because the MCIP Agreement fails to “specify the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties.” Section 7 of the MCIP Agreement provides that any revenue Defendant Jasper County receives pursuant to the MCIP Agreement will be distributed “in accordance with an ordinance adopted by Jasper County.” Looking at the words of the MCIP Agreement itself, there is no explicit distribution of revenue. Rather, a reader would have to hope to find one or more subsequent documents that provided for revenue distribution. That is not what section 4-1-170 requires. Thus, the MCIP Agreement fails as a matter of law and could not bind Plaintiff.⁴

C. Defendants’ actions are consistent with Plaintiff’s understanding of the law and the

⁴ Defendant admits “[w]ritten agreements creating a multi-county industrial park must address . . . the manner in which revenue must be distribute to the taxing entities within of each the counties.” Answer, ¶ 21.

MCIP Agreement

Since annexation in 2006 (approximately 14 years), Defendant Jasper County, the bondholder, and Beaufort County, with, since 2008 (approximately 12 years), the Auditor and Treasurer, have interpreted the MCIP Agreement exactly as Defendant Jasper County admits the MCIP Agreement is written: not contemplating the collection of Plaintiff's millage or the distribution of Plaintiff's revenue to anyone other than Plaintiff.

For 12/14 years, each of these defendants acted as if the governing constitutional, statutory, and contractual principles permitted Plaintiff to levy and collect its own millage not subject to any re-allocation or distribution according to the MCIP Agreement. Thus, under Defendant Jasper County's own longstanding interpretation, Plaintiff's millage must continue to be collected and distributed to Plaintiff without any interference by any of these defendants. *See, e.g.*, Answer (Cross-Complaint), ¶¶ 35, 37, 38, & 40.

D. No MCIP Agreement as to Plaintiff, Bond documents do not bind Plaintiff

For the same reasons as described above with regarding to the MCIP Agreement, because Plaintiff and its revenues are not bound by the MCIP Agreement, Plaintiff and its revenues are not part of or subject to the Bonds and/or the documents related to the Bonds.

V. CONCLUSION

For the reasons stated above, for those reasons stated in Plaintiff's Response to Jasper County's Partial Motion for Summary Judgment, and for the reasons that will be provided prior to and/or at a hearing of this matter (including any additional materials that Plaintiff may present), Plaintiff requests that the Court enter an Order granting summary judgment in Plaintiff's favor declaring that:

- a. Property is not governed by the MCIP Agreement or any other documents to which Plaintiff is not a party, specifically not documents related to the Bonds.

- b. All monies held by the Court pursuant to the SCRCF Rule 67 Consent Order, entered March 17, 2021, be remitted to Plaintiff.
- c. All other monies, if any, held by any of Defendants related to the amounts attributable to Plaintiff's millage assessed on Property be remitted to Plaintiff.
- d. For all current and future tax years, 100% of the amount attributable to Plaintiff's millage, as may fluctuate from year-to-year, related to Property be assessed, collected, and remitted (whether directly by Plaintiff or through agreement with other government entities or public officials) to Plaintiff.
- e. Other and further relief as the Court deems proper.

KOZLAREK LAW LLC

/s/ Michael E. Kozlarek

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Attorneys for City of Hardeeville

Greenville, South Carolina
October 15, 2021

STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER)

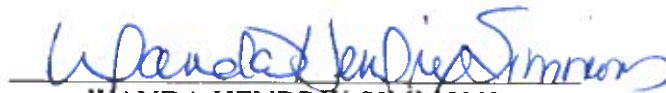
**AFFIDAVIT OF RECORDS CUSTODIAN
 WANDA HENDRIX SIMMONS**

I, Wanda Hendrix Simmons, after first being duly sworn, do hereby and make oath and affirm as follows:

1. I am the Clerk to the Jasper County Council, and, in this capacity, I have knowledge regarding the documents, including, but not limited to, ordinances and meeting minutes, on file with the Clerk of Council's Office for, and enacted by, Jasper County, South Carolina.
2. I have personal knowledge regarding the records referenced herein.
3. The following documents, which are attached hereto as **Exhibit 1**, are true, accurate, and complete copies of the documents on file at the Clerk of Council's Office for Jasper County, South Carolina:
 - a) Ordinance No. 2000-1 at Bates numbers Jasper_000078 through Jasper_000090.
 - b) February 7, 2000 Meeting Minutes of Jasper County Council at Bates numbers Jasper_000195 through Jasper_000197.
 - c) General Bond Ordinance No. 01-04 at Bates numbers Jasper_000002 through Jasper_000040.
 - d) April 16, 2001 Meeting Minutes of Jasper County Council at Bates numbers Jasper_000041 through Jasper_000044.
 - e) First Supplemental Ordinance No. 01-05 at Bates numbers Jasper_000091 through Jasper_000107.
 - f) Second Supplemental Ordinance No. 02-16 at Bates numbers Jasper_000108 through Jasper_000124.
 - g) October 20, 2003 Meeting Minutes of Jasper County Council at Bates numbers Jasper_000198 through Jasper_000203.
4. It is Jasper County's regular practice to retain copies of all ordinances and meeting minutes.
5. These documents were created at or near the time of the event, were kept in the course of Jasper County's regularly conducted activities, and are true and accurate copies of the records of Jasper County.

6. These documents are certified copies of public records filed with the Clerk of Council's Office for Jasper County, South Carolina.
7. I declare under penalty of perjury that the foregoing is true and correct.

FURTHER AFFIANT SAYETH NOT.


WANDA HENDRIX SIMMONS

Sworn to before me this
22 day of October, 2021

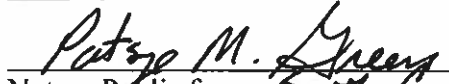
 (SEAL)
Notary Public for South Carolina
My commission expires: 11-30-2030

EXHIBIT 1

To

Affidavit of Wanda Hendrix Simmons

*Compilation of Documents Enacted By, and
Filed with the Clerk of Council's Office for,
Jasper County, South Carolina*

EXHIBIT 1-A

Ordinance No. 2000-1

ORDINANCE NO. *Jav 41*

AN ORDINANCE TO DEVELOP A JOINTLY OWNED AND OPERATED INDUSTRIAL/BUSINESS PARK IN CONJUNCTION WITH BEAUFORT COUNTY, SUCH INDUSTRIAL/BUSINESS PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY AND BEAUFORT COUNTY AND ESTABLISHED PURSUANT TO SOUTH CAROLINA CODE OF LAWS OF 1976 §4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH BEAUFORT COUNTY PROVIDING FOR THE EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES, AND, TO PROVIDE THAT JOBS TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PARK, AND TO PERMIT A USER FEE IN LIEU OF AD VALOREM TAXATION.

WHEREAS, Jasper County and Beaufort County (jointly the "Counties") are authorized under Article VIII, Section 13 of the South Carolina Constitution to jointly develop an industrial or business park within the geographical boundaries of one or more of the member counties; and

WHEREAS, in order to promote the economic welfare of the citizens of the Counties by providing employment and other benefits to the citizens of the Counties, Jasper County proposes to enter into an agreement with Beaufort County to develop jointly an industrial and business park as provided by Article VIII, Section 13 of the South Carolina Constitution and in accordance with Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended, (the "Act").

NOW, THEREFORE, BE IT ORDAINED BY THE JASPER COUNTY COUNCIL

SECTION I: Jasper County is hereby authorized to execute and deliver a written agreement to jointly develop an industrial and business park (the "Park") with Beaufort County. The Park is to be located within the boundaries of both Counties. The form of the joint industrial park agreement (the "Agreement") is attached hereto and all terms of the Agreement are hereby incorporated herein. The form, terms and provisions of the Agreement presented to this meeting and filed with the Clerk of the Jasper County Council be and they are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Agreement were set out in this Ordinance in its entirety. The Administrator of the County be and he is hereby authorized, empowered and directed to execute, acknowledge and deliver the Agreement in the name and on behalf of the County. The Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Agreement now before this meeting.

SECTION II: The maximum tax credits allowable by South Carolina Code of Laws of 1976, Section 12-6-3360, as amended, will apply to any business enterprise locating in the Park.

200000021401
Filed for Record in
JASPER COUNTY, SC
MARGARET BOSTICK
On 04-10-2000 At 03:44 pm.
MISC N/C
Volume 8 Page 82 - 82

This document *Ord # 2000-1 MCIP Ord*
is certified this *13th* day of *Sept* 2021
as a true and accurate copy of the records on file
with the Clerk of Council's Office
for Jasper County, South Carolina.
Wanda Simmons, Clerk to Council

SECTION III. Any business or industrial enterprise locating in the Park shall pay a fee in lieu of ad valorem taxes as provided for in the Agreement, Article VIII Section 13 of the South Carolina Constitution and the Act. The user fee paid in lieu of ad valorem taxes shall be paid to the County Treasurer of the respective County in which a particular parcel of Park property is located. That portion of the fees from the Park premises located in one County and allocated pursuant to the Agreement to the other County shall be paid by the collecting County Treasurer to the other County Treasurer within five business days following the end of the calendar quarter of receipt for distribution, in accordance with the Agreement. Payments of user fees shall be made by a business or industrial enterprise on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate and at the same times as for late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the county tax collector for the collecting County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of ad valorem taxes.

SECTION IV. The administration, development, promotion, and operation of the Park shall be the responsibility of the County in which the Park property in question is located. Provided, that to the extent any Park premises is owned by a private developer, the developer shall be responsible for development expenses as contained in the Agreement.

SECTION V. In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion.

SECTION VI. The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

SECTION VII. Should any section of this Ordinance be, for any reason, held void or invalid, it shall not affect the validity of any other section hereof which is not itself void or invalid.

SECTION VIII. The Agreement may not be terminated except by concurrent ordinances of Jasper County Council and Beaufort County Council, in accordance with the terms of the Agreement. In any event, this Ordinance shall terminate twenty-eight (28) years from the date of its execution by both parties.

SECTION IX. Jasper County hereby designates that the distribution of the fee-in-lieu of ad valorem taxes pursuant to the Agreement actually received by Jasper County for Park premises be paid to each of the taxing entities in Jasper County which levy an ad valorem property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of

And: 144723 v2

the millage rate being levied in the then current tax year for property tax purposes, provided that the County may, from time to time, by ordinance, amend the distribution of the fee-in-lieu of tax payments to all taxing entities. A portion of the fee-in-lieu of all valorem taxes which Jasper County receives pursuant to the Agreement for Park premises may be, from time to time and by ordinance of Jasper County Council or its successor, designated for the payment of special source revenue bonds.

SECTION XI. This Ordinance shall be effective after third and final reading and publication.

Resolved, in meeting duly assembled, on this 7th day of Jul, 2000

JASPER COUNTY, SOUTH CAROLINA

By: [Signature]
Chairman, County Council
Jasper County, South Carolina

By: _____
Administrator
Jasper County, South Carolina

Attest:

By: [Signature]
Clerk to County Council
Jasper County, South Carolina

Date: 7th Jul 2000
2000

FIRST READING: 1/3/00
SECOND READING: 1/12/00
PUBLIC READING: 2/7/00
THIRD READING: 2/7/00

STATE OF SOUTH CAROLINA	)	
	)	AGREEMENT FOR DEVELOPMENT
COUNTY OF BEAUFORT	)	OF JOINT COUNTY INDUSTRIAL AND
	)	BUSINESS PARK
COUNTY OF JASPER	)	

THIS AGREEMENT for the development of a joint county industrial and business park to be located in Jasper and Beaufort Counties, dated as of December 31, 1999 is made and entered into by and between the County of Beaufort and the County of Jasper, both political subdivisions of the State of South Carolina.

RECITALS

WHEREAS, Beaufort County, South Carolina ("Beaufort County"), and Jasper County, South Carolina ("Jasper County") (collectively the "Counties"), have determined that, in order to promote economic development and thus provide additional employment opportunities within both of said counties, there should be established in one or both Counties a Joint County Industrial and Business Park (the "Park"); and

WHEREAS, as a consequence of the establishment of the Park, property therein shall be exempt from *ad valorem* taxation, during the term of this Agreement, but the owners or lessees of such property shall pay annual fees during that term in an amount equal to that amount of *ad valorem* taxes for which such owner or lessee would be liable except for such exemption; and

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby 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 the Counties, their successors and assigns.

2. **Authorization.** Article VIII, Section 13(d), of the Constitution of South Carolina 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 means by 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 for school districts. Section 4-1-170, *South Carolina Code of Laws*, 1976, as amended ("Section 4-1-170"), satisfies the conditions imposed by Article VIII, Section 13(d), of the Constitution and provides the statutory vehicle whereby a joint county industrial park may be created.

FILED FOR RECORD IN
JASPER COUNTY, SC
MARGARET BOSTICK
CLERK
ON 04-10-2000 AT 03:52 PM.
MISC N/C
Volume 8 Page 84

ROA 00260

Jasper_000081

3. Location of the Park.

(A) The Park initially consists of property located in Jasper County as is hereinafter described in Exhibit "A". The boundaries of the Park may be enlarged, to include additional properties in one or both Counties, or diminished from time to time as authorized by ordinances of both of the Counties.

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

(C) Prior to the adoption by Beaufort County Council and by Jasper County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by the respective County Council of the County in which area proposed for deletion is located. Notice of such public hearing shall be published in a newspaper of general circulation in that 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 real property which would be excluded from the Park by virtue of the diminution.

(D) Notwithstanding the foregoing, for a period of twenty-eight (28) years commencing with the later of the effective date of this Agreement or the effective date of the expansion of the boundaries of the Park to include such parcel, the boundaries of the Park shall not be diminished so as to exclude therefrom any parcel of real estate without the consent of the owner and the Counties and, if applicable, lessee of such parcel; and this sentence of this Agreement may not be modified or deleted here from for a period of twenty-eight (28) years commencing with the effective date hereof, except as provided in Section 11 below.

4. **Fee in Lieu of Taxes.** Property located in the Park shall be exempt from *ad valorem* taxation, only during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of this Agreement 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 such property within the Park. The user fee paid in lieu of *ad valorem* taxes shall be paid to the respective County Treasurer of the County in which Park property is located. That portion of the fees from the Park premises located in one County and allocated pursuant to the Agreement to the other County shall be paid by the collecting County Treasurer to the other County Treasurer within five business days following the end of the calendar quarter of receipt for distribution, in accordance with the Agreement. Payments of user fees shall be made by a business or industrial enterprise on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate and at the same times as for late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the county tax collector for the County in which a parcel of Park

property in question is located, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

5. **Allocation of Park Expenses.** The Counties shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park in the following proportions:

A. Site Location County	100%
B. Partner County	0%

Provided, that to the extent any Park premises is owned by a private developer, the developer shall be responsible for development expenses.

6. **Allocation of Park Revenues.** The Counties shall receive an allocation of all revenue generated by the Park through payment of fees in lieu of *ad valorem* property taxes or from any other source in the following proportions:

A. Site Location County	99%
B. Partner County	1%

7. **Revenue Allocation Within Each County.** Revenues generated by the Park through the payment of fees in lieu of *ad valorem* property taxes shall be distributed to the Counties according to the proportions established by Paragraph 6. Such revenue shall be distributed within Beaufort County to the political subdivisions in Beaufort County (hereinafter referred to as the "Beaufort Participating Taxing Entities") in accordance with an ordinance to be adopted by Beaufort County. Revenues received by Jasper County shall be distributed by Jasper County to the political subdivisions of Jasper County (hereinafter referred to as the "Jasper Participating Taxing Entities") in accordance with an ordinance adopted by Jasper County.

8. **Fees in Lieu of Taxes Pursuant to Section 4-29-67, South Carolina Code of Laws, 1976.** It is hereby agreed that the entry by Beaufort County or Jasper County into any one or more agreements pursuant to Sections 4-29-67, 4-12-10, *et seq.*, or 12-44-10, *et seq.*, *South Carolina Code of Laws*, 1976, as amended, with respect to property located within the Park and the terms of such agreements shall be at the sole discretion of the two counties, respectively.

9. **Assessed Valuation.** For the purpose of calculating the bonded indebtedness limitation of the Beaufort Participating Taxing Entities and the Jasper Participating Taxing Entities and for the purpose of computing the index of taxpaying ability of the respective School Districts of each County pursuant to Section 59-20-20(3), *South Carolina Code of Laws*, 1976, as amended, allocation of the assessed value of property within the Park to Beaufort County and Jasper County shall be identical to the percentage established for the allocation of revenue to each of the counties pursuant to Paragraphs 6 and 7, respectively.

10. **Jobs Tax Credit, Valuation.** For purposes of the jobs tax credit authorized by subsections of Section 12-6-3360 of the *South Carolina Code of Laws*, 1976, as amended, the County in which a particular business enterprise is located is the county in which the permanent

business enterprise is deemed to be located. Section 12-6-3360, *South Carolina Code of Laws*, 1976, has been amended so as to provide an additional annual corporate income tax credit equal to One Thousand Dollars (\$1,000.00) beyond the current jobs tax credit amount applicable for new jobs in the respective County in which a business enterprise is located for each new full-time job created in the Park property located in that County.

11. **Non-qualifying Use.** In the event that a tract or site of land located in the Park is purchased and developed by a business enterprise which locates employees within the Park and which employees, because of the nature of their employment, do not qualify for the corporate income tax credit provided in *South Carolina Code of Laws*, 1976, as amended, Section 12-6-3360 (the "Non-qualifying Site"), the respective County in which that tract or site is located may remove, by ordinance, the Non-qualifying Site from the Park, provided there are no infrastructure credits, bonds, or other financings or obligations which would be affected by such removal.

12. **Records.** The Counties, parties to this Agreement, covenant and agree that, upon the request of either, the other will provide to the requesting party copies of the records of the annual tax levy and copies of the actual tax bills, for parcels of property encompassed by this Agreement, and will further provide copies of the County Treasurer's collection records for the taxes so imposed, all as such records became available in the normal course of County procedures. It is further agreed that none of the parties shall request such records from any other party more frequently than once annually, absent compelling justification to the contrary.

13. **Applicable Law.** In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion.

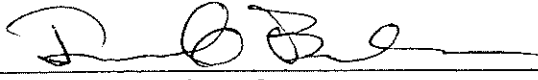
14. **Law Enforcement.** The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

15. **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.

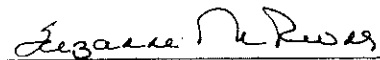
16. **Termination.** Notwithstanding any provision of this Agreement to the contrary, Beaufort County and Jasper County agree that this Agreement may not be terminated by either party for a period of twenty-eight (28) years commencing with the effective date hereof.

WITNESS our hands and seals this 14th day of February, 2000.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: 
Frank Brafman
Chairman

ATTEST:


Clerk to Council

WITNESS our hands and seals this 10 day of April, 2000.

JASPER COUNTY, SOUTH CAROLINA

Leroy Sneed By: *[Signature]*
Avery Cleland, Chairman, County Council,
Jasper County, South Carolina

ATTEST:

By: *[Signature]*
Judy Frank, Clerk to County Council,
Jasper County, South Carolina

And: 144733

ROA 00265

Jasper_000086

EXHIBIT "A"

To the Agreement for Development of
Joint County Industrial and Business Park
Beaufort County and Jasper County
Dated as of December 31, 1999

The Park consists of:

TRACT I:

ALL that certain piece, parcel and tract of land, containing 170.565 acres, situate, lying and being in the New River East Section of Jasper County, South Carolina, with said tract more specifically shown and described on a plat thereof entitled "A Plat Of A 170.565 Acre Tract Being a Portion Of The Argent Tract", with said plat prepared by Thomas & Hutton Engineering Co., Inc., as certified by Boyce L. Young, S.C.R.L.S. No. 11079, said plat dated the 28th day of March, 1997, and last revised on the 24th day of June, 1997 and recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 23 at Page 4.

TRACT II:

ALL that certain piece, parcel, and tract of land, containing 41.464 acres, situate, lying and being in Jasper County, South Carolina, said 41.464 acre parcel more specifically shown and described on a plat thereof entitled "A Plat Of A 41.464 Acre Tract Being A Portion Of The Argent Tract", said plat dated October 12, 1999, as prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 118.

TRACT III:

ALL that certain piece, parcel and tract of land, containing 106.75 acres, situate, lying and being in Jasper County, South Carolina, with said 106.75 acre tract more specifically shown and described on a plat thereof entitled "A Plat Of 106.75 Acre Tract Being A Portion Of The Argent Tract", said plat prepared by Thomas & Hutton Engineering Co. and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 119.

And: 144733

A-1

ROA 00266

Jasper_000087

2000/12

AN ORDINANCE TO DEVELOP A JOINTLY OWNED AND OPERATED INDUSTRIAL/BUSINESS PARK IN CONJUNCTION WITH JASPER COUNTY, SUCH INDUSTRIAL/BUSINESS PARK TO BE GEOGRAPHICALLY LOCATED IN BEAUFORT COUNTY AND JASPER COUNTY AND ESTABLISHED PURSUANT TO *SOUTH CAROLINA CODE OF LAWS*, 1976, §4-1-170, *ET SEQUITUR*, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH JASPER COUNTY PROVIDING FOR THE EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES; AND, TO PROVIDE THAT JOBS TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PARK, AND TO PERMIT A USER FEE IN LIEU OF *AD VALOREM* TAXATION.

WHEREAS, Beaufort County and Jasper County (jointly the "Counties") are authorized under Article VIII, Section 13 of the South Carolina Constitution to jointly develop an industrial or business park within the geographical boundaries of one or more of the member counties; and

WHEREAS, in order to promote the economic welfare of the citizens of the Counties by providing employment and other benefits to the citizens of the Counties, Beaufort County proposes to enter into an agreement with Jasper County to develop jointly an industrial and business park as provided by Article VIII, Section 13 of the South Carolina Constitution, and in accordance with Section 4-1-170 of the *South Carolina Code of Laws*, 1976, as amended, (the "Act").

NOW, THEREFORE, BE IT ORDAINED BY THE BEAUFORT COUNTY COUNCIL:

SECTION I. Beaufort County is hereby authorized to execute and deliver a written agreement to jointly develop an industrial and business park (the "Park") with Jasper County. The Park is to be located within the boundaries of both Counties. The form of the joint industrial park agreement (the "Agreement") is attached hereto and all terms of the Agreement are hereby incorporated herein. The form, terms and provisions of the Agreement presented to this meeting and filed with the Clerk of the Beaufort County Council are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Agreement were set out in this Ordinance in its entirety. The Administrator of the County is hereby authorized, empowered and directed to execute, acknowledge and deliver the Agreement in the name and on behalf of the County. The Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Agreement now before this meeting.

SECTION II. The maximum tax credits allowable by *South Carolina Code of Laws*, 1976, Section 12-6-3360, as amended, will apply to any business enterprise locating in the Park.

And: 144722 v2

200000021402
Filed for Record in
JASPER COUNTY, SC
MARGARET BOSTICK
On 04-10-2000 At 03:51 pm.
MISC N/C
Volume 8 Page 83

ROA 00267

Jasper_000088

SECTION III. Any business or industrial enterprise locating in the Park shall pay a fee-in-lieu of *ad valorem* taxes as provided for in the Agreement, Article VIII Section 13 of the South Carolina Constitution, and the Act. The user fee paid in lieu of *ad valorem* taxes shall be paid to the County Treasurer of the respective County in which a particular parcel of Park property is located. That portion of the fees from the Park premises located in one County and allocated pursuant to the Agreement to the other County shall be paid by the collecting County Treasurer to the other County Treasurer within five business days following the end of the calendar quarter of receipt for distribution in accordance with the Agreement. Payments of user fees shall be made by a business or industrial enterprise on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate and at the same times as for late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the county tax collector for the collecting County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

SECTION IV. The administration, development, promotion, and operation of the Park shall be the responsibility of the County in which the Park property in question is located. Provided, that to the extent any Park premises is owned by a private developer, the developer shall be responsible for development expenses as contained in the Agreement.

SECTION V. In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion.

SECTION VI. The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

SECTION VII. Should any section of this Ordinance be, for any reason, held void or invalid, shall not affect the validity of any other section hereof which is not itself void or invalid.

SECTION VIII. The Agreement may not be terminated except by concurrent ordinances of Beaufort County Council and Jasper County Council, in accordance with the terms of the Agreement. In any event, this Ordinance shall terminate twenty-eight (28) years from the date of its execution by both parties.

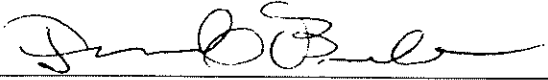
SECTION IX. Beaufort County hereby designates that the distribution of the fee-in-lieu of *ad valorem* taxes pursuant to the Agreement actually received by Beaufort County for Park premises be paid to each of the taxing entities in Beaufort County which levy an *ad valorem* property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes, provided that the

County may, from time to time, by ordinance, amend the distribution of the fee-in-lieu of tax payments to all taxing entities. A portion of the fee-in-lieu of ad valorem taxes which Beaufort County receives pursuant to the Agreement for Park premises may be, from time to time and by ordinance of Beaufort County Council or its successor, designated for the payment of special source revenue bonds.

SECTION X. This Ordinance shall be effective after third and final reading and publication.

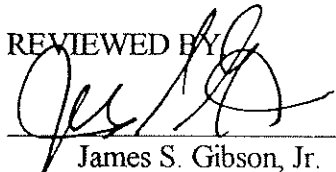
Adopted this 13th day of March, 2000.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: 
Frank Brafman
Chairman

ATTEST:


Elizabeth A. Powell
Clerk to Council

REVIEWED BY: 
James S. Gibson, Jr.
Acting County Attorney

First Reading: February 14, 2000
Second Reading: February 28, 2000
Public Hearing: March 13, 2000
Third and Final Reading: March 13, 2000

EXHIBIT 1-B

*Meeting Minutes of Jasper County Council
February 7, 2000*

**JASPER COUNTY COUNCIL
MARY GORDON ELLIS EXECUTIVE BUILDING
COUNCIL CHAMBERS
FEBRUARY 7, 2000
2:00 P.M.**

OFFICIALS PRESENT:

LEROY SNEED, CHAIRMAN
DANNY MCKENZIE, VICE CHAIRMAN
REV. SAMUEL GREGORY, COUNCILMAN
AVERY CLELAND, COUNCILMAN
HENRY P. MOSS, ADMINISTRATOR
JUDITH M. FRANK, CLERK TO COUNCIL

OFFICIALS ABSENT:

THOMAS MCCLARY, COUCNILMAN

MEDIA NOTIFIED:

THE JASPER COUNTY SUN, CAROLINA MORNING NEWS, THE BEAUFORT GAZETTE, WTOG-TV,
WJWJ-TV, WSAV-TV

CALL TO ORDER:

CHAIRMAN SNEED CALLED THE MEETING TO ORDER AT 2:20 P.M.

INVOCATION:

CHAIRMAN SNEED GAVE THE INVOCATION.

PUBLIC HEARING AND 3RD READING OF THE ORDINANCE TO DEVELOP A JOINTLY OWNED AND OPERATED BUSINESS/INDUSTRIAL PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY AND BEAUFORT COUNTY AND ESTABLISH PURSUANT TO SOUTH CAROLINA CODE OF LAWS OF 1976, 4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR WRITTEN AGREEMENT WITH BEAUFORT COUNTY PROVIDING FOR EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES; AND, TO PROVIDE THAT JOBS TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PARK, AND TO PERMIT A USER FEE IN LIEU OF AD VALOREM TAXATION
MR. MOSS EXPLAINED THE ORDINANCE AND HOW IT RELATED TO THE RURAL DEVELOPMENT ACT. CHRIS PHILLIPS REVIEWED THAT PREVIOUSLY THE COUNTY TRIED TO ENTER A JOINT AGREEMENT WITH 5 COUNTIES, HOWEVER THAT DID NOT WORK OUT AND NOW THE JOINT AGREEMENT WAS WITH BEAUFORT COUNTY. HE SAID BEAUFORT COUNTY WOULD ALSO BE PASSING THE SAME TYPE OF ORDINANCE. CHAIRMAN SNEED OPENED THE PUBLIC HEARING FOR INPUT FROM THE PUBLIC. LOUIS DAVIS ASKED ABOUT THE CONTRACT WITH HAMPTON COUNTY AND IF IT WAS VOIDED. HE WAS ANSWERED NO. BEING NO FURTHER COMMENT CHAIRMAN SNEED CLOSED THE PUBLIC HEARING. VICE CHAIRMAN MCKENZIE MOTIONED TO APPROVE THE THE ORDINANCE TO DEVELOP A JOINTLY OWNED AND OPERATED BUSINESS/INDUSTRIAL PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY AND BEAUFORT COUNTY AND ESTABLISH PURSUANT TO SOUTH CAROLINA CODE OF LAWS OF 1976, 4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR WRITTEN AGREEMENT WITH BEAUFORT COUNTY PROVIDING FOR EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES, AND, TO PROVIDE THAT JOBS TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PARK, AND TO PERMIT A USER FEE IN LIEU OF AD VALOREM TAXATION. COUNCILMAN CLELAND SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

3RD READING OF THE ORDINANCE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF HARDEEVILLE:

MR. MOSS EXPLAINED THAT THE THIRD READING WAS POSTPONED BECAUSE HARDEEVILLE'S CONSULTING ATTORNEY WAS NOT READY. COUNCILMAN GREGORY ARRIVES AT THIS TIME. A COPY OF THE AMENDED ORDINANCE IS ATTACHED AND MADE PART OF THESE MINUTES. VICE CHAIRMAN MCKENZIE MOTIONED TO APPROVE THE ORDINANCE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF HARDEEVILLE. COUNCILMAN GREGORY SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

2ND READING OF THE ORDINANCE TO AUTHORIZE DEVELOPMENT AGREEMENTS GOVERNING BY AND BETWEEN JASPER COUNTY AND PRIVATE DEVELOPERS AND TO ESTABLISH THE CRITERIA FOR SUCH:

MR. PHILLIPS EXPLAINED THAT THIS ORDINANCE IS REGARDING THE CRITERIA NECESSARY TO

This document is certified this 13th day of October, 2021 as a true and accurate copy of the records on file with the Clerk of Council's Office for Jasper County, South Carolina.
Wanda Simmons, Clerk to Council

ELECTRONICALLY FILED - 2021 Oct 22 12:52 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

MINUTES CONTINUES 02/07/00

ADOPT SEPARATE DEVELOPMENT AGREEMENTS. VICE CHAIRMAN MCKENZIE MOTIONED TO ACCEPT THIS AS THE 2ND READING OF THE ORDINANCE TO AUTHORIZE DEVELOPMENT AGREEMENTS GOVERNING BY AND BETWEEN JASPER COUNTY AND PRIVATE DEVELOPERS AND TO ESTABLISH THE CRITERIA FOR SUCH. COUNCILMAN CLELAND SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

RUDY SMITH UPDATE ON COUNTY ROADS:

MR. SMITH PRESENTED THE COUNCIL WITH A HAND OUT OF THE COUNTY ROADS AND STATED THAT HE FELT THAT THE ROCKING OF THE ROADS WAS A TOTAL SUCCESS. HE STATED THAT THERE WERE 47 MILES THAT NEED ROCK. HE ALSO SAID THERE WAS 35 MILES OF ROAD THAT HE WOULD NOT RECOMMEND ROCKING. MR. SMITH COMMENTED ON ROADS THAT NEEDED TO BE PAVED. MR. SMITH FELT THAT IF ALL THE ROADS THAT WERE TO BE PAVED, BE DONE ALL AT ONCE, THE COUNTY SHOULD GET A BETTER PRICE. COUNCILMAN GREGORY COMMENTED THAT HE THOUGHT IT WAS WISE TO PUT EVERYTHING IN A PACKAGE AND GO TO THE TRANSPORTATION FOR FUNDING FOR THE TOTAL PACKAGE AND TO GO AS FAR AS THE COUNTY CAN GO. CHAIRMAN SNEED ASKED THE COUNCIL MEMBERS TO HELP MR. SMITH IS SECURING RIGHT OF WAYS FOR THE ROADS TO BE PAVED. MR. SMITH SAID HE WILL GET A PRICE ON THE PACKAGE. COUNCILMAN CLELAND SAID THAT THE COUNCIL NEEDED TO PRIORITIZE THE ROADS FOR ROCKING. VICE CHAIRMAN MCKENZIE SUGGESTED NOTIFYING THE TRANSPORTATION COMMITTEE ON THE AMOUNT NECESSARY FOR THE ROCKING AND REQUEST FUNDING FOR THE PAVING. COUNCILMAN GREGORY STATED THAT HE HAS A BIG PROBLEM WITH THE ROCKING AND FELT THAT THE ROADS IN JASPER COUNTY NEED TO BE PAVED AND THAT PAVING NEEDS TO BE THE FIRST PRIORITY. CHAIRMAN SNEED SAID THAT HE WANTS TO PAVE AS MANY ROADS AS POSSIBLE, HOWEVER IF RIGHT OF WAYS CANNOT BE OBTAINED, THEN GO BACK AND ROCK THOSE ROADS.

THOMAS AND HUTTON REGARDING THE WETLAND SURVEY AT SGT. JASPER COUNTY PARK:

MR. MOSS REPORTED THAT THE SURVEY AND FLAGGING OF WETLANDS HAS BEEN DONE. THOMAS AND HUTTON IS VERY FAMILIAR WITH THE PARK AND MR. MOSS REQUESTED THAT COUNCIL APPROVE \$15,000.00 TO COMPLETE THE WETLAND SURVEY. COUNCILMAN GREGORY MOTIONED TO APPROVE PAYING THOMAS AND HUTTON \$15,000.00 TO COMPLETE THE WETLAND SURVEY AND TO TRANSFER THE \$15,000.00 FROM THE ECONOMIC DEVELOPMENT ACCOUNT TO THE PARK OPERATING ACCOUNT. VICE CHAIRMAN MCKENZIE SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

COUNCILMAN GREGORY MOTIONED FOR A SURVEY TO BE DONE OF THE THREE TOP ROADS TO BE PAVED AND TO SPEND \$2,500.00 FOR THAT SURVEY. VICE CHAIRMAN MCKENZIE SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

APPROVAL OF THE MINUTES:

VICE CHAIRMAN MCKENZIE MOTIONED TO APPROVE THE MINUTES AS PRESENTED. COUNCILMAN GREGORY SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

PUBLIC HEARING REGARDING THE ACCEPTANCE OF A LAW ENFORCEMENT GRANT:

MAJOR HUGHES EXPLAINED THAT THE SHERIFF DEPARTMENT HAS BEEN APPROVED FOR A LOCAL BLOCK GRANT IN THE AMOUNT \$44,634.00. NINETY PER CENT GRANT AND A TEN PERCENT MATCH (\$4465.40) FROM THE GRANT MATCHING FUND AND IT WAS BUDGETED FOR IN THE CURRENT BUDGET DISCUSSION ACTS AS A PUBLIC HEARING AND FORUM. COUNCILMAN CLELAND ASKED WHAT THE GRANT WAS GOING TO BE USED FOR AND MAJOR HUGHES STATED IT WOULD BE USED FOR EQUIPMENT, VESTS, A COMPUTER AND VIDEO EQUIPMENT. COUNCILMAN GREGORY MOTIONED TO APPROVE THE GRANT. VICE CHAIRMAN MCKENZIE SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

SANDY WATKINS - PRESENTATION OF STRATEGIC PLAN FOR WORKFORCE DEVELOPMENT: MS. WATKINS EXPLAINED THAT THE WORKFORCE DEVELOPMENT REPLACES THE JPTS AND THAT THEY MUST HAVE A FIVE YEAR PLAN READY. MS. WATKINS GAVE AN OVERVIEW OF THE PLAN.

RESOLUTION AUTHORIZING THE FINANCING OF NEW VEHICLES FOR THE JASPER COUNTY SCHOOL DISTRICT:

MR. MALPHRUS INFORMED COUNCIL THAT THE FINANCING PACKAGE WENT OUT TO BID AND THAT FIRST NATIONAL BANK WAS THE LOWEST BIDDER AND THAT IT NEEDED A RESOLUTION TO PROCESS THE LOAN OF \$200,000.00 OVER 5 YEARS WITH THE FIRST PAYMENT COMING OUT OF NEXT YEARS BUDGET. IT WILL BE A LINE ITEM IN THE BUDGET. COUNCILMAN CLELAND MOTIONED TO APPROVE THE RESOLUTION AUTHORIZING THE FINANCING OF NEW VEHICLES FOR THE JASPER COUNTY SCHOOL DISTRICT. VICE CHAIRMAN MCKENZIE SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

MINUTES CONTINUES 2/7/00

CONSIDERATION OF RECREATIONAL IMPROVEMENTS TO SGT. JASPER COUNTY PARK:

MR. MOSS EXPLAINED THAT MR. SMITH HAD DONE A STUDY OF THE PONDS AT THE PARK AND SUBMITTED RECOMMENDATIONS TO IMPROVE THE PONDS. MR. SMITH EXPLAINED THAT IT WOULD TAKE ABOUT 3 YEARS TO COMPLETE THAT WORK ON IMPROVING THE PONDS AND EXPLAINED THE PROCEDURE. HE SAID IT WOULD COST ABOUT \$29,000.00. COUNCILMAN GREGORY MOTIONED TO APPROVE SPENDING THE \$29,000.00 TO IMPROVE THE PONDS AND THAT THE FUNDING SHOULD COME FROM THE ECONOMIC DEVELOPMENT FUND. COUNCILMAN CLELAND SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

OPEN FLOOR TO PUBLIC:

DWAYNE SWYGERT SPOKE REGARDING ISSUE CONCERNING LAND IN THE SOUTH END OF JASPER COUNTY KNOW AS THE SPOIL AREA AND REQUESTED THAT COUNCIL LOOK INTO PAVING THE ROAD AND OPENING THAT AREA SO THAT CITIZENS CAN GET TO THAT LAND. VICE CHAIRMAN MCKENZIE ASKED THAT MR. MOSS WAS DIRECTED TO LOOK INTO THE ISSUE. CHAIRMAN SNEED COMMENTED THAT THE COUNCIL WILL LOOK INTO THIS MATTER.

J.W. HARPER SPOKE REGARDING JUNKYARDS AND SAID SINCE HARDEEVILLE WAS CRACKING DOWN, THE JUNKYARDS WERE MOVING INTO THE COUNTY AND THE COUNTY NEEDS TO DO AN ORDINANCE TO PREVENT THIS.

LOUIS DAVIS ASKED IF THERE WAS ANY VEGETATION IN THE PARK THAT GRASS CARP WOULD THRIVE ON. MR. SMITH ANSWERED YES.

J.W. HARPER ASKED ABOUT ROCKING ROADS AND SCRAPPING ROADS AND TAKING THE ROCK OUT AGAIN. MR. SMITH RESPONDED THAT NO ROADS WERE SCRAPPED AND NO ROCK WAS REMOVED.

CHAIRMAN SNEED CLOSED THE FLOOR.

COMMITTEE REPORTS:

MR. MOSS REPORTED THAT DR. SINGLETON WAS TO GET HIM A LIST OF DATES THAT THE SCHOOL BOARD COULD MEET WITH COUNCIL.

CHAIRMAN SNEED REVIEWED HIS COMMITTEE APPOINTMENTS AND HOW THEY WOULD WORK. HE STATED THAT HE FELT THAT TWO COUNCIL MEMBERS SHOULD MEET WITH THE ADMINISTRATOR AND THE DEPARTMENT HEADS REGARDING BUDGET REQUESTS. MR. MOSS REVIEWED THE BUDGET PROCEDURE AS REQUIRED UNDER HOME RULE.

COUNCILMAN CLELAND QUESTIONED THE NUMBER OF COUNCIL MEMBERS ON EACH COMMITTEE. HE STATED THAT HE FELT THAT ONLY 2 COUNCIL MEMBERS WERE NECESSARY OF EACH COMMITTEE. COUNCILMAN GREGORY LEAVES AT THIS TIME. VICE CHAIRMAN MCKENZIE SAID HE WAS FOR BUDGET REFORM. COUNCILMAN CLELAND SAID HE FELT IT WAS THE RESPONSIBILITY OF THE COUNCIL TO CUT THE BUDGET AND NOT WORRY ABOUT LOOKING GOOD AND IF ANY AGENCY OR DEPARTMENT HEAD HAD A SPECIAL REQUEST, THEN THEY SHOULD COME BEFORE THE WHOLE COUNCIL.

ADMINISTRATOR'S REPORT:

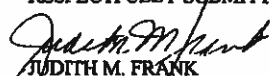
MR. MOSS REMINDED THE COUNCIL ABOUT THE MEETING IN COLUMBIA AND THAT CHAIRMAN SNEED CANCELED THE SECOND MEETING IN FEBRUARY. COUNCILMAN GREGORY RETURNS AT THIS TIME. MR. MOSS REVIEWED A LETTER FROM SOLICITOR MURDAUGH STATING THAT INSUFFICIENT EVIDENCE AGAINST THE CLERK OF COURT WAS FOUND TO WARRANT PROSECUTION, HOWEVER, MR. MOSS SAID HE STILL NEEDS TO GET THE BOOKS IN THAT OFFICE RECONCILED. VICE CHAIRMAN MCKENZIE ASKED IF GETTING THE BOOKS RECONCILED WOULD RESOLVE THE ISSUE OF THE MISSING MONEY. MR. MOSS SAID IT WOULD RESOLVE SOME OF THE MATTERS. MR. MOSS REQUESTED AUTHORITY TO HIRE TEMPORARY HELP TO AUDIT THE BOOKS. CHAIRMAN SNEED SAID HE THINKS THE COUNCIL NEEDS TO TALK TO MS. BOSTICK AND HER ATTORNEY FIRST. THERE WAS A DISCUSSION AS TO WHOM THIS TEMPORARY PERSON SHOULD WORK UNDER, MR. MOSS OR MS. BOSTICK. CHAIRMAN SNEED ASKED THE ADMINISTRATOR TO HAVE MS. BOSTICK APPEAR BEFORE COUNCIL AGAIN.

ADJOURN:

VICE CHAIRMAN MCKENZIE MOTIONED TO ADJOURN THE MEETING. COUNCILMAN CLELAND SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

THE MEETING ENDED AT 5:35 P.M.

RESPECTFULLY SUBMITTED:


JUDITH M. FRANK
CLERK TO COUNCIL

APPROVED BY:


LEROY SNEED
CHAIRMAN

EXHIBIT 1-C

General Bond Ordinance No. 01-04

This document Gen. Bond Ord # 01-04
is certified this 13th day of Sept, 2021
as a true and accurate copy of the records on file
with the Clerk of Council's Office
for Jasper County, South Carolina.
Wanda Simmons
Wanda Simmons, Clerk to Council

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER) CERTIFIED COPY OF GENERAL
BOND ORDINANCE NO. 01-04

I, the undersigned being the duly qualified and acting Clerk to the County Council of Jasper County, South Carolina (the "County"), and as such official I further certify that I am the recorder and custodian of the official records of the County Council and that attached hereto is a true copy of General Bond Ordinance No. 01-04 authorizing and providing the issuance of Special Source Revenue Bonds (Nickel Plate Road LLC Project) of the County, enacted by the County Council at a meeting duly called and held on April 16, 2001, at which a quorum was present and acting throughout, which Ordinance has been compared by me with the original thereof, and that such Ordinance has been duly enacted including the required number of readings and has not been modified, amended or repealed and is in full force and effect on and as of the date hereof in the form attached hereto.

In witness hereof, I have hereunto set my hand this 20th day of April, 2001.

Judith M. Hank
Clerk to County Council of Jasper County,
South Carolina

200100026029
Filed for Record in
JASPER COUNTY
MARGARET BOSTICK
05-30-2001 At 03:10 a.m.
MISC N/C
Volume 8 Page 244 - 244

Greenville: 156880

JASPER COUNTY, SOUTH CAROLINA

ORDINANCE NO. 01-04

GENERAL BOND ORDINANCE
(NICKEL PLATE ROAD LLC PROJECT - SPECIAL SOURCE REVENUE BONDS)

A GENERAL BOND ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BONDS (NICKEL PLATE ROAD LLC PROJECT) IN A PRINCIPAL AMOUNT OF UP TO \$20,000,000; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY FROM CERTAIN REVENUES DERIVED FROM THE PAYMENTS OF FEES IN LIEU OF TAX FROM THE PROPERTIES LOCATED IN THE JASPER COUNTY AND BEAUFORT COUNTY JOINT COUNTY INDUSTRIAL AND BUSINESS PARK; PLEDGING SUCH MONEYS TO THE PAYMENT OF SUCH SPECIAL SOURCE REVENUE BONDS; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH FUNDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING; APPROVING A THIRD AMENDMENT TO THAT INDUCEMENT AGREEMENT BY AND AMONG JASPER COUNTY, SOUTH CAROLINA AND NICKEL PLATE ROAD LLC, ASSET MANAGEMENT ASSOCIATES INC., AND NEW RIVER - OKATIE CO. LLC; AND AMENDING ORDINANCE NUMBER 2000-1 RELATING TO THE DISTRIBUTION OF THE FEES IN LIEU OF *AD VALOREM* TAXES IN THE PARK; AND OTHER MATTERS RELATING THERETO.

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Jasper_000003

ROA 00276

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BE IT ORDAINED BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH
CAROLINA, IN COUNCIL ASSEMBLED:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Unless the context shall clearly indicate some other meaning, the terms defined in this Section shall, for all purposes of this General Bond Ordinance and of any ordinance, resolution, certificate, opinion, instrument or other document herein or therein mentioned, have the meanings herein specified, with the definitions to be equally applicable to both the singular and plural forms of any of the terms herein defined and *vice versa*. The term:

"Act" shall mean Section 4-1-175 and Section 4-29-68, Code of Laws of South Carolina 1976, as amended, and all other statutory authorizations, now or hereinafter enacted, authorizing and enabling the County to provide for the issuance of the Bonds.

"Authorized County Representative" shall mean the Chairman or Vice Chairman of the County Council, the County Administrator or the Clerk of the County Council.

"Authorized Developer Representative" shall mean any person or persons at the time designated to act on behalf of the Developer by a written certificate furnished to the Clerk to County Council of the County and the Purchaser containing the specimen signature of each such person and signed on behalf of the Developer by its President, any Vice President, Treasurer or Assistant Treasurer.

"Authorized Owner Representative" shall mean any person or persons at the time designated to act on behalf of the Owner by a written certificate furnished to the Clerk to County Council of the County and the Purchaser containing the specimen signature of each such person and signed on behalf of the Owner by its President, any Vice President, Treasurer or Assistant Treasurer.

"Bondholders" or the term "Holders" or any similar term shall mean the registered owner or owners of any Outstanding Bond or Bonds.

"Bond" or "Bonds" shall mean any Bond, some of the Bonds or all of the Bonds issued under and pursuant to Article III hereof.

"Books of Registry" shall mean the registration books maintained by the Registrar in accordance with Section 4.2 hereof.

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"Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of South Carolina are required or authorized by law (including executive orders) to close.

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

"Cost of Acquisition and Construction" shall mean, to the extent permitted by the Act, all costs (including architectural and engineering fees) of designing, acquiring, constructing, improving, or expanding the Infrastructure (as described herein) and any other infrastructure serving the County in order to enhance the economic development of the County, including sums required to reimburse the Owner and Developer for payments previously made with respect to Infrastructure, the Costs of Issuance and capitalized interest, if any, on Bonds.

"Cost of Issuance" shall mean all items of expense, directly or indirectly payable or reimbursable by or to the County and related to the authorization, sale and issuance of a Series of Bonds including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any Custodian, legal fees and charges, auditing and accounting fees and charges, fees and disbursements of consultants and professionals, and any other costs, charges or fees in connection with the original issuance of Bonds.

"Council" shall mean the County Council of Jasper County, South Carolina.

"County" shall mean Jasper County, South Carolina.

"Custodian" shall mean any bank or trust company or national banking association or national association selected by the County as a depository of moneys or securities held in the Debt Service Fund or the Revenue Fund. A Supplemental Ordinance may appoint the County Treasurer as Custodian of one or more of these funds.

"Debt Service Fund" shall mean the fund of that name established pursuant to Section 5.5 of this General Bond Ordinance.

"Default" or "Event of Default" shall mean any of those defaults specified in and defined by Article VIII hereof.

"Developer" shall mean Asset Management Associates, Inc., a South Carolina Corporation and New-River - Okatie Co. LLC, a South Carolina limited liability company.

"Fee Payments" shall mean the revenues that the County receives and retains pursuant to the Park Agreement from the payments in lieu of taxes which are paid for all real property and personal property located within the Park.

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"Fiscal Year" shall mean the fiscal year for the County as determined by the Council, initially being the period from July 1 in any year to and including June 30 in the following year.

"General Bond Ordinance" shall mean this General Bond Ordinance as from time to time amended or supplemented by one or more Supplemental Ordinances, as defined herein.

"Government Obligations" shall mean noncallable and nonprepayable bonds, notes or direct obligations and general obligations of the United States.

"Infrastructure" shall mean infrastructure serving the County (including improved and unimproved real property) in order to enhance the economic development of the County.

"Interest Account" shall mean the account by that name established in the Debt Service Fund.

"Interest Payment Date" shall mean February 1 of each year on which interest is paid on Bonds, or such other interest payment date established by a Supplemental Ordinance.

"Multi-County Fees" shall mean the amount of the allocation of all revenues generated by the park attributable to the Fee Payments payable by the County to Beaufort County, South Carolina, or any successor thereto under the Park Agreement.

"Net Fee Payments" shall mean the Fee Payments remaining after payment of the Multi-County Fees.

"Original Inducement Agreement" shall mean that certain inducement agreement by and between the County, the Owner and the Developer, executed on April 20, 1998, as amended by a First Amendment to such Inducement Agreement and by a Second Amendment to Inducement Agreement.

"Outstanding" when used with respect to any Bond shall have the construction given to such word in Article X hereof; *i.e.*, a Bond shall not be Outstanding if such Bond is not, or would not be, at the time, deemed to be Outstanding by reason of the operation and effect of said Article X.

"Owner" shall mean Nickel Plate Road LLC, a South Carolina limited liability company.

"Park" shall mean the Jasper County and Beaufort County, South Carolina, Joint County Industrial and Business Park as defined in the Park Agreement.

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"Park Agreement" shall mean the Agreement for Development of Joint County Industrial and Business Park executed on behalf of Beaufort County as of February 14, 2000, and executed on behalf of Jasper County as of April 10, 2000, as such may be amended or supplemented from time to time.

"Paying Agent" shall mean the County Treasurer or any bank, trust company or national banking association which is authorized to pay the principal of or interest on any Bonds and having the duties, responsibilities and rights provided for in this General Bond Ordinance.

"Permitted Investments" shall mean (a) any one or more of the investments now or hereafter permitted by Section 6-5-10, Code of Laws of South Carolina 1976, as amended and in effect from time to time, or any authorization relating to the investments of County funds, and (b) the South Carolina Pooled Investment Fund or similar State administered pool investment fund.

"Principal Account" shall mean the account by that name established within the Debt Service Fund.

"Principal Payment Date" shall mean February 1 of each year on which principal is paid on Bonds, or such other principal payment date established by a Supplemental Ordinance.

"Project" shall include, but not be limited to, all of the real property, personal property, machinery, fixtures, buildings and equipment owned, sold, leased or used by the Owner, the Developer, or any other enterprise having facilities located on the real property described in *Exhibit A* attached hereto and which are subject to the Park Agreement and the Fee Payments.

"Registrar" shall mean the County Treasurer or any bank, trust company, or national banking association which is authorized to maintain an accurate list of those who from time to time shall be the holders of the Bonds and shall effect the exchange and transfer of Bonds in accordance with the provisions of this General Bond Ordinance and having the duties, responsibilities, and rights provided for in this General Bond Ordinance.

"Revenue Fund" shall mean the fund of that name established pursuant to Section 5.4 of this General Bond Ordinance.

"Second Amendment to Inducement Agreement" shall mean that certain amendment to the Original Inducement Agreement executed on May 17, 1999 by the County, June 7, 1999 by the Owner, and June 14, 1999 by the Developer.

"Series" or "Series of Bonds" or "Bonds of Series" shall mean a Bond or all Bonds designated as being of the same series issued and delivered on original issuance in a simultaneous

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transaction, and any Bond or Bonds thereafter delivered in lieu thereof or in substitution therefor pursuant to this General Bond Ordinance.

"Supplemental Ordinance" shall mean any ordinance enacted by the County providing for the issuance of a Bond or Bonds hereunder and any ordinance enacted by the Council pursuant to and in compliance with the provisions of Article III hereof amending or supplementing the provisions of this General Bond Ordinance.

"Tax Year" shall mean the consecutive twelve (12) month period during which the County *ad valorem* real property taxes are levied and collected, presently being the period from July 1 to June 30.

"Third Amendment to Inducement Agreement" shall mean the amendment to the Original Inducement Agreement authorized to be executed under this General Bond Ordinance, and attached hereto as *Exhibit B*.

ARTICLE II

FINDINGS AND DETERMINATIONS

Section 2.1. Findings and Determinations. The County Council of Jasper County, South Carolina, hereby finds and determines:

A. The County is a political subdivision of the State of South Carolina and as such has all powers granted to counties by the Constitution and the general law of this State.

B. Article X, Section 14, of the Constitution of the State of South Carolina, 1895, as amended, provides that indebtedness payable solely from a special source, which source does not involve revenues from any tax or license, may be issued by a county upon such terms and conditions as the General Assembly may prescribe by general law.

C. Section 4-1-175 of the Code provides that a county that receives revenues from a payment in lieu of taxes pursuant to Section 13 of Article VIII of the Constitution of South Carolina, may issue special source revenue bonds secured by and payable from all or a part of such revenues, subject to certain terms and conditions as provided therein, and, as provided in Section 4-29-68 of the Code, for the purpose of paying the cost of designing, acquiring, constructing, improving or expanding the Infrastructure serving the County (and for improved and unimproved real estate used in the operation of a manufacturing commercial enterprise) in order to enhance the economic development of the County and the Cost of Issuance of Bonds.

D. In accordance with the provisions of the Original Inducement Agreement, the County agreed to issue special source revenue bonds under the terms set forth in such Original

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Inducement Agreement. More particularly, in the Original Inducement Agreement, the County agreed to issue special source revenue bonds with a maturity of 13 years, for up to \$7,000,000 in Infrastructure costs, in one or more series, secured and payable by 40% of that portion of the revenues from payment in lieu of taxes attributable to the Park which the County is entitled to retain pursuant to the Park Agreement.

E. In the Second Amendment to Inducement Agreement, the County agreed to issue a single special source revenue bond under the same terms as the Original Inducement Agreement, as amended by a First Amendment to Inducement Agreement, except that such bond would be for a total of up to \$20,000,000 in Infrastructure costs, and have a maturity of 28 years.

F. The County now agrees to authorize and provide for a Third Amendment to Inducement Agreement in the form attached as *Exhibit B*, which provides for the issuance of special source revenue bonds, in one or more series rather than as a single bond, under the same terms set forth in the Original Inducement Agreement, as amended by the First Amendment to Inducement Agreement and Second Amendment to Inducement Agreement.

G. The County and Beaufort County have established a joint county industrial and business park (the "Park") by entering into the Park Agreement.

H. The County has given due consideration to the economic development impact of the Project, has found that the Project and the payments in lieu of taxes which would be made for properties located in the Park would be directly and substantially beneficial to the County, the taxing entities of the County, and the citizens and residents of the County, and that the Project would directly and indirectly benefit the general public welfare and serve a public purpose of the County by providing services, employment, recreation, promotion of tourism, or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality, or a charge against the general credit or taxing power of either; and, that the purposes to be accomplished by the Project, i.e., economic development and welfare, creation of jobs, promotion of tourism, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs.

I. The County has agreed to issue and sell Special Source Revenue Bonds, (Nickel Plate Road LLC Project) (the "Bonds") in a total principal amount of up to \$20,000,000, the proceeds of which will be used to design, acquire, construct, improve or expand Infrastructure, or to make reimbursement to the Developer or Owner thereof.

J. The Bonds will be issued under and pursuant to the provisions of the Act and will be secured by and payable solely from a portion of the Net Fee Payments.

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K. No bonds or other obligations have heretofore been issued by the County pledging the Net Fee Payments.

L. By the enactment of this General Bond Ordinance, the County will: provide for the issuance of the Bonds at the time and on the terms and conditions set forth in this General Bond Ordinance; authorize the execution of the Third Amendment to Inducement Agreement by and between the County, the Developer and the Owner; and amend Ordinance No. 2000-1 relating to the distribution of fees in lieu of *ad valorem* taxes in the Park.

ARTICLE III

AUTHORIZATION AND ISSUANCE OF BONDS

Section 3.1. Authorization of Bonds. There is hereby authorized to be issued Bonds of the County to be known as "Jasper County, South Carolina, Special Source Revenue Bonds (Nickel Plate Road LLC Project)" in one or more series for a total principal amount of up to \$20,000,000, which Bonds may be issued pursuant to this General Bond Ordinance and in accordance with the terms, conditions and limitations set forth herein, in such amounts and from time to time as the County, at the written request of the Owner or the Developer, shall issue under this General Bond Ordinance and the Act.

Section 3.2. General Provisions for Issuance of Bonds. (a) The Bonds shall be issued in Series by means of Supplemental Ordinances enacted by the Council in accordance with the provisions of this Article. Each Supplemental Ordinance shall designate the Bonds provided for thereby by an appropriate Series designation and by such further particular designations, if any, as the County deems appropriate, and shall, unless or except as is otherwise set forth herein, also specify: (i) the authorized principal amount of such Series of Bonds; (ii) the purpose or purposes for which the Bonds of such Series are being issued; (iii) the date or dates of the Bonds of the Series; (iv) a maturity of not longer than twenty-eight (28) years from the date of their respective issuance; (v) the interest rate or rates of the Bonds of such Series, or the manner of determining such rate or rates, and the Interest Payment Dates; (vi) the denominations of, and manner of numbering and lettering, the Bonds of such Series; (vii) the redemption premium, if any, and the terms and conditions, if any, of such redemption; (viii) the place or places of payment of the Bonds of the Series and interest thereon; (ix) any other provisions which may be required to be inserted therein by other provisions of this General Bond Ordinance; and (x) any other necessary or desirable provisions not inconsistent or in conflict with the provisions of this General Bond Ordinance.

Section 3.3. Conditions for the Issuance of Bonds under this General Bond Ordinance. Anytime and from time to time, one or more Series of Bonds shall be issued by the County at the request of the Owner or the Developer for such purposes as may be permitted by the Act upon

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compliance with the provisions of Section 3.2 hereof and this Section in such principal amounts as may be requested by the Owner and Developer within the limitations set forth in the Original Inducement Agreement and the Second Amendment to Inducement Agreement for the purpose of paying all or part of the Costs of Acquisition and Construction authorized to be financed under the Act with Bonds.

Bonds issued upon compliance with this Section and Section 3.2 shall be issued on a parity in all respects *inter sese*, notwithstanding, that they may be in different form, and bear different dates, interest rates, number, date of issuance or date of execution; and in all such instances, the pledge of Net Fee Payments made thereunder, and the covenants and remedies hereby granted shall be applicable and available to the holders of the Bonds.

Prior to the issuance of Bonds hereunder, there shall be filed with the County a certificate of an Authorized Owner Representative or an Authorized Developer Representative requesting the County to issue Bonds hereunder and stating:

(1) a description, and cost thereof, of the Infrastructure to be financed with the proceeds of Bonds; and

(2) the principal amount of and interest rate on the Bonds and a pro forma debt service schedule structured in accordance with the terms of the Original Inducement, as amended.

ARTICLE IV

THE BONDS

Section 4.1. Execution. Unless or except as is otherwise set forth in the Supplemental Ordinance providing for the issuance of a Series of Bonds, the Bonds shall be executed on behalf of the County by the Chairman or Vice Chairman of the County Council by his or her manual or facsimile signature, and the corporate seal of the County or a facsimile thereof shall be impressed or reproduced thereon and attested by the Clerk to the County Council by his or her manual or facsimile signature.

In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 4.2. Registration and Transfer of Bonds; Persons Treated as Holders. Each Bond shall be fully registered and transferable only upon the Books of Registry of the County, which shall initially be kept for that purpose at the office of the County Treasurer. Upon the

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transfer of any Bond, the County shall issue in the name of the transferee, a new Bond or Bonds of the same Series and of the same aggregate principal amount as the unpaid principal amount of the surrendered Bond.

Section 4.3. Form of Bonds; Denominations; Medium of Payment. The Bonds shall be in such form as provided in the Supplemental Ordinance authorizing their issuance. The Bonds shall be payable with respect to principal, interest, and premium, if any, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Section 4.4. Numbers, Date, and Payment Provisions. The Bonds shall be numbered and designated in such manner as the County shall determine. Each Bond of a Series shall bear interest as provided in the Supplemental Ordinance authorizing its issuance.

Section 4.5. Redemption of Bonds. The Bonds of a Series shall be subject to redemption prior to their stated maturities upon such terms and conditions and at such dates and redemption price or prices or premium or premiums as shall be set forth in the Supplemental Ordinance providing for the issuance of such Bonds.

Section 4.6. Bonds Exempt from South Carolina Taxes. As prescribed by Section 12-2-50 of the Code, the Bonds and the interest thereon are exempt from all State, county, municipal, school district, and all other taxes or assessments except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

ARTICLE V

ESTABLISHMENT OF FUNDS; SECURITY FOR AND PAYMENT OF THE BONDS; INVESTMENT OF MONEYS

Section 5.1. Listing of Funds and Accounts. The following are the funds and accounts created and established by this General Bond Ordinance:

- (i) Revenue Funds to be held by the County Treasurer.
- (ii) Debt Service Fund to be held by the County Treasurer, as provided in Section 5.5, including one or more Interest Accounts and Principal Accounts.

One or more accounts may, by direction of the County or by the terms of a Supplemental Ordinance, be established within any of the above funds of each Series of Bonds. It is intended by

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this General Bond Ordinance that the funds referred to in this Article shall remain in existence for so long a time as any sum remains due and payable by way of principal of and interest on the Bonds, and that deposits and withdrawals therefrom be made in the manner herein prescribed and in the order of priority hereinafter set forth in this Article V.

Section 5.2. Security for and Payment of the Bonds. Each Series of Bonds, together with the interest thereon, shall be payable solely from and secured equally and ratably by a pledge of Net Fee Payments received and retained by the County under the Park Agreement which shall be and hereby are irrevocably pledged to the payment of the principal of and interest on the Series of Bonds authorized by the Supplemental Ordinances; provided, in no event (including, without limitation upon any acceleration pursuant to Section 9.1 hereof) shall the County be obligated to pay in any year more than 40% of the Net Fee Payments to the Holder of any Bond issued under this General Bond Ordinance. In the event the total principal and interest payment due on any Series of Bonds in any year is greater than 40% of such Net Fee Payments, the difference thereon shall be forgiven without further notice by the County to the Holder. In the event the total principal and interest payment due on any Series of Bonds is less than 40% of such Net Fee Payments, the difference shall be paid to the Holder as additional interest on any Series of Bonds.

To the extent that *ad valorem* taxes, prior to the conversion to fees-in-lieu-of-tax pursuant to the Park Agreement, have been pledged to secure general obligation indebtedness issued by a political subdivision prior to the establishment of the Park, such fees-in-lieu-of-tax attributable to any real property and improvements thereon existing prior to the Park Agreement shall first be applied, to the extent necessary, to the payment of such outstanding general obligation indebtedness.

The Bonds and the interest thereon are (a) payable solely from all or a specifically described part of the Fee Payments in lieu of taxes received and retained by the County under Section 13 of Article VIII of the South Carolina Constitution and the Park Agreement; (b) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (c) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (d) not a pecuniary liability of the County or a charge against the County's general credit or taxing power.

Nothing in this General Bond Ordinance or the Bonds shall be construed as an obligation or commitment by the County to expend any of its funds other than (a) the proceeds of the Bonds, or (b) 40% of the Net Fee Payments derived by the County under Section 13 of Article VIII of the South Carolina Constitution and the Park Agreement.

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Section 5.3. Provision for Segregation of Funds. The designation and establishment of the Revenue Fund and Debt Service Funds in and by this General Bond Ordinance shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of the Fee Payments for certain purposes and to establish certain priorities for application of such Fee Payments and assets as herein provided.

Section 5.4. Revenue Fund. There is hereby created and established a Revenue Fund to be designated as "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Revenue Fund" (the "Revenue Fund") and to be maintained by the County Treasurer and into which shall be deposited all Fee Payments. Moneys in the Revenue Fund shall be made use of only in the manner specified in this Article V. The County Treasurer may invest moneys held in the Revenue Fund, from time to time, in Permitted Investments; provided, however, that the County Treasurer shall transfer funds in the Revenue Fund on the dates and in amounts sufficient to make all transfers required to be made from the Revenue Fund by this Article V. After paying the Multi-County Fees and subject to limitation set forth in the last paragraph of Section 5.2(b) hereof, the County shall apply or cause to be applied the Net Fee Payments in the manner set forth in this General Bond Ordinance.

Section 5.5. Debt Service Funds. There is hereby established special funds of the County for each Series of Bonds to be designated as "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Debt Service Fund (the "Debt Service Fund"). The Debt Service Fund shall be kept on deposit with the County Treasurer or its designee, and withdrawals therefrom shall be made for the purposes provided in this General Bond Ordinance or any Supplemental Ordinance. Each Debt Service Fund shall bear a separate series designation as may be necessary to distinguish such Debt Service Fund.

The respective Debt Service Funds are intended to provide for the payment of the principal of, redemption premium, if any, and interest on each Series of Bonds as the same respectively fall due. Payments into such Funds shall be made in the manner prescribed by this General Bond Ordinance and all moneys in the respective Debt Service Funds shall be used solely to pay the principal of, redemption premium, if any, and interest on the respective Series of Bonds, and for no other purpose, and withdrawals therefrom shall be made only to effect payment of the principal of, redemption premium, if any, and interest on the respective Series of Bonds. Earnings on investments in the respective Debt Service Fund, including the accounts therein, shall be added to and become a part of such respective Funds and their accounts.

The respective Interest and Principal Accounts in the Debt Service Funds are intended to provide for the payment of the principal of, redemption premium, if any, and interest on each Series of Bonds as the same respectively fall due. Payments into such Funds shall be made in the manner prescribed by this General Bond Ordinance and each Supplemental Ordinance and all moneys in the respective Debt Service Fund shall be used solely to pay the principal of,

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redemption premium, if any, and interest on the respective Series of Bonds to which the same have been pledged by Supplemental Ordinance, and for no other purpose. Withdrawals therefrom shall be made only to effect payment of the principal of, redemption premium, if any, and interest on the respective Series of Bonds.

There may be established in the respective Debt Service Funds from time to time a capitalized interest account to provide for the payment of interest on the Bonds of a particular Series as may be permitted hereunder. Any such account shall be created by a Supplemental Ordinance relating to the issuance of the Bonds of such Series. Any earnings from the investment of funds in the capitalized interest account not required to pay interest on the Bonds of any Series during the period for which interest on the Bonds of such Series is capitalized shall be deposited in the Construction fund created by the Supplemental Ordinance relating to such Bonds or, if such Construction has been terminated or no such fund was created, such earnings shall be retained in the appropriate Debt Service Fund.

Not later than the last Business Day prior to February 1 of each year, and subject to the proviso contained in Section 5.2 hereof, the County shall transfer or cause to be transferred for deposit into the respective Debt Service Fund for the Bonds from the Net Fee Payments in the Revenue Fund, the amounts hereinafter set forth.

(a) There is hereby created, for the purpose of paying the interest on each respective Series of Bonds as the same becomes due and payable, an Interest Account in the respective Debt Service Fund. A separate Interest Account shall be established for each Series of Bonds. Not later than the last Business Day prior to February 1 of each year, the County shall transfer or cause to be transferred into the Debt Service Fund for credit to the Interest Account an amount of applicable Net Fee Payments equal to the installment of interest to fall due on the Interest Payment Date with respect to each of the Series of Bonds then Outstanding. In making any of the credits to the Interest Account required by this paragraph (a), consideration shall be given to and allowance made for accrued interest received upon delivery of any Series of Bonds to the initial purchasers and for any other credits such as capitalized interest otherwise made to such Account.

(b) There is hereby created, for the purpose of paying the principal of each respective Series of Bonds as they mature, a Principal Account in the respective Debt Service Fund. A separate Principal Account shall be established for each Series of Bonds. Not later than the last Business Day prior to each Principal Payment Date, the County shall transfer or cause to be transferred into the respective Debt Service Fund to the credit of the Principal Account an amount of applicable Net Fee Payments which would on such date be equal to the installment of principal then falling due on each of the Series of Bonds.

(c) Earnings on investments in the Interest Account or Principal Account for a Series of Bonds shall be retained in such Account and considered as funding for such account for

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the subsequent Tax Year. Any earnings remaining after the final payment of principal of, premium, if any, and interest on a Series of Bonds shall be transferred to the Revenue Fund.

Moneys in the respective Interest Account or Principal Account of the Debt Service Funds shall be used and applied solely to the payment of the interest on and the retirement of the principal of and redemption premium, if any, on the Series of Bonds for which such Interest Account or Principal Account in the Debt Service Funds was established and shall be used and applied in accordance with the provisions of this Section and this General Bond Ordinance. The moneys paid into the Interest Account and the Principal Account of the Debt Service Fund established for each Series of Bonds shall be held by the County or its designee, as applicable, in trust solely for the purpose of paying the interest on and the retirement of the principal of and premium, if any, on the Bonds of such Series and withdrawals from the applicable accounts of said Debt Service Funds shall be made by the County or its designee in order to transfer such moneys to the Paying Agent for such Series of Bonds. Such withdrawals shall be made so that the necessary moneys shall be available to the Paying Agent not later than one (1) Business Day prior to the day on which principal or interest or both, and redemption premium, if any, as the case may be, are payable on the applicable Series of Bonds.

Section 5.6. Application of Remaining Net Fee Payments. Any Net Fee Payments remaining in the Revenue Funds after the above required payments to the respective Debt Service Funds have been made or provided for in each Tax Year shall be disposed of by the Council in accordance with the terms of the Park Agreement or ordinances of the County relating thereto.

Section 5.7. Investment of Funds. Moneys held for the credit of the respective accounts of the Debt Service Fund shall be invested, to the fullest extent practicable and reasonable, in Permitted Investments which shall mature prior to the respective dates when the moneys held for the credit of such accounts will be required for the purpose intended. Moneys in any other funds established by this General Bond Ordinance shall be invested, to the fullest extent practicable, in Permitted Investments, maturing at such times and in such amounts as shall be required to provide moneys to make the payments required to be made from such funds. Investment instructions shall be given to the Custodian, if different than the County Treasurer, by the County Treasurer.

ARTICLE VI

COVENANTS

Section 6.1. To Pay Principal, Premium, and Interest on the Bonds. The County shall punctually pay, or cause to be paid, out of the Net Fee Payments pledged to such payment in Article V hereof and the Supplemental Ordinance, the principal of and the interest on each and

every Bond issued under the provisions of this General Bond Ordinance, at the place, on the dates and in the manner provided herein.

Section 6.2. Park Agreement. The County shall promptly perform the duties and obligations imposed and assumed by it in accordance with the terms and provisions of the Park Agreement.

Section 6.3. Records, Accounts, Budgets and Audits. The County will keep proper books of records and accounts (separate from all other records and accounts), in which complete and correct entries shall be made of all transactions relating to the Fee Payments. The County will cause to be furnished to any Holder of any of the Bonds, who make written request therefor, a copy of the annual audited financial statements of the County.

Section 6.4. Sale, Lease or Other Encumbrances. The County will not issue any bonds, notes, certificates or other obligations or evidences of indebtedness other than the Bonds or obligations authorized or permitted hereby secured by a pledge of any of the Net Fee Payments pledged to the payment of any Series of Bonds, and the County will not create or cause to be created any lien or charge on the Net Fee Payments pledged to the payment of any Series of Bonds other than the liens and charges created or permitted to be created hereby.

ARTICLE VII

CUSTODIAN

Section 7.1. Duties and Obligations of Custodians. The recitals of fact made in this General Bond Ordinance and in the Bonds shall be taken as statements of the County, and no Custodian shall be deemed to have made any representation as to the correctness of the same nor shall any Custodian be deemed to have made any representation whatsoever as to the validity or sufficiency of this General Bond Ordinance or of the Bonds issued hereunder. The Custodian shall not be under any responsibility or duty with respect to the issuance of the Bonds or the application of the proceeds thereof, except to the extent provided for herein. The Custodian shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in response to this General Bond Ordinance, or to the Bonds issued hereunder, or to advance any of its own moneys, unless properly indemnified to its satisfaction. The Custodian shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

Section 7.2. Custodians Protected in Relying upon Resolutions, etc. All Custodians shall at all times be protected in acting upon any notice, resolution, request, consent, order, certificate, statement, opinion, bond, or other paper or document believed to be genuine and to have been signed by the proper party or parties.

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ARTICLE VIII

EVENTS OF DEFAULT

Section 8.1. Events of Default. With respect to each Series of Bonds, the following shall constitute "Events of Default":

A. If payment of the principal of any Bond of such Series, whether at maturity or by proceedings for redemption, by declaration as provided in Article IX hereof, or otherwise, is not made by the County after the same has become due and payable; however, such non-payment will not be regarded as an Event of Default where the total principal payment due is not paid because 40% of the Net Fee Payments is not sufficient therefor as described in Section 5.2;

B. If payment of any installment of interest on any Bond of such Series is not made by the County as the same becomes due and payable; however, such non-payment will not be regarded as an Event of Default where the total interest payment due is not paid because 40% of the Net Fee Payments is not sufficient therefor as described in Section 5.2;

C. If the County shall fail in the due and punctual performance of any of the covenants, conditions, agreements and provisions contained in such series of Bonds or in this General Bond Ordinance or in any ordinance supplemental with respect to such Series hereto on the part of the County to be performed, and such failure continues for thirty (30) days after written notice specifying such failure and requiring the same to be remedied has been given to the County by the Custodian, or the Holders of not less than twenty percent (20%) in principal amount of such series of Bonds then Outstanding or any trustee or committee therefor;

D. If any proceedings are instituted, with the consent or acquiescence of the County, for the purpose of effecting a composition between the County and its creditors and if the claim of such creditors is in any circumstance payable from the Net Fee Payments pledged in this General Bond Ordinance or any ordinance supplemental hereto for the payment of the Bonds, or any such proceedings are instituted for the purpose of adjusting the claims of such creditors, pursuant to any Federal or State statute now or hereafter enacted; or

E. If the County is for any reason rendered incapable of fulfilling its obligations hereunder in any material respect.

Subject to the provisions, limitations and conditions of Section 9.1 hereof, insofar as the remedies provided in said Section are concerned, nothing in Section 9.2 hereof or in this Article, and particularly nothing in paragraph C of this Article, shall prohibit or limit, or be construed as prohibiting or limiting any Holder of a Bond from enforcing the duties of the County, or any of the officers thereof, under any provisions of this General Bond Ordinance

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(including, without limiting the generality of the foregoing, the duties imposed by or referred to in Section 9.2 hereof) by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, even though the failure of the County or any of the officers thereof to perform any such duty may not then constitute an "Event of Default" as defined in this Article.

ARTICLE IX

REMEDIES UPON EVENT OF DEFAULT

Section 9.1. Declaration of Principal and Interest as Due. Upon the occurrence of an Event of Default, and at any time thereafter while such Event of Default continues, then and in each and every case the Holders of the Bonds or if a Custodian has been appointed for such Series of Bonds, the Custodian in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Holders of all Outstanding Bonds, may proceed, and upon the written request of the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding, shall proceed to declare the principal of all Bonds then Outstanding, together with all accrued and unpaid interest thereon, if not already due, to be due and payable immediately, and upon any such declaration the same shall become and be due and payable immediately, anything contained in this General Bond Ordinance or any Supplemental Ordinance hereto or in any of such Series of Bonds to the contrary notwithstanding. This provision is subject, however, to the condition that, if at any time after the principal of the Bonds of such Series, together with the accrued and unpaid interest thereon and other moneys secured hereby, have been so declared due and payable and before any further action has been taken (other than the making of the above declaration), the principal amount of all Bonds of such Series which have matured either according to the maturity date or dates otherwise specified therein (except as a result of such declaration) and all arrears of interest upon all Bonds of such Series, except interest accrued but not yet due on said Bonds, have been paid or caused to be paid, and all other Events of Default, if any, which have occurred have been remedied, cured or secured, then and in each and every such case the Holders of twenty-five percent (25%) in principal amount of the Bonds of such Series then Outstanding, by notice in writing delivered to the Custodian, if appointed, and the County, may waive such Default and its consequences and rescind and annul such declaration. No such waiver or rescission or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power related to such subsequent Default.

Section 9.2. Suits at Law or in Equity and Mandamus. In case any one or more of the Events of Default shall happen and be continuing, then and in every such case, but subject to the provisions, limitations and conditions of Section 9.1 so far as the remedies provided in said provisions are concerned, the Holder of any Bond at the time Outstanding, or Custodian therefor, may, for the equal benefit and protection of all Holders of the Bonds of a Series similarly situated:

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(a) By mandamus or other suit, action or proceedings at law or in the equity, enforce such Bondholder's right against the County and require and compel the County to perform and carry out its duties and obligations under the Act and this General Bond Ordinance, and to perform and carry out its covenants and agreements with the Bondholders;

(b) by action or suit in equity require the County to account as if such County were the trustee of an express trust;

(c) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders; or

(d) bring suit upon the Bonds.

Section 9.3. Remedies Not Exclusive; Effect of Waiver of Default; Effect of Abandonment of Proceedings or Adverse Determination. The Holders from time to time of the Bonds shall be entitled to all the remedies and benefits of this General Bond Ordinance as are and as shall be provided by law, and, subject to the provisions of Section 9.1 hereof, nothing herein shall be construed to limit the rights or remedies of any such Holders under any applicable statute that may now exist or be enacted thereafter. No remedy conferred by the Act and this Article upon any Holder of any Bond is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by the Act and this Article or by any other law now or hereafter existing. Every substantive right and remedy conferred upon the Holders of the Bonds may be enforced and exercised from time to time and as often as may be deemed expedient.

No waiver of any default or breach of duty or contract by any Holder of any Bond shall extend to or affect any subsequent default or breach of duty or contract, or shall impair any rights or remedies thereon. No delay or omission of any Holder of a Bond to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein.

In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to Holders of the Bonds then and in every such case, the County and such Holders shall be restored to their former positions and rights and remedies as if no suit, action or proceeding had been brought or taken.

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ARTICLE X
DEFEASANCE

Section 10.1. Defeasance. The obligations of the County under this General Bond Ordinance and the liens, pledges, charges, trusts and the covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any Bond and, unless or except as otherwise provided in the Supplemental Ordinance providing for the issuance of any Series of Bonds, such Bond or Series of Bonds shall no longer be deemed to be Outstanding hereunder when:

(a) such Bond or Series of Bonds shall have been purchased by the County and surrendered to the County for cancellation or otherwise surrendered to the County or the Paying Agent, and is cancelled or subject to cancellation by the County or Paying Agent, or

(b) payment of the principal of, redemption premium, if any, and interest on such Bond or Series of Bonds, either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Paying Agent, in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment. At such time as a Bond or Series of Bonds shall no longer be deemed to be Outstanding hereunder, as aforesaid, such Bond or Series of Bonds shall cease to draw interest from the due date thereof, and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this General Bond Ordinance.

ARTICLE XI

AMENDMENT TO ORDINANCE NO. 2000-1 AND
THIRD AMENDMENT TO INDUCEMENT AGREEMENT

Section 11.1. Amendment to Ordinance No. 2000-1. Currently, County Ordinance 2000-1 designates that the distribution of Fee Payments pursuant to the Park Agreement be paid to each of the taxing entities in the County which levy an *ad valorem* property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes. Ordinance 2000-1 further provides that the County may, from time to time, by ordinance, amend the distribution of the fee in lieu of tax payments to all taxing entities. Ordinance 2000-1 also provides that a portion of *ad valorem* taxes which the County receives pursuant to the Park Agreement may be, from

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time to time and by ordinance of the County, designated for the payment of special source revenue bonds.

Pursuant to this General Bond Ordinance, the Council hereby amends SECTION IX of County Ordinance 2000-1 to provide as follows:

SECTION IX. Jasper County hereby directs that, of the fee-in-lieu of *ad valorem* taxes pursuant to the Agreement actually received by Jasper County for Park premises, one (1%) percent of such fees be paid to Beaufort County. Of the remainder of such fees, forty (40%) percent shall be designated for the payment of special source revenue bonds, and the balance shall be paid to each of the taxing entities in Jasper County which levy an *ad valorem* property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes.

Section 11.2. Third Amendment to Inducement Agreement. The County, as authorized and empowered under and pursuant to the provisions of the South Carolina Constitution, the Code and the case law of the Courts of the State of South Carolina, has previously entered into the Original Inducement Agreement as amended by the First Amendment to Inducement Agreement and the Second Amendment to Inducement Agreement with the Owner and Developer pursuant to which the County agreed to provide certain economic inducements to the Owner and Developer. Currently, the County has agreed to issue a single special source revenue bond secured and payable by forty (40%) percent of: that portion of the revenues from payment in lieu-of-taxes attributable to the Joint County and Industrial Business Park in which the Project will be located, which Jasper County is entitled to retain pursuant to the Agreement required by Section 4-1-170 of the Code; or, all or a part of the revenues from the payment in-lieu-of-taxes pursuant to Section 4-12-20 or Section 4-12-30 or Section 12-44-10 of the Code which Jasper County is entitled to receive and retain, whichever is greater, for a period of twenty-eight years after the issuance of the bonds, which may occur anytime within five years after a particular phase of the Project is placed in service for South Carolina tax purposes.

The County, the Owner and the Developer desire to execute a Third Amendment to Inducement Agreement under the same terms as the Original Inducement Agreement as amended by the First Amendment to Inducement Agreement and the Second Amendment to Inducement Agreement, except that the County may issue special source revenue bonds in one or more series, instead of a single series of bonds, for the Infrastructure serving the Project.

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Accordingly, pursuant to this General Bond Ordinance, the Council hereby approves the Third Amendment to Inducement Agreement attached hereto as *Exhibit B*. The Chairman of Jasper County Council and the Jasper County Administrator are hereby authorized and directed to execute and deliver the Third Amendment to Inducement Agreement with such minor changes and amendments as may be required to carry out the intent of the Council, the signatures of the Chairman and the Administrator thereon evidencing their approval of and concurrence with such changes and amendments.

All other terms and provisions of the Original Inducement Agreement, as amended, by the First Amendment to Inducement Agreement and the Second Amendment to Inducement Agreement, not hereby amended or otherwise affected remain in full force and effect. All Ordinances, Resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Benefits of General Bond Ordinance Limited to the County, the Custodian and Holders of the Bonds. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this General Bond Ordinance or the Bonds is intended or should be construed to confer upon or give to any person other than the County, the Custodian and the Holders of the Bonds, any legal or equitable right, remedy or claim under or by reason of or in respect to this General Bond Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. This General Bond Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the County, the Custodian and the Holders from time to time of the Bonds as herein and therein provided.

Section 12.2. General Bond Ordinance Binding Upon Successors or Assigns of the County. All the terms, provisions, conditions, covenants, warranties and agreements contained in this General Bond Ordinance shall be binding upon the successors and assigns of the County and shall inure to the benefit of the Custodian, its successors or substitutes in trust and assigns, and the Holders of the Bonds.

Section 12.3. No Personal Liability. No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the County contained in this General Bond Ordinance or the Bonds, against any member of the County, any officer or employee, as such, in his or her individual capacity, past, present or future, of the County, either directly or through the County, whether by virtue of any constitutional provision, statute or rule of law, or by the

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enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this General Bond Ordinance and the Bonds are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer or employee as such past, present or future, of the County, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the County and the Custodian or the Bondholder or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member, officer and employee is, by the adoption of this General Bond Ordinance and the execution of the Bonds, and as a condition of, and as a part of the consideration for, the adoption of this General Bond Ordinance and the execution of the Bonds, expressly waived and released. The immunity of members, officers and employees of the County under the provisions contained in this Section 12.3 shall survive the completion of the Project, the termination of this General Bond Ordinance and the termination of the Park Agreement.

Section 12.4. Effect of Saturdays, Sundays and Legal Holidays. Whenever this General Bond Ordinance requires any action to be taken on a Saturday, Sunday, legal holiday or bank holiday in the State of South Carolina, such action shall be taken on the first business day occurring thereafter. Whenever in this General Bond Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, legal holiday or bank holiday, in the State of South Carolina, such time shall continue to run until midnight on the next succeeding business day.

Section 12.5. Partial Invalidity. If any one or more of the covenants or agreements or portions thereof provided in this General Bond Ordinance on the part of the County or the Custodian or any paying agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements and portions thereof provided in this General Bond Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this General Bond Ordinance or of the Bonds, but the Holders of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

If any provisions of this General Bond Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because of conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 12.6. Law and Place of Enforcement of this General Bond Ordinance. This General Bond Ordinance shall be construed and interpreted in accordance with the laws of the

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State of South Carolina and all suits and actions arising out of this General Bond Ordinance shall be instituted in a court of competent jurisdiction in said State.

Section 12.7. Effect of Article and Section Headings and Table of Contents. The headings or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this General Bond Ordinance.

Section 12.8. Repeal of Inconsistent Ordinances and Resolutions. All ordinances and resolutions of the County, and any part of any ordinance or resolution, inconsistent with this General Bond Ordinance are hereby repealed to the extent of such inconsistency.

Section 12.9. Notice of Public Hearing. The Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bonds and this General Bond Ordinance, such notice in the form attached as *Exhibit C*, having been published in the *Jasper County Sun*, a newspaper of general circulation in the County, not less than 15 days prior to the date of such public hearing.

Section 12.10. Effectiveness of this General Bond Ordinance. This General Bond Ordinance shall become effective upon its adoption; provided, however, that it shall not be necessary for the County to establish the funds and accounts created in Article VI hereof prior to the issuance of any Bonds.

Section 12.11. Notices. All notices, certificates, or other communications hereunder or under this General Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, or given when dispatched by telegram addressed as follows:

If to the County:

Jasper County Council
~~305 Russell Street~~ P.O. Box 1149
Ridgeland, South Carolina 29936
Attention: County Administrator

If to the Owner:

Nickel Plate Road LLC
Post Office Box 1107
Jacksonville, Illinois 62651
Attn: Michael C. Rausch, President

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If to the Developer:

Asset Management Associates, Inc.
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

New River - Okatie Co. LLC
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

The County acting through its Authorized County Representative and the Custodian may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. The Owner and Developer, acting through their Authorized Owner Representative and Authorized Developer Representative, respectively, may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 12.12. Codification. This General Bond Ordinance shall be forthwith codified in the Code of County Ordinances in the manner required by law, and the name shall be indexed under the general heading "General Bond Ordinance, Special Source Revenue Bonds (Nickel Plate Road LLC Project)."

[Execution follows on next page]

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Enacted by the County Council of Jasper County, South Carolina, this 16th day of April, 2001.

JASPER COUNTY, SOUTH CAROLINA

By: 
Leroy Sneed, Chairman
Jasper County Council,
Jasper County, South Carolina

(SEAL)

ATTEST:


Judith Frank, Clerk to County
Council, Jasper County, South Carolina

First Reading: March 5, 2001
Second Reading: March 19, 2001
Public Hearing: April 16, 2001
Third Reading: April 16, 2001

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EXHIBIT A

Joint County Industrial and Business Park
Beaufort County and Jasper County

The Park consists of:

TRACT I:

ALL that certain piece, parcel and tract of land, containing 170.565 acres, situate, lying and being in the New River East Section of Jasper County, South Carolina, with said tract more specifically shown and described on a plat thereof entitled "A Plat Of A 170.565 Acre Tract Being a Portion Of The Argent Tract", with said plat prepared by Thomas & Hutton Engineering Co., Inc., as certified by Boyce L. Young, S.C.R.L.S. No. 11079, said plat dated the 28th day of March, 1997, and last revised on the 24th day of June, 1997 and recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 23 at Page 4.

TRACT II:

ALL that certain piece, parcel, and tract of land, containing 41.464 acres, situate, lying and being in Jasper County, South Carolina, said 41.464 acre parcel more specifically shown and described on a plat thereof entitled "A Plat Of A 41.464 Acre Tract Being A Portion Of The Argent Tract", said plat dated October 12, 1999, as prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 118.

TRACT III:

ALL that certain piece, parcel and tract of land, containing 106.75 acres, situate, lying and being in Jasper County, South Carolina, with said 106.75 acre tract more specifically shown and described on a plat thereof entitled "A Plat Of 106.75 Acre Tract Being A Portion Of The Argent Tract", said plat prepared by Thomas & Hutton Engineering Co. and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 119.

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EXHIBIT B

**THIRD AMENDMENT TO THAT INDUCEMENT AGREEMENT BY AND
AMONG JASPER COUNTY, SOUTH CAROLINA AND NICKEL PLATE
ROAD LLC, ASSET MANAGEMENT ASSOCIATES, INC., AND NEW
RIVER - OKATIE CO. LLC FINAL DATED APRIL 20, 1998**

WHEREAS, Jasper County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), as authorized and empowered under and pursuant to the provisions of the South Carolina Constitution (the "Constitution") and the Code of Laws of South Carolina, 1976, as amended (the "Code") and the case law of the Courts of the State of South Carolina, has previously, pursuant to its Resolution enacted on March 16, 1998, entered into an Inducement Agreement (the "Agreement") with Nickel Plate Road LLC, Asset Management Associates, Inc., and New River - Okatie Co. LLC (the "Companies"), final dated April 20, 1998, for a retail, commercial and business development in Jasper County, pursuant to which Jasper County will provide certain economic inducements to the Companies for such development and, pursuant to its Resolution enacted on June 15, 1998, amended that Inducement Agreement with the First Amendment thereto and, pursuant to its Resolution enacted on _____, further amended that Inducement Agreement with the Second Amendment thereto; and,

WHEREAS, among other inducements, the County has committed to issue a special source revenue bond to fund the development of infrastructure pertaining to the Project; and,

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WHEREAS, the Agreement provides, in Section 2.3, that the special source revenue bond will be secured and payable by forty (40%) percent of: that portion of the revenues from payment in lieu-of-taxes attributable to the Joint County and Industrial Business Park in which the Project will be located, which Jasper County is entitled to retain pursuant to the Agreement required by Section 4-1-170 of the Code; or, all or a part of the revenues from the payment in-lieu-of-taxes pursuant to Section 4-12-20 or Section 4-12-30 or Section 12-44-10 of the Code which Jasper County is entitled to receive and retain, whichever is greater, for a period of twenty-eight (28) years after the issuance of the bond, which may occur anytime within five years after the Project is placed in service for South Carolina tax purposes, up to the total amount of infrastructure of \$20,000,000; and,

WHEREAS, Jasper County Council and the Companies have agreed to issue multiple series of bonds, instead of a single special source revenue bond, for the infrastructure serving the Project, which bonds will be limited to the same total principal payment amount, the same maturity period, and will serve the same purposes as the single bond authorized by the Second Amendment; and,

WHEREAS, pursuant to Ordinance No. ____ enacted on ____, 2001, Jasper County Council has heretofore approved the execution and delivery of the Third Amendment (the "Third Amendment") to the Agreement for that purpose.

IT IS THEREFORE agreed by and among Jasper County, South Carolina and Nickel Plate Road LLC, Asset Management Associates, Inc., and New River - Okatie Co. LLC that:

Section 2. Section 2.3 of the Inducement Agreement is hereby amended to read as follows:
"Section 2.3. In connection with, and based upon the creation of a joint county industrial and business park (the "Park") and the execution of a fee-in-lieu-of-tax agreement for the Project, the County will issue special source revenue bonds for Project infrastructure, in one or more series, pursuant to Section 4-1-175 or Section 4-29-68, South Carolina Code, 1976, as amended, with such special source revenue bonds secured by and payable by forty (40%) percent of: that portion of the revenues from payment in-lieu-of-taxes attributable to the Park which Jasper County is entitled to retain pursuant to the agreement required by Section 4-1-170, South Carolina Code, 1976, as amended, or, all or a part of the revenues from the payment in-lieu-of-taxes pursuant to Section 4-12-20 or Section 4-12-30, South Carolina Code, 1976, as amended, or Section 12-44-10, *et seq.*, South Carolina Code, 1976, as amended, which Jasper County is entitled to receive and retain from the Project, whichever is greater, but with the principal amount of the bond not to exceed the actual cost of infrastructure of the Project. The special source revenue bonds authorized hereby will each have a maturity not to exceed twenty-eight (28) years, will be issued pursuant to and in accordance with the authority granted under Chapter 1 and Chapter 29 of Title 4 of the South Carolina Code, 1976, as amended, and will be the basis and subject of a separate Ordinance to be enacted by the County Council, which among other things will address the date of issuance and the multiple series issuance of the special source revenue bonds as to be mutually agreed upon by the County and owner and/or developer, which agreement will specifically authorize a new series of such bonds and the principal amount of the bonds, up to the maximum projected investment in

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Infrastructure as noted in Section 1.1(b), herein, that being Twenty Million Dollars (\$20,000,000). It is understood and agreed by and among the parties that the special source revenue bonds for any given phase of the Project will be issued when requested by the Owner and Developer, but not later than five (5) years after such phase of the Project is placed in service for South Carolina tax purposes, will be issued in a principal amount not to exceed the actual cost of the Infrastructure of the Project, but not exceeding \$20,000,000, will provide for interest and capitalized interest at market rate for such bonds, and will contain mandatory forgiveness or debt service payment extension provisions, at the sole election of the bond holder at the time such forgiveness or extension is required, to the extent that the portion of the payments in-lieu-of-taxes committed herein to debt service of such bonds is insufficient for such debt service, so that the County can never default on payment of such debt service due to insufficient investment in the Project to provide the anticipated rate of payments in-lieu-of-taxes, and so that the bond holder is nevertheless given the greatest reasonable assurance that such debt service due will ultimately be paid as expected, within the payment limitations set forth in this Section 2.3 and in the South Carolina Code, 1976, as amended."

Section 3. Should any term or provision of this Amendment, or of the Agreement as so amended or previously amended, be held void, unconstitutional, or otherwise unenforceable by any court of competent jurisdiction, such holding shall not affect the enforceability or constitutionality of any other provision, all of which are hereby deemed to be separable.

Section 4. All other terms and provisions of the Agreement, as previously amended, not hereby amended or otherwise affected remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Third Amendment to the Inducement Agreement on the respective dates indicated below.

JASPER COUNTY, SOUTH CAROLINA

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

By: _____
Administrator
Jasper County, South Carolina

Attest:

By: *Judith M. Hart*
Clerk to County Council
Jasper County, South Carolina
Date: 7/16/01, 2001

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Jasper_000035

ROA 00308

NICKEL PLATE ROAD LLC

By: _____
Michael Rausch

Its: President

Date: April 20, 2001

Greenville: 155564

ELECTRONICALLY FILED - 2021 Oct 22 12:52 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

Jasper_000036

ROA 00309

ASSET MANAGEMENT ASSOCIATES, INC.

By: _____

Its:

Date: _____, 2001

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NEW RIVER - OKATIE CO. LLC

By: _____

Its:

Date: _____, 2001

Greenville: 155564

NOTICE OF PUBLIC HEARING

EXHIBIT C

Notice is hereby given that a public hearing will be held by the County Council of Jasper County, South Carolina (the "County"), in the County Council Chambers, 914 Grays Road, Ridgeland, South Carolina at 7:00 p.m. on April 16, 2001, or at such other location within the said building as proper notice on the main entrance to the said County Council Chambers might specify.

The purpose of the public hearing is to consider an Ordinance entitled "A GENERAL BOND ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BONDS (NICKEL PLATE ROAD LLC PROJECT) IN A PRINCIPAL AMOUNT OF UP TO \$20,000,000; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY FROM CERTAIN REVENUES DERIVED FROM THE PAYMENTS OF FEES IN LIEU OF TAX FROM THE PROPERTIES LOCATED IN THE JASPER COUNTY AND BEAUFORT COUNTY JOINT COUNTY INDUSTRIAL AND BUSINESS PARK; PLEDGING SUCH MONEYS TO THE PAYMENT OF SUCH SPECIAL SOURCE REVENUE BONDS; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH FUNDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING; APPROVING A THIRD AMENDMENT TO THAT INDUCEMENT AGREEMENT BY AND AMONG JASPER COUNTY, SOUTH CAROLINA AND NICKEL PLATE ROAD LLC, ASSET MANAGEMENT ASSOCIATES INC., AND NEW RIVER - OKATIE CO. LLC; AND AMENDING ORDINANCE NUMBER 2000-1 RELATING TO THE DISTRIBUTION OF THE FEES IN LIEU OF *AD VALOREM* TAXES IN THE PARK; AND OTHER MATTERS RELATING THERETO." and an Ordinance entitled "A FIRST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD LLC PROJECT), SERIES 2001, NOT TO EXCEED \$7,000,000; AND OTHER MATTERS RELATING THERETO." The Ordinances relate to the authorization and issuance of Special Source Revenue Bonds (Nickel Plate Road LLC Project) as well as Series 2001 Bonds in the principal amount not to exceed \$7,000,000.

For the payment of the principal of and interest on the Bonds authorized by the Ordinances, there shall be pledged a portion of the fee in lieu of tax payments to be received by the County for properties located within the Joint County Industrial and Business Park located at or near the intersection of Highway 278 and Highway 141 in Jasper County. The proceeds of the Bonds will be used to pay for infrastructure including, but not limited to, land, site work performed with respect to the land, site utilities installed with respect to the land and off-site, and the costs of issuance of the Bonds.

The full faith, credit and taxing power of the County will not be pledged for the repayment of the Bonds, and the Bonds will not constitute a general obligation of the County.

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At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinances and the issuance of the Bonds.

COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA

County Administrator,

Greenville: 155564

ROA 00313

Jasper_000040

EXHIBIT 1-D

*Meeting Minutes of Jasper County Council
April 16, 2001*

**JASPER COUNTY COUNCIL
MARY GORDON ELLIS EXECUTIVE BUILDING
COUNCIL CHAMBERS**

APRIL 16, 2001

7:00 P.M.

MINUTES

OFFICIALS PRESENT:

LEROY SNEED, CHAIRMAN
PAUL MAX MALPHRUS, VICE CHAIRMAN
THOMAS MCCLARY, COUNCILMAN
BARBARA B. CLARK, COUNCILWOMAN
GLADYS N. JONES, COUNCILWOMAN
HENRY P. MOSS, JR., ADMINISTRATOR
D. THOMAS JOHNSON, ATTORNEY
JUDITH M. FRANK, CLERK TO COUNCIL

MEDIA NOTIFIED:

CAROLINA MORNING NEWS, JASPER COUNTY SUN, ISLAND PACKET, BEAUFORT GAZETTE,
WTOC-TV, WJWJ-TV, WSAV-TV

CALL TO ORDER:

CHAIRMAN SNEED CALLED THE REGULAR SCHEDULED MEETING OF THE JASPER COUNTY COUNCIL TO ORDER AT 7:05 P.M.

INVOCATION:

COUNCILMAN MCCLARY GAVE THE INVOCATION.

PUBLIC HEARING AND 3RD READING OF THE GENERAL BOND ORDINANCE (NICKEL PLATE ROAD, LLC PROJECT - SPECIAL SOURCE REVENUE BONDS)

PUBLIC HEARING AND 3RD READING OF THE 1ST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD, LLC PROJECT) SERIES 2001, NOT TO EXCEED \$7,000,000.00; AND OTHER MATTERS RELATING THERETO:

MR. PHILLIPS EXPLAINED THAT THE COUNTY HAD ENTERED INTO A FEE IN LIEU OF TAX AGREEMENT WITH NICKEL PLATE ROAD, LLC AND THAT THIS IS THE LEGAL FRAMEWORK TO SET THIS UP. THE COUNTY IS TO GET 59% AND BEAUFORT COUNTY IS TO GET 1%, BECAUSE OF IT BEING A MULTI- COUNTY PARK. THE 40% GOES BACK TO THE PROJECT TO PAY FOR THE SPECIAL SOURCE REVENUE BONDS. THE SUPPLEMENTAL ORDINANCE IS REGARDING THE FIRST ISSUE OF THE FUNDS TO BE PAID BACK FROM THAT FEE STREAM. THE NICKEL PLATE ROAD LLC, GETS BACK NO MONEY OTHER THAN WHAT THEY PUT IN AND THERE IS NO LIABILITY FOR THE COUNTY. THE AGREEMENT STATES THAT THE COUNTY IS NOT INVOLVED OR INDEBTED BY THE BOND. THE SPECIAL SOURCE REVENUE BOND IS PAID AS THE PROJECT GROWS. CHAIRMAN SNEED ASKED IF THE PROJECT FAILED, WOULD THE COUNTY BE RESPONSIBLE. MR. PHILLIPS SAID NO. COUNCILMAN MCCLARY ASKED HOW THE COUNTY WOULD PROFIT FROM THIS AGREEMENT. MR. PHILLIPS SAID ONLY 40% OF THE FEES GO BACK TO PAY OFF THE BOND AND THIS IS AN ECONOMIC DEVELOPMENT TOOL TO INDUCE JOB OPPORTUNITIES AND GROWTH TO THE COUNTY. MR. PHILLIPS SAID THAT THE COUNTY GETS ALL OF THE 6% OF THE TAX MONEY, IF THE PROJECT IS IN A MULTI- COUNTY PARK, AND THE STANDARD DISTRIBUTION IS NOT IN EFFECT. VICE CHAIRMAN MALPHRUS ASKED WHY BEAUFORT COUNTY GETS THE 1%. MR. PHILLIPS EXPLAINED THAT IT WAS A MULTI- COUNTY PARK AND BEAUFORT COUNTY WAS THE OTHER COUNTY INVOLVED. COUNCILWOMAN CLARK ASKED ABOUT PAYMENTS OF THESE FUNDS AND MR. PHILLIPS EXPLAINED THAT IF A BOND HOLDER WAS NOT PAID, THEN HE COULD BE PAID DIRECTLY FROM THE FUND.

CHAIRMAN SNEED OPENED THE PUBLIC HEARING FOR BOTH ORDINANCES. THERE WERE NO COMMENTS FROM THE PUBLIC. CHAIRMAN SNEED CLOSED THE PUBLIC HEARING. COUNCILWOMAN JONES MOTIONED THAT THIS BE THE 3RD READING OF THE GENERAL BOND ORDINANCE (NICKEL PLATE ROAD, LLC PROJECT - SPECIAL SOURCE REVENUE BONDS). COUNCILMAN MCCLARY SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

COUNCILMAN MCCLARY MOTIONED THAT THIS BE THE 3RD READING OF THE 1ST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD, LLC PROJECT) SERIES 2001, NOT TO EXCEED \$7,000,000.00; AND OTHER MATTERS RELATING THERETO. VICE CHAIRMAN MALPHRUS SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

APPROVAL OF THE MINUTES:

COUNCILWOMAN JONES ASKED THAT THE MINUTES BE CHANGED TO REFLECT THAT IT WAS

This document is certified as a true and accurate copy of the records on file with the Clerk of Council's Office for Jasper County, South Carolina.
Wanda Simmons, Clerk to Council

ELECTRONICALLY FILED - 2001 APR 22 12:55 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

MINUTES CONTINUED 04/16/01

CAROLINA FIRST BANK AND NOT REGIONS BANK THAT REP. RIVERS REFERRED TO. COUNCILMAN MCCLARY MOTIONED TO APPROVE THE MINUTES WITH THE CORRECTION NOTED. VICE CHAIRMAN SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

DOUG GRAHAM, FIRE CHIEFS ASSOCIATION, REGARDING PAID FIREMEN:

MR. GRAHAM ASKED THAT THE CHAIRMAN APPOINT A COMMITTEE OF COUNCIL MEMBERS TO MEET WITH THE FIRE CHIEFS TO DISCUSS THE PAID FIREMEN POSITIONS AND PLACEMENT OF THOSE FIREMEN, AS THE FIRE CHIEFS DO NOT BELIEVE THAT THEY SHOULD ALL BE PLACED IN THE CHERRY POINT FIRE STATION. CHAIRMAN SNEED APPOINTED COUNCILMAN MCCLARY, COUNCILWOMAN JONES AND ADMINISTRATOR HENRY MOSS TO MEET WITH THE FIRE CHIEFS AND FOR MR. MIKE HODGES TO BE PRESENT AT THE MEETING ALSO. MR. GRAHAM ALSO ASKED IF THE COUNCIL HAD MADE A DECISION REGARDING THE \$8.00 PER CALL THAT IS PAID TO THE VOLUNTEER FIREMEN. HIS DEPARTMENT HAD REQUESTED THAT THEIR MONEY BE PAID DIRECTLY TO THE FIRE DEPARTMENT AND NOT TO THEM. THE MONEY IS TO BE USED FOR IMPROVEMENTS TO THE FACILITY AND EQUIPMENT. MR. MOSS SAID A SURVEY HAD BEEN SENT OUT, HOWEVER, NOT ENOUGH HAD BEEN RETURNED TO MAKE A DECISION. IT WAS THE CONSENSUS OF THE COUNCIL THAT IF ALL THE FIREMEN FROM LEVY WANTED THE MONEY TO GO TO THE FIRE STATION, THEN IT SHOULD BE PAID TO THE FIRE STATION AND THE FIREMEN WHO WANTED TO CONTINUE TO RECEIVE THE MONEY THEMSELVES SHOULD BE ABLE TO KEEP THE MONEY. THE COUNCIL ALSO AGREED THAT IF THE FIREMEN DID NOT RESPOND TO THE SURVEY THEN THEY SHOULD CONTINUE TO RECEIVE THE MONEY DIRECTLY. COUNCILWOMAN CLARK MOTIONED THAT IF THE COUNTY WAS AUTHORIZED BY THE INDIVIDUAL TO PAY HIS VOLUNTEER PAY TO THE FIRE DEPARTMENT, THEN THE COUNTY SHOULD PAY IT TO THE FIRE DEPARTMENT AND IF THE INDIVIDUAL WANTED TO CONTINUE TO RECEIVE THE VOLUNTEER PAY DIRECTLY, THEN THE COUNTY SHOULD PAY THE INDIVIDUAL DIRECTLY. VICE CHAIRMAN MALPHRUS SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

ZENIE INGRAM CONCERNING THE ECONOMIC DEVELOPMENT ACTIVITY REPORT:

MS. INGRAM UPDATED THE COUNCIL ON THE GROWTH ACTIVITY IN JASPER COUNTY OVER THE PAST YEAR. MS. INGRAM'S REPORT COVERED THE GROWTH IN CAPITAL INVESTMENTS, JOBS AND TAXES IN THE COUNTY DURING THE PAST YEAR. MS. INGRAM DID A COMPARISON OF THE GROWTH OVER THE PAST THREE YEARS AND PROVIDED THE COUNCIL WITH A LIST OF THE NEW BUSINESSES THAT OPENED IN JASPER COUNTY IN THE YEAR 2000. VICE CHAIRMAN MALPHRUS ASKED ABOUT THE BUSINESS LICENSE DEPARTMENT AND HOW MUCH MONEY THE NEW BUSINESSES HAD BROUGHT INTO THE COUNTY. MR. MOSS SAID THAT A TOTAL COULD BE GIVEN FOR ALL THE LICENSES, BUT NOT INDIVIDUALLY. CHAIRMAN SNEED ASKED RONNIE MALPHRUS TO PROVIDE VICE CHAIRMAN MALPHRUS WITH THE TOTAL INCOME FROM NEW BUSINESS LICENSES AND A TOTAL FROM RENEWED BUSINESS LICENSES.

COMMITTEE REPORTS:

MS. CLARK REPORTED THAT SHE HAD MET WITH JAMES GARDNER, DIRECTOR OF PARKS AND RECREATION AND WAS VERY IMPRESSED BY THE EXCELLENT JOB HE WAS DOING WITH THE PARKS, RECREATION FACILITIES AND OBTAINING GRANTS. VICE CHAIRMAN MALPHRUS REPORTED THAT HE MET WITH SOME PEOPLE FROM COLUMBIA REGARDING THE PORT AND THAT THEY WERE IN SUPPORT OF THE PORT IN JASPER COUNTY. HE ALSO REPORTED THAT HE ATTENDED THE TRANSPORTATION COMMITTEE MEETING AND THAT MR. GARDNER HAD ASKED FOR FUNDING FOR A PARK AT THE KNOWLES ISLAND PARK. VICE CHAIRMAN MALPHRUS SAID HE MET WITH THE DISPATCHERS AND FELT THAT THEY, AS WELL AS, THE EMS DEPARTMENT WERE DOING A TERRIFIC JOB. VICE CHAIRMAN MALPHRUS ALSO COMMENTED THAT HE FELT THERE WAS WORK THAT NEEDED DONE ON THE HEALTH DEPARTMENT BUILDING. COUNCILMAN MCCLARY REPORTED THAT HE AND COUNCILWOMAN JONES INSPECTED THE JAIL FACILITY AND RECOMMENDED THAT THE REPAIRS REQUIRED BY THE DEPT. OF CORRECTION BE COMPLETED. HE CONTINUED THAT IF THE WORK IS NOT COMPLETED, THE STATE COULD CLOSE THE JAIL AND THEN IT WOULD COST THE COUNTY A LOT MORE MONEY TO BOARD THE PRISONERS OUT IN OTHER COUNTY JAILS. COUNCILWOMAN JONES SAID THE CONDITION OF THE JAIL WAS MUCH BETTER THAN IT WAS IN THE PAST AND THAT THE BEHAVIOR OF THE PRISONERS WAS GREATLY IMPROVED. SHE STATED THAT THE THINGS ON THE LIST SHOULD HAVE BEEN DONE ANYWAY AND ONCE THE IMPROVEMENTS WERE COMPLETE, THE NUMBER OF PRISONERS ALLOWED COULD BE INCREASED. COUNCILWOMAN JONES RECOMMENDED APPROVING UP TO \$40,000.00 TO DO THE JAIL IMPROVEMENTS. CHAIRMAN SNEED SAID HE THINKS THE THINGS THAT CAN BE DONE IN HOUSE NEED TO BE DONE AND THE THINGS THAT THE COUNTY CANNOT DO ITSELF MUST GO OUT FOR BID. MR. MOSS SUMMARIZED THAT WORK NEEDED TO BE DONE AND SAID HE WOULD ACT ON IT IMMEDIATELY. COUNCILMAN MCCLARY MOTIONED THAT THE ADMINISTRATOR BE ALLOWED TO FIND \$40,000.00 TO DO THE REPAIR WORK AT THE DETENTION FACILITY THAT IS REQUIRED BY THE S.C. DEPT. OF CORRECTIONS. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED BY COUNCILMAN MCCLARY AND COUNCILWOMEN CLARK AND JONES VOTING IN FAVOR.

MINUTES CONTINUED 04/16/01

VICE CHAIRMAN MALPHRUS VOTED AGAINST. COUNCILWOMAN JONES DISTRIBUTED COPIES OF THE NUISANCE ORDINANCE AND REQUESTED THAT THE COUNCIL AUTHORIZE THE ADMINISTRATOR TO GET THE OLD FARMER'S MARKET CLEANED UP AND TEAR THE OLD TIN ROOF OFF IF NECESSARY. SHE STATED THAT AREA'S IN THE COUNTY REALLY NEED CLEANED UP AND IF THE COUNTY STARTED SETTING THE EXAMPLE, IT WOULD BE EASIER TO ENFORCE THE ORDINANCE WITH PRIVATE INDIVIDUALS. MR. MOSS SAID THERE WOULD BE NO PROBLEM CLEANING THE AREA UP, HOWEVER, THERE WAS A PROBLEM WITH THE DEED AND THE BUILDING COULD NOT BE ALTERED. MR. MOSS ASKED THAT THE COUNTY ATTORNEY WORK ON CLEARING UP THE DEED AS THERE WAS A CLAIM AGAINST IT NOW. ATTORNEY JOHNSON SAID HE WAS FAMILIAR WITH THE PROBLEM AND THAT SOME OF THE WORDING WAS NOT STANDARD OR CLEAR CONCERNING THE REVERSION CLAUSE, BUT HE WOULD LOOK INTO IT AND REPORT BACK TO THE COUNCIL AT THE NEXT MEETING. COUNCILWOMAN JONES SAID THAT SHE ATTENDED A REGISTRATION BOARD MEETING AND THEY DISCUSSED THAT A LOADING DOCK WAS NEEDED AND HAD BEEN PREVIOUSLY APPROVED. COUNCILWOMAN JONES SAID THAT IF IT HAD BEEN APPROVED, THEN IT NEEDED TO BE COMPLETED. MR. MOSS SAID THAT NOTHING WAS TO BE DONE UNTIL AFTER THE SPECIAL ELECTION AND THAT THE RAMP WILL BE BUILT. COUNCILWOMAN JONES ALSO ASKED ABOUT THE LIBRARY AND WHEN THE PAINTING WAS TO BE DONE. MR. MOSS EXPLAINED THAT THE BIDS WERE IN AND THEY WERE WAITING ON SOMEONE TO BUILD NINE FOOT WINDOWS. MR. MOSS SAID THE FOUNTAIN WAS BEING REPAIRED AS WELL AS THE FENCE. COUNCILWOMAN JONES ASKED IF GUTTERS WERE GOING TO BE INSTALLED AND MR. MOSS SAID NOT AT THIS TIME. COUNCILWOMAN JONES ASKED THE CITIZENS TO SUPPORT THE GOSPEL SING HOSTED BY THE COUNCIL ON AGING. SHE SAID THE MONEY WOULD GO TOWARDS MEALS ON WHEELS. CHAIRMAN SNEED ANNOUNCED THAT THE TIMES OF THE BUDGET WORKSHOPS HAVE BEEN CHANGED. THE FIRST WORKSHOP WOULD BE AT 6:45 P.M. ON MAY 7, 2001, AT THE COMMUNITY BUILDING OF THE SGT. JASPER PARK IN HARDEEVILLE AND THE SECOND BUDGET WORKSHOP WOULD BE HELD DURING A SPECIAL CALLED MEETING ON MAY 23, 2001 AT 5:00 P.M. IN THE COUNCIL CHAMBERS OF THE EXECUTIVE BUILDING.

ADMINISTRATOR'S REPORT:

MR. MOSS SAID THAT HE WAS STILL WAITING ON A RULING FROM THE JUDGE REGARDING THE CONDEMNATION LAW SUIT FOR THE PORT, AND ALL THE MEETINGS WITH THE PEOPLE FROM COLUMBIA HAVE BEEN FAVORABLE. MR. MOSS ASKED COUNCIL TO APPROVE AN ADDITIONAL \$24,000.00 TO COMPLETE THE JASPER STATION ROAD, THE ADDITIONAL FUNDING IS NECESSARY BECAUSE OF POLES THAT NEED TO BE REMOVED. COUNCILMAN MCCLARY MOTIONED TO APPROVE THE ADDITIONAL \$24,000.00 TO COMPLETE JASPER STATION ROAD AND THAT THE FUNDS SHOULD COME FROM THE ECONOMIC DEVELOPMENT RESERVE ACCOUNT. COUNCILWOMAN JONES SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR. MR. MOSS ALSO UPDATED THE COUNCIL REGARDING THE HOSPITAL AND THAT MR. SUMMER WAS TRYING TO GET THE PROPOSAL TOGETHER WITH THE OTHER INDIVIDUALS INVOLVED. CHAIRMAN SNEED SAID HE WAS SORRY FOR THE DELAY BUT CERTAIN THINGS CANNOT BE DISCUSSED PUBLICLY AND CHAIRMAN SNEED ASKED MR. RONNIE MALPHRUS AND MRS. FRANK TO HAVE AVAILABLE, AT THE NEXT MEETING, INFORMATION FOR THE PUBLIC REGARDING EXECUTIVE SESSION AND THE ITEMS THAT FALL UNDER THAT CONSIDERATION.

OPEN FLOOR TO THE PUBLIC:

CHAIRMAN SNEED OPENED THE FLOOR TO THE PUBLIC AND LIMITED THE TIME TO THREE MINUTES. MIRIAM HEILKER ASKED THE COUNCIL TO PLEASE DO SOMETHING ABOUT THE SOUND SYSTEM IN THE CHAMBERS. MS. HEILKER ASKED FOR AN UPDATE REGARDING THE HOSPITAL AND CHAIRMAN SNEED EXPLAINED THAT AT THIS TIME NO REPORT COULD BE PRESENTED. DR. BENNETT ASKED WHY NO ONE WITH MEDICAL KNOWLEDGE HAS BEEN ASKED TO TAKE PART IN THE NEGOTIATIONS AND THAT IT WAS VERY HARD FOR A PHYSICIAN TO PRACTICE WITHOUT A HOSPITAL. VICE CHAIRMAN MALPHRUS SAID THAT SOME AREA DOCTORS HAVE HAD DISCUSSIONS WITH COUNCIL AND THE PEOPLE PROPOSING THE NEW FACILITY. DR. BENNETT WANTED TO KNOW WHAT JUDGE ORDERED THAT NOTHING BE DISCUSSED WITH THE PUBLIC. COUNCILWOMAN CLARK SAID SHE DIDN'T KNOW WHAT ORDER HE WAS SPEAKING OF AND THAT EVEN THOUGH SHE WAS NOT A DOCTOR, SHE DID HAVE SOME MEDICAL KNOWLEDGE AND THE COUNTY HAD HIRED AN ATTORNEY WHO WAS IN FACT AN ATTORNEY THAT SPECIALIZED IN MEDICAL CASES AND ATTORNEY JOHNSON WAS ALSO ADVISING THE COUNCIL. SHE CONTINUED THAT THE COUNCIL WAS WORKING 24/7 TOWARD PROVIDING THE COUNTY WITH THE BEST IT COULD POSSIBLY PROVIDE AND SHE WAS SURE IF IT ALL WORKED OUT THE COUNTY WAS GOING TO BE VERY PLEASED. SHE ASKED THE PUBLIC TO HAVE FAITH IN THE PEOPLE THEY ELECTED. GARY HODGES SAID THAT HE DID NOT THINK IT WAS EVER A WASTE OF TIME TO VOTE. GARY HODGES ASKED ABOUT PAST COUNCILMAN GREGORY OWING THE COUNTY ABOUT \$600.00 FOR PERSONAL PHONE CALLS ON HIS COUNTY ISSUED PHONE AND HOW DID THE COUNTY ALLOW IT TO GET TO THAT POINT. CHAIRMAN SNEED TOLD MR. HODGES TO WRITE TO MR. MALPHRUS REGARDING THIS MATTER UNDER THE FOIA BECAUSE THE COUNCIL COULD NOT DISCUSS SPECIFIC EMPLOYEES OUT OF EXECUTIVE SESSION. MR. HODGES SAID

MINUTES CONTINUED 04/16/01

THIS CONCERNED MISUSE OF PUBLIC FUNDS AND IT WAS NOT A PERSONNEL ISSUE. MS. GOLDEN INVITED COUNCIL TO ATTEND THE HARDEEVILLE TOWN COUNCIL MEETING ON THURSDAY AT 5:00 P.M. IN THE CITY HALL. THE RACE TRACK WAS TO BE DISCUSSED AND SHE ASKED FOR COUNCIL'S SUPPORT. BEING NO FURTHER COMMENTS CHAIRMAN SNEED CLOSED THE FLOOR TO THE PUBLIC.

EXECUTIVE SESSION:

COUNCILWOMAN JONES MOTIONED TO GO INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

RETURN FROM EXECUTIVE SESSION:

COUNCILWOMAN CLARK MOTIONED TO RETURN TO REGULAR SESSION. VICE CHAIRMAN MALPHRUS SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

CHAIRMAN SNEED ASKED ATTORNEY JOHNSON TO REPORT ON WHAT WAS DISCUSSED IN EXECUTIVE SESSION. MR. JOHNSON SAID THE COUNCIL DISCUSSED PERSONNEL PROBLEMS AND ISSUES AND THAT A COMMITTEE SHOULD BE APPOINTED TO WORK ON THE PERSONNEL POLICY. CHAIRMAN SNEED APPOINTED COUNCILMAN MCCLARY AND COUNCILWOMAN JONES TO WORK ON THE PERSONNEL POLICY. COUNCILWOMAN CLARK STATED THAT THERE WERE OTHER MEMBERS ON THE COUNCIL AND THAT COUNCIL MEMBERS MCCLARY AND JONES WERE APPOINTED TO WORK ON THE JAIL AND WITH THE FIREMEN AND ON THE PERSONNEL POLICY AND SHE FELT THAT THE OTHER MEMBERS OF COUNCIL SHOULD HAVE AN OPPORTUNITY TO SERVE ON SOME OF THESE COMMITTEES AND THAT SHE WAS ALREADY ASSIGNED TO THE PERSONNEL COMMITTEE. CHAIRMAN SNEED REVISED HIS APPOINTMENTS AND ASKED COUNCILWOMAN CLARK AND VICE CHAIRMAN MALPHRUS TO WORK WITH MR. MOSS AND THE FIRE CHIEFS.

ADJOURN:

COUNCILMAN MCCLARY MOTIONED TO ADJOURN THE REGULAR SCHEDULED MEETING OF THE JASPER COUNTY COUNCIL. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR. THE MEETING ENDED AT 9:50 P.M.

RESPECTFULLY SUBMITTED:

APPROVED BY:


JUDITH M. FRANK, CLERK TO COUNCIL


LEROY SNEED, CHAIRMAN

EXHIBIT 1-E

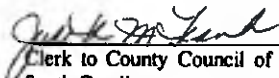
First Supplemental Ordinance No. 01-05

STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER)

CERTIFIED COPY
 OF FIRST SUPPLEMENTAL
 ORDINANCE NO. 01-05

I, the undersigned being the duly qualified and acting Clerk to the County Council of Jasper County, South Carolina (the "County"), and as such official I further certify that I am the recorder and custodian of the official records of the County Council and that attached hereto is a true copy of a First Supplemental Ordinance No. 01-05 providing for the issuance and sale of a not exceeding \$7,000,000 Special Source Revenue Bond (Nickel Plate Road LLC Project), Series 2001 of the County, enacted by the County Council at a meeting duly called and held on April 16, 2001, at which a quorum was present and acting throughout, which Ordinance has been compared by me with the original thereof, and that such Ordinance has been duly enacted including the required number of readings and has not been modified, amended or repealed and is in full force and effect on and as of the date hereof in the form attached hereto.

In witness hereof, I have hereunto set my hand this 20th day of April, 2001.


 Clerk to County Council of Jasper County,
 South Carolina

This document Ord # 2001-05
 is certified this 13th day of Sept 2021
 as a true and accurate copy of the records on file
 with the Clerk of Council's Office
 for Jasper County, South Carolina.
Wanda Simmons
 Wanda Simmons, Clerk to Council

Greenville:156281

Filed for Record in
 JASPER COUNTY
 MARGARET BUSTICK
 05-36-2001 At 09:10 AM.
 MISC N/C
 Volume 8 Page 245 - 245

JASPER COUNTY, SOUTH CAROLINA

SUPPLEMENTAL ORDINANCE NO. 01-05
(NICKEL PLATE ROAD LLC PROJECT - SPECIAL SOURCE REVENUE BOND)

A FIRST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD LLC PROJECT) SERIES 2001, NOT TO EXCEED \$7,000,000; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED, BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Definitions. The terms in this Section 1 and all words and terms defined in the General Bond Ordinance enacted by Council on April 16, 2001 (the "General Bond Ordinance"), shall for all purposes of this Supplemental Ordinance have the respective meanings given to them in the General Bond Ordinance and in Section 1 hereof. The following terms as used in this Supplemental Ordinance shall, unless the context requires otherwise, have the following meanings:

"2001 Infrastructure" shall mean the Infrastructure to be financed with the proceeds of the Bond of 2001 described in *Exhibit A* attached hereto.

"Bond of 2001" shall mean the Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Series 2001, in the aggregate principal amount of not more than \$7,000,000 authorized to be issued hereunder.

"Purchaser" shall mean the Owner.

"Supplemental Ordinance" shall mean this Ordinance.

Section 2. Certain Findings and Determinations. The Council hereby finds and determines:

(a) This Supplemental Ordinance supplements the General Bond Ordinance, constitutes and is a "Supplemental Ordinance" within the meaning of such quoted term as defined and used in the General Bond Ordinance, and is enacted under and pursuant to the General Bond Ordinance.

(b) The Bond of 2001 constitutes and is a "Bond" as defined and used in the General Bond Ordinance.

(c) The Net Fee Payments pledged under the General Bond Ordinance and this Supplemental Ordinance are not encumbered by any pledge thereof, other than the pledge thereof

Greenville: 154022

created by the General Bond Ordinance and this Supplemental Ordinance for payment and security of the Bond of 2001.

(d) There does not exist an Event of Default, nor does there exist any condition which, after the passage of time or the giving of notice, or both, would constitute such Event of Default.

(e) The Bond of 2001 is being issued for the purpose of paying the cost of designing, acquiring, constructing, improving or expanding the 2001 Infrastructure.

(f) As set forth on Attachment I to Exhibit C hereto, the Owner and Developer have invested over \$7,000,000 in the 2001 Infrastructure.

(g) The Purchaser has offered to purchase the Bond of 2001 at a price of par and an interest rate of 6 % per annum, the proceeds of which shall be used to defray the Cost of Acquisition and Construction of the 2001 Infrastructure and pay Costs of Issuance.

Section 3. Authorization of Bond of 2001, Maturities and Interest Rates.

(a) There is hereby authorized to be issued a Series of Bonds designated "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project), Series 2001", (the "Bond of 2001"), in the total principal amount of the actual cost of the Infrastructure of the Project, but not exceeding \$7,000,000, for the purpose of defraying the Cost of Acquisition and Construction of the 2001 Infrastructure and paying Costs of Issuance.

(b) The offer of the Purchaser to purchase the Bond of 2001 is hereby accepted.

(c) The Bond of 2001 shall mature on February 1 in each of the years and in the principal amounts as follows:

Greenville: 154022

Year	Principal Amount	Year	Principal Amount
*2001	\$10,726.96	2015	\$100,000.00
2002	\$14,273.04	2016	\$125,000.00
2003	\$25,000.00	2017	\$125,000.00
2004	\$50,000.00	2018	\$150,000.00
2005	\$50,000.00	2019	\$150,000.00
2006	\$50,000.00	2020	\$200,000.00
2007	\$50,000.00	2021	\$200,000.00
2008	\$75,000.00	2022	\$250,000.00
2009	\$75,000.00	2023	\$250,000.00
2010	\$75,000.00	2024	\$500,000.00
2011	\$75,000.00	2025	\$500,000.00
2012	\$100,000.00	2026	\$600,000.00
2013	\$100,000.00	2027	\$1,000,000.00
2014	\$100,000.00	2028	\$2,000,000.00

*Maturity date shall be date of issuance of the Bond of 2001.

(d) The Bond of 2001 shall originally be dated its date of initial issuance and shall be issued as a fully registered Bond in substantially the form set forth as *Exhibit B* hereto.

Section 4. Optional Redemption of Bond of 2001. The Bond of 2001 shall be subject to redemption at a price equal to the amount of the outstanding principal, plus accrued interest, of the Bond of 2001 prior to maturity, at the option of the County, but only upon the prior written direction of the Owner and Developer, as a whole or in part at any time, in such order of its maturities as the County may determine upon the prior written direction of the Owner and Developer.

Section 5. Establishment of 2001 Debt Service Fund. In accordance with Section 5.5 of the General Bond Ordinance, the 2001 Debt Service Fund is hereby directed to be established by the County Treasurer on the date of original delivery of the Bond of 2001 for the benefit of the Purchaser of the Bond of 2001. The payments from the Net Fee Payments authorized herein shall be made at the times set forth in Section 5.5 of the General Bond Ordinance.

Section 6. Advances in Payment for Bond of 2001. The moneys advanced in payment for the Bond of 2001 by the Purchaser shall be noted on the Schedule of Infrastructure Advances attached to the Bond of 2001 and shall be used and applied to the payment of Cost of Acquisition and Construction of the 2001 Infrastructure and Cost of Issuance.

Each advance for the Cost of Acquisition and Construction of 2001 Infrastructure or Cost of Issuance shall be made only upon receipt by the County of a Certificate Regarding Advances, in substantially the form attached hereto as *Exhibit C*, signed by an Authorized Owner Representative or Authorized Developer Representative, and filed with the County.

Greenville 154022

ELECTRONICALLY FILED - 2021 Oct 22 12:52 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

Section 7. Sale and Issuance of Bond of 2001.

(a) The County hereby finds and determines that the issuance and sale of the Bond of 2001 is fair and reasonable and in the best interest of the County; that the Bond of 2001 shall be sold to the Purchaser at a purchase price of not less than \$7,000,000 and upon the terms and conditions set forth herein.

(b) A copy of this Supplemental Ordinance shall be filed with the minutes of this meeting.

(c) The County hereby authorizes and directs all of the officers and employees of the County to carry out or cause to be carried out all obligations of the County hereunder and to perform such other actions as they shall consider necessary or advisable in connection with the issuance, sale and delivery of the Bond of 2001.

Section 8. Security. The Bond of 2001 is secured by a pledge of the Net Fee Payments referred to and subject to the limitations set forth in Section 5.2 of the General Bond Ordinance.

Section 9. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file with or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual audit of the County within thirty (30) days of the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the County, adversely affects more than five percent (5%) of the Fee Payments or the County's tax base. Notwithstanding anything herein to the contrary, compliance with the above covenant shall be solely the responsibility of the County, and neither the Custodian, if any, the Owner or Developer, or the Purchaser shall have any duty hereunder to monitor compliance by the County with such covenant. Any failure by the County to comply with the provisions of this Section shall not constitute an Event of Default.

Section 10. Further Actions. The Chairman of the Council, the County Administrator, the Clerk of the Council and the County Attorney are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate issuance of the Bond of 2001 and to carry out the intentions of this Supplemental Ordinance.

Section 11. Section Headings; Table of Contents. The headings and titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Supplemental Ordinance.

Section 12. Notices. All notices, certificates or other communications hereunder or under the Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by first-class, postage prepaid, addressed as follows:

If to the County:

Greenville: 154022

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Jasper County Council
914 Grays Road
Post Office Box 1149
Ridgeland, South Carolina 29936
Attn: County Administrator

If to the Owner:

Nickel Plate Road LLC
Post Office Box 1107
Jacksonville, Illinois 62651
Attn: Michael C. Rausch, President

If to the Developer:

Asset Management Associates, Inc.
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

New River - Okatie Co. LLC
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

Any party may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 13. Effective Date. This Supplemental Ordinance shall become effective upon its enactment.

[Execution follows on next page]

Enacted by the County Council of Jasper County, South Carolina, this 16th day of April, 2001.

JASPER COUNTY, SOUTH CAROLINA

By: *Leroy Sneed*
Leroy Sneed
Chairman, Jasper County Council
Jasper County, South Carolina

(SEAL)

ATTEST:

Judith M. Frank
Judith Frank, Clerk to County
Council, Jasper County, South Carolina

First Reading: March 5, 2001
Second Reading: March 19, 2001
Public Hearing: April 16, 2001
Third Reading: April 16, 2001

Greenville: 154022

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ELECTRONICALLY FILED - 2021 Oct 22 12:52 PM - JASPER - COMMON PLEAS - CASE#2021CP2700028

EXHIBIT A

DESCRIPTION OF 2001 INFRASTRUCTURE

Cost of acquiring certain real property used in the operation of manufacturing or commercial enterprises and constructing thereon certain infrastructure with respect to the first phase of the Project on or before December 31, 2000, including, but not limited to: real property, site work, surveying costs, legal fees, engineering services, permitting fees, consulting fees, utility fees, maintenance fees, insurance, landscaping fees, architectural fees, and accounting fees.

Growth: 154022

(FORM OF BOND)

EXHIBIT B

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
JASPER COUNTY
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2001Amount
\$7,000,000.00

Jasper County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to Nickel Plate Road LLC (the "Owner") or its registered assigns, but solely from the special source hereinafter mentioned, and not otherwise, a principal amount of \$7,000,000 or such lesser amount as is set forth on the schedule of advances annexed hereto as Schedule I (unless this Bond shall be subject to prior redemption and shall have been duly called for previous redemption and payment of redemption price made or provided for), and the County hereby promises to pay interest on the principal amount hereof from time to time unpaid at the rate of 6 % per annum, but solely from such special source and not otherwise, until this Bond matures. Interest on this Bond is payable on February 1 of each year commencing February 1, 2002. This Bond is payable as to principal on February 1 in each of the years and in the principal amounts as follows:

Year	Principal Amount	Year	Principal Amount
*2001	\$10,726.96	2015	\$100,000.00
2002	\$14,273.04	2016	\$125,000.00
2003	\$25,000.00	2017	\$125,000.00
2004	\$50,000.00	2018	\$150,000.00
2005	\$50,000.00	2019	\$150,000.00
2006	\$50,000.00	2020	\$200,000.00
2007	\$50,000.00	2021	\$200,000.00
2008	\$75,000.00	2022	\$250,000.00
2009	\$75,000.00	2023	\$250,000.00
2010	\$75,000.00	2024	\$500,000.00
2011	\$75,000.00	2025	\$500,000.00
2012	\$100,000.00	2026	\$600,000.00
2013	\$100,000.00	2027	\$1,000,000.00
2014	\$100,000.00	2028	\$2,000,000.00

*Maturity date shall be date of issuance of the Bond of 2001.

Greenville: 154022

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This Bond and the interest thereon are (a) payable solely from all or a specifically described part of the payments in lieu of taxes received and retained by the County under Section 13 of Article VIII of the Constitution of the State of South Carolina the Park Agreement (as defined in the General Bond Ordinance hereafter mentioned); (b) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (c) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (d) not a pecuniary liability of the County or a charge against the County's general credit or taxing power.

Both the principal of and interest on this Bond are payable at the principal office of the Owner in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

This Bond is issued by the County for the purpose of defraying the Cost of Acquisition and Construction of the 2001 Infrastructure (as such term is defined in the Supplemental Ordinance hereafter mentioned). This Bond is authorized to be issued and is issued under, pursuant to and in full compliance with the Constitution and statutes of the State of South Carolina, including particularly Section 4-1-175 and Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the "Act"). This Bond is also authorized to be issued and is issued under and pursuant to General Bond Ordinance No. 01-04 of the County Council of Jasper County duly enacted on April 16, 2001 (the "General Bond Ordinance"), and Supplemental Ordinance No. 01-05 of the County Council of Jasper County duly enacted on April 16, 2001 (the "Supplemental Ordinance"), under the Act, which General Bond Ordinance and Supplemental Ordinance have been duly codified and indexed as prescribed by law.

The General Bond Ordinance contains provisions defining terms; sets forth the Net Fee Payments (as defined in the General Bond Ordinance) pledged for the payment of the principal of and interest on this Bond and the Bonds of other series herewith which may hereafter be issued on a parity herewith under the General Bond Ordinance; sets forth the nature, extent and manner of enforcement of the security of this Bond and of such pledge, and the rights and remedies of the holder hereof with respect thereto; sets forth the terms and conditions upon which this Bond is issued and upon which other bonds may be hereinafter issued payable as to principal, premium, if any, and interest on a parity with this Bond and equally and ratably secured herewith; sets forth the rights, duties and obligations of the County thereunder; and sets forth the terms and conditions upon which the pledge made in the General Bond Ordinance for the security of this Bond and upon which the covenants, agreements and other obligations of the County made therein may be discharged at or prior to the maturity or redemption of this Bond with provisions for the payment thereof in the manner set forth in the General Bond Ordinance. Reference is hereby made to the General Bond Ordinance and the Supplemental Ordinance to all of the provisions of which any holder of this Bond by the acceptance hereof thereby assents. The provisions of the Act, the General Bond Ordinance and the Supplemental Ordinance shall be a contract with the holder of this Bond.

This Bond, including interest thereon, is payable solely from a portion of the Net Fee Payments and is secured equally and ratably by a pledge of such Net Fee Payments derived by the

Greenville 154022

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County from the Park Agreement (as defined in the General Bond Ordinance) and any Series of Bonds (as defined in the Bond Ordinance) hereafter issued under the General Bond Ordinance and certain funds and accounts established under the Supplemental Ordinance with respect thereto heretofore mentioned which are pledged to the payment thereof, and the County is under no obligation to pay the same except from such sources; provided, in no event shall the County be obligated to pay in any year more than 40% of such Net Fee Payments to the Purchaser. In the event the total principal and interest payment due on this Bond in any year is greater than 40% of such Net Fee Payments, the difference thereon shall be, and is hereby forgiven without further notice by the County to the Purchaser. In the event the total principal and interest payment due on this Bond is less than 40% of such Net Fee Payments, the difference shall be paid to the Purchaser as additional interest on this Bond.

Bonds on a parity with this Bond may hereafter be issued under terms and conditions set forth in the General Bond Ordinance. Such Bonds shall be equally and ratably secured with the pledge of the Net Fee Payments.

The County reserves the right upon the prior written direction of the Owner and Developer without payment of any premium to make prepayments of principal installments on this Bond at any time upon payment of such principal amounts and interest accrued thereon to the date fixed for redemption. Partial prepayment shall be applied to scheduled principal installments on this Bond in such order as the County determines at the direction of the Owner and Developer.

IN WITNESS WHEREOF, Jasper County, South Carolina, has caused this Bond to be executed in its name by the manual signature of the Chairman of the County Council and attested by the Clerk to the County Council under the seal of the County, this Bond to be dated the 16th day of April, 2001.

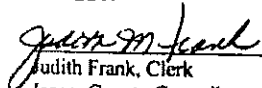
JASPER COUNTY, SOUTH CAROLINA

By 

Leroy Sneed,
Chairman, Jasper County Council
Jasper County, South Carolina

(SEAL)

ATTEST:


Judith Frank, Clerk
Jasper County Council
Jasper County, South Carolina

Greenville: 134022

B-3

REGISTRATION

This Bond has been registered in the name of Nickel Plate Road LLC, on the registration books kept by the Treasurer of Jasper County, South Carolina.

Dated this _____ day of _____, 2001.

Treasurer, Jasper County, South Carolina

Greenville: 154022

B-4

SCHEDULE I

JASPER COUNTY, SOUTH CAROLINA
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2001

SCHEDULE OF INFRASTRUCTURE ADVANCES

<u>Date</u>	<u>Amount of Advance</u>	<u>Outstanding Principal Balance</u>	<u>Signature of Authorized County Representative</u>	<u>Signature of Authorized Owner/Developer Representative</u>
April 20, 2001	\$7,000,000	\$7,000,000		

Greenville: 154022

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EXHIBIT C

CERTIFICATE REGARDING ADVANCES

Jasper County, South Carolina, Special Source Revenue Bond, Series 2001 (the "Bond of 2001")
(Nickel Plate Road LLC Project)
Dated: April 20, 2001

Advance No.: 1

Nickel Plate Road LLC hereby certifies and warrants to Jasper County, South Carolina (the "County"), pursuant to Section 3.3 of the General Bond Ordinance No. 01-04 (the "General Bond Ordinance") enacted by the County Council of Jasper County, South Carolina, on April 16, 2001, and Section 6 of the Supplemental Ordinance No. 01-05 (the "Supplemental Ordinance") enacted by the County Council of the County on April 16, 2001 the following in connection with the payment of 2001 Infrastructure and Cost of Issuance (as defined in the General Bond Ordinance and Supplemental Ordinance):

1. The amount to be paid: \$7,000,000.00
2. The amount to be paid will be applied to the payment of 2001 Infrastructure or Cost of Issuance and is due and payable and has not been the subject of any previous advance.
3. A description, and cost thereof, of the 2001 Infrastructure to be financed with the proceeds of the Bond of 2001 is included on *Attachment I*.
4. The principal amount of the Bond of 2001 is \$7,000,000.00 and the interest rate on such Bond is 6 % per annum. A pro forma debt service schedule structured in accordance with the terms of the Inducement Agreement (as defined in the General Bond Ordinance) is attached as *Attachment II*.

Nickel Plate Road LLC

By: _____
Michael Rausch

Its: President

Date: April 20, 2001

File: 154622 v1

1

I, the undersigned Clerk to the County Council of the County, hereby acknowledge receipt of this Certificate Regarding Advances which shall be filed with the County.

JASPER COUNTY, SOUTH CAROLINA

By: *Judith Frank*
Judith Frank
Clerk to County Council

Greenville 154022

ATTACHMENT I

2001 INFRASTRUCTURE

<u>DESCRIPTION</u>	<u>COST</u>
1. Land	\$2,441,306.34
2. Construction in Process	
a. Buildings	\$2,001,871.64
b. Landscaping	\$ 354,806.68
c. Roads, Water, Sewer Systems	\$ 741,598.28
Total Construction in Process	\$3,098,276.60
3. Paving and Drainage	\$ 835,888.73
4. Sewer System	\$ 587,712.86
5. Water Distribution System	\$ 208,370.76
Total Infrastructure Investment as of 12/31/00	\$7,171,555.29

Greenville: 154012 v1

ATTACHMENT II

DEBT SERVICE SCHEDULE

Year	Principal Amount	Year	Principal Amount
*2001	\$10,726.96	2015	\$100,000.00
2002	\$14,273.04	2016	\$125,000.00
2003	\$25,000.00	2017	\$125,000.00
2004	\$50,000.00	2018	\$150,000.00
2005	\$50,000.00	2019	\$150,000.00
2006	\$50,000.00	2020	\$200,000.00
2007	\$50,000.00	2021	\$200,000.00
2008	\$75,000.00	2022	\$250,000.00
2009	\$75,000.00	2023	\$250,000.00
2010	\$75,000.00	2024	\$500,000.00
2011	\$75,000.00	2025	\$500,000.00
2012	\$100,000.00	2026	\$600,000.00
2013	\$100,000.00	2027	\$1,000,000.00
2014	\$100,000.00	2028	\$2,000,000.00

*Maturity date shall be date of issuance of the Bond of 2001.

EXHIBIT 1-F

Second Supplemental Ordinance No. 02-16

This document is certified this 13th day of Sept. 2021 as a true and accurate copy of the records on file with the Clerk of Council's Office for Jasper County, South Carolina.
Wanda Simmons, Clerk to Council

200300037381
Filed for Record in
JASPER COUNTY
2003
10-24-2003 At 11:19 am.
MISC N/C .00
Volume 14 Page 72 - 88

JASPER COUNTY, SOUTH CAROLINA

SECOND SUPPLEMENTAL ORDINANCE NO. 02-16
(NICKEL PLATE ROAD LLC PROJECT – SPECIAL SOURCE REVENUE BOND)

A SECOND SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD LLC PROJECT) SERIES 2003, NOT TO EXCEED \$6,000,000; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED, BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Definitions. The terms in this Section 1 and all words and terms defined in General Bond Ordinance No. 01-04 enacted by Council on April 16, 2001 (the "General Bond Ordinance"), shall for all purposes of this Second Supplemental Ordinance have the respective meanings given to them in the General Bond Ordinance and in Section 1 hereof. The following terms as used in this Second Supplemental Ordinance shall, unless the context requires otherwise, have the following meanings:

"2003 Infrastructure" shall mean the Infrastructure to be financed with the proceeds of the Bond of 2003 described in *Exhibit A* attached hereto.

"Bond of 2001" shall mean the Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Series 2001, in the aggregate principal amount of \$7,000,000 authorized to be issued under the First Supplemental Ordinance.

"Bond of 2003" shall mean the Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Series 2003, in the aggregate principal amount of not to exceed \$6,000,000 authorized to be issued hereunder.

"First Supplemental Ordinance" shall mean First Supplemental Ordinance No. 01-05 enacted by Council on April 16, 2001 which authorized the issuance of the Bond of 2001.

"Purchaser" shall mean the Owner.

"Second Supplemental Ordinance" shall mean this Ordinance.

Section 2. Certain Findings and Determinations. The Council hereby finds and determines:

(a) This Second Supplemental Ordinance supplements the General Bond Ordinance, constitutes and is a "Supplemental Ordinance" within the meaning of such quoted term

as defined and used in the General Bond Ordinance, and is enacted under and pursuant to the General Bond Ordinance.

(b) The Bond of 2003 constitutes and is a "Bond" as defined and used in the General Bond Ordinance.

(c) The Net Fee Payments pledged under the General Bond Ordinance and this Second Supplemental Ordinance are not encumbered by any pledge thereof, other than the pledge thereof created by the General Bond Ordinance and the First Supplemental Ordinance for payment and security of the Bond of 2001, and the pledge thereof created by the General Bond Ordinance and this Second Supplemental Ordinance for payment and security of the Bond of 2003.

(d) There does not exist an Event of Default, nor does there exist any condition which, after the passage of time or the giving of notice, or both, would constitute such Event of Default.

(e) The Bond of 2003 is being issued for the purpose of paying the cost of designing, acquiring, constructing, improving or expanding the 2003 Infrastructure.

(f) As set forth on Attachment I to Exhibit C attached hereto, the Owner and Developer have invested over \$6,000,000 in the 2003 Infrastructure.

(g) The Purchaser has offered to purchase the Bond of 2003 at a price of par and an interest rate of 4.36% per annum, the proceeds of which shall be used to defray the Cost of Acquisition and Construction of the 2003 Infrastructure and pay Costs of Issuance.

Section 3. Authorization of Bond of 2003, Maturities and Interest Rates.

(a) There is hereby authorized to be issued a Series of Bonds designated "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project), Series 2003", (the "Bond of 2003"), in the total principal amount of the actual cost of the 2003 Infrastructure of the Project, but not exceeding \$6,000,000, for the purpose of defraying the Cost of Acquisition and Construction of the 2003 Infrastructure and paying Costs of Issuance.

(b) The offer of the Purchaser to purchase the Bond of 2003 is hereby accepted.

(c) The Bond of 2003 shall mature on February 1 in each of the years and in the principal amounts as follows:

Year	Principal Amount	Year	Principal Amount
2004	\$ 25,000	2018	\$ 150,000
2005	25,000	2019	150,000
2006	50,000	2020	200,000
2007	50,000	2021	200,000
2008	75,000	2022	250,000
2009	75,000	2023	250,000
2010	100,000	2024	300,000
2011	100,000	2025	300,000
2012	100,000	2026	400,000
2013	100,000	2027	400,000
2014	100,000	2028	500,000
2015	100,000	2029	500,000
2016	150,000	2030	600,000
2017	150,000	2031	600,000

(d) The Bond of 2003 shall originally be dated its date of initial issuance and shall be issued as a fully registered Bond in substantially the form set forth as *Exhibit B* hereto.

Section 4. Optional Redemption of Bond of 2003. The Bond of 2003 shall be subject to redemption at a price equal to the amount of the outstanding principal, plus accrued interest, of the Bond of 2003 prior to maturity, at the option of the County, but only upon the prior written direction of the Owner and Developer, as a whole or in part at any time, in such order of its maturities as the County may determine upon the prior written direction of the Owner and Developer.

Section 5. Establishment of 2003 Debt Service Fund. In accordance with Section 5.5 of the General Bond Ordinance, the 2003 Debt Service Fund is hereby directed to be established by the County Treasurer on the date of original delivery of the Bond of 2003 for the benefit of the Purchaser of the Bond of 2003. The payments from the Net Fee Payments authorized herein shall be made at the times set forth in Section 5.5 of the General Bond Ordinance.

Section 6. Advances in Payment for Bond of 2003. The moneys advanced in payment for the Bond of 2003 by the Purchaser shall be noted on the Schedule of Infrastructure Advances attached to the Bond of 2003 and shall be used and applied to the payment of Cost of Acquisition and Construction of the 2003 Infrastructure and Cost of Issuance.

Each advance for the Cost of Acquisition and Construction of 2003 Infrastructure or Cost of Issuance shall be made only upon receipt by the County of a Certificate Regarding Advances, in substantially the form attached hereto as *Exhibit C*, signed by an Authorized Owner Representative or Authorized Developer Representative, and filed with the County.

GREENVILLE 176793v3

ROA 00340

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Section 7. Sale and Issuance of Bond of 2003.

(a) The County hereby finds and determines that the issuance and sale of the Bond of 2003 is fair and reasonable and in the best interest of the County; that the Bond of 2003 shall be sold to the Purchaser at a purchase price of not less than \$6,000,000 and upon the terms and conditions set forth herein.

(b) A copy of this Second Supplemental Ordinance shall be filed with the minutes of this meeting.

(c) The County hereby authorizes and directs all of the officers and employees of the County to carry out or cause to be carried out all obligations of the County hereunder and to perform such other actions as they shall consider necessary or advisable in connection with the issuance, sale and delivery of the Bond of 2003.

Section 8. Security. The Bond of 2003 is secured by a pledge of the Net Fee Payments referred to and subject to the limitations set forth in Section 5.2 of the General Bond Ordinance. The pledge of the Net Fee Payments provided for in the General Bond Ordinance and this Second Supplemental Ordinance for the security of the Bond of 2003 shall be on a parity with the pledge of the Net Fee Payments provided for in the General Bond Ordinance and the First Supplemental Ordinance for the security for the Bond of 2001.

Section 9. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file with or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual audit of the County within thirty (30) days of the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the County, adversely affects more than five percent (5%) of the Fee Payments or the County's tax base. Notwithstanding anything herein to the contrary, compliance with the above covenant shall be solely the responsibility of the County, and neither the Custodian, if any, the Owner or Developer, or the Purchaser shall have any duty hereunder to monitor compliance by the County with such covenant. Any failure by the County to comply with the provisions of this Section shall not constitute an Event of Default.

Section 10. Further Actions. The Chairman of the Council, the County Administrator, the Clerk of the Council and the County Attorney are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate issuance of the Bond of 2003 and to carry out the intentions of this Second Supplemental Ordinance.

Section 11. Section Headings; Table of Contents. The headings and titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Second Supplemental Ordinance.

Section 12. Notices. All notices, certificates or other communications hereunder or under the General Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by first-class, postage prepaid, addressed as follows:

If to the County:

Jasper County Council
914 Grays Road
Post Office Box 1149
Ridgeland, South Carolina 29936
Attn: County Administrator

If to the Owner:

Nickel Plate Road LLC
Post Office Box 1107
Jacksonville, Illinois 62651
Attn: L. Dianne Barnett

If to the Developer:

Asset Management Associates, Inc.
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

New River – Okatie Co. LLC
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

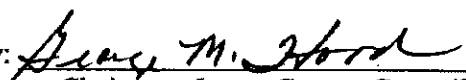
Any party may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 13. Effective Date. This Second Supplemental Ordinance shall become effective upon its enactment.

[Execution follows on next page]

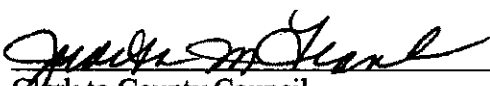
Enacted by the County Council of Jasper County, South Carolina, this 20th day of October, 2003.

JASPER COUNTY, SOUTH CAROLINA

By: 
Chairman, Jasper County Council
Jasper County, South Carolina

(SEAL)

ATTEST:


Clerk to County Council,
Jasper County, South Carolina

First Reading: September 15, 2003

Second Reading: October 6, 2003

Public Hearing: October 20, 2003

Third Reading: October 20, 2003

EXHIBIT A

DESCRIPTION OF 2003 INFRASTRUCTURE

Cost of acquiring certain real property used in the operation of manufacturing or commercial enterprises and constructing thereon certain infrastructure with respect to the second phase of the Project on or before July 31, 2003, including, but not limited to: real property, improvements, site work, surveying costs, legal fees, engineering services, permitting fees, consulting fees, utility fees, maintenance fees, insurance, landscaping fees, architectural fees, and accounting fees.

GREENVILLE 176793v3

ROA 00344

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EXHIBIT B

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
JASPER COUNTY
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2003

Amount
\$6,000,000.00

Jasper County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to Nickel Plate Road LLC (the "Purchaser") or its registered assigns, but solely from the special source hereinafter mentioned, and not otherwise, a principal amount of \$6,000,000 or such lesser amount as is set forth on the schedule of advances annexed hereto as Schedule I (unless this Bond shall be subject to prior redemption and shall have been duly called for previous redemption and payment of redemption price made or provided for), and the County hereby promises to pay interest on the principal amount hereof from time to time unpaid at the rate of 4.36% per annum, but solely from such special source and not otherwise, until this Bond matures. Interest on this Bond is payable on February 1 of each year commencing February 1, 2004. This Bond is payable as to principal on February 1 in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2004	\$ 25,000	2018	\$ 150,000
2005	25,000	2019	150,000
2006	50,000	2020	200,000
2007	50,000	2021	200,000
2008	75,000	2022	250,000
2009	75,000	2023	250,000
2010	100,000	2024	300,000
2011	100,000	2025	300,000
2012	100,000	2026	400,000
2013	100,000	2027	400,000
2014	100,000	2028	500,000
2015	100,000	2029	500,000
2016	150,000	2030	600,000
2017	150,000	2031	600,000

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ROA 00345

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This Bond and the interest hereon are (a) payable solely from all or a specifically described portion of the payments-in-lieu of taxes received and retained by the County pursuant to the Park Agreement (as defined in the General Bond Ordinance hereafter mentioned) created under Section 13 of Article VIII of the Constitution of the State of South Carolina; (b) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (c) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (d) not a pecuniary liability of the County or a charge against the County's general credit or taxing power.

Both the principal of and interest on this Bond are payable at the principal office of the Purchaser in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

This Bond is issued by the County for the purpose of defraying the Cost of Acquisition and Construction of the 2003 Infrastructure and the Cost of Issuance (as such terms are defined in the General Bond Ordinance and Second Supplemental Ordinance hereafter mentioned). This Bond is authorized to be issued and is issued under, pursuant to and in full compliance with the Constitution and statutes of the State of South Carolina, including particularly Section 4-1-175 and Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the "Act"). This Bond is also authorized to be issued and is issued under and pursuant to General Bond Ordinance No. 01-04 of the County Council of Jasper County duly enacted on April 16, 2001 (the "General Bond Ordinance"), and Second Supplemental Ordinance No. _____ of the County Council of Jasper County duly enacted on October 20, 2003 (the "Second Supplemental Ordinance"), under the Act, which General Bond Ordinance and Second Supplemental Ordinance have been duly codified and indexed as prescribed by law.

The General Bond Ordinance contains provisions defining terms; sets forth the Net Fee Payments (as defined in the General Bond Ordinance) pledged for the payment of the principal of and interest on this Bond and the Bonds of other series herewith which have previously been issued or which may hereafter be issued on a parity herewith under the General Bond Ordinance; sets forth the nature, extent and manner of enforcement of the security of this Bond and of such pledge, and the rights and remedies of the holder hereof with respect thereto; sets forth the terms and conditions upon which this Bond is issued and upon which other bonds have previously been issued or which may be hereinafter issued payable as to principal, premium, if any, and interest on a parity with this Bond and equally and ratably secured herewith; sets forth the rights, duties and obligations of the County thereunder; and sets forth the terms and conditions upon which the pledge made in the General Bond Ordinance for the security of this Bond and upon which the covenants, agreements and other obligations of the County made therein may be discharged at or prior to the maturity or redemption of this Bond with provisions for the payment thereof in the manner set forth in the General Bond Ordinance. Reference is hereby made to the General Bond Ordinance and the Second Supplemental Ordinance to all of the provisions of which any holder of this Bond by the

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GREENVILLE 176793v3

ROA 00346

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acceptance hereof thereby assents. The provisions of the Act, the General Bond Ordinance and the Second Supplemental Ordinance shall be a contract with the holder of this Bond.

This Bond, including interest hereon, is payable solely from a portion of the Net Fee Payments and is secured equally and ratably by a pledge of such Net Fee Payments derived by the County from the Park Agreement which also secures the Bond of 2001 (as defined in the Second Supplemental Ordinance) and any Series of Bonds (as defined in the Bond Ordinance) hereafter issued under the General Bond Ordinance, and certain funds and accounts established under the Second Supplemental Ordinance with respect thereto heretofore mentioned which are pledged to the payment thereof, and the County is under no obligation to pay the same except from such sources; provided, in no event shall the County be obligated to pay in any year more than 40% of the total of such Net Fee Payments to the holders, including the Purchaser, of all Series of Bonds issued pursuant to the General Bond Ordinance and any ordinance supplemental thereto. In the event the total principal and interest payment due on all Series of Bonds, including this Bond, in any year is greater than 40% of such Net Fee Payments, the difference thereon shall be, and is hereby forgiven without further notice by the County to the Purchaser. In the event the total principal and interest payment due on all Series of Bonds, including this Bond, is less than 40% of such Net Fee Payments, the difference shall be paid to the Purchaser as additional interest.

This Bond and the Bond of 2001 are equally and ratably secured by a pledge of the Net Fee Payments. Bonds on a parity with this Bond and the Bond of 2001 may hereafter be issued under terms and conditions set forth in the General Bond Ordinance. Such Bonds shall be equally and ratably secured with the pledge of the Net Fee Payments.

The County reserves the right upon the prior written direction of the Owner and Developer (as defined in the General Bond Ordinance) without payment of any premium to make prepayments of principal installments on this Bond at any time upon payment of such principal amounts and interest accrued thereon to the date fixed for redemption. Partial prepayment shall be applied to scheduled principal installments on this Bond in such order as the County determines at the direction of the Owner and Developer.

[EXECUTION PAGE FOLLOWS]

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GREENVILLE 176793v3

ROA 00347

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IN WITNESS WHEREOF, Jasper County, South Carolina, has caused this Bond to be executed in its name by the manual signature of the Chairman of the County Council and attested by the Clerk to the County Council under the seal of the County, this Bond to be dated the _____ day of _____, 2003.

JASPER COUNTY, SOUTH CAROLINA

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

(SEAL)

ATTEST:

Clerk
Jasper County Council
Jasper County, South Carolina

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GREENVILLE 176793v3

ROA 00348

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REGISTRATION

This Bond has been registered in the name of Nickel Plate Road LLC, on the registration books kept by the Treasurer of Jasper County, South Carolina.

Dated this _____ day of _____, 2003.

Treasurer, Jasper County, South Carolina

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GREENVILLE 176793v3

ROA 00349

Jasper_000119

SCHEDULE IJASPER COUNTY, SOUTH CAROLINA
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2003

SCHEDULE OF INFRASTRUCTURE ADVANCES

<u>Date</u>	<u>Amount of Advance</u>	<u>Outstanding Principal Balance</u>	<u>Signature of Authorized County Representative</u>	<u>Signature of Authorized Owner/Developer Representative</u>
_____, 2003	\$6,000,000	\$6,000,000	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

EXHIBIT C

CERTIFICATE REGARDING ADVANCES

Jasper County, South Carolina, Special Source Revenue Bond, Series 2003 (the "Bond of 2003")
(Nickel Plate Road LLC Project)

Dated: _____, 2003

Advance No.: 1

Nickel Plate Road LLC hereby certifies and warrants to Jasper County, South Carolina (the "County"), pursuant to Section 3.3 of the General Bond Ordinance No. 01-04 (the "General Bond Ordinance") enacted by the County Council of Jasper County, South Carolina, on April 16, 2001, and Section 6 of the Second Supplemental Ordinance No. _____ (the "Second Supplemental Ordinance") enacted by the County Council of the County on October 20, 2003 the following in connection with the payment of 2003 Infrastructure and Cost of Issuance (as defined in the General Bond Ordinance and Second Supplemental Ordinance):

1. The amount to be paid: \$6,000,000.00
2. The amount to be paid will be applied to the payment of 2003 Infrastructure or Cost of Issuance and is due and payable and has not been the subject of any previous advance.
3. A description, and cost thereof, of the 2003 Infrastructure to be financed with the proceeds of the Bond of 2003 is included on *Attachment I*.
4. The principal amount of the Bond of 2003 is \$6,000,000.00 and the interest rate on such Bond is 4.36% per annum. A pro forma debt service schedule structured in accordance with the terms of the General Bond Ordinance is attached as *Attachment II*.

Nickel Plate Road LLC

By: _____

Its: _____

Date: _____, 2003

I, the undersigned Clerk to the County Council of the County, hereby acknowledge receipt of this Certificate Regarding Advances which shall be filed with the County.

JASPER COUNTY, SOUTH CAROLINA

By: _____
Clerk to County Council

Instrument Volume Page
200300037381 14 86

ATTACHMENT I.

2003 INFRASTRUCTURE

<u>DESCRIPTION</u>	<u>COST</u>
1. New River Center Construction – New River Center	
a. Construction	\$ 2,560,948.79
b. Professional Fees	152,025.36
c. Development Management	379,395.00
2. Automall	
a. Land Acquisition	1,685,951.56
b. Construction/Development	
i. Roads, Water & Sewer Systems	1,209,185.34
ii. Landscaping	186,805.50
iii. Development Management	85,000.00
c. Professional, Permitting, Licensing and Filing Fees	104,760.36
Total Infrastructure Investment as of July 31, 2003	\$ 6,364,071.91

ATTACHMENT II.

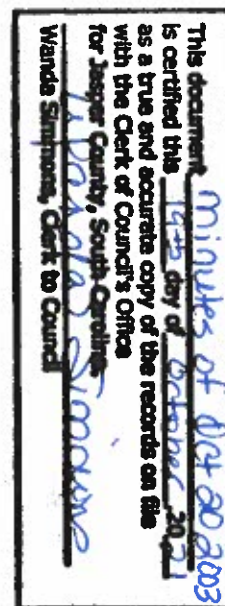
DEBT SERVICE SCHEDULE

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2004	\$ 25,000	2018	\$ 150,000
2005	25,000	2019	150,000
2006	50,000	2020	200,000
2007	50,000	2021	200,000
2008	75,000	2022	250,000
2009	75,000	2023	250,000
2010	100,000	2024	300,000
2011	100,000	2025	300,000
2012	100,000	2026	400,000
2013	100,000	2027	400,000
2014	100,000	2028	500,000
2015	100,000	2029	500,000
2016	150,000	2030	600,000
2017	150,000	2031	600,000

EXHIBIT 1-G

*Meeting Minutes of Jasper County Council
October 20, 2003*

**JASPER COUNTY COUNCIL
MARY GORDON ELLIS EXECUTIVE BUILDING
COUNCIL CHAMBERS
OCTOBER 20, 2003
7:00 P.M.
MINUTES**



OFFICIALS PRESENT:

DR. GEORGE HOOD, CHAIRMAN
THOMAS MCCLARY, COUNCILMAN
BARBARA B. CLARK, COUNCILWOMAN
GLADYS N. JONES, COUNCILWOMAN
HENRY P. MOSS, JR., ADMINISTRATOR
RONNIE MALPHRUS, DEPUTY ADMINISTRATOR
ROSE DOBSON, DEPUTY ADMINISTRATOR
DARRELL THOMAS JOHNSON, ATTORNEY
JUDITH M. FRANK, CLERK TO COUNCIL

OFFICIALS ABSENT:

PAUL MAX MALPHRUS, VICE CHAIRMAN

MEDIA NOTIFIED:

CAROLINA MORNING NEWS, ISLAND PACKET, JASPER COUNTY SUN, WTOG-TV,
WJWJ-TV,
BEAUFORT GAZETTE, WSAV-TV

CALL TO ORDER:

CHAIRMAN HOOD CALLED THE MEETING TO ORDER AT 7:05 P.M.

PLEDGE OF ALLEGIANCE:

CHAIRMAN HOOD LED THE PLEDGE OF ALLEGIANCE.

INVOCATION:

COUNCILWOMAN JONES GAVE THE INVOCATION.

APPROVAL OF THE MINUTES:

COUNCILWOMAN JONES MOTION TO APPROVE THE MINUTES FROM THE OCT. 6, 2003 MEETING AND THE OCT. 6, 2003 MEETING WITH THE TOWN OF RIDGELAND.
CHAIRMAN HOOD SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

PUBLIC HEARING AND 3RD READING OF THE SUPPLEMENTAL ORDINANCE REGARDING THE ISSUANCE AND SALE OF A JASPER COUNTY, SC, SPECIAL SOURCE REVENUE BOND, SERIES 2003:

CHAIRMAN HOOD OPENED THE PUBLIC HEARING. THERE WERE NO COMMENTS FROM THE PUBLIC. CHAIRMAN HOOD CLOSED THE PUBLIC HEARING.
COUNCILWOMAN JONES MOTIONED TO PASS THE SUPPLEMENTAL ORDINANCE REGARDING THE ISSUANCE AND SALE OF A JASPER COUNTY SC. SPECIAL SOURCE REVENUE BONDS, SERIES 2003. COUNCILMAN MCCLARY SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

1ST READING OF AN EMERGENCY ORDINANCE TO ENACT A MORATORIUM PROHIBITING APPROVAL OF ANY NEW SUBDIVISIONS ALLOWING HUD CODE (MOBILE HOMES):

ATTORNEY JOHNSON SAID HE THOUGHT A MORATORIUM ON SUBDIVISIONS WAS FINE, HOWEVER, HE WAS CONCERNED THAT THERE MAY BE A FEDERAL STATUE REGARDING REGULATING CERTAIN TYPES OF HOUSING AND THE COUNTY CURRENTLY DOES NOT HAVE AN ORDINANCE THAT DIFFERENTIATES ANY

MINUTES CONTINUED 10/20/03

OTHER TYPES OF HOMES OTHER THAN MOBILE HOMES. ATTORNEY JOHNSON RECOMMENDED PUTTING A MORATORIUM ON SUBDIVISIONS GENERALLY WHILE THE PLANNING COMMISSION IS WORKING ON THE NEW ORDINANCE. COUNCILWOMAN JONES ASKED IF ITEM G OF THE ORDINANCE WAS LEFT OUT, WOULD THAT FIX THE PROBLEM. CHAIRMAN HOOD SAID THAT HE WAS CONCERNED OVER THE WELFARE OF THE PEOPLE PURCHASING LAND IN THESE SUBDIVISIONS AND THAT THIS WOULD PROTECT THE PEOPLE. HAL JONES SAID THERE WAS CURRENTLY AN ORDINANCE WITH A MORATORIUM ON CERTAIN TYPES OF SUBDIVISIONS AND THAT THIS ORDINANCE IS REVISING IT TO ADD ITEMS F AND G., ITEM F IS EQUALLY APPLIED TO ALL SUBDIVISIONS. COUNCILMAN MCCLARY ASKED IF THIS WOULD HALT ALL SUBDIVISIONS IN THE COUNTY. HAL JONES SAID IT WOULD LIMIT ACCESS OFF OF ROADS WITH 55MPH SPEED LIMITS AND AN ARTERIAL ROAD WOULD BE NECESSARY. HAL JONES SAID THE COUNTY DOES NOT WANT TO STOP GROWTH, BUT TO ENCOURAGE NICER, LARGER SUBDIVISIONS AND LIMIT THE OLDER JUNK DEVELOPMENTS. JOE SCHILLING, CHAIRMAN OF THE PLANNING COMMISSION, SAID THAT THIS ORDINANCE WAS TWO FOLD - TO SECURE PUBLIC SAFETY LIMITING ACCESS TO HIGHWAYS WITH SPEED LIMITS OF 55 MPH AND WITH THE DEVELOPMENT OF THE SCHOOL DISTRICT ALONG HWY. 278, THE LOTS ARE TOO SMALL FOR BUS STOPS. MR. SCHILLING SAID THE PLANNING COMMISSION WAS REQUESTING THIS SHORT MORATORIUM SO THAT THE PLANNING COMMISSION COULD ADDRESS AND CORRECT THE LAND DEVELOPMENT AREAS IN THE ORDINANCE AND THAT THIS ORDINANCE WAS NOT TO STOP ANY WELL PLANNED DEVELOPMENTS. COUNCILMAN MCCLARY ASKED IF ITEM G WAS STRUCK, WILL IT AFFECT THE OTHER DEVELOPMENTS AS HE HAD NO PROBLEM WITH LIMITED ACCESS. COUNCILMAN MCCLARY ASKED IF THIS ORDINANCE WOULD STOP ALL SUBDIVISIONS FOR SIX MONTHS. MR. SCHILLING SAID IT WOULD STOP SOME. ATTORNEY JOHNSON SAID HE DID NOT IMPLY WHAT THE COUNCIL SHOULD DO, AS THEY COULD MAKE IT APPLY TO ALL, OR DELETE G. HE FELT THE COUNTY SHOULD NOT CREATE A NEW ARCHITECTURAL PLAN TO DISCRIMINATE AGAINST MOBILE HOMES. COUNCILWOMAN CLARK SAID SHE FELT ITEM G SHOULD BE STRUCK AND ASKED HOW MANY HOMES CONSTITUTED A SUBDIVISION. MR. JONES SAID TWO HOMES CONSTITUTED A SUBDIVISION. MR. MOSS SAID THAT THE ORDINANCE WAS ONLY WRITTEN TODAY AND HE AND THE ATTORNEY JUST SAW IT TONIGHT. MR. MOSS SAID THE CURRENT ORDINANCE ALLOWS LAND TO BE CUT ALONG A ROAD WITHOUT COMING TO COUNCIL AND PERHAPS THIS ORDINANCE WILL CREATE LAWSUITS AND THAT THE CURRENT ORDINANCE NEEDS CHANGED TO ELIMINATE THIS RATHER THAN TO DO A MORATORIUM. MR. JONES SAID THE PLANNING COMMISSION IS CURRENTLY TRYING TO AMEND THE ORIGINAL ORDINANCE AND IN ORDER TO CHANGE THE ORDINANCE THE PLANNING COMMISSION IS TRYING TO HALT UNDESIRABLE APPLICATIONS UNTIL THE ORDINANCE CAN BE AMENDED. CURRENTLY PLANS AND DESIGNS ARE BEING PRESENTED IN WHICH ROADS WILL NOT BE PAVED, LOTS WITH DRIVEWAYS EVERY 100 FT. ALONG HIGHWAYS WITH SPEED LIMITS OF 55MPH, AND THE PLANNING COMMISSION NEEDS TO STOP THESE SUBDIVISIONS UNTIL THEY CAN DEVELOP THE REVISED ORDINANCE. COUNCILWOMAN JONES MOTIONED THAT THIS BE THE 1ST READING OF THE EMERGENCY ORDINANCE TO ENACT A MORATORIUM PROHIBITING APPROVAL OF ANY NEW MAJOR SUBDIVISIONS AND TO STRIKE ITEM G (WHICH ALLOWS HUD CODE MOBILE HOMES)AND ITEM G WILL READ FOR THE DURATION OF THIS MORATORIUM. NO MAJOR SUBDIVISIONS SHALL BE APPROVED AND THAT THIS ORDINANCE WILL GO INTO EFFECT AFTER THE FIRST READING. CHAIRMAN HOOD SECONDED THE MOTION. J.W. HARPER ASKED IF THE COUNCIL WAS GOING TO PASS THIS ORDINANCE WITHOUT INPUT FROM THE PUBLIC. COUNCILMAN MCCLARY ASKED IF THIS MEANT ANYTHING OVER 2 LOTS, ATTORNEY JOHNSON REPLIED THAT ANYTHING OVER 3 LOTS THAT HAS NOT BEEN PREVIOUSLY SUBDIVIDED IN THE PAST 5 YEARS WITH NO ROADS OR

MINUTES CONTINUED 10/20/03

INFRASTRUCTURE NEEDED. COUNCILMAN MCCLARY ASKED HOW MANY UNITS PER ACRE AND HAL JONES SAID THE DENSITY VARIES ACCORDING TO THE ZONING. ATTORNEY JOHNSON SAID A PRACTICAL APPLICATION WAS THAT AT LEAST 3/4 ACRE IS NECESSARY FOR A WELL AND A SEPTIC TANK. COUNCILMAN MCCLARY ASKED ABOUT PUTTING IN A CENTRAL WELL AND ATTORNEY JOHNSON SAID THAT COULD NOT BE DONE UNLESS IT WAS DONE BY A LICENSED WATER ADMINISTRATOR. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

HENRY LAWTON CONCERNING STIPEND INCREASE FOR THE TRANSPORTATION COMMITTEE, INCREASING THE CHAIRMAN TO \$125.00 PER MEETING AND COMMITTEE MEMBERS TO \$100.00 PER MEETING:
MR. LAWTON SAID THAT IT HAD BEEN A YEAR SINCE HE ORIGINALLY MADE THE REQUEST AND FELT HE AND HIS COMMITTEE SHOULD HAVE AN ANSWER TO HIS REQUEST. COUNCILWOMAN JONES SAID THAT SHE AGREED AND SHE ALSO FELT HE SHOULD HAVE AN ANSWER, BUT SHE FELT IF HIS COMMITTEE SHOULD GET AN INCREASE THEN ALL COMMITTEES WERE ENTITLED TO AN INCREASE. COUNCILWOMAN JONES SAID THAT WHEN THE COMMITTEES WERE FIRST APPOINTED THE PEOPLE AGREED TO DO IT AS VOLUNTEERS. MR. LAWTON SAID HE DID NOT VOLUNTEER AND HE HAS TO PAY FOR HIS OWN TRAVEL EXPENSES. COUNCILWOMAN JONES SAID THE COUNCIL COULD NOT DO FOR HIM WHAT THEY CANNOT DO FOR EVERYONE AND SHE WOULD VOTE NO TO ANY INCREASES. COUNCILMAN MCCLARY SAID HE HAD NO COMMENT BUT RESERVED THE RIGHT TO COME BACK LATER. COUNCILWOMAN CLARK SAID SHE FELT THE OTHER COMMITTEES DESERVE THE SAME, BUT IT COULD NOT BE DONE NOW. HENRY LAWTON ASKED COUNCILWOMAN CLARK HOW COULD SHE VOTE TO INCREASE HER STIPEND AND NOT HIS STIPEND INCREASE. CHAIRMAN HOOD SAID ONLY FOUR COMMITTEES WERE CURRENTLY BEING PAID A STIPEND. COUNCILWOMAN JONES MOTIONED TO TURN DOWN MR. LAWTON'S REQUEST FOR AN INCREASE IN STIPEND FOR THE TRANSPORTATION COMMITTEE. THE MOTION DIED FOR LACK OF A SECOND. COUNCILMAN MCCLARY SAID THAT THE OTHER BOARDS AND COMMISSIONS THAT DO NOT CURRENTLY GET PAID AND THEY SPEND THEIR TIME ALSO, AND HE WANTED TO LOOK INTO HOW MUCH IT WOULD COST TO PAY ALL THE COMMITTEES. CHAIRMAN HOOD SAID HE WOULD WANT TO KNOW WHAT THESE COMMITTEES ACTUALLY DID AND HOW THEY SUPPORTED THE COUNCIL BEFORE THEY WOULD BE CONSIDERED FOR STIPENDS. COUNCILWOMAN CLARK SAID THAT SHE HAD MADE HER MIND UP TO APPROVE THE INCREASE, BUT TO LIMIT THE MEETING TO TWO MEETINGS PER MONTH. COUNCILMAN MCCLARY MOTIONED TO TABLE THIS REQUEST AND THAT THE COUNCIL WILL CONTACT MR. LAWTON WHEN A DECISION HAS BEEN MADE. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED WITH COUNCILMAN MCCLARY, COUNCILWOMAN CLARK AND CHAIRMAN HOOD VOTING FOR. COUNCILWOMAN JONES VOTED AGAINST.

DISCUSSION CONCERNING THE EXTENSION OF THE M.B. KAHN CONTRACT AT THE NEW LAW ENFORCEMENT CENTER:

RONNIE MALPHRUS EXPLAINED THAT THE ORIGINAL CONTRACT WITH M.B. KAHN WAS FOR A 20 MONTH PERIOD AND DUE TO NUMEROUS HURDLES INCLUDING THE MONITORING WELLS ADDITIONAL TIME WAS NEEDED. THE PROJECT WAS TO BE DONE BY APRIL, 2004 BUT DUE TO THE WEATHER AND OTHER DELAYS, THE PROJECT WAS BEHIND SCHEDULE AND MR. MALPHRUS ASKED THE COUNCIL TO EXTEND THE CONTRACT WITH M.B. KAHN FOR AN ADDITIONAL 2 MONTHS AT \$21,000.00 PER MONTH AND IF AT THE END OF THE PROJECT THE FUNDS RUN OUT, THEN THIS MONEY COULD COME FROM SOME OTHER SOURCE. MR. MALPHRUS SAID THE COUNCIL HAD AGREED TO PAY \$350,000.00 TO FUND THE WATER AND SEWER FROM COUNTY FUNDS AND IF IT COMES IN HIGHER, THEN THE COUNCIL WILL HAVE TO DEAL WITH IT AS IT IS

MINUTES CONTINUED 10/20/03

NOT IN THE DETENTION CENTERS CONSTRUCTION BUDGET. COUNCILMAN MCCLARY ASKED IF THE WATER AND SEWER COULD BE HANDLED THE SAME WAY THAT IT WAS HANDLED AT CYPRESS RIDGE. RONNIE MALPHRUS SAID IT COULD NOT BE HANDLED THAT WAY BECAUSE THE DETENTION CENTER IS LOCATED IN THE TOWN. COUNCILWOMAN CLARK MOTIONED TO APPROVE THE EXTENSION OF M.B. KAHN'S CONTRACT FOR TWO MONTHS FOR A TOTAL OF \$42,000.00 AND THIS MONEY IS TO COME FROM THE CONSTRUCTION FUND. COUNCILMAN MCCLARY SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

ERIC DEATON CONCERNING COASTAL CAROLINA MEDICAL CENTER:
MR. DEATON GAVE A POWER POINT PRESENTATION REGARDING THE NEW HOSPITAL AND INVITED EVERYONE TO THE GROUND BREAKING CEREMONY ON OCTOBER 23, 2004 AT 2:00 P.M. MR. DEATON SAID THEY EXPECT TO BE IN OPERATION BY OCTOBER OF 2005.

STEVE PALMER - SCE&G PLANT MANAGER
MR. PALMER WAS NOT PRESENT.

MIKE HODGES - UPDATE ON JASPER COUNTY ANTI TERRORISM COMMITTEE:
MR HODGES REVIEWED FOR THE COUNCIL THE ACTIVITIES THE COMMITTEES ARE CURRENTLY WORKING ON. MR. HODGES SAID THAT SLED HAS BEEN NAMED AS THE STATE'S LEAD ENTITY. MR. HODGES SAID ALL THE COUNTIES ARE TRYING TO COME TOGETHER AND SHARE RESOURCES AND THE PEOPLE ARE BEING EDUCATED ON HOW TO WORK TOGETHER AND THEY ARE CURRENTLY IN THE PROCESS OF ESTABLISHING PROCEDURES FOR HANDLING DIFFERENT TYPES OF SITUATIONS.

PRESENTATION FROM THE JASPER COUNTY HIGH SCHOOL BAND BOOSTER CLUB:
THE BAND DIRECTOR, NATHANIEL DRAKE, PRESENTED THE COUNCIL WITH A PLAQUE IN APPRECIATION OF THEIR FINANCIAL SUPPORT FOR THE NEW BAND UNIFORMS.

VOTE OF COUNTY POLICY REGARDING LANDFILLS:
COUNCILWOMAN JONES MOTIONED TO PASS THE JASPER COUNTY POLICY ON LANDFILLS. THE JASPER COUNTY POLICY ON LANDFILLS WILL BE ALL APPLICATIONS ON NEW SITES, EXPANSIONS, OR RENEWALS ON LANDFILLS LOCATED IN OR TO BE LOCATED IN JASPER COUNTY WILL COME BEFORE THE COUNTY COUNCIL AND A PUBLIC HEARING WILL BE HELD BEFORE BEING SENT TO DHEC. ONLY COUNTY COUNCIL WILL HAVE THE AUTHORITY TO TAKE A POSITION ON THIS MATTER. THIS POLICY WILL BECOME PART OF THE COUNTY'S SOLID WASTE PLAN. ATTORNEY JOHNSON SAID HE DID NOT THINK IT WAS MUCH DIFFERENT FROM THE DEVELOPMENT STANDARD ORDINANCE AND HE HAD NO PROBLEM WITH IT. COUNCILMAN MCCLARY ASKED IF THE COUNTY SAID NO, COULD DHEC STILL SAY YES. ATTORNEY JOHNSON SAID YES THAT COULD HAPPEN, THE COUNTY CAN EXPRESS ITS WISHES AND DHEC WOULD TAKE THEM INTO CONSIDERATION, BUT THEY LOOK AT THINGS SCIENTIFICALLY NOT EMOTIONALLY. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

COMMITTEE REPORTS:
COUNCILWOMAN JONES SAID THAT REGARDING SNAKE ROAD, THE LETTERS OF CONSISTENCY FROM THE COUNTY AND THE APPLICATION FOR 2.1 MILLION CUBIC YARDS WERE DIFFERENT FROM WHAT THE COUNTY APPROVED IN ITS LETTER OF 2.1 MILLION CUBIC FEET AND FELT THIS NEEDED TO BE BROUGHT TO DHEC'S ATTENTION. COUNCILMAN MCCLARY SAID HE FELT THE COUNTY SHOULD JUST

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LEAVE IT AS IT IS. COUNCILWOMAN CLARK AGREED WITH COUNCILMAN MCCLARY. COUNCILWOMAN JONES SAID SHE HAS A PROBLEM WITH THE DIFFERENCE BETWEEN CUBIC YARDS AND CUBIC FEET. ATTORNEY JOHNSON SAID HE REPRESENTED THE PARTIES MAKING THE APPLICATION AND THE 1ST LETTER ISSUED TO DHEC BY LCOG, WAS FOR WHATEVER THE ENGINEERS PLANS SUBMITTED TO THE COUNCIL AND WHEN MOVING LAND IS CONCERNED, IT IS ALWAYS REFERRED IN CUBIC YARDS NOT CUBIC FEET AND THAT HE WAS NOT AWARE OF ANY DISCREPANCY FROM WHAT WAS PRESENTED AND WHAT THE COUNCIL APPROVED. JOE SCHILLING COMMENTED THAT THE PLANNING COMMISSION WAS NEVER ASKED TO HAVE ANY INPUT AND DHEC SAID IT WAS NONE OF THE PLANNING COMMISSION'S BUSINESS. MR. SCHILLING SAID HE FELT THE PLANNING COMMISSION SHOULD BE INFORMED OF THESE MATTERS. MR. MOSS SAID THE LANDFILL CAME BEFORE THE COUNCIL IN 1997 AND FOLLOWED ALL THE RULES TO A T AND THE COUNCIL APPROVED IT AS IT WAS PRESENTED AND THE LETTER DOESN'T NEED CHANGING. COUNCILWOMAN JONES ASKED IF THE MINUTES AGREE WITH THE LETTERS. MR. MOSS SAID THE LETTER SAID THE COUNCIL FOUND IT TO BE CONSISTENT. COUNCILMAN MCCLARY MOTIONED NOT TO DO ANYTHING TO DISRUPT THIS PROCESS AND TO JUST LET IT DIE. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION FAILED WITH COUNCILMAN MCCLARY AND COUNCILWOMAN CLARK VOTING FOR. COUNCILWOMAN JONES AND CHAIRMAN HOOD VOTED AGAINST. COUNCILWOMAN JONES DISCUSSED THE VARIOUS MEETING SHE ATTENDED INCLUDING THE GROUND BREAKING IN HARDEEVILLE AND THE CHAMBER OF COMMERCE MEETING. COUNCILMAN MCCLARY AND COUNCILWOMAN CLARK SAID THEY ATTENDED THE SAME MEETINGS. CHAIRMAN HOOD LISTED THE MEETINGS HE ATTENDED AND PRESENTED A LETTER FROM SCDOT COMMENDING THE COOPERATION IT HAS RECEIVED FROM THE PUBLIC WORKS DEPARTMENT. CHAIRMAN HOOD RECOMMENDED THAT THE COUNCIL DISCUSS MATTERS OF CONCERN WITH SCAC AS THEY ARE A GREAT SOURCE FOR INFORMATION.

ADMINISTRATOR'S REPORT:

RONNIE MALPHRUS ASKED TO PRESENT A BID FOR FOUR BUILDINGS. COUNCILWOMAN JONES SAID THAT THE COUNCIL HAD VOTED NOT TO APPROVE ANYTHING THAT WAS NOT ON THE AGENDA. THIS ITEM WAS TABLED UNTIL THE NEXT MEETING.

OPEN FLOOR TO THE PUBLIC:

JOE SCHILLING THANKED THE COUNCIL FOR THEIR ACTION ON THE MORATORIUM AND ASKED THE COUNCIL TO CONSIDER HIS REQUEST AT THE LAST MEETING REGARDING EQUAL PAYMENT OF STIPENDS TO THE BOARDS AND COMMITTEES.

GLENN STORCK THANKED THE COUNCIL FOR PASSING THE MORATORIUM ORDINANCE AND HE SAID THAT IN THE PAST, HE WAS ONLY PAID \$1.00 FOR SERVING ON COMMITTEES AND BOARDS AND THAT HE TOO FELT THE COMMITTEES SHOULD BE TREATED EQUALLY. MR. STORCK SAID HE PUTS IN AT LEAST THREE HOURS OF HOMEWORK FOR EACH THING ON THE PLANNING COMMISSION'S AGENDA. MR. STORCK SAID THAT HE WANTS TO DO IT TO MAKE JASPER COUNTY A BETTER PLACE TO LIVE. HE SAID HE DID NOT DO IT FOR THE MONEY, BUT FELT IF THE COUNTY WAS GOING TO PAY THE MEMBERS OF THE COMMITTEES, IT SHOULD BE THE SAME FOR EVERYONE..

J.W. HARPER SAID IT DID NOT SIT WELL WITH HIM TO ASK FOR A RAISE TO SIT ON A COMMITTEE. MR. HARPER SAID HE SERVES ON A COUNTY COMMITTEE AND HE DOES NOT GET PAID ANYTHING.

ATTORNEY JOHNSON SPOKE AS A CITIZEN OF JASPER COUNTY, NOT AS THE COUNTY ATTORNEY, AND HE DISCUSSED THE OWNER OF THE LANDFILL BEING A LOCAL RESIDENT WHO WAS CURRENTLY HOSPITALIZED AND THAT THIS INDIVIDUAL HAS PUT EVERYTHING INTO THIS NEW PROJECT AND IS HE IS ONLY

MINUTES CONTINUED 10/20/03

ASKING FOR PERMISSION TO GO FORTH.

DR. EARL BOSTICK ASKED THE COUNCIL WHY THE LAND WAS NOT GIVEN TO THE SCHOOLS. COUNCILWOMAN JONES SAID SHE VOTED NO BECAUSE THE COUNCIL IS RESPONSIBLE FOR CYPRESS RIDGE BUSINESS AND INDUSTRIAL PARK AND THAT MR. MILBANKS SAID HE WOULD DONATE LAND TO THE SCHOOLS IF THE COUNTY WOULD DO WHAT HE WANTED IN THE CRBIP. COUNCILWOMAN JONES CONTINUED THAT THE STATE AND FEDERAL GOVERNMENTS APPROVED GRANTS FOR THE PARK AND THEY AGREED IT WOULD NOT BE GOOD FOR SCHOOL TO BE NEAR OR IN THE BUSINESS PARK. COUNCILWOMAN JONES SAID THE COUNCIL IS RESPONSIBLE FOR THE GROWTH OF THE PARK AND MR. MILBANKS WANTED TO TIE THE DONATION OF LAND FOR THE SCHOOLS TO WHAT THE COUNTY COULD DO WITHIN THE CRBIP AND SHE PERSONALLY DID NOT THINK IT WAS A GOOD PLACE FOR A SCHOOL. COUNCILWOMAN JONES DISCUSSED THE COST TO BRING WATER AND SEWER TO THAT LOCATION AND SHE ALSO DISCUSSED OTHER LOCATIONS FOR THE SCHOOLS. COUNCILMAN MCCLARY SAID HE VOTED NO BECAUSE IT WAS THE BEST THING FOR THE CITIZENS OF JASPER COUNTY AND IN THE PAST, MILBANKS HAD PROMISED THE COUNTY LAND AND DID NOT GIVE IT. COUNCILWOMAN CLARK SAID SHE VOTED NO FOR ALL THE SAME REASONS. CHAIRMAN HOOD SAID HE VOTED FOR THE LAND TO BE GIVEN FOR THE SCHOOLS AND THAT THREE OTHER LOCATIONS WERE DISCUSSED. CHAIRMAN HOOD SAID HE WROTE TO MR. MILBANKS AND HAD PHONE CONVERSATIONS WITH HIM CONCERNING THE LAND AND HE FELT THAT IF COMMUNICATIONS WERE CLEARER, THING COULD HAVE BEEN WORKED OUT. MR BOSTICK THANKED THE COUNCIL AND SAID THAT AS THE DELAYS GO ON, THE COST OF THE NEW SCHOOLS IS ESCALATING AND THAT THE NEW SCHOOLS WILL NOT BE ABLE TO BE BUILT FOR WHAT HAS BEEN ALLOCATED AND THAT HE WANTED TO UNDERSTAND WHY FREE LAND WAS TURNED DOWN.

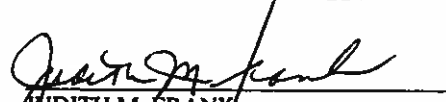
MR. BRANTLEY SAID HE WAS CONCERNED THAT IF THE COUNCIL VOTED FOR CUBIC FEET AND THE LETTER SAID CUBIC YARDS, WHY WASN'T A LETTER WRITTEN TO CORRECT THE MISTAKE. COUNCILWOMAN JONES SAID THAT THIS ISSUE WOULD COME UP AT THE PUBLIC HEARING ON OCTOBER 27, 2003. MR. BRANTLEY SAID HE FELT IT WAS A LARGE DISCREPANCY AND THAT IT NEEDED TO BE CORRECTED. CHAIRMAN HOOD SAID HE FELT THE LETTER SHOULD BE CORRECTED. COUNCILMAN MCCLARY SAID THE APPLICATION WAS MADE IN YARDAGE.

ADJOURN:

COUNCILWOMAN JONES MOTIONED TO ADJOURN THE MEETING. COUNCILMAN MCCLARY SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

THE MEETING ENDED AT 9:40 P.M.

RESPECTFULLY SUBMITTED:


JUDITH M. FRANK
CLERK TO COUNCIL

APPROVED BY:


GEORGE M. ~~FRANK~~ HOOD
CHAIRMAN

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF JASPER	)	CASE No.: 2021-CP-27-00028
	)	
CITY OF HARDEEVILLE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
JASPER COUNTY TREASURER, and	)	
JASPER COUNTY AUDITOR,	)	
	)	
Defendants.	)	
	)	
JASPER COUNTY, SOUTH CAROLINA,	)	
	)	
Cross Co-Plaintiff,	)	
	)	
VERNA GARVIN, in her official capacity as	)	
Jasper County Treasurer,	)	
	)	
Cross Co-Plaintiff, and	)	
	)	
MONICA WILSON, in her official capacity as	)	
Jasper County Auditor,	)	
	)	
Cross Co-Plaintiff	)	
	)	
vs.	)	
	)	
CITY OF HARDEEVILLE, NICKEL PLATE	)	
ROAD, LLC, and BEAUFORT COUNTY,	)	
SOUTH CAROLINA,	)	
	)	
Cross-Defendants	)	

**JASPER COUNTY’S MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR
PARTIAL SUMMARY JUDGMENT AND REPLY TO CITY OF HARDEEVILLE’S
RESPONSE IN OPPOSITION**

Defendant Jasper County (“Jasper”), by and through its undersigned counsel, respectfully submits this Memorandum of Law in Support of Jasper’s Motion for Partial Summary Judgment (“Jasper’s Motion”) and Reply to Plaintiff City of Hardeeville’s (“Hardeeville”) Response to Jasper’s Motion for Partial Summary Judgment, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure (“SCRCP”).

INTRODUCTION

Jasper requests that this Court make the following findings as a matter of law: (1) all property located in a multi-county industrial park (hereinafter referred to as a “park”) is exempt from all *ad valorem* taxation, and, instead, owners or lessees make payments in lieu of taxes on such property; (2) the written agreement creating a park controls the manner in which all park revenues must be allocated to the participating counties and distributed to each of the taxing entities within the counties; (3) a municipality’s subsequent annexation of park property into its jurisdictional limits does not permit the municipality to receive distributions of the payments in lieu of taxes from park property in a manner different than as set forth in the agreement governing the park; (4) special source revenue bonds may be issued in connection with the park; and (5) payment for the bonds may be secured by the park revenues. All laws necessary to make these determinations are plainly set forth in Article VIII, Section 13(D) of the South Carolina Constitution and Title 4 of the South Carolina Code.¹

As set forth in specific detail below, the undisputed material facts show that (1) Jasper and Beaufort County (“Beaufort”) entered into a written agreement to create a park and that all legal requirements to create that park were satisfied; (2) the written park agreement allocates the park revenues between Jasper and Beaufort and distributes Jasper’s park revenues to the taxing entities

¹ As Hardeeville aptly notes in its own Motion for Summary Judgment, this matter “is simple” and it only “involves the most basic notions of statutory interpretation.” [Pl.’s Mot. Summ. J. 3].

within Jasper; and (3) Jasper properly issued special source revenue bonds and the payments for those bonds are secured by 40% of park revenues generated from the park property.

Plaintiff City of Hardeeville (“Hardeeville”) filed a response in opposition to Jasper’s Motion for Partial Summary Judgment on October 15, 2021 (“Hardeeville’s Response”). The basic premise of Hardeeville’s Response is that a genuine issue of material fact must exist simply because Jasper has yet to respond to Hardeeville’s first set of discovery requests. However, the fact that Hardeeville filed its own Motion for Summary Judgment on many of the same issues presented in Jasper’s Motion (albeit requesting that the Court make opposite legal conclusions based on those “undisputed facts”)² destroys any argument from Hardeeville that an actual genuine issue of material fact exists.

Notwithstanding Hardeeville’s mutually exclusive arguments, the *undisputed material facts* show that there is no genuine issue of material fact related, directly or indirectly, to any of the matters at issue in Jasper’s Motion. Application of the undisputed material facts to the governing constitutional and statutory provisions leads to only one conclusion: Jasper is entitled to judgment as a matter of law on its declaratory judgment cause of action. Therefore, Jasper’s Motion must be granted.

UNDISPUTED MATERIAL FACTS

I. CREATION OF THE MCIP AND FEE-IN-LIEU OF AD VALOREM TAXES

On February 7, 2000, Jasper enacted an ordinance (the “Park Ordinance”) approving the development of a jointly owned and operated multi-county industrial park with Beaufort County

² Specifically, after arguing numerous fact issues exist throughout its Response for purposes of opposing Jasper’s Motion, Hardeeville states the opposite in its own Motion for Summary Judgment and asks the Court to find as a matter of law that the MCIP Agreement is invalid, the Annexed Property is not governed by the MCIP Agreement or any of the bond documents, and Hardeeville is entitled to 100% of the amount attributable to Hardeeville’s millage. [Pl.’s Mot. Summ. J. 6–7].

(the “MCIP”). [Am. Compl. ¶ 9; Am. Compl. Ex. A; Am. Cross Claim ¶ 7]. The Park Ordinance made reference to, incorporated, and approved the form of the written Agreement for Development of Joint County Industrial and Business Park between Jasper and Beaufort (the “Initial Park Agreement”). [Am. Compl. ¶ 9; Am. Compl. Ex. B; Am. Cross Claim ¶ 9; Pl.’s Resp. Def.’s Mot. Summ. J. 2, ¶ 2 (hereinafter cited to as “Pl.’s Resp.”)].³ The Park Ordinance incorporated the Initial Park Agreement’s terms and made the Initial Park Agreement an exhibit to the Park Ordinance [Am. Compl. ¶ 9; Am. Compl. Ex. B; Am. Cross Claim ¶ 9]. The Initial Park Agreement and the Park Ordinance are collectively the “Park Agreement.”

Consistent with Article VIII, Section 13(D) of the South Carolina Constitution, the Park Agreement provides that all property located in the MCIP is exempt from *ad valorem* taxation. [Am. Compl. Ex. B § 4]. The properties comprising the MCIP are identified in the Park Agreement as three tracts of land: Tract I, consisting of 170.565 acres; Tract II, consisting of 41.464 acres; and Tract III, consisting of 106.75 acres. [Am. Compl. Ex. B; Am. Cross Claim ¶ 10]. ***At the time the MCIP was created, no municipality’s property was located within the geographic boundary of the MCIP.*** [See Am. Compl. ¶¶ 9 & 38].

The Park Agreement incorporates the constitutional language which provides that, instead of *ad valorem* taxes, any business enterprise locating in the MCIP is required to pay a fee-in-lieu

³ Hardeeville argues in its Response that because the Initial Park Agreement states on the face of the document an effective date of December 31, 1999 (which was prior to the date Jasper’s Council adopted the Park Ordinance), this creates a fact issue precluding Jasper’s Motion from being granted. [Pl.’s Resp. 6]. Why Hardeeville contends this is fatal to Jasper’s Motion is unclear. The Initial Park Agreement does, indeed, state an effective date of December 31, 1999. However, neither Beaufort nor Jasper executed the Park Agreement until after Jasper adopted the Park Ordinance on February 7, 2000. Aside from conclusory remarks that “[t]hus, factually, Defendant Jasper County’s motion is contested and should be denied,” Hardeeville offers no support as to why this *undisputed* fact precludes summary judgment. The standard is not whether Jasper’s Motion is “contested”; rather, the question is whether there is a genuine issue of material fact and whether Jasper is entitled to judgment as a matter of law. This is not a disputed fact, and has no bearing on the findings of law Jasper’s Motion requests from this Court.

of *ad valorem* taxes. [Am. Compl. Ex. A; Am. Cross Claim ¶ 8]. Specifically, “[t]he owners or lessees of any property situated in the [MCIP] shall pay . . . 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 locating of such property in the [MCIP] (“Park Revenues”). [Am. Compl. Ex. B ¶ 4; Am. Cross Claim ¶ 13]. The Park Agreement also authorized Jasper to designate a portion of Park Revenues for the payment of special source revenue bonds. [Am. Compl. Ex. A § IX; Am. Cross Claim ¶ 16].

The Park Ordinance was read at three public meetings of Jasper’s County Council on three separate days with an interval of greater than seven days between the second and third readings. [See certified copy of the Park Agreement attached hereto as **Exhibit A** at Bates numbers Jasper_000078–Jasper_000090 (showing that the three readings occurred on January 3, 2000, January 18, 2000, and February 7, 2000, respectively); *see also* meeting minutes for Jasper’s County Council, attached hereto as **Exhibit B** at Jasper_000195–Jasper_000197 (showing that the third and final reading of the Park Agreement, took place on February 7, 2000)].

III. APPROVAL OF THE BONDS

On April 16, 2001, Jasper adopted General Bond Ordinance No. 01-04 (the “General Bond Ordinance”).⁴ The General Bond Ordinance, among other things, amended the Park Agreement and authorized the issuance of special source revenue bonds in one or more series for a total

⁴ Hardeeville asserts in its Response and its Motion for Summary Judgment that “the MCIP Agreement [was] based on an ordinance dated April 10, 2020.” [Pl.’s Resp. 2; Pl.’s Mot. Summ. J. 2]. Presumably, this is a typographical error and Hardeeville intended to state that the Park Agreement (or, if using Hardeeville’s nomenclature, the “MCIP Agreement”) was based on the General Bond Ordinance that was adopted by Jasper on April 16, 2001. However, even once this error is corrected, Hardeeville’s assertion still is not entirely correct. The Park Ordinance adopted by Jasper on February 7, 2000 (and not the General Bond Ordinance) incorporated, and included as an attachment, the Initial Park Agreement. [Am. Compl. ¶ 9; Am. Compl. Ex. B; Am. Cross Claim ¶ 9]. Then, the General Bond Ordinance supplemented certain terms of the Park Agreement and authorized the issuance of special source revenue bonds. [Am. Compl. ¶ 19; Am. Compl. Ex. C; Am. Cross Claim ¶ 18].

principal amount of up to \$20,000,000.00. [Am. Compl. ¶ 19; Am. Compl. Ex. C; Am. Cross Claim ¶ 18]. The General Bond Ordinance was read at three public meetings of Jasper's County Council on three separate days with an interval of greater than seven days between the second and third readings. [See certified copy of the General Bond Ordinance attached hereto as **Exhibit C** at Bates numbers Jasper_000002–000040 (showing that the three readings occurred on March 5, 2001, March 19, 2001, and April 16, 2001); *see also* meeting minutes for Jasper's County Council attached hereto as **Exhibit D** at Bates numbers Jasper_000041–000044 (showing that the third and final reading of the General Bond Ordinance took place on April 16, 2001)].

Contemporaneously with the adoption of General Bond Ordinance No. 01-04, Jasper adopted the First Supplemental Ordinance No. 01-05, providing for the issuance and sale of bonds not to exceed \$7,000,000.00. [See Am. Compl. Ex. D]. The First Supplemental Bond Ordinance No. 01-05 was read at three public meetings of Jasper's County Council on three separate days with an interval of greater than seven days between the second and third readings. [See certified copy of the First Supplemental Bond Ordinance No. 01-05 attached hereto as **Exhibit E** at Bates numbers Jasper_000091–000107 (showing that the three readings occurred on March 5, 2001, March 19, 2001, and April 16, 2001); *see also* **Exhibit D** at Bates numbers Jasper_000041–000044 (showing that the third and final reading of the First Supplemental Bond Ordinance No. 01-05 took place on April 16, 2001)].

Then, on October 20, 2003, Jasper adopted the Second Supplemental Ordinance No. 02-16, (collectively with the General Bond Ordinance and the First Supplemental Bond Ordinance No. 01-05, the “Bond Ordinances”) providing for the issuance and sale of Bonds not to exceed \$7,000,000.00 (collectively, the “Bonds”). [Am. Compl. Ex. E; Am. Cross Claim ¶ 30]. The Second Supplemental Ordinance No. 02-16 was read at three public meetings of Jasper's County Council on three separate days with an interval of greater than seven days between the second and

third readings. [See certified copy of the Second Supplemental Ordinance No. 02-16 attached hereto **Exhibit F** at Bates numbers Jasper_000108–000124 (showing that three readings occurred on September 15, 2003, October 6, 2003, and October 20, 2003); *see also* meeting minutes for Jasper’s County Council, attached hereto as **Exhibit G** (showing that the third and final reading of the Second Supplemental Bond Ordinance No. 02-16 took place on October 20, 2003)].

The General Bond Ordinance, the First Supplemental Ordinance No. 01-05, and the Second Supplemental Ordinance No. 02-16 are, collectively, the “Bond Ordinances.” The Park Agreement and the Bond Ordinances are, collectively, the “MCIP Agreement.”

II. ALLOCATION AND DISTRIBUTION OF PARK REVENUES

The MCIP Agreement sets forth (1) the percentage of Park Revenues to be allocated to Jasper and Beaufort and (2) the manner in which Park Revenues allocated to Jasper (“Remaining Park Revenues”) must be distributed to the taxing entities within Jasper.⁵

First, the MCIP Agreement directs how Park Revenues must be allocated to each participating county, by percentage, as follows:

6. **Allocation of Park Revenues.** The Counties shall receive an allocation of all revenue generated by the Park through payment of fees in lieu of *ad valorem* property taxes or from any other source in the following proportions:

A. Site Location County	99%
B. Partner County	1%

[Am. Compl. Ex. B § 6 (emphasis in original)].

Second, the MCIP Agreement directs how Remaining Park Revenues are to be distributed to each of the taxing entities within Jasper. Section 7 of the Initial Park Agreement provides that “[Park] Revenues received by Jasper County shall be distributed by Jasper County to the political

⁵ The MCIP Agreement also sets forth how the MCIP expenses are to be shared (*see* Am. Compl. Ex. B § 5); however, it does not appear Hardeeville makes any arguments relating to the MCIP’s expenses.

subdivisions of Jasper County . . . *in accordance with an ordinance adopted by Jasper County*. [Id. § 7 (emphasis added)]. The Park Ordinance (which had previously approved and incorporated the Initial Park Agreement) authorized Jasper to issue special source revenue bonds secured by Remaining Park Revenues, and it provided the exact manner in which Remaining Park Revenues are to be distributed to Jasper's taxing entities.

Specifically, the Park Ordinance states:

SECTION IX. Jasper County hereby designates that the distribution of the fee-in-lieu of ad valorem taxes pursuant to the [Park] Agreement actually received by Jasper County for Park premises be paid to each of the taxing entities in Jasper County which levy ad valorem property tax in any of the areas comprising the Park **in the same percentage as is equal to that taxing entities' percentage of the millage rate being levied in the then current tax year for property tax purposes, provided that the County may, from time to time, by ordinance, amend the distribution of the fee-in-lieu of tax payments to all taxing entities.** A portion of the fee-in-lieu of ad valorem taxes which Jasper County receives pursuant to the [Park] Agreement for Park premises may be, from time to time and by ordinance of Jasper County Council or its successor, designated for the payment of special source revenue bonds.

[Am. Compl. Ex. A § IX (bold emphasis added) (underline emphasis in original)]. In other words, if Jasper did not issue special source revenue bonds, then all of Remaining Park Revenues must be proportionally distributed to Jasper's taxing entities. If, however, as is the case here, Jasper issued special source revenue bonds, the Park Ordinance permitted Jasper to use Remaining Park Revenues to make the bond payments.

The General Bond Ordinance adopted by Jasper (which again authorized the issuance of special source revenue bonds) expressly amended Section IX of the Park Ordinance. [Am. Compl. Ex. C § 11.1]. After the amendment, Section IX of the Park Ordinance now reads:

SECTION IX. Jasper County hereby directs that, of the fee-in-lieu of *ad valorem* taxes pursuant to the [Park] Agreement actually received by Jasper County for Park premises, one (1%) percent of such fees be paid to Beaufort County. Of the remainder of such fees, forty (40%) percent shall be designated for the payment of special

source revenue bonds, and the balance shall be paid to each of the taxing entities in Jasper County which levy an *ad valorem* property tax in any areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes.

[Am. Compl. Ex. C § 11.1].

Thus, after 1% of Park Revenues are distributed to Beaufort, the MCIP Agreement requires 40% of Remaining Park Revenues to be used as payment for the Bonds. [Am. Compl. Ex. C § 5.2]. The MCIP Agreement then distributes the remainder of Remaining Park Revenues to Jasper's taxing entities (which would include Hardeeville when it later annexed the Annexed Property as defined in Section IV below) "in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes." [Am. Compl. Ex. C § 11.1]. Therefore, contrary to Hardeeville's baseless assertions that the MCIP Agreement fails to address how revenues are to be distributed, [Pl.'s Resp. 5–6], the undisputed material facts show that the MCIP Agreement does, in fact, direct how Park Revenues are allocated and the manner in which Remaining Park Revenues must be distributed to each of the taxing entities within Jasper, including Hardeeville.

IV. HARDEEVILLE'S SUBSEQUENT ANNEXATION OF MCIP PROPERTY

On October 5, 2006, Hardeeville annexed into its jurisdictional limits property that was already located within the geographic boundary of the MCIP (the "Annexed Property") [Am. Compl. ¶ 38; Am. Cross Claim ¶ 38; Pl.'s Resp. at 2, ¶ 4]. ***Prior to and at the time the MCIP was created, no Hardeeville property was encompassed by the MCIP.*** At no point in time—from when the Park Ordinance, Park Agreement, and Bond Ordinances were issued until the filing of Hardeeville's Complaint—did Hardeeville or any other municipality, local government, taxing district, political subdivision, entity, or individual challenge Jasper's and Beaufort's creation of

the MCIP or Jasper's adoption of the Park Ordinance, the Park Agreement, or the Bond Ordinances.

STANDARD OF REVIEW

Summary judgment must be granted when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRCP. To determine whether there is a genuine issue of material fact, the evidence and all inferences which can be reasonably drawn from the evidence are to be viewed in the light most favorable to the nonmoving party. *Koester v. Carolina Rental Ctr.*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). The moving party bears the initial burden of demonstrating the absence of a genuine issue of material fact. *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991).

The moving party's initial burden is discharged by showing to the court that there is an absence of evidence to support the nonmoving party's case. *Id.* Once the moving party makes this demonstration to the court, the nonmoving party “must, under Rule 56(e), do more than simply show some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a *genuine issue for trial.*” *Id.* (emphasis in original); *Midland Mutual Life Ins. Co. v. Darrell*, 331 S.C. 394, 397, 503 S.E.2d 189, 190 (Ct. App. 1998).

ARGUMENTS

I. ALL PROPERTY IN THE MCIP IS EXEMPT FROM AD VALOREM TAXES.

There is no genuine issue of material fact, and Jasper is entitled to judgment as a matter of law that all property in the MCIP is exempt from all *ad valorem* taxation. Article VIII, Section 13(D) of the South Carolina Constitution gives counties authority to develop parks with other counties, and states that “[t]he area comprising the parks and **all property having a situs therein**

is exempt from all ad valorem taxation.” S.C. CONST. art. VIII, § 13(D) (emphasis added); see also *Horry Cty. Sch. Dist. v. Horry Cty.*, 346 S.C. 621, 630, 552 S.E.2d 737, 741 (2001) (“Article VII, § 13(D) and § 4-1-170 exempt property in [parks] from *ad valorem* taxation and permit the county to enter agreements specifying how [park] revenue will be distributed.”). There are no exceptions to the constitutional and statutory provisions that make all park property exempt from all *ad valorem* taxation.

In the place of *ad valorem* taxes, “[t]he owners or lessees of any property situated in the park shall pay an amount equivalent to the property taxes or other in-lieu-of payments that would have been due and payable except for the exemption herein provided.” S.C. CONST. art VIII, § 13 (D). Thus, once a park is created, owners of property located in the park no longer pay *ad valorem* taxes. Instead, owners of park property pay a fee-in-lieu of *ad valorem* taxes (generally referred to herein as “park revenues”).

A. The Statutory and Constitutional Requirements to Create the MCIP Were Satisfied.

The undisputed material facts show that the statutory and constitutional requirements to create the MCIP were satisfied. Creating a park requires the following: (1) two or more contiguous counties and (2) a written agreement between the participating counties that sets forth (a) how park expenses must be shared; (b) how park revenues must be allocated to each county, by percentage; and (c) the manner in which park revenues must be distributed to each of participating counties’ taxing entities. See S.C. Code Ann. §§ 4-1-170(A) & -172; S.C. CONST. art. VIII, § 13(D).

The undisputed material facts show that the MCIP is between two contiguous counties (Jasper and Beaufort). [Am. Compl. ¶ 9; Am. Compl. Exs. A & B; Am. Cross Claim ¶ 9]. The undisputed material facts show the MCIP was created by a written agreement containing all statutory and constitutionally required provisions. [See Am. Compl. Exs. A, B, & C]. The MCIP Agreement sets forth how MCIP expenses must be shared between each county, how Park

Revenues must be allocated to each county, and the manner in which the Remaining Park Revenues must be distributed to each of Jasper's taxing entities. [*See id.*].

Accordingly, there is no genuine issue of material fact that the MCIP was created in accordance with Sections 4-1-170 & -172 of the South Carolina Code and Article VIII, Section 13(D) of the South Carolina Constitution. Indeed, Hardeeville takes no issue in its Complaint with the process by which the MCIP was created. Therefore, Jasper is entitled to judgment as a matter of law that all property in the MCIP is exempt from all *ad valorem* taxation.

B. The Annexed Property is Exempt from *Ad Valorem* Taxation and Hardeeville was not Required to be a Party to the MCIP Agreement.

Hardeeville argues that because it incorporated the Annexed Property into its jurisdictional limits ***after the MCIP was created***, it is entitled to collect the *ad valorem* taxes on the Annexed Property. However, the undisputed material facts show that at the time the MCIP was created, the MCIP did not encompass any Hardeeville property. Hardeeville did not incorporate the Annexed Property into its jurisdictional limits until over six years after the MCIP was created. [Am. Compl. ¶ 38; Am. Cross Claim ¶ 35]. Therefore, Jasper is entitled to judgment as a matter of law that the Annexed Property is exempt from all *ad valorem* taxation, and Hardeeville has no legal right to receive *ad valorem* taxes levied on the Annexed Property. Rather, Hardeeville is only entitled to the share of the payments in lieu of taxes as prescribed by the MCIP Agreement.

Hardeeville incorrectly asserts that there is no authority restricting Hardeeville's ability to collect *ad valorem* taxes from the Annexed Property.⁶ Specifically, Hardeeville argues that

⁶ Hardeeville alleges in its Amended Complaint that "there is no constitutional, statutory, regulatory, judicial, or authority limiting an incorporated municipality's ability to annex property that has been designated as part of a multi-county industrial or business park and restricting that municipality's tax levy from being imposed in addition to and outside of any type of multi-count[y] park arrangement *absent the municipality's express consent*." [Am. Compl. ¶ 47 (emphasis added)].

“[Hardeeville] is not a party to the MCIP Agreement. Thus, Plaintiff is not bound by the agreement under the Constitution, State statute, or the contract.” [Pl.’s Resp. at 7]. This argument is meritless. Neither Jasper nor Beaufort was required to obtain Hardeeville’s consent prior to entering the MCIP Agreement.

The statutory provision governing when a municipality’s consent is required states the following: “***If the industrial or business park encompasses all or a portion of a municipality, the counties must obtain the consent of the municipality prior to the creation of the multi-county industrial park.***” S.C. Code Ann. § 4-1-170(C) (emphasis added). This statute plainly requires counties to obtain a municipality’s consent ***only if*** a park would encompass municipal property ***at the time the park is created***. Section 4-1-170(C) cannot be read to impose a duty on a county to predict a municipality’s future annexation of park property and to seek out that municipality’s consent six years before the municipality annexes the property.

If Hardeeville’s argument were accepted, then this Court would be concluding that counties have the duty to seek out each and every municipality located within that county and first get their consent before the county could properly enter into a park agreement with another county, irrespective of whether that municipality has property located in the proposed park. Given that Section 4-1-170(C) only conditions a county’s duty to obtain a municipality’s consent “if the [park] encompasses all or a portion of a municipality . . . prior to the creation of the [park],” Hardeeville’s interpretation leads to a plainly absurd result. Therefore, this interpretation must be rejected. *See, e.g., Duke Energy Corp. v. S.C. Dep’t of Revenue*, 415 S.C. 351, 355, 782 S.E.2d 590, 592 (2016) (“[C]ourts will reject that meaning when to accept it would lead to a result so plainly absurd that it could not have been intended by the General Assembly.”).

As made abundantly clear by the South Carolina Constitution, ***all property*** located within a park “is exempt from ***all ad valorem*** taxation.” S.C. CONST. art. VIII, § 13(D) (emphasis added).

The South Carolina Constitution does not say all *county property* is exempt from all *ad valorem* taxation. It does not say all property, *except for municipal property*, is exempt from all *ad valorem* taxation. It simply states that all park property is exempt from all *ad valorem* taxation and that owners will make payments in lieu of taxes, with such payments to be distributed pursuant to the park agreement. Therefore, contrary to Hardeeville's assertion that no authority exists, the South Carolina Constitution does, in fact, limit Hardeeville's ability to collect *ad valorem* taxes from the Annexed Property.

For these reasons, there is no genuine issue of material fact and Jasper is entitled to judgment as a matter of law that all MCIP property, including the Annexed Property, is exempt from all *ad valorem* taxation.

II. ALL PARK REVENUES MUST BE ALLOCATED AND DISTRIBUTED IN ACCORDANCE WITH THE MCIP AGREEMENT.

There is no genuine issue of material fact and Jasper is entitled to judgment as a matter of law that all Park Revenues, including those generated from the Annexed Property, must be allocated and distributed in accordance with the MCIP Agreement.

A. Park Revenues Must be Allocated and Distributed in Accordance with the MCIP Agreement.

Section 4-1-170 requires that the MCIP Agreement "(2) specify by percentage the revenue to be allocated to each county; [and] (3) specify the manner in which revenue must be distributed to each of the taxing entities within each of the participating counties." S.C. Code Ann. § 4-1-170(A). In other words, Section 4-1-170 grants counties complete discretion over the allocation of Park Revenues to each participating county and the distribution of each county's respective Park Revenues to each of that county's taxing entities. *See Horry Cty. Sch. Dist.*, 346 S.C. at 626–30, 552 S.E.2d at 739–41 (Rejecting the School District's argument that Section 4-1-170 did not grant the county the discretion over how to allocate park revenues and finding that Section 4-1-170

“specifically allocates that revenue to the *county, not to any other taxing entity.*”) (emphasis added).

The undisputed material facts show that the MCIP Agreement requires 99% of Park Revenues be allocated to the county where the property generating Park Revenues is located and the remaining 1% of Park Revenues to the other participating county. [Am. Compl. Ex. B § 6].⁷ For park property located in Jasper, the undisputed material facts show that the MCIP Agreement requires the first 40% of Remaining Park Revenues to be used as payment for the Bonds.⁸ [Am. Compl. Ex. C p. 19; Am. Cross Claim ¶ 24]. The undisputed material facts show that the MCIP Agreement requires the remainder of Remaining Park Revenues to be distributed proportionally to each of Jasper’s taxing entities according to “the same percentage as is equal to that taxing entity’s percentage of the millage rate being levied in the then current tax year.” [*Id.*].

Therefore, there is no genuine issue of material fact and Jasper is entitled to judgment as a matter of law that 1% of Park Revenues must be distributed to Beaufort County, 40% of Remaining Park Revenues must be used as payment for the Bonds, and the remainder of Remaining Park Revenues must then be distributed to Jasper’s taxing entities “in the same percentage as is equal to that taxing entity’s percentage of the millage rate being levied in the then current tax year.”

⁷ The practical effect of this distribution scheme, because all MCIP property is physically located in Jasper, is that 99% of Park Revenues must be distributed to Jasper and 1% of Park Revenues must be distributed to Beaufort.

⁸ If the total principal and interest due on the Bonds is greater than 40% of Remaining Park Revenues, then the difference is forgiven; however, if the total principal and interest due on the Bonds is less than 40% of Remaining Park Revenues, the difference must be paid to the bondholder as additional interest on the Bonds. [Am. Compl. Ex. C; Am. Cross Claim ¶ 23]. In other words, 40% of Remaining Park Revenues always go to the bondholders before the remainder is distributed to Jasper’s taxing entities.

B. Park Revenues Generated from the Annexed Property Must Also Be Allocated and Distributed in Accordance with the MCIP Agreement.

Hardeeville argues that the Annexed Property is not subject to the MCIP Agreement and, therefore, is not bound by the MCIP Agreement's distribution scheme. [Pl.'s Resp. 6–7; Pl.'s Mot. Summ J. 3 9–5]. However, Hardeeville's entire argument is premised on the false idea that a municipality can come into a park after the park was created, annex park property into its jurisdictional limits, and then collect *ad valorem* taxes levied on that property without any regard to the agreement governing the park. In support of this untenable position, Hardeeville merely asserts that there is no authority suggesting that it cannot do so. However, the Article VIII, Section 13(D) of the South Carolina Constitution and Title 4 of the South Carolina Code make clear that *all* property located in a park is exempt from all *ad valorem* taxation and the park agreement governs how *all* park revenues *must* be distributed to the taxing entities. *See* S.C. Code Ann. § 4-1-170.

Section 4-1-170 allocates the control over Remaining Park Revenues to Jasper—not to Hardeeville. *Horry Cty. Sch. Dist.* at 626, 552 S.E.2d at 739 (“The [school] district argues the trial court erred in construing § 4-1-170 (Supp. 2000) as granting the county discretion over the allocation of revenues from [MCIPs]. We disagree.”). Thus, Section 4-1-170 not only provides that it is the MCIP Agreement that governs how Remaining Park Revenues are distributed, but it also grants discretion to Jasper as to how those revenues are allocated. The undisputed material facts show that the MCIP Agreement allocates the first 1% of Park Revenues to Beaufort, the first 40% of Remaining Park Revenues be used as payment for the Bonds, and the remainder of Remaining Park Revenues be distributed to each of Jasper's taxing entities “in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year.” [Am. Compl. Ex. C p. 19; Am. Cross Claim ¶ 24].

Accordingly, there is no genuine issue of material fact that Park Revenues and Remaining Park Revenues, including those generated from the Annexed Property, must be allocated and distributed in accordance with the MCIP Agreement. Therefore, Jasper is entitled to judgment as a matter of law that the Park Revenues and Remaining Park Revenues must be allocated and distributed as follows: 1% of all Park Revenues must first be distributed to Beaufort; 40% of Remaining Park Revenues after distribution to Beaufort, must then be distributed as payment for the Bonds; the remainder of Remaining Park Revenues, after distribution as payment for the Bonds, must then be distributed to each of Jasper's taxing entities in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year.

III. JASPER PROPERLY ISSUED THE BONDS AND PAYMENT FOR THE BONDS IS SECURED BY 40% OF REMAINING PARK REVENUES.

A. Jasper Properly Issued the Bonds.

There is no genuine issue of material fact and Jasper is entitled to judgment as a matter of law that Jasper properly issued the Bonds. Ordinances authorizing the issuance of special source revenue bonds pursuant to Section 4-1-175 "shall be read at three public meetings of council on three separate days with an interval of not less than seven days between the second and third readings." S.C. Code Ann. § 4-9-120. "All proceedings of council shall be recorded and all ordinances adopted by council shall be compiled, indexed, codified, published by title and made available to public inspection at the office of the clerk of council." *Id.* Furthermore, although it does not appear that Hardeeville contests Jasper's adoption of the Bond Ordinances, even if Hardeeville did make such a challenge, the applicable statute of limitations for doing so has long since expired. Ordinances authorizing the issuance of bonds must be challenged "within sixty days after the enactment by the council." S.C. Code Ann. § 4-9-1220.

The undisputed material facts show that the Park Ordinance and all Bond Ordinances complied with these statutory requirements. The Park Ordinance, which incorporated the Park

Agreement, was read at three public meetings of Jasper's County Council on three separate days with an interval of greater than seven days between the second and third readings. [See Exhibit A & Exhibit B].

Next, the General Bond Ordinance and First Supplemental Bond Ordinance No. 01-05 were read at three public meetings of Jasper's County Council on three separate days with an interval of greater than seven days between the second and third readings. [See Exhibit D & Exhibit E].

Finally, The Second Supplemental Ordinance No. 02-16 was read at three public meetings of Jasper's County Council on three separate days with an interval of greater than seven days between the second and third readings. [See Exhibit F & Exhibit G].

Thus, the undisputed material facts show that the Park Ordinance and the Bond Ordinances were all properly adopted by Jasper. The undisputed material facts show that the General Bond Ordinance authorized Jasper to adopt subsequent ordinances issuing special source revenue bonds not to exceed \$20,000,000.00. The undisputed material facts show that Jasper properly adopted the Bond Ordinances and issued the Bonds.

B. Payment for the Bonds is Secured by 40% of Remaining Park Revenues.

There is no genuine issue of material fact and Jasper is entitled to judgment as a matter of law that payment for the Bonds is secured by 40% of Remaining Park Revenues. Counties that receive park revenues pursuant to Article VIII, Section 13 of the South Carolina Constitution "may issue special source revenue bonds secured by and payable from all or part of that portion of the revenues which the county is entitled to retain pursuant to the agreement required by Section 4-1-170 in the manner and for the purposes set forth in Section 4-29-68." S.C. Code Ann. § 4-1-175. Pursuant to Section 4-29-68, park "[r]evenues received by a county . . . which may be pledged or

from which bonds may be payable and secured pursuant to . . . Section 4-1-175 may be used jointly to pay or secure a single series of bonds.” S.C. Code Ann. § 4-29-68(D).

The Park Ordinance provides that a portion of Remaining Park Revenues “may be, from time to time and by ordinance of Jasper County Council or its successor, designated for the payment of special source revenue bonds.” [Am. Compl. Ex. A § IX; Am. Cross Claim ¶ 16]. On April 16, 2001, Jasper adopted the General Bond Ordinance and authorized the issuance of special source revenue bonds not to exceed \$20,000,000.00. [Am. Compl. ¶ 19; Am. Compl. Ex. C; Am. Cross Claim ¶ 18]. The General Bond Ordinance secured the Bonds by designating up to 40% of Remaining Park Revenues to be used as payment for the Bonds. [*Id.*].

Contemporaneously with Jasper’s adoption of the General Bond Ordinance, Jasper also adopted Supplemental Ordinance No. 01-05. This ordinance provided for the issuance and sale of special source revenue bonds in the amount of \$7,000,000.00. [Am. Compl. ¶ 32; Am. Compl. Ex. D; Am. Cross Claim ¶ 27]. In the same manner as the General Bond Ordinance, Supplemental Ordinance No. 01-05 secured the Bonds by designating up to 40% of Remaining Park Revenues to be used as payment for the Bonds. [Am. Compl. Ex. D; Am. Cross Claim ¶ 32]. Then, on October 20, 2003, Jasper adopted Supplemental Ordinance No. 02-16. This ordinance provided for the issuance and sale of another series of special source revenue bonds in the amount of \$6,000,000.00. [Am. Compl. ¶ 34; Am. Compl. Ex. E; Am. Cross Claim ¶ 30]. Again, Supplemental Ordinance No. 02-16 secured the Bonds by designating up to 40% of Remaining Park Revenues to be used as payment for the Bonds. [Am. Compl. Ex. E; Am. Cross Claim ¶ 32].

Therefore, there is no genuine issue of material fact and Jasper is entitled to judgment as a matter of law that payment for the Bonds is secured by 40% of Remaining Park Revenues.

V. JASPER IS PERMITTED TO ADJUST FUTURE DISTRIBUTIONS OF PARK REVENUES IN ACCORDANCE WITH THE MCIP AGREEMENT.

In a final attempt to distort the material issues before the Court, Hardeeville concludes its Response by arguing that because Jasper, the Auditor, and the Treasurer distributed Hardeeville's entire amount attributable millage on the Annexed Property to Hardeeville since 2006, Jasper is forever bound to this method of distribution. Put simply, Hardeeville argues because Jasper did not make previous allocations and distributions in the manner prescribed by the MCIP Agreement, Jasper is now estopped from making future distributions. However, this argument is also without merit.

First, Section 4-1-170 explicitly addresses what happens when a county misallocates MCIP revenues. In pertinent part, the statute provides that "[m]isallocations may be corrected by adjusting later distributions, but these adjustments must be made in the same fiscal year as the misallocations." S.C. Code Ann. § 4-1-170(B). Thus, although Jasper cannot obligate Hardeeville to remit all misallocations made in prior years under the statute, Jasper certainly has the statutory authority to correct future allocations and make distributions in accordance with the terms of the MCIP Agreement.

Second, "[t]o prove estoppel against the government, the relying party must prove: (1) the lack of knowledge and the means of knowledge of the truth of the facts in question; (2) justifiable reliance upon the government's conduct; and (3) a prejudicial change in position." *S.C. Dep't of Transp. v. Horry Cty.*, 391 S.C. 76, 83, 705 S.E.2d 21, 25 (2011). In this case, Hardeeville had at the very least means of knowledge of the truth of the facts in question because the Park Agreement was a properly recorded document. *S.C. Dep't of Transp.*, 391 S.C. at 83–84, 705 S.E.2d at 25.

Furthermore, estoppel will not lie against a governmental body for actions taken by its officers and agents that exceed the scope of their statutory authority. *Ahrens v. State*, 392 S.C. 340, 352, 709 S.E.2d 54, 60 (2011) (quoting *Townes Assoc., Ltd. v. City of Greenville*, 266 S.C. 81, 87,

221 S.E.2d 773, 776 (1976) (“In determining whether an agent of the [the government] acted within its authority, the law is clear that ‘[a] public officer derives his authority from statutory enactment.’”) *Id.* at 353, 709 S.E.2d at 60–61. In this case, Section 4-1-170, in no uncertain terms, requires that distributions be made in the manner prescribed by the MCIP Agreement. Thus, Jasper, the Auditor, and the Treasurer cannot be estopped from correcting future distributions to comply with the law.

Third, and as a final note, each of Hardeeville’s arguments are strikingly similar to arguments previously made by the Horry County School District—arguments that were categorically rejected by the South Carolina Supreme Court. In that case, the Supreme Court stated that the “sole issue on appeal [was] whether the county has complete discretionary authority to allocate the revenue from the fee in lieu of taxes paid by the [MCIP].” *Horry Cty. Sch. Dist.*, 346 S.C. at 626, 522 S.E.2d at 739. The School District argued that Section 4-1-170 did not grant counties with authority and discretion over the allocation and distribution of park revenues. 346 S.C. at 626, 552 S.E.2d at 737. The School District also argued that the park agreement at issue should not be read to cause the School District to receive less revenues that it otherwise would have received if the property were not governed by the park agreement. *Id.* at 629–30, 552 S.E.2d at 741.

In response to these arguments, the Supreme Court made the following findings:

- “Article VIII, § 13(D) and § 4-1-170 exempt property in [parks] from *ad valorem* taxation and permit counties to enter agreements specifying how [park] revenues will be distributed.” *Id.* at 630, 552 S.E.2d at 741.
- There is no requirement that revenue from the fee-in-lieu of taxes from a park be distributed in the same proportion that it would be if the property was taxable. *Id.*
- “[N]either § 4-1-170 nor the fee in lieu statutes require the county to distribute to the district a proportion of [park] funds identical to the [taxing entity’s] millage, as required for other fee in lieu revenue.” *Id.*

- Section 4-1-170 “specifically allocates that revenue to the *county, not to any other taxing entity.*” *Id.* (emphasis added).
- Section 4-1-170 grants counties discretion over the allocation of revenue from multi-county industrial parks. *Id.* at 626, 552 S.E.2d at 739.

Thus, the fact that Hardeeville will receive less from the Annexed Property than it otherwise would receive if not subject to the terms of the MCIP Agreement does not affect the distribution scheme required by the MCIP Agreement. *See id.* at 630, 552 S.E.2d at 742 (“If the legislature had intended to require counties to distribute [park] revenue in the same proportion as if the property were taxable, it could have said so in plain terms *exactly as it did concerning tax exempt non-[park] property.*”) (emphasis in original).⁹

CONCLUSION

For the reasons stated above, Jasper respectfully requests that the Court grant its Motion for Partial Summary Judgment and enter an Order declaring that:

1. All property located with a multi-county industrial park is exempt from all *ad valorem* taxation.
2. The property located within the MCIP, including the Annexed Property, is exempt from all *ad valorem* taxation.
3. All Park Revenues, including those generated by the Annexed Property, must be distributed in accordance with the MCIP Agreement.
4. Jasper properly issued the Bonds, and payment for the Bonds is secured by 40% of Remaining Park Revenues.
5. Park Revenues, including those generated by the Annexed Property, must be distributed as follows: 1% of all Park Revenues must first be distributed to Beaufort; 40% of Remaining Park Revenues after distribution to Beaufort, must then be distributed as payment for the Bonds; the remainder of Remaining Park Revenues, after distribution as payment for the Bonds, must then be distributed to

⁹ *Comparing* S.C. Code Ann. § 4-29-67(L)(1) with § 4-29-67(L)(2). For non-park property, “distribution of the fee in lieu of taxes . . . must be made in the same manner and proportion that the millage levied for school and other purposes would be distributed if the property were taxable. . . .” S.C. Code Ann. § 4-29-67(L)(1). However, for park property, “as defined in Section 4-1-170, distribution of the fee in lieu of taxes . . . must be made in the manner provided for by the agreement establishing the [park].” *Id.* § 4-29-67(L)(2) (emphasis added).

each of Jasper's taxing entities in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year.

Respectfully submitted,

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Columbia, South Carolina
October 25, 2021

EXHIBIT A

Ordinance No. 2000-1

ORDINANCE NO. *Jav 1*

AN ORDINANCE TO DEVELOP A JOINTLY OWNED AND OPERATED INDUSTRIAL/BUSINESS PARK IN CONJUNCTION WITH BEAUFORT COUNTY, SUCH INDUSTRIAL/BUSINESS PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY AND BEAUFORT COUNTY AND ESTABLISHED PURSUANT TO SOUTH CAROLINA CODE OF LAWS OF 1976 §4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH BEAUFORT COUNTY PROVIDING FOR THE EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES, AND, TO PROVIDE THAT JOBS TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PARK, AND TO PERMIT A USER FEE IN LIEU OF AD VALOREM TAXATION.

WHEREAS, Jasper County and Beaufort County (jointly the "Counties") are authorized under Article VIII, Section 13 of the South Carolina Constitution to jointly develop an industrial or business park within the geographical boundaries of one or more of the member counties; and

WHEREAS, in order to promote the economic welfare of the citizens of the Counties by providing employment and other benefits to the citizens of the Counties, Jasper County proposes to enter into an agreement with Beaufort County to develop jointly an industrial and business park as provided by Article VIII, Section 13 of the South Carolina Constitution and in accordance with Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended, (the "Act").

NOW, THEREFORE, BE IT ORDAINED BY THE JASPER COUNTY COUNCIL

SECTION I: Jasper County is hereby authorized to execute and deliver a written agreement to jointly develop an industrial and business park (the "Park") with Beaufort County. The Park is to be located within the boundaries of both Counties. The form of the joint industrial park agreement (the "Agreement") is attached hereto and all terms of the Agreement are hereby incorporated herein. The form, terms and provisions of the Agreement presented to this meeting and filed with the Clerk of the Jasper County Council be and they are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Agreement were set out in this Ordinance in its entirety. The Administrator of the County be and he is hereby authorized, empowered and directed to execute, acknowledge and deliver the Agreement in the name and on behalf of the County. The Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Agreement now before this meeting.

SECTION II: The maximum tax credits allowable by South Carolina Code of Laws of 1976, Section 12-6-3360, as amended, will apply to any business enterprise locating in the Park.

200000021401
Filed for Record in
JASPER COUNTY, SC
MARGARET BOSTICK
On 04-10-2000 At 03:44 pm.
MISC N/C
Volume 8 Page 82 - 82

This document *Ord # 2000-1 MCIP Ord*
is certified this *13th* day of *Sept* 2021
as a true and accurate copy of the records on file
with the Clerk of Council's Office
for Jasper County, South Carolina.
Wanda Simmons, Clerk to Council

SECTION III. Any business or industrial enterprise locating in the Park shall pay a fee in lieu of ad valorem taxes as provided for in the Agreement, Article VIII Section 13 of the South Carolina Constitution and the Act. The user fee paid in lieu of ad valorem taxes shall be paid to the County Treasurer of the respective County in which a particular parcel of Park property is located. That portion of the fees from the Park premises located in one County and allocated pursuant to the Agreement to the other County shall be paid by the collecting County Treasurer to the other County Treasurer within five business days following the end of the calendar quarter of receipt for distribution, in accordance with the Agreement. Payments of user fees shall be made by a business or industrial enterprise on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate and at the same times as for late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the county tax collector for the collecting County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of ad valorem taxes.

SECTION IV. The administration, development, promotion, and operation of the Park shall be the responsibility of the County in which the Park property in question is located. Provided, that to the extent any Park premises is owned by a private developer, the developer shall be responsible for development expenses as contained in the Agreement.

SECTION V. In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion.

SECTION VI. The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

SECTION VII. Should any section of this Ordinance be, for any reason, held void or invalid, it shall not affect the validity of any other section hereof which is not itself void or invalid.

SECTION VIII. The Agreement may not be terminated except by concurrent ordinances of Jasper County Council and Beaufort County Council, in accordance with the terms of the Agreement. In any event, this Ordinance shall terminate twenty-eight (28) years from the date of its execution by both parties.

SECTION IX. Jasper County hereby designates that the distribution of the fee-in-lieu of ad valorem taxes pursuant to the Agreement actually received by Jasper County for Park premises be paid to each of the taxing entities in Jasper County which levy an ad valorem property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of

And: 144723 v2

the millage rate being levied in the then current tax year for property tax purposes, provided that the County may, from time to time, by ordinance, amend the distribution of the fee-in-lieu of tax payments to all taxing entities. A portion of the fee-in-lieu of all valorem taxes which Jasper County receives pursuant to the Agreement for Park premises may be, from time to time and by ordinance of Jasper County Council or its successor, designated for the payment of special source revenue bonds.

SECTION XI. This Ordinance shall be effective after third and final reading and publication.

Resolved, in meeting duly assembled, on this 7th day of Feb, 2000

JASPER COUNTY, SOUTH CAROLINA

By: [Signature]
Chairman, County Council
Jasper County, South Carolina

By: _____
Administrator
Jasper County, South Carolina

Attest:

By: [Signature]
Clerk to County Council
Jasper County, South Carolina

Date: 7th Feb 2000
2000

FIRST READING: 1/3/00
SECOND READING: 1/12/00
PUBLIC READING: 2/7/00
THIRD READING: 2/7/00

STATE OF SOUTH CAROLINA	)	
	)	AGREEMENT FOR DEVELOPMENT
COUNTY OF BEAUFORT	)	OF JOINT COUNTY INDUSTRIAL AND
	)	BUSINESS PARK
COUNTY OF JASPER	)	

THIS AGREEMENT for the development of a joint county industrial and business park to be located in Jasper and Beaufort Counties, dated as of December 31, 1999 is made and entered into by and between the County of Beaufort and the County of Jasper, both political subdivisions of the State of South Carolina.

RECITALS

WHEREAS, Beaufort County, South Carolina ("Beaufort County"), and Jasper County, South Carolina ("Jasper County") (collectively the "Counties"), have determined that, in order to promote economic development and thus provide additional employment opportunities within both of said counties, there should be established in one or both Counties a Joint County Industrial and Business Park (the "Park"); and

WHEREAS, as a consequence of the establishment of the Park, property therein shall be exempt from *ad valorem* taxation, during the term of this Agreement, but the owners or lessees of such property shall pay annual fees during that term in an amount equal to that amount of *ad valorem* taxes for which such owner or lessee would be liable except for such exemption; and

NOW, THEREFORE, in consideration of the mutual agreement, representations and benefits contained in this Agreement and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby 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 the Counties, their successors and assigns.

2. **Authorization.** Article VIII, Section 13(d), of the Constitution of South Carolina 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 means by 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 for school districts. Section 4-1-170, *South Carolina Code of Laws*, 1976, as amended ("Section 4-1-170"), satisfies the conditions imposed by Article VIII, Section 13(d), of the Constitution and provides the statutory vehicle whereby a joint county industrial park may be created.

FILED FOR RECORD IN
JASPER COUNTY, SC
MARGARET BOSTICK
CLERK
ON 04-10-2000 AT 03:52 PM
MISC N/C
Volume 8 Page 84

ROA 00389

Jasper_000081

3. Location of the Park.

(A) The Park initially consists of property located in Jasper County as is hereinafter described in Exhibit "A". The boundaries of the Park may be enlarged, to include additional properties in one or both Counties, or diminished from time to time as authorized by ordinances of both of the Counties.

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

(C) Prior to the adoption by Beaufort County Council and by Jasper County Council of ordinances authorizing the diminution of the boundaries of the Park, a public hearing shall first be held by the respective County Council of the County in which area proposed for deletion is located. Notice of such public hearing shall be published in a newspaper of general circulation in that 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 real property which would be excluded from the Park by virtue of the diminution.

(D) Notwithstanding the foregoing, for a period of twenty-eight (28) years commencing with the later of the effective date of this Agreement or the effective date of the expansion of the boundaries of the Park to include such parcel, the boundaries of the Park shall not be diminished so as to exclude therefrom any parcel of real estate without the consent of the owner and the Counties and, if applicable, lessee of such parcel; and this sentence of this Agreement may not be modified or deleted here from for a period of twenty-eight (28) years commencing with the effective date hereof, except as provided in Section 11 below.

4. **Fee in Lieu of Taxes.** Property located in the Park shall be exempt from *ad valorem* taxation, only during the term of this Agreement. The owners or lessees of any property situated in the Park shall pay in accordance with and during the term of this Agreement 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 such property within the Park. The user fee paid in lieu of *ad valorem* taxes shall be paid to the respective County Treasurer of the County in which Park property is located. That portion of the fees from the Park premises located in one County and allocated pursuant to the Agreement to the other County shall be paid by the collecting County Treasurer to the other County Treasurer within five business days following the end of the calendar quarter of receipt for distribution, in accordance with the Agreement. Payments of user fees shall be made by a business or industrial enterprise on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate and at the same times as for late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the county tax collector for the County in which a parcel of Park

property in question is located, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

5. **Allocation of Park Expenses.** The Counties shall bear expenses, including, but not limited to, development, operation, maintenance and promotion of the Park in the following proportions:

A. Site Location County	100%
B. Partner County	0%

Provided, that to the extent any Park premises is owned by a private developer, the developer shall be responsible for development expenses.

6. **Allocation of Park Revenues.** The Counties shall receive an allocation of all revenue generated by the Park through payment of fees in lieu of *ad valorem* property taxes or from any other source in the following proportions:

A. Site Location County	99%
B. Partner County	1%

7. **Revenue Allocation Within Each County.** Revenues generated by the Park through the payment of fees in lieu of *ad valorem* property taxes shall be distributed to the Counties according to the proportions established by Paragraph 6. Such revenue shall be distributed within Beaufort County to the political subdivisions in Beaufort County (hereinafter referred to as the "Beaufort Participating Taxing Entities") in accordance with an ordinance to be adopted by Beaufort County. Revenues received by Jasper County shall be distributed by Jasper County to the political subdivisions of Jasper County (hereinafter referred to as the "Jasper Participating Taxing Entities") in accordance with an ordinance adopted by Jasper County.

8. **Fees in Lieu of Taxes Pursuant to Section 4-29-67, South Carolina Code of Laws, 1976.** It is hereby agreed that the entry by Beaufort County or Jasper County into any one or more agreements pursuant to Sections 4-29-67, 4-12-10, *et seq.*, or 12-44-10, *et seq.*, *South Carolina Code of Laws, 1976*, as amended, with respect to property located within the Park and the terms of such agreements shall be at the sole discretion of the two counties, respectively.

9. **Assessed Valuation.** For the purpose of calculating the bonded indebtedness limitation of the Beaufort Participating Taxing Entities and the Jasper Participating Taxing Entities and for the purpose of computing the index of taxpaying ability of the respective School Districts of each County pursuant to Section 59-20-20(3), *South Carolina Code of Laws, 1976*, as amended, allocation of the assessed value of property within the Park to Beaufort County and Jasper County shall be identical to the percentage established for the allocation of revenue to each of the counties pursuant to Paragraphs 6 and 7, respectively.

10. **Jobs Tax Credit, Valuation.** For purposes of the jobs tax credit authorized by subsections of Section 12-6-3360 of the *South Carolina Code of Laws, 1976*, as amended, the County in which a particular business enterprise is located is the county in which the permanent

business enterprise is deemed to be located. Section 12-6-3360, *South Carolina Code of Laws*, 1976, has been amended so as to provide an additional annual corporate income tax credit equal to One Thousand Dollars (\$1,000.00) beyond the current jobs tax credit amount applicable for new jobs in the respective County in which a business enterprise is located for each new full-time job created in the Park property located in that County.

11. **Non-qualifying Use.** In the event that a tract or site of land located in the Park is purchased and developed by a business enterprise which locates employees within the Park and which employees, because of the nature of their employment, do not qualify for the corporate income tax credit provided in *South Carolina Code of Laws*, 1976, as amended, Section 12-6-3360 (the "Non-qualifying Site"), the respective County in which that tract or site is located may remove, by ordinance, the Non-qualifying Site from the Park, provided there are no infrastructure credits, bonds, or other financings or obligations which would be affected by such removal.

12. **Records.** The Counties, parties to this Agreement, covenant and agree that, upon the request of either, the other will provide to the requesting party copies of the records of the annual tax levy and copies of the actual tax bills, for parcels of property encompassed by this Agreement, and will further provide copies of the County Treasurer's collection records for the taxes so imposed, all as such records became available in the normal course of County procedures. It is further agreed that none of the parties shall request such records from any other party more frequently than once annually, absent compelling justification to the contrary.

13. **Applicable Law.** In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion.

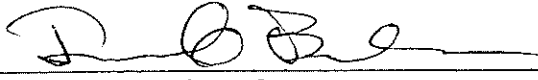
14. **Law Enforcement.** The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

15. **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.

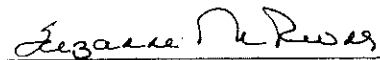
16. **Termination.** Notwithstanding any provision of this Agreement to the contrary, Beaufort County and Jasper County agree that this Agreement may not be terminated by either party for a period of twenty-eight (28) years commencing with the effective date hereof.

WITNESS our hands and seals this 14th day of February, 2000.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: 
Frank Brafman
Chairman

ATTEST:


Clerk to Council

WITNESS our hands and seals this 10 day of April, 2000.

JASPER COUNTY, SOUTH CAROLINA

Leroy Sneed By: *[Signature]*
Avery Cleland, Chairman, County Council,
Jasper County, South Carolina

ATTEST:

By: *[Signature]*
Judy Frank, Clerk to County Council,
Jasper County, South Carolina

And: 144733

ROA 00394

Jasper_000086

EXHIBIT "A"

To the Agreement for Development of
Joint County Industrial and Business Park
Beaufort County and Jasper County
Dated as of December 31, 1999

The Park consists of:

TRACT I:

ALL that certain piece, parcel and tract of land, containing 170.565 acres, situate, lying and being in the New River East Section of Jasper County, South Carolina, with said tract more specifically shown and described on a plat thereof entitled "A Plat Of A 170.565 Acre Tract Being a Portion Of The Argent Tract", with said plat prepared by Thomas & Hutton Engineering Co., Inc., as certified by Boyce L. Young, S.C.R.L.S. No. 11079, said plat dated the 28th day of March, 1997, and last revised on the 24th day of June, 1997 and recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 23 at Page 4.

TRACT II:

ALL that certain piece, parcel, and tract of land, containing 41.464 acres, situate, lying and being in Jasper County, South Carolina, said 41.464 acre parcel more specifically shown and described on a plat thereof entitled "A Plat Of A 41.464 Acre Tract Being A Portion Of The Argent Tract", said plat dated October 12, 1999, as prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 118.

TRACT III:

ALL that certain piece, parcel and tract of land, containing 106.75 acres, situate, lying and being in Jasper County, South Carolina, with said 106.75 acre tract more specifically shown and described on a plat thereof entitled "A Plat Of 106.75 Acre Tract Being A Portion Of The Argent Tract", said plat prepared by Thomas & Hutton Engineering Co. and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 119.

And: 144733

A-1

ROA 00395

Jasper_000087

2000/12

AN ORDINANCE TO DEVELOP A JOINTLY OWNED AND OPERATED INDUSTRIAL/BUSINESS PARK IN CONJUNCTION WITH JASPER COUNTY, SUCH INDUSTRIAL/BUSINESS PARK TO BE GEOGRAPHICALLY LOCATED IN BEAUFORT COUNTY AND JASPER COUNTY AND ESTABLISHED PURSUANT TO *SOUTH CAROLINA CODE OF LAWS*, 1976, §4-1-170, *ET SEQUITUR*, AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH JASPER COUNTY PROVIDING FOR THE EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES; AND, TO PROVIDE THAT JOBS TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PARK, AND TO PERMIT A USER FEE IN LIEU OF *AD VALOREM* TAXATION.

WHEREAS, Beaufort County and Jasper County (jointly the "Counties") are authorized under Article VIII, Section 13 of the South Carolina Constitution to jointly develop an industrial or business park within the geographical boundaries of one or more of the member counties; and

WHEREAS, in order to promote the economic welfare of the citizens of the Counties by providing employment and other benefits to the citizens of the Counties, Beaufort County proposes to enter into an agreement with Jasper County to develop jointly an industrial and business park as provided by Article VIII, Section 13 of the South Carolina Constitution, and in accordance with Section 4-1-170 of the *South Carolina Code of Laws*, 1976, as amended, (the "Act").

NOW, THEREFORE, BE IT ORDAINED BY THE BEAUFORT COUNTY COUNCIL:

SECTION I. Beaufort County is hereby authorized to execute and deliver a written agreement to jointly develop an industrial and business park (the "Park") with Jasper County. The Park is to be located within the boundaries of both Counties. The form of the joint industrial park agreement (the "Agreement") is attached hereto and all terms of the Agreement are hereby incorporated herein. The form, terms and provisions of the Agreement presented to this meeting and filed with the Clerk of the Beaufort County Council are hereby approved and all of the terms, provisions and conditions thereof are hereby incorporated herein by reference as if the Agreement were set out in this Ordinance in its entirety. The Administrator of the County is hereby authorized, empowered and directed to execute, acknowledge and deliver the Agreement in the name and on behalf of the County. The Agreement is to be in substantially the form now before this meeting and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the same, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of Agreement now before this meeting.

SECTION II. The maximum tax credits allowable by *South Carolina Code of Laws*, 1976, Section 12-6-3360, as amended, will apply to any business enterprise locating in the Park.

And: 144722 v2

200000021402
Filed for Record in
JASPER COUNTY, SC
MARGARET BOSTICK
On 04-10-2000 at 03:51 pm.
MISC N/C
Volume 8 Page 83

ROA 00396

Jasper_000088

ELECTRONICALLY FILED - 2021 Oct 25 8:54 AM - JASPER - COMMON PLEAS - CASE#2021CP2700028

SECTION III. Any business or industrial enterprise locating in the Park shall pay a fee-in-lieu of *ad valorem* taxes as provided for in the Agreement, Article VIII Section 13 of the South Carolina Constitution, and the Act. The user fee paid in lieu of *ad valorem* taxes shall be paid to the County Treasurer of the respective County in which a particular parcel of Park property is located. That portion of the fees from the Park premises located in one County and allocated pursuant to the Agreement to the other County shall be paid by the collecting County Treasurer to the other County Treasurer within five business days following the end of the calendar quarter of receipt for distribution in accordance with the Agreement. Payments of user fees shall be made by a business or industrial enterprise on or before the due date for taxes for a particular year. Penalties for late payment will be at the same rate and at the same times as for late tax payment. Any late payment beyond said date will accrue interest at the rate of statutory judgment interest. The Counties, acting by and through the county tax collector for the collecting County, shall maintain all liens and rights to foreclose upon liens provided for counties in the collection of *ad valorem* taxes.

SECTION IV. The administration, development, promotion, and operation of the Park shall be the responsibility of the County in which the Park property in question is located. Provided, that to the extent any Park premises is owned by a private developer, the developer shall be responsible for development expenses as contained in the Agreement.

SECTION V. In order to avoid any conflict of laws or ordinances between the Counties, the County ordinances of the County in which a parcel of Park property is located will be the reference for such regulations or laws in connection with that part of the Park. Nothing herein shall be taken to supersede any state or federal law or regulation. The County in which Park property is located is specifically authorized to adopt restrictive covenants and land use requirements for that part of the Park at that County's sole discretion.

SECTION VI. The Sheriff's Department for each respective County will have initial jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park located in that County and fire, sewer, water and EMS service for that part of the Park will be provided by the applicable service district or other political unit within that County.

SECTION VII. Should any section of this Ordinance be, for any reason, held void or invalid, it shall not affect the validity of any other section hereof which is not itself void or invalid.

SECTION VIII. The Agreement may not be terminated except by concurrent ordinances of Beaufort County Council and Jasper County Council, in accordance with the terms of the Agreement. In any event, this Ordinance shall terminate twenty-eight (28) years from the date of its execution by both parties.

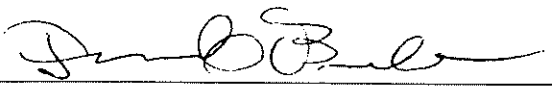
SECTION IX. Beaufort County hereby designates that the distribution of the fee-in-lieu of *ad valorem* taxes pursuant to the Agreement actually received by Beaufort County for Park premises be paid to each of the taxing entities in Beaufort County which levy an *ad valorem* property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes, provided that the

County may, from time to time, by ordinance, amend the distribution of the fee-in-lieu of tax payments to all taxing entities. A portion of the fee-in-lieu of ad valorem taxes which Beaufort County receives pursuant to the Agreement for Park premises may be, from time to time and by ordinance of Beaufort County Council or its successor, designated for the payment of special source revenue bonds.

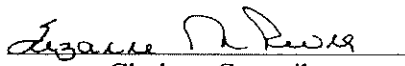
SECTION X. This Ordinance shall be effective after third and final reading and publication.

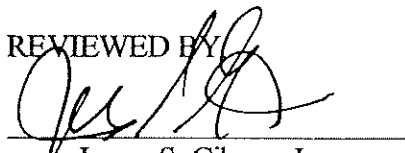
Adopted this 13th day of March, 2000.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: 
Frank Brafman
Chairman

ATTEST:


Elizabeth A. Powell
Clerk to Council

REVIEWED BY: 
James S. Gibson, Jr.
Acting County Attorney

First Reading: February 14, 2000

Second Reading: February 28, 2000

Public Hearing: March 13, 2000

Third and Final Reading: March 13, 2000

EXHIBIT B

*Meeting Minutes of Jasper County Council
February 7, 2000*

**JASPER COUNTY COUNCIL
MARY GORDON ELLIS EXECUTIVE BUILDING
COUNCIL CHAMBERS
FEBRUARY 7, 2000
2:00 P.M.**

OFFICIALS PRESENT:

LEROY SNEED, CHAIRMAN
DANNY MCKENZIE, VICE CHAIRMAN
REV. SAMUEL GREGORY, COUNCILMAN
AVERY CLELAND, COUNCILMAN
HENRY P. MOSS, ADMINISTRATOR
JUDITH M. FRANK, CLERK TO COUNCIL

OFFICIALS ABSENT:

THOMAS MCCLARY, COUCNILMAN

MEDIA NOTIFIED:

THE JASPER COUNTY SUN, CAROLINA MORNING NEWS, THE BEAUFORT GAZETTE, WTOG-TV,
WJWJ-TV, WSAV-TV

CALL TO ORDER:

CHAIRMAN SNEED CALLED THE MEETING TO ORDER AT 2:20 P.M.

INVOCATION:

CHAIRMAN SNEED GAVE THE INVOCATION.

PUBLIC HEARING AND 3RD READING OF THE ORDINANCE TO DEVELOP A JOINTLY OWNED AND OPERATED BUSINESS/INDUSTRIAL PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY AND BEAUFORT COUNTY AND ESTABLISH PURSUANT TO SOUTH CAROLINA CODE OF LAWS OF 1976, 4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR WRITTEN AGREEMENT WITH BEAUFORT COUNTY PROVIDING FOR EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES; AND, TO PROVIDE THAT JOBS TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PARK, AND TO PERMIT A USER FEE IN LIEU OF AD VALOREM TAXATION
MR. MOSS EXPLAINED THE ORDINANCE AND HOW IT RELATED TO THE RURAL DEVELOPMENT ACT. CHRIS PHILLIPS REVIEWED THAT PREVIOUSLY THE COUNTY TRIED TO ENTER A JOINT AGREEMENT WITH 5 COUNTIES, HOWEVER THAT DID NOT WORK OUT AND NOW THE JOINT AGREEMENT WAS WITH BEAUFORT COUNTY. HE SAID BEAUFORT COUNTY WOULD ALSO BE PASSING THE SAME TYPE OF ORDINANCE. CHAIRMAN SNEED OPENED THE PUBLIC HEARING FOR INPUT FROM THE PUBLIC. LOUIS DAVIS ASKED ABOUT THE CONTRACT WITH HAMPTON COUNTY AND IF IT WAS VOIDED. HE WAS ANSWERED NO. BEING NO FURTHER COMMENT CHAIRMAN SNEED CLOSED THE PUBLIC HEARING. VICE CHAIRMAN MCKENZIE MOTIONED TO APPROVE THE THE ORDINANCE TO DEVELOP A JOINTLY OWNED AND OPERATED BUSINESS/INDUSTRIAL PARK TO BE GEOGRAPHICALLY LOCATED IN JASPER COUNTY AND BEAUFORT COUNTY AND ESTABLISH PURSUANT TO SOUTH CAROLINA CODE OF LAWS OF 1976, 4-1-170, ET SEQUITUR, AS AMENDED; TO PROVIDE FOR WRITTEN AGREEMENT WITH BEAUFORT COUNTY PROVIDING FOR EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAXES TO THE COUNTIES AND RELEVANT TAXING ENTITIES, AND, TO PROVIDE THAT JOBS TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PARK, AND TO PERMIT A USER FEE IN LIEU OF AD VALOREM TAXATION. COUNCILMAN CLELAND SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

3RD READING OF THE ORDINANCE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF HARDEEVILLE:

MR. MOSS EXPLAINED THAT THE THIRD READING WAS POSTPONED BECAUSE HARDEEVILLE'S CONSULTING ATTORNEY WAS NOT READY. COUNCILMAN GREGORY ARRIVES AT THIS TIME. A COPY OF THE AMENDED ORDINANCE IS ATTACHED AND MADE PART OF THESE MINUTES. VICE CHAIRMAN MCKENZIE MOTIONED TO APPROVE THE ORDINANCE TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF HARDEEVILLE. COUNCILMAN GREGORY SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

2ND READING OF THE ORDINANCE TO AUTHORIZE DEVELOPMENT AGREEMENTS GOVERNING BY AND BETWEEN JASPER COUNTY AND PRIVATE DEVELOPERS AND TO ESTABLISH THE CRITERIA FOR SUCH:

MR. PHILLIPS EXPLAINED THAT THIS ORDINANCE IS REGARDING THE CRITERIA NECESSARY TO

This document is certified this Monday 2/7/2000 day of February, 2000 as a true and accurate copy of the records on file with the Clerk of Council's Office for Jasper County, South Carolina.
Wanda Simmons, Clerk to Council

ELECTRONICALLY FILED - 2021 OCT 25 8:54 AM - JASPER - COMMON PLEAS - CASE#2021CP2700028

MINUTES CONTINUES 02/07/00

ADOPT SEPARATE DEVELOPMENT AGREEMENTS. VICE CHAIRMAN MCKENZIE MOTIONED TO ACCEPT THIS AS THE 2ND READING OF THE ORDINANCE TO AUTHORIZE DEVELOPMENT AGREEMENTS GOVERNING BY AND BETWEEN JASPER COUNTY AND PRIVATE DEVELOPERS AND TO ESTABLISH THE CRITERIA FOR SUCH. COUNCILMAN CLELAND SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

RUDY SMITH UPDATE ON COUNTY ROADS:

MR. SMITH PRESENTED THE COUNCIL WITH A HAND OUT OF THE COUNTY ROADS AND STATED THAT HE FELT THAT THE ROCKING OF THE ROADS WAS A TOTAL SUCCESS. HE STATED THAT THERE WERE 47 MILES THAT NEED ROCK. HE ALSO SAID THERE WAS 35 MILES OF ROAD THAT HE WOULD NOT RECOMMEND ROCKING. MR. SMITH COMMENTED ON ROADS THAT NEEDED TO BE PAVED. MR. SMITH FELT THAT IF ALL THE ROADS THAT WERE TO BE PAVED, BE DONE ALL AT ONCE, THE COUNTY SHOULD GET A BETTER PRICE. COUNCILMAN GREGORY COMMENTED THAT HE THOUGHT IT WAS WISE TO PUT EVERYTHING IN A PACKAGE AND GO TO THE TRANSPORTATION FOR FUNDING FOR THE TOTAL PACKAGE AND TO GO AS FAR AS THE COUNTY CAN GO. CHAIRMAN SNEED ASKED THE COUNCIL MEMBERS TO HELP MR. SMITH IS SECURING RIGHT OF WAYS FOR THE ROADS TO BE PAVED. MR. SMITH SAID HE WILL GET A PRICE ON THE PACKAGE. COUNCILMAN CLELAND SAID THAT THE COUNCIL NEEDED TO PRIORITIZE THE ROADS FOR ROCKING. VICE CHAIRMAN MCKENZIE SUGGESTED NOTIFYING THE TRANSPORTATION COMMITTEE ON THE AMOUNT NECESSARY FOR THE ROCKING AND REQUEST FUNDING FOR THE PAVING. COUNCILMAN GREGORY STATED THAT HE HAS A BIG PROBLEM WITH THE ROCKING AND FELT THAT THE ROADS IN JASPER COUNTY NEED TO BE PAVED AND THAT PAVING NEEDS TO BE THE FIRST PRIORITY. CHAIRMAN SNEED SAID THAT HE WANTS TO PAVE AS MANY ROADS AS POSSIBLE, HOWEVER IF RIGHT OF WAYS CANNOT BE OBTAINED, THEN GO BACK AND ROCK THOSE ROADS.

THOMAS AND HUTTON REGARDING THE WETLAND SURVEY AT SGT. JASPER COUNTY PARK:

MR. MOSS REPORTED THAT THE SURVEY AND FLAGGING OF WETLANDS HAS BEEN DONE. THOMAS AND HUTTON IS VERY FAMILIAR WITH THE PARK AND MR. MOSS REQUESTED THAT COUNCIL APPROVE \$15,000.00 TO COMPLETE THE WETLAND SURVEY. COUNCILMAN GREGORY MOTIONED TO APPROVE PAYING THOMAS AND HUTTON \$15,000.00 TO COMPLETE THE WETLAND SURVEY AND TO TRANSFER THE \$15,000.00 FROM THE ECONOMIC DEVELOPMENT ACCOUNT TO THE PARK OPERATING ACCOUNT. VICE CHAIRMAN MCKENZIE SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

COUNCILMAN GREGORY MOTIONED FOR A SURVEY TO BE DONE OF THE THREE TOP ROADS TO BE PAVED AND TO SPEND \$2,500.00 FOR THAT SURVEY. VICE CHAIRMAN MCKENZIE SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

APPROVAL OF THE MINUTES:

VICE CHAIRMAN MCKENZIE MOTIONED TO APPROVE THE MINUTES AS PRESENTED. COUNCILMAN GREGORY SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

PUBLIC HEARING REGARDING THE ACCEPTANCE OF A LAW ENFORCEMENT GRANT:

MAJOR HUGHES EXPLAINED THAT THE SHERIFF DEPARTMENT HAS BEEN APPROVED FOR A LOCAL BLOCK GRANT IN THE AMOUNT \$44,634.00. NINETY PER CENT GRANT AND A TEN PERCENT MATCH (\$4465.40) FROM THE GRANT MATCHING FUND AND IT WAS BUDGETED FOR IN THE CURRENT BUDGET DISCUSSION ACTS AS A PUBLIC HEARING AND FORUM. COUNCILMAN CLELAND ASKED WHAT THE GRANT WAS GOING TO BE USED FOR AND MAJOR HUGHES STATED IT WOULD BE USED FOR EQUIPMENT, VESTS, A COMPUTER AND VIDEO EQUIPMENT. COUNCILMAN GREGORY MOTIONED TO APPROVE THE GRANT. VICE CHAIRMAN MCKENZIE SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

SANDY WATKINS - PRESENTATION OF STRATEGIC PLAN FOR WORKFORCE DEVELOPMENT:

MS. WATKINS EXPLAINED THAT THE WORKFORCE DEVELOPMENT REPLACES THE JPTS AND THAT THEY MUST HAVE A FIVE YEAR PLAN READY. MS. WATKINS GAVE AN OVERVIEW OF THE PLAN.

RESOLUTION AUTHORIZING THE FINANCING OF NEW VEHICLES FOR THE JASPER COUNTY SCHOOL DISTRICT:

MR. MALPHRUS INFORMED COUNCIL THAT THE FINANCING PACKAGE WENT OUT TO BID AND THAT FIRST NATIONAL BANK WAS THE LOWEST BIDDER AND THAT IT NEEDED A RESOLUTION TO PROCESS THE LOAN OF \$200,000.00 OVER 5 YEARS WITH THE FIRST PAYMENT COMING OUT OF NEXT YEARS BUDGET. IT WILL BE A LINE ITEM IN THE BUDGET. COUNCILMAN CLELAND MOTIONED TO APPROVE THE RESOLUTION AUTHORIZING THE FINANCING OF NEW VEHICLES FOR THE JASPER COUNTY SCHOOL DISTRICT. VICE CHAIRMAN MCKENZIE SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

MINUTES CONTINUES 2/7/00

CONSIDERATION OF RECREATIONAL IMPROVEMENTS TO SGT. JASPER COUNTY PARK:

MR. MOSS EXPLAINED THAT MR. SMITH HAD DONE A STUDY OF THE PONDS AT THE PARK AND SUBMITTED RECOMMENDATIONS TO IMPROVE THE PONDS. MR. SMITH EXPLAINED THAT IT WOULD TAKE ABOUT 3 YEARS TO COMPLETE THAT WORK ON IMPROVING THE PONDS AND EXPLAINED THE PROCEDURE. HE SAID IT WOULD COST ABOUT \$29,000.00. COUNCILMAN GREGORY MOTIONED TO APPROVE SPENDING THE \$29,000.00 TO IMPROVE THE PONDS AND THAT THE FUNDING SHOULD COME FROM THE ECONOMIC DEVELOPMENT FUND. COUNCILMAN CLELAND SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

OPEN FLOOR TO PUBLIC:

DWAYNE SWYGERT SPOKE REGARDING ISSUE CONCERNING LAND IN THE SOUTH END OF JASPER COUNTY KNOW AS THE SPOIL AREA AND REQUESTED THAT COUNCIL LOOK INTO PAVING THE ROAD AND OPENING THAT AREA SO THAT CITIZENS CAN GET TO THAT LAND. VICE CHAIRMAN MCKENZIE ASKED THAT MR. MOSS WAS DIRECTED TO LOOK INTO THE ISSUE. CHAIRMAN SNEED COMMENTED THAT THE COUNCIL WILL LOOK INTO THIS MATTER.

J.W. HARPER SPOKE REGARDING JUNKYARDS AND SAID SINCE HARDEEVILLE WAS CRACKING DOWN, THE JUNKYARDS WERE MOVING INTO THE COUNTY AND THE COUNTY NEEDS TO DO AN ORDINANCE TO PREVENT THIS.

LOUIS DAVIS ASKED IF THERE WAS ANY VEGETATION IN THE PARK THAT GRASS CARP WOULD THRIVE ON. MR. SMITH ANSWERED YES.

J.W. HARPER ASKED ABOUT ROCKING ROADS AND SCRAPPING ROADS AND TAKING THE ROCK OUT AGAIN. MR. SMITH RESPONDED THAT NO ROADS WERE SCRAPPED AND NO ROCK WAS REMOVED.

CHAIRMAN SNEED CLOSED THE FLOOR.

COMMITTEE REPORTS:

MR. MOSS REPORTED THAT DR. SINGLETON WAS TO GET HIM A LIST OF DATES THAT THE SCHOOL BOARD COULD MEET WITH COUNCIL.

CHAIRMAN SNEED REVIEWED HIS COMMITTEE APPOINTMENTS AND HOW THEY WOULD WORK. HE STATED THAT HE FELT THAT TWO COUNCIL MEMBERS SHOULD MEET WITH THE ADMINISTRATOR AND THE DEPARTMENT HEADS REGARDING BUDGET REQUESTS. MR. MOSS REVIEWED THE BUDGET PROCEDURE AS REQUIRED UNDER HOME RULE.

COUNCILMAN CLELAND QUESTIONED THE NUMBER OF COUNCIL MEMBERS ON EACH COMMITTEE. HE STATED THAT HE FELT THAT ONLY 2 COUNCIL MEMBERS WERE NECESSARY OF EACH COMMITTEE. COUNCILMAN GREGORY LEAVES AT THIS TIME. VICE CHAIRMAN MCKENZIE SAID HE WAS FOR BUDGET REFORM. COUNCILMAN CLELAND SAID HE FELT IT WAS THE RESPONSIBILITY OF THE COUNCIL TO CUT THE BUDGET AND NOT WORRY ABOUT LOOKING GOOD AND IF ANY AGENCY OR DEPARTMENT HEAD HAD A SPECIAL REQUEST, THEN THEY SHOULD COME BEFORE THE WHOLE COUNCIL.

ADMINISTRATOR'S REPORT:

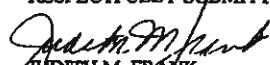
MR. MOSS REMINDED THE COUNCIL ABOUT THE MEETING IN COLUMBIA AND THAT CHAIRMAN SNEED CANCELED THE SECOND MEETING IN FEBRUARY. COUNCILMAN GREGORY RETURNS AT THIS TIME. MR. MOSS REVIEWED A LETTER FROM SOLICITOR MURDAUGH STATING THAT INSUFFICIENT EVIDENCE AGAINST THE CLERK OF COURT WAS FOUND TO WARRANT PROSECUTION, HOWEVER, MR. MOSS SAID HE STILL NEEDS TO GET THE BOOKS IN THAT OFFICE RECONCILED. VICE CHAIRMAN MCKENZIE ASKED IF GETTING THE BOOKS RECONCILED WOULD RESOLVE THE ISSUE OF THE MISSING MONEY. MR. MOSS SAID IT WOULD RESOLVE SOME OF THE MATTERS. MR. MOSS REQUESTED AUTHORITY TO HIRE TEMPORARY HELP TO AUDIT THE BOOKS. CHAIRMAN SNEED SAID HE THINKS THE COUNCIL NEEDS TO TALK TO MS. BOSTICK AND HER ATTORNEY FIRST. THERE WAS A DISCUSSION AS TO WHOM THIS TEMPORARY PERSON SHOULD WORK UNDER, MR. MOSS OR MS. BOSTICK. CHAIRMAN SNEED ASKED THE ADMINISTRATOR TO HAVE MS. BOSTICK APPEAR BEFORE COUNCIL AGAIN.

ADJOURN:

VICE CHAIRMAN MCKENZIE MOTIONED TO ADJOURN THE MEETING. COUNCILMAN CLELAND SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

THE MEETING ENDED AT 5:35 P.M.

RESPECTFULLY SUBMITTED:


JUDITH M. FRANK
CLERK TO COUNCIL

APPROVED BY:

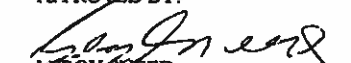

LEROY SNEED
CHAIRMAN

EXHIBIT C

General Bond Ordinance No. 01-04

This document Gen. Bond Ord # 01-04
is certified this 13th day of Sept, 2021
as a true and accurate copy of the records on file
with the Clerk of Council's Office
for Jasper County, South Carolina.
Wanda Simmons
Wanda Simmons, Clerk to Council

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER) CERTIFIED COPY OF GENERAL
BOND ORDINANCE NO. 01-04

I, the undersigned being the duly qualified and acting Clerk to the County Council of Jasper County, South Carolina (the "County"), and as such official I further certify that I am the recorder and custodian of the official records of the County Council and that attached hereto is a true copy of General Bond Ordinance No. 01-04 authorizing and providing the issuance of Special Source Revenue Bonds (Nickel Plate Road LLC Project) of the County, enacted by the County Council at a meeting duly called and held on April 16, 2001, at which a quorum was present and acting throughout, which Ordinance has been compared by me with the original thereof, and that such Ordinance has been duly enacted including the required number of readings and has not been modified, amended or repealed and is in full force and effect on and as of the date hereof in the form attached hereto.

In witness hereof, I have hereunto set my hand this 20th day of April, 2001.

Judith M. Hank
Clerk to County Council of Jasper County,
South Carolina

200100026029
Filed for Record in
JASPER COUNTY
MARGARET BOSTICK
05-30-2001 At 03:10 a.m.
MISC N/C
Volume 8 Page 244 - 244

Greenville: 156880

JASPER COUNTY, SOUTH CAROLINA

ORDINANCE NO. 01-04

GENERAL BOND ORDINANCE
(NICKEL PLATE ROAD LLC PROJECT - SPECIAL SOURCE REVENUE BONDS)

A GENERAL BOND ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BONDS (NICKEL PLATE ROAD LLC PROJECT) IN A PRINCIPAL AMOUNT OF UP TO \$20,000,000; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY FROM CERTAIN REVENUES DERIVED FROM THE PAYMENTS OF FEES IN LIEU OF TAX FROM THE PROPERTIES LOCATED IN THE JASPER COUNTY AND BEAUFORT COUNTY JOINT COUNTY INDUSTRIAL AND BUSINESS PARK; PLEDGING SUCH MONEYS TO THE PAYMENT OF SUCH SPECIAL SOURCE REVENUE BONDS; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH FUNDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING; APPROVING A THIRD AMENDMENT TO THAT INDUCEMENT AGREEMENT BY AND AMONG JASPER COUNTY, SOUTH CAROLINA AND NICKEL PLATE ROAD LLC, ASSET MANAGEMENT ASSOCIATES INC., AND NEW RIVER - OKATIE CO. LLC; AND AMENDING ORDINANCE NUMBER 2000-1 RELATING TO THE DISTRIBUTION OF THE FEES IN LIEU OF *AD VALOREM* TAXES IN THE PARK; AND OTHER MATTERS RELATING THERETO.

Greenville: 155564

Jasper 000003

ROA 00405

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BE IT ORDAINED BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH
CAROLINA, IN COUNCIL ASSEMBLED:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Unless the context shall clearly indicate some other meaning, the terms defined in this Section shall, for all purposes of this General Bond Ordinance and of any ordinance, resolution, certificate, opinion, instrument or other document herein or therein mentioned, have the meanings herein specified, with the definitions to be equally applicable to both the singular and plural forms of any of the terms herein defined and *vice versa*. The term:

"Act" shall mean Section 4-1-175 and Section 4-29-68, Code of Laws of South Carolina 1976, as amended, and all other statutory authorizations, now or hereinafter enacted, authorizing and enabling the County to provide for the issuance of the Bonds.

"Authorized County Representative" shall mean the Chairman or Vice Chairman of the County Council, the County Administrator or the Clerk of the County Council.

"Authorized Developer Representative" shall mean any person or persons at the time designated to act on behalf of the Developer by a written certificate furnished to the Clerk to County Council of the County and the Purchaser containing the specimen signature of each such person and signed on behalf of the Developer by its President, any Vice President, Treasurer or Assistant Treasurer.

"Authorized Owner Representative" shall mean any person or persons at the time designated to act on behalf of the Owner by a written certificate furnished to the Clerk to County Council of the County and the Purchaser containing the specimen signature of each such person and signed on behalf of the Owner by its President, any Vice President, Treasurer or Assistant Treasurer.

"Bondholders" or the term "Holders" or any similar term shall mean the registered owner or owners of any Outstanding Bond or Bonds.

"Bond" or "Bonds" shall mean any Bond, some of the Bonds or all of the Bonds issued under and pursuant to Article III hereof.

"Books of Registry" shall mean the registration books maintained by the Registrar in accordance with Section 4.2 hereof.

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"Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of South Carolina are required or authorized by law (including executive orders) to close.

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

"Cost of Acquisition and Construction" shall mean, to the extent permitted by the Act, all costs (including architectural and engineering fees) of designing, acquiring, constructing, improving, or expanding the Infrastructure (as described herein) and any other infrastructure serving the County in order to enhance the economic development of the County, including sums required to reimburse the Owner and Developer for payments previously made with respect to Infrastructure, the Costs of Issuance and capitalized interest, if any, on Bonds.

"Cost of Issuance" shall mean all items of expense, directly or indirectly payable or reimbursable by or to the County and related to the authorization, sale and issuance of a Series of Bonds including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of any Custodian, legal fees and charges, auditing and accounting fees and charges, fees and disbursements of consultants and professionals, and any other costs, charges or fees in connection with the original issuance of Bonds.

"Council" shall mean the County Council of Jasper County, South Carolina.

"County" shall mean Jasper County, South Carolina.

"Custodian" shall mean any bank or trust company or national banking association or national association selected by the County as a depository of moneys or securities held in the Debt Service Fund or the Revenue Fund. A Supplemental Ordinance may appoint the County Treasurer as Custodian of one or more of these funds.

"Debt Service Fund" shall mean the fund of that name established pursuant to Section 5.5 of this General Bond Ordinance.

"Default" or "Event of Default" shall mean any of those defaults specified in and defined by Article VIII hereof.

"Developer" shall mean Asset Management Associates, Inc., a South Carolina Corporation and New-River - Okatie Co. LLC, a South Carolina limited liability company.

"Fee Payments" shall mean the revenues that the County receives and retains pursuant to the Park Agreement from the payments in lieu of taxes which are paid for all real property and personal property located within the Park.

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"Fiscal Year" shall mean the fiscal year for the County as determined by the Council, initially being the period from July 1 in any year to and including June 30 in the following year.

"General Bond Ordinance" shall mean this General Bond Ordinance as from time to time amended or supplemented by one or more Supplemental Ordinances, as defined herein.

"Government Obligations" shall mean noncallable and nonprepayable bonds, notes or direct obligations and general obligations of the United States.

"Infrastructure" shall mean infrastructure serving the County (including improved and unimproved real property) in order to enhance the economic development of the County.

"Interest Account" shall mean the account by that name established in the Debt Service Fund.

"Interest Payment Date" shall mean February 1 of each year on which interest is paid on Bonds, or such other interest payment date established by a Supplemental Ordinance.

"Multi-County Fees" shall mean the amount of the allocation of all revenues generated by the park attributable to the Fee Payments payable by the County to Beaufort County, South Carolina, or any successor thereto under the Park Agreement.

"Net Fee Payments" shall mean the Fee Payments remaining after payment of the Multi-County Fees.

"Original Inducement Agreement" shall mean that certain inducement agreement by and between the County, the Owner and the Developer, executed on April 20, 1998, as amended by a First Amendment to such Inducement Agreement and by a Second Amendment to Inducement Agreement.

"Outstanding" when used with respect to any Bond shall have the construction given to such word in Article X hereof; *i.e.*, a Bond shall not be Outstanding if such Bond is not, or would not be, at the time, deemed to be Outstanding by reason of the operation and effect of said Article X.

"Owner" shall mean Nickel Plate Road LLC, a South Carolina limited liability company.

"Park" shall mean the Jasper County and Beaufort County, South Carolina, Joint County Industrial and Business Park as defined in the Park Agreement.

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"Park Agreement" shall mean the Agreement for Development of Joint County Industrial and Business Park executed on behalf of Beaufort County as of February 14, 2000, and executed on behalf of Jasper County as of April 10, 2000, as such may be amended or supplemented from time to time.

"Paying Agent" shall mean the County Treasurer or any bank, trust company or national banking association which is authorized to pay the principal of or interest on any Bonds and having the duties, responsibilities and rights provided for in this General Bond Ordinance.

"Permitted Investments" shall mean (a) any one or more of the investments now or hereafter permitted by Section 6-5-10, Code of Laws of South Carolina 1976, as amended and in effect from time to time, or any authorization relating to the investments of County funds, and (b) the South Carolina Pooled Investment Fund or similar State administered pool investment fund.

"Principal Account" shall mean the account by that name established within the Debt Service Fund.

"Principal Payment Date" shall mean February 1 of each year on which principal is paid on Bonds, or such other principal payment date established by a Supplemental Ordinance.

"Project" shall include, but not be limited to, all of the real property, personal property, machinery, fixtures, buildings and equipment owned, sold, leased or used by the Owner, the Developer, or any other enterprise having facilities located on the real property described in *Exhibit A* attached hereto and which are subject to the Park Agreement and the Fee Payments.

"Registrar" shall mean the County Treasurer or any bank, trust company, or national banking association which is authorized to maintain an accurate list of those who from time to time shall be the holders of the Bonds and shall effect the exchange and transfer of Bonds in accordance with the provisions of this General Bond Ordinance and having the duties, responsibilities, and rights provided for in this General Bond Ordinance.

"Revenue Fund" shall mean the fund of that name established pursuant to Section 5.4 of this General Bond Ordinance.

"Second Amendment to Inducement Agreement" shall mean that certain amendment to the Original Inducement Agreement executed on May 17, 1999 by the County, June 7, 1999 by the Owner, and June 14, 1999 by the Developer.

"Series" or "Series of Bonds" or "Bonds of Series" shall mean a Bond or all Bonds designated as being of the same series issued and delivered on original issuance in a simultaneous

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transaction, and any Bond or Bonds thereafter delivered in lieu thereof or in substitution therefor pursuant to this General Bond Ordinance.

"Supplemental Ordinance" shall mean any ordinance enacted by the County providing for the issuance of a Bond or Bonds hereunder and any ordinance enacted by the Council pursuant to and in compliance with the provisions of Article III hereof amending or supplementing the provisions of this General Bond Ordinance.

"Tax Year" shall mean the consecutive twelve (12) month period during which the County *ad valorem* real property taxes are levied and collected, presently being the period from July 1 to June 30.

"Third Amendment to Inducement Agreement" shall mean the amendment to the Original Inducement Agreement authorized to be executed under this General Bond Ordinance, and attached hereto as *Exhibit B*.

ARTICLE II

FINDINGS AND DETERMINATIONS

Section 2.1. Findings and Determinations. The County Council of Jasper County, South Carolina, hereby finds and determines:

A. The County is a political subdivision of the State of South Carolina and as such has all powers granted to counties by the Constitution and the general law of this State.

B. Article X, Section 14, of the Constitution of the State of South Carolina, 1895, as amended, provides that indebtedness payable solely from a special source, which source does not involve revenues from any tax or license, may be issued by a county upon such terms and conditions as the General Assembly may prescribe by general law.

C. Section 4-1-175 of the Code provides that a county that receives revenues from a payment in lieu of taxes pursuant to Section 13 of Article VIII of the Constitution of South Carolina, may issue special source revenue bonds secured by and payable from all or a part of such revenues, subject to certain terms and conditions as provided therein, and, as provided in Section 4-29-68 of the Code, for the purpose of paying the cost of designing, acquiring, constructing, improving or expanding the Infrastructure serving the County (and for improved and unimproved real estate used in the operation of a manufacturing commercial enterprise) in order to enhance the economic development of the County and the Cost of Issuance of Bonds.

D. In accordance with the provisions of the Original Inducement Agreement, the County agreed to issue special source revenue bonds under the terms set forth in such Original

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Inducement Agreement. More particularly, in the Original Inducement Agreement, the County agreed to issue special source revenue bonds with a maturity of 13 years, for up to \$7,000,000 in Infrastructure costs, in one or more series, secured and payable by 40% of that portion of the revenues from payment in lieu of taxes attributable to the Park which the County is entitled to retain pursuant to the Park Agreement.

E. In the Second Amendment to Inducement Agreement, the County agreed to issue a single special source revenue bond under the same terms as the Original Inducement Agreement, as amended by a First Amendment to Inducement Agreement, except that such bond would be for a total of up to \$20,000,000 in Infrastructure costs, and have a maturity of 28 years.

F. The County now agrees to authorize and provide for a Third Amendment to Inducement Agreement in the form attached as *Exhibit B*, which provides for the issuance of special source revenue bonds, in one or more series rather than as a single bond, under the same terms set forth in the Original Inducement Agreement, as amended by the First Amendment to Inducement Agreement and Second Amendment to Inducement Agreement.

G. The County and Beaufort County have established a joint county industrial and business park (the "Park") by entering into the Park Agreement.

H. The County has given due consideration to the economic development impact of the Project, has found that the Project and the payments in lieu of taxes which would be made for properties located in the Park would be directly and substantially beneficial to the County, the taxing entities of the County, and the citizens and residents of the County, and that the Project would directly and indirectly benefit the general public welfare and serve a public purpose of the County by providing services, employment, recreation, promotion of tourism, or other public benefits not otherwise provided locally; and, that the Project gives rise to no pecuniary liability of the County or incorporated municipality, or a charge against the general credit or taxing power of either; and, that the purposes to be accomplished by the Project, i.e., economic development and welfare, creation of jobs, promotion of tourism, and addition to the tax base of the County, are proper governmental and public purposes and that the inducement of the location or expansion of the Project within the County and State is of paramount importance and that the benefits of the Project will be greater than the costs.

I. The County has agreed to issue and sell Special Source Revenue Bonds, (Nickel Plate Road LLC Project) (the "Bonds") in a total principal amount of up to \$20,000,000, the proceeds of which will be used to design, acquire, construct, improve or expand Infrastructure, or to make reimbursement to the Developer or Owner thereof.

J. The Bonds will be issued under and pursuant to the provisions of the Act and will be secured by and payable solely from a portion of the Net Fee Payments.

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K. No bonds or other obligations have heretofore been issued by the County pledging the Net Fee Payments.

L. By the enactment of this General Bond Ordinance, the County will: provide for the issuance of the Bonds at the time and on the terms and conditions set forth in this General Bond Ordinance; authorize the execution of the Third Amendment to Inducement Agreement by and between the County, the Developer and the Owner; and amend Ordinance No. 2000-1 relating to the distribution of fees in lieu of *ad valorem* taxes in the Park.

ARTICLE III

AUTHORIZATION AND ISSUANCE OF BONDS

Section 3.1. Authorization of Bonds. There is hereby authorized to be issued Bonds of the County to be known as "Jasper County, South Carolina, Special Source Revenue Bonds (Nickel Plate Road LLC Project)" in one or more series for a total principal amount of up to \$20,000,000, which Bonds may be issued pursuant to this General Bond Ordinance and in accordance with the terms, conditions and limitations set forth herein, in such amounts and from time to time as the County, at the written request of the Owner or the Developer, shall issue under this General Bond Ordinance and the Act.

Section 3.2. General Provisions for Issuance of Bonds. (a) The Bonds shall be issued in Series by means of Supplemental Ordinances enacted by the Council in accordance with the provisions of this Article. Each Supplemental Ordinance shall designate the Bonds provided for thereby by an appropriate Series designation and by such further particular designations, if any, as the County deems appropriate, and shall, unless or except as is otherwise set forth herein, also specify: (i) the authorized principal amount of such Series of Bonds; (ii) the purpose or purposes for which the Bonds of such Series are being issued; (iii) the date or dates of the Bonds of the Series; (iv) a maturity of not longer than twenty-eight (28) years from the date of their respective issuance; (v) the interest rate or rates of the Bonds of such Series, or the manner of determining such rate or rates, and the Interest Payment Dates; (vi) the denominations of, and manner of numbering and lettering, the Bonds of such Series; (vii) the redemption premium, if any, and the terms and conditions, if any, of such redemption; (viii) the place or places of payment of the Bonds of the Series and interest thereon; (ix) any other provisions which may be required to be inserted therein by other provisions of this General Bond Ordinance; and (x) any other necessary or desirable provisions not inconsistent or in conflict with the provisions of this General Bond Ordinance.

Section 3.3. Conditions for the Issuance of Bonds under this General Bond Ordinance. Anytime and from time to time, one or more Series of Bonds shall be issued by the County at the request of the Owner or the Developer for such purposes as may be permitted by the Act upon

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compliance with the provisions of Section 3.2 hereof and this Section in such principal amounts as may be requested by the Owner and Developer within the limitations set forth in the Original Inducement Agreement and the Second Amendment to Inducement Agreement for the purpose of paying all or part of the Costs of Acquisition and Construction authorized to be financed under the Act with Bonds.

Bonds issued upon compliance with this Section and Section 3.2 shall be issued on a parity in all respects *inter sese*, notwithstanding, that they may be in different form, and bear different dates, interest rates, number, date of issuance or date of execution; and in all such instances, the pledge of Net Fee Payments made thereunder, and the covenants and remedies hereby granted shall be applicable and available to the holders of the Bonds.

Prior to the issuance of Bonds hereunder, there shall be filed with the County a certificate of an Authorized Owner Representative or an Authorized Developer Representative requesting the County to issue Bonds hereunder and stating:

(1) a description, and cost thereof, of the Infrastructure to be financed with the proceeds of Bonds; and

(2) the principal amount of and interest rate on the Bonds and a pro forma debt service schedule structured in accordance with the terms of the Original Inducement, as amended.

ARTICLE IV

THE BONDS

Section 4.1. Execution. Unless or except as is otherwise set forth in the Supplemental Ordinance providing for the issuance of a Series of Bonds, the Bonds shall be executed on behalf of the County by the Chairman or Vice Chairman of the County Council by his or her manual or facsimile signature, and the corporate seal of the County or a facsimile thereof shall be impressed or reproduced thereon and attested by the Clerk to the County Council by his or her manual or facsimile signature.

In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 4.2. Registration and Transfer of Bonds; Persons Treated as Holders. Each Bond shall be fully registered and transferable only upon the Books of Registry of the County, which shall initially be kept for that purpose at the office of the County Treasurer. Upon the

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transfer of any Bond, the County shall issue in the name of the transferee, a new Bond or Bonds of the same Series and of the same aggregate principal amount as the unpaid principal amount of the surrendered Bond.

Section 4.3. Form of Bonds; Denominations; Medium of Payment. The Bonds shall be in such form as provided in the Supplemental Ordinance authorizing their issuance. The Bonds shall be payable with respect to principal, interest, and premium, if any, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

Section 4.4. Numbers, Date, and Payment Provisions. The Bonds shall be numbered and designated in such manner as the County shall determine. Each Bond of a Series shall bear interest as provided in the Supplemental Ordinance authorizing its issuance.

Section 4.5. Redemption of Bonds. The Bonds of a Series shall be subject to redemption prior to their stated maturities upon such terms and conditions and at such dates and redemption price or prices or premium or premiums as shall be set forth in the Supplemental Ordinance providing for the issuance of such Bonds.

Section 4.6. Bonds Exempt from South Carolina Taxes. As prescribed by Section 12-2-50 of the Code, the Bonds and the interest thereon are exempt from all State, county, municipal, school district, and all other taxes or assessments except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

ARTICLE V

ESTABLISHMENT OF FUNDS; SECURITY FOR AND PAYMENT OF THE BONDS; INVESTMENT OF MONEYS

Section 5.1. Listing of Funds and Accounts. The following are the funds and accounts created and established by this General Bond Ordinance:

- (i) Revenue Funds to be held by the County Treasurer.
- (ii) Debt Service Fund to be held by the County Treasurer, as provided in Section 5.5, including one or more Interest Accounts and Principal Accounts.

One or more accounts may, by direction of the County or by the terms of a Supplemental Ordinance, be established within any of the above funds of each Series of Bonds. It is intended by

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this General Bond Ordinance that the funds referred to in this Article shall remain in existence for so long a time as any sum remains due and payable by way of principal of and interest on the Bonds, and that deposits and withdrawals therefrom be made in the manner herein prescribed and in the order of priority hereinafter set forth in this Article V.

Section 5.2. Security for and Payment of the Bonds. Each Series of Bonds, together with the interest thereon, shall be payable solely from and secured equally and ratably by a pledge of Net Fee Payments received and retained by the County under the Park Agreement which shall be and hereby are irrevocably pledged to the payment of the principal of and interest on the Series of Bonds authorized by the Supplemental Ordinances; provided, in no event (including, without limitation upon any acceleration pursuant to Section 9.1 hereof) shall the County be obligated to pay in any year more than 40% of the Net Fee Payments to the Holder of any Bond issued under this General Bond Ordinance. In the event the total principal and interest payment due on any Series of Bonds in any year is greater than 40% of such Net Fee Payments, the difference thereon shall be forgiven without further notice by the County to the Holder. In the event the total principal and interest payment due on any Series of Bonds is less than 40% of such Net Fee Payments, the difference shall be paid to the Holder as additional interest on any Series of Bonds.

To the extent that *ad valorem* taxes, prior to the conversion to fees-in-lieu-of-tax pursuant to the Park Agreement, have been pledged to secure general obligation indebtedness issued by a political subdivision prior to the establishment of the Park, such fees-in-lieu-of-tax attributable to any real property and improvements thereon existing prior to the Park Agreement shall first be applied, to the extent necessary, to the payment of such outstanding general obligation indebtedness.

The Bonds and the interest thereon are (a) payable solely from all or a specifically described part of the Fee Payments in lieu of taxes received and retained by the County under Section 13 of Article VIII of the South Carolina Constitution and the Park Agreement; (b) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (c) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (d) not a pecuniary liability of the County or a charge against the County's general credit or taxing power.

Nothing in this General Bond Ordinance or the Bonds shall be construed as an obligation or commitment by the County to expend any of its funds other than (a) the proceeds of the Bonds, or (b) 40% of the Net Fee Payments derived by the County under Section 13 of Article VIII of the South Carolina Constitution and the Park Agreement.

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Section 5.3. Provision for Segregation of Funds. The designation and establishment of the Revenue Fund and Debt Service Funds in and by this General Bond Ordinance shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of the Fee Payments for certain purposes and to establish certain priorities for application of such Fee Payments and assets as herein provided.

Section 5.4. Revenue Fund. There is hereby created and established a Revenue Fund to be designated as "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Revenue Fund" (the "Revenue Fund") and to be maintained by the County Treasurer and into which shall be deposited all Fee Payments. Moneys in the Revenue Fund shall be made use of only in the manner specified in this Article V. The County Treasurer may invest moneys held in the Revenue Fund, from time to time, in Permitted Investments; provided, however, that the County Treasurer shall transfer funds in the Revenue Fund on the dates and in amounts sufficient to make all transfers required to be made from the Revenue Fund by this Article V. After paying the Multi-County Fees and subject to limitation set forth in the last paragraph of Section 5.2(b) hereof, the County shall apply or cause to be applied the Net Fee Payments in the manner set forth in this General Bond Ordinance.

Section 5.5. Debt Service Funds. There is hereby established special funds of the County for each Series of Bonds to be designated as "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Debt Service Fund (the "Debt Service Fund)". The Debt Service Fund shall be kept on deposit with the County Treasurer or its designee, and withdrawals therefrom shall be made for the purposes provided in this General Bond Ordinance or any Supplemental Ordinance. Each Debt Service Fund shall bear a separate series designation as may be necessary to distinguish such Debt Service Fund.

The respective Debt Service Funds are intended to provide for the payment of the principal of, redemption premium, if any, and interest on each Series of Bonds as the same respectively fall due. Payments into such Funds shall be made in the manner prescribed by this General Bond Ordinance and all moneys in the respective Debt Service Funds shall be used solely to pay the principal of, redemption premium, if any, and interest on the respective Series of Bonds, and for no other purpose, and withdrawals therefrom shall be made only to effect payment of the principal of, redemption premium, if any, and interest on the respective Series of Bonds. Earnings on investments in the respective Debt Service Fund, including the accounts therein, shall be added to and become a part of such respective Funds and their accounts.

The respective Interest and Principal Accounts in the Debt Service Funds are intended to provide for the payment of the principal of, redemption premium, if any, and interest on each Series of Bonds as the same respectively fall due. Payments into such Funds shall be made in the manner prescribed by this General Bond Ordinance and each Supplemental Ordinance and all moneys in the respective Debt Service Fund shall be used solely to pay the principal of,

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redemption premium, if any, and interest on the respective Series of Bonds to which the same have been pledged by Supplemental Ordinance, and for no other purpose. Withdrawals therefrom shall be made only to effect payment of the principal of, redemption premium, if any, and interest on the respective Series of Bonds.

There may be established in the respective Debt Service Funds from time to time a capitalized interest account to provide for the payment of interest on the Bonds of a particular Series as may be permitted hereunder. Any such account shall be created by a Supplemental Ordinance relating to the issuance of the Bonds of such Series. Any earnings from the investment of funds in the capitalized interest account not required to pay interest on the Bonds of any Series during the period for which interest on the Bonds of such Series is capitalized shall be deposited in the Construction fund created by the Supplemental Ordinance relating to such Bonds or, if such Construction has been terminated or no such fund was created, such earnings shall be retained in the appropriate Debt Service Fund.

Not later than the last Business Day prior to February 1 of each year, and subject to the proviso contained in Section 5.2 hereof, the County shall transfer or cause to be transferred for deposit into the respective Debt Service Fund for the Bonds from the Net Fee Payments in the Revenue Fund, the amounts hereinafter set forth.

(a) There is hereby created, for the purpose of paying the interest on each respective Series of Bonds as the same becomes due and payable, an Interest Account in the respective Debt Service Fund. A separate Interest Account shall be established for each Series of Bonds. Not later than the last Business Day prior to February 1 of each year, the County shall transfer or cause to be transferred into the Debt Service Fund for credit to the Interest Account an amount of applicable Net Fee Payments equal to the installment of interest to fall due on the Interest Payment Date with respect to each of the Series of Bonds then Outstanding. In making any of the credits to the Interest Account required by this paragraph (a), consideration shall be given to and allowance made for accrued interest received upon delivery of any Series of Bonds to the initial purchasers and for any other credits such as capitalized interest otherwise made to such Account.

(b) There is hereby created, for the purpose of paying the principal of each respective Series of Bonds as they mature, a Principal Account in the respective Debt Service Fund. A separate Principal Account shall be established for each Series of Bonds. Not later than the last Business Day prior to each Principal Payment Date, the County shall transfer or cause to be transferred into the respective Debt Service Fund to the credit of the Principal Account an amount of applicable Net Fee Payments which would on such date be equal to the installment of principal then falling due on each of the Series of Bonds.

(c) Earnings on investments in the Interest Account or Principal Account for a Series of Bonds shall be retained in such Account and considered as funding for such account for

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the subsequent Tax Year. Any earnings remaining after the final payment of principal of, premium, if any, and interest on a Series of Bonds shall be transferred to the Revenue Fund.

Moneys in the respective Interest Account or Principal Account of the Debt Service Funds shall be used and applied solely to the payment of the interest on and the retirement of the principal of and redemption premium, if any, on the Series of Bonds for which such Interest Account or Principal Account in the Debt Service Funds was established and shall be used and applied in accordance with the provisions of this Section and this General Bond Ordinance. The moneys paid into the Interest Account and the Principal Account of the Debt Service Fund established for each Series of Bonds shall be held by the County or its designee, as applicable, in trust solely for the purpose of paying the interest on and the retirement of the principal of and premium, if any, on the Bonds of such Series and withdrawals from the applicable accounts of said Debt Service Funds shall be made by the County or its designee in order to transfer such moneys to the Paying Agent for such Series of Bonds. Such withdrawals shall be made so that the necessary moneys shall be available to the Paying Agent not later than one (1) Business Day prior to the day on which principal or interest or both, and redemption premium, if any, as the case may be, are payable on the applicable Series of Bonds.

Section 5.6. Application of Remaining Net Fee Payments. Any Net Fee Payments remaining in the Revenue Funds after the above required payments to the respective Debt Service Funds have been made or provided for in each Tax Year shall be disposed of by the Council in accordance with the terms of the Park Agreement or ordinances of the County relating thereto.

Section 5.7. Investment of Funds. Moneys held for the credit of the respective accounts of the Debt Service Fund shall be invested, to the fullest extent practicable and reasonable, in Permitted Investments which shall mature prior to the respective dates when the moneys held for the credit of such accounts will be required for the purpose intended. Moneys in any other funds established by this General Bond Ordinance shall be invested, to the fullest extent practicable, in Permitted Investments, maturing at such times and in such amounts as shall be required to provide moneys to make the payments required to be made from such funds. Investment instructions shall be given to the Custodian, if different than the County Treasurer, by the County Treasurer.

ARTICLE VI

COVENANTS

Section 6.1. To Pay Principal, Premium, and Interest on the Bonds. The County shall punctually pay, or cause to be paid, out of the Net Fee Payments pledged to such payment in Article V hereof and the Supplemental Ordinance, the principal of and the interest on each and

every Bond issued under the provisions of this General Bond Ordinance, at the place, on the dates and in the manner provided herein.

Section 6.2. Park Agreement. The County shall promptly perform the duties and obligations imposed and assumed by it in accordance with the terms and provisions of the Park Agreement.

Section 6.3. Records, Accounts, Budgets and Audits. The County will keep proper books of records and accounts (separate from all other records and accounts), in which complete and correct entries shall be made of all transactions relating to the Fee Payments. The County will cause to be furnished to any Holder of any of the Bonds, who make written request therefor, a copy of the annual audited financial statements of the County.

Section 6.4. Sale, Lease or Other Encumbrances. The County will not issue any bonds, notes, certificates or other obligations or evidences of indebtedness other than the Bonds or obligations authorized or permitted hereby secured by a pledge of any of the Net Fee Payments pledged to the payment of any Series of Bonds, and the County will not create or cause to be created any lien or charge on the Net Fee Payments pledged to the payment of any Series of Bonds other than the liens and charges created or permitted to be created hereby.

ARTICLE VII

CUSTODIAN

Section 7.1. Duties and Obligations of Custodians. The recitals of fact made in this General Bond Ordinance and in the Bonds shall be taken as statements of the County, and no Custodian shall be deemed to have made any representation as to the correctness of the same nor shall any Custodian be deemed to have made any representation whatsoever as to the validity or sufficiency of this General Bond Ordinance or of the Bonds issued hereunder. The Custodian shall not be under any responsibility or duty with respect to the issuance of the Bonds or the application of the proceeds thereof, except to the extent provided for herein. The Custodian shall not be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in response to this General Bond Ordinance, or to the Bonds issued hereunder, or to advance any of its own moneys, unless properly indemnified to its satisfaction. The Custodian shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

Section 7.2. Custodians Protected in Relying upon Resolutions, etc. All Custodians shall at all times be protected in acting upon any notice, resolution, request, consent, order, certificate, statement, opinion, bond, or other paper or document believed to be genuine and to have been signed by the proper party or parties.

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ARTICLE VIII

EVENTS OF DEFAULT

Section 8.1. Events of Default. With respect to each Series of Bonds, the following shall constitute "Events of Default":

A. If payment of the principal of any Bond of such Series, whether at maturity or by proceedings for redemption, by declaration as provided in Article IX hereof, or otherwise, is not made by the County after the same has become due and payable; however, such non-payment will not be regarded as an Event of Default where the total principal payment due is not paid because 40% of the Net Fee Payments is not sufficient therefor as described in Section 5.2;

B. If payment of any installment of interest on any Bond of such Series is not made by the County as the same becomes due and payable; however, such non-payment will not be regarded as an Event of Default where the total interest payment due is not paid because 40% of the Net Fee Payments is not sufficient therefor as described in Section 5.2;

C. If the County shall fail in the due and punctual performance of any of the covenants, conditions, agreements and provisions contained in such series of Bonds or in this General Bond Ordinance or in any ordinance supplemental with respect to such Series hereto on the part of the County to be performed, and such failure continues for thirty (30) days after written notice specifying such failure and requiring the same to be remedied has been given to the County by the Custodian, or the Holders of not less than twenty percent (20%) in principal amount of such series of Bonds then Outstanding or any trustee or committee therefor;

D. If any proceedings are instituted, with the consent or acquiescence of the County, for the purpose of effecting a composition between the County and its creditors and if the claim of such creditors is in any circumstance payable from the Net Fee Payments pledged in this General Bond Ordinance or any ordinance supplemental hereto for the payment of the Bonds, or any such proceedings are instituted for the purpose of adjusting the claims of such creditors, pursuant to any Federal or State statute now or hereafter enacted; or

E. If the County is for any reason rendered incapable of fulfilling its obligations hereunder in any material respect.

Subject to the provisions, limitations and conditions of Section 9.1 hereof, insofar as the remedies provided in said Section are concerned, nothing in Section 9.2 hereof or in this Article, and particularly nothing in paragraph C of this Article, shall prohibit or limit, or be construed as prohibiting or limiting any Holder of a Bond from enforcing the duties of the County, or any of the officers thereof, under any provisions of this General Bond Ordinance

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(including, without limiting the generality of the foregoing, the duties imposed by or referred to in Section 9.2 hereof) by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, even though the failure of the County or any of the officers thereof to perform any such duty may not then constitute an "Event of Default" as defined in this Article.

ARTICLE IX

REMEDIES UPON EVENT OF DEFAULT

Section 9.1. Declaration of Principal and Interest as Due. Upon the occurrence of an Event of Default, and at any time thereafter while such Event of Default continues, then and in each and every case the Holders of the Bonds or if a Custodian has been appointed for such Series of Bonds, the Custodian in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Holders of all Outstanding Bonds, may proceed, and upon the written request of the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding, shall proceed to declare the principal of all Bonds then Outstanding, together with all accrued and unpaid interest thereon, if not already due, to be due and payable immediately, and upon any such declaration the same shall become and be due and payable immediately, anything contained in this General Bond Ordinance or any Supplemental Ordinance hereto or in any of such Series of Bonds to the contrary notwithstanding. This provision is subject, however, to the condition that, if at any time after the principal of the Bonds of such Series, together with the accrued and unpaid interest thereon and other moneys secured hereby, have been so declared due and payable and before any further action has been taken (other than the making of the above declaration), the principal amount of all Bonds of such Series which have matured either according to the maturity date or dates otherwise specified therein (except as a result of such declaration) and all arrears of interest upon all Bonds of such Series, except interest accrued but not yet due on said Bonds, have been paid or caused to be paid, and all other Events of Default, if any, which have occurred have been remedied, cured or secured, then and in each and every such case the Holders of twenty-five percent (25%) in principal amount of the Bonds of such Series then Outstanding, by notice in writing delivered to the Custodian, if appointed, and the County, may waive such Default and its consequences and rescind and annul such declaration. No such waiver or rescission or annulment shall extend to or affect any subsequent default or impair or exhaust any right or power related to such subsequent Default.

Section 9.2. Suits at Law or in Equity and Mandamus. In case any one or more of the Events of Default shall happen and be continuing, then and in every such case, but subject to the provisions, limitations and conditions of Section 9.1 so far as the remedies provided in said provisions are concerned, the Holder of any Bond at the time Outstanding, or Custodian therefor, may, for the equal benefit and protection of all Holders of the Bonds of a Series similarly situated:

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(a) By mandamus or other suit, action or proceedings at law or in the equity, enforce such Bondholder's right against the County and require and compel the County to perform and carry out its duties and obligations under the Act and this General Bond Ordinance, and to perform and carry out its covenants and agreements with the Bondholders;

(b) by action or suit in equity require the County to account as if such County were the trustee of an express trust;

(c) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders; or

(d) bring suit upon the Bonds.

Section 9.3. Remedies Not Exclusive; Effect of Waiver of Default; Effect of Abandonment of Proceedings or Adverse Determination. The Holders from time to time of the Bonds shall be entitled to all the remedies and benefits of this General Bond Ordinance as are and as shall be provided by law, and, subject to the provisions of Section 9.1 hereof, nothing herein shall be construed to limit the rights or remedies of any such Holders under any applicable statute that may now exist or be enacted thereafter. No remedy conferred by the Act and this Article upon any Holder of any Bond is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by the Act and this Article or by any other law now or hereafter existing. Every substantive right and remedy conferred upon the Holders of the Bonds may be enforced and exercised from time to time and as often as may be deemed expedient.

No waiver of any default or breach of duty or contract by any Holder of any Bond shall extend to or affect any subsequent default or breach of duty or contract, or shall impair any rights or remedies thereon. No delay or omission of any Holder of a Bond to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein.

In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to Holders of the Bonds then and in every such case, the County and such Holders shall be restored to their former positions and rights and remedies as if no suit, action or proceeding had been brought or taken.

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ARTICLE X

DEFEASANCE

Section 10.1. Defeasance. The obligations of the County under this General Bond Ordinance and the liens, pledges, charges, trusts and the covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any Bond and, unless or except as otherwise provided in the Supplemental Ordinance providing for the issuance of any Series of Bonds, such Bond or Series of Bonds shall no longer be deemed to be Outstanding hereunder when:

(a) such Bond or Series of Bonds shall have been purchased by the County and surrendered to the County for cancellation or otherwise surrendered to the County or the Paying Agent, and is cancelled or subject to cancellation by the County or Paying Agent, or

(b) payment of the principal of, redemption premium, if any, and interest on such Bond or Series of Bonds, either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Paying Agent, in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment. At such time as a Bond or Series of Bonds shall no longer be deemed to be Outstanding hereunder, as aforesaid, such Bond or Series of Bonds shall cease to draw interest from the due date thereof, and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this General Bond Ordinance.

ARTICLE XI

AMENDMENT TO ORDINANCE NO. 2000-1 AND
THIRD AMENDMENT TO INDUCEMENT AGREEMENT

Section 11.1. Amendment to Ordinance No. 2000-1. Currently, County Ordinance 2000-1 designates that the distribution of Fee Payments pursuant to the Park Agreement be paid to each of the taxing entities in the County which levy an *ad valorem* property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes. Ordinance 2000-1 further provides that the County may, from time to time, by ordinance, amend the distribution of the fee in lieu of tax payments to all taxing entities. Ordinance 2000-1 also provides that a portion of *ad valorem* taxes which the County receives pursuant to the Park Agreement may be, from

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time to time and by ordinance of the County, designated for the payment of special source revenue bonds.

Pursuant to this General Bond Ordinance, the Council hereby amends SECTION IX of County Ordinance 2000-1 to provide as follows:

SECTION IX. Jasper County hereby directs that, of the fee-in-lieu of *ad valorem* taxes pursuant to the Agreement actually received by Jasper County for Park premises, one (1%) percent of such fees be paid to Beaufort County. Of the remainder of such fees, forty (40%) percent shall be designated for the payment of special source revenue bonds, and the balance shall be paid to each of the taxing entities in Jasper County which levy an *ad valorem* property tax in any of the areas comprising the Park in the same percentage as is equal to that taxing entity's percentage of the millage rate being levied in the then current tax year for property tax purposes.

Section 11.2. Third Amendment to Inducement Agreement. The County, as authorized and empowered under and pursuant to the provisions of the South Carolina Constitution, the Code and the case law of the Courts of the State of South Carolina, has previously entered into the Original Inducement Agreement as amended by the First Amendment to Inducement Agreement and the Second Amendment to Inducement Agreement with the Owner and Developer pursuant to which the County agreed to provide certain economic inducements to the Owner and Developer. Currently, the County has agreed to issue a single special source revenue bond secured and payable by forty (40%) percent of: that portion of the revenues from payment in lieu-of-taxes attributable to the Joint County and Industrial Business Park in which the Project will be located, which Jasper County is entitled to retain pursuant to the Agreement required by Section 4-1-170 of the Code; or, all or a part of the revenues from the payment in-lieu-of-taxes pursuant to Section 4-12-20 or Section 4-12-30 or Section 12-44-10 of the Code which Jasper County is entitled to receive and retain, whichever is greater, for a period of twenty-eight years after the issuance of the bonds, which may occur anytime within five years after a particular phase of the Project is placed in service for South Carolina tax purposes.

The County, the Owner and the Developer desire to execute a Third Amendment to Inducement Agreement under the same terms as the Original Inducement Agreement as amended by the First Amendment to Inducement Agreement and the Second Amendment to Inducement Agreement, except that the County may issue special source revenue bonds in one or more series, instead of a single series of bonds, for the Infrastructure serving the Project.

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Accordingly, pursuant to this General Bond Ordinance, the Council hereby approves the Third Amendment to Inducement Agreement attached hereto as *Exhibit B*. The Chairman of Jasper County Council and the Jasper County Administrator are hereby authorized and directed to execute and deliver the Third Amendment to Inducement Agreement with such minor changes and amendments as may be required to carry out the intent of the Council, the signatures of the Chairman and the Administrator thereon evidencing their approval of and concurrence with such changes and amendments.

All other terms and provisions of the Original Inducement Agreement, as amended, by the First Amendment to Inducement Agreement and the Second Amendment to Inducement Agreement, not hereby amended or otherwise affected remain in full force and effect. All Ordinances, Resolutions, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Benefits of General Bond Ordinance Limited to the County, the Custodian and Holders of the Bonds. With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from this General Bond Ordinance or the Bonds is intended or should be construed to confer upon or give to any person other than the County, the Custodian and the Holders of the Bonds, any legal or equitable right, remedy or claim under or by reason of or in respect to this General Bond Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein contained. This General Bond Ordinance and all of the covenants, conditions, stipulations, promises, agreements and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the County, the Custodian and the Holders from time to time of the Bonds as herein and therein provided.

Section 12.2. General Bond Ordinance Binding Upon Successors or Assigns of the County. All the terms, provisions, conditions, covenants, warranties and agreements contained in this General Bond Ordinance shall be binding upon the successors and assigns of the County and shall inure to the benefit of the Custodian, its successors or substitutes in trust and assigns, and the Holders of the Bonds.

Section 12.3. No Personal Liability. No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the County contained in this General Bond Ordinance or the Bonds, against any member of the County, any officer or employee, as such, in his or her individual capacity, past, present or future, of the County, either directly or through the County, whether by virtue of any constitutional provision, statute or rule of law, or by the

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enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this General Bond Ordinance and the Bonds are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer or employee as such past, present or future, of the County, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the County and the Custodian or the Bondholder or to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member, officer and employee is, by the adoption of this General Bond Ordinance and the execution of the Bonds, and as a condition of, and as a part of the consideration for, the adoption of this General Bond Ordinance and the execution of the Bonds, expressly waived and released. The immunity of members, officers and employees of the County under the provisions contained in this Section 12.3 shall survive the completion of the Project, the termination of this General Bond Ordinance and the termination of the Park Agreement.

Section 12.4. Effect of Saturdays, Sundays and Legal Holidays. Whenever this General Bond Ordinance requires any action to be taken on a Saturday, Sunday, legal holiday or bank holiday in the State of South Carolina, such action shall be taken on the first business day occurring thereafter. Whenever in this General Bond Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, legal holiday or bank holiday, in the State of South Carolina, such time shall continue to run until midnight on the next succeeding business day.

Section 12.5. Partial Invalidity. If any one or more of the covenants or agreements or portions thereof provided in this General Bond Ordinance on the part of the County or the Custodian or any paying agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, then such covenant or covenants, or such agreement or agreements, or such portions thereof, shall be deemed severable from the remaining covenants and agreements and portions thereof provided in this General Bond Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this General Bond Ordinance or of the Bonds, but the Holders of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

If any provisions of this General Bond Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because of conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

Section 12.6. Law and Place of Enforcement of this General Bond Ordinance. This General Bond Ordinance shall be construed and interpreted in accordance with the laws of the

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State of South Carolina and all suits and actions arising out of this General Bond Ordinance shall be instituted in a court of competent jurisdiction in said State.

Section 12.7. Effect of Article and Section Headings and Table of Contents. The headings or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this General Bond Ordinance.

Section 12.8. Repeal of Inconsistent Ordinances and Resolutions. All ordinances and resolutions of the County, and any part of any ordinance or resolution, inconsistent with this General Bond Ordinance are hereby repealed to the extent of such inconsistency.

Section 12.9. Notice of Public Hearing. The Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bonds and this General Bond Ordinance, such notice in the form attached as *Exhibit C*, having been published in the *Jasper County Sun*, a newspaper of general circulation in the County, not less than 15 days prior to the date of such public hearing

Section 12.10. Effectiveness of this General Bond Ordinance. This General Bond Ordinance shall become effective upon its adoption; provided, however, that it shall not be necessary for the County to establish the funds and accounts created in Article VI hereof prior to the issuance of any Bonds.

Section 12.11. Notices. All notices, certificates, or other communications hereunder or under this General Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, or given when dispatched by telegram addressed as follows:

If to the County:

Jasper County Council
~~305 Russell Street~~ P.O. Box 1149
Ridgeland, South Carolina 29936
Attention: County Administrator

If to the Owner:

Nickel Plate Road LLC
Post Office Box 1107
Jacksonville, Illinois 62651
Attn: Michael C. Rausch, President

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If to the Developer:

Asset Management Associates, Inc.
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

New River - Okatie Co. LLC
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

The County acting through its Authorized County Representative and the Custodian may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. The Owner and Developer, acting through their Authorized Owner Representative and Authorized Developer Representative, respectively, may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 12.12. Codification. This General Bond Ordinance shall be forthwith codified in the Code of County Ordinances in the manner required by law, and the name shall be indexed under the general heading "General Bond Ordinance, Special Source Revenue Bonds (Nickel Plate Road LLC Project)."

[Execution follows on next page]

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Enacted by the County Council of Jasper County, South Carolina, this 16th day of April, 2001.

JASPER COUNTY, SOUTH CAROLINA

By: 
Leroy Sneed, Chairman
Jasper County Council,
Jasper County, South Carolina

(SEAL)

ATTEST:


Judith Frank, Clerk to County
Council, Jasper County, South Carolina

First Reading: March 5, 2001
Second Reading: March 19, 2001
Public Hearing: April 16, 2001
Third Reading: April 16, 2001

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EXHIBIT A

Joint County Industrial and Business Park
Beaufort County and Jasper County

The Park consists of:

TRACT I:

ALL that certain piece, parcel and tract of land, containing 170.565 acres, situate, lying and being in the New River East Section of Jasper County, South Carolina, with said tract more specifically shown and described on a plat thereof entitled "A Plat Of A 170.565 Acre Tract Being a Portion Of The Argent Tract", with said plat prepared by Thomas & Hutton Engineering Co., Inc., as certified by Boyce L. Young, S.C.R.L.S. No. 11079, said plat dated the 28th day of March, 1997, and last revised on the 24th day of June, 1997 and recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 23 at Page 4.

TRACT II:

ALL that certain piece, parcel, and tract of land, containing 41.464 acres, situate, lying and being in Jasper County, South Carolina, said 41.464 acre parcel more specifically shown and described on a plat thereof entitled "A Plat Of A 41.464 Acre Tract Being A Portion Of The Argent Tract", said plat dated October 12, 1999, as prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 118.

TRACT III:

ALL that certain piece, parcel and tract of land, containing 106.75 acres, situate, lying and being in Jasper County, South Carolina, with said 106.75 acre tract more specifically shown and described on a plat thereof entitled "A Plat Of 106.75 Acre Tract Being A Portion Of The Argent Tract", said plat prepared by Thomas & Hutton Engineering Co. and certified by Boyce L. Young, S.C.R.L.S. No. 11079, with said plat recorded in the Office of the Clerk of Court for Jasper County, South Carolina in Plat Book 24 at Page 119.

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EXHIBIT B

**THIRD AMENDMENT TO THAT INDUCEMENT AGREEMENT BY AND
AMONG JASPER COUNTY, SOUTH CAROLINA AND NICKEL PLATE
ROAD LLC, ASSET MANAGEMENT ASSOCIATES, INC., AND NEW
RIVER - OKATIE CO. LLC FINAL DATED APRIL 20, 1998**

WHEREAS, Jasper County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), as authorized and empowered under and pursuant to the provisions of the South Carolina Constitution (the "Constitution") and the Code of Laws of South Carolina, 1976, as amended (the "Code") and the case law of the Courts of the State of South Carolina, has previously, pursuant to its Resolution enacted on March 16, 1998, entered into an Inducement Agreement (the "Agreement") with Nickel Plate Road LLC, Asset Management Associates, Inc., and New River - Okatie Co. LLC (the "Companies"), final dated April 20, 1998, for a retail, commercial and business development in Jasper County, pursuant to which Jasper County will provide certain economic inducements to the Companies for such development and, pursuant to its Resolution enacted on June 15, 1998, amended that Inducement Agreement with the First Amendment thereto and, pursuant to its Resolution enacted on _____, further amended that Inducement Agreement with the Second Amendment thereto; and,

WHEREAS, among other inducements, the County has committed to issue a special source revenue bond to fund the development of infrastructure pertaining to the Project; and,

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WHEREAS, the Agreement provides, in Section 2.3, that the special source revenue bond will be secured and payable by forty (40%) percent of: that portion of the revenues from payment in lieu-of-taxes attributable to the Joint County and Industrial Business Park in which the Project will be located, which Jasper County is entitled to retain pursuant to the Agreement required by Section 4-1-170 of the Code; or, all or a part of the revenues from the payment in-lieu-of-taxes pursuant to Section 4-12-20 or Section 4-12-30 or Section 12-44-10 of the Code which Jasper County is entitled to receive and retain, whichever is greater, for a period of twenty-eight (28) years after the issuance of the bond, which may occur anytime within five years after the Project is placed in service for South Carolina tax purposes, up to the total amount of infrastructure of \$20,000,000; and,

WHEREAS, Jasper County Council and the Companies have agreed to issue multiple series of bonds, instead of a single special source revenue bond, for the infrastructure serving the Project, which bonds will be limited to the same total principal payment amount, the same maturity period, and will serve the same purposes as the single bond authorized by the Second Amendment; and,

WHEREAS, pursuant to Ordinance No. ____ enacted on ____, 2001, Jasper County Council has heretofore approved the execution and delivery of the Third Amendment (the "Third Amendment") to the Agreement for that purpose.

IT IS THEREFORE agreed by and among Jasper County, South Carolina and Nickel Plate Road LLC, Asset Management Associates, Inc., and New River - Okatie Co. LLC that:

Section 2. Section 2.3 of the Inducement Agreement is hereby amended to read as follows:
"Section 2.3. In connection with, and based upon the creation of a joint county industrial and business park (the "Park") and the execution of a fee-in-lieu-of-tax agreement for the Project, the County will issue special source revenue bonds for Project infrastructure, in one or more series, pursuant to Section 4-1-175 or Section 4-29-68, South Carolina Code, 1976, as amended, with such special source revenue bonds secured by and payable by forty (40%) percent of: that portion of the revenues from payment in-lieu-of-taxes attributable to the Park which Jasper County is entitled to retain pursuant to the agreement required by Section 4-1-170, South Carolina Code, 1976, as amended, or, all or a part of the revenues from the payment in-lieu-of-taxes pursuant to Section 4-12-20 or Section 4-12-30, South Carolina Code, 1976, as amended, or Section 12-44-10, *et seq.*, South Carolina Code, 1976, as amended, which Jasper County is entitled to receive and retain from the Project, whichever is greater, but with the principal amount of the bond not to exceed the actual cost of infrastructure of the Project. The special source revenue bonds authorized hereby will each have a maturity not to exceed twenty-eight (28) years, will be issued pursuant to and in accordance with the authority granted under Chapter 1 and Chapter 29 of Title 4 of the South Carolina Code, 1976, as amended, and will be the basis and subject of a separate Ordinance to be enacted by the County Council, which among other things will address the date of issuance and the multiple series issuance of the special source revenue bonds as to be mutually agreed upon by the County and owner and/or developer, which agreement will specifically authorize a new series of such bonds and the principal amount of the bonds, up to the maximum projected investment in

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Infrastructure as noted in Section 1.1(b), herein, that being Twenty Million Dollars (\$20,000,000). It is understood and agreed by and among the parties that the special source revenue bonds for any given phase of the Project will be issued when requested by the Owner and Developer, but not later than five (5) years after such phase of the Project is placed in service for South Carolina tax purposes, will be issued in a principal amount not to exceed the actual cost of the Infrastructure of the Project, but not exceeding \$20,000,000, will provide for interest and capitalized interest at market rate for such bonds, and will contain mandatory forgiveness or debt service payment extension provisions, at the sole election of the bond holder at the time such forgiveness or extension is required, to the extent that the portion of the payments in-lieu-of-taxes committed herein to debt service of such bonds is insufficient for such debt service, so that the County can never default on payment of such debt service due to insufficient investment in the Project to provide the anticipated rate of payments in-lieu-of-taxes, and so that the bond holder is nevertheless given the greatest reasonable assurance that such debt service due will ultimately be paid as expected, within the payment limitations set forth in this Section 2.3 and in the South Carolina Code, 1976, as amended."

Section 3. Should any term or provision of this Amendment, or of the Agreement as so amended or previously amended, be held void, unconstitutional, or otherwise unenforceable by any court of competent jurisdiction, such holding shall not affect the enforceability or constitutionality of any other provision, all of which are hereby deemed to be separable.

Section 4. All other terms and provisions of the Agreement, as previously amended, not hereby amended or otherwise affected remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, each after due authorization, have executed this Third Amendment to the Inducement Agreement on the respective dates indicated below.

JASPER COUNTY, SOUTH CAROLINA

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

By: _____
Administrator
Jasper County, South Carolina

Attest:

By: *Judith M. Hart*
Clerk to County Council
Jasper County, South Carolina
Date: 7/16/01, 2001

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Jasper_000035

ROA 00437

NICKEL PLATE ROAD LLC

By: _____
Michael Rausch

Its: President

Date: April 20, 2001

Greenville: 155564

ASSET MANAGEMENT ASSOCIATES, INC.

By: _____

Its:

Date: _____, 2001

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NEW RIVER - OKATIE CO. LLC

By: _____

Its:

Date: _____, 2001

Greenville: 155564

NOTICE OF PUBLIC HEARING

EXHIBIT C

Notice is hereby given that a public hearing will be held by the County Council of Jasper County, South Carolina (the "County"), in the County Council Chambers, 914 Grays Road, Ridgeland, South Carolina at 7:00 p.m. on April 16, 2001, or at such other location within the said building as proper notice on the main entrance to the said County Council Chambers might specify.

The purpose of the public hearing is to consider an Ordinance entitled "A GENERAL BOND ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BONDS (NICKEL PLATE ROAD LLC PROJECT) IN A PRINCIPAL AMOUNT OF UP TO \$20,000,000; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY FROM CERTAIN REVENUES DERIVED FROM THE PAYMENTS OF FEES IN LIEU OF TAX FROM THE PROPERTIES LOCATED IN THE JASPER COUNTY AND BEAUFORT COUNTY JOINT COUNTY INDUSTRIAL AND BUSINESS PARK; PLEDGING SUCH MONEYS TO THE PAYMENT OF SUCH SPECIAL SOURCE REVENUE BONDS; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH FUNDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING; APPROVING A THIRD AMENDMENT TO THAT INDUCEMENT AGREEMENT BY AND AMONG JASPER COUNTY, SOUTH CAROLINA AND NICKEL PLATE ROAD LLC, ASSET MANAGEMENT ASSOCIATES INC., AND NEW RIVER - OKATIE CO. LLC; AND AMENDING ORDINANCE NUMBER 2000-1 RELATING TO THE DISTRIBUTION OF THE FEES IN LIEU OF *AD VALOREM* TAXES IN THE PARK; AND OTHER MATTERS RELATING THERETO." and an Ordinance entitled "A FIRST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD LLC PROJECT), SERIES 2001, NOT TO EXCEED \$7,000,000; AND OTHER MATTERS RELATING THERETO." The Ordinances relate to the authorization and issuance of Special Source Revenue Bonds (Nickel Plate Road LLC Project) as well as Series 2001 Bonds in the principal amount not to exceed \$7,000,000.

For the payment of the principal of and interest on the Bonds authorized by the Ordinances, there shall be pledged a portion of the fee in lieu of tax payments to be received by the County for properties located within the Joint County Industrial and Business Park located at or near the intersection of Highway 278 and Highway 141 in Jasper County. The proceeds of the Bonds will be used to pay for infrastructure including, but not limited to, land, site work performed with respect to the land, site utilities installed with respect to the land and off-site, and the costs of issuance of the Bonds.

The full faith, credit and taxing power of the County will not be pledged for the repayment of the Bonds, and the Bonds will not constitute a general obligation of the County.

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At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinances and the issuance of the Bonds.

COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA

County Administrator,

Greenville: 155564

EXHIBIT D

*Meeting Minutes of Jasper County Council
April 16, 2001*

**JASPER COUNTY COUNCIL
MARY GORDON ELLIS EXECUTIVE BUILDING
COUNCIL CHAMBERS**

APRIL 16, 2001

7:00 P.M.

MINUTES

OFFICIALS PRESENT:

LEROY SNEED, CHAIRMAN
PAUL MAX MALPHRUS, VICE CHAIRMAN
THOMAS MCCLARY, COUNCILMAN
BARBARA B. CLARK, COUNCILWOMAN
GLADYS N. JONES, COUNCILWOMAN
HENRY P. MOSS, JR., ADMINISTRATOR
D. THOMAS JOHNSON, ATTORNEY
JUDITH M. FRANK, CLERK TO COUNCIL

MEDIA NOTIFIED:

CAROLINA MORNING NEWS, JASPER COUNTY SUN, ISLAND PACKET, BEAUFORT GAZETTE,
WTOC-TV, WJWJ-TV, WSAV-TV

CALL TO ORDER:

CHAIRMAN SNEED CALLED THE REGULAR SCHEDULED MEETING OF THE JASPER COUNTY COUNCIL TO ORDER AT 7:05 P.M.

INVOCATION:

COUNCILMAN MCCLARY GAVE THE INVOCATION.

PUBLIC HEARING AND 3RD READING OF THE GENERAL BOND ORDINANCE (NICKEL PLATE ROAD, LLC PROJECT - SPECIAL SOURCE REVENUE BONDS)

PUBLIC HEARING AND 3RD READING OF THE 1ST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD, LLC PROJECT) SERIES 2001, NOT TO EXCEED \$7,000,000.00; AND OTHER MATTERS RELATING THERETO:

MR. PHILLIPS EXPLAINED THAT THE COUNTY HAD ENTERED INTO A FEE IN LIEU OF TAX AGREEMENT WITH NICKEL PLATE ROAD, LLC AND THAT THIS IS THE LEGAL FRAMEWORK TO SET THIS UP. THE COUNTY IS TO GET 59% AND BEAUFORT COUNTY IS TO GET 1%, BECAUSE OF IT BEING A MULTI- COUNTY PARK. THE 40% GOES BACK TO THE PROJECT TO PAY FOR THE SPECIAL SOURCE REVENUE BONDS. THE SUPPLEMENTAL ORDINANCE IS REGARDING THE FIRST ISSUE OF THE FUNDS TO BE PAID BACK FROM THAT FEE STREAM. THE NICKEL PLATE ROAD LLC, GETS BACK NO MONEY OTHER THAN WHAT THEY PUT IN AND THERE IS NO LIABILITY FOR THE COUNTY. THE AGREEMENT STATES THAT THE COUNTY IS NOT INVOLVED OR INDEBTED BY THE BOND. THE SPECIAL SOURCE REVENUE BOND IS PAID AS THE PROJECT GROWS. CHAIRMAN SNEED ASKED IF THE PROJECT FAILED, WOULD THE COUNTY BE RESPONSIBLE. MR. PHILLIPS SAID NO. COUNCILMAN MCCLARY ASKED HOW THE COUNTY WOULD PROFIT FROM THIS AGREEMENT. MR. PHILLIPS SAID ONLY 40% OF THE FEES GO BACK TO PAY OFF THE BOND AND THIS IS AN ECONOMIC DEVELOPMENT TOOL TO INDUCE JOB OPPORTUNITIES AND GROWTH TO THE COUNTY. MR. PHILLIPS SAID THAT THE COUNTY GETS ALL OF THE 6% OF THE TAX MONEY, IF THE PROJECT IS IN A MULTI- COUNTY PARK, AND THE STANDARD DISTRIBUTION IS NOT IN EFFECT. VICE CHAIRMAN MALPHRUS ASKED WHY BEAUFORT COUNTY GETS THE 1%. MR. PHILLIPS EXPLAINED THAT IT WAS A MULTI- COUNTY PARK AND BEAUFORT COUNTY WAS THE OTHER COUNTY INVOLVED. COUNCILWOMAN CLARK ASKED ABOUT PAYMENTS OF THESE FUNDS AND MR. PHILLIPS EXPLAINED THAT IF A BOND HOLDER WAS NOT PAID, THEN HE COULD BE PAID DIRECTLY FROM THE FUND.

CHAIRMAN SNEED OPENED THE PUBLIC HEARING FOR BOTH ORDINANCES. THERE WERE NO COMMENTS FROM THE PUBLIC. CHAIRMAN SNEED CLOSED THE PUBLIC HEARING. COUNCILWOMAN JONES MOTIONED THAT THIS BE THE 3RD READING OF THE GENERAL BOND ORDINANCE (NICKEL PLATE ROAD, LLC PROJECT - SPECIAL SOURCE REVENUE BONDS). COUNCILMAN MCCLARY SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

COUNCILMAN MCCLARY MOTIONED THAT THIS BE THE 3RD READING OF THE 1ST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD, LLC PROJECT) SERIES 2001, NOT TO EXCEED \$7,000,000.00; AND OTHER MATTERS RELATING THERETO. VICE CHAIRMAN MALPHRUS SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

APPROVAL OF THE MINUTES:

COUNCILWOMAN JONES ASKED THAT THE MINUTES BE CHANGED TO REFLECT THAT IT WAS

ELECTRONICALLY FILED
is certified this 13th day of April, 2001
with the Clerk of Council's Office
for Jasper County, South Carolina.
Wanda Simmons, Clerk to Council

JASPER - COMMON PLEAS - CASE#2021CP2700028

MINUTES CONTINUED 04/16/01

CAROLINA FIRST BANK AND NOT REGIONS BANK THAT REP. RIVERS REFERRED TO. COUNCILMAN MCCLARY MOTIONED TO APPROVE THE MINUTES WITH THE CORRECTION NOTED. VICE CHAIRMAN SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

DOUG GRAHAM, FIRE CHIEFS ASSOCIATION, REGARDING PAID FIREMEN:

MR. GRAHAM ASKED THAT THE CHAIRMAN APPOINT A COMMITTEE OF COUNCIL MEMBERS TO MEET WITH THE FIRE CHIEFS TO DISCUSS THE PAID FIREMEN POSITIONS AND PLACEMENT OF THOSE FIREMEN, AS THE FIRE CHIEFS DO NOT BELIEVE THAT THEY SHOULD ALL BE PLACED IN THE CHERRY POINT FIRE STATION. CHAIRMAN SNEED APPOINTED COUNCILMAN MCCLARY, COUNCILWOMAN JONES AND ADMINISTRATOR HENRY MOSS TO MEET WITH THE FIRE CHIEFS AND FOR MR. MIKE HODGES TO BE PRESENT AT THE MEETING ALSO. MR. GRAHAM ALSO ASKED IF THE COUNCIL HAD MADE A DECISION REGARDING THE \$8.00 PER CALL THAT IS PAID TO THE VOLUNTEER FIREMEN. HIS DEPARTMENT HAD REQUESTED THAT THEIR MONEY BE PAID DIRECTLY TO THE FIRE DEPARTMENT AND NOT TO THEM. THE MONEY IS TO BE USED FOR IMPROVEMENTS TO THE FACILITY AND EQUIPMENT. MR. MOSS SAID A SURVEY HAD BEEN SENT OUT, HOWEVER, NOT ENOUGH HAD BEEN RETURNED TO MAKE A DECISION. IT WAS THE CONSENSUS OF THE COUNCIL THAT IF ALL THE FIREMEN FROM LEVY WANTED THE MONEY TO GO TO THE FIRE STATION, THEN IT SHOULD BE PAID TO THE FIRE STATION AND THE FIREMEN WHO WANTED TO CONTINUE TO RECEIVE THE MONEY THEMSELVES SHOULD BE ABLE TO KEEP THE MONEY. THE COUNCIL ALSO AGREED THAT IF THE FIREMEN DID NOT RESPOND TO THE SURVEY THEN THEY SHOULD CONTINUE TO RECEIVE THE MONEY DIRECTLY. COUNCILWOMAN CLARK MOTIONED THAT IF THE COUNTY WAS AUTHORIZED BY THE INDIVIDUAL TO PAY HIS VOLUNTEER PAY TO THE FIRE DEPARTMENT, THEN THE COUNTY SHOULD PAY IT TO THE FIRE DEPARTMENT AND IF THE INDIVIDUAL WANTED TO CONTINUE TO RECEIVE THE VOLUNTEER PAY DIRECTLY, THEN THE COUNTY SHOULD PAY THE INDIVIDUAL DIRECTLY. VICE CHAIRMAN MALPHRUS SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

ZENIE INGRAM CONCERNING THE ECONOMIC DEVELOPMENT ACTIVITY REPORT:

MS. INGRAM UPDATED THE COUNCIL ON THE GROWTH ACTIVITY IN JASPER COUNTY OVER THE PAST YEAR. MS. INGRAM'S REPORT COVERED THE GROWTH IN CAPITAL INVESTMENTS, JOBS AND TAXES IN THE COUNTY DURING THE PAST YEAR. MS. INGRAM DID A COMPARISON OF THE GROWTH OVER THE PAST THREE YEARS AND PROVIDED THE COUNCIL WITH A LIST OF THE NEW BUSINESSES THAT OPENED IN JASPER COUNTY IN THE YEAR 2000. VICE CHAIRMAN MALPHRUS ASKED ABOUT THE BUSINESS LICENSE DEPARTMENT AND HOW MUCH MONEY THE NEW BUSINESSES HAD BROUGHT INTO THE COUNTY. MR. MOSS SAID THAT A TOTAL COULD BE GIVEN FOR ALL THE LICENSES, BUT NOT INDIVIDUALLY. CHAIRMAN SNEED ASKED RONNIE MALPHRUS TO PROVIDE VICE CHAIRMAN MALPHRUS WITH THE TOTAL INCOME FROM NEW BUSINESS LICENSES AND A TOTAL FROM RENEWED BUSINESS LICENSES.

COMMITTEE REPORTS:

MS. CLARK REPORTED THAT SHE HAD MET WITH JAMES GARDNER, DIRECTOR OF PARKS AND RECREATION AND WAS VERY IMPRESSED BY THE EXCELLENT JOB HE WAS DOING WITH THE PARKS, RECREATION FACILITIES AND OBTAINING GRANTS. VICE CHAIRMAN MALPHRUS REPORTED THAT HE MET WITH SOME PEOPLE FROM COLUMBIA REGARDING THE PORT AND THAT THEY WERE IN SUPPORT OF THE PORT IN JASPER COUNTY. HE ALSO REPORTED THAT HE ATTENDED THE TRANSPORTATION COMMITTEE MEETING AND THAT MR. GARDNER HAD ASKED FOR FUNDING FOR A PARK AT THE KNOWLES ISLAND PARK. VICE CHAIRMAN MALPHRUS SAID HE MET WITH THE DISPATCHERS AND FELT THAT THEY, AS WELL AS, THE EMS DEPARTMENT WERE DOING A TERRIFIC JOB. VICE CHAIRMAN MALPHRUS ALSO COMMENTED THAT HE FELT THERE WAS WORK THAT NEEDED DONE ON THE HEALTH DEPARTMENT BUILDING. COUNCILMAN MCCLARY REPORTED THAT HE AND COUNCILWOMAN JONES INSPECTED THE JAIL FACILITY AND RECOMMENDED THAT THE REPAIRS REQUIRED BY THE DEPT. OF CORRECTION BE COMPLETED. HE CONTINUED THAT IF THE WORK IS NOT COMPLETED, THE STATE COULD CLOSE THE JAIL AND THEN IT WOULD COST THE COUNTY A LOT MORE MONEY TO BOARD THE PRISONERS OUT IN OTHER COUNTY JAILS. COUNCILWOMAN JONES SAID THE CONDITION OF THE JAIL WAS MUCH BETTER THAN IT WAS IN THE PAST AND THAT THE BEHAVIOR OF THE PRISONERS WAS GREATLY IMPROVED. SHE STATED THAT THE THINGS ON THE LIST SHOULD HAVE BEEN DONE ANYWAY AND ONCE THE IMPROVEMENTS WERE COMPLETE, THE NUMBER OF PRISONERS ALLOWED COULD BE INCREASED. COUNCILWOMAN JONES RECOMMENDED APPROVING UP TO \$40,000.00 TO DO THE JAIL IMPROVEMENTS. CHAIRMAN SNEED SAID HE THINKS THE THINGS THAT CAN BE DONE IN HOUSE NEED TO BE DONE AND THE THINGS THAT THE COUNTY CANNOT DO ITSELF MUST GO OUT FOR BID. MR. MOSS SUMMARIZED THAT WORK NEEDED TO BE DONE AND SAID HE WOULD ACT ON IT IMMEDIATELY. COUNCILMAN MCCLARY MOTIONED THAT THE ADMINISTRATOR BE ALLOWED TO FIND \$40,000.00 TO DO THE REPAIR WORK AT THE DETENTION FACILITY THAT IS REQUIRED BY THE S.C. DEPT. OF CORRECTIONS. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED BY COUNCILMAN MCCLARY AND COUNCILWOMEN CLARK AND JONES VOTING IN FAVOR.

MINUTES CONTINUED 04/16/01

VICE CHAIRMAN MALPHRUS VOTED AGAINST. COUNCILWOMAN JONES DISTRIBUTED COPIES OF THE NUISANCE ORDINANCE AND REQUESTED THAT THE COUNCIL AUTHORIZE THE ADMINISTRATOR TO GET THE OLD FARMER'S MARKET CLEANED UP AND TEAR THE OLD TIN ROOF OFF IF NECESSARY. SHE STATED THAT AREA'S IN THE COUNTY REALLY NEED CLEANED UP AND IF THE COUNTY STARTED SETTING THE EXAMPLE, IT WOULD BE EASIER TO ENFORCE THE ORDINANCE WITH PRIVATE INDIVIDUALS. MR. MOSS SAID THERE WOULD BE NO PROBLEM CLEANING THE AREA UP, HOWEVER, THERE WAS A PROBLEM WITH THE DEED AND THE BUILDING COULD NOT BE ALTERED. MR. MOSS ASKED THAT THE COUNTY ATTORNEY WORK ON CLEARING UP THE DEED AS THERE WAS A CLAIM AGAINST IT NOW. ATTORNEY JOHNSON SAID HE WAS FAMILIAR WITH THE PROBLEM AND THAT SOME OF THE WORDING WAS NOT STANDARD OR CLEAR CONCERNING THE REVERSION CLAUSE, BUT HE WOULD LOOK INTO IT AND REPORT BACK TO THE COUNCIL AT THE NEXT MEETING. COUNCILWOMAN JONES SAID THAT SHE ATTENDED A REGISTRATION BOARD MEETING AND THEY DISCUSSED THAT A LOADING DOCK WAS NEEDED AND HAD BEEN PREVIOUSLY APPROVED. COUNCILWOMAN JONES SAID THAT IF IT HAD BEEN APPROVED, THEN IT NEEDED TO BE COMPLETED. MR. MOSS SAID THAT NOTHING WAS TO BE DONE UNTIL AFTER THE SPECIAL ELECTION AND THAT THE RAMP WILL BE BUILT. COUNCILWOMAN JONES ALSO ASKED ABOUT THE LIBRARY AND WHEN THE PAINTING WAS TO BE DONE. MR. MOSS EXPLAINED THAT THE BIDS WERE IN AND THEY WERE WAITING ON SOMEONE TO BUILD NINE FOOT WINDOWS. MR. MOSS SAID THE FOUNTAIN WAS BEING REPAIRED AS WELL AS THE FENCE. COUNCILWOMAN JONES ASKED IF GUTTERS WERE GOING TO BE INSTALLED AND MR. MOSS SAID NOT AT THIS TIME. COUNCILWOMAN JONES ASKED THE CITIZENS TO SUPPORT THE GOSPEL SING HOSTED BY THE COUNCIL ON AGING. SHE SAID THE MONEY WOULD GO TOWARDS MEALS ON WHEELS. CHAIRMAN SNEED ANNOUNCED THAT THE TIMES OF THE BUDGET WORKSHOPS HAVE BEEN CHANGED. THE FIRST WORKSHOP WOULD BE AT 6:45 P.M. ON MAY 7, 2001, AT THE COMMUNITY BUILDING OF THE SGT. JASPER PARK IN HARDEEVILLE AND THE SECOND BUDGET WORKSHOP WOULD BE HELD DURING A SPECIAL CALLED MEETING ON MAY 23, 2001 AT 5:00 P.M. IN THE COUNCIL CHAMBERS OF THE EXECUTIVE BUILDING.

ADMINISTRATOR'S REPORT:

MR. MOSS SAID THAT HE WAS STILL WAITING ON A RULING FROM THE JUDGE REGARDING THE CONDEMNATION LAW SUIT FOR THE PORT, AND ALL THE MEETINGS WITH THE PEOPLE FROM COLUMBIA HAVE BEEN FAVORABLE. MR. MOSS ASKED COUNCIL TO APPROVE AN ADDITIONAL \$24,000.00 TO COMPLETE THE JASPER STATION ROAD, THE ADDITIONAL FUNDING IS NECESSARY BECAUSE OF POLES THAT NEED TO BE REMOVED. COUNCILMAN MCCLARY MOTIONED TO APPROVE THE ADDITIONAL \$24,000.00 TO COMPLETE JASPER STATION ROAD AND THAT THE FUNDS SHOULD COME FROM THE ECONOMIC DEVELOPMENT RESERVE ACCOUNT. COUNCILWOMAN JONES SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR. MR. MOSS ALSO UPDATED THE COUNCIL REGARDING THE HOSPITAL AND THAT MR. SUMMER WAS TRYING TO GET THE PROPOSAL TOGETHER WITH THE OTHER INDIVIDUALS INVOLVED. CHAIRMAN SNEED SAID HE WAS SORRY FOR THE DELAY BUT CERTAIN THINGS CANNOT BE DISCUSSED PUBLICLY AND CHAIRMAN SNEED ASKED MR. RONNIE MALPHRUS AND MRS. FRANK TO HAVE AVAILABLE, AT THE NEXT MEETING, INFORMATION FOR THE PUBLIC REGARDING EXECUTIVE SESSION AND THE ITEMS THAT FALL UNDER THAT CONSIDERATION.

OPEN FLOOR TO THE PUBLIC:

CHAIRMAN SNEED OPENED THE FLOOR TO THE PUBLIC AND LIMITED THE TIME TO THREE MINUTES. MIRIAM HEILKER ASKED THE COUNCIL TO PLEASE DO SOMETHING ABOUT THE SOUND SYSTEM IN THE CHAMBERS. MS. HEILKER ASKED FOR AN UPDATE REGARDING THE HOSPITAL AND CHAIRMAN SNEED EXPLAINED THAT AT THIS TIME NO REPORT COULD BE PRESENTED. DR. BENNETT ASKED WHY NO ONE WITH MEDICAL KNOWLEDGE HAS BEEN ASKED TO TAKE PART IN THE NEGOTIATIONS AND THAT IT WAS VERY HARD FOR A PHYSICIAN TO PRACTICE WITHOUT A HOSPITAL. VICE CHAIRMAN MALPHRUS SAID THAT SOME AREA DOCTORS HAVE HAD DISCUSSIONS WITH COUNCIL AND THE PEOPLE PROPOSING THE NEW FACILITY. DR. BENNETT WANTED TO KNOW WHAT JUDGE ORDERED THAT NOTHING BE DISCUSSED WITH THE PUBLIC. COUNCILWOMAN CLARK SAID SHE DIDN'T KNOW WHAT ORDER HE WAS SPEAKING OF AND THAT EVEN THOUGH SHE WAS NOT A DOCTOR, SHE DID HAVE SOME MEDICAL KNOWLEDGE AND THE COUNTY HAD HIRED AN ATTORNEY WHO WAS IN FACT AN ATTORNEY THAT SPECIALIZED IN MEDICAL CASES AND ATTORNEY JOHNSON WAS ALSO ADVISING THE COUNCIL. SHE CONTINUED THAT THE COUNCIL WAS WORKING 24/7 TOWARD PROVIDING THE COUNTY WITH THE BEST IT COULD POSSIBLY PROVIDE AND SHE WAS SURE IF IT ALL WORKED OUT THE COUNTY WAS GOING TO BE VERY PLEASED. SHE ASKED THE PUBLIC TO HAVE FAITH IN THE PEOPLE THEY ELECTED. GARY HODGES SAID THAT HE DID NOT THINK IT WAS EVER A WASTE OF TIME TO VOTE. GARY HODGES ASKED ABOUT PAST COUNCILMAN GREGORY OWING THE COUNTY ABOUT \$600.00 FOR PERSONAL PHONE CALLS ON HIS COUNTY ISSUED PHONE AND HOW DID THE COUNTY ALLOW IT TO GET TO THAT POINT. CHAIRMAN SNEED TOLD MR. HODGES TO WRITE TO MR. MALPHRUS REGARDING THIS MATTER UNDER THE FOIA BECAUSE THE COUNCIL COULD NOT DISCUSS SPECIFIC EMPLOYEES OUT OF EXECUTIVE SESSION. MR. HODGES SAID

MINUTES CONTINUED 04/16/01

THIS CONCERNED MISUSE OF PUBLIC FUNDS AND IT WAS NOT A PERSONNEL ISSUE. MS. GOLDEN INVITED COUNCIL TO ATTEND THE HARDEEVILLE TOWN COUNCIL MEETING ON THURSDAY AT 5:00 P.M. IN THE CITY HALL. THE RACE TRACK WAS TO BE DISCUSSED AND SHE ASKED FOR COUNCIL'S SUPPORT. BEING NO FURTHER COMMENTS CHAIRMAN SNEED CLOSED THE FLOOR TO THE PUBLIC.

EXECUTIVE SESSION:

COUNCILWOMAN JONES MOTIONED TO GO INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

RETURN FROM EXECUTIVE SESSION:

COUNCILWOMAN CLARK MOTIONED TO RETURN TO REGULAR SESSION. VICE CHAIRMAN MALPHRUS SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR.

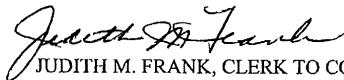
CHAIRMAN SNEED ASKED ATTORNEY JOHNSON TO REPORT ON WHAT WAS DISCUSSED IN EXECUTIVE SESSION. MR. JOHNSON SAID THE COUNCIL DISCUSSED PERSONNEL PROBLEMS AND ISSUES AND THAT A COMMITTEE SHOULD BE APPOINTED TO WORK ON THE PERSONNEL POLICY. CHAIRMAN SNEED APPOINTED COUNCILMAN MCCLARY AND COUNCILWOMAN JONES TO WORK ON THE PERSONNEL POLICY. COUNCILWOMAN CLARK STATED THAT THERE WERE OTHER MEMBERS ON THE COUNCIL AND THAT COUNCIL MEMBERS MCCLARY AND JONES WERE APPOINTED TO WORK ON THE JAIL AND WITH THE FIREMEN AND ON THE PERSONNEL POLICY AND SHE FELT THAT THE OTHER MEMBERS OF COUNCIL SHOULD HAVE AN OPPORTUNITY TO SERVE ON SOME OF THESE COMMITTEES AND THAT SHE WAS ALREADY ASSIGNED TO THE PERSONNEL COMMITTEE. CHAIRMAN SNEED REVISED HIS APPOINTMENTS AND ASKED COUNCILWOMAN CLARK AND VICE CHAIRMAN MALPHRUS TO WORK WITH MR. MOSS AND THE FIRE CHIEFS.

ADJOURN:

COUNCILMAN MCCLARY MOTIONED TO ADJOURN THE REGULAR SCHEDULED MEETING OF THE JASPER COUNTY COUNCIL. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED BY ALL MEMBERS PRESENT VOTING IN FAVOR. THE MEETING ENDED AT 9:50 P.M.

RESPECTFULLY SUBMITTED:

APPROVED BY:


JUDITH M. FRANK, CLERK TO COUNCIL


LEROY SNEED, CHAIRMAN

EXHIBIT E

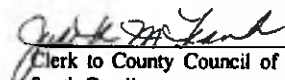
First Supplemental Ordinance No. 01-05

STATE OF SOUTH CAROLINA)
)
 COUNTY OF JASPER)

CERTIFIED COPY
 OF FIRST SUPPLEMENTAL
 ORDINANCE NO. 01-05

I, the undersigned being the duly qualified and acting Clerk to the County Council of Jasper County, South Carolina (the "County"), and as such official I further certify that I am the recorder and custodian of the official records of the County Council and that attached hereto is a true copy of a First Supplemental Ordinance No. 01-05 providing for the issuance and sale of a not exceeding \$7,000,000 Special Source Revenue Bond (Nickel Plate Road LLC Project), Series 2001 of the County, enacted by the County Council at a meeting duly called and held on April 16, 2001, at which a quorum was present and acting throughout, which Ordinance has been compared by me with the original thereof, and that such Ordinance has been duly enacted including the required number of readings and has not been modified, amended or repealed and is in full force and effect on and as of the date hereof in the form attached hereto.

In witness hereof, I have hereunto set my hand this 20th day of April, 2001.


 Clerk to County Council of Jasper County,
 South Carolina

This document Ord # 2001-05
 is certified this 13th day of Sept 2021
 as a true and accurate copy of the records on file
 with the Clerk of Council's Office
 for Jasper County, South Carolina.
Wanda Simmons
 Wanda Simmons, Clerk to Council

Greenville:156281

Filed for Record in
 JASPER COUNTY
 MARGARET BUSTICK
 05-36-2001 At 09:10 AM.
 MISC N/C
 Volume 8 Page 245 - 245

JASPER COUNTY, SOUTH CAROLINA

SUPPLEMENTAL ORDINANCE NO. 01-05
(NICKEL PLATE ROAD LLC PROJECT - SPECIAL SOURCE REVENUE BOND)

A FIRST SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD LLC PROJECT) SERIES 2001, NOT TO EXCEED \$7,000,000; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED, BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Definitions. The terms in this Section 1 and all words and terms defined in the General Bond Ordinance enacted by Council on April 16, 2001 (the "General Bond Ordinance"), shall for all purposes of this Supplemental Ordinance have the respective meanings given to them in the General Bond Ordinance and in Section 1 hereof. The following terms as used in this Supplemental Ordinance shall, unless the context requires otherwise, have the following meanings:

"2001 Infrastructure" shall mean the Infrastructure to be financed with the proceeds of the Bond of 2001 described in *Exhibit A* attached hereto.

"Bond of 2001" shall mean the Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Series 2001, in the aggregate principal amount of not more than \$7,000,000 authorized to be issued hereunder.

"Purchaser" shall mean the Owner.

"Supplemental Ordinance" shall mean this Ordinance.

Section 2. Certain Findings and Determinations. The Council hereby finds and determines:

(a) This Supplemental Ordinance supplements the General Bond Ordinance, constitutes and is a "Supplemental Ordinance" within the meaning of such quoted term as defined and used in the General Bond Ordinance, and is enacted under and pursuant to the General Bond Ordinance.

(b) The Bond of 2001 constitutes and is a "Bond" as defined and used in the General Bond Ordinance.

(c) The Net Fee Payments pledged under the General Bond Ordinance and this Supplemental Ordinance are not encumbered by any pledge thereof, other than the pledge thereof

Greenville: 154022

created by the General Bond Ordinance and this Supplemental Ordinance for payment and security of the Bond of 2001.

(d) There does not exist an Event of Default, nor does there exist any condition which, after the passage of time or the giving of notice, or both, would constitute such Event of Default.

(e) The Bond of 2001 is being issued for the purpose of paying the cost of designing, acquiring, constructing, improving or expanding the 2001 Infrastructure.

(f) As set forth on Attachment I to Exhibit C hereto, the Owner and Developer have invested over \$7,000,000 in the 2001 Infrastructure.

(g) The Purchaser has offered to purchase the Bond of 2001 at a price of par and an interest rate of 6 % per annum, the proceeds of which shall be used to defray the Cost of Acquisition and Construction of the 2001 Infrastructure and pay Costs of Issuance.

Section 3. Authorization of Bond of 2001, Maturities and Interest Rates.

(a) There is hereby authorized to be issued a Series of Bonds designated "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project), Series 2001", (the "Bond of 2001"), in the total principal amount of the actual cost of the Infrastructure of the Project, but not exceeding \$7,000,000, for the purpose of defraying the Cost of Acquisition and Construction of the 2001 Infrastructure and paying Costs of Issuance.

(b) The offer of the Purchaser to purchase the Bond of 2001 is hereby accepted.

(c) The Bond of 2001 shall mature on February 1 in each of the years and in the principal amounts as follows:

Year	Principal Amount	Year	Principal Amount
*2001	\$10,726.96	2015	\$100,000.00
2002	\$14,273.04	2016	\$125,000.00
2003	\$25,000.00	2017	\$125,000.00
2004	\$50,000.00	2018	\$150,000.00
2005	\$50,000.00	2019	\$150,000.00
2006	\$50,000.00	2020	\$200,000.00
2007	\$50,000.00	2021	\$200,000.00
2008	\$75,000.00	2022	\$250,000.00
2009	\$75,000.00	2023	\$250,000.00
2010	\$75,000.00	2024	\$500,000.00
2011	\$75,000.00	2025	\$500,000.00
2012	\$100,000.00	2026	\$600,000.00
2013	\$100,000.00	2027	\$1,000,000.00
2014	\$100,000.00	2028	\$2,000,000.00

*Maturity date shall be date of issuance of the Bond of 2001.

(d) The Bond of 2001 shall originally be dated its date of initial issuance and shall be issued as a fully registered Bond in substantially the form set forth as *Exhibit B* hereto.

Section 4. Optional Redemption of Bond of 2001. The Bond of 2001 shall be subject to redemption at a price equal to the amount of the outstanding principal, plus accrued interest, of the Bond of 2001 prior to maturity, at the option of the County, but only upon the prior written direction of the Owner and Developer, as a whole or in part at any time, in such order of its maturities as the County may determine upon the prior written direction of the Owner and Developer.

Section 5. Establishment of 2001 Debt Service Fund. In accordance with Section 5.5 of the General Bond Ordinance, the 2001 Debt Service Fund is hereby directed to be established by the County Treasurer on the date of original delivery of the Bond of 2001 for the benefit of the Purchaser of the Bond of 2001. The payments from the Net Fee Payments authorized herein shall be made at the times set forth in Section 5.5 of the General Bond Ordinance.

Section 6. Advances in Payment for Bond of 2001. The moneys advanced in payment for the Bond of 2001 by the Purchaser shall be noted on the Schedule of Infrastructure Advances attached to the Bond of 2001 and shall be used and applied to the payment of Cost of Acquisition and Construction of the 2001 Infrastructure and Cost of Issuance.

Each advance for the Cost of Acquisition and Construction of 2001 Infrastructure or Cost of Issuance shall be made only upon receipt by the County of a Certificate Regarding Advances, in substantially the form attached hereto as *Exhibit C*, signed by an Authorized Owner Representative or Authorized Developer Representative, and filed with the County.

Greenville 154022

Section 7. Sale and Issuance of Bond of 2001.

(a) The County hereby finds and determines that the issuance and sale of the Bond of 2001 is fair and reasonable and in the best interest of the County; that the Bond of 2001 shall be sold to the Purchaser at a purchase price of not less than \$7,000,000 and upon the terms and conditions set forth herein.

(b) A copy of this Supplemental Ordinance shall be filed with the minutes of this meeting.

(c) The County hereby authorizes and directs all of the officers and employees of the County to carry out or cause to be carried out all obligations of the County hereunder and to perform such other actions as they shall consider necessary or advisable in connection with the issuance, sale and delivery of the Bond of 2001.

Section 8. Security. The Bond of 2001 is secured by a pledge of the Net Fee Payments referred to and subject to the limitations set forth in Section 5.2 of the General Bond Ordinance.

Section 9. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file with or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual audit of the County within thirty (30) days of the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the County, adversely affects more than five percent (5%) of the Fee Payments or the County's tax base. Notwithstanding anything herein to the contrary, compliance with the above covenant shall be solely the responsibility of the County, and neither the Custodian, if any, the Owner or Developer, or the Purchaser shall have any duty hereunder to monitor compliance by the County with such covenant. Any failure by the County to comply with the provisions of this Section shall not constitute an Event of Default.

Section 10. Further Actions. The Chairman of the Council, the County Administrator, the Clerk of the Council and the County Attorney are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate issuance of the Bond of 2001 and to carry out the intentions of this Supplemental Ordinance.

Section 11. Section Headings; Table of Contents. The headings and titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Supplemental Ordinance.

Section 12. Notices. All notices, certificates or other communications hereunder or under the Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by first-class, postage prepaid, addressed as follows:

If to the County:

Greenville: 154022

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Jasper 000095

ROA 00453

Jasper County Council
914 Grays Road
Post Office Box 1149
Ridgeland, South Carolina 29936
Attn: County Administrator

If to the Owner:

Nickel Plate Road LLC
Post Office Box 1107
Jacksonville, Illinois 62651
Attn: Michael C. Rausch, President

If to the Developer:

Asset Management Associates, Inc.
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

New River - Okatie Co. LLC
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

Any party may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 13. Effective Date. This Supplemental Ordinance shall become effective upon its enactment.

[Execution follows on next page]

Enacted by the County Council of Jasper County, South Carolina, this 16th day of April, 2001.

JASPER COUNTY, SOUTH CAROLINA

By: *Leroy Sneed*
Leroy Sneed
Chairman, Jasper County Council
Jasper County, South Carolina

(SEAL)

ATTEST:

Judith M. Frank
Judith Frank, Clerk to County
Council, Jasper County, South Carolina

First Reading: March 5, 2001
Second Reading: March 19, 2001
Public Hearing: April 16, 2001
Third Reading: April 16, 2001

Greenville: 154022

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EXHIBIT A

DESCRIPTION OF 2001 INFRASTRUCTURE

Cost of acquiring certain real property used in the operation of manufacturing or commercial enterprises and constructing thereon certain infrastructure with respect to the first phase of the Project on or before December 31, 2000, including, but not limited to: real property, site work, surveying costs, legal fees, engineering services, permitting fees, consulting fees, utility fees, maintenance fees, insurance, landscaping fees, architectural fees, and accounting fees.

Growth: 154022

(FORM OF BOND)

EXHIBIT B

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
JASPER COUNTY
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2001

Amount
\$7,000,000.00

Jasper County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to Nickel Plate Road LLC (the "Owner") or its registered assigns, but solely from the special source hereinafter mentioned, and not otherwise, a principal amount of \$7,000,000 or such lesser amount as is set forth on the schedule of advances annexed hereto as Schedule I (unless this Bond shall be subject to prior redemption and shall have been duly called for previous redemption and payment of redemption price made or provided for), and the County hereby promises to pay interest on the principal amount hereof from time to time unpaid at the rate of 6 % per annum, but solely from such special source and not otherwise, until this Bond matures. Interest on this Bond is payable on February 1 of each year commencing February 1, 2002. This Bond is payable as to principal on February 1 in each of the years and in the principal amounts as follows:

Year	Principal Amount	Year	Principal Amount
*2001	\$10,726.96	2015	\$100,000.00
2002	\$14,273.04	2016	\$125,000.00
2003	\$25,000.00	2017	\$125,000.00
2004	\$50,000.00	2018	\$150,000.00
2005	\$50,000.00	2019	\$150,000.00
2006	\$50,000.00	2020	\$200,000.00
2007	\$50,000.00	2021	\$200,000.00
2008	\$75,000.00	2022	\$250,000.00
2009	\$75,000.00	2023	\$250,000.00
2010	\$75,000.00	2024	\$500,000.00
2011	\$75,000.00	2025	\$500,000.00
2012	\$100,000.00	2026	\$600,000.00
2013	\$100,000.00	2027	\$1,000,000.00
2014	\$100,000.00	2028	\$2,000,000.00

*Maturity date shall be date of issuance of the Bond of 2001.

Greenville: 134022

B-1

This Bond and the interest thereon are (a) payable solely from all or a specifically described part of the payments in lieu of taxes received and retained by the County under Section 13 of Article VIII of the Constitution of the State of South Carolina the Park Agreement (as defined in the General Bond Ordinance hereafter mentioned); (b) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (c) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (d) not a pecuniary liability of the County or a charge against the County's general credit or taxing power.

Both the principal of and interest on this Bond are payable at the principal office of the Owner in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

This Bond is issued by the County for the purpose of defraying the Cost of Acquisition and Construction of the 2001 Infrastructure (as such term is defined in the Supplemental Ordinance hereafter mentioned). This Bond is authorized to be issued and is issued under, pursuant to and in full compliance with the Constitution and statutes of the State of South Carolina, including particularly Section 4-1-175 and Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the "Act"). This Bond is also authorized to be issued and is issued under and pursuant to General Bond Ordinance No. 01-04 of the County Council of Jasper County duly enacted on April 16, 2001 (the "General Bond Ordinance"), and Supplemental Ordinance No. 01-05 of the County Council of Jasper County duly enacted on April 16, 2001 (the "Supplemental Ordinance"), under the Act, which General Bond Ordinance and Supplemental Ordinance have been duly codified and indexed as prescribed by law.

The General Bond Ordinance contains provisions defining terms; sets forth the Net Fee Payments (as defined in the General Bond Ordinance) pledged for the payment of the principal of and interest on this Bond and the Bonds of other series herewith which may hereafter be issued on a parity herewith under the General Bond Ordinance; sets forth the nature, extent and manner of enforcement of the security of this Bond and of such pledge, and the rights and remedies of the holder hereof with respect thereto; sets forth the terms and conditions upon which this Bond is issued and upon which other bonds may be hereinafter issued payable as to principal, premium, if any, and interest on a parity with this Bond and equally and ratably secured herewith; sets forth the rights, duties and obligations of the County thereunder; and sets forth the terms and conditions upon which the pledge made in the General Bond Ordinance for the security of this Bond and upon which the covenants, agreements and other obligations of the County made therein may be discharged at or prior to the maturity or redemption of this Bond with provisions for the payment thereof in the manner set forth in the General Bond Ordinance. Reference is hereby made to the General Bond Ordinance and the Supplemental Ordinance to all of the provisions of which any holder of this Bond by the acceptance hereof thereby assents. The provisions of the Act, the General Bond Ordinance and the Supplemental Ordinance shall be a contract with the holder of this Bond.

This Bond, including interest thereon, is payable solely from a portion of the Net Fee Payments and is secured equally and ratably by a pledge of such Net Fee Payments derived by the

Greenville 154022

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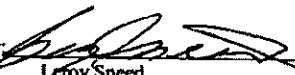
County from the Park Agreement (as defined in the General Bond Ordinance) and any Series of Bonds (as defined in the Bond Ordinance) hereafter issued under the General Bond Ordinance and certain funds and accounts established under the Supplemental Ordinance with respect thereto heretofore mentioned which are pledged to the payment thereof, and the County is under no obligation to pay the same except from such sources; provided, in no event shall the County be obligated to pay in any year more than 40% of such Net Fee Payments to the Purchaser. In the event the total principal and interest payment due on this Bond in any year is greater than 40% of such Net Fee Payments, the difference thereon shall be, and is hereby forgiven without further notice by the County to the Purchaser. In the event the total principal and interest payment due on this Bond is less than 40% of such Net Fee Payments, the difference shall be paid to the Purchaser as additional interest on this Bond.

Bonds on a parity with this Bond may hereafter be issued under terms and conditions set forth in the General Bond Ordinance. Such Bonds shall be equally and ratably secured with the pledge of the Net Fee Payments.

The County reserves the right upon the prior written direction of the Owner and Developer without payment of any premium to make prepayments of principal installments on this Bond at any time upon payment of such principal amounts and interest accrued thereon to the date fixed for redemption. Partial prepayment shall be applied to scheduled principal installments on this Bond in such order as the County determines at the direction of the Owner and Developer.

IN WITNESS WHEREOF, Jasper County, South Carolina, has caused this Bond to be executed in its name by the manual signature of the Chairman of the County Council and attested by the Clerk to the County Council under the seal of the County, this Bond to be dated the 16th day of April, 2001.

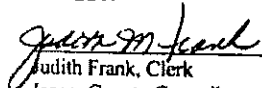
JASPER COUNTY, SOUTH CAROLINA

By 

Leroy Sneed,
Chairman, Jasper County Council
Jasper County, South Carolina

(SEAL)

ATTEST:


Judith Frank, Clerk
Jasper County Council
Jasper County, South Carolina

Greenville: 134022

B-3

REGISTRATION

This Bond has been registered in the name of Nickel Plate Road LLC, on the registration books kept by the Treasurer of Jasper County, South Carolina.

Dated this _____ day of _____, 2001.

Treasurer, Jasper County, South Carolina

Greenville: 154022

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SCHEDULE I

JASPER COUNTY, SOUTH CAROLINA
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2001

SCHEDULE OF INFRASTRUCTURE ADVANCES

<u>Date</u>	<u>Amount of Advance</u>	<u>Outstanding Principal Balance</u>	<u>Signature of Authorized County Representative</u>	<u>Signature of Authorized Owner/Developer Representative</u>
April 20, 2001	\$7,000,000	\$7,000,000		

Greenville: 154022

B-5

EXHIBIT C

CERTIFICATE REGARDING ADVANCES

Jasper County, South Carolina, Special Source Revenue Bond, Series 2001 (the "Bond of 2001")
(Nickel Plate Road LLC Project)
Dated: April 20, 2001

Advance No.: 1

Nickel Plate Road LLC hereby certifies and warrants to Jasper County, South Carolina (the "County"), pursuant to Section 3.3 of the General Bond Ordinance No. 01-04 (the "General Bond Ordinance") enacted by the County Council of Jasper County, South Carolina, on April 16, 2001, and Section 6 of the Supplemental Ordinance No. 01-05 (the "Supplemental Ordinance") enacted by the County Council of the County on April 16, 2001 the following in connection with the payment of 2001 Infrastructure and Cost of Issuance (as defined in the General Bond Ordinance and Supplemental Ordinance):

1. The amount to be paid: \$7,000,000.00
2. The amount to be paid will be applied to the payment of 2001 Infrastructure or Cost of Issuance and is due and payable and has not been the subject of any previous advance.
3. A description, and cost thereof, of the 2001 Infrastructure to be financed with the proceeds of the Bond of 2001 is included on *Attachment I*.
4. The principal amount of the Bond of 2001 is \$7,000,000.00 and the interest rate on such Bond is 6 % per annum. A pro forma debt service schedule structured in accordance with the terms of the Inducement Agreement (as defined in the General Bond Ordinance) is attached as *Attachment II*.

Nickel Plate Road LLC

By: _____
Michael Rausch

Its: President

Date: April 20, 2001

File: 154022 v1

1

I, the undersigned Clerk to the County Council of the County, hereby acknowledge receipt of this Certificate Regarding Advances which shall be filed with the County.

JASPER COUNTY, SOUTH CAROLINA

By: *Judith Frank*

Judith Frank

Clerk to County Council

Greenville 154022

ATTACHMENT I

2001 INFRASTRUCTURE

<u>DESCRIPTION</u>	<u>COST</u>
1. Land	\$2,441,306.34
2. Construction in Process	
a. Buildings	\$2,001,871.64
b. Landscaping	\$ 354,806.68
c. Roads, Water, Sewer Systems	\$ 741,598.28
Total Construction in Process	\$3,098,276.60
3. Paving and Drainage	\$ 835,888.73
4. Sewer System	\$ 587,712.86
5. Water Distribution System	\$ 208,370.76
Total Infrastructure Investment as of 12/31/00	\$7,171,555.29

Greenville: 154012 v1

ATTACHMENT II

DEBT SERVICE SCHEDULE

Year	Principal Amount	Year	Principal Amount
•2001	\$10,726.96	2015	\$100,000.00
2002	\$14,273.04	2016	\$125,000.00
2003	\$25,000.00	2017	\$125,000.00
2004	\$50,000.00	2018	\$150,000.00
2005	\$50,000.00	2019	\$150,000.00
2006	\$50,000.00	2020	\$200,000.00
2007	\$50,000.00	2021	\$200,000.00
2008	\$75,000.00	2022	\$250,000.00
2009	\$75,000.00	2023	\$250,000.00
2010	\$75,000.00	2024	\$500,000.00
2011	\$75,000.00	2025	\$500,000.00
2012	\$100,000.00	2026	\$600,000.00
2013	\$100,000.00	2027	\$1,000,000.00
2014	\$100,000.00	2028	\$2,000,000.00

*Maturity date shall be date of issuance of the Bond of 2001.

EXHIBIT F

Second Supplemental Ordinance No. 02-16

This document is certified this 13th day of Sept. 2003 as a true and accurate copy of the records on file with the Clerk of Council's Office for Jasper County, South Carolina.
Wanda Simmons, Clerk to Council

200300037381
Filed for Record in
JASPER COUNTY
2003
10-24-2003 At 11:19 am.
MISC N/C .00
Volume 14 Page 72 - 88

JASPER COUNTY, SOUTH CAROLINA

SECOND SUPPLEMENTAL ORDINANCE NO. 02-16
(NICKEL PLATE ROAD LLC PROJECT – SPECIAL SOURCE REVENUE BOND)

A SECOND SUPPLEMENTAL ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A JASPER COUNTY, SOUTH CAROLINA, SPECIAL SOURCE REVENUE BOND (NICKEL PLATE ROAD LLC PROJECT) SERIES 2003, NOT TO EXCEED \$6,000,000; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED, BY THE COUNTY COUNCIL OF JASPER COUNTY, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Definitions. The terms in this Section 1 and all words and terms defined in General Bond Ordinance No. 01-04 enacted by Council on April 16, 2001 (the "General Bond Ordinance"), shall for all purposes of this Second Supplemental Ordinance have the respective meanings given to them in the General Bond Ordinance and in Section 1 hereof. The following terms as used in this Second Supplemental Ordinance shall, unless the context requires otherwise, have the following meanings:

"2003 Infrastructure" shall mean the Infrastructure to be financed with the proceeds of the Bond of 2003 described in *Exhibit A* attached hereto.

"Bond of 2001" shall mean the Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Series 2001, in the aggregate principal amount of \$7,000,000 authorized to be issued under the First Supplemental Ordinance.

"Bond of 2003" shall mean the Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project) Series 2003, in the aggregate principal amount of not to exceed \$6,000,000 authorized to be issued hereunder.

"First Supplemental Ordinance" shall mean First Supplemental Ordinance No. 01-05 enacted by Council on April 16, 2001 which authorized the issuance of the Bond of 2001.

"Purchaser" shall mean the Owner.

"Second Supplemental Ordinance" shall mean this Ordinance.

Section 2. Certain Findings and Determinations. The Council hereby finds and determines:

(a) This Second Supplemental Ordinance supplements the General Bond Ordinance, constitutes and is a "Supplemental Ordinance" within the meaning of such quoted term

as defined and used in the General Bond Ordinance, and is enacted under and pursuant to the General Bond Ordinance.

(b) The Bond of 2003 constitutes and is a "Bond" as defined and used in the General Bond Ordinance.

(c) The Net Fee Payments pledged under the General Bond Ordinance and this Second Supplemental Ordinance are not encumbered by any pledge thereof, other than the pledge thereof created by the General Bond Ordinance and the First Supplemental Ordinance for payment and security of the Bond of 2001, and the pledge thereof created by the General Bond Ordinance and this Second Supplemental Ordinance for payment and security of the Bond of 2003.

(d) There does not exist an Event of Default, nor does there exist any condition which, after the passage of time or the giving of notice, or both, would constitute such Event of Default.

(e) The Bond of 2003 is being issued for the purpose of paying the cost of designing, acquiring, constructing, improving or expanding the 2003 Infrastructure.

(f) As set forth on Attachment I to Exhibit C attached hereto, the Owner and Developer have invested over \$6,000,000 in the 2003 Infrastructure.

(g) The Purchaser has offered to purchase the Bond of 2003 at a price of par and an interest rate of 4.36% per annum, the proceeds of which shall be used to defray the Cost of Acquisition and Construction of the 2003 Infrastructure and pay Costs of Issuance.

Section 3. Authorization of Bond of 2003, Maturities and Interest Rates.

(a) There is hereby authorized to be issued a Series of Bonds designated "Jasper County, South Carolina, Special Source Revenue Bond (Nickel Plate Road LLC Project), Series 2003", (the "Bond of 2003"), in the total principal amount of the actual cost of the 2003 Infrastructure of the Project, but not exceeding \$6,000,000, for the purpose of defraying the Cost of Acquisition and Construction of the 2003 Infrastructure and paying Costs of Issuance.

(b) The offer of the Purchaser to purchase the Bond of 2003 is hereby accepted.

(c) The Bond of 2003 shall mature on February 1 in each of the years and in the principal amounts as follows:

Year	Principal Amount	Year	Principal Amount
2004	\$ 25,000	2018	\$ 150,000
2005	25,000	2019	150,000
2006	50,000	2020	200,000
2007	50,000	2021	200,000
2008	75,000	2022	250,000
2009	75,000	2023	250,000
2010	100,000	2024	300,000
2011	100,000	2025	300,000
2012	100,000	2026	400,000
2013	100,000	2027	400,000
2014	100,000	2028	500,000
2015	100,000	2029	500,000
2016	150,000	2030	600,000
2017	150,000	2031	600,000

(d) The Bond of 2003 shall originally be dated its date of initial issuance and shall be issued as a fully registered Bond in substantially the form set forth as *Exhibit B* hereto.

Section 4. Optional Redemption of Bond of 2003. The Bond of 2003 shall be subject to redemption at a price equal to the amount of the outstanding principal, plus accrued interest, of the Bond of 2003 prior to maturity, at the option of the County, but only upon the prior written direction of the Owner and Developer, as a whole or in part at any time, in such order of its maturities as the County may determine upon the prior written direction of the Owner and Developer.

Section 5. Establishment of 2003 Debt Service Fund. In accordance with Section 5.5 of the General Bond Ordinance, the 2003 Debt Service Fund is hereby directed to be established by the County Treasurer on the date of original delivery of the Bond of 2003 for the benefit of the Purchaser of the Bond of 2003. The payments from the Net Fee Payments authorized herein shall be made at the times set forth in Section 5.5 of the General Bond Ordinance.

Section 6. Advances in Payment for Bond of 2003. The moneys advanced in payment for the Bond of 2003 by the Purchaser shall be noted on the Schedule of Infrastructure Advances attached to the Bond of 2003 and shall be used and applied to the payment of Cost of Acquisition and Construction of the 2003 Infrastructure and Cost of Issuance.

Each advance for the Cost of Acquisition and Construction of 2003 Infrastructure or Cost of Issuance shall be made only upon receipt by the County of a Certificate Regarding Advances, in substantially the form attached hereto as *Exhibit C*, signed by an Authorized Owner Representative or Authorized Developer Representative, and filed with the County.

GREENVILLE 176793v3

Section 7. Sale and Issuance of Bond of 2003.

(a) The County hereby finds and determines that the issuance and sale of the Bond of 2003 is fair and reasonable and in the best interest of the County; that the Bond of 2003 shall be sold to the Purchaser at a purchase price of not less than \$6,000,000 and upon the terms and conditions set forth herein.

(b) A copy of this Second Supplemental Ordinance shall be filed with the minutes of this meeting.

(c) The County hereby authorizes and directs all of the officers and employees of the County to carry out or cause to be carried out all obligations of the County hereunder and to perform such other actions as they shall consider necessary or advisable in connection with the issuance, sale and delivery of the Bond of 2003.

Section 8. Security. The Bond of 2003 is secured by a pledge of the Net Fee Payments referred to and subject to the limitations set forth in Section 5.2 of the General Bond Ordinance. The pledge of the Net Fee Payments provided for in the General Bond Ordinance and this Second Supplemental Ordinance for the security of the Bond of 2003 shall be on a parity with the pledge of the Net Fee Payments provided for in the General Bond Ordinance and the First Supplemental Ordinance for the security for the Bond of 2001.

Section 9. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file with or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual audit of the County within thirty (30) days of the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the County, adversely affects more than five percent (5%) of the Fee Payments or the County's tax base. Notwithstanding anything herein to the contrary, compliance with the above covenant shall be solely the responsibility of the County, and neither the Custodian, if any, the Owner or Developer, or the Purchaser shall have any duty hereunder to monitor compliance by the County with such covenant. Any failure by the County to comply with the provisions of this Section shall not constitute an Event of Default.

Section 10. Further Actions. The Chairman of the Council, the County Administrator, the Clerk of the Council and the County Attorney are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate issuance of the Bond of 2003 and to carry out the intentions of this Second Supplemental Ordinance.

Section 11. Section Headings; Table of Contents. The headings and titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Second Supplemental Ordinance.

Section 12. Notices. All notices, certificates or other communications hereunder or under the General Bond Ordinance shall be sufficiently given and shall be deemed given when mailed by first-class, postage prepaid, addressed as follows:

If to the County:

Jasper County Council
914 Grays Road
Post Office Box 1149
Ridgeland, South Carolina 29936
Attn: County Administrator

If to the Owner:

Nickel Plate Road LLC
Post Office Box 1107
Jacksonville, Illinois 62651
Attn: L. Dianne Barnett

If to the Developer:

Asset Management Associates, Inc.
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

New River – Okatie Co. LLC
Post Office Drawer 7567
Hilton Head Island, South Carolina 29938
Attn: Kumar K. Viswanathan

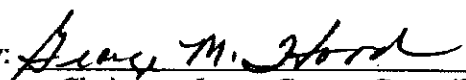
Any party may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 13. Effective Date. This Second Supplemental Ordinance shall become effective upon its enactment.

[Execution follows on next page]

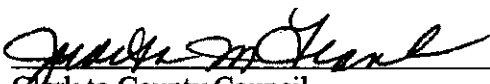
Enacted by the County Council of Jasper County, South Carolina, this 20th day of October, 2003.

JASPER COUNTY, SOUTH CAROLINA

By: 
Chairman, Jasper County Council
Jasper County, South Carolina

(SEAL)

ATTEST:


Clerk to County Council,
Jasper County, South Carolina

First Reading: September 15, 2003
Second Reading: October 6, 2003
Public Hearing: October 20, 2003
Third Reading: October 20, 2003

EXHIBIT A

DESCRIPTION OF 2003 INFRASTRUCTURE

Cost of acquiring certain real property used in the operation of manufacturing or commercial enterprises and constructing thereon certain infrastructure with respect to the second phase of the Project on or before July 31, 2003, including, but not limited to: real property, improvements, site work, surveying costs, legal fees, engineering services, permitting fees, consulting fees, utility fees, maintenance fees, insurance, landscaping fees, architectural fees, and accounting fees.

GREENVILLE 176793v3

ROA 00473

Jasper_000114

EXHIBIT B

(FORM OF BOND)

UNITED STATES OF AMERICA
 STATE OF SOUTH CAROLINA
 JASPER COUNTY
 SPECIAL SOURCE REVENUE BOND
 (NICKEL PLATE ROAD LLC PROJECT)
 SERIES 2003

Amount
 \$6,000,000.00

Jasper County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to Nickel Plate Road LLC (the "Purchaser") or its registered assigns, but solely from the special source hereinafter mentioned, and not otherwise, a principal amount of \$6,000,000 or such lesser amount as is set forth on the schedule of advances annexed hereto as Schedule I (unless this Bond shall be subject to prior redemption and shall have been duly called for previous redemption and payment of redemption price made or provided for), and the County hereby promises to pay interest on the principal amount hereof from time to time unpaid at the rate of 4.36% per annum, but solely from such special source and not otherwise, until this Bond matures. Interest on this Bond is payable on February 1 of each year commencing February 1, 2004. This Bond is payable as to principal on February 1 in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2004	\$ 25,000	2018	\$ 150,000
2005	25,000	2019	150,000
2006	50,000	2020	200,000
2007	50,000	2021	200,000
2008	75,000	2022	250,000
2009	75,000	2023	250,000
2010	100,000	2024	300,000
2011	100,000	2025	300,000
2012	100,000	2026	400,000
2013	100,000	2027	400,000
2014	100,000	2028	500,000
2015	100,000	2029	500,000
2016	150,000	2030	600,000
2017	150,000	2031	600,000

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GREENVILLE 176793v3

ROA 00474

Jasper_000115

This Bond and the interest hereon are (a) payable solely from all or a specifically described portion of the payments-in-lieu of taxes received and retained by the County pursuant to the Park Agreement (as defined in the General Bond Ordinance hereafter mentioned) created under Section 13 of Article VIII of the Constitution of the State of South Carolina; (b) not secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the County; (c) not an indebtedness of the County within the meaning of any state constitutional provision or statutory limitation but are payable solely from a special source that does not include revenues from any tax or license; and (d) not a pecuniary liability of the County or a charge against the County's general credit or taxing power.

Both the principal of and interest on this Bond are payable at the principal office of the Purchaser in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

This Bond is issued by the County for the purpose of defraying the Cost of Acquisition and Construction of the 2003 Infrastructure and the Cost of Issuance (as such terms are defined in the General Bond Ordinance and Second Supplemental Ordinance hereafter mentioned). This Bond is authorized to be issued and is issued under, pursuant to and in full compliance with the Constitution and statutes of the State of South Carolina, including particularly Section 4-1-175 and Section 4-29-68 of the Code of Laws of South Carolina 1976, as amended (the "Act"). This Bond is also authorized to be issued and is issued under and pursuant to General Bond Ordinance No. 01-04 of the County Council of Jasper County duly enacted on April 16, 2001 (the "General Bond Ordinance"), and Second Supplemental Ordinance No. _____ of the County Council of Jasper County duly enacted on October 20, 2003 (the "Second Supplemental Ordinance"), under the Act, which General Bond Ordinance and Second Supplemental Ordinance have been duly codified and indexed as prescribed by law.

The General Bond Ordinance contains provisions defining terms; sets forth the Net Fee Payments (as defined in the General Bond Ordinance) pledged for the payment of the principal of and interest on this Bond and the Bonds of other series herewith which have previously been issued or which may hereafter be issued on a parity herewith under the General Bond Ordinance; sets forth the nature, extent and manner of enforcement of the security of this Bond and of such pledge, and the rights and remedies of the holder hereof with respect thereto; sets forth the terms and conditions upon which this Bond is issued and upon which other bonds have previously been issued or which may be hereinafter issued payable as to principal, premium, if any, and interest on a parity with this Bond and equally and ratably secured herewith; sets forth the rights, duties and obligations of the County thereunder; and sets forth the terms and conditions upon which the pledge made in the General Bond Ordinance for the security of this Bond and upon which the covenants, agreements and other obligations of the County made therein may be discharged at or prior to the maturity or redemption of this Bond with provisions for the payment thereof in the manner set forth in the General Bond Ordinance. Reference is hereby made to the General Bond Ordinance and the Second Supplemental Ordinance to all of the provisions of which any holder of this Bond by the

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GREENVILLE 176793v3

ROA 00475

Jasper_000116

acceptance hereof thereby assents. The provisions of the Act, the General Bond Ordinance and the Second Supplemental Ordinance shall be a contract with the holder of this Bond.

This Bond, including interest hereon, is payable solely from a portion of the Net Fee Payments and is secured equally and ratably by a pledge of such Net Fee Payments derived by the County from the Park Agreement which also secures the Bond of 2001 (as defined in the Second Supplemental Ordinance) and any Series of Bonds (as defined in the Bond Ordinance) hereafter issued under the General Bond Ordinance, and certain funds and accounts established under the Second Supplemental Ordinance with respect thereto heretofore mentioned which are pledged to the payment thereof, and the County is under no obligation to pay the same except from such sources; provided, in no event shall the County be obligated to pay in any year more than 40% of the total of such Net Fee Payments to the holders, including the Purchaser, of all Series of Bonds issued pursuant to the General Bond Ordinance and any ordinance supplemental thereto. In the event the total principal and interest payment due on all Series of Bonds, including this Bond, in any year is greater than 40% of such Net Fee Payments, the difference thereon shall be, and is hereby forgiven without further notice by the County to the Purchaser. In the event the total principal and interest payment due on all Series of Bonds, including this Bond, is less than 40% of such Net Fee Payments, the difference shall be paid to the Purchaser as additional interest.

This Bond and the Bond of 2001 are equally and ratably secured by a pledge of the Net Fee Payments. Bonds on a parity with this Bond and the Bond of 2001 may hereafter be issued under terms and conditions set forth in the General Bond Ordinance. Such Bonds shall be equally and ratably secured with the pledge of the Net Fee Payments.

The County reserves the right upon the prior written direction of the Owner and Developer (as defined in the General Bond Ordinance) without payment of any premium to make prepayments of principal installments on this Bond at any time upon payment of such principal amounts and interest accrued thereon to the date fixed for redemption. Partial prepayment shall be applied to scheduled principal installments on this Bond in such order as the County determines at the direction of the Owner and Developer.

[EXECUTION PAGE FOLLOWS]

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GREENVILLE 176793v3

ROA 00476

Jasper_000117

IN WITNESS WHEREOF, Jasper County, South Carolina, has caused this Bond to be executed in its name by the manual signature of the Chairman of the County Council and attested by the Clerk to the County Council under the seal of the County, this Bond to be dated the _____ day of _____, 2003.

JASPER COUNTY, SOUTH CAROLINA

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

(SEAL)

ATTEST:

Clerk
Jasper County Council
Jasper County, South Carolina

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GREENVILLE 176793v3

ROA 00477

Jasper_000118

REGISTRATION

This Bond has been registered in the name of Nickel Plate Road LLC, on the registration books kept by the Treasurer of Jasper County, South Carolina.

Dated this _____ day of _____, 2003.

Treasurer, Jasper County, South Carolina

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GREENVILLE 176793v3

ROA 00478

Jasper_000119

SCHEDULE I

**JASPER COUNTY, SOUTH CAROLINA
SPECIAL SOURCE REVENUE BOND
(NICKEL PLATE ROAD LLC PROJECT)
SERIES 2003**

SCHEDULE OF INFRASTRUCTURE ADVANCES

<u>Date</u>	<u>Amount of Advance</u>	<u>Outstanding Principal Balance</u>	<u>Signature of Authorized County Representative</u>	<u>Signature of Authorized Owner/Developer Representative</u>
_____, 2003	\$6,000,000	\$6,000,000	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

EXHIBIT C

CERTIFICATE REGARDING ADVANCES

Jasper County, South Carolina, Special Source Revenue Bond, Series 2003 (the "Bond of 2003")
(Nickel Plate Road LLC Project)

Dated: _____, 2003

Advance No.: 1

Nickel Plate Road LLC hereby certifies and warrants to Jasper County, South Carolina (the "County"), pursuant to Section 3.3 of the General Bond Ordinance No. 01-04 (the "General Bond Ordinance") enacted by the County Council of Jasper County, South Carolina, on April 16, 2001, and Section 6 of the Second Supplemental Ordinance No. _____ (the "Second Supplemental Ordinance") enacted by the County Council of the County on October 20, 2003 the following in connection with the payment of 2003 Infrastructure and Cost of Issuance (as defined in the General Bond Ordinance and Second Supplemental Ordinance):

1. The amount to be paid: \$6,000,000.00
2. The amount to be paid will be applied to the payment of 2003 Infrastructure or Cost of Issuance and is due and payable and has not been the subject of any previous advance.
3. A description, and cost thereof, of the 2003 Infrastructure to be financed with the proceeds of the Bond of 2003 is included on *Attachment I*.
4. The principal amount of the Bond of 2003 is \$6,000,000.00 and the interest rate on such Bond is 4.36% per annum. A pro forma debt service schedule structured in accordance with the terms of the General Bond Ordinance is attached as *Attachment II*.

Nickel Plate Road LLC

By: _____

Its: _____

Date: _____, 2003

I, the undersigned Clerk to the County Council of the County, hereby acknowledge receipt of this Certificate Regarding Advances which shall be filed with the County.

JASPER COUNTY, SOUTH CAROLINA

By: _____
Clerk to County Council

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ATTACHMENT I.

2003 INFRASTRUCTURE

<u>DESCRIPTION</u>	<u>COST</u>
1. New River Center Construction – New River Center	
a. Construction	\$ 2,560,948.79
b. Professional Fees	152,025.36
c. Development Management	379,395.00
2. Automall	
a. Land Acquisition	1,685,951.56
b. Construction/Development	
i. Roads, Water & Sewer Systems	1,209,185.34
ii. Landscaping	186,805.50
iii. Development Management	85,000.00
c. Professional, Permitting, Licensing and Filing Fees	104,760.36
Total Infrastructure Investment as of July 31, 2003	\$ 6,364,071.91

ATTACHMENT II.

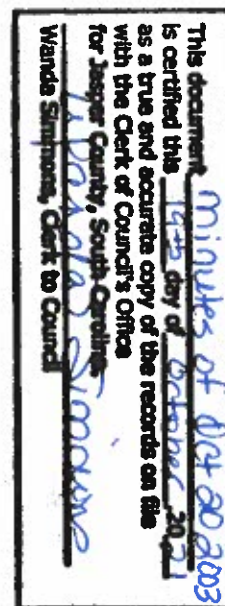
DEBT SERVICE SCHEDULE

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
2004	\$ 25,000	2018	\$ 150,000
2005	25,000	2019	150,000
2006	50,000	2020	200,000
2007	50,000	2021	200,000
2008	75,000	2022	250,000
2009	75,000	2023	250,000
2010	100,000	2024	300,000
2011	100,000	2025	300,000
2012	100,000	2026	400,000
2013	100,000	2027	400,000
2014	100,000	2028	500,000
2015	100,000	2029	500,000
2016	150,000	2030	600,000
2017	150,000	2031	600,000

EXHIBIT G

*Meeting Minutes of Jasper County Council
October 20, 2003*

**JASPER COUNTY COUNCIL
MARY GORDON ELLIS EXECUTIVE BUILDING
COUNCIL CHAMBERS
OCTOBER 20, 2003
7:00 P.M.
MINUTES**



OFFICIALS PRESENT:

DR. GEORGE HOOD, CHAIRMAN
THOMAS MCCLARY, COUNCILMAN
BARBARA B. CLARK, COUNCILWOMAN
GLADYS N. JONES, COUNCILWOMAN
HENRY P. MOSS, JR., ADMINISTRATOR
RONNIE MALPHRUS, DEPUTY ADMINISTRATOR
ROSE DOBSON, DEPUTY ADMINISTRATOR
DARRELL THOMAS JOHNSON, ATTORNEY
JUDITH M. FRANK, CLERK TO COUNCIL

OFFICIALS ABSENT:

PAUL MAX MALPHRUS, VICE CHAIRMAN

MEDIA NOTIFIED:

CAROLINA MORNING NEWS, ISLAND PACKET, JASPER COUNTY SUN, WTOG-TV,
WJWJ-TV,
BEAUFORT GAZETTE, WSAV-TV

CALL TO ORDER:

CHAIRMAN HOOD CALLED THE MEETING TO ORDER AT 7:05 P.M.

PLEDGE OF ALLEGIANCE:

CHAIRMAN HOOD LED THE PLEDGE OF ALLEGIANCE.

INVOCATION:

COUNCILWOMAN JONES GAVE THE INVOCATION.

APPROVAL OF THE MINUTES:

COUNCILWOMAN JONES MOTION TO APPROVE THE MINUTES FROM THE OCT. 6, 2003 MEETING AND THE OCT. 6, 2003 MEETING WITH THE TOWN OF RIDGELAND.
CHAIRMAN HOOD SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

PUBLIC HEARING AND 3RD READING OF THE SUPPLEMENTAL ORDINANCE REGARDING THE ISSUANCE AND SALE OF A JASPER COUNTY, SC, SPECIAL SOURCE REVENUE BOND, SERIES 2003:

CHAIRMAN HOOD OPENED THE PUBLIC HEARING. THERE WERE NO COMMENTS FROM THE PUBLIC. CHAIRMAN HOOD CLOSED THE PUBLIC HEARING.
COUNCILWOMAN JONES MOTIONED TO PASS THE SUPPLEMENTAL ORDINANCE REGARDING THE ISSUANCE AND SALE OF A JASPER COUNTY SC. SPECIAL SOURCE REVENUE BONDS, SERIES 2003. COUNCILMAN MCCLARY SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

1ST READING OF AN EMERGENCY ORDINANCE TO ENACT A MORATORIUM PROHIBITING APPROVAL OF ANY NEW SUBDIVISIONS ALLOWING HUD CODE (MOBILE HOMES):

ATTORNEY JOHNSON SAID HE THOUGHT A MORATORIUM ON SUBDIVISIONS WAS FINE, HOWEVER, HE WAS CONCERNED THAT THERE MAY BE A FEDERAL STATUE REGARDING REGULATING CERTAIN TYPES OF HOUSING AND THE COUNTY CURRENTLY DOES NOT HAVE AN ORDINANCE THAT DIFFERENTIATES ANY

MINUTES CONTINUED 10/20/03

OTHER TYPES OF HOMES OTHER THAN MOBILE HOMES. ATTORNEY JOHNSON RECOMMENDED PUTTING A MORATORIUM ON SUBDIVISIONS GENERALLY WHILE THE PLANNING COMMISSION IS WORKING ON THE NEW ORDINANCE. COUNCILWOMAN JONES ASKED IF ITEM G OF THE ORDINANCE WAS LEFT OUT, WOULD THAT FIX THE PROBLEM. CHAIRMAN HOOD SAID THAT HE WAS CONCERNED OVER THE WELFARE OF THE PEOPLE PURCHASING LAND IN THESE SUBDIVISIONS AND THAT THIS WOULD PROTECT THE PEOPLE. HAL JONES SAID THERE WAS CURRENTLY AN ORDINANCE WITH A MORATORIUM ON CERTAIN TYPES OF SUBDIVISIONS AND THAT THIS ORDINANCE IS REVISING IT TO ADD ITEMS F AND G., ITEM F IS EQUALLY APPLIED TO ALL SUBDIVISIONS. COUNCILMAN MCCLARY ASKED IF THIS WOULD HALT ALL SUBDIVISIONS IN THE COUNTY. HAL JONES SAID IT WOULD LIMIT ACCESS OFF OF ROADS WITH 55MPH SPEED LIMITS AND AN ARTERIAL ROAD WOULD BE NECESSARY. HAL JONES SAID THE COUNTY DOES NOT WANT TO STOP GROWTH, BUT TO ENCOURAGE NICER, LARGER SUBDIVISIONS AND LIMIT THE OLDER JUNK DEVELOPMENTS. JOE SCHILLING, CHAIRMAN OF THE PLANNING COMMISSION, SAID THAT THIS ORDINANCE WAS TWO FOLD - TO SECURE PUBLIC SAFETY LIMITING ACCESS TO HIGHWAYS WITH SPEED LIMITS OF 55 MPH AND WITH THE DEVELOPMENT OF THE SCHOOL DISTRICT ALONG HWY. 278, THE LOTS ARE TOO SMALL FOR BUS STOPS. MR. SCHILLING SAID THE PLANNING COMMISSION WAS REQUESTING THIS SHORT MORATORIUM SO THAT THE PLANNING COMMISSION COULD ADDRESS AND CORRECT THE LAND DEVELOPMENT AREAS IN THE ORDINANCE AND THAT THIS ORDINANCE WAS NOT TO STOP ANY WELL PLANNED DEVELOPMENTS. COUNCILMAN MCCLARY ASKED IF ITEM G WAS STRUCK, WILL IT AFFECT THE OTHER DEVELOPMENTS AS HE HAD NO PROBLEM WITH LIMITED ACCESS. COUNCILMAN MCCLARY ASKED IF THIS ORDINANCE WOULD STOP ALL SUBDIVISIONS FOR SIX MONTHS. MR. SCHILLING SAID IT WOULD STOP SOME. ATTORNEY JOHNSON SAID HE DID NOT IMPLY WHAT THE COUNCIL SHOULD DO, AS THEY COULD MAKE IT APPLY TO ALL, OR DELETE G. HE FELT THE COUNTY SHOULD NOT CREATE A NEW ARCHITECTURAL PLAN TO DISCRIMINATE AGAINST MOBILE HOMES. COUNCILWOMAN CLARK SAID SHE FELT ITEM G SHOULD BE STRUCK AND ASKED HOW MANY HOMES CONSTITUTED A SUBDIVISION. MR. JONES SAID TWO HOMES CONSTITUTED A SUBDIVISION. MR. MOSS SAID THAT THE ORDINANCE WAS ONLY WRITTEN TODAY AND HE AND THE ATTORNEY JUST SAW IT TONIGHT. MR. MOSS SAID THE CURRENT ORDINANCE ALLOWS LAND TO BE CUT ALONG A ROAD WITHOUT COMING TO COUNCIL AND PERHAPS THIS ORDINANCE WILL CREATE LAWSUITS AND THAT THE CURRENT ORDINANCE NEEDS CHANGED TO ELIMINATE THIS RATHER THAN TO DO A MORATORIUM. MR. JONES SAID THE PLANNING COMMISSION IS CURRENTLY TRYING TO AMEND THE ORIGINAL ORDINANCE AND IN ORDER TO CHANGE THE ORDINANCE THE PLANNING COMMISSION IS TRYING TO HALT UNDESIRABLE APPLICATIONS UNTIL THE ORDINANCE CAN BE AMENDED. CURRENTLY PLANS AND DESIGNS ARE BEING PRESENTED IN WHICH ROADS WILL NOT BE PAVED, LOTS WITH DRIVEWAYS EVERY 100 FT. ALONG HIGHWAYS WITH SPEED LIMITS OF 55MPH, AND THE PLANNING COMMISSION NEEDS TO STOP THESE SUBDIVISIONS UNTIL THEY CAN DEVELOP THE REVISED ORDINANCE. COUNCILWOMAN JONES MOTIONED THAT THIS BE THE 1ST READING OF THE EMERGENCY ORDINANCE TO ENACT A MORATORIUM PROHIBITING APPROVAL OF ANY NEW MAJOR SUBDIVISIONS AND TO STRIKE ITEM G (WHICH ALLOWS HUD CODE MOBILE HOMES)AND ITEM G WILL READ FOR THE DURATION OF THIS MORATORIUM. NO MAJOR SUBDIVISIONS SHALL BE APPROVED AND THAT THIS ORDINANCE WILL GO INTO EFFECT AFTER THE FIRST READING. CHAIRMAN HOOD SECONDED THE MOTION. J.W. HARPER ASKED IF THE COUNCIL WAS GOING TO PASS THIS ORDINANCE WITHOUT INPUT FROM THE PUBLIC. COUNCILMAN MCCLARY ASKED IF THIS MEANT ANYTHING OVER 2 LOTS, ATTORNEY JOHNSON REPLIED THAT ANYTHING OVER 3 LOTS THAT HAS NOT BEEN PREVIOUSLY SUBDIVIDED IN THE PAST 5 YEARS WITH NO ROADS OR

MINUTES CONTINUED 10/20/03

INFRASTRUCTURE NEEDED. COUNCILMAN MCCLARY ASKED HOW MANY UNITS PER ACRE AND HAL JONES SAID THE DENSITY VARIES ACCORDING TO THE ZONING. ATTORNEY JOHNSON SAID A PRACTICAL APPLICATION WAS THAT AT LEAST 3/4 ACRE IS NECESSARY FOR A WELL AND A SEPTIC TANK. COUNCILMAN MCCLARY ASKED ABOUT PUTTING IN A CENTRAL WELL AND ATTORNEY JOHNSON SAID THAT COULD NOT BE DONE UNLESS IT WAS DONE BY A LICENSED WATER ADMINISTRATOR. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

HENRY LAWTON CONCERNING STIPEND INCREASE FOR THE TRANSPORTATION COMMITTEE, INCREASING THE CHAIRMAN TO \$125.00 PER MEETING AND COMMITTEE MEMBERS TO \$100.00 PER MEETING:
MR. LAWTON SAID THAT IT HAD BEEN A YEAR SINCE HE ORIGINALLY MADE THE REQUEST AND FELT HE AND HIS COMMITTEE SHOULD HAVE AN ANSWER TO HIS REQUEST. COUNCILWOMAN JONES SAID THAT SHE AGREED AND SHE ALSO FELT HE SHOULD HAVE AN ANSWER, BUT SHE FELT IF HIS COMMITTEE SHOULD GET AN INCREASE THEN ALL COMMITTEES WERE ENTITLED TO AN INCREASE. COUNCILWOMAN JONES SAID THAT WHEN THE COMMITTEES WERE FIRST APPOINTED THE PEOPLE AGREED TO DO IT AS VOLUNTEERS. MR. LAWTON SAID HE DID NOT VOLUNTEER AND HE HAS TO PAY FOR HIS OWN TRAVEL EXPENSES. COUNCILWOMAN JONES SAID THE COUNCIL COULD NOT DO FOR HIM WHAT THEY CANNOT DO FOR EVERYONE AND SHE WOULD VOTE NO TO ANY INCREASES. COUNCILMAN MCCLARY SAID HE HAD NO COMMENT BUT RESERVED THE RIGHT TO COME BACK LATER. COUNCILWOMAN CLARK SAID SHE FELT THE OTHER COMMITTEES DESERVE THE SAME, BUT IT COULD NOT BE DONE NOW. HENRY LAWTON ASKED COUNCILWOMAN CLARK HOW COULD SHE VOTE TO INCREASE HER STIPEND AND NOT HIS STIPEND INCREASE. CHAIRMAN HOOD SAID ONLY FOUR COMMITTEES WERE CURRENTLY BEING PAID A STIPEND. COUNCILWOMAN JONES MOTIONED TO TURN DOWN MR. LAWTON'S REQUEST FOR AN INCREASE IN STIPEND FOR THE TRANSPORTATION COMMITTEE. THE MOTION DIED FOR LACK OF A SECOND. COUNCILMAN MCCLARY SAID THAT THE OTHER BOARDS AND COMMISSIONS THAT DO NOT CURRENTLY GET PAID AND THEY SPEND THEIR TIME ALSO, AND HE WANTED TO LOOK INTO HOW MUCH IT WOULD COST TO PAY ALL THE COMMITTEES. CHAIRMAN HOOD SAID HE WOULD WANT TO KNOW WHAT THESE COMMITTEES ACTUALLY DID AND HOW THEY SUPPORTED THE COUNCIL BEFORE THEY WOULD BE CONSIDERED FOR STIPENDS. COUNCILWOMAN CLARK SAID THAT SHE HAD MADE HER MIND UP TO APPROVE THE INCREASE, BUT TO LIMIT THE MEETING TO TWO MEETINGS PER MONTH. COUNCILMAN MCCLARY MOTIONED TO TABLE THIS REQUEST AND THAT THE COUNCIL WILL CONTACT MR. LAWTON WHEN A DECISION HAS BEEN MADE. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED WITH COUNCILMAN MCCLARY, COUNCILWOMAN CLARK AND CHAIRMAN HOOD VOTING FOR. COUNCILWOMAN JONES VOTED AGAINST.

DISCUSSION CONCERNING THE EXTENSION OF THE M.B. KAHN CONTRACT AT THE NEW LAW ENFORCEMENT CENTER:

RONNIE MALPHRUS EXPLAINED THAT THE ORIGINAL CONTRACT WITH M.B. KAHN WAS FOR A 20 MONTH PERIOD AND DUE TO NUMEROUS HURDLES INCLUDING THE MONITORING WELLS ADDITIONAL TIME WAS NEEDED. THE PROJECT WAS TO BE DONE BY APRIL, 2004 BUT DUE TO THE WEATHER AND OTHER DELAYS, THE PROJECT WAS BEHIND SCHEDULE AND MR. MALPHRUS ASKED THE COUNCIL TO EXTEND THE CONTRACT WITH M.B. KAHN FOR AN ADDITIONAL 2 MONTHS AT \$21,000.00 PER MONTH AND IF AT THE END OF THE PROJECT THE FUNDS RUN OUT, THEN THIS MONEY COULD COME FROM SOME OTHER SOURCE. MR. MALPHRUS SAID THE COUNCIL HAD AGREED TO PAY \$350,000.00 TO FUND THE WATER AND SEWER FROM COUNTY FUNDS AND IF IT COMES IN HIGHER, THEN THE COUNCIL WILL HAVE TO DEAL WITH IT AS IT IS

MINUTES CONTINUED 10/20/03

NOT IN THE DETENTION CENTERS CONSTRUCTION BUDGET. COUNCILMAN MCCLARY ASKED IF THE WATER AND SEWER COULD BE HANDLED THE SAME WAY THAT IT WAS HANDLED AT CYPRESS RIDGE. RONNIE MALPHRUS SAID IT COULD NOT BE HANDLED THAT WAY BECAUSE THE DETENTION CENTER IS LOCATED IN THE TOWN. COUNCILWOMAN CLARK MOTIONED TO APPROVE THE EXTENSION OF M.B. KAHN'S CONTRACT FOR TWO MONTHS FOR A TOTAL OF \$42,000.00 AND THIS MONEY IS TO COME FROM THE CONSTRUCTION FUND. COUNCILMAN MCCLARY SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

ERIC DEATON CONCERNING COASTAL CAROLINA MEDICAL CENTER:
MR. DEATON GAVE A POWER POINT PRESENTATION REGARDING THE NEW HOSPITAL AND INVITED EVERYONE TO THE GROUND BREAKING CEREMONY ON OCTOBER 23, 2004 AT 2:00 P.M. MR. DEATON SAID THEY EXPECT TO BE IN OPERATION BY OCTOBER OF 2005.

STEVE PALMER - SCE&G PLANT MANAGER
MR. PALMER WAS NOT PRESENT.

MIKE HODGES - UPDATE ON JASPER COUNTY ANTI TERRORISM COMMITTEE:
MR HODGES REVIEWED FOR THE COUNCIL THE ACTIVITIES THE COMMITTEES ARE CURRENTLY WORKING ON. MR. HODGES SAID THAT SLED HAS BEEN NAMED AS THE STATE'S LEAD ENTITY. MR. HODGES SAID ALL THE COUNTIES ARE TRYING TO COME TOGETHER AND SHARE RESOURCES AND THE PEOPLE ARE BEING EDUCATED ON HOW TO WORK TOGETHER AND THEY ARE CURRENTLY IN THE PROCESS OF ESTABLISHING PROCEDURES FOR HANDLING DIFFERENT TYPES OF SITUATIONS.

PRESENTATION FROM THE JASPER COUNTY HIGH SCHOOL BAND BOOSTER CLUB:
THE BAND DIRECTOR, NATHANIEL DRAKE, PRESENTED THE COUNCIL WITH A PLAQUE IN APPRECIATION OF THEIR FINANCIAL SUPPORT FOR THE NEW BAND UNIFORMS.

VOTE OF COUNTY POLICY REGARDING LANDFILLS:
COUNCILWOMAN JONES MOTIONED TO PASS THE JASPER COUNTY POLICY ON LANDFILLS. THE JASPER COUNTY POLICY ON LANDFILLS WILL BE ALL APPLICATIONS ON NEW SITES, EXPANSIONS, OR RENEWALS ON LANDFILLS LOCATED IN OR TO BE LOCATED IN JASPER COUNTY WILL COME BEFORE THE COUNTY COUNCIL AND A PUBLIC HEARING WILL BE HELD BEFORE BEING SENT TO DHEC. ONLY COUNTY COUNCIL WILL HAVE THE AUTHORITY TO TAKE A POSITION ON THIS MATTER. THIS POLICY WILL BECOME PART OF THE COUNTY'S SOLID WASTE PLAN. ATTORNEY JOHNSON SAID HE DID NOT THINK IT WAS MUCH DIFFERENT FROM THE DEVELOPMENT STANDARD ORDINANCE AND HE HAD NO PROBLEM WITH IT. COUNCILMAN MCCLARY ASKED IF THE COUNTY SAID NO, COULD DHEC STILL SAY YES. ATTORNEY JOHNSON SAID YES THAT COULD HAPPEN, THE COUNTY CAN EXPRESS ITS WISHES AND DHEC WOULD TAKE THEM INTO CONSIDERATION, BUT THEY LOOK AT THINGS SCIENTIFICALLY NOT EMOTIONALLY. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

COMMITTEE REPORTS:
COUNCILWOMAN JONES SAID THAT REGARDING SNAKE ROAD, THE LETTERS OF CONSISTENCY FROM THE COUNTY AND THE APPLICATION FOR 2.1 MILLION CUBIC YARDS WERE DIFFERENT FROM WHAT THE COUNTY APPROVED IN ITS LETTER OF 2.1 MILLION CUBIC FEET AND FELT THIS NEEDED TO BE BROUGHT TO DHEC'S ATTENTION. COUNCILMAN MCCLARY SAID HE FELT THE COUNTY SHOULD JUST

MINUTES CONTINUED 10/20/03

LEAVE IT AS IT IS. COUNCILWOMAN CLARK AGREED WITH COUNCILMAN MCCLARY. COUNCILWOMAN JONES SAID SHE HAS A PROBLEM WITH THE DIFFERENCE BETWEEN CUBIC YARDS AND CUBIC FEET. ATTORNEY JOHNSON SAID HE REPRESENTED THE PARTIES MAKING THE APPLICATION AND THE 1ST LETTER ISSUED TO DHEC BY LCOG, WAS FOR WHATEVER THE ENGINEERS PLANS SUBMITTED TO THE COUNCIL AND WHEN MOVING LAND IS CONCERNED, IT IS ALWAYS REFERRED IN CUBIC YARDS NOT CUBIC FEET AND THAT HE WAS NOT AWARE OF ANY DISCREPANCY FROM WHAT WAS PRESENTED AND WHAT THE COUNCIL APPROVED. JOE SCHILLING COMMENTED THAT THE PLANNING COMMISSION WAS NEVER ASKED TO HAVE ANY INPUT AND DHEC SAID IT WAS NONE OF THE PLANNING COMMISSION'S BUSINESS. MR. SCHILLING SAID HE FELT THE PLANNING COMMISSION SHOULD BE INFORMED OF THESE MATTERS. MR. MOSS SAID THE LANDFILL CAME BEFORE THE COUNCIL IN 1997 AND FOLLOWED ALL THE RULES TO A T AND THE COUNCIL APPROVED IT AS IT WAS PRESENTED AND THE LETTER DOESN'T NEED CHANGING. COUNCILWOMAN JONES ASKED IF THE MINUTES AGREE WITH THE LETTERS. MR. MOSS SAID THE LETTER SAID THE COUNCIL FOUND IT TO BE CONSISTENT. COUNCILMAN MCCLARY MOTIONED NOT TO DO ANYTHING TO DISRUPT THIS PROCESS AND TO JUST LET IT DIE. COUNCILWOMAN CLARK SECONDED THE MOTION. THE MOTION FAILED WITH COUNCILMAN MCCLARY AND COUNCILWOMAN CLARK VOTING FOR. COUNCILWOMAN JONES AND CHAIRMAN HOOD VOTED AGAINST. COUNCILWOMAN JONES DISCUSSED THE VARIOUS MEETING SHE ATTENDED INCLUDING THE GROUND BREAKING IN HARDEEVILLE AND THE CHAMBER OF COMMERCE MEETING. COUNCILMAN MCCLARY AND COUNCILWOMAN CLARK SAID THEY ATTENDED THE SAME MEETINGS. CHAIRMAN HOOD LISTED THE MEETINGS HE ATTENDED AND PRESENTED A LETTER FROM SCDOT COMMENDING THE COOPERATION IT HAS RECEIVED FROM THE PUBLIC WORKS DEPARTMENT. CHAIRMAN HOOD RECOMMENDED THAT THE COUNCIL DISCUSS MATTERS OF CONCERN WITH SCAC AS THEY ARE A GREAT SOURCE FOR INFORMATION.

ADMINISTRATOR'S REPORT:

RONNIE MALPHRUS ASKED TO PRESENT A BID FOR FOUR BUILDINGS. COUNCILWOMAN JONES SAID THAT THE COUNCIL HAD VOTED NOT TO APPROVE ANYTHING THAT WAS NOT ON THE AGENDA. THIS ITEM WAS TABLED UNTIL THE NEXT MEETING.

OPEN FLOOR TO THE PUBLIC:

JOE SCHILLING THANKED THE COUNCIL FOR THEIR ACTION ON THE MORATORIUM AND ASKED THE COUNCIL TO CONSIDER HIS REQUEST AT THE LAST MEETING REGARDING EQUAL PAYMENT OF STIPENDS TO THE BOARDS AND COMMITTEES.

GLENN STORCK THANKED THE COUNCIL FOR PASSING THE MORATORIUM ORDINANCE AND HE SAID THAT IN THE PAST, HE WAS ONLY PAID \$1.00 FOR SERVING ON COMMITTEES AND BOARDS AND THAT HE TOO FELT THE COMMITTEES SHOULD BE TREATED EQUALLY. MR. STORCK SAID HE PUTS IN AT LEAST THREE HOURS OF HOMEWORK FOR EACH THING ON THE PLANNING COMMISSION'S AGENDA. MR. STORCK SAID THAT HE WANTS TO DO IT TO MAKE JASPER COUNTY A BETTER PLACE TO LIVE. HE SAID HE DID NOT DO IT FOR THE MONEY, BUT FELT IF THE COUNTY WAS GOING TO PAY THE MEMBERS OF THE COMMITTEES, IT SHOULD BE THE SAME FOR EVERYONE..

J.W. HARPER SAID IT DID NOT SIT WELL WITH HIM TO ASK FOR A RAISE TO SIT ON A COMMITTEE. MR. HARPER SAID HE SERVES ON A COUNTY COMMITTEE AND HE DOES NOT GET PAID ANYTHING.

ATTORNEY JOHNSON SPOKE AS A CITIZEN OF JASPER COUNTY, NOT AS THE COUNTY ATTORNEY, AND HE DISCUSSED THE OWNER OF THE LANDFILL BEING A LOCAL RESIDENT WHO WAS CURRENTLY HOSPITALIZED AND THAT THIS INDIVIDUAL HAS PUT EVERYTHING INTO THIS NEW PROJECT AND IS HE IS ONLY

MINUTES CONTINUED 10/20/03

ASKING FOR PERMISSION TO GO FORTH.

DR. EARL BOSTICK ASKED THE COUNCIL WHY THE LAND WAS NOT GIVEN TO THE SCHOOLS. COUNCILWOMAN JONES SAID SHE VOTED NO BECAUSE THE COUNCIL IS RESPONSIBLE FOR CYPRESS RIDGE BUSINESS AND INDUSTRIAL PARK AND THAT MR. MILBANKS SAID HE WOULD DONATE LAND TO THE SCHOOLS IF THE COUNTY WOULD DO WHAT HE WANTED IN THE CRBIP. COUNCILWOMAN JONES CONTINUED THAT THE STATE AND FEDERAL GOVERNMENTS APPROVED GRANTS FOR THE PARK AND THEY AGREED IT WOULD NOT BE GOOD FOR SCHOOL TO BE NEAR OR IN THE BUSINESS PARK. COUNCILWOMAN JONES SAID THE COUNCIL IS RESPONSIBLE FOR THE GROWTH OF THE PARK AND MR. MILBANKS WANTED TO TIE THE DONATION OF LAND FOR THE SCHOOLS TO WHAT THE COUNTY COULD DO WITHIN THE CRBIP AND SHE PERSONALLY DID NOT THINK IT WAS A GOOD PLACE FOR A SCHOOL. COUNCILWOMAN JONES DISCUSSED THE COST TO BRING WATER AND SEWER TO THAT LOCATION AND SHE ALSO DISCUSSED OTHER LOCATIONS FOR THE SCHOOLS. COUNCILMAN MCCLARY SAID HE VOTED NO BECAUSE IT WAS THE BEST THING FOR THE CITIZENS OF JASPER COUNTY AND IN THE PAST, MILBANKS HAD PROMISED THE COUNTY LAND AND DID NOT GIVE IT. COUNCILWOMAN CLARK SAID SHE VOTED NO FOR ALL THE SAME REASONS. CHAIRMAN HOOD SAID HE VOTED FOR THE LAND TO BE GIVEN FOR THE SCHOOLS AND THAT THREE OTHER LOCATIONS WERE DISCUSSED. CHAIRMAN HOOD SAID HE WROTE TO MR. MILBANKS AND HAD PHONE CONVERSATIONS WITH HIM CONCERNING THE LAND AND HE FELT THAT IF COMMUNICATIONS WERE CLEARER, THING COULD HAVE BEEN WORKED OUT. MR BOSTICK THANKED THE COUNCIL AND SAID THAT AS THE DELAYS GO ON, THE COST OF THE NEW SCHOOLS IS ESCALATING AND THAT THE NEW SCHOOLS WILL NOT BE ABLE TO BE BUILT FOR WHAT HAS BEEN ALLOCATED AND THAT HE WANTED TO UNDERSTAND WHY FREE LAND WAS TURNED DOWN.

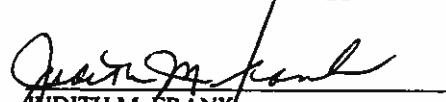
MR. BRANTLEY SAID HE WAS CONCERNED THAT IF THE COUNCIL VOTED FOR CUBIC FEET AND THE LETTER SAID CUBIC YARDS, WHY WASN'T A LETTER WRITTEN TO CORRECT THE MISTAKE. COUNCILWOMAN JONES SAID THAT THIS ISSUE WOULD COME UP AT THE PUBLIC HEARING ON OCTOBER 27, 2003. MR. BRANTLEY SAID HE FELT IT WAS A LARGE DISCREPANCY AND THAT IT NEEDED TO BE CORRECTED. CHAIRMAN HOOD SAID HE FELT THE LETTER SHOULD BE CORRECTED. COUNCILMAN MCCLARY SAID THE APPLICATION WAS MADE IN YARDAGE.

ADJOURN:

COUNCILWOMAN JONES MOTIONED TO ADJOURN THE MEETING. COUNCILMAN MCCLARY SECONDED THE MOTION. THE MOTION WAS CARRIED WITH ALL MEMBERS PRESENT VOTING IN FAVOR.

THE MEETING ENDED AT 9:40 P.M.

RESPECTFULLY SUBMITTED:


JUDITH M. FRANK
CLERK TO COUNCIL

APPROVED BY:


GEORGE M. ~~FRANK~~ HOOD
CHAIRMAN