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

To participate in a **Public Hearing for a specific agenda item**, you may either email written public comments to comments@jaspercountysc.gov by **1:00PM on Monday, May 6, 2024**; or you can speak in person at the Council Meeting by signing in on the **Public Hearing Sign In Sheet** located outside the Council Chambers Doors prior to the start of the meeting. **Public Hearing Comments** shall be limited to **3 minutes per person**.

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

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



JASPER COUNTY COUNCIL
COUNCIL MEETING

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

Monday, May 6, 2024

AGENDA

4:00PM

Budget Workshop:

Beaufort Jasper EOC – James Williams, Executive Director

Beaufort Jasper Hampton Comprehensive Health Services (BJHCHS) – Dr. Faith Polkey

Jasper Animal Rescue Mission (JARM) – Caitlyn Schake

JC School District – Dr. Rechel Anderson

AHJ Regional Library – Carolyn Fortson, Director

Workforce/Healthcare Staffing – Nurse Shortage - Bob Elliott

Regular Council Meeting and Executive Session will begin at the conclusion of the Budget Workshop

1. Call to Order of Council Meeting by Chairman Sauls

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

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

2. Executive Session SECTION 30-4-70.

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

(1) Discussion of employment, appointment, compensation, promotion, demotion, discipline, or release of an employee, a student, or a person regulated by a public body or the appointment of a person to a public body – [Detention Center](#)

(2) Discussion of negotiations incident to proposed contract arrangements and proposed purchase or sale of property, the receipt of legal advice where the legal advice related to pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim – [Cypress Ridge / Industrial Park Properties; Tax Map # 063-26-14-001 and 063-26-14-002](#)

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

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

PLEASE BE ADVISED THERE MAY BE VOTES BASED ON ITEMS FROM THE EXECUTIVE SESSION.

3: Return to Open Session at 6:30PM

- 3.1 Action coming out of Executive Session

4. Pledge of Allegiance and Invocation:

5. Introduction of New Council Member

- Swearing In Ceremony for Councilman William Joseph Rowell III.

6. Approval of the Consent Agenda Items:

7. Approval of the Regular Agenda:

PRESENTATIONS AND PROCLAMATIONS

8. **Beaufort Council Member and Vice Chairperson, Green Space Advisory Committee Alice Howard and Michael McShane, Chairperson, Green Space Advisory Committee.** - The Green Space Committee and its effect on Jasper County.

9. **Rev. Alan Galloway** – Discussion of Late Taxes

10. **Annette Young** – Discussion of a Community Center

RESOLUTIONS

11. **Kimberly Burgess** – Public Hearing and consideration of Resolution **#R-2024-15** pursuant to Section 2-415 (a) of the Jasper County Code of Ordinances, finding unusual and extraordinary circumstances exist to justify an exemption for the proposed purchase of goods and/or services required to achieve compliance with certain Minimum Standards for Local Detention Facilities in South Carolina from the bidding and other requirements of the Jasper County Purchasing and Contracting Ordinance, and authorizing the County Administrator to create the contracts and obtain the services on behalf of Jasper County, and matters related thereto.

PUBLIC HEARINGS, ORDINANCES AND ACTION ITEMS

12. **David Tedder** – Consideration of the **2nd reading** and a public hearing of Ordinance **#O-2024-10** Authorizing An Amendment To That Certain Fee Agreement By And Between Jasper County, South Carolina And Hardeeville Industrial, LLC, As Successor To SDKM COMMERCE, LLC, Relating To The Investment Period Thereunder; And Other Related Matters. *(1st reading 04.15.2024)*
13. **David Tedder** - Consideration of the **2nd reading** and a public hearing of Ordinance **#O-2024-11** Authorizing The Execution And Delivery Of A Fee-In-Lieu Of *Ad Valorem* Taxes And Incentive Agreement By And Between Jasper County, South Carolina And Moffett Solar II, LLC, To Provide For Payment Of A Fee-In-Lieu Of Taxes; Approving The Creation Of A Multicounty Park With Hampton County, South Carolina; Authorizing The Execution And Delivery Of A Multicounty Park Agreement By And Between Jasper County, South Carolina And Hampton County, South Carolina; Authorizing The Execution And Delivery Of A Development Agreement By And Between Jasper County, South Carolina And Moffett Solar II, LLC Authorizing Certain Infrastructure Credits And; And Other Related Matters. *(1st reading 04.15.2024)*
14. **Kim Burgess** – Consideration of the **2nd reading** of Ordinance **#O-2024-12** Authorising the Execution and Delivery of Certain Instruments Relating to the Acquisition, Construction, Renovation, Equipping, Use, and Leasing of Certain County Facilities; Approving the Issuance of St. Peters Parish/Jasper County Public Facilities Corporation Installment Purchase Revenue Bonds and Bond Anticipation Notes; Consenting to the Form of Trust Agreements Between St. Peters Parish/Jasper County Public Facilities Corporation and the Corporate Trustee; The Lease Of Certain Personal Property, Real Property And The Buildings And Other Site Improvements Located Thereon, by Jasper County, South Carolina to St. Peters Parish/Jasper County Public Facilities Corporation, Including Authorising the Execution and Delivery of a Base Lease Agreement, Between Jasper County and St. Peters Parish/Jasper County Public Facilities Corporation; Authorising the Execution and Delivery of a Public Facilities Purchase and Occupancy Agreement Between Jasper County and St. Peters Parish/Jasper County Public Facilities Corporation; Authorising the Execution and Delivery of a Lease Agreement Between Jasper County and St. Peters Parish/Jasper County Public Facilities Corporation; and Other Matters Relating Thereto. *(1st reading 04.01.2024)*
15. **Andrew Fulghum** - Consideration of the **1st reading** Of An Ordinance To Levy And Impose A One Percent Sales And Use Tax, Subject To A Referendum, Within Jasper County Pursuant To Section 4-37-30 Of The Code Of Laws Of South Carolina 1976, As Amended; To Define The Specific Purposes And Designate The Projects For Which The Proceeds Of The Tax May Be Used; To Provide The Maximum Time For Which Such Tax May Be Imposed; To Provide The Estimated Cost Of The Projects Funded From The Proceeds Of The Tax; To Provide For A County-Wide Referendum On The Imposition Of The Sales And Use Tax And The Issuance Of General Obligation Bonds And To Prescribe The Contents Of The Ballot Questions In The Referendum; To Provide For The Conduct Of The Referendum By The Board Of Voter Registration And Elections Of Jasper County; To Provide For The Administration Of The Tax, If Approved; To Provide For The Payment Of The Tax, If Approved; And To Provide For Other Matters Relating Thereto.

16. **Lisa Wagner** – Consideration of the **1st reading** of an Ordinance to amend: (i) Ordinance O-2022-16 to adopt updated standards for the Planned Development District encompassing a 38.84 acre parcel located on U.S. Highway 278 (the “Property”); and (ii) Ordinance O-2022-14 to amend the development agreement (the “Development Agreement”) between Jasper County (the “County”) and Conduit Street Partners, LLC (“CSP” or the “Developer”) that governs CSP’s development of the Property into a 275-unit single-family residential community (the “Project”); in both cases to allow for the possibility that the Project may include not only “for rent” residential dwellings, but also “for sale” residential dwellings; and matters related thereto.

17. **Kimberly Burgess** - Consideration of the **1st reading** of an Ordinance To Provide For The Levy Of Tax For Public Purposes In Jasper County For The Fiscal Year Beginning July 1st, 2024 And Ending June 30th 2025 And To Make Appropriations For Said Purposes; To Adopt And Approve The Jasper County Capital And Operations Budget For Fiscal Year 2024-2025, To Adopt And Approve The Jasper County School District Capital And Operations Budget For Fiscal Year 2024–2025; To Provide For The Levy Of Taxation For Fiscal Year 2024–2025; To Limit The Disbursements By The County Treasurer To Those Appropriated By Law; To Provide That Expenditures Not Exceed Appropriations; To Authorize Tax Anticipation Notes; To Make Authorization Of Certain Transfers; To Provide For Additional Appropriations And Borrowing; To Codify Jasper County Rates And Fees; To Provide For Lapsing Funds And Continuing Appropriations For Subsequent Years; To Require Certain Agencies And Departments To File Accountings; To Require The Treasurer To Sign General Fund Checks; To Provide Special Rules For Travel And Training Disbursements; To Provide For Travel Reimbursements; To Provide Compliance With Act No. 317 Of 1990; To Provide Certain Benefits To Council Members; To Provide For County Commission And Committee Stipends; To Provide For Jury Mileage; To Adopt Property Values; And To Provide For Effective Date Of This Ordinance

CITIZEN COMMENTS

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

19. Administrator’s Report

CONSENT AGENDA

20. Approval of the Minutes of 03.04.2024 and 03.12.2024

END OF CONSENT AGENDA

21. Council Members Comments:

22. Possible Return to Executive Session to Continue Discussion on Matters Regarding Agenda Item II. **Council may act on any item appearing on the agenda including items discussed in executive session.*

23. Adjournment:

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

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

AGENDA

ITEM # 8

Presentation



Jasper County Clerk to Council

358 Third Avenue
Ridgeland, South Carolina 29936
Phone (843) 717-3696

Wanda Simmons
Clerk to County Council
wsimmons@jaspercountysc.gov

Jasper County Council

Staff Information Sheet Regarding Presentation

| | |
|------------------------------|---|
| Council Meeting Date: | 05.06.2024 |
| Project: | Presentation Item # 8 |
| Request: | For presentation, review and discussion |

Description:

On our agenda we have the following item under Presentations Item #8: Beaufort Council Member and Vice Chairperson, Green Space Advisory Committee Alice Howard and Michael McShane, Chairperson, Green Space Advisory Committee. - The Green Space Committee and its effect on Jasper County.

Juliana Smith, Environmental Long Range Planner for Beaufort County has sent over for your packet the following two files. One is the Presentation on the Green Space Program and the other is a packet of Beaufort County Green Space Program ordinances for Jasper County Council to review ahead of the meeting at their leisure to facilitate discussion and questions.

Beaufort County

Green Space Program

Jasper County Council

May 6, 2024

Program History

**May
2022**

**Oct
2022**

**Nov
2022**

**May
2023**

**Aug
2023**

**Dec
2023**

**Mar
2024**

State Adopts
County Green
Space Sales Tax
Law

Beaufort
County
prepares for
Penny Sales
Tax Voter
Referendum
(Ord 2022/39)

Voters approve
Green Space
Penny Sales
Tax

First Meeting of
Advisory
Committee is
held

Program Criteria
and Application
Process is
adopted (Ord
2023/34)

Advisory
Committee
reviews first set
of Applications,
including
Gregorie Neck

Gregorie Neck
is the first
project funded
by the Green
Space Program
(Ord 2024/06)

Out-of-County Projects

Must be managed by the applicant for due diligence and acquisition (i.e. will be processed as a grant by Beaufort County staff), and:

- 1) All applications for procurements outside of Beaufort County shall require a minimum 300 percent (i.e. 3 to 1) match; or**
- 2) If applications for procurements are from a neighboring county that has adopted a green space program or greenbelt program, there shall be a minimum 100 percent (i.e. 1 to 1) match for fee simple procurements, if the neighboring county acts as the applicant**
- 3) A government jurisdictional letter of support or opposition referencing overarching master plans is required**

Ordinance 2023/34



Gregorie Neck Protected!

- **4,400 acres**
- **In Jasper County**
- **Holistic Port Royal
Sound Benefits**
- **Partnership
approach**
- **Leveraging funds**

Contact Green Space Staff

Mark Davis

mark.davis@bcgov.net

Juliana Smith

juliana.smith@bcgov.net

They are available to meet with County staff to answer questions and explain the program

BEAUFORT COUNTY GREEN SPACE PROGRAM

Sec. 38-191. Title.

This article shall be known as the "Beaufort County Green Space Program Ordinance."

Sec. 38-192. Purpose.

It is the purpose of this article to:

- (a) Provide a means by which lands may be protected and enhanced as economic and environmental resources of major importance.
- (b) Encourage landowners to make a voluntary long-term commitment to conservation by offering landowners financial incentives and security of land use.
- (c) Preserve open space; protect critical and natural resources; and/or provide land for recreation.
- (d) Leverage federal, state, local, and private conservation efforts and development rights purchase funds and protect the investment of taxpayers in purchased and donated conservation easements.
- (e) Provide a means whereby rural landowners can maintain and preserve the rural character of their land through land conservation.
- (f) Provide compensation to landowners in exchange for relinquishment, in part or in whole, of their right to develop their private property.
- (g) Reduce and defer the need for major public infrastructure improvements in the county when the expenditure of public funds is the requirement for such improvements.
- (h) Provide for the purchase of fee simple interests in lands deemed critical to provide for the protection of the natural resources, historic and cultural significance, passive recreation, viewsapes and lands suitable for public use in a manner consistent with its conservation values.
- (i) Provide for purchase of development rights and fee simple interest in lands threatened by development, which if it occurs will have detrimental effects on land use patterns, traffic, public safety, stormwater runoff, water quality or other conservation objectives.
- (j) Provide for purchase of development rights on rural lands, which provide protection of natural resources and stability of agricultural, timber, and other open space uses.
- (k) Protect and preserve watersheds; natural habitat for plants and animals.

Sec. 38-193. Types of acquisitions.

Preservation procurements are defined in the Act. They include procuring for preservation, open lands or green spaces which are located within and without, or both within and without, the boundaries of Beaufort County, other counties, municipalities, and special purpose districts by and through the acquisition of interests in real property, including:

- (a) The acquisition of fee simple titles;
 - (b) Conservation easements;
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- (c) Development rights;
 - (d) Rights of first refusal;
 - (e) Options;
 - (f) Leases with options to purchase;
 - (g) Any other interest in real property.

Sec. 38-194. Green space advisory committee membership, terms, organization, term limits; minimum requirements, procedures and geographical representation.

To facilitate preservation procurement purchases council establishes the following committee, sets forth the terms of membership and its organization:

- (a) *[Members to be appointed.]* County council shall appoint a seven-member green space advisory committee as follows:
 - (1) One member who is a member of the county council;
 - (2) One member who is a member of the Beaufort County Legislative Delegation;
 - (3) One member who is knowledgeable about the geography and condition of Beaufort County's land; and
 - (4) Four citizen members, each representing the northern, southern, eastern, and western portions of the county.
 - (b) *Terms of committee members.* Terms of committee members are for four years and until their successors are appointed and qualify, except that the initial terms of the members must be staggered as follows:
 - (1) The initial term of the four citizen members, each representing the northern, southern, eastern, and western portions of the county shall be four years: and
 - (2) The initial term of the member who is a member of county council, the member who is a member of the Beaufort County Legislative Delegation, and the member who is knowledgeable about the geography and condition of Beaufort County's land shall be two years.
 - (c) *Term limits.* No member shall serve two consecutive four-year terms. Members with an initial two-year appointment may seek-reappointment, however, limited to only one four-year term. Regardless of the date of appointment, all terms expire on July 1 of the applicable year. Vacancies must be filled in the manner of original appointments for the unexpired portion of the term.
 - (d) *Minimum requirements.* Each member must possess experience in the areas of natural resources, land development, forestry, finance, land conservation, real estate, or law. Members shall assess considerable experience with and a comprehensive knowledge of the geography and condition of Beaufort County's land, the natural environment land development dynamics, and land preservation and development. Residency is not required of the Beaufort County Legislative Delegation member or of the member who is knowledgeable of the geography and condition of Beaufort County's land.
 - (e) *Procedures.* The green space advisory committee shall meet at minimum quarterly in regularly scheduled meetings and in special meetings as the chair may call. The committee shall elect a chair and vice chair each year at their July meeting or the first meeting thereafter if there is no meeting held in July. Members shall serve without compensation but may receive mileage reimbursements for meetings attended.
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(f) *Conflicts of interest.* Committee members must recuse themselves from any vote in which they have a conflict of interest including, but not limited to, any vote affecting or providing funding for the acquisition of interests in land:

- (1) On land owned or controlled by the committee member, the committee member's immediate family, or an entity the committee member represents, works for, or in which the member has a voting or ownership interest; and
- (2) On land contiguous to land described in item (1) of this subsection; and
- (3) By an eligible trust fund recipient that the committee member represents, works for, or in which the member has a voting or ownership interest.

The provisions of this subsection are cumulative to and not in lieu of provisions of law or applicable rule relating to the ethics of public officers.

(g) *Geographical representation.* For the purposes of geographic representation for the four citizen members. Beaufort County shall be divided into north, south, east and west regional as delineated in map exhibit 38-194(g), below. Citizen members representing the northern southern, eastern, and western portions of the county shall live in their respective regions at the time of their appointment and the entirety of their term. Any member who moves out of their geographic region shall have their appointment terminated. A successor shall be appointed for the unexpired portion of their term. Residency is not required of the Beaufort County Legislative Delegation member or of the member who is knowledgeable of the geography and condition of Beaufort County's land.

(h) *[Ethics clause.]* The committee is a public body, and its members are subject to the South Carolina Ethics Act, as amended, and must perform their duties in accordance with its provisions.

(i) *[Conduct of business.]* The committee must conduct its business in accordance with the South Carolina Freedom of Information Act.

Map Exhibit 38-194(g) Option B



Sec. 38-195. Green space advisory committee duties and responsibilities.

The duties and responsibilities of the green space advisory committee are to:

- (a) Identify stakeholder groups with extensive knowledge of and experience in land preservation to assist with recommendations to the advisory committee on which areas and types of properties to target for acquisition with guidance from the greenprint plan and the comprehensive plan ("stakeholder groups").
- (b) Develop and recommend to county council for adoption program criteria to guide the identification and prioritization of lands to be acquired through the green space program. At a minimum the criteria shall include:

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- (1) That the program is transparent and equally distributes the funds within the county in the interest of Beaufort County residents.
 - (2) For properties which are located outside the geographic boundaries of the county known as Beaufort County, matching funds may be required.
 - (3) Acquisitions of development rights secured through annexations, rezonings, and/or other entitlements occurring after the adoption of this article will be closely scrutinized and use of/access to green space funds may be restricted or prohibited.
 - (4) A jurisdictional letter of support or opposition for projects located in other governmental jurisdictions shall be required at the time of application.
- (c) Develop and recommend to county council an application process that includes a measurable scoring system based on adopted program criteria. When applicable, scoring may at a minimum consist of the following factors:
- (1) The extent to which the acquisition will protect valuable natural resources, habitat, and water quality.
 - (2) Consistency with adopted plans including the Beaufort County Comprehensive Plan and the Greenprint Plan.
 - (3) The extent to which the acquisition will result in the reduction of vehicle miles traveled and reduce the need for future roadway improvements.
 - (4) The extent to which matching funds will be available for applications.
 - (5) For purchases of existing development rights, how recently the property was entitled for development.
- (d) Submit to South Carolina Department of Revenue, council-approved program criteria and application process for acknowledgement.
- (e) Review and recommend to county council green space lands to be acquired based on the adopted program criteria and scoring system (subsections (a) and (b)).
- (f) Perform such other duties as may be assigned by county council.

Sec. 38-196. Method of program and procedures.

The following procedures shall be followed in evaluating preservation procurements:

- (a) *County staff receipt and review of applications.*
 - (1) Applications for participation in the green space program shall be submitted to county staff.
 - (2) County staff, upon determining completeness of the application, shall review and provide a ranking and recommendation to the green space advisory committee based on the adopted program criteria and scoring (subsections 38-195(a) and 38-195(b)).
 - (b) *Review, recommendation, and action to proceed with due diligence and acquisition negotiations.*
 - (1) The green space advisory committee shall review and make recommendations whether to engage in due diligence and acquisition negotiations based upon staff scoring and recommendation.
 - (2) The advisory committee recommendation will be presented to the natural resources committee where a decision to fund due diligence and acquisition negotiations will or will not be approved for each application.
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- (3) If approved by the natural resources committee, county staff will proceed with due diligence and acquisition negotiations.
 - (c) *Review, recommendation and action to proceed with acquisition.*
 - (1) Based on the due diligence and the acquisition negotiations, staff shall make any necessary revisions to the original scoring and recommendation to the green space advisory committee.
 - (2) The green space advisory committee shall review and make recommendations whether to approve funding for acquisitions.
 - (3) The advisory committee's recommendations will be presented to the natural resources committee where a recommendation to acquire will or will not be approved for each application.
 - (4) The natural resources committee's recommendations will be presented to county council for final consideration. Approval will be by resolution.

Sec. 38-197. Due diligence.

All proposed acquisitions will be subject to due diligence being satisfactorily completed, reviewed, and approved by the county. All due diligence shall be initiated and reviewed by appropriate county staff before being sent to county council for action. Due diligence shall include, but may not be limited to:

- (a) An appraisal of the value of the interest being acquired prepared by a member of the appraisal institute (MAI), or other appropriately licensed or certified South Carolina Appraiser.
- (b) A boundary survey completed by a South Carolina Registered Land Surveyor. For purchase of fee simple interests, a topographic survey, tree survey, archaeological survey, or other due diligence items shall also be obtained when appropriate.
- (c) A Phase I environmental assessment by a qualified environmental consulting firm. In instances where the Phase I report so indicates, a Phase II environmental assessment including a plan for any remediation, by the seller or purchaser, is required for the property to address the concerns to the satisfaction of the county.
- (d) When warranted, a title search, title opinion, and/or title insurance commitment with only normal title exceptions will be required.

Sec. 38-198. Conservation easements.

- (a) Conservation easements shall concurrently be placed on property where development rights are being acquired with all documents ready to be filed with the register of deeds.
- (b) The conservation easements shall be granted directly to an appropriate easement holder by the owner or by the county. The green space advisory committee shall recommend appropriate easement terms/language to county council in recordable form.
- (c) The stewardship funding required by the easement holder to defend and provide the necessary annual monitoring required for the easement may be granted by the county for the easement depending on the nature of the agreement reached between the county and the easement holder.
- (d) When the county and Marine Corps Air Station (MCAS) Beaufort collaborate on a purchase of development rights acquisition, an appropriate restrictive easement will be applied to the acquired property.

Sec. 38-199. Reserved.

Sec. 38-200. Green space advisory committee (GSAC) program criteria and application process.

Pursuant to sections 38-192, 38-193, 38-194, 38-195, 38-196, 38-197, and 38-198 the GSAC shall apply the following program criteria and application process to all procurement types.

Sec. 38-201. Application process and deadlines.

- (a) The green space advisory committee (GSAC) will process applications on a quarterly cycle. Prior to an applicant applying, a pre-application/procurement intent meeting is required with staff no later than 15 days prior to the quarterly deadline. If an application is received by staff without having a pre-application/procurement intent meeting first, it shall be deemed incomplete.
- (b) Once an application cycle has closed, staff will have ten days to determine if the submitted application is complete. If the application is not complete, the applicant will have ten days to provide the additional information to be considered for that application cycle. The GSAC will meet to consider complete applications no later than 45 days after each quarterly deadline. The quarterly application deadlines are as follows:
 - January 31
 - April 30
 - July 31
 - October 31
- (c) The green space advisory committee reserves the right to amend the quarterly deadlines at the beginning of each year to best meet the requirements of the program, however, it shall remain a quarterly application cycle.
- (d) Upon written support of both the chair and vice chair of the green space advisory committee, or a majority of the committee, an application can be submitted and reviewed outside of the quarterly cycle, however, this shall only be considered in instances where "time is of the extreme essence" and documented as such.

Sec. 38-202. Program transparency and equitable distribution of funds.

- (a) To ensure that funds are equally distributed within the county as required by the County Green Space Sales Tax Act and by Beaufort County's Green Space Ordinance, an objective set of criteria for the selection of recipients, as set forth herein below, are adopted and will be applied to applications in an open and transparent manner. (See Attorney General Opinion to Hon. Tom Davis, August 8, 2022; Memorandum Letter of Kenneth M. Moffit, Assistant Clerk of the South Carolina Senate and Assistant Director, Senate Research dated July 8, 2022; Memorandum Letter of Jason P. Luther, Chief Legal Offices for the South Carolina Department of Revenue dated July 11, 2022.) In addition to the requirements of each type of procurement set forth further below, consideration shall be given to several factors including, but not limited to, the following when evaluating preservation procurement applications:
 - (1) Geographical dispersion of previous green space funds (northern, southern, eastern, western).
 - (2) Environmental benefits.
 - (3) Avoidance of adverse regional, economic, environmental and service demand impacts.
 - (4) Proximity, connectivity, adjacency to and impact of previous counties and regional conservation investments.

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- (5) Proportional leveraging of funds.
 - (b) Out of county fund expenditures may also be considered. These expenditures are defined as procurements in areas that are not inside the geographical boundaries of Beaufort County. When considering these applications, the program shall take into consideration the equitable impact of the proposed expenditures by identifying the geographical region(s) that the procurement best serves (i.e., the region(s) which experiences the greatest benefit).

Sec. 38-203. Procurement types and minimum application requirements.

The green space program will focus its efforts on the following preservation procurement types; conservation easements, fee simple government purchases for land protections, farmland preservations, natural/scenic/wildlife corridors, and existing planned development/development agreement buydowns. The green space advisory committee will evaluate the merits of each application and determine if additional fund matching is required and if "in-kind" contributions are appropriate.

- (a) Applications for procurements within Beaufort County will be managed by staff for due diligence and acquisition. In these instances, county staff will act as the procuring manager. Beaufort County qualifies as an applicant. The minimum application requirements for procurements within Beaufort County are as follows:
 - (1) Applications for conservation easement procurements shall require a minimum 25 percent match.
 - (2) Applications for fee simple county owned procurements shall require public access/use and may require a match.
 - (3) Applications for fee simple "other government" owned procurements may require public access/use and may require a match.
 - (4) Applications for farmland preservation procurements may require a minimum ten percent match.
 - (5) Applications for natural/scenic/wildlife corridor procurements may require a match.
 - (6) Applications for existing planned development/development agreement buydown procurements (public access) shall require a minimum 100 percent match.
 - (7) Applications for existing planned development/development agreement buydown procurements (no public access) shall require a minimum 200 percent match.
 - (8) Other application types not specifically listed in this section may be considered. For these application types, minimum matching and other requirements will be determined by the green space advisory committee based on the merits of the application.
- (b) Regardless of application type, all applications for procurements outside of Beaufort County will be managed by the applicant for due diligence and acquisition. In these instances, county staff will process the application as a grant request. A detailed application process for funds to be used outside of the county shall be established along with the following minimum application requirements:
 - (1) All applications for procurements outside of Beaufort County shall require a minimum 300 percent match; or
 - (2) If applications for procurements are from a neighboring county that has adopted a green space program or greenbelt program, there shall be a minimum 100 percent match for fee simple government procurements, if the neighboring county acts as the applicant.

Sec. 38-204. Required application types, components, and measurable scoring system.

- (a) Each procurement type shall have its own application as deemed appropriate by staff. The GSAC shall approve each application type. Applications shall consist of a combination of factors to adequately score and rank using a systematic measurable approach. To accomplish this, all application types shall consist of the following components:
 - (1) One-half of the score/rank will be based on a set of numerical values from defined benefits for each application type. The benefits and associated numerical values will be established by the GSAC.
 - (2) One-quarter of the score/rank will be based on sets of questions for each application type. The questions will be tailored to the specific application type and will be established by staff and the GSAC.
 - (3) One-quarter of the score/rank will be based on consistency with relevant overarching master plans (e.g., comprehensive plans, green print plans, etc.) which governmental jurisdictions have adopted.
- (b) These components shall remain intact unless amended by county council.

Sec. 38-205. Minimum procurement requirements by application type and/or location.

- (a) For all applications located in other governmental jurisdictions (within or outside) Beaufort County, a governmental jurisdictional letter of support or opposition shall be required at the time of application. At minimum, other governmental jurisdictions shall consider their relevant overarching master plans that have been adopted.
 - (b) Applications for conservation easements and fee simple procurements by governmental entities shall consider, at minimum, the following as a part of the application review and consideration:
 - (1) Public access and/or public benefit.
 - (2) Proximity and/or connectivity to existing preserved properties.
 - (3) Proximity and/or connectivity to potential future preserved properties.
 - (4) Preservation and/or expansion of intact natural habitats.
 - (5) Existing zoning, partner contributions, etc. to ensure best value.
 - (6) Degree of urgency for the project in terms of protection of resources and/or real estate market.
 - (7) Importance of the project in achieving multiple local, state and/or federal environmental goals.
 - (8) Necessary restrictive covenants and/or easements to be recorded.
 - (c) Applications for farmland preservation procurements, including silviculture, are encouraged. To ensure these lands are adequately protected consistent with state laws and not used in a manner that violates the purposes of the green space ordinance, the following should be considered as a part of the application review and consideration.
 - (1) Land use and stormwater best management practices (BMP's).
 - (2) Sustainable farming and silviculture techniques that protect waterways, waterbodies, and watersheds.
 - (3) Restrictive covenants and/or easements which are recordable, and which run with the land, shall be required.
 - (d) Applications for natural/scenic/wildlife corridor procurements shall consider, at minimum, the following as a part of the application review and consideration:
-

-
- (1) Location along rivers, tidally influenced waterways/wetlands, public road rights-of-way, other roads with public benefits, and/or areas with wildlife habitat.
 - (2) Minimum width and other requirements:
 - a. Two hundred fifty feet wide for natural and/or scenic corridors along public road rights-of-way and other roads with public benefits. These shall be measured from the existing or identified future road right-of-way and already required buffers (if applicable).
 - b. Three hundred feet wide for river and/or tidally influenced waterways/wetland corridors. These shall be measured from the established OCRM critical line and already required buffers which are present at the time of application (if applicable).
 - c. Three hundred feet wide for wildlife corridors and shall require connectivity to other preserved lands.
 - d. GSAC reserves the right to consider procurements in instances when only a small portion of the procurement fails to meet the minimum width requirements through no fault of the applicant, and circumstances are properly documented and justified.
 - (3) May require the removal of existing structures and/or encumbrances that are deemed contrary to the purpose of the procurement and documented prior to appraisal/closing.
 - (4) Shall require restrictions for allowed uses and/or improvements within the corridor.
 - (5) Restrictive covenants and/or easements which are recordable, and which run with the land, shall be required.
- (e) Applications for existing planned development/development agreement buydown procurements shall require, at minimum, the following as a part of the application review and consideration.
- (1) Clearly establish that money will be saved from off-site infrastructure improvements (taxpayer responsible improvements). Developer required off-site improvements shall remain the responsibility of the developer in all instances. To satisfy this requirement, a traffic impact analysis by a county approved firm shall be performed showing how the removal of trips generated will result in reducing required taxpayer off-site infrastructure improvements.
 - (2) Documentation identifying environmental benefits, including, but not limited to, reduction of stormwater runoff quantity, improving water quality, maintained tree canopy coverage, preservation of wildlife habitat, watershed protection, and marsh migration.
 - (3) Consideration for this type of procurement in government jurisdictions that do not have adopted land use policies to prevent other lands from getting upzoned/developed without regard to the buydown, will be closely scrutinized. To help facilitate meaningful procurements, counties and municipalities will have current comprehensive plans with agreed upon/established growth boundaries in place along with adopted zoning and land development regulations. If these fiscally responsible land use policies are not in place, this type of procurement will be subject to a very high level of required matching funds as determined by the green space advisory committee.
 - (4) Provide documentation that the existing planned development/development agreement was approved prior to the adoption of the green space ordinance (October 3, 2022). This will include development rights secured through annexations, rezonings, and/or other entitlements.
 - (5) As previously stated, applications located in other governmental jurisdictions (within or outside) Beaufort County, a governmental jurisdictional letter of support or opposition shall be required at the time of application.
 - (6) Restrictive covenants and/or easements which are recordable, and which run with the land, shall be required and subject to periodic inspections by Beaufort County staff.
-

AGENDA

ITEM # 9

No information provided

AGENDA

ITEM # 10

No information provided

AGENDA

ITEM # 11

**STATE OF SOUTH CAROLINA
JASPER COUNTY**

RESOLUTION NUMBER R-2024-15

RESOLUTION OF JASPER COUNTY COUNCIL

RESOLUTION finding unusual and extraordinary circumstances, pursuant to Section 2-415 (a) of the Jasper County Code of Ordinances, exempting the proposed purchase of goods and/or services required to achieve compliance with certain Minimum Standards for Local Detention Facilities in South Carolina as stated in the March 10, 2023, letter to the Jasper County Council and the accompanying inspection report prepared by the South Carolina Department of Corrections. from the bidding and other requirements of the Jasper County Purchasing and Contracting Ordinance and authorizing the County Administrator to create the contracts and obtain the services on behalf of Jasper County, and matters related thereto.

The goods and/or services required and provided for in this resolution include the following: 1) the services of a plumber and specialized vendor to repair and replace the shower stalls and toilet fixtures throughout the inmate housing facility.

WHEREAS, Jasper County has provided for exempting specific items, services or projects from the purchasing procedures required in the Jasper County Purchasing and Contracting Ordinance (“Purchasing Ordinance”) when, after holding a public hearing, the Council finds that there are unusual or extraordinary circumstances that justify the exemption requested as being in the best interests of the County and its citizens; and

WHEREAS, Jasper County Detention Center was inspected by the South Carolina Department of Corrections in October 26, 2022 and was found deficient in the maintenance and current condition of showers in various housing units in the facility; and

WHEREAS, these non-compliant standards may subject Jasper County employees and detainees at the Detention Center to potentially hazardous health and safety conditions; and

WHEREAS, certain of the deficiencies found in these inspections have been resolved, those listed above need to be addressed and resolved as soon as possible for the health and safety of the employee and detainees that work or are housed in the Jasper County Detention Center; and

WHEREAS, the Detention Center Director and administrative staff have prepared a Corrective Action Plan dated May 12, 2023, and have obtained quotations and estimates for some the corrective action items listed above; and

WHEREAS, it is the opinion of the Jasper County Detention Center Department and the Administration that the interests of Jasper County would best be served by implementing the proposals, estimates and acquisitions compiled by the Detention Center as quickly as possible, and forgoing the public bidding process, which would further delay the corrective responses to the inspection reports; and

WHEREAS, Jasper County Council held a public hearing on May 6, 2024 during which presentations were made by the administration and opportunities for public comment on the proposals and quotations were available, in accordance with the requirements of Section 2-415(a) of the Purchasing Ordinance; and

WHEREAS, Jasper County Council finds the following unusual or extraordinary circumstances justify an exemption from the Purchasing Ordinance:

1. The listed corrective action items in this resolution are to replace equipment and fixtures that are no longer functional, which is a health and sanitation issue.
2. The Detention Center is a highly specialized facility which requires vendor expertise in providing goods and services to such a facility, and therefore, there is often only one qualified provider.
3. The proposals for both the shower stalls and toilet fixtures have been reviewed and recommended by M. B. Kahn Construction Co., Inc., the firm that originally built the Detention Center.

NOW THEREFORE, BE IT RESOLVED by Jasper County Council, in the council duly assembled and by the authority of the same that Jasper County Council hereby is of the belief and finds that it is in the best interest of the County

and its citizens to approve the requested exemption from the Purchasing Ordinance, and finds the matters in the recitals above constitute unusual and extraordinary circumstances; and

FURTHER RESOLVED, the County Administrator, with the assistance of the County Attorney, if necessary, is authorized to complete negotiations and create such appropriate goods and/or services contract documents as are customary and usual, up to maximum amount of \$300,000, and the Administrator is hereby authorized to execute such on behalf of the County; and

FURTHER RESOLVED, expenditures to resolve the deficiencies as outlined above are authorized with the Administrator directed to fund these expenditures through the Fiscal Year 2024 Detention Center budget for Equipment and Building Repairs as well as with carry-over from Fiscal Year 2023 of unexpended amounts for Equipment in the Detention Center departmental budget as recommended by the Finance Director, and if necessary or desirable, such appropriate budget amendments as the County's financial department and/or auditors may recommend.

SIGNATURES FOLLOW

This Resolution No. R-2024-15 made this _____ day of _____, 2024.

L. Martin Sauls, IV
Chairman

ATTEST:

Wanda Simmons
Clerk to Council

Reviewed for form and draftsmanship by the Jasper County Attorney.

David L. Tedder

Date



DELTA PLUMBING LLC
 803-834-9483
 PO Box 511
 Lugoff, SC 29078

Prepared For
 Jasper County Detention Center

Estimate Date
 04/26/2024

Estimate Number
 91951

| Description | Rate | Qty | Line Total |
|---|-------------|-----|--------------------|
| Commercial Plumbing 6 Manual shower units and installation | \$29,900.00 | 1 | \$29,900.00 |
| Subtotal | | | 29,900.00 |
| Tax | | | 0.00 |
| Estimate Total (USD) | | | \$29,900.00 |

Terms

Estimates are valid for 60 days.
 Payment is due when services are rendered.
 Credit/Debit Card payments will be charged a 3.5% processing fee.

Abbreviations:

For the purpose of this Contract "Delta Plumbing LLC" refers to the service provider whose address appears on the face of this Contract, and "Owner" refers to the Property Owner, or their Authorized Representative, of the subject property.

Contract:

Upon execution of this contract this becomes a binding contract between Delta Plumbing LLC and Owner. Delta Plumbing LLC will incur both direct and indirect costs associated with this project. In the event of termination of Contract by Owner, Delta Plumbing LLC shall be paid immediately the greater of (a.) the prorated value of the work completed on behalf of the project including any labor, materials, research, supervision, direct overhead, handling, taxes, pick-up, shipping, delivery and cost of capital; or (b.) liquidated damages not to exceed ten percent (10%) of the Contract amount. While Delta Plumbing LLC is performing the work, Owner shall not enter into a Contract with any other service provider for any other work at the subject property that interferes with Delta Plumbing LLC's ability to perform the work. Delta Plumbing LLC reserves the right to refuse to perform all or part of the scope of work at its sole discretion.

Schedule of Payments:

The amount of deposits and schedule of payments may vary on job-by-job basis. However, all jobs are due

and payable in full when services are rendered.

Credit and Collections:

In the event of non-payment within terms, Delta Plumbing LLC reserves the right to file a Mechanics Claim of Lien for the full amount of work. All accounts over 14 days past due will be subject to a one and one-half percent (1.5%) service charge per month or up to the maximum permitted in the jurisdiction of the property. In the event if any legal actions, Delta Plumbing LLC shall be entitled to collect attorney's fees and all costs of collection. The sole and exclusive venue for any legal action arising from this Contract shall be in the county of Delta Plumbing LLC. As the Owner or Authorized Representative, I/We/Us jointly and severally personally guarantee payment under this agreement.

Returned check fee is \$36.00

Limits of Liability:

Notwithstanding other specific arrangements, Delta Plumbing LLC limits its responsibility for any and all claims of missing or damaged personal property to an aggregate amount of \$250.00 per Contract. It is the sole responsibility of the Owner to inspect personal property for damage or to review any inventory list and document condition prior to and pursuant to handling. Owner agrees to report any claims of damage within 72 hours of handling. Any damage claims after 72 hours will not be considered.

Working Hours:

Normal working hours are Monday through Friday from 8:00 AM to 6:00 PM. Any work, meetings, discussions or consultations outside of these hours may represent additional charges to Owner and are due and payable upon demand.

Warranty:

Delta Plumbing, LLC provides a 1 year labor warranty. Warranty attached. If Delta Plumbing LLC is directed and/or otherwise prevented from completing the work within the prevailing standard of care, Delta Plumbing LLC shall not be responsible for any subsequent defect that arise. Claims for defective workmanship must be sent to Delta Plumbing LLC attention Megan Stevens for consideration. Delta Plumbing LLC reserves the exclusive right to cure any defects within 60 days of receipt of said notice. Delta Plumbing LLC must be provided reasonable and scheduled access to complete the work. No call back repairs will be considered on any account with an outstanding past due balance.

REALTORS: Repair addendums: The protection under this Limited Warranty is provided to homeowner at the time work is performed only and is not transferable to any subsequent homeowners who acquire title.

Our Guarantee:

At Delta Plumbing LLC, we are so confident in the quality of our workmanship that we offer warranties on all services we provide.

Our warranties cover:

- Labor. We guarantee our workmanship for 1 year. This applies only as it relates to specific new parts that we have provided and for the work stated.
- Parts. All new parts that we provide are warranted for one year or as warranted by the manufacturer of the part(s).
- Pipes/Drains. We do not warranty clogged lines or frozen pipes.
- We do not warranty customer supplied parts and/or fixtures.

Delta Plumbing LLC will not be responsible for any damages to real property by the work performed, which may include landscaping, grass, tracks left in yard by equipment, trees, bushes, fences, utility lines or any other real property.



DELTA PLUMBING LLC
 803-834-9483
 PO Box 511
 Lugoff, SC 29078

Prepared For
 Jasper County Detention Center

Estimate Date
 01/30/2024

Estimate Number
 91888

| Description | Rate | Qty | Line Total |
|---|-----------------------------|----------|---------------------|
| Commercial Plumbing Toilet/sink combo units (28 units) Manual units, no water management system is included in this quote. This must be paid up front before ordering of units can be done. | \$92,800.51 | 1 | \$92,800.51 |
| Commercial Plumbing Labor and Material for installation Paid upon completion of installation. | \$98,000.00 | 1 | \$98,000.00 |
| | | Subtotal | 190,800.51 |
| | | Tax | 0.00 |
| | Estimate Total (USD) | | \$190,800.51 |

Terms

Estimates are valid for 60 days.
 Payment is due when services are rendered.
 Credit/Debit Card payments will be charged a 3.5% processing fee.

Abbreviations:

For the purpose of this Contract "Delta Plumbing LLC" refers to the service provider whose address appears on the face of this Contract, and "Owner" refers to the Property Owner, or their Authorized Representative, of the subject property.

Contract:

Upon execution of this contract this becomes a binding contract between Delta Plumbing LLC and Owner. Delta Plumbing LLC will incur both direct and indirect costs associated with this project. In the event of termination of Contract by Owner, Delta Plumbing LLC shall be paid immediately the greater of (a.) the prorated value of the work completed on behalf of the project including any labor, materials, research, supervision, direct overhead, handling, taxes, pick-up, shipping, delivery and cost of capital; or (b.) liquidated damages not to exceed ten percent (10%) of the Contract amount.
 While Delta Plumbing LLC is performing the work, Owner shall not enter into a Contract with any other

service provider for any other work at the subject property that interferes with Delta Plumbing LLC's ability to perform the work. Delta Plumbing LLC reserves the right to refuse to perform all or part of the scope of work at its sole discretion.

Schedule of Payments:

The amount of deposits and schedule of payments may vary on job-by-job basis. However, all jobs are due and payable in full when services are rendered.

Credit and Collections:

In the event of non-payment within terms, Delta Plumbing LLC reserves the right to file a Mechanics Claim of Lien for the full amount of work. All accounts over 14 days past due will be subject to a one and one-half percent (1.5%) service charge per month or up to the maximum permitted in the jurisdiction of the property. In the event if any legal actions, Delta Plumbing LLC shall be entitled to collect attorney's fees and all costs of collection. The sole and exclusive venue for any legal action arising from this Contract shall be in the county of Delta Plumbing LLC. As the Owner or Authorized Representative, I/We/Us jointly and severally personally guarantee payment under this agreement.

Returned check fee is \$36.00

Limits of Liability:

Notwithstanding other specific arrangements, Delta Plumbing LLC limits its responsibility for any and all claims of missing or damaged personal property to an aggregate amount of \$250.00 per Contract. It is the sole responsibility of the Owner to inspect personal property for damage or to review any inventory list and document condition prior to and pursuant to handling. Owner agrees to report any claims of damage within 72 hours of handling. Any damage claims after 72 hours will not be considered.

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Normal working hours are Monday through Friday from 8:00 AM to 6:00 PM. Any work, meetings, discussions or consultations outside of these hours may represent additional charges to Owner and are due and payable upon demand.

Warranty:

Delta Plumbing, LLC provides a 1 year labor warranty. Warranty attached. If Delta Plumbing LLC is directed and/or otherwise prevented from completing the work within the prevailing standard of care, Delta Plumbing LLC shall not be responsible for any subsequent defect that arise. Claims for defective workmanship must be sent to Delta Plumbing LLC attention Megan Stevens for consideration. Delta Plumbing LLC reserves the exclusive right to cure any defects within 60 days of receipt of said notice. Delta Plumbing LLC must be provided reasonable and scheduled access to complete the work. No call back repairs will be considered on any account with an outstanding past due balance.

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Our Guarantee:

At Delta Plumbing LLC, we are so confident in the quality of our workmanship that we offer warranties on all services we provide.

Our warranties cover:

- Labor. We guarantee our workmanship for 1 year. This applies only as it relates to specific new parts that we have provided and for the work stated.
- Parts. All new parts that we provide are warranted for one year or as warranted by the manufacturer of the part(s).
- Pipes/Drains. We do not warranty clogged lines or frozen pipes.
- We do not warranty customer supplied parts and/or fixtures.

Delta Plumbing LLC will not be responsible for any damages to real property by the work performed, which may include landscaping, grass, tracks left in yard by equipment, trees, bushes, fences, utility lines or any other real property.

AGENDA

ITEM # 12

STATE OF SOUTH CAROLINA)
)
JASPER COUNTY)

ORDINANCE NO. _____

AUTHORIZING AN AMENDMENT TO THAT CERTAIN FEE AGREEMENT BY AND BETWEEN JASPER COUNTY, SOUTH CAROLINA AND HARDEEVILLE INDUSTRIAL, LLC, AS SUCCESSOR TO SDKM COMMERCE, LLC, RELATING TO THE INVESTMENT PERIOD THEREUNDER; AND OTHER RELATED MATTERS.

WHEREAS, Jasper County, South Carolina (the “County”), acting by and through its County Council (the “Council”), is authorized by the Code of Laws of South Carolina, 1976, as amended, particularly Title 12, Chapter 44 (the “FILOT Act”): (a) to enter into a fee agreement with companies meeting the requirements of the FILOT Act, which identifies certain property of such companies as economic development property, to induce such companies to locate in the State of South Carolina (the “State”) and to encourage companies now located in the State to expand their investments and thus make use of and employ workers and other resources of the State; and (b) to covenant with such companies to accept certain fees in lieu of *ad valorem* tax payments with respect to projects in the County;

WHEREAS, the County entered into that certain Fee Agreement dated as of February 22, 2022 with SDKM Commerce, LLC, a Delaware limited liability company (“Assignor”) (such Fee Agreement, the “FILOT Agreement”), wherein the County agreed to provide certain incentives with respect to the real property (and improvements and personal property located thereon) currently identified as TMS # 030-00-02-027 (and more particularly described in Exhibit A of the FILOT Agreement);

WHEREAS, pursuant to an Assignment and Assumption of Fee Agreement contemplated to be executed on or about May 31, 2024 among Assignor, the County, and Hardeeville Industrial, LLC (“Assignee”), Assignor will assign its interests in the FILOT Agreement to Assignee, and the County has consented to such assignment;

WHEREAS, Assignee has requested clarity regarding the Commencement Date and Investment Period under the FILOT Agreement (as the FILOT Agreement defines such terms) and has caused to be prepared and presented to the Council an amendment to the FILOT Agreement in the form attached hereto as Exhibit A (the “FILOT Amendment”).

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

Section 1. The Council hereby approves of the FILOT Amendment.

Section 2. The Council hereby authorizes the Chair of the Council and other County staff, along with any designees and agents any of these officials deem necessary and proper, including the County Attorney and County Administrator, in the name of and on behalf of the County (each, “Authorized Individual”), to take whatever further actions, and enter into whatever further agreements, as are allowed by law and as any Authorized Individual deems to be reasonably necessary in connection with this Ordinance to evidence the County’s acknowledgement and consent as described in this Ordinance, including specifically the FILOT Amendment attached hereto as Exhibit A. The FILOT Amendment shall be in substantially the form attached hereto as Exhibit A, with such changes thereto as may be approved by the County Attorney or the County Administrator, such approval to be conclusively evidenced by the County’s execution of the FILOT Amendment.

Section 3. The County acknowledges that: (a) this Ordinance authorizes the County’s consent to the FILOT Amendment; and (b) no further County action is required in order for the FILOT Amendment to be effective.

Section 4. All orders, resolutions, and parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed. This Ordinance shall take effect and be in full force from and after its passage by the Council.

[ONE SIGNATURE PAGE AND ONE EXHIBIT FOLLOW]

Approved and adopted: _____, 2024

JASPER COUNTY, SOUTH CAROLINA

By: _____

L. Martin Sauls, IV
Chair, Jasper County Council

[SEAL]

ATTEST:

By: _____

Wanda H. Giles
Clerk to Council, Jasper County Council

APPROVED AS TO FORM

By: _____

David Tedder
Jasper County Attorney

EXHIBIT A
FORM OF PILOT AMENDMENT

AMENDMENT TO FILOT AGREEMENT

This Amendment to FILOT Agreement (the “FILOT Amendment”) is entered to this ____ day of _____, 2024 by and between JASPER COUNTY, SOUTH CAROLINA (the “County”) and HARDEEVILLE INDUSTRIAL, LLC (the “Company”).

WHEREAS, the County, acting by and through its County Council (the “Council”), is authorized by the Code of Laws of South Carolina, 1976, as amended, particularly Title 12, Chapter 44 (the “FILOT Act”): (a) to enter into a fee agreement with companies meeting the requirements of the FILOT Act, which identifies certain property of such companies as economic development property, to induce such companies to locate in the State of South Carolina (the “State”) and to encourage companies now located in the State to expand their investments and thus make use of and employ workers and other resources of the State; and (b) to covenant with such companies to accept certain fees in lieu of *ad valorem* tax payments with respect to projects in the County;

WHEREAS, the County entered into that certain Fee Agreement dated as of February 22, 2022 with SDKM Commerce, LLC, a Delaware limited liability company (“Assignor”) (the “FILOT Agreement”), wherein the County agreed to provide certain incentives with respect to the real property (and improvements and personal property located thereon) currently identified as TMS # 030-00-02-027 (and more particularly described in Exhibit A of the FILOT Agreement);

WHEREAS, pursuant to that certain Assignment and Assumption of Fee Agreement dated [_____], 2024 among Assignor, the County, and the Company, Assignor assigned its interests in the FILOT Agreement to the Company, and the County consented to such assignment;

WHEREAS, the Company has requested clarity regarding the Commencement Date and Investment Period under the FILOT Agreement (as the FILOT Agreement defines such terms), and by ordinance dated [_____, 2024], the County has approved the execution and delivery of this FILOT Amendment.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Company hereby agree as follows:

1. Section 5.01(p) is hereby added to the FILOT Agreement to provide as follows:

The County and the Company understand that the Commencement Date must begin no later than the last day of the property tax year which is three years from the year in which the County and the Company entered into this Fee-in-Lieu of Tax Agreement (which is December 31, 2025), and the County and Company further agree that this three-year deadline is a deadline for the commencement of the Investment Period, not a deadline for the Company to place assets in service. If, however, it is determined that the three-year deadline is a deadline for the Company to place assets in service and a failure by the Company to do so results in a termination of this Fee-in-Lieu of Tax Agreement, the County and Company agree that this Fee-in-Lieu of Tax Agreement shall be automatically converted, with no further action of the County or Company, to a Special Source Revenue Credit Agreement with special source revenue credits to be determined annually in a

manner that results in the Company receiving exactly the same level of savings that the FILOT incentive and Special Source Revenue Credits under this Fee Agreement would have provided over the same term that the FILOT incentives would have been in place. In such case, the County and Company agree to work in good faith to implement the conversion of the Fee Agreement to a Special Source Revenue Credit Agreement.

2. Except as specifically modified above, the FILOT Agreement remains in full force and effect.

3. This FILOT Amendment is effective as of the date and year first written above.

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

JASPER COUNTY, SOUTH CAROLINA

By: _____
L. Martin Sauls, IV
Chair, Jasper County Council

[SEAL]

ATTEST:

By: _____
Wanda H. Giles
Clerk to Council, Jasper County Council

HARDEEVILLE INDUSTRIAL, LLC

By: _____
Name: _____
Title: _____

STATE OF SOUTH CAROLINA)
)
JASPER COUNTY)

ORDINANCE NO. _____

AUTHORIZING AN AMENDMENT TO THAT CERTAIN FEE AGREEMENT BY AND BETWEEN JASPER COUNTY, SOUTH CAROLINA AND HARDEEVILLE INDUSTRIAL, LLC, AS SUCCESSOR TO SDKM COMMERCE, LLC, RELATING TO THE INVESTMENT PERIOD THEREUNDER; AND OTHER RELATED MATTERS.

WHEREAS, Jasper County, South Carolina (the “County”), acting by and through its County Council (the “Council”), is authorized by the Code of Laws of South Carolina, 1976, as amended, particularly Title 12, Chapter 44 (the “FILOT Act”): (a) to enter into a fee agreement with companies meeting the requirements of the FILOT Act, which identifies certain property of such companies as economic development property, to induce such companies to locate in the State of South Carolina (the “State”) and to encourage companies now located in the State to expand their investments and thus make use of and employ workers and other resources of the State; and (b) to covenant with such companies to accept certain fees in lieu of *ad valorem* tax payments with respect to projects in the County;

WHEREAS, the County entered into that certain Fee Agreement dated as of February 22, 2022 with SDKM Commerce, LLC, a Delaware limited liability company (“Assignor”) (such Fee Agreement, the “FILOT Agreement”), wherein the County agreed to provide certain incentives with respect to the real property (and improvements and personal property located thereon) currently identified as TMS # 030-00-02-027 (and more particularly described in Exhibit A of the FILOT Agreement);

WHEREAS, pursuant to ~~that certain an~~ Assignment and Assumption of Fee Agreement dated [____], 2024 contemplated to be executed on or about May 31, 2024 among Assignor, the County, and Hardeeville Industrial, LLC (“Assignee”), Assignor ~~assigned its will~~ assign its interests in the FILOT Agreement to Assignee, and the County has consented to such assignment;

WHEREAS, Assignee has requested clarity regarding the Commencement Date and Investment Period under the FILOT Agreement (as the FILOT Agreement defines such terms) and has caused to be prepared and presented to the Council an amendment to the FILOT Agreement in the form attached hereto as Exhibit A (the “FILOT Amendment”).

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

Section 1. The Council hereby approves of the FILOT Amendment.

Section 2. The Council hereby authorizes the Chair of the Council and other County staff, along with any designees and agents any of these officials deem necessary and proper, including the County Attorney and County Administrator, in the name of and on behalf of the County (each, “Authorized Individual”), to take whatever further actions, and enter into whatever further agreements, as are allowed by law and as any Authorized Individual deems to be reasonably necessary in connection with this Ordinance to evidence the County’s acknowledgement and consent as described in this Ordinance, including specifically the FILOT Amendment attached hereto as Exhibit A. The FILOT Amendment shall be in substantially the form attached hereto as Exhibit A, with such changes thereto as may be approved by the County Attorney or the County Administrator, such approval to be conclusively evidenced by the County’s execution of the FILOT Amendment.

Section 3. The County acknowledges that: (a) this Ordinance authorizes the County’s consent to the FILOT Amendment; and (b) no further County action is required in order for the FILOT Amendment to be effective.

Section 4. All orders, resolutions, and parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed. This Ordinance shall take effect and be in full force from and after its passage by the Council.

[ONE SIGNATURE PAGE AND ONE EXHIBIT FOLLOW]

Approved and adopted: _____, 2024

JASPER COUNTY, SOUTH CAROLINA

By: _____

L. Martin Sauls, IV
Chair, Jasper County Council

[SEAL]

ATTEST:

By: _____

Wanda H. Giles
Clerk to Council, Jasper County Council

APPROVED AS TO FORM

By: _____

David Tedder
Jasper County Attorney

EXHIBIT A
FORM OF PILOT AMENDMENT

AMENDMENT TO FILOT AGREEMENT

This Amendment to FILOT Agreement (the “FILOT Amendment”) is entered to this ____ day of _____, 2024 by and between JASPER COUNTY, SOUTH CAROLINA (the “County”) and HARDEEVILLE INDUSTRIAL, LLC (the “Company”).

WHEREAS, the County, acting by and through its County Council (the “Council”), is authorized by the Code of Laws of South Carolina, 1976, as amended, particularly Title 12, Chapter 44 (the “FILOT Act”): (a) to enter into a fee agreement with companies meeting the requirements of the FILOT Act, which identifies certain property of such companies as economic development property, to induce such companies to locate in the State of South Carolina (the “State”) and to encourage companies now located in the State to expand their investments and thus make use of and employ workers and other resources of the State; and (b) to covenant with such companies to accept certain fees in lieu of *ad valorem* tax payments with respect to projects in the County;

WHEREAS, the County entered into that certain Fee Agreement dated as of February 22, 2022 with SDKM Commerce, LLC, a Delaware limited liability company (“Assignor”) (the “FILOT Agreement”), wherein the County agreed to provide certain incentives with respect to the real property (and improvements and personal property located thereon) currently identified as TMS # 030-00-02-027 (and more particularly described in Exhibit A of the FILOT Agreement);

WHEREAS, pursuant to that certain Assignment and Assumption of Fee Agreement dated [_____], 2024 among Assignor, the County, and the Company, Assignor assigned its interests in the FILOT Agreement to the Company, and the County consented to such assignment;

WHEREAS, the Company has requested clarity regarding the Commencement Date and Investment Period under the FILOT Agreement (as the FILOT Agreement defines such terms), and by ordinance dated [_____, 2024], the County has approved the execution and delivery of this FILOT Amendment.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Company hereby agree as follows:

1. Section 5.01(p) is hereby added to the FILOT Agreement to provide as follows:

The County and the Company understand that the Commencement Date must begin no later than the last day of the property tax year which is three years from the year in which the County and the Company entered into this Fee-in-Lieu of Tax Agreement (which is December 31, 2025), and the County and Company further agree that this three-year deadline is a deadline for the commencement of the Investment Period, not a deadline for the Company to place assets in service. If, however, it is determined that the three-year deadline is a deadline for the Company to place assets in service and a failure by the Company to do so results in a termination of this Fee-in-Lieu of Tax Agreement, the County and Company agree that this Fee-in-Lieu of Tax Agreement shall be automatically converted, with no further action of the County or Company, to a Special Source Revenue Credit Agreement with special source revenue credits to be determined annually in a

manner that results in the Company receiving exactly the same level of savings that the FILOT incentive and Special Source Revenue Credits under this Fee Agreement would have provided over the same term that the FILOT incentives would have been in place. In such case, the County and Company agree to work in good faith to implement the conversion of the Fee Agreement to a Special Source Revenue Credit Agreement.

2. Except as specifically modified above, the FILOT Agreement remains in full force and effect.

3. This FILOT Amendment is effective as of the date and year first written above.

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

JASPER COUNTY, SOUTH CAROLINA

By: _____
L. Martin Sauls, IV
Chair, Jasper County Council

[SEAL]

ATTEST:

By: _____
Wanda H. Giles
Clerk to Council, Jasper County Council

HARDEEVILLE INDUSTRIAL, LLC

By: _____
Name: _____
Title: _____

AGENDA

ITEM # 13

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

BETWEEN

MOFFETT SOLAR II, LLC

AND

JASPER COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF [], 2024

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**SUMMARY OF CONTENTS OF
FEE AGREEMENT**

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

| PROVISION | BRIEF DESCRIPTION | SECTION REFERENCE |
|---|---|--------------------------|
| Sponsor Name | Moffett Solar II, LLC | Section 1.1 |
| Project Location | Jasper County, South Carolina | Exhibit A |
| Tax Map No. | 059-00-01-003, 050-00-06-005, 050-00-06-002, 059-00-01-033, and 059-00-01-002. | Exhibit A |
| FILOT | | |
| • Phase Exemption Period | 30 years | Section 1.1. |
| • Contract Minimum Investment Target | \$90,000,000 | Section 1.1 |
| • Contract Minimum Jobs Requirement | NA | Section 1.1. |
| • Investment Period | 5 years | Section 1.1 |
| • Assessment Ratio | 6% | Section 4.1(a)(ii) |
| • Millage Rate | .343 | Section 4.1(a)(iii) |
| • Fixed or Five-Year Adjustable Millage | Fixed | Section 4.1(a)(iii) |
| • Claw Back Information | Failure to invest \$2.5 million during the Investment Period terminates the Fee Agreement | |
| Multicounty Park | Kershaw County / Hampton County Multicounty Park | Section 1.1 |
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| • Brief Description | Amount necessary to fix annual fee in-lieu-of-tax payment at \$2,900 per MWac | Exhibit C |
| • Credit Term | Term of the Fee Agreement | Exhibit C |
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FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of [DATE], between Jasper County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Jasper County Council (“*County Council*”) as the governing body of the County, MOFFETT SOLAR II, LLC, a limited liability company organized and existing under the laws of the State of Delaware, and previously known to the County as Project Icarus (“*Sponsor*”).

WITNESSETH:

(a) Title 12, Chapter 44, (“*Act*”) of the Code of Laws of South Carolina, 1976, as amended (“*Code*”), authorizes the County to induce manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises currently located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“*FILOT*”) with respect to Economic Development Property, as defined below;

(b) Sections 4-1-175 and 12-44-70 of the Code authorize the County to provide credits (“*Infrastructure Credit*”) against payments in lieu of taxes for the purpose of defraying of the cost of designing, acquiring, constructing, improving, or expanding (i) the infrastructure serving the County or a project and (ii) for improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise (collectively, “*Infrastructure*”);

(c) The Sponsor has committed to establish a commercial enterprise (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$90,000,000;

(d) By an ordinance enacted on [], 2024, County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Sponsor to locate its Facility in the County.

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

**ARTICLE I
DEFINITIONS**

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

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

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

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT Payments, Infrastructure Credits or other incentives provided by this Fee Agreement brought by third parties or the

Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

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

“**Commencement Date**” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2027.

“**Contract Minimum Investment Target**” means a taxable investment in real and personal property at the Project of not less than \$90,000,000

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

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

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

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

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

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

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

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

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

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

“**Final Output**” shall mean the final power output capacity of the Project as reported to the South Carolina Public Service Commission upon bringing the Project online and measured to the hundredth decimal point in MWac. The Sponsor shall report the Final Output to the County in writing

contemporaneously with its report to the South Carolina Public Service Commission, and upon receipt of the Final Output, the County will calculate the Fixed FILOT Payment.

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

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

“**Final Termination Date**” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2056 the Final Termination Date is expected to be December 31, 2058 which is the due date of the last FILOT Payment with respect to the Final Phase.

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

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

“**Investment Period**” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2032.

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

“**Multicounty Park**” means the multicounty industrial or business park governed by the Agreement for Development of a Joint County Industrial and Business Park (Moffett Solar II), dated as of [May 6, 2024], between the County and Hampton County, South Carolina.

“**MWac**” means megawatts of alternating current.

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

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

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

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

“**Project**” means all the Equipment, Improvements, and Real Property in the County that the Sponsor determines to be necessary, suitable, or useful by the Sponsor in connection with its investment in the County.

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

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

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

“**Special Source Revenue Credit**” means the special source revenue credit provided to the Sponsor pursuant to Section 4-1-175 of the MCIP Act and Section 5.1 of this Fee Agreement, with respect to the Infrastructure. Special Source Revenue Credits are to be used for the payment of the costs of the Infrastructure.

“**Sponsor**” means MOFFETT SOLAR II, LLC and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“**Sponsor Affiliate**” means an entity that participates in the investment [or job creation] at the Project and, following receipt of the County’s approval pursuant to Section 9.1 of this Fee Agreement, joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit B to this Fee Agreement.

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

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

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

ARTICLE II REPRESENTATIONS AND WARRANTIES

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

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The Act authorizes and empowers the County to enter

into the transactions that this Fee Agreement contemplates and to carry out its obligations under this Fee Agreement. The County has duly authorized the execution and delivery of this Fee Agreement and all other documents, certificates or other agreements contemplated in this Fee Agreement and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations under this Fee Agreement.

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

(c) The County identified the Project, as a "project" on April 1, 2024 by adopting an Inducement Resolution, as defined in the Act on April 1, 2024.

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

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

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

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

(b) The Sponsor intends to operate the Project as a solar facility and for such other purposes that the Act permits as the Sponsor may deem appropriate.

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

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

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

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

to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

ARTICLE III THE PROJECT

Section 3.1. *The Project.* The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2027. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the construction or acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

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

Section 3.3. *Filings and Reports.*

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

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

ARTICLE IV FILOT PAYMENTS

Section 4.1. *FILOT Payments.*

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

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion of the Phase, the County and the Sponsor have elected to determine the Real Property's fair market value by appraisal as if the Real Property were not subject to this Fee Agreement, except that such appraisal may not occur more than once every five years) multiplied by
- (ii) An assessment ratio of six percent (6%), multiplied by

- (iii) A fixed millage rate equal to .343, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2023.

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

(b) The FILOT Payment calculated in Section 4.1(a) above shall be referred to as the “Base FILOT Payment.” Subject to the terms and conditions of this Fee Agreement, the Base FILOT Payment shall be adjusted each year to produce the “Net FILOT Payment” due. The Net FILOT Payment that the Company or any Sponsor Affiliate shall be required to pay shall equal the sum during each year of the term of the Fee Agreement set forth on Schedule I. In years in which the Net FILOT Payment is lower than the Base FILOT Payment, an Infrastructure Credit shall be applied to the Base FILOT Payment and shall equal the difference between the Base FILOT Payment and the Net FILOT Payment for such year. In years in which the Net FILOT Payment is higher than the Base FILOT Payment, the Base FILOT Payment shall be increased to equal the Net FILOT Payment.¹ The FILOT Payments shall be in lieu of all *ad valorem* tax payments that would have appeared on the property tax bills otherwise generated by the County in the absence of this Fee Agreement. The FILOT Payments shall not be in lieu of any statutorily authorized fee or charge imposed by the County to support its operations.

The amount of the Net FILOT Payment is based upon the assumption that the Project has a 74.9 MWac capacity rating and that the Company will pay \$2,900 per MW increased 3% on an annual basis with the Net FILOT Payment in years 21 through 30 to be \$3,500. If the capacity rating of the Project changes to either lesser or greater than 74.5 MWac, which change shall be measured as of the last day of the prior fiscal year, the Company shall notify the County, and the Net FILOT Payment shall be adjusted by the same proportion subject to the floor established in this paragraph. For example, and by way of example only, if the Project’s capacity rating is increased to 82.5 MW, the Net FILOT Payment shall be increased by 10%. In no event shall the Net FILOT Payment equal less than 90% of the NET FILOT Payment set forth in a given year on Schedule I.

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

¹ If it is determined that the Company and County may not simply agree upon a higher payment than the Base FILOT Payment, the assessment ratio for any year in which the Net FILOT Payment is higher than the Base FILOT Payment shall be adjusted to an assessment ratio that causes the Base FILOT Payment to equal the Net FILOT Payment.

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

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

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

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

Section 4.4. Damage or Destruction of Economic Development Property.

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

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

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

Section 4.5. Condemnation.

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

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

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

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

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

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

ARTICLE V ADDITIONAL INCENTIVES

Section 5.1. Special Source Revenue Credits. To assist in paying for costs of Special Source Revenue, the Sponsor is entitled to claim a Special Source Revenue Credit to reduce certain FILOT Payments due and owing from the Sponsor to the County under this Fee Agreement. The term, amount and calculation of the Special Source Revenue Credit is described in Exhibit C. In no event may the Sponsor's aggregate Special Source Revenue Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor on Infrastructure.

For each property tax year in which the Special Source Revenue Credit is applicable (“*Credit Term*”), the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment, calculated in accordance with Exhibit C and reflecting the Special Source Revenue Credit. Provided, however, the Sponsor shall be required to report the Final Output to the County prior to the County preparing an annual bill with respect to the Project. Provided further that upon receipt of the Bill, Sponsor agrees to timely remit the Net FILOT Payment.

ARTICLE VI CLAW BACK

Section 6.1. Claw Back. In the event that the cost of the Project (without regard to depreciation) that the Company acquires does not reach the Act Minimum Investment Requirement by the end of the Investment Period, this Fee Agreement shall terminate and the Company shall pay the County an amount pursuant to the Act which is equal to the excess, if any, of (i) the total amount of *ad valorem* taxes as would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the items of property comprising the Economic Development

Property were not Economic Development Property, but with appropriate reductions equivalent to all tax exemptions and abatements to which the Company would be entitled in such a case, through and including the end of the Investment Period, over (ii) the total amount of Net FILOT Payments the Company has made with respect to the Economic Development Property through and including the end of the Investment Period. Any amounts determined to be owing pursuant to the foregoing sentence shall be subject to interest as provided in Section 12-54-25 of the Code. In the event that the Company's investment in the Project attains the Act Minimum Investment Requirement by the end of the Investment Period, but thereafter falls below the Act Minimum Investment Requirement (without regard to depreciation) prior to the Final Termination Date, this Fee Agreement shall terminate.

ARTICLE VII DEFAULT

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

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

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

(c) A Cessation of Operations. For purposes of this Fee Agreement, a "*Cessation of Operations*" means a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;

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

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

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

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

Section 7.2. *Remedies on Default.*

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

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

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

- (i) bring an action for specific enforcement;
- (ii) terminate this Fee Agreement; or
- (iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

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

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

ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS

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

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

Section 8.3. *Indemnification Covenants.*

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

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

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

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

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

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

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

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

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

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

ARTICLE IX SPONSOR AFFILIATES

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

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

**ARTICLE X
MISCELLANEOUS**

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

IF TO THE SPONSOR:

Moffett Solar II, LLC
c/o Hanwha Q CELLS USA Corp.
300 Spectrum Center Drive, Suite 1250
Irvine, CA 92618
Attn: [Patrick Brown]

WITH A COPY TO:

Hanwha Q CELLS USA Corp.
Legal Department
300 Spectrum Center Drive, Suite 1250
Irvine, CA 92618
Attn: General Counsel

IF TO THE COUNTY:

Jasper County, South Carolina
Attn: Jasper County Administrator
P.O. Box 1149
358 Third Avenue
Ridgeland, South Carolina 29936

WITH A COPY TO (does not constitute notice):

Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones
1221 Main Street, Suite 1100 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509

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

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

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

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

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

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

Section 10.8. Interpretation; Invalidity; Change in Laws.

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

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

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

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

Section 10.10. Termination; Termination by Sponsor.

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

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

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

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

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

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

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

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

[Signature pages follow]

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

JASPER COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair
Jasper County, South Carolina

ATTEST:

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

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

MOFFETT SOLAR II, LLC

By: _____
Its: _____

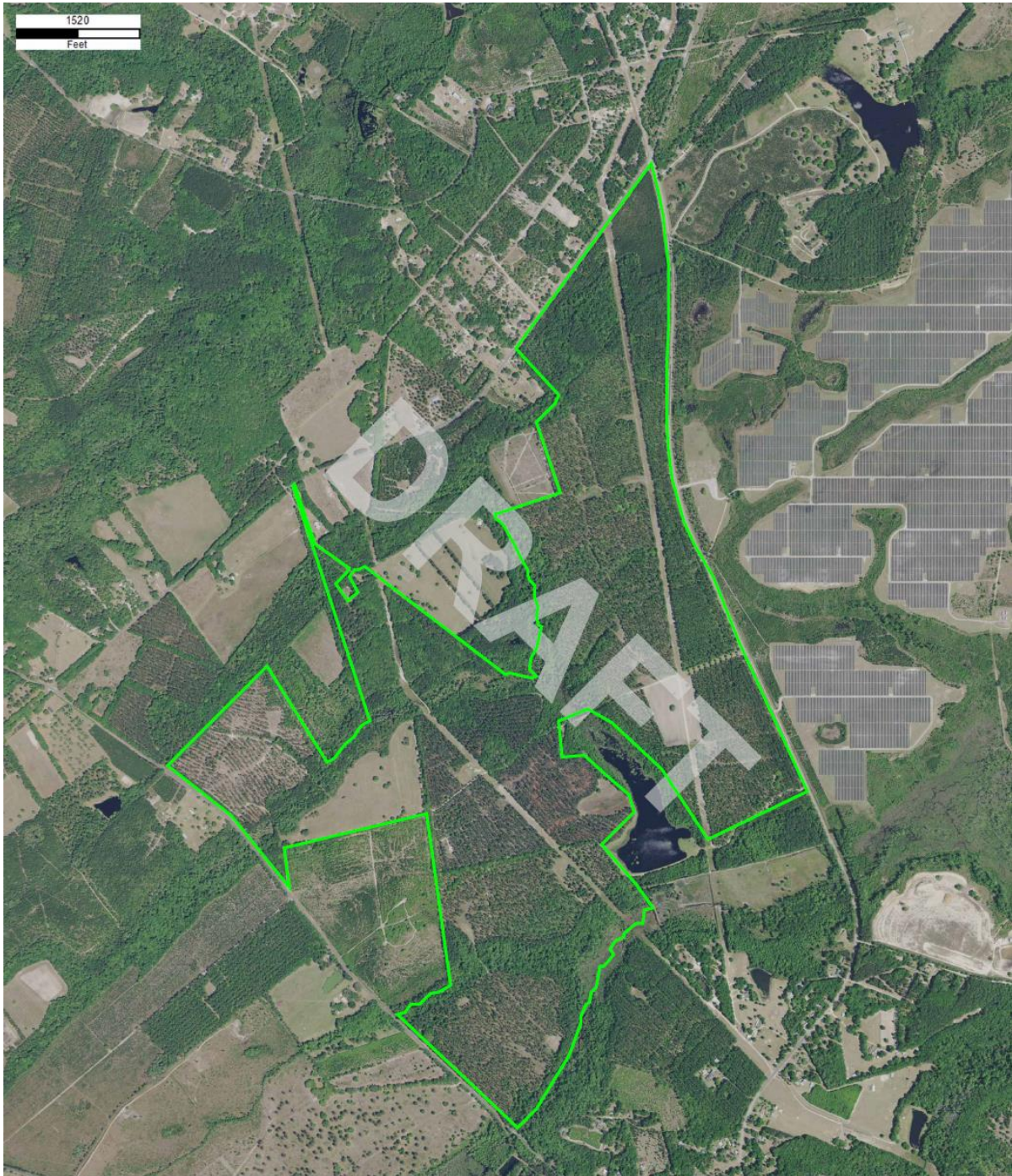
[Signature Page 2 to Fee in Lieu of Ad Valorem Taxes [and Incentive] Agreement]

SCHEDULE I
NET FILOT PAYMENTS

| Year | FILOT Payments |
|------|----------------|
| 1 | \$217,500.00 |
| 2 | 224,025.00 |
| 3 | 230,746.00 |
| 4 | 237,668.00 |
| 5 | 244,798.00 |
| 6 | 252,142.00 |
| 7 | 259,706.00 |
| 8 | 267,498.00 |
| 9 | 275,522.00 |
| 10 | 283,788.00 |
| 11 | 292,302.00 |
| 12 | 301,071.00 |
| 13 | 310,103.00 |
| 14 | 319,406.00 |
| 15 | 328,988.00 |
| 16 | 338,858.00 |
| 17 | 349,024.00 |
| 18 | 359,494.00 |
| 19 | 370,279.00 |
| 20 | 381,388.00 |
| 21 | 3,500.00 |
| 22 | 3,500.00 |
| 23 | 3,500.00 |
| 24 | 3,500.00 |
| 25 | 3,500.00 |
| 26 | 3,500.00 |
| 27 | 3,500.00 |
| 28 | 3,500.00 |
| 29 | 3,500.00 |
| 30 | 3,500.00 |

EXHIBIT A
PROPERTY DESCRIPTION

Parcel Identification Numbers (PINs) 059-00-01-003 (139.9 acres), 050-00-06-005 (3.7 acres), 050-00-06-002 (87.6 acres), 059-00-01-033 (47.6 acres), and 059-00-01-002 (461.8 acres), respectively. In total, the subject property is approximately 740.6 acres.



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

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective [DATE] (“Fee Agreement”), between Jasper County, South Carolina (“County”) and MOFFETT SOLAR II, LLC (“Sponsor”).

1. Joinder to Fee Agreement.

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

2. Capitalized Terms.

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

3. Representations of the Sponsor Affiliate.

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

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

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

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

4. Governing Law.

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

5. Notice.

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

[_____]

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

Date

Name of Entity
By: _____
Its: _____

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

JASPER COUNTY, SOUTH CAROLINA

By: _____
Its: _____

EXHIBIT C (see Section 5.1)
DESCRIPTION OF SPECIAL SOURCE REVENUE CREDIT

A Special Source Revenue Credit in an amount necessary in each year to yield the Net FILOT Payment described in Section 4.1(b) for the Project through the period ending on the Phase Termination Date for the final Phase of the Project.

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

BETWEEN

MOFFETT SOLAR II, LLC

AND

JASPER COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF [], 2024

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**SUMMARY OF CONTENTS OF
FEE AGREEMENT**

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

| PROVISION | BRIEF DESCRIPTION | SECTION REFERENCE |
|---|---|--------------------------|
| Sponsor Name | Moffett Solar II, LLC | Section 1.1 |
| Project Location | Jasper County, South Carolina | Exhibit A |
| Tax Map No. | 059-00-01-003, 050-00-06-005, 050-00-06-002, 059-00-01-033, and 059-00-01-002. | Exhibit A |
| FILOT | | |
| • Phase Exemption Period | 30 years | Section 1.1. |
| • Contract Minimum Investment Target | \$90,000,000 | Section 1.1 |
| • Contract Minimum Jobs Requirement | NA | Section 1.1. |
| • Investment Period | 5 years | Section 1.1 |
| • Assessment Ratio | 6% | Section 4.1(a)(ii) |
| • Millage Rate | .343 | Section 4.1(a)(iii) |
| • Fixed or Five-Year Adjustable Millage | Fixed | Section 4.1(a)(iii) |
| • Claw Back Information | Failure to invest \$2.5 million during the Investment Period terminates the Fee Agreement | |
| Multicounty Park | Kershaw County / Hampton County Multicounty Park | Section 1.1 |
| Special Source Revenue Credit | | |
| • Brief Description | Amount necessary to fix annual fee in-lieu-of-tax payment at \$2,900 per MWac | Exhibit C |
| • Credit Term | Term of the Fee Agreement | Exhibit C |
| • Claw Back Information | Failure to invest \$2.5 million during the Investment Period terminates the Fee Agreement | Exhibit D |

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of [DATE], between Jasper County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Jasper County Council (“*County Council*”) as the governing body of the County, MOFFETT SOLAR II, LLC, a limited liability company organized and existing under the laws of the State of Delaware, and previously known to the County as Project Icarus (“*Sponsor*”).

WITNESSETH:

(a) Title 12, Chapter 44, (“*Act*”) of the Code of Laws of South Carolina, 1976, as amended (“*Code*”), authorizes the County to induce manufacturing and commercial enterprises to locate in the State or to encourage manufacturing and commercial enterprises currently located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“*FILOT*”) with respect to Economic Development Property, as defined below;

(b) Sections 4-1-175 and 12-44-70 of the Code authorize the County to provide credits (“*Infrastructure Credit*”) against payments in lieu of taxes for the purpose of defraying of the cost of designing, acquiring, constructing, improving, or expanding (i) the infrastructure serving the County or a project and (ii) for improved and unimproved real estate, and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise (collectively, “*Infrastructure*”);

(c) The Sponsor has committed to establish a commercial enterprise (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$90,000,000;

(d) By an ordinance enacted on [], 2024, County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Sponsor to locate its Facility in the County.

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

ARTICLE I DEFINITIONS

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

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

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

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including reasonable attorney’s and consultant’s fees. Administration Expenses does not include any costs, expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT

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

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

“**Commencement Date**” means the last day of the property tax year during which Economic Development Property is placed in service-~~attorney~~. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2027.

“**Contract Minimum Investment Target**” means a taxable investment in real and personal property at the Project of not less than \$90,000,000

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

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

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

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

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

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

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

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

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

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

“**Final Output**” shall mean the final power output capacity of the Project as reported to the South Carolina Public Service Commission upon bringing the Project online and measured to the hundredth decimal point in MWac. The Sponsor shall report the Final Output to the County in writing

contemporaneously with its report to the South Carolina Public Service Commission, and upon receipt of the Final Output, the County will calculate the Fixed FILOT Payment.

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

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

“**Final Termination Date**” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2056 the Final Termination Date is expected to be December 31, 2058 which is the due date of the last FILOT Payment with respect to the Final Phase.

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

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

“**Investment Period**” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2032.

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

“**Multicounty Park**” means the multicounty industrial or business park governed by the Agreement for Development of a Joint County Industrial and Business Park (Moffett Solar II), dated as of [May 6, 2024], between the County and Hampton County, South Carolina.

“**MWac**” means megawatts of alternating current.

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

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

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

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

“**Project**” means all the Equipment, Improvements, and Real Property in the County that the Sponsor determines to be necessary, suitable, or useful by the Sponsor in connection with its investment in the County.

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

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

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

“**Special Source Revenue Credit**” means the special source revenue credit provided to the Sponsor pursuant to Section 4-1-175 of the MCIP Act and Section 5.1 of this Fee Agreement, with respect to the Infrastructure. Special Source Revenue Credits are to be used for the payment of the costs of the Infrastructure.

“**Sponsor**” means MOFFETT SOLAR II, LLC and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“**Sponsor Affiliate**” means an entity that participates in the investment [or job creation] at the Project and, following receipt of the County’s approval pursuant to Section 9.1 of this Fee Agreement, joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit B to this Fee Agreement.

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

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

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

ARTICLE II REPRESENTATIONS AND WARRANTIES

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

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

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

(c) The County identified the Project, as a "project" on April 1, 2024 by adopting an Inducement Resolution, as defined in the Act on April 1, 2024.

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

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

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

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

(b) The Sponsor intends to operate the Project as a solar facility and for such other purposes that the Act permits as the Sponsor may deem appropriate.

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

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

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

(f) The Sponsor has retained legal counsel to confirm, or has had a reasonable opportunity to consult legal counsel to confirm, its eligibility for the FILOT and other incentives granted by this Fee

Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

ARTICLE III THE PROJECT

Section 3.1. *The Project.* The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2027. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the construction or acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

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

Section 3.3. *Filings and Reports.*

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

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

ARTICLE IV FILOT PAYMENTS

Section 4.1. *FILOT Payments.*

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

(i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion of the Phase, the County and the Sponsor have elected to determine the Real Property's fair market value by appraisal as if the Real Property were not subject to this Fee Agreement, except that such appraisal may not occur more than once every five years) multiplied by

(ii) An assessment ratio of six percent (6%), multiplied by

- (iii) A fixed millage rate equal to .343, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2023.

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

(b) The FILOT Payment calculated in Section 4.1(a) above shall be referred to as the “Base FILOT Payment.” Subject to the terms and conditions of this Fee Agreement, the Base FILOT Payment shall be adjusted each year to produce the “Net FILOT Payment” due. The Net FILOT Payment that the Company or any Sponsor Affiliate shall be required to pay shall equal the sum during each year of the term of the Fee Agreement set forth on Schedule I. In years in which the Net FILOT Payment is lower than the Base FILOT Payment, an Infrastructure Credit shall be applied to the Base FILOT Payment and shall equal the difference between the Base FILOT Payment and the Net FILOT Payment for such year. In years in which the Net FILOT Payment is higher than the Base FILOT Payment, the Base FILOT Payment shall be increased to equal the Net FILOT Payment.¹ The FILOT Payments shall be in lieu of all *ad valorem* tax payments that would have appeared on the property tax bills otherwise generated by the County in the absence of this Fee Agreement. The FILOT Payments shall not be in lieu of any statutorily authorized fee or charge imposed by the County to support its operations.

The amount of the Net FILOT Payment is based upon the assumption that the Project has a ~~75~~74.9 MWac capacity rating and that the Company will pay \$2,900 per MW increased ~~3~~3% on an ~~annual~~ basis with the Net FILOT Payment in years 21 through 30 to be \$3,500. If the capacity rating of the Project changes to either lesser or greater than ~~75~~74.5 MWac, which change shall be measured as of the last day of the prior fiscal year, the Company shall notify the County, and the Net FILOT Payment shall be adjusted by the same proportion subject to the floor established in this paragraph. For example, and by way of example only, if the Project’s capacity rating is increased to 82.5 MW, the Net FILOT Payment shall be increased by 10%. In no event shall the Net FILOT Payment equal less than 90% of the NET FILOT Payment set forth in a given year on Schedule I.

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

¹ If it is determined that the Company and County may not simply agree upon a higher payment than the Base FILOT Payment, the assessment ratio for any year in which the Net FILOT Payment is higher than the Base FILOT Payment shall be adjusted to an assessment ratio that causes the Base FILOT Payment to equal the Net FILOT Payment.

Agreement shall terminate, and the Sponsor shall owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.7.

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

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

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

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

Section 4.4. Damage or Destruction of Economic Development Property.

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

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

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

Section 4.5. Condemnation.

(a) *Complete Taking.* If at any time during the Fee Term title to or temporary use of the Economic Development Property is vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a portion of the Economic Development Property which renders continued use or occupancy of the Economic Development Property commercially

unfeasible in the judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting.

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

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

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

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

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

ARTICLE V ADDITIONAL INCENTIVES

Section 5.1. Special Source Revenue Credits. To assist in paying for costs of Special Source Revenue, the Sponsor is entitled to claim a Special Source Revenue Credit to reduce certain FILOT Payments due and owing from the Sponsor to the County under this Fee Agreement. The term, amount and calculation of the Special Source Revenue Credit is described in Exhibit C. In no event may the Sponsor's aggregate Special Source Revenue Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor on Infrastructure.

For each property tax year in which the Special Source Revenue Credit is applicable ("**Credit Term**"), the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment, calculated in accordance with Exhibit C and reflecting the Special Source Revenue Credit. Provided, however, the Sponsor shall be required to report the Final Output to the County prior to the County preparing an annual bill with respect to the Project. Provided further that upon receipt of the Bill, Sponsor agrees to timely remit the Net FILOT Payment.

ARTICLE VI CLAW BACK

Section 6.1. Claw Back. In the event that the cost of the Project (without regard to depreciation) that the Company acquires does not reach the Act Minimum Investment Requirement by the end of the

Investment Period, this Fee Agreement shall terminate and the Company shall pay the County an amount pursuant to the Act which is equal to the excess, if any, of (i) the total amount of *ad valorem* taxes as would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the items of property comprising the Economic Development Property were not Economic Development Property, but with appropriate reductions equivalent to all tax exemptions and abatements to which the Company would be entitled in such a case, through and including the end of the Investment Period, over (ii) the total amount of Net FILOT Payments the Company has made with respect to the Economic Development Property through and including the end of the Investment Period. Any amounts determined to be owing pursuant to the foregoing sentence shall be subject to interest as provided in Section 12-54-25 of the Code. In the event that the Company's investment in the Project attains the Act Minimum Investment Requirement by the end of the Investment Period, but thereafter falls below the Act Minimum Investment Requirement (without regard to depreciation) prior to the Final Termination Date, this Fee Agreement shall terminate.

ARTICLE VII DEFAULT

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

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

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

(c) A Cessation of Operations. For purposes of this Fee Agreement, a "***Cessation of Operations***" means a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;

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

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

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

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

Section 7.2. Remedies on Default.

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

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

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

- (i) bring an action for specific enforcement;
- (ii) terminate this Fee Agreement; or
- (iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

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

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

**ARTICLE VIII
PARTICULAR RIGHTS AND COVENANTS**

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

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

prior to making such disclosure, and to cooperate reasonably with any attempts by the Sponsor to obtain judicial or other relief from such disclosure requirement.

Section 8.3. Indemnification Covenants.

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

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

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

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

(e) An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the circumstances, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

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

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

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

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

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

ARTICLE IX SPONSOR AFFILIATES

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

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

Payment or remit any other amount due under this Fee Agreement, the Sponsor shall make such FILOT Payments or remit such other amounts on behalf of the Sponsor Affiliate.

**ARTICLE X
MISCELLANEOUS**

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

IF TO THE SPONSOR:

Moffett Solar II, LLC
c/o Hanwha Q CELLS USA Corp.
300 Spectrum Center Drive, Suite 1250
Irvine, CA 92618
Attn: [Patrick Brown]

WITH A COPY TO:

Hanwha Q CELLS USA Corp.
Legal Department
300 Spectrum Center Drive, Suite 1250
Irvine, CA 92618
Attn: General Counsel

IF TO THE COUNTY:

Jasper County, South Carolina
Attn: Jasper County Administrator
P.O. Box 1149
358 Third Avenue
Ridgeland, South Carolina 29936

WITH A COPY TO (does not constitute notice):

Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones
1221 Main Street, Suite 1100 (29201)
Post Office Box 1509
Columbia, South Carolina 29202-1509

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

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

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

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

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

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

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

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

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

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

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

Section 10.10. *Termination; Termination by Sponsor.*

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

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

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

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

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

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

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

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

[Signature pages follow]

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

JASPER COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair
Jasper County, South Carolina

ATTEST:

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

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

MOFFETT SOLAR II, LLC

By: _____
Its: _____

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

SCHEDULE I
NET FILOT PAYMENTS

| Year | FILOT Payments |
|-------------|-----------------------|
| 1 | \$217,500.00 |
| 2 | 224,025.00 |
| 3 | 230,746.00 |
| 4 | 237,668.00 |
| 5 | 244,798.00 |
| 6 | 252,142.00 |
| 7 | 259,706.00 |
| 8 | 267,498.00 |
| 9 | 275,522.00 |
| 10 | 283,788.00 |
| 11 | 292,302.00 |
| 12 | 301,071.00 |
| 13 | 310,103.00 |
| 14 | 319,406.00 |
| 15 | 328,988.00 |
| 16 | 338,858.00 |
| 17 | 349,024.00 |
| 18 | 359,494.00 |
| 19 | 370,279.00 |
| 20 | 381,388.00 |
| 21 | 3,500.00 |
| 22 | 3,500.00 |
| 23 | 3,500.00 |
| 24 | 3,500.00 |
| 25 | 3,500.00 |
| 26 | 3,500.00 |
| 27 | 3,500.00 |
| 28 | 3,500.00 |
| 29 | 3,500.00 |
| 30 | 3,500.00 |

EXHIBIT A
PROPERTY DESCRIPTION

Parcel Identification Numbers (PINs) 059-00-01-003 (139.9 acres), 050-00-06-005 (3.7 acres), 050-00-06-002 (87.6 acres), 059-00-01-033 (47.6 acres), and 059-00-01-002 (461.8 acres), respectively. In total, the subject property is approximately 740.6 acres.

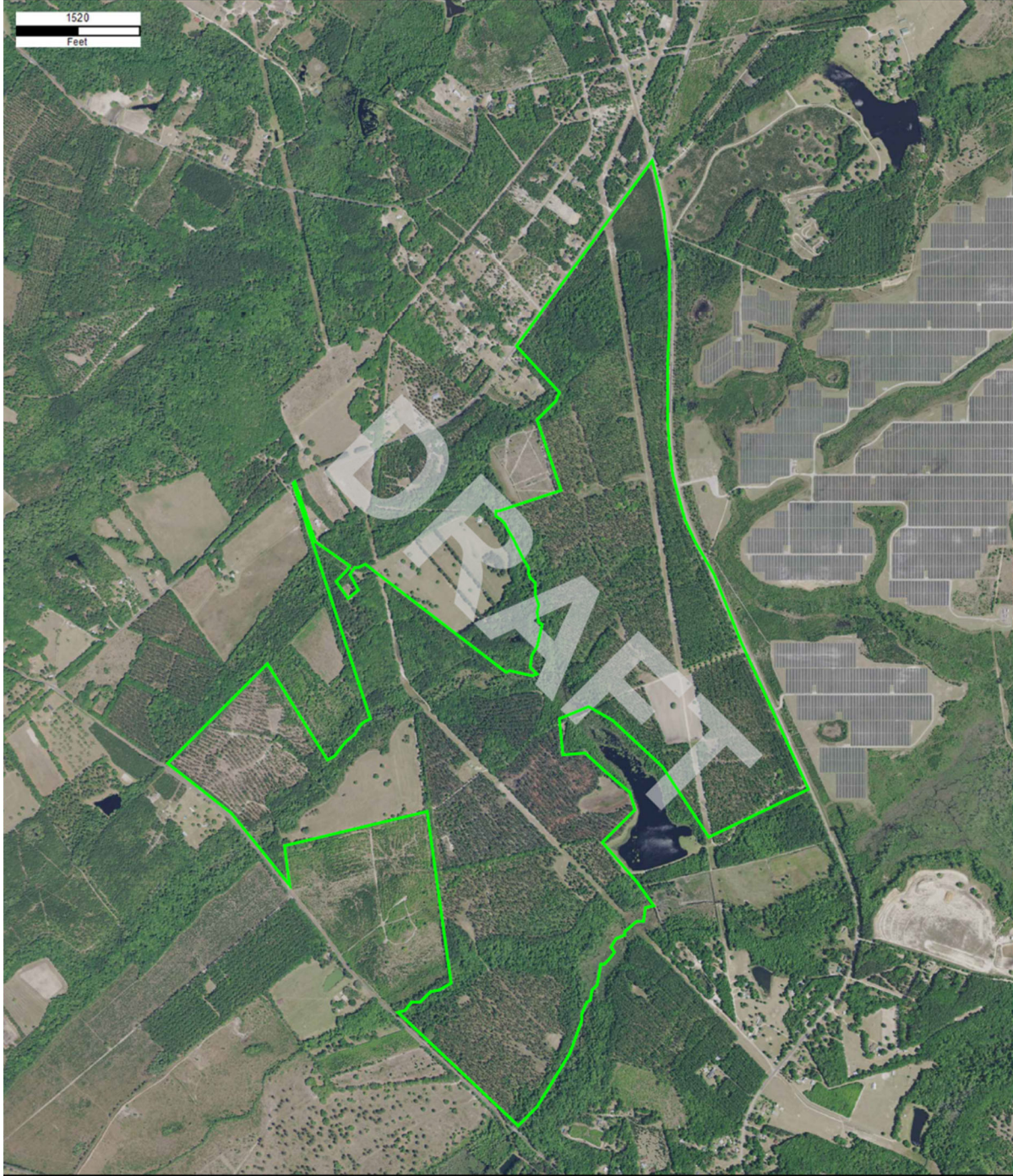


EXHIBIT B (see Section 9.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective [DATE] (“Fee Agreement”), between Jasper County, South Carolina (“County”) and MOFFETT SOLAR II, LLC (“Sponsor”).

1. Joinder to Fee Agreement.

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

2. Capitalized Terms.

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

3. Representations of the Sponsor Affiliate.

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

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

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

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

4. Governing Law.

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

5. Notice.

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

[_____]

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

Date

Name of Entity
By: _____
Its: _____

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

JASPER COUNTY, SOUTH CAROLINA

By: _____
Its: _____

EXHIBIT C (see Section 5.1)
DESCRIPTION OF SPECIAL SOURCE REVENUE CREDIT

A Special Source Revenue Credit in an amount necessary in each year to yield the Net FILOT Payment described in Section 4.1(b) for the Project through the period ending on the Phase Termination Date for the final Phase of the Project.

| | |
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| Summary report: | |
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| Style name: Default Style | |
| Intelligent Table Comparison: Active | |
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| Modified filename: Jasper County (Moffett Solar II) - FILOT Agreement (HQC 4.22.24) v2.docx | |
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| <u>Move To</u> | 0 |
| <u>Table Insert</u> | 0 |
| Table Delete | 0 |
| <u>Table moves to</u> | 0 |
| Table moves from | 0 |
| Embedded Graphics (Visio, ChemDraw, Images etc.) | 0 |
| Embedded Excel | 0 |
| Format changes | 0 |
| Total Changes: | 10 |

**MOFFETT SOLAR
DEVELOPMENT AGREEMENT
BY AND BETWEEN**

**MOFFETT SOLAR II, LLC,
AND
JASPER COUNTY, SOUTH CAROLINA**

____, 2024

**DEVELOPMENT AGREEMENT
BY AND BETWEEN
MOFFETT SOLAR II, LLC
AND
JASPER COUNTY, SOUTH CAROLINA**

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EXHIBITS

- Exhibit A: Legal Description
- Exhibit B: Boundary Plat
- Exhibit C: Development Schedule
- Exhibit D: Current Regulations
- Exhibit E: Development Agreement Ordinance
- Exhibit F: Form Partial Assignment and Assumption of Rights
- Exhibit G: Fee Schedules
- Exhibit H: Legal and Equitable Owners

DEVELOPMENT AGREEMENT

**BY AND BETWEEN
MOFFETT SOLAR 1, LLC,
AND
JASPER COUNTY, SOUTH CAROLINA,**

This DEVELOPMENT AGREEMENT (together with the Exhibits attached hereto, the “Agreement”) is entered into effective as of the ___ day of _____, 2024, which shall be the date of recording of this fully approved and executed Agreement (the “Effective Date”), by and between Moffett Solar II, LLC, a Delaware limited liability corporation (the “Property Owner”), and Jasper County, a political subdivision of the State of South Carolina (the “County”).

RECITALS

This Agreement is predicated upon the following:

I. The Code of Laws of South Carolina (the “S.C. Code”) Sections 6-31-10 through 6-31-160, as it exists on the Effective Date of this Agreement (the “Act”), enables political subdivisions of the State of South Carolina to enter into binding development agreements with entities intending to develop real property under certain conditions set forth in the Act.

II. Article IV, Title 20 of the Code of Ordinances of Jasper County governs Jasper County’s participating in development agreements.

III. The County conducted public hearings regarding its consideration of this Agreement on April 15, 2024, and May 6, 2024, after publishing and announcing notice, in accordance with the Act.

IV. County Council adopted Ordinance Number 2024- on April 15, 2024, (a) determining that this Agreement is consistent with the County Comprehensive Plan, the Act, and the Current Regulations of

the County, and (b) approving this Agreement. A copy of the Ordinance is attached hereto as Exhibit E, and incorporated herein by reference.

NOW THEREFORE, in consideration of the premises of this Agreement and the mutual benefits to the parties, the parties agree as follows:

1. The Real Property. The Real Property subject to this Agreement currently consists of approximately seven hundred forty acres and six tenths (740.6) acres. A legal description of the Real Property is set forth in Exhibit A, and the boundary lines of the property are shown on the plat attached as Exhibit B.

2. Definitions. In this Agreement, unless the word or phrase is non-capitalized:

(a) “Agreement” means this Development Agreement, including the recitals and exhibits attached hereto.

(b) “Annual Development Fee” means that minimum payment made to Jasper County by the Owner, its successors or assigns pursuant to Paragraph 14 herein.

(c) “Comprehensive Plan” means The Jasper County Comprehensive Plan, Ordinance 06-030, adopted on April 2, 2007, pursuant to S.C. Code Section 6-29-510, et seq., as amended, and recorded in the Jasper County Register of Deeds Office in Book 888 at Page 246; Ordinance No. 2016-23, adopted by County Council on September 6, 2016; and the official zoning map adopted pursuant to S.C. Code Section 6-7-1210 et seq.

(d) “County” means Jasper County, South Carolina.

(e) “Current Regulations” mean the Comprehensive Plan; the Zoning Ordinance of Jasper County, Ordinance 07-48; the Solar Farm Floating Zone Ordinance; Ordinance No. 2016-21, adopted by County Council on September 26, 2016; and the Jasper County Land Development Regulations, Ordinance

Number 07-47; all as amended through the Effective Date hereof. “Current Regulations” do not include subdivision plat and development plan procedural processes and fees.

(f) “Development” means the planning for or carrying out of a building activity or mining operation, the making of a material change in the use or appearance of any structure or property, or the dividing of land into parcels. “Development,” as designated in a law or development permit, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, “Development” refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(g) “Development Parcel” means any tract of land on which Development may occur, including platted Lots and unplatted parcels, but excluding street rights-of-way.

(h) “Development Permit” includes a County building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or and any other official action of the County having the effect of permitting the Development or use of Real Property.

(i) “Facilities” means major capital improvements to be constructed on the Real Property including, but not limited to, transportation, sanitary sewer, solid waste, drainage, and potable water. Except as may be specifically provided for in this Agreement, and in consideration, in part, of the fees to be paid to Jasper County pursuant to Section 14, the Property Owner is specifically exempted from any County requirement for the provision of facilities relating to public education, public health systems and facilities, libraries, parks and recreational facilities, public housing, jails and other detention sites, courts, and police. Such exemptions shall not, however, exempt Property Owner from payment of applicable user, tap and impact fees, respectively, for any such facilities.

(j) “Land Development Regulations” means ordinances and regulations enacted by County Council for the regulation of any aspect of Development and include County zoning, rezoning, subdivision, building construction, sign regulations or any other regulations controlling the Development or use of Real Property.

(k) “Law” means all ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies and rules, custom and usage (formal and informal) adopted by the County Council affecting the Development of Real Property, and includes laws governing permitted uses of the Real Property, governing density, and governing design, improvement, and construction standards and specifications, except those regarding the provision of electricity or gas service, including, but not limited to, the generation, transmission, distribution, or provision of electricity at wholesale, retail or in any other capacity.

(l) “Lot” means a Development Parcel identified in a Subdivision Plat recorded in the Jasper County Register of Deeds Office.

(m) “Parcel” means any of those tracts of Real Property that are identified on the Boundary Plat, attached as Exhibit B, as same may be specifically identified by the filing of a subdivision application.

(n) “Parties” means the Property Owner and the County.

(o) “Permits” include any and all governmental or other permits, consents, approvals, certifications, licenses, authorizations, utility connections, annexation, zoning, special use, certificate of designation or other land use designation as may be necessary to allow Property Owner or its assignee to operate a solar farm or other permitted facility or operation for which no appeal has been taken within the time required by law.

(p) “Project” is the Development that will occur within and upon the Real Property described in Exhibit A and Exhibit B.

(q) “Property Owner” means Moffett Solar II, LLC, a Delaware limited liability corporation, who has an equitable interest in the Real Property, together with all subsidiaries and other entities that have legal or equitable interest on the date of execution hereof in any of the Real Property as described in Section 5, and includes Moffett Solar II, LLC’s successors in interest or successors in title and/or assigns by virtue of assignment or other instrument pursuant to Section 28 hereof

(r) “Real Property” is the real property referred to in Section 1 and Section 5 and includes any improvements or structures customarily regarded as part of real property.

(s) “Solar Farm Floating Zone” means the floating zone established by Jasper County Council via Jasper County Council Ordinance No. 2016-13, adopted on July 18, 2016.

(t) “Subdivision Plat” means a recorded graphic description of property prepared and approved in compliance with the Current Regulations, as modified in this Agreement.

(u) “Term” shall have the meaning set forth in Section 16 of this Agreement.

(v) “Vested Rights” shall have meaning set in section 9(b) of this agreement.

3. Compliance with South Carolina Code Section 6-31-60. Pursuant to South Carolina Code Section 6-31-60, a list of all individuals/entities with an equitable or legal interest in the Real Property is attached hereto as Exhibit H.

4. Relationship of the Parties. This Agreement creates a contractual relationship among the Parties. This Agreement is not intended to create, and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship where one party may be held responsible for acts of the other party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of the Property Owner constitutes “state action” for any purposes.

5. Legal Description of the Real Property. The Real Property which is the subject of this Agreement is described as follows:

- (a) A legal description of the Real Property is set forth in Exhibit A.
- (b) A boundary plat of the Real Property is set forth in Exhibit B.

The Real Property currently consists of approximately seven hundred forty and six tenths (740.6) acres.

The Property Owner may notify the County from time to time of property proposed to be added to the legal description of Real Property by the filing of a legal description of such properties owned by Property Owner with the Clerk of Council; provided, however, that no other property shall be added to the Agreement unless this Agreement is duly amended to add the legal description of the properties desired to be added to the legal description of the Real Property, pursuant to S.C. Code Section 6-31-10, et seq.

6. Intent of the Parties. The Parties agree that the burdens of this Agreement bind, and the benefits of this Agreement shall inure, to each of them and to their successors in interest and, in the case of the Property Owner, to their successors in title and/or assigns. The Parties are entering into this Agreement in order to secure benefits and burdens referenced in the Code of Laws of South Carolina, Sections 6-31-10, et seq. To that end, the Parties agree to cooperate fully with each other to accomplish the purposes of this Agreement during the Term of this Agreement.

7. Consistency with the County's Comprehensive Plan and Land Development Regulations. This Agreement is consistent with the County's Comprehensive Plan and Current Regulations.

Whenever expressed or implied substantive provisions of this Agreement are inconsistent with the applicable standards set forth in the Current Regulations, the standards set forth in the Current Regulations and the standards set forth in this Agreement shall, to the extent possible, be considered in *pari material* to give effect to both the Current Regulations and this Agreement; provided, however, that nothing in this section is intended to revoke or repeal the review, variance, special exception, or appeal authority of other bodies contained in Code of Laws of South Carolina § 6-29-800 or in the Current Regulations.

8. Legislative Act. Any change in the standards established by this Agreement or to Laws pertaining to the same shall require the approval of County Council, subject to compliance with applicable statutory procedures and consistent with Section 9(a). This Agreement constitutes a legislative act of County Council. County Council adopted this Agreement only after following procedures required by S.C. Code Section 6-31-10, et seq. This Agreement shall not be construed to create a debt of the County as referenced in Section 6-31-145.

9. Applicable Land Use Regulations.

(a) Applicable Laws and Land Development Regulations. Except as otherwise provided by this Agreement or by South Carolina Code Section 6-31-10, et seq., the Laws applicable to Development of the Real Property, subject to this Agreement, are those in force at the time of execution of this Agreement, defined as the Current Regulations, attached hereto as Exhibit D. The County may apply a subsequently adopted law to a development that is subject to this Agreement only if the subsequently adopted law meets the requirements of the Code of Laws of South Carolina § 6-31-80(b), as the same may be amended from time to time. It is specifically noted that in consideration of the terms and conditions of this Agreement, Section 13.3 of Appendix A of the Jasper County Code of Ordinances shall not be applied to the Property as to any activities occurring prior to July 1, 2027

(b) Vested Rights. Subject to the provisions of subparagraph (a) above, all rights and prerogatives accorded the Property Owner by this Agreement shall immediately constitute vested rights for the Development of the Real Property for the term of this Agreement or until earlier terminated, cancelled or suspended pursuant hereto.

Subparagraph 9(b) of this Agreement does not abrogate any rights either preserved by S.C. Code Section 6-31-140 or that may have been vested pursuant to common law and otherwise in the absence of a development agreement.

10. Building Codes and Laws Other Than Land Use Regulations. The Property Owner, notwithstanding any provision which may be construed to the contrary in this Agreement, must comply

with any applicable building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the County or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code that apply to this project. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the County or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. The provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the County to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes; provided, however, that Laws applicable to the Development of the Real Property shall be subject to Section 9(a).

11. Local Development Permits and Other Permits Needed. The Parties anticipate that local Development Permits and other regulatory permits will be needed to complete the Project as more fully described in the Current Regulations.

The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Property Owner of the necessity of complying with the Law governing permit requirements, conditions, terms, or restrictions.

12. LAND USES AND INTENSITIES

(a) Permitted Land Uses and Intensities. The permitted land uses and intensities set forth in the Solar Farm Floating Zone and Resource Preservation zoning district, included in the Current Regulations, attached hereto as Exhibit D (with the exception of the Comprehensive Plan, which is recorded in the Office of the Jasper County Register of Deeds), are allowed on the Real Property.

(b) Standards. All standards and regulations pertaining to the Solar Farm Floating Zone and Resource Preservation zoning district, as applicable, including but not limited to building development standards, setbacks, buffers, fencing, signage, conditional use requirements, parking, off street loading, landscaping, height, tree-protection, vibration, noises, air pollution, odors, toxic matters and hazardous

waste, fire and explosive hazards, radioactive materials, light and glare, electromagnetic interference, smoke and particulate matter, fumes, vapors, heat, cold, dampness, or movement of air, financial security, water supply, sewage, disposal requirements, road classification and design standards, construction standards, storm water design, and all other required regulations and standards found in the Current Regulations shall apply with respect to planned uses for which Property Owner seeks site plan approval. Other statutes, regulations and ordinances not specifically included in the Current Regulations, such as International Building, Fire and Electrical Codes, shall also apply.

(c) Easement. Property Owner will acquire an easement over property that is adjacent to the Project and zoned Resource Conservation district, for the installation of electric transmission lines, either overhead or underground and County authorizes the Property Owner to install such electric transmission lines.

B. SUBDIVISION PLAN AND DEVELOPMENT PERMIT APPROVAL

Conceptual, Preliminary Plans and Final Plats, as defined in the Current Regulations, as applicable, for each phase of the Development shall be submitted for review and approved pursuant to the applicable provisions of the Current Regulations, but shall utilize and be subject to the subdivision and development permitting processes and fees in effect at the time of submission using the Planned Development District–PDD fees as set forth in the then-current Planning Application Fee Chart (a current copy of the Planning Application Fee Chart is in the attached Exhibit G). It is specifically agreed that in lieu of applying the otherwise applicable Building Permit, Plan Review, and Site and Building Inspections, a substitute Fees Schedule, included in the attached Exhibit G, shall be applicable to the Project during the Term of this Agreement. Notwithstanding the proceeding sentence, the Building Permit fee shall be reduced by fifty (50%) percent and the fees for each phase of the Project shall not exceed \$32,000 for Plan Review and \$32,000 for Site and Building Inspections.

13. Facilities and Services. Although the nature of this long-term project prevents the Property Owner from providing exact completion dates, the general phases of Development are set forth in Section 15 and described in Exhibit C attached hereto and incorporated herein by reference. The Property Owner certifies that the Facilities will be in place (or if not fully in place, the cost of construction fully bonded or letter of credit posted pursuant to the Current Regulations) at all times provided herein. Subject to compliance with applicable Laws, all provisions of this Agreement, required subdivision and development approvals, and prior approval of construction plans by the County or other applicable governmental entity, the County hereby authorizes the Property Owner, on its own or through its affiliated companies, to install the Facilities. Notwithstanding any provision herein to the contrary, the Property Owner hereby assures the County that adequate Facilities shall be available concurrent with the phases of Development.

(a) Rights-of-Way/Easement. The Property Owner or a third party shall at its expense develop and provide roads and other related infrastructure within the Project and pursuant to and at such time required by the development plans for the Project and/or the Current Regulations.

(b) Water and Sewer. Subject to approval by the South Carolina Department of Health and Environmental Control (“DHEC”), the Facilities for water and sewer on the Real Property will be provided by private well(s), the Beaufort Jasper Water Authority, or the Town of Ridgeland, respectively. In the event public sewer is not practically available to the Property through the Beaufort-Jasper Water and Sewer Authority or the Town of Ridgeland, nor subject to a required tie-in under their policies due to the distance to the existing sewer lines, septic fields may be utilized on the Property, subject to DHEC and County permitting in the usual and customary course.

14. Traffic Considerations.

(a) Planning. Long-term planning is essential to assuring safe and convenient ingress and egress for the Project. It is equally essential that this planning be done in a manner that considers existing and future traffic impacts -- both within and outside of the Project site. The Property Owner agrees to work with all appropriate planning agencies to assure said planning occurs.

(b) Road Access. The Parties agree that in order to safely and more effectively accommodate the pedestrian and vehicular traffic associated with the known development plans for the County, including the Project, proper road access is a top priority. Access to the Real Property is currently provided from US Route 278 and shall comply with Current Regulations. Additionally, the condition of these roads will be documented to the reasonable satisfaction of the owning and/or maintaining entity prior to the beginning of construction on the Property, and if required by the owning or maintaining entity, security in the form of an acceptable financial instrument in an amount reasonably sufficient to ensure repair of the roads, shoulders, and paving surface shall be a condition precedent to the granting of a subdivision or development permit by the County.

15. Fees.

(a) Development and Impact Fees. The County specifically finds that the burden, if any, that the Project will have on County infrastructure and services will be less in a material respect than the burden anticipated from the development of other commercial or residential development projects in the County. Specifically, County finds that the burden of the Project is significantly decreased because there are no uses that will materially increase the burden on off-site roads, utility services, or police, fire and school services. The County specifically acknowledges and agrees that there are no development fees currently imposed by the County that are applicable to the Project, other than the usual and customary application, inspection and similar fees generally applicable to all development (“Customary Fees”), as may be amended by the terms of this Agreement, and will not impose any other development fees, including impact fees, on the Project during the term of this Agreement other than the fees set forth in subsection 14(b), 14(c), and the Customary Fees.

(b) Fees-in-lieu of taxes.

(i) Property Owner and County acknowledge that the Project is subject to a fee-in-lieu of tax agreement pursuant to Title 12, Chapter 44 of the Code of Laws of South Carolina (the “Code”) (the “FILOT Agreement”) pursuant to Ordinance No. 2024 which was adopted by County Council on May 6, 2024, and will be included in a multi-county park pursuant to Title 1, Chapter

4 of the Code. The FILOT Agreements and their fees are partial consideration of the reduced impact the Project will have on schools and other services as referenced in Section 14(a).

(ii) Property Owner agrees to make Annual Development Fees of equal to the “Net FILOT Payment” as defined in the FILOT Agreement, subject to a credit equal to the actual amount of the FILOT or *ad valorem* taxes paid as to the FILOT Agreement or parcel of Real Property, as applicable. It is understood and agreed that the Annual Development Fee will commence in the same year that the Project is developed and put into service as contemplated in the FILOT Agreement (or is subjected to *ad valorem* property taxes). These Annual Development Fees are payable for a term equal to the scheduled term of the FILOT Agreement; provided however, that (i) in the event that the FILOT Agreement is terminated due to a breach by County, Owner’s obligation under this Section 14(b) terminates; (ii) in the event the FILOT Agreement is terminated by the Owner after the project has achieved commercial operations due to the Owner’s power purchase agreement, which termination is provided in writing, Owner’s obligation under this section terminates after payment of the next two scheduled Annual Development Fees; or (iii) in the event the FILOT Agreement is terminated by the Owner after the project has achieve commercial operations due to circumstances other than those in clause (ii), Owner’s obligation under this section terminates after payment of the next four scheduled Annual Development Fees. Notwithstanding anything to the contrary, the termination of Owner’s obligations provided for in (ii) or (iii) above are conditional upon complete and successful decommissioning of the Project.

(iii) The Annual Development Fees are being provided in consideration, among other things, of the granting of the Multi-County Business Park status and the FILOT Agreement, the exclusion of other development fees by the County, the exemption from the application of future laws as provided herein, the exception from the requirements of Section 13.3 of Appendix A of the Jasper County Code of Ordinances, and to assure other public benefits pursuant to §§ 6-31-10(4) and 6-31-60(D) of the South Carolina Code of Laws, 1976 (as amended).

(iv) As these Annual Development Fees are to be offset by the payment of FILOT payments or ad valorem taxes actually paid, in the event the offsets are not sufficient to fully satisfy the Annual Development Fee, or because no offsetting payment or a less than full offset payment is made because of the circumstances set forth in (ii) above, the Property Owner covenants and agrees the County shall have a continuing equitable lien on the Real Property (including fixtures) to secure payment of the Annual Development Fee, with such equitable lien to be superior to any mortgage on the Real Property granted after execution of this Development Agreement.

(c) Business License Fee. Property Owner and County acknowledge that the Solar Farm Project is subject to certain business license fees pursuant to Chapter 8 of the Code of Ordinances of Jasper County, South Carolina. In order to provide financial predictability, in lieu of a yearly calculation, Property Owner will annually pay a business license fee of two thousand five (\$2,500) dollars (the “Base Amount”) for each phase of the Project for the Term of the Development Agreement, with phase 1 encompassing the first 74.9MW of the project. In addition, Property Owner will pay an annual amount equal to two (2) times the Base Amount (the “Additional Amount”) for each phase of the Project for the Term of the Development Agreement; however, the annual combined total of the Base Amount and the Additional Amount may not exceed seven thousand five hundred (\$7,500) dollars in any given year for each phase of the Project. Both the Base Amount and the Additional Amount shall be submitted with the annual business license registration without the necessity of providing gross income.

16. Schedule for Project Development.

(a) Commencement Date. The Project will be deemed to commence Development upon the Effective Date of this Agreement.

(b) Interim Completion Date. The Property Owner projects that during the years after the execution and adoption of this Agreement, the following percentages of the Development of the Real Property will occur:

| <u>YEAR</u> | <u>% COMPLETE</u> |
|-------------|-------------------|
| 5 | 100% |

17. Term of the Agreement. The term of this Agreement shall be thirty (30) years, commencing on the Effective Date; provided, however, that this Agreement may be renewed upon the Agreement of the Parties. In the event that Property Owner does not acquire legal title to and record the Deed for all or a portion of the Real Property in the Register of Deeds Office for Jasper County, South Carolina, which must be done on or before December 31, 2027, or such other later date as County Council, in its discretion, may approve by duly adopted Resolution, this Agreement shall be deemed terminated. Council shall confirm the termination by Resolution to be filed in the public records of the Register of Deeds Office.

18. Amending or Canceling the Agreement. Subject to the provisions of Section 6-31-80, et. seq., and Paragraph 16 hereof, this Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties in writing or by their successors in interest; provided, however, that Council may confirm the failure of this Agreement to take effect pursuant to Paragraph 16 above by Resolution.

Any amendment to this Agreement shall comply with the provisions of Section 6-31-10, et seq. Any requirement of this Agreement requiring consent or approval of one of the Parties shall not require amendment of this Agreement unless the text expressly requires amendment. Wherever said consent or approval is required, the same shall not be unreasonably withheld. A major modification of this Agreement shall occur only after public notice and a public hearing by the County.

19. Modifying or Suspending the Agreement. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations. Notwithstanding the foregoing, it is acknowledged that state law changes affecting the payment of *ad valorem* or FILOT payments as contemplated herein shall not affect the responsibility of the Property Owner, its successors or assigns, to pay the Annual Development Fees pursuant to Section 15 herein, such being a contractual liability enforceable by a civil suit for damages and foreclosure of the County's equitable lien, including prospective damages for the remaining payments due for the remainder of the Term of this Agreement in the Court of Common Pleas for Jasper County.

20. Periodic Review. The zoning administrator or another appropriate County official designated by County Council shall review the Project and this Agreement at least once every twelve (12) months, at which time the Property Owner shall reasonably demonstrate good-faith compliance with the terms of this Agreement.

If, as a result of its periodic review or at any other time, the County finds and determines that the Property Owner has committed a material breach of the terms or conditions of this Agreement, the County shall serve notice in writing upon the Property Owner setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Property Owner a reasonable time in which to cure the material breach.

If the Property Owner fails to cure any material breach within the time given, then the County unilaterally may terminate or modify this Agreement or, in the case of a failure to pay the Annual Development Fee, the County may seek actual damages and foreclosure of its equitable lien in such appropriate civil cause of action in the Court of Common Pleas for Jasper County; provided, that in the case of a modification or termination, the County has first given the Property Owner a reasonable opportunity (not to be less than [ninety (90) days]): (1) to rebut the County's finding and determination; or (2) to consent to amend this Agreement to meet the concerns of the County with respect to the findings and determinations.

21. Severability. Subject to the provisions of Section 6-31-150, if any word, phrase, sentence, paragraph, provision, or exhibit of this Agreement shall either be terminated by any provision stated therein or finally adjudicated to be invalid, void, or illegal it shall be deleted and in no way affect, impair, or invalidate any other provision or agreement hereof.

22. Merger. This Agreement, coupled with its exhibits which are incorporated herein by reference, shall state the final and complete expression of the Parties' intentions. In return for the respective rights, benefits and burdens undertaken by the Parties, and subject to Code of Laws of South Carolina §6-31-80(B) the Property Owner shall be, and is hereby, relieved of obligations imposed by future land development laws, ordinances and regulations, except those which may be specifically provided for herein for the term of this Agreement, or until earlier terminated, cancelled or suspended pursuant hereto.

The parties hereto agree to cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all performances required under the Agreement.

In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action.

23. Conflicts of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

24. Venue. Any action brought under or involving this Agreement shall be brought in Jasper County, South Carolina.

25. Default. (i) Except as otherwise provided herein, if either party breaches this Agreement or defaults in the performance of any of the covenants or conditions contained herein for ninety (90) days after the other party has given the party breaching or defaulting written notice of such breach or default and such party has not cured or commenced curing such default, the non-breaching party may pursue all available legal and equitable remedies, including termination of the Agreement as may be allowed under the Act; however, the Parties agree that neither Party is entitled to punitive damages. Waiver of a default shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default. It is expressly acknowledged that specific remedies for a breach of the Agreement to pay the Annual Development Fees are set forth elsewhere herein, including but not limited to, Sections 15 and 19.

(ii) Each Party recognizes that the other Party may suffer irreparable harm from a material breach of this Agreement and that no adequate remedy at law may exist to enforce this Agreement. Consequently, the Parties agree that any non-breaching Party who seeks enforcement of the Agreement is entitled to seek the equitable remedies of injunction and specific performance. However, if there is a dispute between the County and Property Owner, or its successor or assign, concerning the terms, meaning, interpretation, rights or obligations under this Agreement (including any determination of material breach under the Act), the Parties agree to submit such dispute to prompt mediation before invoking legal proceedings. This pre-litigation mediation, conducted pursuant to South Carolina Rules for Alternative

Dispute Resolution with subsequent judicial action lying in the Court of Common Pleas for Jasper County, shall be initiated by one Party notifying the other Party or Parties in writing of the dispute together with a request for mediation as described herein. The Parties agree that disputes under this Agreement not involving the Current Regulations are contractual matters, not appealable to the Zoning Board of Appeals or the Planning Commission, but to the Court of Common Pleas for Jasper County; however, matters involving the application of the Current Regulations are not contractual, but are subject to the administrative review and appellate provisions involving the Zoning Board of Appeals or the Planning Commission.

26. Recording. Within fourteen (14) days after execution of this Agreement, the Property Owner shall record the agreement with the Jasper County Register of Deeds. The burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the Parties to this Agreement.

27. Third Parties. This Agreement shall not be binding and shall have no force or effect as to persons or entities that are not Parties or successors and assigns to this Agreement.

28. County Approval of Agreement. The County Council has approved this Agreement under the process set forth in Section 6-31-50 of the Act on the terms and conditions set forth in this Agreement.

29. Successors and Assigns.

(a) Binding Effect. This Agreement shall be binding on the successors and assigns of the Property Owner in the ownership or Development of any portion of the Real Property, the Project. A purchaser, lessee, or other successor in interest of any portion of the Real Property shall be solely responsible for performance of Property Owner's obligations hereunder as to the portion or portions of the Real Property so transferred. Except for assignments by Property Owner to an affiliate thereof, assignees of the Real Property or any portion thereof shall be required to execute a written acknowledgment accepting and agreeing to the Property Owner's obligations in this Agreement, and specifically the responsibility for payment of the monetary obligations hereunder, including but not limited to the Annual Development Fee and the priority of the equitable lien of the County, said document to be in recordable form and provided to

the County at the time of the recording of any deed transferring a development tract. Following delivery of such documents Property Owner shall be released of any further liability or obligation with respect to said tract.

This paragraph shall not be construed to prevent Property Owner from obtaining indemnification of liability to the County from third parties.

This Agreement shall also be binding on the County and all future County Councils for the duration of this Agreement to the extent authorized by law.

(b) Transfer of Project. Property Owner shall be entitled to transfer any portion or all of the Real Property to a purchaser(s), subject to the following conditions:

(i) Notice of Property Transfer. If the Property Owner intends to transfer all or a portion of the Real Property to a purchaser who, by virtue of assignment or other instrument, becomes the “Property Owner” under and within the meaning of this Agreement, Property Owner shall notify the County within thirty (30) days of the transfer and provide it a copy of the assignment of such status as the “Property Owner” and the acknowledgement referred to in subparagraph 28(a).

(ii) Transfer of Facility and Service Obligations. If the Property Owner transfers any portion of the Real Property on which the Property Owner is required to provide and/or construct certain Facilities or provide certain services, distinct from those provided throughout the Project and which are site-specific to the portion of the Real Property conveyed, then the Property Owner shall be required to obtain a written agreement in substantially the same form as Exhibit F, attached hereto and incorporated by reference, expressly assuming the development obligations with regard to the parcel conveyed and the potential Development of same. The Property Owner shall notify the County within thirty (30) days after the conveyance of the property, provide the County the applicable documents assigning the development obligations to the transferee, and record the same in the office of the Jasper County Register of Deeds.

(iii) Mortgage Lenders. Nothing contained herein shall prevent, hinder or delay any transfer or any portion of the Real Property to any such mortgage lender or subsequent purchaser.

Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by the obligations and shall receive the benefits from this Agreement as the successor in title to the Property Owner.

(c) Release of Property Owner. In the event of conveyance of all or a portion of the Real Property and compliance with the conditions set forth therein, the Property Owner shall be released from any further obligations with respect to this Agreement as to the portion of Real Property so transferred, and the transferee shall be substituted as the Property Owner under the Agreement as to the portion of the Real Property so transferred.

(d) Estoppel Certificate. Upon request in writing from an assignee or the Property Owner to the County sent by certified or registered mail or publicly licensed message carrier, return receipt requested, the County will provide a certificate (the "Certificate") in recordable form stating that solely with respect to the portion of the Real Property described in the request, there are no known violations or breaches of this Agreement, except as otherwise described in the Certificate. The County will respond to such a request within thirty (30) days of the receipt of the request, and may employ such professional consultants, municipal, county and state agencies and staff as may be necessary to assure the truth and completeness of the statements in the certificate. The reasonable costs and disbursements of private consultants will be paid by the person making the request.

The Certificate issued by the County will be binding on the County in accordance with the facts and statements contained therein as of its date and may be relied upon by all persons having notice thereof. Subsequent to the issuance of such a Certificate no claim or action to enforce compliance with this Agreement may be brought against the Property Owner or its assignees properly holding rights hereunder, alleging any violation of the terms and covenants affecting such portion of the Real Property covered by the Agreement and occurring prior to the date of such Certificate, except as otherwise described in the Certificate.

30. General Terms and Conditions.

(a) Agreements to Run with the Land. This Agreement shall be recorded against the Real Property as described in Exhibit A and shown on Exhibits B attached hereto. The agreements contained herein shall be deemed to run with the land. The burdens of this Agreement are binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to the Agreement.

(b) Construction of Agreement. This Agreement should be construed so as to effectuate the public purpose of settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of Facilities and compatibility between Developed and Undeveloped Lands.

(c) No Waiver. Failure of a Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the County Council taken with the same formality as the vote approving this Agreement, no officer, official or agent of the County has the power to amend, modify or alter this Agreement or waive any of its conditions so as to bind the County by making any promise or representation contained herein. Any amendments are subject to the provisions of Section 17 herein.

(e) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both Parties to this Agreement.

(f) Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

To the County: Jasper County Administrator
P.O. Box 1149
Ridgeland, South Carolina 29936

With copies to: Jasper County Attorney
P.O. Box 420
Ridgeland, South Carolina 29936

To Moffett Solar II, LLC: Moffett Solar II, LLC
 c/o Hanwha Q CELLS USA Corp.
 300 Spectrum Center Dr., Suite 1250
 Irvine, CA 92618
 Email: hqc-legal@qcells.com
 Attn: Legal Department

With copies to: Moffet Solar II, LLC
 c/o Hanwha Q CELLS USA Corp.
 300 Spectrum Center Dr., Suite 1250
 Irvine, CA 92618
 Email: Giacomo.cernjul@qcells.com
 Attn: Giacomo Cernjul

[]

(g) Execution of Agreement. This Agreement may be executed in multiple counterparts as duplicate originals; provided, however, if executed in multiple counterparts and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

(h) Whenever the consent, approval or cooperation of one party is expressly or implicitly required or necessary by the terms hereof or to effect successful performance of the other party, such consent, approval or cooperation shall not be unreasonably withheld, denied or delayed.

[SEPARATE SIGNATURE PAGES ATTACHED]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties as of the day and year first above written.

Witness:

JASPER COUNTY

By: _____

L. Martin Saul IV, Chairman

Attest: _____

Wanda Simmons, Clerk of Council

STATE OF SOUTH CAROLINA)

)

ACKNOWLEDGMENT

COUNTY OF JASPER)

I, _____, Notary of the Public of the State of South Carolina, do hereby certify that the County of Jasper, by L. Martin Saul, IV, its Chairman, and Wanda Simmons its Clerk of County Council personally appeared before me this ____ day of _____, 2024, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

Print Name: _____

My Commission Expires: _____

IN WITNESS WHEREOF, this Agreement has been executed by the Parties as of the day and year first above written.

Witness:

MOFFETT SOLAR II, LLC,
a Delaware limited liability company

By:, LLC,
a Delaware limited liability company
Its: Member

By: _____
Name:
Its: Manager

STATE OF _____)
)
COUNTY OF _____)

ACKNOWLEDGMENT

I, _____, Notary of the Public of the State of _____, do hereby certify that Moffett Solar II, LLC, by, its member, by, its manager, personally appeared before me this ____ day of _____, 2024, and acknowledged the execution of the foregoing instrument.

Notary Public for _____
Print Name: _____
My Commission Expires: _____

EXHIBITS

- Exhibit A: Legal Description
- Exhibit B: Boundary Plat
- Exhibit C: Development Schedule
- Exhibit D: Current Regulations
- Exhibit E: Development Agreement Ordinance
- Exhibit F: Form Partial Assignment and Assumption of Rights
- Exhibit G: Fee Schedules
- Exhibit H: Legal and Equitable Owners

Exhibit A

Legal Description

Exhibit B

Boundary Plat

TO BE INSERTED

Exhibit C
Development Schedule

| <u>Year</u> | <u>Percent Complete</u> |
|-------------|-------------------------|
| 0-5 | 100% |
| 6-10 | 100% |
| 11-15 | 100% |
| 15-20 | 100% |

Exhibit D

Current Regulations

TO BE INSERTED

Exhibit E

Development Agreement Ordinance

**STATE OF SOUTH CAROLINA
COUNTY OF JASPER**

ORDINANCE 202__ - __

**AN ORDINANCE
OF JASPER COUNTY COUNCIL**

APPROVING A DEVELOPMENT AGREEMENT FOR MOFFETT SOLAR TRACT
PURSUANT TO THE SOUTH CAROLINA LOCAL GOVERNMENT
DEVELOPMENT AGREEMENT ACT AND ARTICLE IV, TITLE 20 OF THE CODE
OF ORDINANCES OF JASPER COUNTY, AND AUTHORIZING THE CHAIRMAN
OF JASPER COUNTY COUNCIL TO EXECUTE SAID DEVELOPMENT
AGREEMENT

WHEREAS, the South Carolina Local Government Development Agreement Act, South Carolina Code of Laws, Title 6, Chapter 31 (1976, as amended) (the “Act”), authorizes local governments to enter into development agreements with a developer as therein defined; and

WHEREAS, Jasper County Council (“Council”), the governing body of Jasper County, South Carolina (the “County”) has adopted Article IV, Title 20 of the Code of Ordinances of Jasper County governing Jasper County’s participating in development agreements (the “Ordinance”); and

WHEREAS, Moffett Solar II, LLC, (the “Owner”) has option to purchase certain lands suitable for development; and

WHEREAS, pursuant to the Act and the Ordinance, the County is authorized to enter into binding development agreements with certain entities having legal interest in real property; and

WHEREAS, the County and the Owner have now concluded their negotiations with respect to the terms for a development agreement for the real property subject to the development agreement; and

WHEREAS, the County has provided for and held the statutorily required public hearings, finds that the development agreement is consistent with the Comprehensive Plan for Jasper County, as amended, and that approval of the development agreement would be in the best interests of the County.

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

1. The Development Agreement, in substantially the form attached hereto as Exhibit A, with such minor or grammatical changes as the Chairman of Jasper County Council shall approve upon the advice of the County Attorney and County Administrator, his execution of a definitive Development Agreement to be conclusive evidence of such approval, is hereby approved.
2. The Chairman of Jasper County Council is hereby authorized to execute and deliver, on behalf of Jasper County, the Development Agreement on behalf of the County and the Clerk to Council is authorized to attest the signature of the Chairman of the Jasper County Council.

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

Jasper County Council

BY: _____
L. Martin Saul, IV
Chairman

ATTEST:

Judith M. Frank
Clerk to Council

First Reading: _____
Second Reading: _____
Public Hearings: _____ & _____
Adopted: _____

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

Development Agreement.

Reviewed for form and draftsmanship by the Jasper County Attorney.

David Tedder

Date

Exhibit F

Form Partial Assignment and Assumption of Rights and Obligations

STATE OF SOUTH CAROLINA)
)
)
 COUNTY OF JASPER) **PARTIAL ASSIGNMENT AND
 ASSUMPTION OF RIGHTS AND
 OBLIGATIONS UNDER
 DEVELOPMENT AGREEMENT**

This **PARTIAL ASSIGNMENT AND ASSUMPTION OF RIGHTS AND OBLIGATIONS UNDER DEVELOPMENT AGREEMENT** ("Partial Assignment and Assumption") is dated as of this ____ day of _____, 2024, by and between Moffett Solar II, LLC, a Delaware limited liability company ("Assignor") and the _____, _____ ("Assignee").

RECITALS:

WHEREAS, on or about _____, 2024, Assignor entered into that certain Moffett Solar Development Agreement ("Agreement") with Jasper County, South Carolina (the "County"), incident to the future development of approximately seven hundred forty acres and six tenths (740.6) acres of real property, as further described on Exhibit "A" attached hereto (the "Property"), which Agreement was recorded in the Office of the Register of Deeds of Jasper County, South Carolina (the "ROD") in Volume ____ at Page _____; and

WHEREAS, on _____, _____, Assignor conveyed _____ (____) acres of Real Property to Assignee, as is more fully described on Exhibit "B" attached hereto (the "Transferred Property"), by that certain _____ deed recorded on _____, _____ in the ROD in Volume ____ at Page _____; and

WHEREAS, as an integral part of the conveyance of the Transferred Property from Assignor to Assignee, it is the desire and intention of Assignor to assign to Assignee, and it is the desire and intention of Assignee to assume certain rights, privileges and obligation under the terms of the Development Agreement applicable to the Transferred Property, thus necessitating the preparation and execution of the within Partial Assignment and Assumption.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy whereof is herewith acknowledged, the parties hereby agree as follows, to wit:

1. Partial Assignment and Assumption of Rights Privileges and Obligations Applicable to the Transferred Property Pursuant to the Development Agreement. Assignor does hereby transfer, assign, convey and deliver unto Assignee, its successors and assigns, all of Assignor’s rights, privileges and obligations as described in the Development Agreement with respect to _____ (____) acres with a density not to exceed _____ (____) square feet (as further described in Section 11.A. of the Development Agreement) (the "Allocated Rights"). Assignee hereby assumes and agrees to perform all of Assignor’s rights, privileges and obligations as described in the Development Agreement, applicable to the Transferred Property, including without limitation, the Assumed Obligations (as defined below). Assignee acknowledges receipt of the Development Agreement and all Exhibits thereto and agrees to be bound by the terms thereof and to develop the Transferred Property in accordance with such terms. The rights and obligations hereby assigned and assumed shall be covenants running with the land, binding upon the parties hereto and their successors and assigns.

2. Assumed Obligations. In connection with this Partial Assignment and Assumption, Assignee agrees to assume, and release Assignor from any liability for, the following obligations (the "Assumed Obligations") arising under the Development Agreement:

(i) Payment of the Annual Development Fee in the amount of \$ _____ applicable to the assigned property; and

(ii) _____

3. Default and Enforcement of Provisions. As provided in Sections 19 and 24 of the Development Agreement and as herein provided, upon the failure of Assignor or Assignee to comply with the terms of the Development Agreement and this Partial Assignment and Assumption incident to the Property, the non-defaulting party may pursue the remedies of injunction and specific performance, as well as any other legal or equitable remedies, including, but not limited to, actual damages.

4. Indemnification. Assignee agrees to indemnify, defend and hold harmless Assignor, its agents, principals, successors and assigns, and their affiliates from and against all losses, costs, damages, and reasonable attorney fees arising out of any breach by Assignee of the Development Agreement from and after the Closing Date, including without limitation the Assumed Obligations set forth in Section 2 hereof.

5. Notices. Any notice, demand, request, consent, approval or communication among any of the parties hereto shall be in writing and shall be delivered or addressed as provided under section 28(h) of the Development Agreement and shall also be addressed as follows:

As to Assignee:

Attn: _____
Telephone Number: _____
Facsimile Number: _____
E-mail: _____

With a required copy to:

Attn: _____
Telephone Number: _____
Facsimile Number: _____
E-mail: _____

To Assignor:

ATTN:

Telephone Number: _____
Facsimile Number: _____
E-mail: _____

With a required copy to:

6. Binding Effect. This Partial Assignment and Assumption shall inure to the benefit of and be binding upon the respective parties hereto, their successors and assigns.

7. Governing Law. The within Partial Assignment and Assumption shall be interpreted and construed and conform to the laws of the State of South Carolina.

8. Reaffirmation of Terms. All other terms, conditions, rights and privileges contained in the Development Agreement not specifically referenced herein shall remain in full force and effect and binding upon the parties hereto and their successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Signed, sealed and delivered
in the presence of:

ASSIGNOR:

MOFFETT SOLAR II, LLC

Witness

By: _____

Its: _____

Witness

STATE OF SOUTH CAROLINA)

)

ACKNOWLEDGMENT

COUNTY OF CHARLESTON)

I, , the undersigned Notary of the Public of the State of South Carolina, do hereby certify that _____, _____ of Moffett Solar 1, LLC, personally appeared before me this ____ day of _____, 2024 and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

Printed Name of Notary

My Commission Expires: _____

Exhibit A to Partial Assignment
Property

Exhibit B to Partial Assignment
Transferred Property

EXHIBIT G

Fee Schedules

Fees to be applied for Building Permits, Plan Review and Inspections

| Total Valuation | Building Permit Fee*** |
|--|--|
| \$0 - \$500* | \$50 |
| \$501 - \$2,000 | \$50 for the first \$500, plus \$3 for each \$100 or fraction thereof, to and including \$2,000 |
| \$2001 - \$40,000 | \$69.00 for the first \$2,000, plus \$11 for each \$1,000 or fraction thereof, to and including \$40,000 |
| \$40,001 - \$100,000 | \$487 for the first \$40,000, plus \$9 for each additional \$1000 or fraction thereof, to and including \$100,000 |
| \$100,001 - \$500,000 | \$1,027 for the first \$100,000, plus \$7 for each additional \$1,000 or fraction thereof, to and including \$500,000 |
| \$500,001 - 1,000,000 | \$3,827 for the first \$500,000, plus \$5 for each additional \$1,000 or fraction thereof, to and including \$1,000,000 |
| \$1,000,001 - \$5,000,000 | \$6327 for the first \$1,000,000, plus \$3 for each additional \$1,000 or fraction thereof, to and including \$5,000,000 |
| \$5,000,001 and over | \$18,327 for the first \$5,000,000, plus \$1 for each additional \$1,000 or fraction thereof |
| *Valuation is based on cost of construction **Per Section 11.B of the Development Agreement, the Building Permit Fee shall be reduced by fifty (50%) percent. | |

Plan Review

Plan Review Fees will be the actual cost of a third party engineering firm with appropriate professional qualifications and experience in the review of plans for utility and site development for solar farms or similar construction projects in accordance with S.C. Department of Labor, Licensing and Regulation standards, plus 15% County Administration Fee. The engineering firm to be selected from a list of qualified and South Carolina licensed professionals compiled by the County; the applicant may submit firms for consideration

Site and Building Inspections

Site and Building Inspection Fees will be the actual cost of a third party engineering firm with appropriate professional qualifications and experience in the inspection of sites and construction of electrical utility and solar farms or similar construction projects in accordance with S.C. Department of Labor, Licensing and Regulation standards, plus 15% County Administration Fee. The engineering firm to be selected from a list of qualified and South Carolina licensed professionals compiled by the County; the applicant may submit firms for consideration

Exhibit H

Legal and Equitable Owners

1. Moffett Solar II, LLC

**MOFFETT SOLAR
DEVELOPMENT AGREEMENT
BY AND BETWEEN**

**MOFFETT SOLAR II, LLC,
AND
JASPER COUNTY, SOUTH CAROLINA**

____, 2024

**DEVELOPMENT AGREEMENT
BY AND BETWEEN**

MOFFETT SOLAR II, LLC

AND

JASPER COUNTY, SOUTH CAROLINA

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EXHIBITS

- Exhibit A: Legal Description
- Exhibit B: Boundary Plat
- Exhibit C: Development Schedule
- Exhibit D: Current Regulations
- Exhibit E: Development Agreement Ordinance
- Exhibit F: Form Partial Assignment and Assumption of Rights
- Exhibit G: Fee Schedules
- Exhibit H: Legal and Equitable Owners

DEVELOPMENT AGREEMENT

**BY AND BETWEEN
MOFFETT SOLAR 1, LLC,
AND
JASPER COUNTY, SOUTH CAROLINA,**

This DEVELOPMENT AGREEMENT (together with the Exhibits attached hereto, the “Agreement”) is entered into effective as of the ___ day of _____, 2024, which shall be the date of recording of this fully approved and executed Agreement (the “Effective Date”), by and between Moffett Solar II, LLC, a Delaware limited liability corporation (the “Property ~~Controller~~Owner”), and Jasper County, a political subdivision of the State of South Carolina (the “County”).

RECITALS

This Agreement is predicated upon the following:

I. The Code of Laws of South Carolina (the “S.C. Code”) Sections 6-31-10 through 6-31-160, as it exists on the Effective Date of this Agreement (the “Act”), enables political subdivisions of the State of South Carolina to enter into binding development agreements with entities intending to develop real property under certain conditions set forth in the Act.

II. Article IV, Title 20 of the Code of Ordinances of Jasper County governs Jasper County’s participating in development agreements.

III. The County conducted public hearings regarding its consideration of this Agreement on April 15, 2024, and May 6, 2024, after publishing and announcing notice, in accordance with the Act.

IV. County Council adopted Ordinance Number 2024- on April 15, 2024, (a) determining that this Agreement is consistent with the County Comprehensive Plan, the Act, and the Current

Regulations of the County, and (b) approving this Agreement. A copy of the Ordinance is attached hereto as Exhibit E, and incorporated herein by reference.

NOW THEREFORE, in consideration of the premises of this Agreement and the mutual benefits to the parties, the parties agree as follows:

1. The Real Property. The Real Property subject to this Agreement currently consists of approximately seven hundred forty acres and six tenths (740.6) acres. A legal description of the Real Property is set forth in Exhibit A, and the boundary lines of the property are shown on the plat attached as Exhibit B.

2. Definitions. In this Agreement, unless the word or phrase is non-capitalized:

(a) “Agreement” means this Development Agreement, including the recitals and exhibits attached hereto.

(b) “Annual Development Fee” means that minimum payment made to Jasper County by the Owner, its successors or assigns pursuant to Paragraph 14 herein.

(c) “Comprehensive Plan” means The Jasper County Comprehensive Plan, Ordinance 06-030, adopted on April 2, 2007, pursuant to S.C. Code Section 6-29-510, et seq., as amended, and recorded in the Jasper County Register of Deeds Office in Book 888 at Page 246; Ordinance No. 2016-23, adopted by County Council on September 6, 2016; and the official zoning map adopted pursuant to S.C. Code Section 6-7-1210 et seq.

(d) “County” means Jasper County, South Carolina.

(e) “Current Regulations” mean the Comprehensive Plan; the Zoning Ordinance of Jasper County, Ordinance 07-48; the Solar Farm Floating Zone Ordinance; Ordinance No. 2016-21, adopted by County Council on September 26, 2016; and the Jasper County Land Development Regulations,

Ordinance Number 07-47; all as amended through the Effective Date hereof. “Current Regulations” do not include subdivision plat and development plan procedural processes and fees.

(f) “Development” means the planning for or carrying out of a building activity or mining operation, the making of a material change in the use or appearance of any structure or property, or the dividing of land into parcels. “Development,” as designated in a law or development permit, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, “Development” refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(g) “Development Parcel” means any tract of land on which Development may occur, including platted Lots and unplatted parcels, but excluding street rights-of-way.

(h) “Development Permit” includes a County building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or and any other official action of the County having the effect of permitting the Development or use of Real Property.

(i) “Facilities” means major capital improvements to be constructed on the Real Property including, but not limited to, transportation, sanitary sewer, solid waste, drainage, and potable water. Except as may be specifically provided for in this Agreement, and in consideration, in part, of the fees to be paid to Jasper County pursuant to Section 14, the Property ~~Controller~~Owner is specifically exempted from any County requirement for the provision of facilities relating to public education, public health systems and facilities, libraries, parks and recreational facilities, public housing, jails and other detention sites, courts, and police. Such exemptions shall not, however, exempt Property ~~Controller~~Owner from payment of applicable user, tap and impact fees, respectively, for any such facilities.

(j) “Land Development Regulations” means ordinances and regulations enacted by County Council for the regulation of any aspect of Development and include County zoning, rezoning, subdivision, building construction, sign regulations or any other regulations controlling the Development or use of Real Property.

(k) “Law” means all ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies and rules, custom and usage (formal and informal) adopted by the County Council affecting the Development of Real Property, and includes laws governing permitted uses of the Real Property, governing density, and governing design, improvement, and construction standards and specifications, except those regarding the provision of electricity or gas service, including, but not limited to, the generation, transmission, distribution, or provision of electricity at wholesale, retail or in any other capacity.

(l) “Lot” means a Development Parcel identified in a Subdivision Plat recorded in the Jasper County Register of Deeds Office.

(m) “Parcel” means any of those tracts of Real Property that are identified on the Boundary Plat, attached as Exhibit B, as same may be specifically identified by the filing of a subdivision application.

(n) “Parties” means the Property ~~Controller~~Owner and the County.

(o) “Permits” include any and all governmental or other permits, consents, approvals, certifications, licenses, authorizations, utility connections, annexation, zoning, special use, certificate of designation or other land use designation as may be necessary to allow Property ~~Controller~~Owner or its assignee to operate a solar farm or other permitted facility or operation for which no appeal has been taken within the time required by law.

(p) “Project” is the Development that will occur within and upon the Real Property described in Exhibit A and Exhibit B.

(q) “Property ~~Controller~~Owner” means Moffett Solar II, LLC, a Delaware limited liability corporation, who has an equitable interest in the Real Property, together with all subsidiaries and other entities that have legal or equitable interest on the date of execution hereof in any of the Real Property as described in Section 5, and includes Moffett Solar II, LLC’s successors in interest or successors in title and/or assigns by virtue of assignment or other instrument pursuant to Section 28 hereof

(r) “Real Property” is the real property referred to in Section 1 and Section 5 and includes any improvements or structures customarily regarded as part of real property.

(s) “Solar Farm Floating Zone” means the floating zone established by Jasper County Council via Jasper County Council Ordinance No. 2016-13, adopted on July 18, 2016.

(t) “Subdivision Plat” means a recorded graphic description of property prepared and approved in compliance with the Current Regulations, as modified in this Agreement.

(u) “Term” shall have the meaning set forth in Section 16 of this Agreement.

(v) “Vested Rights” shall have meaning set in section 9(b) of this agreement.

3. Compliance with South Carolina Code Section 6-31-60. Pursuant to South Carolina Code Section 6-31-60, a list of all individuals/entities with an equitable or legal interest in the Real Property is attached hereto as Exhibit H.

4. Relationship of the Parties. This Agreement creates a contractual relationship among the Parties. This Agreement is not intended to create, and does not create, the relationship of master/servant, principal/agent, independent contractor/employer, partnership, joint venture, or any other relationship where one party may be held responsible for acts of the other party. Further, this Agreement is not intended to create, nor does it create, a relationship whereby the conduct of the Property ~~Controller~~Owner constitutes “state action” for any purposes.

5. Legal Description of the Real Property. The Real Property which is the subject of this Agreement is described as follows:

- (a) A legal description of the Real Property is set forth in Exhibit A.
- (b) A boundary plat of the Real Property is set forth in Exhibit B.

The Real Property currently consists of approximately seven hundred forty and six tenths (740.6) acres.

The Property ~~Controller~~Owner may notify the County from time to time of property proposed to be added to the legal description of Real Property by the filing of a legal description of such properties owned by Property ~~Controller~~Owner with the Clerk of Council; provided, however, that no other property shall be added to the Agreement unless this Agreement is duly amended to add the legal description of the properties desired to be added to the legal description of the Real Property, pursuant to S.C. Code Section 6-31-10, et seq.

6. Intent of the Parties. The Parties agree that the burdens of this Agreement bind, and the benefits of this Agreement shall inure, to each of them and to their successors in interest and, in the case of the Property ~~Controller~~Owner, to their successors in title and/or assigns. The Parties are entering into this Agreement in order to secure benefits and burdens referenced in the Code of Laws of South Carolina, Sections 6-31-10, et seq. To that end, the Parties agree to cooperate fully with each other to accomplish the purposes of this Agreement during the Term of this Agreement.

7. Consistency with the County's Comprehensive Plan and Land Development Regulations. This Agreement is consistent with the County's Comprehensive Plan and Current Regulations.

Whenever expressed or implied substantive provisions of this Agreement are inconsistent with the applicable standards set forth in the Current Regulations, the standards set forth in the Current Regulations and the standards set forth in this Agreement shall, to the extent possible, be considered in

pari material to give effect to both the Current Regulations and this Agreement; provided, however, that nothing in this section is intended to revoke or repeal the review, variance, special exception, or appeal authority of other bodies contained in Code of Laws of South Carolina § 6-29-800 or in the Current Regulations.

8. Legislative Act. Any change in the standards established by this Agreement or to Laws pertaining to the same shall require the approval of County Council, subject to compliance with applicable statutory procedures and consistent with Section 9(a). This Agreement constitutes a legislative act of County Council. County Council adopted this Agreement only after following procedures required by S.C. Code Section 6-31-10, et seq. This Agreement shall not be construed to create a debt of the County as referenced in Section 6-31-145.

9. Applicable Land Use Regulations.

(a) Applicable Laws and Land Development Regulations. Except as otherwise provided by this Agreement or by South Carolina Code Section 6-31-10, et seq., the Laws applicable to Development of the Real Property, subject to this Agreement, are those in force at the time of execution of this Agreement, defined as the Current Regulations, attached hereto as Exhibit D. The County may apply a subsequently adopted law to a development that is subject to this Agreement only if the subsequently adopted law meets the requirements of the Code of Laws of South Carolina § 6-31-80(b), as the same may be amended from time to time. It is specifically noted that in consideration of the terms and conditions of this Agreement, Section 13.3 of Appendix A of the Jasper County Code of Ordinances shall not be applied to the Property as to any activities occurring prior to July 1, ~~2024~~2027

(b) Vested Rights. Subject to the provisions of subparagraph (a) above, all rights and prerogatives accorded the Property ~~Controller~~Owner by this Agreement shall immediately constitute vested rights for the Development of the Real Property for the term of this Agreement or until earlier terminated, cancelled or suspended pursuant hereto.

Subparagraph 9(ab) of this Agreement does not abrogate any rights either preserved by S.C. Code Section 6-31-140 or that may have been vested pursuant to common law and otherwise in the absence of a development agreement.

10. Building Codes and Laws Other Than Land Use Regulations. The Property ~~Controller~~Owner, notwithstanding any provision which may be construed to the contrary in this Agreement, must comply with any applicable building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the County or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code that apply to this project. This Agreement shall not be construed to supersede or contravene the requirements of any building, housing, electrical, mechanical, plumbing and gas codes subsequently adopted by the County or other governmental entity, as authorized by Chapter 9 of Title 6 of the South Carolina Code. The provisions of this Agreement are not intended, nor should they be construed in any way, to alter or amend in any way the rights, duties and privileges of the County to exercise governmental powers and pass laws not applicable to Development of the Real Property including, but not limited to, the power of eminent domain and the power to levy and collect taxes; provided, however, that Laws applicable to the Development of the Real Property shall be subject to Section 9(a).

11. Local Development Permits and Other Permits Needed. The Parties anticipate that local Development Permits and other regulatory permits will be needed to complete the Project as more fully described in the Current Regulations.

The failure of this Agreement to address a particular permit, condition, term, or restriction does not relieve the Property ~~Controller~~Owner of the necessity of complying with the Law governing permit requirements, conditions, terms, or restrictions.

12. ~~A.~~ LAND USES AND INTENSITIES

(a) Permitted Land Uses and Intensities. The permitted land uses and intensities set forth in the Solar Farm Floating Zone and Resource Preservation zoning district, included in the Current Regulations, attached hereto as Exhibit D (with the exception of the Comprehensive Plan, which is recorded in the Office of the Jasper County Register of Deeds), are allowed on the Real Property.

(b) Standards. All standards and regulations pertaining to the Solar Farm Floating Zone and Resource Preservation zoning district, as applicable, including but not limited to building development standards, setbacks, buffers, fencing, signage, conditional use requirements, parking, off street loading, landscaping, height, tree-protection, vibration, noises, air pollution, odors, toxic matters and hazardous waste, fire and explosive hazards, radioactive materials, light and glare, electromagnetic interference, smoke and particulate matter, fumes, vapors, heat, cold, dampness, or movement of air, financial security, water supply, sewage, disposal requirements, road classification and design standards, construction standards, storm water design, and all other required regulations and standards found in the Current Regulations shall apply with respect to planned uses for which Property ~~Controller~~Owner seeks site plan approval. Other statutes, regulations and ordinances not specifically included in the Current Regulations, such as International Building, Fire and Electrical Codes, shall also apply.

(c) Easement. Property ~~Controller~~Owner will acquire an easement over property that is adjacent to the Project and zoned Resource ~~Preservation zoning~~Conservation district, for the installation of electric transmission lines, either overhead or underground, ~~from Tract 7 to Tract 4,~~ and County authorizes the Property ~~Controller~~Owner to install such electric transmission lines.

B. SUBDIVISION PLAN AND DEVELOPMENT PERMIT APPROVAL

Conceptual, Preliminary Plans and Final Plats, as defined in the Current Regulations, as applicable, for each phase of the Development shall be submitted for review and approved pursuant to the applicable provisions of the Current Regulations, but shall utilize and be subject to the subdivision and development permitting processes and fees in effect at the time of submission using the Planned

Development District–PDD fees as set forth in the then-current Planning Application Fee Chart (a current copy of the Planning Application Fee Chart is in the attached Exhibit G). It is specifically agreed that in lieu of applying the otherwise applicable Building Permit, Plan Review, and Site and Building Inspections, a substitute Fees Schedule, included in the attached Exhibit G, shall be applicable to the Project during the Term of this Agreement. Notwithstanding the proceeding sentence, the Building Permit fee shall be reduced by fifty (50%) percent and the fees for each phase of the Project shall not exceed \$32,000 for Plan Review and \$32,000 for Site and Building Inspections.

13. ~~12.~~ Facilities and Services. Although the nature of this long-term project prevents the Property ~~Controller~~Owner from providing exact completion dates, the general phases of Development are set forth in Section 15 and described in Exhibit C attached hereto and incorporated herein by reference. The Property ~~Controller~~Owner certifies that the Facilities will be in place (or if not fully in place, the cost of construction fully bonded or letter of credit posted pursuant to the Current Regulations) at all times provided herein. Subject to compliance with applicable Laws, all provisions of this Agreement, required subdivision and development approvals, and prior approval of construction plans by the County or other applicable governmental entity, the County hereby authorizes the Property ~~Controller~~Owner, on its own or through its affiliated companies, to install the Facilities. Notwithstanding any provision herein to the contrary, the Property ~~Controller~~Owner hereby assures the County that adequate Facilities shall be available concurrent with the phases of Development.

(a) Rights-of-Way/Easement. The Property ~~Controller~~Owner or a third party shall at its expense develop and provide roads and other related infrastructure within the Project and pursuant to and at such time required by the development plans for the Project and/or the Current Regulations. ~~The Property Controller or a third party shall also be responsible for repairing any damage made to public roads or highways used to access the Property during construction, and surety to ensure such may be required by the County.~~

(b) Water and Sewer. Subject to approval by the South Carolina Department of Health and Environmental Control (“DHEC”), the Facilities for water and sewer on the Real Property will be provided by private well(s), the Beaufort Jasper Water Authority, or the Town of Ridgeland, respectively. In the event public sewer is not practically available to the Property through the Beaufort-Jasper Water and Sewer Authority or the Town of Ridgeland, nor subject to a required tie-in under their policies due to the distance to the existing sewer lines, septic fields may be utilized on the Property, subject to DHEC and County permitting in the usual and customary course.

14. ~~13.~~ Traffic Considerations.

(a) Planning. Long-term planning is essential to assuring safe and convenient ingress and egress for the Project. It is equally essential that this planning be done in a manner that considers existing and future traffic impacts -- both within and outside of the Project site. The Property ~~Controller~~Owner agrees to work with all appropriate planning agencies to assure said planning occurs.

(b) Road Access. The Parties agree that in order to safely and more effectively accommodate the pedestrian and vehicular traffic associated with the known development plans for the County, including the Project, proper road access is a top priority. Access to the Real Property is currently provided from US Route 278 and shall comply with Current Regulations. Additionally, the condition of these roads will be documented to the reasonable satisfaction of the owning and/or maintaining entity prior to the beginning of construction on the Property, and if required by the owning or maintaining entity, security in the form of an acceptable financial instrument in an amount reasonably sufficient to ensure repair of the roads, shoulders, and paving surface shall be a condition precedent to the granting of a subdivision or development permit by the County.:-

15. ~~14.~~ Fees.

(a) Development and Impact Fees. The County specifically finds that the burden, if any, that the Project will have on County infrastructure and services will be less in a material respect than the

burden anticipated from the development of other commercial or residential development projects in the County. Specifically, County finds that the burden of the Project is significantly decreased because there are no uses that will materially increase the burden on off-site roads, utility services, or police, fire and school services. The County specifically acknowledges and agrees that there are no development fees currently imposed by the County that are applicable to the Project, other than the usual and customary application, inspection and similar fees generally applicable to all development (“Customary Fees”), as may be amended by the terms of this Agreement, and will not impose any other development fees, including impact fees, on the Project during the term of this Agreement other than the fees set forth in subsection 14(b), 14(c), and the Customary Fees.

(b) Fees-in-lieu of taxes.

(i) Property ~~Controller~~Owner and County acknowledge that the Project is subject to a fee-in-lieu of tax agreement pursuant to Title 12, Chapter 44 of the Code of Laws of South Carolina (the “Code”) (the “FILOT Agreement”) pursuant to Ordinance No. 2024 which was adopted by County Council on May 6, 2024, and will be included in a multi-county park pursuant to Title 1, Chapter 4 of the Code. The FILOT Agreements and their fees are partial consideration of the reduced impact the Project will have on schools and other services as referenced in Section 14(a).

(ii) Property ~~Controller~~Owner agrees to make Annual Development Fees of equal to the “Net FILOT Payment” as defined in the FILOT Agreement, subject to a credit equal to the actual amount of the FILOT or *ad valorem* taxes paid as to the FILOT Agreement or parcel of Real Property, as applicable. It is understood and agreed that the Annual Development Fee will commence in the same year that the Project is developed and put into service as contemplated in the FILOT Agreement (or is subjected to *ad valorem* property taxes). These Annual Development Fees are payable for a term equal to the scheduled term of the FILOT Agreement; provided however, that (i) in the event that the FILOT Agreement is terminated due to a breach by County,

~~Controller's~~Owner's obligation under this Section 14(b) terminates; (ii) in the event the FILOT Agreement is terminated by the ~~Controller~~Owner after the project has ~~been developed~~achieved commercial operations due to the ~~Controller's~~Owner's power purchase agreement, which termination is provided in writing, ~~Controller's~~Owner's obligation under this section terminates after payment of the next two scheduled Annual Development Fees; or (iii) in the event the FILOT Agreement is terminated by the Owner after the project has ~~been developed~~achieve commercial operations due to circumstances other than those in clause (ii), Owner's obligation under this section terminates after payment of the next four scheduled Annual Development Fees. Notwithstanding anything to the contrary, the termination of Owner's obligations provided for in (ii) or (iii) above are conditional upon complete and successful decommissioning of the Project.

(iii) The Annual Development Fees are being provided in consideration, among other things, of the granting of the Multi-County Business Park status and the FILOT Agreement, the exclusion of other development fees by the County, the exemption from the application of future laws as provided herein, the exception from the requirements of Section 13.3 of Appendix A of the Jasper County Code of Ordinances, and to assure other public benefits pursuant to §§ 6-31-10(4) and 6-31-60(D) of the South Carolina Code of Laws, 1976 (as amended).

(iv) As these Annual Development Fees are to be offset by the payment of FILOT payments or ad valorem taxes actually paid, in the event the offsets are not sufficient to fully satisfy the Annual Development Fee, or because no offsetting payment or a less than full offset payment is made because of the circumstances set forth in (ii) above, the Property ~~Controller~~Owner covenants and agrees the County shall have a continuing equitable lien on the Real Property (including fixtures) to secure payment of the Annual Development Fee, with such equitable lien to be superior to any mortgage on the Real Property granted after execution of this Development Agreement.

(c) Business License Fee. Property ~~Controller~~Owner and County acknowledge that the Solar Farm Project is subject to certain business license fees pursuant to Chapter 8 of the Code of Ordinances of Jasper County, South Carolina. In order to provide financial predictability, in lieu of a yearly calculation, Property ~~Controller~~Owner will annually pay a business license fee of two thousand five (~~\$2500~~2,500) dollars (the “Base Amount”) for each phase of the Project for the Term of the Development Agreement, with phase 1 encompassing the first 74.9MW of the project. In addition, Property ~~Controller~~Owner will pay an annual amount equal to two (2) times the Base Amount (the “Additional Amount”) for each phase of the Project for the Term of the Development Agreement; however, the annual combined total of the Base Amount and the Additional Amount may not exceed seven thousand five hundred (\$7,500) dollars in any given year for each phase of the Project. Both the Base Amount and the Additional Amount shall be submitted with the annual business license registration without the necessity of providing gross income.

16. ~~15.~~ Schedule for Project Development.

(a) Commencement Date. The Project will be deemed to commence Development upon the Effective Date of this Agreement.

(b) Interim Completion Date. The Property ~~Controller~~Owner projects that during the years after the execution and adoption of this Agreement, the following percentages of the Development of the Real Property will occur:

| <u>YEAR</u> | <u>% COMPLETE</u> |
|-------------|-------------------|
| 5 | 100% |

17. ~~16.~~ Term of the Agreement. The term of this Agreement shall be thirty (30) years, commencing on the Effective Date; provided, however, that this Agreement may be renewed upon the Agreement of the Parties. In the event that Property Owner does not acquire legal title to and record the Deed for all or a portion of the Real Property in the Register of Deeds Office for Jasper County, South Carolina, which must be done on or before December 31, 2027, or such other later date as County Council, in its discretion, may approve by duly adopted Resolution, this Agreement shall be deemed terminated.

Council shall confirm the termination by Resolution to be filed in the public records of the Register of Deeds Office.

18. ~~17.~~ Amending or Canceling the Agreement. Subject to the provisions of Section 6-31-80, et. seq., and Paragraph 16 hereof, this Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties in writing or by their successors in interest; provided, however, that Council may confirm the failure of this Agreement to take effect pursuant to Paragraph ~~15~~16 above by Resolution.

Any amendment to this Agreement shall comply with the provisions of Section 6-31-10, et seq. Any requirement of this Agreement requiring consent or approval of one of the Parties shall not require amendment of this Agreement unless the text expressly requires amendment. Wherever said consent or approval is required, the same shall not be unreasonably withheld. A major modification of this Agreement shall occur only after public notice and a public hearing by the County.

19. ~~18.~~ Modifying or Suspending the Agreement. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, the pertinent provisions of this Agreement shall be modified or suspended as may be necessary to comply with the state or federal laws or regulations. Notwithstanding the foregoing, it is acknowledged that state law changes affecting the payment of *ad valorem* or FILOT payments as contemplated herein shall not affect the responsibility of the Property ~~Controller~~Owner, its successors or assigns, to pay the Annual Development Fees pursuant to Section ~~14~~15 herein, such being a contractual liability enforceable by a civil suit for damages and foreclosure of the County's equitable lien, including prospective damages for the remaining payments due for the remainder of the Term of this Agreement in the Court of Common Pleas for Jasper County.

20. ~~19.~~ Periodic Review. The zoning administrator or another appropriate County official designated by County Council shall review the Project and this Agreement at least once every twelve (12) months, at which time the Property ~~Controller~~Owner shall reasonably demonstrate good-faith compliance with the terms of this Agreement.

If, as a result of its periodic review or at any other time, the County finds and determines that the Property ~~Controller~~Owner has committed a material breach of the terms or conditions of this Agreement, the County shall serve notice in writing upon the Property ~~Controller~~Owner setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the Property ~~Controller~~Owner a reasonable time in which to cure the material breach.

If the Property ~~Controller~~Owner fails to cure any material breach within the time given, then the County unilaterally may terminate or modify this Agreement or, in the case of a failure to pay the Annual Development Fee, the County may seek actual damages and foreclosure of its equitable lien in such appropriate civil cause of action in the Court of Common Pleas for Jasper County; provided, that in the case of a modification or termination, the County has first given the Property ~~Controller~~the Owner a reasonable opportunity (not to be less than [ninety (90) days]): (1) to rebut the County's finding and determination; or (2) to consent to amend this Agreement to meet the concerns of the County with respect to the findings and determinations.

21. ~~20.~~ Severability. Subject to the provisions of Section 6-31-150, if any word, phrase, sentence, paragraph, provision, or exhibit of this Agreement shall either be terminated by any provision stated therein or finally adjudicated to be invalid, void, or illegal it shall be deleted and in no way affect, impair, or invalidate any other provision or agreement hereof.

22. ~~21.~~ Merger. This Agreement, coupled with its exhibits which are incorporated herein by reference, shall state the final and complete expression of the Parties' intentions. In return for the respective rights, benefits and burdens undertaken by the Parties, and subject to Code of Laws of South Carolina §6-31-80(B) the Property ~~Controller~~Owner shall be, and is hereby, relieved of obligations imposed by future land development laws, ordinances and regulations, except those which may be specifically provided for herein for the term of this Agreement, or until earlier terminated, cancelled or suspended pursuant hereto.

The parties hereto agree to cooperate with each other to effectuate the provisions of this Agreement and to act reasonably and expeditiously in all performances required under the Agreement.

In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action.

23. ~~22.~~ Conflicts of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

24. ~~23.~~ Venue. Any action brought under or involving this Agreement shall be brought in Jasper County, South Carolina.

25. ~~24.~~ Default. (i) Except as otherwise provided herein, if either party breaches this Agreement or defaults in the performance of any of the covenants or conditions contained herein for ninety (90) days after the other party has given the party breaching or defaulting written notice of such breach or default and such party has not cured or commenced curing such default, the non-breaching party may pursue all available legal and equitable remedies, including termination of the Agreement as may be allowed under the Act; however, the Parties agree that neither Party is entitled to punitive damages. Waiver of a default shall not be construed or determined to be a continuing waiver of the same or any subsequent breach or default. It is expressly acknowledged that specific remedies for a breach of the Agreement to pay the Annual Development Fees are set forth elsewhere herein, including but not limited to, Sections ~~14~~15 and ~~18~~19.

(ii) Each Party recognizes that the other Party may suffer irreparable harm from a material breach of this Agreement and that no adequate remedy at law may exist to enforce this Agreement. Consequently, the Parties agree that any non-breaching Party who seeks enforcement of the Agreement is entitled to seek the equitable remedies of injunction and specific performance. However, if there is a dispute between the County and Property ~~Controller~~Owner, or its successor or assign, concerning the terms, meaning, interpretation, rights or obligations under this Agreement (including any determination of

material breach under the Act), the Parties agree to submit such dispute to prompt mediation before invoking legal proceedings. This pre-litigation mediation, conducted pursuant to South Carolina Rules for Alternative Dispute Resolution with subsequent judicial action lying in the Court of Common Pleas for Jasper County, shall be initiated by one Party notifying the other Party or Parties in writing of the dispute together with a request for mediation as described herein. The Parties agree that disputes under this Agreement not involving the Current Regulations are contractual matters, not appealable to the Zoning Board of Appeals or the Planning Commission, but to the Court of Common Pleas for Jasper County; however, matters involving the application of the Current Regulations are not contractual, but are subject to the administrative review and appellate provisions involving the Zoning Board of Appeals or the Planning Commission.

26. ~~25.~~ Recording. Within fourteen (14) days after execution of this Agreement, the Property ~~Controller~~Owner shall record the agreement with the Jasper County Register of Deeds. The burdens of this Agreement are binding upon, and the benefits of this Agreement shall inure to, all successors in interest and assigns of the Parties to this Agreement.

27. ~~26.~~ Third Parties. This Agreement shall not be binding and shall have no force or effect as to persons or entities that are not Parties or successors and assigns to this Agreement.

28. ~~27.~~ County Approval of Agreement. The County Council has approved this Agreement under the process set forth in Section 6-31-50 of the Act on the terms and conditions set forth in this Agreement.

29. ~~28.~~ Successors and Assigns.

(a) Binding Effect. This Agreement shall be binding on the successors and assigns of the Property ~~Controller~~Owner in the ownership or Development of any portion of the Real Property, the Project. A purchaser, lessee, or other successor in interest of any portion of the Real Property shall be solely responsible for performance of Property ~~Controller's~~Owner's obligations hereunder as to the portion or portions of the Real Property so transferred. ~~Assignees~~Except for assignments by Property Owner to an affiliate thereof, assignees of the Real Property or any portion thereof shall be required to

execute a written acknowledgment accepting and agreeing to the Property ~~Controller's~~Owner's obligations in this Agreement, and specifically the responsibility for payment of the monetary obligations hereunder, including but not limited to the Annual Development Fee and the priority of the equitable lien of the County, said document to be in recordable form and provided to the County at the time of the recording of any deed transferring a development tract. Following delivery of such documents Property ~~Controller~~Owner shall be released of any further liability or obligation with respect to said tract.

This paragraph shall not be construed to prevent Property ~~Controller~~Owner from obtaining indemnification of liability to the County from third parties.

This Agreement shall also be binding on the County and all future County Councils for the duration of this Agreement to the extent authorized by law.

(b) Transfer of Project. Property ~~Controller~~Owner shall be entitled to transfer any portion or all of the Real Property to a purchaser(s), subject to the following conditions:

(i) Notice of Property Transfer. If the Property ~~Controller~~Owner intends to transfer all or a portion of the Real Property to a purchaser who, by virtue of assignment or other instrument, becomes the "Property ~~Controller~~Owner" under and within the meaning of this Agreement, Property ~~Controller~~Owner shall notify the County within thirty (30) days of the transfer and provide it a copy of the assignment of such status as the "Property ~~Controller~~Owner" and the acknowledgement referred to in subparagraph 28(a).

(ii) Transfer of Facility and Service Obligations. If the Property ~~Controller~~Owner transfers any portion of the Real Property on which the Property ~~Controller~~Owner is required to provide and/or construct certain Facilities or provide certain services, distinct from those provided throughout the Project and which are site-specific to the portion of the Real Property conveyed, then the Property ~~Controller~~Owner shall be required to obtain a written agreement in substantially the same form as Exhibit F, attached hereto and incorporated by reference, expressly assuming the development obligations with regard to the parcel conveyed and the potential

Development of same. The Property ~~Controller~~Owner shall notify the County within thirty (30) days after the conveyance of the property, provide the County the applicable documents assigning the development obligations to the transferee, and record the same in the office of the Jasper County Register of Deeds.

(iii) Mortgage Lenders. Nothing contained herein shall prevent, hinder or delay any transfer or any portion of the Real Property to any such mortgage lender or subsequent purchaser. Except as set forth herein, any such mortgage lender or subsequent purchaser shall be bound by the obligations and shall receive the benefits from this Agreement as the successor in title to the Property ~~Controller~~Owner.

(c) Release of Property ~~Controller~~Owner. In the event of conveyance of all or a portion of the Real Property and compliance with the conditions set forth therein, the Property ~~Controller~~Owner shall be released from any further obligations with respect to this Agreement as to the portion of Real Property so transferred, and the transferee shall be substituted as the Property ~~Controller~~Owner under the Agreement as to the portion of the Real Property so transferred.

(d) Estoppel Certificate. Upon request in writing from an assignee or the Property ~~Controller~~Owner to the County sent by certified or registered mail or publicly licensed message carrier, return receipt requested, the County will provide a certificate (the "Certificate") in recordable form stating that solely with respect to the portion of the Real Property described in the request, there are no known violations or breaches of this Agreement, except as otherwise described in the Certificate. The County will respond to such a request within thirty (30) days of the receipt of the request, and may employ such professional consultants, municipal, county and state agencies and staff as may be necessary to assure the truth and completeness of the statements in the certificate. The reasonable costs and disbursements of private consultants will be paid by the person making the request.

The Certificate issued by the County will be binding on the County in accordance with the facts and statements contained therein as of its date and may be relied upon by all persons having notice

thereof. Subsequent to the issuance of such a Certificate no claim or action to enforce compliance with this Agreement may be brought against the Property ~~Controller~~Owner or its assignees properly holding rights hereunder, alleging any violation of the terms and covenants affecting such portion of the Real Property covered by the Agreement and occurring prior to the date of such Certificate, except as otherwise described in the Certificate.

30. ~~29.~~ General Terms and Conditions.

(a) Agreements to Run with the Land. This Agreement shall be recorded against the Real Property as described in Exhibit A and shown on Exhibits B attached hereto. The agreements contained herein shall be deemed to run with the land. The burdens of this Agreement are binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the Parties to the Agreement.

(b) Construction of Agreement. This Agreement should be construed so as to effectuate the public purpose of settlement of disputes, while protecting the public health, safety and welfare, including but not limited to ensuring the adequacy of Facilities and compatibility between Developed and Undeveloped Lands.

(c) No Waiver. Failure of a Party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder. Unless this Agreement is amended by vote of the County Council taken with the same formality as the vote approving this Agreement, no officer, official or agent of the County has the power to amend, modify or alter this Agreement or waive any of its conditions so as to bind the County by making any promise or representation contained herein. Any amendments are subject to the provisions of Section 17 herein.

(e) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both Parties to this Agreement.

(f) Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

To the County: Jasper County Administrator
P.O. Box 1149
Ridgeland, South Carolina 29936

With copies to: Jasper County Attorney
P.O. Box 420
Ridgeland, South Carolina 29936

To Moffett Solar ~~II~~, LLC: Moffett Solar ~~II~~, LLC
c/o ~~Adger Solar~~ Hanwha Q CELLS USA Corp.
~~20 Towne Drive~~ 300 Spectrum Center Dr., Suite ~~388~~ 1250
~~Bluffton, SC 29910~~
~~ATTN: William Moore~~
Irvine, CA 92618
Email: hqc-legal@qcells.com
Attn: Legal Department

With copies to: Moffet Solar II, LLC
c/o Hanwha Q CELLS USA Corp.
300 Spectrum Center Dr., Suite 1250
Irvine, CA 92618
Email: Giacomo.cernjul@qcells.com
Attn: Giacomo Cernjul

¶

(g) Execution of Agreement. This Agreement may be executed in multiple counterparts as duplicate originals; provided, however, if executed in multiple counterparts and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

(h) Whenever the consent, approval or cooperation of one party is expressly or implicitly required or necessary by the terms hereof or to effect successful performance of the other party, such consent, approval or cooperation shall not be unreasonably withheld, denied or delayed.

[SEPARATE SIGNATURE PAGES ATTACHED]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties as of the day and year first above written.

Witness:

JASPER COUNTY

By: _____

L. Martin Saul IV, Chairman

Attest: _____

Wanda Simmons, Clerk of Council

STATE OF SOUTH CAROLINA)

)

ACKNOWLEDGMENT

COUNTY OF JASPER)

I, _____, Notary of the Public of the State of South Carolina, do hereby certify that the County of Jasper, by L. Martin Saul, IV, its Chairman, and Wanda Simmons its Clerk of County Council personally appeared before me this ____ day of _____, 2024, and acknowledged the execution of the foregoing instrument.

Notary Public for South Carolina

Print Name: _____

My Commission Expires: _____

IN WITNESS WHEREOF, this Agreement has been executed by the Parties as of the day and year first above written.

Witness:

MOFFETT SOLAR II, LLC,
a Delaware limited liability company

By:, LLC,
a Delaware limited liability company
Its: Member

By: _____
Name:
Its: Manager

STATE OF _____)
)
COUNTY OF _____)

ACKNOWLEDGMENT

I, _____, Notary of the Public of the State of _____, do hereby certify that Moffett Solar II, LLC, by, its member, by, its manager, personally appeared before me this ____ day of _____, 2024, and acknowledged the execution of the foregoing instrument.

Notary Public for _____
Print Name: _____
My Commission Expires: _____

EXHIBITS

| | |
|------------|--|
| Exhibit A: | Legal Description |
| Exhibit B: | Boundary Plat |
| Exhibit C: | Development Schedule |
| Exhibit D: | Current Regulations |
| Exhibit E: | Development Agreement Ordinance |
| Exhibit F: | Form Partial Assignment and Assumption of Rights |
| Exhibit G: | Fee Schedules |
| Exhibit H: | Legal and Equitable Owners |

Exhibit A

Legal Description

Exhibit B

Boundary Plat

TO BE INSERTED

Exhibit C
Development Schedule

| <u>Year</u> | <u>Percent Complete</u> |
|-------------|-------------------------|
| 0-5 | 100% |
| 6-10 | 100% |
| 11-15 | 100% |
| 15-20 | 100% |

Exhibit D

Current Regulations

TO BE INSERTED

Exhibit E

Development Agreement Ordinance

STATE OF SOUTH CAROLINA
COUNTY OF JASPER

ORDINANCE 202__ - __

AN ORDINANCE
OF JASPER COUNTY COUNCIL

APPROVING A DEVELOPMENT AGREEMENT FOR MOFFETT SOLAR TRACT PURSUANT TO THE SOUTH CAROLINA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT AND ARTICLE IV, TITLE 20 OF THE CODE OF ORDINANCES OF JASPER COUNTY, AND AUTHORIZING THE CHAIRMAN OF JASPER COUNTY COUNCIL TO EXECUTE SAID DEVELOPMENT AGREEMENT

WHEREAS, the South Carolina Local Government Development Agreement Act, South Carolina Code of Laws, Title 6, Chapter 31 (1976, as amended) (the “Act”), authorizes local governments to enter into development agreements with a developer as therein defined; and

WHEREAS, Jasper County Council (“Council”), the governing body of Jasper County, South Carolina (the “County”) has adopted Article IV, Title 20 of the Code of Ordinances of Jasper County governing Jasper County’s participating in development agreements (the “Ordinance”); and

WHEREAS, Moffett Solar 2II, LLC, (the “Owner”) ~~owns~~has option to purchase certain lands suitable for development; and

WHEREAS, pursuant to the Act and the Ordinance, the County is authorized to enter into binding development agreements with certain entities having legal interest in real property; and

WHEREAS, the County and the Owner have now concluded their negotiations with respect to the terms for a development agreement for the real property subject to the development agreement; and

WHEREAS, the County has provided for and held the statutorily required public hearings, finds that the development agreement is consistent with the Comprehensive Plan for Jasper County, as amended, and that approval of the development agreement would be in the best interests of the County.

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

1. The Development Agreement, in substantially the form attached hereto as Exhibit A, with such minor or grammatical changes as the Chairman of Jasper County Council shall approve upon the advice of the County Attorney and County Administrator, his execution of a definitive Development Agreement to be conclusive evidence of such approval, is hereby approved.

2. The Chairman of Jasper County Council is hereby authorized to execute and deliver, on behalf of Jasper County, the Development Agreement on behalf of the County and the Clerk to Council is authorized to attest the signature of the Chairman of the Jasper County Council.

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

Jasper County Council

BY: _____
L. Martin Saul, IV
Chairman

ATTEST:

Judith M. Frank
Clerk to Council

First Reading: _____
Second Reading: _____
Public Hearings: _____ & _____
Adopted: _____

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

Development Agreement.

Reviewed for form and draftsmanship by the Jasper County Attorney.

David Tedder

Date

Exhibit F

Form Partial Assignment and Assumption of Rights and Obligations

2. Assumed Obligations. In connection with this Partial Assignment and Assumption, Assignee agrees to assume, and release Assignor from any liability for, the following obligations (the “Assumed Obligations”) arising under the Development Agreement:

(i) Payment of the Annual Development Fee in the amount of \$ _____ applicable to the assigned property; and

(ii) _____

3. Default and Enforcement of Provisions. As provided in Sections 19 and 24 of the Development Agreement and as herein provided, upon the failure of Assignor or Assignee to comply with the terms of the Development Agreement and this Partial Assignment and Assumption incident to the Property, the non-defaulting party may pursue the remedies of injunction and specific performance, as well as any other legal or equitable remedies, including, but not limited to, actual damages.

4. Indemnification. Assignee agrees to indemnify, defend and hold harmless Assignor, its agents, principals, successors and assigns, and their affiliates from and against all losses, costs, damages, and reasonable attorney fees arising out of any breach by Assignee of the Development Agreement from and after the Closing Date, including without limitation the Assumed Obligations set forth in Section 2 hereof.

5. Notices. Any notice, demand, request, consent, approval or communication among any of the parties hereto shall be in writing and shall be delivered or addressed as provided under section 28(h) of the Development Agreement and shall also be addressed as follows:

As to Assignee:

Attn: _____
Telephone Number: _____
Facsimile Number: _____
E-mail: _____

With a required copy to:

Attn: _____
Telephone Number: _____
Facsimile Number: _____
E-mail: _____

To Assignor:

ATTN:
Telephone Number: _____
Facsimile Number: _____
E-mail: _____

With a required copy to:

6. Binding Effect. This Partial Assignment and Assumption shall inure to the benefit of and be binding upon the respective parties hereto, their successors and assigns.

7. Governing Law. The within Partial Assignment and Assumption shall be interpreted and construed and conform to the laws of the State of South Carolina.

8. Reaffirmation of Terms. All other terms, conditions, rights and privileges contained in the Development Agreement not specifically referenced herein shall remain in full force and effect and binding upon the parties hereto and their successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Exhibit A to Partial Assignment
Property

Exhibit B to Partial Assignment
Transferred Property

EXHIBIT G

Fee Schedules

Fees to be applied for Building Permits, Plan Review and Inspections

| Total Valuation | Building Permit Fee*** |
|---|--|
| \$0 - \$500* | \$50 |
| \$501 - \$2,000 | \$50 for the first \$500, plus \$3 for each \$100 or fraction thereof, to and including \$2,000 |
| \$2001 - \$40,000 | \$69.00 for the first \$2,000, plus \$11 for each \$1,000 or fraction thereof, to and including \$40,000 |
| \$40,001 - \$100,000 | \$487 for the first \$40,000, plus \$9 for each additional \$1000 or fraction thereof, to and including \$100,000 |
| \$100,001 - \$500,000 | \$1,027 for the first \$100,000, plus \$7 for each additional \$1,000 or fraction thereof, to and including \$500,000 |
| \$500,001 - 1,000,000 | \$3,827 for the first \$500,000, plus \$5 for each additional \$1,000 or fraction thereof, to and including \$1,000,000 |
| \$1,000,001 - \$5,000,000 | \$6327 for the first \$1,000,000, plus \$3 for each additional \$1,000 or fraction thereof, to and including \$5,000,000 |
| \$5,000,001 and over | \$18,327 for the first \$5,000,000, plus \$1 for each additional \$1,000 or fraction thereof |
| *Valuation is based on cost of construction | |
| **Per Section 11.B of the Development Agreement, the Building Permit Fee shall be reduced by fifty (50%) percent. | |

Plan Review

Plan Review Fees will be the actual cost of a third party engineering firm with appropriate professional qualifications and experience in the review of plans for utility and site development for solar farms or similar construction projects in accordance with S.C. Department of Labor, Licensing and Regulation standards, plus 15% County Administration Fee. The engineering firm to be selected from a list of qualified and South Carolina licensed professionals compiled by the County; the applicant may submit firms for consideration

Site and Building Inspections

Site and Building Inspection Fees will be the actual cost of a third party engineering firm with appropriate professional qualifications and experience in the inspection of sites and construction of electrical utility and solar farms or similar construction projects in accordance with S.C. Department of Labor, Licensing and Regulation standards, plus 15% County Administration Fee. The engineering firm to be selected from a list of qualified and South Carolina licensed professionals compiled by the County; the applicant may submit firms for consideration

Exhibit H

Legal and Equitable Owners

1. Moffett Solar II, LLC

| Summary report: | |
|--|------------|
| Litera Compare for Word 11.3.1.3 Document comparison done on 4/24/2024 8:47:34 PM | |
| Style name: Default Style | |
| Intelligent Table Comparison: Active | |
| Original filename: Moffett Solar II Development Agreement 4.11.24 bb v4 (1).docx | |
| Modified filename: Moffett Solar II Development Agreement (HQC 4.24.24).docx | |
| Changes: | |
| Add | 127 |
| Delete | 110 |
| Move From | 0 |
| Move To | 0 |
| Table Insert | 0 |
| Table Delete | 0 |
| Table moves to | 0 |
| Table moves from | 0 |
| Embedded Graphics (Visio, ChemDraw, Images etc.) | 0 |
| Embedded Excel | 0 |
| Format changes | 0 |
| Total Changes: | 237 |



The Beaufort Gazette
 The Belleville News-Democrat
 Bellingham Herald
 Centre Daily Times
 Sun Herald
 Idaho Statesman
 Bradenton Herald
 The Charlotte Observer
 The State
 Ledger-Enquirer

Durham | The Herald-Sun
 Fort Worth Star-Telegram
 The Fresno Bee
 The Island Packet
 The Kansas City Star
 Lexington Herald-Leader
 The Telegraph - Macon
 Merced Sun-Star
 Miami Herald
 El Nuevo Herald

The Modesto Bee
 The Sun News - Myrtle Beach
 Raleigh News & Observer
 Rock Hill | The Herald
 The Sacramento Bee
 San Luis Obispo Tribune
 Tacoma | The News Tribune
 Tri-City Herald
 The Wichita Eagle
 The Olympian

AFFIDAVIT OF PUBLICATION

| Account # | Order Number | Identification | Order PO | Amount | Cols | Depth |
|-----------|--------------|---|----------|----------|------|-------|
| 140888 | 543233 | Print Legal Ad-IPL01693330 - IPL0169333 | | \$178.65 | 1 | 45 L |

Attention: Benton Blaine

Cushman & Wakefield
 935 Scaleybark Rd
 Suite 1110
 Charlotte, NC 28209
 benton.blaine@cushwake.com

PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE THAT PUBLIC HEARINGS will be held on **May 6, 2024, at 6:30 PM**, or as soon thereafter as they may be reached on the adopted agenda, in the Jasper County Council Chambers at the Clementa C. Pinckney Government Building located at 358 Third Avenue, Ridgeland, South Carolina, on the following items:

An Ordinance authorizing the Execution and Delivery of A Fee-In-Lieu Of *Ad Valorem* Taxes and Incentive Agreement by and among Jasper County, South Carolina, and MOFETT SOLAR II, LLC for an economic development project formerly known as "Project Icarus"; to Provide for Payment of A Fee-In-Lieu Of Taxes; Authorizing Certain Infrastructure Credits; and Other Related Matters

PUBLIC COMMENTS, WRITTEN OR ORAL, ARE INVITED.

At the public hearing, all taxpayers and residents of Jasper County and other interested persons who appear will be given an opportunity to express their views for or against the ordinance. Anyone wishing to comment on the proposed ordinance is encouraged to attend the public hearing and must sign-in on the public hearing sign-in sheet before the meeting begins. Additional options to participate in the public hearing include emailing written comments to comments@jaspercountysc.gov, or mailing to the Clerk to Council at the address below. All requests must be received by 1:00 pm on May 3, 2024.

Wanda Simmons
 Clerk to County Council
 P.O. Box 1149
 Ridgeland, SC 29936

Jasper County is an Equal Opportunity Employer
 Special Accommodations Available Upon Request to Individuals with Disabilities
 IPL0169333
 Apr 18 2024

STATE OF)
 SOUTH CAROLINA) AFFIDAVIT
 COUNTY OF BEAUFORT)

I, Tara Pennington, makes oath that the advertisement, was published in The Island Packet and The Beaufort Gazette, a newspaper published in Beaufort County, State and County aforesaid, in the issue(s) of

1 insertion(s) published on:
 04/18/24

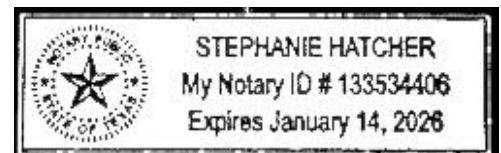
Tara Pennington

Tara Pennington

Sworn to and subscribed before me this 18th day of April in the year of 2024

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County



Extra charge for lost or duplicate affidavits.
 Legal document please do not destroy!