

ORDINANCE

AN ORDINANCE AUTHORIZING DELIVERY BY DORCHESTER COUNTY OF A SPECIAL SOURCE REVENUE CREDIT AGREEMENT WITH FORESTRY RESEARCH HOLDINGS, LLC, AND OTHER MATTERS RELATED THERETO.

WHEREAS, Dorchester County, South Carolina (the "County"), acting by and through its County Council is empowered under and pursuant to the provision of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (the "Act") to grant special source revenue credits for infrastructure to enterprises which enter into agreements to construct, operate, maintain and improve a project, to reimburse the enterprises for expenditures towards infrastructure serving the County or the applicable project or for improved or unimproved real estate use in the manufacturing or commercial enterprise ("Qualifying Infrastructure Costs"); and

WHEREAS, the County has agreed to place the Project in a joint county industrial park established pursuant to the Act by the County and Orangeburg County, South Carolina pursuant to a Multi-County Industrial Park Agreement dated as of November 20, 1995, as amended; and

WHEREAS, the Company will pay to the County a fee-in-lieu of taxes at the statutory property assessment ratio applicable to the class(es) of property owned by Company based on the applicable annual millage rate set for the tax district where the Project is located; and

WHEREAS, the County, as an inducement to ArborGen, Inc. (formerly known as ArborGen, LLC) ("ArborGen") to lease and occupy the Project and for the Company and ArborGen to invest at least \$14 million at the Project and to employ at least 70 persons in the County, has agreed to grant Company a special source revenue credit under the Act in an amount equal to (i) Sixty Thousand Dollars (\$60,000.00) per year for a period of five (5) years, for a total credit of Three Hundred Thousand Dollars (\$300,000.00), plus (ii) any "applicable rollback taxes," as that term is defined in S.C. Code Ann. § 12-43-220(d)(4) ("the Special Revenue Source Credit"). The Special Source Revenue Credit shall be used to offset expenditures in Qualifying Infrastructure Costs to be incurred by Company at the Project; and

WHEREAS, the County has determined that the utilization of the Special Source Revenue Credit as provided for under the Act is a suitable mechanism to provide the Company and ArborGen with a financial incentive to locate its new facility in the County in that (A) the facility serves the public purpose of the State of South Carolina and the County through an increase in industrial investment and associated job creation, (B) the facility is anticipated to benefit the public general welfare of the residents of the County in a way not otherwise provided, and (C) neither the facility nor the benefits to be conferred will give rise to a pecuniary liability of the County.

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

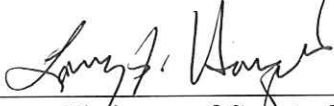
Section 1. The Chairman and the Clerk to County Council are hereby authorized to execute and deliver on behalf of the County a Special Source Revenue Credit Agreement (the "Agreement"), the form of which is attached hereto as *Exhibit A*. The form, terms and provisions of the Agreement are hereby approved, with such minor revisions upon receipt of advice of counsel as are not materially adverse to the County.

Section 2. If any portion of this Ordinance shall be deemed unlawful, unconstitutional, or otherwise invalid, the validity and binding effect of the remaining portions shall not be affected thereby.

Section 3. Any prior Ordinance, the terms of which are in conflict herewith, is, only to the extent of such conflict, hereby repealed.

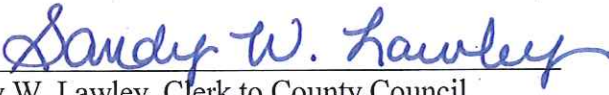
Section 4. This Ordinance shall be effective after third and final reading.

DORCHESTER COUNTY, SOUTH CAROLINA

By: 
Larry S. Hargett, Chairman of County Council
Dorchester County, South Carolina

(SEAL)

ATTEST:

By: 
Sandy W. Lawley, Clerk to County Council
Dorchester County, South Carolina

First Reading: February 7, 2011
Second Reading: February 22, 2011
Public Reading: February 22, 2011
Third Reading: March 7, 2011

ORIGINAL

SPECIAL SOURCE REVENUE CREDIT AGREEMENT

BETWEEN

FORESTRY RESEARCH HOLDINGS, LLC

AND

DORCHESTER COUNTY, SOUTH CAROLINA

DATED AS OF APRIL 8, 2011

SPECIAL SOURCE REVENUE CREDIT AGREEMENT

THIS SPECIAL SOURCE REVENUE CREDIT AGREEMENT (this "Agreement") is made and entered into as of APRIL 8, 2011, by and between **DORCHESTER COUNTY, SOUTH CAROLINA** (the "County"), a body politic and corporate and a political subdivision of the State of South Carolina (the "State"), acting by and through the Dorchester County Council (the "County Council") as the governing body of the County, and **FORESTRY RESEARCH HOLDINGS, LLC**, a South Carolina limited liability company ("Company").

WITNESSETH:

WHEREAS, the County is authorized by Title 4, Chapter 1, Section 170; Title 4, Chapter 1, Section 175; Title 4, Chapter 29, Section 68; and Title 12, Chapter 44, Section 40 of the Code of Laws of South Carolina, 1976, as amended (collectively, the "Acts") to (i) create multi-county industrial parks in partnership with contiguous counties; (ii) include the property of eligible companies within such parks as an inducement to locate within the County, which inclusion under the terms of Section 13 of Article VIII of the Constitution of the State of South Carolina makes such property exempt from *ad valorem* property taxes, therefore changing the character of the annual receipts from such properties from *ad valorem* property taxes to fees-in-lieu of *ad valorem* property taxes; and (iii) grant an annual tax credit against such fee-in-lieu of tax receipts in order to assist a company in paying the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the property of any company located within such multi-county industrial parks or for improved or unimproved real estate used in the operation of a commercial enterprise in order to enhance the economic development of the County; and

WHEREAS, a facility to be constructed by Company, located at tax map # 150-00-00-202 in the County (the "Project") will be located in a joint county industrial park (the "Park") established by the County and Orangeburg County pursuant to a Multi-County Industrial Park Agreement dated as of September 1, 1995, and as subsequently amended from time to time (the "Park Agreement"); and

WHEREAS, pursuant to the Acts and the terms of the Park Agreement, Company is obligated to make or cause to be made payments in lieu of taxes in the total amount equivalent to the *ad valorem* property taxes that would have been due and payable but for the location of the Project in the Park; and

WHEREAS, the County, as an inducement to ArborGen, Inc. (formerly known as ArborGen, LLC) ("ArborGen") to lease and occupy the Project, has agreed to grant a credit to Company, against expenditures in Qualifying Infrastructure (as hereinafter defined) equal to: (i) Sixty Thousand Dollars (\$60,000.00) per year for a period of five (5) years, for a total credit of Three Hundred Thousand Dollars (\$300,000.00), as long as Company's and ArborGen's total investment at the Project equals or exceeds \$14 million, and ArborGen employs at least 70 persons in the County (the "Special Source Revenue Credit"); and, (ii) any "applicable rollback

taxes," as that term is defined in S.C. Code Ann. § 12-43-220(d)(4) ("Applicable Rollback Tax Credit");

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and covenants hereinafter contained, with the understanding that no obligation of the County described herein shall create a pecuniary liability or charge upon its general credit or taxing powers, but shall be payable solely out of the sources of payment described herein and shall not under any circumstances be deemed to constitute a general obligation to the County, the parties hereto agree:

Section 1. *Special Source Revenue Credit.*

A. The parties acknowledge and agree that under Section 3, Article 1 of the Constitution of South Carolina, the Project is exempt from ad valorem property taxes but Company will pay an annual fee-in-lieu of taxes on the Project in an amount equal to the annual ad valorem property taxes as if it were taxable, with such fee-in-lieu of taxes payments being due and payable and subject to interest and penalties as set forth in the Acts. The County hereby grants to Company, and Company hereby accepts from the County, a Special Source Revenue Credit and Applicable Rollback Tax Credit, in reimbursement of investment in Qualifying Infrastructure Costs as described below, to be applied to its annual fee-in-lieu of taxes liability in the amount of (1) Sixty Thousand Dollars (\$60,000.00) per year for five (5) years, plus (2) any applicable rollback taxes related to the Project. The Special Source Revenue Credit of Sixty Thousand Dollars (\$60,000) per year for five (5) years shall be extended to Company during a term of five (5) years measuring from the first tax year following execution of this Agreement. Provided, however, if in a given calendar year the amount of the Payments-in-lieu-of Taxes as to the Project is insufficient to cover the annual credit amount, then the amount of credit not covered shall be carried over to later years when there are sufficient Payments-in-lieu-of Taxes as to the Project and shall extend until the total Special Source Revenue Credit equals Three Hundred Thousand Dollars (\$300,000).

B. The County Auditor is hereby directed to apply the Special Source Revenue Credit amount annually as per the limitations stated herein to reduce Company's annual fee-in-lieu of tax liability by (1) Sixty Thousand Dollars (\$60,000.00) per year for a period of five (5) years, plus (2) the amount of any applicable rollback taxes related to the Project. The Special Source Revenue Credit amount shall be shown on the bill sent by the County to Company or paid to Company by a check from the County Treasurer. The Special Source Revenue Credit shall be effective starting with the 2012 property tax year.

The Special Source Revenue Credit is contingent on ArborGen's employment of at least 70 persons at the Project. If ArborGen fails to employ at least 70 persons at the Project by December 31, 2016, the following limitations will apply:

(i) should ArborGen fail to employ at least 63 persons at the Project by December 31, 2016, the Special Source Revenue Credit will be reduced to ninety percent (90%),

or \$54,000 per year for five years (\$270,000). ArborGen's remaining annual credit payments will be reduced pro rata so that the total payments received by ArborGen will equal \$270,000. For example, if ArborGen has received three \$60,000 Special Source Revenue Credit payment installments (total of \$180,000) prior to December 31, 2016, ArborGen's final two Special Source Revenue Credit payments will be \$37,000 each. If ArborGen has received in excess of \$270,000 in Special Source Revenue Credit payments prior to December 31, 2016, then ArborGen will repay the County the difference between actual payments received and \$270,000 at the time ArborGen makes its next FILOT payment to the County.

(ii) should ArborGen fail to employ at least 56 persons at the Project by December 31, 2016, the Special Source Revenue Credit will be reduced to eighty percent (80%), or \$48,000 per year for five years (\$240,000). ArborGen's remaining annual credit payments will be reduced pro rata so that the total payments received by ArborGen will equal \$240,000. For example, if ArborGen has received three \$60,000 Special Source Revenue Credit payment installments (total of \$180,000) prior to December 31, 2016, ArborGen's final two Special Source Revenue Credit payments will be \$30,000 each. If ArborGen has received in excess of \$240,000 in Special Source Revenue Credit payments prior to December 31, 2016, then ArborGen will repay the County the difference between actual payments received and \$240,000 at the time ArborGen makes its next FILOT payment to the County.

(iii) should ArborGen fail to employ at least 49 persons at the Project by December 31, 2016, the Special Source Revenue Credit will be reduced to seventy percent (70%), or \$42,000 per year for five years (\$210,000). ArborGen's remaining annual credit payments will be reduced pro rata so that the total payments received by ArborGen will equal \$210,000. For example, if ArborGen has received three \$60,000 Special Source Revenue Credit payment installments (total of \$180,000) prior to December 31, 2016, ArborGen's final two Special Source Revenue Credit payments will be \$15,000 each. If ArborGen has received in excess of \$210,000 in Special Source Revenue Credit payments prior to December 31, 2016, then ArborGen will repay the County the difference between actual payments received and \$210,000 at the time ArborGen makes its next FILOT payment to the County.

(iv) should ArborGen fail to employ at least 34 persons at the Project by December 31, 2016, ArborGen will not be eligible for the Special Source Revenue Credit. ArborGen will repay the County at the time ArborGen makes its next FILOT payment an amount equal to the total Special Source Revenue Credit payments received in prior years.

Notwithstanding anything else herein to the contrary, Company shall be entitled to any Special Source Revenue Credits only to the extent that, as of the date of the proposed credit, the cumulative dollar amount expended by Company at the Project in Qualifying Infrastructure Costs is at least equal to the amount of such proposed credit. For purposes of this Agreement, "Qualifying Infrastructure Costs" shall include but not be limited to, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the Project and for improved or unimproved real estate in connection with the Project, and any other such similar or like expenditures authorized by the Acts.

Section 2. *Binding Effect.* This Agreement shall be binding, in accordance with its terms, upon and inure to the benefit of Company and the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any geographical part of the land currently located in Dorchester County, South Carolina with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Agreement shall bind and inure to the benefit of Company and successors of the County, and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 3. *Assignment.* To the maximum extent allowed by the Acts, the County agrees to consent to the transfer or assignment of this Agreement (which consent shall not be unreasonably withheld) by Company or any transferee or assignee, and the Project may be transferred or assigned in whole or in part by Company. The County further agrees that, if future County consent is required by the Act, the County Council can provide any such consent by a resolution of County Council. The Chairman of County Council and the Clerk to County Council are hereby expressly individually and jointly authorized and directed to evidence the County's consent by timely executing such documents as Company may reasonably request.

Section 4. *Counterparts.* This Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one instrument.

Section 5. *Governing Law.* This Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State of South Carolina. To the extent of any conflict between the provisions of this Agreement and the Acts, the Acts control. However, the benefits afforded under this Agreement shall vest in Company upon execution hereof and any subsequent changes in the law shall not impair nor divest Company of any right, title, interest in or entitlement to the benefits of this Agreement.

Section 6. *Amendments.* The provisions of this Agreement may only be modified or amended in writing by an agreement or agreements entered into between the parties.

Section 7. *Further Assurance.* The County agrees to execute and deliver to Company such additional instruments as either may reasonably request to effectuate the purposes of this Agreement.

Section 8. *Severability.* If any provision of this Agreement is declared illegal, invalid or unenforceable for any reason, the remaining provisions hereof shall be unimpaired and such illegal, invalid or unenforceable provision shall be reformed so as to most closely effectuate the legal, valid and enforceable intent thereof and so as to afford Company with the maximum benefits to be derived herefrom. In the event the tax benefit afforded hereunder is declared unavailable or Company is deemed statutorily ineligible, by any court or tax agency with appropriate jurisdiction, the County agrees to enter into good faith negotiations with Company to

confer a different tax incentive otherwise available of value equivalent to the monetary value of the benefit lost to Company by reason of such agency or court action.

Section 9. Limited Obligation. ANY OBLIGATION OF THE COUNTY CREATED BY OR ARISING OUT OF THIS AGREEMENT SHALL BE A LIMITED OBLIGATION OF THE COUNTY, PAYABLE BY THE COUNTY SOLELY FROM THE PROCEEDS OF THE FEE IN LIEU TAX PAYMENTS PAYABLE BY COMPANY PURSUANT TO THE ACTS AND THE PARK AGREEMENT AND SHALL NOT UNDER ANY CIRCUMSTANCES BE DEEMED TO CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION.

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

DORCHESTER COUNTY, SOUTH CAROLINA

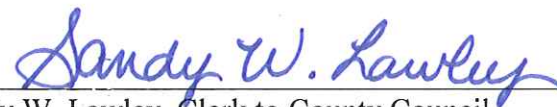
By: _____


Larry S. Hargett
Chairman of County Council
Dorchester County, South Carolina

(SEAL)


ATTEST:

By: _____


Sandy W. Lawley, Clerk to County Council
Dorchester County, South Carolina

First Reading: February 7, 2011
Second Reading: February 22, 2011
Public Reading: February 22, 2011
Third Reading: March 7, 2011

FORESTRY RESEARCH HOLDINGS, LLC

By:  _____
Its: Manager _____

~#4816-6120-5767 v.4~

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

CERTIFICATE AS TO INCUMBENCY

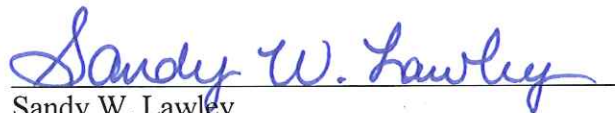
I, the undersigned, Clerk of Council for Dorchester County, South Carolina, do hereby certify that:

1. That the following constitute the members of the County Council of Dorchester County, South Carolina (the "County Council") in the year 2011:

District Number 1	Mr. Willie R. Davis
District Number 2	Mr. David Chinnis
District Number 3	Mr. George H. Bailey (Vice-Chairman)
District Number 4	Mr. Larry Hargett (Chairman)
District Number 5	Mr. Richard Rosebrock
District Number 6	Mr. William R. Hearn, Jr.
District Number 7	Mr. Jay Byars

2. That Jason L. Ward is the County Administrator.
3. That I, Sandy W. Lawley, am the Clerk of the County Council.

IN WITNESS WHEREOF I have hereunto set my Hand and Seal this 7th day of March, 2011.



Sandy W. Lawley
Clerk to County Council
Dorchester County, South Carolina

PUBLIC NOTICE

Notice is hereby given by Dorchester County South Carolina (the "County") that a public hearing will be held relating to an Ordinance authorizing a Special Source Revenue Credit Agreement between the County and Forestry Research Holdings, LLC (the "Company") providing for an infrastructure tax credit to be given to the Company regarding a facility to be constructed by Company (the "Forestry Research Facility). The Forestry Research Facility is located in Dorchester County on approximately 13.50 acres of land, bearing tax map # 150-00-00-202. The hearing will be held at 7:00 p.m., February 22, 2011 in County Council Chambers, Kenneth F. Waggoner Services Building, 201 Johnston Street, St. George, South Carolina 29477. Any person interested in the aforesaid may appear and be heard.

DORCHESTER COUNTY, SOUTH CAROLINA

By: Sandy Lawley, Clerk of Dorchester County Council