

**INTERLOCAL AGREEMENT BETWEEN
ALACHUA COUNTY & CITY OF NEWBERRY
FOR A MEAT PROCESSING FACILITY**

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into by and between ALACHUA COUNTY, a charter county and political subdivision of the State of Florida ("County") and the CITY OF NEWBERRY, a municipal corporation of the State of Florida ("City"), collectively hereinafter referred to as the "Parties".

WITNESSETH:

WHEREAS, Section 163.01, Florida Statutes, provides that local government units may enter into interlocal agreements with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, the City is the owner of real property located on SW 266th Street, Newberry, Alachua County, Florida identified by Parcel ID number 02538-009-001 (commonly referred to as the 'Newberry Environmental Park', more specifically described in **Exhibit "A"** attached hereto and incorporated herein (the "Property"); and

WHEREAS, the COVID-19 pandemic negatively impacted food security and food production and processing, both globally and locally; and

WHEREAS, efforts have been made to stabilize food systems, from farmers to producers to grocers to restaurants and to other food businesses during and following the pandemic and economic crisis; and

WHEREAS, the County received a work plan and results from a study on potential economic impacts of a proposed USDA-inspected meat processing facility proposed to be located in the Newberry area of Alachua County, Florida ("Facility"); and

WHEREAS, the Board of County Commissioners of Alachua County held a special meeting on April 4, 2023 regarding the proposed Facility, as well as further discussing the Facility at public meetings held on December 6, 2022, and June 6, 2023; and

WHEREAS, the City Mayor and the City Commission received a presentation and update on the proposed Facility at its public meeting held on April 24, 2023; and

WHEREAS, the City and the County have received statements and letters of support for a facility from other government entities and local agricultural businesses, farmers, and ranchers; and

WHEREAS, the City and the County agree that locating the Facility on a part of the Property will provide help small ranchers, provide local services, jobs, training opportunities, and will otherwise provide a benefit to both communities and economies; and

WHEREAS, the Parties desire to enter into this Agreement to set forth the responsibilities and agreements of the Parties relative to the Facility and the Property.

NOW, THEREFORE, the County and the City agree as follows:

1. Recitals: The foregoing recitals are correct and are incorporated herein.
2. Term: This Agreement shall be effective upon the date this Agreement is fully executed by the last Party to sign and upon the filing of this Agreement in the Official Records of Alachua County, Florida

(“effective date”). This Agreement will remain in effect for a period of 50 years from the effective date with the option to renew, until and unless terminated by the Parties.

3. Purpose: The purpose of this Agreement is to memorialize a mutual understanding and partnership between the City of Newberry and the County of Alachua for a USDA-inspected meat processing facility to be constructed and operated by the County, or a contractor of the County, on a part of the Property owned by the City. The Parties acknowledge that the primary use of the Property by the City will be a City wastewater treatment facility. The City retains the right to use the Property in any manner not inconsistent with an Interlocal Agreement between the Parties, and the Parties agree that the use of a portion of the Property by the County will not negatively impact the City’s wastewater treatment facility and the City’s intended expansion of the treatment facility.

4. Agreement for Use: In accordance with the terms and conditions of this Agreement, the City grants to the County and the County’s agents and assigns an irrevocable license and the rights to enter a 10-acre portion of the Property, generally shown in **Exhibit “2”**, attached hereto and incorporated herein, to locate, construct, install, operate, maintain, repair, and improve a meat processing facility (“Premise”). The Facility to be located on the Premise will serve farmers and ranchers producing cattle, pigs, sheep, and goats. No poultry, fowl, or game will be processed at the Facility. The Parties agree that space for future job training and/or a workforce center and food-related entrepreneurship related to the meat processing facility may be offered at the Premise.

5. Responsibilities: During the term of this Agreement, the Parties agree to the following responsibilities regarding the Facility on the Premise:

- A. The City will provide the County with a shovel-ready site on the Premise for the construction and operation of the Facility. For purposes of this Agreement, ‘shovel-ready’ means all infrastructure, environmental clearances, and connections to and for utilities are available for the Facility on the Premise. For purposes of this Agreement, ‘utilities’ means electric, water, sewer, wastewater, and stormwater facilities, and excludes roads. The County and City will coordinate with data service providers regarding extending data to the site. It is anticipated the Facility will be approximately 10,000 sf in size.
- B. The County will be responsible for or will enter an agreement(s) with a third-party operator, developer, and/or contractor (hereinafter referred to as “developer-operator”) for the permitting, constructing, and installing the Facility on the Premise. The City consents to the construction and installation of structures, additions, fixtures, parking spaces, and improvements on the Premise. The County will ensure that any improvements on the Premise will be properly designed, structurally sound, safe, and in compliance with all federal, state, and local laws, codes, rules, and regulations. The City may inspect the Premise or the Facility prior to occupancy of the Facility.
- C. The County Facility will comply with the City’s utility standards for backflow prevention and wastewater pretreatment.
- D. The County or its third-party developer-operator will apply for FDAC, UDSA, and other food-related regulatory-related permits or approvals, as may be applicable to the Facility.
- E. The County will be responsible or will enter an agreement with a third-party developer-operator, for the operations of the Facility, including the hours of operation, production, data collection, fees, administration, staffing, operations standards, waste management, equipment maintenance, taxes, permits, and odor & nuisance abatement, as may be applicable.

- F. The County agrees to provide, at the County's or the County's developer-operator's expense, the utilities and the general maintenance of the Premise and keep the Facility in good repair, with reasonable wear and tear expected. For purposes of this Agreement, 'general maintenance' includes pest control, janitorial services and supplies, landscaping, pressure washing, and trash collection. Some of the Facility waste may be processed and sent to a separate composting operation on the Property.
- G. The County has the right to place signage on the Premise or an exterior of the Facility, subject to the approval of the City Manager. The County has naming rights of the Facility.
- H. The City will assist the County in applying or issuing approvals related to building permits, environmental permitting, and obtaining a certificate of occupancy. The Parties will cooperate on design and landscaping for the Facility.
- I. The Parties agree to each promote the use of and opportunities available from the Facility.
- J. To the extent able, the City and the County will meet and provide each with input, strategies and suggestions related to the Facility's operations and services.

In fulfilling the responsibilities listed in subparagraphs 5(A)-(J) above, the Parties acknowledge that the City and the County need to obtain services of or from developer-operators, contractors, engineers, architects, consultants, operators, and other professionals.

6. Contingencies:

- A. The Parties acknowledge that the City is working on a site plan for the Property and the site plan will indicate the Premise. The City will, at its effort and expense, obtain the necessary zoning and land use approvals and designations for the intended uses of the Property. This Agreement is contingent upon the City receiving the site plan approval and the appropriate zoning and land use designation to have the Facility located on the Property. Failure to obtain the appropriate zoning or land use designation during the term of this Agreement is cause for termination.
- B. The Parties acknowledge that it is the intent for the Facility to be County-owned operated by a qualified third-party developer-operator. The County may competitively solicit and receive bids from developer-operators or contractors for the Facility; or, the County may receive unsolicited or solicited proposals and may thereafter enter into an agreement with a private entity, or a consortium of private entities, for the building, upgrading, operating, ownership, or financing of the Facility (i.e. public-private partnership). Upon receipt of bid responses or proposals regarding operations of the Facility, the County Manager or her/his designee will notify the City. Although the City may provide input, the responsibility to award, rank, reject, re-bid, or enter into an agreement with an entity is solely with the Board of County Commissioners. Notwithstanding any provision hereof to the contrary, the County shall not be obligated to operate the Facility as a meat processing facility or do its responsibilities listed in paragraph 5 above unless and until the County obtains the services from a qualified developer-operator or provider. Failure or the inability of the County to obtain or maintain a qualified developer-operator or provider during the term of this Agreement is cause for termination.
- C. The Parties acknowledge that prior to or following the effective date of this Agreement an environmental assessment will be completed regarding the Property. Once the results of the assessments or any other environmental report(s) are received by the County, the County will determine if, in its discretion, whether the Property, in whole or in part, is acceptable for the proposed use for the Facility. If the results of the environmental assessment or any other environmental report(s) about the Property furnished to the County reveal that the Premise, or

any portion of the Property, is unsatisfactory, contaminated, or violates applicable environmental federal, state, or local laws, ordinances, codes, rules, regulations or standards (“environmental defect”), the County will notify the City. The County may (a) accept the environmental defect and continue with use of the Premise, or a part of the Property, pursuant to this Agreement, or (b) terminate this Agreement.

D. It is agreed by the Parties that all obligations under this Agreement are conditioned upon and subject to the availability of funds lawfully appropriated and budgeted annually for the purposes stated herein at a level which, in the sole discretion of the respective parties, permits the successful continuation of such purposes. In the event either Party chooses to discontinue said purposes or arrangements due to the unavailability of funds, that Party shall send written notice of termination.

7. Access: The City additionally grants to the County the right to use the Property to ingress and egress to the Facility. Intended access to the Facility will be via CR 337, also referred to as SW 266th Street in Alachua County, Florida. The City agrees, upon invoice of the County, to pay Alachua County the amount of \$25,000 toward a traffic analysis of CR 337. After receipt of the traffic analysis regarding CR 337, the Parties will jointly review the findings and cooperate on a plan for impact to CR 337 due to this Facility use. Upon request of the County Manager or her/his designee, the City will provide the County with sufficient access (keys, codes, etc) to access the Property.

8. Payment: As this Agreement provides a benefit to both Parties, the Parties agree there is no rent or payment (\$0.00) due from either Party for use of the Premise.

9. Assignment or Sale: Neither Party shall assign this Agreement without first providing written notice to the other Party. If assigned, the Parties agree that prior to transferring, assigning or conveying to any person or entity, that person or entity receiving the interest must assume in writing all the responsibilities of this Agreement. The City agrees not to enter into any contracts, agreements, or other documents or instruments for or regarding the sale, transfer, disposition, conveyance, of the Property, or any part thereof, without first notifying the County.

10. Insurance: The County will obtain coverage insurance on the Premise and the Facility and any improvements thereto in its full insurable value. The City is under no obligation to acquire insurance for the Facility.

11. Damages and Liabilities: Each Party shall be solely responsible, and agrees to indemnify and hold harmless the other Party, for any liabilities, claims, injuries and damages arising out of the omissions, misconduct, negligent or wrongful acts of the Party and the Party’s employees and its agents concerning or involving the Facility and its structures and elements. Nothing contained herein shall be construed as consent to be sued by third parties in any manner. Nothing contained herein shall constitute a waiver by either Party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes. The County, and City further agree that nothing contained herein shall be construed or interpreted as: (1) denying to either Party any remedy or defense available to such Party under the laws of the State of Florida; (2) the consent of the County or the City to be sued; (3) a waiver of the sovereign immunity of the County or the City beyond the waiver provided in Section 768.28, Florida Statutes; (4) cause the County to be responsible for the acts or omissions of the City or the City’s respective officers, employees, servants, agents, contractors, or subcontractors; and (4) cause the City to be responsible for the acts or omissions of the County or the County’s respective officers, employees, servants, agents, contractors, or subcontractors.

The City covenants and agrees at its expense to indemnify, save and hold harmless the County and its officers, commissioners and employees against and from any and all ‘environmental damages’ (claims, judgments, losses, damages, fines, penalties and liability fees and costs) which may be threatened against the County or the City or incurred or asserted by the City or by a third-party arising from or connection with any site contamination, release of regulated substances, noncompliance of environmental laws, consent orders, environmental cleanup/remediation, or negligent acts that occurred prior to the effective date of this Agreement. This section will survive the termination or expiration of this Agreement.

12. Property Conditions: The County agrees to accept the Premise in its existing ‘as-is’ physical condition as of the effective date of this Agreement. Neither Party shall make or authorize any use of the

Premise that is contrary to any applicable federal, state and local laws, rules, regulations, and ordinances. Each Party agrees to promptly, and without delay, notify the other Party, respectfully, either in phone, email, or orally of any hazardous, dangerous, unsafe, or destructive conditions, trespassers, vandalism or damages that either the City or the County, including any of their employees or agents or invitees, notices or is made aware of on or at the Facility, the Premise or the Property.

13. Default and Termination:

- A. This Agreement grants an irremovable license to the County to enter the Premise, for use provided for herein, and it shall run with the land.
- B. However, this Agreement contains certain contingencies agreed to by the Parties. Notwithstanding paragraph 13(A), either Party may provide the other Party with notice due to failure or inability to meet any requirements or provisions listed in paragraph 6 above entitled *Contingencies*. After the notice of termination is received, the Parties will thereafter enter into a separate written agreement specifying the terms and means for termination of this Agreement.
- C. At all times, the City will have the option of providing the County with the option to purchase the Premise where the Facility is located. If the City opts to provide the County with the option to purchase the real property Premise, the City shall provide the County with written notice of the option and provide 60 days for the County to consider. If the County exercises the option to purchase the Premise, the purchase price will be based on the fair market value of the Premise established by an appraisal obtained by the County. If the appraised amount is disputed by the City, the City may obtain an appraisal, at the City's expense, and the Parties agree to use the average value between the two appraisal as the purchase price so long as the different between the appraised values of the Premise is less than 10%. A third appraisal may be used by an appraiser that is mutually agreed upon by the Parties, and at the shared expense of both Parties, if the difference in appraised value is more than 10%.

14. Audits and Accountability. The Parties agree to cooperate in order to comply with all audits and with other funding or granting requirements that may be imposed on the Facility, Premise or Property from federal, state, or any other governmental entity funding assistance.

15. Non-Waver: The failure of either Party to exercise any right in this Agreement shall not be considered a waiver of such right.

16. Public Records: Each Party agrees to be responsible for its own public records retention and compliance with Florida's Public Records Laws related to this Agreement.

17. Governing Law and Venue: The laws of the State of Florida govern this Agreement and the duties and obligations stated herein. Venue for all actions arising under this Agreement shall be in a court of competent jurisdiction in and for Alachua County, Florida.

18. Force Majeure: The Parties will exercise every reasonable effort to meet their respective responsibilities under this Agreement but will not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, acts of nature, fires, hurricanes, strikes, national disasters, pandemics, wars, riots, and any other cause whatsoever beyond the reasonable control of the Parties. Any such cause will reasonably extend the performance of the delayed duty to the extent of the delay so incurred and so agreed by the Parties.

19. Counterparts: This Agreement may be executed in any number of and by the different Parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument. Receipt via email with PDF attachment by a party or its designated legal counsel of an executed counterpart of this Agreement shall constitute valid and sufficient delivery in order to complete execution and delivery and will bind the Parties to the terms hereof.

20. Severability and Ambiguity: It is understood and agreed by the Parties that if any of the provisions of the Agreement shall contravene or be invalid under the laws of the State of Florida, such contravention or invalidity shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provision(s) held to be invalid, and the rights and obligations of the Parties shall be construed and enforced accordingly. This Agreement shall not be construed more strictly against one Party than against the other Party, merely due to the fact that it may have been prepared by one of the Parties. Each Party represents and agrees that it has had the opportunity to seek the advice of appropriate professionals, including legal counsel, in the review and execution of this Agreement.

21. Amendment: The Parties may modify or amend this Agreement by a mutual written amendment to this Agreement signed by both Parties.

22. Third Party Beneficiaries: This Agreement does not create any relationship with, or any rights in favor of, any third party.

23. E-Verify: The U.S. Department of Homeland Security's E-Verify system will be utilized in accordance with the terms governing use of the system and in accordance with the provisions of F.S. sec. 448.095, as may be amended, to confirm the work authorization status of all new employees hired for the Facility or by a contractor or subcontractor utilized to construct or operate the Facility.

24. Electronic Signatures: The Parties agree that an electronic version of this Agreement shall have the same legal effect and enforceability as a paper version. The Parties further agree that this Agreement, regardless of whether in electronic or paper form, may be executed by use of electronic signatures. Electronic signatures shall have the same legal effect and enforceability as manually written signatures. Delivery of this Agreement or any other document contemplated hereby bearing an manually written or electronic signature, by electronic mail in PDF form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

25. Notice: A notice from either Party to the other Party must be in writing and delivered by hand delivery with receipt or sent by certified mail, return receipt requested, to the addresses below.

City of Newberry, Florida
Attn: City Manager
25440 W. Newberry Road
Newberry, FL 32669

Alachua County, Florida
Attn: County Manager
12 SE 1st Street
Gainesville, FL 32601

cc: With a copy electronically sent to:
Alachua County Procurement, Attn: Contracts
acpur@alachuacounty.us
Clerk of Court, Attn: Finance & Accounting
dmw@alachuaclerk.org

26. Recording: Following execution of this Agreement, the County Manager's Office will cause a certified copy of this Agreement to be filed and recorded in the Official Records of Alachua County, Florida, as required by Section 163.01(11), Florida Statutes.

{Remainder of page intentionally left blank – signature page to follow}

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the respective dates under each signature: Alachua County, through the Chair of the Board of County Commissioners who is authorized to sign and by the City of Newberry, through its Mayor who is authorized to sign.

ALACHUA COUNTY, FLORIDA

By: _____

Anna Prizzia, Chair
Board of County Commissioners

Date: _____

Approved as to form:

ATTEST

J.K. "Jess" Irby, Esq., Clerk
(SEAL)

Alachua County Attorney's Office

CITY OF NEWBERRY, FLORIDA

BY:

Jordan Marlowe, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM

Judy S. Rice, City Clerk

City Attorney

EXHIBIT 1 : Description of the Property

A PARCEL OF LAND LYING WITHIN SECTION 09, TOWNSHIP 10 SOUTH, RANGE 17 EAST, ALACHUA COUNTY, FLORIDA, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHEAST CORNER OF THE NORTH HALF (N 1/2) OF THE NORTH HALF (N 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 09 FOR THE POINT OF BEGINNING AND RUN NORTH 01°30'36" WEST, ALONG THE EAST LINE OF THE WEST HALF(W 1/2) OF THE WEST HALF (W 1/2) OF SAID SECTION 09, A DISTANCE OF 200.00 FEET; THENCE RUN SOUTH 87°08'24" WEST, A DISTANCE OF 672.00 FEET; THENCE RUN NORTH 01°35'51" WEST, A DISTANCE OF 1876.24 FEET; THENCE RUN NORTH 88°03'02" EAST, A DISTANCE OF 116.10 FEET; THENCE RUN NORTH 01°35'51" WEST, A DISTANCE OF 922.56 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION 09; THENCE RUN SOUTH 88°03'02" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 708.56 FEET TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 337 (S.W. 266th STREET); THENCE RUN SOUTH 01°35'51" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 3301.69 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 766.20 FEET, A CENTRAL ANGLE OF 20°48'18", AND A CHORD BEARING AND DISTANCE OF SOUTH 08°57'57" WEST, 276.69 FEET; THENCE, ALONG THE ARC OF SAID CURVE AND SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 278.22 FEET TO THE END OF SAID CURVE; THENCE RUN SOUTH 01°35'07" EAST, ALONG THE WEST LINE OF SAID SECTION 09; A DISTANCE OF 63.24 FEET; THENCE RUN NORTH 87°00'22" EAST, A DISTANCE OF 634.60 FEET, ALONG THE NORTH LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1561, PAGE 1762 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA; THENCE RUN NORTH 01°36'02" WEST, A DISTANCE OF 626.13 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTH HALF (N 1/2) OF THE NORTH HALF (N 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 09; THENCE RUN NORTH 87°08'24" EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 680.50 FEET TO THE POINT OF BEGINNING.



EXHIBIT 2 : Location of the Premise

Newberry Environmental Park

