

**DEVELOPMENT AGREEMENT BETWEEN THE CITY OF HOPEWELL, VIRGINIA  
AND OSAGE BIO ENERGY, LLC**

This Development Agreement (hereinafter, "Agreement"), dated as of \_\_\_\_\_, 2007, (the "Effective Date"), by and between the City of Hopewell, Virginia (hereinafter, "City") and Osage Bio Energy, LLC (hereinafter, "Osage") for the potential sale and development of City-owned property to and by Osage for the construction and operation of an ethanol production facility (the "Intended Use").

RECITALS:

Osage and the City have been engaged in discussions regarding Osage's proposed purchase and development of certain real property owned by the City which is located in Hopewell, Virginia, being approximately twelve (12) acres, more or less (the "City Property"), the City Property being described on Exhibit "A-1," attached hereto and made a part hereof, and of certain real property, legal title to which is held by HDC, LLC, a Virginia limited liability company (hereinafter, "HDC"), which property is also located in Hopewell, Virginia, adjacent to the City Property and which constitutes approximately forty-three (43) acres, more or less (the "HDC Property"), the HDC Property being described in Exhibit "A-2," attached hereto and made a part hereof. The City Property and the HDC Property are collectively referred to herein as the "Property." The City and HDC entered into a certain Agreement on the Redevelopment of the Exeter Site, Hopewell, Virginia, dated October 25, 2000 (hereinafter, the "Exeter Redevelopment Agreement") with respect to the Property. HDC entered into a Purchase and Sale Agreement, dated May 31, 2007, by and between HDC, as seller, and Osage, as buyer (as amended, the "Purchase Contract"), whereby HDC agreed to convey its interests in the Property to Osage on the terms and conditions set forth in the Purchase Contract. The terms of the Purchase Contract have not been shared with the City.

On October 15, 2007, Osage provided the City with an aerial photo showing the proposed footprint of the facilities to be placed on the Property. The City hereby acknowledges by its execution of this Agreement that it has received such aerial photo from Osage and that it understands that the final footprint and locations of facilities on the Property will be subject to final design and engineering requirements, building and safety codes, and any other requests

made by the federal, state and local government entities having the authority to make such requests.

HDC and the City are involved in litigation pending in the Circuit Court for the City of Hopewell (the “Court”), regarding the Exeter Redevelopment Agreement (the “Litigation”). The Court has verbally sustained the City’s “Demurrers” and “Pleas in Bar” set forth in the Litigation to the claims raised in HDC’s suit against the City. HDC has “Non-Suited” its claims in the Litigation raised against the individually named present and former councilpersons. However, to date, the Court has not entered an order dismissing HDC’s suit against the City. The City’s claims against HDC in the Litigation have yet to be resolved by the Court.

Osage and the City desire to enter into this Agreement to mutually come to terms regarding the potential sale of the City’s interests in the Property and Osage’s proposed use of the Property.

Defined terms in this Agreement shall have the meaning provided in the text of the Agreement or, if not defined in the text, shall have the meanings set forth in Section 20 of this Agreement.

#### AGREEMENT:

1. Settlement Agreement; Effect on Litigation. On the Effective Date, (a) the City will sign, in counterparts, the Unconditional Settlement Agreement attached hereto as Schedule 1 (the “HDC/City Settlement Agreement”), and (b) the HDC/City Settlement Agreement will be delivered into escrow and released upon the terms and conditions set forth therein. On the Closing Date, this Agreement and the HDC/City Settlement Agreement shall, among other things, (x) unconditionally terminate the Exeter Redevelopment Agreement and any and all other agreements between HDC and the City pertaining to the Property, (y) constitute the City’s approval of an alternative development plan pursuant to Paragraphs 15 and 16 of the Exeter Redevelopment Agreement, and (z) be the sole agreement related to the development of the Property authorized and approved by the City. The City hereby agrees that the City Council of the City of Hopewell (the “City Council”) will vote on an ordinance with respect to this Agreement and the HDC/City Settlement Agreement (the “Ordinance”) at a public meeting of

the City Council occurring no later than December 21, 2007. If the City Council approves the Ordinance at such public meeting, then final approval and execution by the City of this Agreement and the HDC/City Settlement Agreement shall occur no later than January 18, 2008.

2. City's Covenants and Agreements. On the Closing Date, the City shall sell all of its right, title and interest in and to the Property to Osage (the "Conveyance") for the sum of One Million Dollars (\$1,000,000.00) (the "Purchase Price"). The City acknowledges that the Purchase Price may come from HDC or Osage, depending upon the structure of the Conveyance as determined in Osage's discretion.

To the extent the City is authorized to do so, the City agrees that Osage, personally or through its authorized agents or representatives, shall be entitled, at Osage's sole cost and expense, to enter upon the Property at all reasonable times in order to perform such investigations in connection with the Conveyance as Osage shall deem necessary or desirable, including, without limitation, all soil tests and environmental audits. Osage will or will cause its agents and representatives to promptly repair and restore any damage or injury to the Property caused by Osage or its authorized agent or representatives during the course of such investigations. Osage shall repair any damage to the Property to as near as practicable to its original condition which are caused by Osage as a result of Osage's entering upon the Property to test, study, investigate or inspect the Property.

3. Osage's Covenants and Agreements. In connection with the Conveyance, Osage hereby covenants and agrees:

a. On the Closing Date, the City shall receive the Purchase Price in connection with the conveyance to Osage of the City's interests in and to the Property;

b. On the Closing Date, Osage shall acquire all of HDC's right, title and interests in and to the Property, and shall promptly following the Conveyance submit an application requesting resubdivision of the Property as a single parcel;

c. From the Effective Date through the expiration of the Operation Period, Osage shall use the Property exclusively for its Intended Use, unless an alternative use is approved by the City Council. This means Osage shall not be entitled, during the Operation

Period, to use the Property for any retail, commercial, residential, manufacturing, industrial or other use not directly associated with the production of ethanol, unless such alternative use is approved by the City Council;

d. Osage shall be free to enter into any agreement to sell the Property to any third-party, provided: (i) such sale shall be subject to the rights granted to the City in Section 4 hereof (to the extent such rights apply and exist), and (ii) the sale agreement shall require the purchaser to agree that the Property shall be used for its Intended Use in accordance with the terms of this Agreement, including without limitation the obligation to obtain and maintain the Letter of Credit and the Conditional Letter of Credit in accordance with the terms of this Agreement;

e. On or before the Deadline, Osage shall commence construction of the facility for its Intended Use. Construction of the ethanol production facility shall be deemed to have commenced on the Commencement Date; provided however, if due to circumstances beyond its control (including without limitation Permitted Stoppages), Osage is unable to fulfill this obligation in a timely manner, then Osage shall have an additional amount of time equal to the duration of any such delay to commence construction. Notwithstanding the foregoing, under no circumstances, whether or not any delays are within Osage's control, shall the Commencement Date occur on a date later than the Firm Deadline. Time is of the essence regarding this requirement;

f. During the time that Osage owns the Property and uses the Property for its Intended Use, Osage shall (i) provide on the Property all fire and emergency response equipment required to be on the Property by applicable law, including any law or regulation imposed by the Fire Chief of the City in accordance with the requirements of the National Fire Protection Association, including without limitation any equipment or materials customary and reasonable given Osage's Intended Use of the Property, (ii) utilize customary and reasonable practices to minimize lighting and noise emanating from the Property, (iii) comply with any and all applicable federal, state and local regulations and laws related to its Intended Use of the Property as set by any governing body with jurisdiction over such matters, including those regarding emissions and pollution, and Osage will request and/or provide sufficient evidence so that the

Federal Environmental Protection Agency (“EPA”) classifies Osage as a “minor emitter” of hazardous air pollutants in connection with Osage’s required permit application to the EPA, (iv) take full responsibility for any and all environmental cleanup of the Property necessitated by Osage’s use of the Property and which are required by applicable law, during and after any period Osage uses the Property for its Intended Use, provided, notwithstanding the foregoing, Osage shall not be responsible to the City for the cleanup of any environmental condition on the Property existing prior to the date that Osage acquired title to the Property, (v) use only those routes for truck traffic approved by the City to and from the facility located on the Property; provided, however, that contingent or alternative routes shall be made available to Osage should closures, accidents or delays prevent Osage from using the pre-approved routes, (vi) use commercially reasonable efforts to preserve all mature trees (mature trees shall not include saplings or other immature or young trees) located on the Property while remaining in compliance with applicable fire and safety laws and regulations; the foregoing shall include a commercially reasonable effort by Osage to preserve existing trees along Sixth Avenue and Winston Churchill Drive to maintain the current foliage buffer that exists along such roads, provided the City acknowledges that development of the Property may require that trees be removed along both roads, (vii) replace, by planting seedlings or new trees, every tree cut on the Property in a two-to-one (2-1) ratio either on the Property itself, or, if reasonably requested by the City, on property owned by the City, and (viii) provide a 150 ft. wide foliage buffer on the Property along LaPrade Avenue, provided such buffer does not conflict with any other regulation, law or rule imposed on the Property for Osage as promulgated by the City or any other governmental authority, including without limitation, the Fire Chief of the City;

g. Osage shall use commercially reasonable efforts to design and to operate the facility at the Property so that when the plant is operating thermal oxidizers will reduce by ninety-five percent (95%) the volatile organic compounds (VOCs) emitted from the facility that result from the production of ethanol; it being understood by the City that some VOCs created at the plant are not part of the process of creating ethanol. To the extent that a subsequent owner of the Property is operating the ethanol production facility at the Property, such subsequent owner shall be classified as a “minor emitter” by the EPA, and the foregoing standards with respect to emissions from the facility located on the Property shall bind such subsequent owner with respect to their activities on the Property. Osage shall not sell the Property to any purchaser that

intends to operate the facility in a capacity which would cause such purchaser to be classified as anything greater than a “minor emitter”;

h. On or before the earlier of the date that (i) the plant begins producing ethanol for commercial sales, or (ii) three (3) years after the Commencement Date, Osage shall obtain and maintain a stand-by letter of credit issued by a bona fide financial institution, and in a form reasonably approved by the City and Osage (the “Letter of Credit”), in favor of the City to (i) ensure that Osage pays to the City an aggregate of at least Five Million Dollars (\$5,000,000.00) in tax revenue by the end of the fourth (4<sup>th</sup>) year of the Operation Period (the “Guaranteed Tax Payment”), and (ii) to secure Osage’s obligations under this Agreement, in the amount of Five Million Dollars (\$5,000,000.00) (the “Security Amount”). If the City draws upon the Letter of Credit in accordance with the terms and conditions set forth in the Letter of Credit, the City will be permitted to use the proceeds in the following manner (x) if the draw is for the payment of any Tax Shortfall, the City may use the proceeds drawn from the Letter of Credit for any purpose, including without limitation any demolition or cleanup work at the Property that the City may deem necessary in its discretion, and (y) if the City has drawn on the Letter of Credit following any other failure by Osage to perform its obligations under this Agreement other than described in subsection (x), the draw by the City shall be used to cure such default by Osage and shall be solely in an amount sufficient to cure such default. The City hereby agrees that Osage can, without the prior approval of the City, reduce the Security Amount of the Letter of Credit on an annual basis, starting with the first anniversary of the date that Osage obtains the Letter of Credit (the first and each subsequent anniversary, being a “Security Period”), by the amount of taxes for real property, personal property, and machinery and tools actually paid in a timely manner by Osage to the City in the prior Security Period. Osage shall under no circumstances be required to replenish the Letter of Credit following (a) a draw on the Letter of Credit by the City in accordance with the terms and conditions set forth in the Letter of Credit, or (b) the reduction of the Letter of Credit by taxes paid from Osage to the City as provided in this Section 3(h). The City will make payments to Osage in an amount equal to the out-of-pocket costs, whether direct or indirect, incurred by Osage in obtaining and maintaining the Letter of Credit (each an “LOC Expense Payment”), such that, subject to the limitation in the following sentence, Osage will not incur any costs associated with obtaining or maintaining the Letter of Credit during any applicable tax period that will not be offset by an LOC Expense Payment. The City shall make

each LOC Expense Payment no later than forty-five (45) days after Osage has made a tax payment to the City. Notwithstanding the foregoing, the aggregate amount of any LOC Expense Payments made by the City to Osage shall be subject to a limit of One Hundred Thousand Dollars (\$100,000.00) during any tax period. At the expiration of the Operation Period or when the Security Amount has been reduced to zero, Osage shall no longer be required to maintain the Letter of Credit, and Osage shall have the right to terminate the Letter of Credit on the earlier of the date that the Operation Period expires or the date that the Security Amount is reduced to zero, as the case may be;

i. To help secure Osage's obligation to perform any environmental remediation of the Property required by applicable law and related to Osage's Intended Use of the Property, Osage hereby agrees to perform at Osage's sole expense, and provide the City with a copy of, a Phase I Environmental Assessment of the Property on the fifth (5<sup>th</sup>) and tenth (10<sup>th</sup>) anniversaries of the date that Osage takes title to the Property. In addition, upon the occurrence of either of the following: (a) if Osage fails to operate the Property for its Intended Use for a period of sixty (60) consecutive days, subject to any Permitted Stoppages, and (b) if either Phase I Environmental Assessment that Osage has agreed to perform above indicates that a material environmental condition exists on the Property that requires remediation action under applicable law on the Property which would cost in excess of Five Hundred Thousand Dollars (\$500,000.00) to complete; then, no later than thirty (30) business days following the date on which either of the events described in subsection (a) and (b) above have occurred, Osage shall obtain and maintain a stand-by letter of credit issued by a bona fide financial institution, and in a form reasonably approved by the City and Osage, in favor of the City (the "Conditional Letter of Credit") in the lesser of the following amounts (x) Three Million Dollars (\$3,000,000.00), or (y) if the Conditional Letter of Credit is needed as a result of subsection (b) above, the estimated cost, as determined by a licensed environmental engineer selected by Osage, of the remediation to be performed at the Property. If maintained as a result of subsection (a) above, the Conditional Letter of Credit shall be maintained in full force and effect for a period of six (6) months following the date on which Osage has provided the City with a Phase I Environmental Assessment indicating that the Property does not contain any material environmental condition that requires remediation under applicable law. If the Conditional Letter of Credit is needed as a result of subsection (b) above, the Conditional Letter of Credit shall be maintained during

Osage's remediation of the Property and shall not be discontinued and terminated until a no further action letter or letter indicating that all remediation at the Property is complete is received from the appropriate governmental authorities with respect to the remediation to be completed at the Property. Notwithstanding the foregoing, Osage shall not be obligated to the City to cleanup any pre-existing environmental condition on the Property and the Conditional Letter of Credit may not be used for the purpose of cleaning up any pre-existing environmental condition on the Property;

j. Osage shall reimburse the City, to the extent Osage is required to do so by applicable law, for emergency response expenses actually incurred by the City in responding to emergencies on the Property related to the presence of hazardous substances on the Property, which emergencies are directly and solely caused by Osage's use of the Property; and

k. During the Operation Period, Osage shall cause the City to be named as additional insured on Osage's liability insurance policies, to the extent permitted by Osage's insurer(s), for personal injury (including coverage for the death of individuals) or property damage relating to or arising out of Osage's operation of the ethanol facility at the Property at such limits of liability that Osage and its insurer(s) agree upon for coverage of Osage. Osage's obligations pursuant to this Section 3(k) shall terminate with respect to the City on the earlier of (x) the expiration of the Operation Period, (y) the date that Osage has no longer operated an ethanol facility at the Property for sixty (60) consecutive days, or (z) the date that Osage sells, transfers or conveys the Property to a third-party purchaser as permitted under this Agreement to the extent this Agreement remains in effect and impacts such sale, transfer or conveyance; and

l. Osage acknowledges the importance to the City of recouping the Guaranteed Tax Payment as consideration for the City's previous investment in the Property. Accordingly, if the plant does not begin producing ethanol for commercial sales within three (3) years after the Commencement Date, then the City will be entitled to take the following actions: (i) the City may immediately draw One Million Dollars (\$1,000,000.00) from the Letter of Credit, and (ii) at the closing of any sale of the Property by Osage to an unaffiliated third-party purchaser from and after the third (3<sup>rd</sup>) anniversary of the Commencement Date, the City shall be permitted to draw on the Letter of Credit in an amount equal to the difference between Four

Million Dollars (\$4,000,000.00) less any tax payments made by Osage to the City from and after the Closing Date. If after the third (3<sup>rd</sup>) anniversary of the Commencement Date Osage commences production of ethanol at the facility on the Property, (x) any amount drawn from the Letter of Credit pursuant to subsection (i) above shall be treated as an advance payment of taxes by Osage and shall be credited on a dollar-for-dollar basis against any future taxes payable by Osage to the City, and (y) the City's right to receive the Four Million Dollar (\$4,000,000.00) payment specified in subsection (ii) above shall be deemed null and void and of no further force and effect. The foregoing shall be the City's sole and exclusive remedy related to Osage's failure to begin producing ethanol at the Property for commercial sales within three (3) years after the Commencement Date.

4. City's Purchase Option.

a. Osage shall diligently work to ensure that the Commencement Date occurs on or before the Deadline. However, if the Commencement Date does not occur on or before the Deadline or if applicable the Firm Deadline, Osage agrees to convey the entire Property to the City upon the following terms and conditions: (i) the City shall within twenty (20) days after the Deadline or Firm Deadline, as applicable, provide Osage with notice of its intent to exercise the option granted in this Section 4(a) with respect to the entire Property, (ii) the City shall not be in default under this Agreement and shall have performed all obligations required of it hereunder in the time and manner specified herein, (iii) the City shall pay Osage One Million Dollars (\$1,000,000.00) for the City Property, (iv) the City shall pay Osage One Million Dollars (\$1,000,000.00) for the HDC Property, (v) the closing of the sale of the Property from Osage to the City shall occur within ninety (90) days of the date that the City provides the notice required in subsection (i) above, and (vi) the documents related to the transfer of the Property to the City are reasonably satisfactory to both Osage and the City; under no circumstances shall Osage be required to convey any better title to the Property than that which was conveyed to Osage, and the City shall accept such title. If the City fails to provide a timely notice as required under Section 4(a)(i) above of its intent to exercise the option granted herein, the option granted herein shall automatically terminate and, subject to the other terms and conditions of this Agreement, Osage shall be permitted to freely convey, sell or transfer the Property without being subject to the option granted the City in this Section 4(a).

b. The purchase option granted to the City in Section 4(a) above shall be deemed null and void and of no further force and effect if the Commencement Date has occurred prior to the Deadline or to the Firm Deadline, as applicable.

c. The right of the City to purchase the Property in Section 4(a) above shall be the City's sole and exclusive remedy related to Osage's failure to have the Commencement Date occur on or before the Deadline or, as applicable, on or before the Firm Deadline, both in accordance with the terms and conditions of this Agreement.

5. Deed Provisions/Restrictions. It is agreed and understood that the Deeds to the Property from the City and HDC shall contain the restrictions contained in Sections 3(c) through 3(e) and the provisions contained in Section 4, hereinabove.

6. Review of Osage's Proposed Financing. Osage will provide the City Council with details and documentation (the specific details and documentation that are to be provided will be determined by Osage at Osage's sole discretion) regarding Osage's proposed equity partners, the proposed parties involved in the debt financing to be sought and obtained by Osage, and any specifics related to the potential bond financing that Osage intends to seek in connection with the project at the Property (the "Financing Materials"). The City and the City Council will be entitled to review or have reviewed by a third-party (provided prior to any review by a third-party, such third-party reviewer (i) is approved, in writing, by Osage in Osage's sole discretion and (ii) agrees, in writing, to be bound by the confidentiality provisions of this section) the Financing Materials. The cost of any third-party review of the Financing Materials shall be borne by the City. The delivery of the Financing Materials shall not (i) be construed by the City or the City Council as Osage making any representations regarding the financing to be obtained for the project at the Property, (ii) provide the City with any approval rights over any financing to be obtained or pursued by Osage, or (iii) be utilized by the City or the City Council to withhold or condition any consents or approvals requested by Osage from the City or the City Council in connection with the facility to be constructed at the Property or with Osage's Intended Use of the Property. Except as otherwise expressly set forth herein, any Financing Materials provided shall be reviewed only by active council members of the City Council, the City Manager, Assistant City Manager, City Attorney and City Finance Director, and all information

disclosed or conveyed to the City in such Financing Materials shall be and remain confidential unless Osage consents to such disclosure in writing. Osage, prior to distribution of any Financing Materials, can require the entities and individuals entitled to review such Financing Materials to sign such additional agreements or assurances as reasonably deemed necessary by Osage, to ensure the confidentiality of the Financing Materials and any discussions that take place in connection with review of such Financing Materials.

7. Good Faith; Osage's Lender. Both parties agree to work with each other in good faith and in compliance with all applicable ordinances, regulations, and laws in order to efficiently implement the agreements contained in this Agreement in connection with actions necessary and appropriate associated with the Property's Intended Use. In furtherance of the agreement contained in the immediately preceding sentence, the City agrees to act reasonably with respect to any approval, consent, support, acknowledgement, review or any other action taken by the City with respect to the Approvals as may be requested by Osage or any other governmental authority that requests action from the City in connection with the Approvals. The City hereby represents and warrants that the City is capable of taking all actions required to make each LOC Expense Payment set forth in this Agreement, and the City covenants that it will promptly take all actions needed to ensure that Osage receives each LOC Expense Payment in a timely manner. In connection with the foregoing agreement, the City hereby agrees to accommodate any reasonable and customary request that any lender of Osage makes with respect to this Agreement and the Property; provided the City shall not be required to relinquish any rights granted herein pursuant to any such request. The City hereby acknowledges that Osage's lender shall have (a) the right to hold and record evidence that such lender holds a first priority lien on the Property and the rights of the City granted herein with respect to the Property shall be subordinate to the rights of such lender, (b) the ability to exercise the remedies (including without limitation any foreclosure rights available to such lender) granted in any loan documents entered into with Osage, (c) if such lender has notified the City of its interest in the Property and provided the City with its address, the right to receive any notice that Osage is in default under this Agreement and the right to cure such default within one hundred twenty (120) days of such notice regarding any default by Osage under this Agreement, (d) the right to request and receive an acknowledgement, in recordable form, that the option granted the City in Section 4(a) of this Agreement, respectively, have expired, and (e) the right to request such other reasonable and

customary assurances, certificates, consents to assignment, legal opinions and other documents in connection with the loan being made to Osage.

8. Equal Opportunity Employer. Osage is an Equal Opportunity Employer. In keeping with this policy, Osage will recruit, hire, train and promote into all job levels of Osage the most qualified persons without regard to race, color, religion, sex or national origin. Similarly, Osage will continue to administer all other personnel matters (such as compensation, benefits, transfers, lay-offs and training) in accordance with the requirements of federal, and state law. In addition, Osage will use its best efforts to recruit well-qualified minorities for its work force, and Osage's representatives will meet with representatives of the City from time to time to identify appropriate techniques for such recruitment. Osage shall also ensure that each of its construction contractors and subcontractors are also Equal Opportunity Employers and that they extend the same policies as set forth in this Section 8 to their respective personnel.

9. No Partnership or Joint Venture. It is mutually understood and agreed that nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstances whatsoever as creating or establishing the relationship of co-partners or creating or establishing the relationship of a joint venture between the City and Osage or as constituting Osage as the agent or representative of the City for any purpose or in any manner under this Agreement.

10. Broker. The City and Osage each represent and warrant for itself that it has not dealt with any broker in connection with this Agreement and each covenants and agrees to indemnify and hold the other harmless from and against any claim, cost, liability, or expense (including reasonable attorney's fees) arising or resulting from a breach of this warranty.

11. Third Party Beneficiary. Nothing contained in this Agreement shall be construed to confer upon any other party the rights of a third party beneficiary.

12. No Waiver. No failure on the part of the City or Osage to enforce any covenant or provision contained in the Agreement nor any waiver of any right under this Agreement shall discharge or invalidate such covenant or provision, or affect the right of the other party to enforce the same in the event of any subsequent default.

13. Governing Law; Waiver of Jury Trial. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia. The parties hereby agree to waive any right to trial by jury with respect to any action or proceeding brought by either party or any other person, relating to (A) this Agreement and/or any understandings or prior dealings between the parties hereto, or (B) the Property or any part thereof. The parties hereby acknowledge and agree that this Agreement constitutes a written consent to waiver of trial by jury pursuant to any applicable state statutes.

14. Assignability. Subject to the sentence below, neither the City nor Osage shall have the right to assign its rights, obligations and liabilities under this agreement to any entity or person without the express written approval of the non-assigning party. Osage shall have the right, without the City's express written approval, to assign its rights, obligations and liabilities under this Agreement at any time to (i) any entity which controls, is controlled by or is under common control with Osage and the assignee pursuant to and following such assignment shall assume all of the rights, obligations and liabilities of Osage under this Agreement, and (ii) any lender of Osage that requests an assignment of this Agreement; provided that following any such assignment, Osage shall notify the City of the assignment.

15. Entire Agreement; Amendments. This Agreement incorporates all prior negotiations and discussions between the parties regarding its subject matter and represents the entire agreement of the City and Osage. Amendments and modifications to this Agreement shall not be effective unless and until they are reduced to writing and approved between the City and Osage.

16. Severability. If any provision of this Agreement is declared by a court of competent jurisdiction to be void or invalid for any reason, the remainder of the terms of this Agreement, and the rights and obligations of the parties pursuant thereto, shall remain in full force and effect.

17. Notices. All notices, demands, or other communications of any type given, or required to be given, pursuant to this Agreement shall be in writing and shall be delivered to the person to whom the notice is directed, either in person with a receipt requested therefor, or sent

by a recognized overnight service for next day delivery or by United States certified mail, return receipt requested, postage prepaid to the addresses or by facsimile as follows.

If to Osage:

Osage Bio Energy, LLC  
5219-A Hickory Park Drive  
Suite 104  
Glen Allen, VA 23059  
Attention: Craig Shealy

with a copy to:

Arent Fox LLP  
Attention: Jay Halpern, Esq.  
1050 Connecticut Avenue, NW  
Washington, DC 20036  
Telecopy: 202/857-6395

If to the City:

Dr. Edwin C. Daley, City Manager  
300 North Main Street  
Hopewell, Virginia 23860

with a copy to:

Edwin N. Wilmot, City Attorney  
300 North Main Street  
Hopewell, Virginia 23860  
Telecopy: 804/541-2248

Any notice given by personal delivery or courier delivery service will be deemed effective when received. Any notice given by United States Mail will be deemed effective on the third (3<sup>rd</sup>) business day following deposit in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as set forth above. Any notice sent by facsimile shall be deemed given by the date reflected by the facsimile confirmation

receipt. Any notice that may be given by either party in connection with this Agreement may be given by such party's attorney.

18. Miscellaneous. This Agreement may be executed in counterparts that together shall constitute an original and one agreement. For purposes of determining the enforceability of this Agreement, facsimile signatures shall be deemed originals. This Agreement shall be binding upon and inure to the benefit of the City and Osage and their successors and assigns (if such succession and assignment has been approved by the City as hereinabove required).

19. Construction. It is recognized and understood that each party to this Agreement has had the benefit of legal counsel and fully understands the terms of the Agreement. This Agreement shall not be construed with reference to which party drafted the Agreement.

20. Definitions. The following terms have the following meanings in this Agreement:

“Approvals” means receipt by Osage of all rezoning, special use permits, variances, approvals, permits, easements and licenses and any necessary subdivisions and plat or site plan approvals each as necessary or appropriate for Osage's Intended Use of the Property and any other required consents related to the Intended Use of the Property.

“Approvals Date” means the date that Osage receives the last of the Approvals from the City and any other applicable governmental authority.

“Closing” means the date that the Property is conveyed to Osage in accordance with the terms of this Agreement.

“Closing Date” means the date that Closing occurs, which will be the date that is ten (10) business days after (a) the Approvals Date, or (b) the date that Osage provides the City with written notice that it has waived the occurrence of the Approvals Date as a condition to the Closing. Notwithstanding the foregoing, if the Closing has not occurred on or before July 31, 2008, this Agreement shall automatically terminate as set forth in Section 21(iv) below.

“Commencement Date” means the date specified in the notice letter (described below) sent from Osage to the City confirming that at least Two Million Dollars (\$2,000,000.00) has been spent, whether on hard costs or soft costs (including without limitation, engineering, architect, and design costs), in connection with preparing the Property for Osage’s Intended Use. Any purchase price money paid by Osage to the City or HDC for the City Property and the HDC Property, respectively, shall *not* count toward the Two Million Dollar (\$2,000,000.00) threshold set forth above. Osage will deliver to the City a notice letter, together with supporting evidence (whether invoices, bills or other agreements), specifying the date on which the Commencement Date occurred. If the City does not respond to Osage’s notice letter indicating that the Commencement Date has occurred within ten (10) business days after delivery by Osage of such notice letter in accordance with this Agreement, then the City shall be deemed to have concurred with and approved Osage’s conclusion that the Commencement Date has occurred on the date specified in the notice letter and all rights of the City and obligations of Osage that flow from the failure of Osage to cause the Commencement Date to occur shall automatically terminate and be of no further force and effect without any further action being required by the City or Osage.

“Deadline” means the date that is eighteen (18) months after the Closing Date.

“Firm Deadline” means the date that is three (3) years after the Effective Date.

“Operation Period” means the five (5) year period commencing on the date that a certificate of occupancy, whether temporary or final, is issued for the Property that permits Osage to use the Property for its Intended Use; provided any rights of the City or obligations or liabilities of Osage that flow from the failure to maintain continuous operation of the Property for Osage’s Intended Use shall not be triggered during or by reason of any Permitted Stoppages.

“Permitted Stoppages” means any time that the ethanol facility at the Property is not in operation due to (x) any commercially reasonable downtimes or stoppages (including those related to maintenance), (y) cessation of production of ethanol at the Property arising from any material and adverse commodity market conditions or other conditions that have a material and adverse impact on Osage’s Intended Use and are outside of Osage's control, or (z) by reason of force majeure, including without limitation, acts of God, fires, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment, labor disputes, restraints

of governments, interruption, curtailment, hurricanes, storms, storm warnings, or other similar weather related events, or similar occurrences not within the control of Osage.

“Tax Shortfall” means the difference, determined at the end of the fourth (4<sup>th</sup>) full year of the Operation Period, between: Five Million Dollars (\$5,000,000.00) less the aggregate of all tax payments made by Osage to the City from and after the Closing Date until the end of the fourth (4<sup>th</sup>) full year of the Operation Period.

21. Termination. This Agreement shall terminate on the earlier of the following: (i) the date that the City’s rights in Section 4 of this Agreement have expired and are no longer of any force and effect, (ii) eight (8) years from the date this Agreement was executed, (iii) December 31, 2007, if the City has not voted on, approved and executed this Agreement and the HDC/City Settlement Agreement in the time frames set forth in Section 1 of this Agreement, or (iv) July 31, 2008, if the Closing has not occurred on or before such date. Upon any termination of this Agreement in accordance with the terms and conditions hereof, the City shall, within fifteen (15) days of Osage’s request therefor, deliver to Osage an agreement in recordable form confirming the termination of this Agreement. If in the 15-day period set forth above the City has failed to respond to Osage’s request regarding delivery of the documentation required to terminate this Agreement, then Osage shall be permitted to unilaterally, and without the consent of the City, record any documents required to terminate this Agreement. Notwithstanding anything set forth herein, Section 3(i) (the Conditional Letter of Credit) of this Agreement shall survive for a period of ten (10) years from the date that Osage takes title to the Property; provided all other agreements of the parties set forth herein and provisions of this Agreement shall terminate as otherwise set forth in this Section 21. Upon termination of this Agreement as provided in this Section 21, this Agreement shall terminate automatically and neither party shall have any further rights or obligations hereunder except as provided in those Sections which expressly survive the termination of this Agreement.

22. Default. Failure by either party to this Agreement to duly observe any covenant, condition or agreement set forth herein which is not cured within thirty (30) days from the date of notice of such failure by the non-defaulting party shall constitute a default hereunder, provided if such failure is reasonably incapable of cure within such thirty (30) days, so long as

the defaulting party promptly commences and diligently pursues such cure, such defaulting party shall have a reasonable time, not to exceed one hundred eighty (180) days to effectuate such cure. Upon a default by the City beyond any applicable cure and grace period, Osage may, in addition to any and all other rights and remedies available to Osage at law or in equity, enforce all of the terms of this Agreement against the City by specific performance. Subject to the limitations on the City's remedies set forth and agreed to herein, upon a default by Osage beyond any applicable cure and grace period, the City may enforce the terms of this Agreement against Osage by specific performance.

23. Arbitration. If either party to this Agreement has a good faith dispute or disagreement with the other regarding any aspect of this Agreement, then the party which has the dispute (the "Disputing Party") shall notify the other party in writing of such dispute ("Notice of Dispute"). The Notice of Dispute shall contain a detailed description of the disputed item(s) and the reason(s) for such dispute. If, despite the good faith efforts of the parties, the City and Osage are unable to settle such dispute amicably within fifteen (15) days after receipt of the Notice of Dispute, then either party may serve a written demand for arbitration (the "Arbitration Notice") on the other party not later than the tenth (10th) business day after the expiration of said 15-day period. If the parties are unable to settle a dispute and an Arbitration Notice is submitted by the Disputing Party such arbitration proceedings shall occur in Hopewell, Virginia in accordance with the applicable law of the Commonwealth of Virginia; provided however, to the extent the AAA Rules do not allow the arbitration to occur in Hopewell, Virginia, or at the election of the arbitrators, the arbitration shall occur in Richmond, Virginia. Within five (5) business days after receipt of an Arbitration Notice, the parties shall each select one arbitrator and the two chosen arbitrators shall select the third arbitrator, or failing agreement on the selection of the third arbitrator, the American Arbitration Association shall select the third arbitrator in accordance with the then-effective Commercial Arbitration Rules of the American Arbitration Association, as may be amended from time to time and which are incorporated herein by this reference (the "AAA Rules"). Any dispute between the parties arising out of this Agreement shall be resolved by mandatory and binding arbitration in accordance with the AAA Rules. The decision shall be rendered by the arbitrators within thirty (30) days after the appointment of the arbitrators, shall be in writing and shall be final and conclusive on the parties. Counterpart copies thereof shall be delivered to each of the parties. In rendering such decision, the arbitrators shall not add to,

modify, detract from, or alter in any way the provisions of this Agreement. Judgment may be had on the decision and award of the arbitrators so rendered in any court of competent jurisdiction. The parties shall pay equally the cost of any such arbitration, and each party shall pay its own attorney's fees and disbursements and the fees of all other persons engaged by it in connection with the arbitration.



EXHIBIT A-1  
CITY PROPERTY

EXHIBIT A-2  
HDC PROPERTY

SCHEDULE 1  
HDC/CITY SETTLEMENT AGREEMENT