

RICHLAND COUNTY
SPECIAL CALLED MEETING
AGENDA



TUESDAY DECEMBER 13, 2022

6:00 PM

COUNCIL CHAMBERS

Richland County Council 2021-2022



Deirek Pugh
District 2



Bill Malinowski
District 1



Overture Walker
District 8
Chair



Gretchen Barron
District 7



Yvonne McBride
District 3



Chakisse Newton
District 11



Allison Terracio
District 5



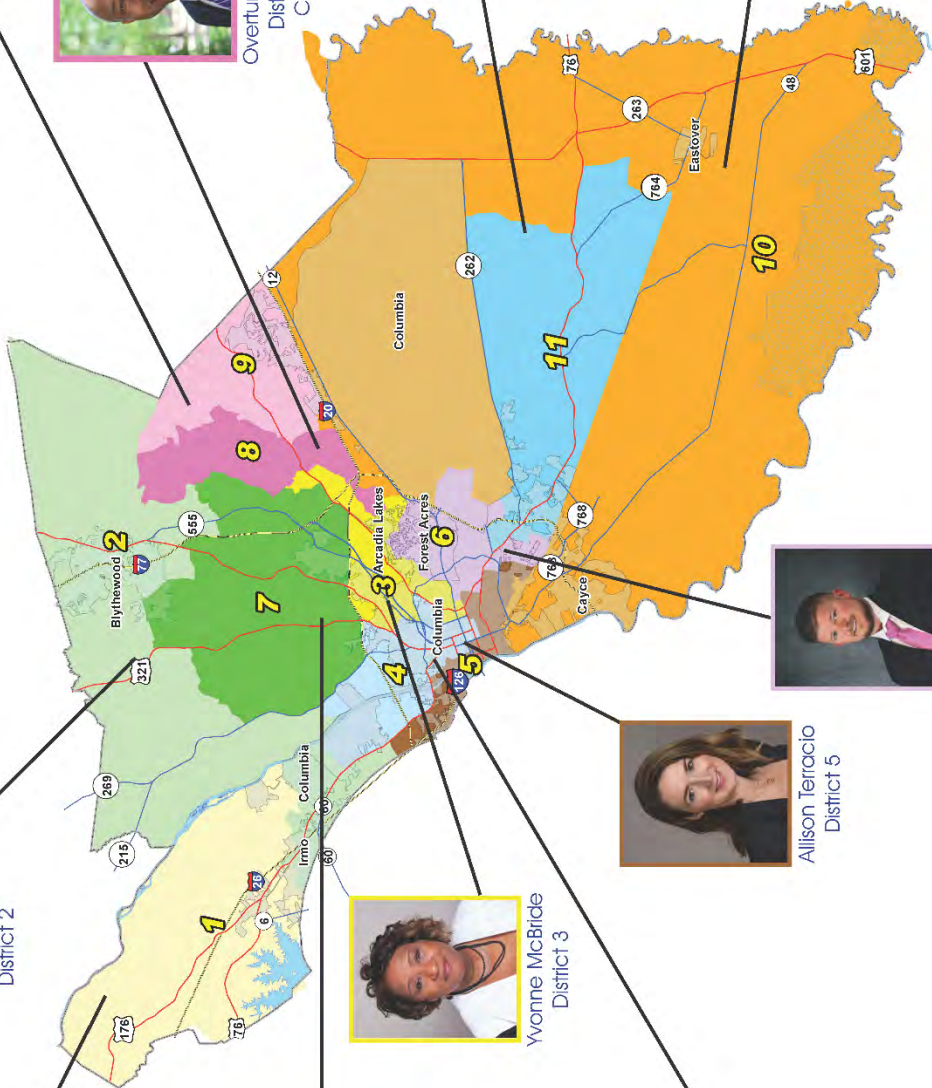
Paul Livingston
District 4



Joe Walker, III
District 6



Cheryl English
District 10





**Richland County
Special Called Meeting**

AGENDA

December 13, 2022 - 6:00 PM
2020 Hampton Street, Columbia, SC 29204

1. **CALL TO ORDER** The Honorable Overture Walker
 - a. Roll Call
2. **INVOCATION** The Honorable Derrek Pugh
3. **PLEDGE OF ALLEGIANCE** The Honorable Derrek Pugh
4. **ADOPTION OF AGENDA** The Honorable Overture Walker
5. **PRESENTATION OF PROCLAMATIONS**
 - a. Proclamation Recognizing Wayne L. Richardson's Retirement The Honorable Derrek Pugh
6. **REPORT OF ATTORNEY FOR EXECUTIVE SESSION ITEMS** Patrick Wright,
County Attorney

After Council returns to open session, council may take action on any item, including any subsection of any section, listed on an executive session agenda or discussed in an executive session during a properly noticed meeting.

 - a. Proposed Changes to Council Rules [PAGE 11]
7. **CITIZEN'S INPUT** The Honorable Overture Walker
 - a. For Items on the Agenda Not Requiring a Public Hearing
8. **CITIZEN'S INPUT** The Honorable Overture Walker
 - a. Must Pertain to Richland County Matters Not on the Agenda (Items for which a public hearing is required or a public hearing has been scheduled cannot be addressed at this time.)
9. **REPORT OF THE COUNTY ADMINISTRATOR** Leonardo Brown,
County Administrator

- a. Updates

10. REPORT OF THE CLERK OF COUNCIL

Anette Kirylo,
Clerk of Council

- a. Strategic Planning Forum Update

11. REPORT OF THE CHAIR

The Honorable Overture Walker

12. OPEN / CLOSE PUBLIC HEARINGS

The Honorable Overture Walker

- a. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Husqvarna Construction Products North America, Inc. and Husqvarna Professional Products, Inc. to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters
- b. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to GSM of North Main LLC, and Peak Drift Beverages, LLC; and other related matters
- c. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to Crosspointe at Killian, LLC, a company previously identified as Project Green Arrow; and other related matters
- d. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Project Golden Eagle to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters

13. APPROVAL OF CONSENT ITEMS

The Honorable Overture Walker

- a. 22-022MA
Jenny Reyes
RU to NC (8.63 Acres)
9200 Wilson Blvd.
TMS # R14600-03-41 [THIRD READING]
[PAGES 12-13]

- b. An Ordinance amending the Richland County Code of Ordinances; Chapter 16, Licenses and Miscellaneous Business Regulations; by the addition of Article VII, Residential Rental Property Registration and Regulations [SECOND READING] [PAGES 14-24]

14. THIRD READING ITEMS

The Honorable Overture Walker

- a. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Husqvarna Construction Products North America, Inc. and Husqvarna Professional Products, Inc. to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [PAGES 25-59]
- b. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to GSM of North Main LLC, and Peak Drift Beverages, LLC; and other related matters [PAGES 60-84]
- c. Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to Crosspointe at Killian, LLC, a company previously identified as Project Green Arrow; and other related matters [PAGES 85-109]
- d. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Project Golden Eagle to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters [PAGES 110-146]

15. SECOND READING ITEMS

The Honorable Overture Walker

- a. An Ordinance authorizing the option and acquisition of certain property located in Richland County; and other matters related hereto [PAGES 147-165]
- b. Authorizing the first amendment of that certain fee agreement by and between Richland County, South Carolina and Eastover Solar, LLC., relating to, without limitation, the further investment of the project, the increase of the phase termination date, and an update to

the fee payment schedule and amount and other related matters [PAGES 166-172]

The Honorable Paul Livingston

16. THE REPORT OF THE ECONOMIC DEVELOPMENT COMMITTEE

- a. Authorizing the formation of a public-private partnership for economic development; approving a concept document setting forth the goals of such partnership, and other related matters [PAGES 173-178]
- b. An Ordinance authorizing the transfer of certain property owned by Richland County and located in the Pineview Industrial Park; and other matters related hereto [FIRST READING BY TITLE ONLY] [PAGES 179]

17. REPORT OF THE RULES AND APPOINTMENTS COMMITTEE

The Honorable Gretchen Barron

a. NOTIFICATION OF APPOINTMENTS

- 1. Accommodations Tax Committee - Seven (7) Vacancies (TWO applicants must have a background in the lodging industry, THREE applicants must have a background in the hospitality industry, ONE applicant must have a cultural background, and ONE applicant will fill an At-Large seat)
 - a. David Bergmann
- 2. Board of Zoning Appeals - Four (4) Vacancies
 - a. Carl Patty
- 3. East Richland Public Service District Commission - One (1) Vacancy
 - a. Thaddeus Simmons (Incumbent)
 - b. Catherine Fleming Bruce
- 4. Lexington Richland Alcohol and Drug Abuse Council (LRADAC) - One (1) Vacancy
 - a. Steven Brown (Interviewed on November 15, 2022)
 - b. L. L. (Buddy) Wilson
- 5. Richland Memorial Hospital Board - Six (6) Vacancies
 - a. Franette Boyd (Interviewed on June 21, 2022)

- b. Quadrey Reeves (Interviewed on July 26, 2022)
- c. Henry Batts (Interviewed on July 26, 2022)
- d. Virginia Crocker (Interviewed on September 13, 2022)
- e. Deanne Wages (Interviewed on November 16, 2022)
- f. Walter Caudle (Interviewed on November 16, 2022)
- g. Patrick Palmer
- h. Harry Hardin
- i. Justin Shinta
- j. Kendall Walker
- k. Renaldo Turner
- l. James Manning
- m. Mary Mazzola Spivey (Incumbent)
- n. Ronald Scott (Incumbent)
- o. Sheila Harris

b. NOTIFICATION OF VACANCIES [PAGES 170-181]

- a. Accommodations Tax Committee – Six (6) Vacancies (ONE applicant must have a background in the lodging industry, THREE applicants must have a background in the hospitality industry, ONE (1) applicant must have a cultural background and ONE (1) applicant will fill an At-large seat)
- b. Airport Commission – One (1) Vacancy (Applicant must reside in the Rosewood, Shandon, or Hollywood-Rose Wales Garden neighborhoods)
- c. Board of Zoning Appeals – Four (4) Vacancies
- d. Building Codes Board of Appeals – Nine (9) Vacancies (ONE applicant must be from the Architecture Industry, ONE from the Gas Industry, ONE from the Building Industry, ONE from the Contracting Industry, ONE applicant must be from the Plumbing Industry, ONE applicant must be from the Electrical Industry, ONE applicant must be

from the Engineering Industry and TWO from Fire Industry as alternates)

e. Business Service Center Appeals Board – Three (3) Vacancies (ONE applicant must be from the Business Industry and TWO applicants must be CPAs)

f. Community Relations Council – Three (3) Vacancies

g. Employee Grievance Committee – Two (2) Vacancies (Must be a Richland County Government employee)

h. Hospitality Tax Committee – One (1) Vacancy (Applicant must be from the Restaurant Industry)

i. Planning Commission – One (1) Vacancy

j. Riverbanks Park Commission – One (1) Vacancy

k. Township Auditorium Board – One (1) Vacancy

l. Transportation Penny Advisory Committee (TPAC) – Three (3) Vacancies

18. REPORT OF THE TRANSPORTATION AD HOC COMMITTEE

The Honorable Jesica Mackey

- a. SCDOT I-26 Widening Mitigation Bank Credit Transaction [PAGES 182-185]

19. REPORT OF THE CORONAVIRUS AD HOC COMMITTEE

The Honorable Gretchen Barron

- a. Seeking Approval for two Public Service Projects funded by CDBG-CV funds [PAGES 186-193]
- b. American Rescue Plan Act Grant Process Update [PAGES 194-198]

20. REPORT OF THE COMMUNITY IMPACT GRANTS AD HOC COMMITTEE

The Honorable Cheryl English

- a. Recommendations for Community Impact Grants [PAGE 199]

21. OTHER ITEMS

The Honorable Overture Walker

- a. FY23 - District 4 Hospitality Tax Allocations: [PAGES 200-201]

b. FY23 - District 1 Hospitality Tax Allocations
[PAGES 202-203]

22. **EXECUTIVE SESSION**

After Council returns to open session, council may take action on any item, including any subsection of any section, listed on an executive session agenda or discussed in an executive session during a properly noticed meeting.

Patrick Wright,
County Attorney

23. **MOTION PERIOD**

24. **ADJOURNMENT**

The Honorable Overture Walker



Special Accommodations and Interpreter Services Citizens may be present during any of the County's meetings. If requested, the agenda and backup materials will be made available in alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), as amended and the federal rules and regulations adopted in implementation thereof. Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the Clerk of Council's office either in person at 2020 Hampton Street, Columbia, SC, by telephone at (803) 576-2061, or TDD at 803-576-2045 no later than 24 hours prior to the scheduled meeting.

Under Rule I

1.5 b) Electronic Participation- Electronic Participation may also be permitted in Committee Meetings with notification being made to the Committee Chair at least 24 hours prior to the meeting start time.

Electronic Participation – “Council members are expected to regularly attend meetings in person, but electronic participation may be permitted in circumstances with notification being made to the Chair at least 24 hours prior to the meeting start time. Electronic Participation may also be permitted in Committee Meetings with notification being made to the Committee Chair at least 24 hours prior to the meeting start time.

Under Rule IV

4.1 Standing Committees

[add a sentence to end as a new paragraph] “Standing Committees shall follow the same rules and procedures as the County Council”.

Add RULE VII: OFFICIALS TO SERVE THE COUNCIL

7.1 Administrator and Clerk of Council

The Council shall appoint or elect a County Administrator and a Clerk of Council.

Richland County Council Request for Action

Subject:

22-022MA
Jenny Reyes
RU to NC (8.63 Acres)
9200 Wilson Blvd.
TMS # R14600-03-41

Notes:

First Reading: November 17, 2022
Second Reading: December 6, 2022
Third Reading:
Public Hearing: November 17, 2022

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-22HR

AN ORDINANCE OF THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, AMENDING THE ZONING MAP OF UNINCORPORATED RICHLAND COUNTY, SOUTH CAROLINA, TO CHANGE THE ZONING DESIGNATION FOR THE REAL PROPERTY DESCRIBED AS TMS # R14600-03-41 FROM RURAL DISTRICT (RU) TO NEIGHBORHOOD COMMERCIAL DISTRICT (NC); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

Section I. The Zoning Map of unincorporated Richland County is hereby amended to change the real property described as TMS # R14600-03-41 from Rural District (RU) to Neighborhood Commercial District (NC).

Section II. Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

Section III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section IV. Effective Date. This ordinance shall be effective from and after _____, 2022.

RICHLAND COUNTY COUNCIL

By: _____
Overture Walker, Chair

Attest this _____ day of
_____, 2022

Anette A. Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only.
No Opinion Rendered As To Content.

Public Hearing: November 17, 2022
First Reading: November 17, 2022
Second Reading: December 6, 2022
Third Reading: December 13, 2022

Richland County Council Request for Action

Subject:

An Ordinance amending the Richland County Code of Ordinances; Chapter 16, Licenses and Miscellaneous Business Regulations; by the addition of Article VII, Residential Rental Property Registration and Regulations

Notes:

November 17, 2022 – The D&S Committee recommended Council approve the proposed ordinance and business license amendments, and to include the following language: “If the owner shall not reside within a 50-mile radius of the registered address or reside within Richland County, then all the above information is required.”

First Reading: December 6, 2022

Second Reading:

Third Reading:

Public Hearing:

**RICHLAND COUNTY
ADMINISTRATION**

2020 Hampton Street, Suite 4069
Columbia, SC 29204
803-576-2050



Agenda Briefing

Prepared by:	Aric Jensen, AICP	Title:	Assistant County Administrator
Department:	Administration	Division:	
Date Prepared:	November 3, 2022	Meeting Date:	November 17, 2022
Legal Review	Patrick Wright via email	Date:	November 8, 2022
Budget Review	Abhijit Deshpande via email	Date:	November 7, 2022
Finance Review	Stacey Hamm via email	Date:	November 7, 2022
Approved for consideration:	County Administrator	Leonardo Brown, MBA, CPM	
Meeting/Committee	Development & Services		
Subject	Absentee Landlord Ordinance and Registration		

RECOMMENDED/REQUESTED ACTION:

Staff recommends approval of proposed ordinance amendments and business license amendments to full Council.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
If not, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

At this time no additional personnel or equipment are required to implement the proposed ordinance amendments; however, as population and development increases, there will need to be a commensurate growth in personnel to administer and enforce these statutes and practices.

Applicable department/grant key and object codes:

OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:

Not applicable

COUNTY ATTORNEY’S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

There are no legal concerns regarding this matter.

REGULATORY COMPLIANCE:

Not applicable

MOTION OF ORIGIN:

I move to direct the County Attorney to work with the County Administrator to research and draft an absentee landlord ordinance. The ordinance should provide potential remedies for individuals who violate county ordinances and provide, via supplemental documentation, a comprehensive review of the legal impacts [potentially] associated with the adoption of such an ordinance.

Council Member	Chakisse Newton, District 11, and Joyce Dickerson, formerly District 2
Meeting	Regular Session
Date	November 19, 2019

STRATEGIC & GENERATIVE DISCUSSION:

Background

At the July 28, 2022 D&S Committee Meeting, the Committee directed the Administrator to perform two tasks and to present the work product for consideration at the September 27 Meeting:

First, to create an online portal and database for absentee landlord registration using an existing software platform such as E-Trackit (which is currently used for entering and processing land use permit related applications).

Second, as necessary, amend the County Code to:

- Affirmatively state that a property owner, property manager, and any tenant may be cited and held responsible for the violation of a county ordinance related to zoning, building safety, and property maintenance;
- Affirmatively state that any County Code Enforcement Officer or Public Safety Officer can issue a citation for any violation of a County code;
- Require that the owner of any non-owner-occupied residential property or unit provide and keep current within the County’s online database a mailing address, phone number, and email address for an authorized agent located within 50 miles of the property;
- Require a business license for any person or entity that owns 2 or more non-owner-occupied residential units for lease, OR require that any person or entity that owns 2 or more non-owner-occupied residential units for lease contract with a professional property management firm that has a current Richland County business license and that pays equivalent licensing fees.

At the September 27, 2022 meeting, the Committee reviewed the proposal and directed staff to prepare a response in the form of an addendum in advance of the October 11, 2022 meeting.

At the October 11, 2022 D&S Committee Meeting, the Committee reviewed the materials provided in the briefing addendum, asked questions of staff, but did not request any additional changes or modifications. As such, the item is now properly before the Committee for action.

Updated Work schedule

- 01-Mar-2022 Workgroup committee meeting #1, 1st Draft workplan completed
- 01-Apr-2022 Workgroup committee meeting #2, 2nd Draft workplan completed
- 24-May-2022 Workplan update to D&S Committee
- 27-Jun-2022 Presentation and Committee Direction
- 26-Jul-2022 Committee Direction to Prepare Ordinance Language
- 27-Sep-2022 D&S Committee Review and Direction
- 11-Oct-2022 Committee Review
- ★ 17-Nov-2022 Committee Action
- 13-Dec-2022 County Council First Reading
- TBD Feb-2023 County Council Public Hearing and Second Reading
- TBD Mar-2023 County Council Third Reading

ADDITIONAL COMMENTS FOR CONSIDERATION:

An Addendum was provided to the Committee at the 11 October 2022 meeting in response to questions from the Committee Members.

ATTACHMENTS:

1. Agenda Briefing Addendum
2. Proposed Ordinance Language



Agenda Briefing Addendum

Prepared by:	Aric Jensen, AICP	Title:	Assistant County Administrator
Department:	Administration	Division:	
Date Prepared:	October 11, 2022	Meeting Date:	September 27, 2022
Approved for Consideration:	County Administrator		Leonardo Brown, MBA, CPM
Committee:	Development & Services		
Agenda Item:	5a. I move to direct the County Administrator to work with the County Attorney to research and draft an absentee landlord ordinance. The ordinance should provide potential remedies for individuals who violate county ordinances and provide, via supplemental documentation, a comprehensive review of the legal impacts [potentially] associated with the adoption of such an ordinance.		

COUNCIL INQUIRY:

Why was the distance of 50 miles chosen? Can the provision be modified to reflect the owner living within the County? Does it require those who live outside of the 50 mile radius to find/hire someone to register on their behalf?

What is the logic associated with the recommendation?

Would it be considered an undue burden to require the designation of an authorized agent?

Reply:

The distance of 50 miles was chosen as some federal agencies use this distance to distinguish between “local” and “extraterritorial” activities. There is neither an identified industry standard nor a uniform distance standard among local governments.

Yes; the distance provision can be modified to reflect the owner living within the County.

The distance provision can require an owner living outside of the distance parameters to hire someone to act as a local agent for the owner.

Absentee landlord ordinances and similar regulations have been in widespread use for at least the past 30 years, and the concept of requiring a local agent is common among many regulatory bodies. The logic associated with the recommendation is to ensure that parties and individuals who reside outside of a county, state, or country can be served summons and citations and be held accountable for their actions or inactions, associated with meeting governing standards of property upkeep and maintenance.

COUNCIL INQUIRY:

Is an apartment complex considered one unit or is each apartment considered a separate unit? As a tenant within the complex, is s/he absolved from the responsibilities outlined within the ordinance?

Reply:

An apartment complex is not one dwelling unit; it is a series of dwelling units attached to one another.

There are many categories of leases: commercial, residential, industrial, professional office, agricultural, hunting, vacant land, etc., and each will be structured according to a unique set of circumstances. As such, any property code enforcement ordinance must include the tenant, the property manager, and the property owner in the enforcement process – because, sometimes, the tenant is responsible for mowing the lawn and taking out the garbage; other times, it is the property management firm; and yet, sometimes, it is the property owner. The same applies to other potential violations. The party responsible for the violation is the party that has to be held accountable – there is no discretion in that regard.

COUNCIL INQUIRY:

Is there an "order of operations" for who is held responsible for an item or is each individual held responsible simultaneously? Does the person serving the citation have a great deal of the latitude to determine to who is cited based on the law in some areas and judgment in others?

Reply:

The code enforcement individual will most likely start with the party that appears to be responsible for the violation. For example, if the violation is a car parked on the front lawn of a detached house, they would start with the tenant or car owner. If the violation is a dead tree at an apartment complex, they would start with the property manager or property owner. If the violation was a pollution discharge at an industrial property, they would start with the business owner/operator. There is no set order of operations that applies to every instance as it depends on the situation and the violation.

COUNCIL INQUIRY:

What is the cost associated with the creation of the database?

Reply:

The database will use existing software owned by the County and will be populated by the property owners or property management firms. The only cost to the County will be the initial set-up of the database, which will be done in-house and probably involve 20-30 hours of staff time.

COUNCIL INQUIRY:

Are penalties both civil and/or criminal (referred to the mention of a misdemeanor)? Does the County have opportunities for redress in terms of recouping the County's costs for maintaining overgrown properties?

Reply:

The County does not have a civil code enforcement system, so all enforcement would be through the County's typical citation process.

The County can attempt to recuperate costs spent mitigating nuisances and violations through a lien on property, but the lien would not be collected until the property sells per state law. Municipalities in

South Carolina have the authority to have their liens satisfied the next time property taxes are assessed and collected.

As mentioned during previous committee meetings, County Administration is promoting a bill to give counties the same lien collection ability as municipalities, and it may be in the County's interest to discuss the benefits of a civil code enforcement process.

COUNCIL INQUIRY:

Councilmembers requested more information regarding the potential profitability of the program.

Reply:

As a general rule, government doesn't make a "profit" in the same sense as businesses in the private sector because government is a simply a steward of the public good. However, whenever a government agency improves its processes and accomplishes more with less resources, the community "benefits" from it. There is no intent or proposal to charge a fee to implement this program.

COUNCIL INQUIRY:

Does the ordinance apply only to absentee landlords or are all landlords required to obtain a business license?

Reply:

As drafted, the proposed ordinance provisions regarding code enforcement would apply only to situations where the property owner does not reside at the property (the definition of an "absentee landlord"). The proposed business licensing provisions (which are located in a different section of code) would apply uniformly throughout the unincorporated County to all property owners.

COUNCIL INQUIRY:

Why is the ordinance only for persons who own more than one unit? A landlord is a landlord and anyone who owns a unit for business purposes should have to follow the rules that everyone else does. Following that question [Councilmember Malinowski] stated that persons could use the more than one as a loophole and place individual units in other family members' names, thereby actually owning more than one unit in reality but only one on paper.

Reply:

The County's existing business license ordinance requires that an owner of 3 or more residential units for lease obtain a business license, which is a common practice in other jurisdictions. This standard is predicated on the argument that owning and leasing 1 or 2 properties does not rise to the level of being a commercial business, and, therefore, should not require a business license. The Council may establish any threshold it deems appropriate. The proposal at this time is to reduce the current threshold from 3 units to 2 units.

COUNCIL INQUIRY:

How will we educate landlords about the process?

Reply:

The proposed ordinance provisions are long standing practices in many jurisdictions; large property management firms and property owners with units in multiple jurisdictions may already be familiar with its provisions.

Staff recommends that any education effort should focus on small firms and individuals who only own one or two properties. The quickest and most effective way is direct notification to all landlords using the business license database. The next most effective activity is to provide education/information to the local realtor and property management member organizations for circulation through their networks. While less effective, media releases may still reach some persons who do not have business licenses or participate in a professional organization.

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-22HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 16, LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS; BY THE ADDITION OF ARTICLE VII, RESIDENTIAL RENTAL PROPERTY REGISTRATION AND REGULATIONS.

Pursuant to the authority granted by the Constitution and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE COUNTY COUNCIL FOR RICHLAND COUNTY:

SECTION I. The Richland County Code of Ordinances; Chapter 16, Licenses and Miscellaneous Business Regulations; is hereby amended by the addition of Article VII, Residential Rental Property Registration and Regulations, to read as follows:

ARTICLE VII. RESIDENTIAL RENTAL PROPERTY REGISTRATION AND REGULATIONS

Sec. 16-71. Purpose.

The general purpose of this article is to safeguard all neighborhoods within the unincorporated areas of Richland County from blight and unsafe living conditions by requiring the owners, tenants, property management companies, and property managers to share equally in the burden and liability of the compliance with all county property and building related ordinances and regulations.

Sec. 16-72. Registration; business license.

- a) The owner of any non-owner occupied and habitable residential property or unit shall register such property or unit with the county's online database within thirty (30) days of such property or unit becoming non-owner occupied and habitable. For the purpose of this article only, habitable shall mean capable of being lived in as evidenced by a certificate of occupancy and/or a legal electric supply and running water. Registration shall include:
 1. Owner's mailing address
 2. Owner's phone number
 3. Owner's email address, if any
 4. If the owner shall not reside within fifty (50) miles of the registered address or within Richland County, then all of the above information is also required of an authorized agent residing within the fifty (50) mile radius or Richland County.
- b) Any person or entity owning more than one (1) non-owner occupied residential property or unit within unincorporated Richland County that is leased or available for lease must obtain a business license; provided, however, that those persons or entities contracting with a properly licensed property manager or property management company for management of such properties or units shall be exempt from such requirement. If at any time such property manager or company shall fail to properly obtain or maintain a business license within Richland County, it shall be the responsibility of the owner to obtain such license on its own behalf.

Sec. 16-73. Enforcement and penalties.

It shall be the responsibility of the owner, property manager, property management company, and tenant, each individually and collectively, to comply with all Richland County ordinances related to property maintenance, weeds and

rank vegetation, zoning, building regulations, and building safety, and each person or entity may be cited for a violation of such county ordinance; provided, however, a tenant may only be cited for a violation of zoning or building regulations if there is affirmative evidence that the tenant actively constructed any structure or created a use in violation of such ordinances.

In addition to appropriate civil and/or equitable remedies for enforcement of this article, any person convicted of violating this section shall be guilty of a misdemeanor and shall be punished in accordance with the provisions of section 1-8 of this Code of Ordinances.

SECTION II. Severability. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION III. Conflicting Ordinances Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION IV. Effective Date. This ordinance shall be effective from and after _____, 2022.

RICHLAND COUNTY COUNCIL

BY: _____
Overture Walker, Chair

ATTEST THIS THE _____ DAY

OF _____, 2022

Anette Kirylo
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading:
Second Reading:
Public Hearing:
Third Reading:

Richland County Council Request for Action

Subject:

Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Husqvarna Construction Products North America, Inc. and Husqvarna Professional Products, Inc. to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters

Notes:

First Reading: November 15, 2022
Second Reading: December 6, 2022
Third Reading: December 13, 2022 {Tentative}
Public Hearing: December 13, 2022

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF AD VALOREM TAXES AND INCENTIVE AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA HUSQVARNA CONSTRUCTION PRODUCTS NORTH AMERICA, INC. AND HUSQVARNA PROFESSIONAL PRODUCTS, INC. TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS; AND OTHER RELATED MATTERS.

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“FILOT Act”), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “State”) or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the FILOT Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”), with respect to economic development property, as defined in the FILOT Act;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Fairfield County more particularly known as the I-77 Corridor Regional Industrial Park (“Park”);

WHEREAS, pursuant to the FILOT and MCIP Acts, the County is authorized to provide credits (“Infrastructure Credits”) against FILOT Payments derived from economic development property to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial enterprise or manufacturing facility (“Infrastructure”);

WHEREAS, Husqvarna Construction Products North America, Inc. and Husqvarna Professional Products, Inc.; (collectively, “Sponsor”) and formerly known to the County as Project Academy, desires to invest capital in the County in order to establish a research and development test center and expand a distribution facility in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$13,000,000 and the creation/ of one new, full-time job; and

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to enter into a Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement with the Sponsor, as sponsor, the final form of which is attached as Exhibit A (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Sponsor with respect to the Project, including (i) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; (ii) locating the Project in the Park; and (iii) providing Infrastructure Credits, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure.

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

Section 1. Statutory Findings. Based on information supplied to the County by the Sponsor, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish,

the anticipated dollar amount and nature of the investment, employment to be created, and the anticipated costs and benefits to the County, and hereby finds:

(a) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;

(b) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs.

Section 2. *Approval of Incentives; Authorization to Execute and Deliver Fee Agreement.* The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Fee Agreement and to deliver the Fee Agreement to the Sponsor.

Section 3. *Inclusion within the Park.* The expansion of the Park boundaries to include the Project is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the agreement governing the Park (“Park Agreement”), the expansion of the Park’s boundaries and the amendment to the Park Agreement is complete on adoption of this Ordinance by County Council and delivery of written notice to Fairfield County of the inclusion of the Project in the Park.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, or the Director of Economic Development, as appropriate, to take whatever further action and for the Chair, the County Administrator, and the Director of Economic Development to negotiate, execute and deliver whatever further documents, and for the Clerk to County Council to attest the same, as may be appropriate to effect this Ordinance and the incentives offered to the Sponsor under this Ordinance and the Fee Agreement.

Section 5. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 6. *General Repealer.* Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 7. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading:	November 15, 2022
Second Reading:	December 6, 2022
Public Hearing:	December 13, 2022
Third Reading:	December 13, 2022

EXHIBIT A
FORM OF FEE AGREEMENT

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

AMONG

HUSQVARNA CONSTRUCTION PRODUCTS

AND

HUSQVARNA PROFESSIONAL PRODUCTS, INC.

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF DECEMBER 13, 2022

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**SUMMARY OF CONTENTS OF
FEE AGREEMENT**

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

PROVISION	BRIEF DESCRIPTION	SECTION REFERENCE
Sponsor Name		1.1
Project Location	Richland County	Exhibit A
Tax Map No.		Exhibit A
FILOT		
• Phase Exemption Period	30 years	1.1
• Contract Minimum Investment Requirement	13,000,000	1.1
• Investment Period	Standard (5 years)	1.1
• Assessment Ratio	6%	4.1(a)
• Millage Rate		4.1(a)
• Fixed or Five-Year Adjustable Millage	fixed	4.1(a)
• Claw Back Information	Pro-rata	Exhibit E
Multicounty Park	I-77 Corridor Regional Industrial Park	1.1
Infrastructure Credit		
• Brief Description	50%	Exhibit C
• Credit Term	10 years	Exhibit C

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of December 13, 2022, among Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County Husqvarna Construction Products North America, Inc., a corporation organized and existing under the laws of the State of Delaware and Husqvarna Professional Products, Inc., a corporation organized and existing under the laws of the State of Delaware (collectively, “*Sponsor*”).

WITNESSETH:

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

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

(c) The Sponsor has committed to establish a research and development test center and expand a distribution facility in the County (collectively, the “*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$13,000,000 and the creation of one, new full-time job;

(d) By an ordinance enacted on December 13, 2022, County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT and the other incentives as more particularly described in this Fee Agreement to induce the Sponsor to develop its Facility in the County.

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

ARTICLE I DEFINITIONS

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

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

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

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

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

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

“**Commencement Date**” means the last day of the property tax year during which the initial Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2022.

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property at the Project of not less than \$13,000,000.

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

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

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

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

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

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

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

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

“**Fee Agreement**” means this Fee-In-Lieu Of *Ad Valorem* Taxes and Incentive Agreement, as may be supplemented or amended.

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

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

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

“Final Termination Date” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2057, the Final Termination Date is expected to be January 15, 2059, which is the due date of the last FILOT Payment with respect to the Final Phase.

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

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

“Infrastructure Credit” means the credit provided to the Sponsor pursuant to Section 12-44-70 of the Act and Section 5.1 of this Fee Agreement, with respect to the Infrastructure. Infrastructure Credits are to be used for the payment of Infrastructure constituting real property, improvements and infrastructure before any use for the payment of Infrastructure constituting personal property, notwithstanding any presumptions to the contrary in the MCIP Act or otherwise.

“Investment Period” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2028.

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

“Multicounty Park” means the multicounty industrial or business park governed by the Amended and Restated Master Agreement Governing The I-77 Corridor Regional Industrial Park, dated as of September 1, 2018, between the County and Fairfield County, South Carolina, as may be amended.

“Net FILOT Payment” means the FILOT Payment net of the Infrastructure Credit.

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

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

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

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

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

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

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

“**Sponsor**” means collectively Husqvarna Construction Products North America, Inc. and Husqvarna Professional Products, Inc. and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

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

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

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

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

ARTICLE II REPRESENTATIONS AND WARRANTIES

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

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

(b) Based on representations by the Sponsor, County Council evaluated the Project based on all relevant criteria including the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment resulting from the Project, and the anticipated costs and benefits to the County and

following the evaluation, the County determined that (i) the Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against the County's general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project are greater than the costs.

(c) The County identified the Project, as a "project" on November 15, 2022 by adopting an Inducement Resolution, as defined in the Act on November 15, 2022.

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

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

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

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

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

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

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

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

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

ARTICLE III THE PROJECT

Section 3.1. The Project. The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2022. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project.

However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

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

Section 3.3. *Filings and Reports.*

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing in January 31, 2023, the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the County's Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

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

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

**ARTICLE IV
FILOT PAYMENTS**

Section 4.1. *FILOT Payments.*

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

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property and Improvements portion of the Phase, the County and the Sponsor have elected to use the fair market value established in the first year of the Phase Exemption Period multiplied by
- (ii) An assessment ratio of six percent (6%), multiplied by
- (iii) A fixed millage rate equal to 0.5803, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 2022.

The calculation of the FILOT Payment must allow all applicable property tax exemptions except those excluded pursuant to Section 12-44-50(A)(2) of the Act. The Sponsor acknowledges that (i) the calculation of the annual FILOT Payment is a function of the Department and is wholly dependent on the Sponsor timely submitting the correct annual property tax returns to the Department, (ii) the County has no

responsibility for the submission of returns or the calculation of the annual FILOT Payment, and (iii) failure by the Sponsor to submit the correct annual property tax return could lead to a loss of all or a portion of the FILOT and other incentives provided by this Fee Agreement.

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

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

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

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

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

Section 4.4. Damage or Destruction of Economic Development Property.

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

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

(c) *Election to Remove.* If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor elects not to terminate this Fee Agreement pursuant to subsection (a)

and elects not to restore or replace pursuant to subsection (b), then the damaged portions of the Economic Development Property are deemed Removed Components.

Section 4.5. Condemnation.

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

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

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

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

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

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

**ARTICLE V
ADDITIONAL INCENTIVES**

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

For each property tax year in which the Infrastructure Credit is applicable ("*Credit Term*"), the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment, calculated in accordance with Exhibit D. Following receipt of the bill, the Sponsor shall timely remit the Net FILOT Payment to the County in accordance with applicable law.

**ARTICLE VI
CLAW BACK**

Section 6.1. Claw Back. If the Sponsor fails to perform its obligations under this Fee Agreement as described in Exhibit E, then the Sponsor is subject to the claw backs as described in Exhibit E. Any amount that may be due from the Sponsor to the County as calculated in accordance with or described in Exhibit E is due within 30 days of receipt of a written statement from the County. If not timely paid, the amount due from the Sponsor to the County is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation arising under this Section and Exhibit E survives termination of this Fee Agreement.

**ARTICLE VII
DEFAULT**

Section 7.1. Events of Default. The following are “Events of Default” under this Fee Agreement:

- (a) Failure to make FILOT Payments, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in FILOT Payments and requesting that it be remedied;
- (b) Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement;
- (c) A Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months;
- (d) A representation or warranty made by the Sponsor which is deemed materially incorrect when deemed made;
- (e) Failure by the Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under (a), above), which failure has not been cured within 30 days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Sponsor is diligently pursuing corrective action;
- (f) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or
- (g) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 30 days after written notice from the Sponsor to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the County is diligently pursuing corrective action.

Section 7.2. Remedies on Default.

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

- (i) terminate this Fee Agreement; or
 - (ii) take whatever action at law or in equity may appear necessary or desirable to collect amounts due or otherwise remedy the Event of Default or recover its damages.
- (b) If an Event of Default by the County has occurred and is continuing, the Sponsor may take any one or more of the following actions:
- (i) bring an action for specific enforcement;
 - (ii) terminate this Fee Agreement; or
 - (iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

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

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

ARTICLE VIII PARTICULAR RIGHTS AND COVENANTS

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

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

Section 8.3. Indemnification Covenants.

(a) Except as provided in paragraph (d) below, the Sponsor shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “**Indemnified Party**”) harmless

against and from all liability or claims arising from the County's execution of this Fee Agreement, performance of the County's obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement.

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

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

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

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

(f) The obligations under this Section 8.3 shall survive termination of this Fee Agreement.

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

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

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

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

Section 8.8. Administration Expenses. The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$10,000. The Sponsor will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Sponsor shall pay the Administration Expense as set forth in the written request no later than 60 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

ARTICLE IX SPONSOR AFFILIATES

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

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

ARTICLE X MISCELLANEOUS

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

IF TO THE SPONSOR:

WITH A COPY TO (does not constitute notice):

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

IF TO THE COUNTY:

Richland County, South Carolina
Attn: Richland County Economic Development Director
2020 Hampton Street
Columbia, South Carolina 29204

WITH A COPY TO (does not constitute notice):

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

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

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

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

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

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

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

reasonably within the purposes and scope of the Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 10.8. Interpretation; Invalidity; Change in Laws.

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

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

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

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

Section 10.10. Termination; Termination by Sponsor.

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

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

(c) Any monetary obligations due and owing at the time of termination and any provisions which are intended to survive termination, including specifically the obligations arising under Section 8.3 of this Fee Agreement, survive such termination.

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

Section 10.11. Entire Agreement. This Fee Agreement expresses the entire understanding and all agreements of the parties, and neither party is bound by any agreement or any representation to the other

party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery of this Fee Agreement.

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

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

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

[Signature pages follow]

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

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair
Richland County, South Carolina

ATTEST:

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

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

Husqvarna Construction Products

By: John W. Stanfield
Its: Assistant Secretary

By: Sophie Johnson
Its: Corporate Counsel

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

Husqvarna professional Products, Inc.

By: John W. Stanfield
Its: Assistant Secretary

By: Sophie Johnson
Its: Corporate Counsel

[Signature Page 3 to Fee in Lieu of Ad Valorem Taxes and Incentive Agreement]

EXHIBIT A
PROPERTY DESCRIPTION

TRACT 1:

All that certain piece parcel or lot of land with the improvements thereon, situate, lying and being in the County of Richland State of South Carolina, being more particularly shown and designated as Tract 1, containing approximately 9.67 Acres on a survey prepared for Kirco Carolina Pines-SPVEF LLC by Hunsinger Long Associates, LLC dated August 31, 2015 and recorded in the Office of the Register of Deeds for Richland County in Record Book 2060, page 2020. Reference is made to said plat for a more complete and accurate description.

EXHIBIT B (see Section 9.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective December 13, 2022 (“Fee Agreement”), between Richland County, South Carolina (“County”) Husqvarna Construction Products North America, Inc. and Husqvarna Professional Products, Inc.; (collectively, “Sponsor”).

1. Joinder to Fee Agreement.

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

2. Capitalized Terms.

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

3. Representations of the Sponsor Affiliate.

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

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

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

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

4. Governing Law.

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

5. Notice.

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

[_____]

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

Date

Name of Entity

By: _____

Its: _____

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

RICHLAND COUNTY, SOUTH CAROLINA

By: _____

Its: _____

EXHIBIT C (see Section 3.3)
RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.

Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:



Clerk to County Council

EXHIBIT D (see Section 5.1)
DESCRIPTION OF INFRASTRUCTURE CREDIT

All qualifying investment of the Sponsor during the Investment Period shall qualify for a 10-year, 50% Infrastructure Credit. Beginning with the first annual FILOT Payment and continuing for the next nine annual FILOT Payments, the Sponsor will receive an annual Infrastructure Credit in an amount equal to 50% of the annual FILOT Payment with respect to the Project; provided, however, the Sponsor may elect to begin application of the Infrastructure Credit in a year other than the year in which the first annual FILOT Payment is made so long as the election is made within one of first three years in which a FILOT Payment is made. In such event, the Sponsor shall provide notice to the Economic Development Director and the Auditor of the County. Upon selection by the Sponsor of the year in which the Infrastructure Credit shall first apply, the Infrastructure Credit will continue to be applied to the next nine FILOT Payments.

EXHIBIT E (see Section 6.1)
DESCRIPTION OF CLAW BACK

If the Sponsor fails to achieve the Contract Minimum Investment Requirement by the end of Investment Period, then the Sponsor shall be required to repay a portion of the Infrastructure Credits received as calculated below and any Infrastructure Credits for which the Company is eligible shall be reduced on a go-forward basis by the Claw Back Percentage calculated below

Repayment Amount = Total Received x Claw Back Percentage

Claw Back Percentage = 100% - Investment Achievement Percentage

Investment Achievement Percentage = Actual Investment Achieved / Contract Minimum Investment Requirement *[may not exceed 100%]*

In calculating the Investment Achievement Percentage, only the investment made up to the Contract Minimum Investment Requirement.

For example, and by way of example only, if the County granted \$50,000 in Infrastructure Credits, and \$6,500,000 had been invested at the Project by the end of the Investment Period, the Repayment Amount would be calculated as follows:

Investment Achievement Percentage = \$6,500,000/\$13,000,000 = 50%

Claw Back Percentage = 100% - 50% = 50%

Repayment Amount = \$50,000 x 50% = \$13,000

The Sponsor shall pay any amounts described in or calculated pursuant to this Exhibit E within 30 days of receipt of a written statement from the County. If not timely paid by the Sponsor, the amount due is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation described in this Exhibit E survives termination of this Fee Agreement.

Richland County Council Request for Action

Subject:

Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to GSM of North Main LLC, and Peak Drift Beverages, LLC; and other related matters

Notes:

First Reading: November 15, 2022
Second Reading: December 6, 2022
Third Reading: December 13, 2022 {Tentative}
Public Hearing: December 13, 2022

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AUTHORIZING THE EXPANSION OF THE BOUNDARIES OF THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO INCLUDE CERTAIN PROPERTY LOCATED IN RICHLAND COUNTY; THE EXECUTION AND DELIVERY OF A PUBLIC INFRASTRUCTURE CREDIT AGREEMENT TO PROVIDE FOR PUBLIC INFRASTRUCTURE CREDITS TO GSM OF NORTH MAIN, LLC AND PEAK DRIFT BEVERAGES, LLC; AND OTHER RELATED MATTERS.

WHEREAS, Richland County (“County”), acting by and through its County Council (“County Council”), is authorized pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop a multicounty park with counties having contiguous borders with the County; and (ii) include property in the multicounty park which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of designing, acquiring, constructing, improving or expanding infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina (“Fairfield”), the I-77 Corridor Regional Industrial Park (“Park”) and executed the Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, GSM of North Main, LLC and Peak Drift Beverages, LLC (collectively, the “Company”) desire to develop a multi-use commercial, recreational, and entertainment venue within the County (“Project”), consisting of taxable investments in real and personal property of not less than \$30,000,000 and the creation of approximately 100 new, full-time equivalent jobs;

WHEREAS, at the Company’s request, the County desires to expand the boundaries of the Park and amend the Park Agreement to include the real and personal property relating to the Project (“Property”) in the Park; and

WHEREAS, the County further desires to enter into a Public Infrastructure Credit Agreement between the County and the Company, the substantially final form of which is attached as Exhibit A (“Agreement”), to provide Public Infrastructure Credits against certain of the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure.

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

Section 1. Statutory Findings. Based on representations made by the Company to the County, the County finds that the Project and the Public Infrastructure will enhance the economic development of the County and promote the welfare of its citizens.

Section 2. *Expansion of the Park Boundaries, Inclusion of Property.* The expansion of the Park boundaries and an amendment to the Park Agreement to include the Property in the Park is authorized. The Chair of County Council (“Chair”), is authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries and the amendment to the Park Agreement. Pursuant to the terms of the Park Agreement, the expansion of the Park’s boundaries to include the Property is complete on the adoption of this Ordinance by County Council and delivery of written notice to Fairfield of the inclusion of the Property, which written notice shall include a copy of this Ordinance and identification of the Property.

Section 3. *Approval of Public Infrastructure Credit; Authorization to Execute and Deliver Agreement.* The Public Infrastructure Credits, as more particularly set forth in the Agreement, against the Company’s Fee Payments with respect to the Project are approved. The form, terms and provisions of the Agreement that is before this meeting are approved and all of the Agreement’s terms are incorporated in this Ordinance by reference as if the Agreement was set out in this Ordinance in its entirety. The Chair is authorized and directed to execute the Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Agreement and to deliver the Agreement to the Company.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development and the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, the Director of Economic Development or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Company under this Ordinance and the Agreement.

Section 5. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 6. *General Repealer.* Any prior ordinance, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 7. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: November 15, 2022
Second Reading: December 6, 2022
Public Hearing: December 13, 2022
Third Reading: December 13, 2022

EXHIBIT A
FORM OF AGREEMENT

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA,

GSM OF NORTH MAIN, LLC

and

PEAK DRIFT BEVERAGES, LLC

Effective as of: _____, 2022

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

This PUBLIC INFRASTRUCTURE CREDIT AGREEMENT, effective as of _____, 2022 (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), GSM of North Main, LLC, a limited liability company organized and existing under the laws of the State of South Carolina, and Peak Drift Beverages, LLC, a limited liability company organized and existing under the laws of the State of South Carolina (collectively, the “Company” together with the County, “Parties,” each, a “Party”).

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop multicounty parks with counties having contiguous borders with the County; and (ii) include property in the multicounty park, which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of designing, acquiring, constructing, improving or expanding public infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the “Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park” dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, the Company has committed to establish a multi-use commercial, recreational, and entertainment venue in the County (“Project”) on property more particularly identified by Exhibit A (“Land”), consisting of taxable investment in real and personal property of not less than \$30,000,000;

WHEREAS, by an ordinance enacted on _____, 2022 (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property relating to the Project (“Property”) in the Park; and

WHEREAS, pursuant to the Ordinance, the County further authorized the execution and delivery of this Agreement to provide Public Infrastructure Credits against the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure invested by the Company at or in connection with the Project, subject to the terms and conditions below.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

ARTICLE I REPRESENTATIONS

Section 1.1. *Representations by the County.* The County represents to the Company as follows:

- (a) The County is a body politic and corporate and a political subdivision of the State of South Carolina;
- (b) The County is authorized and empowered by the provisions of the Act to enter into and carry out its obligations under this Agreement;
- (c) The County has duly authorized and approved the execution and delivery of this Agreement by adoption of the Ordinance in accordance with the procedural requirements of the Act and any other applicable state law;
- (d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Agreement;
- (e) The County has approved the inclusion of the Property in the Park; and
- (f) Based on representations made by the Company to the County, the County has determined the Project and the Public Infrastructure will enhance the economic development of the County and promote the welfare of its citizens. Therefore, the County is entering into this Agreement for the purpose of promoting the economic development of the County and the welfare of its citizens.

Section 1.2. *Representations and Covenants by the Company.* The Company represents to the County as follows:

- (a) The Company is in good standing under the laws of the State of South Carolina, has power to conduct business in the State of South Carolina and enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver it;
- (b) The Company will use commercially reasonable efforts to achieve the Investment Commitment, each as defined below, at the Project;
- (c) The Company's execution and delivery of this Agreement, and its compliance with the provisions of this Agreement do not result in a default under any agreement or instrument to which the Company is now a party or by which it is bound; and
- (d) The Company covenants to complete the Public Infrastructure in a workmanlike manner and in accordance with all applicable codes and regulations.

ARTICLE II PUBLIC INFRASTRUCTURE CREDITS

Section 2.1. *Investment Commitment.* The Company shall invest not less than \$30,000,000 in taxable property at the Project ("Investment Commitment") by the Certification Date, as defined below. The Company shall certify to the County achievement of the Investment Commitment by no later than December 31, 2027 ("Certification Date"), by providing documentation to the County sufficient to reflect achievement of the Investment Commitment, in form and substance reasonably acceptable to the County. If the Company fails to achieve and certify the Investment Commitment by the Certification Date, the County may terminate this Agreement and, on termination, the Company is no longer entitled to any further

benefits under this Agreement. Notwithstanding anything in this Agreement to the contrary, the Certification Date shall not be later than, and may not be extended past, the last day of the year which is five years after the effective date of this Agreement.

Section 2.2. Public Infrastructure Commitment.

(a) Prior to receiving the Public Infrastructure Credits under this Agreement, the Company shall make an investment in Public Infrastructure in the County which may be comprised of the following improvements and facilities benefitting the public or dedicated to public use: water sewer, or stormwater improvements, greenspaces, recreation or community facilities, pedestrian or transportation facilities, parking facilities, facade redevelopment, roadway improvements, and energy production or communications technology infrastructure. Public Infrastructure may also include expenditures on the eradication of blight.

(b) The Company has committed to invest in the Public Infrastructure as described on Exhibit B. The Company shall certify its actual investment in the Public Infrastructure to the County by the Certification Date, by providing documentation, in form and substance reasonably acceptable to the County, to the County's Economic Development Department sufficient to reflect the amount invested in the Public Infrastructure. If the Company fails to complete the Public Infrastructure by the Certification Date, then the Company may not be entitled to the full value of the Public Infrastructure Credits as provided by this Agreement.

(c) Following the Certification Date, the County's Economic Development Department shall have 30 days ("Verification Date") to verify the Company's investment in the Public Infrastructure. The County has the right to exclude from the investment in Public Infrastructure certified by the Company any costs the County determines, in its sole discretion, to be ineligible costs. The County may also reject any Public Infrastructure investment as ineligible if the County determines, in its sole discretion, that it has not been completed in a workmanlike manner or in accordance with applicable codes or regulations. The County's Economic Development Department shall, on a date no later than the Verification Date, provide to the Company, by written notice, the County's determination of the verified amount of investment made by the Company in Public Infrastructure. Failure to provide a written verification by the Verification Date shall be deemed to be a determination by the County that all costs certified by the Company are verified as eligible costs.

Section 2.3. Public Infrastructure Credits.

(a) To assist in paying for costs of Public Infrastructure, the County shall provide a Public Infrastructure Credit against certain of the Company's Fee Payments due with respect to the Project, commencing with the first Fee Payment following the Verification Date. The term, amount and calculation of the Public Infrastructure Credit is described in Exhibit B.

(b) For each property tax year in which the Company is entitled to a Public Infrastructure Credit ("Credit Term"), the County shall prepare and issue the Company's annual Fee Payment bill with respect to the Project net of the Public Infrastructure Credit set forth in Section 2.3 (a) ("Net Fee Payment"). Following receipt of the bill, the Company shall timely remit the Net Fee Payment to the County in accordance with applicable law.

(c) THIS AGREEMENT AND THE PUBLIC INFRASTRUCTURE CREDITS PROVIDED BY THIS AGREEMENT ARE LIMITED OBLIGATIONS OF THE COUNTY. THE PUBLIC INFRASTRUCTURE CREDITS ARE DERIVED SOLELY FROM AND TO THE EXTENT OF THE FEE PAYMENTS MADE BY THE COMPANY TO THE COUNTY PURSUANT TO THE ACT AND

THE PARK AGREEMENT. THE PUBLIC INFRASTRUCTURE CREDITS DO NOT AND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION AND DO NOT AND SHALL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE PROVISION OF THE PUBLIC INFRASTRUCTURE CREDITS.

(d) The County makes no representation or warranty with respect to the Public Infrastructure. The execution and delivery of this Agreement and the extension of the Public Infrastructure Credit do not constitute a commitment by the County to maintain the Public Infrastructure.

Section 2.4. Filings. To assist the County in administering the Public Infrastructure Credits, the Company shall, for the Credit Term, prepare and file with the County such separate schedules or information with respect to the Property as may be necessary to distinguish the Property from any other property of the Company. Additionally, the Company shall, on or before January 31 of each year during the Credit Term, commencing in January 31, 2023, deliver to the Economic Development Director of the County the information required by the terms of the County’s Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution, with respect to the Company.

Section 2.5. Cumulative Public Infrastructure Credit. The cumulative dollar amount of the Public Infrastructure Credit shall not exceed the amount invested by the Company in Public Infrastructure, as verified, or deemed verified, by the County as of the Verification Date. The County Economic Development Department shall provide the verified investment amount to the County Auditor for purposes of applying the Public Infrastructure Credit in accordance with Section 2.3 of this Agreement.

ARTICLE III DEFAULTS AND REMEDIES

Section 3.1. Events of Default. The following are “Events of Default” under this Fee Agreement:

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

(b) An abandonment or closure of the Project; For purposes of this Agreement, “abandonment or closure of the Project” means cessation of operations for a continuous period of six months or longer other than as a result of a casualty event or in connection with a renovation or rehabilitation project;

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

(d) Failure by the Company to perform any of the terms, conditions, obligations, or covenants under this Agreement (other than those described in Sections 2.1 and 2.2 and under (a) above), which failure has not been cured within 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Company is diligently pursuing corrective action;

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

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

Section 3.2. Remedies on Default.

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

(i) terminate the Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate the Agreement; or

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 3.3. Reimbursement of Legal Fees and Other Expenses. On the occurrence of an Event of Default, if a Party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing Party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 3.4. Remedies Not Exclusive. No remedy described in this Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity or by statute.

Section 3.5. Nonwaiver. A delay or omission by the Company or County to exercise any right or power accruing on an Event of Default does not waive such right or power and is not deemed to be a waiver or acquiescence of the Event of Default. Every power and remedy given to the Company or County by this Agreement may be exercised from time to time and as often as may be deemed expedient.

**ARTICLE IV
MISCELLANEOUS**

Section 4.1. Examination of Records; Confidentiality.

(a) The County and its authorized agents, at any reasonable time on prior notice, may enter and examine the Project and have access to and examine the Company's books and records relating to the Project for the purposes of (i) identifying the Project; (ii) confirming achievement of the Investment Commitment; (iii) verifying the investment in Public Infrastructure; and (iv) permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

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

Section 4.2. Assignment. The Company may assign or otherwise transfer any of its rights and interest in this Agreement on prior written consent of the County, which may be given by resolution, and which consent will not be unreasonably withheld.

Section 4.3. Provisions of Agreement for Sole Benefit of County and Company. Except as otherwise specifically provided in this Agreement, nothing in this Agreement expressed or implied confers on any person or entity other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

Section 4.4. Severability. If any provision of this Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Agreement are unimpaired, and the Parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Agreement.

Section 4.5. Limitation of Liability.

(a) The County is not liable to the Company for any costs, expenses, losses, damages, claims or actions in connection with this Agreement, except from amounts received by the County from the Company under this Agreement.

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

(c) The County is not responsible for the Public Infrastructure and disclaims all liability with respect to the Public Infrastructure.

Section 4.6. Indemnification Covenant.

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

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

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

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

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

Section 4.7. Notices. All notices, certificates, requests, or other communications under this Agreement are sufficiently given and are deemed given, unless otherwise required by this Agreement, when (i) delivered and confirmed by United States first-class, registered mail, postage prepaid or (ii) sent by facsimile, and addressed as follows:

if to the County:	Richland County, South Carolina Attn: Director of Economic Development 2020 Hampton Street Columbia, South Carolina 29204 Phone: 803.576.2043 Fax: 803.576.2137
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with a copy to
(does not constitute notice):

Parker Poe Adams & Bernstein LLP
Attn: Ray E. Jones
1221 Main Street, Suite 1100 (29201)
Post Office Box 1509
Columbia, South Carolina 29202
Phone: 803.255.8000
Fax: 803.255.8017

if to the Company:

GSM of North Main Street
1624 Main Street
Columbia, SC 29201

and

Peak Drift Beverages, LLC
1624 Main Street
Columbia, SC 29201

with a copy to
(does not constitute notice):

Haynsworth Sinkler Boyd, P.A.
Attn: Will Johnson
P.O. Box 11889
Columbia, SC 29211-1889

and

McCulloch Law
Joseph M. McCulloch, Jr.
1116 Blanding Street
Columbia, SC 29201

The County and the Company may, by notice given under this Section, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 4.8. *Administrative Fees.* The Company will reimburse, or cause reimbursement to, the County for the Administration Expenses in the amount of not exceeding \$5,000. The Company will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Company shall pay the Administration Expenses as set forth in the written request no later than 60 days following receipt of the written request from the County. For purposes of this Section, "Administration Expenses" means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Agreement, including reasonable attorneys' fees. Administration Expenses do not include any costs, expenses, including attorneys' fees, incurred by the County (i) in defending challenges to the Fee Payments or Public Infrastructure Credits brought by third parties or the Company or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Company outside of the immediate scope of this Agreement, including amendments to the terms of this Agreement. The payment by the Company of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

Section 4.9. Entire Agreement. This Agreement expresses the entire understanding and all agreements of the Parties with each other, and neither Party is bound by any agreement or any representation to the other Party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery of this Agreement.

Section 4.10 Agreement to Sign Other Documents. From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Agreement to effectuate the purposes of this Agreement.

Section 4.11. Agreement's Construction. Each Party and its counsel have reviewed this Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 4.12. Applicable Law. South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Agreement to the laws of another jurisdiction, governs this Agreement and all documents executed in connection with this Agreement.

Section 4.13. Counterparts. This Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 4.14. Amendments. This Agreement may be amended only by written agreement of the Parties.

Section 4.15. Waiver. Either Party may waive compliance by the other Party with any term or condition of this Agreement but the waiver is valid only if it is in a writing signed by the waiving Party.

Section 4.16. Termination. Unless first terminated under any other provision of this Agreement, this Agreement terminates on the expiration of the Credit Term and payment by the Company of any outstanding Net Fee Payment due on the Project pursuant to the terms of this Agreement.

Section 4.17. Business Day. If any action, payment, or notice is, by the terms of this Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which the Party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Agreement, and no interest will accrue in the interim.

*[TWO SIGNATURE PAGES FOLLOW]
[REMAINDER OF PAGE INTENTIONALLY BLANK]*

IN WITNESS WHEREOF, Richland County, South Carolina, has caused this Agreement to be executed by the appropriate officials of the County and its corporate seal to be affixed and attested, effective the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk to Council, Richland County Council

[SIGNATURE PAGE 1 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

IN WITNESS WHEREOF, the Company, has caused this Agreement to be executed by its authorized officer(s), effective the day and year first above written.

GSM OF NORTH MAIN, LLC

By: _____

Name: _____

Its: _____

PEAK DRIFT BEVERAGES, LLC

By: _____

Name: _____

Its: _____

[SIGNATURE PAGE 2 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

EXHIBIT A

LAND DESCRIPTION

R09112-07-06

ALL THAT CERTAIN PIECE, PARCEL OR LOT of land, together with the improvements, thereon, if any, situate, lying and being in the County of Richland, State of South Carolina, being shown and designated as No. 1219 on a Final Plat prepared for Texolina Hinton by A&S of Columbia, Inc. dated October 1, 1998 and recorded in the Office of the Register of Deeds for Richland County in Plat book 209 at Page 870. Reference is hereby made to said plat for a more complete and accurate description, be all measures a little more or less.

This being the same property conveyed to Grantors by Deed of Bernard Hentz Clark and Effie Truluck Clark, as Trustees of the Clark Trust UTD the 27th Day of May, 1999, dated March 4, 2003, and recorded March 10, 2003, in the Office of the Register of Deeds for Richland County in Book 767 at page 1072.

TMS: 09112-07-06

GRANTEE'S ADDRESS: 1624 Main Street
Columbia, SC 29201

R09112-07-01

All that certain piece, Parcel, or tract of land, together with building and improvements thereon, situate, lying and being in the City of Columbia, County of Richland, State of South Carolina. This tract contains 3.547 acres, more or less, and is shown and delineated as parcel "A" on a Plat made for David G. Cannon by Richard L. All, PLS, dated June 18, 2002, and recorded June 27, 2002, in the Office of the Register of Deeds for Richland County, in Plat Book 679, at Page 944.

This tract is bounded according to the Plat as follows: On the North by the right of way of Avondale Drive for a distance of 521.04 feet, more or less; on the East by the right of way of CSX Transportation, Inc., for a distance of 329.01 feet, more or less; on the South by the tract shown as Parcel "B", by of Texolina Hinton, and by lands of The Joyce Topshe Mullins Revocable Trust, for a total distance of 439.19 feet, more or less, and on the West by right of way of North Main Street for a distance of 324.08 feet, more or less.

LESS AND EXCEPT:

All that certain parcel of land containing 1,573.65 square feet/0.04 acres, more or less, and all improvements thereon, if any, owned by Enterprise Bank of South Carolina, shown as the "Area of Acquisition" on Exhibit A, attached to that certain deed from Enterprise Bank of South Carolina, P.O. Box 389, Barnwell, South Carolina 29812 to Richland County dated November 30, 2015 and recorded December 30, 2015 in Book 2079 at Page 676 in the Office of the Register of Deeds for Richland County.

This being the identical property conveyed to Enterprise Bank of South Carolina, by Deed of Joseph Strickland, Master in Equity, dated March 10, 2010, recorded March 16, 2010, in the Office of the Register of Deeds for Richland County, in Book 1593, at Page 905.

TAX MAP NUMBER: 09112-07-01

GRANTEE'S ADDRESS: 1624 Main Street, Columbia, SC 29201

R09112-06-06 and R09112-06-07

All that certain piece, parcel or lot of land, together with the improvements thereon, situate, lying and being in the Town of Eau Claire, in the County of Richland, State of South Carolina, said lot measuring Forty Nine Feet on Main Street and running back therefrom to a depth of Two Hundred Feet, more or less; and being bounded North by lands now or formerly of Dandelion Taylor; on the East by lands formerly of Edward F. Boozer; on the South by Avondale Road; and on the West by Main Street.

LESS AND EXCEPT: All that parcel or strip of land, in fee simple, containing 0.02 acre (844.79 square feet), more or less, and all improvements thereon, if any owned, now or formerly, by the Estate of Myra M. Boozer shown as "total obtain" on the survey being part of Exhibit B, attached to that certain Cancellation of Lis Pendens filed in the Richland County, South Carolina Court of Common Pleas for the Fifth Judicial Circuit in Civil Action No. 2016-CP-40-02163, made a part hereof, between approximate survey stations 76+17 and 76+65, on the right, of the N. Main Street relocated survey centerline and between approximate survey stations 10+42 and 11+25, on the left, of the Avondale Drive East survey centerline.

This is the identical property conveyed to Robert E. Boozer, John Douglas Boozer, and Edward Fulenwider Boozer, Jr., by deed of distribution from Robert E. Boozer as Personal Representative of the Estate of Myra M. Boozer dated August 30, 2016 and recorded September 12, 2016 in Book 2145 at Page 3051 in the Office of the Register of Deeds for Richland County.

TMS No.: R09112-06-07

Property Address: 3500 Main St., Columbia, SC 29203

ALSO:

All that certain piece, parcel, tract or lot of land with any improvements thereon, situate, lying and being near the City of Columbia, in the Town of Eau Claire, County of Richland, State of South Carolina, and being bounded: On the North by lands now or formerly of D.A. Swygert and measuring thereon Two Hundred Seventeen and four tenths (217.4') feet; on the East by lands now or formerly of Miller and measuring thereon forty-nine (49') feet; on the South by a street known as Avondale Drive, and measuring thereon Two Hundred Seventeen and four tenths (217.4') feet; and on the West by other lands of Bertha

A. Boozer, and measuring thereon forty-nine (49') feet.

This is the identical property conveyed to Robert E. Boozer, John Douglas Boozer, and Edward Fulenwider Boozer, Jr., by deed of distribution from Robert E. Boozer as Personal Representative of the Estate of Myra M. Boozer dated August 30, 2016 and recorded September 12, 2016 in Book 2145 at Page 3051 in the Office of the Register of Deeds for Richland County.

TAX MAP NUMBER: 9112-06-07

GRANTEE'S ADDRESS: 1624 Main St. Columbia, SC 29201

R09112-06-04

All that certain piece, parcel or lot of land, with improvements thereon, if any, situate, lying and being just east of the Winnsboro Road about one-half mile north of the City of Columbia, County of Richland, State of South Carolina, and being in the shape of a parallelogram measuring 242 feet, more or less, on its northern and southern sides, and 105.75 feet, more or less, on its eastern and western sides, and bounded: on the North by Lot "A"; on the East by a public street; on the South by property of Malcom, and on the West by Lot Nos. 1 and 2 as delineated on a Plat made by J.C. Covington, C.E. dated February 6, 1919, and recorded in Plat Book "C" at Page 236.

This being the same property conveyed to Debra Croft, Denyse Nodden, and W.H. Croft, Jr., by deed of Mary Bleckley Boozer, George Franklin Boozer, Thomas Chappell Boozer, Mary C. Boozer, Chad Haskel Boozer, and James Marion Boozer dated September 16, 2004, recorded on April 21, 2005 in the Office of the Register of Deeds for Richland County in Book 1044 at Page 3931. Said property being further conveyed to Debra Croft by deed of Denyse Nodden dated February 16, 2006, recorded February 24, 2006 in Book 1155 at Page 1239, and by deed of Ward Croft dated August 13, 2015, recorded August 24, 2015 in Book 2052 at Page 3251 in the Office of the Register of Deeds for Richland County.

TMS#: 09112-06-04

Property Address: 3509 Phillips Street, Columbia, SC 29201

R09116-02-01

ALL that certain piece, parcel or lot of land, with improvements thereon, situate lying and being at the Southeastern corner of the intersection of Cook Avenue and Phillip Street in the County of Richland, State of South Carolina, being known as 1308 Cook Ave., containing 1.87 acres and being more particularly shown on a plat for Columbia Storage Associates by W. Frank MaCaulay, dated March 25, 1986 and recorded in the office of the Register of Deeds for Richland County in Plat Book 50 at Page 8234. The metes and bounds as shown on said plat are incorporated by reference herein.

Together with the Grantor's right, title and interest in and to that certain easement and right-of-way agreement between the Columbia Baking Company and the City Housing Company dated September 16, 1949 and recorded in the office of the Register of Deeds for Richland County in Book 42 at Page 140.

DERIVATION: This being the same property conveyed to RDBF, LLC by Deed from First Citizens Bank and Trust Company, Inc. dated May 1, 2014 recorded May 5, 2014 in the Office of the Register of Deeds for Richland County in Record Book 1943 at Page 2728.

TMS#: R09116-02-01

The legal description includes parcels bearing Richland County tax map numbers: R09116-02-01; R09112-07-01; R09112-07-06; R09112-06-04; R09112-06-06; and R09112-06-07. It being understood that such parcels may be further subdivided or combined or may be enlarged by the closure of adjoining public roadways or public rights-of-way in accordance with applicable law.

EXHIBIT B (See Section 2.2)

DESCRIPTION OF PUBLIC INFRASTRUCTURE

Public infrastructure improvements include improvements to the intersection located at N. Main Street and Cook Street and the intersection located at Cook Street and Phillips Street to accommodate additional vehicular traffic and traffic safety. Improvement costs are anticipated to be approximately \$750,000.

EXHIBIT C (See Section 2.3)

DESCRIPTION OF PUBLIC INFRASTRUCTURE CREDIT

The County shall provide a 50% Public Infrastructure Credit against the Fee Payments due and owing from the Company to the County with respect to the Project as provided in this Agreement, provided, the cumulative total amount of the Public Infrastructure Credit shall not exceed aggregate investment in the Public Infrastructure by the Company.

The Company is eligible to receive the Public Infrastructure Credit against each of the Company's Fee Payments due with respect to the Project for a period of 10 consecutive years, beginning with the first such Fee Payment due with respect to the Project following the Verification Date and ending on the earlier of the 10th year or the year in which the cumulative total amount of the Public Infrastructure Credit equals aggregate investment in the Public Infrastructure by the Company ("Credit Term").

EXHIBIT D (See Section 2.5)

**RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY**

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.


Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:


Clerk to County Council

Richland County Council Request for Action

Subject:

Authorizing the expansion of the boundaries of the I-77 Corridor Regional Industrial Park jointly developed with Fairfield County to include certain property located in Richland County; the execution and delivery of a public infrastructure credit agreement to provide for public infrastructure credits to Crosspointe at Killian, LLC, a company previously identified as Project Green Arrow; and other related matters

Notes:

First Reading: November 15, 2022
Second Reading: December 6, 2022
Third Reading: December 13, 2022 {Tentative}
Public Hearing: December 13, 2022

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____**

AUTHORIZING THE EXPANSION OF THE BOUNDARIES OF THE I-77 CORRIDOR REGIONAL INDUSTRIAL PARK JOINTLY DEVELOPED WITH FAIRFIELD COUNTY TO INCLUDE CERTAIN PROPERTY LOCATED IN RICHLAND COUNTY; THE EXECUTION AND DELIVERY OF A PUBLIC INFRASTRUCTURE CREDIT AGREEMENT TO PROVIDE FOR PUBLIC INFRASTRUCTURE CREDITS TO CROSSPOINTE AT KILLIAN, LLC, A COMPANY PREVIOUSLY IDENTIFIED AS PROJECT GREEN ARROW; AND OTHER RELATED MATTERS.

WHEREAS, Richland County (“County”), acting by and through its County Council (“County Council”), is authorized pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop a multicounty park with counties having contiguous borders with the County; and (ii) include property in the multicounty park, which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act, to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of, amongst other things, designing, acquiring, constructing, improving or expanding infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina (“Fairfield”), the I-77 Corridor Regional Industrial Park (“Park”) and executed the Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park, dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, CROSSPOINTE AT KILLIAN, LLC, a limited liability company organized and existing under the laws of the State of Indiana and previously identified as Project Green Arrow (the “Company”) has, as part of a commercial development to be located in the County, committed to establish market rate housing in the County (“Project”) including, and to be located on, land more particularly identified in the Agreement (as hereinafter defined) (“Land”), and anticipates that, should its plans proceed as presently contemplated, the Project will generate a minimum of \$35,000,000 of new aggregate, taxable investment in the County, which investment shall include, but not be limited to, investment in certain Public Infrastructure made, or caused to be made, by the Company;

WHEREAS, at the Company’s request, the County desires to expand the boundaries of the Park and to amend the Park Agreement to include the Land and other real and personal property comprising the Project (collectively, the “Property”) in the Park; and

WHEREAS, the County further desires to enter into a Public Infrastructure Credit Agreement with the Company, the substantially final form of which is attached as Exhibit A (“Agreement”), to provide Public Infrastructure Credits against the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure invested, or caused to be invested, by the

Company at, in, or in connection with, the Project, subject to the terms and conditions set forth in the Agreement.

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

Section 1. *Statutory Findings.* Based on representations made by the Company to the County, the County finds that the Project and the Public Infrastructure will enhance the economic development of the County and promote the welfare of its citizens.

Section 2. *Expansion of the Park Boundaries; Inclusion of Property.* The expansion of the Park boundaries and an amendment to the Park Agreement to include the Property in the Park is authorized. The Chair of County Council (“Chair”) is authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries and the amendment to the Park Agreement. Pursuant to the terms of the Park Agreement, the expansion of the Park’s boundaries to include the Property is complete on the adoption of this Ordinance by County Council and delivery of written notice to Fairfield of the inclusion of the Property in the Park, which written notice shall include a copy of this Ordinance and identification of the Property.

Section 3. *Approval of Public Infrastructure Credit; Authorization to Execute and Deliver Agreement.* The Public Infrastructure Credits, as more particularly set forth in the Agreement, against the Company’s Fee Payments with respect to the Project are approved. The form, terms and provisions of the Agreement that is before this meeting are approved and all of the Agreement’s terms are incorporated in this Ordinance by reference as if the Agreement was set out in this Ordinance in its entirety. The Chair is authorized and directed to execute the Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Agreement and to deliver the Agreement to the Company.

Section 4. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development and the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, the Director of Economic Development or Clerk to County Council, as appropriate, to take whatever further action and to negotiate, execute and deliver whatever further documents as may be appropriate to effect the intent of this Ordinance and the incentives offered to the Company under this Ordinance and the Agreement.

Section 5. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 6. *General Repealer.* Any prior ordinance, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 7. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

[End of Ordinance]

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: November 15, 2022
Second Reading: December 6, 2022
Public Hearing: December 13, 2022
Third Reading: December 13, 2022

EXHIBIT A
FORM OF AGREEMENT

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

by and between

RICHLAND COUNTY, SOUTH CAROLINA

and

CROSSPOINTE AT KILLIAN, LLC

Effective as of: December 13, 2022

PUBLIC INFRASTRUCTURE CREDIT AGREEMENT

This PUBLIC INFRASTRUCTURE CREDIT AGREEMENT, effective as of December 13, 2022 (“Agreement”), is by and between RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate, and a political subdivision of the State of South Carolina (“County”), and CROSSPOINTE AT KILLIAN, LLC, a limited liability company organized and existing under the laws of the State of Indiana and previously identified as Project Green Arrow (as hereinafter defined “Company” together with the County, “Parties,” each, a “Party”).

WITNESSETH:

WHEREAS, the County, acting by and through its County Council (“County Council”), is authorized and empowered under and pursuant to the provisions of Article VIII, Section 13(D) of the South Carolina Constitution and the provisions of Title 4, Chapter 1 of the Code of Laws of South Carolina, 1976, as amended (collectively, “Act”), to (i) develop multicounty parks with counties having contiguous borders with the County; and (ii) include property in the multicounty park, which inclusion under the terms of the Act (A) makes such property exempt from *ad valorem* property taxes, and (B) changes the character of the annual receipts from such property to fees-in-lieu of *ad valorem* property taxes in an amount equal to the *ad valorem* taxes that would have been due and payable but for the location of the property in such multicounty park (“Fee Payments”);

WHEREAS, the County is further authorized by Section 4-1-175 of the Act to grant credits against Fee Payments (“Public Infrastructure Credit”) to pay costs of, amongst other things, designing, acquiring, constructing, improving or expanding public infrastructure serving the County (collectively, “Public Infrastructure”);

WHEREAS, pursuant to the authority provided in the Act, the County has developed with Fairfield County, South Carolina, the I-77 Corridor Regional Industrial Park (“Park”) and executed the “Amended and Restated Master Agreement Governing the I-77 Corridor Regional Industrial Park” dated September 1, 2018 (“Park Agreement”), which governs the operation of the Park;

WHEREAS, as part of a commercial development to be located in the County, the Company has committed to establish market rate housing in the County (“Project”) including, and to be located on, land more particularly identified on Exhibit A hereto (“Land”), and anticipates that, should its plans proceed as presently contemplated, the Project will generate a minimum of \$35,000,000 of new aggregate, taxable investment in the County, which investment shall include, but not be limited to, investment in certain Public Infrastructure made, or caused to be made, by the Company, all as further described herein;

WHEREAS, by an ordinance enacted on December 13, 2022 (“Ordinance”), the County authorized the expansion of the boundaries of the Park and an amendment to the Park Agreement to include the Land and other real and personal property comprising the Project (“Property”) in the Park; and

WHEREAS, pursuant to the Ordinance, the County further authorized the execution and delivery of this Agreement to provide Public Infrastructure Credits against the Company’s Fee Payments with respect to the Project for the purpose of assisting in paying the costs of certain Public Infrastructure invested, or caused to be invested, by the Company at, in, or in connection with, the Project, subject to the terms and conditions below.

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the County and the Company agree as follows:

**ARTICLE I
REPRESENTATIONS**

Section 1.1. *Representations by the County.* The County represents to the Company as follows:

- (a) The County is a body politic and corporate and a political subdivision of the State of South Carolina;
- (b) The County is authorized and empowered by the provisions of the Act to enter into and carry out its obligations under this Agreement;
- (c) The County has duly authorized and approved the execution and delivery of this Agreement by adoption of the Ordinance in accordance with the procedural requirements of the Act and any other applicable state law;
- (d) The County is not in default of any of its obligations (contractual or otherwise) as a result of entering into and performing its obligations under this Agreement;
- (e) The County has approved the inclusion of the Property in the Park; and
- (f) Based on representations made by the Company to the County, the County has determined the Project and the Public Infrastructure, including, but not limited to, the Project Public Infrastructure, as defined below, will enhance the economic development of the County and promote the welfare of its citizens. Therefore, the County is entering into this Agreement for the purpose of promoting the economic development of the County and the welfare of its citizens.

Section 1.2. *Representations and Covenants by the Company.* The Company represents to the County as follows:

- (a) The Company is in good standing under the laws of the State of Indiana, has power to conduct business in the State of South Carolina and enter into this Agreement, and by proper company action has authorized the officials signing this Agreement to execute and deliver it;
- (b) The Company will use commercially reasonable efforts to achieve, or cause to be achieved by Crossings Development, LLC, a South Carolina limited liability company previously identified as Project Green Arrow Master Developer (“Master Developer”), the Investment Commitment, as defined below, at the Project;
- (c) The Company’s execution and delivery of this Agreement, and its compliance with the provisions of this Agreement do not result in a default under any agreement or instrument to which the Company is now a party or by which it is bound; and
- (d) The Company covenants to complete, or cause to be completed by the Master Developer, any and all Project Public Infrastructure in a workmanlike manner and in accordance with all applicable codes and regulations.

**ARTICLE II
PUBLIC INFRASTRUCTURE CREDITS**

Section 2.1. *Investment Commitment.* The Company shall invest, or cause to be invested by the Master Developer, not less than \$35,000,000 in taxable property in the Project (“Investment Commitment”) by December 13, 2027 (“Certification Deadline”). The Company shall certify to the County achievement

of the Investment Commitment on a date no later than the Certification Deadline (“Certification Date”), by providing documentation, which documentation may include, without limitation, with respect to the Company or the Master Developer, pay applications, invoices, and accounting logs, and, only with respect to the personal property portion of the Project, any SCDOR PT-100 filed by the Company with respect to the Project, to the County’s Economic Development Department sufficient to reflect achievement of the Investment Commitment, in form and substance reasonably acceptable to the County. Notwithstanding anything in this Agreement to the contrary, the Certification Date shall not be later than, and may not be extended past, the Certification Deadline. If the Company fails to achieve, or cause to be achieved by the Master Developer, and so certify the Investment Commitment by the Certification Deadline, the County may terminate this Agreement and, upon any such termination, the Company shall no longer be entitled to any further benefits under this Agreement. Notwithstanding anything in this Agreement to the contrary, the Certification Deadline shall not be later than, and may not be extended past, the last day of the year which is five years after the effective date of this Agreement.

Section 2.2. Public Infrastructure Commitment.

(a) Prior to receiving the Public Infrastructure Credits under this Agreement, the Company shall make, or cause to be made by the Master Developer, an investment in Public Infrastructure in the County which may be comprised of any or all of the following improvements and facilities benefitting the public or dedicated to public use: water, sewer, or stormwater improvements, greenspaces, recreation or community facilities, pedestrian or transportation facilities, parking facilities, facade redevelopment, roadway improvements, and energy production or communications technology infrastructure. Public Infrastructure may also include expenditures on the eradication of blight.

(b) In connection with the Project, the Company has committed with commercially reasonable efforts to invest in, or cause investment by the Master Developer in, the Public Infrastructure as described on Exhibit B hereto (“Project Public Infrastructure”). The Company shall certify actual investment in the Project Public Infrastructure to the County on the Certification Date by providing documentation, which documentation may include, without limitation, with respect to the Company or the Master Developer, pay applications, invoices, and accounting logs, to the County’s Economic Development Department sufficient to reflect investment in the Project Public Infrastructure, in form and substance reasonably acceptable to the County. In addition to the foregoing, the Company shall represent, in writing, to the County on the Certification Date that, to the best knowledge of the Company, Public Infrastructure Credits have not been claimed previously by any other person or entity with respect to all or any portion of the investment in the Project Public Infrastructure reflected by such certification. If the Company fails to substantially complete, or cause to be completed by the Master Developer, the Project Public Infrastructure by the Certification Deadline in the cumulative total investment amount set forth on Exhibit B hereto, then the Company may not be entitled to the full value of the Public Infrastructure Credit as provided by this Agreement. Notwithstanding anything in this Agreement to the contrary, the Parties hereby acknowledge and agree that (i) to the maximum extent permitted by law, aggregate expenditures made by the Master Developer in the Project Public Infrastructure shall be allocated to the Company for the purposes of receiving the Public Infrastructure Credits, and (ii) no person or entity other than the Company shall be entitled to Public Infrastructure Credits with respect to any expenditures in the Project Public Infrastructure.

(c) Following the Certification Date, the County’s Economic Development Department shall have 30 days (“Verification Deadline”) to verify the investment in the Project Public Infrastructure certified by the Company in accordance with **Section 2.2(b)** of this Agreement. The County has the right to exclude from the investment in Project Public Infrastructure certified by the Company any costs the County determines, in its sole discretion, to be ineligible costs. The County may also reject any Project Public Infrastructure investment as ineligible if the County determines, in its sole discretion, that it has not been completed in a workmanlike manner or in accordance with applicable codes or regulations. The County’s

Economic Development Department shall, on a date no later than the Verification Deadline (the “Verification Date”), provide to the Company, by written notice, the County’s determination of the verified amount of Project Public Infrastructure investment. Failure to provide such a written determination by the Verification Deadline shall be deemed to be a determination by the County that all Project Public Infrastructure investment certified by the Company is verified as eligible costs, and, in such event, the Verification Date shall be deemed to be the Verification Deadline.

Section 2.3. Public Infrastructure Credit.

(a) To assist in paying the costs of the Project Public Infrastructure invested, or caused to be invested by the Master Developer, by the Company, the County shall provide a Public Infrastructure Credit against each of the Company’s Fee Payments due with respect to the Project, commencing with the first Fee Payment following the Verification Date. The term, amount and calculation of the Public Infrastructure Credit is described on Exhibit C hereto.

(b) For each tax year for which the Company is entitled to a Public Infrastructure Credit, the County shall prepare and issue the Company’s annual Fee Payment bill with respect to the Project net of the Public Infrastructure Credit set forth in **Section 2.3(a)** of this Agreement (“Net Fee Payment”). Following receipt of the bill, the Company shall timely remit the Net Fee Payment to the County in accordance with applicable law.

(c) THIS AGREEMENT AND THE PUBLIC INFRASTRUCTURE CREDITS PROVIDED BY THIS AGREEMENT ARE LIMITED OBLIGATIONS OF THE COUNTY. THE PUBLIC INFRASTRUCTURE CREDITS ARE DERIVED SOLELY FROM AND TO THE EXTENT OF THE FEE PAYMENTS MADE BY THE COMPANY TO THE COUNTY PURSUANT TO THE ACT AND THE PARK AGREEMENT. THE PUBLIC INFRASTRUCTURE CREDITS DO NOT AND SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION AND DO NOT AND SHALL NOT CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE PROVISION OF THE PUBLIC INFRASTRUCTURE CREDITS.

(d) The County makes no representation or warranty with respect to the Project Public Infrastructure. The execution and delivery of this Agreement and the extension of the Public Infrastructure Credit do not constitute a commitment by the County to maintain the Project Public Infrastructure.

Section 2.4. Filings; Administration. To assist the County in administering the Public Infrastructure Credit, with respect to the Company’s Fee Payments due with respect to the personal property portion of the Project, the Company shall, for each tax year corresponding to the Credit Term, as defined on Exhibit C hereto, prepare and file a separate schedule to the SCDOR PT-100 with respect to the personal property portion of the Project. Additionally, the Company shall, on or before January 31 of each year following the commencement of the Credit Term, deliver to the Economic Development Director of the County the information required by the terms of the County’s Resolution dated December 12, 2017, which is attached hereto as Exhibit D, as may be amended by subsequent resolution, with respect to the Company.

Section 2.5 Cumulative Public Infrastructure Credit. The cumulative dollar amount of the Public Infrastructure Credit shall not exceed the amount invested, or caused to be invested by the Master Developer, by the Company in Project Public Infrastructure, as verified, or deemed verified, by the County on or before the Verification Deadline. The County Economic Development Department shall provide the

verified investment amount to the County Auditor for purposes of applying the Public Infrastructure Credit in accordance with **Section 2.3** of this Agreement.

ARTICLE III DEFAULTS AND REMEDIES

Section 3.1. *Events of Default.* The following are “Events of Default” under this Agreement:

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

(b) An abandonment or closure of the Project; for purposes of this Agreement, “abandonment or closure of the Project” means failure to place all or a portion of the Project in service by December 31, 2027;

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

(d) Failure by the Company to perform any of the terms, conditions, obligations, or covenants under this Agreement (other than those described in **Sections 2.1** and **2.2** of this Agreement and under **(a)** above), which failure has not been cured within 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company has instituted corrective action within the 30-day period and is diligently pursuing corrective action until the default is corrected, in which case the 30-day period is extended to include the period during which the Company is diligently pursuing corrective action;

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

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

Section 3.2. *Remedies on Default.*

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

(i) terminate this Agreement; or

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

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

(i) bring an action for specific enforcement;

(ii) terminate this Agreement; or

(iii) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 3.3. *Reimbursement of Legal Fees and Other Expenses.* On the occurrence of an Event of Default, if a Party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing Party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 3.4. *Remedies Not Exclusive.* No remedy described in this Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Agreement or existing at law or in equity or by statute.

Section 3.5. *Nonwaiver.* A delay or omission by the Company or County to exercise any right or power accruing on an Event of Default does not waive such right or power and is not deemed to be a waiver or acquiescence of the Event of Default. Every power and remedy given to the Company or County by this Agreement may be exercised from time to time and as often as may be deemed expedient.

ARTICLE IV MISCELLANEOUS

Section 4.1. *Examination of Records; Confidentiality.*

(a) The County and its authorized agents, at any reasonable time on prior notice, may enter and examine the Project and have access to and examine the Company's books and records relating to the Project for the purposes of (i) identifying the Project; (ii) confirming achievement of the Investment Commitment; (iii) verifying the investment in the Project Public Infrastructure; and (iv) permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

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

Section 4.2. *Assignment.* The Company may assign or otherwise transfer any of its rights and interests in this Agreement on prior written consent of the County, which may be given by resolution, and which consent will not be unreasonably conditioned, withheld, or delayed. Notwithstanding the foregoing, any assignment of this Agreement, in whole or in part, to an affiliated entity of the Company is hereby

approved without any further action of the County Council. The County's Director of Economic Development must receive notice of any assignment to an affiliated entity of the Company. For purposes of this Agreement, "affiliated entity" shall mean any corporation, limited liability company, partnership or other person or entity which now or hereafter owns all or part of the Company or which is now or hereafter owned in whole or in part by the Company, or by any partner, shareholder or owner of the Company, and shall also include any subsidiary, affiliate or other person, individual, or entity who now or hereafter bears a relationship to the Company as described in Section 267(b) of the Internal Revenue Code.

Section 4.3. Provisions of Agreement for Sole Benefit of County and Company. Except as otherwise specifically provided in this Agreement, nothing in this Agreement expressed or implied confers on any person or entity other than the County and the Company any right, remedy, or claim under or by reason of this Agreement, this Agreement being intended to be for the sole and exclusive benefit of the County and the Company.

Section 4.4. Severability. If any provision of this Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions of this Agreement are unimpaired, and the Parties shall reform such illegal, invalid, or unenforceable provision to effectuate most closely the legal, valid, and enforceable intent of this Agreement.

Section 4.5. Limitation of Liability.

(a) The County is not liable to the Company for any costs, expenses, losses, damages, claims or actions in connection with this Agreement, except from amounts received by the County from the Company under this Agreement.

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

(c) The County is not responsible for the Project Public Infrastructure and disclaims all liability with respect to the Project Public Infrastructure.

Section 4.6. Indemnification Covenant.

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

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

Nexsen Pruet, LLC
1230 Main Street, Suite 700 (29201)
Post Office Box 2426
Columbia, South Carolina (29202)
Phone: 803.540.2188
Fax: 803.727.1469

The County and the Company may, by notice given under this Section, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 4.8. *Administrative Fees.* The Company will reimburse, or cause reimbursement to, the County for the Administration Expenses in an amount not exceeding \$5,000. The Company will reimburse the County for its Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of the Administration Expense. The Company shall pay the Administration Expenses as set forth in the written request no later than 60 days following receipt of the written request from the County. For purposes of this Section, "Administration Expenses" means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Agreement, including reasonable attorneys' fees. Administration Expenses do not include any costs, expenses, including attorneys' fees, incurred by the County (i) in defending challenges to the Fee Payments or Public Infrastructure Credits brought by third parties or the Company or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Company outside of the immediate scope of this Agreement, including amendments to the terms of this Agreement. The payment by the Company of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

Section 4.9. *Entire Agreement.* This Agreement expresses the entire understanding and all agreements of the Parties with each other, and neither Party is bound by any agreement or any representation to the other Party which is not expressly set forth in this Agreement or in certificates delivered in connection with the execution and delivery of this Agreement.

Section 4.10. *Agreement to Sign Other Documents.* From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Agreement to effectuate the purposes of this Agreement.

Section 4.11. *Agreement's Construction.* Each Party and its counsel have reviewed this Agreement and any rule of construction to the effect that ambiguities are to be resolved against a drafting party does not apply in the interpretation of this Agreement or any amendments or exhibits to this Agreement.

Section 4.12. *Applicable Law.* South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Agreement to the laws of another jurisdiction, governs this Agreement and all documents executed in connection with this Agreement.

Section 4.13. *Counterparts.* This Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 4.14. *Amendments.* This Agreement may be amended only by written agreement of the Parties.

Section 4.15. Waiver. Either Party may waive compliance by the other Party with any term or condition of this Agreement but the waiver is valid only if it is in a writing signed by the waiving Party.

Section 4.16. Termination. Unless first terminated under any other provision of this Agreement, this Agreement terminates on the expiration of the Credit Term and payment by the Company of any outstanding Net Fee Payment due on the Project pursuant to the terms of this Agreement.

Section 4.17. Business Day. If any action, payment, or notice is, by the terms of this Agreement, required to be taken, made, or given on any Saturday, Sunday, or legal holiday in the jurisdiction in which the Party obligated to act is situated, such action, payment, or notice may be taken, made, or given on the following business day with the same effect as if taken, made or given as required under this Agreement, and no interest will accrue in the interim.

[TWO SIGNATURE PAGES FOLLOW]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Richland County, South Carolina, has caused this Agreement to be executed by the appropriate officials of the County and its corporate seal to be affixed and attested, effective the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk to Council, Richland County Council

[SIGNATURE PAGE 1 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

IN WITNESS WHEREOF, CROSSPOINTE AT KILLIAN, LLC has caused this Agreement to be executed by its authorized officer, effective the day and year first above written.

CROSSPOINTE AT KILLIAN, LLC

By: _____

Name: _____

Its: _____

[SIGNATURE PAGE 2 TO PUBLIC INFRASTRUCTURE CREDIT AGREEMENT]

EXHIBIT A

LAND DESCRIPTION

Being all that certain tract, lot, or parcel of land located in Richland County, near the City of Columbia, South Carolina and being further described on that certain ALTA/NSPS Land Title Survey Prepared For Crestline Investments, LLC (Anchor Parcel A), dated April 19, 2022, parcel entitled "ANCHOR PARCEL A", having 20.004 acres, more or less, be all measurements more or less. A copy of the above-referenced plat is attached hereto as Exhibit A-1.

EXHIBIT A-1

Land Plat

See attached.

EXHIBIT B (See Section 2.2)

DESCRIPTION OF PROJECT PUBLIC INFRASTRUCTURE

The Project Public Infrastructure includes the construction of extensive water, sewer, stormwater, and roadway improvements. In addition to the foregoing, the Project Public Infrastructure will consist of general infrastructure benefiting the public, including, without limitation, enhanced streetscaping and landscaping, including surface parking spaces for public use, and expanded and relocated retention and detention ponds. The anticipated total cost of the Project Public Infrastructure is approximately \$7,500,000, and is further detailed below:

Project Public Infrastructure Budget Estimate	
Description	Budget
Streetscaping/Landscaping (<i>*including public surface parking</i>)	\$1,000,000
Water/Sewer/Stormwater Improvements	\$3,500,000
Water/Sewer/Stormwater Improvements Impact Fees	\$700,000
Retention and Detention Pond (<i>*expansion and relocation</i>)	\$1,300,000
General Conditions	\$1,000,000
Total Projected Project Public Infrastructure Costs	\$7,500,000

Notwithstanding anything above or in this Agreement to the contrary, the Company and the County acknowledge and agree that: (i) the Project Public Infrastructure shall, subject to the provisions of **Section 2.2(c)** of this Agreement, include, in addition to that described and delineated above, any Public Infrastructure invested in by the Company or the Master Developer in connection with the Project and consisting of improvements or infrastructure included within the description of Public Infrastructure set forth in **Section 2.2** of this Agreement; and, (ii) the specific line item budget amounts listed above are current estimates and the actual expenditures with respect to each such line item may fluctuate as the Project develops.

EXHIBIT C (See Section 2.3)

DESCRIPTION OF PUBLIC INFRASTRUCTURE CREDIT

The County shall provide a 50% Public Infrastructure Credit against the Fee Payments due and owing from the Company to the County with respect to the Project as provided in this Agreement, provided, the cumulative total amount of the Public Infrastructure Credit shall not exceed aggregate investment in the Project Public Infrastructure by the Company and/or the Master Developer.

The Company is eligible to receive the Public Infrastructure Credit against each of the Company's Fee Payments due with respect to the Project for a period of 10 consecutive years, beginning with the first such Fee Payment due with respect to the Project following the Verification Date and ending on the earlier of the 10th year or the year in which the cumulative total amount of the Public Infrastructure Credit equals aggregate investment in the Project Public Infrastructure by the Company and/or the Master Developer ("Credit Term").

EXHIBIT D (See Section 2.4)

**RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY**

See attached.

**A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY**

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 (“Prior Resolution”), which requires companies receiving economic development incentives from Richland County, South Carolina (“County”) to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County’s requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.


Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

RESOLVED: December 12 2017

RICHLAND COUNTY, SOUTH CAROLINA


Chair, Richland County Council

(SEAL)
ATTEST:


Clerk to County Council

Richland County Council Request for Action

Subject:

Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and Project Golden Eagle to provide for payment of a fee-in-lieu of taxes; authorizing certain infrastructure credits; and other related matters

Notes:

First Reading: November 15, 2022
Second Reading: December 6, 2022
Third Reading: December 13, 2022 {Tentative}
Public Hearing: December 13, 2022

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND PROJECT GOLDEN EAGLE TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AUTHORIZING CERTAIN INFRASTRUCTURE CREDITS; AND OTHER RELATED MATTERS.

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“FILOT Act”), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “State”) or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the FILOT Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”), with respect to economic development property, as defined in the FILOT Act;

WHEREAS, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (collectively, “MCIP Act”), the County is authorized to jointly develop multicounty parks with counties having contiguous borders with the County and, in the County’s discretion, include property within the boundaries of such multicounty parks. Under the authority provided in the MCIP Act, the County has created a multicounty park with Fairfield County more particularly known as I-77 Corridor Regional Industrial Park (“Park”);

WHEREAS, pursuant to the FILOT and MCIP Acts, the County is authorized to provide credits (“Infrastructure Credits”) against FILOT Payments derived from economic development property to pay costs of designing, acquiring, constructing, improving or expanding (i) infrastructure serving a project or the County and (ii) improved and unimproved real estate and personal property used in the operation of a commercial enterprise or manufacturing facility (“Infrastructure”);

WHEREAS, Project Golden Eagle, (“Sponsor”), desires to establish a manufacturing facility in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$800,000,000 and the creation of not less than 1,800 new, full-time jobs; and

WHEREAS, at the request of the Sponsor and as an inducement to locate the Project in the County, the County desires to (i) enter into a Fee-in-Lieu of *Ad Valorem* Taxes and Incentive Agreement with the Sponsor, as sponsor, the final form of which is attached as Exhibit A (“Fee Agreement”), pursuant to which the County will provide certain incentives to the Sponsor with respect to the Project, including (a) providing for FILOT Payments, to be calculated as set forth in the Fee Agreement, with respect to the portion of the Project which constitutes economic development property; (b) locating the Project in the Park; and (c) providing Infrastructure Credits and other incentives, as described in the Fee Agreement, to assist in paying the costs of certain Infrastructure; and (ii) option and transfer certain real property to the Sponsor.

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

Section 1. Statutory Findings. Based on information supplied to the County by the Sponsor, County Council evaluated the Project based on relevant criteria including, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, employment to be created, and the anticipated costs and benefits to the County, and hereby finds:

(a) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally;

(b) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power;

(c) The purposes to be accomplished by the Project are proper governmental and public purposes and the benefits of the Project are greater than the costs.

Section 2. *Approval of Incentives; Authorization to Execute and Deliver Fee Agreement.* The incentives as described in this Ordinance (“Ordinance”), and as more particularly set forth in the Fee Agreement, with respect to the Project are hereby approved. The form, terms and provisions of the Fee Agreement that is before this meeting are approved and all of the Fee Agreement’s terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“Chair”) is authorized and directed to execute the Fee Agreement in the name of and on behalf of the County, subject to the approval of any revisions or changes as are not materially adverse to the County by the County Administrator and counsel to the County, and the Clerk to County Council is hereby authorized and directed to attest the Fee Agreement and to deliver the Fee Agreement to the Sponsor.

Section 3. *Approval of Land Transfer.* The County is authorized to option, and transfer up to approximately 330 acres of real property (“Property”) located in the County to the Sponsor and more particularly shown as sites 1-5 on Exhibit B attached hereto. The Chair, the County Administrator and the Director of Economic Development are each authorized and directed to negotiate the form, terms and provisions of an option or purchase agreement (collectively, “Purchase Agreement”) on behalf of and in the name of the County. The Chair, the County Administrator or the Director of Economic Development, on receipt of advice from counsel to the County, are each authorized and directed, in the name of and on behalf of the County, to execute and deliver the Purchase Agreement.

The Chair, the County Administrator and the Director of Economic Development are each authorized and directed, in the name of and on behalf of the County, to take such further actions as may be necessary, including the approval of a survey establishing the boundaries of the Property and the execution of a limited warranty deed and other transfer and closing documents, to accomplish the option and transfer of the Property or interests in the Property.

Section 4. *Inclusion within the Park.* The expansion of the Park boundaries to include the Project is authorized and approved. The Chair, the County Administrator and the Clerk to County Council are each authorized to execute such documents and take such further actions as may be necessary to complete the expansion of the Park boundaries. Pursuant to the terms of the agreement governing the Park (“Park Agreement”), the expansion of the Park’s boundaries and the amendment to the Park Agreement is complete on adoption of this Ordinance by County Council and delivery of written notice to Fairfield County of the inclusion of the Project in the Park.

Section 5. *Grant Administration.* To the extent the County receives any third-party grant funds related to the Project, the County is authorized to accept and administer those funds for the Project’s benefit according to any documents governing the receipt and expenditure of the grant funds.

Section 6. *Further Assurances.* The County Council confirms the authority of the Chair, the County Administrator, the Director of Economic Development, the Clerk to County Council, and various other County officials and staff, acting at the direction of the Chair, the County Administrator, or the Director of Economic Development, as appropriate, to take whatever further action and for the Chair, the County Administrator, and the Director of Economic Development to negotiate, execute and deliver whatever further documents, and for the Clerk to County Council to attest the same, as may be appropriate to effect

this Ordinance and the incentives offered to the Sponsor under this Ordinance and the Fee Agreement.

Section 7. *Savings Clause.* The provisions of this Ordinance are separable. If any part of this Ordinance is, for any reason, unenforceable then the validity of the remainder of this Ordinance is unaffected.

Section 8. *General Repealer.* Any prior ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 9. *Effectiveness.* This Ordinance is effective after its third reading and public hearing.

[*Signature Page follows*]

RICHLAND COUNTY, SOUTH CAROLINA

Chair, Richland County Council

(SEAL)
ATTEST:

Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: November 15, 2022
Second Reading: December 6, 2022
Public Hearing: December 13, 2022
Third Reading: December 13, 2022

EXHIBIT A
FORM OF FEE AGREEMENT

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

BETWEEN

PROJECT GOLDEN EAGLE

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF [DECEMBER ___, 2022]

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**SUMMARY OF CONTENTS OF
FEE AGREEMENT**

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

PROVISION	BRIEF DESCRIPTION	SECTION REFERENCE
Sponsor Name	Project Golden Eagle	
Project Location	PARCEL 1 TRACT 1 #SU #PR RB2441-3930 RB1537-2769	--
Tax Map No.	Parcel R15006-01-01	
FILOT		
• Phase Exemption Period	40 years	
• Contract Minimum Investment Requirement	\$400,000,000.00	
• Contract Minimum Jobs Requirement	1,800	
• Investment Period	10 years	
• Assessment Ratio	4%	
• Millage Rate	0.5769	
• Fixed or Five-Year Adjustable Millage	Fixed	
• Claw Back Information	Enhanced Statutory Minimum	
Multicounty Park		
	I-77 Corridor Regional Industrial Park	
Infrastructure Credit		
	I	
• Brief Description	Special Source Revenue Credit: 70% in years 1—10; 50% in years 11--40	
• Credit Term	40 years	
• Claw Back Information	See <u>Exhibit E</u>	
Other Information		

FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of [DATE], between Richland County, South Carolina (“*County*”), a body politic and corporate and a political subdivision of the State of South Carolina (“*State*”), acting through the Richland County Council (“*County Council*”) as the governing body of the County, and PROJECT GOLDEN EAGLE, an [entity] organized and existing under the laws of the State of Delaware (“*Sponsor*”).

WITNESSETH:

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

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

(c) The Sponsor has committed to establish a manufacturing facility (“*Facility*”) in the County, consisting of taxable investment in real and personal property of not less than \$800,000,000 and the creation of 1,800 new, full-time jobs;

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

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

ARTICLE I. DEFINITIONS

Section 1.01 Terms. The defined terms used in this Fee Agreement have the meaning given below, unless the context clearly requires otherwise.

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

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

“*Administration Expenses*” means the reasonable expenses incurred by the County in the negotiation, approval and implementation of the terms and provisions of this Fee Agreement, including

reasonable attorney's and consultant's fees. Administration Expenses does not include any costs, expenses, including attorney's fees, incurred by the County (i) in defending challenges to the FILOT Payments, Infrastructure Credits or other incentives provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

"Cessation of Operations" means a publicly announced closure of the Facility, a layoff of a majority of the employees working at the Facility, or a substantial reduction in production that continues for a period of twelve (12) months.

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

"Commencement Date" means the last day of the property tax year during which the initial Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be [\[December 31, 2023\]](#).

"Contract Minimum Investment Requirement" means a taxable investment in real and personal property at the Project of not less than Eight Hundred Million and no/100 Dollars (\$800,000,000.00).

"Contract Minimum Jobs Requirement" means not less than One Thousand Eight Hundred (1,800) full-time, jobs created by the Sponsor in the County in connection with the Project.

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

"County Council" means the Richland County Council, the governing body of the County.

"Credit Term" means the years during the Fee Term in which the Infrastructure Credit is applicable, as described in [Exhibit D](#).

"Department" means the South Carolina Department of Revenue.

"Diminution in Value" means a reduction in the fair market value of Economic Development Property, as determined in [Error! Reference source not found.\(i\)](#) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to [Section 4.03](#) of this Fee Agreement; (ii) a casualty as described in [Section 4.04](#) of this Fee Agreement; or (iii) a condemnation as described in [Section 4.05](#) of this Fee Agreement.

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

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

"Event of Default" means any event of default specified in [Section 7.01](#) of this Fee Agreement.

“**Fee Agreement**” means this Fee-In-Lieu Of *Ad Valorem* Taxes and Incentive Agreement, as may be supplemented or amended.

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

“**FILOT Payments**” means the amount paid or to be paid in lieu of *ad valorem* property taxes as provided in Section 4.01 of this Fee Agreement.

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

“**Final Termination Date**” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is [December 31, 2072], the Final Termination Date is expected to be [December 31, 2073], which is the due date of the last FILOT Payment with respect to the Final Phase.

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

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

“**Infrastructure Credit**” means the credit provided to the Sponsor pursuant to Section 12-44-70 of the Act or Section 4-1-175 of the MCIP Act and Section 5.01 of this Fee Agreement, with respect to the Infrastructure. Infrastructure Credits are to be used for the payment of Infrastructure constituting real property, improvements and infrastructure before any use for the payment of Infrastructure constituting personal property, notwithstanding any presumptions to the contrary in the MCIP Act or otherwise.

“**Investment Period**” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending ten years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on December 31, 2033.

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

“**Multicounty Park**” means the multicounty industrial or business park governed by the [Amended and Restated Agreement Governing the I-77 Corridor Regional Industrial Park, dated as of [September 1, 2018], between the County and [Fairfield County], South Carolina, as may be amended.

“**Net FILOT Payment**” means the FILOT Payment net of the Infrastructure Credit.

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

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

“**Phase Termination Date**” means, with respect to each Phase, the last day of the property tax year which is the 39th year following the first property tax year in which the Phase is placed in service.

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

“**Real Property**” means real property that the Sponsor uses or will use in the County for the purposes that **Error! Reference source not found.** describes, and initially consists of the land identified on Exhibit A of this Fee Agreement.

“**Removed Components**” means Economic Development Property which the Sponsor, in its sole discretion, (a) determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.03 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to **Error! Reference source not found.** or **Error! Reference source not found.**(iii) of this Fee Agreement.

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

“**Sponsor**” means [Project Golden Eagle] and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“**Sponsor Affiliate**” means an entity that participates in the investment or job creation at the Project and, following receipt of the County’s approval pursuant to Section 9.01 of this Fee Agreement, joins this Fee Agreement by delivering a Joinder Agreement, the form of which is attached as Exhibit B to this Fee Agreement.

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

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

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

ARTICLE II. REPRESENTATIONS AND WARRANTIES

Section 2.01 *Representations and Warranties of the County.* The County represents and warrants as follows:

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

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

The County identified the Project, as a "project" on November 15, 2022 by adopting an Inducement Resolution, as defined in the Act on even date.

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

The County has located the Project in the Multicounty Park.

Section 2.02 *Representations and Warranties of the Sponsor.* The Sponsor represents and warrants as follows:

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

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

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

The Sponsor will use commercially reasonable efforts to achieve the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement.

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

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

**ARTICLE III.
THE PROJECT**

Section 3.01 *The Project.* The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement and the Contract Minimum Jobs Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 20[23]. Notwithstanding anything contained in this Fee Agreement to the contrary, the Sponsor is not obligated to complete the acquisition of the Project. However, if the Contract Minimum Investment Requirement is not met, the benefits provided to the Sponsor, or Sponsor Affiliate, if any, pursuant to this Fee Agreement may be reduced, modified or terminated as provided in this Fee Agreement.

Section 3.02 *Leased Property.* To the extent that State law allows or is revised or construed to permit leased assets including a building, or personal property to be installed in a building, to constitute Economic Development Property, then any property leased by the Sponsor is, at the election of the Sponsor, deemed to be Economic Development Property for purposes of this Fee Agreement, subject, at all times, to the requirements of State law and this Fee Agreement with respect to property comprising Economic Development Property.

Section 3.03 *Filings and Reports.*

On or before January 31 of each year during the term of this Fee Agreement, commencing in January 31, [2024], the Sponsor shall deliver to the Economic Development Director of the County with respect to the Sponsor and all Sponsor Affiliates, if any, the information required by the terms of the County’s Resolution dated December 12, 2017, which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

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

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

**ARTICLE IV.
FILOT PAYMENTS**

Section 4.01 *FILOT Payments.*

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

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property and Improvements portion of the Phase, the County and the Sponsor have elected to use the fair market value established in the first year of the Phase Exemption Period), multiplied by

- (ii) An assessment ratio of four percent (4%), multiplied by
- (iii) A fixed millage rate equal to .5769, which is the cumulative millage rate levied by or on behalf of all the taxing entities within which the Project is located as of June 30, 20[21].

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

If a final order of a court of competent jurisdiction from which no further appeal is allowable declares the FILOT Payments invalid or unenforceable, in whole or in part, for any reason, the parties shall negotiate the reformation of the calculation of the FILOT Payments to most closely afford the Sponsor with the intended benefits of this Fee Agreement. If such order has the effect of subjecting the Economic Development Property to *ad valorem* taxation, this Fee Agreement shall terminate, and the Sponsor shall owe the County regular *ad valorem* taxes from the date of termination, in accordance with Section 4.07 of this Fee Agreement, as such *ad valorem* taxes shall be adjusted in accordance with Section 10.08 of this Fee Agreement.

Section 4.02 *FILOT Payments on Replacement Property.* If the Sponsor elects to place Replacement Property in service, then, pursuant and subject to the provisions of Section 12-44-60 of the Act, the Sponsor shall make the following payments to the County with respect to the Replacement Property for the remainder of the Phase Exemption Period applicable to the Removed Component of the Replacement Property:

FILOT Payments, calculated in accordance with Section 4.01 of this Fee Agreement, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

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

Section 4.03 *Removal of Components of the Project.* Subject to the other terms and provisions of this Fee Agreement, the Sponsor is entitled to remove and dispose of components of the Project in its sole discretion. Components of the Project are deemed removed when scrapped, sold or otherwise removed from the Project. If the components removed from the Project are Economic Development Property, then the Economic Development Property is a Removed Component, no longer subject to this Fee Agreement and is subject to *ad valorem* property taxes to the extent the Removed Component remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.04 *Damage or Destruction of Economic Development Property.*

If Economic Development Property is damaged by fire, explosion, or any other casualty, then the Sponsor may terminate this Fee Agreement. For the property tax year corresponding to the year in which the damage or casualty occurs, the Sponsor is obligated to make FILOT Payments with respect to the

damaged Economic Development Property only to the extent property subject to *ad valorem* taxes would have been subject to *ad valorem* taxes under the same circumstances for the period in question.

If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor does not elect to terminate this Fee Agreement, then the Sponsor may restore and replace the Economic Development Property. All restorations and replacements made pursuant to this Paragraph **Error! Reference source not found.** are deemed, to the fullest extent permitted by law and this Fee Agreement, to be Replacement Property.

If Economic Development Property is damaged by fire, explosion, or any other casualty, and the Sponsor elects not to terminate this Fee Agreement pursuant to Paragraph **Error! Reference source not found.** of this Section 4.04 and elects not to restore or replace pursuant to Paragraph **Error! Reference source not found.** of this Section 4.04, then the damaged portions of the Economic Development Property are deemed Removed Components.

Section 4.05 *Condemnation.*

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

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

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

Section 4.06 *Calculating FILOT Payments on Diminution in Value.* If there is a Diminution in Value, the FILOT Payments due with respect to the Economic Development Property or Phase so diminished shall be calculated by substituting the diminished value of the Economic Development Property or Phase for the original fair market value in **Error! Reference source not found.**(i) of this Fee Agreement.

Section 4.07 *Payment of Ad Valorem Taxes.* If Economic Development Property becomes subject to *ad valorem* taxes as imposed by law pursuant to the terms of this Fee Agreement or the Act, then the calculation of the *ad valorem* taxes due with respect to the Economic Development Property in a particular property tax year shall: (i) include the property tax reductions that would have applied to the Economic Development Property if it were not Economic Development Property; and (ii) include a credit for FILOT Payments the Sponsor has made with respect to the Economic Development Property.

Section 4.08 *Place of FILOT Payments.* All FILOT Payments shall be made directly to the County in accordance with applicable law.

ARTICLE V. ADDITIONAL INCENTIVES

Section 5.01 Infrastructure Credits. To assist in paying for costs of Infrastructure, the Sponsor is entitled to claim an Infrastructure Credit to reduce certain FILOT Payments due and owing from the Sponsor to the County under this Fee Agreement. The term, amount and calculation of the Infrastructure Credit is described in Exhibit D. In no event may the Sponsor’s aggregate Infrastructure Credit claimed pursuant to this Section exceed the aggregate expenditures by the Sponsor on Infrastructure.

For each property tax year in which the Infrastructure Credit is applicable (“*Credit Term*”), the County shall prepare and issue the annual bills with respect to the Project showing the Net FILOT Payment, calculated in accordance with Exhibit D. Following receipt of the bill, the Sponsor shall timely remit the Net FILOT Payment to the County in accordance with applicable law.

Section 5.02 Additional Incentives. The County shall transfer the Real Property to the Sponsor at no cost.

ARTICLE VI. CLAW BACK

Section 6.01 Claw Back. If the Sponsor fails to perform its obligations under this Fee Agreement as described in Exhibit E, then the Sponsor is subject to the claw backs as described in Exhibit E. Any amount that may be due from the Sponsor to the County as calculated in accordance with or described in Exhibit E is due within 90 days of receipt of a written statement from the County. If not timely paid, the amount due from the Sponsor to the County is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation arising under this Section and Exhibit E survives termination of this Fee Agreement.

ARTICLE VII. DEFAULT

Section 7.01 Events of Default. The following are “Events of Default” under this Fee Agreement:

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

Failure to timely pay any amount, except FILOT Payments, due under this Fee Agreement within 90 days of becoming due;

A Cessation of Operations;

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

Failure by the Sponsor to perform any of the terms, conditions, obligations, or covenants under this Fee Agreement (other than those under Paragraph **Error! Reference source not found.** of this Section 7.01), which failure has not been cured within 90 days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the Sponsor has instituted corrective action within the 90-day period and is diligently pursuing corrective action until the default is corrected, in which case the 90-day period is extended to include the period during which the Sponsor is diligently pursuing corrective action;

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

Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure has not been cured within 90 days after written notice from the Sponsor to the County specifying such failure and requesting that it be remedied, unless the County has instituted corrective action within the 90-day period and is diligently pursuing corrective action until the default is corrected, in which case the 90-day period is extended to include the period during which the County is diligently pursuing corrective action.

Section 7.02 Remedies on Default.

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

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

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

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

Section 7.03 Reimbursement of Legal Fees and Other Expenses. On the occurrence of an Event of Default, if a party is required to employ attorneys or incur other reasonable expenses for the collection of payments due under this Fee Agreement or for the enforcement of performance or observance of any obligation or agreement, the prevailing party is entitled to seek reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred.

Section 7.04 Remedies Not Exclusive. No remedy described in this Fee Agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy is cumulative and in addition to every other remedy given under this Fee Agreement or existing at law or in equity or by statute.

**ARTICLE VIII.
PARTICULAR RIGHTS AND COVENANTS**

Section 8.01 Right to Inspect. The County and its authorized agents, at any reasonable time on prior written notice (which may be given by email), may enter and examine and inspect the Project for the purposes of permitting the County to carry out its duties and obligations in its sovereign capacity (such as, without limitation, for such routine health and safety purposes as would be applied to any other manufacturing or commercial facility in the County).

Section 8.02 Confidentiality. The County acknowledges that the Sponsor may utilize confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (“**Confidential Information**”) and that disclosure of the Confidential Information could result in substantial economic harm to the Sponsor. The Sponsor may clearly label any Confidential Information delivered to the County pursuant to this Fee Agreement as “**Confidential Information.**” Except as required by law, the County, or any employee, agent, or contractor of the County, shall not disclose or otherwise divulge any labeled

Confidential Information to any other person, firm, governmental body or agency. The Sponsor acknowledges that the County is subject to the South Carolina Freedom of Information Act, and, as a result, must disclose certain documents and information on request, absent an exemption. If the County is required to disclose any Confidential Information to a third party, the County will use its best efforts to provide the Sponsor with as much advance notice as is reasonably possible of such disclosure requirement prior to making such disclosure, and to cooperate reasonably with any attempts by the Sponsor to obtain judicial or other relief from such disclosure requirement.

Section 8.03 *Indemnification Covenants.*

Except as provided in Paragraph **Error! Reference source not found.** of this Section 8.03, the Sponsor shall indemnify and save the County, its employees, elected officials, officers and agents (each, an “*Indemnified Party*”) harmless against and from all liability or claims arising from the County’s execution of this Fee Agreement, performance of the County’s obligations under this Fee Agreement or the administration of its duties pursuant to this Fee Agreement, or otherwise by virtue of the County having entered into this Fee Agreement.

The County is entitled to use counsel of its choice and the Sponsor shall reimburse the County for all of its costs, including reasonable, out-of-pocket attorneys’ fees, incurred in connection with the response to or defense against such liability or claims as described in Paragraph **Error! Reference source not found.** of this Section 8.03. The County shall provide a statement of the costs incurred in the response or defense, and the Sponsor shall pay the County within 90 days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any such documentation which may be privileged or confidential to evidence the costs.

The County may request the Sponsor to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Sponsor shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsor’s expense. The Sponsor is entitled to use counsel of its choice, manage and control the defense of or response to such claim for the Indemnified Party; provided the Sponsor is not entitled to settle any such claim without the consent of that Indemnified Party, which consent shall not be unreasonably, withheld conditioned, or delayed. Such consent shall be deemed as a release of the subject claim.

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

An Indemnified Party may not avail itself of the indemnification or reimbursement of costs provided in this Section unless it provides the Sponsor with prompt notice, reasonable under the circumstances, but in no event to exceed 60 days, of the existence or threat of any claim or liability, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a claim.

The obligations under this Section 8.03 shall survive termination of this Fee Agreement.

Section 8.04 *No Liability of County Personnel.* All covenants, stipulations, promises, agreements and obligations of the County contained in this Fee Agreement are binding on members of the County Council or any elected official, officer, agent, servant or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse for the payment of any moneys under this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer,

agent, servant or employee of the County and no recourse for the payment of any moneys or performance of any of the covenants and agreements under this Fee Agreement or for any claims based on this Fee Agreement may be had against any member of County Council or any elected or appointed official, officer, agent, servant or employee of the County except solely in their official capacity.

Section 8.05 *Limitation of Liability.* The County is not liable to the Sponsor for any costs, expenses, losses, damages, claims or actions in connection with this Fee Agreement, except from amounts received by the County from the Sponsor under this Fee Agreement. Notwithstanding anything in this Fee Agreement to the contrary, any financial obligation the County may incur under this Fee Agreement is deemed not to constitute a pecuniary liability or a debt or general financial obligation of the County.

Section 8.06 *Assignment.* The Sponsor may assign this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold, condition, or delay. The Sponsor agrees to notify the County and the Department of the identity of the proposed transferee within 90 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Economic Development Property for purposes of calculating the FILOT Payments.

Section 8.07 *No Double Payment; Future Changes in Legislation.* Notwithstanding anything contained in this Fee Agreement to the contrary, and except as expressly required by law, the Sponsor is not required to make a FILOT Payment in addition to a regular *ad valorem* property tax payment in the same year with respect to the same piece of Economic Development Property. The Sponsor is not required to make a FILOT Payment on Economic Development Property in cases where, absent this Fee Agreement, *ad valorem* property taxes would otherwise not be due on such property.

Section 8.08 *Administration Expenses.* The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in the amount of \$[10,000]. The Sponsor will reimburse the County for such Administration Expenses on receipt of a written request from the County or at the County's direction, which request shall include a statement of the amount and nature of such Administration Expense. The Sponsor shall pay such Administration Expense as set forth in the written request no later than 90 days following receipt of the written request from the County. The County does not impose a charge in the nature of impact fees or recurring fees in connection with the incentives authorized by this Fee Agreement. The payment by the Sponsor of the County's Administration Expenses shall not be construed as prohibiting the County from engaging, at its discretion, the counsel of the County's choice.

ARTICLE IX. SPONSOR AFFILIATES

Section 9.01 *Sponsor Affiliates.* The Sponsor may designate Sponsor Affiliates from time to time, including at the time of execution of this Fee Agreement, pursuant to and subject to the provisions of Section 12-44-130 of the Act. To designate a Sponsor Affiliate, the Sponsor must deliver written notice to the Economic Development Director identifying the Sponsor Affiliate and requesting the County's approval of the Sponsor Affiliate. Except with respect to a Sponsor Affiliate designated at the time of execution of this Fee Agreement, which may be approved in the County Council ordinance authorizing the execution and delivery of this Fee Agreement, approval of the Sponsor Affiliate may be given by the County Administrator delivering written notice to the Sponsor and Sponsor Affiliate following receipt by the County Administrator of a recommendation from the Economic Development Committee of County Council to allow the Sponsor Affiliate to join in the investment at the Project. The Sponsor Affiliate's joining in the investment at the Project will be effective on delivery of a Joinder Agreement, the form of which is attached as Exhibit B, executed by the Sponsor Affiliate to the County.

Section 9.02 Primary Responsibility. Notwithstanding the addition of a Sponsor Affiliate, the Sponsor acknowledges that it has the primary responsibility for the duties and obligations of the Sponsor and any Sponsor Affiliate under this Fee Agreement, including the payment of FILOT Payments or any other amount due to or for the benefit of the County under this Fee Agreement. For purposes of this Fee Agreement, “primary responsibility” means that if the Sponsor Affiliate fails to make any FILOT Payment or remit any other amount due under this Fee Agreement, the Sponsor shall make such FILOT Payments or remit such other amounts on behalf of the Sponsor Affiliate.

**ARTICLE X.
MISCELLANEOUS**

Section 10.01 Notices. Any notice, election, demand, request, or other communication to be provided under this Fee Agreement is effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms of this Fee Agreement require receipt rather than sending of any notice, in which case such provision shall control:

IF TO THE SPONSOR:

□

WITH A COPY TO (does not constitute notice):

ADAMS AND REESE LLP
Attn: Anthony M. Quattrone
1221 Main Street, Suite 1200
Columbia, South Carolina 20210
Anthony.Quattrone@arlaw.com

IF TO THE COUNTY:

Richland County, South Carolina
Attn: Richland County Economic Development Director
2020 Hampton Street
Columbia, South Carolina 29204

WITH A COPY TO (does not constitute notice):

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

Section 10.02 Provisions of Agreement for Sole Benefit of County and Sponsor. Except as otherwise specifically provided in this Fee Agreement, nothing in this Fee Agreement expressed or implied confers on any person or entity other than the County and the Sponsor any right, remedy, or claim under or by

reason of this Fee Agreement, this Fee Agreement being intended to be for the sole and exclusive benefit of the County and the Sponsor.

Section 10.03 Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts together constitute one and the same instrument.

Section 10.04 Governing Law. South Carolina law, exclusive of its conflicts of law provisions that would refer the governance of this Fee Agreement to the laws of another jurisdiction, governs this Fee Agreement and all documents executed in connection with this Fee Agreement.

Section 10.05 Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and do not constitute a part of this Fee Agreement.

Section 10.06 Amendments. This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

Section 10.07 Agreement to Sign Other Documents. From time to time, and at the expense of the Sponsor, to the extent any expense is incurred, the County agrees to execute and deliver to the Sponsor such additional instruments as the Sponsor may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and this Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 10.08 Interpretation; Invalidity; Change in Laws.

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

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

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

Section 10.09 Force Majeure. The Sponsor is not responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Sponsor's reasonable control.

Section 10.10 Termination; Termination by Sponsor.

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

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

Any monetary obligations due and owing at the time of termination and any provisions which are intended to survive termination, including specifically the obligations arising under Section 8.03 of this Fee Agreement, survive such termination.

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

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

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

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

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

[Signature pages follow]

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

RICHLAND COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
County Council Chair
Richland County, South Carolina

ATTEST:

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

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

PROJECT GOLDEN EAGLE

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B (see Section 9.1)
FORM OF JOINDER AGREEMENT

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

1. Joinder to Fee Agreement.

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

2. Capitalized Terms.

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

3. Representations of the Sponsor Affiliate.

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

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

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

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

4. Governing Law.

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

5. Notice.

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

[_____]

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

Date

Name of Entity
By: _____
Its: _____

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

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Its: _____

EXHIBIT C (see Section 3.3)
RICHLAND COUNTY RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING
ECONOMIC DEVELOPMENT PROJECTS IN THE COUNTY

(ATTACHED)

A RESOLUTION TO AMEND THE DECEMBER 21, 2010,
RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY
PRACTICES CONCERNING ECONOMIC DEVELOPMENT
PROJECTS IN RICHLAND COUNTY

WHEREAS, Richland County Council adopted a resolution dated as of December 21, 2010 ("Prior Resolution"), which requires companies receiving economic development incentives from Richland County, South Carolina ("County") to submit annual reports to the Richland County Economic Development Office; and

WHEREAS, the County desires to make the form of the annual reports submitted by such companies uniform in order to make the substantive information contained in the annual reports more easily tracked and documented by the Richland County Economic Development Office.

NOW, THEREFORE, BE IT RESOLVED by Richland County Council as follows:

Section 1. The County affirms that each company awarded an incentive by the County in exchange for the location or expansion of a facility or facilities within the County shall submit an annual report to the Richland County Economic Development Office by January 31 of each year throughout the term of the incentives.

Section 2. The Richland County Economic Development Office is authorized to create (and from time to time, if necessary, amend or recreate) and make available the form of the annual report; however, such form, shall require, at a minimum, the following information:

- a. Name of company;
- b. Cumulative capital investment (less any removed investment) to date as a result of the project;
- c. Net jobs created to date as a result of the project;

Section 3. A copy of the then-current form of the annual report may be obtained from the following address. The annual report shall likewise be submitted to the following address by the required date.

Richland County Economic Development Office
Attention: Kim Mann
1201 Main Street, Suite 910
Columbia, SC 29201

Section 4. This Resolution amends the Prior Resolution and sets forth the County's requirements with respect to the annual reports to be submitted by each company awarded an incentive by the County as described in Section 1.

Section 5. The substance of this Resolution shall be incorporated into the agreement between the County and each company with respect to the incentives granted by the County to the company.

Section 6. In the event that any company shall fail to submit an annual report, or any portion thereof, such company may be required to return all incentives, or a dollar amount equal thereof, to the County. Such incentives, or the dollar amount equal thereto, shall be paid to the County within 60 days after the date upon which the information was originally due.

EXHIBIT D (see Section 5.1)
DESCRIPTION OF INFRASTRUCTURE CREDIT

70% OF THE FILOT PAYMENTS IN PROPERTY TAX YEARS 1—10 OF THE FEE TERM; AND

50% OF THE FILOT PAYMENTS IN PROPERTY TAX YEARS 11—40 OF THE FEE TERM.

EXHIBIT E (see Section 6.1)
DESCRIPTION OF CLAW BACK

If the Sponsor fails to achieve the Contract Minimum Investment Requirement or the Contract Minimum Jobs Requirement, a claw back shall be paid which is calculated as follows:

Repayment Amount = Total Received x Claw Back Percentage

Claw Back Percentage = 100% - Overall Achievement Percentage

Overall Achievement Percentage = (Investment Achievement Percentage + Jobs Achievement Percentage) / 2

Investment Achievement Percentage = Actual Investment Achieved / Contract Minimum Investment Requirement [*may not exceed 120%*]

Jobs Achievement Percentage = Actual New, Full-Time Jobs Created / Contract Minimum Jobs Requirement [*may not exceed 120%*]

For example, and by way of example only, if the County granted \$2,000,000 in Infrastructure Credits, and \$880,000,000 had been invested at the Project and 1,530 jobs had been created by the end of the Investment Period, the Repayment Amount would be calculated as follows:

Jobs Achievement Percentage = [1,530]/[1,800] = [85]%

Investment Achievement Percentage = \$[880,000,000]/\$[800,000,000] = [110]%

Overall Achievement Percentage = ([85]% + [110]%) / 2 = [97.5]%

Claw Back Percentage = 100% - 97.5% = 2.5% (if H% is in excess of 100%, no Claw Back shall occur)

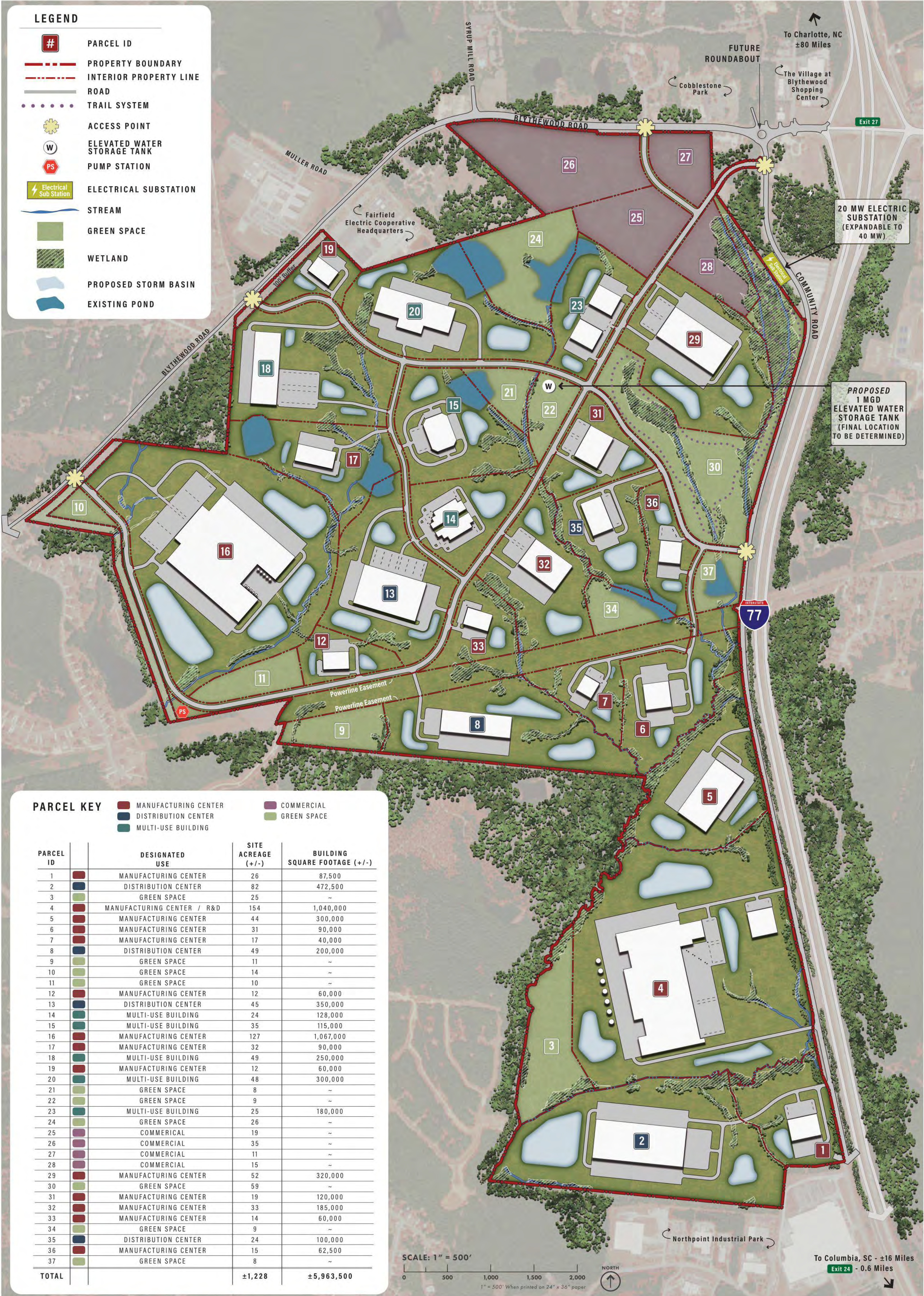
Repayment Amount = \$[2,000,000] x [2.5]% = \$[50,000]

The Sponsor shall pay any amounts described in or calculated pursuant to this Exhibit E within 90 days of receipt of a written statement from the County. If not timely paid by the Sponsor, the amount due is subject to the minimum amount of interest that the law may permit with respect to delinquent *ad valorem* tax payments. The repayment obligation described in this Exhibit E survives termination of this Fee Agreement.]

EXHIBIT B
INDUSTRIAL SITE MAP

LEGEND

- # PARCEL ID
- PROPERTY BOUNDARY
- INTERIOR PROPERTY LINE
- ROAD
- TRAIL SYSTEM
- ✱ ACCESS POINT
- ELEVATED WATER STORAGE TANK
- PUMP STATION
- ELECTRICAL SUBSTATION
- STREAM
- GREEN SPACE
- WETLAND
- PROPOSED STORM BASIN
- EXISTING POND



20 MW ELECTRIC SUBSTATION (EXPANDABLE TO 40 MW)

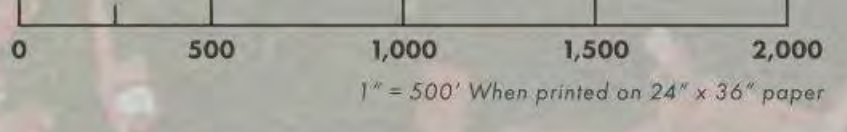
PROPOSED 1 MGD ELEVATED WATER STORAGE TANK (FINAL LOCATION TO BE DETERMINED)

PARCEL KEY

- MANUFACTURING CENTER
- COMMERCIAL
- DISTRIBUTION CENTER
- GREEN SPACE
- MULTI-USE BUILDING

PARCEL ID	DESIGNATED USE	SITE ACREAGE (+/-)	BUILDING SQUARE FOOTAGE (+/-)
1	MANUFACTURING CENTER	26	87,500
2	DISTRIBUTION CENTER	82	472,500
3	GREEN SPACE	25	~
4	MANUFACTURING CENTER / R&D	154	1,040,000
5	MANUFACTURING CENTER	44	300,000
6	MANUFACTURING CENTER	31	90,000
7	MANUFACTURING CENTER	17	40,000
8	DISTRIBUTION CENTER	49	200,000
9	GREEN SPACE	11	~
10	GREEN SPACE	14	~
11	GREEN SPACE	10	~
12	MANUFACTURING CENTER	12	60,000
13	DISTRIBUTION CENTER	45	350,000
14	MULTI-USE BUILDING	24	128,000
15	MULTI-USE BUILDING	35	115,000
16	MANUFACTURING CENTER	127	1,067,000
17	MANUFACTURING CENTER	32	90,000
18	MULTI-USE BUILDING	49	250,000
19	MANUFACTURING CENTER	12	60,000
20	MULTI-USE BUILDING	48	300,000
21	GREEN SPACE	8	~
22	GREEN SPACE	9	~
23	MULTI-USE BUILDING	25	180,000
24	GREEN SPACE	26	~
25	COMMERCIAL	19	~
26	COMMERCIAL	35	~
27	COMMERCIAL	11	~
28	COMMERCIAL	15	~
29	MANUFACTURING CENTER	52	320,000
30	GREEN SPACE	59	~
31	MANUFACTURING CENTER	19	120,000
32	MANUFACTURING CENTER	33	185,000
33	MANUFACTURING CENTER	14	60,000
34	GREEN SPACE	9	~
35	DISTRIBUTION CENTER	24	100,000
36	MANUFACTURING CENTER	15	62,500
37	GREEN SPACE	8	~
TOTAL		±1,228	±5,963,500

SCALE: 1" = 500'



PROPOSED
CONCEPTUAL MASTER PLAN
BLYTHEWOOD INDUSTRIAL SITES
BLYTHEWOOD | RICHLAND COUNTY | SOUTH CAROLINA
FEBRUARY 2019



1501 MAIN STREET • SUITE 760
COLUMBIA, SC 29201 • 803.451.6789
WWW.THOMASANDHUTTON.COM

This map illustrates a general plan of the development which is for discussion purposes only, does not limit or bind the owner/developer, and is subject to change and revision without prior written notice to the holder. Dimensions, boundaries and position locations are for illustrative purposes only and are subject to an accurate survey and property description.

COPYRIGHT © 2017 THOMAS & HUTTON

Z:\2705\12705\000\Engineering\Drawings\000\12705\000 - Blythewood Concept Master Plan.rvt

Richland County Council Request for Action

Subject:

An Ordinance authorizing the option and acquisition of certain property located in Richland County; and other matters related hereto

Notes:

First Reading: December 6, 2022

Second Reading:

Third Reading:

Public Hearing:

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN
PROPERTY LOCATED IN RICHLAND COUNTY; AND OTHER MATTERS
RELATED HERETO.**

WHEREAS, pursuant to Title 4, Chapter 9 of the Code of Laws of South Carolina, 1976, as amended, Richland County, South Carolina (“County”), acting by and through its County Council, (“County Council”), is authorized to enter into contracts and to acquire real property by purchase;

WHEREAS, to further the economic development of the County, the County has identified and desires to option and acquire certain land and improvements thereon (“Real Property”), if any, in the County as more particularly identified in the Option Agreement attached as Exhibit A (“Agreement”) and the map attached as Exhibit B;

WHEREAS, the County desires to enter into the Agreement with the seller of the Real Property, which will set forth the terms and conditions of the option and purchase of the Real Property by the County.

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

Section 1. Findings. County Council determines that the option and purchase of the Real Property is a proper governmental and public purposes and is anticipated to benefit the general public welfare of the County.

Section 2. Approval of Purchase of Real Property. County Council approves the option and purchase of the Real Property by the County and authorizes each of the County Council Chair, the County Administrator, and the Director of Economic Development, as appropriate, to execute and deliver such documents that may be reasonably necessary to accomplish the option and purchase of the Real Property and to undertake such due diligence with respect to the Real Property as the County Council Chair, the County Administrator or the Director of Economic Development may determine is beneficial to the County. Any actions taken in the name of the County prior to the effective date of this Ordinance with respect to the option and purchase of the Real Property are expressly ratified and confirmed.

Section 3. Approval of Closing Documents. County Council approves the negotiation, preparation, execution and delivery of the Agreement, with such modifications as may be appropriate and not materially adverse to the County, as determined in the discretion of any of the County Council Chair, the County Administrator, or the Director of Economic Development following receipt of advice from Council to the County.

Section 4. Further Acts. County Council authorizes the County Council Chair, the County Administrator, or the Director of Economic Development, as appropriate, following receipt of advice from counsel to the County, to take such further acts and negotiate, approve and execute whatever further instruments, including amendments to the Agreement, on behalf of the County as deemed necessary, desirable or appropriate to effect the option and purchase of the Real Property.

Section 5. General Repealer. Any ordinance, resolution, or other order of County Council, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 6. Effectiveness. This Ordinance is effective after third reading and a public hearing.

RICHLAND COUNTY, SOUTH CAROLINA

Chairman of County Council

(SEAL)
ATTEST:

Clerk to County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

READINGS:

First Reading: December 6, 2022
Second Reading: December 13, 2022
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF AGREEMENT

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

OPTION AGREEMENT

THIS OPTION AGREEMENT (the “*Agreement*”) is made and entered into as of the ____ day of _____, 2022 (“*Effective Date*”), by and between PFL HOLDINGS, LLC, a South Carolina limited liability company, and Tracy Muir Healey, as Trustee of the Rachael Rawl Muir Revocable Trust (collectively, the “*Optionor*”) and RICHLAND COUNTY, SOUTH CAROLINA (“*Optionee*”).

WITNESSETH:

1. Option to Purchase. For and in consideration of the Option Consideration (as hereinafter defined) in hand paid by Optionee to Optionor, receipt and legal sufficiency of which is hereby acknowledged by the parties hereto, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Optionor hereby grants to Optionee and its assigns, the irrevocable right and option (“*Option*”) to purchase, at any time through the Option Date (as hereinafter defined), the Property (as hereinafter defined), on the terms and conditions set forth in this Agreement.

2. Property Subject to Option. The following shall be the property subject to this Agreement (the “*Property*”):

All that certain piece, parcel or lot of land with any improvement thereon, situate lying and being in or near the City of Columbia, County of Richland, State of South Carolina, consisting of approximately 1,686 total acres located at or near the intersection of Garners Ferry Road and Old Hopkins Road and further described on the Richland County website as tax map numbers, R18900-02-05 (1,399.70± acres); R19000-04-02 (35± acres); R19013-01-05 (5.00± acres); R19000-04-05 (110.50± acres); and R21700-04-01 (136.38± acres).

3. Option Consideration.

(a) Within five (5) days of the Effective Date (as hereinafter defined), Optionee shall deliver to **Colliers International** (“*Escrow Agent*”), the sum of Ten Thousand and No/100ths (\$10,000.00) Dollars (“*Option Consideration*”). Upon receipt, Escrow Agent shall hold and disburse the Option Consideration in accordance with the terms of this Agreement.

(b) The Option Consideration provided for in subsection (a) above shall be payable to Optionor and shall be non-refundable to Optionee, except in the circumstances in which this Agreement specifically requires the Option Consideration to be returned to Optionee.

(c) All Option Consideration shall be applied to the Purchase Price at Closing if Closing takes place within the terms and conditions as set forth herein.

(d) In the event of a default by either party, the Option Consideration shall be paid in accordance with Section 14 below.

4. Option Term/Closing

(a) The term of the Option shall be until **five (5) years** from the Effective Date (“*Option Date*”), unless terminated earlier at the option of Optionee. At any time on or before the Option Date, Optionee may elect to exercise the Option by providing Optionor written notification of its election

("Exercise"). The date such notification is mailed, or hand delivered to Optionor shall be the "**Notification Date**." In the event Optionee timely elects to exercise the Option granted herein, the Closing (as hereinafter defined) of the Property shall proceed pursuant to the terms and conditions as set forth herein. In the event Optionee terminates this Option or fails to mail or otherwise deliver to Optionor written notification of its exercise or termination of the Option prior to the expiration of the date which is **eighteen (18) months** following the Effective Date (the "**Inspection Period**"), Optionor shall retain the Option Consideration, and this Agreement will become null and void and neither party hereto shall have any further rights or obligation hereunder, except as otherwise specifically set forth herein.

(b) In the event that Optionee elects to exercise this Option, it must be exercised as to all parcels of the Property, and Optionee may not exercise the Option with respect to only a portion of the Property.

(c) Provided that Optionee has timely delivered the Exercise of the Option as set forth in Section 4(a) above, the closing of the purchase and sale of the Property ("**Closing**") will be held at a location to be determined by the Optionee on any date ("**Closing Date**") which is on or before that date which is sixty (60) days following the Notification Date, at Optionee's option. Optionee shall give Optionor written notice of the Closing Date at least five (5) days in advance thereof.

5. Purchase Price: Method of Payment. The purchase price ("**Purchase Price**") shall be as follows:

(a) Year 1. In the event the Option is exercised within Year 1 after the Effective Date, the Purchase Price shall be Thirteen Million and No/100 Dollars (\$13,000,000.00);

(b) Year 2. In the event the Option is exercised within Year 2 after the Effective Date, the Purchase Price shall be Thirteen Million Five Hundred Thousand and No/100 Dollars (\$13,500,000.00);

(c) Year 3. In the event the Option is exercised within Year 3 after the Effective Date, the Purchase Price shall be Fourteen Million Five Hundred Thousand and No/100 Dollars (\$14,500,000.00);

(d) Year 4. In the event the Option is exercised within Year 4 after the Effective Date, the Purchase Price shall be Fifteen Million Five Hundred Thousand and No/100 Dollars (\$15,500,000.00); and

(e) Year 5. In the event the Option is exercised within Year 5 after the Effective Date, the Purchase Price shall be Sixteen Million Five Hundred Thousand and No/100 Dollars (\$16,500,000.00).

6. Prorations and Adjustments to Purchase Price. The following prorations and adjustments shall be made between Optionee and Optionor at Closing, with respect to the Purchase Price:

(a) All city, state, and county ad valorem taxes (other than rollback taxes) and similar impositions levied or imposed upon or assessed against the Property, if any, (hereinafter called the "**Impositions**") for the year in which Closing occurs shall be prorated as of the Closing Date. Optionor shall have no obligation to pay any rollback taxes, if any. In the event the Impositions for such year are not determinable at the time of Closing, said Impositions shall be prorated on the basis of the best available information, and the parties shall re-prorate the Impositions for such year promptly upon the receipt of the imposition bills for such year and shall make between themselves any equitable adjustment required by reason of any difference between the estimated amount of the Impositions used as a basis for

the proration at Closing and the actual amount of the Impositions for such year. This obligation shall survive Closing and recordation of the Deed. In the event any of the Impositions are due and payable at the time of Closing, the same shall be paid at Closing. If the Impositions are not paid at Closing, Optionee shall be responsible for payment in full of the Impositions within the time fixed for payment thereof and before the same shall become delinquent. Optionor shall deliver to Optionee the bills for the Impositions promptly upon receipt thereof.

(b) Any other items which are customarily prorated in connection with the purchase and sale of properties similar to the Property shall be prorated as of the Closing Date.

7. Title.

(a) Optionor covenants to convey to Optionee at Closing fee simple marketable title by way of Limited Warranty Deed in and to the Property, subject only to the following: (i) current city, state and county ad valorem taxes not yet due and payable; and (ii) easements for the installation or maintenance of public utilities serving only the Property (iii) those specific exceptions described by reference to recorded documents as reflected in the title insurance commitment, including but not limited to the Dominion Gas Easement, Time Warner Cable easement and title to the Old Hopkins Road and related right of way (collectively, "***Permitted Exceptions***").

(b) Optionee shall, at Optionee's expense, examine the title to the Property and shall give Optionor written notice, within one hundred eighty (180) days from the Effective Date of any objections which render Optionor's title less than fee simple marketable title (each a "***Title Objection***"). Optionor shall have until thirty (30) days from the date of receipt of such notice in which to satisfy all Title Objections specified in Optionee's initial notice of Title Objections. If Optionor fails to satisfy any Title Objection, then, at the option of Optionee, Optionee may: (i) terminate this Agreement, in which event the Option Consideration shall be refunded to Optionee promptly upon request and thereafter all obligations of the parties under this Agreement shall expire, and except as expressly set forth herein to the contrary, this Agreement shall be of no further force or effect; (ii) extend the period of time in which Optionor has to cure the Title Objections until Optionor has satisfied such Title Objection and Optionor agrees to use its best efforts to satisfy any such Title Objection; (iii) waive the Title Objection; or (iv) pursue any other remedy available to Optionee under the terms of this Agreement. Subsequent to the Notification Date, Optionee may update title to the Property, and if any matters of title have arisen since the date of the Optionee's initial title examination, Optionee shall give written notice to Optionor of the same, and the same provisions shall apply with respect to the obligations of Optionor and Optionee's rights and remedies in the event that Optionor does not cure the Title Objections.

(c) Any mortgage, lien, judgment, or other claim in a liquidated amount which constitutes an exception to the title to the Property (whether or not the same is disclosed by the title examination or listed in any notice of title objection by Optionee) shall not in any event be a Permitted Exception hereunder, but such claim shall be paid, bonded or insured by Optionor to the satisfaction of the Optionee and Optionee's title insurer at Closing.

(d) Except as provided hereinafter, from and after the Effective Date of this Agreement through Closing, Optionor shall not mortgage or otherwise encumber the Property (except with obligations that can be paid at closing), or take any action or permit any happening that would interfere with the transaction contemplated by this Option, including granting or imposing any timber rights or deeds, easements, warranty, conditions or restrictions with respect to the Property without obtaining Optionee's consent, which shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Optionor shall be permitted to grant hunting rights without the prior written consent of Optionee as long as any such hunting rights are terminable in the sole discretion of

Optionor and can be terminated between the date of Exercise and the date of Closing. In no event will hunting rights, or any other rights prohibited by this Section 7(d) be a "Permitted Exception". Any grant of hunting rights must make such hunting rights subject to the rights of Optionee to enter the Property to exercise its inspection rights under Section 9(a) below, and no hunting activities may be conducted on the Property during the exercise of any such inspection rights. Furthermore, notwithstanding the above Optionor may continue to exercise their normal and customary rights to cut and harvest timber provided however Optionor shall not be allowed to "Clear Cut" any of the Property and all such timber harvesting and restoration or cleanup activities shall be completed not less than thirty (30) days before the Closing Date, and restored to a clean condition, subject to the removal of the timber.

8. Survey.

(a) Optionee shall obtain, at Optionee's expense, a survey of the Property ("**Survey**") prepared by a surveyor registered and licensed in the State of South Carolina. Such survey shall be signed and certified by the surveyor. The legal description of the Property set forth in the limited warranty deed to be delivered by Optionor at Closing shall be based upon and shall conform to the Survey. Such Survey shall be delivered to Optionor's attorney at least fifteen (15) days prior to Closing.

(b) Optionee shall, prior to the end of the Inspection Period, give Optionor written notice pursuant to this Agreement if Optionee objects to a specific matter which affects the fee simple title to the Property shown on the said Survey (each a "**Survey Objection**"), and Optionor shall, within ten (10) days after Optionor has received notice, elect by written notice to Optionee to either (i) at Optionor's sole cost and expense, take such actions as may be necessary to correct such of said objections as Optionee specifies in said notice, or (ii) decline to correct such objections. The failure of Optionor to give Optionee notice of Optionor's selection shall be deemed to be an election of (ii) above. In the event Optionor elects to correct less than all of such objections or elects option (ii) above, Optionee shall have ten (10) days after receipt of Optionor's notice, to elect either to (1) proceed with this Agreement and waive the Survey Objection which Optionor has elected not to correct, or (2) terminate this Agreement and receive a refund of the Option Consideration. The failure by Optionee to give Optionor notice of Optionee's election shall be deemed to be an election of option (1) above.

9. Investigation of the Property.

(a) Between the Effective Date hereof and the end of the Inspection Period, Optionee and Optionee's agents and designees shall have the right to enter the Property, upon provision of not less than twenty-four (24) hours' notice to Optionor, for the purposes of inspecting the Property and making surveys, mechanical and structural engineering studies, and any other investigations and inspections as Optionee may reasonably require to assess the condition of the Property (collectively, the "**Optionee Due Diligence Materials**"); provided, however, that such activities by or on behalf of Optionee shall not damage the Property and shall not materially interfere with Optionor's normal ownership activities conducted on or from the Property. If Optionee is not satisfied with the Property for any reason determined by Optionee, in Optionee's sole discretion, then Optionee may terminate this Agreement by providing written notice (a "**Termination Notice**") to the Optionor and the parties shall have no further obligation to one another except those which expressly survive the termination of this Agreement. Provided, if Optionor shall terminate this Agreement prior to the end of the Inspection Period, Optionee shall be entitled to a refund of the Option Consideration. If Optionee fails to exercise the option, then all Optionee Due Diligence Materials will be delivered to the Optionor, at no expense to Optionor, within thirty (30) days of Optionee's notice not to exercise the option. Notwithstanding the foregoing, in no event shall Optionee perform any inspections more invasive than a Phase I Environmental Site Assessment on the Property without the express written consent of the Optionor, in Optionor's sole discretion. Furthermore if during the Inspection Period Optionor requests of Optionee copies of Due Diligence Materials, Optionee shall share such copies of such materials with Optionor not less frequently than every thirty (30) days.

(b) Optionee hereby agrees to reimburse Optionor for all claims, demands, actions, losses, costs, damages, liabilities and expenses (including, without limitation, reasonable attorneys' fees, costs of litigation and the cost and expense of removing or bonding over any liens affecting the Property) actually incurred by Optionor by reason of the Optionee's exercise of the rights, duties and privileges granted to Optionee in this Section 9. The obligations of Optionee contained in the immediately preceding sentence shall expressly survive the Closing or any termination of this Agreement, in each case for a period of six (6) months and shall not be subject to the liquidated damage provisions of Section 14(a) hereof.

(c) Prior to the end of the Inspection Period, Optionee shall in good faith seek to rezone the Property for Optionee's intended use as an industrial property. Optionor shall cooperate in the rezoning process as reasonably required by Optionor, provided such cooperation is at no expense to the Optionor. In all events, Optionee shall submit its application to rezone the Property no later than the date which is one hundred eighty (180) days following the Effective Date.

10. Proceedings at Closing. On the Closing Date, the Closing shall take place as follows:

(a) Optionor shall deliver to Optionee the following documents and instruments, duly executed by or on behalf of Optionor: (i) limited warranty deed, in recordable form, conveying the Property using the legal description derived from the Survey or at Optionor's election using the legal descriptions from their vesting deeds or other instruments or Court Orders accompanied by a Quit-Claim Deed using the legal description derived from the Survey ; (ii) an Owner's Affidavit, in form and substance reasonably acceptable to Optionee's title insurer, with respect to the Property; (iii) a certificate of Optionor stating that Optionor is not a "foreign person" under §1445 of the Internal Revenue Code, as amended, and applicable regulations; (iv) such other documents as may be reasonably required by Optionee's title insurer as a condition to insuring Optionee's title to the Property free of exceptions other than the Permitted Exceptions; (v) any seller's affidavits related to withholding taxes that are required by federal or state law, including without limitation an affidavit confirming that Optionor is not a "Nonresident" of South Carolina and is therefore exempt from the withholding requirements of Section 12-9-310 of the Code of Laws of South Carolina. (If Optionor cannot give such affidavit, then Optionee will withhold the amount required by such statute and remit same to the South Carolina Department of Revenue); (vi) either (1) a certificate of tax compliance from the South Carolina Department of Revenue, or (2) an affidavit in form and content acceptable to Optionee and Optionee's title insurance company that the Property does not constitute a majority of the assets of Optionor; and (vii) evidence in form and substance reasonably satisfactory to Optionee that Optionor has the power and authority to execute and enter into this Agreement and to consummate the purchase and sale of the Property.

(b) Optionee shall deliver to Optionor the following funds, documents and instruments, duly executed on behalf of Optionee: (i) the Purchase Price less the Option Consideration and any other credits or prorations in accordance with the terms this Agreement; (ii) evidence in form and substance reasonably satisfactory to Optionor that Optionee has the power and authority to execute and enter into this Agreement and to consummate the purchase and sale of the Property.

11. Costs of Closing.

(a) Optionor shall pay Optionor's attorneys' fees, the commission of any broker involved in the sale of the Property, the transfer fees associated with the recording of the limited warranty deed, and other fees or charges of any kind or nature customarily paid by sellers in similar transactions in South Carolina.

(b) Optionee shall pay its attorney fees, the costs associated with any financing obtained by Optionee, Optionee's inspection costs, all costs and expenses associated with the preparation of the title commitment and the premium for the owner's policy of title insurance to be issued in favor of Optionee

insuring Optionee's title to the Property pursuant to Section 7(b) hereof, the cost of the Survey, and the recording costs associated with the recording of the Optionor's deed to Optionee. In addition, Optionee shall pay such other fees or charges of any kind or nature customarily paid by buyers in similar transactions in South Carolina.

(c) All other costs and expenses of the transaction contemplated hereby shall be borne by the party incurring the same.

12. Possession at Closing. In the event Optionee timely delivers its Exercise, Optionor shall surrender possession of the Property to Optionee on the Closing Date.

13. Warranties, Representations, Additional Covenants of Optionor and Optionee.

(a) In order to induce Optionee to enter into this Agreement, Optionor represents and warrants to Optionee as follows:

(i) That, on the Closing Date, Optionor shall have fee simple title to the Property, subject only to the Permitted Exceptions.

(ii) That this Agreement has been duly authorized and executed on behalf of Optionor and constitutes the valid and binding agreement of Optionor, enforceable against Optionor in accordance with its terms.

(iii) There are no actions, suits or proceedings pending or threatened against, by or affecting Optionor which affect title to the Property or which question the validity or enforceability of this Agreement or of any action taken by Optionor under this Agreement, in any court or before any governmental authority, domestic or foreign; and that there are no pending, threatened or contemplated condemnation actions involving all or any portion of the Property.

(iv) That the execution and delivery of the documents and instruments to be executed and delivered by Optionor on the Closing Date, and the performance by Optionor of Optionor's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Property as contemplated by and provided for in this Agreement, are, to the best of Optionor's knowledge, consistent with and not in violation of, and will not create any adverse condition under, any contract, agreement or other instrument to which Optionor is a party, or any judicial order or judgment of any nature by which Optionor is bound.

(v) That to the best of Optionor's knowledge, information, and belief, without duty of inquiry, other than any impact from the Dominion Gas Pipeline or other utility lines or structures there are no storage tanks located on the Property, either above or below ground, or any underground pipes or lines on the Property, other than for potable water or sanitary sewer, nor were there any such tanks, pipes, or lines formerly on the Property.

(vi) Optionor has received no notice of the existence of any areas on the Property where hazardous substances or wastes have been generated, disposed of, released, or found, and, to the best of Optionor's knowledge, information and belief, no such areas for the generation, storage, disposal or release of any hazardous substances or wastes exist on the Property. For purposes of this Agreement, the term "hazardous substances or wastes" shall mean petroleum including crude oil or any fraction thereof, and any substance identified in CERCLA, FIFRA, RCRA or any other federal, state, or other governmental legislation or ordinance identified by its terms as pertaining to the management, disposal or release of hazardous substances or wastes. In the event Optionor receives notice of any such violations affecting the Property prior to Closing, Optionor promptly shall notify Optionee thereof.

(vii) That to the best of Optionor's knowledge, information and belief, there is no condition on the property that is in violation of any statute, ordinance, or regulation for the protection of human health or the environment.

(viii) There is no pending litigation or dispute concerning the location of the lines and corners of the Property and such lines and corners are clearly marked.

(ix) Optionor does not have any knowledge of any significant adverse fact or condition relating to the Property, which has not been specifically disclosed in writing by Optionor to Optionee.

(x) Optionor has received no notice that any municipality or any governmental or quasi-governmental authority has determined that there are any violations of zoning, health, environmental or other statutes, ordinances or regulations affecting the Property, and Optionor has no knowledge of any such violations. In the event Optionor receives notice of any such violations affecting the Property prior to Closing, Optionor promptly shall notify Optionee thereof.

(b) Intentionally Deleted.

(c) In the event Optionee timely delivers its Exercise, the obligation of Optionee that arise to purchase the Property at Closing and to perform under this Agreement shall be subject to the representations and warranties made by Optionor in this Agreement being true as of the date of this Agreement and as of the Closing Date, and Optionor having performed all covenants and obligations and complied with all conditions required of it by this Agreement.

14. Remedies

(a) Provided that Optionee has timely delivered its Exercise and further provided that Optionor is not in default under this Option, if the purchase and sale of the Property is not consummated in accordance with the terms and conditions of this Agreement due to circumstances or conditions which constitute a default by Optionee under this Agreement and such default is not cured within ten (10) days after written notice by Optionor to Optionee specifying the default, the Option Consideration shall be retained by Optionor as full liquidated damages for such default. The parties acknowledge that Optionor's actual damages in the event of a default by Optionee under this Agreement will be difficult to ascertain, and that such liquidated damages represent the parties' best estimate of such damages. The parties expressly acknowledge that the foregoing liquidated damages are not intended as a penalty. Such retention of the Option Consideration shall be the sole and exclusive remedy of Optionor by reason of a default by Optionee under this Agreement, and Optionor hereby waives and releases any right to sue Optionee for specific performance of this Agreement or to prove that Optionor's actual damages for Optionee's failure to purchase the Property exceed the amount which is herein provided to Optionor as full liquidated damages.

(b) Provided that Optionee has timely delivered its Exercise and further provided that Optionee is not in default under this Option, if the purchase and sale of the Property is not consummated in accordance with the terms and conditions of this Agreement due to circumstances or conditions which constitute a default by Optionor under this Agreement, then Optionee shall be entitled to either (i) terminate this Agreement by giving written notice of strict termination to Optionor whereupon the Option Consideration shall be returned to Optionee, and Optionee may recover, as its sole recoverable damages (but without limiting its right to receive a refund of the Option Deposit), its direct and actual out-of-pocket expenses and costs (documented by paid invoices to third parties), which damages shall not exceed \$50,000.00, and this Agreement shall be deemed null and void and of no further force or effect, and no party hereto shall have any further rights, obligations or liabilities hereunder, or (ii) seek specific performance of this Agreement; provided, however, that in the event that the court is unable to enforce specific performance

of this Agreement as a result of an intentional act of Optionor or conveyance to a third party in violation of its obligations under this Agreement, Optionee shall be entitled to recover its damages up to a maximum of \$50,000.00 in lieu of specific performance.

15. Condemnation. In the event of the taking of all or any portion of the Property by eminent domain proceedings, or the commencement or bona fide threat of the commencement of any such proceedings, prior to Closing, Optionee shall have the right at Optionee's option, to terminate this Agreement by giving written notice thereof to Optionor prior to Closing, in which event the Option Consideration shall be refunded to Optionee promptly upon request, all rights and obligations of the parties under this Agreement shall expire, and this Agreement shall become null and void. If Optionee does not so terminate this Agreement, Optionor shall either (i) assign to Optionee at Closing all rights of Optionor in and to any awards or other proceeds paid or payable thereafter by reason of any taking, or (ii) if such award or payment is made to Optionor prior to closing, the Purchase Price will be reduce by an amount equal to the award or payment. Optionor shall notify Optionee of eminent domain proceedings within five (5) days after Optionor learns thereof.

16. Assignment. This Agreement may be assigned by Optionee, without requirement of the consent of the Optionor, but with notice in writing to Optionor, *provided that*, (i) Optionee has determined that the assignee has adequate financial position to perform the obligations under this Agreement, and (ii) such assignment occurs only following Exercise of the Option by Optionee.

17. Parties. This Agreement shall be binding upon, enforceable against, and shall inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns.

18. Brokers. Optionor warrants and represents to the Optionee that Optionor will be responsible for all brokerage commissions fees or other payments due **Colliers International** which are payable in connection with this Agreement or the purchase and sale of the Property, including, without limitation, the fees if any of the Escrow Agent. Except as set forth below Optionor shall and does hereby indemnify, defend and hold harmless Optionee from and against the claims, demands, actions, and judgments of any other brokers, agents and other intermediaries alleging a commission, fee or other payment to be owing by reason of its dealings, negotiations or communications in connection with this Agreement or the purchase and sale of the Property. Likewise Optionee represents no real estate broker has been or will be involved on its behalf and does hereby agree to be responsible for all claims, demands, actions and judgments of any brokers, agents and other intermediaries acting on its behalf as to alleging a commission, fee or other payment to be owing by reason of its dealings, negotiations, or communications in connection with this Agreement or the purchase and sale of the Property.

The indemnity obligations contained in this Section 18 shall expressly survive the Closing or any termination of this Agreement.

19. Survival. All of the representations, covenants and warranties of the parties in this Agreement shall survive the consummation of the purchase and sale of the Property on the Closing Date.

20. Modification. This Agreement supersedes all prior discussions and agreements between Optionee and Optionor with respect to the purchase and sale of the Property and other matters contained herein and contains the sole and entire understanding between Optionee and Optionor with respect thereto. This Agreement shall not be modified or amended except by an instrument in writing executed by or on behalf of Optionor and Optionee.

21. Applicable Law. This Agreement shall be governed construed under and interpreted and enforced in accordance with the laws of the State of South Carolina and any litigation hereunder shall be conducted in state or federal court in South Carolina.

22. Time. Time is and shall be of the essence of this Agreement.

23. Captions. The captions and headings used in this Agreement are for convenience only and do not in any way restrict, modify, or amplify the terms of this Agreement.

24. Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

25. Notices. All notices, elections and communications permitted or required hereunder shall be in writing, signed by the party making the same, and shall be delivered personally, sent by reputable overnight delivery service or by registered or certified mail, return receipt requested, at the addresses set forth below. The date of such notice or communication shall be the date of personal delivery, signed receipt for overnight delivery, or mailing as the case may be, unless otherwise specified herein. In the event any date on which any notice or election is required to be made hereunder falls on Saturday, Sunday or federal, state or county holiday, then, the date on which such notice is required to be given or made hereunder shall, for all purposes, be deemed to be the next following business day.

Optionor: PFL Holdings, LLC
5306 Lakeshore Drive
Columbia, South Carolina 29206
Attn: Penelope Rawl
Phone: 803-888-6807

With a copy to: Barnes Alford Stork & Johnson LLP
1613 Main St
Columbia, SC 29201
ATTN: Alan J Reyner
Phone 803-451-4502

Tracy Muir Healey, Trustee
14003 Recuerdo Drive
Del Mar, California 92014
Attn: Tracy Muir Healey
Phone: 858-945-3511

With a copy to: Colliers International
1301 Gervais Street, Suite 600
Columbia, South Carolina 29201
Attn: Tripp Bradley
Phone: 803-606-0998

Optionee: Richland County, South Carolina
2020 Hampton Street
Columbia, South Carolina 29201
Attn: County Administrator
Phone: (803) 576-2050

With a copy to: Parker Poe Adams & Bernstein LLP
1221 Main Street, Suite 1100
Columbia, South Carolina 29201
Attn: Todd Haynie
Phone (803) 255.8915

26. Memorandum. A memorandum of this Agreement shall be executed and duly acknowledged by Optionor and Optionee for the purpose of recording within ten (10) days from the Effective Date hereof.

27. Optionor Right to Sell Property; Optionee Right of First Refusal. Notwithstanding any provision herein to the contrary, if hereof Optionor receives from a third party after the date which is two (2) years following the Effective Date of this Agreement a written expression of interest (e.g. a letter, binding, partially binding or non-binding letter of intent, offer to purchase or draft contract, lease or other agreement) which is in all material respects acceptable to Optionor outlining the primary business terms on which such third party proposes to purchase or otherwise directly or indirectly acquire the Property or any portion thereof (a "**Proposal**"), then Optionor shall first offer in writing to sell the portion of the Property covered by the Proposal to Optionee. Optionor shall promptly notify Optionee in writing of the existence of the relevant Proposal (and of Optionor's willingness to accept same), and such notification from Optionor to Optionee shall also identify all material economic terms and conditions provided for in the Proposal including the identity of the prospective third-party transferee. Optionee shall within forty-five (45) days after such notification is received by Optionee from Optionor to elect (by so notifying Optionor in writing) to purchase the Property encompassed by the relevant Proposal. The purchase price shall be equal to the purchase price set forth in the Proposal. If Optionee fails to notify Optionor in writing of Optionee's acceptance of the offer within the period set forth above, then the offer shall be deemed conclusively rejected by Optionee. If Optionee does not elect to purchase the Property pursuant to a Proposal, Optionor may proceed to sell the Property on the substantially the same terms set forth in the Proposal provided in all events the Purchase Price must be exactly the same, and Optionor agrees to reimburse Optionee for all actual costs incurred by Optionee in connection with its investigation of the Property, including without limitation all costs paid for Optionee Due Diligence Materials and all attorney's fees actually incurred. Optionee shall provide written evidence of the actual costs incurred. The reimbursement obligation of Optionor under this provision shall not exceed Fifty Thousand and 00/100 dollars (\$50,000). For avoidance of doubt, Optionor shall have no right to sell the Property to a third party prior to the date which is two (2) years following the Effective Date of this Agreement.

28. 1031 Exchange. Optionor may structure this transaction as a like kind exchange pursuant to Section 1031 of the Internal Revenue Code. Optionee shall cooperate in effecting Optionor's exchange. Optionor will make all necessary arrangements for the exchange, pay all costs associated with the exchange and bear all other expenses and risks necessary to accomplish the exchange. Optionor's exchange shall be accomplished through a qualified intermediary, exchange agent or similar third party. Optionor's structuring the conveyance of the Property as an exchange shall not extend or delay the Closing of the Property unless agreed to by both parties.

29. Termination. In the event this Agreement is not executed by the Optionee within one hundred five (105) days of the last of the Optionors' execution of this Agreement, then this Agreement shall be null and void and neither party shall have any further responsibility or liability to the other.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the Optionee has caused this Agreement to be executed by its duly authorized officer this ____ day of _____ 2022.

WITNESSES:

OPTIONEE:

Richland County, South Carolina

By: _____

Name: _____

Title: _____

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

ACKNOWLEDGMENT

I, _____, Notary Public, certify that _____, **as** _____ **of Richland County, South Carolina**, personally came before me this day and voluntarily executed the foregoing as his/her act and deed.

Witness my hand and official seal,
this the ____ day of _____, 2022.

Notary Public for South Carolina

My Commission Expires _____

IN WITNESS WHEREOF, the Optionor has caused this Agreement to be executed by its duly authorized officer this 2nd day of November, 2022.

WITNESSES:

[Signature]
[Signature]

OPTIONOR:

PFL HOLDINGS, LLC, a South Carolina limited liability company

By: [Signature]
Name: Penelope Rawl
Title: Manager

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

ACKNOWLEDGMENT

I, Alan J. Reynier, Notary Public, certify that Penelope Rawl, as Manager of **PFL HOLDINGS, LLC**, a South Carolina limited liability company, personally came before me this day and voluntarily executed the foregoing as his/her act and deed.

Witness my hand and official seal,
this the 2nd day of November, 2022.

[Signature]
Notary Public for South Carolina

My Commission Expires 03-08-22

IN WITNESS WHEREOF, the Optionor has caused this Agreement to be executed by its duly authorized officer this 2nd day of November, 2022.

WITNESSES:

Geralynn D. Vidmar
[Signature]

OPTIONOR:

Tracy Muir Healey, as Trustee of the Rachael Rawl Muir Revocable Trust

By: Tracy Muir Healey
Title: Trustee Trustee of the Rachael Rawl Muir Revocable Trust

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ACKNOWLEDGMENT

I, Geralynn D. Vidmar Notary Public, certify that Tracy Muir Healey
[Signature], as Trustee of the Rachael Rawl Muir Revocable Trust, personally
came before me this day and voluntarily executed the foregoing as his/her act and deed.

Witness my hand and official seal,
this the 2nd day of November, 2022.

Geralynn D. Vidmar
Notary Public for California

My Commission Expires August 15, 2025

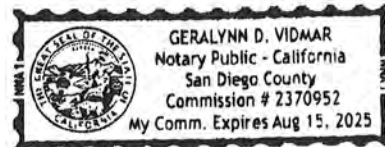
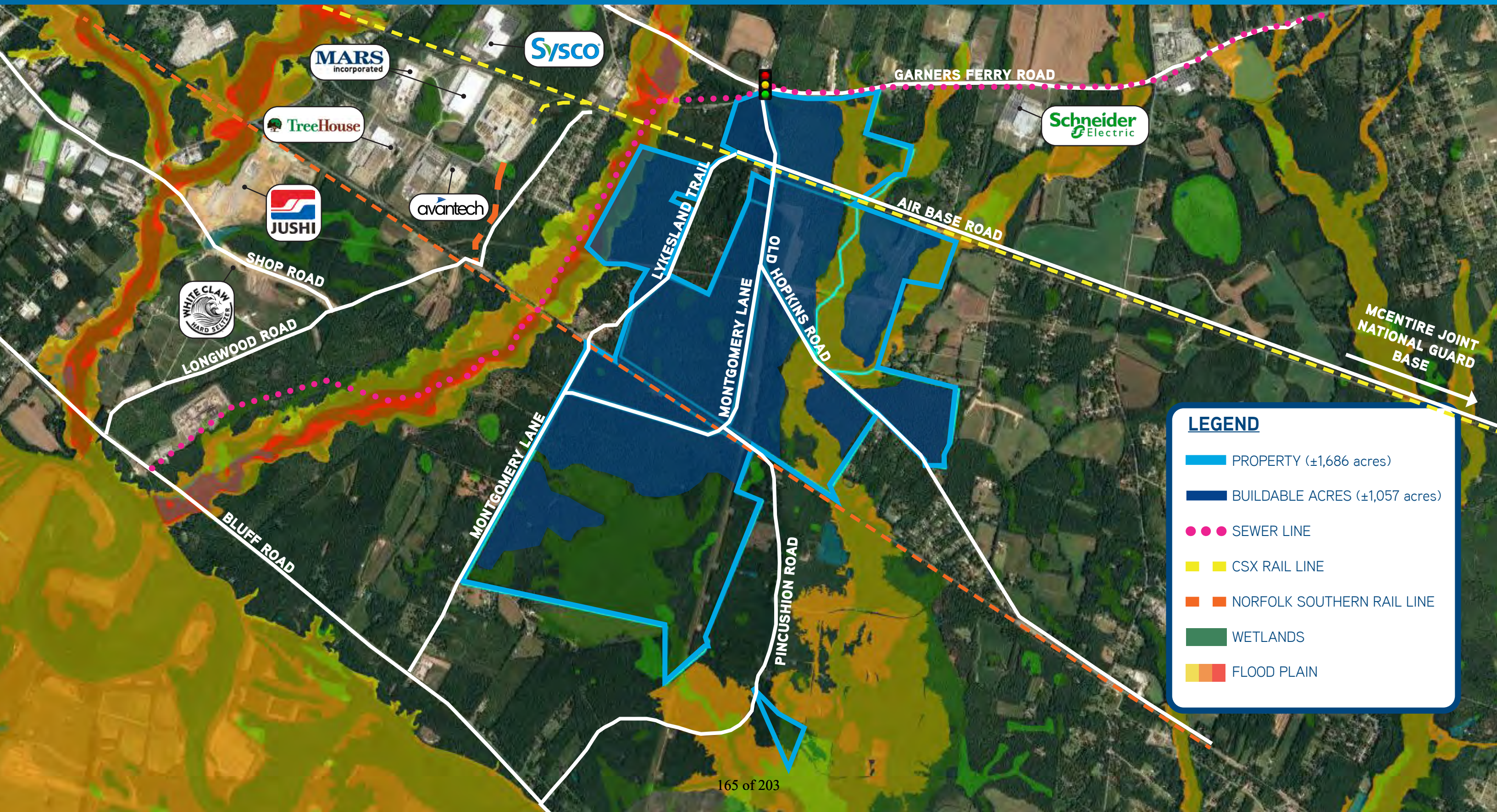


EXHIBIT B
MAP

PFL Holdings, LLC tract, ±1,686 Acres ±1,057 Buildable Acres



LEGEND

- PROPERTY (±1,686 acres)
- BUILDABLE ACRES (±1,057 acres)
- SEWER LINE
- CSX RAIL LINE
- NORFOLK SOUTHERN RAIL LINE
- WETLANDS
- FLOOD PLAIN

Richland County Council Request for Action

Subject:

Authorizing the first amendment of that certain fee agreement by and between Richland County, South Carolina and Eastover Solar, LLC., relating to, without limitation, the further investment of the project, the increase of the phase termination date, and an update to the fee payment schedule and amount and other related matters

Notes:

First Reading: December 6, 2022

Second Reading:

Third Reading:

Public Hearing:

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. _____**

AN ORDINANCE AUTHORIZING THE FIRST AMENDMENT OF THAT CERTAIN FEE AGREEMENT BY AND BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND EASTOVER SOLAR, LLC., RELATING TO, WITHOUT LIMITATION, THE FURTHER INVESTMENT OF THE PROJECT, THE INCREASE OF THE PHASE TERMINATION DATE, AND AN UPDATE TO THE FEE PAYMENT SCHEDULE AND AMOUNT AND OTHER RELATED MATTERS.

WHEREAS, Richland County, South Carolina (the "County"), acting by and through its County Council (the "County Council"), is authorized and empowered under and pursuant to the provisions of the South Carolina Constitution (the "Constitution"), the Code of Laws of South Carolina, 1976, as amended (the "Code"), and the case law of the courts of the State of South Carolina, to offer and provide certain privileges, benefits, and incentives to prospective industries as inducements for economic development within the County; and

WHEREAS, the County is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 of the Code (the "Act") to enter into certain agreements with any industry that constructs, operates, maintains, and improves certain properties (which constitute "projects" as defined in the Act); and

WHEREAS, through employment of the powers granted by the Act, the County is empowered to promote the economic and industrial development of the State of South Carolina (the "State") and develop its trade by inducing manufacturing and commercial enterprises to locate and remain in the State and thus use and employ the manpower, agricultural products, and natural resources of the State and benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally by providing for the exemption of such project from property taxes and for the payment of a fee in lieu of property taxes (a "fee agreement," as defined in the Act); and

WHEREAS, Eastover Solar, LLC, a South Carolina limited liability company (the "Company"), plans to cause the construction of and operate a solar power generation facility located in the County (as defined in the Fee Agreement, as that term is defined below, the "Project"); and

WHEREAS, the County and the Company entered into that certain Fee Agreement, effective as of May 21, 2019 (the "Fee Agreement") by which there was created a fee-in-lieu-of-tax arrangement with respect to certain property leased and owned by the Company and located at the Project; and

WHEREAS, pursuant to the Fee Agreement, the Company committed to invest at least \$77 million (the "Contract Minimum Investment Requirement" and as defined in the Fee Agreement) at the Project by the end of the Investment Period (as defined in the Fee Agreement); and

WHEREAS, the Company has requested the County to amend the incentive terms in the Fee Agreement to authorize (i) the increase in the Contract Minimum Investment Requirement to \$113 million; (ii) the increase in the Phase Termination Date (as defined in the Fee Agreement) of the Fee Agreement from 30 years to 40 years; and (iii) update of Exhibit D to the Fee Agreement to reflect an updated FILOT payment schedule for the Project (together, the “Revised Incentives Terms”); and

WHEREAS, the County and the Company now desire to amend the Fee Agreement to memorialize such Revised Incentive Terms; and

WHEREAS, all capitalized terms not specifically defined herein, shall have the meaning as defined in the Fee Agreement, and if not defined therein shall have the meaning as defined in the Act; and

WHEREAS, the County Council has caused to be prepared and presented to this meeting the form of First Amendment of Fee Agreement (the “Amendment”) by and between the County and the Company memorializing the Revised Incentives Terms; and

WHEREAS, the County desires to approve and authorize the Revised Incentives Terms, and it appears that the Amendment now before this meeting is an appropriate instrument to be executed and delivered by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF RICHLAND COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

Section 1. Statutory Findings and Determinations. The County hereby finds and determines that the Revised Incentives Terms would directly and substantially benefit the general public welfare of the County by inducing the Company to make further investment in the County, thereby providing for the increase of the ad valorem tax base of the County, and service, employment or other public benefits not otherwise provided locally; that the Revised Incentives Terms gives rise to no pecuniary liability of the County or incorporated municipality or a charge against the general credit or taxing power of either; that the purposes to be accomplished by the Revised Incentives Terms, i.e., economic development, and addition to the tax base of the County, are proper governmental and public purposes; and the inducement of continued utilization of the Project which is located in the County and State are of paramount importance and the benefits of the Revised Incentives Terms will be greater than the costs; and

Section 2. Update of the Contract Minimum Investment Requirement. The Contract Minimum Investment Requirement in the Project required of the Company under Sections 1.1 of the Fee Agreement shall be increased to \$113 million.

Section 3. Update of the Phase Termination Date. The Phase Termination Date of the Project listed in Sections 1.1 of the Fee Agreement shall be updated to state the following:

“means, with respect to each Phase, the last day of the property tax year which is the 39th year following the first property tax year in which the Phase is in service.”

Section 4. Update to Exhibit D of the Fee Agreement: Exhibit D of the Fee Agreement as described in Section 5.1 of the Fee Agreement shall be updated to reflect the new illustration attached to the Amendment as Exhibit B.

Section 5. Approval of Amendment. The Amendment is approved as follows:

(a) The form, terms, and provisions of the Amendment presented to this meeting and filed with the Clerk to County Council (the “Clerk”) are approved and all of the terms, provisions, and conditions of the Amendment are incorporated by reference. The Chairman of the County Council (the “Chairman”) and the Clerk are authorized, empowered, and directed to execute, acknowledge, and deliver the Amendment in the name of the County. The Chairman and the Clerk are further authorized, empowered, and directed to cause the Amendment to be delivered to the Company.

(b) The Amendment to be executed on behalf of the County shall be in substantially the form now before the County Council and shall include only changes that are approved by the County officials executing the Amendment. The County officials shall first consult counsel to the County (the “County Attorney”) with respect to any changes to the Amendment. The execution of the Amendment by the County officials shall constitute conclusive evidence that they have approved all changes to or revisions of the Amendment now before this meeting.

(c) If under the Amendment or the Act any future actions of the Company (including, without limitation, the supplementation of the exhibits thereto and/or any assignments of the Project) require the approval of the County, such approval can be given on behalf of the County by the Chairman or the Richland County Administrator (the “County Administrator”) upon affirmative resolution of the County Council to the extent permitted by law. The County officials shall first consult the County Attorney with respect to such approval. The execution of a written approval by County officials shall constitute conclusive evidence that the County has approved the respective actions of the Company.

Section 6. Execution of Document. The Chairman, the County Administrator, and the Clerk are each authorized and directed to do all things reasonably necessary to effect the execution and delivery of the Amendment and the County’s performance of its obligations under the Amendment.

Section 7. Severability. The provisions of this Ordinance are declared to be separable. If any section, phrase, or provision shall be declared by a court of competent jurisdiction to be invalid or unenforceable for any reason, the remaining sections, phrases, and provisions of the Ordinance shall remain valid.

Section 8. Repeal of Conflicting Ordinances. All orders, resolutions, and other ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Section 9. Effective Date of Ordinance. This Ordinance shall take effect immediately upon third reading of the County Council.

[signatures on following page]

RICHLAND COUNTY, SOUTH CAROLINA

By: _____
Chair, Richland County Council

(SEAL)

Attest this _____ day of _____, 2023

Clerk of Council, Richland County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading: December 6, 2022
Second Reading: December 13, 2022
Public Hearing:
Third Reading:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, the undersigned, Clerk to County Council of Richland County (“County Council”), DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance adopted by the County Council. The Ordinance was read and received a favorable vote at three public meetings of the County Council on three separate days. At least one day passed between first and second reading and at least seven days between second and third reading. At each meeting, a quorum of the County Council was present and remained present throughout the meeting.

To the best of my knowledge, the County Council has not taken any action to repeal the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of Richland County Council, South Carolina, as of this ____day of_____, 2023.

Clerk of Council
Richland County, South Carolina

SOUTH CAROLINA

)

)

RICHLAND COUNTY

)

A RESOLUTION

AUTHORIZING THE FORMATION OF A PUBLIC PRIVATE PARTNERSHIP FOR ECONOMIC DEVELOPMENT; APPROVING A CONCEPT DOCUMENT SETTING FORTH THE GOALS OF SUCH PARTNERSHIP; AND OTHER RELATED MATTERS.

WHEREAS, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”) desires to encourage economic development within the County by enhancing the competitiveness of the County; and

WHEREAS, the County desires to form a nonprofit corporation to serve as a public/ private economic development partnership (“Partnership”) funded both by the County and by private sector contributions to be composed of industry leaders and County officials, the purpose of which will be to assist the county with its economic development efforts; and

WHEREAS, the County’s Economic Development Office has drafted a concept document attached as Exhibit A (“Concept Document”) setting forth the goals, purposes and function for the Partnership;

WHEREAS, the County seeks to enhance its level of economic development competitiveness by partnering with the private sector in order to attract investment and new jobs to the County; and

WHEREAS, over half of the counties in South Carolina augment their economic development activities by utilizing public/private partnerships.

NOW, THEREFORE, BE IT RESOLVED by the County Council as follows:

Section 1. The Concept Document attached here as Exhibit A is approved.

Section 2. County Council authorizes and directs the County Administrator and the County Economic Developer to undertake the next phase of the Partnership in order to fulfill the Concept Document and to present such further information to the County Council in connection with the approval of the County’s Fiscal Year 2023-24 budget at which time the County Council will consider the proposed funding, budget and operating procedures of the Partnership.

Section 3. This Resolution is effective after its approval by the County Council.

RESOLVED: December 13, 2022

RICHLAND COUNTY, SOUTH CAROLINA

Overture Walker
Chair, Richland County Council

(SEAL)
ATTEST:

Anette Kirylo
Clerk to County Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

Exhibit A

**Richland County Public/Private Economic Development Partnership
Concept Summary Document
December 6, 2022**

Name

Richland County Development Corporation (*working name, subject to change*)

Governance

The public-private partnership will be established as a not-for-profit corporation under applicable South Carolina and federal law.

The public/private partnership will be governed by a **Board of Directors consisting of nine members**. The Richland County Council will retain majority control of the Board, **with three members** of Richland County Council serving on the Economic Development Corporation Board (**the County Council Chairman, the County Council Vice Chairman, and the County Council Economic Development Committee Chair**). An additional **two Board members** will be directly appointed by Richland County Council, for a majority total of **five out of nine members**.

The remaining four Board members will be selected by the initial five Board members.

Board of Director Criteria

The six Board members that are not sitting members of Richland County Council shall come from the private sector and should be **Chairman, CEO, President, COO or key executive at a leading private sector firm in the region**.

Ideally, private sector Board members would be part of organizations that could provide financial backing to the newly created partnership entity. Possible sectors that would be ideal for representation include, but are not limited to, utilities, manufacturing, healthcare, finance/banking, higher education, and law.

There will be an Executive Committee of the Board, consisting of a Chair, a Vice Chairman of the Board, a Secretary and Treasurer. All officer positions will be elected by the Board and will serve a one-year term.

The President/CEO of the public/private partnership will be the current County Economic Development Director and shall serve at the pleasure of the Board. The President/CEO should maintain a regular line of communication with the Richland County Administrator.

Funding

The public/private partnership will be funded through the County at current levels and through private sector contributions. The staff of the newly created partnership will remain employees of the county for retirement and benefit purposes. The Economic Development Fund will fall under the jurisdiction of the new public-private partnership with expenditures subject to approval by the County's Economic Development Committee.

Purpose and Function

The purpose and function of the new partnership is to enhance the economic development efforts and competitiveness of Richland County.

- To attract new business, as well as retain existing industry and foster expansion
- To develop short and long-range marketing plans for the County
- To facilitate data collection and research
- To engage in incentive negotiation
- To promote infrastructure development
- To secure funding for economic development programs and set and oversee the collection and expenditure of these funds.

Presently, half of the counties in South Carolina use a public/private partnership to enhance their economic development efforts.

Goals

- The Richland County Development Corporation will be the most diverse public/private partnership in the state.
- This partnership will enhance Richland County's ability to compete on both the state and regional level. Relative to other counties that have some sort of public/private partnership in place to further economic development, Richland County is behind in strategic and creative efforts to grow its corporate landscape.
- Richland County would be able to recruit additional talent by utilizing additional private funding to field a strong economic development team.

Pros

- Ideally, heightened awareness from the private sector as to economic development work being done in Richland County would increase competitiveness of the County across the Board (i.e. if a utility executive is on the ED Corporation Board and sees that rates are repeatedly an issue in lost projects, they may be more thoughtful in the setting of those rates and/or put more effort to making rates competitive for one-off ED projects).
- Private sector funds allow for more flexibility in business development, with an enhanced ability for attracting talented professionals, investing in the community, entertaining prospects and traveling for recruiting.
- Funds could allow for more marketing capability through the use of additional funding designated solely for the promotion of doing business in Richland County.
- A public/private partnership for economic development brings Richland County in line with half of South Carolina counties already using this model for economic development. As one of the largest and most diverse counties in South Carolina, Richland County should be a leader in economic development.
- The partnership provides infrastructure for existing industry to become involved in not only growing the county from an economic development standpoint, but to share thoughts and needs in areas such as workforce development or community impact initiatives.

Cons

- County Council cedes some control over economic development. (But retains a majority of appointees on Corporation Board).
- There is a potential for diluting efforts by tapping the same donor base of groups like Central SC Alliance and the Midlands Business Leaders Group.

Richland County Council Request for Action

Subject:

An Ordinance authorizing the transfer of certain property owned by Richland County and located in the Pineview Industrial Park; and other matters related hereto

Notes:

First Reading:
Second Reading:
Third Reading:
Public Hearing:

Richland County Council will accept applications through

January 13, 2023 at 5:00 pm

For Service on the following Boards and/or Commissions

1. Accommodations Tax Committee – Six (6) Vacancies (**ONE** applicants must have a background in the lodging industry, **THREE** applicants must have a background in the hospitality industry, **ONE** (1) applicant must have a cultural background and **ONE** (1) applicant will fill an At-large seat)
2. Airport Commission – One (1) Vacancy (Applicant must reside in the Rosewood, Shandon or Hollywood-Rose Wales Garden neighborhoods)
3. Board of Zoning Appeals – Four (4) Vacancies
4. Building Codes Board of Appeals – Nine (9) Vacancies (**ONE** applicant must be from the Architecture Industry, **ONE** from the Gas Industry, **ONE** from the Building Industry, **ONE** from the Contracting Industry, **ONE** applicant must be from the Plumbing Industry, **ONE** applicant must be from the Electrical Industry, **ONE** applicant must be from the Engineering Industry and **TWO** from Fire Industry as alternates)
5. Business Service Center Appeals Board – Three (3) Vacancies (**ONE** applicant must be from the Business Industry and **TWO** applicants must be CPAs)
6. Community Relations Council – Three (3) Vacancies
7. Employee Grievance Committee – Two (2) Vacancies (Must be a Richland County Government employee)
8. Hospitality Tax Committee – One (1) Vacancy (Applicant must be from the Restaurant Industry)
9. Planning Commission – One (1) Vacancy
10. Riverbanks Park Commission – One (1) Vacancy
11. Township Auditorium Board – One (1) Vacancy
12. Transportation Penny Advisory Committee (TPAC) – Three (3) Vacancies

Appointments will **tentatively** begin on **February 14, 2023**

Please visit www.richlandcountysc.gov to submit an online application for the board, commission or committee you are interested in serving on. Once you have submitted the application, the Clerk of Council's Office will contact you to schedule a brief interview with the Rules and Appointments Committee.

You are **strongly encouraged to speak with your Council District**

Representative and to visit www.richlandcountysc.gov to learn more about the board, commission or committee you are interested in serving on. If you need additional information, please contact the Richland County Clerk to Council Office at (803) 576-2060 or by e-mail at rccoco@richlandcountysc.gov.



Agenda Briefing

Prepared by:	Quinton Epps	Title:	Division Manager
Department:	Community Planning & Development	Division:	Conservation
Date Prepared:	November 9, 2022	Meeting Date:	December 6, 2022
Legal Review	Patrick Wright via email	Date:	November 14, 2022
Budget Review	Abhijit Deshpande via email	Date:	November 30, 2022
Finance Review	Stacey Hamm via email	Date:	November 28, 2022
Approved for consideration:	Assistant County Administrator	John M. Thompson, Ph.D., MBA, CPM, SCEM	
Meeting/Committee	Transportation Ad Hoc		
Subject	Mitigation Bank Credit Transaction		

RECOMMENDED/REQUESTED ACTION:

Staff recommends approving a request to purchase mitigation credits as listed below:

SCDOT I-26 Widening Project (mm125-137) for the widening of I-26 in Calhoun and Lexington Counties, SC for 25.750 wetland and 26,862.00 stream credits at a rate of \$12,500 and \$175 per credit, respectively.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
If not, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

These mitigation credit sales will generate \$3,175,167.88 which will be credited to the Transportation Penny Program.

Applicable department/grant key and object codes:

OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:

None applicable.

COUNTY ATTORNEY’S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

There are no legal concerns regarding this matter.

REGULATORY COMPLIANCE:

None applicable.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

In accordance with Strategic Planning Goal 3 – Commit to fiscal responsibility, Object 3.2 – Establish process to prioritize initiatives to align with available resources, this mitigation bank project was developed to provide a resource to the Transportation Penny that has been needed on its projects, while at the same time provide an everlasting resource of protected land for the public. Sales of the excess credits work to return the Penny’s initial investment cost. Staff requests approval for the sale of mitigation bank credits from the Mill Creek Mitigation Bank to the recommended entity and amounts to fulfill their permitting requirements.

The total combined transaction value is \$5,022,725.00 of which \$3,175,167.88 will be returned to the Penny Program, and \$1,847,557.12 will go to the Mill Creek Mitigation Bank owners/investors. The County's current credit ledger balance is as follows:

Credit Type	Released County Credits	County Credits Used or Sold	Available County Credits
Wetland	800.000	207.885	592.115
Stream	30,000.000	11,212.12	18,787.88

Interim Transportation Director Maloney estimates as currently constituted, the remaining projects in the Transportation Penny program will require 100 wetland credits and 3,400 stream credits. Those numbers would increase if the Penny tax is extended and more projects are added. Based on these estimates, the request for 25.75 wetland credits and 26,862 stream credits will impact the County's ability to implement the Penny Program. As such, staff recommends approval for the 25.75 wetland credits and 15,387.88 stream credits from the County Credits and 11,474.12 stream credits from Mill Creek Mitigation Bank owners/investors credits. This will bring the County's current credit ledger balance to the following which will meet the projected need for the Penny Program:

Credit Type	Released County Credits	County Credits Used or Sold	Available County Credits
Wetland	800.000	233.635	566.365
Stream	30,000.000	26,600.00	3,400.00

If the County Council does not approve the requested sales of its surplus mitigation credits, the County portion of the mitigation credit sales will drop from \$3,175,167.88 to \$1,004,545.00 for a difference of \$2,170,622.88 to the Transportation Program.

ATTACHMENTS:

1. Mitigation Surplus Credit Sales Agreement Summary

MITIGATION SURPLUS CREDIT SALES AGREEMENT SUMMARY

<u>Project:</u>	SCDOT I-26 Widening Project (mm125-137)
<u>Location:</u>	Calhoun and Lexington Counties, SC
<u>8-Digit HUC Watershed Code</u>	03050110 (Congaree)
<u>Buyer:</u>	SCDOT
<u>Permittee:</u>	SCDOT
<u>Permittee's USACE File Number/404 Permit #</u>	SAC-2022-00990
<u>Price Per Wetland Credit:</u>	\$12,500
<u>Price Per Stream Credit:</u>	\$175
<u>Wetland Credits Needed:</u>	25.750 wetland credits (12.875 restoration/enhancement & 12.875 preservation)
<u>Stream Credits Needed:</u>	26,862.000 stream credits (25,862.000 restoration/enhancement & 1,000.000 stream preservation)
<u>Total Credit Proceeds:</u>	\$5,002,725.00
<u>Richland County Stream Credits:</u>	15,387.880 stream credits (14,456.715 restoration/enhancement & 931.165 stream preservation)
<u>Richland County Wetland Credits:</u>	25.750 wetland credits (12.875 wetland restoration/enhancement & 12.875 wetland preservation)
<u>Total Credit Proceeds from Richland County Credits:</u>	\$3,014,754.00
<u>Richland County Credit Share:</u>	\$2,773,573.68 (92% of \$3,014,754.00)
<u>MCMH Credit Share:</u>	\$241,180.32 (8% of \$3,014,754.00)

<u>MCMH Stream Credits:</u>	11,474.120 stream credits (11,405.285 restoration/enhancement & 68.835 stream preservation)
<u>MCMH Wetland Credits:</u>	0.000 wetland credits
<u>Total Credit Proceeds from MCMH Credits:</u>	\$2,007,971.00
<u>Richland County Credit Share:</u>	\$401,594.20 (20% of \$2,007,971.00)
<u>MCMH Credit Share:</u>	\$1,606,376.80 (80% of \$2,007,971.00)
<u>Fee for Out of Primary Service Area Sale:</u>	\$0.00
<u>Richland County Fee Share:</u>	\$0.00
<u>MCMH Fee Share:</u>	\$0.00
<u>Gross Proceeds (Inclusive of Fee for Out of Primary Service Area Sale:</u>	\$5,022,725.00
<u>Richland County Proceeds Share:</u>	\$3,175,167.88
<u>MCMH Proceeds Share:</u>	\$1,847,557.12

Richland County Council Request for Action

Subject:

Seeking Approval for two Public Service Projects funded by CDBG-CV funds

Notes:

December 7, 2022 – The Coronavirus Ad Hoc Committee recommended Council approve moving forward with funding two Public Service projects totaling \$150,000 to be funded using Community Development Block Grant COVID-19 (CDBG-CV) Federal funds.



Agenda Briefing

Prepared by:	Callison Richardson	Title:	Division Manager
Department:	Community Planning & Development	Division:	Grants and Community Development
Date Prepared:	November 30, 2022	Meeting Date:	December 7, 2022
Legal Review	Elizabeth McLean via email	Date:	December 2, 2022
Budget Review	Abhijit Deshpande via email	Date:	December 2, 2022
Finance Review	<i>Pending review</i>	Date:	Click or tap to enter a date.
Approved for consideration:	Assistant County Administrator	Aric A Jensen, AICP	
Meeting/Committee	Coronavirus Ad Hoc		
Subject	Seeking Approval for two Public Service Projects funded by CDBG-CV funds.		

RECOMMENDED/REQUESTED ACTION:

Staff requests approval to move forward with funding two Public Service projects totaling \$150,000 to be funded using Community Development Block Grant Covid-19 (CDBG-CV) Federal funds.

Request for Council Reconsideration: Yes

FIDUCIARY:

Are funds allocated in the department’s current fiscal year budget?	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
If not, is a budget amendment necessary?	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

The funding for these proposed COVID-19 Public Service projects is in the Community Planning & Development Budget for CDBG-CV funds (GL/JL 1202992010.52800 4891900.527600).

The Community Development Block Grant (CDBG) program, administered by the U.S. Department of Housing and Urban Development, is an annual grant program provided on a formula basis to Richland County to develop viable urban communities and expand economic opportunity for low-to-moderate-income persons. Through the CDBG-CV program, HUD provides grants to states, insular areas, and local governments to prevent, prepare and respond to the spread of COVID-19. Eligible uses are listed in the attached Quick Guide to CDBG Eligible Activities to Support Coronavirus & Other Infectious Disease Response document.

Funds to cover the cost of these projects are available for disbursement from the approved budget for CDBG-CV funds. As part of the initial \$2,197,908 budget total for CDBG-CV, \$980,000 was allocated for the purposes of CDBG-CV Public Service activities in the way of supporting the COVID-19 relief efforts of local nonprofits. Council approved the CDBG-CV action plan as a consent agenda item (15f) on July 13, 2021. There is a remaining balance of \$500,000 allocated for Public Service activities that must be disbursed by August 30, 2023. Per HUD Guidelines, these would be reimbursable grants.

Applicable department/grant key and object codes: GL/JL Key: 1202992010 / 4891900
Object Code: 527600

OFFICE OF PROCUREMENT & CONTRACTING FEEDBACK:

Not applicable.

COUNTY ATTORNEY’S OFFICE FEEDBACK/POSSIBLE AREA(S) OF LEGAL EXPOSURE:

There are no Legal comments.

REGULATORY COMPLIANCE:

HUD requires local government grantees to draw down 80% of their awarded funding two years from the program start date which is August 30, 2023.

Eligible uses of CDBG-CV funds are listed in the attached Quick Guide to CDBG Eligible Activities to Support Coronavirus & Other Infectious Disease Response document.

To ensure compliance with HUD's Duplication of Benefits regulations, preventing duplication with Stafford Act and other CARES Act programs, CDBG and CDBG-CV funds can only awarded to sub-recipients located in and/or predominantly serving individuals in unincorporated Richland County. Richland County may not use CDBG-CV funds for costs already fully covered by other programs.

Federal law requires CDBG primarily benefit low-to-moderate-income persons (80% of area median income or below).

CDBG-CV funds may only be used for those Public Service activities that are new or that represent a quantifiable increase above the level of an existing service before March 1, 2020.

MOTION OF ORIGIN:

There is no associated Council motion of origin.

Council Member	
Meeting	
Date	

STRATEGIC & GENERATIVE DISCUSSION:

Request

The Richland County Community Development Office is requesting approval to disburse \$150,000 for two CDBG-CV Public Service Grants for the reimbursement of activities that Prevent, Prepare for, or Respond to Coronavirus. During the period of October 10 - November 10, 2022, Richland County Community Development Office solicited proposals from local non-profit organizations to reimburse Coronavirus related Public Services expenses in Unincorporated Richland County through the Community Development Block Grant CARES Act (CDBG-CV) funding. These projects are the recommended funding opportunities from that application, evaluation, and selection process.

Proposed Funding Opportunities:

1. Palmetto Place | \$70,000 to Palmetto Place Emergency Children's Shelter for PPE and Counseling Services to serve 100 homeless individuals in Richland County.
2. MIRCI (Mental Illness Recovery Center) | \$80,000 for direct client assistance and one Licensed Mental Health Professional solely dedicated to the Unincorporated Richland County area to support Coronavirus recovery programs targeting to serve 200 homeless individuals.

MIRCI's key steps include creating one Licensed Mental Health job position for two years to deliver counseling services to the vulnerable homeless population. MIRCI is requesting \$56,000 dollars for the first year of employment and \$60,000 for the second year of employment equaling \$116,000 per year. MIRCI will maintain the positions for two years as the organization continues to develop and grow. The total amount MIRCI is requesting is \$150,000. The proposed project will mitigate barriers related to COVID-19 by increasing access to behavioral healthcare, case management, and supportive services for unstably housed individuals within the unincorporated areas of Richland County. The project will address risk of exposure to COVID-19, negative effects of COVID-19 on mental health, and lack of access to resources that develop resilience to COVID-19. MIRCI is requesting \$34,000 in reimbursements over a two-year timespan for personal protective equipment, non-perishable food items, personal hygiene kits and emergency clothing. Personal protective equipment include masks, gloves, sanitizer, and non-contact thermometers. Non-perishable food items include canned goods and snacks. Emergency clothing include underwear, hat, scarves, gloves, and socks. Reimbursements for personal protective equipment, and non-perishable food items. MIRCI's project includes services for 50 homeless individuals and individuals who live in the unincorporated areas of Richland County who are low to moderate income. MIRCI will continually provide services through the contract date to the completion of the contract date ending on September 9, 2024.

Palmetto Place Children's Home delivers services to run away and homeless youth through age 17 and transitional housing services to youth ages 17-20. The program provides wrap around services with an end goal of self-sustainability. Palmetto Place Children's Home is requesting a total of amount of funding of \$80,000. Palmetto children's Home will create a new counseling position for \$40,000 for one year. Palmetto Place Children's Home is requesting \$25,000 for personal protective equipment and an additional \$10,000 for cleaning supplies, and sanitizing products to help stop the spread of COVID-19 in the facility. Lastly, Palmetto Place Children's home is requesting an additional \$5,000 for simple in house adaptations to the living space including partitions and face shields to prevent the spread of Coronavirus within the facility. If Palmetto Place is granted this award deliverables will be complete by September 30, 2023.

Promising Strategies:

The request proposal from (MIRCI) Mental Illness Recovery Center and Palmetto Place Emergency Children's Shelter proposals follow best practices identified by Richland County Community Development and (HUD) Department of Housing and Urban Development. Both projects prioritize the greatest needs of vulnerable populations by creating interventions and providing counseling to address increased anxiety, homelessness, and other effects that occurred due to Coronavirus.

Best practices also include the intake process, information systems, and protecting the people served while providing services. MIRCI and Palmetto Place Children's Home provided documentation to show

the organizations information system and intake process are sufficient to collect all data required to show the allocated funds will be used and maintained properly.

Both of these reimbursable grants are eligible based on the Coronavirus Aid and Relief and Economic Security Act.

Positive Impacts For Richland County:

MIRCI and Palmetto Place Children’s Home will deliver services to LMI or homeless individuals to combat the lingering effects of COVID-19. Providing funding for a new Licensed Mental Health Professional for MIRCI and expanded counseling services for Palmetto Place will mean more vulnerable individuals living in the unincorporated areas of Richland County will be serviced with critical mental health support. The reimbursements for nonperishable food items and personal protective equipment will enable both of these organizations to better serve and prevent the spread of COVID-19 among the county's homeless population. By granting the funding to the organizations, the funding will help the programs improve efficiency and effectiveness by providing these essential services.

Ramifications Of Denial Of Funding:

The denial of this grant funding minimizes the services available to the vulnerable populations while increasing risks related to Covid-19. A denial would also impede the Community Development Division's ability to uphold the County's CDBG-CV HUD Agreement to expend 80% of COVID related funding directly to the residents of Richland County by 8/30/2023.

Alternatives:

We considered the following alternatives:

Option 1 (recommended) - Approve the proposed funding requests as presented. This option allows the County to provide critical pandemic-related resources to vulnerable populations while meeting CDBG-CV, HUD, OMB 2 CFR 200 federal criteria.

Option 2 - Do not approve the proposed funding requests. This would require Community Development to find other projects to fund with the remaining \$500,000 CDBG-CV funds. The Division has plans for one final NOFA request to take place in 2023 and can seek new funding opportunities then. The Division must meet a deadline of August 30, 2023 to expend 80% of these CDBG-CV funds, of which \$500,000 remains for Public Service projects.

Previous Council Action:

County Council and the Coronavirus Ad Hoc Committee have taken action on CDBG-CV funds in the following ways:

- Coronavirus Ad Hoc Committee - 4/16/2020 meeting minutes
- Coronavirus Ad Hoc Committee - 7/28/2020 meeting minutes
- Coronavirus Ad Hoc Committee - 7/13/2021 special called meeting minutes
- Council approved the CDBG-CV action plan as a consent agenda item (15f) on July 13, 2021.

No amendment is needed to previous plans, ordinances, or budgets to fulfill these requests.

ASSOCIATED STRATEGIC GOAL, OBJECTIVE, AND INITIATIVE:

The County's CDBG Public Service projects and these proposed Coronavirus relief projects align with the County Strategic Goals and Objectives in the following way:

Goal: Commit to Fiscal Responsibility

Objective 3.3: Balance budget with projects that do not affect minimum thresholds

Awarding these CDBG-CV funds helps the County move closer to the goal of expending the remaining CV funds by the HUD Timeliness deadline of 8/20/23.

Goal: Plan for Growth through Inclusive and Equitable Infrastructure

Objective 4.4: Provide equitable living and housing options

Both projects provide direct counseling and wrap-around services to vulnerable adult and youth populations. Palmetto Place will provide transitional housing services for ages 17-20, working to provide stability for these young people and increasing the chances they will become independent and contributing members of our community. MIRCI will help connect homeless adults to the infrastructure needed to move into housing and self-sufficiency.

Goal: Achieve Positive Public Engagement

Objective 5.4: Develop a community engagement plan

All CDBG programs and projects are guided by and flow out of the 5 Year Community Action Plan created with input from citizens across the County. Expending these funds provides real opportunities to show engagement and support of our citizens.

ADDITIONAL COMMENTS FOR CONSIDERATION:

ATTACHMENTS:

1. Quick Guide to CDBG Eligible Activities to Support Coronavirus and Other Infectious Disease Response

Quick Guide to CDBG Eligible Activities to Support Coronavirus and Other Infectious Disease Response

REVISED April 6, 2020

Grantees should coordinate with local health authorities before undertaking any activity to support state or local pandemic response. Grantees may use Community Development Block Grant (CDBG) funds for a range of eligible activities that prevent and respond to the spread of infectious diseases such as the coronavirus.

Examples of Eligible Activities to Support Coronavirus and Other Infectious Disease Response

<i>For more information, refer to applicable sections of the Housing and Community Development Act of 1974 (for State CDBG Grantees) and CDBG regulations (for Entitlement CDBG grantees).</i>	
Buildings and Improvements, Including Public Facilities	
Acquisition, construction, reconstruction, or installation of public works, facilities, and site or other improvements. <i>See section 105(a)(2) (42 U.S.C. 5305(a)(2)); 24 CFR 570.201(c).</i>	Construct a facility for testing, diagnosis, or treatment.
	Rehabilitate a community facility to establish an infectious disease treatment clinic.
	Acquire and rehabilitate, or construct, a group living facility that may be used to centralize patients undergoing treatment.
Rehabilitation of buildings and improvements (including interim assistance). <i>See section 105(a)(4) (42 U.S.C. 5305(a)(4)); 24 CFR 570.201(f); 570.202(b).</i>	Rehabilitate a commercial building or closed school building to establish an infectious disease treatment clinic, e.g., by replacing the HVAC system.
	Acquire, and quickly rehabilitate (if necessary) a motel or hotel building to expand capacity of hospitals to accommodate isolation of patients during recovery.
	Make interim improvements to private properties to enable an individual patient to remain quarantined on a temporary basis.
Assistance to Businesses, including Special Economic Development Assistance	
Provision of assistance to private, for-profit entities, when appropriate to carry out an economic development project. <i>See section 105(a)(17) (42 U.S.C. 5305(a)(17)); 24 CFR 570.203(b).</i>	Provide grants or loans to support new businesses or business expansion to create jobs and manufacture medical supplies necessary to respond to infectious disease.
	Avoid job loss caused by business closures related to social distancing by providing short-term working capital assistance to small businesses to enable retention of jobs held by low- and moderate-income persons.
Provision of assistance to microenterprises. <i>See section 105(a)(22) (42 U.S.C. 5305(a)(22)); 24 CFR 570.201(o).</i>	Provide technical assistance, grants, loans, and other financial assistance to establish, stabilize, and expand microenterprises that provide medical, food delivery, cleaning, and other services to support home health and quarantine.

Provision of New or Quantifiably Increased Public Services	
Following enactment of the CARES Act ¹ , the public services cap ² has no effect on CDBG-CV grants and no effect on FY 2019 and 2020 CDBG grant funds used for coronavirus efforts. <i>See section 105(a)(8) (42 U.S.C. 5305(a)(8)); 24 CFR 570.201(e).</i>	Carry out job training to expand the pool of health care workers and technicians that are available to treat disease within a community.
	Provide testing, diagnosis or other services at a fixed or mobile location.
	Increase the capacity and availability of targeted health services for infectious disease response within existing health facilities.
	Provide equipment, supplies, and materials necessary to carry-out a public service.
	Deliver meals on wheels to quarantined individuals or individuals that need to maintain social distancing due to medical vulnerabilities.
Planning, Capacity Building, and Technical Assistance	
States only: planning grants and planning only grants. <i>See section 105(a)(12).</i>	Grant funds to units of general local government may be used for planning activities in conjunction with an activity, they may also be used for planning only as an activity. These activities must meet or demonstrate that they would meet a national objective. These activities are subject to the State's 20 percent administration, planning and technical assistance cap.
States only: use a part of to support TA and capacity building. <i>See section 106(d)(5) (42 U.S.C. 5306(d)(5)).</i>	Grant funds to units of general local government to hire technical assistance providers to deliver CDBG training to new subrecipients and local government departments that are administering CDBG funds for the first time to assist with infectious disease response. This activity is subject to the State's 3 percent administration, planning and technical assistance cap.
Entitlement only: data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans. <i>See 24 CFR 570.205.</i>	Gather data and develop non-project specific emergency infectious disease response plans.

Planning Considerations

Infectious disease response conditions rapidly evolve and may require changes to the planned use of funds:

- CDBG grantees must amend their Consolidated Annual Action Plan (Con Plan) when there is a change to the allocation priorities or method of distribution of funds; an addition of an activity not described in the plan; or a change to the purpose, scope, location, or beneficiaries of an activity (24 CFR 91.505).
- If the changes meet the criteria for a “substantial amendment” in the grantee’s citizen participation plan, the grantee must follow its citizen participation process for amendments (24 CFR 91.105 and 91.115).
- Under the CARES Act, CDBG grantees may amend citizen participation and Con Plans concurrently in order to establish and implement expedited procedures with a comment period of no less than 5-days.

Resources

The Department has technical assistance providers that may be available to assist grantees in their implementation of CDBG funds for activities to prevent or respond to the spread of infectious disease. Please contact your local CPD Field Office Director to request technical assistance from HUD staff or a TA provider.

- Submit your questions to: CPDQuestionsAnswered@hud.gov
- Coronavirus (COVID-19) Information and Resources: <https://www.hud.gov/coronavirus>
- CPD Program Guidance and Training: <https://www.hudexchange.info/program-support/>

¹ On March 27, 2020, President Trump approved the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136) (CARES Act). The CARES Act makes available \$5 billion in CDBG coronavirus response (CDBG-CV) funds to prevent, prepare for, and respond to coronavirus.

² Section 105(a)(8) of the HCD Act caps public service activities at 15 percent of most CDBG grants. Some grantees have a different percentage cap.

Richland County Council Request for Action

Subject:

ARPA Funding Update

Notes:

December 7, 2022 – The Coronavirus Ad Hoc Committee recommended Council to approve proceeding with having Guidehouse evaluate the applications with a risk assessment score of 15 or greater based upon the County’s approved scoring rubric.



Informational Agenda Briefing

Prepared by:	Lori J. Thomas	Title:	Assistant County Administrator
Department:	Administration	Division:	Click or tap here to enter text.
Date Prepared:	December 7, 2022	Meeting Date:	December 7, 2022
Approved for consideration:	County Administrator	Choose an item.	
Meeting/Committee	Coronavirus Ad Hoc		
Subject:	Update on American Rescue Plan Act Grant Process		

BACKGROUND:

County Council approved the allocation of \$16,000,000 to fund local business and non-profits from the American Rescue Plan Act Funds in compliance with US Treasury final rule guidance using a formal application process approved at the August 30, 2022 meeting.

Approved funding allocations were as follows:

Small Business	\$1,000,000
Non-profits	\$1,000,000
Workforce Development	\$1,000,000
Educational Assistance	\$1,000,000
Senior Assistance	\$1,000,000
Food Insecurity	\$2,000,000
Broadband	\$2,000,000
Affordable Housing	\$4,000,000
Assistance for Unhoused	\$2,000,000
Youth and Recreational Svsc	\$1,000,000

The application period for the grants was September 1, 2022 through October 14, 2022.

Council approved the use of third party vendor, Guidehouse, formerly Grant Thornton, to perform application assessment and scoring based upon US Treasury and County guidelines to insure a neutral, compliant process for applicants, the community, and the County.

APPLICATION RESULTS

The County received an overwhelming response to this program, receiving 427 applications totaling \$107,221,973. Based upon the number and variance of applications during initial review, Guidehouse performed a risk assessment based upon US Treasury requirements for the use of funds for 418 of the applications received. The purpose of the assessment was to provide the County a path forward for scoring of those applications. A 25-point scale was used to determine the risk of non-compliance with US Treasury rules. A score of 25 indicated the least risk, and a score of zero indicated the greatest risk for the County for non-compliance with US Treasury rules.

Industry best practices suggest that an entity should consider funding only those applicants with a risk score of less than 80%. Applying this to the County’s process means that applications with a score of 15 or greater would be those most likely to be compliant with US Treasury requirements.

RECOMMENDATIONS

Staff recommends that the County proceed with having Guidehouse evaluate those applications with a risk assessment score of 15 or greater based upon the County's approved scoring rubric. Guidehouse believes that they would be able to provide this information to the Committee by mid January

As always, staff stands ready to support Council in their efforts to assist all Richland County citizens.

ATTACHMENTS:

- 1) Grant Application Eligibility Risk Assessment
- 2) Summary of American Rescue Plan Act Grant Applications Risk Assessment Based on US Treasury Requirements

Summary of Entity or Class that will Benefit from the Project				
Purpose:	The purpose of this form is to evaluate proposed projects for alignment with the administrative presumptions for eligible responses to impacted beneficiaries to inform the County's decision making process for funding projects with its payment from the SLFRF. Projects that closely align to the Treasury's presumptions of beneficiaries that were either impacted or disproportionately impacted, propose an intervention that the Treasury presumes to be responsive to COVID-19 impacts, and the interventions are presumed proportionate will score higher than projects that may need additional research to justify use of funds.			
Proposing Entity Eligibility Requirements				
#	Question	Assessment	Score	Comments
G1	Is the applicant listed in SAM.gov in good standing or otherwise indicated as not debarred or suspended from receiving federal funding, per SAM.gov?	Yes	N/A	If no, then the applicant is ineligible
G2	Will investment in the proposed project benefit small businesses, nonprofits, or households within Richland County that have experienced a harm caused or exacerbated by COVID-19?	Yes	N/A	If no, then the applicant is ineligible
G4	Will the applicant be the sole beneficiary (beneficiary) of the project or does the project propose goods or services that will benefit other entities or households on behalf of the County (subrecipient)?	Subrecipient	N/A	
G5	Does the proposing entity comply with applicable definitions for "small business", "microbusiness", or "nonprofit"? Or is the proposing entity or its intended beneficiaries members of the tourism, travel, and hospitality industry?	Yes	N/A	
G6	Does applicant comply with policy? Verify in the documents section of Zoom Grants.	Yes		
Project Eligibility Risk Evaluation				
#	Question	Assessment	Score	Comments
1	How well does the proposed response align to the Final Rule's presumed eligible use criteria?	Proposed response cannot reasonably be determined to be responsive to the harms or impacts due to COVID-19	0	
2	How well does the proposed beneficiary align to the Final Rule's criteria for beneficiaries that are presumed to be impacted?	Beneficiary cannot reasonably be determined to have been impacted due to COVID-19	0	
3	Is the proposed response reasonably proportional to the harm experienced by the beneficiary?	Project is grossly disproportionate to the harm experienced by intended beneficiaries	0	
4	Is the project reasonably designed to benefit individuals or a class that experienced an impact or harm due to COVID-19?	The project's scope of work does not appear to directly respond to a harm created or exacerbated by COVID-19 experienced by the intended beneficiary(ies)	0	
5	How well does the proposed project align with the County's risk management policies?	Project would require significant modifications to scope/design to comply with policies and would jeopardize proposed outcomes	0	
			0	
Reviewer's Final Commentary and Evaluation Narrative				

**Summary Of American Rescue Plan Act Grant Applications
Risk Assessment Based on US Treasury Requirements**

Category	Allocated Fund	Remaining Fund	Number Of Applicant	Requested Funds	Average Risk Score	High Risk Score	Low Risk Score	<15
Small Business	\$ 1,000,000	\$ 1,000,000	143	\$ 25,135,162.58	8.22	20	0	22
Non Profit	\$ 1,000,000	\$ 634,750	106	\$ 24,666,709.33	15.26	23	0	68
Workforce Development	\$ 1,000,000	\$ 1,000,000	18	\$ 4,146,749.58	14.72	25	7	11
Educational Assistance	\$ 1,000,000	\$ 1,000,000	47	\$ 11,666,536.46	14.49	23	3	24
Senior Assistance	\$ 1,000,000	\$ 1,000,000	15	\$ 5,130,066.60	15.80	22	3	10
Food Insecurity	\$ 2,000,000	\$ 1,451,954	24	\$ 4,123,985.00	12.04	24	0	10
Broadband	\$ 2,000,000	\$ 2,000,000	5	\$ 2,899,330.27	16.40	22	0	4
Affordable Housing	\$ 4,000,000	\$ 4,000,000	19	\$ 18,677,191.42	12.68	24	6	5
Assistance for Unhoused Individuals	\$ 2,000,000	\$ 1,800,000	7	\$ 2,765,494.39	11.57	20	0	4
Youth and Recreation Services	\$ 1,000,000	\$ 1,000,000	34	\$ 5,807,705.24	10.74	17	0	5
	\$ 16,000,000	\$ 14,886,704	418	\$ 105,018,930.87				163

Funding Recommendations for the FY2022-23 Community Impact Grant Program

Sr. No	Organization Name / Application Title	Requested Amount	Committee Final Recommendation
1	Alston Wilkes Society Housing and Employment Supports for Former Offenders at Risk of Homelessness	\$ 15,000.00	\$ 15,000.00
2	Animal Mission Monthly High Volume TNVR Program	\$ 15,000.00	\$ 15,000.00
3	Cola Town Bike Collective Reliable Transportation Initiative	\$ 30,000.00	\$ 10,000.00
4	EdVenture, Inc. Breaking Down the Barriers to Field Trips to EdVenture for Highest Poverty Schools in Richland County	\$ 28,431.00	\$ 9,477.00
5	Feonix Mobility Rising Feonix Access to Care	\$ 15,000.00	\$ 15,000.00
6	Greater Columbia Chamber of Commerce Military Affairs BRAC Columbia Chamber	\$ 15,000.00	\$ 15,000.00
7	Midlands Mediation Center Family and Community Mediation	\$ 15,000.00	\$ 15,000.00
8	Power In Changing Power In Changing Family Empowerment	\$ 10,000.00	\$ 10,000.00
9	Restoration803 Senior Elves Project	\$ 10,000.00	\$ 10,000.00
10	St. Luke's Episcopal Church Fresh Start Ministry Expanding Scope of the Fresh Start Ministry	\$ 29,906.25	\$ 9,968.75
11	Columbia City Ballet Romeo & Juliet Joint Performance with SC Philharmonic	\$ 15,000.00	\$ 15,000.00
12	Olympia Community Educational Foundation Mill District Branding, Promotion, Historic Trail and Supportive Infrastructure	\$ 30,000.00	\$ 10,000.00
13	Hand to Hand Connect to Richland County Homebound Hand to Hand Connect to Richland County Homebound	\$ 15,000.00	\$ 15,000.00
14	Mother DeVeaux Adult Daycare Mobility Wins	\$ 15,000.00	\$ 15,000.00
19	Round Top Baptist Church Round Top Community Center Renovation Project	\$ 15,000.00	\$ 15,000.00
20	The Ram Foundation The Ram Foundation	\$ 30,000.00	\$ 10,000.00
21	TyJasKey Youth Center Overcome and Advance through Literacy (OAL) Summer and Afterschool Program	\$ 15,000.00	\$ 15,000.00
22	South Carolina Philharmonic, Inc. SC Philharmonic Family-Centered, Sensory-Friendly Concert	\$ 30,000.00	\$ 10,000.00
23	South Carolina State Museum Foundation Accessibility Saturdays	\$ 10,000.00	\$ 10,000.00
24	Career Development Center at Saint John Baptist Church	\$ 30,000.00	\$ 5,000.00
25	Greater Columbia Community Relations Council CRC Bilingual Family Reading Circles	\$ 15,000.00	\$ 7,500.00
26	Senior Resources, Inc. AmeriCorps Seniors Foster Grandparents & Senior Companions	\$ 15,000.00	\$ 7,500.00
Grand Total		\$ 418,337.25	\$ 259,445.75



REQUEST OF ACTION

Subject: FY23 - District 4 Hospitality Tax Allocations

A. Purpose

County Council is being requested to approve a total allocation of **\$12,000** for District 4.

B. Background / Discussion

For the 2022 - 2023 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$82,425.00 for each district Council member. The details of these motions are listed below:

Motion List (3rd reading) for FY17: Hospitality Tax discretionary account guidelines are as follows: (a) Establish a H-Tax discretionary account for each Council District; (b) Fund the account at the amount of \$164,850.00; (c) Council members will recommend Agencies to be funded by their allocation. Agencies and projects must meet all of the requirements in order to be eligible to receive H-Tax funds; (d) All Council recommendation for appropriations of allocations to Agencies after the beginning of the fiscal year will still be required to be taken back to Council for approval by the full Council prior to the commitment of funding. This would only require one vote.

Motion List (3rd reading) for FY23, Regular Council Meeting – June 7, 2022: Establish Hospitality Tax discretionary accounts for each district in FY23 at the amount of \$82,425. Move that all unallocated district specific H-Tax funding for FY21-22 be carried over and added to any additional funding for FY22-23.

Pursuant to Budget Memorandum 2017-1 and the third reading of the budget for FY23 each district Council member was approved \$82,425.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 4 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding				\$ 82,425
FY2022 Remaining				\$ 34,400
	Columbia Music Festival Association			\$ 7,000
	Cottontown Neighborhood Association Art Crawl			\$ 5,000
Total Allocation				\$ 12,000
Remaining FY2023 Balance				\$ 96,325

C. Legislative / Chronological History

- 3rd Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3rd Reading of the Budget FY19- June 21, 2018
- 3rd Reading of the Budget FY20- June 10, 2019
- 3rd Reading of the Budget FY21- June 11, 2020
- 3rd Reading of the Budget FY22- June 10, 2021
- 3rd Reading of the Budget FY23- June 7, 2022

D. Alternatives

1. Consider the request and approve the allocation.
2. Consider the request and do not approve the allocation.

E. Final Recommendation

Staff does not have a recommendation regarding this as it is a financial policy decision of County Council. The funding is available to cover the request. Staff will proceed as directed.



REQUEST OF ACTION

Subject: FY23 - District 1 Hospitality Tax Allocations

A. Purpose

County Council is being requested to approve a total allocation of **\$200,000** for District 1.

B. Background / Discussion

For the 2022 - 2023 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$82,425.00 for each district Council member. The details of these motions are listed below:

Motion List (3rd reading) for FY17: Hospitality Tax discretionary account guidelines are as follows: (a) Establish a H-Tax discretionary account for each Council District; (b) Fund the account at the amount of \$164,850.00; (c) Council members will recommend Agencies to be funded by their allocation. Agencies and projects must meet all of the requirements in order to be eligible to receive H-Tax funds; (d) All Council recommendation for appropriations of allocations to Agencies after the beginning of the fiscal year will still be required to be taken back to Council for approval by the full Council prior to the commitment of funding. This would only require one vote.

Motion List (3rd reading) for FY23, Regular Council Meeting – June 7, 2022: Establish Hospitality Tax discretionary accounts for each district in FY23 at the amount of \$82,425. Move that all unallocated district specific H-Tax funding for FY21-22 be carried over and added to any additional funding for FY22-23.

Pursuant to Budget Memorandum 2017-1 and the third reading of the budget for FY23 each district Council member was approved \$82,425.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 1 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding	\$ 82,425
FY2022 Remaining	\$274,400
Harbison Theatre at Midlands Technical College	\$ 30,000
Special Olympics of Columbia	\$ 30,000
SC Military History Museum	\$ 30,000
Capital City Lake Murray Country Pathways to Healing	\$ 70,000
Town of Irmo- Okra Strut	\$ 30,000
Total Allocation	\$200,000
Remaining FY2023 Balance	\$ 81,825

C. Legislative / Chronological History

- 3rd Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- 3rd Reading of the Budget FY19- June 21, 2018
- 3rd Reading of the Budget FY20- June 10, 2019
- 3rd Reading of the Budget FY21- June 11, 2020
- 3rd Reading of the Budget FY22- June 10, 2021
- 3rd Reading of the Budget FY23- June 7, 2022

D. Alternatives

1. Consider the request and approve the allocation.
2. Consider the request and do not approve the allocation.

E. Final Recommendation

Staff does not have a recommendation regarding this as it is a financial policy decision of County Council. The funding is available to cover the request. Staff will proceed as directed.