

RICHLAND COUNTY
COUNTY COUNCIL AGENDA



Tuesday, APRIL 16, 2019

6:00 PM

COUNCIL CHAMBERS

RICHLAND COUNTY COUNCIL 2019



Bill Malinowski
District 1
2018-2022



Joyce Dickerson
District 2
2016-2020



Yvonne McBride
District 3
2016-2020



Paul Livingston
District 4
2018-2022



Allison Terracio
District 5
2018-2022



Joe Walker, III
District 6
2018-2022



Gwendolyn Kennedy
District 7
2016-2020



Jim Manning
District 8
2016-2020



Calvin "Chip" Jackson
District 9
2016-2020



Dalhi Myers
District 10
2016-2020



Chakisse Newton
District 11
2018-2022





Richland County Council

Regular Session
April 16, 2019 - 6:00 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29201

1. **CALL TO ORDER**

The Honorable Paul Livingston,
Chair Richland County Council

a. ROLL CALL

2. **INVOCATION**

The Honorable Joe Walker

3. **PLEDGE OF ALLEGIANCE**

The Honorable Joe Walker

4. **APPROVAL OF MINUTES**

The Honorable Paul Livingston

a. Special Called Meeting: April 2, 2019 [PAGES 10-11]

b. Regular Session: April 2, 2019 [PAGES 12-39]

5. **ADOPTION OF AGENDA**

The Honorable Paul Livingston

6. **PRESENTATION OF
RESOLUTIONS/PROCLAMATIONS**

a. Resolution Honoring a Richland County Sheriff's
Department Officer's Service

The Honorable Paul Livingston

b. A Proclamation Recognizing April as Fair Housing Month -
Affirming Commitment to Furthering Fair Housing Choice

The Honorable Paul Livingston

7. **REPORT OF THE ATTORNEY FOR EXECUTIVE
SESSION ITEMS**

Larry Smith,
County Attorney

a. SCE&G Utilities Agreement

- b. Condemnations
- c. Richland County vs. Program Development Team
- d. CHA Consulting, Inc. v. Dennis Corporation Daniel R. Dennis, and Richland County
- e. SC Dept. of Revenue vs. Richland County

8. CITIZEN'S INPUT

The Honorable Paul Livingston

- a. For Items on the Agenda Not Requiring a Public Hearing

9. CITIZEN'S INPUT

The Honorable Paul Livingston

- 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 time.)

10. REPORT OF THE ACTING COUNTY ADMINISTRATOR

Dr. John Thompson,
Acting County Administrator

- a. Monthly Fund Summary Report [PAGE 40]
- b. Total Rewards Implementation [ACTION] [PAGES 41-135]
- c. Overnight Event at the Airport [ACTION] [PAGES 136-141]
- d. Permission to Survey - SS7462 Verch Locke Sewer Lift Station Area (Richland County) [ACTION] [PAGES 142-144]
- e. Transportation Penny Program Transition Update [PAGES 145-146]

11. REPORT OF THE CLERK OF COUNCIL

Michelle Onley,
Deputy Clerk to Council

- a. CASA Volunteer Appreciation Luncheon, April 17, Noon, Doko Manor, 100 Alvina Hagood Circle, Blythewood
- b. REMINDER: Budget Work Session, April 29, 4:00 -6:00 PM, Council Chambers
- c. Engage Richland: Severe Weather Awareness, April 30, 6:00 PM, Emergency Services Dept.

12. REPORT OF THE CHAIR

- a. Administrator Search Update

The Honorable Paul Livingston

13. OPEN / CLOSE PUBLIC HEARINGS

The Honorable Paul Livingston

- a. An Ordinance Authorizing, pursuant to Title 12; Chapter 44, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a fee agreement between Richland County, South Carolina and Amcor Rigid Plastics USA, LLC, a limited liability company organized and existing under the laws of the State of Delaware concerning a new project; authorizing and providing with respect to an existing project for the conversion of an arrangement for fee-in-lieu of tax payments between Richland County and Amcor Rigid Plastics USA, LLC under Title 4, Chapter 12, South Carolina Code of Laws, 1976, as amended, to an arrangement under Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended; and matters relating thereto

14. APPROVAL OF CONSENT ITEMS

- a. 19-001MA
Michael A. Niermeier
RU to OI (33.16 Acres)
Lower Richland Boulevard
TMS # R12700-03-29 [THIRD READING] [PAGES 147-148]
- b. 19-003MA
Anna Fonseca
OI to RS-HD (1.55 Acres)
Farrow Road & Plantation Drive
TMS # R17300-02-22 [THIRD READING] [PAGES 149-150]
- c. 19-005MA
Ray L. Derrick
RU to NC (3.76 Acres)
1012 Bickley Road
R02415-02-01 [THIRD READING] [PAGES 151-152]
- d. 19-007MA
Deborah Stratton
RU to NC (2 Acres)
2241 Clemson Road
TMS # R20281-01-24 [THIRD READING] [PAGES 153-154]

The Honorable Paul Livingston

15. THIRD READING ITEMS

- a. An Ordinance Amending the Richland County Code of Ordinances, Chapter 18, Offenses, to add Section 18-7, Public Nuisances; and Amending Chapter 16, Licenses and Miscellaneous Business Regulations, Section 16-18,

The Honorable Paul Livingston

relative to license suspension and revocation for a business determined to be a public nuisance [PAGES 155-163]

- b. An Ordinance Authorizing, pursuant to Title 12; Chapter 44, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a fee agreement between Richland County, South Carolina and Amcor Rigid Plastics USA, LLC, a limited liability company organized and existing under the laws of the State of Delaware concerning a new project; authorizing and providing with respect to an existing project for the conversion of an arrangement for fee-in-lieu of tax payments between Richland County and Amcor Rigid Plastics USA, LLC under Title 4, Chapter 12, South Carolina Code of Laws, 1976, as amended, to an arrangement under Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended; and matters relating thereto [PAGES 164-223]

16. SECOND READING ITEMS

The Honorable Paul Livingston

- a. An Ordinance Amending Richland County Code of Ordinances Chapter 16, Licenses and Miscellaneous Business Regulations, by adding Section 16-23, "Health Massage, Bodywork Therapists, and Massage Establishments" [PAGES 224-231]
- b. An Ordinance Consenting to the conversion of an existing lease purchase agreement between Richland County (the "County") and Mars Petcare US, Inc., f/k/a Kal Kan Foods, Inc. (the "Company") to a fee in lieu of tax agreement pursuant to Title 12, Chapter 44, South Carolina Code, 1976, as amended; authorizing the execution and delivery of a fee in lieu of tax (conversion) agreement by and between the County and the Company; authorizing the reconveyance by the County to the Company of the property subject to such lease purchase agreement and other related matters [PAGES 232-259]
- c. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and an entity known for the time being as "Project M19" to provide for payment of a fee-in-lieu of taxes; and other related matters [PAGES 260-322]

17. REPORT OF ECONOMIC DEVELOPMENT COMMITTEE

The Honorable Calvin Jackson

- a. An Ordinance Authorizing, pursuant to Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a fee agreement between

Richland County, South Carolina and Kemira Chemicals, Inc., a corporation organized and existing under the laws of the State of Delaware concerning a new project; authorizing and providing with respect to an existing project for the conversion of an arrangement for fee-in-lieu of tax payments between Richland County and Kemira Chemicals, Inc. Under Title 4, Chapter 12, South Carolina Code of Laws, 1976, as amended, to an arrangement under Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended; and matters relating thereto [FIRST READING] [PAGES 323-381]

- b. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes and incentive agreement by and between Richland County, South Carolina and [Project ES] to provide for payment of a fee-in-lieu of taxes; authorizing certain special source credits; and other related matters [FIRST READING] [PAGES 382-414]

18. REPORT OF RULES & APPOINTMENTS COMMITTEE

The Honorable Chakisse Newton

a. Notification of Appointments

1. Planning Commission - 1

- a. Jason Branham [PAGES 415-416]
- b. Ann Thomason [PAGES 417-418]
- c. Clifford L. Muldowney [PAGES 419-420]
- d. Marvin U. DuBois [PAGES 421-422]
- e. Shirley Ann Montgomery [PAGES 423-424]
- f. John Metts [PAGES 425-426]

2. Building Codes Board of Appeals – Eight (8) Vacancies (One applicant must be from the Architecture Industry, One from the Plumbing Industry, One from the Electrical Industry, One for the Engineering Industry, One from the Gas Industry, One from the Building Industry and Two from the Fire Industry as alternates)

- a. Madison Devine (Engineering) [PAGES 427-428]
- b. Doug Ford (Plumbing) [PAGES 429-430]
- c. Willie Farmer (Electrical) [PAGES 431-432]

19. OTHER ITEMS

The Honorable Paul Livingston

a. FY19 - District 3 Hospitality Tax Allocations [PAGES 433-434]

b. FY19 - District 2 Hospitality Tax Allocations [PAGES 435-436]

20. EXECUTIVE SESSION

Larry Smith,
County Attorney

21. MOTION PERIOD

a. I move that Richland County Council pass the resolution to “Ban the Box” and join more than 150 cities and counties and 33 states nationwide that have “Ban the Box” laws to remove questions about convictions from job applications; so that applicants could be judged first on their qualifications. [PAGE 437]

The Honorable Yvonne McBride

22. ADJOURNMENT



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.



Richland County Council

SPECIAL CALLED MEETING
April 2, 2019 – 7:30 PM
Council Chambers
2020 Hampton Street, Columbia, SC 29204

COUNCIL MEMBERS PRESENT: Paul Livingston, Chair; Dalhi Myers, Joyce Dickerson, Calvin “Chip” Jackson, Gwen Kennedy, Bill Malinowski, Yvonne McBride, Chakisse Newton, Allison Terracio and Joe Walker

OTHERS PRESENT: Michelle Onley, Sandra Yudice, Kim Williams-Roberts, Beverly Harris, Trenia Bowers, John Thompson, Ashiya Myers, Larry Smith, Ashley Powell, Clayton Voignier, Jocelyn Jennings, Eden Logan, Nathaniel Miller, Stacey Hamm, Quinton Epps, Allison Steele, Jennifer Wladischkin, Tim Nielsen, Pam Davis, Cathy Rawls, Michael Niermeier, Michelle Rosenthal and Shahid Khan

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 5:35 PM.
2. **ADOPTION OF THE AGENDA** – Ms. Dickerson moved, seconded by Ms. Kennedy, to adopt the agenda as published.

In Favor: Malinowski, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

The vote in favor was unanimous.

3. **PERSONNEL MATTER: INTERIM COUNTY ADMINISTRATOR**
Ms. Kennedy moved, seconded by Ms. Dickerson, to go into Executive Session.

In Favor: Terracio, Malinowski, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

The vote in favor was unanimous.

Council went into Executive Session at approximately 5:38 PM and came out at approximately 5:58PM

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

The vote in favor was unanimous to come out of Executive Session.

Ms. McBride moved, seconded by Ms. Dickerson, to accept the contract for the Acting Administrator, as discussed in Executive Session.

In Favor: Terracio, Malinowski, Newton, Kennedy, Walker, Dickerson, Livingston and McBride

Abstain: Jackson

Present but Not Voting: Myers

The vote in favor was unanimous with Mr. Jackson abstaining from the vote.

Ms. McBride moved, seconded by Ms. Dickerson, to reconsider this item.

Opposed: Terracio, Malinowski, Newton, Kennedy, Walker, Dickerson, Livingston and McBride

Abstain: Jackson

Present but Not Voting: Myers

The motion for reconsideration failed.

Mr. Livingston noted that Dr. John Thompson was selected to serve as the Acting Administrator.

3. **ADJOURNMENT** – The meeting adjourned at approximately 5:59 PM.



Richland County Council
Regular Session
April 2, 2019 – 6:00 PM
Council Chambers

COUNCIL MEMBERS PRESENT: Paul Livingston, Chair; Dalhi Myers, Vice-Chair; Joyce Dickerson, Calvin “Chip” Jackson, Gwen Kennedy, Bill Malinowski, Jim Manning, Yvonne McBride, Chakisse Newton, Allison Terracio and Joe Walker III

OTHERS PRESENT: Michelle Onley, Beverly Harris, Kim Williams-Roberts, John Thompson, Stacey Hamm, Eden Logan, Larry Smith, Jennifer Wladischkin, Mohammed Al-Tofan, Brad Farrar, Ismail Ozbek, Jeff Ruble, Trenia Bowers, Cathy Rawls, Ted Powell, Ashiya Myers, Ashley Powell, Sandra Yudice, Shahid Khan, Allison Stone, Pam Davis, Quinton Epps, Nathaniel Miller, Michelle Rosenthal, Jocelyn Jennings, Clayton Voignier, Tim Nielsen, Michael Niermeier, Valeria Davis, Michael Byrd, Art Braswell and Geo Price

1. **CALL TO ORDER** – Mr. Livingston called the meeting to order at approximately 6:00 PM.
2. **INVOCATION** – The invocation was led by the Honorable Gwen Kennedy
3. **PLEDGE OF ALLEGIANCE** – The Pledge of Allegiance was led by the Honorable Gwen Kennedy
4. **PRESENTATION OF RESOLUTIONS/PROCLAMATIONS**
 - a. **Resolution for Richland Library Chief Operating Officer Steve Sullivan** – Mr. Livingston presented a resolution to Mr. Sullivan in recognition of his years of service to the Richland Library.
 - b. **Proclamation Proclaiming April as Fair Housing Month in Richland County** – Ms. Myers presented a proclamation to Ms. Valeria Davis and Mr. Gilbert Walker proclaiming April as Fair Housing Month in Richland County.
6. **APPROVAL OF MINUTES**
 - a. **Regular Session: March 5, 2019 {Portion}** – Ms. Kennedy moved, seconded by Ms. Terracio, to approve the minutes as distributed.

In Favor: Terracio, Malinowski, Jackson, Myers, Kennedy, Walker, Livingston and McBride

Present but Not Voting: Newton and Manning

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April 2, 2019

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The vote in favor was unanimous.

- b. Regular Session: March 19, 2019 – Ms. Dickerson moved, seconded by Ms. Kennedy, to approve the minutes as distributed.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

- c. Zoning Public Hearing: March 26, 2019 – Ms. Dickerson moved, seconded by Ms. Terracio, to approve the minutes as distributed.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Manning and Walker

The vote in favor was unanimous.

- d. Special Called Meeting: March 26, 2019 – Ms. Myers moved, seconded by Ms. Kennedy, to approve the minutes as distributed.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Manning and Walker

The vote in favor was unanimous.

- 7. **ADOPTION OF THE AGENDA** – Mr. Livingston stated the Administrator Search Update needs to be added under the Report of the Chair.

Ms. Newton requested to add a report from the Rules and Appointments Committee to the agenda. The item was added immediately following the Report of the Transportation Ad Hoc Committee.

Mr. Manning requested to move Item 13(a) "Recognition of Miss Midlands Queen..." up to immediately following the Adoption of the Agenda.

Mr. Smith stated Item 8(a) "CHA Consulting, Inc. vs. Dennis Corporation Daniel R. Dennis, and Richland County" needs to be deleted from the agenda. He also requested to add an update on SCDOR vs. Richland County under the Report of the Attorney.

Ms. Dickerson moved, seconded by Ms. Newton, to adopt the agenda as amended.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

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The vote in favor was unanimous.

Recognition of Miss Midlands Queen – Traci Cooper, Local Executive Director – Miss Midlands Pageant – Dr. Cooper introduced Miss Midlands Queen, Brianna Binder, to Council.

PRESENTATION

SC Gospel Quartet – Blanche Goodson – Ms. Goodson presented Ms. Kennedy with a token of appreciation for her support of the SC Gospel Quartet events.

8. **REPORT OF THE ATTORNEY FOR EXECUTIVE SESSION ITEMS** – Mr. Smith stated the following items are eligible for Executive Session.
- a. SCDOR vs. Richland County
 - b. Administrator Search Update

Ms. Kennedy moved, seconded by Ms. Terracio, to go into Executive Session.

In Favor: Terracio, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Opposed: Malinowski and Manning

The vote was in favor of going into Executive Session.

Council went into Executive Session at approximately 6:27 PM and came out at approximately 6:45 PM

Mr. Manning moved, seconded by Mr. Walker, to come out of Executive Session.

In Favor: Malinowski, Jackson, Kennedy, Manning, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Terracio, Newton and Myers

The vote in favor was unanimous to come out of Executive Session.

9. **CITIZENS' INPUT: For Items on the Agenda Not Requiring a Public Hearing** – No one signed up to speak.

10. **CITIZENS' INPUT: Must Pertain to Richland County Matters Not on the Agenda** – Ms. Vi Hendley spoke regarding the needs of the Columbia-Richland County Fire Service.

Ms. Cassandra Hoffman spoke regarding the re-zoning of the Crickentree Golf Course property.

REPORT OF THE ACTING COUNTY ADMINISTRATOR

- a. 911 Communications – Dr. Thompson stated, over the last 2 years, Richland County Sheriff's Department has had conversations with the City of Columbia about assuming the operations and management of the 911 Communications Center from the City. They have also had the opportunity to speak with County Council and have provided the reasons they wanted to assume the responsibilities. He noted the IGA with the City of Columbia expires June 30, 2019, and the Sheriff's Department is requesting that 5 staff members, presently employed at the Sheriff's Department, be sworn, uniformed personnel, as noted in the proposed organizational chart. The dispatchers will be civilians. The request is to move this forward, based on staff's recommendation.

Mr. Jackson moved, seconded by Mr. Walker, to approve the recommendation, as presented by staff.

Mr. Malinowski stated someone told him that Batesburg-Leesville has a new state-of-the-art 911-system that provided a lot more use at a lot less cost. He inquired if anyone has looked into that.

Dr. Thompson stated staff has not explored that option, but can certainly do so.

Mr. Malinowski inquired why we need the 5 sworn officers in these positions.

Chief Cowan stated the 5 sworn officers will be managing sworn and non-sworn personnel in the center, and they believe it is best practice with what they have seen across the country.

Mr. Malinowski inquired if the new Councilmembers have been briefed on the issues the Sheriff's Department has faced over the last few years.

There was no response.

Mr. Malinowski inquired why we are "short-handed".

Chief Cowan responded that current staffing is run by the City of Columbia; therefore, that would be a question for them. The operations they are talking about are moving forward, and they are trying to reorganize and redevelop the programs in place, so they can better serve the citizens. It is a situation where this is going to help catapult us forward in fixing the issues that have been in existence for some time.

Mr. Malinowski stated that on pp. 37 there is a lengthy list of items the Human Resources Department will be trying resolve (i.e. benefits, City employees vs. County employees). It seems to him that before we approve this we would want these answers.

Dr. Yudice stated her understanding is that the City employees will become County employees. The items listed are matters the Human Resources Department has identified that the County needs to speak with the City about.

Chief Cowan stated they are trying to provide them information that would be a part of the process, so you could see that they are looking ahead, and not just today. The idea tonight is to request Council to make an official declaration to move forward, and staff, collectively, would work toward those solutions.

Mr. Byrd stated the City dispatchers that would come over, and dispatch the City functions, the City

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would pick up that cost. Just as we pick up the cost for the County dispatchers now.

Ms. Newton inquired about what kind of planning is happening, from a revenue perspective, to make sure that once we implement this it is sustainable.

Chief Cowan stated they are looking at what the expenses are today, versus what they will be tomorrow, how we pay for them, whether there are grants out there, and the expenses the partners will incur.

Mr. Byrd stated there is a concern statewide about dropping revenue. The subscriber fees they get from landline phones and the wireless fees they receive from cellular phones fluctuate. They are currently in litigation with the service providers of wireline phones. The revenue streams have gone down over the years and they have been supplementing the Emergency Telephone Fund with General Fund revenue, as well as some other sources, to be able to pay the dispatchers and fund the equipment. The wireline and wireless fees can only be used for certain things, and cannot be used for personnel. He stated there are ongoing discussions with the Budget Department in an attempt to solve the issue.

Ms. Terracio requested a brief recap of the issues we have faced over the past few years.

Chief Cowan stated they have been talking about this for approximately 3 – 4 years. One of the things they have talked about is how they can make the collaboration stronger between the City and County. How we can work through the challenges that Mr. Byrd mentioned, not only fiscally, but also operationally. Where we are today, is how do we make this partnership stronger. How do we lead it in the right direction, and the County needs to take the lead in that now?

Ms. Myers stated, for clarification, the 5 sworn officers are being transferred out of the existing staff at the Sheriff's Department.

Chief Cowan stated Council approved the positions, and they have already begun working. Therefore, this will not enlarge the Sheriff's budget.

Ms. Myers inquired if the civilian employees will be reporting to Administration.

Chief Cowan stated, in his opinion, that is "putting the cart before the horse", in the sense that they have to work through the logistic issues of how it is going to work, as far as, the existing staff, and how many FT positions they have filled. The organization chart included in the agenda is what Council is being requested to approve.

Dr. Yudice stated the dispatchers will be under the Sheriff's Department. The EMS/ESD staff will remain under the County Administrator's purview.

Ms. Myers stated she is confused as to why the dispatchers would be reporting in through the Sheriff's Department.

Chief Cowan stated you have call takers, dispatchers, and supervision, and that is a function of the Sheriff's Department. Keep in mind, they will also have the oversight committee, which is made up of all the collaborators.

Ms. Myers inquired, if the dispatchers are hired and come in as a part of the Sheriff's Department,

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will those employees then not be able to be reduced, if there comes a time we have to reduce the budget. Of course, by State law, we cannot reduce the Sheriff's Department's budget once it is enlarged. She inquired if all the dispatchers have to be reporting into the Sheriff's Department as Sheriff's Department employees.

Chief Cowan responded, as we go forward, we figure that out and make the decision that Council is comfortable with.

Ms. Myers inquired if there have been any discussions about PEBA, Worker's Comp, and Cobra.

Dr. Yudice stated, the request before you, is to begin the discussions with the City of Columbia about the transition process.

Ms. Myers inquired as to when we will get a final organizational chart.

Dr. Yudice responded they do not have a date yet, but should be completed through the budget process.

Ms. Kennedy inquired if the City is going to be paying their portion of the cost or will the County be responsible for the majority of it.

Dr. Yudice stated, her understanding is, the calls that are dispatched within the City, the City will reimburse the County or absorb the cost.

Mr. Byrd stated we are trying to get all of this worked out, and get it on paper, so we can get an agreement with the City. The City is waiting on us to take this step. To say we are going to do this, and this is how we are going to do it. Then, we can sit down and talk to them about the specifics. Currently, the City and County are each paying 50% of the cost to operate the call taking location. Richland County has a responsibility to fund and operate the entire 911 System (i.e. telephones, lines, computers).

Chief Cowan stated they have talked about percentages, based on calls for service, with the entities that are interested in partnering with the County.

Dr. Yudice stated, once the negotiations are completed, they will bring an IGA with the City to Council.

Mr. Malinowski stated, for clarification, the County will pay the entire amount, and we have to wait on reimbursement from the City. Also, he inquired why we continue to charge fees based on landlines in homes when they are becoming a thing of the past. He would think the majority of calls that are received are for buildings and accidents along the highway. He suggested assessing a fee on each home to keep the revenues where they belong. He stated right now there are permanent residents here that have out-of-state numbers. According to what we have now, we are not collecting anything, but they get all of the benefits of the services.

Mr. Byrd stated that would be up to Council. State law allows counties to charge a subscriber fee for landline phones. We also get wireless fees, which comes from cellphones. The wireless fees formula is based on the number of 911 calls received from cellphones in the actual 911 Center. So, if someone driving down the interstate from Greenville dials 911 in Richland County, we log that call in. We submit quarterly, to the State, our wireless calls, and they use a formula to reimburse us

funds from the State Wireless Fund.

Mr. Malinowski inquired as to why we are having reduced revenues when populations are increasing.

Mr. Byrd stated, according to the providers, the number of wireline phones are decreasing, which is the basis of the litigation we are involved in. Each county submits their call volumes quarterly, and the funding received from the State Wireless Fund is based on a competitive formula. If the number of calls received goes down, we are going to get less money in that quarter, which is why it is hard to budget the funds throughout the year.

Ms. McBride inquired what if the City chooses not to participate and we cannot get an IGA. Are plans in place to move forward?

Dr. Yudice stated it would be up to Council if we move forward.

Chief Cowan stated the Sheriff's position is that we need to move forward and create a Richland County 911 Center. They feel a collaboration and partnership with the City of Columbia is imperative.

In Favor: Terracio, Jackson, Newton, Myers, Kennedy, Manning Walker, Livingston and McBride

Abstain: Malinowski

The vote was in favor with Mr. Malinowski abstaining from the vote.

Ms. Dickerson moved, seconded by Ms. Myers, to reconsider this item.

Opposed: Terracio, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Abstain: Malinowski

Present but Not Voting: Manning

The motion for reconsideration failed.

- b. Columbia/Richland Fire 2018 Annual Report – Chief Aubrey Jenkins gave a brief overview of the Columbia/Richland Fire's 2018 Annual Report.

Ms. Myers requested the ISO Ratings, per area.

12. REPORT OF THE CLERK OF COUNCIL

- a. Upcoming Work Sessions:

1. April 16 – Business License Ordinance
2. May 7 – Annexation

Ms. Roberts reminded Council of the upcoming work sessions on April 16th and May 7th.

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The April 16th work session will need to be rescheduled to accommodate another Council matter. Mr. Livingston will coordinate with the Clerk's Office regarding this matter.

- b. 24th Annual Columbia International Festival, April 6 – 7, State Fairgrounds – Ms. Roberts reminded Council of the upcoming Columbia International Festival on April 6th and 7th at the State Fairgrounds.
- c. CASA Volunteer Appreciation Luncheon, April 17, Noon, Doko Manor, 100 Alvina Hagood Circle, Blythewood – Ms. Roberts reminded Council of the upcoming CASA Volunteer Appreciation Luncheon.

13. **REPORT OF THE CHAIR**

- a. Creation of Flood and Drainage Project Ad Hoc Committee – Ms. Powell stated there is a request for a Flood and Drainage Project Ad Hoc Committee. Richland County will have the opportunity to submit a list of flood and drainage projects that we may need funding for. The list is due by mid-May.

Mr. Manning inquired if this is something the Blue Ribbon Ad Hoc Committee could take up.

Ms. Powell stated that was considered, but because this project is different than what the Blue Ribbon Ad Hoc Committee was convened to discuss, it is felt that it might be best to engage a different set of stakeholders.

Ms. McBride moved, seconded by Mr. Walker, to create the Flood and Drainage Ad Hoc Committee.

In Favor: Terracio, Malinowski, Jackson, Newton, Walker, Dickerson, Livingston and McBride

Abstain: Myers

Opposed: Manning

Present but Not Voting: Kennedy

The vote was in favor.

Ms. McBride moved, seconded by Mr. Walker, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

The motion for reconsideration failed.

- b. Administrator Search Update – This item was taken up in Executive Session.

14. **OPEN/CLOSE PUBLIC HEARINGS**

- a. An Ordinance Amending the Richland County Code of Ordinances; Chapter 17, Motor Vehicles and Traffic; Article II, General Traffic and Parking Regulations; Section 17-10, Parking in Residential and Commercial Zones of the County; so as to define vehicles subject thereto – Mr. Franklin DuBose, Ms. Brenda McGriff, Ms. Christine Fludd, Mr. Bob Holmes, Mr. Robert O’Brien, Ms. Barbara Jones, Mr. Frank Barron, Mr. Donald Caldwell and Elaine DuBose in opposition of this item.
- b. An Ordinance Amending the Richland County Code of Ordinances, Chapter 18, Offenses, to add Section 18-7, Public Nuisances; and Amending Chapter 16, Licenses and Miscellaneous Business Regulations, Section 16-18, relative to license suspension and revocation for a business determined to be a public nuisance – Mr. Jaehoon Choe, Mr. Robert Brown and Mr. Mark Huguley spoke in favor of this item.

15. **APPROVAL OF CONSENT ITEMS**

- a. 19-001MA, Michael Niermeier, RU to OI (33.16 Acres), Lower Richland Boulevard TMS # R12700-03-29 [SECOND READING]
- b. 19-003MA, Anna Fonseca, OI to RS-HD (1.55 Acres), Farrow Road and Plantation Drive, TMS # R17300-02-22 [SECOND READING]
- c. 19-005M, Ray L. Derrick, RU to NC (3.76 Acres), 1012 Bickley Road, TMS # R02415-02-01 [SECOND READING]
- d. 19-007MA, Deborah Stratton, RU to NC (2 Acres), 2241 Clemson Road, TMS # R20281-01-24 [SECOND READING]
- e. Approval of Purchase: Fire Pumper Truck
- f. Richland Rebuilds (1228 Tolliver Street) – Required Change Order
- g. Southeast Sewer Project Award
- h. Internal Auditor

Ms. Dickerson moved, seconded by Ms. Myers, to approve the consent items.

In Favor: Terracio, Malinowski, Jackson, Newton, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Myers and Manning

The vote in favor was unanimous.

Dr. Thompson requested the following items be reconsidered: “Approval of Purchase: Fire Pumper Truck” and “Southeast Sewer Project Award”.

Ms. Myers moved, seconded by Mr. Walker, to reconsider the “Approval of Purchase: Fire Pumper Truck” and “Southeast Sewer Project Award”.

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Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The motion for reconsideration failed.

16. **THIRD READING ITEMS**

- a. An Ordinance Amending the Richland County Code of Ordinances; Chapter 17, Motor Vehicles and Traffic; Article II, General Traffic and Parking Regulations; Section 17-10, Parking in Residential and Commercial Zones of the County; so as to define vehicles subject thereto – Ms. Dickerson moved, seconded by Ms. McBride, to approve the ordinance with the deletion of the underlined language and adopt the remaining ordinance, as drafted.

Mr. Livingston inquired, for clarification, the motion is to delete which language.

Ms. Dickerson stated, for clarification, to delete the red underlined language.

Mr. Livingston stated the deletions are as follows:

- (1) Fitted cover, for the purpose of this section, means a cover that conforms to the basic shape of the vehicle and covers all portions of such vehicle.
- (2) or scooters, by any source of artificial power (i.e., not propelled by human effort), excluding trains.
- (2) and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.
- (4)(c) ... (1) acre (replace with 3 acres)

Ms. Myers stated she would agree with Ms. Dickerson and suggest that we restore the acreage restriction to 3 acres everywhere where it has been reduced to 1 acre, we restore the language regarding the fitted covers where it has been reduced, retain the authority that has been given to the Sheriff, and retain the 30 days, as opposed to the 45 days.

Mr. Farrar stated the additional language that is of concern is on pp. 170, near the end of “(d) An operator (“Commercial Operator”) of a truck tractor, semi-trailer or trailer for commercial purposes [i.e., one or more of these vehicles is regularly used in the operator’s present employment, and not his or her former or speculative future professional employment, or, put differently, the operator is legitimately employed in a capacity that requires the use of one or more of these vehicles] shall be permitted to park such vehicles at the operator’s residence in between use of the truck tractor, semi-trailer or trailer in the operator’s professional employment, including overnight parking. For purposes of this subsection, “regularly used in the operator’s present employment” does not mean that the truck tractor, semi-trailer or trailer may be allowed to be parked at the operator’s residence or at any other residence subject to this ordinance if parked and remaining idle for a period of ____ days”. He stated this does not deal with the acreage piece, but with the overnight commercial operators.

Ms. McBride stated this was the 1st issue that she worked on when she came on Council. She met

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with some of the constituents and they had expressions of disillusionment, which she now understands since they have been working on this issue for over 5 years. She thinks this is unacceptable. With that said, she wants to support Ms. Dickerson's amendment and to clarify that the community wants the acreage to be restored to 3 acres or larger throughout the ordinance.

Ms. Newton stated that she is concerned, at this point, that she is not tracking to all the changes that are being made; therefore, she is having a hard time figuring out what she would be voting for. She wants to support the effort, but wondered if we could bring this back with a clean version, so that she knows what we are doing. Also, one of the things that we need to do is balance the needs of different constituents. For those of us that live in neighborhoods, we want to be careful. We do not want large trucks parked that are obstructing our view, and are safety hazards. At the same time, the way this ordinance is written it applies universally across the County, even for people that have very large lots, so she wants us to take that in to consideration.

Mr. Malinowski stated he also supports what Ms. Newton just commented on. He stated this started with a one-size fits all, and by deleting some of these changes, we are back to a one-size fits all. He said that he can support the older communities, the brand new ones and those currently being built, that are residential neighborhoods, but he does not think it is really right for these people that are living in neighborhoods that are smaller, close together, with narrower streets within them to dictate what the entire County is going to have to come under (i.e. 3 acres or more). There are many, many areas in the County that people own anywhere from 1 acre – 3 acres, and that is all they have. The houses are situated that they put a "U-shaped" driveway in the front and the owners can pull in and pull right out. There are no houses on either side of them, but we are going to saddle these individuals out in the "Rural" community with the exact same restrictions as we are putting on neighborhoods that have smaller lot sizes, smaller streets, etc. We requested staff to come back with something that would address more than a one-size fits all. They did and he can support the deletion of the section about the overnight parking over tractor trailers and the fitted car covers. But, he cannot support the section that increases the acreage up to 3 acres, and punish the entire County for these communities that are asking for our help. We can help them and still treat the others in our County with equality in this matter. The law needs to cover the actual neighborhood, and not the size of lot.

Mr. Malinowski made a substitute motion to defer this item until the next Council meeting, so Council can be provided a clean version. The motion died for lack of a second.

Ms. McBride stated, for clarification, the motion is to delete the red language in Section (d) on p. 170 and restore the acreage in Sections (c) and (f) to 3 acres.

Ms. Terracio stated she does not think we have clarified what happens with Section (h) "Penalties", and especially the following language, "Anyone violating the provisions of this section shall have an opportunity to cure the violation within ___ days/."

Ms. McBride stated Ms. Myers included that part with the 30 days.

Mr. Livingston inquired if it was a part of the motion.

Ms. McBride stated it was not, but we can make it a part.

Mr. Manning stated Ms. Dickerson made the motion, and Ms. Myers make a friendly amendment that Ms. Dickerson accepted.

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Ms. Myers stated her friendly amendment would have included 30 days in all the section where the remedies were needed.

Ms. McBride stated she thinks Section (d) was to be replaced with “no commercial trucks, tractor trailers, or straight trucks shall enter any residential neighborhood, except for the immediate delivery or pick up of products and services, except where lot sizes are 3 acres or larger.”

Ms. Myers stated she did not see that.

Ms. McBride agreed to leave the language in Section (d) as is.

Ms. Newton made a substitute motion, seconded by Mr. Malinowski, to bring back a clean copy, with all of the proposed revisions, at the April 19th Council meeting.

In Favor: Malinowski, Walker, Newton and Kennedy

Opposed: McBride, Jackson, Livingston, Manning and Dickerson

The substitute motion failed.

In Favor: McBride, Livingston, Myers, Jackson, Manning and Dickerson

Opposed: Malinowski, Kennedy and Newton

The vote was in favor of the original motion.

17. SECOND READING ITEMS

- a. An Ordinance Amending the Richland County Code of Ordinances, Chapter 18, Offenses, to add Section 18-7, Public Nuisances; and Amending Chapter 16, Licenses and Miscellaneous Business Regulations, Section 16-18, relative to license suspension and revocation for a business determined to be a public nuisance – Mr. Manning moved, seconded by Ms. Dickerson, to give 2nd Reading approval to this item, with the deletion of Subparagraph 5(b), as the provisions in that subparagraph are adequately addressed in the following Subparagraph 5(c).

Ms. Myers stated she is in favor of the nuisance ordinance, but it needs to be more precise. She had someone to pull some information to define “excessive requests” in other jurisdictions. In most other jurisdictions, “excessive requests” is defined as a request for emergency assistance made to the Sheriff’s Department in a particular location, or premises, and that it is 3 or more times within 30 days. She stated we could have someone cut themselves on knife in a kitchen in January, someone slip and fall...and EMS have to come, but that is not what we are talking about. We are talking about nuisance activity, and it is not well defined enough to not capture the Wal-Mart. She would suggest 3 or more calls within 30 days or something that gets us to a real definition. She is not sure if this has gotten any research from what other jurisdictions do. This is more of a finger in the wind. Six calls over a 12-month period is not a whole lot, so she would be afraid to close down businesses. Now, if you wanted to define “excessive” as a number of calls, and a type of call. If you got 6 calls where someone got shot, then they need to be shut down, but we are not making any gradation between and among the kinds of calls. She is in favor of the nuisance clubs being shut down, but there has to be fairness, and this does not read fair yet.

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Ms. Dickerson stated she listened to everyone talk about Decker Boulevard and Percival Road, but you cannot leave out Broad River Road, which is probably as bad off as Arcadia Lakes. She requested that the language be inclusive and addresses the differences between types of calls.

Mr. Livingston stated he thinks the concern is, if we are going to have the word “excessive” in the ordinance, we have to define it somehow.

Mr. Malinowski stated he thinks the ordinance is still too broad. He is glad that Ms. Myers took the time to research this, and get us one answer. There is a list of questions presented, that staff needs to get answers to. He hopes Council gets them sooner than later.

Mr. Walker stated Section 5(c), in his opinion, defines what type of incidents are addressed in this ordinance. Now, if there needs to be further tightening to the types, maybe we could hone in collaboratively, and direct Council to look at the six (6) identified types of crimes for which 6 incidents, in a given year, probably would be deemed excessive.

Mr. Smith stated the incidents they were trying to capture are the ones contained under Subparagraph (c) and would not include incidents such as someone falling off of a bed or wounding themselves. There had to be a response by law enforcement. Now, if there needs to be further clarification...

Ms. Myers stated the incidents are disjunctive, and not conjunctive. You could pick one the way it is written now. She stated there is an “or” and that is the problem.

Mr. Livingston stated Ms. Myers is referring to (c) which says, “incident reports, citations, or search warrants”.

Mr. Manning stated he knows there was a meeting with the attorney from the Sheriff’s Department, administration from the Sheriff’s Department, Business License personnel and the County Attorney’s Office to try to address things that were brought up, so he does not think they were ignored. He inquired if the team understands why his colleague feels like it is not clear, from the work you did, so you can do some different kind of work.

Ms. Myers stated she would be happy to provide Mr. Smith with her notes.

Chief Cowan stated we agree that we need to focus on the types of crimes, so our goal in this, was to target violent crime. The wording that we chose was to target those issues related to violent crime, and that is what is negatively impacting the communities. The only examples they could find in other jurisdictions, were those that were related to 3 or 6 alarm calls, or traffic accidents, which is not what we want to address. That is why they chose 6 violent crimes within a period of a year.

Mr. Farrar stated, as far as drafting, it is whatever Council wants as a standard (i.e. 3 or more in 30 days). He thinks people focus on Subsection (d) Emergency Abatement, which is the shuttering of the doors. That is a part of the ordinance, but the real enforcement is Subsection (c) which says it is an ordinance violation. So, if you get a nuisance citation, you get an ordinance violation. If we have this ordinance being used a lot, that is going to be a real issue because you do not use Subsection (d) unless you are also prepared to go for an injunction. Those should be parallel, not exclusive of each other. The one time we have used the injunction was after 2 people were murdered and 70 rounds of ammunition fired. He stated they are happy to make the changes, but as far as the application of this, if we get to Subsection (d) we are talking about a significant violent crime going on in Richland

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County.

Mr. Malinowski stated, if we are serious about passing this ordinance, and creating certain penalties on these businesses, then we need to be serious about addressing it if an appeal comes up after the Business License review. In the ordinance it says, "Council shall conduct within 7 calendar days...", which seems like a quite a bit of time. If we are serious, and feel that this is a serious enough violation to take someone's business license, then we as a Council need to be serious enough to come in here within 2 or 3 days of this determination being made.

Mr. Manning stated, for clarification, the motion is the language that was provided in the agenda packet, with the deletion of Subsection 18-7(5)(b), on p. 176, as those provisions in that subparagraph are adequately addressed in subparagraph (c).

Ms. Myers stated she supports the motion, but she requested the comments made be included before 3rd Reading.

In Favor: Terracio, Jackson, Newton, Kennedy, Manning, Walker, Dickerson, Livingston and McBride

Opposed: Malinowski

Present but Not Voting: Myers

The vote was in favor.

18. **REPORT OF THE DEVELOPMENT AND SERVICES COMMITTEE**

- a. Rural Zoning vs. Open Space Provision – Rural minimum lot size is 0.76 acre lots. Open space provision will allow high density lots with green space set aside. The uses for housing are similar but the capacity is different; therefore, there should be a zoning change from any current zoning to another defined use [N. JACKSON] – Ms. Dickerson stated the committee recommended that this item be tabled.

Mr. Malinowski stated he does not think this item needs to be tabled. It needs to be discussed and handled. We currently have ordinances that are specific regarding the number of homes that can be built in specific zoning areas. They give minimum lot sizes that are allowed to be built, and if you change the lot size due to open space density, you are not following the ordinance that is in place. We either need to create an ordinance that will address these new lots sizes because the densities are being changed, or we need to eliminate those bonuses to stay in conformity with the ordinance. It was stated in committee that, "There is only a very small change in these densities." It is a small change now, then there is a small change to the small change. At what point, do we wind up that we are having a large change.

Ms. Newton stated part of what they discussed in committee is that we are currently in the process of redoing the Land Use Code, so the idea was that we could address this issue as part of the ongoing process, as opposed to creating a 2nd effort that is going to address part of the same thing.

Mr. Malinowski inquired as to the timeframe of the rewrite. It is his understanding that it is quite a while, and if it is, we are allowing these additional densities to take place while we are waiting for this.

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Ms. Powell stated this is slated to be completed 4th Quarter of this year or 1st Quarter of 2020.

Mr. Malinowski inquired if this was going to be addressed in the code rewrite.

Ms. Powell stated Council will have the opportunity to address it. The consultants have put forth several proposals. Planning Commission will vet those proposals and make a recommendation to Council. The recommendation will come before Council at a work session.

Ms. Newton stated if there is a process that we would need to follow to add that consideration for the consultant, she would like to do that proactively instead of waiting.

Mr. Malinowski made a substitute motion, seconded by Ms. Newton, to consider a 4th option for the consultants during the rewrite of the Land Use Code.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Livingston and McBride

Opposed: Dickerson

Present but Not Voting: Manning

The vote was in favor of the substitute motion.

- b. An Ordinance Amending Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations, by adding Section 16-23, "Health Massage, Bodywork Therapists, and Massage Establishments" [FIRST READING] – Ms. Myers stated she raised some questions about this time, and most of them have not been addressed. She stated under Subsection 4, there is no exemption for standard personal trainers that are not affiliated with a professional sports team or institution. We have lots of those, so they would be regulated out of business. Then on pp. 149, "#8 - Operation in connection with living or sleeping quarters prohibited", she raised the issue of hotel, which are sleeping quarters, and you could not have a spa. She also questioned "9 – Hours of Operation." Then on pp. 150, she stated she had a question about "#11 – Employment of persons found guilty of criminal sexual offenses" because if someone gets out of jail and gets trained as a therapeutic fitness trainer they could not work with sports teams under this Code, which is problematic to her. We want to stop them from engaging in bad activity, but not earning a living. On "#13 - Access; right of entry" you could have a peace officer coming into a spa and exploring all of the rooms while people are getting service because this is quite broad. If we could narrow some of those things, she would be grateful. She also noted on pp. 146, that we do not have other ordinances where we do all this case law citation, so it seems odd to her.

Mr. Manning stated he thinks one of the issues that did not get address, and maybe there needs to be additional language, but with regard to the hotels, the reading of this is that it would be a massage establishment, not a hotel. If there is a massage establishment within the hotel, that would not make the whole hotel a massage establishment. After he went back and reread the ordinance after the D&S Committee meeting, he felt like that was clear enough. As he said in the email on Sunday, he would certainly be happy to take any wording changes to the County Attorney. In terms of hours, he forwarded an email to his colleagues from the Program Manager, Government Relations from the American Massage Therapy Association, where he had sent some wording from another location in Colorado and those hours, and he was basically saying their association recommended that we might want to look at that plan, and those hours were the same as what is included in the proposed ordinance. He further stated we can work the interpretation of what

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access the Code Enforcement would have to enter rooms where people were having massages. As he indicated in his email, he is certainly happy to have this provided to him or the County Attorney's office to get the language right, so we can keep this moving because ultimately jurisdictions all around the country concerned about human sex trafficking have passed and use this wording.

Ms. Dickerson moved, seconded by Mr. Jackson, to call for the question.

In Favor: Terracio, Jackson, Newton, Manning Walker, Dickerson, Livingston and McBride

Opposed: Malinowski and Myers

Present but Not Voting: Kennedy

The vote was in favor of calling for the question.

Mr. Livingston moved, seconded by Ms. Dickerson, to move forward with 1st Reading, with the understanding that the information that has been discussed will be included for 2nd Reading.

In Favor: Terracio, Jackson, Newton, Manning, Walker, Dickerson, Livingston and McBride

Opposed: Malinowski

Present but Not Voting: Myers and Kennedy

The vote was in favor.

- c. Bulk Item Collection Procedure – Ms. Kennedy stated the committee recommended to leave the procedure as it is presently.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

19. **REPORT OF ADMINISTRATION AND FINANCE COMMITTEE**

- a. Affordable Housing Development Project – Ms. Dickerson stated the committee recommended approval of this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

- b. An Ordinance Amending the Richland County Code of Ordinances; Chapter 2, Administration; so as

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to restructure the departments of the County [FIRST READING] – Ms. Dickerson stated the committee recommended approval of this item.

Ms. Terracio requested the word Councilman be changed to the gender neutral Councilmember.

Ms. Newton stated there are several areas in the ordinance that are really prescriptive, and she is unclear how much latitude that gives managers, in terms of making reasonable changes within their departments.

Mr. Manning made a substitute motion, seconded by Mr. Jackson, to defer this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Kennedy, Manning, Walker and McBride

Opposed: Myers and Livingston

Abstain: Dickerson

The vote was in favor.

- c. I move that Richland County Council pass a resolution urging the South Carolina State Legislature to pass the Equal Rights Amendment, making it the final state required to ratify the Amendment [TERRACIO] – Ms. Dickerson stated the committee recommended approval of this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Livingston and McBride

Abstain: Dickerson

The vote in favor was unanimous with Ms. Dickerson abstaining from the vote.

20. **REPORT OF THE ECONOMIC DEVELOPMENT COMMITTEE**

- a. An Ordinance Consenting to the conversion of an existing lease purchase agreement between Richland County (the "County") and Mars Petcare US, Inc., f/k/a Kal Kan Foods, Inc. (the "Company") to a fee in lieu of tax agreement pursuant to Title 12, Chapter 44, South Carolina Code, 1976, as amended; authorizing the execution and delivery of a fee in lieu of tax (conversion) agreement by and between the County and the Company; authorizing the reconveyance by the County to the Company of the property subject to such lease purchase agreement and other related matters [FIRST READING] – Mr. Jackson stated the committee recommended approval of this item.

Mr. Malinowski inquired as to what the term “conversion” means.

Mr. Ruble stated the original fee-in-lieu of tax statute required companies to deed their real and personal property over to the County to remove it from ad valorem taxes. The company would then lease their property back from the County, which created a fee, thus the term fee-in-lieu of taxes. They have modernized that structure and it does not require companies to transfer the property over to the County anymore, so the company is exiting the old statute and modernizing it. Now, we are shifting property back to the company’s ownership.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson and

Livingston

Present but Not Voting: Manning

Abstain: McBride

The vote in favor was unanimous with Ms. McBride abstaining from the vote.

- b. Committing to negotiate a fee-in-lieu of ad valorem taxes agreement between Richland County and an entity known for the time begin as "Project M19," identifying the project; and other matters related thereto – Mr. Jackson stated the committee recommended approval of this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson and Livingston

Present but Not Voting: Kennedy, Manning and McBride

The vote in favor was unanimous.

- c. Authorizing the execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and an entity known for the time being as "Project M19" to provide for payment of a fee-in-lieu of taxes; and other related matters [FIRST READING] – Mr. Jackson stated the committee recommended approval of this item.

Mr. Malinowski noted on p. 446 it says, "within a reasonable period of time". He inquired if there was not a way to narrow it down and have a specific time placed in here.

Ms. Myers stated this is the way it is typically written. And, the law understands what that means.

Ms. Terracio stated she believes she just voted to commit to negotiate for Project M19, and now she is being asked to give a 1st Reading to this simultaneously.

Ms. Luther stated under Title 12, Chapter 44, the State law that authorizes counties to enter into fee-in-lieu of tax arrangements, there is a requirement for the County to adopt an inducement resolution to start the clock by which expenditures made by the company can qualify for fee-in-lieu of tax treatment. The inducement resolution, under State law, requires essentially 2 things, (1) to identify the project, and (2) for the County to commit to negotiate the fee-in-lieu tax agreement. Traditionally, they are brought to Council at one time, unless there is a gap between when the company knows there will be investments made and the incentives are worked out. The Economic Development Committee has been briefed on the incentives to be offered to this company, so that is why we have brought 1st Reading of the ordinance authorizing the fee-in-lieu of tax agreement.

Ms. Terracio stated, for clarification, that we do not actually know what the project is.

Mr. Jackson stated the committee does, but because we are bidding for the project, like other counties are, we do not want it publicly known who it is, at this time.

In Favor: Jackson, Newton, Myers, Walker, Dickerson and Livingston

Opposed: Malinowski

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Present but Not Voting: Terracio, Kennedy, Manning

Abstain: McBride

The vote was in favor.

- d. To provide authorization for an installment purchase plan of finance for certain capital projects (Economic Development Infrastructure) in the County; and other related matters – Mr. Jackson stated the committee recommended approval of this item.

In Favor: Terracio, Malinowski, Jackson, Myers, Walker, Dickerson and Livingston

Present but Not Voting: Newton and McBride

The vote in favor was unanimous.

- e. To provide authorization for an installment purchase plan of finance for certain capital projects (Parking) in the County; and other related matters – Mr. Jackson stated the committee recommended approval.

Mr. Malinowski stated he sees this as approving something that we do not have details about. Within the resolution it says, “the of Project Kline, the County and the City relating to the Project are to be memorialized in a memorandum of understanding (“MOU”)”, which is not here, so he has no idea what we may be memorializing. On p. 467, it says, it is “proposed that... Corporation will adopt a resolution approving the Base Lease”. What is the proposal going to state? What is the base lease going to have in it? In Section 1.01, it says, “The Council hereby consents to the creation of the Corporation.” He stated he does not have any organizational chart to know what kind of organization or corporation we are talking about. It goes on to say, “...and the undertaking by the Corporation of an installment purchase plan of finance...” Again, there are no figures that have been provided. Lastly, it says, “The Council hereby consents to and approves the issuance, sale, execution and delivery of the Bonds”, but we are not given any specifics what these bonds are to be used for.

Mr. Ruble stated what Council is authorizing us to do is to go forward to extend options and start the process of putting all these materials together. The whole bonding process starts with the resolution, then we will follow up with ordinance. The plan is to sit down with individual members of Council and make sure they are clear about the plan. What you are voting on tonight is to authorize us to go ahead and start putting the plan together.

Mr. Jackson stated there will be opportunities for Councilmembers to be briefed, in detail, on the very questions Mr. Malinowski is asking. He stated this was discussed in Executive Session, so we do not want to put the details on the public record.

In Favor: Terracio, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Malinowski

Abstain: Manning

The vote in favor was unanimous with Mr. Manning abstaining from the vote.

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21. **REPORT OF THE TRANSPORTATION AD HOC COMMITTEE**

- a. Approval of CR Jackson's request to utilize Richland County's Property for their assets, during the construction of Clemson Road Widening – Mr. Jackson stated CR Jackson wants to utilize Richland County's property for a storage place to store their equipment. The committee recommended approval of this item.

Ms. Dickerson inquired as to the location of the property.

Mr. Beaty stated it is near the Clemson Extension off of Clemson Road.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

- b. Approval of the Executive Summary and Recommendations:

1. Lower Richland Widening – Mr. Jackson stated the recommendation is to approve the executive summary and to increase the sidewalk width to 8-ft.

Mr. Malinowski inquired if this project and the Polo Road Widening are within the referendum dollar amount.

Mr. Beaty stated the Lower Richland Widening Project is anticipated to be within the referendum amount. The Polo Road Widening is going to be at, or above, the referendum amount, based on their current estimates.

Ms. Dickerson stated, for clarification, that the sidewalk is going to 8-ft.

Mr. Beaty stated, adjacent to Lower Richland High School, the project is proposing to have a 10-ft. shared-use path, and on the other side, which is currently undeveloped, instead of building a 5-ft. sidewalk it was recommended that they explore expanding it to 8-ft.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

Present but Not Voting: Manning and Walker

The vote in favor was unanimous.

2. Polo Road Widening – Mr. Jackson stated the recommendation is to above the executive summary.

Ms. Dickerson inquired as to why it is recommended to widening this road.

Mr. Niermeier stated it was in the original referendum to widen this road.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and

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McBride

Present but Not Voting: Manning and Walker

The vote in favor was unanimous.

3. Smith/Rocky Branch Greenway A, B, C – Mr. Jackson stated the recommendation is to approve the executive summary.

Mr. Malinowski stated the reason he cannot support this is because it seems unfair to those people who voted for these greenways to now say we do not have the funds to complete all of them, and we do not care because we want to give the people down the road a little bit bigger or longer pathway. He cannot support taking from someone that is getting nothing and giving more to somebody that is getting something.

Mr. Manning inquired is the termini for the Gills Creek and Smith/Rocky Branch greenways ending where there is not parking available.

Mr. Beaty stated Gills Creek A is from Devine to approximately Mikell Lane, which is where the funding is anticipated to take it. At Mikell Lane, parking would be an issue because there is no opportunity for parking. They have not addressed the opportunity to move funds from Sections B and C to Gills Creek A, which would extend the project to, at least, Timberlane, where parking could be addressed. On the Smith/Rocky Branch, they held a series of public hearings. There were 3 sections, 2 along Smith Branch and then on along Rocky. Based on the comments from the public, and other interested parties, the recommendation is to go forward with design for the Rocky Branch section. At that location, there would be available parking at both ends.

Mr. Jackson stated that is a very critical point that Mr. Manning just made in debating whether or not we have enough money in the referendum. The referendum talks about the completion of the project. The request tonight is to ask for approval to do design work.

In Favor: Terracio, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson, Livingston and McBride

Opposed: Malinowski

The vote was in favor.

4. Crane Creek Greenway A, B, C – Mr. Jackson stated the recommendation is to approve the executive summary.

In Favor: Terracio, Jackson, Newton, Myers, Kennedy, Manning, Livingston and McBride

Opposed: Malinowski

Present but Not Voting: Walker

The vote was in favor.

5. Shop Road Extension Phase 2 – Mr. Jackson stated the recommendation is to move forward, but

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to revisit the alternative options for cost and safety.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Manning, Livingston and McBride

Present but Not Voting: Kennedy and Walker

The vote was in favor.

- c. Approval of Shop Road Termini Studies and Recommendations at George Rogers and Mauney – Mr. Jackson stated the committee recommended approval of this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Dickerson, Livingston and McBride

The vote in favor was unanimous.

Mr. Malinowski moved, seconded by Mr. Livingston, to reconsider this item.

The vote was in favor.

Mr. Malinowski inquired what the actual cost is going to be. The reason he is asking is we have a referendum amount of \$33.1 million, and then there is another figure of \$61.5 million to complete the project.

Mr. Beaty stated the current design is estimated at \$61 million to complete the project. However, what they are presenting tonight would reduce the costs by a total of \$8 million.

Mr. Malinowski stated, so if you are reducing the \$61.5 million by \$8 million, that would put it at \$53.5 million. Yet the referendum amount was \$33.1 million, which puts it \$20 million over the referendum amount. He inquired where the additional \$20 million in funding is coming from.

Mr. Beaty stated it is coming from a variety of other project scope reductions. The additional savings could come from the I-20/Broad River Road Interchange of \$52.5 million.

Mr. Niermeier stated they are looking at this in the “Get Healthy” portion of the program. It is something that is being research right now.

Dr. Thompson stated, regarding the \$52.5 million, he would never recommend to spend that money. He thinks we have an obligation to the taxpayers for the \$52.5 million that is in the ordinance for Carolina Crossroads. It is fine if SCDOT has the \$1.5 billion to pay for that project. The only issue is, he just received a request about 6 weeks ago from SCDOT, for \$4 million on a small project. So, if they are asking \$4 million for Leesburg Road Widening, why would they pass up the opportunity to ask for \$52.5 million for Carolina Crossroads. He stated they also asked us for the \$28.9 million for Hardscrabble Road. He stated we should tread lightly, and put the funds to the side until after SCDOT completes Carolina Crossroads.

Ms. Myers stated, for clarification, Dr. Thompson’s concern is that we may never get the \$52.5 million, which means the money we could cobble together to do this project may not materialize. Would it be logical to not do this design work given that we might have to redesign it?

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Dr. Thompson stated that was an accurate assessment. As we have spoken in the past, it becomes a policy matter, if we are going to stick with the ordinance amount, that we make sure that we are disciplined and make sure the design work is based on that number, so we do not have to de-scope down the road.

Mr. Jackson stated it is a little bit disappointing that the conversation continues to go back to what we may or may not have, in terms of funding down the road. If the project is being designed with the referendum being the cap, the assumption the committee has made is that the project will be completed within the cap. So, the design should be developed according to the available funding in the referendum. To suggest, tonight, that we do not know if we should be designing because it may exceed the referendum when we have had 2 staff members say that they are going to ensure that it does not exceed the referendum is a little disingenuous. Either we are designing it according to what has been authorized, and will remain under the referendum, or we do not design it at all.

Ms. Myers stated, in the committee meeting, it was not her understanding that we were planning a design that far outstripped the referendum amount, but now it is her understanding that is what we are doing.

Mr. Beaty stated the proposal before Council would design a project where today's estimated cost would be \$53 million.

Ms. Myers stated, for clarification, we are essentially designing it \$22 million above the referendum.

Mr. Beaty responded in the affirmative. He further stated, the cost to design a \$33 million project is relatively the same as the cost to design a \$53 million project. There would be a minimal cost to scale back the project.

Mr. Malinowski stated all he can go by is what is in front of him. On p. 521, it says, "The referendum included an allocation of \$33.1 million for this work." Then, it went on to say, "The current design for this project proposes...an estimated cost of \$61.5 million." That is extremely large amount over the referendum amount. The only cost savings provided to us in our agenda was \$3.1 million. Tonight, we are hearing there is an additional \$5 million. He stated when we are dealing with these types of figures, we really do not have all the information here.

Mr. Manning inquired, if SCDOT comes to us and ask for the \$52.5 million, and we tell them no, do you anticipate they would not construct some portion of project or not put up signage.

Mr. Beaty stated the State Legislature has fully funded the construction of the Carolina Crossroads Project, which includes the I-20/Broad River Road Interchange. If they were to ask the County for the money, and you were to tell them "no thank you", they would still be required to construct the project.

In Favor: Terracio, Jackson, Kennedy, Manning, Livingston and McBride

Opposed: Malinowski and Walker

Abstain: Dickerson

Present but Not Voting: Newton and Myers

The vote was in favor.

- d. Approval of Decker/Woodfield Neighborhood Improvement Project Utility Agreement for AT&T Design – Mr. Jackson stated the recommendation is to approve the utility agreement for AT&T design.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Livingston and McBride

The vote in favor was unanimous.

- e. Approval of Greene Street Phase 2 Condemnations: -- Mr. Jackson stated the committee recommended to approve the request for condemnation and to also have Legal review this issue.

Mr. Malinowski stated it indicates we are paying for a temporary right-of-way and then we are paying for a permanent right-of-way. He requested an explanation.

Mr. Beaty stated we are recommending that we pay for permanent right-of-way, which would become property of the County, and ultimately the SCDOT. Also, where we would be working on their property, temporarily, the current SCDOT policy is the property owner deserves to be paid for the use of their property. We would be paying them to use their property during construction, and then whenever we are done with it, it would go back to them. It is basically renting the property while you are doing construction.

1. 5 Railroad Tracts

2. 2 Guigard Tracts

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy, Manning and Walker

The vote in favor was unanimous.

- f. Approval of Greene Street Phase 2 Gadsden Closure – Mr. Jackson stated the committee’s recommendation is review and approve the letter, and schedule a public hearing to engage the community.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

- g. Approval of Greenway Category Summary and Recommendations – Mr. Jackson stated the referendum includes 15 sections of greenways. Not all of them is viable for construction, due to limited funding, lack of public support, or physical constraints. Therefore, the memorandum recommends the following:

1. Lincoln Tunnel – Complete

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2. Gills Creek A, B and C – To move forward with the design of Section A, and reallocate funds from Sections B and C to Section A to complete

Ms. Myers stated the discussion in committee was to look at a wholesale method of deciding which of these greenways to do, and not do this one off. Therefore, she inquired, if moving forward on this and shuffling money around do we lose the opportunity.

Mr. Jackson stated he thinks there is enough funding in “Greenways”, so moving money around in this category will not affect us not being able to do all of these, and with a balance.

Mr. Beaty stated the greenways are proposed to be developed, in its entirety, within the total amount. For example, you could take the monies from Gills Creek B and C, and move over to A, and stay within the combined 3 amounts, but only construct A.

Ms. Myers stated she thought we decided that we did not want to cede the authority to make these changes without public input. Basically, we are not going through the ordinance process, which is 3 readings and a public hearing, and making changes as it suits us.

Mr. Livingston stated, for clarification, there is nothing being proposed that is outside of the referendum.

Mr. Beaty stated there is nothing being proposed outside of the referendum amount. What they presented, at the Ad Hoc Committee meeting, was taking multiple greenways and shifting funding to construct a particular section. We also discussed deferring this subject until there could be a work session.

Mr. Jackson moved, seconded by Ms. Dickerson, to defer this item until after a work session.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Abstain: Kennedy and Manning

The vote in favor was unanimous with Mr. Manning and Ms. Kennedy abstaining from the vote.

- h. Three Rivers Greenway CSX Railroad Permit – Mr. Jackson stated the recommendation is to defer this back to committee.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

- i. Approval of Budget Transfers Between Penny Projects – Mr. Jackson stated the recommendation is to approve the budget transfers between penny projects.

Mr. Malinowski stated he did not understand the backup documentation included in the agenda packet and requested an explanation.

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Mr. Beaty stated what they are proposing is that the FY19 budget be modified on individual projects. This is independent of the referendum amount. It is independent of cost estimates. There were some projects that were put in the FY19 budget that they have spent more money in FY19 than they realized they were going to. Some projects they have spent less money. All that means is that same money may be spent in the future, but in an effort to stay whole within FY19, they are asking for permission to move the budget amount. The reason that is important is, if a project does not have enough budget, it prevents staff from being able to pay invoices and approve work authorizations for that project.

Ms. Dickerson inquired if Mr. Beaty was taking these things in order because it seems like they are being taken out of order; therefore, the funds are being shifted around and she is not following the money.

Mr. Beaty stated they are shifting the budgets for a couple of reasons. A project may have been delayed during construction, so we did not spend as much money in the fiscal year. It is going to be spent in the next fiscal year. Or, more work was completed on a project, so they spent more money in the fiscal year. Therefore, they are asking to modify the budget to accommodate how much that project is going to spend in this year. The total budget is not changing; they are just moving budget dollars from one project to another project.

Mr. Jackson stated they had this discussion in committee, and the request is simply to ensure that funds this year are enough to cover projects that are ongoing this year. And, those projects that rolled over to this year, or were completed and did not use all of their funding, would be allocate in this fiscal year in order to have enough dollars when it is time to spend. We did request information that would show in more detail which categories money going from and to, and we do not have that tonight.

Ms. Myers inquired if the information will include an analysis of how many projects are within the referendum amount.

Mr. Jackson stated it should include that information.

Mr. Jackson moved, seconded by Ms. Dickerson, to defer this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The vote in favor was unanimous.

- j. Approval of Mitigation Credit Sales – Mr. Jackson stated the committee recommended approval of the mitigation credit sales.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Kennedy and Manning

The vote in favor was unanimous.

- k. Discussion: Program Status Update – No action was taken.

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21.5 **RULES AND APPOINTMENTS COMMITTEE**

- a. I move that Council work with staff to conduct a comprehensive review of Council rules and recommend changes to streamline the rules to improve the functioning of Council business [NEWTON] – Ms. Newton stated she will forward a copy of the Council Rules to Councilmembers, and request their feedback regarding proposed changes to the rules by April 15.

22. **OTHER ITEMS**

- a. FY19 – District 8 Hospitality Tax Allocations – Mr. Malinowski moved, seconded by Ms. Dickerson, to approve this item.

In Favor: Terracio, Malinowski, Jackson, Newton, Dickerson, Livingston and McBride

Present but Not Voting: Myers, Manning and Walker

The vote in favor was unanimous.

Mr. Malinowski moved, seconded by Ms. McBride, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Livingston and McBride

Present but Not Voting: Manning, Walker and Dickerson

The motion for reconsideration failed.

23. **EXECUTIVE SESSION** – Mr. Smith stated the following items are eligible for Executive Session.

- a. SCDOR vs. Richland County

Ms. Myers moved, seconded by Ms. Dickerson, to go into Executive Session.

In Favor: Terracio, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Opposed: Malinowski, Jackson and Manning

The vote was in favor of going into Executive Session.

Council went into Executive Session at approximately 10:14 PM and came out at approximately 10:24PM

Ms. Kennedy moved, seconded by Mr. Jackson, to come out of Executive Session.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker and Livingston

The vote in favor was unanimous.

- a. SCDOR vs. Richland County – No action was taken.

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24. **MOTION PERIOD**

- a. Resolution Honoring the Ridgeview High School Boys' Basketball Team on their championship [JACKSON and MANNING] – Mr. Manning moved, seconded by Mr. Walker, to adopt the resolution honoring the Ridgeview High School Boys' Basketball Team on their championship.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson, Livingston and McBride

The vote in favor was unanimous.

Ms. Myers moved, seconded by Mr. Walker, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The motion for reconsideration failed.

- b. Resolution Honoring a Richland County Sheriff's Department Officer's Service [LIVINGSTON] – Mr. Manning moved, seconded by Mr. Walker, to adopt the resolution honoring a Sheriff's Department Officer's Service.

In Favor: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Manning, Walker, Dickerson, Livingston and McBride

The vote in favor was unanimous.

Ms. Myers moved, seconded by Mr. Walker, to reconsider this item.

Opposed: Terracio, Malinowski, Jackson, Newton, Myers, Kennedy, Walker, Dickerson, Livingston and McBride

Present but Not Voting: Manning

The motion for reconsideration failed.

25. **ADJOURN** – The meeting adjourned at approximately 10:27 PM.

Monthly Financial Budget Update February FY19

Fund	FY19 Adjusted Budget	Feb FY19 YTD Expense	Feb FY18 YTD Expense	Balance as of February 28	% Expended
General Fund Total	182,812,589	104,076,640	97,982,010	69,813,372	57%
Special Revenue Total	238,148,697	76,822,380	116,520,901	134,593,605	32%
Capital Projects Total	343,321,602	149,032,268	64,011,616	125,401,845	43%
Debt Service Total	382,623,793	328,305,155	90,060,220	54,318,638	86%
Enterprise Total	46,191,600	26,334,064	25,057,900	3,793,951	57%
Millage Agency Total	432,959,930	359,543,636	342,902,489	73,416,294	83%
Grand Total	1,626,058,212	1,044,114,144	736,535,135	461,337,705	64%

Open Encumbrance Totals:

General Fund	8,922,578
Special Revenue	26,732,711
Capital Projects	68,887,488
Debt Service	N/A
Enterprise Total	16,063,585
Millage Agency	N/A
Grand Total	120,606,363

Notes:

Funds are doing well overall and are in range of adjusted budgets. There are some individual departments that are projecting a deficit in personnel expenditures; however, the Office of Budget & Grants Management will work with those departments to ensure they have fiscal capacity to cover those deficits.



Agenda Briefing

To: Chair Paul Livingston and Honorable Members of the Committee
Prepared by: Sandra Yúdice, Ph.D., Assistant County Administrator
Dwight Hanna, Director

Department: Human Resources

Date Prepared: April 10, 2019

Meeting Date: April 16, 2019

Approved for Council consideration:	Acting County Administrator	John Thompson, Ph.D., MBA, CPM
Subject:	Total Rewards Implementation	

Recommended Action:

Staff recommends County Council adopt the recommendations of the Total Rewards Study (TRS) and support the actions necessary for Richland County Government (RCG) to become an Employer of Choice.

Motion Requested:

Move to accept staff's recommendation to adopt a total rewards philosophy and strategy and implement the recommendations of the Total Rewards Study in phases through the budget process over the next several years. This will include efforts and actions by departments, supervisors, and employees focused on moving RCG towards an Employer of Choice.

Request for Council Reconsideration: Yes

Fiscal Impact:

Investment in implementation of the Total Rewards program may require approximately \$11.4 million dollars plus associated benefits. These costs include \$1.4 million plus associated benefits to bring employees to the minimum of the new pay ranges, and \$10 million plus associated benefits to make wages more competitive with the Market Rate. These numbers will be fluid as a result of changing employees' salaries because of personnel transactions such as: new hires, retirements, resignations, promotions, etc.

Motion of Origin:

N/A

Council Member	
Meeting	
Date	

Discussion:

Staff briefed County Council on the Total Rewards Study (TRS) during the 2019 Council Retreat as well as provided a more a detailed presentation during a Council Work Session held on March 19, 2019.

Achieving Employer of Choice status will require significant investment and follow up by management, greater accountability for all levels of staff, proper training for and engagement by all employees. By adopting the TRS recommendations, Council will authorize the following:

- Accept the Total Rewards Study Final Report
- Adopt the Employer of Choice Strategy
- Adopt the Total Rewards Focus
- Authorize the Director of Human Resource Services Department to coordinate the necessary analysis, management, training, accountability and follow up on the responses in the Employee Engagement Survey with departments and employees
- Authorize the Director of Human Resources to assign job classifications to the appropriate pay ranges based on appropriate market rate data, internal equity and other relevant job classification information
- Approve the proposed pay structure ranges
- Authorize the County to invest up to \$11.4 million plus associated benefits in the realization of the TRS Program during FY 2019/2021
 - \$1.4 million plus associated benefits to bring employees up to the minimum of the proposed pay structure ranges
 - \$10 million plus associated benefits to make employees' wages more competitive with the Market Rate for their respective jobs considering their years of experience with Richland County Government

Attachments:

1. Total Rewards Study PowerPoint
2. Total Rewards Summary Report

Support County Council's Mission and Vision

MISSION STATEMENT:

The mission of the government of Richland County, South Carolina, is to provide essential services, efficiently and effectively, in order to improve the quality of life for its citizens. Richland County Government shall be accessible to all and shall provide cordial, responsible assistance and information in a prompt, equitable, and fair manner. This mission shall be achieved with minimal bureaucracy, with integrity, and within the parameters and power set forth in applicable federal, state, and local laws.

VISION STATEMENT:

Richland County will be a model community for the State and nation. Our county will be a safe, diverse, and sustainable community, with a thriving economy that provides opportunities for all residents to live, work, learn, and grow.



TOTAL REWARDS JOURNEY STUDY FINAL REPORT

Presented by

T. Dwight Hanna, Director of Human Resource Services Department

GOOD NEWS!

**IT'S NOT
Just
ABOUT
THE MONEY**

&

BAD NEWS!

It's More Difficult
Than Just Spending
Money



Richland County Government
Confidential and Privileged

WHY TOTAL REWARDS?

- Reinforce the mission, vision and values of RCG
- Create appropriate competitive advantage for attracting and retaining qualified employees
- Enhance the employee experience with RCG
- Reduce the financial investments necessary
- Offer and communicate rewards which meet the needs of a diverse work force
- Position RCG as an Employer of Choice



WHAT DO TODAY'S EMPLOYEES WANT?

- Competitive wages
- Career development opportunities
- User friendly technology
- Relationship with supervisor
- Reputation of organization
- Civility
- Active listening
- Procedural justice
- Workplace flexibility
- Mental Health
- Work assignments
- Job security
- Accountability
- Health Insurance
- Wellness
- Safety
- Recognition
- Choice



TOTAL REWARDS MAJOR COMPONENTS

- Custom Employer Survey - Peer Group
 - Specific comp, benefit, retirement, work-life questions
- Employee Engagement Survey
 - Conduct Employee Climate Survey and Use Demographic Data
 - Conjoint Analysis
 - Total Rewards Strategy Session
- Classification and Compensation Data Analysis
 - Labor market—lose to/draw from
 - Specific public and private entities
 - Scope and demographics
- Total Rewards Programs and Practices Analysis



TOTAL REWARDS EXECUTIVE SUMMARY

- Achieve and Maintain Desired Positioning vs. Market
 - Internal vs. external pay competitiveness
 - Compensation competitiveness against peers
 - Employee and retiree benefits competitiveness with peers
- Address wage Compression
- Engagement Process with All Departments
 - HRSD began the process with a TRS Committee to gain employee feedback
 - HRSD moved into the department consultation phases with over 100 meetings between HRSD and Department Heads or their designees
 - HRSD will be partnering these groups for the multi-year implementation phases of the project



WHAT IS THE CUSTOM EMPLOYER SURVEY?

- This custom survey of total rewards programs and practices was sponsored by Richland County, South Carolina and conducted by Buck (formerly Conduent HR Consulting) between June and August 2018.
- The primary objective of the survey was to gather benchmark information from selected organizations about compensation, benefit, and human resource programs and policies to determine competitive market practices for hiring, retaining, and rewarding employees.
- This information will enable the County to assess and improve its programs and policies.
- Finding the right mix and delivery of total rewards is essential to creating an organization in which employees can build a successful career and individuals want to join.



WHAT IS THE EMPLOYEE ENGAGEMENT SURVEY?

- Approximately 50% of RC employees responded to the survey, which was **higher than expected and more than previous RC engagement surveys.**
- **The survey was split into six major sections:**
 - About You (Demographics)
 - Your Experience
 - Your Benefits and Compensation
 - Your Career
 - Your Work Environment
 - Anything Else? (Miscellaneous)

Survey Reveals Gaps in Employer of Choice Status



Sample Question 1

Q9: Why do you still work at Richland County? What motivates you to come to work each day?(Check all that apply)

Overall Results

N=1218

Benefits	Career	Compensation	Culture	Work Environment	Co-workers	Other reasons
33%	52%	17%	12%	33%	37%	25%

Results by Employee Group

	Benefits	Career	Compensation	Culture	Work Environment	Co-workers	Other reasons
Director	29%	50%	17%	17%	29%	17%	50%
Manager	39%	55%	17%	12%	34%	35%	34%
Supervisor	32%	63%	14%	10%	29%	33%	25%
Exempt Employee	32%	57%	21%	17%	42%	43%	21%
Non-exempt (hourly) Employee	34%	48%	18%	12%	35%	40%	24%
Prefer not to say	31%	47%	11%	10%	19%	25%	25%

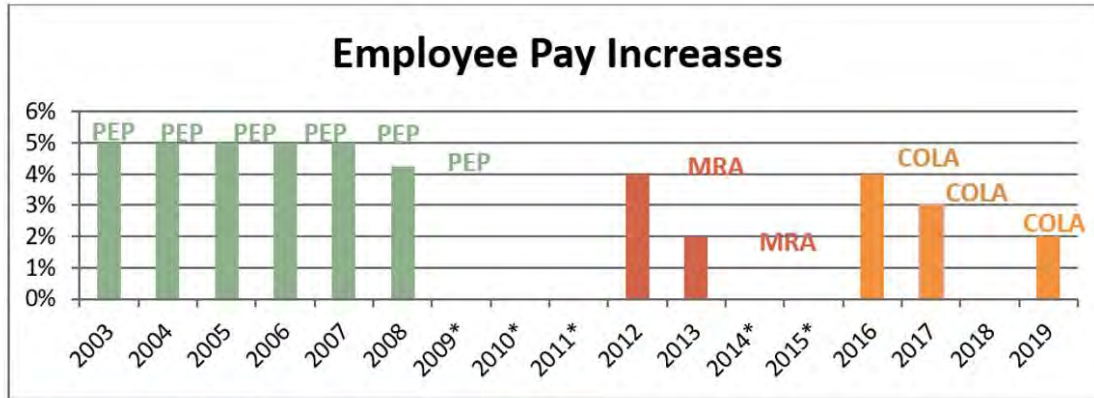


EMPLOYEE ENGAGEMENT SURVEY EXECUTIVE SUMMARY

- One of the final questions asked, “Suppose you were in charge for a day and could make one change to make Richland County an even greater place to work. What would you do?” Thematically, the most frequent responses were:
 - More opportunities for career advancement
 - Additional paid and unpaid time off
 - Flexible work arrangements
 - Compensation aligned with the market



PAY INCREASE HISTORY



*Employees did not receive pay increase this year



WHAT ARE PERCENTILE WAGES

What are Percentile Wages?

The percentile wage estimate is the value of a wage below which a certain percent of workers fall.

The following table provides an example of an occupation's percentile wages:

Percentile	10%	25%	50% Median	75%	90%
Annual Wage	\$22,880	\$31,200	\$41,600	\$49,920	\$60,320

The annual wage estimates in this example indicate that:

- 10% of employees earn less than \$22,880 per year; therefore the remaining 90% earn more than \$22,880 per year.
- 25% earn less than \$31,200; 75% earn more than \$31,200.
- 50% earn less than \$41,600; 50% earn more than \$41,600 (The 50th percentile is called the Median).
- 75% earn less than \$49,920; 25% earn more than \$49,920.
- 90% earn less than \$60,320; 10% earn more than \$60,320.



www.bls.gov

CLASSIFICATION AND COMPENSATION ANALYSIS

Benchmark Analysis

- Buck conducted a competitive benchmarking analysis comparing the County's pay practices for a representative sampling of jobs ("the benchmark jobs") against defined labor markets.
- Buck worked with Richland County to determine the primary labor markets against which the County competes for talent. In addition, Buck and Richland County worked to identify secondary labor markets that the County should be aware of, against which they may compete for talent.



CLASSIFICATION AND COMPENSATION ANALYSIS

Salary Structure

- Based on the market values for the benchmark positions, a competitive salary structure was developed and positions slotted based on their market value and in consideration of internal alignment. The end result is a salary grade and range assignment for each position at the County.
- Richland County's compensation structure consists of:
 - 18 grades
 - Midpoint progression (percent increase from grade midpoint to midpoint) that is 10% at the bottom of the structure, 12% in the middle grades, and 15% at the higher grades.
 - Range spread of 60% (percent difference from minimum to maximum) at the bottom half of the structure, moving to 80% at the higher grades, maintaining a strong link to market data, while allowing for internal equity at Richland County.



Proposed Pay Structure Ranges

Grade	Salary Range					Midpoint Progression	Range Spread
	Min	1st Quartile	Midpoint	3rd Quartile	Max		
18	\$119.5	\$143.4	\$167.3	\$191.2	\$215.1	1.15	80%
17	\$103.9	\$124.7	\$145.5	\$166.3	\$187.1	1.15	80%
16	\$90.4	\$108.4	\$126.5	\$144.6	\$162.7	1.15	80%
15	\$78.6	\$94.3	\$110.0	\$125.7	\$141.4	1.12	80%
14	\$70.2	\$84.2	\$98.2	\$112.3	\$126.3	1.12	80%
13	\$62.6	\$75.2	\$87.7	\$100.2	\$112.8	1.12	80%
12	\$55.9	\$67.1	\$78.3	\$89.5	\$100.7	1.12	80%
11	\$49.9	\$59.9	\$69.9	\$79.9	\$89.9	1.12	80%
10	\$44.6	\$53.5	\$62.4	\$71.3	\$80.3	1.12	80%
9	\$42.9	\$49.3	\$55.7	\$62.2	\$68.6	1.1	60%
8	\$39.0	\$44.8	\$50.7	\$56.5	\$62.4	1.1	60%
7	\$35.4	\$40.7	\$46.1	\$51.4	\$56.7	1.1	60%
6	\$32.2	\$37.0	\$41.9	\$46.7	\$51.5	1.1	60%
5	\$29.3	\$33.7	\$38.1	\$42.5	\$46.9	1.1	60%
4	\$26.6	\$30.6	\$34.6	\$38.6	\$42.6	1.1	60%
3	\$24.2	\$27.8	\$31.5	\$35.1	\$38.7	1.1	60%
2	\$22.0	\$25.3	\$28.6	\$31.9	\$35.2	1.1	60%
1	\$20.0	\$23.0	\$26.0	\$29.0	\$32.0	--	60%



DEPARTMENTAL SUMMARY RESULTS

Market Analysis: Findings

- Base salaries for sixteen (16) departments are at or below the 25th percentile of the market, in aggregate.
 - Base salaries for eleven (11) departments are competitive with the 50th percentile, in aggregate.
 - Two (2) departments, Administration and Coroner, are competitive with the 75th percentile of the market.

Department	# Inc	Base Variance		
		25th	50th	75th
Administration	2	36.6%	21.4%	5.3%
Animal Services	8	-8.3%	-17.1%	-25.7%
Auditor	5	-1.1%	-11.6%	-21.3%
CASA	2	-5.7%	-16.4%	-27.3%
Clerk of Court	23	4.5%	-5.3%	-18.0%
Community and Government Service	1	4.5%	-10.4%	-17.6%
Community Planning and Development	33	11.5%	-2.0%	-12.8%
Coroner	2	38.3%	27.1%	6.7%
Detention Center	157	-12.5%	-18.0%	-23.3%
Economic Development	2	27.3%	5.5%	-7.8%
Emergency Medical Services	126	12.4%	-0.3%	-10.4%
Finance	19	0.2%	-10.7%	-20.8%
Human Resources	7	-6.4%	-16.7%	-25.9%
Information Technology	15	8.3%	-2.7%	-13.4%
Legal	6	7.5%	-3.7%	-16.1%

Department	# Inc	Base Variance		
		25th	50th	75th
Magistrates/Court Administration	54	-5.4%	-16.1%	-26.9%
Master In Equity	2	18.5%	5.9%	-6.0%
Ombudsman	6	-2.2%	-12.5%	-22.0%
Operational Services	43	-8.2%	-19.6%	-30.1%
Probate Court	7	6.2%	-6.9%	-17.5%
Public Defender	47	-13.9%	-23.8%	-33.4%
Public Information	3	-0.4%	-10.5%	-22.0%
Public Works	42	-18.5%	-24.6%	-31.2%
Risk Management	5	-0.3%	-12.6%	-22.8%
Sheriff	222	-7.1%	-13.6%	-21.0%
Solicitor	18	-3.6%	-10.3%	-16.9%
Transportation Penny	2	14.4%	2.1%	-9.7%
Treasurer	5	2.6%	-11.1%	-22.7%
Utilities	8	2.0%	-10.9%	-23.6%
Total	872	-4.0%	-12.8%	-21.4%



STAFF REQUESTS OF COUNTY COUNCIL

- Accept TRS
- Endorse Employer of Choice Strategy
- Endorse Total Rewards Focus
- Authorize County Administrator and Director of Human Resources Authority to Analyze and Follow Up with Employees and Departments on Findings in Employee Engagement Responses
- Authorize Director of Human Resources Authority to work with Consultant to Finalize Multi-Year Implementation Plan with Cost Projections



NEXT STEPS – MARKET COMPETITIVE COMPENSATION

- Current Implementation Steps:
 - January 2019- Implement **2% pay** increase county-wide – **\$1.8 million** + contributions
 - Bring employees **to minimum** of new pay grades -**\$1.4 million** + contributions
 - Finalize plan details to move employees **within structure based on years** of experience – **\$10 million** + contributions



NEXT STEPS

- Present their Employee Engagement Survey Responses to Department Heads
- Follow up on Employee Engagement Survey Responses with Employees
- Develop Training and Guidelines for Departments to Follow up on Employee Engagement Survey
- Present Final Report to Department Heads on TRS
- Present Final Report to Employees on TRS
- Develop an Action Plan for Follow Up and Implementation



DRAFT STRATEGIC PLAN

FY 2019	FY 2020	FY 2021
Update JDs, Org Charts and Job Titles	Design Career Paths	
Determine Funding and Implementation Rules	Decide on Cultural Changes for Employer of Choice	
2% Cola Increase		
Evaluate and Develop Policy Changes	Present Policy Design Changes to Council	Finalize Policy Change Implementation
Design Succession Development Management Program	Implement Succession Development Management Program	Sustain Succession Development Program
Request \$1.4 Million to Bring Employees to Minimum	Request \$9.5 Million to Move Employees Within Structure – multi-year plan	Continue to Implement
Finalize Implementation Details for Market Rate Increases in TRS		



Richland County, South Carolina

Total Rewards Study
Summary Report of Findings
December 21, 2018

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Background

- Richland County engaged Buck Global, LLC to conduct a Total Rewards Assessment to ensure that the County can effectively recruit and retain a high performing workforce within the labor markets that it competes for talent.
 - Buck is one of the world’s leading HR and benefits consulting, administration, and technology companies.
- Buck conducted research and analysis within the following project elements to support the assessment and design of Richland County’s delivery of Total Rewards to include Compensation, Benefits, Work-Life Effectiveness, Recognition, and Talent Development¹:
 - Career Architecture Development
 - Market Analysis
 - Salary Structure Development
 - Custom Total Rewards Programs and Practices Survey
 - Employee Opinion Survey
 - Talent Development Review
 - Benefits Review
 - Communications Strategy Support
- Buck has developed final reports of findings for each project element described above, which have been delivered to Richland County under separate cover.
 - A catalog of titles and delivery dates for these final reports of findings is included in this report as Appendix A.
- The following summary report presents Buck’s overall findings and recommendations across Richland County’s Total Rewards program.

¹ Richland County did not engage Buck to conduct a performance management assessment

Background

Project Elements	Goals and Objectives
Career Architecture	<ul style="list-style-type: none"> • Career Architecture to ensure consistent leveling of jobs across the organization while accommodating differences in competitive job markets and prevalent pay levels.
Market Analysis	<ul style="list-style-type: none"> • Compensation Market Analysis to understand Richland County’s pay practices against the markets within which they compete for talent.
Salary Structure Development	<ul style="list-style-type: none"> • Salary Structure Development, which is both competitive with the external market and supports internal equity to manage jobs at Richland County.
Custom Total Rewards Programs and Practices Survey	<ul style="list-style-type: none"> • Custom Market Study to assess the competitiveness of the total rewards (pay, benefits, and related practices) provided to County employees based on a survey of up to 30 peer organizations.
Employee Opinion Survey	<ul style="list-style-type: none"> • “Voice of the Employee” survey to assist the County in measuring and understanding employee engagement, attitude, motivation and satisfaction with County programs and culture and support the Buck team in developing recommendations tailored to the County’s workforce.
Talent Development Review	<ul style="list-style-type: none"> • Talent Development Review to assess, compare and determine whether the County’s programs align with best practice as well as reflect employee preference (as measured in the Employee Opinion Survey).
Benefits Review	<ul style="list-style-type: none"> • Benefits Review to assess, compare, and determine whether the County’s programs are market competitive, better than market, or worse than market.
Communications Strategy Support	<ul style="list-style-type: none"> • Communications Support to develop a comprehensive communication strategy that recommends the most effective channels for socializing the total rewards study changes with all audiences/stakeholders. • “Train-the-trainer” session for County presenters to help them understand the changes, ask questions and know what they can do to support a culture of accountability.

Executive Summary

Executive Summary

- Buck recommends that Richland County adopt a total rewards philosophy and strategy. Doing so will provide the County with guiding principles and standards that can be used to assess alternatives and make justifiable adjustments and improvements to its total rewards program and practices.
- Compensation levels at Richland County are, in aggregate, at the 25th percentile of the markets against which the County competes for talent, while Richland County seeks to target the 50th percentile of the market.
 - Richland County’s market position is due, in part, to the fact that the County has not provided consistent, ongoing pay increases, when peer organizations have awarded a median total pay increase of between 2.0% and 2.3% annually since 2016.
- To ensure that the County can continue to engage and retain high quality employees, Buck and Richland County partnered to develop a salary structure that targets the 50th percentile of the market.
 - The estimated cost to bring all salaries at Richland County to the minimum of the salary range is \$1,810,000, which decreases to \$1,407,600 after the planned 2.0% county-wide salary increase in January 2019.
- Richland County sought a career oriented compensation program as an important talent management tool that would support Career paths within job families, internal equity across the organization, and hierarchy definitions.
 - Based on input from stakeholders across the County, Buck and Richland County partnered to develop a Career Architecture, defining Career Groups and Career Levels, which will support career development for employees at the County.

Executive Summary

- Overall, Richland County's benefit programs and policies compare favorably against the market. The County's comprehensive benefit program, generous retiree health care benefits and a variety of work schedule options are particularly strong and are valued by employees.
 - The main benefit area in which the County lags the market is the 90-day benefit eligibility waiting period.
- Talent development and recognition programs at Richland County compare favorably to market practices.
 - The majority of Richland County employees feel that they are provided the necessary training to do their jobs efficiently.
 - Richland County may consider implementing formal processes in the areas of Workforce Planning and Recruiting and Onboarding.
- When receiving communications about pay and benefits, employees prefer their Richland County email over other modes of communication.

Career Architecture

Career Architecture: Findings

- As part of the Total Rewards Study, Buck and Richland County collaborated to build a Career Architecture, which is an internal job evaluation methodology designed to support career advancement opportunities within Richland County.
- Clear career paths are not consistently defined at Richland County, and key stakeholders including County Human Resources, Department Heads, and employees have expressed the desire to have a career-oriented compensation program that will support career development.
- A career-oriented compensation program will:
 - Help Richland County integrate decisions on pay, performance, and advancement.
 - Support compensation at the County as a talent management tool and not simply a technically correct way to deliver pay.
 - Help facilitate both lateral and vertical moves within and across departments.
 - Enhance employee understanding of the roadmap to pursue current and potential opportunities.
- Career groupings and level definitions are driven by metrics including scope and responsibility, education requirements, years of experience, and supervisory responsibility.
 - Richland County and Buck worked together to define the groupings and level definitions within the Career Architecture
- Detailed information on the Career Architecture may be reviewed in the **Richland County Career Architecture Level Guide**, which was finalized in November 2018.

Career Architecture: Findings

Richland County's Career Architecture consists of five Career Groups within which Career Levels are defined and all jobs are assigned.

- **Management: Managers of People**
 - Achieves objectives primarily through the coordinated achievements of direct reports
 - Requires formal supervisory responsibility, manages units of varying size and complexity
- **Knowledge Workers: Professional Level Individual Contributors**
 - Typically without formal supervisory responsibility
 - Have mastered the essential, core knowledge
- **Administrative Support: Administrative Process and Organization Support**
 - Skills are acquired through vocational education and/or apprenticeships, certifications, and specialized or on-the-job training
 - No formal supervisory responsibility
- **Technical and Trades: Skilled Trades, Technical and Operational Support**
 - Skills are acquired through vocational education and/or apprenticeships, certifications, and specialized or on-the-job training
 - No formal supervisory responsibility
- **Public Safety: Law Enforcement, Emergency Services**
 - Enforces and/or complies with federal and state laws and County ordinances relating to public safety and welfare.
 - Skills are acquired through vocational education and/or apprenticeships, certifications, and specialized or on-the-job training
 - No formal supervisory responsibility

Career Architecture: Recommendations

Buck recommends that:

- Richland County implement the Career Architecture as the foundation for a career-oriented compensation program at the County.
- Richland County maintain the Career Architecture by adhering to the process of placing jobs within the Architecture as described in the ***RC Job Leveling and Slotting Process*** document, which Buck delivered to Richland County in December 2018.
- Richland County use the Career Architecture to work with Department Heads in the development of succession planning.
- Richland County further leverage the Career Architecture in support of performance management to assist employees in understanding key advancement requirements for Career Groups and Career Levels across the County.

Market Analysis

Market Analysis: Findings

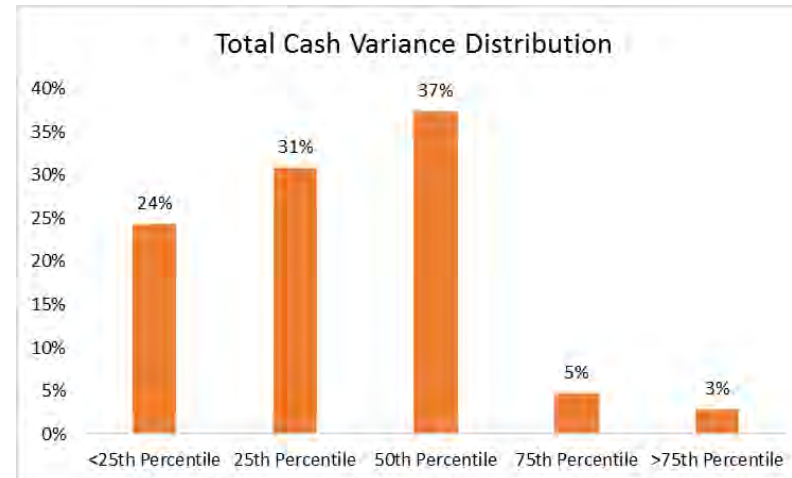
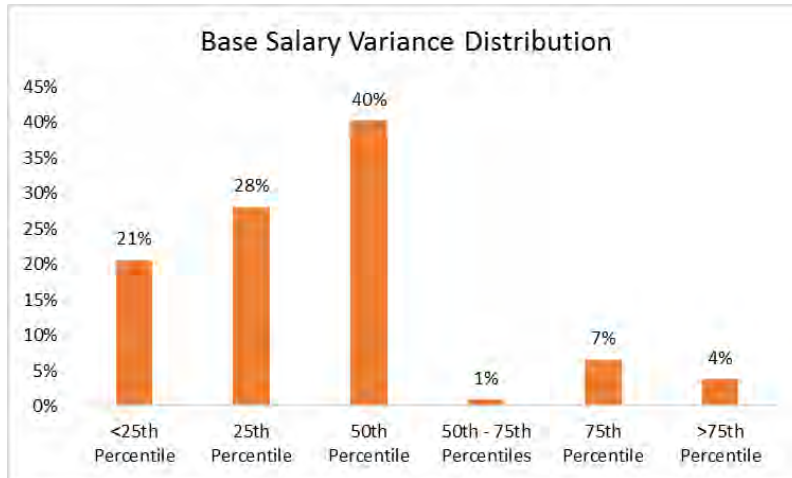
- As part of the Total Rewards Study, Buck and Richland County collaborated on a competitive market analysis of the County’s pay practices for a representative sampling of jobs (“the benchmark jobs”) compared to the labor markets within which they compete for talent.
- In aggregate, compensation levels at Richland County are at the 25th percentile of the market for base salary (-4.0% below).
 - Base salaries for exempt jobs are, in aggregate, at the 25th percentile of the market (0.9% above).
 - Base salaries for non-exempt jobs are, overall, at the 25th percentile of the market (-5.3% below).
- Total cash, overall, is at the low end of the 50th percentile of the market (-13.3% below).
 - Total cash for exempt jobs is, in aggregate, at the low end of the 50th percentile of the market (-13.5% below).
 - Total cash for non-exempt jobs is, overall, at the low end of the 50th percentile of the market (-13.2% below).

Employee Group	# BM	# Inc	Base Variance			Total Cash Variance		
			25th	50th	75th	25th	50th	75th
Exempt	60	111	0.9%	-10.9%	-22.1%	-1.0%	-13.5%	-25.6%
Non-Exempt	47	761	-5.3%	-13.3%	-21.2%	-5.1%	-13.2%	-21.1%
Total	107	872	-4.0%	-12.8%	-21.4%	-4.2%	-13.3%	-22.2%

- Detailed results may be reviewed in the **Richland County – Compensation Market Analysis Report**, which Buck delivered to Richland County in October 2018.

Market Analysis: Findings

- While, in aggregate, base salaries are at the 25th percentile and total cash is at the low end of the market 50th percentile, market position across the benchmark jobs varies.
- Base salaries for 49% of benchmark jobs are at or below the 25th percentile of the market.
 - 40% of jobs are at the 50th percentile of the market
 - 12% of jobs exceed the 50th percentile.
- Total cash for 55% of benchmark jobs is at or below the 25th percentile of the market.
 - 37% of jobs are at the 50th percentile of the market
 - 8% of jobs are at or above the 75th percentile of the market.



Market Analysis: Findings

- Base salaries for sixteen (16) departments are at or below the 25th percentile of the market, in aggregate.
 - Base salaries for eleven (11) departments are competitive with the 50th percentile, in aggregate.
 - Two (2) departments, Administration and Coroner, are competitive with the 75th percentile of the market.

Department	# Inc	Base Variance		
		25th	50th	75th
Administration	2	36.6%	21.4%	5.3%
Animal Services	8	-8.3%	-17.1%	-25.7%
Auditor	5	-1.1%	-11.6%	-21.3%
CASA	2	-5.7%	-16.4%	-27.3%
Clerk of Court	23	4.5%	-5.3%	-18.0%
Community and Government Service	1	4.5%	-10.4%	-17.6%
Community Planning and Development	33	11.5%	-2.0%	-12.8%
Coroner	2	38.3%	27.1%	6.7%
Detention Center	157	-12.5%	-18.0%	-23.3%
Economic Development	2	27.3%	5.5%	-7.8%
Emergency Medical Services	126	12.4%	-0.3%	-10.4%
Finance	19	0.2%	-10.7%	-20.8%
Human Resources	7	-6.4%	-16.7%	-25.9%
Information Technology	15	8.3%	-2.7%	-13.4%
Legal	6	7.5%	-3.7%	-16.1%

Department	# Inc	Base Variance		
		25th	50th	75th
Magistrates/Court Administration	54	-5.4%	-16.1%	-26.9%
Master In Equity	2	18.5%	5.9%	-6.0%
Ombudsman	6	-2.2%	-12.5%	-22.0%
Operational Services	43	-8.2%	-19.6%	-30.1%
Probate Court	7	6.2%	-6.9%	-17.5%
Public Defender	47	-13.9%	-23.8%	-33.4%
Public Information	3	-0.4%	-10.5%	-22.0%
Public Works	42	-18.5%	-24.6%	-31.2%
Risk Management	5	-0.3%	-12.6%	-22.8%
Sheriff	222	-7.1%	-13.6%	-21.0%
Solicitor	18	-3.6%	-10.3%	-16.9%
Transportation Penny	2	14.4%	2.1%	-9.7%
Treasurer	5	2.6%	-11.1%	-22.7%
Utilities	8	2.0%	-10.9%	-23.6%
Total	872	-4.0%	-12.8%	-21.4%

Market Analysis: Findings

- Total cash for eighteen (18) departments is at 50th percentile of the market, in aggregate.
 - Total cash for nine (9) departments is competitive with the 25th percentile, in aggregate.
 - Two (2) departments, Administration and Coroner, are competitive with the 75th percentile of the market.

Department	# Inc	Total Cash Variance		
		25th	50th	75th
Administration	2	32.1%	16.9%	0.5%
Animal Services	8	-8.0%	-17.1%	-25.7%
Auditor	5	-1.5%	-12.4%	-22.8%
CASA	2	-6.2%	-17.2%	-28.2%
Clerk of Court	23	4.9%	-5.8%	-18.1%
Community and Government Service	1	4.2%	-10.8%	-17.9%
Community Planning and Development	33	10.7%	-3.1%	-14.5%
Coroner	2	41.4%	29.8%	9.0%
Detention Center	157	-12.1%	-17.8%	-23.2%
Economic Development	2	24.9%	2.4%	-11.4%
Emergency Medical Services	126	12.9%	0.1%	-10.1%
Finance	19	-2.4%	-13.4%	-23.6%
Human Resources	7	-9.2%	-19.6%	-29.7%
Information Technology	15	7.6%	-3.7%	-14.5%
Legal	6	3.2%	-8.9%	-21.9%

Department	# Inc	Total Cash Variance		
		25th	50th	75th
Magistrates/Court Administration	54	-5.5%	-16.2%	-26.8%
Master In Equity	2	18.1%	5.5%	-6.1%
Ombudsman	6	-3.2%	-13.7%	-23.1%
Operational Services	43	-8.3%	-19.7%	-30.2%
Probate Court	7	7.6%	-5.8%	-16.6%
Public Defender	47	-14.5%	-25.6%	-36.7%
Public Information	3	-2.6%	-12.5%	-23.9%
Public Works	42	-19.3%	-25.5%	-32.2%
Risk Management	5	-4.6%	-16.5%	-27.1%
Sheriff	222	-7.0%	-13.7%	-21.1%
Solicitor	18	-3.3%	-10.1%	-16.7%
Transportation Penny	2	9.3%	-3.2%	-14.4%
Treasurer	5	2.0%	-12.1%	-24.5%
Utilities	8	1.2%	-11.6%	-24.7%
Total	872	-4.2%	-13.3%	-22.2%

Market Analysis: Recommendations

Buck recommends that:

- Richland County budget for annual salary increases that are consistent with market salary increase rates.
- Richland County conduct periodic updates (every 1 – 2 years) of the market analysis to test the movement of the market in years to come.
- Richland County define a title nomenclature that is applied consistently across the county (e.g. “Coordinator of <Job>” vs. “<Job> Coordinator” and “Senior <Job>” vs. “<Job> III”).
 - Ensure that titles capture the level of work conducted and are consistent with the levels of work defined in Richland County’s Career Architecture
- Define job families, the grouping of jobs with similar characteristics, to support career development within the County.
- Manage Exempt and Non-exempt jobs within separate titles (e.g. Accountant vs. Accounting Specialist)
- Consider implementing an online job description development tool to support consistency in job description content and format between descriptions across the County and housed in a centralized location.
- Ensure that employees assigned to a job are conducting the work of the job as defined in the job description.
 - Conduct a specific review of “catch all” titles like “Coordinator” to define the role and ensure that employees assigned to these roles are conducting similar work.
 - Conduct a specific review of the Administrative Support function to include the development of an Administrative Support job family, title consolidation, job description development and an audit of employees assigned to jobs in this family.

Market Analysis: Recommendations

Buck recommends that:

- Richland County consider implementing an online job description development tool to support consistency in job description content and format between descriptions across the County and housed in a centralized location.
- Richland County ensure that employees assigned to a job are conducting the work of the job as defined in the job description.
 - Conduct a specific review of “catch all” titles like “Coordinator” to define the role and ensure that employees assigned to these roles are conducting similar work.
 - Conduct a specific review of the Administrative Support function to include the development of an Administrative Support job family, title consolidation, job description development and an audit of employees assigned to jobs in this family.
- Richland County review the rationale for the difference in the standard workweeks (37.5 vs. 40 hrs) between jobs at the County.
 - Standardization should be considered if there is a compelling business reason to do so.

Salary Structure

Salary Structure: Findings

- As a part of the larger Total Rewards Study, Richland County engaged Buck to develop a market-linked salary structure within which Richland County can efficiently administer pay while ensuring ongoing competitiveness with the external market.
- Multiple salary structures currently exist at Richland County, and the management of salaries within those structures is inconsistent across the County.
 - Key stakeholders including County Human Resources, Department Heads, and employees have expressed the desire to update the compensation program to ensure that it is competitive with the markets against which the County competes for talent.
- Buck developed a salary structure which is competitive with the 50th percentile of the market based on the results of the Market Analysis described above.
 - Richland County Human Resources and Department Heads worked together to finalize the placement of all Richland County jobs in the structure.
- Once the Human Resources Department reviewed and approved the final placement of all jobs within the structure, Buck conducted multiple costing scenarios to estimate the budget required to implement the structure, which can be found on the coming pages.
- Additional details regarding the placement of Richland County jobs within the structure may be found in the ***RC Structure Report***, which Buck delivered to Richland County in December 2018.
- More information on the process of placing jobs within the compensation structure may be found in the ***RC Job Leveling and Slotting Process*** document, which Buck delivered to Richland County in December 2018.

Salary Structure: Findings

- Richland County’s new compensation structure consists of:
 - 18 grades
 - Midpoint progression that is 1.1 at the bottom of the structure, 1.12 in the middle grades, and 1.15 at the higher grades.
 - Range spread of 60% at the bottom half of the structure, moving to 80% at the higher grades, maintaining a strong link to market data, while allowing for internal equity at Richland County.

Grade	# Jobs	# Inc	Avg Base	Avg Mkt Median	Salary Range					Midpoint Progression	Range Spread
					Min	1st Quartile	Midpoint	3rd Quartile	Max		
18	1	0	--	--	\$119.5	\$143.4	\$167.3	\$191.2	\$215.1	1.15	80%
17	5	4	\$132.9	\$142.9	\$103.9	\$124.7	\$145.5	\$166.3	\$187.1	1.15	80%
16	3	3	\$126.2	\$118.8	\$90.4	\$108.4	\$126.5	\$144.6	\$162.7	1.15	80%
15	15	13	\$109.3	\$108.6	\$78.6	\$94.3	\$110.0	\$125.7	\$141.4	1.12	80%
14	27	21	\$87.3	\$101.3	\$70.2	\$84.2	\$98.2	\$112.3	\$126.3	1.12	80%
13	31	49	\$79.6	\$89.3	\$62.6	\$75.2	\$87.7	\$100.2	\$112.8	1.12	80%
12	55	118	\$66.7	\$78.0	\$55.9	\$67.1	\$78.3	\$89.5	\$100.7	1.12	80%
11	49	131	\$54.2	\$70.0	\$49.9	\$59.9	\$69.9	\$79.9	\$89.9	1.12	80%
10	81	241	\$47.7	\$61.4	\$44.6	\$53.5	\$62.4	\$71.3	\$80.3	1.12	80%
9	54	211	\$44.6	\$55.6	\$42.9	\$49.3	\$55.7	\$62.2	\$68.6	1.1	60%
8	67	180	\$43.1	\$49.7	\$39.0	\$44.8	\$50.7	\$56.5	\$62.4	1.1	60%
7	74	275	\$37.9	\$45.3	\$35.4	\$40.7	\$46.1	\$51.4	\$56.7	1.1	60%
6	40	436	\$34.0	\$40.6	\$32.2	\$37.0	\$41.9	\$46.7	\$51.5	1.1	60%
5	43	111	\$32.3	\$38.1	\$29.3	\$33.7	\$38.1	\$42.5	\$46.9	1.1	60%
4	43	69	\$29.8	\$34.8	\$26.6	\$30.6	\$34.6	\$38.6	\$42.6	1.1	60%
3	18	118	\$27.8	\$32.8	\$24.2	\$27.8	\$31.5	\$35.1	\$38.7	1.1	60%
2	5	24	\$24.1	\$32.2	\$22.0	\$25.3	\$28.6	\$31.9	\$35.2	1.1	60%
1	16	96	\$21.7	\$27.0	\$20.0	\$23.0	\$26.0	\$29.0	\$32.0		60%
	627	2,100									

Salary Structure: Findings

- Buck conducted multiple cost analyses to estimate the budgetary requirements related to the new compensation structure. These scenarios included:
 - Estimated cost based on current compensation for employees at Richland County:
 - The estimated cost to move all employees to the minimum of the salary range.
 - The estimated cost to move all employees to the 1st quartile of the salary range.
 - The estimated cost to move all employees to the midpoint of the salary range.
 - Estimated cost based on a County-wide pay raise of 2.0% which is planned for January 2019:
 - The estimated cost to move all employees to the minimum of the salary range.
 - The estimated cost to move all employees to the 1st quartile of the salary range.
 - The estimated cost to move all employees to the midpoint of the salary range.
 - The estimated cost to move all employees to a position in the salary range consistent with their years of employment with the County.
- The following slides present the results of these cost estimate analyses.

Salary Structure: Findings

- The estimated cost to move all employees to the minimum of the salary range based on current compensation levels at the County is \$1,810,000.
- The estimated cost to move all employees to the 1st quartile of the salary range increases to \$8,924,000.
- The estimated cost to move all employees to the midpoint of the salary range is \$19,866,000.
- 676 employees are paid below the minimum of the salary range and 13 employees are paid above the range maximum.

Cost Analysis: Current Compensation						
Grade	\$ Cost to Min	\$ Cost to 1st Qt	\$ Cost to Midpoint	\$ Over Max	#Inc Under Range Min	#Inc Over Range Max
18	\$0.0	\$0.0	\$0.0	\$0.0	0	0
17	\$0.0	\$8.3	\$52.1	\$0.0	0	0
16	\$0.0	\$0.0	\$13.7	\$0.0	0	0
15	\$0.0	\$22.4	\$77.5	\$0.0	0	0
14	\$0.0	\$39.7	\$231.3	\$0.0	0	0
13	\$6.0	\$104.2	\$466.3	\$0.0	2	0
12	\$139.9	\$516.2	\$1,481.1	\$11.7	13	1
11	\$237.0	\$970.3	\$2,103.7	\$0.0	44	0
10	\$376.5	\$1,716.9	\$3,575.9	\$0.0	122	0
9	\$408.6	\$1,245.1	\$2,419.8	\$21.4	88	1
8	\$60.4	\$608.6	\$1,453.0	\$2.4	31	1
7	\$142.0	\$1,063.9	\$2,312.1	\$0.0	115	0
6	\$253.7	\$1,605.3	\$3,466.1	\$0.0	136	0
5	\$80.3	\$343.9	\$713.3	\$7.9	43	3
4	\$30.2	\$164.6	\$370.9	\$1.0	19	1
3	\$58.7	\$270.8	\$562.6	\$23.2	30	4
2	\$4.8	\$54.1	\$121.7	\$3.8	3	1
1	\$12.1	\$189.7	\$445.2	\$4.0	30	1
	\$1,810.2	\$8,924.0	\$19,866.3	\$75.4	676	13

Salary Structure: Findings

- The County plans to provide a 2.0% county-wide salary increase in January 2019, which has a modeled cost of \$1,771,200.
- A 2.0% county-wide salary increase lowers the estimated cost to range minimum to \$1,407,600.
- The estimated cost to move all employees to the 1st quartile of the salary range after a 2.0% pay increase is \$7,806,300.
- The estimated cost to move all employees to the midpoint of the salary range is \$18,366,500.
- 467 employees are paid below the minimum of the salary range and 16 employees are paid above the range maximum.

Cost Analysis: County-Wide 2.0% Increase

Grade	\$ Cost to Min	\$ Cost to 1st Qt	\$ Cost to Midpoint	\$ Over Max	#Inc Under Range Min	#Inc Over Range Max
18	\$0.0	\$0.0	\$0.0	\$0.0	0	0
17	\$0.0	\$6.0	\$44.4	\$0.0	0	0
16	\$0.0	\$0.0	\$8.9	\$0.0	0	0
15	\$0.0	\$17.2	\$68.4	\$0.0	0	0
14	\$0.0	\$26.3	\$201.4	\$0.0	0	0
13	\$4.7	\$78.2	\$413.6	\$0.0	1	0
12	\$130.3	\$441.6	\$1,359.4	\$13.9	9	1
11	\$199.0	\$877.5	\$1,977.8	\$0.0	40	0
10	\$281.8	\$1,565.7	\$3,358.6	\$0.0	106	0
9	\$352.1	\$1,108.5	\$2,250.1	\$23.2	58	1
8	\$39.5	\$510.2	\$1,321.2	\$4.0	9	2
7	\$88.4	\$919.9	\$2,127.1	\$0.3	26	1
6	\$175.7	\$1,373.0	\$3,197.1	\$0.0	127	0
5	\$59.5	\$301.6	\$660.0	\$10.8	37	3
4	\$23.3	\$140.3	\$339.4	\$1.9	12	1
3	\$46.1	\$237.5	\$518.5	\$26.9	26	5
2	\$3.5	\$46.1	\$111.6	\$4.6	3	1
1	\$3.7	\$156.7	\$408.9	\$4.7	13	1
	\$1,407.6	\$7,806.3	\$18,366.5	\$90.4	467	16

Salary Structure: Findings

- At Richland County's request, Buck modeled the impact of bringing employees to different positions in the salary range based on their most recent hire date.
- The following methodology was applied:
 - Employees with fewer than 5 years with the County were brought to the minimum of the salary range.
 - Employees with at least 5 years and fewer than 10 years with the County were brought to the 1st quartile of the salary range.
 - Employees with at least 10 years and fewer than 15 years with the County were brought to the midpoint of the salary range.
 - Employees with at least 15 years with the County were brought to the 3rd quartile of the salary range.
- The estimated cost to move all employees to the appropriate position within the salary range based on their most recent hire date and after the planned 2.0% pay increase is \$9,523,600.
- 467 employees are paid below the minimum of the salary range and 16 employees are paid above the range maximum.

Salary Structure: Findings

Cost Analysis: Position in Range Based on Years at Richland County							
Grade	1-4.99 Years	5 - 9.99 Years	10 - 14.99 Years	Over 15 Years	Total	#Inc Under Range Min	#Inc Over Range Max
18	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	0	0
17	\$0.0	\$0.0	\$0.0	\$123.0	\$123.0	0	0
16	\$0.0	\$0.0	\$0.0	\$2.5	\$2.5	0	0
15	\$0.0	\$0.0	\$28.3	\$68.5	\$96.8	0	0
14	\$0.0	\$1.6	\$9.4	\$205.3	\$216.2	0	0
13	\$0.0	\$29.8	\$76.1	\$169.7	\$275.7	1	0
12	\$0.0	\$53.2	\$130.5	\$1,291.5	\$1,475.2	9	1
11	\$101.7	\$149.6	\$491.8	\$550.1	\$1,293.2	40	0
10	\$178.8	\$564.6	\$655.3	\$946.9	\$2,345.6	106	0
9	\$212.3	\$330.1	\$255.1	\$353.8	\$1,151.3	58	1
8	\$27.1	\$172.1	\$178.2	\$226.3	\$603.6	9	2
7	\$44.4	\$93.4	\$116.7	\$346.6	\$601.0	26	1
6	\$156.4	\$144.2	\$106.5	\$351.5	\$758.5	127	0
5	\$54.1	\$21.5	\$71.4	\$77.3	\$224.3	37	3
4	\$15.6	\$12.8	\$26.3	\$38.2	\$92.9	12	1
3	\$40.0	\$23.4	\$55.4	\$44.0	\$162.8	26	5
2	\$2.7	\$6.6	\$1.2	\$0.0	\$10.6	3	1
1	\$0.7	\$34.6	\$27.3	\$27.8	\$90.4	13	1
	\$833.7	\$1,637.6	\$2,229.5	\$4,822.8	\$9,523.6	467	16

Salary Structure: Recommendations

Buck recommends that:

- Richland County adopt the market-linked salary structure to ensure that the compensation program is competitive with the markets against which the County competes for talent.
- Richland County consider adjusting employees' salaries (for those who fall below minimum) to at least the new salary range minimums of the proposed salary structure. The estimated cost for this adjustment is \$1,810,000, which decreases to \$1,407,600 after the planned 2.0% county-wide salary increase in January 2019.
- Richland County maintain the Salary Structure by adhering to the process of placing jobs within the structure as described in the ***RC Job Leveling and Slotting Process*** document, which Buck delivered to Richland County in December 2018.
- Richland County update the salary structure annually, so that pay levels at the County move with the market. This process is described in the ***RC Salary Structure Administration 121818*** document, which Buck delivered to Richland County in December 2018.
- Finally, Buck recommends that Richland County update or develop pay policies to support Human Resources' ongoing management of the pay program. Policies to consider include promotion, salaries that exceed range maximum, lateral moves, off-cycle requests, and other forms of salary decisions.

Custom Market Survey

Custom Market Survey: Findings

- As part of the Total Rewards Study, Buck and Richland County collaborated on a Custom Market Survey of Total Rewards Programs and Practices which occurred between June and August 2018.
- The primary objective of the survey was to gather benchmark information from selected organizations about compensation, benefit, and human resource programs and policies to determine competitive market practices for hiring, retaining, and rewarding employees.
- The information gathered will enable the County assess and improve its programs and policies. Finding the right mix and delivery of total rewards is essential to creating an organization in which employees can build a successful career and individuals want to join.
- Detailed results may be reviewed in the **Richland County – Total Rewards Programs and Practices Report**, which Buck delivered to Richland County in October 2018.

Custom Market Survey: Findings

- Overall, Richland County's total reward practices compare favorably to those of the survey participants. The County programs and policies that are particularly strong are:
 - A comprehensive benefit program
 - Generous retiree health care benefits
 - A variety of work schedule options
- The main areas in which the County lags the survey participants are:
 - Consistent pay increases
 - Recent and regular pay range adjustments
 - The 90-day benefit eligibility waiting period
- Before there is any consideration of pay or benefit changes, we recommend the County adopt a total rewards philosophy and strategy. Doing so will provide the County with guiding principles and standards that can be used to assess alternatives and make justifiable adjustments and improvements to its total rewards program and practices.

Custom Market Survey: Findings

Culture

- The foremost *work schedule options* the survey participants offer or plan to offer are: 1) flexible start and end times; 2) compressed work week of fewer days but the same total hours; 3) working from home or remotely.
 - Richland County offers all three options.
- The leading service awards the survey participants offer or plan to offer are special recognition, event/celebration, certificate/plaque, and commemorative item.
 - Richland County offers or plans to offer the same benefits.

Benefits

- In most cases, 13 or 14 of the survey participants provide common *employer-sponsored health and welfare plans and retirement programs*, as does Richland County.
- Half of the survey participants have no waiting period for benefits eligibility while the waiting periods for the other half range from one to four weeks, with an average of two weeks and a median of one week.
 - The Richland County waiting period is 90 days (13 weeks).
- Six of the 14 survey participants offer *health care benefits to part-time employees*, provided they work a minimum of 30 hours per week.
 - Richland County does not offer health care benefits to part-time employees.

Custom Market Survey: Findings

Benefits, cont.

- The median percent of *health care premiums paid by the survey participants* ranges from 70% for family coverage to 86% for individual coverage.
 - Richland County pays 69% for family coverage and 95% for individual coverage.
- Survey participants are split on the *type of health care coverage provided to retirees* while Richland County provides comprehensive retiree health care coverage.
- The most common *time-off practice* used by 13 of the 14 survey participants is vacation days based on years of service.
 - Richland County follows this practice and mirrors the other paid time off and unpaid leave practices of the survey participants.
- The top *voluntary and supplemental insurance benefits* the survey participants offer or plan to offer are life, accidental death and dismemberment, accident health, cancer, and critical illness.
 - Richland County offers these insurance benefits, with the exception of cancer coverage.
- The most common *physical and financial wellbeing benefits* the survey participants offer or plan to offer are tobacco cessation, fitness facility/membership, annual biometric testing, wellness incentive, and a formal wellness program.
 - Richland County offers or plans to offer the same benefits.

Custom Market Survey: Findings

Compensation

- Each year between 2016 and 2018, the survey participants awarded a *median total pay increase* between 2.0-2.3%, which included organizations that gave no increases. When these organizations are excluded, the median jumps to 3.0%.
 - Richland County provided a 3.0% pay increase 2017 and did not award a pay increase for 2016 or 2018.
- During this same period, 12 of the 14 survey participants reported adjusting their pay ranges. The *median percent adjustment* was 3.0%.
 - The last time Richland County adjusted its pay ranges was in 2013.
- Seven of the 14 participants, as well as Richland County, *hire employees at or above the minimum of the pay range* based on a formula or specific criteria such as years of experience. This is the most common practice, followed by six of the participants that *hire employees anywhere between the minimum and maximum* based on experience.
 - Richland County does not follow this practice, although there are less prevalent practices the County and other participants follow, such as *hiring between the midpoint and maximum of the pay range*.
- Most survey participants do not offer *cash awards or bonuses* (signing, referral, spot, retention, annual) at any level (executive, exempt, nonexempt) of the organization.
 - Richland County offers referral and retention bonuses.
- About two-thirds of the survey participants use base pay *market premiums* for highly competitive and hard-to-fill jobs.
 - Richland County also uses this approach as well as offering enhanced selected benefits and flexibility in hours worked.

Custom Market Survey: Findings

Compensation, cont.

- A limited number of survey participants were able to match and provide pay information on only one of eight jobs surveyed, *Deputy Sherriff*. The average annual base salary for this job is \$47,180.
 - The Richland County average is \$38,500.

Career

- The top two ways survey participants recognize and retain top performers is through career development opportunities (93% use or plan to use) and base pay increases tied to performance (88% use or plan to use).
 - Richland County uses career development opportunities and plans to link base pay increases to performance.
- All but one of the survey participants offers or plans to offer employee participation in the performance goal-setting process.
 - Richland County does not provide for employee participation in the performance goal-setting process.

Custom Market Survey: Recommendations

Buck recommends that:

- Richland County deliver consistent pay increases to employees that are competitive with market salary increase budgets.
- Richland County maintain their salary structure by regularly adjusting pay ranges at a rate that is competitive with market structure increase amounts.
- Richland County review the 90-day benefit eligibility waiting period against typical market practice.
- Richland County review part-time employee eligibility for benefits based on market practice, however, based on our survey results, this is a minority practice.

Employee Opinion Survey

Employee Opinion Survey: Findings

- As part of the Total Rewards Study, Buck and Richland County collaborated on an Employee Engagement survey to uncover meaningful data and information about the employee population that can inform decisions about County benefits, compensation, culture, career, work environment and communications.
- The survey was distributed to County employees on May 8, 2018 and responses were accepted through May 18, 2018.
- Approximately 50% of RC employees responded to the survey, which was higher than expected and more than previous RC engagement surveys.
- The following executive summary is intended to provide a summary of findings for each area surveyed; in some cases, findings varied by department, employee group, generation, dependent status, medical insurance status, and salary range.
- Detailed results may be reviewed in the **Richland County – Total Rewards Employee Engagement Survey Findings Report**, which Buck delivered to Richland County in November 2018.

Employee Opinion Survey: Findings

Culture

- Most employees would advise family members or friends to apply for a job at RC (the majority agree or strongly agree).
- Most employees feel neither strongly positive nor strongly negative about the amount of recognition they receive, including from RC leadership.

Benefits

- Benefits are valued more than compensation and culture as a reason to stay at the County, and there is little variation between employees with different types of dependents.
 - The biggest variances of how benefits were valued among employees were between women and men (women valued benefits more than men) and age (Gen Z valued benefits the least of all generations).

Compensation

- Compensation is less of a driving factor in attraction of talent to RC than career opportunities, benefits, and work environment.
 - Compensation is even less of a factor as it relates to retention.
 - Most employees believe compensation levels at RC are not competitive with the market.

Employee Opinion Survey: Findings

Career

- Employees generally feel positive about the effectiveness of their managers' coaching and oversight.
- Most employees also express positive sentiment about the learning and development opportunities available to them, but indicated they would value having even more of these opportunities.

Work Environment

- Most employees feel safe in their work environment and believe it to be diverse.
- Most employees also believe RC has a positive impact on the community.

Communications

- All populations believe the clarity of communications they receive from their supervisor/manager is sufficient (directors lead strongly in this category).
- The frequency of communications employees receive from leadership and HR is perceived to be less adequate than the frequency of communications received from their supervisor/manager (leadership's communications lags HR's for most populations).
- The communications from leadership and HR are perceived to be less relevant than those from supervisors/managers.

Employee Opinion Survey: Recommendations

Buck recommends that:

- Richland County deliver consistent pay increases to employees that are competitive with market salary increase budgets.
- Richland County leadership increase the frequency of their County-wide communications.
- The County prompt directors and supervisors to check in with employees on County-wide communications to ensure a common understanding.
- Richland County provide supervisor training to ensure consistent leadership across the organization.

Benefits

Benefits: Findings

- As part of the Total Rewards Study, Buck conducted a review of County benefits to assess, compare, and determine whether the County's programs are market competitive, better than market, or worse than market, as reflected in available survey data.
 - Survey sources leveraged in this review may be seen as Appendix C on slide 82.
- The following benefits at Richland County were reviewed against the market:
 - Medical Plans
 - Dental Plans
 - Vision Plans
 - Life and AD&D Plans
 - Short-Term Disability Plans
 - Other Benefit Plans
 - Retirement Planning
 - Leave Policies
 - Other Policies




Benefits: Findings - Overall










- The plan eligibility waiting period for Medical, Dental, Vision, and Short-Term Disability programs is longer than the requirement typically found in the market.
- The Medical, Dental, and Vision benefits offering by Richland County is generally competitive, although an employee would often have to participate in the “Buy Up” plan to be fully competitive.
- Employee contributions for the Medical Plans are generally lower than those paid in the market for individual coverage, but somewhat higher for family coverage.
- Employee contributions for the Dental and Vision Plans are generally lower than those paid in the market.
- The AD&D benefit for the employee and spouse is generally lower than the market, while the benefit for a child is in the competitive range.
- There are a number of miscellaneous benefit plans that are being introduced into the market, and, while Richland County does not offer any of these benefits at this time, they are relatively uncommon in the market.

Benefits: Findings - Medical Plans




- The plan eligibility waiting period is longer than the requirement typically found in the market.
- The medical benefits offering by Richland County is generally competitive, although an employee would often have to participate in the “Buy Up” plan to be fully competitive (usually designated by a “cautionary” or Yellow circle).
- Employee contributions are generally lower than those paid in the market for individual coverage, but somewhat higher for family coverage.
- Employer contributions are generally higher than those paid by organizations in the market. While employees may consider this to be favorable, from Richland County's perspective, it represents a higher cost.
- A summary of our findings is shown on the following pages.









Benefits: Findings - Medical Plans

Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 

Provision – Medical Plan	Richland County 2017/18 Plans Cigna		Rating	Comments
	Buy-Up Plan (In Network)	Standard Plan (In Network)		
Active Medical Plan Eligibility	91st day after date of hire			Typical eligibility is no waiting period to a period of 30 days
Deductible Single/Family	\$500 / \$1,000	\$1,000 / \$2,000		Typical practice is \$600 or less/ \$1,500 or less
Coinsurance after Deductible	80% / 20%	70% / 30%		Typical practice is 80%
OOP Maximum Single/Family	\$4,000 / \$8,000	\$5,500 / \$11,000		Typical practice is \$4,000 or less/\$7,000 or less
Hospital Copay (Inpatient / Outpatient) - Facility and Professional Services	Deductible + 20% Coinsurance	Deductible + 30% Coinsurance		Most common practice is 100% with copay
Emergency Room Copay	Deductible+20% Coinsurance	Deductible+30% Coinsurance		Most common practice is 100% with copay of \$200 or less
PCP Office Visit	\$20 copay	\$35 copay		Most common practice is 100% with copay of \$20 - \$29
Specialist	\$35 copay	\$45 copay		Most common practice is 100% with copay
Chiropractic Care	\$35 copay (contract year max 20 days)	\$45 copay (contract year max 20 days)		Varies widely, most common practice is 100% with co-pay of \$20 or more




Benefits: Findings - Medical Plans


Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 

Provision – Medical Plan	Richland County 2017/18 Plans Cigna		Rating	Comments
	Buy-Up Plan (In Network)	Standard Plan (In Network)		
Independent Lab	No charge; no deductible	No charge; no deductible		Insufficient data, although some companies report at 20% copay
Generic Rx (Tier I)	\$10 copay retail	\$20 copay retail		Most organizations report a copay of \$20 or less
Preferred Brand (Tier II)	\$35 copay retail	\$50 copay retail		Typical practice is copay of \$25 to \$34
Non-Preferred Brand and Specialty (Tier III)	\$55 copay retail	\$75 copay retail		Typical practice is copay of \$50 to \$60
Specialty	\$55 copay retail	30% coinsurance (\$75 min / \$150 max retail)		Limited data, but some organizations report a copay of \$115
Generic Rx (Tier I)	\$20 copay home delivery ¹	\$40 copay home delivery ¹		Typical practice is 100% with copay of \$20 to \$30
Preferred Brand (Tier II)	\$70 copay home delivery ¹	\$100 copay home delivery ¹		Typical practice is 100% with copay of \$50 to \$70
Non-Preferred Brand and Specialty (Tier III)	\$125 copay home delivery ¹	\$150 copay home delivery ¹		Typical practice is 100% with copay of \$100 or more

¹Includes 93-day supply for Rx home delivery.




Benefits: Findings - Medical Plans







Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 

Provision – Medical Plan	Richland County 2017/18 Plans Cigna		Rating	Comments
	Buy-Up Plan (In Network)	Standard Plan (In Network)		
Specialty	\$125 copay home delivery ¹	30% coinsurance (\$150 min / \$300 max) home delivery ¹		Limited data, but some organizations report a copay of \$179

¹Includes 93-day supply for Rx home delivery.

Benefits: Findings - Medical Plans




Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 









Provision – Medical Plan	Richland County 2017/18 Plans		Rating	Comments
	Cigna			
	Buy-Up Plan (In Network)	Standard Plan (In Network)		
Actives – Monthly Employee Contributions				
Employee Only	\$128.00	\$50.00		Most organizations report a premium of \$100 or more
Employee + Spouse	\$678.34	\$569.40		Limited data, but some organizations report a premium of over \$1,000
Employee + Children	\$381.04	\$303.30		Limited data, but some organizations report a premium of \$450 and up
Family	\$897.34	\$765.54		Varies widely from \$400 and up
Actives – Monthly Employer Contributions				
Employee Only	\$834.60	\$812.35		Generally, cost to Richland County is higher with market data in the \$400 - \$500 range.
Family	\$1,700.19	\$1,561.30		Generally, cost to Richland County is higher with some organizations reporting a premium of about \$1,200

Benefits: Findings - Dental Plans




- The plan eligibility waiting period is longer than the requirement typically found in the market.
- The dental benefits offering by Richland County is generally competitive, although an employee would often have to participate in the “Buy Up” plan to be fully competitive (usually designated by a “cautionary” or Yellow circle).
- Employee contributions are generally lower than those paid in the market.
- There was limited data available with regard to employer contributions, so no conclusions could be drawn.
- A summary of our findings is shown on the following pages.

Benefits: Findings - Dental Plans

Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 

Provision – Dental Plan	Richland County 2017/18 Plans			Rating	Comments
	Cigna				
	Buy-Up Plan (In Network)	Standard Plan (In Network)	Standard Plan (Non-Network)		
Active Dental Plan Eligibility	91 st day after date of hire				Most common practice is no waiting period
Plan Year Benefits Maximum (Class I, II, III and IV Expenses)	\$1,500	\$1,000			Plan maximums commonly range between \$1,500 to \$2,000
Annual Deductible Single / Family	\$50 per person No Limit	\$75 per person No Limit			The most common practice is \$50 individual / \$150 family; about one-third have no deductible
Percent Covered	Plan pays 50%	Not Covered			Most common practice is 50%
Plan Year Maximum	\$1,500	Not Covered			Majority is \$1,500 or less
Eligibility	Dependent children to age 19	Not Covered			Majority practice is children enroll in dental to age 19
Actives – Monthly Employee Contributions					
Employee Only	\$6.30	\$0.00			Above 20% have no contribution, with the majority of organizations charging \$20 or less
Family	\$70.56	\$53.34			Majority practice is less than \$50

Benefits: Findings - Dental Plans




Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 





Provision – Dental Plan	Richland County 2017/18 Plans			Rating	Comments
	Cigna				
	Buy-Up Plan (In Network)	Standard Plan (In Network)	Standard Plan (Non-Network)		
Actives – Monthly Employer Contributions					
Employee Only	\$30.70		\$30.70		Insufficient data
Employee + Spouse	\$30.70		\$30.70		Insufficient data
Employee + Child(ren)	\$30.70		\$30.70		Insufficient data
Family	\$30.70		\$30.70		Insufficient data

Benefits: Findings - Vision Plans

- The plan eligibility waiting period is longer than the requirement typically found in the market.
- The vision benefits offering by Richland County is generally competitive, although an employee must participate in the “Buy Up” plan to be fully competitive.
- Employee contributions are generally lower than those paid in the market for both individual and family.
- A summary of our findings is shown on the next page.

Benefits: Findings - Vision Plans




Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 






Provision – Vision Plan	Richland County 2017/18 Plans Cigna				Rating	Comments
	Buy-Up Plan (In Network)	Buy-Up Plan (Non-Network)	Standard Plan (In Network)	Standard Plan (Non-Network)		
Participation Requirements	91 st day after date of hire (Separate from medical plan)					Most common practice is no participation requirements
Frame retail allowance (Frequency period – 24 months) (One per frequency period)	Covered 100%	Up to \$55	N/A	N/A		Most organizations pay 100% with copay
Actives						
EE monthly contribution – EE Only	\$1.08		\$0.00			Typical contribution is \$10 or less
EE monthly contribution – Family	\$6.20		\$2.75			Typical contribution is \$20 or less

Benefits: Findings - Life and AD&D Plans

- Basic life coverage is competitive with the low end of the competitive market range.
- The plan eligibility waiting period for AD&D coverage is longer than the requirement typically found in the market.
- The AD&D benefit for the employee and spouse is generally lower than the market, while the benefit for a child is in the competitive range.
- A summary of our findings is shown on the next page.

Benefits: Findings - Life and AD&D Plans




Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 


Provision – Life and AD&D	Richland County 2017/18 Plans	Rating	Comments
Basic Life Benefit	\$50,000		Market practices typically fall between one and two times base salary
Participation Requirement (AD&D Insurance)	91 st day after date of hire		Most common practice is no waiting period
AD&D Benefit	\$10,000		Market practices typically fall between one and two times base salary
Spouse Life Benefit	\$5,000 \$10,000 \$20,000 \$30,000		A majority of organizations provide a benefit of \$50,000 or more
Child Life Benefit	\$5,000 \$10,000		Majority practice is \$10,000

Benefits: Findings - Short-Term Disability Plans

- The plan eligibility waiting period for short-term disability coverage is longer than the requirement typically found in the market.
- The benefit duration period is slightly lower than market practices.
- A summary of our findings is shown on the next page.

Benefits: Findings - Short-Term Disability Plans



Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 














Provision – Short-Term Disability Plans	Richland County 2017/18 Plans	Rating	Comments
Participation Requirement	91 st day after date of hire		Most organizations have either no waiting period or a 30 day waiting period
Benefit Duration	24 weeks		Most common practice is 26 weeks

Benefits: Findings - Other Benefit Plans

- There are a number of miscellaneous benefit plans that are being introduced into the market (as listed on the next page).
- While Richland County does not offer any of these benefits at this time, they are relatively uncommon in the market.
- As such, we would consider Richland County to be in line with market practices.
- A summary of our findings is shown on the next page.

Benefits: Findings - Other Benefit Plans




Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 



Provision – Other Benefit Plans	Richland County 2017/18 Plans	Rating	Comments
Childcare – Subsidized	Currently Not Offered		Limited data; subsidized coverage is a minority practice
Childcare – Onsite	Currently Not Offered		Limited data; coverage is a minority practice
Childcare – Resource and Referral	Currently Not Offered		Insufficient data
Group Auto Insurance	Currently Not Offered		A minority practice, not provided by most organizations
Group Homeowners Insurance	Currently Not Offered		A minority practice, not provided by most organizations
Hospital Indemnity	Currently Not Offered		A minority practice, not provided by most organizations
ID Theft	Currently Not Offered		A minority practice, not provided by most organizations
Lactation Room	Currently Not Offered		Limited data; coverage is a minority practice
Legal Benefit	Currently Not Offered		A minority practice, not provided by most organizations
Long Term Care	Currently Not Offered		A minority practice, where provided, it is usually not subsidized by the organization
Onsite Medical Clinic	Currently Not Offered		A minority practice, not provided by most organizations
Pet Insurance	Currently Not Offered		A minority practice, not provided by most organizations
Telemedicine	Currently Not Offered		Limited data, but reported in a number of large organizations

Benefits: Findings - Retirement Planning

- Some organizations are introducing programs related to retirement planning into the market (as listed on the next page).
- While Richland County does not offer any of these benefits at this time, they are relatively uncommon in the market.
- As such, we would consider Richland County to be in line with market practices, however these programs are emerging trends.
- A summary of our findings is shown on the next page.

Benefits: Findings - Retirement Planning




Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 







Provision – Retirement Planning	Richland County 2017/18 Plans	Rating	Comments
Group Financial Planning	Currently Not Offered		While not a majority practice, it is reported in a number of large organizations
Investment Advisory Services	Currently Not Offered		Coverage is a minority practice that is most often found in larger organizations

Benefits: Findings - Leave Policies

- Richland County currently does not provide programs under a Leave Policy that are not mandated.
- The practice for several of these policies are relatively small and, as such, we would consider Richland County to be in line with market practices.
- However, the practice for Flex Time and Paid Maternity Leave are found in an increasing number of organizations and, as such, we would not consider Richland County to be in line with market practices.
- A summary of our findings is shown on the next page.

Benefits: Findings - Leave Policies

Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 








Provision – Leave Policies	Richland County 2017/18 Plans	Rating	Comments
Annual Leave 1 year of service 5 years of service 10 years of service 20 years of service	10 days 15 days 20 days 20 days		Most common practice 10 – 14 days Most common practice 15 – 19 days Most common practice 15 – 19 days Most common practice 20 – 24 days
Elder Care	Currently Not Offered		Not offered at most organizations
Flex Time	Currently Not Offered		Provided by most organizations
Paid Maternity Leave	Currently Not Offered		Found in a number of organizations, but not a majority practice
Paternity Leave	Currently Not Offered		Provided by some organizations, but a minority practice
Sick Leave Participation Requirements	None		Most organizations do not have a waiting period; for those that do, it is usually two weeks

Benefits: Findings - Other Policies

- Richland County's practice for holidays is ahead of market practices.
- While Richland County does not offer some of the other policies being introduced into the market, these are clearly minority practices.
- As such, we would consider Richland County to be in line with market practices.
- A summary of our findings is shown on the next page.
- While a number of organizations have moved to PTO plans, the transition from traditional programs to PTO programs is not always easy.
 - While PTO plans may be easier to administer for the organization, employees may find it difficult to budget their PTO time to accommodate illness or other unexpected absence.

Benefits: Findings - Other Policies

Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 

Provision – Other Policies	Richland County 2017/18 Plans	Rating	Comments
Adoption Benefits	Currently Not Offered		Not offered by a majority of organizations; those that do, usually partially subsidize
Discount Purchase Program	Currently Not Offered		Limited data; a minority practice found in some larger organizations
Employer Scheduled Holidays	12 days		Most common practice is 9 to 10 days
Job Sharing	Currently Not Offered		Limited data, but typically not provided
On-Site Fitness Center	None		Found in a number of organizations, but not a majority practice; where found, may be fully or partially subsidized
Spousal Surcharge	Currently not assessed		Limited data, but most companies do not assess a surcharge
Tobacco Surcharge	Currently not assessed		Limited data, but most companies do not assess a surcharge

Benefits: Recommendations

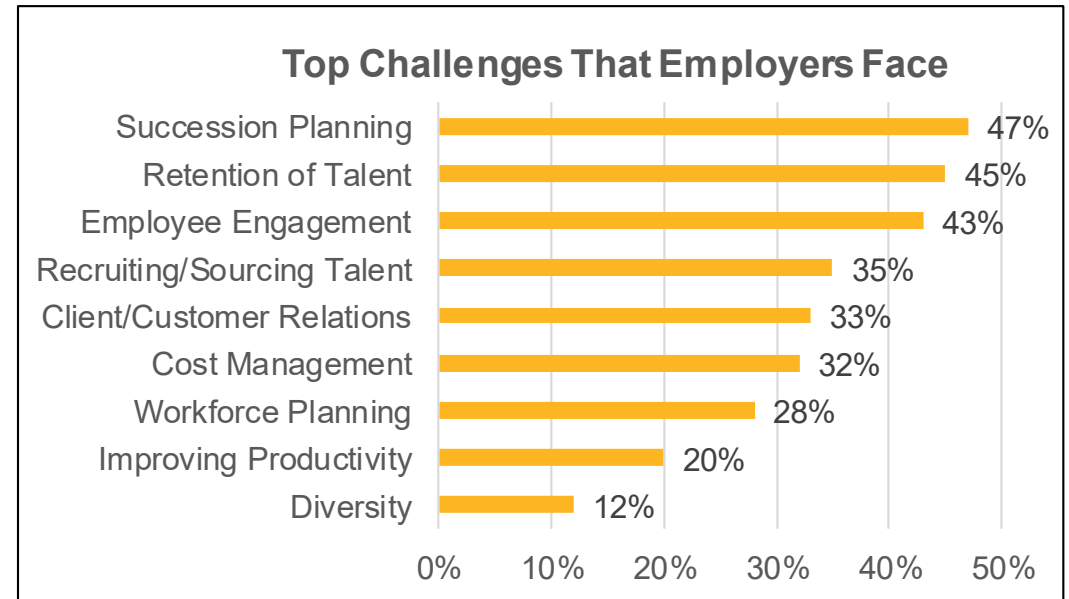
Buck recommends that:

- Richland County review the 90-day benefit eligibility waiting period for Medical, Dental, Vision, and Short-Term Disability programs against typical market practice.
- Richland County review the practice for Flex Time and Paid Maternity Leave relative to market practice.
- Richland County review the benefit duration period for the short-term disability plan, which is slightly lower than market practice.
- Richland County review the AD&D benefit for the employee and spouse, which is generally lower than the market.

Talent Development

Talent Development: Findings

- As part of the Total Rewards Study, Buck examined and assessed Richland County’s Talent Development practices.
- Buck organizes Talent Development into six groupings of human resource processes and programs.
 - Workforce Planning
 - Recruiting and Onboarding
 - Performance Management
 - Reward and Recognition
 - Employee and Leadership Development
 - Diversity and Inclusion
- Grouping human resource practices in this manner provides a systematic approach for assessing the effectiveness and thoroughness of an organization’s talent development practices.
- The six talent development groupings also correspond with the top challenges employers face, according to the *2019 Compensation Planning Survey* conducted by Buck.

















Talent Development: Findings

- Richland County has sound practices in place that address most of the key issues associated with talent development.
- The Richland County groupings that compare favorably to best practices are:
 - Performance Management
 - Reward and Recognition
 - Employee and Leadership Development
 - Diversity and Inclusion
- The Richland County groupings with gaps that may be filled are:
 - Workforce Planning
 - Recruiting and Onboarding
- Feedback from the *Employee Opinion Survey* focused primarily on two groupings of Talent Development – Reward & Recognition and Employee & Leadership Development. Following are summaries of the feedback:
 - Most employees feel neither strongly positive nor strongly negative about the amount of recognition they receive, including from RC leadership.
 - Employees generally feel positive about the effectiveness of their managers' coaching and oversight.
 - Most employees also express positive sentiment about the learning and development opportunities available to them, but indicated they would value having even more of these opportunities.

Talent Development: Findings




The following table summarizes the assessment of Richland County’s Workforce Planning and Recruiting & Onboarding practices.









Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 

Talent Development Features	Rating	Source for Richland County Practice	Comments
Workforce Planning			
Headcount forecasting			Consider developing a formal process
Creating new jobs			Consider developing a formal process
Job analysis and evaluation			Consider developing a formal process
Requisition process		Employee Handbook Hiring/Recruiting	Consider developing a formal process
Recruiting & Onboarding			
Sourcing Talent			Consider developing a policy
Interview and selection process			Consider developing a formal process
Job offer approvals			Consider developing a formal process
I-9 verification			Likely exists, needs confirmation
Day 1			Consider developing a formal process
Orientation		Richland County University - New Employee Training	
Probationary period		Employee Handbook - Employment, Probationary Period	

Talent Development: Findings




The following table summarizes the assessment of Richland County’s Reward & Recognition and Performance Management practices.










Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 

Talent Development Features	Rating	Source for Richland County Practice	Comments
Reward & Recognition			
Pay-for-Performance		Richland County HR Guidelines – Compensation Plan and Performance Enhancement Plan (PEP)	
Non-cash Performance Award		Golden Apple Award	Consider more criteria
Service Awards		Longevity Bonus Pay	
Spot Awards			Consider adding
Performance Management			
Performance Planning, Review, Evaluation		Employee Handbook - Performance Evaluations, Performance Enhancement Program (PEP)	
Discipline policy and procedure		Employee Handbook - Employee Performance, Discipline	
Sexual Harassment		Richland County HR Guidelines - EEO and Harassment	Verify that it is current
Attendance		Employee Handbook - Employee Relations, Attendance; Richland County HR Guidelines - Attendance	

Talent Development: Findings




The following table summarizes the assessment of Richland County’s Employee & Leadership Development practices.


Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 

Talent Development Features	Rating	Source for Richland County Practice	Comments
Employee & Leadership Development			
Internships		Internship Program	
Job Training		Richland County HR Guidelines – Training and Development; Richland County University	
Skill and competency training		Richland County HR Guidelines – Training and Development; Richland County University	
Certifications		Richland County University - The Training Plan	Consider adding to Current Employees
Tuition assistance		Employee Handbook - Tuition Assistance Plan	
Promotions		Employee Handbook- Compensation, Wage & Hours of Work - Personnel Actions	
Career Development		Richland County University - Career Planning and Development Course	Consider developing a formal process
Succession Planning		Richland County University - Succession Development Course	Consider developing a formal process
Mentoring		Richland County University - Coaching and Mentoring Others Course	Consider developing a formal program

Talent Development: Findings

The following table summarizes the assessment of Richland County’s Diversity & Inclusion practices.

Gap that may need to be filled  Verify or consider improvement  Consistent with best practices 

Talent Development Features	Rating		Source for Richland County Practice	Comments
Diversity & Inclusion				
Diversity & Inclusion			Employee Handbook - Diversity, Richland County HR Guidelines - Diversity; Richland County University - Supervisor, Management & Leadership Training - Advanced Civility and Inclusion	

Talent Development: Recommendations

Buck recommends that:

- Richland County develop formal processes in the areas of Workforce Planning and Recruiting and Onboarding.
- Richland County should continue to offer flexible work schedules to employees where appropriate.
- Richland County should continue to offer training opportunities both at the county level and within departments to foster career development.

Next Steps

Next Steps

Summary Report of Findings (this report):

- January 11, 2019: Richland County provide feedback on draft summary report of findings to Buck.
- January 25, 2019: Buck provide Richland County with updates to draft report of findings.
- February 1, 2019: Richland County provide final feedback on 2nd draft report of findings.
- February 8, 2019: Buck provide Richland County with FINAL report of findings.

Train the Trainer PowerPoint Presentation on Total Rewards Study Findings (20 slide presentation):

- January 11, 2019: Buck and Richland County meet to discuss training content, exhibits.
- January 18, 2019: Buck present Richland County with draft training document.
- January 25, 2019: Richland County provide feedback on draft training document.
- February 1, 2019: Buck present Richland County with FINAL training document.
- Week of February 11, 2019: Buck present Train-the-Trainer session to participants selected by Richland County.
 - Four-hour block that Richland County may break into 2 x 2-hour sessions or 1 x 4-hour session.
 - Richland County to determine onsite or via WebEx.

Appendices

Appendix A: Catalog of Deliverables

Buck has delivered the following final reports of findings across each project element, the results of which have been summarized in this report of findings:

- Compensation Documents
 - Richland County Market Analysis 101818 (PDF)
 - Richland County Survey Match Detail (Excel)
- Salary Structure Documents
 - RC Salary Structure Alternatives Discussion Guide 10192018 (PDF)
 - RC Structure Report 121818 (PDF)
 - RC Structure_Ees Under Min Over Max 121818 (Excel)
 - RC Job Leveling and Slotting Process 121418 (PDF)
 - RC Salary Structure Administration 121818 (PDF)
 - RC Compensation Program Detail 121919 (Excel)
- Career Architecture Documents
 - FINAL Richland County Career Architecture Leveling Guide (PDF)
 - Richland County Career Architecture Training 082118 (PDF)
- Employee Engagement
 - RC Employee Engagement – Survey Findings Report-181018 final (PDF)
 - RC Results by Dept (Excel in Zip File)
- 2018 Richland County Custom Total Rewards Survey_Client(PDF)

Appendix B: Glossary of Terms

Term	Definition
Compensation Program	
Benchmark Job	Benchmark jobs exist both within the organization and are prevalent in the labor market (not every job is a “benchmark” job) with duties comparable to jobs in other organizations. When identifying benchmark jobs we seek to capture a large percentage of employees within the organization.
Job Analysis	Job analysis is the study of a job to determine which activities and responsibilities it requires, its relative importance to other jobs, the personal qualifications necessary for performance of the job and the conditions under which the work is performed.
Job Classification	Job Classification is a process used to differentiate between jobs on the basis of tasks, duties and responsibilities involved while performing the job. It takes into account the knowledge, skills and abilities that an employee requires to perform the job.
Job Description	A job description is an internal document that clearly states the essential job requirements, job duties, job responsibilities, and skills required to perform a specific role.
Job Evaluation	An assessment of the relative worth of various jobs on the basis of a consistent set of job and personal factors, such as qualifications and skills required.
Job Title	A job title is a simple description that refers to the responsibilities of a job and the level of the position.
Labor Market	Defines the organizations within specific industries and/or regions against which an organization competes for talent.
Market Analysis	The process of assessing the degree to which an organization’s salaries are competitive compared to their labor market(s).
Salary Structure	The Salary Structure is made up of salary grades and salary ranges. A salary structure is the foundation for administering base salary within an organization.
Salary Grade	Salary Grades provide a framework for compensation by defining the amount of pay available at each step in the employment process.
Salary Range	Salary Ranges set the upper and lower bounds of possible compensation for individuals whose jobs fall in a pay grade. A pay range is created for each grade.

Appendix B: Glossary of Terms

Term	Definition
Compensation Program, cont.	
Salary Grade Minimum	The lowest established salary that may be paid to an employee that meets the minimum qualifications for the position in that salary grade.
Salary Grade Midpoint	The salary grade midpoint is typically the middle of the salary range and is tied to the target market based on the organization's compensation philosophy (e.g. 50th percentile).
Salary Grade Maximum	The highest salary that may be paid to an employee in that salary grade. Generally, employees should not be paid above maximum.

Term	Definition
Career Architecture	
Career Architecture	Career Architecture is a talent management tool that ensures the consistent leveling of jobs across the organization in support of career development, internal equity and hierarchy definitions.
Career Grouping	Broad job groupings that have specific characteristics and career/leveling progressions (Management, Knowledge Worker, Administrative Support, Technical and Trades, and Public Safety).
Career Grouping: Management	Achieves objectives primarily through the coordinated achievements of direct reports. Requires formal supervisory responsibility. Manages units of varying size and complexity.
Career Grouping: Knowledge Workers	Professional level individual contributors. Typically without formal supervisory responsibility. Have mastered the essential, core knowledge.
Career Grouping: Administrative Support Staff	Office support, process and organization delivery. Skills are acquired through vocational education and/or apprenticeships, certifications, and specialized or on-the-job training. No formal supervisory responsibility.
Career Grouping: Technical and Trades Employees	Operational and technical service delivery. Skills are acquired through vocational education and/or apprenticeships, certifications, and specialized or on-the-job training. No formal supervisory responsibility.
Career Grouping: Public Safety Employees	Enforces and/or complies with federal and state laws and County ordinances relating to public safety and welfare. Skills are acquired through vocational education and/or apprenticeships, certifications, and specialized or on-the-job training. No formal supervisory responsibility.

Appendix B: Glossary of Terms

Term	Definition
Career Architecture, cont.	
Career Ladder	Career ladders are the progression of jobs in an organization's specific occupational fields ranked from highest to lowest based on level of responsibility and pay.
Career Level	Career Levels define the hierarchical position of jobs within a Career Grouping based on the degree of scope and responsibility required for each job.

Appendix C: Benefits Review Survey Sources

Benefits currently provided at Richland County were compared to general market practices using the following benchmark reports:

- Willis Towers Watson General Industry Employee Benefit Policies and Practices 2016 Report: (Southeast Region - Population Size Under 2,500 Employees)
- ADP Annual Health Benefits Report: 2016 Benchmarks and Trends for Large Organizations
- Mercer National Survey of Employer-Sponsored Health Plans 2016 Survey Report: (South Region- Large Employers - 500 or More Employees)
- The Kaiser Foundation and Health Research & Educational Trust: Employer Health Benefits 2017 Annual Survey, (Large Firms - 200 or More Workers)
- Economic Research Institute Benchmarking Survey: 2016 Health Care Benefits, Southeast Region
- International Foundation of Employee Benefit Plans: 2016 Employee Benefits Survey (Public Employers)
- Society for Human Resource Management: 2017 Employee Benefits (Large Employers - 2,500 or More Employees)



Discussion:

Experimental Aircraft Association (EAA) Chapter 242, also known as Palmetto Sport Aviation, is a pilot organization based at the Jim Hamilton – LB Owens Airport (CUB). They are an extremely active chapter of the national organization that promotes aviation.

The officers of EAA-242 have requested to host a “drive-in” movie style event at the airport to which guests would be able to fly (or drive) to the airport to watch an aviation-themed movie on the evening of Saturday, April 27th. The movie would be viewed out-of-doors.

Following the movie, EAA-242 has requested permission to permit visitors to camp overnight at the airport.

- The Airport Operations Manual does not address (nor prohibit) overnight camping at the Airport.
- The Airport Terminal Building is staffed and open from 6:00 a.m. through 10:00 p.m. Sunday through Saturday. There are no airport employees (County or FBO) routinely on site when the airport terminal is closed.
- Though the terminal building is closed, the airport runway and taxiway are available for use around-the-clock.
- This would be a sanctioned EAA Chapter event and would be covered by their chapter insurance policy.
- The officers of the EAA chapter, who are also airport tenants, would supervise the event. The officers would also remain on site overnight.
- City of Columbia Police Department staff will be advised of the event.

The Richland County Airport Commission conducted an electronic meeting to consider this request. Their recommendation is attached to this briefing document.

Mr. Larry Smith, County Attorney, has reviewed the request. He indicates it is a management/policy decision whether to make the airport available for this event. Should the Council decide to make the property available, the following should be considered:

- The use needs to be subject to an agreement regarding its use; subject to an Indemnification and Hold Harmless Agreement (HHA).
- If such use will create a precedence for such future activities at the airport.

Finally, Ms. Brittney Hoyle-Terry, Risk Management Director, offered the following:

- Overnight use of a County facility by members of the public is not free from liability exposure, even if the party provides proof of insurance coverage.
- There are concerns about the precedent this sets for future events at the airport as well as other County facilities.
- If the decision is made to allow such use, a formal agreement should be in place.

Attachments:

1. Richland County Airport Commission recommendation
2. Hold Harmless Agreement

EAA Chapter 242 Fly-In Movie and Overnight Event at KCUB Email Voting Results	
<i>RCAC recommends to County Council that the April 27, 2019 movie and camping event planned by EAA 242 on an approved and designated area of KCUB be approved by County Council with the following stipulations:</i>	
<i>Richland County Airport Commission, working with the Airport General Manager, develop an appropriate policy regarding overnight stays and activities at the Jim Hamilton – LB Owens Airport.</i>	
<i>The event specified be supervised, including overnight activities by an appropriate member of and as designated by the EAA, Chapter 242.</i>	
John Parrish	In Favor
Mike Kelly	In Favor
Stuart Hope	In Favor
Cecil D. Hannibal	No Reply
Lindsey F. Ott, PhD	In Favor
Tally Parham Casey	In Favor
Tim Mosseau	In Favor
Emerson Smith	In Favor
Joel McCreary	In Favor
In Favor	8
Not In Favor	0
No Reply	1
Motion Carries	Yes
Validated by Joel McCreary, Chair, Richland County Airport Commission on April 8, 2019	

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cc: eversmann@rcgov.us

STATE OF SOUTH CAROLINA)
) **AGREEMENT AND HOLD HARMLESS**
COUNTY OF RICHLAND)

THIS HOLD HARMLESS AGREEMENT, hereinafter “Agreement”, is dated as of the _____ day of _____ and is made by and between the undersigned parties.

WHEREAS, Richland County owns and operates the Jim-Hamilton-LB Owens Airport (“Airport”); and

WHEREAS, the Officers of Experimental Aircraft Association (EAA) Chapter 242 also known as Palmetto Sports Aviation (“EAA”); and

WHEREAS, the EAA would like to host a recreational event (“Event) on Saturday April, 27, 2019 and Sunday April 28, 2019, at the Airport, including an outdoor movie and overnight camping;

NOW, THEREFORE, for and in consideration of the mutual covenant below, the sufficiency of which is hereby acknowledged, EAA and Richland County agrees as follows:

1. Richland County agree to allow EAA to perform the following activities on the Airport property:

Viewing of a movie for entertainment purposes and overnight camping thereafter;

2. EAA and its guests, invitees, and participants of any kind agree to:

On-site supervision of the event by a designated EAA Chapter Officer;

No open fires, use of stoves, or outdoor cooking;

Compliance with established airport security and safety procedures;

Only camping in designated, approved areas;

Restoration of the site and police of all trash will be completed following the event;

Check out with on-site Airport Staff upon completion of the event.

3. Prior to commencing activities hereunder, EAA, at its own expense, shall obtain and maintain, throughout the duration of this Agreement, all such insurance as required by the laws of the

State of South Carolina, and minimally the below listed insurance. Such insurance shall be issued by a company or companies authorized to do business in the State of South Carolina and Richland County, and must have a Best Rating of A-, VII or higher. This agreement sets forth minimum coverages and limits and is not to be construed in any way as a limitation of liability on EAA.

EAA shall maintain a commercial general liability insurance policy on an occurrence basis with limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury, property damage, and personal injury.

EAA shall furnish Richland County at the below address with certified copies of certificates of insurance a minimum of five (5) calendar days prior to the event. Richland County, Attn: Risk Management, PO Box 192, Columbia, SC 29202. Richland County shall be named on the policies as certificate holder.

EAA shall provide Richland County thirty (30) calendar days' notice in writing of any cancellation, non-renewal or reduction in coverage, or any other material policy change.

4. Upon the execution of this Agreement, Officers of Experimental Aircraft Association (EAA), for itself and its predecessors, successors, executors, administrators, assigns, legal representatives, affiliated companies, agents, officers, directors, shareholders, attorneys and partners, does hereby release, hold harmless, indemnify and defend Richland County, its employees, agents, administrators, assigns, their predecessors, successors, agents, officers, directors, legal representatives, affiliated companies, attorneys and partners, of and from any and all claims, demands, damages, attorneys' fees, costs, actions, cause of action, or suit in law or equity of whatsoever kind or nature whether heretofore or hereafter accruing or whether now known or not known to the parties, for or because of any matter or thing done, admitted or suffered for or on account of or in connection with the use by EAA of the Airport for the Event, excluding however, those claims, costs, expenses, injuries, damages and liabilities which arise or accrue as the result of the negligence or misconduct of Richland County, its agents or employees.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under seal as of the date first above.

IN THE PRESENCE OF:

Witness

**Officers of Experimental Aircraft
Association (EAA) Chapter 242**

By: _____

Its: _____

Witness

Richland County

By: _____

Its: _____



Agenda Briefing

To: Chair Paul Livingston and Honorable Members of Council

Prepared by: Stephan S. Staley, PE, County Engineer

Department: Public Works

Date Prepared: April 10, 2019

Meeting Date: April 16, 2019

Approved for Council consideration: Acting County Administrator | John Thompson, Ph.D., MBA, CPM

Subject: City of Columbia: Permission to Survey - SS7462 Verch Locke Sewer Lift Station Area

Recommended Action:

Staff recommends granting permission for the City of Columbia to perform its survey and soil sampling.

Motion Requested:

Move to approve staff's recommendation to grant permission to the City of Columbia to perform its survey and soil sampling.

Request for Council Reconsideration: Yes

Fiscal Impact:

There is no fiscal impact as no County funds will be used.

Motion of Origin:

N/A

Council Member	
Meeting	
Date	

Discussion:

The City of Columbia is performing a study involving various properties near the Versch Locke Sewer Lift Station, and has requested to perform survey work and soil testing on a portion of property owned by Richland County.

The City of Columbia owns and maintains a 30 foot sanitary sewer outfall line on these properties. The proposed survey will examine the condition of the line for any necessary rehabilitation or replacement. The City may take soil samples in the area to determine if the line has leaks. Soil samples will also help with the design of a new line if the current line cannot be rehabilitated.

Attachments:

1. Correspondence from the City of Columbia

CITY OF COLUMBIA
DEPARTMENT OF ENGINEERING
REAL ESTATE DIVISION

Attachment 1



P O Box 147 | Columbia, SC | 29217 | 803-545-3400

March 29, 2019

RE: Permission to Survey and Soil Testing
and along a portion of property located on the
south side of Pineview Road; China Jushi
USA Facility
Project Number: SS7462

Transmittal by Email

Attn: Stephen S. Staley, P.E.
County Engineer
Richland County
400 Powell Road
Columbia, SC 29203

Dear Mr. Staley:

The City of Columbia is performing a study involving various properties near the Versch Locke Sewer Lift Station and as part of the study it is necessary to perform survey work and soil testing on a portion of property which is understood to belong to you. The property is identified as Richland County TMS#16200-03-21 as shown on attached tax map.

Your permission is required to send staff and equipment on your property to perform the necessary survey work and soil testing. No trees will be cut or other physical damages inflicted to your property or its improvements. However, it may be necessary to clear underbrush in the survey area.

Please indicate your approval by signing the permission statement below, provide contact information for future communications, and return the letter to me by email to gale.nash@columbiasc.gov. Please keep a copy of this letter for your records.

Should you have any questions concerning this matter or should problems arise while the work is being conducted, please do not hesitate to contact me at (803) 545-3231.

Sincerely,
Gale Nash
Gale Nash
Real Estate Division Manager

I hereby grant permission for access on the property described above for the purposes stated.

RICHLAND COUNTY

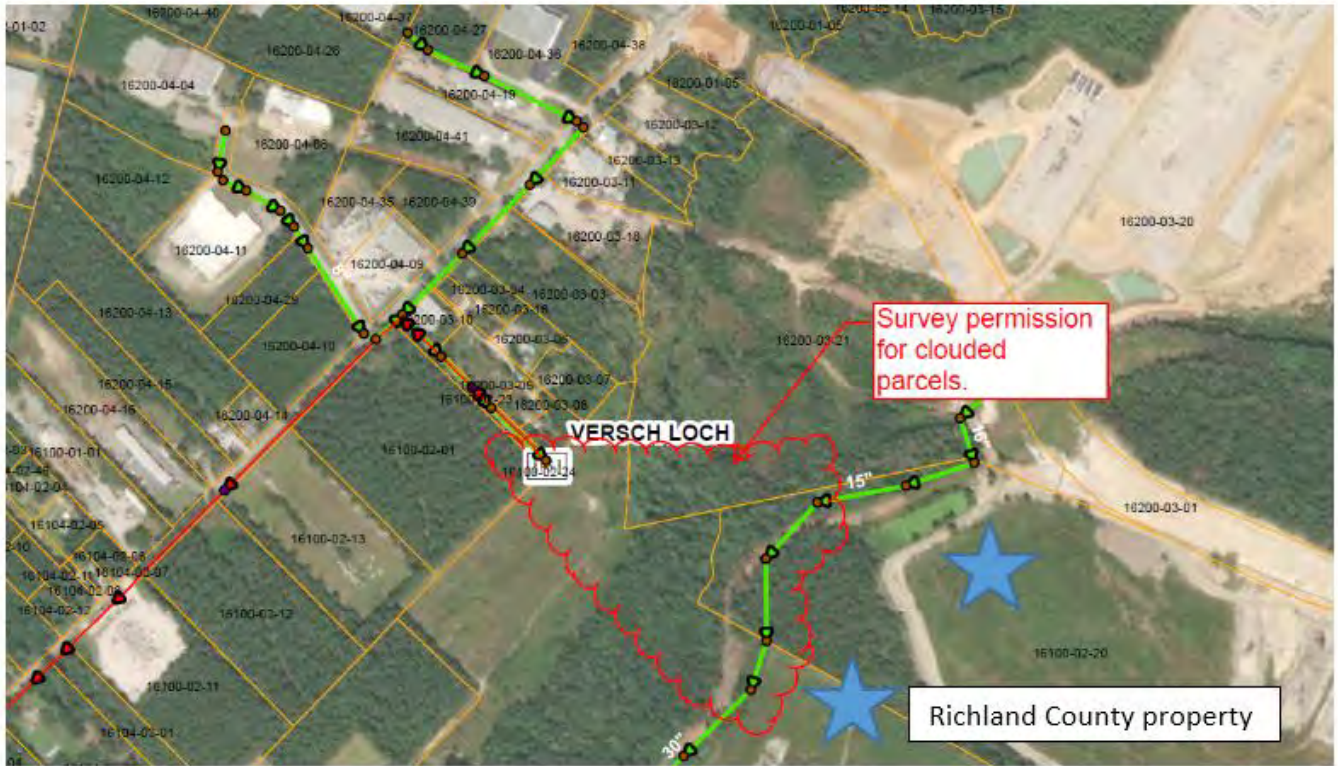
Date

BY: _____

NAME: _____

TITLE: _____

Exhibit "A"





Agenda Briefing

To: Chair Paul Livingston and Honorable Members of the Council

Prepared by: Michael Niermeier, Director

Department: Transportation

Date Prepared: April 11, 2019

Meeting Date: April 16, 2019

Approved for Council consideration:	Acting County Administrator	John Thompson, Ph.D., MBA, CPM
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Subject:	Transportation Penny Program Transition Update
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The Transportation Department continues following the transition schedule and evaluating each step for assuming program management responsibility and compliance with DOR Guidelines. Key activities from the past two weeks include the following:

A. Transition Coordination:

1. Weekly meeting with PDT to discuss matters pertinent to the execution of the program.
2. Transfer of key document to the County via FTP site. Currently reviewing the transferred files and organizing them into our file system.
3. Initial meeting with finance and procurement to discuss and identify resources needed for the increased number of bid packages and procurement actions. This discussion included time accounting.

B. Logistics:

1. Design complete for Transportation Department space in the 2009 Hampton Street facility.
2. Time clock system order submitted.
3. Budget transfer complete and requisition submitted to procurement for new vehicle purchase.
4. Inventory of program equipment completed. List submitted to procurement for cross-check of items reimbursed for with Penny funds.
5. Met with IT at the 2009 Hampton Street facility to begin identification and planning of network needs.

C. Recruitment:

- a. Meeting held with the University of South Carolina Employment Services to discuss recruiting opportunities through their alumni and student recruiting portal and outreach events at the School of Engineering.
- b. Account established with Work Force Development to post open positions and search resumes.

D. Internal:

- a. Continue to develop the phase-in/phase-out guidance for PDT to ensure they are resourced appropriately through the end of the period of performance. This guidance identifies where the County will need to align resources to assume the increase in project management and other functions.

- b. Developing a crosswalk between PDT functions (PM, CRM, CEI) and current County resources. This task analysis of job and functions assist in identification of gaps that require resourcing.
 - c. Met with County Legal Department to review the DOR Guidelines from the viewpoint of transition.
 - d. Currently reviewing and updating the statement of work for the new On-call Engineering Team procurement action.
- E. Public Information
- a. Transportation presented at an OSBO event providing information on the transition and to answer questions from the small business community present.

Upcoming:

1. Meeting with HRD to review the comprehensive recruiting efforts
2. Meeting with Transportation, PDT, and Administration to review transition activities and broad concerns
3. Buildout of the 2009 Hampton Street property
4. Submit project phase-in/phase-out guidance to Administration for approval
5. Identify unique storage requirement for specialized equipment
6. Provide a transition update at the next OSBO event in May
7. Installation of attendance management system
8. Final evaluation of software needed for the program and hardware.
9. Property tagging in July time frame
10. Finalize hiring of new personnel
11. Finalizing process for assuming contracts

Richland County Council Request for Action

Subject:

19-001MA
Michael A. Niermeier
RU to OI (33.16 Acres)
Lower Richland Boulevard
TMS # R12700-03-29

Notes:

First Reading: March 26, 2019
Second Reading: April 2, 2019
Third Reading:
Public Hearing: March 26, 2019

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-19HR

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 # R21700-03-29 FROM RURAL DISTRICT (RU) TO OFFICE AND INSTITUTIONAL DISTRICT (OI); 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 # R21700-03-29 from Rural District (RU) to Office and Institutional District (OI).

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 _____, 2019.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2019

Michelle M. Onley
Deputy Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: March 26, 2018
First Reading: March 26, 2018
Second Reading: April 2, 2019
Third Reading: April 16, 2019

Richland County Council Request for Action

Subject:

19-003MA
Anna Fonseca
OI to RS-HD (1.55 Acres)
Farrow Road & Plantation Drive
TMS # R17300-02-22

Notes:

First Reading: March 26, 2019
Second Reading: April 2, 2019
Third Reading:
Public Hearing: March 26, 2019

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-19HR

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 # R17300-02-22 FROM OFFICE AND INSTITUTIONAL DISTRICT (OI) TO RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT (RS-HD); 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 R17300-02-22 from Office and Institutional District (OI) to Residential Single-Family High Density District (RS-HD).

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 _____, 2019.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2019

Michelle M. Onley
Deputy Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: March 26, 2018
First Reading: March 26, 2018
Second Reading: April 2, 2019
Third Reading: April 16, 2019

Richland County Council Request for Action

Subject:

19-005MA
Ray L. Derrick
RU to NC (3.76 Acres)
1012 Bickley Road
R02415-02-01

Notes:

First Reading: March 26, 2019
Second Reading: April 2, 2019
Third Reading:
Public Hearing: March 26, 2019

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-19HR

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 # R02415-02-01 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 # R02415-02-01 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 _____, 2019.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2019

Michelle M. Onley
Deputy Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: March 26, 2018
First Reading: March 26, 2018
Second Reading: April 2, 2019
Third Reading: April 16, 2019

Richland County Council Request for Action

Subject:

19-007MA
Deborah Stratton
RU to NC (2 Acres)
2241 Clemson Road
TMS # R20281-01-24

Notes:

First Reading: March 26, 2019
Second Reading: April 2, 2019
Third Reading:
Public Hearing: March 26, 2019

STATE OF SOUTH CAROLINA
COUNTY COUNCIL OF RICHLAND COUNTY
ORDINANCE NO. ____-19HR

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 # R20281-01-24 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 # R20281-01-24 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 _____, 2019.

RICHLAND COUNTY COUNCIL

By: _____
Paul Livingston, Chair

Attest this _____ day of
_____, 2019

Michelle M. Onley
Deputy Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Public Hearing: March 26, 2018
First Reading: March 26, 2018
Second Reading: April 2, 2019
Third Reading: April 16, 2019

Richland County Council Request for Action

Subject:

An Ordinance Amending the Richland County Code of Ordinances, Chapter 18, Offenses, to add Section 18-7, Public Nuisances; and Amending Chapter 16, Licenses and Miscellaneous Business Regulations, Section 16-18, relative to license suspension and revocation for a business determined to be a public nuisance

Notes:

February 26, 2019 – The committee recommended Council adopt the nuisance ordinance in its proposed form, with any amendments Council may desire.

First Reading: March 5, 2019

Second Reading: April 2, 2019

Third Reading: April 19, 2019 {Tentative}

Public Hearing: April 2, 2019

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ____-19HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES, CHAPTER 18, OFFENSES, TO ADD SECTION 18-7, PUBLIC NUISANCES; AND AMENDING CHAPTER 16, LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS, SECTION 16-18, RELATIVE TO LICENSE SUSPENSION AND REVOCATION FOR A BUSINESS DETERMINED TO BE A PUBLIC NUISANCE.

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.

WHEREAS, on March 5, 2019, pursuant to South Carolina Code of Laws Annotated Section 4-9-130 the governing body of Richland County adopted an emergency ordinance to address violent and other crimes affecting life, health, safety or the property of the people in unincorporated Richland County; and

WHEREAS, in the six (6) months preceding the adoption of the emergency ordinance, there had been seventeen (17) shootings at drinking places and night clubs in unincorporated Richland County; and

WHEREAS, those shootings resulted in ten (10) gunshot victims and one (1) fatality in unincorporated Richland County; and

WHEREAS, of the victims, seven (7) were shot within two (2) months of the adoption of the emergency ordinance; and

WHEREAS, responding to these criminal and other incidents at public nuisance establishments places an unacceptable administrative, logistical and financial burden on the Richland County Sheriff's Department, Richland County Emergency Services and the entirety of the County's public safety agencies, diverting critical resources away from other public safety response efforts arising in the ordinary course, including those responses necessitated by activity that is lawful and not in the nature of a nuisance; and

WHEREAS, Section 4-9-130 and Richland County Code of Ordinances; Chapter 2, Administration, Article II, County Council, Division 2, Ordinances, Section 2-31 provide that an emergency ordinance is effective immediately on the date of adoption and shall expire automatically on the sixty-first day following the date of enactment; and

NOW, THEREFORE, COUNTY COUNCIL pursuant to S.C.Code Ann. Section 4-9-30(14), which authorizes a county governing body to enact ordinances for the implementation and enforcement of the powers granted under Home Rule, Title 4 of the South Carolina Code of Laws, adopts this ordinance.

SECTION II. Richland County Code of Ordinances, Chapter 18, Offenses, is hereby amended to add Section 18-7, Public Nuisances, as follows:

Section 18-7. Public Nuisances.

(a) Definitions.

- (1) *Business* means any commercial establishment, use, property or structure used in or part of a business or commercial use or establishment. *Business* does not include residential property.
- (2) *Continuous breach of the peace* means a pattern of repeated acts or conduct which either (a) directly disturbs the public peace or (b) disturbs the public peace by inciting or tending to incite violence.
- (3) *Public nuisance* means conduct, conditions, events, circumstances, or the unreasonable interference or the causing of unreasonable interference with rights of the public, wherever occurring, including, but not limited to, a business or commercial establishment, a public place, or where the public congregates or is invited or permitted to congregate.

Public nuisance includes those conditions or circumstances constituting a nuisance as set forth in S.C.Code Ann. Section 15-43-10; specifically, the construction, establishment, continuance, maintenance, use, ownership, occupation, the leasing or releasing of any property, building or other place used for the purposes of lewdness, assignation, prostitution, human trafficking, repeated acts of unlawful possession or sale of controlled substances, or continuous breach of the peace.

Public nuisance also includes and is founded upon the sound principle set forth in South Carolina case law that "if one maintains a place where the laws are publicly, repeatedly, persistently, and intentionally violated, then such place would become a common or public nuisance." *State v. Turner*, 198 S.C. 499, 505, 18 S.E.2d 376, 378 (1942).

(b) Nuisances offending public decency, peace and order.

The following are hereby declared to be public nuisances affecting public decency, peace and order, whether such violations are of an intermittent, cyclical, continual, reoccurring or constant nature; and when the responsible party generates, enables, or contributes to the occurrence of the unlawful behavior by an absence or failure of property management policy or practice, absence or failure of control over the property, absence or failure of supervision of guests or invitees, or clients, customers, patrons, or any other person

providing some form of compensation for some type of product or service, or absence or failure of security measures:

- (1) Any business where gambling devices, slot machines, punch boards and other such contrivances of similar character involving any elements of chance as a consideration or any type of gambling, bookmaking, wagering or betting is carried on, and all gambling equipment, except where such specific form of gambling is permitted by law;
- (2) Any business operated as a bawdy house, house of assignation, place of prostitution or used and maintained for the commercial or criminal purposes of unlawful sexual activity or human trafficking in violation of federal or state law or local ordinances;
- (3) Any business where alcohol or intoxicating liquors are manufactured, sold, bartered or given away in violation of federal or state law or local ordinances, or where alcohol or intoxicating liquors kept for sale, barter or distribution in violation of federal or state law or local ordinances, and all alcohol, liquors, bottles, kegs, pumps, bars and other property kept at and used for maintaining such a place; or where required fire marshal or other safety plans are not in place, or where persistent violations of law occur under a failed or ineffective fire marshal or other safety plan;
- (4) Any business where acts of sale, manufacture, possession or distribution of controlled substances occur in violation of federal or state law and local ordinances;
- (5) Any business where violations against the federal or state laws or county ordinances occur with such frequency or intensity that they require an excessive public safety response cost. "Excessive public safety response" means:
 - a. The recurring deployment of law enforcement officers, peace or code enforcement officers commissioned pursuant to S.C.Code Ann. Section 4-9-145, fire marshals or emergency services personnel to an emergency scene to a business as a result of an unlawful act which results in or could result in great bodily injury or death, or the recurring need for public safety or county code enforcement personnel or emergency vehicles at a business when compared to the frequency or intensity of law or regulation enforcement required at other similarly situated businesses; or

~~There have been two (2) or more situations at or associated with the business, of unsafe traffic or crowd control issues resulting in the request of emergency assistance or the need for law or code enforcement assistance from an emergency situation during the preceding twelve (12) months; provided, however, this does not include instances when traffic control or crowd control was requested in advance of~~

~~a scheduled event pursuant to an issued permit or prior approval of law or code enforcement or governmental approval authority.~~

b. There have been six (6) or more law or peace officer enforcement Computer Aided Dispatches (CAD), incident reports, citations, or search warrants executed, or a combination thereof, at a business for any of the following during the preceding twelve (12) months:

- i. Violation of any state or local alcohol law;
- ii. Violation of any federal, state or local narcotics law;
- iii. Violation of any state or local gun law;
- iv. Assaults;
- v. Crimes of violence against another person(s); or
- vi. Crimes against property.

(c) Criminal Enforcement. Penalties.

A person who erects, establishes, continues, maintains, uses, owns, occupies, leases, or releases, or serves as lessor or lessee of any building in such a way as to create a public nuisance shall be guilty of a misdemeanor and shall be subject to a fine not exceeding five hundred dollars (\$500.00) and imprisonment not exceeding thirty (30) days. Court costs are not included in any fine imposed by the court.

Each day any violation of this ordinance continues shall constitute a separate offense.

The Richland County Sheriff's Department shall enforce this ordinance with the consultation and concurrence of the County Administrator ("Administrator"). The Richland County Sheriff ("Sheriff") and the Administrator, acting jointly, may declare a business in violation of this ordinance a public nuisance, and the Sheriff or any Deputy Sheriff may enforce the provisions of this ordinance upon the declaration of a public nuisance as provided for herein by uniform traffic ticket, or warrant or by any other lawful process.

(d) Emergency Abatement. Automatic Business License Review.

If in declaring a public nuisance the Sheriff and the Administrator determine that there is imminent danger to the public from the continued operation of the nuisance business the Sheriff is hereby authorized to immediately undertake emergency abatement of the nuisance by securing, shuttering or closing the business constituting or contributing to the nuisance to ensure that all business activity ceases. In so securing, shuttering or closing the business, the Sheriff shall place or cause to be placed on the exterior of the business a

notice that provides: “It shall be unlawful for any person to enter this business except with the express written permission of the Richland County Sheriff’s Department,” Permitted entry after securing, shuttering or closing may at the discretion of the Richland County Sheriff’s Department include inspection by federal, state or local government officials, inventory or retrieval of essential contents by the owner or lessee of the property, or similar circumstance. A business secured, shuttered or closed pursuant to this ordinance shall not resume business operations until permitted under the circumstances of the appeal process set forth herein. This ordinance applies to licensed businesses as well as those businesses that operate or attempt to operate without proper licensing.

(i) Emergency abatement as described herein triggers an automatic notification process and review of the Richland County business license(s) held by the business so abated. That review shall consist of the following:

(1) Upon the exercise of emergency abatement, the Sheriff shall immediately notify the Administrator of the securing, shuttering or closing of business pursuant to this ordinance.

(2) The Administrator shall then immediately a) notify the Richland County Business License Official (“License Official”) and b) give written notice to County Council of the emergency abatement. Written notice as described herein includes e-mail to County Council, unless Council directs a different medium of notice.

(3) Within two (2) calendar days of notice of the securing, shuttering or closing of a business through emergency abatement, the License Official shall determine whether to suspend or revoke or to not suspend or revoke the business license(s) for the business subject to the emergency abatement, pursuant to Richland County Code of Ordinances, Chapter 16, Section 16-18.

(4) In all cases of an emergency abatement as described herein, and regardless of the License Official’s determination pursuant to subsection (3), there shall be an automatic review of the License Official’s determination by the Richland County County Council (“Council”) within seven (7) calendar days of that determination, or as soon thereafter as is practical, without the need for any party to request such review. This review shall constitute an automatic “appeal” of the matter, to be conducted in accordance with the provisions of subsection (e), “Appeals.”

(e) Appeals.

Council’s appeal hearing procedure shall be as follows:

(i) Record on Appeal. The record on appeal shall consist of all documents relevant to the business license(s) and the suspension or revocation thereof as submitted by the License Official and the license holder of the abated business.

(ii) Order of Presentation. The License Official shall have up to fifteen (15) minutes to present relevant, appropriate and non-cumulative testimony. Witnesses, including those from the Richland County Sheriff's Department, may be called, but no witness shall be subject to questioning from the opposing party. Council may question any witnesses.

(iii) The Business subject to emergency abatement have up to fifteen (15) minutes to present relevant, appropriate and non-cumulative testimony. Witnesses may be called, but no witness shall be subject to questioning from the opposing party. Council may question any witnesses.

(iv) The time periods set forth herein may be enlarged at Council's discretion. Neither party is required to use all of that party's time as allotted.

(v) The Chair of County Council shall preside over the appeal, and shall rule on objections or matters of parliamentary inquiry, and in so doing may consult with the Council parliamentarian. The rules of evidence during the appeal shall be relaxed, although irrelevant, immaterial or cumulative testimony or evidence is discouraged and may be ruled out of order by the Chair.

(vi) Neither party shall have the right to cross examine any witnesses or speakers during the appeal, but rather the appeal shall consist of the argument of the parties or their representative(s), and any witnesses that party desires to include in its presentation.

(vii) The Council shall conduct any deliberations on the appeal and shall render its decision in open session. Nothing in this section prohibits County Council from taking a recess, or from entering into executive session as provided for pursuant to the South Carolina Freedom of Information Act, provided that during such recess or executive session, the merits of the appeal are not discussed.

(viii) A decision rendered by County Council pursuant to this ordinance shall constitute a final decision of the County.

(f) Remedies not exclusive.

The provisions of this ordinance are in addition to, and not in lieu of, any other enforcement provision or process permitted by law. Nothing in this ordinance supplants, alters, or limits a statutory or common law right of a person to bring an action in court or the right of Richland County to prosecute a person for the establishment of a nuisance.

SECTION III. Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations, Section 16-18, is hereby amended as follows:

Section 16-18. Suspension or Revocation.

When the License Official determines that:

- (a) a license has been mistakenly or improperly issued or issued contrary to law; or
- (b) a licensee has breached any condition upon which the license was issued or has failed to comply with any provision of this article; or
- (c) a licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application;
- (d) a Licensee or person in control of the business is delinquent in the payment to the County of any tax or fee (if not on a payment plan in good standing for that tax or fee); or
- (e) within five years from the date of application, a Licensee or the person in control of the business has been convicted of any crime(s) or offense(s) under South Carolina Code of Laws, Title 16, Crimes and Offenses, Chapter 13, Forgery, Larceny, Embezzlement, False Pretenses and Cheats; Chapter 14, the Financial Transaction Card Crime Act; or South Carolina Code of Laws, § 39-15-1190, Sale of Goods or Services with a Counterfeit Mark; or the same crime or offense in another jurisdiction; or
- (f) within five years from the date of application, the applicant, Licensee or prior Licensee or the person in control of the business has been convicted of any crime(s) or offense(s) relative to the operation of a sexually oriented business as provided for in the Richland County Code of Ordinances; or the same crime or offense in another jurisdiction; or
- (g) a Licensee or person in control of the business has engaged in an unlawful activity related to the business or to a similar business in the County or in another jurisdiction; or
- (h) the business activity for which a license was obtained has proven to be a public nuisance as determined by a court of law; or
- (i) the business has proven to be a public nuisance as determined by a court of law or pursuant to Richland County Code of Ordinances, Chapter 18, Offenses, Section 18-7, Public Nuisances;

Except for licenses suspended or revoked pursuant to 16-18(i), the License Official shall give written notice of intent to suspend or revoke to the licensee or the person in control of the business within the County by personal service or certified mail stating the License Official's basis for suspension or revocation and setting forth a date and time for a hearing before the Business Service Center Appeals Board for the purpose of determining whether the license should be suspended or revoked. The hearing shall be held within thirty (30) days from the date of service of the notice. A licensee who received proper notice yet fails to appear or defend at the suspension or revocation hearing waives his or her right to contest the revocation.

In cases of a license suspended or revoked pursuant to 16-18(i) which results in the securing, shuttering or closing of an establishment that is required to have a business license, the process set forth in Richland County Code of Ordinances, Chapter 18, Offenses, Subsection 18-7(e), Public Nuisances, shall be the exclusive appeal remedy.

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

SECTION VI. Effective Date. This ordinance shall be effective from and after _____, 2019.

RICHLAND COUNTY COUNCIL

BY: _____
Paul Livingston, Chair

ATTEST THIS THE ____ DAY
OF _____, 2019.

Kimberly Williams-Roberts
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

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

Richland County Council Request for Action

Subject:

An Ordinance Authorizing, pursuant to Title 12; Chapter 44, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a fee agreement between Richland County, South Carolina and Amcor Rigid Plastics USA, LLC, a limited liability company organized and existing under the laws of the State of Delaware concerning a new project; authorizing and providing with respect to an existing project for the conversion of an arrangement for fee-in-lieu of tax payments between Richland County and Amcor Rigid Plastics USA, LLC under Title 4, Chapter 12, South Carolina Code of Laws, 1976, as amended, to an arrangement under Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended; and matters relating thereto

Notes:

First Reading: March 5, 2019
Second Reading: March 19, 2019
Third Reading: April 19, 2019 {Tentative}
Public Hearing: April 19, 2019

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

AN ORDINANCE AUTHORIZING, PURSUANT TO TITLE 12, CHAPTER 44, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND AMCOR RIGID PLASTICS USA, LLC, A LIMITED LIABILITY COMPANY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE CONCERNING A NEW PROJECT; AUTHORIZING AND PROVIDING WITH RESPECT TO AN EXISTING PROJECT FOR THE CONVERSION OF AN ARRANGEMENT FOR FEE-IN-LIEU OF TAX PAYMENTS BETWEEN RICHLAND COUNTY AND AMCOR RIGID PLASTICS USA, LLC UNDER TITLE 4, CHAPTER 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, TO AN ARRANGEMENT UNDER TITLE 12, CHAPTER 44, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED; AND MATTERS RELATING THERETO.

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 ("*FILOT Act*"), Code of Laws of South Carolina, 1976, as amended ("*Code*"), 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, South Carolina more particularly known as I-77 Corridor Regional Industrial Park ("*Park*");

WHEREAS, Amcor Rigid Plastics USA, LLC (as the successor to Schmalbach Lubeca Plastic Containers USA, Inc.), a limited liability company organized and existing under the laws of the State of Delaware ("*Sponsor*"), together with a developer partner ("*Developer*"), has made significant prior investments in the County, and in connection therewith, pursuant to Title 4, Chapter 12 ("*Old FILOT Act*") of the Code, the Sponsor entered into an October 5, 1999 Inducement and Millage Rate Agreement with the County and a December 2, 1999 Fee-in-Lieu of Taxes Lease Agreement with the County ("*1999 Sponsor FILOT Agreement*") concerning certain personal property, and the original Developer, Quatro Mid-Atlantic Resources III, LLC ("*Quatro*") also entered into an October 5, 1999 Inducement and Millage Rate Agreement with the County and a December 2, 1999 Fee-in-Lieu of Taxes Lease Agreement with the County ("*1999 Developer FILOT Agreement*") concerning certain real property, which two Developer Agreements, as the result of a subsequent assignment by Quatro and a subsequent "conversion" Agreement, have been replaced by a June 23, 2011 FILOT Agreement between a new Developer, Exeter 1080 Jenkins Brothers, LLC and the County ("*2011 Developer FILOT*");

Agreement”) (collectively, the Agreements referenced in this paragraph are referred to herein as the “*Prior Agreements*” and the property subject to the 1999 Sponsor FILOT Agreement is referred to herein as the “*Original Project*”);

WHEREAS, the Sponsor has leased, and continues to lease, a manufacturing facility from the Developer in the County;

WHEREAS, to date, the Sponsor and the Developer have exceeded the \$80 million investment target and the 40 job employment target set forth in the Prior Agreements, and have invested a total of approximately \$99 million in the County and currently employ approximately 114 people in the County;

WHEREAS, the Sponsor desires to expand its investment at the manufacturing facility in the County (the “*Expansion Project*”), which Expansion Project will consist of Sponsor’s taxable investment in personal property and possibly real property, and is anticipated to be an investment of up to \$19 million over a five-year period;

WHEREAS, (i) the 1999 Sponsor FILOT Agreement and the 1999 Developer FILOT Agreement (as “converted” by the 2011 Developer FILOT Agreement) each provide for a 20-year term (“*Exemption Period*”) during which property placed in service under each of those Agreements will receive the fee-in-lieu of tax benefits provided thereunder; and (ii) by a Resolution adopted on December 4, 2018 (“*Resolution*”), County Council granted a 10-year extension of the Exemption Periods under each of those Agreements, for a total Exemption Period under each such Agreement of 30 years;

WHEREAS, by the Resolution, County Council also agreed to enter into a new FILOT Agreement (“*New FILOT Agreement*”) with the Sponsor with respect to the Sponsor’s future investments in the County, the form of which proposed New FILOT Agreement is attached hereto as Exhibit A;

WHEREAS, the Sponsor desires to utilize the provisions of the FILOT Act to continue to receive fee-in-lieu of tax benefits with respect to the Original Project without the County having title to any portion thereof;

WHEREAS, the FILOT Act provides, at Section 12-44-170 (the “*Conversion Provision*”) that an entity with property subject to a FILOT arrangement under the Old FILOT Act, in connection with which title is held by the County, may elect with the consent of the County to convert from such Old FILOT Act arrangement to an arrangement under the FILOT Act in which title is held by such entity, and such property will automatically be considered “economic development property” for purposes of the FILOT Act;

WHEREAS, the County desires, pursuant to the Conversion Provision, to enter into a “conversion” FILOT Agreement with the Sponsor (the “*Conversion FILOT Agreement*”) with respect to the Original Project and, in connection therewith, to convey to the Sponsor the County’s right, title, and interest in and to the Original Project; and

WHEREAS, the proposed form of the Conversion FILOT Agreement, which is attached hereto as Exhibit B, relating to the Original Project has been prepared and presented to the County in order (i) to satisfy the requirements of the Conversion Provision, (ii) to make certain

amendments to update the terms of the 1999 Sponsor FILOT Agreement as necessary or appropriate, and (iii) to reflect the extension of the term of that Agreement, as converted, by 10 years as approved by the Resolution.

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 Expansion Project based on relevant criteria including, the purposes the Expansion Project is to accomplish, the anticipated dollar amount and nature of the investment, and the anticipated costs and benefits to the County, and hereby finds:

(a) The Expansion 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 Expansion 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 Expansion Project are proper governmental and public purposes and the benefits of the Expansion Project to the public are greater than the costs.

(d) The execution of the New FILOT Agreement and the Conversion FILOT Agreement (collectively, the "***FILOT Agreements***") will provide a substantial public benefit by supporting and encouraging the Sponsor to maintain its investments and related employment in the County and to make additional investments.

Section 2. *Approval of Incentives; Authorization to Execute and Deliver FILOT Agreements and Related Documents.*

(a) The incentives as described in this Ordinance ("***Ordinance***") and as more particularly set forth in the FILOT Agreements are hereby approved. The form, terms and provisions of the FILOT Agreements that are before this meeting are approved and all of the FILOT Agreements' terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council ("***Chair***") is authorized and directed to execute the FILOT Agreements 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 FILOT Agreements and to deliver the FILOT Agreements to the Sponsor.

(b) With respect to the Original Project, the County, pursuant to the FILOT Act, hereby expressly recognizes, consents to, approves and ratifies for any and all purposes (i) the conversion of the Sponsor's arrangement under the Old FILOT Act to an arrangement under the FILOT Act; and (ii) the transfer of title to the Original Project back to the Sponsor and to the cancellation of the 1999 Sponsor FILOT Agreement and the related October 5, 1999 Inducement and Millage Rate Agreement (to the extent said agreements are not cancelled by operation of law) without further payment to the County thereunder.

Section 3. *MCIP Ratification and Expansion.* The County ratifies the inclusion of the Original Project in the Park, and to the extent any portion of the Original Project or the Expansion Project is not included in the Park, the County authorizes and approves the expansion of the Park boundaries to include the Original Project and the Expansion Project. 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 Original Project and the Expansion 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, 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 Sponsor under this Ordinance and the FILOT Agreements.

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

First Reading: March 5, 2019
Second Reading: March 19, 2019
Public Hearing: April 16, 2019
Third Reading: April 16, 2019

EXHIBIT A
FORM OF NEW FEE AGREEMENT

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

BETWEEN

AMCOR RIGID PLASTICS USA, LLC

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF

APRIL 16, 2019

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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	Amtcor Rigid Plastics USA, LLC	§1.1
Project Location	1080 Jenkins Brothers Road	Exhibit A
Tax Map No.	See Exhibit A	Exhibit A
FILOT		
• Phase Exemption Period	30 years	
• Contract Minimum Investment Requirement	\$5 million	§1.1 and §5.1
• Investment Period	10 years	§1.1
• Assessment Ratio	6%	§4.1
• Millage Rate	574.6	§4.1
• Fixed or Five-Year Adjustable Millage	Fixed	§4.1
• Claw Back Information	See Section 5.1	§5.1
Multicounty Park	I-77 Corridor Regional Industrial Park (Fairfield County is partner county)	§1.1
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 April 16, 2019, 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 Amcor Rigid Plastics USA, LLC, a limited liability company 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) The Sponsor (originally Schmalbach-Lubeca Plastic Containers USA, Inc., with respect to which Amcor Rigid Plastics USA, LLC is the successor in interest), together with a developer partner (“*Developer*”), has made significant prior investments in the County, and in connection therewith, the Sponsor entered into a December 2, 1999 Fee-in-Lieu of Taxes Lease Agreement with the County (“*1999 Sponsor FILOT Agreement*”) concerning certain personal property, and the original Developer, Quatro Mid-Atlantic Resources III, LLC (“*Quatro*”) also entered into a December 2, 1999 Fee-in-Lieu of Taxes Lease Agreement with the County concerning certain real property (“*1999 Developer FILOT Agreement*”), which latter Agreement, as the result of a subsequent assignment by Quatro and a subsequent “conversion” FILOT Agreement, has been replaced with a June 23, 2011 FILOT Agreement between a new Developer, Exeter 1080 Jenkins Brothers, LLC (“*Exeter 1080*”) and the County (“*2011 Developer FILOT Agreement*”) (collectively, these three FILOT Agreements are referred to herein as the “*Prior Fee Agreements*”);

(c) To date, the Sponsor and the Developer have exceeded the \$80 million investment target and the 40 job employment target set forth in the Prior Fee Agreements, and have invested a total of approximately \$99 million in the County and currently employ approximately 114 people in the County;

(d) The Sponsor has leased, and continues to lease, a manufacturing facility from the Developer in the County;

(e) The Sponsor and the Developer have satisfied the investment, job, and other requirements set forth in the Prior Fee Agreements;

(f) The Sponsor has committed to expand its investment at the Developer’s facility (“*Facility*”) in the County, which investment will consist of taxable investment anticipated to be approximately \$19 million over the period July 1, 2018 to June 30, 2024;

(g) The Sponsor wishes to enter into a FILOT Agreement with the County with respect to future investments in the County;

(h) By a Resolution adopted on December 4, 2018, County Council agreed to enter into a FILOT Agreement with the Sponsor with respect to the Sponsor’s future investments in the County;

(i) By an ordinance enacted on April 16, 2019, County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT to induce the Sponsor to expand 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, as the same may be amended from time to time, and all future acts successor or supplemental thereto.

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

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

“*Commencement Date*” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be June 30, 2019.

“*Contract Minimum Investment Requirement*” means a taxable investment in real and personal property at the Project of not less than \$5 million.

“*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.

“*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 6.1 of this Fee Agreement.

“**Facility**” has the meaning set forth in the Recitals hereto.

“**Fee Agreement**” means this Fee-In-Lieu Of *Ad Valorem* Taxes Agreement.

“**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.

“**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 June 30, 2054, the Final Termination Date is expected to be January 15, 2056, 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.

“**Investment Period**” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and (based on the five-year extension being provided by the County pursuant to Section 12-44-30(13) of the Act) ending ten years after the Commencement Date. For purposes of this Fee Agreement, the Investment Period is expected to end on June 30, 2029.

“**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 amended or restated from time to time.

“**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 Amcor Rigid Plastics USA, LLC and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Sponsor under this Fee Agreement.

“**Sponsor Affiliate**” means an entity that participates in the investment at the Project and, following receipt of the County’s approval pursuant to Section 8.1 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 December 4, 2018 by adopting an Inducement Resolution, as defined in the Act, on that date.

(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 previously located the Facility 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 manufacturing 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.

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

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

ARTICLE III THE PROJECT

Section 3.1. The Project. The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the twelve-month period ending June 30, 2019. 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 on January 31, 2020, 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 of Fairfield County, the County's partner in 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 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 574.6, 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, 2018.

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.

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

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

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

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

Section 4.4. Damage or Destruction of Economic Development Property.

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

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

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

Section 4.5. Condemnation.

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

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

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

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

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

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

**ARTICLE V
CLAW BACK**

Section 5.1. Claw Back. If the Company does not meet the Contract Minimum Investment between July 1, 2018 and June 30, 2024, then the Project shall revert retroactively to ad valorem taxation and this Fee Agreement shall terminate, and the Company shall, by December 31, 2024, make payment to the County of the difference between the FILOT Payments actually made and the total retroactive amount referred to in this Section.

**ARTICLE VI
DEFAULT**

Section 6.1. 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 (i) a publicly announced closure of the Facility, (ii) a layoff of a majority of the employees working at the Facility, or (iii) a 50% or more reduction in production at the Facility 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 material 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 material 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 6.2. 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 6.3. 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 6.4. 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 VII PARTICULAR RIGHTS AND COVENANTS

Section 7.1. Right to Inspect. The County and its authorized agents, at any reasonable time on prior written notice (no less than 48 hours in advance), 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 7.2. 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. The Sponsor may request any County officials or other representatives to execute its standard confidentiality requirement in case of such a visit by such persons to the Project.

Section 7.3. Indemnification Covenants.

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

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

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

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

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

Section 7.4. 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 7.5. 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 7.6. 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 7.7. 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 7.8. Administration Expenses. The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in an amount not exceeding \$8,000 for work and other matters related to (i) the drafting, review, negotiation and approval of (A) this Fee Agreement, (B) a new fee agreement of even date herewith between the Sponsor and the County (the "**Conversion Fee Agreement**"), and (C) any ordinances, deeds, bills of sale, or other documents related to any of such agreements or to the Project, and (ii) any related matters. It is here noted that there is a counterpart "Administration Expenses" provision located at Section 7.8 of the Conversion Fee Agreement (as defined in clause (i)(B) of this paragraph) that mirrors this Section 7.8 and a counterpart definition of

“Administration Expenses” in the Conversion Fee Agreement that mirrors the definition of Administration Expenses in this Fee Agreement. Such counterpart Section 7.8 provision also provides for an \$8,000 cap on the obligation of the Sponsor to reimburse the County for Administration Expenses related to the Conversion Fee Agreement, this Fee Agreement, and related matters. The total aggregate obligation of the Sponsor to reimburse the County for Administration Expenses under the Conversion Fee Agreement and this Fee Agreement, combined, is \$8,000. In short, there is not a separate obligation by the Sponsor to reimburse the County for up to \$8,000 in Administration Expenses under each of the two fee agreements; rather, the Sponsor’s total maximum reimbursement obligation under this Section 7.8 and the counterpart Section 7.8, combined, is \$8,000.

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 VIII SPONSOR AFFILIATES

Section 8.1. *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 8.2. *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 XI MISCELLANEOUS

Section 9.1. *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:

Amcor Rigid Plastics USA, LLC
Attn: Director of Real Estate
935 Technology Drive
Ann Arbor, MI 48108

WITH A COPY TO (does not constitute notice):

Amcor Rigid Plastics USA, LLC
Attn: Vice President and General Counsel
935 Technology Drive
Ann Arbor, MI 48108

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 9.2. 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 9.3. 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 9.4. 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 9.5. 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 9.6. Amendments. This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

Section 9.7. 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 9.8. 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 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 9.9. 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 9.10. Termination; Termination by Sponsor.

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

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

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

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

Section 9.11. 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 9.12. 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 9.13. 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 9.14. 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 Agreement]

AMCOR RIGID PLASTICS USA, LLC

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

1080 Jenkins Brothers Road

Tax Map Nos. 17600-01-03, 17600-01-21, 17600-01-28, and 17600-02-38.

EXHIBIT B (see Section 8.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective _____, 2019 (“Fee Agreement”), between Richland County, South Carolina (“County”) and Amcor Rigid Plastics USA, LLC (“Sponsor”).

1. Joinder to Fee Agreement.

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

2. Capitalized Terms.

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

3. Representations of the Sponsor Affiliate.

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

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

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

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

4. Governing Law.

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

5. Notice.

Notices under Section 9.1 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 DECEMBER 12, 2017 RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING ECONOMIC DEVELOPMENT PROJECTS IN THE 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:

Michelle O'Leary
Clerk to County Council

EXHIBIT B
FORM OF CONVERSION FEE AGREEMENT

~#4847-6352-4978 v.5~

**FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT
EFFECTING A CONVERSION OF THAT CERTAIN
FEE-IN-LIEU OF TAXES LEASE AGREEMENT
DATED AS OF DECEMBER 2, 1999**

BETWEEN

AMCOR RIGID PLASTICS USA, LLC

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF

APRIL 16, 2019

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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	Amcor Rigid Plastics USA, LLC	§1.1
Project Location	1080 Jenkins Brothers Road	Exhibit A
Tax Map No.	See Exhibit A	Exhibit A
FILOT		
• Phase Exemption Period	30 years	
• Investment Period	5 years	§1.1
• Assessment Ratio	6%	§5.1
• Millage Rate	291.3	§5.1
• Fixed or Five-Year Adjustable Millage	Fixed	§5.1
Multicounty Park	I-77 Corridor Regional Industrial Park (Fairfield County is partner county)	§1.1
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 April 16, 2019, 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 Amcor Rigid Plastics USA, LLC (the successor in interest to Schmalbach-Lubeca Plastic Containers USA, Inc.), a limited liability company 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) The Sponsor (originally Schmalbach-Lubeca Plastic Containers USA, Inc., with respect to which Amcor Rigid Plastics USA, LLC is the successor in interest), together with a developer partner (“*Developer*”), has made significant prior investments in the County, and in connection therewith, pursuant to Title 4, Chapter 12 of the Code (the “*Old Act*”), the Sponsor entered into an October 5, 1999 Inducement and Millage Rate Agreement with the County (“*1999 Sponsor Inducement Agreement*”) and a December 2, 1999 Fee-in-Lieu of Taxes Lease Agreement with the County (“*1999 Sponsor FILOT Agreement*”) concerning certain personal property, and the original Developer, Quatro Mid-Atlantic Resources III, LLC (“*Quatro*”) also entered into an October 5, 1999 Inducement and Millage Rate Agreement with the County and a December 2, 1999 Fee-in-Lieu of Taxes Lease Agreement with the County (“*1999 Developer FILOT Agreement*”) concerning certain real property, which latter two Agreements, as the result of a subsequent assignment by Quatro and a subsequent “conversion” agreement, have been replaced with a June 23, 2011 FILOT Agreement between a new Developer, Exeter 1080 Jenkins Brothers, LLC (“*Exeter 1080*”) and the County (“*2011 Developer FILOT Agreement*”) (collectively, the agreements referenced in this paragraph are referred to herein as the “*Prior Agreements*”);

(c) The Sponsor has leased, and continues to lease, a manufacturing facility from the Developer (“*Facility*”) in the County;

(d) Pursuant to the 1999 Sponsor FILOT Agreement, the Sponsor transferred title to the property subject to that Agreement (the “*Original Project*”) to the County and leased the Original Project back from the County;

(e) The Sponsor desires to utilize the provisions of the Act to continue to receive FILOT benefits with respect to the Original Project without the County having title to any portion thereof;

(f) Section 12-44-170 (“*Conversion Provision*”) of the Act provides that an entity with property subject to a FILOT arrangement under the Old Act may elect, with the consent of the applicable county, to convert its FILOT arrangement from an arrangement under the Old Act to an arrangement under the Act, and, in connection with such conversion, to obtain from the applicable county title to the property that is subject to such FILOT arrangement;

(g) The Sponsor and the Developer have satisfied the investment, job and other requirements set forth in the Prior Agreements;

(h) The County desires to convey and, pursuant to the Conversion Provision, the County will convey to the Sponsor its right, title and interest in and to the Original Project;

(i) In order (i) to satisfy the requirements of the Conversion Provision, (ii) to reflect the extension of the term of the 1999 Sponsor FILOT Agreement by 10 years pursuant to a Resolution adopted by County Council on December 4, 2018, and (iii) to make certain amendments to update the terms of the 1999 Sponsor FILOT Agreement as necessary or appropriate, this Fee Agreement has been prepared and presented to the County;

(j) The County has determined that this Fee Agreement meets the applicable requirements of the Act;

(k) The County has determined that it is in the best interest of the County to enter into this Fee Agreement with the Sponsor subject to the terms and conditions hereof; and

(l) By an ordinance enacted on April 16, 2019, County Council authorized the County to enter into this Fee Agreement with the Sponsor subject to the terms and conditions hereof.

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.

“1999 Sponsor FILOT Agreement” means the 1999 FILOT Lease Agreement between the County and the Sponsor, dated as of December 2, 1999.

“1999 Sponsor Inducement Agreement” means the Inducement and Millage Rate Agreement between the Sponsor and the County dated October 5, 1999, in which the County and the Sponsor agreed, among other things, to a payment-in-lieu of taxes arrangement for the Original Project.

“Act” means Title 12, Chapter 44 of the Code, as the same may be amended from time to time, and all future acts successor or supplemental thereto.

“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 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 December 31, 1999, which was the last day of the property tax year during which Economic Development Property was first placed in service.

“Conversion Provision” means Section 12-44-170 of the Act.

“**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.

“**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 5.1(a)(i) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to Section 5.3 of this Fee Agreement; (ii) a casualty as described in Section 5.4 of this Fee Agreement; or (iii) a condemnation as described in Section 5.5 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 6.1 of this Fee Agreement.

“**Exeter 1080**” has the meaning set forth in the Recitals hereto.

“**Facility**” has the meaning set forth in the Recitals hereto.

“**Fee Agreement**” means this Fee-In-Lieu Of *Ad Valorem* Taxes Agreement.

“**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 5.1.

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

“**Final Termination Date**” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is June 30, 2034, the Final Termination Date is expected to be January 15, 2037, 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.

“**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. For purposes of this Fee Agreement, the Investment Period ended on December 31, 2004.

“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 amended or restated from time to time.

“Original Project” means the property subject to the 1999 Sponsor FILOT Agreement.

“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.

“Prior Documents” means the 1999 Sponsor FILOT Agreement and the 1999 Sponsor Inducement Agreement.

“Project” means the Equipment, Improvements and Real Property which are eligible for inclusion as economic development property under the Act and have become or may become subject to this Fee Agreement. For purposes of this Fee Agreement, the parties agree that Project property shall consist of such property so identified by the Sponsor in connection with its annual filing with the Department of a Department Form PT-300, or such comparable form, and with such schedules as the Department may provide in connection with projects subject to the Act (as such filing may be amended or supplemented from time to time) for each year within the Investment Period. As of the effective date of this Fee Agreement, the Project shall include the same property as the Original Project. Although the parties hereto contemplate that all of the property subject to the 1999 Sponsor FILOT Agreement on the date of this Fee Agreement is personal property, the parties are nevertheless including a reference to Real Property and Improvements under this Fee Agreement in the event that now or in the future, there is any property subject to this Fee Agreement that might be considered Real Property or Improvements.

“Real Property” means real property that the Sponsor uses or will use in the County for the purposes that Section 3.2(b) describes, and consists of the land identified on Exhibit A of this Fee Agreement. On the effective date of this Fee Agreement, such land and improvements thereon are leased by the Sponsor from Exeter 1080.

“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 5.3 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to Section 5.4(c) or Section 5.5(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 Amcor Rigid Plastics USA, LLC (the successor in interest to Schmalbach-Lubeca Plastic Containers USA, 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 8.1 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 CONVERSION OF FILOT ARRANGEMENT; REPLACEMENT OF LEASE

Section 2.1. *Election to Convert.* Pursuant to the Conversion Provision, the Sponsor hereby elects to proceed under the Act and to convert the Lease to a non-lease fee agreement under the Act. The County hereby consents to the Sponsor’s election to convert as required by the Act.

Section 2.2. *Replacement of Lease and Related Documents.* The Sponsor and the County hereby agree and acknowledge that, from and after the execution and delivery of this Fee Agreement: (i) this Fee Agreement shall replace the Prior Documents in their entirety and (ii) the Act shall govern all fee-in-lieu of tax arrangements pertaining to the Original Project. In furtherance of such replacement, the parties agree that, upon the re-conveyance of the assets described in Section 2.3, the Prior Documents are terminated. The parties also agree that the term, the assessment ratio, the millage rate, and the payments to be made by the Sponsor under this Fee Agreement shall remain the same as under the Prior Documents, except that, as provided in Section 1.1 hereof, the Fee Term hereunder shall be based on a 30 year Phase Termination Date.

Section 2.3. *Conveyance on Conversion.* Simultaneously with the execution and delivery of this Fee Agreement, the County has by one or more quitclaim deeds and bills of sale conveyed to the Sponsor or its designee all assets comprising the Original Project that are currently titled in the County pursuant to the terms of the 1999 Sponsor FILOT Agreement. The County covenants and agrees to take such further steps and to execute and deliver such further instruments, agreements or other documents as shall be reasonably requested by the Sponsor or its designee to evidence or confirm such conveyance.

ARTICLE III REPRESENTATIONS AND WARRANTIES

Section 3.1. *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 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.

(d) The County has located the Facility in the Multicounty Park.

Section 3.2. 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 manufacturing 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 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.

(e) 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 IV THE PROJECT

Section 4.1. The Project. The Sponsor has constructed and/or acquired the Project.

Section 4.2 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 4.3. Filings and Reports.

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing on January 31, 2020, 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 of Fairfield County, the County's partner in 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 V
FILOT PAYMENTS**

Section 5.1. FILOT Payments.

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

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion, if any, 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 291.3, which is the applicable millage rate under the 1999 Sponsor FILOT Agreement.

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 5.7.

Section 5.2. 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 5.1, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

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

Section 5.3. 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 5.4. 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 5.5. 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 5.6. 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 5.1(a)(i) of this Fee Agreement.

Section 5.7. 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 5.8. Place of FILOT Payments. All FILOT Payments shall be made directly to the County in accordance with applicable law.

ARTICLE VI DEFAULT

Section 6.1. 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 (i) a publicly announced closure of the Facility, (ii) a layoff of a majority of the employees working at the Facility, or (iii) a 50% or more reduction in production at the Facility 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 material 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 material 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 6.2. 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 6.3. 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 6.4. 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 VII
PARTICULAR RIGHTS AND COVENANTS**

Section 7.1. Right to Inspect. The County and its authorized agents, at any reasonable time on prior written notice (no less than 48 hours in advance), 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 7.2. 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. The Sponsor may request any County officials or other representatives to execute its standard confidentiality requirement in case of such a visit by such persons to the Project.

Section 7.3. Indemnification Covenants.

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

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

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

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

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

Section 7.4. 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 7.5. 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 7.6. 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 7.7. 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 7.8. Administration Expenses. The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in an amount not exceeding \$8,000 for work and other matters related to (i) the drafting, review, negotiation and approval of (A) this Fee Agreement, (B) a new fee agreement of even date herewith between the Sponsor and the County (the "**New Fee Agreement**"), and (C) any ordinances, deeds, bills of sale, or other documents related to any of such agreements or to the Project, and (ii) any related matters. It is here noted that there is a counterpart "Administration Expenses" provision located at Section 7.8 of the New Fee Agreement (as defined in clause (i)(B) of this paragraph) that mirrors this Section 7.8 and a counterpart definition of "Administration Expenses" in the New Fee Agreement that mirrors the definition of Administration Expenses in this Fee Agreement. Such counterpart Section 7.8 provision also provides for an \$8,000 cap on the obligation of the Sponsor to reimburse the County for Administration Expenses related to the New Fee Agreement, this Fee Agreement, and related matters. The total aggregate obligation of the Sponsor to reimburse the County for Administration Expenses under the New Fee Agreement and this Fee Agreement, combined, is \$8,000. In short, there is not a separate obligation by the Sponsor to reimburse the County for up to \$8,000 in Administration Expenses under each of the two fee agreements; rather, the Sponsor's total maximum reimbursement obligation under this Section 7.8 and the counterpart Section 7.8, combined, is \$8,000.

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 VIII SPONSOR AFFILIATES

Section 8.1. *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 8.2. *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 IX MISCELLANEOUS

Section 9.1. *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:

Amcors Rigid Plastics USA, LLC
Attn: Director of Real Estate
935 Technology Drive
Ann Arbor, MI 48108

WITH A COPY TO (does not constitute notice):

Amcors Rigid Plastics USA, LLC
Attn: Vice President and General Counsel
935 Technology Drive
Ann Arbor, MI 48108

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 9.2. 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 9.3. 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 9.4. 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 9.5. 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 9.6. Amendments. This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

Section 9.7. 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 9.8. 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 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 9.9. 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 9.10. Termination; Termination by Sponsor.

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

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

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

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

Section 9.11. 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 9.12. 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 9.13. 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 9.14. 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 Agreement]

AMCOR RIGID PLASTICS USA, LLC

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

1080 Jenkins Brothers Road

Tax Map Nos. 17600-01-03, 17600-01-21, 17600-01-28, and 17600-02-38.

EXHIBIT B (see Section 8.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective _____, 2019 (“Fee Agreement”), between Richland County, South Carolina (“County”) and Amcor Rigid Plastics USA, LLC (“Sponsor”).

1. Joinder to Fee Agreement.

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

2. Capitalized Terms.

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

3. Representations of the Sponsor Affiliate.

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

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

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

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

4. Governing Law.

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

5. Notice.

Notices under Section 9.1 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 DECEMBER 12, 2017 RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING ECONOMIC DEVELOPMENT PROJECTS IN THE 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:

Michelle O'Leary
Clerk to County Council

Richland County Council Request for Action

Subject:

An Ordinance Amending Richland County Code of Ordinances Chapter 16, Licenses and Miscellaneous Business Regulations, by adding Section 16-23, "Health Massage, Bodywork Therapists, and Massage Establishments" [FIRST READING]

Notes:

March 26, 2019 – The Committee recommended Council approve the ordinance and to direct staff to respond to questions posed by Council members at the Committee meeting.

First Reading: April 2, 2019

Second Reading: April 19, 2019 {Tentative}

Third Reading: May 7, 2019 {Tentative}

Public Hearing: May 7, 2019

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-19HR

AN ORDINANCE AMENDING RICHLAND COUNTY CODE OF ORDINANCES CHAPTER 16, LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS, BY ADDING SECTION 16-23, “HEALTH MASSAGE, BODYWORK THERAPISTS, AND MASSAGE ESTABLISHMENTS.”

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. Richland County Code of Ordinances, Chapter 16, Licenses and Miscellaneous Business Regulations, is hereby amended by adding Section 16-23, “Health Massage, Bodywork Therapists, and Massage Establishments,” as follows:

Section 26-23. Health Massage, Bodywork Therapists, and Massage Establishments.

(1) Authority.

This section is adopted pursuant to S.C.Code of Laws Annotated Section 4-9-25 which confers upon counties the authority to “enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them.” Such “powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of counties.” This section further is adopted pursuant to S.C.Code of Laws Annotated Section 4-9-30 which authorizes counties acting through their governing bodies “(14) to enact ordinances for the implementation and enforcement of the powers granted in this section and provide penalties for violations thereof not to exceed the penalty jurisdiction of magistrates’ courts.”

(2) Purpose.

The purpose of this section is to regulate health massage, bodywork therapists and massage establishments in order to promote the health, safety, and general welfare of the citizens of Richland County. In adopting this ordinance, Richland County hereby establishes reasonable and uniform regulations to prevent or reduce to any extent the deleterious secondary effects of health massage, bodywork therapists and massage establishments within the County. The provisions of this section have neither the purpose nor the intent nor effect of restricting or denying access to health massage, bodywork therapists and massage establishments. Among the deleterious secondary effects of imminent and growing concern associated with the unlawful operation of some establishments subject hereto that obtain business licenses under the guise of legitimate health massage, body therapy or massage establishments are a) their use as commercial sex operations, 2)

prostitution, 3) the potential to spread disease, 4) lewdness, 5) public indecency, 6) illicit sexual activity, 7) sexual assault and exploitation, and 8) human trafficking. The negative secondary effects of businesses associated with commercial sexual exploitation are manifest. ~~See, e.g., *City of Littleton v. Z.J. Gifts D-4, LLC*, 124 S. Ct. 2219 (2003); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, All U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *Chesapeake B&M, Inc. v. Harford County*, 58 F.3d 1005 (4th Cir. 1995); *Giovani Carandola, Ltd. v. Fox*, 470 F.3d 1074 (4th Cir. 2006); *Centaur v. Richland County*, 392 S.E.2d 165 (S.C. 1990); *U.S. v. Pendergrass*, Petition to Enter a Plea of Guilty and Plea Agreement on the Charge of Tax Evasion (3:06-00147, M.D. Term. 2007); and other cases; and on reports of secondary effects occurring in and around such businesses, including, but not limited to, Phoenix, Arizona (1979); Minneapolis, Minnesota (1980); Houston, Texas (1987); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma City, Oklahoma (1986); El Paso, Texas (1986); New York City, New York (1994); Dallas, Texas (1997); Newport News, Virginia (1996); New York Times Square Study (1994); Phoenix, Arizona (1995-1998); Greensboro, North Carolina (2003); Toledo, Ohio (2002); Centralia, Washington 2004; Greensboro, North Carolina (2003); and also from the reports of “*Human Trafficking in Illicit Massage Businesses*,” by Polaris (January 2018), which reports that in 2017, “The United Nations estimates that more than 40 million people in the world today are living in some form of modern slavery,” and that “Illicit massage businesses (IMBs) that front for commercial sex operations have been ubiquitous in the American landscape for decades, with an estimate of more than 9,000 operating today.”~~

(3) Findings.

Based on this breadth of case law, research and data regarding negative secondary effects of commercial sex and related operations, the Richland County Council finds:

- (a) Illicit massage establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to their use as commercial sex operations, for prostitution, to spread disease, lewdness, public indecency, illicit sexual activity, sexual assault and exploitation, and human trafficking.
- (b) Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing or abating. Additionally, the County’s interest in regulating illicit massage businesses extends to future secondary effects that could occur in the County related to such establishments as well as future such businesses that may locate in the County. The County finds that the cases and secondary effects documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

(4) Exemptions.

This section shall not apply to physicians, surgeons, chiropractors, osteopaths, physical therapists or podiatrists duly licensed to practice in the State of South Carolina, registered or licensed nurses~~—~~, athletic directors or trainers who are affiliated with an approved educational institution or professional sports team and whose work is limited to athletic team members, personal trainers, licensed cosmetologists, barbers or beauticians who do not give or hold themselves out to give massage treatments other than those customarily given in such establishments.

(5) **Definitions.**

The following words, terms and phrases, shall have the meanings ascribed to them herein, unless the context of their usage clearly indicates a different meaning:

- (a) “*Bodywork establishment*” means any building, structure, room, place, or any establishment whose business includes advertising or offering a massage or other massage services upon the human body for compensation by any person whether with or without the use of mechanical, therapeutic or bathing devices, and shall include bathhouses. This term shall not include beauty salons or barbershops duly licensed by the State of South Carolina, or licensed hospitals, medical clinics, or licensed physical therapy facilities or establishments wherein registered physical therapists treat only patients recommended and referred by a licensed physician and operate only under such physician's direction. “*Bodywork establishment*” includes any business or establishment wherein bodywork therapy is performed by a bodywork therapist.
- (b) “*Bodywork therapy*” means the application of a system of structured touch of the superficial tissues of the human body with the hand, foot, arm, or elbow whether or not the structured touch is aided by hydrotherapy, thermal therapy, a massage device, human hands, or the application to the human body of an herbal preparation. Bodywork therapy includes the manual manipulation of soft body tissues (muscle, connective tissue, tendons and ligaments) to enhance a person’s health and well-being. Bodywork therapy also includes the application of pressure with the hands, feet, arms, or elbows for therapeutic or relaxation purposes to the superficial or deep tissues (muscles, tendons, ligaments, connective tissue, skin) of the body. Soft tissue health massage and bodywork practices are designed to promote general relaxation, improve flexibility and pliability of the soft tissues or relieve stress and muscle hypertension, and to enhance a general sense of well-being in the person receiving the massage or bodywork. Bodywork therapy also includes any process consisting in kneading, rubbing or otherwise manipulating the skin of the body of an individual, either with the hand, or by means of electrical instruments, devices, or apparatus, but shall not include massage by duly licensed physicians and chiropractors, registered physical therapists who treat only patients recommended by a licensed physician and who operate only under such physicians' direction, or massage of the face practiced by duly licensed personnel of beauty salons or barbershops. The term "therapy" does not include the diagnosis or treatment of illness or disease, medical procedures, or treatment for which a license to practice medicine, chiropractic, physical therapy, acupuncture or podiatry is required by law.
- (c) “*Bodywork therapist*” means a person who performs or administers massage or bodywork therapy, whether licensed as required by the South Carolina Department of Labor,

Licensing and Regulation, or not. Bodywork therapist includes a person who practices massage therapy or administers massages or other massage services to a person. The term includes a licensed or an unlicensed massage therapist, therapeutic massage practitioner, massage technician, masseur, masseuse, body massager, body rubber, health massager, or any derivation of those titles or similar designations.

- (d) “*Health massage establishment*” or any derivative or similar designation has the same meaning as “*Bodywork establishment.*”
- (e) “*Health massage therapist*” or any derivative or similar designation has the same meaning as “*Bodywork therapist.*”
- (f) “*Health massage therapy*” or any derivative or similar designation has the same meaning as “*Bodywork therapy.*”
- (g) “*Hydrotherapy*” means the use of water, vapor, or ice for treatment of superficial tissues.
- (h) “*Illicit Massage Establishment*” means any business, establishment, undertaking or enterprise that operates in violation of the provisions of this section.
- (i) “*Massage device*” means a mechanical device that mimics or enhances bodywork therapy by means of vibration or other artificial action.
- (j) “*Massage establishment*” or any derivative or similar designation has the same meaning as “*Bodywork establishment.*”
- (k) “*Massage therapy*” or any derivative or similar designation has the same meaning as “*Bodywork therapy.*”
- (l) “*Massage therapist*” or any derivative or similar designation has the same meaning as “*Bodywork therapist.*”
- (m) “*Thermal therapy*” means the use of ice or a heat lamp or moist heat on superficial tissues.

(6) Use of only licensed therapists; posting of license.

No person or business or establishment shall permit anyone to perform bodywork, health massage or massage work upon the premises operated by that person or business or establishment unless the individual performing the bodywork, health massage or massage work has been issued a license as required by this article. Every bodywork therapist, health massage therapist and massage therapist shall post the license required by this article in the therapist's work area at all time. A bodywork, health massage or massage establishment or a place of business that advertises bodywork, health massage or massage therapy or offers such work, therapy or other massage services must be licensed by the South Carolina Department of Labor, Licensing and Regulation in accordance with Title 40, Professions and Occupations, Chapter 30, the “Massage/Bodywork Practice Act,” and must display the establishment's license along with any Richland County business license

needed for the establishment to operate in a prominent location available for inspection by the public and by law enforcement and code enforcement officers and inspectors.

(7) Maintenance of premises and equipment.

It shall be the duty of every person conducting or operating a bodywork, health massage or massage establishment to keep the establishment in a clean and sanitary condition at all times. All instruments and mechanical, therapeutic and bathing devices or parts thereof that come into contact with the human body shall be sterilized on a regular basis and shall be rendered free from harmful organisms in a manner consistent with state laws and local ordinances and regulations. Towels and linens furnished for use of one patron shall not be furnished for use of another until thoroughly laundered.

(8) Operation in connection with living or sleeping quarters prohibited.

A bodywork, health massage and massage establishment shall not contain rooms used wholly or in part for residential or sleeping purposes unless such establishment is located within and properly zoned as a residence, in which case the establishment shall maintain separation from rooms used wholly or in part for residential or sleeping purposes by a solid wall or by a wall with a solid door which shall be inaccessible other than for emergency purposes during business hours; provided, however, this provision shall not apply to a hotel which houses an on-premises spa, massage, or bodywork establishment.

(9) Hours of operation.

No bodywork, health massage or massage establishment shall be kept open for any purpose between the hours of _____ p.m. and _____ a.m. on any day.

(10) Management to keep list of employees.

The owner, manager, operator or person in charge of a bodywork, health massage or massage establishment shall maintain on the premises a list of the names and addresses of all employees therein, whether such employees are on duty or off duty, and such list shall be made available for inspection upon the request of any law enforcement or code enforcement officer. Failure to comply with this provision shall be an offense.

(11) Employment of persons found guilty of criminal sexual offenses.

It shall be unlawful for any person operating a bodywork, health massage or massage establishment to knowingly employ, in any capacity, any person ~~who has been convicted, entered a plea of *nolo contendere* or guilty to an offense involving prostitution or any other sexual offense~~ required, by law or court order, to register on a national or state sex offender list.

(12) Hygiene.

All massage therapists and operators at a massage establishment shall wash their hands thoroughly before administering massage manipulations to any patron, and shall at all times observe proper cleanliness and hygiene practices.

(13) Access; right of entry.

Any officer appointed or employed by any law enforcement agency of this State, or any Richland County code enforcement officer commissioned pursuant to S.C.Code of Laws Annotated Section 4-9-145, may enter the premises of a bodywork, health massage or massage establishment for purposes of inspection or investigation to ensure compliance with this article; provided, however, no officer may enter any room where bodywork therapy is in progress without the express consent of the person receiving the service, or a warrant. If entry and access to the premises of the bodywork, health massage or massage establishment is denied, entry may be made under the authority of a warrant or other lawful process.

(14) **Penalties.** Failure to comply with any of the requirements of this section shall constitute a violation punishable by a fine not exceeding five hundred dollars (\$500.00) and imprisonment not exceeding thirty (30) days. Each day any violation of this section continues shall constitute a separate offense. Nothing in this section prevents the County or any interested party from seeking an injunction, issuing a stop work order or otherwise attempting to enforce the provisions of this section or to obtain relief or any remedy provided for by law.

(15) **Cumulative effect.**

The provisions of this section are cumulative to and not in lieu of laws and other ordinances, such as sexually oriented business and nuisance laws and ordinances, applicable to the businesses described in this section.

(16) **Educational institutions.**

Nothing in this section may be construed so as to prevent the teaching of bodywork, health massage or massage in the County at a duly licensed or authorized bodywork, health massage or massage school.

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 enforced from and after _____, 2019.

RICHLAND COUNTY COUNCIL

BY: _____
Paul Livingston, Chair

ATTEST THIS THE ____ DAY

OF _____, 2019

Kimberly Williams-Roberts
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:

An Ordinance Consenting to the conversion of an existing lease purchase agreement between Richland County (the "County") and Mars Petcare US, Inc., f/k/a Kal Kan Foods, Inc. (the "Company") to a fee in lieu of tax agreement pursuant to Title 12, Chapter 44, South Carolina Code, 1976, as amended; authorizing the execution and delivery of a fee in lieu of tax (conversion) agreement by and between the County and the Company; authorizing the reconveyance by the County to the Company of the property subject to such lease purchase agreement and other related

Notes:

First Reading: April 2, 2019

Second Reading: April 19, 2019 {Tentative}

Third Reading:

Public Hearing:

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

AN ORDINANCE CONSENTING TO THE CONVERSION OF AN EXISTING LEASE PURCHASE AGREEMENT BETWEEN RICHLAND COUNTY (THE “COUNTY”) AND MARS PETCARE US, INC., F/K/A KAL KAN FOODS, INC. (THE “COMPANY”) TO A FEE IN LIEU OF TAX AGREEMENT PURSUANT TO TITLE 12, CHAPTER 44, SOUTH CAROLINA CODE, 1976, AS AMENDED; AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX (CONVERSION) AGREEMENT BY AND BETWEEN THE COUNTY AND THE COMPANY; AUTHORIZING THE RECONVEYANCE BY THE COUNTY TO THE COMPANY OF THE PROPERTY SUBJECT TO SUCH LEASE PURCHASE AGREEMENT; AND OTHER RELATED

WHEREAS, pursuant to Title 4, Chapter 12 of the Code, Richland County, South Carolina (“County”), acting by and through its County Council (“County Council”), previously entered into a Lease Purchase Agreement dated as of October 7, 1998, with Kal Kan Foods, Inc., a Delaware corporation (“Kal Kan”), as amended by that certain First Amendment to the Lease Purchase Agreement, dated as of December 4, 2018 (as further amended, modified and supplemented from time to time, the “Lease Agreement”) for the purpose of inducing investment in the County through the provision of certain fee in lieu of tax benefits hereunder; and

WHEREAS, Mars Petcare US, Inc., a Delaware corporation (the “Company”), is the successor in interest to Kal Kan under the Lease Agreement; and

WHEREAS, Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“FILOT Act”), allows the Company, with the consent of the County, to convert the Lease Agreement to a simplified fee in lieu of tax arrangement under the FILOT Act and, in so converting, to cause any property subject to the Lease Agreement (collectively, the “Project”) to be automatically considered economic development property, as defined in Section 12-44-30(7) of the FILOT Act; and

WHEREAS, pursuant to the authority of Section 4-1-170 of the Code of Laws of South Carolina, 1976, as amended and Article VIII, Section 13 of the South Carolina Constitution, the County has previously located the Project in the multicounty park jointly developed with Fairfield County, South Carolina (“Park”); and

WHEREAS, the Company has requested the County enter into a Fee in Lieu of Tax (Conversion) Agreement (the “Conversion Agreement”), the form of which is attached as Exhibit A, with respect to the Project the terms of which include: (i) the conversion of the Lease Agreement into a fee in lieu of tax agreement under the FILOT Act; (ii) the continuation, under the Conversion Agreement, of the same fee payments required of the Company under the Lease Agreement for the same time required under the Lease Agreement; (iii) the minimum investment requirements of the Lease Agreement; (iv) appropriate agreements and amendments to continue the provisions and limitations of the Lease Agreement; and (v) the reconveyance to the Company of the property constituting the Project currently subject to the Lease Agreement, to be treated as economic development property (as defined by the FILOT Act) under the Conversion Agreement.

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

Section 1. Statutory Findings. The Company has provided notice of its election to transfer the Project from the arrange provided by Lease Agreement to the fee arrangement provided under the

Conversion Agreement. The County consents to such transfer pursuant to Section 12-44-170 of the FILOT Act.

Section 2. *Authorization to Execute and Deliver Conversion Agreement.* The form, terms and provisions of the Conversion Agreement that is before this meeting are approved, and all of the Conversion 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 Conversion 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 Conversion Agreement and to deliver the Conversion Agreement to the Company.

Section 3. *MCIP Ratification and Expansion.* The County acknowledges and ratifies the inclusion of the Project in the Park, and to the extent any portion of the Project is not included in the Park, the County authorizes and approves the expansion of the Park boundaries to include the Project. 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"), any necessary expansion of the Park's boundaries or amendment to the Park Agreement to include the Project in the Park 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, 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 Sponsor under this Ordinance and the Conversion 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

Paul Livingston
Chair, Richland County Council

(SEAL)

ATTEST:

Kimberly Williams-Roberts
Clerk of Council, Richland County Council

First Reading: April 2, 2019
Second Reading: April 16, 2019
Public Hearing:
Third Reading:

EXHIBIT A

FORM OF CONVERSION AGREEMENT

[ATTACHED]

FEE IN LIEU OF TAX (CONVERSION) AGREEMENT

by and between

MARS PETCARE US, INC.
a Delaware corporation

and

RICHLAND COUNTY, SOUTH CAROLINA

Dated as of _____, 2019
(as a conversion under Title 12, Chapter 44, Code of
Laws of South Carolina 1976, as amended, of a Lease
Purchase Agreement dated as of October 7, 1998, by
and between Richland County, South Carolina and
Kal Kan Foods, Inc., the predecessor in interest to
Mars Petcare US, Inc.)

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FEE IN LIEU OF TAX (CONVERSION) AGREEMENT

THIS FEE IN LIEU OF TAX (CONVERSION) AGREEMENT (this “Agreement”) is made and entered into as of _____, 2019, by and between MARS PETCARE US, INC., a Delaware corporation (the “Company”), and RICHLAND COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the “County”). This Agreement is entered into by the parties pursuant to Section 12-44-170 of the Code of Laws of South Carolina 1976, as amended, as a conversion of that certain Lease Purchase Agreement dated as of October 7, 1998, by and between the County and Kal Kan Foods, Inc., the Company’s predecessor in interest.

WITNESSETH:

WHEREAS, pursuant to the provisions of Section 4-12-30 of the Code, the County previously entered into that certain Lease Purchase Agreement dated as of October 7, 1998, by and between the County and Kal Kan Foods, Inc. (the Company’s predecessor in interest), as amended by that certain First Amendment to Lease Purchase Agreement, dated as of December 4, 2018, by and among the County and the Company (as further amended, modified and supplemented from time to time, the “Lease Agreement”), for purposes of providing a fee in lieu of tax incentive to the Company with respect to investment by the Company in pet food manufacturing machinery, apparatus, equipment and improvements deemed by the Company to be necessary, suitable or useful for the Company’s operations in the County (collectively, the “Project”), which investment was completed during the “Project Period” set forth in the Lease Agreement; and

WHEREAS, pursuant to Section 12-44-170, Code of Laws of South Carolina 1976, as amended, the Company made the legally required minimum investment in the Project during the Project Period to qualify for negotiated fee in lieu of tax treatment under Section 4-12-30(B)(3) of the Code and under Title 12, Chapter 44 of the Code (the “Act”); and

WHEREAS, the Company has notified the County of its election to convert the Lease Agreement to a simplified fee in lieu of tax agreement to be governed by the provisions of the Act, containing the same material provisions as the Lease Agreement in respect of fee in lieu of tax payments, term of the arrangement and other payment or investment obligations of the Company; and

WHEREAS, the County, pursuant to ordinance of Richland County Council enacted _____, 2019 (the “Ordinance”), has consented, among other things, to the conversion of the Lease Agreement to a simplified fee in lieu of tax agreement pursuant to the Act; and

WHEREAS, the parties desire to: (i) enter into this Agreement to provide for the conversion of the Lease Agreement to a simplified fee in lieu of tax arrangement under the Act; and (ii) have this Agreement fully replace all provisions of the Lease Agreement and take effect upon the conveyance by the County to the Company of all portions of the Project currently titled in the name of the County under the Lease Agreement, upon payment by the Company of the purchase price therefor as prescribed in the Lease Agreement and the satisfaction of certain other conditions set forth herein; and

WHEREAS, upon the consummation of the conveyance referred to in the preceding paragraph, this Agreement shall supersede the provisions of the Lease Agreement and, at such time, the Lease Agreement shall be deemed terminated (except for those provisions thereof expressly stated to survive termination); and

WHEREAS, in connection with the above, the County and the Company agree that the requirements of Section 12-44-55(A) of the Act are hereby waived to the extent that, and so long as, the

Company provides the County with copies of all filings and reports required to be made by the Company under the Act;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF the respective representations and agreements hereinafter contained and other value given and delivered, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions.

In addition to the words and terms elsewhere defined in this Agreement, the following words and terms as used herein and in the preambles hereto shall have the following meanings unless the context or use indicates another or different meaning or intent.

“**Act**” shall mean Chapter 44 of Title 12 of the Code, and all future acts amendatory thereof.

“**Additional Payments**” shall have the meaning provided in **Section 4.02** hereof.

“**Administration Expenses**” shall mean the reasonable and necessary expenses incurred by the County with respect to the negotiation and approval of this Agreement, including without limitation reasonable attorney fees; provided, however, that no such expense shall be considered an Administration Expense until the County has furnished to the Company a statement in writing indicating the amount of such expense and the reason it has been or will be incurred; and provided, further, that the Company’s obligation to reimburse the County for Administrative Expenses shall be subject to the limitations set forth in **Section 4.02** hereof.

“**Agreement**” shall mean this agreement as originally executed and from time to time supplemented or amended as permitted herein.

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

“**Company**” shall have the meaning set forth in the introductory paragraph hereto, and shall include any surviving, resulting or transferee entity in any merger, consolidation or transfer of assets permitted hereunder; or any other Person which may succeed to the rights and duties of the Company hereunder in accordance with all applicable provisions hereof. References to “Company” shall be deemed to include the Company’s predecessors in interest, including Kal Kan Foods, Inc.

“**County**” shall mean Richland County, South Carolina, a body politic and corporate and a political subdivision of the State, and its successors and assigns.

“**County Administrator**” shall mean the Richland County Administrator or acting interim, or the holder of any successor position.

“**County Assessor**” shall mean the Richland County Assessor, or the holder of any successor position.

“**County Auditor**” shall mean the Richland County Auditor, or the holder of any successor position.

“**County Council**” shall mean the governing body of the County and its constituent members and their respective successors, or any successor body.

“**County Treasurer**” shall mean the Richland County Treasurer, or holder of any successor position.

“**Default**” shall mean an event or condition, the occurrence of which would, with the lapse of time or the giving of notice or both, become an Event of Default as defined in **Section 9.01** hereof.

“**Department**” shall mean the South Carolina Department of Revenue, or any successor agency.

“**Documents**” shall mean, collectively, this Agreement, the Ordinance and any other documentation executed in connection therewith, including, but not limited to, any bills of sale conveying any portion of the Project to the Company.

“**Equipment**” shall mean the machinery, apparatus, and equipment acquired, constructed and installed in the Company’s facilities pursuant to the Lease Agreement during the Project Period.

“**FILOT Payments**” shall mean the payments in lieu of taxes which the Company is obligated to pay to the County pursuant to **Section 5.02** hereof.

“**Improvements**” shall mean those buildings, structures and fixtures on the Land as are constructed or acquired by the Company or an affiliate and intended and qualified to be included as a part of the Project.

“**Lease Agreement**” shall have the meaning set forth in the recitals hereto.

“**Ordinance**” shall have the meaning set forth in the recitals hereto.

“**Person**” shall mean and include any individual, association, limited liability company or partnership, unincorporated organization, corporation, partnership, joint venture, or government or agency or political subdivision thereof.

“**Project**” shall mean: (i) the Equipment; (ii) the Replacement Property; and (iii) to the extent not covered by the foregoing, anything qualifying as a Project under Section 12-44-30(16) of the Act.

“**Project Increment Payment**” shall be the payment described in **Section 5.02(b)** hereof.

“**Project Increments**” shall mean those increments of the Project which are completed and fit for their intended use as prescribed by Section 12-37-670 of the Code.

“**Project Millage Rate**” shall mean, for purposes of **Section 5.02(b)** hereof, a rate of 262.6 mills.

“**Project Period**” shall mean the period during which the Company could make investments for the construction and acquisition of the Project that would be eligible for the fee in lieu of tax incentives provided pursuant to the Lease Agreement and this Agreement.

“**Replacement Property**” shall mean all property installed on the land owned by the Company in the County or in the buildings, improvements and personal property theretofore constituting part of the Project to the extent that Section 12-44-60 of the Act permits such property to be included in the Project as replacement property.

“**Sponsor Affiliate**” shall mean an entity whose investment with respect to the Project will qualify for FILOT payments pursuant to **Section 8.02** hereof and Section 12-44-130 of the Act.

“**State**” shall mean the State of South Carolina.

“**Term**” shall mean the duration of this Agreement as set forth in **Section 4.01** hereof.

“**Transfer Provisions**” shall mean the provisions of Section 12-44-120 of the Act, as amended or supplemented from time to time, and any successor provisions under the laws of the State.

Section 1.02 References to Agreement.

The words “hereof,” “herein,” “hereunder” and other words of similar import refer to this Agreement as a whole.

ARTICLE II

REPRESENTATIONS AND COVENANTS

Section 2.01 Representations and Covenants of the County.

The County Council makes the following representations and covenants, on behalf of itself and on behalf of the County, as the basis for the undertakings of the County herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State and is authorized and empowered by the provisions of the Act to enter into the transactions contemplated by the Documents and to carry out its obligations thereunder. The County has been duly authorized to execute and deliver the Documents, all for the purpose of promoting economic development and developing the trade, and utilizing and employing the workforce, agricultural products and natural resources of the State.

(b) The County is not in default under any of the provisions of the laws of the State whereby any such default would adversely affect the execution and delivery of the Documents or adversely affect their validity or enforceability; to the best of its knowledge, the authorization, execution and delivery of the Documents, and the performance by the County of its obligations thereunder, will not conflict with or constitute a breach of, or a default under, any existing law, court or administrative regulation, decree, order or any provision of the Constitution or laws of the State relating to the establishment of the County or its affairs, or any material agreement, mortgage, lease or other instrument to which the County is subject or by which it is bound.

(c) No actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, wherein an unfavorable decision, ruling or finding may or would adversely affect the County or the consummation of the transactions described in the Documents.

(d) All consents, authorizations and approvals required on the part of the County in connection with the execution, delivery and performance by the County of the transactions described in the Documents have been obtained and remain in full force and effect as of the date hereof.

(e) The County has caused the Project to be located and identified in a joint county industrial and business park, pursuant to Article VIII, Section 13 of the South Carolina Constitution and Section 4-1-

170 of the Code. The County shall use its best efforts to cause the Project to remain located in such park or any other joint county industrial and business park established pursuant to such provisions of the South Carolina Constitution and the Code, or any successor provisions, for the term of this Agreement.

Section 2.02 Representations and Covenants by Company.

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a corporation, validly existing and in good standing, under the laws of the State of Delaware and is duly authorized to conduct its business in the State of South Carolina. The Company has power to enter into this Agreement, and by proper action has been duly authorized to execute and deliver this Agreement.

(b) The Company's current tax year for federal income tax purposes ends December 28, 2019.

(c) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment or compliance with the terms and conditions of this Agreement will result in a material breach of any of the terms, conditions or provisions of any agreement or instrument to which the Company is party or by which it is bound, or will constitute a default in any material respect under any of the foregoing, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company which material restricts the Company's ability to make any payments hereunder, other than as may be created or permitted by this Agreement.

(d) The Company is operating and intends to continue to operate the Project for purposes permitted under the Act as it may deem appropriate.

(e) No actions, suits, proceedings, inquiries or investigations are pending or threatened against or affecting it in any court or before any governmental authority or arbitration board or tribunal, any of which involve the possibility of any material and adverse effect upon the transactions contemplated by the Documents or which would materially adversely affect the validity or enforceability of the Documents and which is used or contemplated for use in the consummation of the transactions contemplated thereby.

ARTICLE III

ACQUISITION OF PROJECT

Section 3.01 Acquisition of Project.

(a) The Company and/or its affiliate(s) acquired the Project during the Project Period.

(b) Each year during the term of the Agreement, the Company shall deliver to the County Auditor, the County Treasurer, and the County Assessor a copy of its most recent annual filings made with the Department with respect to the Project, not later than thirty (30) days following delivery thereof to the Department. The Company shall further deliver to the Economic Development Director of the County with respect to the Company, the information required by the terms of the County's Resolution dated December 14, 2010, which is attached hereto as Exhibit A, as may be amended by subsequent resolution.

(c) The Company shall cause a copy of this Agreement to be filed with the County Auditor, the County Assessor, the County Treasurer, and the Department within thirty (30) days after the date of execution and delivery hereof.

(d) The Company shall comply with the provisions of Section 12-44-90 of the Act, including any successor provision, with respect to the filing of returns, contracts and other information.

Section 3.02 Records and Reports, Non-Disclosure.

The Company agrees to maintain complete plans and specifications and books and records accounting for the acquisition and operation of the Project. Such books and records shall:

- (i) permit ready identification of the various Project Increments and components thereof;
- (ii) confirm the dates on which each Project Increment was placed in service; and
- (iii) include copies of all filings made by the Company with the County Auditor or the Department with respect to property placed in service as part of the Project.

Notwithstanding any other provision of this Agreement, the Company may designate with respect to any filings or reports delivered to the County pursuant to the provisions of this Agreement, or segments thereof, that the Company believes contain proprietary, confidential or trade secret matters. Except as required by the South Carolina Freedom of Information Act, the County Council, the County, its officers (including members of County Council) and employees shall not knowingly and intentionally disclose any such confidential information regarding the Project, the Company, the Company's operations and any other competitively sensitive information which is not generally and independently known by the public, in each case without the prior written authorization of the Company. The County shall notify the Company in the event of the County's receipt of any Freedom of Information Act request concerning the aforesaid confidential information and will use its best efforts to cooperate with the Company in its action, if any, taken, to prevent or limit any disclosure of such information under the South Carolina Freedom of Information Act. Notwithstanding the foregoing provisions, nothing in the paragraph shall limit the County's ability to provide a timely and complete response to a request made to the County under the Freedom of Information Act.

ARTICLE IV

AGREEMENT TERM AND PAYMENT PROVISIONS

Section 4.01 Term.

(a) This Agreement shall take effect upon the delivery by the County to the Company of: (i) the written consents of any mortgagees or secured parties, if any, with respect to any portion of the Project, (ii) a bill or bills of sale with respect to portions of the Project previously conveyed by the Company to the County under the Lease Agreement, and (iii) payment by the Company to the County of the purchase price therefor as prescribed by the Lease Agreement. At such time, this Agreement shall take effect and the Lease Agreement shall be deemed terminated and shall be cancelled of record. Notwithstanding that it is intended by the parties that the Lease Agreement will be deemed terminated as of such effective date of this Agreement, nothing herein shall be construed to deny the Company the benefits of the Lease Agreement as were intended therein from its effective date to the date of delivery of such bill(s) of sale, nor the benefits of

the Lease Agreement which were declared therein to survive termination of the Lease Agreement, including, without limitation, all confidentiality provisions of the Lease Agreement.

(b) Subject to the terms and provisions herein contained, with respect to each annual Project Increment, this Agreement shall be and remain in full force and effect for twenty nine (29) years following the December 31 of the year in which such Project Increment was placed in service during the Project Period, unless sooner terminated as herein permitted; provided that, if at the expiration of the Term payments of all FILOT Payments under **Section 5.02** hereof relating to the operation of the Project during the Term have not been made, the Term shall expire on such later date as such payments shall have been made in full or so provided for.

Section 4.02 Additional Payments.

(a) In addition to the Company's obligations under **Section 5.02** hereof to make payment to the County of FILOT Payments and related amounts, the Company shall pay on demand to the County, following receipt of such supporting documentation as may be necessary to evidence the County's right to receive payment, all other amounts, liabilities and obligations which the Company assumes or agrees to pay under this Agreement, including without limitation those obligations referred to in paragraph (b) below (all such other amounts, liabilities and obligations hereinafter collectively called "Additional Payments"). In the event of any failure on the part of the Company to pay any Additional Payments, the County shall have all rights, powers and remedies provided for herein or by law or equity or otherwise.

(b) The Company agrees to pay Administration Expenses to the County when and as they shall become due, but in no event later than the date which is the earlier of any payment date expressly provided for in this Agreement or the date which is forty-five (45) days after receiving written notice from the County, accompanied by such supporting documentation as may be necessary to evidence the County's right to receive such payment, specifying the nature of such expense and requesting payment of same. Notwithstanding anything herein to the contrary, the Company shall reimburse the County for its Administration Expenses in the amount of Three Thousand Five Hundred and 00/100 Dollars (\$3,500.00).

Section 4.03 FILOT Payments Secured by Tax Lien.

The County's right to receive FILOT Payments hereunder shall have a first priority lien status pursuant to Sections 12-44-90(E) and (F) of the Act and Chapters 4, 49, 51, 53 and 54 of Title 12 of the Code.

Section 4.04 Defaulted Payments.

In the event the Company should fail to make any of the payments required in this **Article IV** or in **Article V** hereof (following the expiration of any applicable cure periods), the item or installment so in default shall continue as an obligation of the Company until the amount in default shall have been fully paid. If any such default relates to its obligations to make FILOT payments hereunder, the Company agrees to pay the same with interest thereon at the rate per annum provided by the Code for late payment of *ad valorem* taxes together with any penalties provided by the Code for late payment of *ad valorem* taxes, in addition to all other enforcement provisions for non-payment of taxes provided by the Code.

The foregoing and any other provision hereof to the contrary notwithstanding, to the extent, and only to the extent, the same may be permitted by law with respect to the payment of *ad valorem* taxes for similar investments, if the Company shall first notify the County of its intention to do so, the Company may, at its own expense, and in good faith, contest FILOT Payments and any other related fees, taxes, assessments, and other charges and, in the event of any such contest, may permit the FILOT Payments and

such taxes, assessments, or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom. The Company's failure to make any such payments as allowed by the foregoing shall not constitute a default on the part of the Company nor give rise to an Event of Default, the foregoing and any other provision hereof to the contrary notwithstanding.

ARTICLE V

MODIFICATION OF PROJECT; PAYMENTS IN LIEU OF TAXES; TAXES, UTILITIES AND OTHER CHARGES; INSURANCE

Section 5.01 Modification of Project.

The Company shall have the right at any time and from time to time during the Term hereof to undertake any of the following:

(i) The Company may renovate the Project and, in connection therewith, to the extent permitted by the Act, install Replacement Property in the Project. Notwithstanding anything in this Agreement to the contrary, the Company shall be entitled in its discretion from time to time to delete or remove any portions of the Project, or to add any (non-Project) property to the Company's facilities as may be used in conjunction with the Project or otherwise.

(ii) In any instance where the Company in its discretion determines that any portions of the Project have become inadequate, obsolete, worn out, unsuitable, undesirable or unnecessary for operations at the Project, the Company may remove such portions of the Project and sell, trade-in, exchange or otherwise dispose of them (as a whole or in part) without the consent of the County.

Notwithstanding anything herein to the contrary, and subject in all events to the terms and provisions of **Section 5.02** hereof, the FILOT Payments required under **Section 5.02** hereof shall, to the extent permitted by law, be reduced at such time to the extent that such payments are attributable to any portion of the Project which is removed as part of the Project, and the Company shall not be required to repay any portion of the tax benefit received prior to such event.

Section 5.02 Payments in Lieu of Taxes.

(a) In accordance with the provisions of Section 12-44-50 of the Act, during the Term of this Agreement, the Company shall make, with respect to the Project, annual FILOT Payments in the amounts set forth in this Section at the times and places, and in the same manner and subject to the same penalty assessments as prescribed by the County or the Department for *ad valorem* taxes. Such annual payments shall be made on or before each January 15 of each year during the term of this Agreement (or such other date as may be reflected in annual bills provided to the Company by the County). Subject to the provisions of the Act, each annual payment in lieu of taxes shall be equal to the Project Increment Payment with respect to each Project Increment, including, subject to the provisions of the Act, Replacement Property for the Project originally included in such Project Increment, calculated as set forth in **Section 5.02(b)** hereof, for each of thirty (30) consecutive years (except to the extent that any portion of such Project Increment ceases to qualify for a negotiated fee in lieu of taxes under the Act), commencing with the year following the year in which the respective Project Increments were placed in service.

(b) Each Project Increment Payment shall be in an amount, subject to the provisions of Section 12-44-110 of the Act, using the following formula: each such Project Increment Payment shall be in an

amount equal to the product which would result from multiplying the Project Millage Rate by six percent (6%) of the fair market value of the portion of the Project included within such Project Increment. Such fair market value shall be that determined by the Department on the basis provided in Section 12-44-50(A) of the Act, and shall, subject to the provisions of the Act, include all Replacement Property and deductions for depreciation or diminution in value allowed by the Act or by the tax laws generally, and shall be subject to any reductions provided herein under **Sections 5.01** and **6.01** hereof, and includes all applicable *ad valorem* tax exemptions except: (i) the exemption allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina; and (ii) the exemptions allowed pursuant to Section 12-37-220(B)(32) and (34) of the Code.

(c) In the event that the Act and/or the above-described payments in lieu of taxes or any portion thereof, are declared invalid or unenforceable, in whole or in part, for any reason, the Company and the County express their intentions that such payments be reformed so as to afford the Company the maximum benefit then permitted by law. In such event, the Company shall be entitled, to the extent permitted by law: (i) to enjoy the five-year exemption from *ad valorem* taxes (or fees in lieu of taxes) provided by South Carolina Constitution Article X, Section 3, and any other exemption allowed by law from time to time; and (ii) to enjoy all allowable depreciation.

ARTICLE VI

CASUALTY; CONDEMNATION

Section 6.01 FILOT Payments in the Event of Damage and Destruction or Condemnation.

In the event that the Project is damaged or destroyed or the subject of condemnation proceedings, which damage, destruction and/or condemnation would substantially impair the operating ability of the Project, the parties hereto agree that the payments in lieu of taxes required pursuant to **Section 5.02** hereof shall be abated in the same manner and in the same proportion as with *ad valorem* taxes..

ARTICLE VII

PARTICULAR COVENANTS AND AGREEMENTS

Section 7.01 Rights to Inspect.

The County acknowledges and understands that the Company utilizes trade secrets in the conduct of its business and that any disclosure of such information, including financial, sales and manufacturing information, would result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company and the County. Therefore, the County agrees that, without prior express written permission of the Company, it will not (i) request or be entitled to receive any such confidential and proprietary information; (ii) request or be entitled to inspect the Project or any property associated therewith; or (iii) disclose or otherwise divulge any such confidential and proprietary information to any other person, firm, governmental body or agency, or other entity, except as required by law and in compliance with **Section 3.02** hereof.

Section 7.02 Limitation of County's Liability; Indemnification.

(a) Anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder, including for the payment of money shall not be deemed to constitute a pecuniary liability

or a debt or general obligation of the County; provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

(b)(i) Except as provided in subparagraph (iv) 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.

(ii) 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 subparagraph (i), above. The County shall provide a statement of the costs incurred in the response or defense, and the Company shall pay the County within thirty (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.

(iii) 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.

(iv) Notwithstanding anything in this Section or this Fee Agreement 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.

(v) 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 7.03 Certain Transfer Restrictions.

The Company acknowledges that any mergers, reorganizations or consolidations of the Company may cause the Project to become ineligible for negotiated fees in lieu of taxes under the Act absent compliance by the Company with the Transfer Provisions; provided that, to the extent provided by Section 12-44-120 of the Act or any successor provisions, any financing arrangement entered into by the Company with respect to the Project and any security interests granted by the Company in connection therewith shall not be construed as a transfer for purposes of the Transfer Provisions. Notwithstanding anything in this Agreement to the contrary, it is not intended in this Agreement that the County shall impose transfer restrictions with respect to the Company or the Project as are any more restrictive than the Transfer Provisions.

Section 7.04 No Liability of County’s Personnel.

All covenants, stipulations, promises, agreements and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements and obligations of the County and shall be binding upon any member of the County Council or any 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 shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any officer, agent, servants or employee of the County and no recourse shall be had against any member of the County Council or any officer, agent, servant or employee of the County for the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon except solely in their official capacity.

Section 7.05 Other Tax Matters.

The Company shall be entitled to all state and federal investment tax credits, allowances for depreciation and other similar tax provisions allowable by applicable federal or State law with respect to the Project.

ARTICLE VIII

ASSIGNMENT OR LEASE; TRANSFER; SPONSOR AFFILIATES

Section 8.01 Assignment or Lease.

The Company may assign or otherwise transfer any of its rights and interest hereunder to a lessee or assignee, as the case may be, in compliance with the Transfer Provisions, including the requirement that any such lease or assignment shall be subject to the written consent of the County (when expressly required by the Transfer Provisions). The County agrees that any such consent shall not be unreasonably withheld, conditioned or delayed. Further, the County agrees that, to the extent permitted by Section 12-44-120(B) of the Act, or any successor provision, any financing arrangements entered into by the Company with respect to the Project and any security interests granted by the Company in connection therewith shall not be construed as a transfer for purposes of requiring consent to the same on the part of the County. To the extent that any prior consent or subsequent ratification of the County is required pursuant to the Transfer Provisions, the County agrees that such consent or ratification shall not be unreasonably withheld, conditioned or delayed and may be provided by a resolution of County Council.

Section 8.02 Sponsor Affiliates.

Pursuant to Section 12-44-130 of the Act and subject to the requirements of that Section, the Company and the County agree that investments by Sponsor Affiliates within the investment period shall qualify for FILOT Payments hereunder to the maximum extent permitted by law. If the Company desires that an entity become a Sponsor Affiliate, it shall request such in writing to the County. If the County agrees in writing and the entity agrees to be bound by the fee agreements to the extent required by said Section 12-44-130, such entity shall become a Sponsor Affiliate entitled to the maximum benefits afforded thereto under the Act.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

Section 9.01 Events of Default.

Any one or more of the following events (herein called an “Event of Default” or collectively, “Events of Default”) shall constitute an Event of Default:

(a) if default shall be made in the due and punctual payment of any FILOT Payments or related payments under **Section 5.02** hereof, or any Additional Payments, which default shall not have been cured within thirty (30) days following receipt of written notice thereof to the Company from the County; or

(b) if default shall be made by the Company in the due performance of or compliance with any of the material terms hereof, including payment, other than those referred to in the foregoing subdivision (a), and such default shall: (i) continue for thirty (30) days after the County shall have given the Company written notice of such default; or (ii) in the case of any such default which can be cured but which cannot with due diligence be cured within such 30-day period, if the Company shall fail to proceed promptly to cure the same and thereafter prosecute the curing of such default with due diligence, it being intended in connection with the default not susceptible of being cured with due diligence within thirty (30) days that the time of the Company within which to cure the same shall be extended for such period as may be necessary to complete the curing of the same with all due diligence.

Notwithstanding anything herein to the contrary, no failure of the Company to achieve any level of investment in the Project during the Term shall constitute an Event of Default.

Section 9.02 Remedies on Event of Default.

Upon the occurrence and during the continuance of any Event of Default, the County may: (i) terminate this Agreement by provision of thirty (30) days’ notice in writing specifying the termination date; (ii) upon providing, at the Company’s request, but subject in all events to the necessary exercise by the County of its sovereign duties and powers, a signed nondisclosure statement in form and substance reasonably satisfactory to the Company, have access to and inspect, examine and make copies of, the books, records and accounts of the Company pertaining to the Project; or (iii) take whatever action at law or in equity as may appear necessary or desirable to collect any FILOT Payments and Additional Payments then due or to enforce observance or performance of any covenant condition or agreement of the Company under this Agreement, including without limitation enforcement of a statutory lien on the Project for any non-payment of FILOT Payments hereunder, in addition to exercise of all statutory collection and enforcement provisions applicable to collection of *ad valorem* taxes.

Section 9.03 Collection of FILOT Payments.

In addition to all other remedies herein provided, the nonpayment of FILOT Payments shall constitute a lien for tax purposes as provided in Section 12-44-90 of the Act. In this regard, and notwithstanding anything in this Agreement to the contrary, the County may exercise the remedies provided by general law (including Title 12, Chapter 49, of the Code) relating to the enforced collection of *ad valorem* taxes to collect any FILOT Payments due hereunder.

ARTICLE X

MISCELLANEOUS

Section 10.01 Termination.

Before the stated expiration of the Term of this Agreement, the Company may, at any time by written notice to the County, provide for termination of this Agreement, effective immediately upon giving such notice; provided that any such termination shall not affect any liabilities of the Company as may have accrued as of the date of termination under this Agreement or under law. Upon any such termination, and subject to any provisions herein which shall by their express terms be deemed to survive any termination of this Agreement, the sole consequence to the Company shall be that it shall no longer be entitled to the benefit of the fee in lieu of payments provided herein and the property constituting the Project shall thereafter be subject to the *ad valorem* tax treatment required by law and in no event shall the Company be required to repay to the County the amount of any tax benefit previously received hereunder.

Section 10.02 Rights and Remedies Cumulative.

Each right, power and remedy of the County or of the Company provided for in this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity, in any jurisdiction where such rights, powers and remedies are sought to be enforced, and the exercise by the County or by the Company of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the County or by the Company of any or all such other rights, powers or remedies.

Section 10.03 Successors and Assigns.

The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Section 10.04 Notices; Demands; Requests.

All notices, demands and requests to be given or made hereunder to or by the County or the Company, shall be in writing, and shall be deemed to be properly given or made if sent by overnight carrier or United States first class mail, postage prepaid addressed as follows or at such other places as may be designated in writing by such party.

- (a) As to the County:

Richland County
2020 Hampton Street
Columbia, SC 29204
Attention: Attn: Richland County Economic Development Director

with a copy to (which shall not constitute notice to the County):

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

(b) As to the Company:

Mars Petcare US, Inc.
315 Cool Springs Boulevard
Franklin, TN 37067
Attention: Steve Cavezza

with a copy to (which shall not constitute notice to the Company):

Womble Bond Dickinson (US) LLP
5 Exchange Street
Charleston, SC 29401
Attention: Stephanie Yarbrough

Section 10.05 Applicable Law; Entire Understanding.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of South Carolina. This Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be 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 hereof.

Section 10.06 Severability.

In the event that any clause or provisions of this Agreement shall be held to be invalid by any court of competent jurisdiction, the invalidity of such clause or provision shall not affect any of the remaining provisions hereof.

Section 10.07 Headings and Table of Contents; References.

The headings of this Agreement and the Table of Contents annexed hereto are for convenience of reference only and shall not define or limit the provisions hereof or affect the meaning or interpretation hereof. All references in this Agreement to particular Articles or Sections or subdivisions of this Agreement are references to the designated Articles or Sections or subdivision of this Agreement.

Section 10.08 Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 10.09 Amendments.

This Agreement may be amended only by a writing signed by all of the parties. The County agrees that, to the extent approval of County Council is required for any amendment, such approval shall not be unreasonably withheld, conditioned or delayed and may be provided by a resolution of County Council.

Section 10.10 Waiver.

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

Section 10.11 Business Day.

In the event that any action, payment or notice is, by the terms of this Agreement, required to be taken, made or given on any day which is a Saturday, Sunday or a legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment or notice may be taken, made or given on the following business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

[Remainder of the page left blank]

IN WITNESS WHEREOF, Richland County, South Carolina, has executed this Agreement by causing its name to be hereunto subscribed by the Chair of its County Council and to be attested to by the Clerk of its County Council, and Mars Petcare US, Inc. has executed this Agreement by its authorized officer, all being done as of the day and year first above written.

RICHLAND COUNTY, SOUTH CAROLINA

Paul Livingston
Chair, Richland County Council

(SEAL)

ATTEST:

Kimberly Williams-Roberts
Clerk of Council, Richland County Council

[Company signature to follow on next page]

MARS PETCARE US, INC., a Delaware corporation

(SEAL)

By: _____

Name: _____

Title: _____

EXHIBIT A (see Section 3.01)
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 execution and delivery of a fee-in-lieu of ad valorem taxes agreement by and between Richland County, South Carolina and an entity known for the time being as "Project M19" to provide for payment of a fee-in-lieu of taxes; and other related matters

Notes:

First Reading: April 2, 2019

Second Reading: April 19, 2019 {Tentative}

Third Reading:

Public Hearing:

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 AN ENTITY KNOWN FOR THE TIME BEING AS “PROJECT M19” TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; 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, South Carolina 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, an entity known for the time being as “Project M19” (“Sponsor”) desires to expand its manufacturing operations in the County (“Project”) consisting of taxable investment in real and personal property approximately Ten Million Dollars (\$10,000,000.00); 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 Agreement with the Sponsor, as sponsor, the substantially 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 (1) 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; and (2) locating the Project in the Park.

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 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; and

(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, 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 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

First Reading: April 2, 2019
Second Reading:
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF FEE AGREEMENT

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

BETWEEN

[PROJECT M19]

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF [MAY 7, 2019]

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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 M19]	
Project Location	[To be inserted prior to third reading]	
Tax Map No.	[To be inserted prior to third reading]	
FILOT		
• Phase Exemption Period	Thirty (30) years	
• Contract Minimum Investment Requirement	\$10,000,000.00	
• Investment Period	Five (5) years	
• Assessment Ratio	6%	
• Millage Rate	482.5	
• Fixed or Five-Year Adjustable Millage	Fixed	
Multicounty Park	I-77 Corridor Regional Industrial Park	
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 [May 7, 2019], 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 M19], a [_____] organized and existing under the laws of the State of [_____] (“*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 expand a manufacturing facility (“*Facility*”) in the County, consisting of taxable investment in real and personal property of Ten Million Dollars (\$10,000,000.00); and

(d) By an ordinance enacted on [May 7, 2019], 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 expand 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.

“*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 do not include any costs or expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT Payments provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

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

“Commencement Date” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three (3) 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, 2019.

“Contract Minimum Investment Requirement” means a taxable investment in real and personal property at the Project of Ten Million Dollars (\$10,000,000.00).

“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.

“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 effective, as of [May 7, 2019].

“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.

“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, 2049, the Final Termination Date is expected to be on or around January 15, 2051, 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 5.1 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 (5) 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, 2024.

“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 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.

“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 twenty-ninth (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 [Project M19] 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 [April 2, 2019] by adopting an Inducement Resolution, as defined in the Act.

(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 manufacturing facility and/or 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 by the end of the Investment Period.

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

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

ARTICLE III THE PROJECT

Section 3.1. The Project. The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2019. 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, 2020, 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 14, 2010, which is attached hereto as Exhibit C, as may be amended by subsequent resolution.

(b) Within thirty (30) days of the effective date of this Fee Agreement, 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 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 482.5, 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, 2018.

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.

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

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

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

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

**ARTICLE VI
[RESERVED]**

**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 or any amount due under this Fee Agreement, which failure has not been cured within thirty (30) days following receipt of written notice from the County specifying the delinquency in payments and requesting that it be remedied;

(b) A Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means a publicly announced permanent closure of the Facility;

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

(d) 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 thirty (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 thirty (30) day period and is diligently pursuing corrective action until the default is corrected, in which case the thirty (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 thirty (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 thirty (30) day period and is diligently pursuing corrective action until the default is corrected, in which case the thirty (30) day period is extended to include the period during which the County is diligently pursuing corrective action.

(h) Notwithstanding anything herein to the contrary, failure to meet any investment requirements, thresholds, or levels set forth in this Fee Agreement shall not be deemed to be an Event of Default under this Agreement.

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, including reasonable cooperation with the Sponsor to redact any proposed disclosures that may be exempt under the Freedom of Information Act.

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 thirty (30) days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

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

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

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

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

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

Section 8.6. *Assignment.* The Sponsor may assign this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold. Notwithstanding anything herein to the contrary, the County hereby preapproves and consents to any assignment of this Fee Agreement to any transferee in connection with any of the transfers set forth in 12-44-120(B) of the Act or any other financing-related transfer. The Sponsor agrees to notify the County and

the Department of the identity of any such transferee within sixty (60) days following 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 Five Thousand Dollars (\$5,000.00). 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 sixty (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:

[to be inserted prior to third reading]

WITH A COPY TO (does not constitute notice):

Womble Bond Dickinson (US) LLP
Attn: Stephanie L. Yarbrough
5 Exchange Street
Charleston, South Carolina 29401

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 explicitly provided for above) to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

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

Section 10.10. Termination; Termination by Sponsor.

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

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

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

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

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

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

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

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

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

[Signature pages follow]

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

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 M19]

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

[TO BE INSERTED PRIOR TO THIRD READING]

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 [May 7, 2019] (“Fee Agreement”), between Richland County, South Carolina (“County”) and [Project M19] (“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

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 AN ENTITY KNOWN FOR THE TIME BEING AS “PROJECT M19” TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; 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, South Carolina 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, an entity known for the time being as “Project M19” (“Sponsor”) desires to expand its manufacturing operations in the County (“Project”) consisting of taxable investment in real and personal property approximately Ten Million Dollars (\$10,000,000.00); 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 Agreement with the Sponsor, as sponsor, the substantially 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 (1) 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; and (2) locating the Project in the Park.

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 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; and

(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, 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 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

First Reading: April 2, 2019
Second Reading: April 16, 2019
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF FEE AGREEMENT

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

BETWEEN

[PROJECT M19]

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF [MAY 7, 2019]

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- Exhibit A – Description of Property
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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 M19]	
Project Location	[To be inserted prior to third reading]	
Tax Map No.	[To be inserted prior to third reading]	
FILOT		
• Phase Exemption Period	Thirty (30) years	
• Contract Minimum Investment Requirement	\$10,000,000.00	
• Investment Period	Five (5) years	
• Assessment Ratio	6%	
• Millage Rate	482.5	
• Fixed or Five-Year Adjustable Millage	Fixed	
Multicounty Park	I-77 Corridor Regional Industrial Park	
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 [May 7, 2019], 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 M19], a [_____] organized and existing under the laws of the State of [_____] (“*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 expand a manufacturing facility (“*Facility*”) in the County, consisting of taxable investment in real and personal property of Ten Million Dollars (\$10,000,000.00); and

(d) By an ordinance enacted on [May 7, 2019], 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 expand 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.

“*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 do not include any costs or expenses, including attorney’s fees, incurred by the County (i) in defending challenges to the FILOT Payments provided by this Fee Agreement brought by third parties or the Sponsor or its affiliates and related entities, or (ii) in connection with matters arising at the request of the Sponsor outside of the immediate scope of this Fee Agreement, including amendments to the terms of this Fee Agreement.

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

“Commencement Date” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three (3) 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, 2019.

“Contract Minimum Investment Requirement” means a taxable investment in real and personal property at the Project of Ten Million Dollars (\$10,000,000.00).

“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.

“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 effective, as of [May 7, 2019].

“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.

“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, 2049, the Final Termination Date is expected to be on or around January 15, 2051, 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 5.1 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 (5) 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, 2024.

“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 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.

“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 twenty-ninth (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 [Project M19] 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 [April 2, 2019] by adopting an Inducement Resolution, as defined in the Act.

(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 manufacturing facility and/or 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 by the end of the Investment Period.

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

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

ARTICLE III THE PROJECT

Section 3.1. The Project. The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2019. 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, 2020, 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) Within thirty (30) days of the effective date of this Fee Agreement, 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 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 482.5, 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, 2018.

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.

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

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

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

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

**ARTICLE VI
[RESERVED]**

**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 or any amount due under this Fee Agreement, which failure has not been cured within thirty (30) days following receipt of written notice from the County specifying the delinquency in payments and requesting that it be remedied;

(b) A Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means a publicly announced permanent closure of the Facility;

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

(d) 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 thirty (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 thirty (30) day period and is diligently pursuing corrective action until the default is corrected, in which case the thirty (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 thirty (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 thirty (30) day period and is diligently pursuing corrective action until the default is corrected, in which case the thirty (30) day period is extended to include the period during which the County is diligently pursuing corrective action.

(h) Notwithstanding anything herein to the contrary, failure to meet any investment requirements, thresholds, or levels set forth in this Fee Agreement shall not be deemed to be an Event of Default under this Agreement.

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, including reasonable cooperation with the Sponsor to redact any proposed disclosures that may be exempt under the Freedom of Information Act.

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 thirty (30) days of receipt of the statement. The Sponsor may request reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide any documentation which may be privileged or confidential to evidence the costs.

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

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

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

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

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

Section 8.6. *Assignment.* The Sponsor may assign this Fee Agreement in whole or in part with the prior written consent of the County or a subsequent written ratification by the County, which may be done by resolution, and which consent or ratification the County will not unreasonably withhold. Notwithstanding anything herein to the contrary, the County hereby preapproves and consents to any assignment of this Fee Agreement to any transferee in connection with any of the transfers set forth in 12-44-120(B) of the Act or any other financing-related transfer. The Sponsor agrees to notify the County and

the Department of the identity of any such transferee within sixty (60) days following 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 Five Thousand Dollars (\$5,000.00). 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 sixty (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:

[to be inserted prior to third reading]

WITH A COPY TO (does not constitute notice):

Womble Bond Dickinson (US) LLP
Attn: Stephanie L. Yarbrough
5 Exchange Street
Charleston, South Carolina 29401

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 explicitly provided for above) to the maximum extent permitted by law, to allow the Sponsor to recoup all or a portion of the loss of the economic benefit resulting from such invalidity.

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

Section 10.10. Termination; Termination by Sponsor.

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

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

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

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

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

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

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

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

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

[Signature pages follow]

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

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 M19]

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

[TO BE INSERTED PRIOR TO THIRD READING]

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 [May 7, 2019] (“Fee Agreement”), between Richland County, South Carolina (“County”) and [Project M19] (“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

Richland County Council Request for Action

Subject:

An Ordinance Authorizing, pursuant to Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a fee agreement between Richland County, South Carolina and Kemira Chemicals, Inc., a corporation organized and existing under the laws of the State of Delaware concerning a new project; authorizing and providing with respect to an existing project for the conversion of an arrangement for fee-in-lieu of tax payments between Richland County and Kemira Chemicals, Inc. Under Title 4, Chapter 12, South Carolina Code of Laws, 1976, as amended, to an arrangement under Title 12, Chapter 44, South Carolina Code of Laws, 1976, as amended; and matters relating thereto

Notes:

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

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

AN ORDINANCE AUTHORIZING, PURSUANT TO TITLE 12, CHAPTER 44, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN RICHLAND COUNTY, SOUTH CAROLINA AND KEMIRA CHEMICALS, INC., A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE CONCERNING A NEW PROJECT; AUTHORIZING AND PROVIDING WITH RESPECT TO AN EXISTING PROJECT FOR THE CONVERSION OF AN ARRANGEMENT FOR FEE-IN-LIEU OF TAX PAYMENTS BETWEEN RICHLAND COUNTY AND KEMIRA CHEMICALS, INC. UNDER TITLE 4, CHAPTER 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, TO AN ARRANGEMENT UNDER TITLE 12, CHAPTER 44, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED; AND MATTERS RELATING THERETO.

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 (“*FILOT Act*”), Code of Laws of South Carolina, 1976, as amended (“*Code*”), 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, South Carolina more particularly known as I-77 Corridor Regional Industrial Park (“*Park*”);

WHEREAS, Kemira Chemicals, Inc. (successor in interest to FinnChem USA Inc., which was formerly known as Huron Tech Corp.), a corporation organized and existing under the laws of the State of Georgia (“*Sponsor*”), has made significant prior investments in the County, and in connection therewith, pursuant to Title 4, Chapter 12 (“*Old FILOT Act*”) of the Code, the Sponsor entered into November 17, 1998 Inducement and Millage Rate Agreement with the County and a December 15, 1998 Fee-in-Lieu of Taxes Lease Agreement with the County (“*1998 FILOT Agreement*”) concerning certain property (collectively, the two Agreements referenced in this paragraph are referred to herein as the “*Prior Agreements*” and the property subject to the 1998 FILOT Agreement is referred to herein as the “*Original Project*”);

WHEREAS, to date, the Sponsor has met its obligations under the Old FILOT Act and the Prior Agreements, invested a total of approximately \$48 million in the County and currently employ approximately 52 people in the County;

WHEREAS, the Sponsor desires to expand its investment at the manufacturing facility in the County (the “**Expansion Project**”), which Expansion Project will consist of Sponsor’s investment of up to \$20 million over a five-year period;

WHEREAS, (i) the 1998 FILOT Agreement provides for a 20-year term (“**Exemption Period**”) during which property placed in service under that Agreement will receive the fee-in-lieu of tax benefits provided thereunder; and (ii) by a Resolution adopted on December 4, 2018 (“**Resolution**”), County Council granted a 10-year extension of the Exemption Period under that Agreement, for a total Exemption Period under such Agreement of 30 years;

WHEREAS, by its Resolution, County Council also agreed to enter into a new Fee-in-Lieu of Ad Valorem Taxes Agreement (“**New FILOT Agreement**”) with the Sponsor with respect to the Sponsor’s future investments in the County, the form of which proposed New FILOT Agreement is attached hereto as Exhibit A;

WHEREAS, the Sponsor desires to utilize the provisions of the FILOT Act to continue to receive fee-in-lieu of tax benefits with respect to the Original Project without the County having title to any portion thereof;

WHEREAS, the FILOT Act provides, at Section 12-44-170 (the “**Conversion Provision**”) that an entity with property subject to a fee-in-lieu of tax arrangement under the Old FILOT Act, in connection with which title is held by the County, may elect with the consent of the County to convert from such Old FILOT Act arrangement to an arrangement under the FILOT Act in which title is held by such entity, and such property will automatically be considered “economic development property” for purposes of the FILOT Act; and

WHEREAS, the County desires, pursuant to the Conversion Provision and in connection with the Prior Agreements, to enter into a “conversion” FILOT Agreement with the Sponsor (the “**Conversion FILOT Agreement**”) with respect to the Original Project and, in connection therewith, to convey to the Sponsor the County’s right, title, and interest in and to the Original Project; and

WHEREAS, the proposed form of the Conversion FILOT Agreement, which is attached hereto as Exhibit B, relating to the Original Project has been prepared and presented to the County in order (i) to satisfy the requirements of the Conversion Provision and to make certain amendments to update the terms of the 1998 FILOT Agreement as necessary or appropriate, and (ii) to reflect the extension of the term of that Agreement, as converted, by 10 years, as approved by the Resolution;

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 Expansion Project based on relevant criteria including, the purposes the Expansion Project is to accomplish, the anticipated dollar amount and nature of the investment, and the anticipated costs and benefits to the County, and hereby finds:

(a) The Expansion 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 Expansion 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 Expansion Project are proper governmental and public purposes and the benefits of the Expansion Project to the public are greater than the costs.

(d) The execution of the New FILOT Agreement and the Conversion FILOT Agreement (collectively, the “*FILOT Agreements*”) will provide a substantial public benefit by supporting and encouraging the Sponsor to maintain its investments and related employment in the County and to make additional investments.

Section 2. *Approval of Incentives; Authorization to Execute and Deliver FILOT Agreements and Related Documents.*

(a) The incentives as described in this Ordinance (“*Ordinance*”) and as more particularly set forth in the FILOT Agreements are hereby approved. The form, terms and provisions of the FILOT Agreements that are before this meeting are approved and all of the FILOT Agreements’ terms and conditions are incorporated in this Ordinance by reference. The Chair of County Council (“*Chair*”) is authorized and directed to execute the FILOT Agreements 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 FILOT Agreements and to deliver the FILOT Agreements to the Sponsor.

(b) With respect to the Original Project, the County, pursuant to the FILOT Act, hereby expressly recognizes, consents to, approves and ratifies for any and all purposes (i) the conversion of the Sponsor’s arrangement under the Old FILOT Act to an arrangement under the FILOT Act; and (ii) the transfer of title to the Original Project back to the Sponsor and to the cancellation of the 1998 FILOT Agreement and the related November 17, 1998 Inducement and Millage Rate Agreement (to the extent said Agreements are not cancelled by operation of law) without further payment to the County thereunder.

Section 3. *Ratification of Location in Park; Expansion.* The County ratifies the inclusion of the Original Project in the Park, and the County authorizes and approves the expansion of the Park boundaries as may be necessary to include the Expansion Project. 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 related 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 Expansion 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, 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 Sponsor under this Ordinance and the FILOT Agreements.

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

First Reading: April 16, 2019
Second Reading: _____, 2019
Public Hearing: _____, 2019
Third Reading: _____, 2019

EXHIBIT A
FORM OF NEW FILOT AGREEMENT

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

BETWEEN

KEMIRA CHEMICALS, INC.

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF

_____, 2019

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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	Kemira Chemicals, Inc.	§1.1
Project Location	200 Wateree Station Road, Richland County	Exhibit A
Tax Map No.	See Exhibit A	Exhibit A
FILOT		
• Phase Exemption Period	30 years	
• Contract Minimum Investment Requirement	\$5 million	§1.1 and §5.1
• Investment Period	5 years	§1.1
• Assessment Ratio	6%	§4.1
• Millage Rate	482.5	§4.1
• Fixed or Five-Year Adjustable Millage	Fixed	§4.1
• Claw Back Information	See Section 5.1	§5.1
Multicounty Park	I-77 Corridor Regional Industrial Park (Fairfield County is the partner county)	§1.1
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 _____, 2019, 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 Kemira Chemicals, Inc., a corporation organized and existing under the laws of the State of Georgia (successor in interest to FinnChem USA Inc., which was formerly known as Huron Tech Corp.) (“*Kemira*” or “*Sponsor*”).

RECITALS:

(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) The Sponsor has made significant prior investments in the County, and in connection therewith, the Sponsor (then Huron Tech Corp.) entered into a December 5, 1998 Fee-in-Lieu of Taxes Lease Agreement with the County;

(c) To date, the Sponsor has invested a total of approximately \$48 million in the County and currently employs approximately 52 people in the County;

(d) The Sponsor has committed to expand the investment at its facility (“*Facility*”) in the County, which investment will consist of taxable investment anticipated to be approximately \$20 million over the period January 1, 2019 to December 31, 2024;

(e) The Sponsor wishes to enter into a Fee-in-Lieu of *Ad Valorem* Taxes Agreement (“*FILOT Agreement*”) with the County with respect to future investments in the County;

(f) By a Resolution adopted on December 4, 2018, County Council agreed to enter into a FILOT Agreement with the Sponsor with respect to the Sponsor’s future investments in the County;

(g) By an ordinance enacted on _____, 2019, County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a FILOT to induce the Sponsor to expand 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*” has the meaning set forth in the Recitals hereto.

“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 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” has the meaning set forth in the Recitals hereto.

“Commencement Date” means the last day of the property tax year during which Economic Development Property is placed in service. The Commencement Date shall not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor enter into this Fee Agreement. For purposes of this Fee Agreement, the Commencement Date is expected to be December 31, 2019.

“Contract Minimum Investment Requirement” means a taxable investment in real and personal property at the Project of not less than \$5 million.

“County” has the meaning set forth in the Preamble hereto.

“County Council” has the meaning set forth in the Preamble hereto.

“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 6.1 of this Fee Agreement.

“Facility” has the meaning set forth in the Recitals hereto.

“Fee Agreement” has the meaning set forth in the Preamble hereto.

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

“FILOT” has the meaning set forth in the Recitals hereto.

“**FILOT Agreement**” has the meaning set forth in the Recitals hereto.

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

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

“**Final Termination Date**” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2053, the Final Termination Date is expected to be January 15, 2055, 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.

“**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. For purposes of this Fee Agreement, the Investment Period is expected to end on December 31, 2024.

“**Kemira**” has the meaning set forth in the Preamble hereto.

“**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 amended or restated from time to time.

“**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 Kemira 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 Kemira 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 8.1 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**” has the meaning set forth in the Preamble hereto.

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 December 4, 2018 by adopting an Inducement Resolution, as defined in the Act, on that date.

(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 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 manufacturing 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.

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

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

ARTICLE III THE PROJECT

Section 3.1. The Project. The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The Sponsor anticipates that the first Phase of the Project will be placed in service during the calendar year ending December 31, 2019. 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 on January 31, 2020, 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 of Fairfield County, the County's partner in 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 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 482.5, 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, 2018.

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.

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

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

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

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

Section 4.4. *Damage or Destruction of Economic Development Property.*

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

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

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

Section 4.5. Condemnation.

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

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

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

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

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

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

**ARTICLE V
CLAW BACK**

Section 5.1. Claw Back. If the Company does not meet the Contract Minimum Investment between January 1, 2019 and December 31, 2024, then the Project shall revert retroactively to ad valorem taxation and this Fee Agreement shall terminate, and the Company shall, by December 31, 2024, make payment to the County of the difference between the FILOT Payments actually made and the total retroactive amount referred to in this Section.

**ARTICLE VI
DEFAULT**

Section 6.1. 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 (i) a publicly announced closure of the Facility, (ii) a layoff of a majority of the employees working at the Facility, or (iii) a 50% or more reduction in production at the Facility 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 material 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 material 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 6.2. 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 6.3. 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 6.4. 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 VII PARTICULAR RIGHTS AND COVENANTS

Section 7.1. Right to Inspect. The County and its authorized agents, at any reasonable time on prior written notice (no less than 48 hours in advance), 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 7.2. 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. The Sponsor may request any County officials or other representatives to execute its standard confidentiality requirement in case of such a visit by such persons to the Project.

Section 7.3. Indemnification Covenants.

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

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

(c) The County may request the Sponsor to resist or defend against any claim on behalf of an Indemnified Party. On such request, the Sponsor shall resist or defend against such claim on behalf of the Indemnified Party, at the Sponsor’s expense. The Sponsor is entitled to use counsel of its choice, manage

and control the defense of or response to such claim for the Indemnified Party; provided the Sponsor is not entitled to settle any such claim without the consent of that Indemnified Party.

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

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

Section 7.4. 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 7.5. 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 7.6. 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 7.7. 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 7.8. Administration Expenses. The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in an amount not exceeding \$7,000 for work and other matters related to (i) the drafting, review, negotiation and approval of (A) this Fee Agreement, (B) a new fee agreement of even date herewith between the Sponsor and the County converting the Sponsor's lease

purchase style agreement with the County to an agreement as authorized under the Act, and (C) any ordinances, deeds, bills of sale, or other documents related to any of such agreements or to the Project, and (ii) any related matters. 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 VIII SPONSOR AFFILIATES

Section 8.1. 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 8.2. 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 XI MISCELLANEOUS

Section 9.1. 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:

Kemira Chemicals, Inc.
1000 Parkwood Circle, Suite 500
Atlanta, GA 30339
Attn: Jason Burluson

WITH A COPY TO (does not constitute notice):

General Counsel, Americas
1000 Parkwood Circle, Suite 500
Atlanta, Georgia 30339

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 9.2. 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 9.3. 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 9.4. 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 9.5. 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 9.6. Amendments. This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

Section 9.7. 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 9.8. 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 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 9.9. 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 9.10. Termination; Termination by Sponsor.

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

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

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

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

Section 9.11. 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 9.12. 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 9.13. 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 9.14. 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 Agreement]

KEMIRA CHEMICALS, INC.

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

200 Wateree Station Road
Eastover, SC 29044

Tax Map No. 40900-01-07.

EXHIBIT B (see Section 8.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective _____, 2019 (“Fee Agreement”), between Richland County, South Carolina (“County”) and Kemira Chemicals, Inc.

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 9.1 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 DECEMBER 12, 2017 RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING ECONOMIC DEVELOPMENT PROJECTS IN THE 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 B
FORM OF CONVERSION PILOT AGREEMENT

~#4831-2258-4709 v.4~

**FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT
EFFECTING A CONVERSION OF THAT CERTAIN
FEE-IN-LIEU OF TAXES LEASE AGREEMENT
DATED AS OF DECEMBER 15, 1998**

BETWEEN

KEMIRA CHEMICALS, INC.

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF

_____, 2019

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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	Kemira Chemicals, Inc.	§1.1
Project Location	200 Wateree Station Road, Richland County	Exhibit A
Tax Map No.	See Exhibit A	Exhibit A
FILOT		
• Phase Exemption Period	30 years	
• Investment Period	5 years	§1.1
• Assessment Ratio	10.5%	§4.1
• Millage Rate	261.1	§4.1
• Fixed or Five-Year Adjustable Millage	Fixed	§4.1
• Claw Back Information	See Section 5.1	§5.1
Multicounty Park	I-77 Corridor Regional Industrial Park (Fairfield County is the partner county)	§1.1
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 _____, 2019, 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 Kemira Chemicals, Inc., a corporation organized and existing under the laws of the State of Georgia (successor in interest to FinnChem USA Inc., which was formerly known as Huron Tech Corp) (“*Kemira*” or “*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) The Sponsor (as defined below) has made significant prior investments in the County, and in connection therewith, pursuant to Title 4, Chapter 12 of the Code (“*Old Act*”), the Sponsor (then Huron Tech Corp.) entered into a November 17, 1998 Inducement and Millage Rate Agreement with the County (“*1998 Inducement Agreement*”) and a December 15, 1998 Fee-in-Lieu of Taxes Lease Agreement with the County (“*1998 FILOT Agreement*”);

(c) To date, the Sponsor has invested a total of approximately \$48 million in the County and currently employs approximately 52 people in the County;

(d) Pursuant to the 1998 FILOT Agreement, the Sponsor transferred title to the property subject to that Agreement (“*Original Project*”) to the County and leased the Original Project back from the County;

(e) The Sponsor desires to utilize the provisions of the Act to continue to receive FILOT benefits with respect to the Original Project without the County having title to any portion thereof;

(f) Section 12-44-170 (“*Conversion Provision*”) of the Act provides that an entity with property subject to a FILOT arrangement under the Old Act may elect, with the consent of the applicable county, to convert its FILOT arrangement from an arrangement under the Old Act to an arrangement under the Act, and, in connection with such conversion, to obtain from the applicable county title to the property that is subject to such FILOT arrangement;

(g) The Sponsor has satisfied the commitments and other requirements under the Old Act and the 1998 Inducement Agreement and 1998 FILOT Agreement;

(h) The County desires to convey and, pursuant to the Conversion Provision, the County will convey to the Sponsor its right, title and interest in and to the Original Project;

(i) In order (i) to satisfy the requirements of the Conversion Provision, (ii) to reflect the extension of the term of the 1998 FILOT Agreement by 10 years pursuant to a Resolution adopted by County Council on December 4, 2018, and (iii) to make certain amendments to update the terms of the 1998 FILOT Agreement as necessary or appropriate, this Fee Agreement has been prepared and presented to the County;

(j) The County has determined that this Fee Agreement meets the applicable requirements of the Act;

(k) The County has determined that it is in the best interest of the County to enter into this Fee Agreement with the Sponsor subject to the terms and conditions hereof; and

(l) By an ordinance enacted on _____, 2019, County Council authorized the County to enter into this Fee Agreement with the Sponsor subject to the terms and conditions hereof.

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.

“1998 FILOT Agreement” has the meaning set forth in the Recitals hereto.

“1998 Inducement Agreement” has the meaning set forth in the Recitals hereto.

“Act” has the meaning set forth in the Recitals hereto.

“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 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” has the meaning set forth in the Recitals hereto.

“Commencement Date” means December 31, 1998, which was the last day of the property tax year during which Economic Development Property was placed in service.

“Conversion Provision” has the meaning set forth in the Recitals hereto.

“County” has the meaning set forth in the Preamble hereto.

“County Council” has the meaning set forth in the Preamble hereto.

“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 5.1(a)(i) of this Fee Agreement, which may be caused by (i) the removal or disposal of components of the Project pursuant to Section 5.3 of this Fee Agreement; (ii) a

casualty as described in Section 5.4 of this Fee Agreement; or (iii) a condemnation as described in Section 5.5 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 6.1 of this Fee Agreement.

“Facility” has the meaning set forth in the Recitals hereto.

“Fee Agreement” has the meaning set forth in the Preamble hereto.

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

“FILOT” has the meaning set forth in the Recitals hereto.

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

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

“Final Termination Date” means the date on which the last FILOT Payment with respect to the Final Phase is made, or such earlier date as the Fee Agreement is terminated in accordance with the terms of this Fee Agreement. Assuming the Phase Termination Date for the Final Phase is December 31, 2032, the Final Termination Date is expected to be January 15, 2034, 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.

“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. For purposes of this Fee Agreement, the Investment Period ended on December 31, 2003.

“Kemira” has the meaning set forth in the Preamble hereto.

“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 amended or restated from time to time.

“Old Act” has the meaning set forth in the Recitals hereto

“Original Project” has the meaning set forth in the Recitals hereto.

“**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.

“**Prior Documents**” means the 1998 FILOT Agreement and the 1998 Inducement Agreement.

“**Project**” means the Equipment, Improvements and Real Property which are eligible for inclusion as economic development property under the Act and have become or may become subject to this Fee Agreement. For purposes of this Fee Agreement, the parties agree that Project property shall consist of such property so identified by the Sponsor in connection with its annual filing with the Department of a Department Form PT-300, or such comparable form, and with such schedules as the Department may provide in connection with projects subject to the Act (as such filing may be amended or supplemented from time to time) for each year within the Investment Period. As of the effective date of this Fee Agreement, the Project shall include the same property as the Original Project.

“**Real Property**” means real property that the Sponsor uses or will use in the County for the purposes that Section 3.2(b) describes, and 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 5.3 of this Fee Agreement or otherwise; or (b) elects to be treated as removed pursuant to Section 5.4(c) or Section 5.5(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 Kemira 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 8.1 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**” has the meaning set forth in the Preamble hereto.

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 CONVERSION OF FILOT ARRANGEMENT; REPLACEMENT OF LEASE

Section 2.1. *Election to Convert.* Pursuant to the Conversion Provision, the Sponsor hereby elects to proceed under the Act and to convert the Lease to a non-lease fee agreement under the Act. The County hereby consents to the Sponsor's election to convert as required by the Act.

Section 2.2. *Replacement of Lease and Related Documents.* The Sponsor and the County hereby agree and acknowledge that, from and after the execution and delivery of this Fee Agreement: (i) this Fee Agreement shall replace the Prior Documents in their entirety and (ii) the Act shall govern all fee-in-lieu of tax arrangements pertaining to the Original Project. In furtherance of such replacement, the parties agree that, upon the re-conveyance of the assets described in Section 2.3, the Prior Documents are terminated. The parties also agree that the term, the assessment ratio, the millage rate, and the payments to be made by the Sponsor under this Fee Agreement shall remain the same as under the Prior Documents, except that, as provided in Section 1.1 hereof, the Fee Term hereunder shall be based on a 30 year Phase Termination Date.

Section 2.3. *Conveyance on Conversion.* Simultaneously with the execution and delivery of this Fee Agreement, the County has by one or more quitclaim deeds and bills of sale conveyed to the Sponsor or its designee all assets comprising the Original Project that are currently titled in the County pursuant to the terms of the 1998 FILOT Agreement. The County covenants and agrees to take such further steps and to execute and deliver such further instruments, agreements or other documents as shall be reasonably requested by the Sponsor or its designee to evidence or confirm such conveyance.

ARTICLE III REPRESENTATIONS AND WARRANTIES

Section 3.1. *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 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.

(d) The County has located the Project, inclusive of the Original Project, in the Multicounty Park.

Section 3.2. 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 manufacturing 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 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.

(e) 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 IV THE PROJECT

Section 4.1. The Project. The Sponsor has constructed and/or acquired the Project.

Section 4.2 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 4.3. Filings and Reports.

(a) On or before January 31 of each year during the term of this Fee Agreement, commencing on January 31, 2020, 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 of Fairfield County, the County's partner in 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 V FILOT PAYMENTS

Section 5.1. *FILOT Payments.*

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

- (i) The fair market value of the Phase calculated as set forth in the Act (for the Real Property portion of the Phase, the County and the Sponsor have elected to use the fair market value established in the first year of the Phase Exemption Period), multiplied by
- (ii) An assessment ratio of ten and one-half percent (10.5%), multiplied by
- (iii) A fixed millage rate equal to 261.1, which is the applicable millage rate under the 1998 FILOT Agreement.

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 5.7.

Section 5.2. *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 5.1, on the Replacement Property to the extent of the original income tax basis of the Removed Component the Replacement Property is deemed to replace.

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

Section 5.3. 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 5.4. 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 5.5. 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 5.6. 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 5.1(a)(i) of this Fee Agreement.

Section 5.7. 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 5.8. Place of FILOT Payments. All FILOT Payments shall be made directly to the County in accordance with applicable law.

ARTICLE VI DEFAULT

Section 6.1. 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 (i) a publicly announced closure of the Facility, (ii) a layoff of a majority of the employees working at the Facility, or (iii) a 50% or more reduction in production at the Facility 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 material 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 material 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 6.2. 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 6.3. 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 6.4. 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 VII
PARTICULAR RIGHTS AND COVENANTS**

Section 7.1. Right to Inspect. The County and its authorized agents, at any reasonable time on prior written notice (no less than 48 hours in advance), 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 7.2. 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. The Sponsor may request any County officials or other representatives to execute its standard confidentiality requirement in case of such a visit by such persons to the Project.

Section 7.3. *Indemnification Covenants.*

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

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

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

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

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

Section 7.4. *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 7.5. *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 7.6. *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 7.7. *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 7.8. *Administration Expenses.* The Sponsor will reimburse, or cause reimbursement to, the County for Administration Expenses in an amount not exceeding \$7,000 for work and other matters related to (i) the drafting, review, negotiation and approval of (A) this Fee Agreement, (B) a new fee agreement of even date herewith between the Sponsor and the County, and (C) any ordinances, deeds, bills of sale, or other documents related to any of such agreements or to the Original Project or the Project, and (ii) any related matters. 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 VIII SPONSOR AFFILIATES

Section 8.1. *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 8.2. 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 IX
MISCELLANEOUS**

Section 9.1. 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:

Kemira Chemicals, Inc.
1000 Parkwood Circle, Suite 500
Atlanta, GA 30339
Attn: Jason Burleson

WITH A COPY TO (does not constitute notice):

General Counsel, Americas
1000 Parkwood Circle, Suite 500
Atlanta, Georgia 30339

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 9.2. 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 9.3. 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 9.4. 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 9.5. 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 9.6. Amendments. This Fee Agreement may be amended only by written agreement of the parties to this Fee Agreement.

Section 9.7. 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 9.8. 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 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 9.9. 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 9.10. Termination; Termination by Sponsor.

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

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

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

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

Section 9.11. 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 9.12. 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 9.13. 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 9.14. 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 Agreement]

KEMIRA CHEMICALS, INC.

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

200 Wateree Station Road
Eastover, SC 29044

Tax Map No. 40900-01-07

EXHIBIT B (see Section 8.1)
FORM OF JOINDER AGREEMENT

Reference is hereby made to the Fee-in-Lieu of *Ad Valorem* Taxes Agreement, effective _____, 2019 (“Fee Agreement”), between Richland County, South Carolina (“County”) and Kemira Chemicals, Inc.

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 9.1 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 DECEMBER 12, 2017 RESOLUTION REQUIRING CERTAIN ACCOUNTABILITY PRACTICES CONCERNING ECONOMIC DEVELOPMENT PROJECTS IN THE 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 and incentive agreement by and between Richland County, South Carolina and [Project ES] to provide for payment of a fee-in-lieu of taxes; authorizing certain special source credits; and other related matters

Notes:

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

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 AND PROJECT ES TO PROVIDE FOR PAYMENT OF A FEE-IN-LIEU OF TAXES; AUTHORIZING CERTAIN SPECIAL SOURCE 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 [PARK NAME] (“Park”);

WHEREAS, pursuant to the FILOT and MCIP Acts, the County is authorized to provide special source revenue credits (“Special Source 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, a company identified for the time being as Project ES, (“Sponsor”), desires to establish and/or expand certain facilities to be located in the County (“Project”) consisting of taxable investment in real and personal property of not less than \$77,000,000; 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; (2) locating the Project in the Park; and (3) providing Special Source 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, 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, 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 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

First Reading: April 16, 2019
Second Reading:
Public Hearing:
Third Reading:

EXHIBIT A
FORM OF FEE AGREEMENT

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

BETWEEN

PROJECT ES

AND

RICHLAND COUNTY, SOUTH CAROLINA

EFFECTIVE AS OF [_____], 2019

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**SUMMARY OF CONTENTS OF
FEE-IN-LIEU OF AD VALOREM TAXES AND
INCENTIVE AGREEMENT (“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 ES	Section 1.1, Page 3
Project Location		
Tax Map No.		Exhibit A
FILOT		
<ul style="list-style-type: none"> • Phase Exemption Period 	30 years	Section 1.1, Page 3
<ul style="list-style-type: none"> • Contract Minimum Investment Requirement 	\$77,000,000	Section 1.1, Page 2
<ul style="list-style-type: none"> • Investment Period 	5 years	Section 1.1, Page 3
<ul style="list-style-type: none"> • Assessment Ratio 	6%	Section 4.1, Page 6
<ul style="list-style-type: none"> • Millage Rate 	469.0 mills [(lowest allowable)]	Section 4.1, Page 6
<ul style="list-style-type: none"> • Fixed or Five-Year Adjustable Millage 	Fixed	Section 4.1, Page 6
<ul style="list-style-type: none"> • Claw Back Information 	Terminate and claw back if investment does not reach the Standard FILOT Act Minimum Investment Requirement; differential payment due if investment does not reach NPV FILOT Act Minimum Investment Requirement	Section 6.1, Page 8
Multicounty Park	I-77 Corridor Regional Industrial Park	Section 1.1, Page 3
Special Source Credit	77% against each annual FILOT Payment	Section 5.2, Page
<ul style="list-style-type: none"> • Brief Description 	See above	
<ul style="list-style-type: none"> • Credit Term 	See above	
<ul style="list-style-type: none"> • Clawback Information 		
Other Information	[FILOT Payment calculation to be made using net present value FILOT terms pursuant to Section 12-44-50(A)(2) of the FILOT Act based net present value calculations]	Section ____, Page ____

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

THIS FEE-IN-LIEU OF *AD VALOREM* TAXES AND INCENTIVE AGREEMENT (“*Fee Agreement*”) is entered into, effective, as of _____, 2019 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 a company identified for the time being as Project ES, a _____ organized and existing under the laws of the State of _____ (“*Sponsor*”).

WITNESSETH:

(a) The County is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“*FILOT Act*”) and Title 4, Chapter 1, Code of Laws of South Carolina 1976, as amended (the “*MCIP 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 below;

(b) Section 4-1-175 of the Code authorizes the County to provide special source revenue credits (“*Special Source Credits*”) against payments in lieu of taxes for purposes 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*”);

(b) The Sponsor has committed to locate or expand certain facilities to be operated primarily for [_____] (“*Project*”) in the County, consisting of taxable investment in real and personal property of not less than \$77,000,000;

(c) By an ordinance enacted on _____, 2019 County Council authorized the County to enter into this Fee Agreement with the Sponsor to provide for a *FILOT* and certain Special Source Credits as an inducement for the Sponsor to locate or expand the Project 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.

“*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*, *Special Source Credits*, or other terms and provisions set forth in 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.

“**Affiliate**” shall mean any corporation, limited liability company, partnership or other Person or entity which now or hereafter owns all or part of the Sponsor or any Sponsor Affiliate, as the case may be, or which is now or hereafter owned in whole or in part by the Sponsor or any Sponsor Affiliate, as the case may be, or by any partner, shareholder or owner of the Sponsor or any Sponsor Affiliate, as the case may be, and shall also include any subsidiary, affiliate or other Person, individual, or entity who now or hereafter bears a relationship to the Sponsor or any Sponsor Affiliate, as the case may be, as described in Section 267(b) of the Internal Revenue Code.

“**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 comprising the Project 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 parties agree that, to the maximum extent permitted by the FILOT Act, the Commencement Date shall be no later than [December 31], 2022, though the Sponsor presently anticipates that the Commencement Date will be [December 31, 20__].

“**Contract Minimum Investment Requirement**” means a taxable investment in real and personal property in the Project of not less than \$77,000,000 within the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date.

“**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.

“**Department**” means the South Carolina Department of Revenue, or any successor entity thereto.

“**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 comprising the Project placed in service within the Investment Period that (i) satisfy the conditions of classification as economic development property under the FILOT 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 now or hereafter acquired for use on or about the Land.

“**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 originally executed and as may be supplemented or amended as permitted herein.

“**FILOT Act**” means Title 12, Chapter 44 of the Code, as amended.

“**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]**, 20[___], the Final Termination Date is expected to be January 15, 20[___], which is the due date of the last FILOT Payment with respect to the Final Phase.

“**Improvements**” means all improvements now or hereafter constructed on the Land, including buildings, building additions, roads, sewer lines, and infrastructure, together with all additions, fixtures, accessions, replacements, and substitutions.

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

“**Investment Period**” means the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, as may be extended pursuant to Section 12-44-30(13) of the FILOT Act. For purposes of this Fee Agreement, the Investment Period, unless so extended, is expected to end on **[December 31]**, 20[___].

“**Land**” means the land 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.

“**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 I-77 Corridor Regional Industrial 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.

“**NPV FILOT Minimum Investment Requirement**” means an investment of at least \$45,000,000 in the Project within 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 set forth in Section 12-44-50(A)(3).

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

“**Person**” shall mean and include any individual, association, unincorporated organization, corporation, partnership, limited liability company, joint venture, or government or agency or political subdivision thereof.

“**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 the Land in the County that the Sponsor determines to be necessary, suitable, or useful by the Sponsor in connection with its investment in the County, only to the extent placed in service during the Investment Period.

“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.

“South Carolina Freedom of Information Act” shall mean Title 30, Chapter 4 of the Code.

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

“Sponsor” means a company identified for the time being as Project ES, a _____ organized and existing under the laws of the State of _____, 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.

“Standard FILOT Act Minimum Investment Requirement” means an investment of at least \$2,500,000 in the Project within 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 set forth in Section 12-44-30(14) of the FILOT Act, which investment amount shall be calculated in accordance with, and subject to, Section 12-44-130 of the FILOT Act.

“State” means the State of South Carolina.

“Term” means the term of this Fee Agreement, as set forth in **Section 10.10(a)** of this Fee Agreement.

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 FILOT 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 March 5, 2019 by adopting an Inducement Resolution, as defined in the FILOT Act on March 5, 2019.

(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 on terms, and for a duration, sufficient to facilitate the County's provisions of the Special Source Credits set forth in this Fee Agreement.

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 facilities primarily for [_____]
and for such other purposes that the FILOT 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 within the Investment Period.

(e) The execution and delivery of this Fee Agreement by the County and the availability of the FILOT, Special Source Credits, and other incentives provided by this Fee Agreement has been an inducement for 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, Special Source Credits, and other incentives granted by this Fee Agreement and has not relied on the County, its officials, employees or legal representatives with respect to any question of eligibility or applicability of the FILOT and other incentives granted by this Fee Agreement.

ARTICLE III THE PROJECT

Section 3.1. *The Project.* The Sponsor intends and expects to (i) construct or acquire the Project and (ii) meet the Contract Minimum Investment Requirement within the Investment Period. The parties hereto agree, to the maximum extent permitted by the FILOT Act, that the first Phase of the Project will be placed in service during the [calendar year] ending [December 31], [20__]. 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 in the Investment Period, 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, [20__] [CALENDAR YEAR FOLLOWING COMMENCEMENT DATE], the Sponsor shall deliver to the Economic Development Director of the County, pursuant to the instructions set forth in **Section 10.1** of this Fee Agreement, 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 a Phase thereof 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 FILOT Act (for the Land 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 469.0 mills, 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, 2018]**.

As authorized in, and subject to the provisions of, Section 12-44-50(A)(3) of the FILOT Act, the County hereby approves the Sponsor's request to calculate the FILOT Payments based on an alternative payment method yielding (over the Phase Exemption Period for each Phase) a payment stream which has the same net present value as the payment stream which would be generated using the standard FILOT calculation provided under Section 12-44-50(A)(1) of the FILOT Act and the factors set forth above in **Section 4.1** of this Fee Agreement. Such net present value calculations shall be determined using a discount rate which is equivalent to the yield in effect for new or existing United States Treasury bonds of similar maturity as published during the month in which this Fee Agreement is executed, which the parties believe to be [___]% (*i.e.*, the discount rate so in effect on [_____]). If no yield is available for the month in which this Fee Agreement is executed, the last published yield for the appropriate maturity available must be used. If there are no bonds of appropriate maturity available, bonds of different maturities may be averaged to obtain the appropriate maturity.

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 FILOT 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 FILOT 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 and such replacement occurs after the Investment Period.

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 prospectively 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; provided, however, that notwithstanding the foregoing provisions of this **Section 4.3**, if any part of the Economic Development Property is so removed and disposed of, then the Sponsor is obligated to pay to the County an amount equal to the difference between (i) what the Sponsor would have paid to the County with respect to such Economic Development Property using the standard FILOT calculation described in Section 12-44-50(A)(1) of the FILOT Act and the factors set forth in **Section 4.1** of this Fee Agreement and (ii) the amount actually paid by the Sponsor using the alternative payment method FILOT described in Section 12-44-50(A)(2) and the factors set forth in **Section 4.1** of this Fee Agreement (a “Differential Payment”), after taking into account the Special Source Credits that would have applied, or did apply, to each such FILOT Payment, as the case may be. Such Differential Payment will be made and included by the Sponsor with the FILOT Payment due to the County for the tax year corresponding to the property tax year in which such removal and disposal occurs.

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 tax year corresponding to the property tax 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 Term of this Fee Agreement 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 FILOT Act, then the calculation of the *ad valorem* taxes due with respect to the Economic Development Property for a particular 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.

Section 4.9. Failure to Satisfy the NPV FILOT Minimum Investment Requirement. In the event that the NPV FILOT Minimum Investment Requirement is not satisfied, but the Standard FILOT Minimum Investment Requirement is nevertheless satisfied, then the FILOT Payments shall revert retroactively and prospectively to the amounts due under the standard FILOT under Section 12-44-50(A)(1) of the FILOT Act and the factors set forth in **Section 4.1** of this Fee Agreement, and in such event, the Sponsor shall pay to the County a Differential Payment as described in **Section 4.3** of this Fee Agreement.

ARTICLE V ADDITIONAL INCENTIVES

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

For each property tax year in which the Special Source 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 satisfy the Contract Minimum Investment Requirement by the end of the Investment Period, then the Sponsor is subject to the claw backs as described in Exhibit E with respect to the Special Source Credits. 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, which failure has not been cured within 30 days following receipt of written notice from the County specifying the delinquency in such payment and requesting that it be remedied;

(c) A Cessation of Operations. For purposes of this Fee Agreement, a “*Cessation of Operations*” means a publicly announced closure of the Facility made by the Sponsor or a complete cessation of production [_____] at the Project that continues for a period of twelve (12) consecutive 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 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) to the Sponsor designee identified in **Section 10.1** of this Fee Agreement, 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 (each, a “*Claim*”).

(b) In the event the County resists or defends against any Claim on behalf of itself or any other Indemnified Party, the County is entitled to designate counsel of its choice, subject to approval by the Sponsor, which approval shall not be unreasonably withheld, conditioned or delayed, and the Sponsor shall reimburse the County for all of its reasonable costs, including reasonable attorneys’ fees, incurred in connection with the response to or defense against such Claim. The County shall provide, on a monthly basis, a statement of all such costs incurred in the response or defense during such month, and the Sponsor shall pay the County within 30 days of receipt of the statement, together with reasonable documentation evidencing the costs shown on the statement. However, the County is not required to provide the portions of 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 itself or any other 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 (i) occasioned by the acts of any 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 any 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, including, without limitation, copies of any citations, orders, fines, charges, remediation requests, or other claims or threats of claims, in order to afford the Sponsor notice, reasonable under the circumstances, within which to defend or otherwise respond to a Claim.

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

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

Section 8.6. Transfer and Assignment. The County agrees that the Sponsor and each other Sponsor Affiliate may at any time (a) transfer all or any of its rights and interests hereunder or with respect to all or any part of the Project to any Person; or (b) enter into any lending, financing, leasing, security, or similar arrangement or succession of such arrangements with any financing entity or other Person with respect to this Agreement or all or any part of the Project, including without limitation any sale-leaseback, equipment lease, build-to-suit lease, synthetic lease, nordic lease, defeased tax benefit or transfer lease, assignment, sublease or similar arrangement or succession of such arrangements, regardless of the identity of the income tax owner of such portion of the Project, whereby the transferee in any such arrangement leases the portion of the Project in question to the Sponsor or any Sponsor Affiliate or operates such assets for the Company or any Sponsor Affiliate or is leasing all or a portion of the Project in question from the

Sponsor or any Sponsor Affiliate. In the event of any such transfer, lease, financing, or other transaction described above, the rights and interests of the Sponsor or such other Sponsor Affiliate under this Agreement, including, without limitation, the benefits of the FILOT Payments and the Special Source Credits, with respect to any Project property so transferred, leased, financed, or otherwise affected shall be so transferred and preserved, automatically, without action of the County, subject to the following provisions: (i) except in connection with any transfer to any other Sponsor or Sponsor Affiliate or an Affiliate of the Sponsor or any Sponsor Affiliate, or transfers, leases, or financing arrangements pursuant to clause (b) above, as to all of which transfers and other transactions the County hereby preapproves and consents, the Sponsor or such Sponsor Affiliate shall obtain the prior written consent or subsequent written ratification of the County, which consent or subsequent ratification of the County shall not be unreasonably conditioned, withheld, or delayed; (ii) except when a financing entity which is the income tax owner of all or part of the Project property is the transferee pursuant to clause (b) above and such financing entity assumes in writing the obligations of the Sponsor or such other Sponsor Affiliate hereunder, or when the County consents in writing or when the transfer relates to Removed Components, no such transfer shall affect or reduce any of the obligations of the Sponsor or any such other Sponsor Affiliate hereunder; (iii) to the extent the transferee or financing entity shall become obligated to make FILOT Payments hereunder, the transferee shall assume the then current basis of the Sponsor or any such Sponsor Affiliate in the Project property so transferred; (iv) the Sponsor or any such Sponsor Affiliate, transferee or financing entity shall, within sixty (60) days thereof, furnish or cause to be furnished to the County and the Department of Revenue notice of any such transfer agreement. The County acknowledges that, notwithstanding any of the terms of this **Section 8.6** or this Agreement, it has no right of consent or subsequent ratification to a change in the direct or indirect ownership of the Sponsor or any Sponsor Affiliate.

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 [\$._____]. 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 FILOT 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:

Project ES
Attn: _____

WITH A COPY TO (does not constitute notice):

Nexsen Pruet, LLC
Attn: Tushar V. Chikhliker
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, South Carolina 29202

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 FILOT 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 FILOT 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 FILOT 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 or expand in the County, the County agrees to negotiate with the Sponsor to provide a special source revenue or infrastructure credit to the Sponsor 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. Term; Termination by Sponsor.

(a) Unless first terminated under any other provision of this Fee Agreement. This Fee Agreement shall be and remain in full force and effect for a term commencing on the effective date of this Fee Agreement, and ending at midnight on the later of (i) the day the last FILOT Payment is made under this Fee Agreement; or (ii) the day all Special Source Credits due from the County hereunder have been fully provided by the County.

(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 expressly stated in the Fee Agreement to survive termination, shall 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]

PROJECT ES

By: _____
Its: _____

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

EXHIBIT A
PROPERTY DESCRIPTION

[TO BE INSERTED]

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 _____, 2019 (“Fee Agreement”), between Richland County, South Carolina (“County”) and a company identified for the time being as Project ES, a _____ organized and existing under the laws of the State of _____ (“Sponsor”).

1. Joinder to Fee Agreement.

[_____], a _____ 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 FILOT 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

Project ES
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

[TO BE ADDED]

EXHIBIT D (see Section 5.1)
DESCRIPTION OF SPECIAL SOURCE CREDIT

The Sponsor shall be entitled to receive, and the County shall provide, Special Source Credits against each FILOT Payment due from the Sponsor under this Fee Agreement for the full Term of this Fee Agreement in an amount equal to seventy seven percent (77%) of each such FILOT Payment, commencing with the tax year for which the initial FILOT Payment is due under this Fee Agreement.

Notwithstanding the foregoing provisions of this Exhibit D, (i) in the event that the annual depreciation rate utilized, pursuant to Section 12-44-50(A)(1)(c)(ii) of the FILOT Act, in calculating any FILOT Payment due with respect to all or any portion of the Project, to the extent not already fully depreciated for such purposes, is less than 5%, the above-described initial Special Source Credits percentage (77%) otherwise applicable against the FILOT Payment due with respect to such property shall be increased by an amount sufficient so that such net FILOT Payment due after application of such increased Special Source Credits percentage shall equal the amount of such net payment if calculated using a 5% annual depreciation rate and the above-described initial Special Source Credits percentage (77%); and (ii) in the event that the annual depreciation rate utilized, pursuant to Section 12-44-50(A)(A)(1)(c)(ii) of the FILOT Act, in calculating any FILOT Payment due with respect to all or any portion of the Project, to the extent not already fully depreciated for such purposes, is more than 5%, the above-described initial Special Source Credits percentage (77%) otherwise applicable against the FILOT Payment due with respect to such property shall be decreased by an amount sufficient so that such net FILOT Payment due after application of such decreased Special Source Credits percentage shall equal the amount of such net payment if calculated using a 5% annual depreciation rate and the above-described initial Special Source Credits percentage (77%).

THE SPECIAL SOURCE CREDITS AUTHORIZED HEREIN SHALL NOT CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY, BUT SHALL BE A LIMITED OBLIGATION OF THE COUNTY PAYABLE SOLELY FROM THE FILOT PAYMENTS RECEIVED BY THE COUNTY HEREUNDER WITH RESPECT TO THE PROJECT.

EXHIBIT E (see Section 6.1)
DESCRIPTION OF SPECIAL SOURCE CREDITS CLAW BACK

Repayment Amount = Total Special Source Credits Received x Claw Back Percentage

Claw Back Percentage = 100% - Investment Achievement Percentage

Investment Achievement Percentage = Actual Investment Achieved (based on highest level of Project investment within Investment Period) / Contract Minimum Investment Requirement [may not exceed 100%]

For example, and by way of example only, if the County granted \$[I] in Special Source Credits, and \$[D] is the highest level invested at the Project by the end of the Investment Period, the Repayment Amount would be calculated as follows:

Investment Achievement Percentage = \$[D]/\$[Contract Minimum Investment Requirement] = [F]%

Claw Back Percentage = 100% - F% = H%

Repayment Amount = \$[I] x [H]% = \$[J]

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.

The Sponsor shall continue to be eligible for the Special Source Credits against each FILOT Payment due from the Sponsor for the remaining tax years of the period set forth in **Section 5.1** and **Exhibit D** of this Fee Agreement; provided, however, in the event that determination of the Investment Achievement Percentage results in a positive percentage figure, the initial Special Source Credits percentage set forth in **Section 5.1** and Exhibit D of this Fee Agreement (77%) shall be reduced for the remaining such period by the percentage equal to such Investment Achievement Percentage (*i.e.*, if an Investment Achievement Percentage of 10%, a resulting prospective Special Source Credits percentage of 69.3%).



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant MUST reside in Richland County.

Name: Jason Branham

Home Address: 206 Averill Ln., Irmo, SC 29063

Telephone: (home) 803-381-7791 (work)

Office Address: 3800 Fernandina Rd. Suite 110, Columbia, SC 29210

Email Address: branham.sc@gmail.com

Educational Background: B.A. Political Science 2002, J.D. USC Law 2004

Professional Background: Licensed SC attorney since 2004: real estate, business, probate, foreclosure

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: [Redacted] Planning Commission

Reason for interest: Desire to serve community via government service; interest and experience in land use & planning

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

Years of education, legal experience and writing regarding real estate, land use and planning - including specifically things such as variances & special exceptions

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give? Not at this time

Recommended by Council Member(s): Bill Malinowski

Hours willing to commit each month: 40+

CONFLICT OF INTEREST POLICY

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all

Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.

Yes _____ No

STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes _____ No

If so, describe: _____



Applicant's Signature

3/26/18
Date

Return to:
Clerk of Council, Post Office Box 192, Columbia, SC 29202.
For information, call 576-2060.

One form must be submitted for each Committee, Board or Commission on which you wish to serve.

Applications are current for one year.

Staff Use Only	
Date Received: <u>3-26-18</u>	Received by: 
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	



**APPLICATION FOR SERVICE ON RICHLAND COUNTY
COMMITTEE, BOARD OR COMMISSION**

Applicant MUST reside in Richland County.

Name: Ann Thomason

Home Address: 222 Thatcher Loop, Elgin, SC 29045

Telephone: (home) 803-414-2484 (work) _____

Office Address: 51 de Spaw's Creek Church Rd, Elgin, SC 29045

Email Address: Ann.ThomasonRealEstate@gmail.com

Educational Background: B.S. Biology

Professional Background: IT Recruiter, Realtor

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: Planning Commission

Reason for interest: To better understand the challenges we face in our County while serving the community.

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

I am open-minded and have the ability to work well with all individuals. As a Realtor, I understand the challenges we face.

Presently serve on any County Committee, Board or Commission? no

Any other information you wish to give? _____

Recommended by Council Member(s): Calvin Jackson

Hours willing to commit each month: _____

CONFLICT OF INTEREST POLICY

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All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.

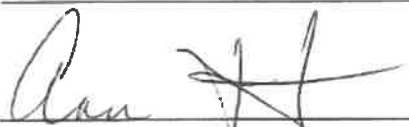
Yes _____ No X

STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes _____ No X

If so, describe: _____

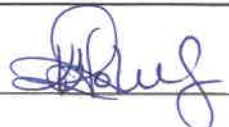

Applicant's Signature

10/25/18
Date

Return to:
Clerk of Council, Post Office Box 192, Columbia, SC 29202.
For information, call 576-2060.

One form must be submitted for each Committee, Board or Commission on which you wish to serve.

Applications are current for one year.

Staff Use Only	
Date Received: <u>11-2-18</u>	Received by: 
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	

2



**APPLICATION FOR SERVICE ON RICHLAND COUNTY
COMMITTEE, BOARD OR COMMISSION**

Applicant MUST reside in Richland County.

Name: Clifford L. Muldowney

Home Address: 119 Prince Lane, Elgin, SC 29045

Telephone: (home) 803-865-1458 (work) N/A

Office Address: N/A

Email Address: cliff_muldowney@bellsouth.net

Educational Background: AA Business and Management

Professional Background: U.S. Army Retired, Civil Service Retired

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: Planning Commission

Reason for interest: Serve the community and have a voice in decision making.

Interest in planning land use in our growing community

Your characteristics/qualifications, which would be an asset to Committee, Board or
Commission:

I supervised several personnel in my my positions in the U.S Military and Civil Service. My
skill at listening and interest in the future of Richland County

Presently serve on any County Committee, Board or Commission? None

Any other information you wish to give? I am retired and have time to dedicate to the position.

Recommended by Council Member(s): I do not know any Council Members

Hours willing to commit each month: 32 hours or more

CONFLICT OF INTEREST POLICY

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.

Yes _____ No No _____

STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes _____ No NO _____

If so, describe: _____



Applicant's Signature

18 Feb 2019
Date

**Return to:
Clerk of Council, Post Office Box 192, Columbia, SC 29202.
For information, call 576-2060.**

One form must be submitted for each Committee, Board or Commission on which you wish to serve.

Applications are current for one year.

Date Received: <u>2-21-19</u>	Staff Use Only	Received by: 
Date Sent to Council: _____		



**APPLICATION FOR SERVICE ON RICHLAND COUNTY
COMMITTEE, BOARD OR COMMISSION**

Applicant MUST reside in Richland County.

Name: Marvin U. DuBois

Home Address: 104 Stormycreek Lane, Blythewood, SC 29016

Telephone: (cell) 770-335-3825 (work) N/A

Office Address: None

Email Address: marvindubois1@gmail.com

Educational Background: Master of Science in Electrical Engineering, Va Tech 1984

Professional Background: Electrical Engineer; Sales Engineer for Intel; Product Manager

Male Female • Age: 18-25 • 26-50 • Over 50 x

Name of Committee in which interested: Richland Co. Planning Commission

Reason for interest: Interested in seeing our county develop deliberately, and with a plan to guide us.

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

As a Product Manager I have a strategic approach. As an engineer I focus on details. As a sales person I focus on communicating crisp understanding.

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give? Currently I am HOA President for Crickentree

Recommended by Council Member(s): Stephen Gilchrist

Hours willing to commit each month: 20

CONFLICT OF INTEREST POLICY

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.

Yes _____

No NO _____

STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes YES _____

No _____

If so, describe: Crickentree HomeOwner's Association (a non-profit)

Man G. DuBain
Applicant's Signature

JAN 28, 2019
Date

Return to:
Clerk of Council, Post Office Box 192, Columbia, SC 29202.
For information, call 576-2060.

One form must be submitted for each Committee, Board or Commission on which you wish to serve.

Applications are current for one year.

Staff Use Only	
Date Received: <u>1-29-19</u>	Received by: <u>[Signature]</u>
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant MUST reside in Richland County.

Name: Shirley Ann Montgomery

Home Address: 705 Near Creek Dr Blythewood, SC 29016

Telephone: (home) 804-943-3516 (work)

Office Address: 8012 Garners Ferry Rd Columbia SC 29209

Email Address: trustdestinyllc@gmail.com

Educational Background: Master's Degree Psychology

Professional Background: Disabled Veteran, Realtor, Life Coach

Male [] Female [] Age: 18-25 [] 26-50 [] Over 50 []

Name of Committee in which interested: Planning

Reason for interest: As a Realtor I believe it is important as a Realtor to

be involved in development, economic, social, economic growth of the community for the betterment of the entire community.

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

My ability to relate, diverse, explore, creativity and interact with

people from all socio-economics is an asset. In addition as a leader in the military some of my skills would also be an asset.

Presently serve on any County Committee, Board or Commission? None

Any other information you wish to give? I'm excited for even having the opportunity to position myself as a member of this committee.

Recommended by Council Member(s):

Hours willing to commit each month: As required

CONFLICT OF INTEREST POLICY

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Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.

Yes _____

No _____

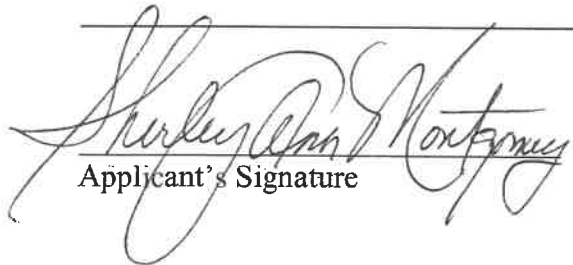
STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes _____

No _____

If so, describe: _____

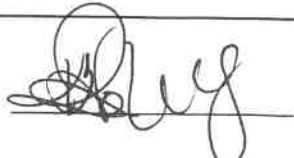

Applicant's Signature

12 Feb 19
Date

Return to:
Clerk of Council, Post Office Box 192, Columbia, SC 29202.
For information, call 576-2060.

One form must be submitted for each Committee, Board or Commission on which you wish to serve.

Applications are current for one year.

Staff Use Only	
Date Received: <u>2-19-19</u>	Received by: 
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant MUST reside in Richland County.

Name: John Metts
Home Address: 4658 Paulico Circle Coler 29206
Telephone: (home) 803 272 2269 (work) 803 255 8631
Office Address: 1111 Laurel St, Columbia, SC 29201
Email Address: john.metts@wilsonkibler.com
Educational Background: University of South Carolina
Professional Background: Commercial Real Estate

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: Planning Commission & BOZA

Reason for interest: I want to be involved in the community and help make home a more desirable place.

Your characteristics/qualifications, which would be an asset to Committee, Board or

Commission:

I have worked in Commercial Real Estate for 5 years. I enjoy real estate and would enjoy working hard in this capacity.

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give? No

Recommended by Council Member(s): _____

Hours willing to commit each month: As long as it takes to complete.

CONFLICT OF INTEREST POLICY

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through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

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Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.

Yes _____ No ✓ _____

STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes _____ No ✓ _____

If so, describe: _____



Applicant's Signature

12/20/18
Date

Return to:
Clerk of Council, Post Office Box 192, Columbia, SC 29202.
For information, call 576-2060.

One form must be submitted for each Committee, Board or Commission on which you wish to serve.

Applications are current for one year.

Staff Use Only	
Date Received: <u>12/20/18</u>	Received by: 
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file	



**APPLICATION FOR SERVICE ON RICHLAND COUNTY
COMMITTEE, BOARD OR COMMISSION**

Applicant must reside in Richland County.

Name: Madison DeVine

Home Address: • 262 Massey Circle, Chapin, SC 29036

Telephone: (home) 803-972-3620 (work) 803-776-6050

Office Address: 534 Saint Andrews Road Suite C, Columbia, SC 29210

Email Address: madisonplovina@gmail.com / madison.devine@interlock.com

Educational Background: B.S. Civil Engineering - University of South Carolina

Professional Background: Geotechnical Engineering, IBC Special Inspections

Male Female Age: 18-25 26-50 Over 50

Name of Committee in which interested: Building Codes Board of Appeals

Reason for interest: To use my experience with the Building Code to get more involved with the community.

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:
I am very detailed oriented, hold multiple ICC certifications, can bring a fresh outlook of the building code to the board.

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give? I take my PE exam in April 2019

Recommended by Council Member(s): _____

Hours willing to commit each month: As necessary

CONFLICT OF INTEREST POLICY

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.

Yes _____ No X _____

STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes _____ No X _____

If so, describe: _____

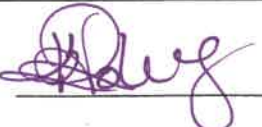

Applicant's Signature

12-21-2018
Date

Return to:
Clerk of Council, Post Office Box 192, Columbia, SC 29202.
For information, call 576-2060.

One form must be submitted for each Committee, Board or Commission on which you wish to serve.

Applications are current for one year.

Staff Use Only	
Date Received: <u></u>	Received by: <u>12-31-18</u>
Date Sent to Council: _____	
Status of Application: <input type="checkbox"/> Approved	<input type="checkbox"/> Denied <input type="checkbox"/> On file



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant MUST reside in Richland County.

Name: Davey Ford
Home Address: 1260 Sandy Oaks Rd Elgin SC 29045
Telephone: (home) 803-243-4667 (work) 803-243-4667
Office Address: 1260 Sandy Oaks Rd Elgin SC 29045
Email Address: DONEYRIGHT@SC.rr.com

Educational Background: High School Diploma

Professional Background: Contractor - HVAC Plumbing State Mechanical License

Male [] Female [] Age: 18-25 [] 26-50 [] Over 50 []

Name of Committee in which interested: Building Codes Board of Adjustments & Appeals

Reason for interest: To ensure work is done properly for the public's best interests. I see sloppy work all the time and want to make a better difference.

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

State Mechanically Licensed HVAC & Plumbing Contractor - Level 2 Thermographer & helped write the thermography standards for RESNET - 98% of my work is done in low income housing

Presently serve on any County Committee, Board or Commission? NO

Any other information you wish to give? 20 yrs Experience in my field

Recommended by Council Member(s):

Hours willing to commit each month: 40, possibly more

CONFLICT OF INTEREST POLICY

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All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.

Yes _____ No X _____

STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes X _____ No _____

If so, describe: My own Business - Done Right, LLC
my Friends Business - Palmetto Leak Detection



Applicant's Signature

6-16-18
Date

Return to:
Clerk of Council, Post Office Box 192, Columbia, SC 29202.
For information, call 576-2060.

One form must be submitted for each Committee, Board or Commission on which you wish to serve.

Applications are current for one year.

Staff Use Only	
Date Received: <u>6-19-18</u>	Received by: 
Date Sent to Council: _____	



APPLICATION FOR SERVICE ON RICHLAND COUNTY COMMITTEE, BOARD OR COMMISSION

Applicant must reside in Richland County.

Name: Willie Farmer
Home Address: 126 Nelson Rd Columbia SC 29203
Telephone: (home) 803 600 7689 (work) 803 728 0924
Office Address: 2127 Schoolhouse Rd Columbia SC 29204
Email Address: fconstruction@fcllc.biz
Educational Background:
Professional Background: General Contractor (2012); Electrical Contractor (2007)
Male Female Age: 18-25 26-50 Over 50
Name of Committee in which interested: Board of Appeals (Elec.)
Reason for interest: Participate in County government

Your characteristics/qualifications, which would be an asset to Committee, Board or Commission:

Local Business Owner, Master Electrician

Presently serve on any County Committee, Board or Commission? No

Any other information you wish to give?

Recommended by Council Member(s):

Hours willing to commit each month: 4 hrs

CONFLICT OF INTEREST POLICY

It is the policy of Richland County to require disclosure of any personal or financial interest that may be influenced by decisions of the Committee, Board or Commission for which any citizen applies for membership.

Such conflict of interest does not preclude service but shall be disclosed before appointment. The Clerk of Council shall be notified of any change on an annual basis and members of all Committees, Boards or Commissions shall be required to abstain from voting or influencing through discussion or debate, or any other way, decisions of the Committee, Board or Commission affecting those personal and financial interests.

All statements so filed shall be signed and verified by the filer. The verification shall state that the filer has used all reasonable diligence in its preparation, and that to the best of his or her knowledge, it is true and complete.

Any person who willfully files a false or incomplete statement of disclosure or no change of condition, or who willfully fails to make any filing required by this article, shall be subject to such discipline, including censure and disqualification from the Committee, Board or Commission, by majority vote of the council.

Have you been convicted or pled no contest of a crime other than minor traffic violations; checking yes does not automatically preclude you from consideration for appointment.

Yes _____ No X

STATEMENT OF FINANCIAL OR PERSONAL INTERESTS

Do you have any financial or personal interest in any business or corporation (profit or not-for-profit) that could be potentially affected by the actions of the Committee, Board or Commission?

Yes X No _____

If so, describe: Owner of Farmer Construction, LLC.
I would recuse myself from any repeal
concerning my company

Willie Ann
Applicant's Signature

12/17/18
Date

Return to:
Clerk of Council, Post Office Box 192, Columbia, SC 29202.
For information, call 576-2060.

One form must be submitted for each Committee, Board or Commission on which you wish to serve.

Applications are current for one year.

	Staff Use Only	
Date Received: <u>2-4-19</u>	Received by: <u>[Signature]</u>	
Date Sent to Council: _____		
Status of Application: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> On file		



REQUEST OF ACTION

Subject: FY19 - District 3 Hospitality Tax Allocations

A. Purpose

County Council is being requested to approve a total allocation of **\$3,000** for District 3.

B. Background / Discussion

For the 2018 - 2019 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$164,850.00 for each district Council member as approved during the FY17-18 fiscal year and as amended during the May 15th Regular Session. The details of these motions are listed below:

Motion List for FY18: Hospitality Tax discretionary account guidelines are as follows: (a) Establish an 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.

Regular Session – May 15, 2018: Motion that all unspent H-Tax funding for FY17-18 be carried over and added to any additional funding for FY18-19 to Council districts. Because of the failure of the Grants Office to notify councilmembers of problems from changes to the grants process my district, and others, did not get to have some or all of their events. I was never notified of any problems until I was contacted by some organizations that they were having problems. Now eleven months later it is too late and it is not fair. Established organizations in Columbia had theirs but as for the unincorporated areas where they are developing programs and event, there were problems.

Pursuant to Budget Memorandum 2017-1 each district Council member was approved \$164,850.00 to allocate funds to Hospitality Tax eligible organizations of their own discretion. As it relates to this request, District 3 H-Tax discretionary account breakdown and its potential impact is listed below:

Initial Discretionary Account Funding	\$164,850
FY2018 Remaining Amount	\$ 99,850
FY2019 Previously Allocated	\$122,500
Remaining Balance	\$142,200
SCSU Statewide Jazz Gala	\$ 3,000
Total	\$ 3,000
Remaining Balance	\$139,200

C. Legislative / Chronological History

- 3rd Reading of the Budget FY18 – June 8, 2017
- Regular Session - May 15, 2018
- 3rd Reading of the Budget- FY19 June 21, 2018

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: FY19 - District 2 Hospitality Tax Allocations

A. Purpose

County Council is being requested to approve a total reallocation of **\$5,000** for District 2.

B. Background / Discussion

For the 2018 - 2019 Fiscal Year, County Council approved designating the Hospitality Discretionary account funding totaling \$164,850.00 for each district Council member as approved during the FY17-18 fiscal year and as amended during the May 15th Regular Session. The details of these motions are listed below:

Motion List for FY18: 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.

Regular Session – May 15, 2018: Motion that all unspent H-Tax funding for FY17-18 be carried over and added to any additional funding for FY18-19 to Council districts. Because of the failure of the Grants Office to notify councilmembers of problems from changes to the grants process my district, and others, did not get to have some or all of their events. I was never notified of any problems until I was contacted by some organizations that they were having problems. Now eleven months later it is too late and it is not fair. Established organizations in Columbia had theirs but as for the unincorporated areas where they are developing programs and event, there were problems.

Pursuant to Budget Memorandum 2017-1 each district Council member was approved \$164,850.00 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		\$164,850
FY2018 Remaining Amount		\$ 19,350
FY2019 Previously Allocated		\$145,500
	Blythewood Historical Society	\$ 5,000
Total		\$ 5,000
Remaining Balance		\$ 33,700

C. Legislative / Chronological History

- 3rd Reading of the Budget – June 8, 2017
- Regular Session - May 15, 2018
- Budget to 3rd Reading of Budget FY19 June 21 ,2018

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.

Resolution: “Ban The Box “

I move that Richland County Council pass the resolution to “Ban the Box” and join more than 150 cities and counties and 33 states nationwide that have “Ban the Box” laws to remove questions about convictions from job applications; so that applicants could be judged first on their qualifications.

Yvonne McBride

Whereas, a criminal record is frequently a barrier to employment for a person with a prior criminal conviction; and

Whereas, one in three South Carolinians has a criminal record and, as a result, face pervasive and open-ended employment discrimination; and

Whereas, banning the box laws do not eliminate background checks but delays job applicants from having to disclose their criminal record early in the application process which increases discrimination and decreases employment; and

Whereas, “Banning the box” gives applicants an opportunity to be evaluated on qualifications and skill set; and

Whereas, the lack of employment for a person with a prior criminal conviction is a significant barrier to successful return to the community and has a major influence on the person’s likelihood to offend; and

Whereas, Richland County Council is committed both to public safety and economic opportunity; and

Whereas, Richland County Council believes that people who have successfully completed their sentences deserve a second chance and a possibility for successful community reintegration; and

Whereas, Richland County Council believes treatment and rehabilitation can be effective, and that a past offense should not solely determine future employment opportunity; and

Whereas, removing barriers to employment results in improved economic opportunity, increased civic engagement, less reliance on public benefits, and a workforce with more diverse experiences and perspectives; and

Whereas, Richland County Council wishes to help otherwise qualified citizens with a prior criminal history by providing an opportunity to compete equally for Richland County employment.

Be It Therefore Resolved by the Richland County Council that Richland County will demonstrate its commitment to equal employment opportunity for otherwise qualified individuals with a prior criminal conviction by:

- Eliminating the requirement to disclose past criminal history on the County’s initial employment application, except for positions that require a full background check due to the nature of the work.
- Requiring that a job applicant be selected for an interview before being asked about a criminal record, or before performing a background check, due to the nature of the work, on the applicant.
- Providing for individualized consideration of criminal history circumstances, where applicable.
- Encouraging the selection of applicants based on job skills and qualifications, without consideration of past convictions, whenever possible.